

CHILDREN INCARCERATED DUE TO LACK OF FOSTER CARE PLACEMENTS

U.S. Senator Jon Ossoff and Representative Jen Kiggans are continuing their bipartisan investigation into the incarceration of children in juvenile detention facilities across the United States. This second report focuses on the incarceration of children due to lack of foster care placements.

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I. Executive Summary

U.S. Senator Jon Ossoff of Georgia and Representative Jen Kiggans of Virginia have launched a bipartisan investigation into the incarceration of children with mental health conditions in juvenile detention facilities (“facilities”)—centers designed to detain children charged with or sentenced for delinquent offenses—across the United States. As part of this investigation, beginning in May 2024, Sen. Ossoff and Rep. Kiggans surveyed facilities about what circumstances lead to the prolonged detention of children with mental health conditions and children who have not been charged with offenses.

The survey responses, combined with public reports, reveal that in at least seven states total, children are incarcerated due to lack of foster care placements. Additionally, in Senator Ossoff’s 2023-2024 investigation into the abuse and neglect of children in Georgia’s foster care system, juvenile court judges testified before the U.S. Senate that the state foster care agency in Georgia proposed that the judges consider prolonging detention of foster youth, including children with special needs, due to inadequate foster care placements.¹ Together, these findings and reports document a systemic issue across the United States.

In survey responses, four facilities across four states reported incarcerating children who have not been charged with any offense and were “removed from their homes for abuse or neglect,” because “no foster care placements were available.” One facility reported that it had held children in these circumstances for up to 9 to 12 months. One facility in the Midwest reported that it had held children without charges when foster homes would not accept them because of the children’s mental health issues. Another facility in the Southeast reported an instance in which the guardian of a child on the autism spectrum died, and the child was reportedly incarcerated in juvenile detention because no other placements were available.

The survey responses from juvenile detention facilities add to public reporting indicating that at least three additional states—Illinois, Louisiana, and West Virginia—have held children without charges or prolonged their detention after they were ordered released due to a lack of available foster care placements.² In 2021, 84

¹ Staff of S. Comm on the Judiciary, Subcomm on Human Rights and the Law, 118th Cong., Abuse & Neglect of Children in Georgia’s Foster Care System: A Case Study, at 5 (Apr. 9, 2024), https://www.judiciary.senate.gov/imo/media/doc/230414_HRL_Foster%20Care_Report_final.pdf [hereinafter “Georgia Foster Care Report”]. See also, Judge Altman, Opening Statement, S. Comm on the Judiciary, Subcomm on Human Rights and the Law, 118th Cong., Abuse & Neglect of Children in Georgia’s Foster Care System, (Oct. 30, 2023), https://www.judiciary.senate.gov/imo/media/doc/2023-10-30_-_testimony_-_altman.pdf

² Patrick Smith, *Some youths in Illinois’ foster system who are hard to place are being left in jail*, NPR (Jun. 15, 2022), <https://www.npr.org/2022/06/15/1105318196/some-youths-in-illinois-foster-system-who-are-hard-to-place-are-being-left-in-jail>; Andrea Gallo, *Nine foster children sue Louisiana’s child welfare agency over failures to find safe homes*, Advocate (Apr. 10, 2024), https://www.theadvocate.com/baton_rouge/news/courts/nine-foster-children-sue-louisianas-child-welfare-system/article_214ff8ee-f751-11ee-a799-fbc08eb7c774.

children were reportedly held in a single Illinois facility, reportedly past the dates on which a court ordered their release, due to a lack of foster care placements.³

II. Background

Reporting has widely found there to be a nationwide shortage of foster care placements.⁴ More than half of states reportedly saw a significant decline in licensed foster homes in recent years.⁵ For example, the State of Georgia has reportedly seen a 60% decline in licensed foster homes since 2021.⁶ As a result of the national shortages, foster children may be incarcerated because there are no placements available, even though they have not been charged with offenses.⁷

During Senator Ossoff's 2023-2024 investigation into the abuse and neglect of children in Georgia's foster care system, juvenile court judges and former foster youth testified or reported to investigators that the state foster care agency had improperly prolonged children's time in juvenile detention.⁸ Juvenile court judges further testified that the state foster care agency proposed that they consider prolonging detention of foster youth, including children with special needs, due to inadequate foster care placements.⁹

As part of Sen. Ossoff's investigation, former Georgia foster youth Mon'a Houston testified before the U.S. Senate Judiciary Subcommittee on Human Rights that she was forced to stay in detention for a month after becoming eligible for release because Georgia Division of Family and Children Services (DFCS) refused to pick her up.¹⁰ In an interview as part of the investigation, former DFCS Deputy Chief of Staff Matthew Krull also confirmed that children with complex needs who are placed in prolonged juvenile detention otherwise would

https://www.washingtonpost.com/national/we-are-just-destroying-these-kids-the-foster-children-growing-up-inside-detention-centers/2019/12/30/97f65f3a-eea2-11e9-9c6d-436a0df4f31d_story.html; Emily Wax-Thibodeaux, 'We are just destroying these kids': The foster children growing up inside detention centers, Wash. Post (Dec. 30, 2019), https://www.washingtonpost.com/national/we-are-just-destroying-these-kids-the-foster-children-growing-up-inside-detention-centers/2019/12/30/97f65f3a-eea2-11e9-9c6d-436a0df4f31d_story.html.

3 See Smith, *supra* n.2.

4 See, e.g., Paige Sutherland et al., *Inside America's critical shortage of foster care homes*, WBUR (Jul. 20, 2023), <https://www.wbur.org/onpoint/2023/07/20/inside-americas-critical-shortage-of-foster-care-homes>; Scott Simon, *There's a nationwide shortage of foster care families*, NPR (Jul. 15, 2023), <https://www.npr.org/2023/07/15/1187929875/theres-a-nationwide-shortage-of-foster-care-families>.

5 *Id.*

6 Rob DiRienzo, *Georgia faces a critical shortage of foster families, org says*, Fox 5 Atl. (Dec. 17, 2024), <https://www.fox5atlanta.com/news/georgia-faces-critical-shortage-foster-families-org-says>.

7 See Sutherland, *supra* n.4.

8 Georgia Foster Care Report, *supra* n.1, at 5.

9 *Id.*

10 The Human Rights of Foster Children, Hearing Before the Senate Judiciary Subcommittee on Human Rights and the Law, 118th Cong. (Oct. 25, 2023) (Testimony of Mon'a Houston), available at https://www.judiciary.senate.gov/imo/media/doc/2023-10-25_pm_-_testimony_-_houston1.pdf.

have been placed in hotels or in DFCS offices due to lacking placements.¹¹ According to local reporting, last year, DFCS updated lawmakers that the rate of placing foster children in hotels or keeping them in offices had significantly dropped.¹²

Additionally, public reports indicate that within the last several years, at least three states—Illinois, Louisiana, and West Virginia—have incarcerated children without charges or after they were ordered released due to a lack of available foster care placements.¹³

- In 2021, 84 children in the care of the Illinois State Department of Child and Family Services were reportedly incarcerated in a county juvenile detention center for weeks or months after a judge had ordered their release, due to a lack of available foster care placements.¹⁴ According to reports, one teenager was “imprisoned for more than eight months” after he was ordered released because the state was “unable to find an appropriate place for him to live.”¹⁵
- According to public reports, in West Virginia some “foster children have been integrated with criminally convicted youths” in juvenile detention centers due to lack of available placements, “subject to some of the same rules and living conditions.”¹⁶ One foster child was reportedly incarcerated in a state juvenile detention center, despite never having been convicted of a crime, due to a lack of available placements.¹⁷ The child reported having “no one to talk to but the walls” because of phone restrictions and engaging in self-harm to encourage a transfer to “somewhere more normal, like rehab.”¹⁸
- Public reports describe a foster child who was reportedly incarcerated in a secure Louisiana juvenile detention center due to a lack of available placements, despite not being charged with any crimes.¹⁹ The child reportedly cycled through multiple facilities in 2023 and repeatedly attempted to run away.²⁰ At the time of the reporting, the youth had reportedly run away

11 Georgia Foster Care Report, *supra* n.1, at 36.

12 Sarah Kallis, *Georgia’s ‘Hoteling’ of Foster Children Was Significantly Reduced in 2023*, GPB (Jan. 17, 2024, 4:40 PM), updated Jan. 18, 2024, 9:45 AM, <https://www.gpb.org/news/2024/01/17/georgias-hoteling-of-foster-children-was-significantly-reduced-in-2023>.

13 Smith, *supra* n.2; Gallo, *supra* n.2; Wax-Thibodeaux, *supra* n.2.

14 Smith, *supra* n.2.

15 *Id.*

16 Wax-Thibodeaux, *supra* n.2.

17 *Id.*

18 *Id.*

19 Gallo, *supra* n.2.

20 *Id.*; Complaint at 26, *Jacob v. La. Dep’t of Child. and Fam. Serv.*, No. 3:24-cv-00289-BAJ-SDJ (M.D. La. Apr. 10, 2024), <https://static1.squarespace.com/static/603815c5dc9365633e4c0830/t/6616ab4c872c8f158535b131/1712761676217/Louisiana+>

and the state could not locate him.²¹

- A detainee reported severe gastrointestinal distress while in ICE detention and a two-week delay to get a medical appointment whereupon the detainee was given a painkiller. The detainee reported suffering from severe gastrointestinal distress for five months, while repeatedly requesting medical appointments, before receiving an appropriate prescription.

Following up on Senator Ossoff's foster care investigation and these public reports, Senator Ossoff and Representative Kiggans inquired in this survey of juvenile detention facilities whether facilities were detaining children due to a lack of foster care placements.

III. Findings

In response to the survey, four facilities in four states reported incarcerating children who had not been charged with any crime due to a lack of foster care placements. These facilities reported that children were detained without charges after being "removed from their homes for abuse or neglect," because "no foster care placements were available."

One of these four facilities reported that it had held children without charges due to lack of foster care placements for up to 9-12 months. Another reported that it had held children without charges due to lack of foster care placements for 15-29 days, and the remaining two reported that they had held children in these circumstances for up to 14 days.

One facility in the Midwest reported that it had held children without charges when foster homes would not accept them because of the children's mental health issues. Another facility in the Southeast reported an instance in which the guardian of a child on the autism spectrum died, and the child was incarcerated in juvenile detention because no other placements were available.

Beyond these four reports, several additional juvenile detention facilities commented on the detention of foster children in response to the survey:

- A juvenile detention facility in the Midwest reported on a case involving a severely autistic child who was reportedly held in a juvenile detention center because his mother was

[Complaint 4.10.2024.pdf](#)

²¹ *Id.* at 11.

incarcerated. The facility reported that this child was eventually released into the custody of the state agency administering foster care, but this child reportedly had to sleep at the agency offices because no placements were available after he was transferred from the detention center.

- A facility in the Southeast reported that it had held children with mental health conditions who do not have active charges against them when the state has custody of the children and has exhausted all other placement options, including placement in foster care.
- A facility in another Midwestern state reported that it had become common for children to remain in their facility while waiting for placements, including foster care, whether in or out of state. The facility expressed particular concern about the number of children reportedly on the autism spectrum—ranging from those with significant challenges to those who are higher functioning—who reportedly remain in their facility for extended periods while awaiting appropriate placements.
- A facility in a third Midwestern state reported that several foster children had languished in juvenile detention because of limited placement options.
- One facility in the Northwest reported that the limited number of foster homes available for female teenagers posed a challenge to their facility in its efforts to care for youth in custody.

IV. Methodology

Senator Ossoff and Representative Kiggans developed this survey in the spring of 2024. Experts on mental health and juvenile detention at the Johns Hopkins Bloomberg School of Public Health provided input on survey development and analysis. State juvenile detention facility administrators identified by the National Partnership for Juvenile Services also provided input with regard to the wording of the survey. The survey requested that juvenile detention facility administrators provide information about “youth with mental health conditions who are detained in [their] facilit[ies] while awaiting mental health services outside of the facility.” The survey also inquired in part about whether children were being detained without charges for other reasons, including children “removed from their homes for abuse or neglect” where “no foster care placements were available.”

Survey recruitment of administrators from public juvenile detention facilities occurred between May and September 2024; participation was voluntary. The survey was distributed via email to 355 administrators. 157 administrators across the country responded to the survey. The geographic regions of the facilities represented in survey data included: South (43%), Midwest (37%), West (14%), and Northeast (6%).