

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 19TH JUDICIAL CIRCUIT, BRACKEN, FLEMING, AND MASON COUNTIES

Upon recommendation of the Chief Circuit Judge of the 19th Judicial Circuit, Bracken, Fleming, and Mason counties, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 19th Circuit, Bracken, Fleming, and Mason counties, 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 the 15th day of April 2014.


CHIEF JUSTICE JOHN D. MINTON, JR.

COMMONWEALTH OF KENTUCKY
19TH JUDICIAL CIRCUIT
(Revised April, 2014)

**IN RE: ORDER ADOPTING RULES OF COURT AND DESIGNATING MOTION
DAYS IN THE 19TH JUDICIAL CIRCUIT, KENTUCKY**

The following rules are adopted as rules of practice in all of the Circuit Courts of the 19th Judicial Circuit,
Commonwealth of Kentucky:

TITLE I – MOTION DAYS AND NOTICE OF MOTIONS

Rule 1. Motion Days

1.01 Schedule

As has been the practice of this Circuit, the following MOTION DAYS are established for all of the Circuit Courts of the 19th Judicial Circuit of the Commonwealth of Kentucky:

FLEMING COUNTY: the **FIRST** and **THIRD FRIDAY** of each month.
BRACKEN COUNTY: the **THIRD THURSDAY** of each month.
MASON COUNTY: the **SECOND** and **FOURTH FRIDAY** of each month.

1.02 Timing and Order of Dockets

Motion Day for Fleming and Mason Counties begins at 9:00 A.M.; however, Motion Day in Bracken County shall begin at 11:00 A.M. Attorneys filing motions to be heard are required to be present in person at the beginning of the motion hour. Civil matters will be heard first, followed by criminal matters.

1.03 Holidays

If Motion Day falls on a legal holiday, Motion Day shall be held on a day ordered by the Court.

1.04 Hearing of Motions

All motions shall be heard on Motion Day and in the county in which the action is filed except in an emergency or upon order of the Court.

1.05 Service

Service by mail relative to the date the motion shall be heard shall be posted **SEVEN (7) DAYS** preceding Motion Day. Actual service shall be made **FOUR (4) DAYS** preceding Motion Day. Motion Day shall not be included as a day for these purposes.

Rule 2. Notice to Clerk

The movant, with respect to all matters to be heard on Motion Day, shall lodge the motion or pleading with the clerk of the court in which the action is filed not less than **FOUR (4) BUSINESS DAYS (not counting the Motion Day)** before the date noticed for hearing. A copy of the notice shall accompany the motion or pleading delivered to the clerk.

TITLE II – MOTIONS, ORDERS, PRE-TRIAL MATTERS, AND JUDGMENTS

Rule 3. Motions

3.01 Oral or Written

Motions may be made orally during the progress of trial in chief, but all other motions must be made in writing.

3.02 Specify Relief Requested

All motions shall state precisely the relief requested and shall be accompanied, as specifically required by these Local Rules, by a supporting memorandum. Failure to do so may be grounds for denying the motion.

3.03 Convenience of the Court

No motion shall be filed with a notice that it shall be heard at the “convenience of the Court.” Motions in violation of this Local Rule shall be returned to the movant and shall not be docketed.

Rule 4. Orders and Judgments

4.01 Tendered Orders and Judgments

When a motion for judgment or order is presented to the Court, the judgment or order requested **shall be tendered therewith** except for cogent reason to the contrary.

4.02 Service and Distribution

All orders which are required under the Kentucky Rules of Civil Procedure (CR) and Rules of Criminal Procedure (RCr) to be served on opposing parties or counsel, including judgments, final orders and orders affecting the running of time for taking an appeal, shall contain directions to the Circuit Clerk for distribution thereof in the following manner:

Mail copies to: John Jones
Attorney for plaintiff, Jane Doe
208 Main Street
Florence, Kentucky 41042

4.03 Number of Copies

No motion shall be filed in the clerk’s office unless same is accompanied by a tendered order for the Court’s consideration (as stated in Local Rule Title II, Rule 4.01), together with a sufficient number of copies of the tendered order to permit the clerk to complete service thereof. This rule shall not apply if the order sought is required by Kentucky Rules of Civil Procedure (CR) to contain findings of fact to be made by the Court.

Rule 5. Pre-Trial Matters

5.01 Discovery

In all cases, discovery shall be completed no later than **FIFTEEN (15) DAYS** prior to the trial date, except where Kentucky Rules of Criminal Procedure (RCr) otherwise apply, or as otherwise ordered by the court.

5.02 Trial Briefs and Instructions

In all jury and bench civil cases, each party to the action shall file with the Court, no later than **FIVE (5) DAYS**, prior to trial, a trial brief and desired instructions. Briefs shall not exceed **FIVE (5) PAGES** in length. Briefs and instructions should be served on opposing parties or counsel. Criminal instructions must be filed by each side and may be filed under seal and not available to opposing counsel, if so requested, not later than **THREE (3) DAYS** before the trial date.

5.03 Preliminary Jury and Bench Trial Motions

All preliminary motions in regard to jury and bench trials shall be heard at a Motion Day preceding the trial or at a pre-trial conference. No preliminary motions shall be heard on jury and bench trial days except for extraordinary cause clearly proven to the Court.

Rule 6. Motions to Set Trial

6.01 Contents of Motion

All motions to set cases for trial shall state the nature of the action, whether or not a jury has been demanded, and the estimated length of trial.

6.02 Certificate of Readiness

All motions for assignment of a date for trial with jury in Bracken, Fleming, or Mason County shall have endorsed thereon, signed by counsel for the movant, the following:

CERTIFICATE OF READINESS

I hereby certify that this case stands ready for trial by movant; all matters necessary for its presentation to the Court and jury have been or shall be completed within sixty (60) days from this date.

DATE: _____

(SIGNATURE)
COUNSEL FOR MOVANT

6.03 Commencement of Trial

All jury trials shall commence at 9:00 A.M., unless otherwise ordered by the Court.

Rule 7. Withdrawal of Counsel

No order shall be signed permitting the withdrawal of counsel until counsel has set said motion on a regular Motion Day and has accompanied said motion with a copy of a certified letter to client and the proof thereof.

Rule 8. Presence Before the Court

No action will be taken concerning any matter before the Court (unless it is a signed agreement among all parties) unless an attorney representing the movant is physically present before the Court, except in an extraordinary circumstance with leave of Court. However, routine motions, such as requests for Warning Order Attorney or Guardian ad Litem fees, dismissal requests by Plaintiff, reports and orders of distribution, etc. may be acted upon by the Court without appearance, if no party objects.

TITLE III – DEPOSITIONS AND INTERROGATORIES

Rule 9. Depositions

9.01 Filing of Depositions

Originals of depositions shall not be filed in the Court record. The attorney who noticed the taking of a deposition shall be custodian of the record for the original deposition (and video tape, if one is taken), and shall present it when directed by the Court or any party involved in the proceedings. If ordered by the Court, relevant pages of a condensed deposition transcript shall be filed in the record if the deposition is the subject of any motion before the Court.

Rule 10. Interrogatories.

Each party is limited to a total of **THIRTY (30)** (including subparts) interrogatories or requests for admission. Any party may move the Court for permission to propound either interrogatories or requests for admission in excess of the limit of thirty (30).

TITLE IV – RECORDS AND DISPOSITION OF EVIDENCE

Rule 11. Removal of Records from Cabinet

The clerk shall not permit any person, except a deputy or an employee in the clerk's office, to take papers from the cabinet in which they are stored.

Rule 12. Withdrawal and Return of Records

12.01 From Clerk's Office

No records or parts thereof shall be taken from the clerk's office except: for purpose of hearing; to the courtroom or to a judge; to the office of a commissioner; in pursuance of some statute authorizing or requiring such removal; or in obedience to legal process or order of the Court.

12.02 Commissioners

The commissioner shall receipt to the clerk for all papers taken by them from the clerk's office and shall not permit them to be taken from their control.

12.03 Attorneys

An attorney may take a record from the clerk's office upon written order from the Court which shall specify when same is to be returned. The attorney must receipt for record on such order. When the record is returned, the clerk will endorse a receipt to attorney on such order.

12.04 Violation

Any violation of this rule shall be dealt with by the Court as a contempt procedure.

Rule 13. Duty of Clerk

Except by leave of Court, the clerk shall not suffer any paper once filed to be withdrawn. Unless specifically stated to the contrary in the Court's order, the clerk shall see that a true copy is retained in the file at the cost of the party withdrawing it.

Rule 14. Disposition of Evidence

At the end of any hearing and/or the conclusion of a trial where controlled substances, guns, live ammunition, explosives, toxic or noxious materials, or currency have been entered into evidence, these items shall be returned to the police authority having custody before the hearing or trial, unless otherwise ordered by the Court. The Court, in its discretion, may order similar retention and safekeeping of other bulky, valuable or dangerous goods.

TITLE V – COURT PERSONNEL

Rule 15. Attendance in Court

The sheriff or a deputy and the clerk or a deputy shall attend court while in session unless expressly excused by the Court. The clerk or a deputy shall operate the video record system.

TITLE VI – DOMESTIC RELATIONS CASES

Rule DR 1. Introduction/Administrative Procedure

1.01 Introduction/Preface

The 19th Judicial Circuit hereby incorporates all rules within the Family Court Rules of Practice and Procedure (FCRPP), and all previous rules under Title VI of the 19th Judicial Circuit Court Local Rules shall be rescinded. All rules falling within Title VI of the 19th Judicial Circuit Local Rules shall serve to supplement the FCRPP, Kentucky Rules of Civil Procedure (CR) and Kentucky Rules of Criminal Procedure (RCr).

1.02 Incorporation into Civil/Criminal Local Rules

All rules established herein shall be incorporated by reference as the revised Title VI of the 19th Judicial Circuit Local Rules previously titled “Domestic Relations Cases – Reference and General,” and shall be referenced as DR 1, DR 2, etc.

1.03 Effective Date

The effective date of these rules shall be thirty (30) days after Kentucky Supreme Court approval.

Rule DR 2. Court Scheduling/Motion Hour/Procedures for Filing

All procedures related to court scheduling, motion hour, and procedures for filing are provided for under the 19th Judicial Circuit Local Rules, Title I.

Rule DR 3. Adoptions/Termination of Parental Rights

Counsel in an adoption proceeding shall contact the Court to determine how much of a background check or references will be required in relative adoption cases.

Rule DR 4. Domestic Violence Protocol and 24 Hour Access Policy

The Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for the 19th Judicial Circuit and District (Bracken, Mason and Fleming Counties) is hereby incorporated by reference and set forth as Appendix A to these Rules.

Rule DR 5. Domestic Relations Practice

5.01

Appearances, Waivers and Agreements

- A. Any unrepresented party who signs and acknowledges an appearance and waiver or agreement shall do so before a clearly identified notary public, the circuit clerk or any of his or her deputies, or any official stenographer of the circuit court.
- B. If an entry of appearance is filed and does not waive notice of future proceedings, including the filing of exceptions and the submission for judgment or decree, notice must be given of said proceedings.
- C. All agreements and agreed orders shall contain the correct mailing and e-mail addresses for the attorneys and parties.
- D. The parties and parties' counsel, if any, must sign all agreements and agreed orders.

5.02

Preliminary Mandatory Disclosure

A. Certification

AOC-238 (Preliminary Verified Disclosure Statement) or any subsequent replacement form requiring the same or similar information shall be filed in the Court record, unless parties or parties' counsel certify in writing that said disclosure has been made in accordance with FCRPP 2(3).

B. Completion in Maintenance/Spousal Support Cases

In cases where maintenance and spousal support are not at issue, any section of a mandatory disclosure form (such as AOC-238 or any subsequent replacement form) requiring the listing of monthly expenses need not be completed.

5.03

Value and Right to Future Payments

In all instances where a pension, retirement plan, profit sharing, deferred compensation or other plan which may lead to future payments exist as property between the parties, the parties shall ascertain an approximate value of all such plans as well as any right to receive future payments.

5.04

Custody Order or Modification of Custody Order or Decree

- A. Application for a custody order or to modify a custody order or custody decree shall be to the Court on motion, and affidavits as required by law, with notice to all parties, for hearing by the Court in accordance with procedures established by FCRPP 7, Kentucky Revised Statutes and these Local Rules.
- B. The affidavits in support of motion to modify a temporary custody order or custody decree shall, in addition to facts supporting the requested order sought, indicate:
 - 1. The date and recording information of the order or decree sought to be modified;
 - 2. The substance of the order or decree; and,
 - 3. The circumstances or the change of circumstances relied upon by the party seeking the modification.

5.05 Appearance Required Before Entry

Prior to a decree for dissolution of marriage being entered, the parties, in person or through counsel, must appear before the court on a regularly scheduled Motion Day, unless otherwise ordered or permitted by the court. Note: This does not require a trial, but merely an appearance.

5.06 Affidavits

A. Form in Proceedings for Dissolution of Marriage, Legal Separation or Maintenance

Pursuant to FCRPP 3(1), in each proceeding for dissolution of marriage, legal separation or maintenance, an affidavit signed by moving party and notarized must be filed with the complaint and must contain the following:

1. Statement as to whether either party has been previously divorced, or a party to a decree of legal separation or dissolution of marriage, and if so, when and where the decree was granted.
2. Statement as to age and condition of health of affiant.
3. Statement as to whether affiant owns any real estate. If any real estate is owned, give location and value.
4. Statement as to whether affiant is employed, the wages or salary received.
5. Statement of affiant as to his or her other income.
6. Statement as to the age and health of the respondent.
7. Statement of affiant as to whether respondent owns any real estate, and as to whether he/she is employed.
8. Statement as to whether any children were born of this marriage, giving the place of residence, sex and date of birth of any such children, and the name(s) of the custodian(s) of said children.
9. Statement as to whether respondent is now or has been in active military service of the United States at any time during the pendency of this action.
10. If a woman, whether now pregnant.
11. The questionnaire form required by the State Department of Health, pursuant to KRS 213.340, shall be filed with the affidavit.

B. Three Day Affidavit

An affidavit must be signed by moving party and notarized within three (3) days before judgment is tendered and be filed with the judgment containing statement as to whether any material change in the circumstances of either party has occurred since the first affidavit was executed and since the taking of proof as would cause any witness herein now to testify differently and whether any resumption of normal marriage relationship has occurred, and if a woman, whether now pregnant.

5.07 Emergency Notice for Custody, Maintenance, or Support

In addition to the requirements of FCRPP 5, FCRPP 7 and FCRPP 9, parties shall adhere to the following:

- A. In an emergency for temporary order for custody, maintenance, and support or to modify and review same, a party on motion, with such notice as practicable, supported by affidavit of movant stating facts to establish the emergency, may move the Court, in person or by counsel, for order of emergency temporary custody, maintenance, or support for a period of up to thirty (30) days.
- B. Affidavit of movant must fully explain the need for emergency custody, maintenance and/or support, and if applicable, why notice could not be given.

- C. Such motions may be heard at any time in term or out of term at any location in the 19th Judicial Circuit.
- D. Any motion for maintenance or support must be accompanied by a child support worksheet and an affidavit of the moving party setting forth the number of children of the marriage and the income of the parties.

5.08 Child Support

Child support shall be determined pursuant to the support guidelines established in KRS 403.212, with exceptions for good cause shown, in addition to the requirements of FCRPP 9.

5.09 Visitation Rules

- A. Pursuant to FCRPP 8(1), a parent shall be entitled to time-sharing/visitation as ordered by the court, unless otherwise agreed to by the parties or ordered by the court.
- B. The Local Time-Sharing/Visitation Guidelines are set forth as Appendix B to these Rules. The Guidelines set forth in Appendix B are not default provisions.

Rule DR 6. Miscellaneous Rules Relating to Family Law Practice

6.01 Protection of Personal Identifiers

All pleadings must comply with the requirements of KRS Chapter 205, 403 and 407, by providing the personal identifying information required in those chapters. However, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court, parties shall comply with CR 7.03(1)(b) by filing one copy from which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in the child support matters attendant to the case, or a person authorized to view the copy by specific orders of the court. As used in this section, "personal identifier" means a Social Security number or tax-payer identification number, date of birth, or financial account number.

6.02 Motions Contemporaneously Sent to Judge

Any motions filed with the clerk in the 19th Judicial Circuit under KRS Chapter 403 shall be contemporaneously sent by fax, e-mail or hand-delivery to the Circuit Judge or Circuit Judge's secretary due to possibility of not having regularly scheduled Motion Day in the county where said motion is to be filed within any period prescribed by the FCRPP.

6.03 Rules Omitted. Local Rules 16 -25 are hereby omitted due to the revision of Title VI and so as to maintain numbering of all other Titles within the 19th Judicial Circuit Local Rules.

**TITLE VII – COMMISSIONER, REFERENCES, JUDICIAL SALES FEES,
ALLOWANCES AND ADVERTISING**

Rule 26. References to Commissioner

References shall be had to the commissioner as provided by the Kentucky Rules of Civil Procedure (CR), Kentucky Revised Statutes, the Administrative Procedures of the Court of Justice (AP) Part IV, these Local Rules, or court order in individual cases. The order shall be sufficiently specific to indicate clearly the purposes of the reference and the duties to be performed by the commissioner therein.

Rule 27. Judicial Sales

27.01 Judicial Sales

Unless specific provisions be made to the contrary in the judgment or order directing a sale, all judicial sales (i.e., sales under judgment or order) shall be made by the commissioner.

27.02 Execution or Attachment

Sales under execution or attachment shall be made by the sheriff.

27.03 Time and Place

The judgment shall direct the time and place of all judicial sales by the commissioner. During the conduct of a judicial sale, the commissioner shall have the power to keep order or the commissioner may call the sheriff or deputy to keep order.

Rule 28. Deposit for Advertisements

When any order is made requiring advertisements or notice by newspaper or hand bill, the party on whose motion said order is made shall deposit with the commissioner an amount of money sufficient to pay the costs of such advertisement or notice. Until such deposit is made, the commissioner shall not be required to make such advertisement or publish such notice. The commissioner is authorized, in his discretion, to advertise by summary description.

Rule 29. Insurance

29.01 Obtaining Insurance

Where the property sold includes insurable improvements, the successful bidder at such sale shall at such bidder's own expense carry fire and extended coverage insurance on said improvements from the date of the sale until the purchase price is paid to the extent obtainable or to the court appraised value of said improvements, or to the unpaid balance of the purchase price, whichever is less as a minimum, with loss clause payable to the Master Commissioner..

29.02 Written Evidence of Insurance

Written evidence of such insurance, as obtained pursuant to Local Rule 29.01, shall be furnished by the purchaser to the commissioner within twenty-four (24) hours of the date of sale.

29.03 Purchase Money Bonds

Where purchase money bonds are executed the deed of conveyance shall provide that such insurance shall be carried, and failure to carry such insurance shall be a default on the part of the purchaser for which the purchase money bonds may be declared due.

29.04 Failure to Obtain Insurance

Failure of the purchaser to effect such insurance shall not affect the validity of the sale or the purchaser's liability therein, but shall entitle the party or parties entitled to receive the purchase price to effect said insurance and furnish the policy or evidence thereof to the commissioner if they so desire, and the premium thereon or the proper portion thereof shall be charged to the purchaser at the purchaser's costs.

Rule 30. Confirmation of Report of Sale

Ten (10) days after the filing of a commissioner's Report of Sale, and no objections having been filed thereto, an Order Confirming Sale may be filed with the Clerk of the Court, who shall submit the order to the Court. The party submitting the order shall serve copies of the same as required by CR 5, and so certify. The purchaser must also be served.

Rule 31. Commissioner's Fee, Allowances, and Deeds

Fees and/or allowances shall be set by separate order of the Court, but shall in no event be less than the fees prescribed by the Administrative Procedures of the Court of Justice (AP) Part IV.

TITLE VIII – CLASS D FELONY PRETRIAL DIVERSION

I. Definition

Pretrial diversion is the postponement of imposition of sentence upon any person who qualifies for this program, for a period of time not to exceed five (5) years, subject to certain conditions established by the Court.

II. Persons Eligible

KRS 533.250

- A. Any person charged with a Class D felony, who has not had a felony conviction in the ten (10) years prior to commission of the current offense, or who has not been on felony probation or parole or released from felony incarceration within the ten (10) years prior to commission of the current offense, shall be eligible to be considered for pretrial diversion.
- B. The person charged must enter a plea of guilty, or a plea pursuant to North Carolina v. Alford, before becoming eligible for pretrial diversion.
- C. Persons ineligible for probation, parole or conditional discharge under KRS 532.045 shall be ineligible for this program.
- D. A person convicted of a Class D felony for which early release is disallowed by statute, including KRS 189A.010(8), shall be ineligible for this program.
- E. No person shall be eligible for this program more than once in any five (5) year period.
- F. No person shall be eligible for this program who has committed a sex crime as defined in KRS 17.500.

III. Procedure

- A. After indictment in Circuit Court, and no later than thirty (30) days before trial, any person eligible for the program may apply to the Circuit Court and the Commonwealth's Attorney for entry of a pretrial diversion order.

- B. In applying for pretrial diversion, counsel for defendant must state, and the defendant must agree on the record, that in the event diversion is granted, any right to a speedy trial or disposition of the charge against him/her is waived.
- C. The Commonwealth shall make a written recommendation to the Court in response to each application. KRS 533.250(6).
- D. Before making a recommendation to the Court, the Commonwealth shall:
 - 1. Have a criminal record check made by telephoning Pretrial Services at AOC at 1-800-928-6381, or faxing the request to (502) 573-1669, or otherwise obtain a criminal history of the defendant. (**DO NOT** send requests to the local Pretrial Services Officer.) KRS 533.252.
 - 2. Attempt to interview and seek input from the victim and/or victim's family and to advise them of the time, date and place the motion will be heard by the Court; and
 - 3. Conduct any other investigation that the attorney for the Commonwealth determines may be necessary to set proper conditions of pretrial diversion.
- E. When diversion is recommended, the Commonwealth must make written recommendations to the Court of conditions for the pretrial diversion as well as the appropriate sentence to be imposed if the diversion agreement is unsuccessful.

IV. Order of Pretrial Diversion

- A. The Court may, in its discretion, and only if the Attorney for the Commonwealth so recommends, order pretrial diversion for eligible petitioners upon terms and conditions it deems appropriate. (AOC Form 345, styled Order Granting Pretrial Diversion of a Class D Felony, was designed for this purpose.)
- B. The Order of Diversion shall include:
 - 1. Restitution, if applicable.
 - 2. Whether the diversion shall be supervised or unsupervised (and include supervision fees, if applicable).
 - 3. Duration of the diversion.
 - 4. Requiring defendant to obey all rules and regulations imposed by Probation and Parole.
 - 5. As required by KRS 533.030(1) [conditions of probation-restitution], directing the defendant not to commit any offense during the period of pretrial diversion.
 - 6. Directing the defendant to comply with any other provision of KRS 533.030 or any other condition the Court deems appropriate.
- C. The Order of Diversion **may** include:
 - 1. That the petitioner remain drug and alcohol free and be subject to random testing.
 - 2. That the petitioner possess no firearm or any other deadly weapon.
 - 3. Other reasonable conditions that the Court imposes.
- D. Duration of the pretrial diversion shall not exceed five (5) years without agreement of the petitioner. Duration of the diversion agreement shall not be less than the time required to make restitution in full.

V. Voiding a Diversion Order

- A. After a hearing, with notice to the Commonwealth and to the defendant, the Court may void a person's participation in pretrial diversion upon a showing of failure to comply with the conditions

of diversion or a failure to make satisfactory progress. (AOC Form 346, styled Order Voiding Pretrial Diversion of a Class D Felony, was designed for this purpose.)

- B. If an order of pretrial diversion is voided, the defendant shall be sentenced according to law, based on his or her prior plea of guilty/plea pursuant to North Carolina v. Alford.
- C. Under KRS 533.256(2), the same criteria applicable to a probation revocation hearing applies to a proceeding to void an order granting diversion. Pursuant to KRE 1101(d)(5), the Rules of Evidence are inapplicable in miscellaneous proceedings such as those revoking probation. A proceeding to determine whether an order granting diversion should be voided also constitutes a miscellaneous proceeding and therefore the Rules of Evidence are inapplicable to such hearings.

VI. Completion of Diversion Program

If the defendant successfully completes the provisions of the pretrial diversion agreement, the charges against the defendant shall be dismissed.

- VII. This pretrial diversion protocol shall not be construed to give any defendant a right or entitlement to pretrial diversion in any case, nor shall it allow any action for failure to recommend or approve pretrial diversion.

TITLE IX – MISCELLANEOUS

Rule 32. Preparation of Filings

All pleadings, motions, orders and judgments shall be mechanically or electronically prepared. If forms are used, any blanks shall be completed by mechanical means and not by hand, unless permitted by the Court. Paper 8.5" by 11" shall be used for all purposes.

Rule 33. Caption of Original/Intervening Complaint

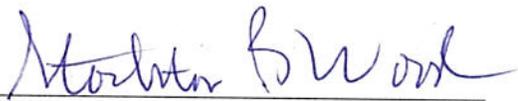
The caption of each original complaint and intervening complaint shall show the address, if known, of each party. If a defendant is under disability, the caption shall state the nature of the disability and who shall be served.

Rule 34. Dress of Attorneys

All attorneys appearing as counsel before the Court shall at all times be appropriately attired.

These rules are effective upon approval by the Supreme Court of the Commonwealth of Kentucky.

APR 14 2014



STOCKTON B. WOOD, JUDGE
19TH JUDICIAL CIRCUIT
COMMONWEALTH OF KENTUCKY

APPENDIX A

TWENTY-FOUR (24) HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL

19TH JUDICIAL CIRCUIT AND DISTRICT BRACKEN, FLEMING AND MASON COUNTIES

Pursuant to KRS 403.735, and in compliance with Kentucky Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure 24-hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the 19th Circuit and District Courts.

I. Uniform Protocol for Handling Cases

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence matters may be reassigned from the district court division to the circuit court when there is a dissolution/custody proceeding pending.
- D. No jurisdiction shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.
- E. Domestic violence cases shall be reassigned or transferred to another circuit under the following circumstances:

If at any time during the processing of a domestic violence case it is found there is a pending dissolution or custody matter, then consistent with FCRPP 12, the domestic violence case shall be reassigned to the circuit court with appropriate jurisdiction. The emergency protective order shall continue, and the summons to the appropriate court shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date the case is transferred, or for as long as the Court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed by the court of jurisdiction to which the case is transferred.

II. Twenty-Four Hour Accessibility

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

Circuit Court Clerks and deputy clerks
Sheriffs and deputy sheriffs
City police officers

Women's Crisis Center staff

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

Sheriffs and deputy sheriffs
City police officers
Women's Crisis Center staff

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

District Court Judge (for Fleming County) or Trial Commissioners (for Bracken and Mason Counties), as appropriate, or
Circuit Judge, if no other judge or trial commissioners can be located

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

District Court Judge (for Fleming County) or Trial Commissioners (for Bracken and Mason Counties), as appropriate, or
The assigned on-call judge or trial commissioner

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

The on-call trial commissioner assigned for all three counties,
The other trial commissioner, or District Court Judge, if available, or
Circuit Judge, if no other judge or trial commissioners can be located

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

- G. The schedule for domestic violence hearings is as follows:

Bracken County: 1st Tuesdays at 1:00pm; 3rd Tuesdays at 11:00am & 5th Tuesdays at 10:30am

Fleming County: 1st Thursdays at 1:00pm; 3rd Thursdays at 10:30am & 5th Thursdays at 10:30am

Mason County: 1st Mondays at 1:00pm & 3rd Mondays at 1:00pm

NOTE: Domestic Violence hearings may be scheduled for the same time and date as hearings for related criminal charges.

III. Contempt Proceedings

- A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.
- B. Petitioners seeking to initiate civil contempt proceedings (AOC Forms available) should contact:

Bracken Circuit Clerk, 606-735-3328
Fleming Circuit Clerk, 606-845-7011
Mason Circuit Clerk, 606-564-4011

C. Petitioner's Failure to Appear or Prosecute

- (1) No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order except for good cause shown on the record. Failure to appear may result in denial of the petition.
- (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.

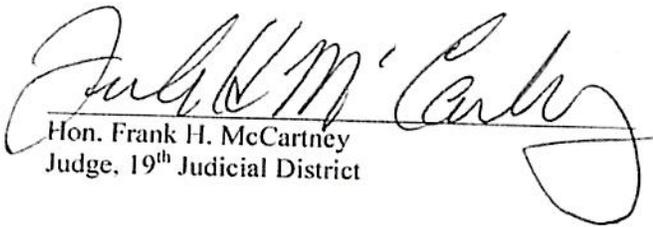
All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judges in the 19th Judicial Circuit/District:

Adopted this 1 day of Nov, 2023.



Hon. Stockton B. Wood
Judge, 19th Judicial Circuit



Hon. Frank H. McCartney
Judge, 19th Judicial District

Appendix B

LOCAL TIME-SHARING/VISITATION GUIDELINES 19TH JUDICIAL CIRCUIT (BRACKEN, FLEMING AND MASON COUNTIES)

RULES OF VISITATION AND PARENTAL CONDUCT

Liberal visitation arrangements are encouraged by the 19th Judicial Circuit Court as contact with both parents is important to the children. You may also agree, and are encouraged to agree, to any additional visitation for your convenience, or that is beneficial to your child. Changes or modifications can be made by the Court if need for such is shown.

The following guidelines are not and shall not be construed as a default time-sharing/visitation schedule.

VISITATION SHALL BE AT SUCH TIMES AND PLACES
AS THE PARTIES MAY AGREE.

This will not normally be less than:

1. **Weekends:**

Alternate weekends from Friday at 5:30 p.m. until Sunday at 6:00 p.m. for all children twelve (12) months of age or older. If the child is less than twelve (12) months of age, weekend visitation shall be from 10:00 a.m. to 6:00 p.m. on Saturday and Sunday.

2. **Midweek:**

One evening each week, on Wednesday at 5:30 p.m. to 8:30 p.m.

3. **Holidays:**

In the **odd-numbered** years, the custodial parent has Easter and Christmas Day; and the non-custodial parent has July 4th, Thanksgiving, and Christmas Eve.

In the **even-numbered** years, the schedules are reversed.

Memorial Day and Labor Day attach to the preceding week.

- A. A holiday that falls on a weekend should be spent with the parent who would normally have the children for that holiday. The rest of the weekend is to be spent with the parent who would normally have that weekend. These do not have to be made up.
- B. Mother's Day and Father's day shall be spent with the appropriate parent. Hours are as agreed, or 10:00 a.m. to 7:30 p.m.
- C. Other days of special meaning, such as religious holidays, or national birthdays, should be decided together, written into the Court order, and alternated as above.

D. Hours for parents who cannot agree are as follows:

- i. Easter: 10:00 a.m. to 7:30 p.m.
- ii. July 4th: 9:00 a.m. to 9:00 a.m. the next day
- iii. Thanksgiving: 9:00 a.m. to 9:00 a.m. the next day
- iv. Christmas Eve: 9:00 p.m. on December 23rd to
9:00 p.m. on December 24th
- v. Christmas Day: 9:00 p.m. on December 24th to
9:00 p.m. on December 25th

4. **Birthdays:**

One-half day with each parent even if it falls on a regular visitation day.

5. **Waiting:**

The children and custodial parent have no duty to await the visiting parent for more than thirty (30) minutes of the visitation time. The parent who is late forfeits visitation for that period. The custodial parent, or acceptable representative, must be home at the return time to receive the child.

6. **Cancellations:**

If the child is ill, the custodial parent shall give 24 hours notice, if possible, so appropriate plans can be made. The non-custodial parent shall give 24 hours notice to cancel. The time cancelled by the non-custodial parent is forfeited. The time lost due to the child's illness should be made up.

7. **Vacations:**

Four (4) weeks of visitation each year are to be arranged with advanced notice by the non-custodial parent by May 1st. The custodial parent must give the non-custodial parent notice of vacations, or special plans for the child, to avoid planning conflicts, by May 15th.

- i. Summer school necessary for the child to pass to the next grade must be attended.
- ii. A general itinerary should be provided for the parent, if vacation will be out of town.
- iii. Child support obligation shall not abate during any visitation period.

8. **The visitation schedule set shall be an enforceable Order of the Court.** Please put the interests of your child first and comply with the above provisions.

9. **Rules for Visitation**

Each parent is under an affirmative duty to foster the love and affection of the child for the other parent. Neither parent shall do nor say anything that will interfere with the love and affection of the child for the other parent. Neither parent shall allow third parties to do or say anything to or in the presence of the

child that will interfere with the love and affection of the child for the other parent. In addition to these general duties, neither parent shall:

- i. Have the child deliver money or messages from one parent to the other and thus place the child in the middle.
- ii. Ask the child to keep a secret from the other parent and, in effect, teach the child to lie.
- iii. Quiz the child about what is going on at the other parent's home and thus turn the child into a spy.
- iv. Say unkind things about the other parent to the child or in the presence of the child.
- v. Try to conduct parental business when exchanging the child for visitation.
- vi. Make any threats or start arguments with the other parent when exchanging the child for visitation.
- vii. Ask a child directly or subtly, "Which of us do you really want to be with", and thus place the burden on the child.
- viii. Have the child refer to a future step-parent as "mother" or "father".
- ix. Eavesdrop on or interrupt the child's telephone conversations with the other parent.

Violation of these rules may affect or limit a parent's right to visitation or custody.