

## **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

This notice may affect you. Please read carefully.

The federal court identified below authorized this notice.

### **ALL CHILDREN WHO ARE NOW, OR IN THE FUTURE WILL BE, IN THE PROTECTIVE CUSTODY OF THE KANSAS DEPARTMENT FOR CHILDREN AND FAMILIES PURSUANT TO KAN. STAT. ANN. § 38-2242(C)(1):**

This notice is about a proposed settlement of a class action lawsuit. It is for the children described above (which essentially means children who are now, or in the future will be, in the Kansas foster care system), and their legal representatives, families, and caregivers.

On January 22, 2021, there will be a hearing before Judge Daniel D. Crabtree of the United States District Court for the District of Kansas. Judge Crabtree will hear evidence and argument to decide whether the proposed settlement is fair, reasonable, and adequate, and whether the Court should approve it.

YOU ARE WELCOME TO COME TO THE HEARING TO PRESENT TO THE COURT ANY POSITIVE OR NEGATIVE COMMENTS OR OBJECTIONS ABOUT THE SETTLEMENT AGREEMENT. YOU ARE NOT, HOWEVER, REQUIRED TO COME TO THE HEARING OR MAKE ANY COMMENTS.

**\*\*PLEASE DO NOT CALL JUDGE DANIEL D. CRABTREE OR THE CLERK OF THE COURT ABOUT THE PROPOSED SETTLEMENT.\*\*** Instead, you can get more information and ask questions by following the directions below.

#### **I. What Is This Class Action Lawsuit?**

In a class action lawsuit, one or more people sue on behalf of other people who have similar claims. This lawsuit was filed on November 16, 2018, by several children on behalf of a class of all children who are now, or in the future will be, in the protective custody of the Department for Children and Families (or “DCF”) pursuant to Kan. Stat. Ann. § 38-2242(c)(1) (together they are called the “Plaintiffs” or the “Class”). This definition of the Class essentially means all children who are now, or in the future will be, in the foster care system of Kansas. The lawsuit is currently against the Secretary of the Kansas Department for Children and Families, the Secretary of the Kansas Department for Aging and Disability Services, and the Secretary of the Kansas Department of Health and Environment, in their official capacities (together they are called the “Defendants”). Plaintiffs’ lawsuit asks to reduce the number of placement changes for foster children in DCF custody and to make sure they receive the mental and behavioral health services they need. The lawsuit does not seek money damages. The lawsuit alleges that the Defendants are violating the federal rights of children in the Class. The Defendants deny that they are violating the federal rights of the children in the Class.

Plaintiffs and Defendants have negotiated a proposed class action settlement. Their written agreement is called the “Settlement Agreement.” The parties have asked the federal

district court judge assigned to the case to approve the Settlement Agreement for the Class. This Notice doesn't change anything in the proposed settlement, but it does give you a summary of the topics in the Settlement Agreement.

**YOU HAVE THE RIGHT TO REVIEW THE ENTIRE SETTLEMENT AGREEMENT IF YOU CHOOSE. YOU ALSO HAVE THE RIGHT TO EXPRESS WHAT YOU THINK ABOUT THE SETTLEMENT AGREEMENT BEFORE THE JUDGE DECIDES WHETHER TO APPROVE IT. YOU CAN DO THIS BY SUBMITTING WRITTEN COMMENTS, ATTENDING AND/OR TESTIFYING AT THE FINAL APPROVAL HEARING, OR BOTH.**

To get a copy of the Settlement Agreement, please follow the instructions below or visit the DCF website at [www.dcf.ks.gov/Documents/ExecutedSettlementandAttachments0708202002.pdf](http://www.dcf.ks.gov/Documents/ExecutedSettlementandAttachments0708202002.pdf). The Settlement is also located on the website of the lawyers for the Class on the Kansas Appleseed Center for Law and Justice website at [www.kansasappleseed.org](http://www.kansasappleseed.org) and the National Center for Youth Law website at [www.youthlaw.org](http://www.youthlaw.org).

## **II. What Does the Settlement Agreement Do?**

The Settlement Agreement, if the Court approves it, will end this case without a trial. Under the Settlement Agreement, Defendants will make practice improvements to improve placement stability and make sure that children in DCF custody have access to behavioral and mental health services. The practice improvements include stopping housing children in unsuitable places like agency offices and hotels; making sure children statewide can access crisis intervention services; making sure that housing problems don't slow down medically needed mental health services; and ending night-to-night placements and placements that last less than fourteen days.

The Settlement Agreement requires Defendants to meet specific measurable outcomes over three to four years. The outcomes include requirements about the average number of placement moves per 1,000 days; the percentage of youth whose mental and behavioral health needs are met; the percentage of youth in a stable placement; the percentage of youth with one or fewer placement moves per year; and the percentage of youth who get a timely mental health and trauma screen when they come into DCF custody.

In addition, Defendants must change their grants with foster care case management providers. They will add to the grants the improvements and outcomes in the settlement and make sure there are consequences if those improvements and outcomes don't happen. There will also be an independent group to give Defendants recommendations as they are implementing the requirements of the Settlement Agreement. Finally, Defendants must make annual reports about any Class members placed in a jail, correctional facility, detention facility, or other juvenile justice system placement. They must also report about the caseloads of all placement caseworkers and placement caseworker supervisors.

Defendants' progress on all of these topics will be evaluated and reported on by an independent person, or "Neutral," who will review and validate Defendants' performance. The Neutral will create performance reports that will be available to the public.

The lawsuit does not request any money damages, so the **Settlement Agreement does not include payment of any money damages for any Class members.** It only provides what is called “injunctive relief” which are changes to the Kansas foster system as summarized above and fully described in the actual Settlement Agreement.

The Settlement Agreement allows Plaintiffs’ lawyers to ask the Court for an award of attorneys’ fees and costs, to be paid by Defendants. On or before November 30, 2020, Plaintiffs’ counsel in this case will make this request to the Court. Plaintiffs will not ask for payment of attorneys’ fees or costs from Plaintiff children or their families, caregivers, or legal representatives and members of the Class will not owe money or costs or fees of any kind in connection with this lawsuit or the Settlement Agreement. The request for attorneys’ fees and costs and any related briefing will be posted when it is filed on the Kansas Appleseed Center for Law and Justice website at [www.kansasappleseed.org](http://www.kansasappleseed.org) and the National Center for Youth Law website at [www.youthlaw.org](http://www.youthlaw.org).

### **III. How Do I Submit Comments, Objections, or Support to the Court and How Do I Request to Speak at the Hearing?**

You have the right to submit written comments, objections, or support about the proposed Settlement Agreement. You must submit them by email or U.S. Mail to Class Counsel at either of the below addresses:

Kansas Appleseed Center for Law and Justice, Inc.  
Attention: Teresa A. Woody  
211 East 8th Street, Suite D  
Lawrence, KS 66044  
[fostercaresettlement@kansasappleseed.org](mailto:fostercaresettlement@kansasappleseed.org)

National Center for Youth Law  
Attention: Leecia Welch  
1212 Broadway, Suite 600  
Oakland, CA 94612  
[lwelch@youthlaw.org](mailto:lwelch@youthlaw.org)

**FOR THE COURT TO CONSIDER IT, YOUR EMAIL OR LETTER MUST BE RECEIVED BY CLASS COUNSEL NO LATER THAN DECEMBER 7, 2020.** You must sign your email or letter and also include your name, address, telephone number, and (if you have one) an email address.

You can also ask to speak at the hearing. If you would like to speak at the hearing, please include this request in your email or letter and briefly describe what you want to speak about. Again, if you want to speak to the Court at the hearing on January 22, 2021, your email or letter must state that you want to speak and it must be received by Class Counsel no later than December 7, 2020.

Class Counsel will share your email or letter with Defendants' counsel within five days of receiving it, and the parties will share all written submissions with the Court by December 14, 2020.

UNLESS THE COURT DECIDES OTHERWISE, ANY CLASS MEMBER WHO DOES NOT MAKE OBJECTIONS AS DESCRIBED ABOVE WILL HAVE WAIVED ALL OBJECTIONS. When an objection is waived, that means that the Court will not consider it.

#### **IV. When and Where Will the Hearing Be Held?**

THE HEARING WILL BE BEFORE UNITED STATES DISTRICT COURT JUDGE DANIEL D. CRABTREE ON JANUARY 22, 2021, AT 9:00 A.M., IN COURTROOM 476, AT THE ROBERT J. DOLE FEDERAL COURTHOUSE, 500 STATE AVENUE, KANSAS CITY, KS 66101.

If the date, time, or location of the hearing changes, or if any other information about the hearing changes, the new date, time, location, or other information will be posted on the Kansas Appleseed Center for Law and Justice website at [www.kansasappleseed.org](http://www.kansasappleseed.org), and/or the National Center for Youth Law website at [www.youthlaw.org](http://www.youthlaw.org), but you will not be sent further notice of the change.

#### **V. How Can I Receive More Information or Ask Questions?**

For a copy of the Settlement Agreement, go to the DCF website at <http://www.dcf.ks.gov/Documents/ExecutedSettlementandAttachments0708202002.pdf>, the Kansas Appleseed Center for Law and Justice website at [www.kansasappleseed.org](http://www.kansasappleseed.org), or the National Center for Youth Law website at [www.youthlaw.org](http://www.youthlaw.org). If you do not have access to a computer, please call Class Counsel at (510) 899-6576 and ask Poonam Juneja for a copy of the "Kansas Child Welfare Federal Court Settlement." For any other questions, please contact Class Counsel by email at [fostercaresettlement@kansasappleseed.org](mailto:fostercaresettlement@kansasappleseed.org) or [lwelch@youthlaw.org](mailto:lwelch@youthlaw.org) or at the mailing addresses listed above.

**\*\*PLEASE DO NOT CALL JUDGE DANIEL D. CRABTREE OR THE CLERK OF THE COURT.\*\*** They will not be able to answer your questions about the class action lawsuit or the Settlement Agreement. You may, however, review any non-sealed materials that have been filed with the Court in this case by going to the Office of the Clerk of the United States District Court for the District of Kansas at the Robert J. Dole Federal Courthouse, 500 State Avenue, Suite 259, Kansas City, KS 66101. You can also access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.ksd.uscourts.gov>. The Clerk's Office is open Monday through Friday from 9:00 A.M. to 4:30 P.M. except Court holidays. To review materials in the public record in this case, refer to Case No. 18-CV-2617-DDC-GEB.