Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 42ND JUDICIAL CIRCUIT AND DISTRICT AND 58TH JUDICIAL DISTRICT, CALLOWAY AND MARSHALL COUNTIES

Upon the recommendation of the Judges of the 42nd Judicial Circuit and District and the 58th Judicial District, Calloway and Marshall counties, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 42nd Judicial Circuit and District and 58th Judicial 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
42ND JUDICIAL CIRCUIT AND 42ND AND 58TH JUDICIAL DISTRICTS
CALLOWAY AND MARSHALL 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[1] to petitioner **during** regular business hours[2]:

1. The Circuit Court Clerks of Calloway and Marshall Counties and any of their sworn deputy clerks; and
2. The County Attorneys of Calloway and Marshall Counties and any Assistant County Attorneys or office staff employees.

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

1. The Circuit Clerks of Calloway and Marshall Counties, and all of their sworn deputies;
2. The Sheriffs of Calloway and Marshall Counties and all other sworn deputies and dispatchers;
3. The Jailers of Calloway and Marshall Counties and all of their sworn deputies;
4. The County Attorneys of Calloway and Marshall Counties and any Assistant County Attorney;
5. The Chiefs of Police for the cities of Murray, Benton, Calvert City and any other incorporated city in Calloway and Marshall Counties and all sworn officers and dispatchers within their departments;
6. Murray State University Campus Police Officers; and
7. Any Kentucky State Police Officer found in Calloway or Marshall Counties.

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

The petition shall be presented to the Family Court Judge, if the judge is in the county and available. In the event the Family Court Judge is not in the county or is unavailable, the clerk shall seek the consideration of the matter by any of the following judicial officers, in the order listed: the District Judge in the county, the District Judge for the adjacent county located in the 42nd Judicial Circuit, and then the Circuit Judge of Division I in the 42nd Judicial Circuit. Finally, if none of the foregoing can be located, the clerk shall seek consideration of any District, Family or Circuit Judge in any Kentucky county.

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

The authorized agency or individual handling the petition for an Emergency Protective Order or Interpersonal Protective Order petition shall deliver the petition for consideration to the District Judge of the county, or if unavailable or not found within the county, to the Family Court Judge, the District Court Judge of the adjacent county

[1] The individual taking the petition should review it for completeness prior to swearing the petition.
[2] "Regular business hours" is defined as between the hours of 8:00 a.m. and 4:30 p.m.

located in the 42nd Judicial Circuit, and then the Circuit Judge for Division I for the 42nd Judicial Circuit, in that order. If none is available, the petition shall be delivered for consideration to any District, Family or Circuit Judge in any Kentucky County.

A copy of all petitions and Emergency Protective Orders issued during non-office hours shall be delivered to the appropriate clerk's office at the beginning of the next regular office day by the agency where the petition was initiated to be processed.

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:

1. In Calloway County, the hearings are conducted each Thursday at 8:30 a.m.;
2. In Marshall County, the hearings are conducted each Tuesday at 8:30 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 Circuit Court Clerk's Office in the county where the Emergency Protective Order of Domestic Violence was issued.

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:

ROB MATTINGLY
Family Court Judge
42nd Judicial Circuit, Div. II

Date: 11/10/15

DENNIS R. FOUST
Circuit Court Judge
42nd Judicial Circuit, Div. I

Date: 11/10/15

RANDALL A. HUTCHENS
District Court Judge
42nd Judicial District

Date: 11/23/15

JACK M. TELLE
District Court Judge
58th Judicial District

Date: 11-10-15