Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 23 JUDICIAL CIRCUIT AND DISTRICT, ESTILL, LEE, AND OWSLEY COUNTIES

Upon the recommendation of the Judges of the 23rd Judicial Circuit and District, Estill, Lee, and Owsley counties, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 23rd 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 13th day of June 2017.

CHIEF JUSTICE

APPENDIX 1

TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL
23rd JUDICIAL CIRCUIT AND DISTRICT
ESTILL, LEE, AND OWSLEY 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:

Estill Circuit Clerk, and their Deputies;
Lee Circuit Clerk, and their Deputies;
Owsley Circuit Clerk, and their Deputies;
All Sworn Peace Officers of Any Police Agency;
Any 911 Dispatcher.

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

Estill Circuit Clerk, and their Deputies;
Lee Circuit Clerk, and their Deputies;
Owsley Circuit Clerk, and their Deputies;
All Sworn Peace Officers of Any Police Agency;
Any 911 Dispatcher.

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

To the Circuit Judge where a divorce or child custody proceeding is pending between Petitioner and Respondent; If the Circuit Judge is unavailable then to the District Judge; If the Circuit and District Judge is unavailable, then to any Trial Commissioner of the 23rd District. In all other cases the Petitions shall be submitted to the District Judge first; if the District Judge is unavailable, then to any Trial Commissioner of the 23rd District; if the District Judge and Trial Commissioners are unavailable then to the Circuit Judge.

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

To the Circuit Judge where a divorce or child custody proceeding is pending between Petitioner and Respondent; If the Circuit Judge is unavailable then to the District Judge; If the Circuit and District Judge is unavailable, then to any Trial Commissioner of the 23rd District. In all other cases the Petitions shall be submitted to the District Judge first; if the District Judge is unavailable, then to any Trial Commissioner of the 23rd District; if the District Judge and Trial Commissioners are unavailable then to the 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 cases to the District Court.

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

(1) Circuit Court: The next regularly scheduled civil or family Court proceeding before the presiding judge except those cases where the hearing date is more than 14 days following the Court's ruling on an Emergency Protective Order Petition. In those case the matter will be assigned for hearing by the presiding judge on a day within 14 days of the ruling on the Emergency Protective Order Petition.

(2) District Court

a. Estill County: The Monday before the Second and Fourth Wednesday of each month at 9:00 a.m.; The First, Second, Third, and Fourth Wednesday of each month at 9:00 a.m.

a. Lee County: The First, Second, Third, and Fourth Tuesday of each month at 9:30 a.m.

c. Owsley County: The First, Second, Third, and Fourth Thursday of each month at 9:30 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:

The Circuit Court Clerk's Office in the County where the EPO/DVO has been 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:

Hon. Michael Dean, Circuit Judge — Date: 5 / 30 / 2017

Hon. William "Bo" Leach, District Judge — Date: 5/25/2017