



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0140

**WRITTEN DETERMINATION REGARDING THE APPOINTMENT OF OUTSIDE
COUNSEL ON BEHALF OF THE GOVERNOR OF WEST VIRGINIA AND
WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

The Governor of West Virginia and the West Virginia Department of Health & Human Resources (the “Governor” and “WVDHHR” respectively) are seeking legal representation to assist with ongoing litigation involving West Virginia’s foster care program.

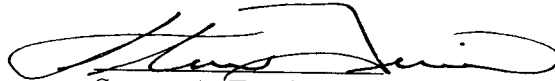
More specifically, the Governor and WVDHHR is seeking legal representation to assist the Department with the case of *Jonathan R., minor, by Next Friend, Sarah Dixon, et al. v. Jim Justice, in his Official Capacity as the Governor of West Virginia; et al.*, Case No. 3:19-cv-00710, which is currently pending in the United States District Court for the Southern District of West Virginia.

In accordance with the Attorney General’s Policy on Outside Counsel (Policy #WVAGO-004), the Office of the Attorney General has determined that it is both cost-effective and in the interest of the public to appoint outside counsel to assist the Governor and WVDHHR with the legal matter set forth herein, based on the following factors:

- The matter at issue requires specific expertise in Expertise in West Virginia’s foster care program.
- There is a particular need for legal representation with additional litigation background and experience to assist the Attorney General’s Office with the legal matter in question, including Expertise in child welfare systems; Expertise in Child and Family Service Reviews conducted by the Children’s Bureau, an office of the Administration of Children & Families; Expertise in title IV-E of the Social Security Act; Expertise with litigation involving child welfare systems; Expertise with substantive due process under the United States Constitution; Expertise with First, Ninth and Fourteenth Amendments to the United States Constitution; Expertise with the Adoption Assistance and Child Welfare Act of 1980; Expertise with the Americans with Disabilities Act of 1990; Expertise with the Rehabilitation Act of 1973; and Expertise in federal class action litigation.

- It is not feasible or cost-effective for the Office of the Attorney General to provide the requested legal services without assistance from outside counsel at this time.

Accordingly, the Attorney General authorizes the appointment of outside counsel for the legal matter in question pursuant to commencement of the request for proposal process laid out in subsection (D) of Policy #WVAGO-004.



Steven A. Travis
Deputy General Counsel

Date Signed: October 8, 2019