

[SUPPORT LETTER & STATUTORY LEGISLATIVE PROPOSAL]

Subject: Support Letter & Request for Brief Zoom Call: The Temporary Custody McCarthy Deadline Law (Establishing Strict Statutory Time Caps, Mandatory Off-Ramps, and Sunset Limits on Emergency Restrictions Under KRS Chapter 620)

Kentucky's Temporary Custody McCarthy Deadline Law

Dear Rep. [_____],

I am writing to request your sponsorship for a critical, ready-made legislative fix targeting indefinite administrative overreach and open-ended state surveillance in child welfare proceedings: the **Temporary Custody McCarthy Deadline Law**.

Under current practice, when the Department for Community Based Services (DCBS) or the Cabinet for Health and Family Services (CHFS) intervenes on an emergency or temporary custody basis, they frequently secure court-sanctioned restrictions, safety plans, or supervision orders that stretch on indefinitely. Because current statutes leave the duration of these temporary deprivations largely to agency discretion, DCBS routinely drags its heels, overstays its welcome, and keeps its thumb on a family for months or years without returning the home to normal.

This is a notorious trap. Families are left dangling under restrictive oversight with no fixed horizon for resolution, while caseworkers fail to act with the necessary expedition to close out cases or safely restore family autonomy. Open-ended intervention breeds complacency, inflicts profound psychological and financial strain on fit parents, and allows state intrusion to persist long after any legitimate emergency has dissolved.

Fortunately, actionable solutions exist to dismantle these bureaucratic traps.

To bring structural accountability rather than leaving family integrity at the mercy of administrative sluggishness, I have drafted statutory remedies to establish strict maximum time caps, mandatory administrative benchmarks, and automatic sunset mechanisms for temporary custody orders and pre-permanent supervision restrictions under KRS Chapter 620.

The initiative below solves these delays via explicit statutory deadlines, mandatory agency action plans, regular judicial check-ins, narrow protective safeguards for extraordinary child safety circumstances, and an absolute sunset threshold that forces either full reunification or immediate dismissal. 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 intervention protocols permit temporary custody orders, protective supervision, and administrative safety plans to linger indefinitely under broad judicial discretion. This lack of statutory temporal limits enables state agencies to drag their heels, maintaining intrusive supervision without expedition and trapping families in a state of perpetual legal limbo. This Act provides the precise statutory corrections needed to enforce strict maximum time caps, ensuring no family is subjected to open-ended state restrictions or delayed reunification without a hard legislative deadline.

LEGISLATIVE FINDINGS AND PURPOSE OF PROPOSED ACT

It is the public policy of the Commonwealth that state child welfare interventions are extraordinary, temporary measures that must operate with maximum expedition, that open-ended administrative supervision and indefinite temporary custody restrictions violate due process and family integrity, and that the General Assembly must establish strict statutory time caps and mandatory off-ramps to prevent agencies from overstaying their welcome and trapping families in prolonged, non-punitive legal limbo.

STATUTORY LEGISLATIVE PROPOSAL

Kentucky's Temporary Custody McCarthy Deadline Law

Drafted by: Jared McCarthy

AN ACT relating to child welfare interventions, establishing strict maximum time caps on temporary custody and protective supervision, mandating agency action plans for swift reunification, and providing mandatory judicial sunset mechanisms 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 Statutory Time Caps, Maximum Intervention Limits, Mandatory Reunification Timelines for Temporary Custody and Protective Supervision, and Child Safety Safeguards

(1) **Mandatory Maximum Duration for Temporary Custody and Supervision:** Any temporary custody order, protective supervision order, or pre-adjudicatory restriction imposed by the Cabinet, the Department for Community Based Services (DCBS), or the family court under this chapter shall be subject to a strict statutory maximum duration not to exceed [ninety (90)] days from the date of initial entry, unless extended for good cause shown pursuant to strict judicial findings under this section. Under no circumstances shall an open-ended or indefinite temporary restriction be permitted to remain active without a fixed statutory expiration date.

(2) **Mandatory Agency Action Plan with Benchmark Timelines:** Within fourteen (14) days of any temporary intervention or custody order, the Cabinet shall file and serve a binding "*Expedited Reunification and Compliance Action Plan*." This plan shall explicitly outline:

- (a) The exact, objective behavioral or environmental benchmarks required of the parent;
- (b) Specific biweekly service provisions, home visits, and evaluations the Cabinet shall execute to assist the family; and
- (c) A fixed, calendar-bound schedule for phased restoration of parental custody and rights, entirely eliminating vague or open-ended compliance metrics.

(3) **Prohibition on Dragging Heels and Stalling:** The Cabinet shall be under an affirmative legal duty to act with maximum expedition. Administrative backlogs, staff shortages, or failure to schedule required classes, evaluations, or home visits shall not constitute legal justification for extending temporary restrictions past the statutory maximum window.

(4) **Automatic Expiration and Sunset of Restrictions:** If the Cabinet fails to bring the matter to a final disposition, achieve reunification, or secure a formally justified, narrow judicial extension prior to the expiration of the statutory maximum window established in subsection (1) and (5) of this section, the temporary custody order or protective supervision restrictions shall automatically sunset and expire by operation of law, and full physical and legal custody shall immediately revert to the parent or guardian.

(5) **Narrow Statutory Exceptions for Child Protective Time Extensions:**

- (a) The strict statutory maximum duration established in subsection (1) of this section may be extended only upon a formal, written motion by the Cabinet and an explicit judicial finding, supported by clear and convincing evidence, that extraordinary circumstances directly imperil the physical safety or immediate welfare of the child. Extensions shall not be granted based on general agency backlogs or administrative delay.
- (b) Permissible extraordinary circumstances established by clear and convincing evidence justifying a limited extension shall be strictly restricted to:
 - (1) Active, unmitigated substance abuse presenting an immediate danger to the child;
 - (2) Unsafe or deplorable home environments posing severe, acute health or safety hazards;
 - (3) Observable, reckless, and threatening parental behavior patterns demonstrating an immediate threat of harm;
 - (4) Pending domestic violence criminal charges or clear and convincing evidence of active domestic violence or negligence within the household;
 - (5) Observable failure to prioritize or provide the basic daily care needs required for child welfare;
 - (6) Willful failure to properly educate children via acceptable legal means; or
 - (7) Willful failure to reasonably maintain dietary, physical, or mental health professional-recommended treatment needs essential to maintain the child's optimal health and well-being.
- (c) **Reasonable Time Cap Extensions:** Any judicial extension granted under this subsection shall be strictly time-capped, not to exceed an additional **[thirty (30)]** days per extension, with a cumulative absolute lifetime maximum intervention cap not to exceed **[one hundred eighty (180)]** total days from the date of initial entry, at which point absolute reunification or dismissal by operation of law shall occur.

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

620.XXX Judicial Review of Intervention Deadlines, Motions to Lift Restrictions, and Sanctions for Agency Delay

- (1) **Motion to Lift Restrictions Upon Deadline Expiration:** In any action where the Cabinet has exceeded expedited timelines or failed to meet benchmarks within the statutory window, the parent or guardian may file an emergency motion to lift all temporary restrictions and restore full custody.
- (2) **Mandatory Dismissal or Restoration:** If the family court finds that the Cabinet has dragged its heels, failed to execute its mandated action plan with expedition, or allowed temporary restrictions to drag on past the statutory maximum without extraordinary verified justification, the court shall immediately order the dissolution of the temporary custody or supervision order, dismiss the underlying stagnant petition without prejudice, and restore full custody to the parent.
- (3) **Prohibition on Serial Refiling:** The Cabinet shall not circumvent the statutory time caps of this Act by dismissing and refiling identical temporary petitions ("refiling loop-holes"), and any attempt to do so shall result in permanent dismissal with prejudice.

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.