Supreme Court of Kentucky

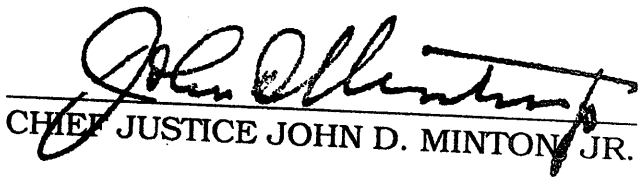
ORDER

IN RE: **ORDER APPROVING THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 16TH JUDICIAL CIRCUIT, FAMILY COURT DIVISION, KENTON COUNTY**

Upon recommendation of the Judges of the 16th Judicial Circuit, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 16th Judicial Circuit, Family Court Division, Kenton 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 11th day of April 2012.



CHIEF JUSTICE JOHN D. MINTON, JR.

RULES OF PRACTICE
OF THE
KENTON FAMILY COURT
16th JUDICIAL CIRCUIT

RULE 1. INTRODUCTION / ADMINISTRATIVE PROCEDURE

101. Introduction

101.01. These are the Local Rules of Practice of the Family Court of the 16th Judicial Circuit. These rules supplement the Kentucky Rules of Civil Procedure (CP), the Kentucky Rules of Criminal Procedure (RCr), and the Kentucky Family Court Rules of Procedure and Practice (FCRPP). If these rules conflict with any of these rules, 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.

101.02. Pursuant to FCRPP 1(2) and KRS 23A.100, these Rules shall be applicable to the procedure and practice in all actions pertaining to dissolution of marriage; custody and support; visitation and timesharing; property division; maintenance; domestic violence; paternity; dependency, neglect or abuse; termination of parental rights; adoption; and status offenses, or any other matter exclusively within family law jurisdiction, except for any special statutory proceedings, which shall prevail over any inconsistent procedures set forth in these Rules.

101.03. Pursuant to FCRPP 1(3), self represented litigants shall be held to knowledge of these rules the same as parties represented by counsel.

102. Effective Date

These rules are adopted pursuant to the authority granted by SCR 1.040(3) of the Rules of the Supreme Court and shall apply with full force and effect to all actions filed or pending after, and their promulgation by order of the judges of the Kenton Family Court and certification of approval by the Chief Justice of the Supreme Court.

103. Citation

These rules shall be cited as the Kenton County Family Local Rules of Practice (KCFLRP).

104. Assignment of Cases

104.01. Divisions

The Kenton Family Court shall consist of two numbered divisions, namely: Second Division and Fifth Division.

104.02. Assignment of Judges

Cases shall be assigned, as provided by these Rules, to the divisions of the Kenton Family Court so as to distribute the workload of the Court as equally as possible among the judges. The judge of one division of the Kenton Family Court may preside over and determine any case or question in any other division of the Kenton Family Court and sign any order or judgment submitted for entry in any other division of the Kenton Family Court when a judge of that division is sick, or absent from the county or is otherwise unavailable.

104.03. Assignment of Cases with Prior Contact

At the time of filing of a complaint, petition or other initiating pleading, the Clerk of the Court shall review the Court's records to determine whether the family involved has had any prior contact with the Kenton Family Court. If no contact is revealed, the case shall be assigned to a numerical division of the Kenton Family Court by random assignment, and scheduled for further proceedings in accordance with these rules. If prior contact is revealed, the case shall be assigned to the numerical division of the Kenton Family Court which issued the most recent order concerning the family. In the event that there is only a Domestic Violence (D) case in the system, it shall never control for assignment; only J, CI or AD cases shall control.

104.04. Transfer of Cases

After a case has been assigned to a division of Kenton Family Court, the judge thereof may for good cause transfer the case by written order from the division when: (1) there has been a recusal, or (2) the case has been transferred with the judge's consent. On recusal, the Clerk shall assign a case from one division of Kenton Family Court to the other division of Kenton Family Court. The Clerk shall file the order of transfer in the record and serve a copy upon all parties of record. Upon such transfer being made, the Clerk will make a proper endorsement upon the docket and the record.

104.05. Consolidation of Cases

a. When two (2) or more cases have been filed in different divisions of the Kenton Family Court, the Court may consolidate the cases for the purpose of a hearing. In such a situation, the cases will be consolidated to the division where the low number case is, or the division that is already handling matters with that family, to fulfill the "one family one court" purpose of Family Court. If it is later determined that consolidation is not proper or not in the best interest of the parties, the judge of that division may Order that the case be unconsolidated and return the case back to the original division. Also see reference to KCFLRP 104.03.

b. Pursuant to FCRPP 2(2), when actions concerning the same subject matter are filed in different circuits, the first action filed shall be the controlling action, subject to transfer by the court of that circuit on a motion for forum non conveniens or other appropriate legal grounds. A motion for transfer shall be filed prior to or with the response. On notice to the parties, the courts in both circuits may confer concerning the proper venue.

104.06. Registration of Lawyers

All attorneys or pro se litigants seeking to practice in the Kenton Family Court shall register their e-mail address with the Kenton County Family Court Judicial Secretary.

105. Holidays

Kenton County Family Court will follow the Kentucky Court of Justice Holiday Schedule on the COJ website at : http://courts.ky.gov/research/holidayschedule.htm

106. Official Forms

All official AOC forms as set forth in these Rules are listed numerically in Appendix A to these rules. These forms may be found on the AOC website, http://courts.ky.gov/forms/.

107. Orders

107.01. Preparation and Endorsement

a. When a ruling is made or opinion rendered, an order or judgment in conformity therewith shall be prepared by the movant or as directed by the Court and signed by counsel for all parties thereto as being in conformity to the ruling or opinion, and shall be presented to the Court within fourteen (14) days following the date of the hearing or trial.

b. All Orders tendered must contain a "Have Seen" endorsement of all other attorneys of record. This endorsement shall constitute an acceptance by said counsel only that the order or judgment is in conformity with the ruling of the Court. Should counsel for any party refuse to endorse the Order "Have Seen," counsel who prepared it shall file the Order with the Court, together with a certification that it was tendered to counsel who refused to make the endorsement and the date of such tender. The Court shall enter the Order after the expiration of five (5) (Saturday, Sunday and legal holidays excluded) days from the time it was filed, unless counsel who refused to make the endorsement shall have filed written exceptions to it and set such exceptions for hearing before the Court at the earliest practicable time.

c. In the event counsel disagree on whether a proposed order is in conformity with the judge's ruling, counsel shall notify each other of the disparity, and within five (5) business days of notice, shall review the video tape of the hearing, and if still in disagreement, counsel shall tender a joint cover letter to the judge with both proposed orders attached thereto for entry by the Court. The cover letter shall reference the tape citation to the judge's ruling.

d. Proposed orders shall not be filed or submitted with a motion except all Motions to Withdraw as Counsel shall be accompanied with an Order to Withdraw.

e. Each judge, at their discretion, may ask that Orders or Agreed Orders be electronically mailed to the judge. In this event, the attorney designated as the preparer of the

Order shall either fax, e-mail, or mail a copy of the Order to opposing counsel for their "Have Seen." If/when opposing counsel authorizes signature on the Order, the attorney preparing the Order shall indicate both signatures on the Order prior to e-mailing the Order to the judge. No other correspondence shall be attached to the e-mail except for the Order. If the Judge makes changes to the Order, the Judge shall remove the "Have Seen" from the Order in order to indicate that the Judge has made a change to the Agreement and shall also remove the "Prepared By."

107.02. Status Quo Orders

At the initial court appearance, the court may enter an order on AOC-237, Status Quo Order, as authorized and described by FCRPP 2(5).

107.03. Agreed Orders

If an agreed order is submitted signed by counsel for all parties affected, or if the court is notified by both counsel or pro se parties that an agreement has been reached, counsel need not attend the call of the docket and the Agreed Order shall be tendered within fourteen (14) days of the date the Motion is scheduled to be heard by the court. Any Agreed Order regarding child support must comply with FCRPP 9 and have a Child Support Worksheet attached.

107.04. Show Cause Orders

a. To procure a show cause order, a motion supported by a sufficient affidavit showing that applicant is entitled to the order must be filed.

b. When this motion and affidavit are filed, an Order may be issued ex parte which shall not come on for a hearing sooner than five (5) days from the date it is served, unless otherwise ordered by the Court. The Respondent shall appear on the date noticed for hearing, but may be entitled to a continuance if served less than five (5) days from the date noticed.

c. No order shall come on for hearing unless it has been served on the person named in the Order by an Officer authorized to serve a summons. The Order shall contain a short statement of the grounds for its issuance and the following statement: IF YOU FAIL TO APPEAR AT THE HEARING, AN ORDER FOR YOUR ARREST WILL ISSUE.

108. Exhibit Retention and Disposal

108.01. The Clerk shall take immediate custody of all exhibits introduced and retain same until disposed pursuant to other sections in this rule.

108.02. In all family cases the Clerk shall notify the attorneys for the parties that exhibits introduced during any proceeding shall be picked up within 30 days after the time for appeal has expired. If the attorneys do not pick up the exhibits within that time, the Clerk shall dispose of the exhibits pursuant to the Court of Justice Records Retention Schedule of the Administrative Office of the Courts or as ordered by the Court.

108.03. Exhibits that are too bulky to be included with the transcript on appeal shall be retained by the Clerk until the final appeal has been decided after which they shall be disposed in accordance with the foregoing procedure.

108.04. Notwithstanding any provision to the contrary, the parties with the Court's approval may agree in a family case for an exhibit or exhibits to be returned to a party or other entity and to be retained by the party or other entity pursuant to the agreement of the parties.

108.05. Custody evaluations shall be kept confidential in a separate file in the offices of the Kenton Family Court.

109. Retention of Audio and Digital Recordings

109.01. Videotapes or digital recordings from Family Court proceedings shall be retained by the Clerk in the manner consistent with the Court of Justice Records Retention Schedule.

110. Default Judgment

110.01. In all cases of default, all applicable requirements in FCRPP 3(1)(a)(i) shall apply with the addition of an affidavit with the attorney's certificate that no answer or pleadings have been received by counsel, and that notice of hearing or submission has been served on the opposing party in compliance with FCRPP 3(2).

110.02. If the party in default has failed to appear in the action, the motion for default need not appear on a docket and no notice thereof need be given to the party against whom judgment by default is sought. A Notice of Final Hearing shall then be filed with the Court Clerk.

110.03. If the party in default has appeared in the action, the motion shall appear on a docket and the party in default, or if the party is appearing by representative, the party's representative, shall be served with written notice of the motion at least 72 hours prior to the noticed docket.

111. Legal Briefs and Memoranda

Legal briefs or memoranda shall be filed of record in the Clerk's office. Copies of cases cited therein should not be filed with the Clerk's office, but should be provided directly to the Court along with a copy of the brief or memorandum.

112. Answering Interrogatories or Requests

When propounding interrogatories and requests upon a pro se litigant or upon written request of counsel, the propounder of interrogatories or requests shall leave adequate room for reply between questions. The propounder of the interrogatories or requests shall provide

opposing counsel upon request a copy of said interrogatories and requests when possible via e-mail.

113. Filing of Depositions

Originals of interrogatories or requests for admissions shall not be filed in the court record unless offered as proof. The attorney who propounded the interrogatories or requests for admissions shall be the custodian of the record for the originals, and shall present them when directed by the court or at the request of any party.

114. Dismissal of Action for Failure to Prosecute

Pursuant to CR 77.02(2), when any action has remained on a docket for one (1) year without any step being taken indicating an intention to prosecute, the action may be dismissed for want of prosecution on motion of either party or on the Court's own motion.

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

201. Court Schedule

201.01. Second Division Dockets:

a. Status: Wednesday at 9:00 a.m., every other week
b. Dependency, Neglect and Abuse: Tuesday and Thursday at 8:30 a.m., every other week
c. Paternity: Wednesday at 1:00 p.m., every other week
d. Domestic Violence: Wednesday at 9:00 a.m., every other week
e. Child Support Enforcement: Wednesday at 1:00 p.m., every other week
f. Domestic Relations: Call for time
g. Motion Docket: Tuesday at 2:00 p.m., every week

201.02. Fifth Division Dockets:

a. Status: Wednesday at 9:00 a.m., every other week
b. Dependency. Neglect and Abuse: Tuesday and Thursday at 8:30 a.m., every other week
c. Paternity: Wednesday at 1:00 p.m., every other week
d. Domestic Violence: Wednesday at 9:00 a.m., every other week
e. Child Support Enforcement: Wednesday at 1:00 p.m., every other week
f. Domestic Relations: Call for time
g. Motion Docket: Tuesday at 1:00 p.m., every week

201.03. Changes may occur in docket times and places at the discretion of the Court. All changes will be e-mailed to counsel by the Judicial Secretary.

202. Form and Notice of Motion

202.01. Form of Motion

a. Unless a motion may be heard ex parte or a rule allows otherwise, all motions to be heard shall be noticed for hearing, original filed with the Clerk, and copies served by mail, hand delivery, or facsimile on all parties. The notice of the hearing shall specify the date, time, and place for the hearing.

b. A motion to compel discovery, for a protective order, or for sanctions may be filed pursuant to CR 26 and/or CR 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 certification of counsel that he or she has attempted to resolve the dispute and that they have been unable to do so. The certification should detail the attempts of counsel to resolve the dispute.

202.02. Noticing of Motion

An attorney should respect opposing counsel's schedule by seeking an agreement on the date to notice a motion rather than merely serving notice. In the event that an attorney is notified by opposing counsel that he or she is unavailable due to a conflict for any motion that is not of an emergency nature, the attorney having filed the motion shall agree to continue the motion or obtain an alternate hearing date that is mutually acceptable to both counsel.

203. Deadlines for Serving and Filing Motions

203.01. Motions to be heard on the Domestic Relations docket must be filed no later than 4:00 p.m. on the Wednesday preceding the Domestic Relations docket designated on the notice, unless the Court has given a party leave to file the motion at another time to be served on opposing counsel or a pro-se litigant by fax, e-mail or hand-delivery no later than the following Thursday before the Motion is to be heard.

203.02. It is the obligation of each attorney, or each party if unrepresented by an attorney, to ascertain whether a motion docket has been canceled or rescheduled by the Court.

203.03. Pre-Rulings are the Judge's initial ruling to a Motion. The Judge may grant or deny the Motion, inform the attorneys to contact the Court to schedule a hearing, or set the Motion as "to be called" at the Motion Docket time.

203.04. Only those attorneys (not clients) who received a pre-ruling of "To be Called" need to appear at the Motion Docket. If you received a pre-ruling of "Attorneys to contact Judicial Secretary," contact the Court by telephone conference with opposing counsel to schedule the hearing.

203.05. The Motion Docket will be posted outside of each Judge's Courtroom. There is a section on the Motion Docket for an attorney to initial if they object to the pre-ruling. An objection must be made before 12:30 p.m. for Division Five's docket or 1:30 p.m. for Division Two's docket. If a case is objected to then it shall be set for hearing on the next docket in that Division.

RULE 3. ADOPTIONS / TERMINATION OF PARENTAL RIGHTS

301. General Provisions

301.01. Venue

See FCRPP 32(1) for venue requirements.

301.02. Petitions

a. A separate petition shall be filed for each child and individual case numbers shall be assigned by the clerk of the court as required by FCRPP 32(2)(a).

b. Every petition in an adoption or termination of parental rights action shall include the case number of any underlying juvenile case and shall include the name of any guardian *ad litem* previously appointed as required by FCRPP 32(2)(b). The Circuit and District Court Clerks will cooperate with counsel to identify these case numbers.

301.03. All proceedings shall be confidential.

301.04. Orders Terminating Parental Rights

Pursuant to FCRPP 35, the clerk shall send two certified copies of the order terminating parental rights to the state child protective agency; and, the prospective adoptive parent or his or her attorney, if any, may obtain a certified copy of the order terminating parental rights from the state child protective agency to attach to the adoption petition.

302. Adoptions

302.01. The petition shall be filed pursuant to KRS Chapter 199, and a Guardian Ad Litem (GAL) may be appointed for the child(ren).

302.02. Any reports from the CHFS or other agencies shall be filed within ninety (90) days of the filing of the petition unless extended by the Court.

302.03. After the statutory time periods have been met, counsel for the petitioner(s), on notice to the necessary parties, shall obtain a hearing date directly from the Court. Pursuant to FCRPP 33(1), no request for final hearing shall be made prior to the filing of the state child protective service agency report pursuant to KRS 199.510, and the guardian *ad*

litem report, if any, pursuant to KRS 199.515.

302.04. Orders Setting Final Hearing

a. Counsel shall contact the Court's Staff Attorney when they believe the case is ready to be scheduled for a final hearing. A final hearing will be scheduled once the Staff Attorney confirms that the Petition meets the statutory requirements.

b. Orders setting final hearing shall be signed by counsel for petitioner(s) and the GAL before submission to the Court for entry.

c. Pursuant to FCRPP 33(2), in an uncontested adoption, a hearing shall be held within 30 days of the filing of a request for a final hearing.

d. Pursuant to FCRPP 33(3), a continuance of any final hearing date shall not be granted except upon good cause shown.

302.05. An affidavit for costs and attorney's fees must be filed with the Court, and are subject to approval by the Court.

302.06. Counsel shall have prepared at the final hearing Findings of Fact and Conclusions of Law; Judgment of Adoption; Motion to Approve Fees; and Order to Approve Fees.

303. Termination of Parental Rights

303.01. Voluntary Termination

The Court shall appoint a GAL on behalf of the child, and attorneys for the parents, if indigent.

303.02. Involuntary Termination

a. The Court shall appoint a GAL for the child, and attorneys for the parents, if indigent.

b. Pursuant to FCRPP 34(1), immediately upon the filing of any petition for involuntary termination of parental rights, the petitioner shall obtain a pretrial date. In the event the parents are not served prior to the pretrial date, the pretrial date shall be used as a case status review to expedite the proceeding.

c. Pursuant to FCRPP 34(2), a continuance of any final hearing date shall not be granted except upon good cause shown.

303.03. Post-Termination of Parental Rights Review

Pursuant to FCRPP 36, if an order terminating parental rights is entered, there shall be a review hearing conducted 90 days from the date of the entry of the order of termination of parental rights and at least annually thereafter.

RULE 4. DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

401. General Provisions

401.01. Domestic violence cases shall be conducted according to the local domestic violence protocol. The Kentucky Court of Justice Uniform Protocol for Domestic Violence Case Files is hereby adopted. The Kenton County Domestic Violence Protocol shall also be a part of these Rules and is attached as Appendix B.

401.02. See FCRPP 10 through 13 for uniform statewide rules of procedure relating to Domestic Violence which shall apply in the 16th Judicial Circuit.

402. Hearing

402.01. At the hearing, the Court may extend the EPO, grant a Domestic Violence Order for a term up to three (3) years, or dismiss the action.

402.02. The Court may issue orders relating to property, custody, timesharing and support, or counseling as required, and may order monitoring by various agencies.

402.03. Requests to modify child support shall comply with KCFLRP 701.06 below.

403. Contempt Proceedings

403.01. Pursuant to FCRPP 11(2), when the court conducts contempt proceedings in domestic violence actions, the party subject to contempt shall be represented by counsel, unless waived, and an attorney shall be appointed by the court if the party qualifies as an indigent.

RULE 5. PATERNITY

501. General Provisions

501.01. Establishment of Paternity may be prosecuted by the County Attorney or the Cabinet for Health and Family Services (CHFS) upon request by a complainant pursuant to KRS 406.021.

501.02. Upon a determination of paternity, the Court may consider custody, timesharing and support.

501.03. Unless otherwise allowed by statute, rule or the Court, all motions and orders in paternity proceedings shall comply with KCFLRP 107, 202, and 203 above.

502. Genetic Testing

In a paternity action, the court may order the mother, child and the putative father to submit to genetic tests in compliance with FCRPP 15(1) through (3).

503. Paternity Reopening

503.01. Pursuant to FCRPP 14(1), a fee of $50.00 shall be paid by the movant in paternity cases reopened after six (6) months from the entry of the paternity judgment for the purpose of modifying any support, custody or visitation ordered. This does not include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion, unless the movant is proceeding in forma pauperis.

RULE 6. DEPENDENCY, NEGLECT AND ABUSE

601. General Provisions

601.01. Orders

Pursuant to FCRPP 16, any order entered in a dependency or neglect or abuse action shall be on the appropriate Administrative Office of the Courts forms.

601.02. See FCRPP 17 through 31 for additional statewide rules of procedure which shall apply in Kenton County Family Court.

602. Pretrial Conference

A pretrial conference shall be set at which time the parent(s) will stipulate the facts or request an adjudication hearing.

603. Disposition

603.01. Any dispositional report shall be filed three days prior to a dispositional hearing on AOC-DNA-12, Dependency, Neglect or Abuse Dispositional Report.

603.02. A disposition hearing shall be held to enter findings in accordance with the stipulations or the adjudication hearing.

603.03. Pursuant to KRS 610.125, a Permanency Review shall occur annually.

604. Case Plan

604.01. A Case Progress Report shall be prepared, filed and delivered to each party in every case in which a child is committed to the Cabinet for Health and Family Services within six (6) months of the disposition hearing. At the disposition hearing in these cases, a future hearing shall be set to review the Case Progress Report.

604.02. Pursuant to FCRPP 29, the court shall require the following to be filed in the court record and provided to all parties:

a. The out of home case plan;

b. Any visitation agreement for the case plan or the case permanency plan; and,

c. Any prevention plan or safety plan developed by the child protective service agency.

605. Permanency

605.01. Permanent Placement Review

Pursuant to FCRPP 30, in addition to the annual permanency hearing mandated by KRS 610.125, the court shall conduct a permanency progress review no later than six months after a child is placed in foster care, in the home of a non-custodial parent, or other person or agency, when that child was sixteen years of age or younger at the time of the filing of a dependency, neglect or abuse petition.

605.02. Permanent custody motions may be filed by the CHFS pursuant to KRS 403.270.

606. New Action

Pursuant to FCRPP 31, any new allegation or request for removal after a child has achieved permanency shall be filed as a new action.

RULE 7. DOMESTIC RELATIONS PRACTICE

701. General Provisions

701.01. Original Pleadings

All original pleadings and exhibits in a dissolution action shall be filed with the clerk of the court, as allowed by law. See FCRPP 2(1) for a list of pleadings and exhibits.

701.02. Exchange of Information and Documents

The parties shall sign and return specific releases for relevant information and documents unless objected to in writing. Such releases shall contain a provision directing that any information and/or documents provided in writing to the requesting counsel or pro se party shall simultaneously be transmitted to the other counsel or pro se party, at requesting party's expense. Upon objection, the requesting party may file a motion to compel.

701.03. Court Ordered Family Counseling or Education

Pursuant to FCRPP 3(5), in all proceedings for the dissolution of marriage in which children of the marriage are minors, or in any custody proceeding, the court may order the parents or custodians and children to participate in counseling or divorce education, which shall be at the expense of the parties.

701.04. Temporary Motions

a. The Court, in its discretion, may determine a temporary motion relating to maintenance, support or custody upon the record or may permit the introduction of evidence by oral testimony.

b. A motion relating to temporary child custody, support or maintenance may be expedited, on motion, at the discretion of the Court. An ex parte motion relating to these issues must be accompanied by supporting affidavit(s) sufficient to state grounds for injunctive relief.

c. Pursuant to FCRPP 9, a motion for temporary support shall be accompanied by a completed child support guidelines worksheet and by copies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income.

d. Pursuant to FCRPP 9(5), the notice of hearing accompanying a motion for temporary support shall contain the following statement: "You must file with the Court, at least 24 hours prior to the time of the hearing, a completed child support guidelines worksheet and copies of your last three pay stubs or, if self-employed, proof of your current income."

e. Pursuant to FCRPP 5(1), a motion for temporary maintenance shall be accompanied by copies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income, and by an affidavit setting forth movant's monthly expenses and income and the monthly income of the party from whom maintenance is sought.

f. Pursuant to FCRPP 5(2), the notice of hearing accompanying a motion for temporary maintenance shall contain the following statement: "You must file with the Court, at least 24 hour prior to the time of the hearing, a responsive affidavit setting forth your net monthly income and expenses and attach copies of your last three pay stubs or, if self-employed, proof of your current income."

g. Any ex parte motion shall be accompanied by a supporting affidavit sufficient to state grounds for injunctive relief, and if granted, shall be set for hearing with all parties at the earliest available date. Any pendente lite motions shall be served on the opposing party and set for a hearing before the court unless otherwise agreed to by the parties.

h. The parties are referred to the Standard Holiday/Vacation Parenting Guidelines as found in Appendix C. This shall not be used as a default schedule but shall be used as a basis upon which to determine a shared custody /visitation schedule that is in the best interest of the children and family. The Court's final order may or may not contain all or some parts of this schedule.

701.05. Case Management Conference

See FCRPP 2(6) for rules relating to case management conferencing and potential mediation. Pursuant to FCRPP 2(6)(f), in the event of failure of a party or parties to appear at the conference, the court may, in accordance with its order, conduct a hearing in which proof may be taken or the case dismissed, as the court may determine appropriate.

701.06. Motions to Modify Child Support

All motions to modify support shall comply with the requirements of FCRPP 9(5) and 9(6).

701.07. Motions to Modify Maintenance

All motions to modify support shall comply with the requirements of FCRPP 5.

701.08. Preliminary Verified Disclosure Statement

a. AOC-238, Preliminary Verified Disclosure Statement, shall be exchanged between the parties within 45 days of filing of the petition, and objections thereto shall be exchanged 20 days thereafter and shall not be filed in the record unless ordered by the court in compliance with FCRPP 2(3).

b. Each party shall certify in his or her Preliminary Verified Disclosure Statement that documentation supporting the information in the statement is available for the opposing party's inspection and copying at the requesting party's expense, as of the date of service of the Statement on the opposing party in compliance with FCRPP 2(4).

c. Each Preliminary Verified Disclosure Statement shall also contain a statement as to the current custody and parenting schedule.

d. Except with leave of Court for good cause shown or by agreed order, a party shall not conduct formal discovery pursuant to CR 30, CR 31, CR 33, CR 34 or CR 36 relative to matters addressed in the Preliminary Verified Disclosure Statement until that party's

Statement has been served in accordance with this Rule.

701.09. Child Support Order

a. Once support has been set by the court, it shall continue in full force and effect unless modified by the court, or ended by operation of law.

b. An order directing the payment of child support shall be on form AOC-152, Uniform Child Support Order and/or Wage/Benefit Withholding Order for Kentucky Employers, and shall include all information required pursuant to FCRPP 9(2).

c. Pursuant to FCRPP 9(3), if child support is paid via wage withholding, a copy of the wage withholding order shall be submitted with any child support order and served upon the employer, the employee and Cabinet for Families and Children, P.O. Box 2150, Frankfort, KY 40602-2150.

d. All Child Support Orders which are a deviation from the Child Support Guidelines, shall state a basis for the deviation and shall attach a worksheet with the Guidelines amount.

e. All Child Support Orders must also state the division of uncovered medical/dental/optical expenses with each party exchanging receipts at the end of each month and payment to be paid within thirty (30) days thereafter.

701.10. Uncovered medical expenses

The parties shall follow the following procedure for uncovered medical expenses unless there is an Agreed Order or other Order signed by the judge.

a. The parent that incurs the uncovered medical expense shall notify the other parent within 30 days in writing with supporting documentation of the amount that the other parent owes. The parent that owes the uncovered medical expense must pay the balance in full within 30 days of receipt of the request for payment or in writing challenge the expense within the 30 day period.

b. For a single out of pocket expense totaling more than $100.00 net, that is not an emergency, the parent incurring the expense must give the other parent 30 days notice of the expense. This provides the parent that owes reimbursement to have the opportunity to contact the provider to make arrangements for his or her share of the payment and to have the right to a second opinion.

701.11. Post-Decree Litigation

A fee of $50.00 shall be paid by the movant in domestic relations cases reopened after six months from the entry of the decree for the purpose of modifying the decree. This does not

include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion, unless the movant is proceeding in forma pauperis.

702. Uncontested Dissolution Proceedings

702.01. If parties reach an agreement on all issues, a decree of dissolution may be obtained without a hearing by filing a motion or agreed order to submit for decree of dissolution of marriage with all the information and attachments identified in FCRPP 3(1). Original copies of all information and attachments shall be filed with the clerk in the county of origin, and a courtesy copy shall be submitted to the judge at his or her primary office if it is not located in the court facility where the case file is located; and, a decree shall not be final until the original is signed by the court and entered by the clerk.

702.02. Pursuant to FCRPP 3(1)(b), if the parties reach an agreement on individual issues short of settling the entire case, the agreement, signed by both parties, may be submitted directly to the court.

702.03. Form of Testimony

a. Testimony in an uncontested dissolution proceeding may be taken by oral testimony before the Court or by deposition upon written questions in extraordinary cases where leave of court is granted. It is the obligation of each attorney, or each party if unrepresented by an attorney, to ascertain the procedure used by each Family Court Judge to finalize uncontested divorces.

b. Counsel appearing at the hearing shall prepare the Findings of Fact and Conclusions of Law and a Decree of Dissolution to be tendered to the Judge prior to testimony being taken.

702.04. When submitting any order, agreed order or decree pursuant to KCFLRP 702, the party submitting the order, agreed order or decree shall also submit a sufficient number of copies of those documents together with properly addressed stamped envelopes to permit the Clerk to complete service thereof to the parties.

703. Contested Dissolution Proceedings

703.01. Pursuant to FCRPP 3(3)(a), if the parties do not reach an agreement on any or all issues, a hearing shall be held, on motion, as set by the court.

703.02. Final Verified Disclosure Statement

Pursuant to FCRPP 3(3)(b), no later than 10 days prior to the hearing, the parties shall file an AOC-239, Final Verified Disclosure Statement, in the record if property matters are in dispute at that hearing. Additionally, pursuant to FCRPP 3(3)(c), a copy of AOC-239, Final Verified Disclosure Statement, together with any supporting documentation, shall be provided to

the opposing party's attorney or the pro se party within 30 days of the filing of the motion for hearing, unless the hearing date is set within 30 days of filing the motion for the hearing, upon which disclosure shall be at the order of the court.

703.03. Form of Testimony

A contested hearing is one in which the parties have not agreed upon the division of property, debts, custody, support or any one of the elements necessary to dissolve the marriage, and the taking of evidence to permit the Court to render a determination is necessary. Testimony in a contested dissolution proceeding shall be heard orally by the Court, except the testimony of any non-party witness, by agreement between the parties or with leave of court, may be taken by deposition and introduced at the hearing in lieu of the deponent's oral testimony. The deposition shall have been filed in the record not less than 24 hours in advance of trial.

703.04. Obtaining a Trial Date

A party seeking a contested trial date shall file a motion for trial. The trial shall not be continued except as otherwise ordered for good cause shown on the record.

703.05. Exhibits

Pursuant to FCRPP 3(4)(b), in the trial order, the court shall order parties to exchange the list of exhibits to be submitted at trial. Absent good cause shown, failure to provide an exhibit list may result in the exclusion of such exhibit at trial.

703.06. Court Ordered Experts

Pursuant to FCRPP 3(4)(a), a court-appointed expert's report shall be in lieu of live testimony, unless either party subpoenas the expert to testify or unless the court orders otherwise. The party who subpoenas the expert shall be responsible for paying the expert's fee for appearance at trial, unless otherwise ordered by the court.

703.07. Sanctions

The failure of a party to comply with this Rule may result in such Orders as are just, including, but not limited to, the following:

a. An Order that the matter set forth in the obedient party's statement are to be taken as established;

b. An Order prohibiting the disobedient party from introducing designated matters into evidence;

c. An Order staying further proceedings until the disobedient party or parties have filed the required Statement; and/or

d. An Order assessing court costs, including attorney fees, against the disobedient party.

704. Custody, Shared Parenting, Visitation and Support

704.01. See FCRPP 6, FCRPP 7, FCRPP 8 for rules relating to custody, shared parenting, visitation and support, including rules relating to a parent's intent to relocate.

704.02. Time-Sharing/Visitation

Pursuant to FCRPP 8, a parent shall be entitled to time-sharing/visitation as ordered by the court, which may be in accordance with the Standard Holiday/Vacation Parenting Guidelines or the Model Time-Sharing/Visitation Guidelines, unless otherwise agreed to by the parties or ordered by the court. Model Time-Sharing/Visitation Guidelines are set forth in Appendix C to these Rules.

RULE 8. STATUS OFFENSES

801. General Provisions

For uniform statewide rules relating to status offenses, see FCRPP 37 through FCRPP 44 for rules which shall also apply in Kenton County.

802. Petition

802.01. A Complaint pursuant to KRS Chapter 630, Status Offenders, shall be filed with the Court Designated Workers, located in the Kenton District Court building, by any adult who has a reasonable basis to lodge such complaint. Pursuant to FCRPP 40, the following documents are required to be filed:

a. Every petition shall be accompanied by the AOC-JW-40, Preliminary Inquiry Formal/Informal Processing Criteria and Recommendations; and where diversion has been attempted pursuant to KRS 630.050, shall also include an AOC-JW-40.1, Unsuccessful Diversion Agreement, which includes preliminary intake inquiry findings.

b. A habitual truancy petition shall be accompanied by AOC-JV-41, Affidavit and Truancy Evaluation Form and in compliance with KRS 159.140.

c. A beyond control of school petition shall be accompanied by AOC-JV-38.1, Affidavit and Beyond Control of School Evaluation Form.

d. A beyond control of parent petition shall be accompanied by AOC-JV-38, Affidavit and Beyond Control of Parent Evaluation Form.

e. A habitual runaway petition shall be accompanied by the AOC-JW-39, Pre-Adjudicative Detention Criteria, with attachments.

802.02. Pursuant to KRS 610.030(2), the Court Designated Worker (CDW) shall have a conference with the party or parties to determine whether to:

a. Refer the child and family to a public or private social service agency before referring to the Court;

b. Enter into a diversionary agreement; or

c. Refer the matter to Court by filing a petition alleging habitual runaway, beyond control, or habitual truant.

802.03. If a Petition is filed with the Court, the CDW shall certify a copy to the County Attorney, Division of Youth Services (DYS), Department of Juvenile Justice (DJJ) and the Court/School Liaison. This certification shall apply to any orders entered by the Court in status proceedings.

803. Diversion

Pursuant to KRS 610.030, if the CDW determines that a status offense complaint meets the criteria for diversion and a diversion agreement is reached, a petition shall not be filed. Upon review of the diversion agreement, the court on its own motion, or upon written request to the court by the county attorney, may refer the complaint for formal hearing.

804. Summons

Pursuant to FCRPP 41, upon the filing of the petition, the clerk shall issue a summons to the parent(s) or other person exercising custodial control or supervision of the child, setting a date for initial appearance as directed by the presiding judge.

805. Proceedings

805.01. All Family Court Status initial hearings must be scheduled at least seven (7) days prior to the Hearing.

805.02. Pursuant to FCRPP 42(1) and KRS 610.060, the judge shall explain to the child on the record his or her rights and the charge, and shall utilize AOC-JV-49, Notice of Juvenile Rights and Consequences for Status Offenders.

806. Disposition

806.01. At least two (2) business days prior to the disposition hearing, the judge and counsel shall receive a disposition report to assist in final disposition.

806.02. For disposition, the court shall comply with FCRPP 42(4).

806.03. After disposition, DYS or DCBS shall monitor the juvenile's progress, and may seek further review or a violation hearing from the Court if needed.

806.04. Once a juvenile is placed on terms or other orders of the Court, failure to comply with the terms or orders may result in a contempt hearing.

807. Informal Adjustments

807.01. See FCRPP 43 for rules relating to informal adjustments.

808. Detention of Status Offenders

808.01. See FCRPP 44 for rules relating to the detention of status offenders.

RULE 9. MISCELLANEOUS

901. Interpreter Services in Court

901.01. Pursuant to Supreme Court amended order effective December 1, 2004, each county shall appoint a contact person to be responsible for communicating the need for staff interpreter or freelance interpreter services to the AOC Court Interpreting Services Division. The contact person for Kenton Family Court is the Judicial Secretary for the corresponding division. (See information below). Requests for interpreters shall be submitted either by phone, fax or email one (1) week prior to the date interpreting services is needed.

901.02. Judicial Secretary, Kenton County Justice Center, 230 Madison Avenue, Fifth Floor, Covington, Kentucky 41011, (859) 292-6533 or (859) 292-6364 office, (859)292-6617 fax.

902. Pro Se Divorce Clinic

902.01. Legal Aid of the Bluegrass and the Northern Kentucky Volunteer Lawyers shall conduct a pro se divorce clinic from time to time as those agencies shall determine.

902.02. Participation in the clinic shall be limited to individuals whose income is at or below 125% of the federal poverty level and shall be limited to dissolutions where there are no minor children of the marriage and no substantial non-marital property or debt in compliance with the requirements for participation in the clinic.

902.03. Legal Aid of the Bluegrass and the Northern Kentucky Volunteer Lawyers shall screen all potential participants for financial eligibility and suitability for participation in the clinic.

902.04. All pro se dissolution proceedings which have been filed by litigants after participation in the Pro Se Divorce Clinic shall be set for final hearing as follows:

a. After the Respondent has been served or the warning order report is filed, the pro se Petitioner shall telephone the office of the Kenton Family Court Judicial Secretary for a final hearing date.

b. At least seven (7) days prior to the scheduled hearing date, the pro se Petitioner shall file the notice of final hearing with the Court and shall mail a copy of the notice to Respondent or warning order.

902.05. All final hearings for dissolution cases filed through the Pro Se Divorce Clinic shall be placed on the uncontested docket or given a hearing date if it is contested. The hearings shall be held in the courtrooms of the respective divisions. Either division may hear cases assigned to the other and enter the findings of fact, conclusions of law and decree of dissolution.

903. Guardian Ad Litem Rules of Practice

903.01. Preface

a. Children are non sui juris.[1] Absent legislation which is constitutionally appropriate under the seventh part of the Kentucky Constitution, section 59, and other pertinent provisions of law, it shall be the policy of the Kenton Family Court to respect that important status and thereby promote the safety and care of children whose well-being is involved in litigation before this Court. When appointed as Guardian Ad Litem (GAL) for a child pursuant to a provision of the Kentucky Unified Juvenile Code or otherwise, it shall be the duty of that appointee to advocate for the client's best interest.

b. A GAL shall act in the capacity of attorney for a child. A GAL stands in the child's place to determine what the child's best interests and defense demand. Although a GAL does not have the powers of a regular guardian under KRS 387.010 *et. seq.*, a GAL fully represents the child and is endowed with similar powers for purposes of the litigation at hand. Therefore, the GAL is both a fiduciary and lawyer for the child, and, in a sense, the representative of the child.

c. Statements made by the GAL for a child to the Kenton Family Court, whether during a hearing or in a motion or memorandum or otherwise, are presumptively acts of speaking legally on behalf of the child or advocacy or both; they are neither evidence nor an implicit claim of expertise of any kind. A GAL for a child shall not be called as a witness during litigation in which that lawyer is representing a child.

d. There shall be no requirement of a formal written report to be filed by the

[1] Meaning that children lack legal age and capacity. *See Black's Law Dictionary* (8th ed. 2004).

GAL as a recommendation to the Kenton Family Court. The GAL shall make recommendations to the Court during hearings or otherwise in a manner that will present those recommendations to all litigants.

e. A GAL for a child shall not be required to complete a custody evaluation. Statements by a GAL regarding the award of custody and collateral matters shall not be regarded as a custody evaluation.

903.02. Practice Guidelines[2]

a. Settlement Letter/Joint Meeting

Prior to the final hearing in a case in which a GAL has been appointed, any litigant may move for a Joint Meeting between the GAL, the parties and their counsel to discuss the settlement of the case and to request that the GAL send opposing counsel a Settlement Letter outlining how the case might be settled. The Joint Meeting discussion may be conducted in conjunction with a pretrial conference to secure access to the presiding Judge for all parties at the same time. If sustained, the Joint Meeting may include what the GAL intends to say on behalf of the child, the efforts of the GAL to date, and the propriety of the GAL making other specified efforts. Discussion of extra, specified efforts by the GAL shall take into consideration the financial reasonableness of any such request.

b. Affidavit of Due Diligence

Prior to the final hearing in which a GAL is appointed, any litigant may move for an Affidavit of Due Diligence to state the number of hours that have been expended in the case, the functions that the GAL has completed, the tasks that have been performed, and the fee that the GAL has requested. In the absence of such a motion, a GAL may choose to tender an Affidavit of Due Diligence and use that opportunity to provide details about the case and thereby state his or her efforts in a clear context.

903.03. Counsel Roster

a. Appointment

There shall be created by the approval of these Rules by the Supreme Court of Kentucky, a roster of attorneys called the KRS 620 Guardian Ad Litem and Appointed Counsel Roster (herein referred to as "Roster") to serve as GALs and separate counsel pursuant to the provisions of KRS 620.100.

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[2] In ruling on the merits of these motions the Judges of the Kenton Family Court shall be mindful of the duty of a Guardian Ad Litem to exercise independent judgment. A Guardian Ad Litem must make his or her own decisions about a particular case and litigants may not dictate when or how the decisions of the Guardian Ad Litem are made.

b. **Application for Appointment**

Pursuant to the enactment of these Rules, all eligible attorneys who wish to serve as GALs and be Roster members, including those who are currently or have previously acted in this capacity, will need to (re)apply for membership each year. The term for appointment is one year expiring November 1 each and every year or until a successor is appointed. The Court will designate and maintain the Roster's membership. The initial number of members shall be seven (7) for each division. This number and the designated members are subject to revision or removal by the Court.

c. **Obligations of Roster Members**

Persons eligible for service on the Roster shall meet the following obligations:

1. They must be in attendance and available for appointment during the first calls of new cases as often as the Judges of Kenton Family Court shall require.

2. They must average three (3) hours of approved educational programs per year.

3. They shall attend a basic GAL seminar provided through the Administrative Office of the Courts. Should that particular training cease to be offered, then another such training approved by the Administrative Office of the Courts may be substituted.

d. **Special Duty of Roster Members for Dependency, Neglect, and Abuse and Termination of Parental Rights**

1. The attorney who represents or has represented a parent or child in a Dependency, Neglect and Abuse case, unless objected to by that parent, should also counsel and if necessary, represent him or her in the Termination of Parental Rights action.

2. When there is no pending termination of parental rights litigation in the Kenton Family Court and when a parent wants to voluntarily give up his or her parental rights, the Roster member who is involved in the proceeding, if asked by the parent, shall within a reasonable time counsel him or her. That Roster member shall advise about legal issues arising in a voluntary termination of parental rights case and try to ascertain whether such a relinquishment would be made with understanding of what it entails and without improper coercion. Thereafter, if the parent wishes to surrender parental rights to a child or children, the Cabinet for Health and Family Services ("Cabinet") shall be notified so that it may be ascertained whether the Cabinet is willing to be involved in such litigation or in collateral involuntary termination of parental rights litigation and whether it is feasible for an appropriate attorney's fee to be paid. If both the parent and the Cabinet are receptive to a voluntary termination of parental rights and if statutory compensation for the Roster member appears to be available, then that member shall prepare and file a voluntary petition for termination of parental rights and he or she shall participate as counsel in that lawsuit and in any precautionary

involuntary termination of parental rights lawsuit that is collateral to it. The Kenton Family Court will award that member of the Roster those attorney's fees under the Kentucky Unified Juvenile Code as are appropriate for services rendered both before and after filing of the petition.

3. Additionally, the attorney shall, having served as GAL or separate counsel, serve in the same capacity in a sequential involuntary termination of parental rights case if appointed by the Kenton Family Court.

903.04. Permanency Litigation Panel

a. There shall be created by the approval of these Rules by the Supreme Court of Kentucky, a panel of attorneys (herein referred to as "Permanency Litigation Panel") to serve as GALs who are entitled to serve as appointed counsel in Adoption, Dissolution of Marriage, Petition for Permanent Custody pursuant to KRS Chapter 403 or as Amicus Curiae in such proceedings. The number and initial membership of the Permanency Litigation Panel shall be decided after the application process described above in KCFLRP 903.03(b.) and are subject to removal by the Judges of the Kenton Family Court. Applications for the Permanency Litigation Panel shall be accepted year round. The obligations of the Permanency Litigation Panel are the same as the Roster members described above in KCFLRP 903.03(c.).

b. **Special Rules Concerning the Permanency Litigation Panel and Child Custody Litigation**

The Court, in its discretion, shall decide how to best protect the interests of any child or children involved in custody litigation. The Court may, *sua sponte*, appoint a member of the Permanency Litigation Panel as Amicus Curiae to serve the interests of justice. Any party involved in custody litigation may move the Court for appointment of a GAL.

c. **Permanency Litigation Panel and Attorney's Fees**

Persons appointed as GALs and Amicus Curiae shall be entitled to a reasonable fee.[3]

903.05. Joint Administrative Rules for Roster Membership and the Permanency Litigation Panel

a. **Role of Each Panel**

As previously enumerated within this Rule, the role of each Panel shall be as follows:

[3] There may be extraordinary cases in which a member of the Permanency Litigation Panel will be required to work without expectation of reasonable compensation, in that situation a Judge of this Court should make note of this in the order of appointment.

1. **KRS 620 Guardian Ad Litem and Appointed Counsel Roster ("Roster").** These members shall serve as GAL and separate counsel pursuant to the provisions of KRS 620.100.

2. **Permanency Litigation Panel.** These members shall serve as GAL entitled to serve as appointed counsel in Adoption, Dissolution of Marriage, Petition for Permanent Custody pursuant to KRS Chapter 403 or as Amicus Curiae in such proceedings.

b. **Vacancy**

When a vacancy arises, notice of that fact shall be published through the auspices of the Northern Kentucky Bar Association. The vacancy shall be filled from among those candidates who timely submit a letter, assuring that the minimum requirements of these Rules are met, to the Kenton Family Court.

c. **Compensation**

1. Motions for compensation by Roster and Panel members shall be accompanied by an affidavit detailing: (A.) The statutory basis for appointment; (B.) The hours of service rendered with a brief description of the services rendered and reasonableness of the fee requested; and, (C.) That the action or proceeding has been concluded and date of disposition. In addition, where the appointment is made under KRS Chapters 620 and 625, Roster and Panel members' compensation shall not exceed the maximum fee authorized by KRS Chapters 620 and 625.

2. The award of attorney's fees in accordance with the attached fee schedule shall be limited to members of the pertinent group which is eligible for appointment, to wit, either Roster or Permanency Litigation Panel members.

d. **Appointments**

1. In each Panel, the priority of appointments shall be given to those members who have already had appointments in cases involving the family which is again involved in litigation.

2. The Family Court Judicial Secretary shall prepare schedules, setting forth the dates upon which regular court proceedings are to be held, that shall provide which members of the pertinent panel are to have appointments in new cases on those days.

3. Appointments in paternity cases as GAL for putative fathers or mothers in prison or otherwise under incapacity shall be awarded to interested members of the Roster or Permanency Litigation Panel on a rotating basis.

e. **Kenton Family Court Advisory Committee**

Herein referred to as the "Advisory Committee," this group shall be created by the

Kenton Family Court from among members of the Roster and the Permanency Litigation Panel; it shall consist of a Chairperson and four (4) other members and each shall serve a two (2) year term. Members may be reappointed or removed by the Kenton Family Court. Responsibilities of the Advisory Committee shall be to prepare or approve the education as mentioned in subsection "D" in addition to any other duties the Court shall assign.

f. **Accountability**

The Kenton Family Court Judges shall preside over the accountability of the Roster and Permanency Litigation Panel members. The Court shall conduct an annual review of the Roster and Permanency Litigation Panel. The Court, in its discretion, may declare all memberships vacant and invite an application process to fill the membership. The Court may choose to meet with the individuals or groups of the Roster and Permanency Litigation Panel at its discretion.[4]

g. **Fee Schedule**

Rendition of services pursuant to appointment and compensated in accordance with these Rules will be taxed as costs of the proceeding. Failure to make payment, within a reasonable time, of any fee awarded, can, in the discretion of the Kenton Family Court, be sanctioned.

903.06. Warning Order Appointments and Guardians Ad Litem for Prisoners and Persons of Unsound Mind

a. All practicing attorneys who are licensed to practice law before the Supreme Court of Kentucky are eligible to apply for and be placed on a rotating list, maintained by the Judges of the Kenton Family Court pursuant to CR 4.07. Upon rendering the Warning Order Report as required by CR 4.07, the Warning Order Attorney shall be entitled to a fee, as authorized by the Kentucky Civil Rules, and as set forth within these Rules and be taxed as costs in the proceeding. Persons who are located by a Warning Order Attorney, who are eligible for the appointment of counsel under KRS Chapter 600 *et. seq.* and want the Warning Order Attorney to represent them, shall, absent extraordinary circumstances, have a lawyer appointed to act on their behalf in the pending litigation. These services shall be compensated pursuant to the provisions of KRS Chapter 600 *et. seq.*

b. In ordinary civil cases, the rotating list of Warning Order Attorneys shall also serve as rotating list for appointments of GALs under CR 17.04 for prisoners and persons of unsound mind. In extraordinary civil cases, to wit, those for which there is a statutory fee for GALs and appointed counsel under the Kentucky Unified Juvenile Code, appointments pursuant to CR 17.04 will be made to an appropriate member of the Roster or the Permanency Litigation Panel.

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[4] The Kenton Family Court reserves the right to utilize alternative regimens from time to time in accountability efforts and the above mentioned methods are not exclusive.

903.07. Modification

The provisions of the foregoing Rules are subject to modification, repeal, or alteration upon concurrence of all Judges on the Kenton Family Court and approval by the Chief Justice of the Kentucky Supreme Court.

904. Appeals

904.01. In a Family Court matter over which Circuit Court has jurisdiction, any appeal shall proceed by the Rules of Civil Procedure to the Court of Appeals.

904.02. If an appeal is from a proceeding in which there is only an audio recording, the appellant shall request from the Clerk of the Appeals Division a video stream recording of the proceedings to certify on appeal. There shall be a fee for the recording which is set by the Administrative Office of the Courts.

APPROVED this the 15 day of March, 2012.

Lisa Osborne Bushelman /Date
Family Court Judge, Div. 5

Gregory Bartlett/Date
Circuit Judge, Div. 3

Martin J. Sheehan /Date
Circuit Judge, Div. 1

3/15/12
Christopher J. Mehling/Date
Family Court Judge, Div. 2

Patricia M. Summe/Date 3/15/12
Circuit Judge, Div. 4

APPENDIX A

TABLE OF FAMILY COURT FORMS

FORM NUMBER	FORM NAME	RULE
AOC-152	Uniform Child Support Order and/or Wage Benefit Withholding for Kentucky Employers	701.09(b)
AOC-237	Status Quo Order	107.02
AOC-238	Preliminary Verified Disclosure Statement	701.08(a)
AOC-239	Final Verified Disclosure Statement	703.02
AOC-275.1	Domestic Violence Petition/Motion	401.01; Appendix B
AOC-DNA-1	Juvenile Dependency, Neglect or Abuse Petition	601.02
AOC-DNA-2	Emergency Custody Order	601.02
AOC-DNA-2.1	Affidavit for Emergency Custody Order	601.02
AOC-DNA-2.2	Notice of Emergency Removal	601.02
AOC-DNA-3	Order, Temporary Removal Hearing	601.02
AOC-DNA-4	Order, Adjudication Hearing	601.02
AOC-DNA-5	Order, Disposition Hearing	601.02
AOC-DNA-6	Order, Permanency Hearing	601.02
AOC-DNA-9	Order, Permanent Custody	601.02
AOC-DNA-11	Financial Statement, Affidavit of Indigence, Request for Counsel and Order	601.02
AOC-DNA-12	Dependency, Neglect or Abuse Dispositional Report	603.01
AOC-JV-38	Affidavit and Beyond Control of Parent Evaluation Form	802.01(d)
AOC-JV-38.1	Affidavit and Beyond Control of School Evaluation Form	802.01(c)
AOC-JV-41	Affidavit and Truancy Evaluation Form	802.01(b)
AOC-JV-49	Notice of Juvenile Rights and Consequences for Status Offenders	805.02
AOC-JW-39	Pre-Adjudicative Detention Criteria	802.01(e)

AOC-JW-40	Preliminary Inquiry Formal/Informal Processing Criteria and Recommendations	802.01(a)
AOC-JW-40.1	Unsuccessful Diversion Agreement	802.01(a)
	Model Time-Sharing/Visitation Guidelines	704.02; Appendix C

NOTICE: THESE FORMS ARE SET FORTH WITH THE UNDERSTANDING THAT THESE FORMS DO NOT FURNISH LEGAL ADVICE AND ARE NOT A SUBSTITUTE FOR LEGAL ADVICE. THE SERVICES OF AN ATTORNEY SHOULD BE EMPLOYED IN CONNECTION WITH THE USE OF THESE FORMS. NON-ATTORNEYS ARE CAUTIONED AGAINST USING THESE FORMS ON BEHALF OF OTHERS OR OTHERWISE USING THESE FORMS IN A MANNER WHICH MIGHT BE CONSIDERED THE UNAUTHORIZED PRACTICE OF LAW.

Supreme Court of Kentucky

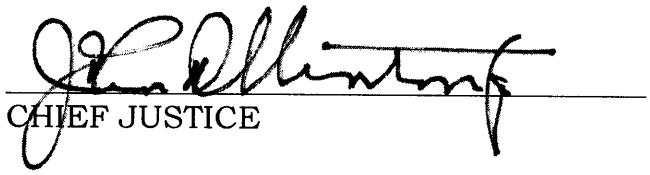
ORDER

IN RE: **ORDER APPROVING AMENDMENT TO APPENDIX B OF THE RULES OF PRACTICE OF THE FAMILY COURT FOR THE 16TH JUDICIAL CIRCUIT, KENTON COUNTY**

Upon the recommendation of the Judges of the 16th Judicial Circuit, Kenton County, and being otherwise sufficiently advised,

The amendment to Appendix B of the Rules of Practice of the Kenton Family Court 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 May 2016.



CHIEF JUSTICE

APPENDIX B

TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL
SIXTEENTH JUDICIAL CIRCUIT AND DISTRICT
KENTON 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 two hours 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 Circuit Court Clerk and any Deputy Circuit Court Clerk.

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 local police officer, sheriff's deputy, clerk, or deputy clerk is authorized to take domestic violence petitions and administer oaths to petitioners after regular business hours and weekends.

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

The Family Court Judges shall alternate every week as to who is "on duty." The Clerk or Deputy Clerk shall present the petition electronically to the Judge on duty and, if the on duty Family Court Judge cannot be reached within one hour, present the petition electronically to all District and Circuit Court Judges.

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

The Family Court Judge on call.

E. Petitions will be reviewed within one hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

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 District Court Domestic Violence Docket.

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

Family Court, Second Division: Wednesday at 9:00 a.m., every other week.
Family Court, Fifth Division: Wednesday at 9:00 a.m., every other week.
District Court, All Divisions: Monday at 10:30 a.m., every week.

Other dates may be scheduled periodically by the Courts as needed due to holidays, large dockets, etc. These dates shall be noticed in advance by the Court Judicial Secretary and shall be posted on the Courthouse monitors.

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 district clerk's office. The party wishing to file a contempt motion shall fill out the motion located in the district clerk's office. This motion will be presented to a Family Court Judge along with the file for review.

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:

Hon. Christopher Melling, Judge
Kenton Family Court, Div. 2

Hon. Lisa Bushelman, Judge
Kenton Family Court, Div. 5

Hon. Patricia Summe, Judge
Kenton Circuit Court, Div. 4

Hon. Kathleen Lape, Judge
Kenton Circuit Court, Div. 1

Hon. Gregory Bartlett, Judge
Kenton Circuit Court, Div. 3

Hon. Ann Ruttle, Judge
Kenton District Court, Div. 1

Hon. Kenneth Easterling, Judge
Kenton District Court, Div. 2

Hon. Douglas Grothaus, Judge
Kenton District Court, Div. 3

APPENDIX C

Standard Holiday/Vacation Parenting Schedule and Model Time-Sharing/Visitation Guidelines

This Standard Holiday/Vacation Parenting Schedule shall be used as a guideline to form an agreement between the parties. It shall not be used as a default schedule; however, it should be used as a foundation for establishing an agreement between the parties. The schedule ordered by the Court may or may not contain all of the elements of this Schedule or the Model Time-Sharing/Visitation Guidelines appended to the FCRPP and included in this Appendix C.

HOLIDAYS	EVEN # YEARS	ODD # YEARS	AS AGREED, OR
New Year's Holiday*	Mother	Father	12/31, 6:00 p.m.-1/1, 7:00 p.m.
Martin Luther King Day	Father	Mother	Sun., 6:00 p.m.-Mon., 7:00 p.m.
President's Day	Mother	Father	Sun., 6:00 p.m.-Mon., 7:00 p.m.
Easter	Father	Mother	Sat., Noon-Sun., 7:00 p.m.
Memorial Day	Mother	Father	Sun., Noon-Mon., 7:00 p.m.
Fourth of July	Father	Mother	7/4, 9:00 a.m.-10:30 p.m.
Labor Day	Mother	Father	Sun., Noon.-Mon., 7:00 p.m.
Halloween	Father	Mother	5:00 p.m.-8:30 p.m.
Thanksgiving	Mother	Father	Weds., 6:00 p.m.-Fri., 7:00 p.m.
Christmas Eve	Father	Mother	12/23, Noon-12/24, 10:00 p.m.
Christmas Day	Mother	Father	12/24, 10:00 p.m.-12/26, 6:00 p.m.
Kwanzaa	Father	Mother	1st night, 5:00 p.m.-9:30 p.m.
Rosh Hashanah Eve	Mother	Father	5:00 p.m.-9:30 p.m.
Rosh Hashanah Day	Father	Mother	9:00 a.m.-7:00 p.m.
Yom Kippur Eve	Mother	Father	5:00 p.m.-9:30 p.m.
Yom Kippur Day	Father	Mother	9:00 a.m.-7:00 p.m.
Passover (1st night)	Mother	Father	5:00 p.m.-9:30 p.m.
Hanukkah (1st night)	Father	Mother	6:00 p.m.-8:30 p.m.
Mother's Day	Mother	Mother	10:00 a.m.-7:00 p.m.
Father's Day	Father	Father	10:00 a.m.-7:00 p.m.
Child's Birthday (school)	Father	Mother	5:30 p.m.-8:30 p.m.
Child's Birthday (no school)	Father	Mother	10:00 a.m.-8:30 p.m.

*New Year's Holiday is governed by the year in which New Year's Day falls. It is <u>not</u> governed by the year in which New Year's Eve falls.

In the event of a conflict, the following is the <u>order of precedence</u>: 1. Holidays; 2. Extended periods; 3. Weekends; and 4. Midweek days.

Model Time-Sharing/Visitation Guidelines

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.**

1. The time-sharing/visitation schedule set by the court for holidays, school breaks and summer break should control over regularly scheduled time-sharing/visitation time, even if this allows successive time-sharing/visitation periods.

2. The parent exercising time-sharing/visitation should be responsible for timely picking up the child(ren) at the beginning of the time-sharing/visitation period and returning the child(ren) in a timely manner at the end of the time-sharing/visitation period.

3. Times in a time-sharing/visitation schedule should be set in the time zone where the child primarily resides.

4. For time-sharing/visitation times pertaining to school holidays, whether in a formal school or home-schooled, the school holidays where the child(ren) primarily resides should apply.

5. Each parent should provide to the other parent contact numbers and addresses (unless a domestic violence order is in effect) where the child(ren) can be located during their scheduled time-sharing/visitation time.

6. The parent exercising time-sharing/visitation should be given a minimum of every other weekend as time-sharing/visitation time with the child(ren) and one midweek overnight time-sharing/visitation. The parent having such time-sharing/visitation should be responsible for delivering the child(ren) to school, child care, or the other parent's home as specifically ordered by the court or agreed to by the parents.

7. Holidays

    a. If a holiday is celebrated on a Monday following a parent's regularly scheduled time-sharing/visitation, then that parent should be permitted to extend parenting time until 6:00 p.m. on the holiday, unless the parents agree otherwise.
    b. Other holidays
        i. Parent exercising time-sharing/visitation
            1. During the first full year after divorce/custody proceedings have been filed, the non-residential parent should have time-sharing/visitation scheduled as follows:
                a. New Year's Day and July 4th from 8:00 a.m. until 6:00 p.m.
                b. Thanksgiving, beginning at 6:00 p.m. the day school ends until 3:00 p.m. Thanksgiving Day.

c. Christmas/Winter Break, beginning at 6:00 p.m. the day school ends until noon on December 25.
d. Holidays not listed that are of special interest to the family should be assigned to the non-residential parent in time amounts similar to those in a, b and c above.

2. Holiday time not scheduled above to the parent exercising time-sharing/visitation should be with the other parent.

3. Mother's Day and Father's Day, regardless of any conflict with the above proposed schedule, should be spent with the appropriate parent from 8:00 a.m. until 6:00 p.m.

4. Fall Break or Spring Break, as allowed by the child(ren)'s school calendar, should be scheduled for the parent with whom the child(ren) primarily resides in the first full year after the divorce/custody proceedings are filed from 6:00 p.m. the day school ends until 6:00 p.m. the following Friday. If school breaks are longer than one week due to the school schedule, the parent with whom the child(ren) primarily resides should be scheduled for the first half of the break and the other parent should be scheduled for the last half.

5. Summer Break should be scheduled to allow the parent exercising time-sharing/visitation a minimum of two periods of two consecutive weeks during the Summer Break. Each parent should provide the time periods he or she desires to the other parent before the end of the school year, or at least 60 days in advance of the requested time. If a child(ren) must attend summer school in order to pass to the next grade, summer time-sharing/visitation should not prevent school time.

6. Birthdays: Unless the birthday falls on a regularly scheduled time-sharing/visitation day, the parent exercising time-sharing/visitation should be scheduled for birthday time from 5:00 p.m. until 8:00 p.m. If it is a regular day of the parent exercising time-sharing/visitation where the child(ren) does not primarily reside, the other parent should have birthday time from 5:00 p.m. until 8:00 p.m.

ii. Alternating years: For each year thereafter, the time-sharing/visitation set out above should alternate between the parent with whom the child(ren) primarily resides and the parent exercising time-sharing/visitation.

8. Waiting/Tardiness/Cancellations

a. In the event either parent will be more than 30 minutes late, due to reasonable unforeseen circumstances, to pick up the child(ren), he or she should provide direct

notice to the other parent or a designated third party and make suitable arrangements for exchange of the child(ren).

b. If time-sharing/visitation is missed through no fault of the parent, and reasonable notice has been given, that time should be made up, if reasonable to do so.

c. If the child(ren) is ill, the parent who has the child should give 24-hour notice, if possible, to allow for appropriate plans to be made.

9. Transportation: The parents should transport the child(ren) in a safe manner, which includes utilizing the appropriate child restraint systems and not driving under the influence of intoxicants.

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