Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE LOCAL RULES OF COURT PRACTICE AND PROCEDURE OF THE 13TH JUDICIAL CIRCUIT COURTS, COUNTIES OF GARRARD AND JESSAMINE, FAMILY DIVISION

Upon recommendation of the Judges of the 13th Judicial Circuit and being otherwise sufficiently advised,

The attached Rules of Court Practice and Procedure for the 13th Judicial Circuit, counties of Garrard and Jessamine Circuit Courts, Family Division, 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 27th day of August 2012.

CHIEF JUSTICE JOHN D. MINTON, JR.

Commonwealth of Kentucky
13th Judicial Circuit – Garrard and Jessamine County
Family Division – Local Rules

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RULE I – INTRODUCTION

1 .01 – Introduction

These are the Local Rules of Practice of the Family Court of the 13th Judicial Circuit. These rules supplement the Kentucky Rules of Civil Procedure, the Kentucky Rules of Criminal Procedure, the Kentucky Family Court Rules of Practice and Procedure (FCRPP) and the Rules of the Garrard and Jessamine Circuit Courts.

If these rules conflict with any statute or other law of the United States and/or the Commonwealth of Kentucky, and/or Order of the Kentucky Supreme Court, at any time legally adopted; then, any such statute, law, rule or Order shall at all times prevail.

1 .02 – Jurisdiction

The jurisdiction of Family Court shall be that as provided by KRS 23A.100. The jurisdiction of the Family Court shall be concurrent with that of the District and Circuit Courts of the 13th Judicial Circuit where provided by the Kentucky Revised Statutes

1.03 – Effective Date

These Local Rules of the Family Court of the 13th Judicial Circuit shall be effective thirty (30) days after their approval by the Kentucky Supreme Court.

1.04 – Citation

These rules shall be cited as the Garrard/Jessamine Circuit Family Local Rules of Practice (GCFLRP or JCFLRP).

RULE II – COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

2.01 – General Schedule

Garrard Circuit Court

1. Motion Hour – Second and Fourth Friday of each month beginning at 9.00 AM.
2. Juvenile matters including dependency, abuse, neglect, paternity and support - each Friday beginning at 11.00 AM.
3. Domestic Violence – Each Friday beginning at 3.00 PM.

Jessamine Circuit Court

1. Motion Hour – First and Third Wednesday of each month beginning at 8.30 AM.
2. Pro Se Litigants – First and Third Wednesdays of each month beginning at 11.00 AM. Legible hand written motions are acceptable for this docket.
3. Domestic Violence – Each Wednesday beginning at 3.00 PM.

4. Juvenile Status Offenses – Each Thursday beginning at 8.30 AM.
5. Dependency, Abuse and Neglect – Each Thursday beginning at 9.30 AM.
6. Contempt Hearings each Thursday beginning at 1.00 PM.
7. Paternity, Child Support, Visitation issues arising out of juvenile matters – Each Thursday beginning at 1.30 PM.

Hearings - Temporary and Final
The Court will schedule temporary and final hearing on Mondays, Tuesdays and the second, fourth and fifth (when available) Wednesdays of each month. Counsel can expect these hearing to begin at 8.30 AM.

2.02 – Other Hearings

Adoptions and other cases not specifically listed but also within the Court's jurisdiction shall be scheduled as needed by appointment through the Judge's Office at 859-881-0951.

2.03 – General Motion Practice

Notice of the hearing shall include the date and time for which the motion is set. All pleadings including any attachments shall be served on all other parties or their counsel. Motions may be scheduled in either county by agreement of the parties or counsel.

All motions are to be filed and served upon the opposing party not later than the close of business seven days in advance of the Motion Hour scheduled.

2.04 – Pendente Lite Motions

Pursuant to FCRPP 6(2), a hearing for temporary custody, timesharing, visitation or child support shall be conducted within thirty (30) days of filing. These will generally be scheduled on the first and third Wednesday afternoon in Jessamine County and on the first and third Friday mornings in Garrard County.

2.05 – Case Management Conference (CMC)

These may be scheduled at the regular motion docket and if additional time is required the case will be given a specific time and date. All counsel and clients are expected to attend a Case Management Conference. See FCRPP 2(6).

2.06 – Divorce Education

If both parties have agreed on the custodial arrangements and parenting time schedule then divorce education will not be required. If there is any issue regarding the care, custody or parenting time for children that is to be litigated then divorce education may be ordered by the Court. This is intended to include both temporary and post decree matters.

2.07 – Dismissal Docket

To ensure conformity with Kentucky Rule of Civil Procedure 77.02(2), this Court shall periodically review all pending actions on its dockets. Notice shall be given to each attorney of record of every case in which no pretrial step has been taken within the last year that the case will be dismissed in thirty days for want of prosecution except for good cause shown.

The court shall enter an order dismissing without prejudice each case in which no answer or an insufficient answer to the notice is made. In lieu of appearance, a party or counsel may file a Notice of Filing indicating that said party or counsel desires to keep the matter on the Court's active docket.

2.08 – Orders

At the conclusion of a hearing, the Court may request that counsel for a party prepare the Order that reflects the Court's rulings. If the opposing party is represented by counsel, the attorney charged with preparing the Order shall then submit it to opposing counsel to sign off on a 'Have Seen' basis before it is submitted to the Court for entry. The Court will not require a 'Have Seen' if the other party is pro se.

If an attorney submits an Order to opposing counsel and that attorney fails to sign off on a 'Have Seen' and submit it to the Court; said order shall contain a verification by the drafting attorney that the Order was tendered to opposing counsel with no response for a period of no less than seven (7) business days. If attorneys disagree on how an Order should be drafted, either may file a motion requesting clarification or further Orders from the Court.

The Court requires that only one order be tendered for the Court's signature. Upon the Court's approval, the Clerk will then enter the Order and send copies to all parties or their counsel.

2.09 – Agreed Orders

If parties resolve a contested issue, they may submit an Agreed Order to the Court prior to their Hearing.

RULE III – ADOPTION/TERMINATION OF PARENTAL RIGHTS

3.01 – Guardian Ad Litem

The Court requires that a Guardian Ad Litem be appointed for the child or children at issue in every termination of parental rights or adoption proceeding. The Court will not conduct a Final Hearing before the Guardian Ad Litem has filed his or her report.

3.02 – Access to Confidential Records

All parties and their counsel may have access to confidential files while the case is pending. If counsel needs access to records of confidential proceedings as part of a termination or adoption proceeding, counsel must file a motion in that action seeking permission to inspect and copy documents. Such a motion may be filed to be heard at the convenience of the Court and accompanied by a proposed order.

3.03 Documents for Prior Submission

Prior to scheduling an adoption hearing, the following must be submitted to the Court for review:

1. Findings of Fact and Conclusions of Law;
2. Judgment and
3. Consent to Adopt, if applicable.

RULE IV – DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

4.01 – Domestic Violence Generally

All matters concerning the establishment or modification of domestic violence orders (DVOs) shall be heard on the Court's usual Domestic Violence docket including, but not limited to, initial hearings, motions to modify existing orders, and associated contempt motions for violation of the terms of a domestic violence order.

4.02 – Other Issues

The Court may issue temporary custody, visitation, and child support orders in domestic violence cases when the Court deems same to be appropriate and in keeping with the aims of the domestic violence statutes. Otherwise, the Court will not take up issues more properly suited for other legal actions.

4.03 – Domestic Violence Protocol

The Twenty-Four Hour Accessibility Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol of the 13th Judicial Circuit is attached as Appendix A and incorporated into these Rules by reference as if fully set out.

RULE V – PATERNITY

5.01 – Paternity Generally

All matters seeking to determine the paternity of a child and all motions that follow from that determination including, but not limited to, the establishment and modification of

child support, the calculation of arrearages, motions seeking to reimburse the Commonwealth, and contempt motions will be set on the Court's usual paternity docket.

5.02 – Mediation Available

Upon determination of paternity, parties may agree to resolve issues of custody and visitation/timesharing with a mediator. Parties may set up a time to meet with a mediator on the Court's staff or they may agree to utilize a private mediator. Any agreements reached on those issues will be reviewed by the Court, and where appropriate, made an Order of the Court if the parties so desire.

5.03 – 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.

5.04 – Access to Paternity Files

Until such time as paternity cases are no longer deemed confidential proceedings under Kentucky law, the Clerk shall restrict access to paternity cases to the parties, the Commonwealth, and any attorney that a party has retained. Counsel for a party shall not be permitted access to a paternity file unless he or she files an Entry of Appearance on behalf of a named party to the proceeding. In the alternative, an attorney may access a paternity file by producing to the Clerk a notarized authorization signed by a party.

Additionally, an attorney appointed by the Court to serve as a Warning Order Attorney or as an attorney for an incarcerated or incompetent individual may have access to the file.

5.05 – Custody and Timesharing

Parties may litigate custody and timesharing issues in paternity cases. Parties or their counsel shall notice the Commonwealth any time the case is docketed. Motions for custody or timesharing shall be filed to be heard on the Court's usual paternity docket. If contested, the Court may move the matter to the Court's Domestic Motion Hour.

RULE VI – DEPENDENCY, NEGLECT, ABUSE

6.01 – Roster of Guardians Ad Litem

The Circuit Court Clerk's Office maintains a list of attorneys who serve as GALs and parent's counsel in the Garrard and Jessamine Family Courts. An attorney that wishes to

be placed on the GAL list for either county should contact the Judge's office for inclusion on the list. All attorneys must complete at least one Guardian Ad Litem CLE course before the Court will place an attorney on the GAL list.

Any attorney seeking to be placed on the Court's GAL list must keep local office hours so that they may meet with appointed clients prior to their court date.

6.02 – Court Reports

Pursuant to FCRPP 28, the Court requires all reports in dependency, neglect and abuse cases to be forwarded to the Court no later than 72 hours prior to the Hearing. Additionally, reports should be forwarded to all parties or their counsel. Reports may be sent by e-mail with appropriate measures to preserve confidentiality.

6.03 – Continuances

Continuances shall comply with FCRPP 23. Counsel shall circulate an agreed order bearing the signature of all parties or their counsel and setting out the agreed upon date.

6.04 – Prevention Plans

Pursuant to FCRPP 29, any Prevention or Safety Plan shall be placed in the Court record and copies given to all parties or their counsel.

6.05 – Court-Appointed Counsel

After a Guardian Ad Litem or parent attorney accepts an appointment, representation shall continue through all stages of the dependency, neglect, abuse action, termination of parental rights, or adoption proceeding unless relieved of the appointment upon a proper motion to withdraw as counsel.

Upon commencement of a termination of parental rights and/or adoption proceeding that emanates from a dependency, neglect or abuse proceeding; the Court will reappoint the same attorney for each party unless an attorney is unable or unwilling to further represent that party.

6.06 – Procedure for Seeking an Emergency Custody Order (ECO)

During normal working hours, 8:00 A.M. to 4:30 P.M., Monday through Friday, excluding normal holidays, persons seeking an ECO shall come to the District Clerk's Office of the County where the child is found or resides to complete an ECO Petition and ECO affidavit.

After normal working hours, 4:30 P.M. to 8:00 A.M., Monday through Friday, weekends, and holidays, law enforcement or CHFS will contact the Family Court Judge, District

Court Judge or Trial Commissioner to get an ECO. After normal working hours, suspected dependency, neglect or abuse should be reported to local law enforcement.

6.07 – Petitions

A copy of all dependency, neglect and abuse offender petitions filed shall be forwarded to the County Attorney and his or her assistant assigned to prosecute dependency, neglect and abuse actions and the original shall be filed in the Clerk's Office.

Any dependency, neglect and abuse petition filed with this Court shall comply with the following conditions:

1. Citation to specific statute(s) and factual allegations relied upon in asserting the Court's jurisdiction; and
2. Contact information of child's parents or guardians. The Clerk shall make reasonable efforts to notify the child's parents or guardians.

6.08 – The Effects of Service on Only One Parent

The Court may permit a Temporary Removal Hearing or adjudication to proceed when the non-custodial parent has not been served in accordance with FCRPP 18.1 if it is established on the record that Clerk has made reasonable 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.

6.09 – Temporary Removal Hearings

Temporary Removal Hearings (TRHs) shall be scheduled within 72 hours, excluding holidays and weekends, of the issuance of an ECO.

6.10 – Dispositional Hearing

At a disposition hearing, CHFS shall provide the Court with all information as required by FCRPP 28 by completing form DNA 12. Additionally, if siblings have been separated, CHFS shall explain the reasons for said separation.

RULE VII - DOMESTIC RELATIONS PRACTICE

7.01 – Divorce Education Classes

The Court may order completion of a divorce education class for parties involved in dissolution proceedings or in an action for an initial establishment of custody. If parties are ordered to complete said class, they are free to utilize any provider who customarily

provides educational services designed for people undergoing divorce and/or child custody litigation as long as it substantially complies with the current requirements found in the Parent's Education Clinic (4 hour class provided by a Qualified Mental Health Professional).

If divorce education is ordered in a case, the Court will not enter a final custody order or decree of dissolution of marriage until at least one of the parties completes the class and proof of completion is filed into the record. Failure to complete the class may result in sanctions which include a party's custodial rights being unenforceable by contempt until such time as the party completes the class and files proof of same into the record.

7.02 – Status Quo Orders

The Court may order the entry of a Status Quo Order. The Court will use the standard Status Quo Order form (AOC Form 237) or may accept an Order drafted specific to the case when necessary if the Court finds it appropriate to enter a Status Quo Order in a dissolution case

7.03 – Mediation

The Court may order mediation at the initial court appearance or any time thereafter. If both parties otherwise agree to mediate and wish to use court mediation, they may contact the Judge's office to set up a mediation date. Counsel for the parties will then be required to tender an Agreed Order stating that the parties agree to mediate and the time and place that the mediation will occur. Parties and/or their counsel are not required to use court mediation and may use any certified mediator. Mediators are not subject to subpoena.

7.04 – Case Management Conferences. FCRPP 2(6).

Upon request of either party or on its own motion, the Court may set a Case Management Conference. Case Management Conferences are thirty (30) minutes. The purpose of said Conference is to allow the Court to determine what issues remain unresolved, to determine how much time the Court needs to allot for a Final Hearing, and get a general picture of the status of the case at that time.

The Court requires Case Management Conferences to be attended by parties and counsel. Excusal of attendance of a party shall be only upon proper motion for good cause shown prior to the Conference.

Parties are free to file motions to be heard at the Case Management Conference. Motions must be filed at least seven (7) days prior to the Conference. The Court reserves the right to determine which matters, if any, it shall hear at the Conference or pass them to a later date.

7.05 – Final Hearings

Upon proper motion, the Court will set a contested matter for an extended, Final Hearing. The Court does reserve the right to set any matter for a Case Management Conference if it is revealed that the matter is not ready for a Final Hearing.

The Court requires that all parties and/or their counsel certify that all discovery is complete and that a good faith attempt at settlement has been attempted and that it has failed before a Final Hearing is set. A good faith attempt at settlement contemplates a meeting of counsel and the parties together unless cause is shown which makes this either impractical or the parties are subject to a no-contact Domestic Violence Order.

The Court will enter a pre-trial order which will require:

1. a summary of the general facts;
2. statement of any stipulated facts;
3. a listing of all issues of fact and law for adjudication;
4. a concise statement of each general issue in dispute which is to include argument with ample supportive citations of authority pertinent to each issue of fact and law;
5. conclusions setting forth the specific relief sought from the Court;
6. a witness list, trial exhibits, etc; [N.B. No exhibit is to be filed with this memorandum; if properly admitted into evidence, only then will it become part of the Court's record.]

   Further the pre-trial order will include:
7. a directive that the record will close at the conclusion of testimony and that the record will not be supplemented;
8. a statement that should a party be unready on the date of the hearing and a continuance is sought, the Court may require the matter to be submitted by deposition and the costs will be allocated equitably; and
9. a statement that generally the parties will be called to testify as the first two witnesses upon direct and cross examination. This will be especially true when custody and parenting time are at issue. Other witnesses should be scheduled for later in the day.

The parties may, in the alternative, request to submit all proof by deposition and request a decision upon review of the record.

7.06 – Uncontested Divorce

Pursuant to FCRPP 3(1), parties may submit a decree for the Court's review in any uncontested divorce. In addition to a Settlement Agreement and deposition containing the jurisdictional proof necessary to enter a Decree, the parties should file a Motion to Submit to inform the Court that the parties have filed all of their paperwork and are ready for the Court to enter a Decree of Dissolution of Marriage. An uncontested matter may be scheduled to be heard at the convenience of the Court without a personal appearance.

7.07 – Waiver of Disclosures

FCRPP 2(3) and 3(3) require parties involved in divorce litigation to file disclosure statements. In lieu of filing said disclosures, parties may waive the filing of disclosures for good cause upon proper motion and approval by the Court.

RULE VIII – STATUS OFFENSES

8.01 – Pursuant to KRS 23A .100 (2)(d), all proceedings under KRS Chapter 630 (Status Offenses) may be stayed when a Juvenile has proceedings under KRS Chapter 635 or 640 (public offenses) pending before any District Court of the Commonwealth unless the Court upon its own motion or upon motion of a party transfers the matter to the District Court in which the public offense charges are proceeding pursuant to KRS 23A.100(2)(d).

8.02 – A copy of all status offender petitions filed shall be forwarded to the County Attorney and his or her assistant assigned to prosecute dependency, neglect and abuse actions and the original shall be filed in the Clerk's Office.

8.03 – Any dependency, neglect, abuse or status offender petition filed with this Court shall comply with the following conditions:

1. Citation to specific statute(s) and factual allegations relied upon in asserting the Court's jurisdiction; and
2. Contact information of child's parents or guardians. The Clerk shall make reasonable efforts to notify the child's parents or guardians.

RULE IX – MISCELLANEOUS

There are currently no miscellaneous rules in the 13th Judicial Circuit Family Court.

C Michael D /Date 15 Aug 12
C. Michael Dixon, Family Court Judge

/Date 8-23-12
Hunter Daugherty, Chief Circuit Judge

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX A OF THE LOCAL RULES OF COURT PRACTICE AND PROCEDURE FOR THE 13TH JUDICIAL CIRCUIT, FAMILY COURT DIVISION, GARRARD AND JESSAMINE COUNTIES

Upon the recommendation of the Judges of the 13th Judicial Circuit, Garrard and Jessamine counties, and being otherwise sufficiently advised,

The amendment to Appendix A of the Local Rules of Court Practice and Procedure for the 13th Judicial Circuit, Family Court Division, 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 9th day of December 2015.

CHIEF JUSTICE

TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL
13th JUDICIAL CIRCUIT AND DISTRICT
GARRARD and JESSAMINE 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 to petitioner **during** regular business hours:
Garrard County Circuit Clerk and their deputies
Jessamine County Circuit Clerk and their deputies
Any law enforcement officer
Any victim's advocate

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

C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:
The Family Court Judge, the District Court Judge, the Circuit Court Judge, or the Trial Commissioner, based on availability.

D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:
The Family Court Judge, the District Court Judge, the Circuit Court Judge, or the Trial Commissioner, based on availability.

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:

Garrard Circuit Court
Each Friday beginning at 3:00 PM or otherwise determined by judicial order.

Jessamine Circuit Court
Each Wednesday beginning at 3:00 PM, or otherwise determined by judicial order.

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 Office of the Circuit Court Clerk in the county where the action is pending.

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:

Judge Hunter Daugherty
Circuit Court Judge

11-24-15
Date

Judge Bill Oliver
District Court Judge

11-23-15
Date

Judge Janet Booth
District Court Judge

11-24-15
Date

Judge Jeff Moss
Family Court Judge

11-23-15
Date