

Supreme Court of Kentucky

2024-18

ORDER

**IN RE: Rules of Administrative Procedure, AP Part XX,
Procedures for Family Recovery Court Programs**

Pursuant to Section 116 of the Constitution of Kentucky and SCR 1.010, it is HEREBY ORDERED that AP Part XX of the Rules of Administrative Procedure is adopted as follows:

PART XX. PROCEDURES FOR FAMILY RECOVERY COURT PROGRAM.

Section 1. Preamble

These rules establish the parameters for conducting a family recovery court program. Family recovery court programs are led by local judges and are operated through collaboration with non-KCOJ entities that provide services and/or service referrals as well as essential case management.

Section 2. Family Recovery Court Program

(1) “Family recovery court program” is a voluntary program for parents and persons exercising custodial control who are subject to a dependency, neglect or abuse petition that is based primarily on substance use and reasonable efforts are required of the Cabinet for Health and Family services.

(2) “Family recovery court program team” or “FRC Team” is a workgroup of persons consisting of, at a minimum, the family recovery court program judge, child protective services worker, treatment provider, and case manager. The FRC Team may also include a recovery court stakeholder.

(3) “Local family recovery court program rules” mean local court rules approved by the Supreme Court of Kentucky that conform to the rules herein and formally establish the family recovery court program in the applicable jurisdiction.

Section 3. Family Recovery Court Programs Referral and Eligibility

(1) In those jurisdictions having a family recovery court program, a parent or person exercising custodial control in a pending dependency, neglect or abuse case may be referred to family recovery court program at any time during the dependency, neglect or abuse case.

(2) A person may be eligible to participate in a family recovery court program if:

(a) The alleged dependency, neglect or abuse in the case is primarily due to substance use.

(b) The potential participant has no untreated chronic psychosis or severe acute mental health issues that are not drug-induced that prevent the participant from meaningfully participating or fulfilling program responsibilities.

(c) The potential participant resides in the same county as the family recovery court program or resides in a surrounding county with transportation and meets the local family recovery court program guidelines.

(d) The Cabinet is not eligible for a waiver of making reasonable efforts to return the child to the potential participant.

(e) The potential participant is not subject to a pending, or granted, motion for goal change from return to parent in the subject dependency, neglect or abuse action or a pending action for termination of parental rights of another child.

(f) Participation in the family recovery court program is deemed appropriate after completion of an eligibility assessment by an approved clinician.

(g) The potential participant has observed the required sessions of the family recovery court program, with consent of the observed participants, and then agrees to participate in the program by entering into a Family Recovery Court Program Participant Agreement.

Section 4. Acceptance into a Family Recovery Court Program

(1) Upon receipt of the eligibility assessment, signed participant agreement, informed consent and release of information and records, and any other relevant information regarding the potential participant, the FRC Team shall provide the family recovery court program judge with a recommendation on whether the potential participant should be accepted into the program.

(2) The family recovery court program judge shall review the recommendation and shall have the final decision-making authority to accept or deny the potential participant into the family recovery court program.

Section 5. Admission into a Family Recovery Court Program

Upon an offer of admission into a family recovery court program and the participant's acceptance of the offer, the referring judge shall provide the participant's information to the FRC Team for admission. The case shall remain with or be assigned to a judge who conducts the family recovery court program in the circuit or district where the dependency, neglect or abuse case is pending.

Section 6. Family Recovery Court Program Participant Requirements

(1) A family recovery court program shall consist of a minimum of three (3) phases lasting a total of at least 12 months that are clearly defined in writing in local family recovery court program rules either directly or through reference to a written and readily available source.

(2) Participants shall be given a clear and accurate description of each phase that includes the requirements of completing the phases.

Section 7. Incentives

Incentives may be provided during family recovery court program sessions and, subject to compliance with applicable procurement policies or terms and conditions of any grant used to fund the local program, may include but are not limited to: promotion to the next phase, certificates and tokens that can be exchanged for goods or gift cards (e.g., Sober Bucks), increased privileges and responsibilities, praise from the family recovery court program judge and team, and other individual incentives approved by the family recovery court program team.

Section 8. Learning Experiences for Non-Compliance with Family Recovery Court Program Requirements

(1) Each participant shall comply with the requirements and other conditions established by the family recovery court program. A participant's failure to comply may result in the imposition of learning experiences by the family recovery court program judge. Consequences for participants' behavior shall be predictable, fair, consistent, and administered in accordance with evidence-based principles of effective behavior modification. Expectations and grounds for termination shall be provided to each participant.

(2) Learning experiences may include, but are not limited to, extension of time in a phase, increased program requirements, dismissal from a family recovery court program, or any other sanction available to court hearing a dependency, neglect or abuse case. Treatment modification responses may be utilized for continued noncompliance.

Section 9. Successful Completion of a Family Recovery Court Program

(1) A participant shall be determined to have successfully completed a family recovery court program after completing all recovery court phases.

(2) Upon successful completion of the requirements in Section 6 of these rules, the judge of the underlying dependency, neglect or abuse case may, by agreement of the parties or after a hearing, dismiss or informally adjust the case.

(3) Participants who successfully complete the requirements of a family recovery court program are eligible to graduate.

Section 10. Family Recovery Court Program Sessions

Barring emergency or other unforeseeable or unavoidable obstacle, a family recovery court program judge shall conduct a family recovery court program session as follows: one (1) family recovery court program session per week; however, if weekly sessions are not possible, a family recovery court program judge shall conduct at least two (2) family recovery court program sessions per month. The required attendance of participants will vary based on the participant’s phase. Family recovery court program sessions may be conducted in person, virtually, or in a combination thereof.

Section 11. Confidentiality

(1) Family recovery court program proceedings and family recovery court program staffing conferences shall be confidential, and all proceedings shall be closed unless otherwise authorized by the family recovery court program judge.

(2) In accordance with federal regulations regarding substance use disorder treatment programs, family recovery court program team members shall sign a confidentiality agreement.

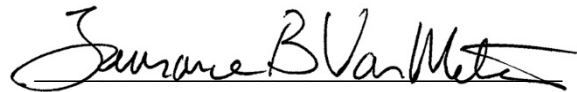
(3) Family recovery court program team members shall comply with state and federal confidentiality laws regarding participant treatment information.

Section 12. Funding and Fees

(1) Family recovery court programs may be funded through the Administrative Office of the Courts (AOC), federal grants, specifically allocated state or local government funds, non-profit entities, or a combination thereof. Unless otherwise authorized in writing by the Director of AOC, the AOC must be the applicant, recipient, and fiscal agent for any grants or donations received to operate a family recovery court program.

(2) No fee shall be imposed upon any participant or potential participant as a condition of participation in a family recovery court program.

Entered this 18th day of June 2024.


CHIEF JUSTICE

All sitting; all concur.