

[SUPPORT LETTER & STATUTORY LEGISLATIVE PROPOSAL]

Subject: Support Letter & Request for Brief Zoom Call: The Clear & Convincing Protective Orders Act (Elevating Evidentiary Standards, Preventing Tactical Misuse, and Protecting Parent-Child Bonds)

Kentucky's Clear and Convincing Protective Orders Act

Dear Rep. [_____],

I am writing to request your sponsorship for a ready-made fix to domestic relations disparities: the **Clear and Convincing Protective Orders Act**. To bring actionable solutions rather than mere critique, I have drafted statutory remedies to prevent the tactical misuse of protective orders, eliminate low-bar access that violates due process, and protect parent-child bonds from life-altering, bad-faith deprivations. I also kindly request a brief 10-to-15-minute Zoom call this week to walk you through how it works.

Under current civil law practice, protective orders frequently rely on low-bar evidentiary standards that enable state-sanctioned restrictions, isolation, and deep reputational harm. Furthermore, un-counseled litigants victim to custodial-erasure-campaigns are routinely left unguided through complex statutory frameworks, placing an unfair burden on prey-parents facing tactical, bad-faith “protective order” filings designed to manipulate custody and domestic relations proceedings.

This is a glaring trap. Families are destabilized, and loving, fit parents are alienated from their children due to avoidable procedural abuses. Oftentimes, protective orders **create separation from fit parents, intensify conflict, damage trust and parental bonds, and cause severe reputational harm**, directly contradicting the system's core mission, violating the Commonwealth's constitutional intent, failing family welfare needs, and undermining family integrity at its core.

Fortunately, solutions exist to dismantle these depriving traps.

The initiative below solves these inefficiencies via a clear and convincing evidentiary standard, strict anti-tactical safeguards, affirmative state disclosure duties, and protections against bad-faith deprivations. 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

Low evidentiary thresholds in civil protective order statutes invite tactical, bad-faith weaponization in domestic disputes, causing irreversible damage to employment, reputation, and foundational parent-

child bonds. This Act restores due process by requiring clear and convincing evidence for long-term restrictions while maintaining immediate emergency life-safety protections.

LEGISLATIVE FINDINGS AND PURPOSE OF PROPOSED ACT

It is the public policy of the Commonwealth that civil protective orders must balance genuine emergency safety with rigorous due process. Lower evidentiary standards invite bad-faith manipulation, depriving fit parents of constitutional rights without adequate proof. Elevating the evidentiary standard safeguards family integrity against tactical misuse.

STATUTORY LEGISLATIVE PROPOSAL

Kentucky's Clear and Convincing Protective Orders Act

Drafted by: Jared A. McCarthy

AN ACT relating to civil protective orders, establishing the Clear and Convincing Protective Orders Act, elevating evidentiary standards under KRS Chapter 456 and KRS Chapter 403, preventing tactical bad-faith use, and protecting constitutional due process.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

456.XXX The Clear & Convincing Protective Orders Act – Definitions; Evidentiary Standards; Anti-Tactical Safeguards; Due Process Protections

(1) Definitions: As used in this section:

- (a) "Cabinet" means the Cabinet for Health and Family Services.
- (b) "Clear and convincing" means the highest evidentiary standard required to be met, representing a significantly higher bar than a mere preponderance of the evidence. It requires that the proof is highly and substantially more likely to be true than untrue, producing in the mind of the trier of fact a firm belief or conviction that the truth of the allegations is highly probable.
- (c) "Tactical bad-faith filing" means a petition for a protective order initiated primarily to gain leverage in a concurrent or anticipated custody, visitation, or divorce proceeding under KRS Chapter 403.

(2) Evidentiary Standard for Interpersonal Protective Orders:

- (a) Notwithstanding any provision of KRS Chapter 456 to the contrary, no interpersonal protective order or domestic violence order of a long-term duration shall be issued, extended, or made permanent unless the petitioner establishes the statutory grounds by clear and convincing evidence.
- (b) Ex-parte temporary protective orders may be issued upon a standard of reasonable immediate threat to safety, but shall be strictly time-limited and subject to an expedited evidentiary hearing.

(3) Prohibition of Tactical Misuse and Bad-Faith Penalties:

- (a) Courts shall affirmatively screen petitions for evidence of tactical bad-faith utilization intended to disrupt parent-child contact or secure procedural advantages in family court.

(b) If a court finds by a preponderance of the evidence that a petition was filed in bad-faith or for tactical leverage, the court may assess appropriate sanctions, attorney's fees, and mandatory reporting considerations.

(4) Mandatory Disclosure of Due Process Rights:

(a) All pro se litigants served with protective order petitions shall be provided a clear, plain-language disclosure outlining the evidentiary standard, the right to counsel, and the specific mechanisms to challenge unverified or uncorroborated allegations.

SECTION 2. AMENDMENTS TO EXISTING STATUTES

(1) **KRS 456.060** (pertaining to issuance of emergency and temporary protective orders) is amended to insert:

"...Provided, however, that while temporary relief may be granted upon an initial showing of immediate danger, any subsequent permanent or long-term order under this chapter shall require proof by **clear and convincing evidence**."

(2) **KRS 403.740** (pertaining to domestic violence orders) is amended to insert:

"...Before a court enters an order of domestic violence under this section, the petitioner must establish the underlying allegations by **clear and convincing evidence**."

SECTION 3. SEVERABILITY CLAUSE

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