Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 38TH JUDICIAL CIRCUIT AND DISTRICT, BUTLER, HANCOCK, AND OHIO COUNTIES

Upon the recommendation of the judges of the 38th Judicial Circuit and District, Butler, Hancock, and Ohio counties, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 38th 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 10th day of February 2023.

CHIEF JUSTICE

APPENDIX A

COMMONWEALTH OF KENTUCKY
THIRTY-EIGHTH JUDICIAL CIRCUIT AND DISTRICT
BUTLER, HANCOCK, AND OHIO COUNTIES

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

Pursuant to KRS 403.725 and KRS 456.030, and in compliance with Section IV of the Kentucky Family Court Rules of Procedure and Practice (FCRPP), this local protective order protocol is established to ensure 24-hour accessibility to emergency protective orders (EPOs) and temporary interpersonal protective orders (TIPOs) (collectively, "orders of protection") and to establish written procedures for matters in which there may be joint jurisdiction between the circuit/family and district courts.

I. EFFECTIVE DATE

This protocol is effective upon written approval of the Supreme Court of Kentucky.

II. UNIFORM PROTOCOL

(a) A petition/motion for an order of protection under KRS Chapter 403 or 456 shall be made on form AOC-275.1 and accepted and filed with the court. The resulting court action is identified herein as a "domestic violence action."

(b) A domestic violence action shall be processed consistent with the rules and procedures set forth in the Kentucky Circuit Court Clerks' Manual.

(c) A domestic violence action shall be assigned a "D" case number and 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 an order of protection, are not permitted.

(e) The court shall review a petition for an order of protection immediately upon its filing.

(f) To the extent that the court issues an order directing or prohibiting 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, the court shall not order the petitioner to take any affirmative action.

III. TWENTY-FOUR HOUR ACCESSIBILITY

(a) The offices of the Butler Circuit Court Clerk, Hancock Circuit Court Clerk, and Ohio Circuit Court Clerk shall provide petitions for orders of protection to persons seeking relief during each office's regular business hours. These offices and their employees are also authorized to provide and verify petitions in emergency situations.

(b) When the local circuit clerk's office is closed or otherwise inaccessible due to an emergency, the following individuals are authorized to provide and verify petitions: law enforcement officers and dispatchers, jailers and their employees, Commonwealth's attorneys and staff, county attorneys and staff, and employees and agents of regional rape crisis centers and domestic violence shelters.

(c) Regional domestic violence shelters designated under KRS 209A.045 and regional rape crisis centers designated under KRS 211.600 may electronically file petitions for orders of protection where available.

(d) Upon receipt of a completed and signed petition for an order of protection during the family court's regular business hours,[1] the individual or agency receiving the petition shall present it to the family court judge. If the family court judge is unavailable, the individual or agency shall present the petition to a judge of the 38th Judicial District. If no district judge is available, the individual or agency shall present the petition to the judge of the 38th Judicial Circuit, Division I.

(e) During the months of January, February, April, May, July, August, October, and November, upon receipt of a completed and signed petition for an order of protection outside the family court's regular business hours, the individual or agency receiving the petition shall present it to the on-call judge of the 38th Judicial District. If the on-call district judge is unavailable, the individual or agency shall present the petition to the family court judge. If the family court judge is unavailable, the individual or agency shall present the petition to the judge of the 38th Judicial Circuit, Division I.

(f) During the months of March, June, September, and December, upon receipt of a completed and signed petition for an order of protection outside the family court's regular business hours, the individual or agency receiving the petition shall present it to the family court judge. If the family court judge is unavailable, the individual or agency shall present the petition to the on-call judge of the 38th Judicial District. If the on-call district judge is unavailable, the individual or agency shall present the petition to the judge of the 38th Judicial Circuit, Division I.

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[1] The family court's regular business hours are 8:00 AM to 4:00 PM Central Time (CT), Monday through Friday, excluding holidays observed by the Administrative Office of the Courts.

IV. ASSIGNMENT OF ACTIONS

(a) Jurisdiction over domestic violence actions is concurrent between district and circuit courts.

(b) All domestic violence actions shall be assigned to the family court. If the family court judge is unavailable to preside over a proceeding in a domestic violence action within the time prescribed by law, a judge of the 38th Judicial District shall preside over the proceeding. If no district judge is available to preside over the proceeding in a timely manner, the judge of the 38th Judicial Circuit, Division I, shall preside over the proceeding.

(c) When a district judge or the Division I circuit judge presides over a proceeding in a domestic violence action due to the unavailability of the family court judge, the family court judge shall nevertheless preside over all subsequent proceedings in the action unless the family court judge is unavailable for a proceeding or formally transfers the action to another judge.

(d) Failure to assign or re-assign a domestic violence action to the family court shall not affect the validity of an otherwise valid order of a district or circuit judge.

(e) The family court hears domestic violence actions on regular motion days in each county of the 38th Judicial Circuit according to the following schedule:[2]

(1) Butler County: 8:30 AM CT on the first and third Tuesdays of each month.
(2) Hancock County: 8:30 AM CT on the second and fourth Tuesdays of each month.
(3) Ohio County: 8:30 AM CT on Wednesdays.

(f) When a domestic violence action involves both parties to a dissolution action pending in another circuit, the court presiding over the domestic violence action shall, upon discovery of the dissolution action, transfer the domestic violence action to the court presiding over the dissolution action. Any active EPO or TIPO shall continue, and the summons shall be re-issued by the initiating court for a period not to exceed 14 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.

V. CONTEMPT PROCEEDINGS

(a) Pursuant to KRS 403.763 and KRS 456.180, once a criminal or contempt proceeding has been initiated for violation of the terms or conditions of an order of protection, the other shall not be undertaken regardless of the outcome of the original proceeding.

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[2] The schedule of regular motion days is subject to change at the discretion of the court, and the court may hear domestic violence actions on other dates as needed. Parties may contact the local circuit clerk's office for information regarding the court schedule.

(b) No petitioner may be held in contempt for failure to appear at a domestic violence hearing or for failure to prosecute a criminal violation of a protective order.

This protocol is adopted by all the judges of the 38th Judicial Circuit and District.

Timothy R. Coleman, Judge
38th Judicial Circuit, Division I

Benjamin D. McKown, Judge
38th Judicial Circuit, Division II

Gregory R. Vincent, Judge
38th Judicial District, Division I

Daniel Boling, Judge
38th Judicial District, Division II