

[SUPPORT LETTER & STATUTORY LEGISLATIVE PROPOSAL]

Subject: Support Letter & Request for Brief Zoom Call: The Child Welfare Pre-Escalation Case Transparency Act (Mandating Full Open-File Evidence Disclosure, Agency Transparency, and Pre-Court Error Correction Under KRS Chapter 620)

Kentucky's Child Welfare Pre-Escalation Case Transparency Act

Dear Rep. [_____],

I am writing to request your sponsorship for a ready-made legislative fix to administrative secrecy and surprise tactics in child welfare proceedings: the **Child Welfare Pre-Escalation Case Transparency Act**. Under current practice, the Department for Community Based Services (DCBS) and the Cabinet for Health and Family Services (CHFS) can keep their investigative files close to the vest, gathering allegations and escalating straight to court petitions without ever showing their hand to the accused parent. Consequently, families are forced into emergency hearings blindfolded, unable to address misinterpretations or correct administrative errors before a judge gets involved.

This is a glaring trap. Families are blindsided, and fit parents are hauled into court on files containing unverified notes and hidden records that they have never even been permitted to review. Oftentimes, agency secrecy *CREATES AVOIDABLE SEPARATION* and *DEPRIVATION*, contradicting the system's core mission, violating due process, failing child welfare needs, and undermining family integrity.

Fortunately, solutions exist to dismantle these depriving traps.

To bring actionable solutions rather than mere critique, I have drafted statutory remedies to mandate full open-file evidence disclosure, explicit agent transparency regarding intended escalation grounds, and a formal pre-court opportunity for defense and error correction before any petition can be filed in family court. I also kindly request a brief 10-to-15-minute Zoom call this week to walk you through how it works.

The initiative below solves these inefficiencies via a mandatory Pre-Escalation Transparency Conference, unredacted open-file evidence disclosure, an affirmative duty of agent explanation, a formal pre-court defense window, and strict administrative accountability before court intervention. I welcome the opportunity to discuss the details and earn your support via Zoom.

Respectfully,

Jared A. McCarthy, Founder of F.A.I.R.

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BACKGROUND MEMO AND NEED FOR REFORM

Current child welfare investigation protocols allow caseworkers to conceal their evidence and investigative materials from parents until after formal dependency, neglect, or abuse petitions are already filed in court. This operational secrecy prevents parents from correcting simple factual

misunderstandings or exposing administrative errors before a crisis is manufactured. This Act provides the precise statutory corrections needed to enforce full pre-petition transparency, ensuring no parent faces judicial action without complete open-file disclosure and a genuine, pre-court opportunity to defend themselves and clear up errors.

LEGISLATIVE FINDINGS AND PURPOSE OF PROPOSED ACT

It is the public policy of the Commonwealth that state child welfare agencies must operate with total transparency prior to seeking judicial intervention, that no family shall face court petitions without complete open-file disclosure of all investigative evidence, and that parents must be granted a formal pre-court opportunity to review evidence, correct errors, and resolve matters outside of formal judicial proceedings to protect due process and family integrity.

STATUTORY LEGISLATIVE PROPOSAL

Kentucky's Child Welfare Pre-Escalation Case Transparency Act

Drafted by: Jared McCarthy

AN ACT relating to child welfare investigations, mandatory pre-petition disclosure of investigative evidence, agent transparency, pre-court opportunity for defense and error correction, and administrative due process under KRS Chapter 620.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

620.XXX Mandatory Pre-Petition Child Protective Case Transparency, Evidence Disclosure, and Pre-Escalation Defense Conference

- (1) Mandatory Transparency and Evidence Disclosure Prior to Escalation:** Prior to the Cabinet, the Department for Community Based Services (DCBS), or the Cabinet for Health and Family Services (CHFS) filing any dependency, neglect, or abuse (DNA) petition, or seeking emergency custody orders under this chapter, agency agents or caseworkers shall conduct a formal "Pre-Escalation Transparency Conference" with the parent, guardian, or person exercising custodial control against whom allegations are directed.
- (2) Comprehensive Open-File Disclosure of Evidence:** The pre-escalation transparency conference shall not be satisfied by general summaries or verbal assertions. The agency shall provide the parent with full, unredacted disclosure of all investigative materials, notes, anonymous tips, intake reports, medical evaluations, photographs, and any other evidence or documentation the agency intends to rely upon if the matter is escalated to court.
- (3) Affirmative Duty of Transparency:** The agency agent shall explicitly and clearly state the specific grounds upon which the agency believes judicial escalation is warranted, detailing the exact statutory threshold they intend to invoke.
- (4) Mandatory Opportunity for Error Correction and Defense:** The parent shall be granted a formal, documented opportunity during the conference to review the disclosed evidence, point out

factual errors, correct administrative misinterpretations, present exculpatory evidence, and attempt to resolve or dispel the allegations completely outside of court and prior to any judicial involvement.

(5) **Statutory Bar to Filing Without Compliance:** No dependency, neglect, or abuse petition shall be accepted for filing or entertained by any family court unless the Cabinet attaches a certified "Certificate of Pre-Escalation Transparency," proving that complete open-file disclosure and a formal defense conference were executed in strict compliance with this section. Any petition filed without this certification shall be subject to immediate dismissal without prejudice.

SECTION 2. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

620.XXX Judicial Review of Child Protective Service Transparency Compliance and Dismissal

(1) **Motion to Dismiss for Failure to Disclose:** In any action initiated by the Cabinet, the parent may file a motion to dismiss without prejudice if the Cabinet failed to execute the mandatory pre-escalation transparency conference or withhold complete open-file evidence disclosure required under Section 1 of this Act.

(2) **Mandatory Dismissal and Remand:** If the court finds that the Cabinet escalated an unverified or minor allegation to judicial petition without completing the required open-file disclosure and pre-court defense conference, the court shall dismiss the petition, bar the admission of administrative evidence derived from the concealed file, and remand the matter for proper administrative compliance.

SECTION 3. SEVERABILITY CLAUSE

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.