Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE LOCAL RULES OF FAMILY LAW AND PROCEDURE FOR THE 45TH JUDICIAL CIRCUIT AND DISTRICT COURTS, MCLEAN AND MUHLENBERG COUNTIES

Upon the recommendation of the Judges of the 45th Judicial Circuit and District, McLean and Muhlenberg counties, and being otherwise sufficiently advised,

The Local Rules of Family Law and Procedure for the 45th 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 October 2023.



CHIEF JUSTICE

COMMONWEALTH OF KENTUCKY
FORTY-FIFTH JUDICIAL CIRCUIT
FORTY-FIFTH JUDICIAL DISTRICT

RULES OF FAMILY LAW PRACTICE

As Amended June 1, 2023.

Rule 1: Introduction and Administrative Procedure

1.01. Preface.

These are the Local Rules of Family Law Practice of the Forty-fifth Judicial Circuit and Forty-fifth Judicial District of Kentucky. All prior local rules pertinent to the practice of family law-related actions are hereby amended or rescinded as reflected herein.

These rules apply to the following types of cases: adoptions; child custody, visitation, and support actions (including URESA and UIFSA actions); juvenile dependency, neglect, and abuse actions; dissolutions of marriage; domestic violence actions; juvenile status and public offenses; paternity actions; and terminations of parental rights. All such actions shall be tried in strict accordance with these rules, the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Civil Procedure (as applicable), the Kentucky Rules of Criminal Procedure (as applicable), and all relevant chapters of the Kentucky Revised Statutes.

1.02. Effective Date.

The effective date of these rules shall be November 1, 2023.

1.03. Citation.

These rules may be cited as “Local Rules” or as “LRFLP” (Local Rules of Family Law Practice).

Rule 2: Court Scheduling, Motion Hours and Procedures for Filing

2.01. Circuit Court Actions.

The following cases shall be adjudicated by the Circuit Court: dissolutions of marriage and matters ancillary thereto; child custody, timesharing/visitation, and support actions; terminations of parental rights and adoptions; and domestic violence actions (subject to and in accordance with the protocol set forth in Appendix A).

2.02. Circuit Court Motion Hour Schedule and Related Matters.

A. Regular Motion Hours. Except as otherwise indicated in these rules, all motions in actions before the Circuit Court shall be heard each Monday in McLean Circuit Court at 8:30 a.m., and each Monday in Muhlenberg Circuit Court at 1:00 p.m.

B. Hearings Requiring Additional Time. Any hearings requiring more than 20 minutes must be scheduled by motion. Motions to schedule such hearings shall be heard during regular motion hours.

C. Service of Post-decree Motions. Anyone seeking court relief after the court has entered a decree of dissolution shall serve notice of the post-decree motion directly to the other party via service by sheriff or via certified mail, return receipt requested. The court may dismiss a post-decree motion if the party is not served properly under this rule. The moving party shall also provide a courtesy copy to the opposing party's attorney via regular first-class mail or electronic mail, however notice to an attorney of a post-decree motion shall be of no effect.

D. Deadlines and Requirements for Filing Motions. All motions to be heard during regular motion hours shall be in writing and filed no later than 4:00 p.m. on the Wednesday immediately preceding the Monday on which the motions are to be heard. No motions shall be placed on the docket by telephone. Utilization of efiling is encouraged and preferred by the Circuit Court.

E. Virtual Circuit Court Attendance.

1. Persons may be permitted by the Circuit Court to attend certain court sessions remotely by virtual electronic connection. Absent a superseding order by the Supreme Court of Kentucky, virtual attendance may be authorized ***only*** under the conditions set out herein. The person seeking virtual attendance shall formally request the court's express permission not less than two (2) business day prior to the scheduled court event, and show good cause, according to the following procedure:

a. Telephone or email the Circuit Judge's legal assistant, at (270) 338-5930 or donnagregory@kycourts.net, and provide the name of the party requesting virtual attendance;
b. The person requesting to attend remotely, or their attorney, must furnish court staff the attendee's name and ensure, when joining the virtual court session, that the attendee's identity is shown. If the attendee will not link to the court session by the online platform provided in the link (e.g., calls in by telephone), the telephone number to be used for attendance shall be furnished in the initial call to court staff so the person is properly identified in the court's virtual waiting room. Failure to provide identification may result in a delay in calling the attendee's case, a continuance of the court date, or a sanction for failure to appear;
c. Good cause shall include extraordinary travel from the venue, medical emergency, conflict in another venue, or other substantial hardship, as determined in the court's discretion.

2. The following proceedings, absent a superseding order from the Supreme Court of Kentucky, may **not** be attended by virtual means, except in extraordinary circumstances or hardship:

a. Domestic violence hearings;
b. Termination of parental rights proceedings;
c. All final evidentiary hearings before court (e.g., divorce actions and child custody cases).

3. Notwithstanding the provisions of this rule, the Court reserves the right to schedule any matter for a virtual proceeding at its discretion or for good cause, with notice to parties and counsel.

2.03. District Court Actions.

The following cases shall be adjudicated by the District Court: juvenile dependency, neglect and abuse actions; juvenile status and public offenses; paternity and matters ancillary thereto (including child custody and support actions); and domestic violence actions (subject to and in accordance with the protocol set forth in Appendix A).

2.04. District Court Schedule for Juvenile Cases.

All juvenile matters, including dependency, neglect and abuse actions, paternity actions, and cases involving status and public offenses, shall be heard on the second and fourth Wednesday of each month at 10:00 a.m. in Muhlenberg District Court and on the second and fourth Tuesday of each month at 10:30 a.m. in McLean District Court.

2.05. Virtual District Court Attendance.

A. Persons may be permitted by the District Court to attend certain court sessions remotely by virtual electronic connection. Absent a superseding order by the Supreme Court of Kentucky, virtual attendance may be authorized ***only*** under the conditions set out herein. The person seeking virtual attendance shall formally request the court's express permission not less than two (2) business day prior to the scheduled court event, and show good cause, according to the following procedure:

1. Telephone or email the District Judge's judicial support specialist at (270) 338-0997 or shannonjones@kycourts.net and provide the name of the party requesting virtual attendance;

2. The person requesting to attend remotely, or their attorney, must furnish court staff the attendee's name and ensure, when joining the virtual court session, that the attendee's identity is shown. If the attendee will not link to the court session by the online platform provided in the link (e.g., calls in by telephone), the telephone number to be used for attendance shall be furnished in the initial call to court staff so the person is properly identified in the court's virtual waiting room. Failure to provide identification may result in a delay in calling the attendee's case, a continuance of the court date, or a sanction for failure to appear;

3. Good cause shall include extraordinary travel from the venue, medical emergency, conflict in another venue, or other substantial hardship, as determined in the court's discretion.

B. The following proceedings, absent a superseding order from the Supreme Court of Kentucky, may **not** be attended by virtual means, except in extraordinary circumstances or hardship: domestic violence hearings; juvenile court proceedings; and all final evidentiary hearings tried before the court.

C. Notwithstanding the provisions of this rule, the Court reserves the right to schedule any matter for a virtual proceeding at its discretion or for good cause, with notice to parties and counsel.

Rule 3: Adoptions and Termination of Parental Rights

There are currently no local rules in the 45th Judicial Circuit relating to adoptions and termination of parental rights cases that are not already included elsewhere in these rules. For uniform statewide rules of procedure see FCRPP 30 through 34.

Rule 4: Domestic Violence Protocol and Twenty-four Hour Access Policy

The Domestic Violence Protocol and Twenty-four Hour Access Policy is attached as "Appendix A" and incorporated herein by reference.

Rule 5: Paternity

There are currently no local rules in the 45th Judicial Circuit relating to adoptions and termination of parental rights cases that are not already included elsewhere in these rules. For uniform statewide rules of procedure see FCRPP 13.

Rule 6: Dependency, Neglect and Abuse

There are currently no local rules in the 45th Judicial District relating to dependency, neglect and abuse cases that are not already included elsewhere in these rules. For uniform statewide rules of procedure see FCRPP 15 through 29.

Rule 7: Timesharing and Visitation

7.01. Timesharing and Visitation Rules and Requirements.

In all cases involving a dispute as to child timesharing/visitation, or cases wherein the court has deemed equal timesharing contrary to the child' best interests, the 45th Judicial Circuit Timesharing and Visitation Guidelines (attached as "Appendix B" and incorporated herein by reference) may be used as a basis for determining the court-ordered schedule for parties who cannot agree. The parties are encouraged to reach an agreement that will serve the needs of the family and that will be specific to their case. Because each case presents unique facts and circumstances, the final schedule as agreed by the parties or as established by the

Court may or may not contain portions of the attached guidelines; however, it will not be used as a default schedule.

Rule 8: Miscellaneous Rules

8.01. Courtroom Decorum and Dress Requirements.

During court proceedings, all attorneys, staff, and litigants shall dress in an appropriate manner respectful of the forum. At a minimum, no one shall wear shorts in Circuit Court. Sunglasses and hats shall not be permitted unless required for medical or religious purposes.

8.02. Deviation from These Rules.

When justice, equity, or necessity so require, the Circuit Court or District Court may, in its discretion, deviate from the requirements of these rules upon motion of any party or *sua sponte*.

/s/ Brian Wiggins
Brian Wiggins, Circuit Judge

/s/ Eric Stovall
Eric Stovall, District Judge

Appendix A

Twenty-Four (24) Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for the Commonwealth of Kentucky's Forty-Fifth Judicial Circuit and District McLean & Muhlenberg Counties

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

I. Uniform Protocol for Processing Cases

A. Circuit court clerks shall process domestic violence cases and interpersonal protective order cases (collectively, "protective order cases") in accordance with the procedures set forth in the Kentucky Circuit Court Clerk's Manual.

B. All protective order 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.

C. Domestic violence cases may be reassigned from the district court division to circuit court when there is a dissolution/custody proceeding pending. The District Judge shall conduct the scheduled hearing and, at that hearing, reassign the "D" case to the Circuit Judge. The District Judge will extend the emergency protective order until the matter can be heard by the Circuit Judge; and, if the Circuit Judge will be unable to hear the matter before the expiration of the order, the District Judge shall issue a protective order (if warranted), which is effective only until the matter can be heard by the Circuit Judge.

D. No jurisdiction shall adopt a blanket "no-drop" policy. Protective order cases are civil matters within the purview of CR 41.01.

E. Domestic violence cases may be reassigned or transferred to another circuit if it is discovered at any time that a dissolution or child custody case is pending in another county in the Commonwealth. Consistent with FCRPP 12, an emergency protective order shall continue and the summons shall be reissued by the initiating court for a period not to exceed fourteen 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. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

F. Upon the filing of a domestic violence petition in the 45th Judicial Circuit, the domestic violence case may proceed to its conclusion even where it is subsequently determined that a dissolution/child custody proceeding has been initiated or is pending in any other Judicial Circuit, unless otherwise determined by the Court to be inappropriate.

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 McLean Circuit Court Clerk's Office
The Muhlenberg Circuit Court Clerk's Office

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

The McLean and Muhlenberg Circuit Court Clerks and all sworn deputies
The McLean and Muhlenberg County Attorneys & all appointed office staff
The Chiefs of Police of the cities of the Judicial Circuit and all sworn officers
The McLean and Muhlenberg County Sheriffs and all sworn deputies
All Kentucky State Police Officers, assigned to or within the Counties

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

The District Judge or Trial Commissioner
If the District Judge or Trial Commissioner is not available, the Circuit Judge

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

The District Judge
If the District Judge is not available to the Trial Commissioner
If the District Judge and Trial Commissioner is not available to the Circuit Judge. If none of these judges are available, to any elected or appointed District or Circuit Judge of the Commonwealth.

E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

F. The schedule for domestic violence hearings is as follows:

1. McLean County
    a. Circuit Court: Mondays at 8:30 a.m.
    b. District Court: Tuesdays at 10:00 a.m.

2.; Muhlenberg County
    a. Circuit Court: Mondays at 1:00 p.m.
    b. District Court: Mondays at 10:00 a.m.
    Wednesdays and Thursdays at 9:00 a.m.

III. Contempt Proceedings

A. Civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.

B. Petitioners seeking to initiate contempt proceedings shall follow the following:

> Dependent upon the county in which the protective order action is pending, by filing a motion with the McLean or Muhlenberg Circuit Court Clerk's Office. If the District Court has issued the protective order and no dissolution or child custody case is pending, the District Court shall hear any contempt proceeding. If the protective order case was assigned to the Circuit Court due to a pending dissolution or child custody case, and the Circuit Court issued or modified the protective order, the Circuit Court shall hear the contempt proceeding if no decree has been entered in the dissolution or child custody case. The District Court shall hear any post-decree contempt proceedings.

C. No petitioner may be held in contempt for failing to appear at a protective order hearing or to prosecute a criminal violation of a protective order.

/s/ Brian Wiggins
Brian Wiggins, Circuit Judge

/s/ Eric Stovall
Eric Stovall, District Judge

Appendix B Timesharing and Visitation Guidelines

The following schedules are suggested as guidelines for the parents and the court in establishing time-sharing/visitation schedules when the court has determined equal timesharing to be contrary to the child's best interests. Each case will present unique facts or circumstances which shall be considered by the court in establishing a time-sharing/visitation schedule and the final schedule established by the court or agreed to by the parents may or may not be what these guidelines suggest.

1. Terms. As used herein, the term "visitation" is synonymous with "time-sharing" and like terms. The term "custodial parent" is synonymous with "primary residential parent" and like terms, and the term "non-custodial parent" is synonymous with "non-primary residential parent" and like terms.

2. Visitation periods. Except as otherwise provided herein, the non-custodial parent shall have visitation with the child as follows:

a. Weekends. The non-custodial parent shall have visitation with the child on the first, third, and fifth Friday of each month (except during the months of June and July), beginning at 6:00 p.m. on Friday and ending at 6:00 p.m. the following Sunday. During the regular school term, if a weekend period of visitation begins on a Friday when school is not in session, that weekend period of visitation shall begin at 6:00 p.m. on the Thursday immediately preceding said Friday. Likewise, during the regular school term, if a weekend period of visitation is immediately followed by a Monday when school is not in session, that period of weekend visitation shall end at 6:00 p.m. on said Monday.

b. Thursdays. Except during the months of June and July, the non-custodial parent shall have visitation with the child on Thursday of each week that the non-custodial parent is not entitled to weekend visitation. On such Thursdays, visitation shall begin at 5:00 p.m. and end at 8:00 p.m.

c. Christmas holidays. In even-numbered years, the non-custodial parent shall have visitation with the child beginning at 9:00 p.m. on December 24, and ending at 6:00 p.m. on the day before the child's school resumes after the Christmas school vacation. In odd-numbered years, the non-custodial parent shall have visitation with the child beginning at 6:00 p.m. on the day the child is dismissed from school for the Christmas school vacation and ending at 9:00 p.m. on December 24.

d. Thanksgiving holidays. In odd-numbered years, the non-custodial parent shall have visitation with the child beginning at 6:00 p.m. on the day the child is dismissed from school for the Thanksgiving holiday and ending at 6:00 p.m. the day before the child resumes school after the Thanksgiving holiday.

e. Spring breaks and fall breaks. In even-numbered years, the non-custodial parent shall have visitation with the child beginning at 6:00 p.m. on the day the child is dismissed from school for the school's spring and fall breaks and ending at 6:00 p.m. the day before school resumes after each of those breaks. If the school does not declare

a spring break or fall break during a given even-numbered year, the non-custodial parent shall be entitled to exercise a spring and fall break during the months of March and October of that year upon 14 days advance written notice to the other parent, provided that each visitation period shall be for 7 consecutive days beginning at 6:00 p.m. on a Monday and ending at 6:00 p.m. on the following Sunday.

f. Extended summer visitation. The non-custodial parent shall not exercise the weekend and Thursday visitation identified above during the months of June and July. Instead, the non-custodial parent shall be entitled to exercise visitation with the child for 30 days during June and July. The non-custodial parent shall exercise these 30 days of "extended summer visitation" with the child in two separate 15 day periods. If the non-custodial parent provides written notice to the custodial parent by April 1, then the non-custodial parent may designate the two time periods within which to exercise the extended summer visitation, provided, however, that the two separate 15 day periods shall be separated with a period of at least 5 days in between them. If the non-custodial parent fails to provide written notice to the custodial parent by April 1, the non-custodial parent shall have extended summer visitation with the child from 6:00 p.m. June 15 to 6:00 p.m. June 30, and also from 6:00 p.m. July 10 to 6:00 p.m. July 25.

g. Father's Day and Mother's Day. Regardless of any rule contained herein to the contrary, the child shall spend Mother's Day with his or her mother from 9:00 a.m. to 6:00 p.m., and shall likewise spend Father's Day with his or her father from 9:00 a.m. to 6:00 p.m. In such instances and unless otherwise agreed to by the parents, the parent entitled to possession of the child pursuant to this rule shall pick up the child from the other parent's residence and return the child to that parent's residence at the conclusion of the nine hour period.

h. Child's birthday. A custodial parent or non-custodial parent, who is not, pursuant to these rules, otherwise entitled to possession of the child on the child's birthday, shall have possession of the child for a three hour period on the child's birthday, beginning at 5:00 p.m. and ending at 8:00 p.m. Unless otherwise agreed to by the parents, the parent entitled to possession of the child pursuant to this rule shall pick the child up from the other parent's residence and return the child to that parent's residence at the conclusion of the three hour period.

3. Children under age 5. All rules set forth herein shall apply for children of all ages, except as modified below for children under five (5) years of age:

a. Christmas holidays. In even-numbered years, the non-custodial parent shall exercise visitation with the child beginning at 6:00 p.m. on December 20 and ending at 8:00 p.m. on December 24. In odd-numbered years, the non-custodial parent shall exercise visitation with the child beginning at 8:00 p.m. on December 24 and ending at 6:00 p.m. on December 30.

b. Spring breaks and fall breaks. In even-numbered years, the non-custodial parent shall be entitled to exercise a four day spring break visit and a four day fall break visit with the child during the months of March and October, respectively, so long as the non-custodial parent provides to the custodial parent, 14 days in advance, written notice setting out the dates and times said visitation shall be exercised. These four

day visits shall not immediately precede or follow a weekend visitation period. If the non-custodial parent fails to provide written notice as required herein, the spring and fall break visitation periods shall be deemed forfeited.

c. Extended summer visitation. The weekend and Thursday visitation periods identified above shall not apply during the months of June and July. Instead, the non-custodial parent shall be entitled to exercise "extended summer visitation" with the child for a 20-day period during June and July. This 20-day period shall be exercised in four-day increments with the requirement that the child be returned to the custodial parent's residence for four intervening periods. By April 1, the non-custodial parent shall provide to the custodial parent written notice setting out dates and times said visitation shall be exercised. If the non-custodial parent fails to so notify the custodial parent, extended summer visitation shall be deemed forfeited; however, the non-custodial parent shall, in that event, be entitled to exercise the aforementioned weekend and Thursday visitation periods.

4. Miscellaneous. Unless otherwise ordered by the Court or agreed to by the parents, the non-custodial parent shall pick the child up at the custodial parent's residence at the commencement of the visitation period and the custodial parent shall pick the child up at the non-custodial parent's residence at the end of the visitation period. In no event shall the child and custodial parent have a duty to await the non-custodial parent for more than 30 minutes from the appointed pick-up time. A non-custodial parent more than 30 minutes late shall forfeit that visitation period. The custodial parent has the right to refuse visitation if the non-custodial parent is under the influence of any intoxicants.