

Citizen Participation and Public Petitions Committee
Wednesday 11 February 2026
4th Meeting, 2026 (Session 6)

PE2166: Establish a standardised timeframe for civil proceedings in child custody cases

Introduction

Petitioner John Watson McMaster

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to establish a standardised timeframe for civil proceedings related to child custody cases, including a 14-day timeframe for proof hearings.

Webpage <https://petitions.parliament.scot/petitions/PE2166>

1. [The Committee last considered this petition at its meeting on 8 October 2025](#). At that meeting, the Committee agreed to write to the Scottish Government.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new written submissions from the Minister for Victims and Community Safety, and the Petitioner which are set out in **Annexe C**.
4. [Written submissions received prior to the Committee's last consideration can be found on the petition's webpage](#).
5. [Further background information about this petition can be found in the SPICe briefing](#) for this petition.
6. [The Scottish Government gave its initial response to the petition on 19 June 2025](#).
7. Every petition collects signatures while it remains under consideration. At the time of writing, 8 signatures have been received on this petition.

Action

8. The Committee is invited to consider what action it wishes to take.

Clerks to the Committee
February 2026

Annexe A: Summary of petition

PE2166: Establish a standardised timeframe for civil proceedings in child custody cases

Petitioner

John Watson McMaster

Date Lodged

22 May 2025

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to establish a standardised timeframe for civil proceedings related to child custody cases, including a 14-day timeframe for proof hearings.

Background information

Over the past six years, extensive experience has revealed the immense challenges faced by courts in handling civil proceedings related to children's custody cases. Not only are courts under significant pressure, but they are often compelled to make decisions based on misleading or false information. This severely undermines the ability to ensure just and informed outcomes for the children involved.

To address this issue, I propose that proof hearings be made mandatory within 14 days of the initiation of any civil action. This provision would facilitate the timely presentation of evidence, enabling courts to make more accurate decisions while reducing opportunities for disinformation to distort proceedings.

Delays in the judicial process cause irreversible harm to children, often leading to their alienation over prolonged periods. False accusations are frequently withdrawn after years of litigation, yet the damage has already been done, leaving children with lifelong emotional scars.

Annexe B: Extract from Official Report of last consideration of PE2166 on 8 October 2025

The Convener: The first of the new petitions is PE2166, which was lodged by John Watson McMaster. The petition calls on the Scottish Parliament to urge the Scottish Government to establish a standardised timeframe for civil proceedings that relate to child custody cases, including a 14-day timeframe for proof hearings. The SPICe briefing explains that section 11 of the Children (Scotland) Act 1995 gives courts various powers to decide an issue in a dispute about parental responsibilities and rights.

The briefing states that relatively few section 11 cases tend to get as far as a proof hearing. Instead, they are typically settled during child welfare hearings, which are relatively informal, private proceedings. The briefing also notes that there have been long-standing policy concerns about delays in cases that affect children, including in section 11 cases, and inconsistencies in how such cases are managed. To address that, the Children (Scotland) Act 2020 will, when in force, require courts to consider whether any delay in proceedings would negatively affect a child's welfare. The length of delay is not specified in the legislation, with the explanatory notes for the bill stating that the length "would vary from case to case."

The Scottish Government's response to the petition states that it does not consider the specific asks of the petition to be practical or achievable. Its submission notes that a standardised timetable would not recognise the different complexities in individual cases. The submission also highlights the case management rules that are in place for family actions, which includes a key aim of bringing greater judicial case management to resolve cases more quickly.

The petitioner has provided a written submission calling for the committee to reconsider the timeframe that was set out in the petition. Following a meeting with the Scottish Government, he is now calling for a considered timeframe of four to six weeks rather than 14 days for a proof hearing. He states that that timeframe is pragmatic, because it aligns with the operational realities of the courts while still drastically accelerating the process. He also states that the timeframe would protect child welfare by prioritising swift resolution and improve system efficiency by reducing opportunistic and malicious litigation.

The petitioner's submission states that the core issue is not a lack of rules but a systemic failure to enforce them consistently. He believes that the social damage that is caused by those procedural failures is measurable not only in the immense emotional toll on families but in the long-term costs to public services, including mental health support and social work intervention.

Do colleagues have any comments or suggestions for action in the light of what we have received?

Fergus Ewing: I used to be involved in family actions as a solicitor. It is an area that is not only about child welfare but often about broken-down relations between the husband and wife. Therefore, such cases are often ancillary to divorce proceedings.

They can be extremely difficult and fraught with emotional intensity and strong feelings on either side, so many of the delays that result come not from the courts but from the reluctance of the parties to come to a deal. I do not make any judgments on anybody in saying that. That is just how it works—or does not work.

It would be interesting to know when the Children (Scotland) Act 2020 will come into force and what the plans are. The advice that we have had from the clerks is that the act will require courts to consider whether any delay in proceedings could negatively affect a child's welfare, which seems to be a very useful power. In other words, if there were to be an inordinate delay that went on for years and years and the child's welfare was—understandably—suffering as a result, it seems sensible that that law, as passed in 2020, should come into play. It would be good, at the very least, to ask the Scottish Government when the 2020 act will come into force. If it is saying that the 2020 act is something that should be taken account of, we are entitled to know when it will become the law.

The Scottish Government should also be asked for its views on the petitioner's revised deadline of four to six weeks as opposed to 14 days. I suspect that the answer will be much the same and I suspect that there are good practical reasons to consider that any deadline of this nature may be arbitrary in some cases and therefore potentially produce adverse anomalies and consequences. However, it would be useful to get a bit more detail from the Government about that.

At the end of the day, I am sure that the petitioner has got a point that these actions can take years and years, and that the victims—the sufferers—are very often the children.

The Convener: Thank you, Mr Ewing. This is the first consideration of the petition, and you have made specific recommendations. Are committee members content to keep the petition open and to make the inquiries that Mr Ewing has detailed?

Members *indicated agreement.*

Annexe C: Written submissions

Minister for Victims and Community Safety written submission, 20 November 2025

PE2166/C: Establish a standardised timeframe for civil proceedings in child custody cases

The Citizen Participation and Public Petitions Committee considered the above petition at a meeting on 8 October 2025, and agreed to write to the Scottish Government to seek the following information:

- Our view on the Petitioner's revised suggestion of a 4 to 6 week timeframe and whether the longer timeframe has any impact on whether the Scottish Government considers the asks of the petition to be practical or achievable.
- When the Children (Scotland) Act 2020 will come into force, particularly section 30 which makes provision on delay in court proceedings being likely to prejudice child welfare.

The letter containing the Committee's request was sent from the Assistant Clerk to my officials in the Family Law Unit on 14 October 2025.

The Scottish Government does not think that the Petitioner's revised 4 to 6 week timescale (replacing the 14 day timeframe included in the original Petition ask) is either practical or achievable. I refer back to the [initial written submission](#) that my officials provided to the Committee in June this year, and note that all of the reasons provided in that document still apply to the ask of this Petition, even with a different proposed timescale.

I would like to state that the Scottish Government has sympathy with the Petitioner's position and agrees that any undue delay in family court proceedings will usually not be in the best interests of the child.

That is why, in 2019, we included provisions on this in the [Children \(Scotland\) Bill](#), which, following parliamentary scrutiny, became [section 30](#) of the [Children \(Scotland\) Act 2020](#) (the 2020 Act). We have no plans at the present time to legislate further on this matter, including to set a timescale (of any length) in law as asked for by the Petitioner.

I would also like to reiterate what was set out in our previous response regarding the changes to case management rules in family actions that came into effect on 25 September 2023. A key aim of these rules is for cases to be resolved more quickly through greater judicial case management, particularly to prevent undue delay in proceedings relating to the welfare of children. This is outlined on [the Scottish Civil Justice Council website](#).

I would like to highlight the perspective provided by Committee Member Fergus Ewing MSP during the 8 October meeting (see the [Official Report](#), columns 13 and 14). Noting that he has some experience with family-related actions in the civil courts

as a former solicitor, his opinion that many delays experienced in Children (Scotland) Act 1995 section 11 cases are as a result of *'the reluctance of the parties to come to a deal'* and not because of the court or court processes is worth highlighting. This supports and expands on one of the points made to the Committee in the initial written submission by my officials:

'Cases under section 11 can vary enormously. Some may be undefended. In others, the parties may be far apart on what they consider to be in the child's best interests. In some cases there can be a high level of conflict. A standardised timetable would not recognise the different complexities in individual cases.'

He also suggests that, in his experience, section 11 cases are *'often ancillary to divorce proceedings'*. Again, this supports the following point made by my officials in the initial submission on this Petition:

'A crave (request) in a court action for child contact or residence may be a stand-alone action or may be part of a wider court action (e.g. covering divorce as well). It's not clear whether a standardised timeframe would apply just to stand-alone court actions for contact or residence or would also include court actions covering other matters as well.'

Finally, Mr Ewing opines that a timescale of any length *'may be arbitrary in some cases and therefore potentially produce adverse anomalies and consequences'*. This is a point which I agree with, and supports the overall position intimated to the Committee by my officials in the aforementioned initial written submission.

As regards the implementation of the 2020 Act, I would refer the Committee to the [update letter](#) I provided to the Equalities, Human Rights and Civil Justice Committee on 26 September 2025. The letter builds upon [previous correspondence](#) sent to that Committee on 11 March 2025, and I also discussed the topic directly with them in a session on 24 June 2025 (see the [Official Report](#), columns 10 to 14).

By way of a further update to that letter, the secondary legislation to regulate child contact services has been approved by Parliament and I signed the instruments on 19 November. The status of any provision in the 2020 Act that has not otherwise been referenced in the September letter remains as set out in the other updates linked-to above.

Section 30 is currently in force, with the exception of section 30(2) (delay in contact and residence proceedings). As noted in my September implementation update letter, the Scottish Government is working on the next set of regulations (which we now expect to be next year) to implement further provisions in the 2020 Act and section 30(2) should be included in the Commencement Regulations.

I hope the Committee finds this information to be of assistance in its consideration of the petition.

Yours sincerely,

SIOBHIAN BROWN

Petitioner written submission, 1 February 2026

PE2166/D: Establish a standardised timeframe for civil proceedings in child custody cases

Child Custody Cases Should Never Be Part of Divorce Actions

Clarification and Rebuttal Regarding the Scottish Government response to Petition PE2166: “Establish a standardised timeframe for civil proceedings in child custody cases”

Thank you for sharing the response from the Minister for Victims and Community Safety. The petitioner has reviewed it carefully and wishes to provide the following clarifications for the Committee’s consideration.

While acknowledging the Minister’s reply, it is observed with respect that the response does not engage with the specific mechanism proposed in the petition. It primarily reiterates existing frameworks, referencing laws and policies that have been in place for decades. The core issue, as highlighted in the petition, is the documented absence of their consistent enforcement in streamlining civil child custody proceedings, leading to systemic delay.

The petition’s objective is partnership-oriented and practical: to propose a more streamlined system that safeguards children’s welfare by:

- Expediting family custody hearings to minimise harm caused by protracted proceedings.
- Reducing the psychological and emotional cost of delays on all parties, especially children.
- Decreasing the associated measurable costs to mental health services.
- Aiding the Scottish Courts and Tribunals Service (SCTS) in case management efficiency.
- Generating savings for the public purse through reduced court time and resources.
- The cost of suicide, both of children and parents directed connected to delays.

Clarification on Scope: The Minister’s response, and that of the Family Law Division, appear to reference child protection cases within criminal proceedings. This petition is explicitly and solely focused on **civil proceedings in child custody**, typically arising from divorce or separation. The proposal seeks to introduce standardised timeframes within this civil context and does not intend to alter any vital protections for children within the criminal or child protection systems.

Addressing the Cited Cause of Delay: The response cites Committee Member Fergus Ewing MSP’s valid point regarding the “reluctance of the parties to come to a deal.” The petition directly addresses this: in high-conflict separations, the divorce action and child custody case become intertwined, with the former often stalling the latter. The proposal is that a sheriff could be empowered to order a proof hearing for

the custody matter within a defined period. This would decouple the two processes, allowing the child's living arrangements to be settled swiftly for their stability, while the financial/divorce matters continue separately. Evidence suggests that resolving custody may subsequently facilitate quicker divorce settlements.

Evidence from Stakeholder Engagement: To inform this petition, correspondence was sent to key stakeholders, not seeking support, but posing a specific, evidence-based question: **“Do you believe that delays in court proceedings in child custody cases cause harm?”**

- **The Minister for Victims and Community Safety** expressed sympathy for the petitioner and acknowledged a problem exists.
- **The Family Law Division** confirmed in writing that they believe delays can cause harm (letter available to the Committee on request). The petitioner appreciates this candour and views it as a basis for constructive future dialogue.
- **Education Scotland** declined to answer directly but indicated a willingness to provide information to the Committee. The petitioner respectfully asks the Committee to seek their views formally.
- **The Scottish Courts and Tribunals Service (SCTS)** acknowledged receipt but provided no substantive reply within their stated response timeframe.
- **Renfrewshire Education Department** provided no reply.

This pattern of non-response or procedural delay from operational bodies underlines the petition's central thesis: that systems and policies exist but are inconsistently applied, directly contributing to the problem.

Proof of Concept: The petitioner notes that the courts are operationally capable of swift timelines. A recent proof hearing for a Contempt of Court case was assigned within a four-week period. The petitioner can provide the Committee with the relevant case number for verification, demonstrating that expedited processes are feasible within the current system.

Conclusion: This petition is submitted in a spirit of collaborative problem-solving. It is based on direct experience of the system's human and operational costs and is supported by stakeholder acknowledgements of the harm caused by delay. The petitioner, who stands to gain no personal benefit, seeks only to provide a workable mechanism for the Committee's scrutiny—one that prioritises child welfare, judicial efficiency, and the responsible use of public resources.

From all parties that have contributed to this petition, the only two who have extensive experience of children's custody cases have both accepted that delays cause harm.

The petitioner thanks the Committee for its continued consideration and remains available to provide any further clarification required.