

Challenge To Immigrant Minors Detention Policy Expands

By **Kevin Penton**

Law360 (January 22, 2019, 5:09 PM EST) -- Challengers to the Trump administration's policies toward immigrant children held in detention centers have broadened the putative class action to include thousands of minors nationwide, saying the government's procedures violate the due process rights of the children and the adults seeking to shelter them in the United States.

The case brought in the Eastern District of Virginia by the Southern Poverty Law Center and other immigrant rights organizations was amended for the third time Friday, adding plaintiffs from other parts of the country and incorporating an amended fingerprinting policy announced last month by the U.S. Department of Health and Human Services' Office of Refugee Resettlement, or ORR, according to the amended complaint.

HHS rolled back a requirement that all adults looking to live with migrant minors undergo fingerprinting, a process critics said increased the length of time that the children spent in detention centers separate from their parents or guardians. The agency said last month it determined that the checks of everyone looking to live with the minors had not led officials to identify new risks that could potentially endanger the children, but had elongated the time the federal government needed to mind the young migrants.

Although the agency may have amended its fingerprinting policy, the process is still too long for children detained not only in Virginia but throughout the country, said Mary Bauer, an attorney with the Southern Poverty Law Center, during a conference call Tuesday.

"For thousands of kids who are locked up, nothing has changed," said Bauer, who also said the federal government in many cases continues to collect information from everyone looking to live in a household with the minors before sharing it with U.S. Immigration and Customs Enforcement.

The group of immigrant minors in ORR custody and their relatives filed an amended proposed class action in August against ORR and HHS, saying the agency's family reunification procedures violate the Administrative Procedure Act and are inconsistent with the Trafficking Victims Protection Reauthorization Act and the minors' substantive and procedural due process rights, according to court documents.

In November, U.S. District Judge Leonie M. Brinkema allowed to proceed claims that ORR's procedures to place unaccompanied immigrant children with family members violate their procedural due process rights and that the agency's information-sharing policy violates the APA.

Counsel for the federal government could not immediately be reached for comment Tuesday.

The proposed class is represented by Simon Sandoval Moshenberg and Rebecca Ruth Wolozin of the Legal Aid Justice Center, Mary Bauer, Saira Draper, Luz Virginia Lopez and Laura G. Rivera of the Southern Poverty Law Center, and John C. Rozendaal and Salvador M. Bezos of Sterne Kessler Goldstein & Fox PLLC.

The government is represented by Catherine M. Yang of the U.S. attorney's office.

The case is J.E.C.M. et al. v. Lloyd et al., case number 1:18-cv-00903, in the U.S. District Court for the Eastern District of Virginia.

--Additional reporting by Suzanne Monyak. Editing by Stephen Berg.