Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 34TH JUDICIAL CIRCUIT AND DISTRICT, MCCREARY AND WHITLEY COUNTIES

Upon the recommendation of the Judges of the 34th Judicial Circuit and District, McCreary and Whitley counties, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 34th 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
34TH JUDICIAL CIRCUIT AND DISTRICT
WHITLEY AND McCREARY 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:

Court Clerk and Deputy Court Clerks; the County Attorney and authorized staff.

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

Deputy Court Clerk who is specifically assigned this responsibility by the Clerk. Petitioner may go to the 911 Dispatch Center or any law enforcement officer for referral to that Deputy.

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

Any District Judge that is available. In Whitley County, if no District Judge is available, the petition shall be referred to any Circuit Judge. In McCreary County, if no District Judge is available, the petition shall be presented to the Trial Commissioner. If neither the District Judge nor the Trial Commissioner is available in McCreary County, then the petition shall be presented to a Circuit Judge.

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

The District Judge on call. If that District Judge is not available, see section 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.

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

Whitley District Court – Williamsburg (Division I): Tuesdays at 1:30 p.m.
Whitley District Court – Williamsburg (Division II): Tuesdays at 1:00 p.m.
Whitley District Court – Corbin (Both Divisions): Mondays at 9:00 a.m.
McCreary District Court (Both Divisions): Thursdays 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 contact:

The Court Clerk during business hours. If it is after business hours, see IIB.

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:

DAN BALLOU, CHIEF JUDGE
CIRCUIT COURT, DIVISION I
DATE: 23 Nov 2015

PAUL K. WINCHESTER, JUDGE
CIRCUIT COURT, DIVISION II
DATE: November 23rd 2015

CATHY E. PREWITT, CHIEF JUDGE
DISTRICT COURT, DIVISION I
DATE: 11-24-2015

FRED WHITE, JUDGE
DISTRICT COURT, DIVISION II
DATE: 11-24-15