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Suit alleges Hawaii fails homeless kids

By **Jim Dooley**

Advertiser Staff Writer

The state has failed so badly at helping homeless children get to and from public schools that federal courts should intervene in the situation, according to a class-action lawsuit filed by the American Civil Liberties Union and two other parties.

Attorney General Mark Bennett said he has already begun meeting with state personnel "to see if the complaint has legal and factual merit."

The state "certainly takes the education of homeless children and all children very seriously," Bennett said. "We have an obligation to educate homeless children in the same manner in which we educate nonhomeless children.

"Even aside from the legal merits of the complaint," he said, "we will look to see if there are areas in which we can improve our educational services to these children."

State Department of Education spokesman Greg Knudsen declined to comment on the lawsuit or its contents, referring questions to Bennett.

Lois Perrin, legal director of the Hawai'i ACLU, said, "The state's complete disregard of its duty to assist this extremely vulnerable population is indefensible."

The suit, filed by the ACLU, the Lawyers for Equal Justice and the law firm Alston Hunt Floyd & Ing, alleges that the state has failed to carry out a section of federal law called the McKinney-Vento Act, which requires state and local school districts to help homeless children receive educational services.

The state Department of Education receives more than \$200,000 annually in federal funds specifically earmarked to help transport homeless children to and from schools.

But the program has been so badly managed that the overall effect "is that homeless children are turned away at the schoolhouse door, experience significant delays in enrolling in public school, are forced to unnecessarily change schools and/or are denied access to transportation or other services necessary to receive a public school education," the plaintiffs charged.

The suit was filed on behalf of three families living in homeless shelters on the Leeward Coast of O'ahu, but said the families represent a much larger class of plaintiffs.

The state DOE "recognizes 908 homeless children as enrolled in school, of which there are 532 children living in shelters, 156 unsheltered children, 19 children living 'doubled up' (with other families) and 201 children whose primary nighttime residence is 'unknown,'" the state said.

But the actual numbers are larger, the complaint said.

"The precise number of homeless families and children is difficult to calculate due to their mobility, their lack of permanent residence and their reluctance to disclose their housing situation due to the social stigma associated with homelessness," the lawsuit said.

One of the plaintiffs in the suit, Alice Greenwood, has been homeless since May 2006 when she and her 6-year-old son lost their Nanakuli rental residence.

They lived in a tent at Ma'ili Beach Park until March of this year, and Greenwood, who has physical disabilities, would struggle to take her son on the bus to Nanakuli Elementary School, where he was enrolled in the Hawaiian Language Immersion Program, according to the suit.

She encountered repeated difficulties in obtaining bus passes for herself and her son, and as a result, the boy missed 33 days of school last year, according to the suit.

At one point, school officials indicated that Greenwood might lose custody of her son if she could not arrange transportation for him, the suit alleged.


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Greenwood and her son now live in a Wai'anae homeless shelter but have continued to encounter difficulties in securing bus passes.

Greenwood said her son "shouldn't be punished just because he's homeless. It's not his fault."

The complaint alleges that federal officials last year cited serious shortcomings in the DOE's compliance with the McKinney-Vento Act.

One finding was that a form the DOE requires homeless families to fill out in order to enroll children in school "is a barrier to immediate enrollment." The federal government also said the DOE does not adequately inform families of their educational rights under federal law and that the state does not adequately monitor compliance with the law.

Since receipt of that federal report in August 2006, the state has "taken no meaningful action to address the USDOE's findings," the lawsuit charged.

Federal courts have directly intervened in state government operations in the past as a result of lawsuits filed by the ACLU and other parties.

Federal judges have mandated and overseen improvements in state prisons, mental health programs, the Department of Education and the Hawai'i Youth Correctional Facility.

Reach Jim Dooley at jdooley@honoluluadvertiser.com.



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