



**Children, Youth &  
Families Department**

STATE OF NEW MEXICO

# Leading Under a Cloud – Even When It's Storming

Presentation prepared for: The Legislative Finance Committee,  
Child Welfare Subcommittee

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# New Mexico Isn't Alone

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30 States or counties are under class action lawsuits, consent decrees, settlement agreements or have litigation filed

- Current States included: AZ, CA(LA County), FL, GA, IL, KS, MD, MI, MN, MS, MO, NM, OR, RI, SC, TN, TX, and WA
- Pending: AL, AK, CA, GA(counties), IN, LA, MD (new issues), NH, NY, NC, RI, WV



# Underlying reasons for child welfare lawsuits

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## Most child welfare lawsuits focus on:

- Placement issues, including kids in offices and hotels, overstays in residential treatment and psychiatric facilities
- Worker shortages and overloaded caseloads
- Overuse of psychotropic medications
- Inadequate health and/or mental health services for children/youth in care



# States who have exited lawsuits

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Only a handful of states have successfully ended their class-action lawsuits and none of them were quick

- TN, AL, DC, CT, NV, WA, WI, OK, NM (Joseph A.)
- Most lasted decades and some states have been sued multiple times for new issues or have been sued again for relapsing



# Compliance vs. Reform – a balancing act

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- Navigating child welfare system operations, improvements, and transformation is challenging in and of itself. Doing so in the context of litigation adds significant layers of complexity.
- All child welfare agencies have multiple “overseers.” starting with the Federal government, along with layers of state and local elected leaders. There are also advocates and other watchdog organizations, the media, and local courts and lawyers. The added layer of a lawsuit under Federal court jurisdiction usually comes with an appointed court monitor, or co-neutrals in our case, and of course, more lawyers.
- Managing a lawsuit requires an inordinate amount of time, money, and the ability to keep the agency motivated and focused on the bigger picture. It’s also a defensive posture, which is typically not a winning strategy for driving positive, lasting change.



# Compliance and System Reform

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Child welfare agencies who have successfully ended class-action lawsuits have been intentional about transforming the system and meeting the requirements of the lawsuit

## Key Ingredients:

- Take stock of where the agency is and set priorities
- Establish a strategic framework to drive the agenda
- Incorporate the requirements of the lawsuit into the strategic framework – they are usually fundamental to child welfare performance (workforce, placements, child well-being)
- Set clear performance measures that will lead to the desired outcomes



# CYFD and Kevin S.

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## Main goals are in alignment with good child welfare practice:

- Hire and maintain enough front-line staff to meet national caseload standards
- Recruit and maintain enough Resource/Foster homes to ensure that foster children/youth are in appropriate placements
- Ensure that foster children receive well-child check-ups when they come into care and that services are provided to meet their physical and mental health needs
- There should be no arguments about these goals, BUT...



# Kevin S. has grown

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## In just the past few years, Kevin S. has grown

- Final Settlement Agreement (FSA) – 2020
- Memorandum of Understanding (MOU) – 2022
- Corrective Action Plan (CAP) – 2023
- Remedial Order #1 (RO1) – 2025
- Remedial Order #2 (RO2) – 2025

It's not atypical for the scope of these lawsuits to change over time, but the goal is to reduce the scope based on performance, not to enlarge it. Each of the orders is compounded and contains dozens of compliance reporting requirements.



# Perception that CYFD is “all over the place”

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Well...

- Key Executive Priorities
- Federal Requirements – CFSR report and PIP
- Kevin S.
- Legislative Mandates – Office of the Child Advocate, Federal Benefits Eligibility, Child Welfare Package, including Multi-Level Response, Electronic Records, etc.
- Best Practices – Family First Prevention Plan, Fostering Connections, New Data Systems (NMIMPACT)
- External Drivers – growing fentanyl use, changing workforce, Federal government redirection



# CYFD Focus Under Its Cloud(s)

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- Workforce, Workforce, Workforce
- Safe and stable placements for children/youth
- Improved permanency outcomes
- Child well-being – physical and behavioral health
- Prevention and family supports
- New data system and improved data management





Thank You!