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**FOSTER CHILDREN SUE INDIANA’S DEPARTMENT OF CHILD SERVICES FOR VIOLATIONS OF FEDERAL STATUTORY AND CONSTITUTIONAL LAW**

**Class Action Lawsuit Filed Today in the U.S. District Court for the Northern District of Indiana Alleges Constitutional and Federal Violations**

**SOUTH BEND, August 16, 2023**—A class action lawsuit was filed today by ten foster children on behalf of more than 11,000 Hoosier children, asserting that the Indiana Department of Child Services (“DCS”), DCS Director Eric Miller, and Indiana Gov. Eric Holcomb (collectively, “the Defendants”) are failing to keep children safe.

The plaintiff children, ages 8 to 16, have been languishing in the Indiana foster care system for years, many for over half their lifetimes. The lawsuit claims that the Indiana child welfare system has ignored the children’s problems, failed to provide necessary services, moved them among a variety of placements and left them in placements that DCS knows are dangerous.

DCS’s systemic failures are well-known to state officials, who have failed to act to address those failures. The lawsuit seeks a range of remedies, including lower caseloads, the development of additional, appropriate placements and services, and far better accountability.

The complaint also contends that the state over-institutionalizes children because it has too few therapeutic foster homes and violates the Americans with Disabilities Act by failing to provide community-based placements. As the lawsuit charges, the new head of the child welfare agency is the agency’s former chief of staff who was described as “the greatest threat to this agency and child welfare” and “bent on slashing the budget in ways that all but ensure children will die” by the outgoing child welfare commissioner in an open letter to Indiana’s governor.

The complaint depicts a hostile agency that drives away caseworkers and foster parents, as well as service providers. The complaint also alleges that the agency returns children home on “trial home visits” without checking to make sure they are safe. Indiana is keeping children in care far longer than federal standards and has a high rate of children who are sent home, re-enter care, and return home again in a damaging cycle.

“Children in Indiana are literally dying,” said Marcia Robinson Lowry, executive director of A Better Childhood. “Tragically, the child welfare system in Indiana continues to ignore the needs of its most vulnerable children. It is critical that this agency and the state are held

accountable for what they are doing to the children they are required to protect. These children have nowhere else to turn and that's why we are seeking the assistance of the federal court.”

“Indiana DCS has failed to protect the children in its care and in doing so has violated their constitutional rights.” said Aaron Marks, Partner at Kirkland & Ellis. “We hope this case and the relief we seek from the Court will provide much-needed improvements to the lives of these children and their communities.”

Read the complaint [here](#).

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### **About A Better Childhood**

A Better Childhood (“ABC”) is a national nonprofit advocacy organization that uses the courts to reform dysfunctional child welfare systems around the country. ABC currently has cases in New York, New Jersey, Mississippi, Oregon, West Virginia, Alaska, California, and Texas. For more information, please visit [www.abetterchildhood.org](http://www.abetterchildhood.org).

### **About Kirkland & Ellis**

With a global platform of approximately 3,500 lawyers in 19 cities across the United States, Europe and Asia, Kirkland & Ellis provides elite legal advice and a relentless commitment to client service. Kirkland is a market-leader in each of its core practice areas, including private equity, M&A and other complex corporate transactions; investment fund formation and alternative asset management; restructurings; high-stakes commercial and intellectual property litigation; and government, regulatory and internal investigations. Kirkland is committed to providing legal services without charge to those who cannot afford counsel, with the goals of improving lives, bettering communities and deepening our attorneys’ professional experience. Kirkland attorneys at all levels pursue pro bono matters dealing with a variety of issues such as immigration, disability rights, civil rights, prisoner rights, death penalty cases and criminal appeals, guardianship, veterans’ benefits, and the representation of nonprofit organizations, among other areas. In 2022, Kirkland devoted nearly 150,000 hours of free legal service to pro bono clients. To learn more, please visit [www.kirkland.com](http://www.kirkland.com).