

## tennessee governor acknowledges not fulfilling agreement to reform child welfare system:

accepts need for court-ordered plan with new benchmarks and deadlines

PRESS RELEASE

Motion to hold Gov. Bredesen in contempt of court resolved in Brian A. lawsuit

(Nashville, December 29, 2003) Children's Rights and their Tennessee co-counsel in the Brian A. class action lawsuit agreed today to settle their motion charging Tennessee Governor Phil Bredesen with contempt of court. The advocate attorneys, who represent the approximately 8,000 foster children currently in state custody, had charged the Governor and DCS with failure to comply with a July 2001 Settlement Agreement to reform the child welfare system.



"We have accomplished everything we sought through this motion," said Marcia Robinson Lowry, Executive Director of Children's Rights, a national advocacy organization for children. "But the fact remains that Tennessee has lost more than a year in implementing these reforms for abused and neglected children."

In settling the contempt motion in U.S. District Court for the Middle District of Tennessee, the governor acknowledged that the state had not fulfilled a number of the terms of the Settlement Agreement and agreed to create a detailed implementation plan with goals, timeframes, benchmarks, and accountability mechanisms to make sure reform occurs. The key terms of the implementation agreement will be submitted to the federal court for approval and, if approved, will be enforceable by the court.

The contempt motion had been filed in November by Children's Rights and its co-counsel after the Federal Monitor in the Brian A. lawsuit issued a report that month showing the state was in full compliance with only 24 of 136 different provisions of the Settlement Agreement. Two days before the contempt motion was filed, Governor Bredesen fired the commissioner in charge of the child welfare agency, Michael J. Miller. However, the state refused to acknowledge non-compliance or to agree to a court-ordered implementation plan until today.

"The state has now accepted responsibility for past failures and acknowledged that it must develop an implementation plan to improve the lives of children in foster care if it really wants to implement the

settlement's terms," said Lowry. "Significantly, the state has also recognized that it needs the expert assistance of the group of experts established by the settlement just for that purpose. Since January, the state had hardly been using that group at all."

The settlement of the contempt motion was agreed to by attorneys from Children's Rights and co-counsel David L. Raybin and Jacqueline B. Dixon of Hollins, Wagster & Yarbrough PC in Nashville. "The children we represent are still waiting for the benefits we negotiated for them more than two years ago," said Mr. Raybin. "It's been far too long, but we hope this means that implementation of the settlement is now back on track."

The state must develop the implementation plan with a Technical Assistance Committee of five national experts in the child welfare field who had been selected to assist Tennessee in the meaningful implementation of the requirements of the Brian A. Settlement Agreement. The plan, which is to be completed within three months, will address ten problem areas in Tennessee's child welfare system:

- \*Leadership and Management
- \*Creating and Sustaining a Sufficient and Well-\*Qualified Workforce
- \*Child and Family Team Meetings
- \*Child Protective Services
- \*Placement Process
- \*Foster and Kinship Home Development and Support
- \*Adoptive Home Development and Support
- \*Resource Development
- \*Data Management
- \*Quality Assurance

For each substantive area, the implementation plan must identify strategies that will be used to accomplish those goals, specific action steps that are to be taken, benchmarks that are to be achieved, timeframes for accomplishment, individuals responsible, and resources to be devoted. The implementation plan must also fully consider and reflect the results of the Racial Disparities Study issued as part of the Brian A. settlement.

To give the state the opportunity to make up for lost time, the children's lawyers' have agreed not to charge the state with contempt or non-compliance for a 12-month period after the plan goes into effect. However, lawyers for the children can go back to court during that period if the important elements of the plan are not being implemented or if there are circumstances that threaten the health and well-being of the state's foster children. The agreement also extends by 15 months the period before the state can ask the Court to be relieved from any part of the Settlement Agreement.

"We think this is a constructive approach to remedying the state's failures," said Doug Gray, a staff attorney at Children's Rights. "While it recognizes that the state has a lot of work to do, it provides them with the expert assistance they need and it also allows us to go back to court during this planning process to address any serious situations of harm to children."

Children's Rights works throughout the United States in partnership with national and local experts, advocates and government officials to document the needs of children in the care of child welfare systems. Children's Rights helps develop realistic solutions and, where

necessary, uses the power of litigation to ensure that reform takes place.