

Clerk's Notice of Decision ***EXPEDITED REVIEW REQUESTED***

Document Sent to Parties

on 06/27/2025

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Case No. 217-2025-CV-00480

Emergency motion for temporary restraining order is denied. An expedited hearing to discuss scheduling of further proceedings in this case shall be set as the docket allows. So ordered.

Andrew Foley;
Ronald "Chuck" Miles; and
Jane Doe #231

On behalf of themselves and all those similarly situated



v.

Honorable John C. Kissinger, Jr.

June 27, 2025

The State of New Hampshire;
New Hampshire Governor, Kelly Ayotte, in her official capacity; and
New Hampshire Attorney General, John Formella, in his official capacity

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Pursuant to Superior Ct. R. 48(a), above-captioned Plaintiffs, on behalf of themselves and all those similarly situated, seek immediate relief to prevent above-captioned Defendants from enforcing two newly passed amendments to the Youth Development Center Claims Administration and Settlement Fund, RSA 21-M:11-a (the "Act"), that would allow the Defendants to (a) replace the independent and neutral Settlement Fund Administrator with a political appointee serving at the pleasure of the Governor, and (b) review and reject (i.e., veto) decisions of the Administrator.

To be clear, this motion seeks narrow injunctive relief to maintain the status quo of Settlement Fund claims processing, allowing the Administrator to continue his work without threat of arbitrary termination by the Governor, or veto of his decisions by the Attorney General. The motion proposes an order enjoining two specific amendments to the Settlement Fund Act contained within HB-2; it does not seek to enjoin HB-2 broadly or otherwise interfere with the budget passed on Thursday. It is imperative the Court act on this motion before the effective date of the amendments—July 1, 2025.

EXPEDITED REVIEW REQUESTED

In support hereof, Plaintiffs state as follows:

1. As set forth in the Complaint filed herewith, the recently passed budget bill, House Bill 2, includes amendments allowing Governor Ayotte and the Executive Council to replace the independent Settlement Fund Administrator with a hand-selected executive branch loyalist who would answer only to the Governor. *See* Comm. of Conf. Report on HB-2, 2025-2871, June 19, 2025, § 437, amending RSA 21-M:11-a, III. A further amendment allows the Attorney General, through his designee, to unilaterally reject the decisions of the Administrator, essentially giving the State an unchecked veto power over the Administrator and eliminating any semblance of neutrality.

2. If not restrained from enforcing these changes to foundational provisions of the Act, Plaintiffs, and the members of the class they propose to represent, will suffer immediate and irreparable harm.

3. Among other things, if the Governor utilizes the amendment to unilaterally remove and replace the Administrator, such action will: (a) immediately breach and unconstitutionally impair contracts Plaintiffs (and proposed class members) entered into with the State in reliance on the State's promise of a neutral, "victim-centered, trauma informed" claims process, immediately causing cognizable harm; (b) permanently destroy Plaintiffs' (and the proposed class members') already fragile trust in authority caused by the abuse they suffered in state custody, likely prompting Plaintiffs (and many members of the proposed class) to withdraw from the claims process; (c) immediately violate Plaintiffs' (and the proposed class members') rights to equal protection under the law; (d) immediately create confusion and chaos in the Administrator's Office, worsening the large backlog of cases currently pending and causing unnecessary delays; (e) in cases where the current Administrator has already heard claims but

EXPEDITED REVIEW REQUESTED

has not yet issued decisions, needlessly retraumatize child abuse survivors by forcing them to repeat the details of their abuse to a new Administrator. Due to the permanent and non-monetary nature of these consequences and the unchecked discretion the amendments give the Governor, Plaintiffs have no adequate remedy at law and require court intervention to prevent these immediate, irreparable harms.

4. Plaintiffs are likely to succeed on the merits of their claims because removal of the independent Administrator would clearly constitute a material breach and unconstitutional impairment of contract, and would violate principles of equal protection. Further, the balance of harms and interests of justice weigh in favor of granting Plaintiffs injunctive relief, given the betrayal of trust inherent in Defendants' conduct and the fact that Defendants would suffer no harm at all by the continued operation of the claims process Plaintiffs were promised.

5. Accordingly, Plaintiffs request that this Court enter the proposed temporary restraining order submitted herewith and schedule a hearing on preliminary injunctive relief in due course. Plaintiffs specifically reserve their rights to supplement their briefing regarding preliminary injunctive relief in advance of said hearing.

6. Pursuant to Rule 48(a) of the New Hampshire Superior Court Civil Rules, undersigned counsel certifies that Plaintiffs have provided notice of the request for a Temporary Restraining Order to Defendants. Specifically, concurrent with the filing of this motion, Plaintiffs have sent copies of the moving papers to senior attorneys within the Civil Bureau of the Department of Justice and have also called to notify those attorneys of the filing. These efforts were made in good faith to ensure that Defendants were informed of the TRO request in a timely manner.

EXPEDITED REVIEW REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. GRANT Plaintiffs' Motion and ENTER a temporary restraining order in accordance with the Proposed Order attached herewith;
- B. HOLD a hearing on preliminary injunctive relief in due course; and
- C. GRANT such further relief as this Court deems just, equitable and proper.

Respectfully submitted,

Dated: June 27, 2025

**PLAINTIFFS ANDREW FOLEY,
RONALD "CHUCK" MILES, and
JANE DOE #231
(on behalf of themselves and all those
similarly situated)**

By their attorneys,

RILEE & ASSOCIATES, P.L.L.C.

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EXPEDITED REVIEW REQUESTED

CERTIFICATE OF SERVICE

I certify that on June 27, 2025, I am sending a copy of this document as required by the rules of the court. I am electronically sending this document through the court's e-filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case.

/s/ W. Daniel Deane _____