

# Supreme Court of Kentucky

## ORDER

**IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND  
PROCEDURE FOR THE 14TH JUDICIAL CIRCUIT, FAMILY  
COURT DIVISION, BOURBON, SCOTT, AND WOODFORD  
COUNTIES**

Upon recommendation of the Judges of the 14th Judicial Circuit, and  
being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 14th Judicial Circuit,  
Family Court Division, Bourbon, Scott, and Woodford counties, are hereby  
approved. This order shall be effective as of the date of this Order, and shall  
remain in effect until further orders of this court.

Entered this the 30th day of March 2012.

  
CHIEF JUSTICE JOHN D. MINTON, JR.

**RULES OF COURT**

**PRACTICE AND PROCEDURE**

**COMMONWEALTH OF KENTUCKY**

**14<sup>TH</sup> JUDICIAL CIRCUIT, DIVISION 3, FAMILY COURT**

**BOURBON, SCOTT AND WOODFORD COUNTIES**

<http://www.courts.ky.gov>

## **RULE 1 INTRODUCTION AND ADMINISTRATIVE PROCEDURE**

### **101 Preface**

- A. These are the Uniform Rules of Court Practice and Procedures for the Fourteenth Judicial Circuit Family Court in Bourbon, Scott and Woodford Circuit Courts, Family Divisions, hereinafter referred to as Family Court. These rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCr), the Kentucky Rules of Civil Procedure (CR). All previous rules adopted by the Fourteenth Judicial Circuit Court relating to Family Court matters are hereby rescinded.
- B. The Kentucky Rules of Civil and Criminal Procedure and the General Jurisdiction Rules of Practice and Procedure of the Fourteenth Judicial Circuit shall apply to family law matters to the extent they are not inconsistent with the Kentucky Family Court Rules of Procedure and Practice (FCRPP) and these Rules.
- C. Pursuant to FCRPP 1(3), self-represented litigants shall be held to knowledge of these rules the same as parties represented by counsel.
- D. Circuit Clerks are not allowed to give legal advice, intervene in, comment on individual cases or assist in the written completion of any forms.
- E. The Court may assess costs and fees or impose appropriate sanctions against a party or counsel not complying with these rules.

### **102 Effective Date**

- A. These rules shall apply with full force and effect to all actions filed or pending thirty (30) days after approval by the Chief Justice of the Kentucky Supreme Court and promulgation by order of the judge of the 14<sup>th</sup> Judicial Circuit Family Court.

### **103 Citation and Style of Cases**

- A. These rules shall be cited as 14<sup>th</sup> Family Court Rules of Procedure (14th FCR).
- B. Cases filed in the Family Court shall be styled as follows:

- 1. Caption: COMMONWEALTH OF KENTUCKY

\_\_\_\_\_  
CIRCUIT COURT  
DIVISION III FAMILY  
CASE NO: \_\_\_\_\_

- 2. As set forth in KRS 403.130(2), a proceeding for dissolution of marriage, legal separation or declaration of invalidity of marriage shall be entitled "IN RE THE MARRIAGE OF .....". A custody or support proceeding shall be entitled "IN RE THE (CUSTODY) (SUPPORT) OF ....."

## **104 Assignment of Cases**

### **104.1 Jurisdiction**

The Family Court is a division of Circuit Court with jurisdiction in accordance with KRS 23A.100 and related provisions, and shall be referred to as Bourbon, Scott, or Woodford Circuit Court, Division III, Family Court.

### **104.2 Appeals from Family Court**

Pursuant to KRS 22A.020(1) and CR 73.01(2), any appeal of an action originating in the Family Court Division of Circuit Court shall be taken to the Court of Appeals.

## **105 Related Cases**

- A. At the time the initiating pleading is filed, Petitioner is required to file with the Court a notice of related cases, if any. A related case may be an open or closed civil, criminal, guardianship, domestic violence, juvenile delinquency, juvenile dependency, neglect or abuse, or domestic relations case. A case is considered related if:
1. It involves the same parties, children, or issues and is pending when the Family Court case is filed; or
  2. It affects the Family Court's jurisdiction to proceed; or
  3. An order in the related case may conflict with an order on the same issues in the new Family Court case; or
  4. An order in the new case may conflict with an order in the earlier case.
- B. This notice should state:
1. The name of the case(s);
  2. Identify the petitioner and respondent, case number and division;
  3. If the case has been decided or is still pending (Note: a case is pending until a child is eighteen (18), has graduated high school or is emancipated as a court's jurisdiction may extend to that event);
  4. Name of Court where case was decided or is pending;
  5. The relationship of the case(s) including if the case:
    - a. Involves the same parties, children, or issues; or
    - b. May affect the Family Court's jurisdiction; or
    - c. An order in a related case may conflict with an order in this case; or
    - d. An order in this case may conflict with a previous order in a related case; and
  6. Provide a brief statement as to the relationship of the case(s).
- C. The parties shall have a continuing duty to inform the Family Court of any related cases in this or any other jurisdiction or state that could affect the current proceeding.
- D. Pursuant to CR 42.01 and in an effort to conserve judicial resources and promote an efficient determination, when actions involve common issues or common parties or where duplicative evidence may be required before the same Court, the Court may order or a party may motion the Court for such to be heard in both cases simultaneously, but the court files shall be maintained separately.



- E. To further promote an efficient determination of family law matters, the Circuit Clerk shall bring to the call of the docket the court files of all related cases within the knowledge of the Circuit Clerk and maintained locally, regardless of whether the parties have identified them. To aid the Family Court Judge who may be in another county within the circuit but seeks access to case information through the court case management system, related cases within the knowledge of the Circuit Clerk shall be listed by the Circuit Clerk in the court case management system cross reference sections of such related cases.

## **RULE 2 COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING**

### **201 Regular Motion Hour Schedule**

- A. Sessions for Family Court shall be held in each county of the Fourteenth Judicial Circuit. The motion docket schedule and the holiday schedule is available upon request to the Circuit Clerk, the Family Court Office, on the Family Court website and via email transmission to attorneys who have provided an email address to the Family Court Office.

### **202 Exceptions to Regular Motion Hour**

- A. From time to time schedule modifications may be made at the discretion of the Family Court Judge and such changes will be made available as soon as practicable in the same manner set forth herein.
- B. There shall be no motion hour during dates of judicial training, except for new cases of domestic violence if required by statutory time limits. If the court is closed for any unforeseen reason, i.e. inclement weather, all matters will be renoticed for a subsequent motion hour.

### **203 Deadlines for Serving and Filing Motions**

- A. Unless otherwise allowed by rule or statute, all motions to be set on a docket must be filed with the Circuit Clerk and served on the opposing parties or attorney, if represented, and clocked no later than close of business 10 days in advance of the scheduled motion date. All responses must be filed with the Circuit Clerk and served on the opposing parties or attorney, if represented, and clocked no later than close of business 3 days in advance of the scheduled motion date. Failure to timely respond to a motion may be grounds for granting the motion. Further, the Court may impose sanctions upon an attorney or party for failure to comply with this rule, including overruling the motion or not considering the response.
- B. Unless otherwise ordered by the Court, all motions untimely filed or improperly noticed shall be automatically passed to and docketed by the Circuit Clerk for the next appropriate motion hour. It is the responsibility of the parties and attorneys to check both the Family Court calendar prior to filing pleadings and the Family Court docket prior to motion hour. The Circuit Clerk is not responsible for informing parties or attorneys that an untimely filed or improperly noticed motion has been set on the next motion docket.
- C. Motions for matters in Family Court, not an emergency, shall be noticed for the beginning of the appropriate regularly scheduled motion docket, unless otherwise advised

by the Family Court Judge or Family Court Office. It is the responsibility of counsel and parties to check the web site or with the Circuit Clerk to determine the appropriate time and place for any motion docket.

- D. Arraignment on bench warrants served shall be heard on the appropriate regularly scheduled motion docket.
- E. Any motion on which arguments need to be heard or evidence taken may be passed by the Court to a hearing date or heard at the end of the motion hour docket.
- F. The docket for calendared proceedings in each respective county is controlled by the Family Court Judge. No calendared proceeding shall be removed from the motion docket or hearing docket, without prior approval of the Family Court Judge and no proceeding may be placed on the docket without the proper written pleadings, or other authorization of the Family Court Judge or Family Court Office.

## **204 Pleadings Generally**

### **A. Electronic Filing or Service.**

- 1. Faxed or emailed pleadings or other documents, other than one which may be heard ex parte or are emergency orders, shall not be accepted by the Circuit Clerk, shall not be placed in the Court record, and shall not be considered timely or properly filed, unless otherwise provided in these rules, the FCRPP, or the Kentucky Rules of Civil Procedure.
- 2. Pursuant to CR 5.02 when service is required it may be accomplished by sending it by electronic means (fax or email) if the attorney or a party consents in writing. The attorney or a party consents to accept electronic service by filing and serving a notice that the attorney or party accepts electronic service. The notice must include the electronic notification address at which the attorney or party agrees to accept service. Service is complete upon mailing or electronic transmission, but electronic transmission is not effective if the serving party learns that it did not reach the person to be served.
- 3. An attorney or party who will accept service via fax or email pursuant to CR 5.02 shall file such notice as a separate pleading and serve upon all parties. The notice shall be titled "NOTICE-ELECTRONIC SERVICE" and include the correct electronic mail address and/or facsimile number and set forth the agreement to accept service from the date of filing forward through such means. The written agreement shall be valid in only the court action in which it is filed and may be revoked by a subsequent written rescission filed as a separate pleading.
- 4. Service by electronic means of reports required to be filed in actions in the Juvenile Divisions of the Family Court shall be the preferred method of service due to the volume of such reports. Upon appointment, initial appearance or as soon as practicable, all attorneys shall provide and maintain in the court file a correct electronic mail address or facsimile number. Parents or custodians named in such actions shall be served as required by CR 5.02 or applicable statute or rule.



- B. No document shall be filed in the Court record unless the document is accompanied by a proper motion with a certification of service upon the opposing parties that the motion and its attachments have been properly served on all parties or the document is accompanied by a notice of filing of said document with a certification of service that the document has been properly served on all parties. Exhibits properly marked and introduced in a Court hearing are an exception.
- C. Any filing to be served by certified mail shall include the completed certified mail cards and return receipts. The return card shall reflect the Circuit Clerk's address. Upon receipt of the return card, the Circuit Clerk shall enter this document into the record.
- D. Pursuant to CR 5.01, "...every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar papers shall be served upon each party except those in default for failure to appear."
- E. All pleadings, motions, notices of filing, agreements and orders shall specifically state which party the attorney represents and set forth the correct mailing addresses and telephone numbers for the attorneys and parties, if unrepresented by counsel. If an unrepresented party is a victim of domestic violence or has approval from the Court for good cause shown, the information shall remain confidential.

## **205 Petitions**

- A. All petitions filed in dissolution or custody actions shall include the summons to be served on all necessary parties.
- B. Pursuant to KRS 403.130(3) an initial pleading in all proceedings under KRS chapter 403 shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under KRS chapter 403, shall be denominated as provided in the Rules of Civil Procedure.
- C. The Circuit Clerk shall attach a copy of the Status petition to all Status summonses.
- D. Upon the filing of a petition for protection from Domestic Violence the Circuit Clerk shall attach a copy of the petition to the required summons as set forth in CR 4.01(1)(a), KRS 403.740 or KRS 403.745. In cases where the respondent is unserved, attempts to serve shall continue as provided in statute and the Circuit Clerk shall attach a copy of the petition to each subsequent summons issued for respondent until initial service is accomplished.

## **206 Motions**

- A. Any attorney or party prior to filing any Motion, except an Ex Parte Motion, shall make reasonable efforts to contact opposing counsel to obtain an agreeable date on which to set the matter on the motion docket. In the event the attorneys cannot agree upon a date for said motion, other than one of an emergency nature or which may be required by statute to have a ruling within a set time, the moving attorney may set the matter on the motion docket. **All Certificates of Service shall certify that opposing counsel was contacted**



**concerning the date set for the proceeding, set forth the efforts made to contact if contact was not made, or why the matter shall be set without an agreement as to date.**

- B. All motions shall be titled NOTICE – MOTION (or NOTICE - FILING, if more applicable). The NOTICE setting forth the date and location of the proceeding shall appear first, followed by MOTION (or FILING, if more applicable) which shall state with specificity the relief or order requested, a statement of the grounds for the relief or order with appropriate citations to supporting authority and any proof including affidavits in support of the relief required at the time of filing. Failure to file a statement of grounds with citations to supporting authority may be cause for overruling or denying the Motion.
- C. Copies of all cases cited within legal briefs, memoranda or the body of the motion shall be attached to the original pleading filed in the court file.
- D. Only copies of the relevant portions of depositions referenced in pleadings or relied upon in briefs to the Court shall be attached to the motion, brief or memorandum.
- E. The Certificate of Service shall include the mailing address, contact telephone number and contact email and/or facsimile number, if provided of record, for all persons served, except in domestic violence actions where the information may be held confidentially.
- F. All docketed motions shall be properly noticed and filed with the Circuit Clerk and copies served on all parties or their attorneys of record, including intervening parties or their attorney. The notice shall specify the date, time, and place for the motion to be heard. Only motions for hearing date in adoptions and emergency motions shall be docketed at the convenience of the Court.
- G. The original pleading, motion and any other paper filed in the record by counsel or party shall include the signature of the attorney or party. A rubber stamp shall not be deemed a signature on the original pleading or motion either under this rule or CR 11.
- H. A motion to compel discovery, for a protective order, or for sanctions may be filed pursuant to CR 26 or CR 37 only if counsel are unable to resolve the dispute between them. Counsel or party has the duty to make a good faith effort to resolve any disputes which arise in the course of discovery. The moving party shall attach to the motion a certification of counsel that he or she has attempted to resolve the dispute and that they have been unable to do so.
- I. During any call of the docket, the Court may pass any motion for a hearing.
- J. Pursuant to 42 U.S.C. 675(5) and 45 CFR § 1356.21(o), all motions set on the court docket shall be noticed to the foster parents, if any, of the child and any pre-adoptive parent or relative providing care for the child. The notice shall specifically state that the notice is not an order for the parents to appear, but rather that they have a right to notice of the proceeding and a right to appear and an opportunity to be heard at the proceedings. Where the matter is placed on the docket by the Court, the Cabinet for Health and Family Services shall provide an address for said parents/custodians to the Circuit Clerk who shall cause a court notice with the qualifying language to be sent out.



## 207 Orders

- A. Tendered orders, judgments and decrees shall include a signature line for the presiding Judge and be prepared as follows:

JUDGE \_\_\_\_\_ (name of Judge)  
CIRCUIT COURT, DIVISION III  
FAMILY COURT

- B. Upon receipt of tendered orders, judgments, decrees, forms and settlement agreements requiring the signature of the Family Court Judge, the Circuit Clerk shall mark the date the document is tendered by affixing a "TENDERED ON \_\_\_\_\_ (date)" notation or stamp in either the bottom left or bottom right corner of the first page of the document.
- C. All filings of any order, decree, judgment, form or settlement agreement to be incorporated by reference into the final order, shall include an original and the appropriate number of copies to be entered and served upon each party, and shall include an appropriate number of stamped and properly addressed envelopes for service upon each party. Each copy tendered to be signed shall be pre-marked "COPY" on the first page. In the event the attorney or party does not include the required number of copies and/or stamped addressed envelopes at the time tendered, the clerk may hold the order, decree, judgment, form or settlement agreement until compliance with this rule. Further, the Court may impose sanctions upon an attorney or party for failure to comply with this rule. It is not the responsibility of the clerk to communicate a defect in compliance to any party or attorney.
- D. In an effort to conserve judicial resources and promote an efficient determination of family law matters, if an order is mandated by the FCRPP, many of those orders are written on the calendar sheet or docket sheet during the call of the docket. If the Court does not order a separate written order to be tendered by a party and the order is not otherwise an official AOC form the use of which is required by the FCRPP, the calendar sheet or docket sheet order will be the official order and no unsolicited tendered order will be entered. The Court will strive to provide copies at the conclusion of proceeding in which the motion is called and attorneys are expected to know that this is the practice of the Court and request a copy of the calendar sheet or docket sheet order if one is not provided by the clerk.
- E. If an agreed order relating to a motion on the docket, signed by counsel for all parties affected or a party if unrepresented, is submitted to the Circuit Clerk prior to the call of the docket, counsel need not attend the call of the docket. The agreed order shall refer to the motion resolved in the agreed order and set forth the terms of the agreement. Agreed orders to continue Final Hearings are not appropriate and will not be considered by the Court.

## 208 Post-Judgments

- A. All post-judgment filings shall be properly served upon all parties and attorneys of record at the time of judgment unless the attorney of record has withdrawn by proper motion and order of the Court.

- B. Pursuant to *Murphy v. Murphy*, 272 S.W. 3d 864 (Ky.App. 2008), the conclusion of a divorce action, including child custody actions, terminates the attorney-client relationship between counsel and litigant. Except motions to amend, alter, vacate or otherwise modify the final decree or other final orders which shall be served on the last attorney of record if not formally withdrawn by order of the Court, all post-judgment motions or filings shall be served upon the party. Service upon the attorney will not be sufficient notice, unless the attorney has filed a notice of appearance subsequent to the final decree or order.

### **RULE 3      ADOPTIONS / TERMINATION OF PARENTAL RIGHTS**

#### **301      Petition**

- A. All petitions for adoption shall be filed pursuant to KRS Chapter 199 and petitions for termination of parental rights shall be filed pursuant to KRS Chapter 625.
- B. Counsel shall make by separate motion and tender an order for the appointment of a Guardian ad Litem (hereinafter GAL) in all actions for adoption or termination of parental rights which require the appointment of a GAL. This motion may be noticed at the convenience of the Court.
- C. Upon the filing of an action, notice of any related Dependency, Neglect and Abuse and/or Termination of Parental Rights case, shall be given to the Court. Pursuant to FCRPP 32(2)(b), every petition in an adoption or termination of parental rights action shall include the case number of any related Dependency, Neglect and Abuse and/or Termination of Parental Rights case and the name of any GAL previously appointed and attorney for parent in the previous case.
- D. Temporary Custody Orders granted pursuant to KRS 199.473(7) and accompanying background checks shall be sealed by the Circuit Clerk and not opened to inspection by persons other than the parties to such proceedings and their counsel or by court order. Representatives of the Cabinet for Health and Family Services acting in their official capacity shall not be denied access.
- E. A motion for final hearing in an adoption proceeding shall be noticed at the convenience of the Court except that in the case of an uncontested adoption, a hearing shall be held within 30 days of the filing of the request for a final hearing pursuant to FCRPP 33(2) unless all required documents have not been filed. No adoption proceeding shall be assigned a final hearing until the petitioner has submitted a court approved adoption proceeding checklist and certified compliance therewith. A court approved adoption checklist is available from the Circuit Clerk or the Family Court Office.
- F. An affidavit for costs and attorney's fees must be filed with the Court along with an appropriate order separate from the final judgment. Fees and costs are subject to approval by the Court.
- G. After the Court provides a final hearing date, the petitioner, pursuant to KRS 199.515, shall serve notice of the final hearing upon all necessary parties including the GAL at least 10 days in advance thereof, unless such parties have answered and agreed to the adoption or have failed to answer and the time for answering has expired or have waived, in writing, notice of the hearing.



- H. Pursuant to KRS 199.570(1)(a), the files and records of the Court during adoption proceedings shall not be open to inspection by persons other than parties to the proceedings, their attorneys, and representatives of the Cabinet for Health and Family Services acting in their official capacity without order of the Family Court expressly permitting inspection.
- I. Pursuant to KRS 199.570(1)(b), upon the entry of the final judgment in the case, the Circuit Clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by **any person** except on written order of the Court.
- J. Pursuant to KRS 23A.100, the Family Court Division of Circuit Court is the primary forum for adoption proceedings and all requests to inspect adoption records shall be made to the Family Court Judge.

#### **RULE 4      DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY**

##### **401      Procedures for Filing and Obtaining Emergency Protective Orders**

- A. The Kentucky Court of Justice Twenty-Four (24) Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for Bourbon, Scott, Woodford Counties is attached hereto in Appendix A and hereby incorporated by reference and shall be followed as part of these rules.
- B. A domestic violence petition may be filed in the county where the petitioner or minor child resides; in the county of current residence if the petitioner or minor child has left their usual residence to avoid violence and abuse; or during any hearing on dissolution of marriage, child custody, or visitation at which both parties are present or represented by counsel. KRS 403.725.
- C. If a pending dissolution case or a child custody case wherein there remains a child under eighteen (18) years of age is of record in the same county in which the petition for protection from domestic violence is filed, the Circuit Clerk shall notify the Family Court Judge and cross-reference the "D" case with the circuit "CI" case and place in the circuit "CI" case file a copy of the Emergency Protection Order (hereinafter EPO) and subsequent Domestic Violence Orders (hereinafter DVO) or modified orders.
- D. Pursuant to KRS 403.770(1) the petitioner's address and the address of any minor child shall not be made available to the public, or to the person or persons named as the respondent in the protection order. Representatives of the CHFS may have access if investigating a pending case.
- E. Pursuant to KRS 403.735(6) the respondent may be given notice of the existence and terms of the order of protection issued under the provisions of KRS 403.715 to KRS 403.785 by personal service or oral presentation of a peace officer or the Court and the terms of the order of protection shall become effective and binding on the respondent at that time.

## **402 Violation of Domestic Violence Orders**

- A. Without limiting a party's choice of remedies, alleged violations of Domestic Violence Orders should be referred to the District Court for possible prosecution, except as set forth in 402(B).
- B. Without limiting a party's choice of remedies, alleged violations of Domestic Violence Orders pertaining to visitation, child support, counseling, or firearms provisions should be initiated through the Family Court and scheduled for contempt hearings on the appropriate Family Court docket.
- C. Pursuant to KRS 403.7539(1) and KRS 403.403.760(5) civil proceedings and criminal proceedings for violation of a protective order shall be mutually exclusive. Once one has been initiated the other may not be undertaken.

## **RULE 5 PATERNITY**

### **501 Procedure**

- A. Establishment of Paternity/Child Support may be prosecuted by the County Attorney or the Cabinet for Health and Family Services (CHFS) upon request by a complainant pursuant to KRS 406.021.
- B. The Court may order the mother, child and alleged father to submit to genetic testing as set forth in FCRPP 15.
- C. Pursuant to KRS 610.160, upon recommendations of the Department of Juvenile Justice, CHFS, or upon its own motion, the Court may order any parent, guardian, or person exercising similar custodial control or supervision of a child referred to the Court to cooperate and actively participate in such treatment or social service programs which might reasonably be expected to meet the goal of enhancing the best interests of the child and family unity.

### **502 Motion Practice**

- A. Unless otherwise allowed by statute, rule or the Court, all motions and orders in paternity or child support proceedings shall comply with the FCRPP 9 and 14.
- B. When the County Attorney is an intervening party, proof of income provided by the state data system or employer may be used in lieu of other proof of income. If there is an objection by any party and the objection is not specifically waived in writing, the objection shall be heard by the Court.
- C. All matters relating to UIFSA Registration for Enforcement only of a foreign support order shall be filed in and heard on the Family Court's Paternity/Child Support docket. This includes, but is not limited to, contempt proceedings in such actions.

### **503 Pretrial Procedures**

- A. In all cases in which the respondent files an answer admitting to the Paternity/Child Support of the child, or signs an affidavit of Paternity/Child Support, or the genetic test report contains an inclusionary result, the case shall be scheduled by either party for an



out-of-Court pretrial conference conducted by the County Attorney's Child Support Division.

- B. The purpose of the out-of-Court pretrial conference is to explore the possibility of settlement, to simplify the issues and agree upon the issues of fact and law to be heard by the Court, and to explore possible stipulations of fact and documents that will avoid unnecessary proof.
- C. No case shall be scheduled on the regular Family Court docket for trial, motion for judgment on the pleadings, motion for summary judgment, or motion for an original child support order without first scheduling a pretrial conference. This rule may be waived if the respondent is unable to be located or fails to appear at said pretrial conference.
- D. Nothing in this Rule shall prohibit the parties from entering into an agreed order of Paternity/Child Support and filing the same for approval by the Court off-docket without conducting an out-of-court pretrial conference unless the Cabinet for Health and Family Services is a party and/or providing benefits and if so, CHFS shall be notified prior to submitting the order to the Court.
- E. All agreed orders of Paternity/Child Support and subsequent agreed orders regarding Child Support shall include specific language that each party was informed of the right to be heard by the Family Court Judge if any party does not agree with the terms of the agreed order and that each party expressly waives that opportunity to be heard.

#### **504 Child Custody and Visitation in a Paternity Action**

- A. Pursuant to KRS 406.051, unmarried fathers have a right to seek custody and visitation in cases in which Paternity has been established under the Kentucky Uniform Act on Paternity. In cases where Paternity is established, the Court may issue, upon proper motion, temporary orders on child custody, timeshare and visitation in the Paternity action. However, given the nature of and court time required by such proceedings, and as authorized by FCRPP 14(3), all matters for permanent orders of child custody, timeshare and visitation shall be filed in and heard exclusively on the Circuit Court Domestic Relations docket of Family Court, i.e., as a "CI" case.
- B. In lieu of filing a new action, the parties may tender in Paternity actions an agreed order of permanent child custody, timeshare and visitation if said agreement sets forth the appropriate criteria required by KRS 403.270. Agreed orders to modify child custody, timeshare and visitation may be submitted in Paternity actions. However, any motions to modify shall be filed in a new custody proceeding and require a filing fee unless the motion is brought in forma pauperis.

#### **505 Reopening Fee**

- A. Pursuant to FCRPP 14(1), a \$50.00 reopening fee shall not be paid for motions in cases brought pursuant to Title IV-D of the Social Security Act for child support modification or enforcement. However, where an action is initiated pursuant to Title IV-D but subsequent motions regarding custody and visitation are brought by a private attorney or are filed by a party pro se, rather than by Title IV-D counsel, the fee shall be charged unless the motion is brought in forma pauperis.

- B. In forma pauperis motion forms shall be available upon request to the Circuit Clerk. The Family Court office will be responsible for providing the Circuit Clerk with sufficient copies.

**RULE 6      DEPENDENCY, NEGLECT, AND ABUSE (DNA)**

**601      Procedure for Emergency Custody Orders**

- A. An Emergency Custody Order (hereinafter ECO) as set forth in FCRPP 18 and 19 may be obtained during normal working hours; persons seeking an ECO shall come to the Circuit Clerk's Office where a petition form and affidavit form shall be provided upon request, at no cost.
- B. If a private citizen obtains an ECO, the Circuit Clerk shall fax a copy to the Cabinet for Health and Family Services' (hereinafter CHFS) local office. If the person(s) to whom emergency custody has been granted appears in person in the Circuit Clerk's office and requests a copy of the ECO, the Circuit Clerk shall provide a copy at no cost.
- C. Pursuant to FCRPP 18(2), if an ECO is entered, the Circuit Clerk shall attach to the summons for the temporary removal hearing a copy of the petition; a copy of the ECO; a Form AOC-DNA-2.2 Notice of Emergency Removal; and a Form AOC-DNA-11, Financial Statement, Affidavit of Indigence, Request for Counsel and Order. Each shall be served upon the parents or other person exercising custodial control or supervision for whom an address is provided. The Circuit Clerk shall also notify the CHFS, the County Attorney and any attorneys of record of the time and date for the temporary removal hearing.
- D. If the request for an ECO is denied, and a court file already exists regarding the child involved, the Affidavit for an ECO, Petition and the denied ECO shall be placed in that file with a new trailer number. If the petition refers to a child with no previous DNA action in this jurisdiction, a new court file shall be opened by the Circuit Clerk and the Affidavit for an ECO, Petition and the denied ECO shall be placed in that file. The matter shall be set for hearing on the next DNA motion docket and the Circuit Clerk shall send a summons and a copy of the Petition and a Form AOC-DNA-11, Financial Statement, Affidavit of Indigence, Request for Counsel and Order to all persons listed in the petition as the parents or other person exercising custodial control or supervision for whom an address is provided.

**602      Petition**

- A. Pursuant to KRS 620.070(1), a dependency, neglect or abuse action may be commenced by the filing of a petition by any interested person. Appropriate forms shall be made available upon request to the Circuit Clerk. Only petitions filed on Form AOC-DNA-1 shall be accepted by the Circuit Clerk as an initiating document. If the Court determines that the petition fails to state grounds for action pursuant to KRS Chapter 620 at the initial court proceeding on the petition or any proceeding thereafter, the petition shall be dismissed without prejudice unless leave to amend has been granted.



B. Any petition filed with this Court shall include the following:

1. Factual allegations relied upon in asserting the Family Court's jurisdiction; and
  2. Full information concerning the child's parents, persons exercising custodial control or supervision or who have been awarded legal custody by a Court or claims a right to legal custody under the laws of this state, including a noncustodial parent and their address(es) if known after diligent efforts to locate them have been made by the petitioner. If the petitioner is the CHFS this effort shall include contacting the Child Support Division of the County Attorney's Office in an attempt to discover the address of any absent parent.
- C. The CHFS shall file with the petition any judgments of custody relating to the removed child and any previously developed prevention or safety plans relating to the child. Subsequent to the filing of the petition the CHFS shall file in the court record all safety, prevention and case plans in compliance with FCRPP 29.
- D. Pursuant to 42 U.S.C. 675(5), 45 CFR § 1356.21(o), and KRS 610.125(5), all motions set on the DNA docket shall be noticed to the foster parents of the child, including any pre-adoptive parents or relatives providing care for the child. The notice shall specifically state that the notice is not an order for the foster parents to appear, but rather that they have a right to notice of the proceeding and a right to appear and an opportunity to be heard at the proceedings. The CHFS shall provide an address for the foster parents to the Circuit Clerk who shall send out a court notice with the qualifying language.

#### **603 Service**

- A. The Court may permit the Temporary Removal Hearing to go forward when the parent or person exercising custodial control has not been served if it is established on the record that the petitioner has made diligent efforts to serve all parties in time to permit them to prepare for and participate in the hearing.
- B. It is the responsibility of the petitioner to provide to the Circuit Clerk the correct addresses necessary to serve all proper parties as required by the civil rules.
- C. The petitioner shall make continuing diligent efforts after the hearing to locate and provide updated addresses to the Circuit Clerk who shall send the required summons and forms to parties who were not served. The petitioner has an ongoing responsibility to locate and file with the Court any judgments of custody relating to the named child.
- D. Upon appointment, initial appearance or as soon as practicable, all attorneys practicing in the Juvenile Division of Family Court shall provide and maintain in the court file a correct electronic mail address or facsimile number. All Cabinet reports shall be served upon the appropriate attorney by this method at least 3 days prior to the motion docket. Parents or custodians named in such actions shall be served as required by CR 5.02 or applicable statute or rule.

#### **604 Time for Temporary Removal Hearing**

- A. The Temporary Removal Hearing shall be scheduled within 72 hours of the issuance of an ECO, excluding holidays and weekends.
- B. The Temporary Removal Hearing shall be held no earlier than the day following the filing of the petition to allow time for service to be attempted.

#### **605 Dispositional Hearing**

- A. At the dispositional hearing the Cabinet shall provide the Court with the information required pursuant to FCRPP 28 by completing DNA Form 12, a pre-disposition investigation report. In addition, if the siblings have been separated, the Cabinet shall explain the reasons for the separation.
- B. A copy of the child's most recent report card and school behavior record shall be attached to the DNA Form 12.
- C. If there are multiple siblings to whom the report refers, the Cabinet shall provide to the Circuit Clerk a copy of the report for each child's file.

#### **606 Records and Transcripts**

- A. A videotaped record of all proceedings shall be kept and copies shall be available to the parties and their counsel upon request in accordance with the provisions of FCRPP 27.

### **RULE 7 DOMESTIC RELATIONS**

#### **701 Required Case Information**

- A. Pursuant to FCRPP 2(3), a Preliminary Verified Disclosure Statement, Form AOC-238, shall be exchanged between the parties within 45 days of filing of the petition, and objections thereto shall be exchanged 20 days thereafter and shall not be filed in the court record unless ordered by the Court. If a Pendente Lite motion relating to maintenance or child support is filed before the expiration of the timeframes set forth in FCRPP 2(3), the parties shall exchange Preliminary Verified Disclosure Statements before the call of the motion. The parties shall be prepared to provide a copy of a completed Preliminary Verified Disclosure Statement to the Court at the time the motion is called for consideration in setting maintenance or child support. A Preliminary Verified Disclosure Statement, Form AOC-238, shall never be waived. If the parties enter into a settlement agreement, each shall attach to the agreement a copy of a completed Preliminary Verified Disclosure Statement, Form AOC-238 for consideration by the Court assessing the conscionability of the terms of the agreement.
- B. Two copies of a completed Case Data Information Sheet shall be filed with the petition (Form AOC-FC-3) in cases involving minor children. One form shall be forwarded to the County Attorney's box by the Circuit Clerk; the other shall be filed in the Court record.



- C. A completed VS-300 form typed and signature in black or blue ink shall be filed at the time of filing of the Petition for Dissolution. A final decree shall not be entered until compliance with this rule.

## **702 Appearances, Waivers, and Agreements**

- A. A party who chooses not to be represented by counsel shall sign and acknowledge Appearances Waivers and Agreements before a notary. Said waiver shall contain the party's correct address and phone number. Any party seeking to sign such waiver shall keep the Court apprised of any changes in address or phone number.
- B. The Final Verified Disclosure Statement, AOC-239, may be waived if there is no final hearing due to settlement agreement; however, the Preliminary Verified Disclosure Statement, AOC-238, shall be attached to the settlement agreement and the agreement shall include language specifically adopting it as final and waiving any objections.

## **703 Mediation**

- A. In *Brown v. Brown*, (Ky. 1990) 796 S.W.2d 5, the Kentucky Supreme Court stated, "the policy of the law is to encourage settlement in divorce litigation, whether prejudgment or post-judgment." Parties in domestic litigation, except in cases where KRS 403.036 and KRS 403.160 apply, are encouraged to reach resolution by agreement. If the parties are unable to resolve issues informally between themselves, pursuant to FCRPP 2(6), parties may be ordered to mediate.
- B. Within fifteen (15) days of referral for mediation, the parties shall agree on a mediator or a mediation service. If the parties cannot agree, they shall notify the Court, which will select a mediator or a mediation service.
- C. The mediator shall be compensated at the rate agreed between the mediator and the parties if the mediator is chosen by agreement. If the mediator is appointed by the Court, the fee for the mediator shall be reasonable, may be by sliding scale and no greater than the mediator's standard rate as a mediator. Unless otherwise agreed by the parties or ordered by the Court, the parties shall divide the mediator's professional fees pro rata according to their respective incomes.
- D. Property mediation requires that the parties shall exchange and provide to the mediator, in no less than five (5) working days prior to the mediation conference, the following:
1. Supplement to financial disclosure statement regarding any material change;
  2. A short statement including definition of the issue to be addressed by the mediator and a brief narrative statement of any special problems affecting the case (e.g. closely held corporation, medical problems of any family member, etc.);
  3. Copies of all documents supporting valuation of assets;
  4. Copies of all documents verifying monthly payments and outstanding balances on all debts; and
  5. All information and copies of all documents requested by the mediator prior to the mediation conference.

- E. The parties shall attend the mediation conference and shall appear promptly at the time and location for the scheduled mediation conference. The attorneys for each party may attend and participate, subject to the defined roles of the mediator, and shall at times be permitted to privately communicate with their respective clients.
- F. At the conclusion of mediation, the mediator shall report without comment to the Court and the Family Court Office as to the outcome of the mediation (i.e., a full agreement, partial agreement or mediation terminated). A termination or non-agreement shall be without prejudice to either party.
- G. All settlement agreements must be in writing and signed by all parties and their counsel, if any, within ten (10) working days.
- H. The Court shall retain final authority to accept, modify, or reject an agreement, in whole or in part.
- I. The parties shall have the affirmative duty to contact the Family Court Office and remove any pending hearings concerning resolved issues.
- J. Mediation proceedings shall be held in private and all communications, verbal or written, made in the proceedings shall be confidential. The same protection shall be given communications between the parties in the presence of the mediator and to all communications, verbal or written, with the Family Court Office or designee. The only exception to this Rule is that the mediator shall be responsible for reporting abuse according to KRS 209.030, KRS 209A.030 and KRS 620.030.
- K. All conduct and communications made during a mediation conference shall be treated as settlement negotiations.
- L. Mediators shall not be subpoenaed regarding the disclosure of any matter discussed during the mediation which is considered confidential. This privilege and immunity resides with the mediator and may not be waived by the parties.

#### **704 Temporary Motions**

- A. The Court, in its discretion, may determine a temporary motion relating to maintenance, support or custody upon the pleadings or may permit the introduction of evidence by oral testimony.
- B. Pursuant to KRS 403.160 and in compliance therewith, a motion relating to temporary child support or maintenance may be by ex parte motion and, pursuant to FCRPP 2(8), if granted, a hearing with all parties shall be set by the Court at its earliest convenience.
- C. A motion for temporary child support or maintenance shall comply with FCRPP 9(4). The Court may order additional proof, including income tax returns, loan applications, or other financial documentation. Further, a motion for temporary maintenance must be accompanied by the Form AOC-238 Preliminary Verified Disclosure Statement and, by affidavit, movant's monthly expenses and movant's knowledge of the monthly gross and net income of the party from whom maintenance is sought.



- D. If the County Attorney is an intervening party, wage information obtained directly from employer or state data system may be used to set support in lieu of the three (3) pay stub requirement.
- E. All motions to modify temporary child support or maintenance shall comply with the rules to initially set temporary child support or maintenance and, by affidavit, movant's change of circumstances or basis for modification and updated financial information.

#### **705 Mandatory Disclosure Forms**

- A. Pursuant to FCRPP 2(3), Form AOC-238 Preliminary Verified Disclosure Statement shall be completed and exchanged between the parties within forty-five (45) days of filing of the petition, and objections thereto shall be exchanged twenty (20) days thereafter and shall not be filed in the record unless ordered by the Court.
- B. Each party shall upon exchange of the Form AOC-238 Preliminary Verified Disclosure Statement certify that documentation supporting the information in the statement is available for the opposing party's inspection and copying at the requesting party's expense as of the date of service of the statement on the other party.
- C. Except with leave of Court for good cause shown or by agreed order, a party shall not conduct formal discovery pursuant to CR 30, CR 31, CR 33, CR 34 or CR 36 relative to matters addressed in the Form AOC-238 Preliminary Verified Disclosure Statement until that requesting party's statement has been served.
- D. A Form AOC-238 Preliminary Verified Disclosure Statement for each party shall be attached to all settlement agreements.
- E. The parties may not mutually waive these requirements without leave of Court for good cause shown.
- F. A Form AOC-238 Preliminary Verified Disclosure Statement may be obtained from the Circuit Clerk's Office or online at [www.courts.ky.gov](http://www.courts.ky.gov).

#### **706 Contested Final Hearing**

- A. In a proceeding for dissolution of marriage the Circuit Clerk shall not assign a date for final contested hearing until 20 days (or 60 days, if there are minor children of the parties) have elapsed from the date of service of summons, filing of an entry of appearance by the respondent, or filing of a verified responsive pleading by the respondent, whichever first occurs.
- B. If service is by warning order, in a proceeding for dissolution of marriage the Circuit Clerk shall not assign a date for final contested hearing until 50 days (or 60 days, if there are minor children of the parties) have elapsed from the date of the entry of the warning order. The report of the warning order attorney shall be filed before the Circuit Clerk assigns a date for final contested hearing.

- C. In a proceeding for dissolution of marriage or custody the Circuit Clerk shall not assign a date for final contested hearing until certificates demonstrating that both parties and their children have completed the parent education program, if applicable.
- D. In contested proceedings or other matters under submission, the Court may request that all attorneys submit proposed findings of fact, conclusions of law, and judgment. This is not intended to delegate the Court's decision making power, but will be used solely for information and as a guide.

#### **707 Uncontested Final Hearing**

- A. Unless otherwise ordered by the Court, either party may move the Court for an uncontested final hearing date or may move the Court for dissolution by deposition upon written questions.
- B. Either party may offer proof for the purpose of entering a decree.
- C. Where proof is submitted by deposition upon written questions and the parties have executed a settlement agreement resolving all issues, a motion to enter a decree need not be placed upon the Court's docket but may be submitted directly to the Court in the form of a Motion to Submit with an Order to Submit, and include a deposition upon written questions, Findings of Fact and Conclusions of Law, Decree of Dissolution, original copy of the settlement agreement, both parties' Form AOC-238 Preliminary Verified Disclosure Statement, a completed child support worksheet signed by both parties, if applicable, and a Form AOC-152 Uniform Child Support Order and/or Wage/Benefit Withholding Order for Kentucky Employers, if applicable. Parties may not waive by agreement submission of the Form AOC-238 Preliminary Verified Disclosure Statement.
- D. When the parties have a minor child a completed child support worksheet signed by both parties shall be submitted even if the parties agree to deviate from the Kentucky Child Support Guidelines and/or not require child support. Further, because of the statutory requirement of written findings specifically detailing the factual reasons for departure from these guidelines, parties shall also submit a joint verified statement and order that includes specific language establishing a statutory basis for the deviation as set forth in KRS 403.211(3). This basis may be set forth in the settlement agreement.
- E. When the parties have a minor child, pursuant to KRS 403.212, a court shall order health insurance coverage when reasonably available. Therefore, parties shall also submit a joint verified statement and order that includes specific language setting forth this obligation. This requirement may be set forth in the settlement agreement.

### **RULE 8 STATUS OFFENSES**

#### **801 Complaints**

- A. Any complaint dealing with Status Offenders shall be filed in accordance with the provisions of KRS 630.010 et seq., FCRPP VIII, and these rules.



## **802 Conferences**

- A. The Court Designated Worker (hereinafter CDW) shall have a conference with the juvenile to determine whether to:
1. Refer the juvenile and family to a public or private social agency before referring to the Court; or
  2. Enter into a diversionary agreement; or
  3. Refer the matter to the Court by filing a Petition alleging habitual runaway, beyond control of the parent, beyond the control of the school, or habitual truancy.

## **803 Court Procedures**

- A. Upon receipt of the petition, the Circuit Clerk shall set the matter for arraignment on the next status docket unless directed otherwise by the Family Court Judge. Pursuant to FCRPP 41, the Circuit Clerk shall issue a summons to the parent(s) or other person(s) exercising custodial control or supervision of the child to appear and produce the child at the initial appearance. The Circuit Clerk shall attach to the summons a copy of the petition and any accompanying documents required to be filed pursuant to FCRPP 40.
- B. At least three (3) business days prior to any proceeding or hearing, the Court, the juvenile and counsel shall receive any court ordered reports and accompanying documents. The agency assigned to prepare the report shall provide a copy of the report to the Court and counsel via email or facsimile if a correct address has been provided to the agency. If the agency has served the report by electronic means, the agency shall provide a paper copy to the court file and counsel no later than the time the matter is called on the docket.
- C. Failure of the juvenile to comply with a valid court order may result in a contempt hearing subject to the provisions of FCRPP 44. A show cause order with written notice to the juvenile, parent or guardian, and attorneys of record, may be entered by the Court upon presentation of an affidavit by any person with knowledge of noncompliance or by the Court on its own initiative.

## **RULE 9 MISCELLANEOUS**

### **901 Protections of Personal Identifiers**

- A. All pleadings must comply with the requirements of KRS Chapters 205, 403, 405, 406 and 407 by providing the personal identifying information required in those chapters. Where personal identifiers are required by statute or contained in other documents or exhibits filed with the court pursuant to the above-stated chapters, parties shall comply with CR 7.03(1)(b) by filing one copy from which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The Circuit Clerk shall only permit access to the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support matters attendant to the case, or a person authorized to view the copy by specific order of the

Court. As used in this section, “personal identifier” means a Social Security number or tax-payer identification number, date of birth, or financial account number.

- B. Pleadings, documents or exhibits filed in actions deemed confidential by statute need not be redacted, and any access to those files shall be governed by these rules and by KRS 199.570, KRS 610.340, KRS 625.045 and KRS 625.108.

#### **902 Requests for Confidential Video Records**

- A. The Circuit Clerk shall not release any Family Court video record of in-chamber interviews with children or other court proceeding closed by statute, rule or court order without a specific written order of a Family Court Judge. An individual requesting a judicial order must file a written motion, with notice to all parties, including the child’s Guardian ad Litem, if any, and set forth the portion of the video record being requested and the specific purpose for the request.
- B. Pursuant to KRS 610.340(2), Rule 902(A) shall not apply to public officers or employees engaged in the investigation and prosecution of cases under KRS Chapters 600 through 645 or other prosecutions authorized by the Kentucky Revised Statutes, as certified by that public officer or employee. Said public officer or employee shall use and distribute this information only for investigation or prosecution of offenses under the Kentucky Revised Statutes.

#### **903 Forms**

- A. In forma pauperis motion forms shall be available upon request to the Circuit Clerk. The Family Court office will be responsible for providing the Circuit Clerk with sufficient copies.
- B. Other forms are available through the Family Court Office at 502-867-4808 or on the following websites:
  - 1. <http://courts.ky.gov/forms/default.htm>,
  - 2. <http://apps.courts.ky.gov/localrules/localrules.aspx>

#### **904 Guardian ad Litem and Other Appointed Counsel**

- A. Application for appointment as a Guardian Ad Litem (hereinafter GAL) or other appointed counsel is to be made by submitting the appropriate form to the Family Court Office, which is available from the Family Court Office.
- B. Appointments shall be made by the Family Court Judge who may designate the Circuit Clerk to make such appointments. The Family Court Judge may set terms for such appointments, including limiting the number of attorneys on the GAL or other appointed counsel lists.
- C. A GAL or other appointed counsel shall be a licensed attorney in good standing with the Kentucky Bar Association subject to continued ratification by the Family Court Judge.



- D. After a GAL or other appointed counsel accepts an appointment, a court order of appointment shall be generated by the Circuit Clerk or other court designee and said order will satisfy the written entry of appearance in compliance with FCRPP 26. After a GAL or other appointed counsel accepts an appointment, representation shall continue through all stages of the proceedings.
- E. Appointees who fail to demonstrate appropriate knowledge of the statutes, law and procedures in the area in which appointment is made, fail to appear or fail to perform duties may be stricken from the list at the discretion of the Family Court Judge. The ABA Standards for GALs or the recommendations of the Kentucky Commission on GALs may be used as guidelines.
- F. Motions for compensation shall be accompanied by affidavit; the appropriate FAC form shall be used in lieu of a separate motion. Submitted documentation shall include:
  - 1. The statutory basis for appointment;
  - 2. The hours of service rendered with a brief description of the services rendered and reasonableness of the fee request; and
  - 3. That the action or proceeding has been concluded and date of disposition.

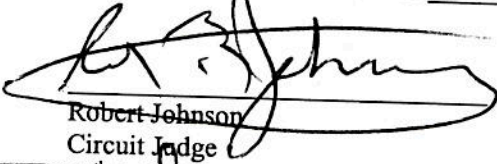
**905 Military Attorney**

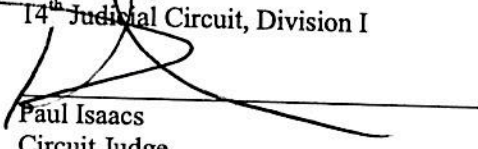
- A. Appointments of military attorneys are made pursuant to the Servicemembers Civil Relief Act, 50 App. U.S.C., § 501 et seq.. The duties of a military attorney are the same as those of a Guardian ad Litem and, in appropriate cases, include the filing of motion for a stay of the proceedings where the conduct of the military defendant's defense is materially affected by the reason of the defendant's military service.
- B. A motion and a request for a hearing for a stay of proceedings shall be supported by an affidavit containing specific reasons why the military defendant's service materially affects his ability to conduct his defense.
- C. The affidavit shall include the following information:
  - 1. Present duty station and expected duration of present military assignment.
  - 2. Residential address if different from duty station address.
  - 3. Accrued leave to which defendant is entitled and number of days of leave which accrue to the defendant each month.
  - 4. Any other information of a similar nature which would affect the defendant's ability to defend the action.
- D. The failure of the Military Attorney to file an answer or report within sixty (60) days of notification of appointment may result in sanctions being imposed against the attorney and removal from the Military Attorney List.

**906 Sanctions for Noncompliance with Rules**

- A. This Court may assess costs and fees or impose appropriate sanctions against a party not complying with any of these Rules.

APPROVED this the 26<sup>th</sup> day of March, 2012.

  
Robert Johnson  
Circuit Judge  
14<sup>th</sup> Judicial Circuit, Division I

  
Paul Isaacs  
Circuit Judge  
14<sup>th</sup> Judicial Circuit, Division I

  
Tamra Gormley  
Circuit Judge  
14<sup>th</sup> Judicial Circuit, Division III, Family Court



# Supreme Court of Kentucky

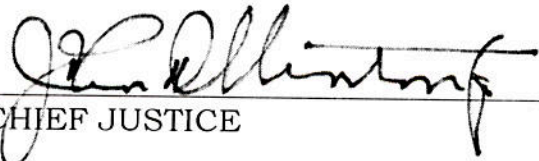
## ORDER

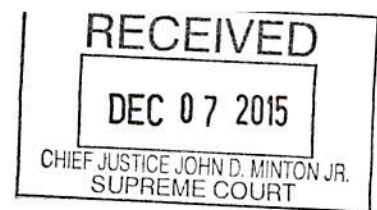
**IN RE: ORDER APPROVING AMENDMENT TO APPENDIX A OF THE  
RULES OF COURT PRACTICE AND PROCEDURE FOR THE  
14TH JUDICIAL CIRCUIT, FAMILY COURT DIVISION,  
BOURBON, SCOTT AND WOODFORD COUNTIES**

Upon the recommendation of the Judges of the 14th Judicial Circuit, Bourbon, Scott and Woodford counties, and being otherwise sufficiently advised,

The amendment to Appendix A of the Rules of Court Practice and Procedure for the 14th Judicial Circuit, Family Court Division, is hereby approved. This order shall be effective as of the date of this Order and shall remain in effect until further orders of this court.

Entered this 10th day of December 2015.

  
CHIEF JUSTICE



**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL  
JOINT JURISDICTION PROTOCOL  
FOURTEENTH JUDICIAL CIRCUIT AND DISTRICT  
BOURBON, SCOTT AND WOODFORD COUNTIES**

Pursuant to KRS 403.735 and KRS 456.030, and in compliance with Family Court Rule of Practice and Procedure Section IV, this local protective order protocol is established to ensure twenty-four hour accessibility to emergency protective orders (EPOs) and temporary interpersonal protective orders (TIPOs) and to establish written procedures for matters in which there may be joint jurisdiction between the Circuit/Family and District Courts.

**I. Uniform Protocol for Handling Cases**

- A. All petitions requested, completed and signed by persons seeking protection under KRS Chapter 403 or KRS Chapter 456 shall be made on form AOC-275.1, and shall be accepted and filed with the court. KRS 403.725, KRS 456.030.
- B. All protective order cases must be processed consistent with the rules and procedures set forth in the Kentucky Circuit Court Clerk's Manual.
- C. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- D. "No drop" policies which place limitations on a petitioner's right to modify or withdraw a petition for a protective order are not permitted. Pursuant to KRS 403.740 and KRS 456.060, any orders for relief issued directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, dating violence and abuse, stalking, or sexual assault shall not order the petitioner to take any affirmative action.
- E. Cases may be reassigned within the judicial circuit and, pursuant to FCRPP 12, a case may be transferred to another circuit if there is a pending dissolution or custody matter. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter may be heard by the receiving judge.
- F. The court shall review a petition for a protective order immediately upon its filing. KRS 403.730, KRS 456.040. Petitioners shall not be sent away or left waiting for extended periods of time. Petitions should be reviewed within an hour of presentation to a judge or trial commissioner unless impossible due to no judge or trial commissioner being available.



## **II. Twenty-four Hour Accessibility**

- A. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **during** regular business hours:
  - 1. Any law enforcement officer;
  - 2. A prosecutor-based victim's advocate; or
  - 3. If neither is available, any Circuit Court Clerk or deputy Circuit Court Clerk.
- B. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **after** regular business hours and weekends:
  - 1. Any law enforcement officer; or
  - 2. A prosecutor-based victim's advocate.
- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

The authorized agency/officer shall file the petition with the Circuit Court Clerk in the county where the petition is being filed. Upon receipt the Circuit Court Clerk or designee shall present the petition to the on-call District Court Judge or Trial Commissioner, or in the event the on-call District Court Judge or Trial Commissioner is not in the county or is unavailable, the petition may then be presented to any District Court Judge or Trial Commissioner or, if not available, then to the Circuit Judge of Family Court, or if not available, then to either Circuit Judge.

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

The authorized agency/officer shall present the petition to the on-call District Court Judge or Trial Commissioner, or in the event the on-call District Court Judge or Trial Commissioner is not in the county or is unavailable, the petition may then be presented to any District Court Judge or Trial Commissioner or, if not available, then to the Circuit Judge of Family Court, or if not available, then to either Circuit Judge.

## **III. Assignment of Cases**

- A. Pursuant to KRS 403.735 and KRS 456.030, jurisdiction over petitions filed under this chapter is concurrent between district, circuit, and family court.
- B. The judge reviewing a petition for an order of protection shall indicate in the "Court Action" section of the petition whether the resulting action is a domestic violence action under KRS Chapter 403 or an interpersonal protective order action under KRS Chapter 456.
- C. The circuit clerk shall assign interpersonal protective order (IPO) cases to the Family Court, for a six month period through July 1, 2016, to allow the undersigned Judges time to evaluate the number of cases filed as IPOs and determine whether sufficient cases of this type are filed to justify creation of an additional docket in District Court. After July 1,

2016, the circuit clerk shall assign IPO cases as previously, or to a new District Court docket if this protocol is amended to assign these cases to District Court based on caseload.

- D. The schedule for hearings on protective orders is as follows:

The schedule shall be set by the Judge or Judges presiding over protective orders and shall be set so that hearings can be held within 14 days of filing. The hearing schedule for each county shall be available in that county's circuit clerk's office.

- E. Cases may be reassigned or transferred between courts if it is determined that there are other actions pending or circumstances indicate that review by the other court is proper. KRS 403.725, KRS 456.030. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter may be heard by the receiving judge.

#### **IV. Contempt Proceedings**

- A. Pursuant to KRS 403.763 and KRS 456.180, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.

- B. Petitioners seeking to initiate contempt proceedings should contact the following:

For civil contempt proceedings, Petitioners should contact the Circuit Clerk's office in the county where the Emergency Protective Order or Domestic Violence Order was issued.

For criminal complaints for violation of a protective order, Petitioners should contact law enforcement or the County Attorney's office in the county where the Emergency Protective Order or Domestic Violence order was issued.

- C. No petitioner may be held in contempt for failure to appear at a domestic violence hearing or prosecute a criminal violation of a protective order.

The undersigned hereby acknowledge that all general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.



The above protocol is adopted by all judicial officers in the circuit:

For the 14th District Court:

For the 14<sup>th</sup> Circuit Court:

Mary Jane Phelps /Date: 11-23-15  
Mary Jane Phelps, District Judge  
Division 1

Robert Johnson /Date: 11/30/2015  
Robert Johnson, Circuit Judge  
Division 1

Vanessa M. Dickson /Date: 11/22/2015  
Vanessa M. Dickson, District Judge  
Division 2

Paul Isaacs /Date: 11/30/2015  
Paul Isaacs, Circuit Judge  
Division 2

Lisa H. Morgan /Date: 11-24-15  
Lisa H. Morgan, Circuit Family Judge  
Division 3