

# Foster children sue state over ineffective care

Class-action suit alleges inadequate protection

By **CLAIRE WITHYCOMBE**  
Oregon Capital Bureau

SALEM — A new class-action lawsuit filed Tuesday accuses the state of inadequately protecting foster children.

Ten foster children, representing the roughly 8,000 children in the state's care, want a federal court to fix long-standing issues at the state Department of Human Services.

The children are represented by Disability Rights Oregon, law firm Davis Wright Tremaine and A Better Childhood, a New York organization that advocates for kids in the child welfare system.

They sued the state agency and its director, Fariborz Pakseresht, the agency's director of children welfare, Marilyn Jones, and Gov. Kate Brown.

"We take the care of our foster children seriously and work with urgency and diligence to achieve this goal," Pakseresht said in a statement issued soon after the suit was filed in U.S. District Court in Eugene. "Over the past 18 months we've been building the foundation needed to balance staff workload, so they can spend more time with children and families and add supports to serve children and families holistically in their communities."

The lawsuit alleges the state is violating foster kids' civil rights, including federal laws that safeguard the rights of children in state custody.

The complaint chronicles in detail the experiences of the foster children — including a 9-year-old girl who was sent to a residential treatment facility in Montana.

The suit contends she was secluded, held and injected with medications to calm her down from tantrums. The suit also tells of a transgender boy sent to a residential facility for girls and an infant boy who was mistakenly administered his older brother's medication for a congenital heart defect, resulting in a hospital stay for the baby.

The lawsuit alleges that the state is also failing to protect the rights of foster kids with disabilities, who are LGBTQ, or those 14 and older who are poised to age out of the system.

The lawsuit alleges that the Department of Human Services doesn't assess children properly and quickly enough to figure out what they need in terms of treatment and placement.

There aren't enough foster homes, which means that children are put in places that may not be right for them, including hospitals, homeless shelters, and refurbished juvenile detention facilities, the suit contends.

A key issue that the lawsuit points to is the agency's shortage of child welfare workers compared to the number of children who are removed from homes.

The caseworkers the agency does have are overwhelmed by high workloads, get burned out and leave the agency at a rapid rate. About one-third of caseworkers, according to a 2018 state audit, have been on the job for 18 months or less. Despite efforts by the agency, high turnover continues, according to the lawsuit.

The lawsuit says LGBTQ children aren't in safe, stable homes that are accepting of their sexual orientation or gender identity. Kids with emotional, intellectual, psychological and physical disabilities are deprived of proper treatment. And many kids aging out of foster care are "forced into institutions or homeless shelters," or left out in the cold, with no planning for their transition to adulthood, and "without



Foster children have filed a class-action lawsuit against the state alleging inadequate care.

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skills and resources necessary to survive on their own when they leave foster care."

And the state, the lawsuit claims, doesn't support foster parents with enough training or money.

The lawsuit points in particular to how frequently Oregon foster children are moved from home to home, and sometimes to out-of-state facilities. Moving frequently can compound

the trauma that foster children already experience.

"The system is so overwhelmed, under-resourced, and ineffective that older children and children with even relatively mild behavior problems are often not

placed by DHS in family homes with necessary supports and services," the lawsuit states. "Instead, DHS places these children in inappropriate institutions, ships them out of state where they are placed in costly and questionable for-profit congregate programs that do not address their needs, or largely abandons them so they wind up in homeless shelters or on the streets."

The state's use of out-of-state facilities, at great expense and with little monitoring, has garnered attention during this year's legislative session. The Department of Human Services is now working on a plan to bring those children back to Oregon.

Oregon removes children from their homes and puts them into foster care at a comparatively high rate.

In 2017, Oregon ranked 20th among states when it came to the number of children placed in foster care per 1,000 children living in poverty, according to the National Coalition for Child Protection Reform.

Oregon has twice as many children in foster care as New Jersey, yet half the population of that state, said Chris Shank, an attorney for Disability Rights Oregon.

Shank says Disability Rights Oregon sees the lawsuit as an "opportunity to transform" the foster care system.

The foster children she has met are eager to help other kids like them, Shank said.

"When you talk to them about being involved in a lawsuit, they want to be involved so that other kids

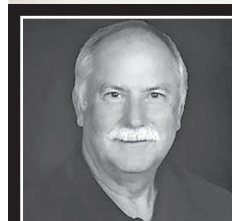
don't go through what they went through," Shank said. "They're not getting anything out of this, other than change in the foster care system. And they still want to do it. I mean, that really speaks to how resilient the human spirit is — they still care about other people around them."

In his statement, Pakseresht outlined steps being taken by the state already, including dealing with fos-

ter children placed out of state. He said they are being assessed to ensure they "are getting the services and supports they are eligible for and confirm they are in the appropriate level of care, returning to Oregon those who can be served safely here."

*The Oregon Capital Bureau is a collaboration between EO Media Group, Pamplin Media Group and Salem Reporter.*

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