

Supreme Court of Kentucky


ORDER

IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 18TH JUDICIAL CIRCUIT, FAMILY COURT DIVISION, HARRISON, NICHOLAS, PENDLETON, AND ROBERTSON COUNTIES

Upon recommendation of the Judges of the 18th Judicial Circuit, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 18th Judicial Circuit, Family Court Division, Harrison, Nicholas, Pendleton, and Robertson 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 14th day of April 2016.


CHIEF JUSTICE JOHN D. MINTON, JR.

RULES OF COURT
PRACTICE AND PROCEDURE
COMMONWEALTH OF KENTUCKY

EIGHTEENTH JUDICIAL CIRCUIT
FAMILY DIVISION

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18th Judicial Circuit- Local Rules of the Family Court

RULE 1 INTRODUCTION/ ADMINISTRATIVE PROCEDURE

101 Preface

These are the Uniform Rules of Practice and Procedure of the 18th Judicial Circuit Family Court, including Harrison, Pendleton, Nicholas, and Robertson Counties. These rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCr), and the Kentucky Rules of Civil Procedure (CR). These rules shall be operative only in the 18th Judicial Circuit Family Court. All prior rules adopted in the 18th Judicial Circuit Family Court are hereby rescinded.

102 Effective Date

These rules shall be effective thirty (30) days after approval by the Supreme Court of Kentucky.

103 Citation

These Rules shall be cited as 18 J.C.FCR.

RULE 2 COURT SCHEDULING/ PRACTICE AND PROCEDURE

201 Regular Motion Hour Schedule

A) Pendleton County Family Court

Motion hour for Pendleton County will be held the first (1st) and third (3rd) Mondays of the month with motions heard as follows:

9:00 Civil Actions
10:00 Domestic Violence
11:00 Child Support
1:30 Juvenile Cases

B). Harrison County Family Court

Motion hour for Harrison County will be held the first (1st) and third (3rd) Wednesdays of the month with motions heard as follows:

9:00 Civil Actions

10:00 Domestic Violence
1:00 Child Support
1:30 Juvenile Cases

C. Robertson County Family Court

Motion hour for Robertson County will be held the first (1st) and third (3rd) Tuesdays of the month at 10:00 AM. All matters will be set at this time.

D. Nicholas County Family Court

Motion hour for Nicholas County will be held the first (1st) and third (3rd) Tuesdays of the month with motions heard as follows:

1:00 PM – all civil, domestic violence, and child support actions
1:30 PM- juvenile matters

E. General Information Concerning Scheduling

- (1) In all counties the juvenile docket will be called as follows: 1) adoptions, 2) any case involving a person held in custody that has been transported to Court, 3) juvenile status cases, 4) all other matters.
- (2) There will be no motion hour during any scheduled Judicial College, if the courthouse is closed for any reason (i.e. holiday or inclement weather), or if the Family Court Judge is not available. In the event that there is no regular motion hour, all motions scheduled for that date shall be automatically passed to the next regularly scheduled motion hour in that respective county. The Court will observe the Commonwealth of Kentucky state holiday schedule and may reset a regular docket day in the event that the date would otherwise fall on a state holiday.
- (3) **All motions shall be filed in the Office of the Circuit Court Clerk by the close of business, no later than ten (10) days prior to the scheduled motion hour.** If the filing deadline falls on a holiday, or falls on a day when the Circuit Court Clerk's Office in that respective county is closed, then all motions shall be filed by the close of the next business day. **Any urgent matters may be set after the expiration of the filing deadline only with the permission of the Court.** In all cases, the party filing the motion must provide notice to the opposing party. A matter will not be heard if the opposing party is not provided with reasonable notice.

204 Contested Motions

Any motion requiring a hearing in excess of fifteen minutes may be set for a special hearing time outside of the regular motion hour docket. A party shall request a hearing time by filing a motion to schedule a hearing, and by noticing the scheduling motion for hearing on the regular motion hour docket.

- A) In any contested hearing all parties shall disclose and identify, ten days prior to the hearing date, any expert witnesses that they intend to call as a witness, and shall provide a list of all other witnesses that may be called to testify. At least ten days prior to the hearing date, the parties shall also produce and exchange any documents, correspondence, media, photographs, recordings or videos that they intend to submit as exhibits.
- B) A child's school records shall be included as an exhibit in any contested hearing for custody or timesharing wherein the result could cause a change of the child's school.

205 AOC Forms

In any matter in which a form is provided by the Administrative Office of the Courts, a party may utilize the form. However, forms are not required and matters may be presented in any manner that is in compliance with the FCRPP.

206 Guardian Ad Litem and Friends of the Court

- A) The Court *may* utilize Friends of the Court in civil (cases labeled "CI") and domestic matters (cases labeled "D"). Any licensed attorney, in good standing with the Kentucky Bar Association, may submit their name for appointment as a Friend of the Court to be included on the Court's rotating appointment list. Any provider of professional services, licensed and insured pursuant to applicable law in the professional's respective field may submit their name for appointment as a Friend of the Court when appropriate. This may include, but is not limited to, private investigators, counselors, or medical professionals who believe that the Court may have need of their services and recommendations in a civil or domestic case. Any Friend of the Court that makes recommendations or reports to the Court shall be subject to cross examination. The terms of the appointment shall be set out in the Court's Order appointing. Payment of Friends of the Court will be the responsibility of the parties. Terms of payment will be set at the time of appointment. Any Friend of the Court must be willing to accept payment at a discounted rate in appropriate cases.

- B) The Court *may* utilize a Guardian Ad Litem to represent a child or children in civil matters (cases labeled “CI”) and domestic matters (cases labeled “D”). The Court will appoint any licensed attorney, in good standing with the Kentucky Bar Association, who is included on the “Friend of the Court” appointment list. A guardian ad litem will perform the services of an attorney, shall not make recommendations, and will not be called as a witness in the case.
- C) The Court *shall* appoint a Guardian Ad Litem to represent unmarried infants in juvenile cases (cases labeled “J”), persons of unsound mind, or adult prisoners named as defendants or respondents. The Court’s rotating appointment list for Guardians Ad Litem in juvenile matters shall be separate from the list utilized for Friends of the Court. The Court will also utilize this list to appoint representatives for indigent parents in juvenile cases and warning order attorneys.
- 1) Any licensed attorney in good standing with the Kentucky Bar Association may be appointed if that attorney has completed the AOC approved Guardian Ad Litem training.
 - 2) The appointment is to be made, and compensation paid, according to applicable statute.
 - 3) The Guardian Ad Litem shall file an Answer on behalf of their client.
 - 4) The failure of a Guardian Ad Litem to appear, or the failure of the Guardian Ad Litem to file a written Answer may result in sanctions, including removal from the appointment list.
 - 5) In making appointments, the Court shall utilize the rotating list. However, preference will be given to an attorney that is present in court when appointment is necessary during motion hour.
 - 6) The GAL shall file a written report and make recommendations at the disposition of a juvenile dependency, neglect, and abuse case.

207 Ex Parte Motions

Ex parte motions may be submitted pursuant to FCRPP 2(8). A copy of the filed motion shall be submitted directly to the Court. Ex parte motions will not be considered unless the matter is a *true emergency* that could result in an irreparable injury to the moving party. Attorneys should carefully review these matters and exercise discretion in determining whether the matter is appropriate for an ex parte motion. In matters involving the emergency custody of children, a party should exhaust remedies from the Cabinet for Families and Children and the County Attorney prior to filing an ex parte motion. The motion must describe the action taken to exhaust these remedies.

208 Notice to a Child's School

In any matter that is not a confidential case, the parties shall provide a copy of any order affecting custody or timesharing to the subject child's school. The Court may, *sua sponte*, direct the Circuit Court Clerk to distribute a copy of an order to a school or child care facility. The Court shall endeavor to utilize plain, clear, and concise language to ensure that all orders affecting custody and timesharing are easily understandable.

209 Children as Witnesses

In the event that a child is called as a witness the Court may, *sua sponte* or upon motion, conduct the examination of the child in chambers. All such examinations will be recorded. Any video of a child witness will be sealed and will only be released upon conditions set out by the Court on the record or by Order of the Court. The provisions of KRS 421.351 are to be followed by all parties.

210 Tendered Orders

In any tendered order the judge's signature line should not be placed so that it is on a page separate and apart from the text of the Order. At least some of the text should be visible on the page with the signature. Those preparing tendered Orders should leave space at the bottom of the preceding page when necessary to avoid isolating the signature line.

RULE 3 ADOPTIONS AND TERMINATION OF PARENTAL RIGHTS

301 Setting a Final Hearing in an Adoption

A party may file a motion to set a final hearing in an adoption only after a report from the Cabinet for Health and Family Services has been received by the Court. The Petitioner shall prepare all documents necessary to finalize the matter and shall submit the documents for the Court's review at least ten (10) days prior to the final hearing.

302 Conduct of a Final Hearing in an Adoption

Any child to be adopted must be present for the Final Hearing unless the moving party requests permission from the Court to excuse the presence of the child. Adoptive parents are permitted to bring cameras (including cellular phones) into the courtroom.

303 Termination of Parental Rights Involving Multiple Children

Termination proceedings involving two (2) or more children of the same parent(s) must proceed by separate Petitions for each child. A hearing on the Petitions may be consolidated by motion.

RULE 4- DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

The Court's twenty-four hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol is attached hereto in Appendix 1 and incorporated by reference as if fully set out herein.

RULE 5- PATERNITY

501 Agreed Judgments

In any open paternity case, the parties may submit an Agreed Judgment of Paternity and an Agreed Order of Support for the Court's review and approval without filing a motion, so long as the proposed Order has been signed by all parties.

502 Orders for DNA Testing

Genetic testing will be conducted in accordance with FCRPP 15.

Any order for DNA testing by the Child Support Office will comply with the terms of the contract provider for DNA testing services. In the event that the parties are unwilling or unable to comply with the testing provider's contractual terms, the parties shall be responsible for engaging the services of a private testing facility and shall be liable for the expense.

RULE 6- DEPENDENCY, NEGLECT, AND ABUSE

601- Filing of a Petition

- A) All Petitions for Dependency, Neglect, and Abuse shall be filed in accordance with FCRPP 20. Prior to filing the petition with the clerk, the Petitioner shall submit the petition to the County Attorney. The County Attorney shall review the Petition and determine if it is supported by sufficient cause. In the event that the County Attorney finds that the petition is supported by sufficient cause he or she shall file the Petition with the Court and refer the matter to the Cabinet for Families and Children for investigation if the Cabinet is not already involved in the case.
- B) If the County Attorney rejects the petition, the Petitioner may file the petition with the Court as a private petition, and the clerk shall set the matter for the next available court date. The Court will review the petition for sufficient cause. A petition that fails to state sufficient cause pursuant to KRS 620 et seq. shall be dismissed, *sua sponte*.
- C) All Petitions **shall** name **both** the biological mother and father of the child(ren) unless the parent's rights have been terminated by a valid court order. A putative father shall be named if he has been identified as the putative father pursuant to KRS 625.065(1), or if he has been identified as the putative father by the child's mother upon questioning. It is the Petitioner's obligation to make a diligent effort to locate the child's parents.
- D) All Petitions shall state the applicable statute and detailed factual allegations relied upon in asserting the Court's jurisdiction. The factual allegations must fully explain the child's relationship to the responsible party. In cases involving multiple children, the Petition must fully explain the situation as it individually applies to each child.

RULE 7 - DOMESTIC RELATIONS PRACTICE

701 Time-sharing/Visitation Guidelines

Model timesharing and visitation guidelines are attached hereto as Appendix B and are incorporated by reference herein. Each case is different and the model timesharing guidelines may not be appropriate in every case. The parties and the Court may utilize these guidelines as a model subject to the specific facts of each case.

702 Court Approved Mediators

The Court will not order any party to utilize a particular mediator unless such an order is requested by both parties. The Court will provide a listing of mediators that have contacted the Court and asked to be included on the provider listing. Any mediator approved by the Kentucky Administrative Office of the Courts may be included in this listing upon request.

703 Financial Disclosures

A party's preliminary disclosure statement, exchanged pursuant to FCRPP2(3), may be adopted as a party's final disclosure statement if there have been no changes, no objections thereto, and with notice to the Court filed in the record. The parties may waive the exchange of final disclosure statements by mutual agreement, if said agreement and waiver is filed in the record.

704 Matters Not Requiring a Hearing

Pursuant to FCRPP3, parties may file a motion to submit a dissolution for Final Decree, and shall submit same directly to the Judge for review and approval, without noticing the matter for hearing. The Motion shall comply with FCRPP3 and shall contain executed waivers of hearing, waiver of financial disclosures (if applicable), the parties' settlement agreement or mediation agreement, verified Answers to Interrogatories or Deposition, proposed Findings of Fact, and a proposed Decree of Dissolution.

RULE 8- JUVENILE STATUS OFFENSES

No local rules.

RULE 9- MISCELLANEOUS

901 Identification of Counsel or Party

Every pleading, motion, and any other paper filed in the record by an attorney or a party shall contain the typed or printed name, address, telephone number and e-mail address of the attorney or party signing the paper.

902 Video Copies of In-Chamber Interviews with Children

No video copies of any in-chamber interviews with a child shall be released by the Circuit Clerk Court without a specific written Order. Any individual requesting such an Order must file a motion requesting permission to copy the video, and include an explanation of the reason for the request.



Hon. Heather Fryman
Circuit Judge
Family Court Division
Date: 4/6/16

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL
JOINT JURISDICTION PROTOCOL
18th JUDICIAL CIRCUIT AND DISTRICT
HARRISON, PENDLETON, NICHOLAS AND ROBERTSON 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. Except as otherwise set forth herein all Circuit/Family court protocols shall remain in full force and effect.

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:
CIRCUIT CLERK OFFICES, LOCAL POLICE OR SHERIFF DEPTS AND KY STATE POLICE AND COUNTY OR COMMONWEALTH ATTORNEYS
- B. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **after** regular business hours and weekends:
LOCAL POLICE OR SHERIFF OFFICERS AND OR KY STATE POLICE OFFICERS AND COUNTY OR COMMONWEALTH ATTORNEYS
- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:
DISTRICT JUDGE, FAMILY COURT JUDGE OR CIRCUIT COURT JUDGE, OR ALTERNATIVELY THE DESIGNATED "ON-CALL" TRIAL COMMISSIONER
- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:
same persons set forth in paragraph C above

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 cases to the District Court. Protective Orders stemming from child custody issues, dissolutions or stemming from a family relationship shall remain the jurisdiction of Family Court. This paragraph may be addressed from time to time to equalize the workload between courts.
- D. The schedule for hearings on interpersonal protective orders is as follows:

Harrison county: Mondays-11a.m.; Nicholas county: 1st, 2nd, 4th and 5th Wednesdays: 11:30 am; Pendleton county: Tuesdays-11a.m.; Robertson County: 1st, 2nd, 4th and 5th Wednesdays - 9a.m.

Hearings for domestic violence protective orders shall remain as follows: Pendleton County: 1st and 3rd Mondays at 10:00 am; Robertson County: 1st and 3rd Tuesdays at 10:00 a.m.; Nicholas County: 1st and 3rd Tuesdays at 1:00 p.m.; Harrison County: 1st and 3rd Wednesdays at 10:00 a.m.

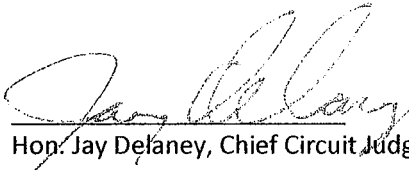
- E. Cases may be reassigned or transferred between courts if it is determined that there are other actions pending or circumstances indicate that review by the other court is proper. KRS 403.725, KRS 456.030. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter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

IV. Contempt Proceedings

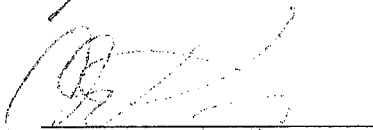
- A. Pursuant to KRS 403.763 and KRS 456.180, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.
- B. Petitioners seeking to initiate contempt proceedings should contact:
Their respective county attorney, or, by the filing of a written motion specifying the precise manner in which the Respondent is alleged to be in violation of a valid existing protective order of which the Respondent has personal notice.
- 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:


Hon. Jay Delaney, Chief Circuit Judge


Hon. Heather Fryman


Hon. Charles W. Kuster, Jr.

APPENDIX B

18TH JUDICIAL CIRCUIT MODEL TIMESHARING GUIDELINES

The following schedules are suggested as examples to parents and attorneys in establishing time-sharing schedules for individual families. Each case will present unique facts or circumstances which shall be considered by the Court in establishing a time-sharing schedule. The schedule established by the Court or the parties in any case *may or may not be what these examples suggest*.

A. General Provisions

1. Transportation- Each parent shall be responsible for picking up the child(ren) at the beginning of their time-sharing period.
2. Time Zone- Any time referred to for time-sharing shall be the time in the time zone where the child primarily resides.
3. Contact Information- Unless there are allegations of domestic violence, each parent shall provide phone numbers and addresses where the child(ren) will be located.

B. Model Timesharing Schedules

1. Traditional Timesharing Schedule- the non-residential parent shall have timesharing not less than every other weekend, and one mid-week evening visit. Timesharing shall begin on Friday afternoon when school is dismissed and shall conclude on Sunday evening at 6:00 P.M. The mid-week visit shall occur on Wednesday evenings from 6:00 P.M. till 8:00 P.M.

C. 2/5 Schedule- Parent "A" shall have the children every Monday night and Tuesday night overnight. Parent "B" shall have the children every Wednesday night and Thursday night overnight. The parents will alternate overnights on Friday, Saturday, and Sunday so that each parent has an entire weekend every other weekend. Exchanges shall occur Mondays, Wednesdays, and Fridays when school is dismissed.

D. Holidays and Vacations

1. Friday and Monday School Holidays- When parents exercise a traditional alternate weekend timesharing schedule, any school holiday occurring on a Friday or Monday shall attach to the weekend timesharing for the parent that would otherwise exercise timesharing on that holiday weekend.
2. Mother's Day and Father's Day- Mother's Day shall be spent with the mother and Father's day shall be spent with the father. Unless otherwise agreed, the hours for the visitation on these days will be 9:00 A.M. until 6:00 P.M.
3. Summer Holidays- Holidays occurring during the summer school break will be spent with the parent otherwise exercising timesharing per the parties' schedule.
4. Traditional School Year Holidays- the parties shall alternate traditional significant holidays as follows: In all odd numbered years mother shall have the children on Thanksgiving, and Christmas Eve from 9:00 A.M. until 6:00 P.M. Father shall have the children on Easter and Christmas

Day. On even numbered years the schedule will be reversed so that Father has timesharing on Thanksgiving and Christmas Eve and Mother has Easter and Christmas Day.

5. Birthdays- Birthdays will not alter the parties' regular timesharing schedule.
6. Summer School Break- Parties that use a traditional timesharing schedule may alternate weeks during the summer school holiday. In the event that weeks are not alternated then each parent is entitled to two - seven day vacation periods.
7. Spring and Fall Breaks- the parties should equally divide any school break lasting more than three days.

E. Rules for Timesharing

1. Neither party shall disparage the other party in the presence of the child, post disparaging comments on social media about the other party or their family members, or allow any third party to disparage the other party in the presence of the child. The "presence of the child" includes any situation in which the child is likely to overhear unkind remarks or view unkind material. A parent will be held strictly responsible for what third parties say or do in the presence of the child.
2. Neither party shall instruct a child to lie about what happens during timesharing. Neither party shall encourage a child to hide any item, event, or fact from the other party.

3. Neither parent should question the child about what occurs when the child is with the other party.
4. Neither party shall obstruct the child's communication with the other party. A party must allow the child to call or communicate with the other party whenever reasonable. A party shall not refuse all phone calls from the other party during timesharing.
5. A party shall not harass or engage in excessive communication with the child or other party during timesharing. Unless there are exceptional circumstances, one phone call per day is reasonable.
6. When a child has an activity or special event at a school, recreational facility, or in a public place (such as a ballgame, recital, school holiday party, or play), both parents may attend regardless of whose timesharing is taking place on that day and time.
7. Violation of these rules may subject a party to consequences that may affect or limit a parent's right to visitation or custody.