Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 41ST JUDICIAL CIRCUIT AND DISTRICT, CLAY, JACKSON AND LESLIE COUNTIES

Upon the recommendation of the Judges of the 41st Judicial Circuit and District, Clay, Jackson and Leslie counties, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 41st 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

REVISED TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL 41ST JUDICIAL CIRCUIT AND DISTRICT CLAY, JACKSON and LESLIE 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 the time 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 provide protective order petition forms and to take protective order petitions and administer oaths to the petitioner **during regular business hours**:

Clay Circuit Court Clerk and all Deputy Clerks
Jackson Circuit Court Clerk and all Deputy Clerks
Leslie Circuit Court Clerk and all Deputy Clerks
Police Dispatch (911 Center) Centers for Clay, Jackson and Leslie Counties and all Officers who work at said dispatch centers
Clay County Sheriff and all Deputy Sheriffs
All Police Officers for the City of Manchester, Kentucky
Jackson County Sheriff and all Deputy Sheriffs
All Police Officers for the City of McKee, Kentucky
Leslie County Sheriffs and all Deputy Sheriffs
All Police Officers for the City of Hyden, Kentucky
Kentucky State Police Officers

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

Police Dispatch (911 Center) Centers for Clay, Jackson and Leslie Counties and all Officers who work at said dispatch centers
Clay County Sheriff and all Deputy Sheriffs
All Police Officers for the City of Manchester, Kentucky
Jackson County Sheriff and all Deputy Sheriffs
All Police Officers for the City of McKee, Kentucky
Leslie County Sheriffs and all Deputy Sheriffs
All Police Officers for the City of Hyden, Kentucky
Kentucky State Police Officers

C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the Family Court Judge. If the Family Court Judge is not available, the Petition shall be presented to either of the District Judges, beginning with the District Judge on call. In the absence of a District Judge, the Petition shall be presented to the Trial Commissioner, if the particular county has a Trial Commissioner. In the absence of the latter, the petition shall be presented to the Circuit Judge.

D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to Family Court Judge. If the Family Court Judge is not available, the Petition shall be presented to either of the District Judges, beginning with the District Judge on call. In the absence of a District Judge, the Petition shall be presented to the Trial Commissioner, if the particular County has a Trial Commissioner. In the absence of the latter, the petition shall be presented to the Circuit Judge.

E. Petitions for Protective Orders will be reviewed within an hour of the time they are presented to a Judge, unless such review 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 Family, District and Circuit 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 domestic violence cases and interpersonal protective order cases to the Family Court.

D. The schedule for hearings on protective orders is as follows: Clay Family Court – Wednesdays at 9:00 a.m. in the Family Courtroom on the 3rd Floor of the Clay County Justice Center; Jackson Family Court – Tuesdays at 9:00 a.m. in the Family Courtroom on the 3rd Floor of the Jackson County Justice Center; Leslie Family Court – Mondays at 9:00 a.m. in the Courtroom in the Court House Annex, next to the Courthouse in downtown Hyden, Kentucky.

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. In the event that a respondent is arrested by a law enforcement officer for alleged criminal violation of a protective order, the District Court shall maintain exclusive jurisdiction over the alleged misdemeanor criminal offense.

B. Petitioners seeking to initiate contempt proceedings should contact the Circuit Clerk's office for the County of the Court which issued the emergency protective order or protective order. Civil contempt proceedings shall be assigned to the regular Domestic Violence docket of the Family Court.

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 and district attached to this protocol and incorporated by reference.

The above protocol is adopted by all judicial officers in the circuit:

HON. EUGENE H. CLARK, JUDGE
CIRCUIT COURT – FAMILY COURT DIVISION
DATE: 10/29/15

HON. OSCAR GAYLE HOUSE, JUDGE
CIRCUIT COURT
DATE: 10/30/15

HON. HENRIA BAILEY-LEWIS, JUDGE
DISTRICT COURT (DIVISION 2)
DATE: 10-28-15

HON. ALLEN B. ROBERTS, JUDGE
DISTRICT COURT (DIVISION 1)
DATE: 10/30/2015