Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 51ST JUDICIAL CIRCUIT, FAMILY COURT DIVISION, HENDERSON COUNTY

Upon recommendation of the Judges of the 51st Judicial Circuit, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 51st Judicial Circuit, Family Court Division, Henderson County, are 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 the 17th day of April 2012.

CHIEF JUSTICE JOHN D. MINTON, JR.

RULES OF COURT
PRACTICE AND PROCEDURE
COMMONWEALTH OF KENTUCKY

51st JUDICIAL CIRCUIT
HENDERSON CIRCUIT COURT
FAMILY DIVISION

WEBSITE

http://courts.ky.gov/circuitcourt/familycourt/sites/henderson/default.htm

RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE

101 Preface

These are the Uniform Rules of Court Practice and Procedure of the Henderson Circuit Court, Family Division (Henderson Family Court). These Rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCr) and the Kentucky Rules of Civil Procedure (CR). These rules shall be the only operative Henderson Family Court Rules. All previous rules adopted by the Henderson Family Court are hereby rescinded.

102 Effective Date

The effective date of these rules shall be thirty (30) days after Kentucky Supreme Court approval.

103 Citation

These Rules shall be cited as HFRP.

104 Holidays

Holiday schedules may be obtained at the Henderson Family Court Clerk's Office, the Henderson Family Court Office, or on the Henderson Family Court website: http://courts.ky.gov/circuitcourt/familycourt/sites/henderson/default.htm.

RULE 2 COURT SCHEDULING/MOTION HOUR/PROCEDURES FOR FILING

201 Regular Motion Hour Schedule

A. For all Henderson Family Court actions except Dependency, Neglect and Abuse, and Status Offenses, Motion Hour shall be on Monday. The schedule may be obtained at the Henderson Family Court Clerk's Office, the Henderson Family Court Office or on the Henderson Family Court website:
http://courts.ky.gov/circuitcourt/familycourt/sites/henderson/default.htm

B. Motions for Dependency, Neglect and Abuse, Status Offense, and Domestic Violence actions shall be noticed for the beginning of the appropriate and regularly scheduled docket.

C. Emergency Dependency, Neglect and Abuse, and Status Offense motions may be made on any day of the week, with appropriate notice, upon approval of an assistant county attorney. Non-emergency Dependency, Neglect and Abuse and Status Offense motions shall be noticed for the beginning of the appropriate and regularly scheduled docket.

D. Arraignment on child support bench warrants served shall be heard on the regularly scheduled child support establishment and paternity docket, which are Tuesdays and Fridays at specific times to be obtained from the Clerk.

202 Exceptions to Regular Motion Hour Schedule

There shall be no Motion Hour during the week of the Judicial College. Whenever a state holiday falls on a Monday, the Motion Hour shall be held on the following Tuesday. If the court is closed for any other unforeseen reason, i.e., inclement weather, the Motion Hour shall be passed to the following Monday.

203 Deadline for Serving and Filing Motions

A. All motions except those listed in 203 C. below shall be filed no later than 12:00 noon C.S.T. on the preceding Wednesday with copies to be mailed or hand delivered to opposing party or placed with a process server on that same day by 4:30 p.m. All motions filed after 12:00 noon on such Wednesday shall be automatically passed to the next Motion Hour.

B. If the Henderson Family Court is closed on Thursday or Friday, motions pursuant to HFRP 201 A. shall be filed and clocked no later than 4:30 p.m. on the preceding Tuesday with copies to be mailed or hand delivered or placed with a process server by 4:30 p.m. on Tuesday. All motions filed after 12:00 noon on Tuesday shall be passed to the next Motion Hour.

C. All non-emergency Dependency, Neglect and Abuse, and Status Offense motions shall be filed and noticed no later than 12:00 noon at least one week preceding the Court date, with copies being mailed or hand-delivered to opposing party or counsel or placed with a process server by 4:30 p.m. on that same date. All motions filed after the deadline shall be passed to the docket's next scheduled Motion Hour. Notice to the Henderson County Attorney may be accomplished by placing a copy of the notice and motion in the Henderson County Attorney basket located in the Henderson Family Court Clerk's Office.

RULE 3 ADOPTIONS / TERMINATION OF PARENTAL RIGHTS

301 Temporary Custody Order

Temporary Custody Orders granted pursuant to KRS 199.473(7) shall be SEALED, and not opened to inspection by persons other than the parties to such proceedings and their counsel.

302 Petitions

A courtesy copy of all adoption petitions should be mailed to Protection and Permanency at 311 West 2nd Street, Owensboro, Kentucky 42301, Attention: Two Rivers Service Region.

RULE 4 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

401 The Uniform Protocol for handling Domestic Violence Cases is attached hereto in Appendix A and incorporated by reference, the same as if copied and set out at length herein.

402 Violation of Domestic Violence Orders

A. Without limiting a party's choice of remedies, alleged violations of Domestic Violence Orders should be referred to the Henderson District Court for possible prosecution, except as set forth in 402B.

B. Without limiting a party's choice of remedies, alleged violations of Domestic Violence Orders pertaining to visitation, child support, counseling, or firearms provisions should be initiated through the Henderson Family Court and scheduled for contempt hearings on the Henderson Family Court docket.

RULE 5 PATERNITY

501 Motion Practice

Pursuant to FCRPP 15, when an answer of denial is filed by the defendant, or the parties request genetic testing, a pretrial order will be entered by the Court requiring both parties and the child to submit to genetic tests in accordance with KRS 406.081 and KRS 406.091. Within thirty (30) days of receipt of the genetic report, the petitioner shall file the original report with the Court in support of a motion to dismiss, a motion for trial, or a motion for summary judgment.

Pursuant to FCRPP 15(3), when the genetic test report excludes the defendant from the paternity of the child, the Court, after the expiration of thirty (30) days from the date of the filing of the exclusionary report, will enter an order of dismissal in favor of the defendant unless a motion for additional testing pursuant to KRS 406.091 is filed prior to the expiration of the thirty (30) days.

502 Pretrial Procedures

In all cases in which the respondent files an answer admitting to the paternity of the child, or signs an affidavit of paternity, or the genetic test report contains an inclusionary result, the case shall be set for an appropriate hearing on the Third Friday Docket. On the scheduled hearing date, the parties shall report to Courtroom 100 of the Henderson County Judicial Center, for a settlement conference in advance of their court appearance. The parties will attempt to negotiate and enter into a stipulation of facts and order concerning paternity and child support. In the event the parties are unable to reach an agreement and enter into an agreed order, the parties shall report to the Family Court as noticed in the motion for hearing.

503 Guardian ad Litem Fees Where the Cabinet for Health and Family Services is the Petitioner

The Cabinet for Health and Family Services has taken responsibility for payment of attorney's fees in cases where Guardians ad Litem are appointed to represent an inmate in a paternity/child support action pursuant to CR 17.04, and where Warning Order Attorneys are appointed pursuant to CR 4.07 in paternity/child support actions. To move the Family Court for the issuance of an order for fees, prepare two copies of the order, a single motion and affidavit regarding services rendered, and attach a copy of the billing sheet. A signed order will be returned to counsel and should be forwarded to the Division of Child Support, Program Services Division, P.O. Box 2150, Frankfort, Kentucky 40602-2150.

504 Reopening Fee

Pursuant to FCRPP 14(1), a $50.00 reopening fee shall not be paid for motions in cases brought pursuant to Title IV-D of the Social Security Act for child support modification or enforcement. However, where an action is initiated pursuant to Title IV-D but subsequent motions regarding child support, custody or visitation are brought by a private attorney or are filed by a party pro se, rather than by Title IV-D counsel, the fee shall be charged unless the motion is brought in forma pauperis.

505 Administrative Establishment of Support Obligations

A. The Henderson County Attorney, Child Support Division, as agent for the Cabinet for Health and Family Services (CHFS), may administratively establish a child support and/or medical obligation pursuant to KRS 405.430, if:
   1. Paternity is not in question,
   2. There is no existing order of child support,
   3. The non-custodial parent resides or works in Kentucky, and
   4. The non-custodial parent's address is known.

B. The support obligation shall be determined in accordance with the guidelines found in KRS 403.212.

506 Child Support and Modifications

In addition to the requirements of FCRPP 9, all motions for child support in a dissolution of marriage or paternity action shall be in strict compliance with KRS 403.211 and 403.212. Any order setting or modifying a child support obligation shall include a guidelines worksheet attached to the order.

In addition to the requirements of FCRPP 9(5), any motion for modification of child support shall include information as to why the movant believes there is a material change of circumstance that is substantial and continuing, pursuant to KRS 403.213 (1). Pursuant to KRS 403.213(2), application of the Kentucky Child Support Guidelines which shows an equal to or greater than 15% change in the amount of support due shall be rebuttably presumed to be a material change in circumstance.

507 Permission to Review and Copy Paternity Case Files

Upon receipt of the Henderson Family Court Clerk's Office of an attorney's statement seeking permission to review and copy a paternity case file, OR upon the receipt by the Henderson Family Court Clerk's Office of a party's signed and notarized release authorizing an attorney to inspect the party's paternity case file, for reasons relating to representation in that action of a party thereto, the Clerk's office shall grant the attorney access to such a file.

Pursuant to KRS 406.035, the attorney seeking permission to review and/or copy the paternity file shall sign a statement that the order of judgment is the only information which may be shared with the client and that all other information in the case cannot be disclosed to the client, including information relating to domestic violence or child abuse as well as the addresses of the parties. Regardless of the subsequent representation or non-representation of the party, any information contained in such file is confidential and subject to the attorney-client privilege.

508 Access to Paternity Cases for Attorneys and Guardians ad Litem Representing Incarcerated Parents

The Henderson Family Court Clerk's Office shall allow attorneys and Guardians ad Litem who are representing incarcerated parents in paternity cases to have access to the records of those actions.

509 Custody Motions

A. After a determination of paternity, a party requesting custody must file a separate civil action in circuit court rather than proceeding in a juvenile action. This applies to biological parents and persons seeking defacto custodian status. Pursuant to FCRPP 14(3), the Family Court Judge will transfer the custody matter to the circuit court docket and shall require that an appropriate petition be filed and the Circuit Court filing fee be paid to the Henderson County Circuit Court Clerk as reduced by the amount of the District Court filing fee previously paid, if any. Custody language in a judgment of paternity is not a custody determination.

B. An agreed order of custody with an appropriate waiver of affidavit may be filed in a "CI" action, to include reference to the entry of a judgment of paternity, with the case number and date of entry of the judgment.

RULE 6 DEPENDENCY, NEGLECT AND ABUSE

601 Procedure for Emergency Custody Orders

In Henderson County, to obtain an Emergency Custody Order as set forth in FCRPP 19, the following must take place:

A. During normal working hours, 8:30 a.m. to 4:30 pm. Monday through Friday, excluding holidays, the Cabinet for Health and Family Services (CHFS) or any interested party seeking an Emergency Custody Order (ECO), shall come to the CHFS office and/or the designated County Attorney's Office, for assistance in obtaining an Emergency Custody Order (ECO) or, to the Office of the Circuit Court Clerk, who will contact the Family Court judge for consideration on whether to issue an ECO. Any such interested party shall comply with the requirements of FCRPP 19 when making a request for an ECO. If an ECO is issued and a CHFS social worker is not involved in this process, a copy shall be provided to the person seeking the ECO prior to leaving the Circuit Court Clerk's Office, as well as to CHFS. The original ECO shall remain with the Circuit Court Clerk's Office.

B. After working hours Monday through Friday and on weekends and holidays, the Family Court Judge shall be contacted by CHFS, the County Attorney/Assistant County Attorney, or law enforcement, as applicable, for consideration on the issuance of an ECO. Any party requesting issuance of an ECO shall comply with the requirements of FCRPP 19 when making said request.

602 Petition

A. All petitions shall be filed in accordance with FCRPP 20 and shall be submitted to the Henderson County Attorney, who shall check the petition for legal sufficiency. If the petition is rejected by the County Attorney, it shall be submitted to the Family Court Judge for determination of legal sufficiency. If the Judge determines that the petition fails to state grounds for action pursuant to KRS Chapter 620, the petition shall be dismissed. If the petition is approved, the Assistant County Attorney or Judge, as appropriate, shall initial the petition for filing. A copy shall be distributed to the Assistant County Attorney assigned to prosecute dependency, neglect and abuse actions and the original shall be filed with the Office of the Henderson Circuit Court Clerk.

B. Any petition filed with this Court shall comply with the following conditions:
   1. Citations to specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and
   2. Full information concerning the child's parents and their address(es). The petitioner shall make diligent efforts to locate the child's parents, including but not limited to, initiating contact with the Child Support Division of the Henderson County Attorney's Office.

603 The Effects of Service on Only One Parent/Persons Exercising Custodial Control or Supervision

The Judge may permit the temporary removal hearing or the adjudicatory hearing to go forward when the non-custodial parent has not been served in accordance with FCRPP 18(1) if it is established on the record that petitioner has made diligent efforts to serve all other parties including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent. The petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served.

604 Time for Temporary Removal Hearing

The Temporary Removal Hearing shall be held according to the following guidelines:

A. The Temporary Removal Hearing shall be held within 72 hours, excluding holidays and weekends, of the issuance of an ECO. Such hearing should be scheduled toward the end of the 72 hours to allow time for service to be attempted.

B. The Temporary Removal Hearing shall be held no earlier than the day following the filing of the petition to allow time for service to be attempted.

605 Records and Transcripts

A videotaped record of all proceedings shall be kept and copies shall be available to the parties and their counsel upon written request request in accordance with the provisions of FCRPP 27. Allow a minimum of 48 hours for the Court to prepare copies of tapes.

606 Dispositional Hearing

At the dispositional hearing CHFS shall provide the court with the information required pursuant to FCRPP 28 by completing form DNA 12. In addition, if the siblings have been separated, CHFS shall explain the reasons for the separation.

607 Custody Motion

Upon adjudication in a dependency, neglect and abuse action a party requesting permanent custody must file a separate civil action in circuit court rather than proceeding in the juvenile action. This applies to biological parents and persons seeking defacto custodian status.

608 Guardian ad Litem Appointments

The Clerk shall make every effort to reappoint the same guardian ad litem for litigants and children that was appointed in any previous matters.

RULE 7 DOMESTIC RELATIONS PRACTICE

701 Initiating Documentation/Appearances and Waivers

A. A Case Data Information sheet (Form AOC-FC-3) and VS 300 shall be filed with each petition.

B. Any unrepresented party who signs and acknowledges an appearance and waiver or agreement shall do so before a notary or deputy clerk.

702 Case Management Conference

A. Pursuant to FCRPP 2(6), a date for a Case Management conference shall be obtained in all contested matters by filing a motion for Case Management Conference on the Court's regular Motion Docket.

B. Case Management Conferences may be conducted by a staff attorney or other such person as appointed by the Court.

C. Parties must deliver the AOC-238, Preliminary Verified Disclosure Statements, to the Court at least five days prior to the Case Management Conference or the Conference may be cancelled at the Court's discretion. A party in compliance who has incurred fees or costs by reason of the Conference may move to have the same paid by the noncompliant party.

D. Case Management Conference may only be cancelled by agreed order or order of the Court. Failure of counsel to appear or litigant to appear, unless directed in writing otherwise, may result in costs or fees being assessed against the noncompliant party.

703 Trial in Contested Matters

A. Parties shall obtain a date for Final Evidentiary Hearing at the Case Management Conference. No Final Evidentiary Hearing date will be scheduled until all the requirements of the scheduling order have been fulfilled.

B. In the event a settlement is reached after the Final Evidentiary Hearing has been scheduled but before the hearing date has occurred, one of the following must occur::`

1. A written settlement agreement, motion to submit and decree shall be submitted directly to the Court; or

2. The parties and their counsel shall present themselves to the Court on the scheduled hearing date and place the agreement on the record. Counsel may bring a draft of the agreement on disk or otherwise electronically transfer the agreement to the court for editing and execution of the agreement by the litigants.

704 Children Born Prior to Marriage

In any action for dissolution of marriage where there is a minor child born to the parties prior to the marriage, a declaration of paternity must be signed by both parties. This declaration may be in the form of an affidavit or may be included in a property settlement agreement, but the paternity of the child must be affirmatively declared in a notarized document or other court order and set forth in the Decree of Dissolution.

705 Jurisdictional Proof

Proof in a dissolution of marriage action may be offered by written interrogatories, deposition or orally before the Court. In the event proof is offered orally before the Court, a certification concerning the videography record, including date and time, shall be filed by the attorney for the Petitioner and signed by both parties, or their counsel.

706 Divorces Involving Minor Children

In any dissolution of marriage in which there are minor children, a Final Decree of Dissolution of Marriage shall not be entered by the Court if an order to attend the Families in Transition Program has been entered until parties and children, kindergarten age to seventeen, have attended and completed the Families in Transition (FIT) program. Information about FIT may be obtained from the Parties' attorneys, the Court Clerk or the Family Court Office. Scheduling must be arranged through the Family Court Office. Failure of a party to attend FIT after having been ordered to do so may result in delay of the court action, imposition of costs and/or attorney's fees, and an other appropriate sanctions, including contempt. No final evidentiary hearing will be set until the parties have completed FIT. A limited number of scholarships are available each session to be awarded at the discretion of the program director.

707 Motion for Decree/Decree

A. A Motion to Submit pursuant to FCRPP 3 is required to be submitted with every decree of dissolution. The motion must be either verified by both parties or accompanied by the affidavits required in FCRPP 3. If attachments referred to in FCRPP 3 are already included in the court file, the parties shall not be required to re-submit those documents.

B. Both parties or their counsel must sign the decree prior to submission.

C. The Family Court disfavors interlocutory decrees of dissolution. Higher Courts have noted and it has been born out that problems occur when the trial court bifurcates dissolution of marriage from the other issues in the case. Unless a compelling need for dissolution of the marriage is shown, it is this Court's practice to resolve all issues in a single judgment.

708 Disclosure Statement

A. Pursuant to FCRPP 2 and 3, in both contested and uncontested dissolution actions the AOC-239, Final Verified Disclosure Statement, must be filed with the Court. Parties may submit joint verified disclosures or, in the alternative, one party may submit an affidavit adopting the verified disclosures as submitted by the opposing party.

B. The AOC-239, Final Verified Disclosure Statement, and a proposed resolution of all contested matters shall be faxed, emailed or hand-delivered to Henderson Family Court, suite 301, Henderson County Judicial Center, at least 5 days before the Case Management Conference.

C. In cases not involving a request for maintenance litigants need not complete the expense portion of the Verified Disclosures.

709 Parenting Time Guidelines

The Henderson Family Court does not adopt a strict visitation schedule. However, the Family Court Advisory Council has prepared a visitation schedule which may be used as a guideline in contested matters. A copy of the schedule is attached as Appendix B and may be obtained at the Family Court Office.

RULE 8 STATUS OFFENSES

801 School Excuses

If a juvenile has a scheduled court appearance when school is in session, the juvenile must attend school prior to the court appearance (absent a showing of extreme circumstances), and must obtain a sign-out slip.

802 Length of Court Order

Unless otherwise stated in an order of the Court, a juvenile status order shall be effective for one year from the date of entry. A juvenile may be subject to contempt proceedings for one year from the date of entry of a valid court order.

803 Status Offense Jurisdiction

Public offenses shall continue to be heard by Henderson District Court and the filing of a public offense may not affect the proceedings in the Family Court regarding the prosecution of a status offense.

RULE 9 MISCELLANEOUS

901 Identification of Counsel or Party Required

Every pleading, motion and any other paper filed in the record by counsel or party shall contain the case number, typed or printed name, address, telephone number and e-mail address of the attorney or party signing the paper.

902 Protection of Personal Identifiers

A. The Family Court Case Data Sheet must be fully completed in all cases. In addition, all pleadings must comply with the requirements of KRS Chapters 205, 403, 405, 406 and 407 by providing the personal identifying information required in those chapters. However, except as set forth in HFPR 902 B below, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court pursuant to the above-stated chapters, parties shall comply with CR 7.03(1)(b) by filing one copy from which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support matters attendant to the case, or a person authorized to view the copy by specific orders of the court.
As used in this section, "personal identifier" means a Social Security number or taxpayer identification number, date of birth, or financial account number.

B. Pleadings, documents, or exhibits filed in actions deemed confidential by statute need not be redacted, and any access to those files shall be governed by HFPR 507 and by KRS 199.570, KRS 610.340, KRS 625.045 and KRS 625.108.

903 Video Copies of In-Chamber Interviews with Children

Pursuant to FCRPP 17, the Henderson County Circuit Court Clerk's office shall not release any Henderson Family Division video in-chamber interviews with children without a specific written order of a Family Court Division Judge. An individual requesting a judicial order must provide the Family Court Judge a written explanation for the request which specifically indicates the portion of the video record being requested is an in-chamber interview with a child and specific purpose for the request.

904 Requests for Confidential Video Records

The Henderson County Circuit Court Clerk's office shall not release any copies of Henderson Family Court confidential video records, except for Paternity actions, without a specific written order from the Family Court Judge. An individual requesting a judicial order must file a written motion, with notice to all parties, including the child's Guardian ad Litem, if any, and set forth the purpose for the request.

Except that, pursuant to KRS 610.340(2), this shall not apply to public officers or employees engaged in the investigation and prosecution of cases under KRS Chapters 600 through 645 or other prosecutions authorized by the Kentucky Revised Statutes, as certified by that public officer or employee. Said public officer or employee shall use and distribute this information only for investigation or prosecution of offenses under the Kentucky Revised Statutes.

905 Faxes

The Court may accept a tendered order via facsimile, although the Court prefers original documents. In order to be entered without the necessity of a hearing, an order must contain the preparer's certificate and a "have seen" signed by opposing party or counsel.

906 Penalties

The Court may assess costs and fees or impose appropriate sanctions against any party not complying with any of these rules. Penalties may be imposed upon motion of opposing party or upon the Court's initiative without motion.

This the 11 day of April, 2012.

Karen L. Wilson, Judge
Henderson Circuit Court, Division I

Sheila N. Farris, Judge
Henderson Circuit Court, Division II
Family Court

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX A OF THE COURT RULES OF PRACTICE AND PROCEDURE FOR THE 51ST JUDICIAL CIRCUIT, FAMILY DIVISION, HENDERSON COUNTY

Upon the recommendation of the Judges of the 51st Judicial Circuit, Henderson County, and being otherwise sufficiently advised,

The amendment to Appendix A of the Local Rules of Practice and Procedure for the 51st Judicial Circuit 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
51st JUDICIAL CIRCUIT AND DISTRICT
HENDERSON COUNTY

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:
The Henderson Circuit Court clerk or all of his/her deputies

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 Henderson County Sheriff and all of his/her deputies; members of the Henderson Police Department; members of the Kentucky State Police.

C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:
All petitions will be presented to the Family Court Judge, if that judge is unavailable it should be presented to any judge who can be located in the Henderson County Judicial Center, if no judge is available in the building the petition should be presented to the on call District Judge or any judge in any surrounding county, who may sign and issue a protective order.

D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:
The Family Court Judge for review and determination if an order should be issued

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 Family Court.

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

All protective order hearings whether domestic violence in accordance with KRS Chapter 403 or Interpersonal protective order in accordance with KRS Chapter 456 will be heard on Mondays beginning at 8:15 a.m. in Courtroom 301 of the Henderson County Judicial Center

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: Henderson Circuit Clerk's Office to obtain a AOC 275.5 and upon completing the document return it to the Clerk to be placed on the docket , and the clerk shall insure that a copy is presented to the Henderson County Sheriff's office for service upon the Respondent.

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:

11/17/15

Hon. Karen L. Wilson
Judge, Henderson Circuit Court
Date:

Hon. Sheila N. Farris
Judge, Henderson Family Court
Date: 11/16/15

Hon. Robert K. Wiederstein
Judge, Henderson District Court
Date: 11/16/15

Hon. Charles R. McCollom
Judge, Henderson District Court
Date: 11/17/15

APPENDIX B

HENDERSON COUNTY
VISITATION GUIDELINES
SPECIFIC PARENTING TIMES AND PROVISIONS

The following schedules are suggested as **guidelines** for the parents and the court in establishing time-sharing/visitation schedules. 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.**

It is encouraged for the parties to communicate and work out a schedule that is conducive to the child, as well as the parents. The parenting times which will follow are in no way meant to be the maximum parenting time available to the non-residential parent.

1. **Weekends.** The non-residential parent shall be entitled to a minimum of every other weekend as parenting time with the child. Weekends shall begin on Friday and, if possible, end on Monday morning. At the end of set parenting time, the non-residential parent shall deliver the child to the appropriate day care provider or deliver the child to school.

2. **Mid-week Visitations.** The non-residential parent shall be entitled to a minimum of six (6) hours mid-week parenting time with the child. This mid-week parenting time may be taken in one (1) or more days.

3. **Holidays.** The holidays of New Year's Day, Martin Luther King Jr. Day, Easter, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Christmas Eve and Christmas Day shall be either alternated or shared between the parties. Whenever possible, the Thanksgiving Day holiday shall be shared so as to allow the child to have Thanksgiving Day with one parent and the Friday following Thanksgiving with the other parent. The holidays of Martin Luther King Jr. Day, Memorial Day, and Labor Day, and any other days off from school which would occur on a Monday, shall merely attach to the preceding weekend and whichever parent has the child for that weekend shall have the child for that holiday as well.

(a) In the odd numbered years, the custodial parent has New Years Day, Easter and Christmas Day; and the non-custodial parent has July 4th, Thanksgiving and Christmas Eve. In the even numbered years, the schedules are reversed. Memorial Day and Labor Day attach to the preceding weekend.

(b) A holiday that falls on a weekend should be spent with the parent who is scheduled to have the children for that holiday. The rest of the weekend is to be spent with the parent who would normally have that weekend. These do not have to be made up.

Other days of special meaning, such as religious holidays, Martin Luther King Jr. Day, etc., should be decided together, written into the Court Order, and alternated as above.

(c) Hours for parents who cannot agree are as follows:

New Year's Day	9:00 a.m. to 7:30 p.m.
Easter	9:00 a.m. to 7:30 p.m.
July 4th	9:00 a.m. to 9:00 a.m. the next day
Thanksgiving	9:00 a.m. to 9:00 a.m. the next day
Christmas Eve	9:00 p.m. Dec. 23 to 9:00 p.m. Dec. 24
Christmas Day	9:00 p.m. Dec. 24 to 9:00 p.m. Dec. 25

(d) The holiday parenting time schedule shall take precedence over regularly scheduled and extended parenting time. Extended parenting time takes precedence over regular parenting time unless otherwise indicated in these guidelines.

4. **Christmas.** It is encouraged for both parents to communicate and to try and arrange amicable schedules for the Christmas holiday. Christmas Eve shall be defined as being from 9:00 a.m. on December 23rd until 9:00 p.m. on December 24th. Christmas Day shall be defined as being from 9:00 p.m. on December 24th until Christmas Day at 9:00 p.m. The parents shall alternate having the child on Christmas Eve and Christmas Day.

5. **School Intersessions.** School intersession shall be divided between the parents equally.

6. **Vacations.** Both parents shall have the opportunity to have the child with them for vacation period. Up to four (4) non-consecutive weeks of vacation shall be allowed for the non-residential parent.

7. **Mother's Day and Father's Day.** All the children shall be with the appropriate parent on the appropriate holiday. Unless otherwise agreed, the non-residential parent shall have the child in their physical custody on the appropriate day from 9:00 a.m. until 9:00 p.m.

8. **Child's Birthday.** Both parties shall be allowed an opportunity to have the child for the child's birthday. The child's birthday shall be alternated, with the non-residential parent having all the children on each child's birthday in even numbered years from 9:00 a.m. until 9:00 p.m., unless the birthday falls on a school day, in which case, it shall be from 5:00 p.m. until 8:00 p.m. In all odd numbered years the non-residential parent shall have all the children on each child's birthday on the day before the child's birthday from 9:00 a.m. until 9:00 p.m., unless the birthday falls on a school day. If it falls on a school day, then the non-residential parent shall have all the children on each child's birthday from 5:00 p.m. until 8:00 p.m.

9. **Scheduling of Summer Vacation.** The parties shall confer by May 1st of each year to determine how the summer vacation for the child or children shall be shared. If there are conflicts, then those conflicts shall be made known to the other parent no later than May 15th of each year. If the parties are unable to agree upon an amicable schedule, then either party may petition the court for a specific schedule.

WEEKENDS: Alternate weekends from Friday at 5:30 p.m. until Sunday at 7:30 p.m.

MID-WEEK: One (1) evening each week, Wednesday, from 5:30 p.m. to 9:00 p.m.

WAITING: The children and custodial parent have no duty to await the visiting parent for more than 30 minutes of the visitation time. A parent who is late forfeits visitation for that period. The custodial parent or acceptable representative must be home at the return time to receive the child.

CANCELLATIONS: If a child is ill, the custodial parent should give 24-hour notice, if possible, so appropriate plans can be made. The non-custodial parent should give 24-hour notice to cancel. The time cancelled by the non-custodial parent is forfeited. Time lost for the child's illness should be made up.

VACATIONS: Four (4) weeks of visitation to be taken in two (2) non-consecutive two (2) week periods each year are to be arranged with advance notice by the non-custodial parent by May 1st. The custodial parent must give the non-custodial parent notice of vacations or special plans for the child, to avoid planning conflicts, by May 15th.

(a) Summer school necessary for the child to pass to the next grade must be attended.

(b) A general itinerary should be provided for the parent if vacation will be out-of-town.