Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX A OF THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 19TH JUDICIAL CIRCUIT, FAMILY COURT DIVISION, BRACKEN, FLEMING, AND MASON COUNTIES

Upon the recommendation of the Judges of the 19th Judicial Circuit, Bracken, Fleming, and Mason counties, and being otherwise sufficiently advised,

The amendment to Appendix A of the Local Rules of Practice and Procedure for the 19th 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 June 2016.

CHIEF JUSTICE

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING AMENDMENT TO TITLE VI, DOMESTIC RELATIONS CASES, OF THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 19TH JUDICIAL CIRCUIT, BRACKEN, FLEMING, AND MASON COUNTIES

Upon recommendation of the Chief Circuit Judge of the 19th Judicial Circuit, Bracken, Fleming, and Mason counties, and being otherwise sufficiently advised,

The amendment to Title VI, Domestic Relations Cases, of the Local Rules of Practice and Procedure for the19th Circuit, Bracken, Fleming, and Mason counties, 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 the 30th day of March 2012.

CHIEF JUSTICE JOHN D. MINTON, JR.

19TH JUDICIAL CIRCUIT
TITLE VI

Domestic Relations Cases

Rule 1. Introduction/Administrative Procedure

1.01 Introduction/Preface

The 19th Judicial Circuit hereby incorporates all rules within the Family Court Rules of Procedure and Practice (FCRPP), and all previous rules under Title VI of the 19th Judicial Circuit Court Local Rules shall be rescinded. All rules falling within Title VI of the 19th Judicial Circuit Local Rules shall serve to supplement the FCRPP, Kentucky Rules of Civil Procedure (CR) and Kentucky Rules of Criminal Procedure (RCr).

1.02 Incorporation into Civil/Criminal Local Rules

All rules established herein shall be incorporated by reference as the revised Title VI of the 19th Judicial Circuit Local Rules previously titled "Domestic Relations Cases – Reference and General," and shall be referenced as DR 1, DR 2, etc.

1.03 Effective Date

The effective date of these rules shall be thirty (30) days after Kentucky Supreme Court approval.

Rule 2. Court Scheduling/Motion Hour/Procedures for Filing

All procedures relating to court scheduling, motion hour and procedures for filing are provided for under the 19th Judicial Circuit Local Rules, Title I.

Rule 3. Adoptions/Termination of Parental Rights

Counsel in an adoption proceeding shall contact the Court to determine how much of a background check or references will be required in relative adoption cases.

Rule 4. Domestic Violence Protocol and 24 Hour Access Policy

The Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for the 19th Judicial Circuit and District (Bracken, Mason and Fleming Counties) is hereby incorporated by reference and set forth as Appendix A to these Rules.

Rule 5. Domestic Relations Practice

5.01 Appearances, Waivers and Agreements.

A. Any unrepresented party who signs and acknowledges an appearance and waiver or agreement shall do so before a clearly identified public notary, the circuit clerk or any of his or her deputies, or any official stenographer of the circuit court.
B. If an entry of appearance is filed and does not waive notice of future proceedings, including the filing of exceptions and the submission for judgment or decree, notice must be given of said proceedings.
C. All agreements and agreed orders shall contain the correct mailing and e-mail addresses for the attorneys and parties.
D. The parties and parties' counsel, if any, must sign all agreements and agreed orders.

5.02 Preliminary Mandatory Disclosure

A. Certification

AOC-238, Preliminary Verified Disclosure Statement, shall be filed in the Court record, unless parties or parties' counsel certify in writing that said disclosure has been made in accordance with FCRPP 2(3).

B. Completion in Maintenance/Spousal Support Cases

In cases where maintenance and spousal support are not at issue, Section H of AOC-238, Preliminary Mandatory Disclosure, regarding "Monthly Expenses" need not be completed.

5.03 Value and Right to Future Payments

In all instances where a pension, retirement plan, profit sharing, deferred compensation or other plan which may lead to future payments exist as property between the parties, the parties shall ascertain an approximate value of all such plans as well as any right to receive future payments.

5.04 Custody Order or Modification of Custody Order or Decree

A. Application for a custody order or to modify a custody order or custody decree shall be to the Court on motion, and affidavits as required by law, with notice to all parties, for hearing by the Court in accordance with procedure established by Kentucky Revised Statutes and these Local Rules.

B. The affidavits in support of motion to modify a temporary custody order or custody decree shall, in addition to facts supporting the requested order sought, indicate:

i. The date and recording information of the order or decree sought to be modified;
ii. The substance of the order or decree; and,
iii. The circumstances or the change of circumstances relied upon by the party seeking the modification.

5.05 Affidavits

A. Form in Proceedings for Dissolution of Marriage, Legal Separation or Maintenance

In each proceeding for dissolution of marriage, legal separation or maintenance, an affidavit signed by moving party and notarized must be filed with the complaint and must contain the following:

i. Statement as to whether either party has been previously divorced, or a party to a decree of legal separation or dissolution of marriage, and if so, when and where the decree was granted.
ii. Statement as to age and condition of health of affiant.
iii. Statement as to whether affiant owns any real estate. If any real estate is owned, give location and value.
iv. Statement as to whether affiant is employed, the wages or salary received.
v. Statement of affiant as to his or her other income.
vi. Statement as to the age and health of respondent.
vii. Statement of affiant as to whether respondent owns any real estate, and as to whether he is employed.
viii. Statement as to whether any children were born of this marriage, giving the place of residence, sex and date of birth of any such children, and the name(s) of the custodian(s) of said children.
ix. Statement as to whether respondent is now or has been in the active military service of the United States at any time during the pendency of this action.
x. If a woman, whether now pregnant.
xi. The questionnaire form required by the State Department of Health, pursuant to KRS 213.340 shall be filed with the affidavit.

B. Three Day Affidavit

An affidavit must be signed by moving party and notarized within three (3) days before judgment is tendered and be filed with the judgment containing statement as to whether any material change in

the circumstances of either party has occurred since the first affidavit was executed and since the taking of proof as would cause any witness herein to now testify differently and whether any resumption of normal marriage relationship has occurred, and if a woman, whether now pregnant.

5.06 Emergency Notice for Custody, Maintenance, or Support

A. In an emergency for temporary order for custody, maintenance, and support or to modify and review same, a party on motion, with such notice as practicable, supported by affidavit of movant stating facts to establish the emergency, may move the Court, in person or by counsel, for order of emergency temporary custody, maintenance, or support for a period of up to thirty (30) days.
B. Affidavit of movant must fully explain the need for emergency custody, maintenance and/or support, and if applicable, why notice could not be given.
C. Such motions may be heard at any time in term or out of term at any location in the 19th Judicial Circuit.
D. Any motion for maintenance or support must be accompanied by a child support worksheet and an affidavit of the moving party setting forth the number of children of the marriage and the income of the parties.

5.07 Child Support

Child support shall be determined pursuant to the support guidelines established in KRS 403.212, with exceptions for good cause shown.

5.08 Visitation Rules

A. Pursuant to FCRPP 8(1), a parent shall be entitled to time-sharing/visitation as ordered by the court, unless otherwise agreed to by the parties or ordered by the court.
B. The Local Time-Sharing/Visitation Guidelines are set forth as Appendix B to these Rules. The Guidelines set forth in Appendix B are not default provisions.

Rule 6. Miscellaneous Rules Relating to Family Law Practice

6.01 Protection of Personal Identifiers

All pleadings must comply with the requirements of KRS Chapter 205, 403 and 407, by providing the personal identifying information required in those chapters. However, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court,

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 clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only 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 orders 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.

6.02 Motions Contemporaneously Sent to Judge

Any motions filed with the clerk in the 19th Judicial Circuit under KRS Chapter 403 shall be contemporaneously sent by fax, e-mail or hand-delivery to the Circuit Judge or Circuit Judge's secretary due to possibility of not having regularly scheduled Motion Hour in the county where said motion is to be filed within period prescribed by FCRPP.

6.03 Rules Omitted. Local Rules 15 - 25 are hereby omitted due to the revision of Title VI and so as to maintain numbering of all other Titles within the 19th Judicial Circuit Local Rules.

APPROVED: Stockton B. Wood Date March 22, 2012

Stockton B. Wood
Judge, 19th Judicial Circuit

Appendix A

TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL

19TH JUDICIAL CIRCUIT AND DISTRICT BRACKEN, FLEMING AND MASON COUNTIES

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

I. Uniform Protocol for Processing Cases

A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.

A. 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.

B. Domestic violence matters may be reassigned from the district court division to circuit/family court when there is a dissolution/custody proceeding pending.

C. No jurisdiction shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.

D. Domestic violence cases shall be reassigned or transferred to another circuit under the following circumstances:

Consistent with FCRPP 12, when the local domestic violence protocol requires that a case be transferred to another circuit due to a pending dissolution or custody matter, an emergency protective order shall continue and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

II. Twenty-four Hour Accessibility

A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

Circuit Court Clerks and deputy clerks
Sheriffs and deputy sheriffs
City police officers
Women's Crisis Center staff

B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

Sheriffs and deputy sheriffs
City police officers
Women's Crisis Center staff

C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

District Court Judge
Senior Status Judges assigned to District Court
Trial Commissioners
Circuit Judge, if no other judge or commissioners can be located

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

District Court Judge
Senior Status Judges assigned to District Court
Trial Commissioners
Circuit Judge, if no other judge or commissioners can be located

E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

F. The schedule for domestic violence hearings is as follows:

Bracken District Court - Tuesdays 1P.M.
Fleming District Court - Thursdays 9 A.M.
Mason District Court - 1st and 3rd Fridays 1P.M. , or as scheduled within the fourteen (14) day hearing period.

NOTE: Domestic violence hearings may be scheduled for the same time and date as hearings scheduled for related criminal charges.

III. Contempt Proceedings

A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.

B. Petitioners seeking to initiate contempt proceedings should contact:

(AOC Forms available)

Bracken Circuit Clerk
606-735-3328
Bracken County Courthouse, Brooksville, KY

Fleming Circuit Clerk
606-845-7011
Fleming County Courthouse, Flemingsburg, KY

Mason Circuit Clerk
606-564-4011
Mason County Justice Building, Maysville, KY

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

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 judges in the circuit/district:

Adopted, this 26 day of March, 2012.

W. Todd Walton, II
Judge, 19th Judicial District

Stockton B. Wood
Judge, 19th Judicial Circuit

Appendix B

LOCAL TIME-SHARING/VISITATION GUIDELINES 19TH JUDICIAL CIRCUIT (BRACKEN, FLEMING AND MASON COUNTIES)

RULES OF VISITATION AND PARENTAL CONDUCT

Liberal visitation arrangements are encouraged by the 19th Judicial Circuit Court as contact with both parents is important to the children. You may also agree, and are encouraged to agree, to any additional visitation for your convenience, or that is beneficial to your child. Changes or modifications can be made by the Court if need for such is shown.

The following guidelines are not and shall not be construed as a default time-sharing/visitation schedule.

VISITATION SHALL BE AT SUCH TIMES AND PLACES AS THE PARTIES MAY AGREE.

This will not normally be less than:

1. **Weekends**:
   Alternate weekends from Friday at 5:30 p.m. until Sunday at 6:00 p.m. for all children twelve (12) months of age or older. If the child is less than twelve (12) months of age, weekend visitation shall be from 10:00 a.m. to 6:00 p.m. on Saturday and Sunday.

2. **Midweek**:
   One evening each week, on Wednesday at 5:30 p.m. to 8:30 p.m.

3. **Holidays**:
   In the **odd-numbered** years, the custodial parent has Easter and Christmas Day; and the non-custodial parent has July 4th, Thanksgiving, and Christmas Eve.
   In the **even-numbered** years, the schedules are reversed.
   Memorial Day and Labor Day attach to the preceding week.
   A. A holiday that falls on a weekend should be spent with the parent who would normally have the children for that holiday. The rest of the weekend is to be spent with the parent who would normally have that weekend. These do not have to be made up.
   B. Mother's Day and Father's day shall be spent with the appropriate parent. Hours are as agreed, or 10:00 a.m. to 7:30 p.m.
   C. Other days of special meaning, such as religious holidays, or national birthdays, should be decided together, written into the Court order, and alternated as above.

D. Hours for parents who cannot agree are as follows:

i.	Easter:	10:00 a.m. to 7:30 p.m.
ii.	July 4th:	9:00 a.m. to 9:00 a.m. the next day
iii.	Thanksgiving:	9:00 a.m. to 9:00 a.m. the next day
iv.	Christmas Eve:	9:00 a.m. on December 23rd to 9:00 p.m. on December 24th
v.	Christmas Day:	9:00 a.m. on December 24th to 9:00 a.m. on December 25th

4. **Birthdays**:
One-half day with each parent even if it falls on a regular visitation day.

5. **Waiting**:
The children and custodial parent have no duty to await the visiting parent for more than thirty (30) minutes of the visitation time. The parent who is late forfeits visitation for that period. The custodial parent, or acceptable representative, must be home at the return time to receive the child.

6. **Cancellations**:
If the child is ill, the custodial parent shall give 24 hours notice, if possible, so appropriate plans can be made. The non-custodial parent shall give 24 hours notice to cancel. The time cancelled by the non-custodial parent is forfeited. The time lost due to the child's illness should be made up.

7. **Vacations**:
Four (4) weeks of visitation each year are to be arranged with advanced notice by the non-custodial parent by May 1st. The custodial parent must give the non-custodial parent notice of vacations, or special plans for the child, to avoid planning conflicts, by May 15th.
   i. Summer school necessary for the child to pass to the next grade must be attended.
   ii. A general itinerary should be provided for the parent, if vacation will be out of town.
   iii. Child support obligation shall not abate during any visitation period.

8. **The visitation schedule set shall be an enforceable Order of the Court.** Please put the interests of your child first and comply with the above provisions.

9. **Rules for Visitation**
Each parent is under an affirmative duty to foster the love and affection of the child for the other parent. Neither parent shall do nor say anything that will interfere with the love and affection of the child for the other parent. Neither parent shall allow third parties to do or say anything to or in the presence of the child that will interfere with the love and affection of the

child for the other parent. In addition to these general duties, neither parent shall:

i. Have the child deliver money or messages from one parent to the other and thus place the child in the middle.
ii. Ask the child to keep a secret from the other parent and, in effect, teach the child to lie.
iii. Quiz the child about what is going on at the other parent's home and thus turn the child into a spy.
iv. Say unkind things about the other parent to the child or in the presence of the child.
v. Try to conduct parental business when exchanging the child for visitation.
vi. Make any threats or start arguments with the other parent when exchanging the child for visitation.
vii. Ask a child directly or subtly, "Which of us do you really want to be with", and thus place the burden on the child.
viii. Have the child refer to a future step-parent as "mother" or "father".
ix. Eavesdrop on or interrupt the child's telephone conversations with the other parent.

Violation of these rules may affect or limit a parent's right to visitation or custody.