Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 21ST JUDICIAL CIRCUIT AND DISTRICT, BATH, MENIFEE, MONTGOMERY AND ROWAN COUNTIES

Upon the recommendation of the Judges of the 21st Judicial Circuit and District, Bath, Menifee, Montgomery and Rowan counties, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 21st Judicial Circuit and District 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 11th day of December 2015.

CHIEF JUSTICE

TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL
21st JUDICIAL CIRCUIT AND DISTRICT
ROWAN, BATH, MENIFEE & MONTGOMERY 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 (24) 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 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:

The Circuit Clerk's Office in the county of which the petitioner is requesting it to be heard. The Court hereby grants each Circuit Court Clerk's Office in the 21st Judicial District the authority to take Emergency Protective Orders (EPOs) and Temporary Interpersonal Protective Orders (TIPOs) and administer oaths of the petitioners during their regular business hours.

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. **BATH COUNTY-** Any Ex parte Emergency Protective Orders and/or Temporary Interpersonal Protective Orders that take place after hours shall be executed in Bath County at the Bath County Dispatch Office. The Court hereby grants the employees of the Bath County Dispatch Office the authority to take Domestic Violence Petitions and/or Interpersonal Protective Petitions and administer the oath of said petitions to the petitioner.

2. **MONTGOMERY COUNTY-** Any Ex parte Emergency Protective Orders and/or Temporary Interpersonal Protective Orders that take place after hours shall be executed in Montgomery County at the Montgomery County Dispatch Office. The Court hereby grants the employees of the Montgomery County Dispatch Office the authority to take Domestic Violence Petitions and/or Interpersonal Protective Petitions and administer the oath of said petitions to the petitioner.

3. **ROWAN COUNTY-** Any Ex parte Emergency Protective Orders and/or Temporary Interpersonal Protective Orders that take place after hours shall be executed in Rowan County at the Rowan County Domestic Violence Shelter and shall be immediately delivered to the Morehead City Police from the Domestic Violence Shelter once executed and signed by the Judge. The Court hereby grants the Employees of the Rowan County Domestic Violence Shelter the authority to take Domestic Violence Petitions and/or Interpersonal Protective Petitions and administer the oath of said petitions to the petitioners.

4. **MENIFEE COUNTY-** Any Ex parte Emergency Protective Orders and/or Temporary Interpersonal Protective Orders that take place after hours shall be executed in Menifee County at the Menifee County Dispatch Office. The Court hereby grants the employees of the Menifee County Dispatch Office the authority to take Domestic Violence Petitions and/or Interpersonal Protective Petitions and administer the oath of said petitions to the petitioners.

C. Upon receipt of a petition **during** regular business hours, the relevant Clerks of the 21st Judicial District shall present the petition to the District Judges, Circuit Judges and/or Trial Commissioners within one hour of its presentation to them unless it is impossible due to the unavailability of a Judge or Trial Commissioner.

D. Upon receipt of a petition **after** regular business hours, the authorized agencies as addressed herein shall present the petition to the District Judges, Circuit Judges and/or Trial Commissioners within one hour of its presentation to them unless it is impossible due to the unavailability of a Judge or Trial Commissioner.

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.

D. The schedule for **PROTECTIVE ORDERS hearings is as follows**:

DISTRICT COURT

1. **BATH COUNTY-** Protective Order hearings shall take place every other Tuesday at 1:00p.m. and can at times be held each and every Tuesday depending on how hearing dates fall within the fourteen (14) day rule pursuant to the filing of the Protective Order. All parties shall receive notice of the Protective Order hearing as indicated on the Protective Order.

2. **MONTGOMERY COUNTY-** Protective Order hearings shall take place every Monday at 1:30 p.m. in Montgomery District Court and could be held on a different date depending on how the hearing dates fall within the fourteen (14) day rule pursuant to the filing of the Protective Order. All parties will receive notice of the Protective Order hearing as indicated on the Protective Order.

3. **ROWAN COUNTY-** Protective Order hearings shall take place every Monday at 1:00 p.m. in Rowan District Court and could be held on a different date depending on how the hearing dates fall within the fourteen (14) day rule pursuant to the filing of the Protective Order. All parties will receive notice of the Protective Order hearing as indicated on the Protective Order.

4. **MENIFEE COUNTY-** Protective Order hearings shall take place every Tuesday at 9:30 a.m. in Menifee District Court and could be held on a different date depending on how the hearing dates fall within the fourteen (14) day rule pursuant to the filing of the Protective Order. All parties will receive notice of the Protective Order hearing as indicated on the Protective Order.

CIRCUIT COURT

1. **DIVISION I**

   a. **MENIFEE CIRCUIT COURT-** Protective Order hearings shall be heard on the fourth Thursday of each month at 11:00 a.m.

   b. **BATH CIRCUIT COURT-** Protective Order hearings shall be heard on the third Thursday of each month at 11:00 a.m.

   c. **MONTGOMERY CIRCUIT COURT-** Protective Order hearings shall be heard on the first Friday of each month at 11:00 a.m.

   d. **ROWAN CIRCUIT COURT-** Protective Order hearings shall be heard on the second Friday of each month at 11:00 a.m.

2. **DIVISION II**

   a. **MENIFEE CIRCUIT COURT-** Protective Order hearings shall be heard on the second Thursday of each month at 11:00 a.m.

   b. **BATH CIRCUIT COURT-** Protective Order hearings shall be heard on the first Thursday of each month at 11:00 a.m.

   c. **MONTGOMERY CIRCUIT COURT-** Protective Order hearings shall be heard on the third Friday of each month at 11:00 a.m.

   d. **ROWAN CIRCUIT COURT-** Protective Order hearings shall be heard on the fourth Friday of each month at 11:00 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 follow the protocol as addressed above when filing Protective Order petitions during business hours and filing Protective Order petitions after working hours.

C. No petitioner may be held in contempt for failure to appear at a Protective Order hearing or prosecute a criminal violation of a Protective Order.

The undersigned hereby acknowledge that all general orders, forms, policies and procedures relating to Protective Orders 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:

Chief Circuit Judge Beth Lewis Maze
Division II- 21st Judicial Circuit

11/24/15
Date

Circuit Judge William Lane
Division I- 21st Judicial Circuit

11-27-15
Date

Chief District Judge Don Blair
Division II-21st Judicial District

11-23-15
Date

District Judge William Roberts
Division I- 21st Judicial District

11-23-15
Date