Supreme Court of Kentucky

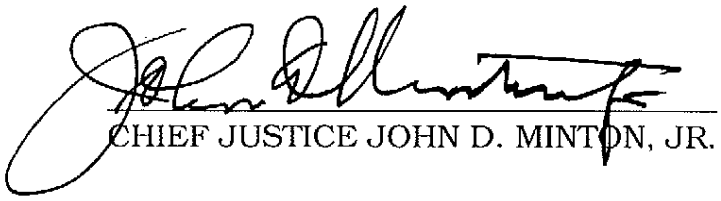
ORDER

IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE FOR THE 11th JUDICIAL CIRCUIT, Green, Marion, Taylor and Washington Counties

Upon recommendation of the Judges of the 11th Judicial Circuit, Green, Marion, Taylor, and Washington Circuit Courts and being otherwise sufficiently advised,

The Local Rules of practice for the Green, Marion, Taylor, and Washington Circuit Courts 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 7th day of December 2011.



CHIEF JUSTICE JOHN D. MINTON, JR.

RULES OF PRACTICE AND PROCEDURE

OF THE

11TH JUDICIAL CIRCUIT

GREEN, MARION, TAYLOR, AND WASHINGTON COUNTIES

RULES OF PRACTICE AND PROCEDURE OF THE 11TH JUDICIAL CIRCUIT

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RULES OF PRACTICE AND PROCEDURE
OF THE
11TH JUDICIAL CIRCUIT

RULE 1. INTRODUCTION / ADMINISTRATIVE PROCEDURE

101. INTRODUCTION

These rules apply to the practice of law in the 11th Judicial Circuit which consists of Green, Marion, Taylor, and Washington Counties.

102. EFFECTIVE DATE

These rules are adopted pursuant to the authority granted by Rule 1.040(3) of the Rules of the Supreme Court, and they shall apply with full force and effect to all actions filed or pending after approval by the Chief Justice of the Supreme Court of Kentucky.

103. ORGANIZATION OF THE GREEN, MARION, TAYLOR, AND WASHINGTON CIRCUIT COURTS

A. The Circuit Courts are Courts of continuous session. The Courts are organized in Division I and Division II.
B. Each Division shall be composed of a Criminal Branch and a Civil Branch.
C. The Judges of each of the Divisions shall hear cases in both the Criminal Branch and Civil Branch of the Court.
D. Each Judge of a Division may preside and hear and determine any case or question in the other Division when the Judge of that Division is sick, or absent from the county, or is not available.

104. ASSIGNMENT OF CASES TO DIVISIONS

A. All civil and criminal cases shall be randomly and equally assigned between Divisions by the Kentucky Courts automated case assignment program. Criminal cases will also be examined manually to ensure that the same Judge receives a case where a defendant has a pending case before that Judge.
B. After each case has been assigned to a Division, the Judge thereof may for any reason transfer it to the other Division with the consent of the other Judge. An order of transfer will be entered.
C. When two or more cases have been filed in separate Divisions that may, as a matter of right, or may, in the discretion of the Court, be consolidated, any party to any of the cases may request the case be transferred to that Division in which the first of the cases was filed. The Judge of the Court may order such transfers to be made without a motion by any of the parties.

105. COURTROOM DECORUM

All people are to be properly dressed in clean, modest clothing. Shorts, tank tops, hats and other similar apparel are not allowed in the Courtroom. There will be no talking in the Courtroom by persons not before the Court while Court is being conducted.

All persons shall cooperate with court security officers in the performance of their duties for public safety and to maintain order and decorum.

RULE 2. COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

201. REGULAR RULE DAY SCHEDULE

A. Rule Days for each of the counties shall be held on the following days:
   1. Taylor County—1st and 3rd Tuesday after the first Monday of each month.
   2. Green County—1st Wednesday after the first Monday of each month.
   3. Washington County—3rd Wednesday after the first Monday of each month.
   4. Marion County—1st and 3rd Thursday after the first Monday of each month.

B. All Rule Days will commence at 9:00 a.m. prevailing time for morning Motion Hour and 1:00 p.m. for afternoon Motion Hour.

C. Division I will hear criminal cases in the morning and civil cases in the afternoon. Division II will hear its civil cases in the morning and its criminal cases in the afternoon.

D. Attorneys and the parties shall be in the Courtroom no later than 15 minutes before their appointed time. This will enable the Court to move forward as the docket allows. Failure to be in the Courtroom when one's case is called will result in the case being placed at the end of that Rule Day's docket, at which time if there is no response the case shall be remanded from the docket.

202. EXCEPTIONS TO REGULAR RULE DAY SCHEDULE

In the event that any Rule Day falls on a holiday, then that Rule Day will be continued until the following Friday. Other modifications may be made due to court calendar events.

203. DEADLINES FOR SERVING AND FILING MOTIONS

A. Each division will maintain its own motion docket. The Secretary of the Judge of each division will assign times for cases on that division's docket. Movants shall call the office of the presiding Judge to schedule an appointed time for their case.

B. All motions shall be filed and clocked in the circuit clerk's office no later than 4:30 p.m. at least six (6) working days prior to the Rule Day for which such motion is to be heard. Motions not timely filed in the circuit clerk's office will not be heard on the day requested and will not be docketed until such time as a timely motion is made. A courtesy copy of the motion shall also be served on the Judge in whose division the case has been assigned at least six (6) working days prior to the Rule Day in which the motion is to be heard.

C. Any matter requiring a hearing of over 10 minutes in duration may require a separate hearing date.

D. If the civil docket for a Rule Day is full, then the case will be scheduled for the next docket. Alternatively, if the docket in the county is full, then the case may be put on the docket of another county if the request is within the six (6) working days time frame, all parties agree, the Judge approves, and there is room on the alternate docket.

E. All motions and correspondence shall include the case number, the names of the parties, the date, and a designation of the type of motion. All Motions for a Continuance shall state the date of the original trial date.

F. All motions which go to the merits of the case, including motions to dismiss, motions for summary judgment, motions to strike, and motions under CR 12.02, shall be accompanied by a brief memorandum of the grounds for the motion with citation of authorities relied upon, not greater than 25 pages in length. Failure to file a memorandum of grounds with supporting authorities may be grounds for denying the motion. Any party properly served with a motion accompanied by a memorandum of grounds and authorities shall file a response containing a memorandum of grounds opposing the motion, with citation of supporting authorities, not greater than 25 pages in length. Such response shall be filed at least 24 hours prior to the time specified in the notice of hearing of the motion. Failure to file a timely response may be grounds to grant the motion, but the time for filing a response may be extended upon oral or written motion for good cause shown, including such factors as the length and complexity of the motion and supporting memorandum. The reply memorandum shall be limited to 5 pages in length.

G. A motion to compel discovery, for a protective order, or for sanctions may be filed pursuant to CR 26 and/or 37 only if counsel are unable to resolve between themselves the discovery dispute. Counsel has the duty to make a good faith effort to resolve any disputes which arise in the course of discovery. The moving party shall attach to the motion a certificate of counsel which states that counsel have conferred and that they have been unable to resolve their differences. The certification should detail the attempts of counsel to resolve the dispute.

204. STYLE OF PLEADINGS

A. The heading of all pleadings and legal papers in all civil and criminal cases shall be styled at the beginning and center of the first page as follows:

COMMONWEALTH OF KENTUCKY
11TH JUDICIAL CIRCUIT
_____ CIRCUIT COURT
DIVISION I [or] II
CASE NO. _____

B. All pages shall be numbered at the bottom center of each page.

205. DISTRIBUTION OF ORDERS

Upon Ruling by the Court, counsel shall tender an Order to the Judge for entry which accurately states the ruling. To facilitate notice of entry pursuant to CR 77.04, all Orders shall contain a Distribution list of all persons entitled to notice of entry and their address for service as set out in the following example.

DISTRIBUTION TO:

Hon. John R. Doe
P .O. Box 987
Springfield, KY 40069 [ ]

Hon. Mary A. Poe
123 Main Street
Lebanon, KY 40033 [ ]

_____
Circuit Clerk Date

RULE 3. ADOPTIONS / TERMINATION OF PARENTAL RIGHTS

301. TERMINATION OF PARENTAL RIGHTS

Every order terminating parental rights shall include a scheduling order for the 90 day and first annual review of the case pursuant to FCRPP 36.

302. ADOPTION PROCEDURES

A. Prior to filing a motion for a final hearing for entry of a decree of adoption, counsel shall review the Checklist attached as Exhibit A to these rules and certify the following:
   1. The date and method by which all necessary parties were brought before the court, and
   2. The date of the voluntary consent of each parent, the certified order terminating parental rights, or an affidavit establishing an exception under KRS 199.500(1)(a)-(d) or 199.502.

B. The motion shall state whether a guardian ad litem was appointed, the date the guardian ad litem report was filed, and the date the Cabinet for Health and Family Services report pertaining to the case was filed.

C. A copy of the proposed findings of fact and conclusions of law and a separate Judgment of Adoption shall accompany the motion.

RULE 4. DOMESTIC VIOLENCE PROTOCOL

401. PROCEDURES FOR FILING AND OBTAINING EMERGENCY PROTECTIVE ORDERS

The Domestic Violence Protocol for the 11th Judicial District/Circuit is attached as Exhibit B to these Rules.

RULE 5. DOMESTIC RELATIONS PRACTICE

501. PREFACE

All Family Court matters will be conducted in accordance with the Family Court Rules of Procedure and Practice (FCRPP).

502. DOMESTIC MOTIONS

All Domestic motions will first be set on the general civil docket, and the case will be heard on that day unless the matter would require a hearing of more than 10 minutes in duration. In that event, the case will be assigned for a separate hearing. The parties may, by agreement, schedule the matter for a hearing on a Domestic Day as set forth below.

503. DOMESTIC DAY

A Domestic Day will be held on the second Friday after the first Monday of each month. Regular Domestic Day will be conducted in Taylor and Marion County in alternating months. All hearings will begin at 9:00 a.m. and will be heard in the order as listed on the docket. Hearings will be limited to one hour. Hearings requiring more than one hour shall be scheduled for a separate day.

RULE 6. MISCELLANEOUS RULES

601. 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. A rubber stamp shall not be deemed a signature either under this Rule or CR 11.

602. USE OF TECHNOLOGY AT TRIAL

Attorneys planning to use electronic media at trial shall test the equipment in advance at the appropriate venue to ensure compatibility with the existing equipment. Counsel shall schedule an appropriate date and time to test the use of electronic media with the Circuit Court Clerk. A deputy court clerk shall be present during the test.

603. VIDEO COPIES OF IN-CHAMBER INTERVIEWS WITH CHILDREN

The circuit court clerk shall not release any video in-chamber interviews with children without a specific written order of a Circuit Judge in compliance with FCRPP 27. An individual requesting a judicial order must provide the 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.

604. PROTECTION OF PERSONAL IDENTIFIERS

A. All pleadings must comply with the requirements of KRS Chapters 205, 403, 405, and 407 by providing the personal identifying information required in those chapters. However, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court, 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. Notice of Filing of Verified Disclosure Forms may be filed to establish in the record that the disclosure form has been delivered to the other party without attaching the actual disclosure form to protect the privacy of the parties.

RULE 7. GENERAL CIVIL

701. ASSIGNMENT OF CIVIL JURY CASES

A. Civil jury trial dates shall be assigned at a pretrial conference after the parties have substantially completed discovery and filed a pretrial memorandum in accordance with Rule 702 herein.

B. A party desiring assignment of a civil jury trial date shall confer with all other counsel and tender a proposed scheduling order to complete discovery, exchange witness lists, and file the pretrial memoranda set out in Rule 702 prior to a Pretrial Conference date set out in the proposed order.

C. A trial date will be assigned at the pretrial conference that will have priority over any other matter scheduled for that date.

D. The attorney attending the pre-trial conference shall be familiar with the case and shall be prepared and authorized to make such arguments, stipulations, and decisions as may be required.

E. All motions in limine are to be filed prior to the pre-trial conference and will be heard at the pre-trial conference .

F. Except for good cause shown, before a case is heard at the pre-trial conference, the parties shall:

1. Ensure that the pleadings are completed and the issues identified;
2. Have scheduled or completed discovery;
3. Submit written instructions incorporating the parties' understanding of the issues and the law;
4. Be prepared to stipulate the admissibility of documents or other evidence and to withdraw allegations or defenses if same can be done without prejudice to the presentation of the case;
5. In tort actions involving personal injury, be prepared to exchange such medical reports and copies of medical bills or evidence of special damages as are subject to discovery under the Rules of Civil Procedure; and

6. Comply with the Pre-Trial Statement Requirements set out in Rule 702.

G. If a pre-trial order is not entered at the time of the Pre-Trial Conference, the attorneys shall be responsible for preparation and submission of a pretrial order, incorporating the Court's ruling, agreements or stipulations of the parties, and any matter designated by the Court, not later than ten days following the pre-trial conference. The Court may require the parties to submit a trial brief consisting of a short memorandum of the facts and law on which they will rely, and fix the time for filing such briefs in the pre-trial order.

702. PRE-TRIAL STATEMENT REQUIREMENTS

A. Provisions: Prior to the pre-trial conference, all parties shall file pre-trial compliance statements, which contain the following:

1. All exhibits which may be used at trial shall be listed and copied, and if feasible, shall be attached to the pre-trial statement. All exhibits which cannot be attached to the pre-trial statement shall be made available for inspection by opposing counsel at a convenient location designated in the pre-trial statement;
2. All witnesses and expert witnesses who may be used at trial shall be listed, along with their addresses and telephone numbers. Also, as to each expert witness who has not been deposed, the pre-trial statement shall state the subject matter on which the expert is expected to testify and shall state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion;
3. A statement of the claim or claims of plaintiffs, including legal theories;
4. A statement of the defenses or claims of defendants, or third parties, including legal theories;
5. Issues of fact to be litigated; and
6. Issues of law to be litigated.

B. All parties making claims for damages shall itemize their claimed damages, and shall specify those damages which can be calculated from objective data.

C. Sanctions: Failure of the parties to strictly comply with the terms of this rule may result in dismissal of claims, default judgment, refusal to let witnesses testify or to admit exhibits, assessment of costs and expenses, including attorney fees, or other appropriate sanctions.

703. MOTIONS FOR DEFAULT JUDGMENT

Motions for default judgment for failure to plead or otherwise defend, as provided by the Rules of Civil Procedure, shall not be noticed for a hearing before the court but will be scheduled at the convenience of the court. All motions for default judgment must include a certificate of the amount due and a military affidavit. Cases subject to the FCRPP must also comply with the provisions of FCRPP, including specifically FCRPP 3(1)(a)(i) and 3(2), pertaining to relief requested without a hearing.

RULE 8. CRIMINAL

801. CRIMINAL ARRAIGNMENTS, MOTIONS, AND ATTORNEY WITHDRAWALS

A. A defendant will be arraigned on the Rule Day following the service of the indictment.

B. Both the defendant and defendant's attorney must be present at the arraignment.

C. An attorney shall not withdraw from employment after arraignment in a criminal proceeding without permission of the Court. Within twenty (20) days of trial, an attorney of record shall not be permitted to withdraw from a criminal case in the absence of a compelling reason.

D. Retained counsel shall secure permission of the Court before withdrawing as counsel for any defendant who is to appeal a judgment of conviction. Before permission to withdraw is granted, it shall be the responsibility of retained trial counsel to prepare and file the following:

1. Notice of appeal pursuant to RCr 12.04,
2. Motion, affidavit, and order for leave to appeal in forma pauperis,
3. Order directing preparation of transcript, and/or
4. Order substituting the public defender's office as counsel on appeal.

802. PRE-TRIAL CONFERENCE--CRIMINAL CASES

A. At the time of arraignment, each case shall be assigned for a pretrial conference and a jury trial. Pretrial conferences shall be held as a matter of course in all criminal cases. The Commonwealth Attorney, the defendant, and the defendant's attorney are required to be present at the pre-trial conference.

B. The Commonwealth Attorney is to provide discovery to the Defendant's attorney at least seven (7) working days prior to the pre-trial conference.

C. If there is no resolution of the case at the first scheduled Pretrial Conference, the Court may order the parties to attend a criminal case management conference prior to any subsequent Pretrial Conference. All defendants, their counsel, the Commonwealth Attorney assigned to that case, and the chief investigating officer shall attend the case management conference.

RULE 9. MEDIATION

901. PREAMBLE AND SCOPE

Trial Courts find that under some circumstances the process known as mediation may provide an efficient and cost-effective alternative to traditional litigation, and, further, that the wise and judicious use of mediation may benefit litigants.

Mediation is intended to help both litigants and the Courts facilitate the settlement of disputes. Litigants should participate in good faith and in an earnest attempt to resolve their differences.

This Rule refers to mediation. Nothing in this Rule shall prohibit parties from resolving disputes through other methods. However, in any case where one party may pose a risk of harm (such as domestic violence) to another party or family member, mediation should not be used.

902. MEDIATION DEFINED

Mediation is an informal process in which a neutral third person called a mediator facilitates the resolution of a dispute between two or more parties. The process is designed to help disputing parties reach an agreement on all or part of the issues in dispute. Decision-making authority remains with the parties, not the mediator. The mediator assists the parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives.

903. REFERRAL OF CASES TO MEDIATION

At any time on its own motion or on motion of any party, the Court may refer a case or portion of a case for mediation. In cases subject to the FCRPP, parties may be ordered to mediation, pursuant to FCRPP 2(6)(a) after the initial court appearance or by agreement at any time. In this decision, the court shall consider:

1. The stage of the litigation, including the need for discovery, and the extent to which it has been conducted;
2. The nature of the issues to be resolved;
3. The value to the parties of confidentiality, rapid resolution, or the promotion or maintenance of ongoing relationships;
4. The willingness of the parties to mutually resolve their dispute;
5. Other attempts at dispute resolution; and
6. The ability of the parties to participate in the mediation process.

904. NO STAY OF PROCEEDINGS

Unless otherwise ordered by the Court, mediation shall not stay any other proceedings.

905. APPOINTMENT OF MEDIATOR

Within fifteen (15) days of referral, the parties shall agree on a mediator or a mediation service. If the parties cannot agree, they shall notify the court, which will select a mediator or a mediation service.

906. MEDIATOR COMPENSATION

The mediator shall be compensated at the rate agreed between the mediator and the parties if the mediator is chosen by agreement. If the mediator is appointed by the Court, the fee for the mediator shall be reasonable and no greater than the mediator's standard rate as a mediator. Unless otherwise agreed by the parties or ordered by the Court, the parties shall equally divide the mediator's professional fees.

907. MEDIATION PROCEDURE

Following selection of the mediator, the mediator shall set an initial mediation conference within thirty (30) days. The mediation conference shall be held in the county in which the case is pending or at a site agreed upon by the parties. The mediator may meet with the parties or their counsel prior to the mediation conference for the purpose of establishing a procedure for the mediation conference. The mediator may require the parties to submit a confidential statement of the case or other materials that the mediator may reasonably believe appropriate for efficiently conducting the mediation conference.

908. ATTENDANCE AT MEDIATION CONFERENCE

The parties must attend the mediation conference. Counsel shall attend the mediation conference unless otherwise agreed to by the parties and the mediator or ordered by the Court. If a party is a public entity, it shall appear by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision making body or officer of the entity. If a party is an organization other than a public entity, it shall appear by the physical presence of a representative, other than the party's counsel of record, who has full authority to settle without further consultation. If any party is insured for the claim in dispute, that party shall also be required to have its insurer(s) present by the physical presence of a representative of the insurance carrier(s) who is not that carrier's outside counsel; this representative must have full settlement authority. The foregoing requirements of attendance may be varied only by stipulation of the parties or by order of the Court for good cause shown.

909. COMPLETION OR TERMINATION OF MEDIATION

The mediator may terminate the mediation conference after a settlement is reached or when the mediator determines that continuation of the process would be unproductive. After the initial mediation conference, mediation shall continue only by the agreement of the parties, their counsel and the mediator, or by order of the Court.

910. REPORT TO THE COURT

The mediator shall report to the court that the mediation has not occurred, has not been completed, or that the mediation has been completed with or without an agreement on any or all issues. With the consent of the parties, the mediator may also identify those matters which, if resolved or completed, would facilitate the possibility of a settlement.

911. AGREEMENT

If an agreement is reached during the mediation conference, it shall be reduced to writing and signed by the parties. The parties shall be responsible for the drafting of the agreement, although the mediator may assist in the drafting of the agreement with the consent of the parties.

912. CONFIDENTIALITY

Mediation sessions shall be closed to all persons other than the parties, their legal representatives, and other persons invited by the mediator with the consent of the parties. Mediation shall be regarded as settlement negotiations for purposes of KRE 408. Mediators shall not be subject to process requiring the disclosure of any matter discussed during the mediation, but rather, such matters shall be considered confidential and privileged in nature except on order of the Court for good cause shown. This privilege and immunity reside in the mediator and may not be waived by the parties. Nothing in this rule shall prohibit the mediator from reporting abuse according to KRS 209.030, KRS 620.030, or other applicable law.

RESPECTFULLY SUBMITTED,

Hon. Dan Kelly
Circuit Judge, Division I

8 Nov 2011
Date

Allan Ray Bertram
Hon. Allan Ray Bertram
Chief Circuit Judge, Division II

8 Nov. 2011
Date

EXHIBIT A

ADOPTION CHECKLIST

____Yes _____No Is the party petitioning for adoption 18 years old? KRS 199.470(1)

____Yes _____No Has the party petitioning for adoption resided in Kentucky for twelve (12) months prior to the filing of the petition? KRS 199.470(1)

____Yes _____No Is the child to be adopted named as a defendant? KRS 199.480(1)(a)

____Yes _____No Is the petitioner married? If yes, the spouse of the petitioner must be joined unless the Court finds that doing so will deny the child a suitable home. KRS 199.470(2)

____Yes _____No Is the petitioner's husband or wife the biological parent? If yes, then the biological parent shall be named as a party defendant. KRS 199.480(1)(b)

____Yes _____No Is the petitioner a relative of the child as defined by KRS 199.470(4)* such that approval by CHFS, a licensed agency or the Secretary of CHFS is not required? KRS 199.470(4)(a)-(b).

**stepparent, grandparent, sister, brother, aunt, uncle, great grandparent, great aunt or great uncle. Court may in its discretion order KRS 199.510 report and background check.*

____Yes _____No Did the petitioning party comply with KRS 199.473? (i.e. did the petitioning party have a home study to review the background of the applicant and determine the suitability of the applicant to receive the child?)

____Yes _____No Are all the necessary parties joined as defendants? KRS 199.480

Child to be adopted, biological living parents (if married), mother and father [if (1) identified by mother, (2) acknowledged child as his own in certain proceedings, (3) name is on birth certificate, (4) commenced action to establish paternity, (5) contributed financially to child's support, (6) married mother or lived openly with child, (7) rights not terminated previously], child's guardian, and CHFS or other agency with custody.

____Yes _____No Have all parties been properly served? KRS 199.480(2)

____Yes _____No Has an investigation been completed by CHFS as required by KRS 199.510(1)(a)-(c)? If yes, a final hearing may be

scheduled if the report by the GAL, if any has been filed. KRS 199.515

____Yes _____No Has a Guardian ad Litem (GAL) been appointed for the child?

____Yes _____No If yes, has the GAL filed their report as required? KRS 199.516

____Yes _____No If no, does the exception apply? KRS 199.480(3)*

**If biological parents (married), mother and father (if paternity is established or affidavit filed) are parties defendant, no GAL need be appointed.*

____Yes _____No Has the child been placed for adoption with approval by one of the three agencies listed below?

____Yes ____No CHFS
____Yes ____No An agency licensed by CHFS
____Yes ____No CHFS Secretary with approval

____Yes _____No If the child has not been placed for adoption by one of the three ways listed above, has the child resided continuously in the home of the petitioner for at least 90 days immediately prior to the filing of the petition? KRS 199.470(3)

____Yes _____No Does any exception to the placement rule apply? KRS 199.470(4)(a)-(b)

No approval of the Secretary of CHFS is necessary in the case of petitions filed by stepparents, grandparents, sisters, brothers, aunts, uncles, great grandparents, great aunt or great uncles, or if the child is placed with the adopting parents by an agency without the Secretary's written consent.

____Yes _____No Does the petition contain the necessary information? KRS 199.490

- Name, date/place of birth, residence, mailing address of petitioner; if married, date and place of marriage.
- Name, date/place of birth, residence, mailing address (if known) of child.
- Relationship, if any, of child to each petitioner.
- Full name by which child shall be known after adoption.
- Description of property, if any, of child as far as it is known to petitioner.

- Names of parents, address of each living parent if known. Name of father born out of wedlock not given if certified TPR orders are filed.
- Name and address of child's guardian, or of the cabinet/other agency/individual with custody.
- Further facts necessary for location of person whose consent to adoption is required or whom KRS 199.480 requires be made a party.
- If any of the above is unknown, the lack of knowledge shall be alleged.

____Yes _____No Has a notarized consent form been filed? KRS 199.500*

**Filed by living parents (married), mother and father if established.*

____Yes _____No If notarized consent has not been filed, do any of the exceptions to consent apply? KRS 199.500(1)(a)-(d) or KRS 199.502

____Yes _____No Does this Court have proper jurisdiction over this adoption?

____Yes _____No Is this County the proper venue?

____Yes _____No Have parental rights been terminated?

____Yes ____No If yes, have certified copies of the termination order been filed as required? KRS 199.490(2)

____Yes _____No Has the petitioner tendered a proposed Findings of Fact and Conclusions of Law, and a separate Judgment of Adoption?

____Yes _____No Does the tendered Judgment only contain the names of the petitioners and the proposed adopted name of the child? KRS 199.520(1)*

**Note: The child's former name or the names of the child's birth parents are not to be included in the Judgment of Adoption.*

____Yes _____No Has an affidavit detailing a list of expenses paid by the adoptive parents been submitted to the court for approval? KRS 199.590(6)

EXHIBIT B

TWENTY-FOUR (24) HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL
ELEVENTH JUDICIAL CIRCUIT AND DISTRICT
GREEN, MARION, TAYLOR & WASHINGTON COUNTIES

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Practice and Procedure (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four (24) hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

I. Uniform Protocol for Handling Cases

A. All domestic violence cases must be processed by the clerk consistent with the rules and procedures set forth in the Kentucky Circuit Court Clerk's Manual.

B. 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.

C. Domestic violence matters may be reassigned from the district court division to circuit/family court when there is a dissolution/custody proceeding pending.

D. No county shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.

E. Domestic violence cases shall be reassigned or transferred to another circuit under the following circumstances:

If a dissolution, child custody proceeding, or domestic violence proceeding is pending in another county when the domestic violence petition is filed or if a dissolution action is filed in another county while a domestic violence matter is pending in District Court, the District Court Judge is to transfer the case to the County where said action is pending. The emergency protective order shall continue and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen (14) 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.

II. Twenty-four Hour Accessibility

A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

The Circuit Clerk and all sworn deputies; the County Attorney and any Assistant County Attorney, the Victims Advocate of the County Attorney's office and any county attorney staff authorized to administer oaths.

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

The Circuit Clerk and all sworn deputies; the County Jailer and all sworn deputies; the County Sheriff and all sworn deputies; the County Attorney and any Assistant County Attorney, the Victims Advocate of the County Attorney's office and any county attorney staff authorized to administer oaths, the City Chief of Police and all sworn officers within the department; any Kentucky State Police officer.

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

To the District Judge who is found within the County. If no District Judge is found within the County, said verified petition shall be presented to the Circuit Judge who is found within the County. If no Judge is found within the County, the petition shall be presented to any District Judge or Circuit Judge found within the 11th Judicial Circuit. In the event, that none of the above Judges can be found, the petition may be presented to a Trial Commissioner within the 11th Judicial Circuit or District. In the event no Judge or Trial Commissioner can be found within the 11th Judicial Circuit or District, said petition may be presented to any District Judge, Circuit Judge or District Trial Commissioner in any surrounding county in accordance with the Regional Program Administration Charter, who may sign and issue a Domestic Violence Emergency Protective Order if deemed appropriate.

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

To the District Judge who is found within the County. If no District Judge is found within the County, said verified petition shall be presented to the Circuit Judge who is found within the County. If no Judge is found within the County, the petition shall be presented to any District Judge or Circuit Judge found within the 11th Judicial Circuit. In the event, that none of the above Judges can be found, the petition may be presented to a Trial Commissioner within the 11th Judicial Circuit or District. In the event no Judge or Trial Commissioner can be found within the 11th Judicial Circuit or District, said petition may be presented to any District Judge, Circuit Judge or District Trial Commissioner in any surrounding county in accordance with the Regional Program Administration Charter, who may sign and issue a Domestic Violence Emergency Protective Order if deemed appropriate.

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:

The Domestic Violence session of the District Court is scheduled as follows:

Green District Court	Mondays	1:30 pm
Marion District Court	Wednesdays	9:30 am
Taylor District Court	Wednesdays	10:00 am
Washington District Court	Mondays	1:30 pm

Motion Day for Circuit Court is as follows:

Green County	1st Wednesday after 1st Monday of the month
Marion County	1st & 3rd Thursday after 1st Monday of the month
Taylor County	1st & 3rd Tuesday after 1st Monday of the month
Washington County	3rd Wednesday after 1st Monday of the month

III. Contempt Proceedings

A. Pursuant to KRS 403.760, 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 should contact:

The local Circuit Clerk's office to complete a motion for show cause. The Judge who entered the EPO or DVO will hear the contempt proceeding.

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

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 judges in the circuit/district, this 12th day of July, 2011.

Allan Ray Bertram
Hon. Allan Ray Bertram
Chief Circuit Judge, Div. II

Connie Sullivan Phillips
Hon. Connie Sullivan Phillips
Chief District Judge, Div. II

Hon. Dan Kelly
Circuit Judge, Div. I

Hon. Amy Sullivan Anderson
District Judge, Div.. I