

# Supreme Court of Kentucky

## ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 29TH JUDICIAL CIRCUIT COURTS, ADAIR AND CASEY COUNTIES**

Upon recommendation of the Circuit Judge of the 29th Judicial Circuit, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 29th Judicial Circuit, Adair and Casey counties, 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 10<sup>th</sup> day of April 2014.

  
CHIEF JUSTICE JOHN D. MINTON, JR.

**COMMONWEALTH OF KENTUCKY**

**29<sup>TH</sup> JUDICIAL CIRCUIT**

**LOCAL RULES**

**RULES OF PRACTICE AND PROCEDURE  
OF THE 29<sup>TH</sup> JUDICIAL CIRCUIT  
ADAIR AND CASEY COUNTIES**

**COURT PERSONNEL:**

**JUDGE:**

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**There is no Domestic Relations Commissioner for the 29<sup>th</sup> Judicial Circuit.**

**Rules of Practice and Procedure  
of the  
29<sup>th</sup> Judicial Circuit**

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## **RULE 1. Introduction/Administrative Procedures**

### **1.1 Introduction**

These rules apply to the practice of law in the 29<sup>th</sup> Judicial Circuit which consists of Adair and Casey Counties.

### **1.2 Effective Date**

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

### **1.3 Additions and Amendments**

These rules may be added to, amended or rescinded as the Court deems necessary and as approved by the Kentucky Supreme Court. All former rules, orders and memoranda in conflict herewith are repealed as of the effective date hereof.

### **1.4 Assignment of Cases**

The 29<sup>th</sup> Judicial Circuit has no Family Court Division. Therefore, petitioners in matters regarding Domestic Violence, Paternity, Dependency, Neglect and Abuse, and Status Offenders, respectively, shall apply for relief in the District Court of the 29<sup>th</sup> Judicial Circuit.

### **1.5 Courtroom Decorum**

All people are to be properly dressed in clean, modest clothing. No shorts, tank tops, halter tops, hats (unless necessary for medical or religious reasons) or any other inappropriate attire, including clothing that bears offensive language or graphics are allowed in the Courtroom. All persons shall cooperate with court security officers in the performance of their duties for public safety and to maintain order and decorum.

All attorneys shall wear proper courtroom attire in all proceedings. Attorneys and litigants shall refrain from caustic remarks about, and personal reference to, opposing counsel and/or parties.

### **1.6 Holidays**

The 29<sup>th</sup> Judicial Circuit will follow the Kentucky Court of Justice holiday schedule, which may be obtained at the Circuit Court Clerk's Office or at <http://courts.ky.gov>. In addition to the holidays designated annually by the Administrative Office of the Courts, the Casey County Judicial Center shall be closed Thursday and Friday preceding the annual Casey County Apple

Festival.

### **1.7 Appearance and Substitutions**

Whenever parties have appeared by counsel they may not thereafter appear by different counsel or on their own behalf, unless an order of substitution shall first have been made by the Court after reasonable notice to the attorney for the party and to the opposing attorney. Until this is done the authority of counsel of record shall continue for all proper purposes.

When an attorney of record wishes to cease representation of a party, the attorney shall file a motion therefore and give adequate notice to the client and opposing counsel. If the motion is sustained, a copy of the order shall be served on the client and all attorneys of record by the Clerk.

### **1.8 Punctuality, Expedition and Settlement**

Attorneys will make every effort consistent with the legitimate interest of their client to expedite litigation and to avoid unnecessary delays.

Attorneys shall give prompt notice to the court and to all other counsel in the case, of any circumstances requiring his/her absence or tardiness.

Attorneys shall make a reasonable effort to settle the dispute of their client prior to court appearances. They will **promptly** inform the court of any settlement, partial or entire, with any party or the continuance of any matter set for hearing or trial.

## **RULE 2. Court Scheduling, Motion Hour, and Procedures for Filing**

### **2.1 Time Zones**

The 29<sup>th</sup> Judicial Circuit is comprised of Adair and Casey counties. Adair County is in the central time zone and Casey County is in the eastern time zone. Cases will be called at the local prevailing time.

### **2.2 Regular Rule Day Schedule and Exceptions**

Casey County: Civil and Criminal Motions will be heard in Casey County on the second and fourth Monday of each month. Civil matters will be heard at 9:30 a.m., prevailing time. Criminal matters will be heard in the afternoon, beginning at 1:00 p.m., prevailing time.

Adair County: Civil and Criminal Motions will be heard in Adair County on the first Tuesday after the second and fourth Mondays of each month. Civil matters will be heard at 9:00 a.m., prevailing time, domestic matters at 10:00 a.m., prevailing time and Child Support at 10:30 a.m., prevailing time. Criminal matters will be heard in the afternoon, beginning at 1:00 p.m., prevailing time.

\*\* In the event that a Rule Day falls on a holiday designated by the Administrative Office of the Courts, that day shall be cancelled.

Failure to be in the Courtroom when one's case is called will result in the case being placed at the end of the docket.

All motions must be scheduled through Judge Vance's Office, via phone at 270-384-7122 or by email at [kimberlykean@kycourts.net](mailto:kimberlykean@kycourts.net) and a courtesy copy sent to the Judge's office.

There will be no Motion Hour during the week of the Judicial College or through the period of December 24<sup>th</sup> through January 1<sup>st</sup> of each year. No Motions shall be noticed to be heard on a state holiday. If the court is closed for any unforeseen reason, i.e., inclement weather, the Motion must be rescheduled by the party filing the Motion to be heard on a regular scheduled Motion Hour.

Other exceptions to the regular rule day schedule shall be at the discretion of the Circuit Judge.

### **2.3 Deadlines for Serving and Filing Motions**

a. All motions shall be filed in the circuit clerk's office no later than 3:30 p.m. at least five days prior to the Rule Day for which such motion is to be heard. This would be Wednesday in Casey County and Thursday in Adair County. Motions not timely filed in the circuit clerk's office will not be heard on the day requested and will not be docketed until such time as a timely motion is made. A courtesy copy of each motion shall also be served on the Judge at least five days prior to the Rule Day by mail, fax or email.

b. All motions and correspondence shall include the case number, the names of the parties, the date, and a designated type of motion. All motions for a continuance shall state the date of the

original trial date.

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

d. 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 certificate of counsel which states counsel have conferred and that they have been unable to resolve their difference. The certificate should detail the attempts of counsel to resolve the dispute.

e. Agreed orders and judgments, and *in forma pauperis* motions, may be submitted to the Court at any time and should not be placed on the Motion Day docket.

#### **2.4 Special Criminal Rule Days**

a. Casey County:      The first Monday after the first rule day of each month.  
                                  Criminal matters will be heard at 1:00 p.m. prevailing time.

Adair County:        The first Tuesday after the first rule day of each month.  
                                  Criminal matters will be heard at 1:00 p.m. prevailing time.

b. Attorneys who have not previously conferenced their case with the Commonwealth's Attorney prior to this date shall be present, with their clients, to conference the case, at 10:00 a.m.

Said conference shall occur in the Grand Jury room, or any other area at the discretion of the Commonwealth's Attorney. Resolved cases shall be presented in open court at 1:00 p.m.

### **RULE 3. Adoptions/Termination of Parental Rights**

#### **3.1 Termination of Parental Rights**

Pursuant to FCRPP 36, if an order terminating parental rights is entered, a copy of the order shall also be certified to the record in the underlying dependency, neglect and abuse case which shall be identified in the order. When the underlying dependency, neglect and abuse case is in the Adair or Casey District Court, the Clerk of the Adair or Casey District Court shall docket the matter for a review hearing within 90 days from the date of the entry of the order of termination of parental rights and shall docket the matter as directed by the District Court at least annually thereafter until permanency is achieved.

#### **3.2 Adoption Procedure**

a. Prior to filing a motion for final hearing for entry of a decree of adoption, counsel shall review the Checklist attached as Attachment "A" to these rules and certify the following:

1. The date and method by which all necessary parties were brought before the court, and
2. The date of the voluntary consent of each parent, the certified order terminating parental rights, or an affidavit establishing an exception under KRS 199.500(1)(a)-(d) or 199.502.

b. The motion shall state whether a guardian ad litem was appointed, the date the guardian ad litem report was filed, and the date the Cabinet for Health and Family Services report pertaining to the case was filed. A copy of the proposed Findings of Fact and Conclusions of Law and a separate Judgment of Adoption shall accompany the motion.

### **RULE 4. Domestic Violence Protocol and 24 hour access policy**

#### **4.1 Procedure for filing and obtaining emergency protective orders**

The Domestic Violence Protocol for the 29<sup>th</sup> Judicial Circuit is attached hereto as Attachment B and is herein incorporated by reference as if set out in full.

### **RULE 5. Domestic Relations Practice**

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

### **5.1 Domestic Motions**

All domestic motions will first be set on the general civil docket, and the case will be heard on that day unless the Judge determines it will require a separate hearing.

### **5.2 Submission of Cases to the Court**

Cases may be submitted to the Court pursuant to a motion on Rule Day or at any time on a joint motion. In either event, the office of the Circuit Clerk and Circuit Judge shall be notified that the case is ready for the Court to take under submission.

### **5.3 Default cases**

Pursuant to FCRPP 3(2), in all cases of default, the motion to submit for decree shall state the following:

- a. That no answer or pleading have been received by the moving party or counsel;
- b. That the Respondent was personally served and 20 days have elapsed since service, or that a warning order attorney was appointed, has filed a report and affidavit and that 50 days have elapsed since appointment of the warning order attorney; and,
- c. Shall include certification that the motion and notice of trial or submission has been served on the opposing party at the party's last known address; and if the party is on active military duty, that the provisions of the Servicemembers' Civil Act have been followed.

### **5.4 Uncontested Divorces**

- a. In Adair or Casey County, an uncontested divorce includes the following:
  1. An action in which there has been filed a separation agreement executed by both parties, and in which no motion to set aside that agreement is pending;
  2. An action in which the Respondent is before the Court only by warning order service of process, the warning order attorney's report has been filed, and the moving party is requesting only dissolution of the marriage, custody of children over which this Court has jurisdiction and/or division of property located in Kentucky;
  3. An action in which the Respondent has been served with process pursuant to CR 4.01 and has filed no responsive pleading, and in which the moving party is requesting only limited relief, evidence in support of which can be presented in

15 minutes or less.

b. Proof in an uncontested action shall be taken by deposition or interrogatory pursuant to CR 43.04(1). The motion to submit need not be noticed for a regular Motion Hour, but may be tendered to the Judge by filing the motion in the Clerk's office.

c. Any motion to submit an uncontested action must be accompanied by a proposed "Findings of Fact, Conclusions of Law & Decree of Dissolution of Marriage" which the moving party desires the Court to adopt.

d. Any Separation Agreement or Agreed Judgment for a child support obligation shall include as an attachment thereto a Commonwealth of Kentucky Worksheet for monthly Child Support Obligations and shall further comply with the requirements of FCRPP 9. If the child support obligation established in the Separation Agreement does not correspond to the child support guidelines contained in KRS Chapter 403, the agreement must state the reason for deviation from the guidelines. An AOC-152 shall also be attached.

e. In the event that the parties are ordered to divide medical expenses for minor child(ren), the custodial parent shall provide a copy of the medical bills shall be provided to the other parent within 14 days of receipt of said medical bill. The non-custodial parent shall provide payment and/or reimbursement within 30 days.

### **5.5 Matters Requiring a Trial**

In each contested action for divorce or legal separation, parties shall comply with FCRPP 2(3).

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

b. Pursuant to FCRPP 3(3)(b), no later than 5 days prior to the trial, the parties shall file an AOC-239, Final Verified Disclosure Statement, in the record if property matters are in dispute at the trial; or the parties may file an affidavit that there are no changes in circumstances since the completion of the AOC-238, Preliminary Verified Disclosure Statement, if filed.

c. Pursuant to FCRPP 3(3)(c), a copy of AOC-239, Final Verified Disclosure Statement, or the affidavit in (b) above, together with any supporting documentation, shall be provided to the opposing party 15 days prior to trial unless otherwise ordered by the court.

d. Failure to file the Final Verified Disclosure Statement or an agreed waiver of same

signed by both parties, within 15 days prior to the final hearing, may, at the sole discretion of the presiding Judge, result in a continuance of any scheduled hearing.

#### **5.6 Witness and Exhibit List**

Unless otherwise ordered by the court, in any action in which the permanent custody or time-sharing of the child(ren) is in issue, each party shall, not less than 14 days prior to the day set for hearing, provide the other party(ies) with a list of the names and addresses of every person and a short statement of the subject of their testimony expected to be called as a witness, as well as a list of exhibits to be entered.

#### **5.7 Restraining Orders**

Pursuant to FCRPP 2(5) the Court may enter a Status Quo Order regarding martial assets. The requesting party shall file the Status Quo Order, AOC-237, with the Court upon the filing of a motion.

#### **5.8 Post Decree Litigation**

Pursuant to FCRPP 3(5), 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 files a motion to proceed *in forma pauperis*.

- a. Reopening for purposes of this rule means any motion for modification of an order filed more than 6 months after entry of the order. A case is considered reopened until all matters in the motion are resolved.
- b. Once a case is reopened and the fee is paid, another fee will not be required unless 6 months or more have elapsed since entry of the order on the motion that re-opened the case.
- c. This fee shall not be required for motions to enforce an order and which are so titled.

#### **5.9 Standard Visitation Guidelines**

The 29<sup>th</sup> Judicial Circuit Standard Visitation Guidelines and Code of Conduct are attached hereto as Attachment C and are suggested as guidelines for the parents and the Court in establishing time-sharing/visitation schedules. The parties are encouraged to reach an agreement that will serve the needs of the family and that will be specific to their case. Because each case

presents unique facts and circumstances, the final schedule as agreed by the parties or as established by the Court may or may not contain portions of these guidelines.

Every agreement that involves children shall have a copy of the standard visitation guidelines and code of conduct attached with both parties initialing the bottom of each page, unless a comprehensive alternative agreement is attached and signed by both parties.

## **RULE 6. Miscellaneous Rules**

### **6.1 Identification of Counsel or Party Required**

Every pleading, motion and any other paper filed in the record by counsel or party shall contain the case number, typed or printed name, address, telephone number and email address (optional) of the attorney or party signing the paper.

### **6.2 Use of Technology at Trial**

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

### **6.3 Video Copies of In-chamber Interviews with Children**

The circuit clerk shall not release any video copies of in-camera interviews with children without a specific written order from the Circuit Judge in compliance with FCRPP 27. An individual requesting a judicial order must provide the Judge a written explanation for the request which specifically indicates the portion of the video record being requested is an in-camera interview with a child and specific purpose of the request.

### **6.4 Protection of Personal Identifiers**

a. All pleadings must comply with the requirements of KRS Chapters 205, 403, 405, and 407 by providing the personal identifying information required in those chapters. However, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court, parties shall comply with CR 7.03(1)(b) by filing one copy from which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized

employee or agent of the Cabinet for Health and Family Services involved in child support matters attendant to the case, or a person authorized to view the copy by specific orders of the court. As used in this section, "personal identifier" means a Social Security number or tax-payer identification number, date of birth, or financial account number.

b. Notice of Filing of Verified Disclosure Forms may be filed to establish in the record that the disclosure form has been delivered to the other party without attaching the actual disclosure form to protect the privacy of the parties.

## **RULE 7. General Civil**

### **7.1 Pre-trial Conference**

A party may move for a pre-trial conference at the time a case is set for trial or at any time from the setting of the trial date until thirty (30) days from the date of trial by an appropriate motion. A final pre-trial conference will be set the last rule day prior to trial.

### **7.2 Pre-trial Statements**

a. Provisions: Pre-trial compliance statements shall be filed by all parties thirty (30) days before the trial date. All exhibits which may be used at trial shall be listed and copies, if feasible, shall be attached to the pre-trial statement. All exhibits which cannot be attached to the pre-trial statement shall be made available for inspection by opposing counsel at a convenient location designated in the pre-trial statement. All witnesses and expert witnesses who may testify at trial shall be listed, along with their addresses and telephone numbers. Also, as to each expert witness who has not been deposed, the pre-trial statement shall state the subject matter on which the expert is expected to testify and shall state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. Jury Instructions shall be provided to the court and the opposing counsel at this time pre-trial compliance statements are distributed.

b. Sanctions: Failure to file the pre-trial statement timely may result in the Court denying the use of any witness at trial other than the parties.

### **7.3 Trials**

All trials start promptly at 9:00 a.m. local prevailing time. Counsel and parties shall be present by 8:30 a.m. local prevailing time.

#### **7.4 Settled Cases**

When any action which is set for trial is settled, the parties shall immediately notify the office of the Circuit Clerk and the Court of this fact. Failure to give prompt notice may be grounds for assessing any cost of jury usage against one or more of the parties or their counsel.

#### **7.5 Filing of Interrogatories and Request for Admissions**

Notice of propounded interrogatories to opposing parties and request for admissions and notice of responses thereto, shall be filed of record in the office of the circuit clerk.

#### **7.6 Motions Relating to Discovery**

a. Motions to Comply or Compel. The parties and their attorneys have a duty to make a good faith effort to resolve, by agreement among them, any disputes that arise in the course of discovery.

b. No motions pertaining to discovery shall be filed or heard unless there is appended to or included in such motion a certificate of counsel that he or she conferred with opposing counsel, that the parties are unable to reconcile their differences on the matter, and that all extrajudicial means have been exhausted in an effort to reconcile their differences.

c. To the extent that extrajudicial means have not disposed of the matter, the party seeking discovery may then file a motion to obtain relief, to be heard on the Court's motion hour docket. The motion may be accompanied by supporting argument or explanation, with citation to legal authority if desired. The motion must include either a copy of or a reference to the discovery request in dispute.

d. Sanctions. The Court considers willful, deceptive, deliberate, or protracted noncompliance with discovery to be a serious matter and will not hesitate to sanction parties and/or attorneys when appropriate. Sanctions will include remedies as outlined in the Kentucky Rules of Civil Procedure and as deemed suitable by the Kentucky Court of Justice in order to effectuate a just resolution.

### **RULE 8. General Criminal**

#### **8.1 Procedure of Cases**

a. At arraignment, all cases shall be set for a pre-trial conference.

b. The Commonwealth Attorney is to provide discovery to the Defendant's Attorney at least 7 days prior to the pre-trial conference.

c. The Commonwealth and the Defense shall work toward a resolution of the case prior to the pre-trial conference with said resolution to be presented to the court at the pre-trial conference.

d. Except for good cause shown, no more than three (3) pre-trial conferences shall occur in any one case.

e. Except for good cause shown, no plea shall be accepted by the Court after the final pre-trial conference.

f. If a jury has reported, no plea shall be accepted on the day of trial.

## **8.2 Representation in Criminal Cases**

Once an attorney appears for a defendant in a criminal case, he/she shall not be allowed to withdraw as counsel thereafter, except upon a showing of extraordinary circumstances.

## **8.3 Pretrial Conference and Plea Agreements**

a. After a pretrial conference has been set by the Court, the Commonwealth Attorney and/or Assistant Commonwealth Attorney and counsel for the defendant(s) shall agree to meet and discuss any possible plea agreements or resolution of the case. At this meeting the defendant shall be present and if an agreement is reached concerning a plea agreement, same shall be reduced to writing and signed by the Commonwealth Attorney and/or the Assistant Commonwealth Attorney, counsel for the defendant, and the defendant(s).

b. Jury instructions shall be provided to the court and to the opposing counsel at the final pretrial conference.

## **8.4 Trials**

All trials start promptly at 9:00 a.m. local prevailing time. Attorneys and parties shall be present by 8:30 a.m.

## **8.5 Settled Cases**

When any action which is set for trial is settled, the parties shall immediately notify the office of the Circuit Clerk and the Court of this fact. Failure to give prompt notice may be grounds for assessing any cost of jury usage against one or more of the parties or their counsel.

## **8.6 Pre-Trial Diversion Protocol**

A "Class D Felony Diversion Protocol" for this Circuit has been established and presented to the Supreme Court for approval. This protocol is attached to these rules and the terms of the

protocol are incorporated herein in as Attachment D by reference.

**8.7 Return of Indictments**

Indictments shall be returned by the Grand Jury in open Court. Copies of Indictments and/or information contained in the Indictments shall not be released to the public prior to being processed in the Circuit Clerk's Office.

WITNESS MY HAND this 7<sup>th</sup> day of April, 2014.

Judy D. Vance  
JUDY VANCE, JUDGE  
ADAIR AND CASEY CIRCUIT COURT

Attachment "A"

ADAIR/CASEY CIRCUIT COURT

ADOPTION CHECKLIST

Case No.: \_\_\_\_\_

Date: \_\_\_\_\_

Case Style: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attorney (s) \_\_\_\_\_  
Attorney (s) \_\_\_\_\_  
Attorney (s) \_\_\_\_\_

vs.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (s) Attorney \_\_\_\_\_  
Attorney (s) \_\_\_\_\_  
Attorney (s) \_\_\_\_\_

\*\*\*\*\*

- |                          |                          |   |
|--------------------------|--------------------------|---|
| Yes                      | No                       | (Please check one)  |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the party petitioning for adoption 18 years old? KRS 199.470(1)  |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the party petitioning for adoption resided in Kentucky for twelve (12) months prior to the filing of the petition? KRS 199.470 (1)  |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the child to be adopted named as a defendant? KRS 199.480 (1) (a)  |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the petitioner married? If yes, the spouse of the petitioner must be joined unless the Court finds doing so will deny the child a suitable home? KRS 199.470(2)  |
| <input type="checkbox"/> | <input type="checkbox"/> | Is petitioner's husband or wife the biological parent? If yes, then the biological parent shall be named as a party defendant. KRS 199.480 (1) (b)  |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the petitioner a relative of the child as defined by KRS 199.470(4) such that approval by the Cabinet for Health and Family Services, a licensed agency or the Secretary for the Cabinet for Health and Family Services is not required? KRS 199.470(4)(a-b) |
| <input type="checkbox"/> | <input type="checkbox"/> | Did the petitioning party comply with KRS 199.473?  |

- Are all necessary parties joined as defendants? KRS 199.480(1)
- Have all the parties been properly served? KRS 199.480(2)
- Is this a stepparent adoption? KRS 199.470 If yes, NO approval from CHFS required. (GAL is not required either).
- Has an investigation been completed by the Cabinet for Families and Children as required by KRS 199.510(1)(a-c)? If yes, a final hearing may be scheduled if the report by the Guardian ad litem, if any, has been filed. KRS 199.515
- Has a guardian ad litem been appointed for the child?  
 Yes  No If yes, has the guardian ad litem filed their report as required? KRS 199.515  
 Yes  No If no, does the exception apply? KRS 199.480(3)
- Has the child been placed for adoption with approval by one of the three agencies listed below? KRS 199.470(4)  
 Yes  No The Cabinet for Health and Family Services?  
 Yes  No An agency licensed by the Cabinet for Families and Children?  
 Yes  No With written approval of the Secretary of the Cabinet for Families and Children?

Note – Placement by one of the above agencies does not alleviate the need of a report, as required by KRS 199.510, from the Cabinet or a designee chosen by the Cabinet or the Court.

- If the child has not been placed for adoption by one of the three ways listed above has the child resided continuously in the home of the petitioner for at least 90 days immediately prior to the filing of the petition? KRS 199.470(3)
- Does any exception to the placement rule apply? KRS 199.470(4)(a-b)
- Does the petition contain all the necessary information? KRS 199.490
- Has a notarized consent form been filed? KRS 199.500  
 Yes  No Does it comply with KRS 199.011(14)?
- If notarized consent has not been filed, do any of the exceptions to consent apply? KRS 199.500(1)(a-d) or KRS 199.502

- Does this Court have proper jurisdiction over this adoption?
- Is  Adair County  Casey County the proper venue?
- Have parental rights been previously terminated?  
 Yes  No If yes, have certified copies of the termination order  
been filed as required? KRS 199.490(2)
- Has the petitioner tendered a proposed Findings of Fact, Conclusions of law  
and a separate Judgment of Adoption?

# Supreme Court of Kentucky

## ORDER

**IN RE: ORDER APPROVING AMENDMENT TO APPENDIX B OF THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 29TH JUDICIAL CIRCUIT, ADAIR AND CASEY COUNTIES**

Upon the recommendation of the Judges of the 29th Judicial Circuit, Adair and Casey counties, and being otherwise sufficiently advised,

The amendment to Appendix B of the Local Rules of Practice and Procedure for the 29th Judicial Circuit 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 11th day of December 2015.

  
CHIEF JUSTICE

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL  
JOINT JURISDICTION PROTOCOL  
29<sup>TH</sup> JUDICIAL CIRCUIT AND DISTRICT  
ADAIR & CASEY COUNTIES**

Pursuant to KRS 403.735 and KRS 456.030, and in compliance with Family Court Rule of Practice and Procedure Section IV, this local protective order protocol is established to ensure twenty-four hour accessibility to emergency protective orders (EPOs) and temporary interpersonal protective orders (TIPOs) and to establish written procedures for matters in which there may be joint jurisdiction between the Circuit/Family and District Courts.

**I. Uniform Protocol for Handling Cases**

- A. All petitions requested, completed and signed by persons seeking protection under KRS Chapter 403 or KRS Chapter 456 shall be made on form AOC-275.1, and shall be accepted and filed with the court. KRS 403.725, KRS 456.030.
- B. All protective order cases must be processed consistent with the rules and procedures set forth in the Kentucky Circuit Court Clerk's Manual.
- C. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- D. "No drop" policies which place limitations on a petitioner's right to modify or withdraw a petition for a protective order are not permitted. Pursuant to KRS 403.740 and KRS 456.060, any orders for relief issued directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, dating violence and abuse, stalking, or sexual assault shall not order the petitioner to take any affirmative action.
- E. Cases may be reassigned within the judicial circuit and, pursuant to FCRPP 12, a case may be transferred to another circuit if there is a pending dissolution or custody matter. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter may be heard by the receiving judge.
- F. The court shall review a petition for a protective order immediately upon its filing. KRS 403.730, KRS 456.040. Petitioners shall not be sent away or left waiting for extended periods of time. Petitions should be reviewed within an hour of presentation to a judge or trial commissioner unless impossible due to no judge or trial commissioner being available.

## II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **during** regular business hours:  
ADAIR CIRCUIT CLERK AND ALL SWORN DEPUTIES  
CASEY COUNTY CIRUIT CLERK AND ALL SWORN DEPUTIES  
KENTUCKY STATE POLICE OFFICERS ASSIGNED TO ADAIR AND CASEY COUNTIES
- B. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **after** regular business hours and weekends:  
CASEY CIRCUIT CLERK AND ALL SWORN DEPUTIES  
CASEY COUNTY SHERIFF AND ALL SWORN DEPUTIES  
CASEY COUNTY ATTORNEY AND THE CASEY COUNTY ATTORNEY'S OFFICE STAFF  
CITY OF LIBERTY CHIEF OF POLICE AND ALL SWORN OFFICERS IN THE DEPARTMENT  
ADAIR CIRCUIT CLERK AND ALL SWORN DEPUTIES  
ADAIR COUNTY SHERIFF AND ALL SWORN DEPUTIES  
ADAIR COUNTY ATTORNEY AND THE ADAIR COUNTY ATTORNEY'S OFFICE STAFF  
CITY OF COLUMBIA CHIEF OF POLICE AND ALL SWORN OFFICERS IN THE DEPARTMENT  
KENTUCKY STATE POLICE OFFICERS ASSIGNED TO ADAIR AND CASEY COUNTIES
- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:  
THE PETITION OR MOTION SHALL BE FILED WITH THE DISTRICT CLERK, WHO HAS BEEN DESIGNATED BY THE CIRCUIT COURT CLERK, AS THE CLERK OF THE DOMESTIC VIOLENCE SESSION
- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:  
THE DISTRICT JUDGE SHALL BE CONTACTED TO CONSIDER THE PETITION AND/OR MOTIONS. HEARINGS SHALL BE SCHEDULED IN THE DISTRICT COURT ON THE NEXT AVAILABLE DOMESTIC VIOLENCE SESSION OF THE COURT. IF NO DISTRICT JUDGE IS AVAILABLE THE CIRCUIT JUDGE MAY ACT FOR THE DISTRICT COURT. IF NEITHER IS AVAILABLE, A TRIAL COMMISSIONER MAY BE CONTACTED. IN THE EVENT NO JUDGE OR TRIAL COMMISSIONER CAN BE FOUND WITHIN THE 29<sup>TH</sup> JUDICIAL DISTRICT, THE SAID PETITION MAY BE PRESENTED TO ANY DISTRICT JUDGE OR CIRCUIT JUDGE IN ANY SURROUNDING COUNTY, WHO MAY SIGN AND ISSUE A DOMESTIC VIOLENCE EMERGENCY ORDER IF DEEMED APPROPRIATE.

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

**ADAIR**

DOMESTIC VIOLENCE MATTERS SHALL BE HEARD EACH MONDAY AND WEDNESDAY AT 9:00AM IN THE ADAIR DISTRICT COURT

DOMESTIC VIOLENCE MATTERS SHALL BE HEARD THE FIRST AND THIRD TUESDAY AFTER THE SECOND MONDAY OF EACH MONTH AT 10:00AM IN THE ADAIR CIRCUIT COURT

**CASEY**

DOMESTIC VIOLENCE MATTERS SHALL BE HEARD EACH TUESDAY AND THURSDAY AT 9:00AM IN THE CASEY DISTRICT COURT

DOMESTIC VIOLENCE MATTERS SHALL BE HEARD THE SECOND AND FOURTH MONDAY OF EACH MONTH AT 9:30AM IN THE CASEY CIRCUIT COURT

- E. Cases may be reassigned or transferred between courts if it is determined that there are other actions pending or circumstances indicate that review by the other court is proper. KRS 403.725, KRS 456.030. If reassignment or transfer occurs, the issuing judge shall re-issue a summons until the matter may be heard by the receiving judge.

#### **IV. Contempt Proceedings**

- A. Pursuant to KRS 403.763 and KRS 456.180, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.
  
- B. Petitioners seeking to initiate contempt proceedings should contact:  
THE OFFICE OF THE ADAIR/CASEY CIRCUIT COURT CLERK, WHO WILL SET THE MATTER FOR A HEARING ON THE NEXT AVAILABLE DOMESTIC VIOLENCE DOCKET IN THE COURT WHICH ISSUED OR MODIFIED THE EPO OR DVO
  
- 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:

Judy D. Vance  
JUDY D. VANCE  
Adair/Casey Circuit Judge

12.1.15  
DATE

Michael Loy  
MICHAEL LOY  
Adair/Casey District Judge

11-23-15  
DATE

**Attachment "C"**

**29<sup>th</sup> Judicial Circuit**  
**CODE OF CONDUCT and STANDARD VISITATION GUIDELINES**

**Code of Conduct**

**Waiting/Tardiness**

In the event either parent will be more than 30 minutes late to pick up or drop off the child(ren), he or she shall provided notice to the other parent and make suitable arrangements for the exchange of the child(ren). Where the residential parent is responsible for the loss of a non-residential parent's parenting time, the loss of the parenting time shall be made up the next regularly scheduled parenting time.

**Cancellation**

If the child(ren) is ill, the residential parent should give 24 hour notice, if possible, so appropriate plans can be made. The non-residential parent shall give 24 hour notice to cancel. Any time canceled by the non-residential parent is forfeited. Time lost for a child(ren)'s illness shall be made up. However, the non-residential parent may opt to keep the scheduled parenting time to parent and care for the ill child(ren).

**Intoxicants**

Both parents are ordered not to transport the child(ren) at any time they are under the influence of alcohol or drugs. No party shall relinquish the child to anyone, including a party, who is under the influence of any intoxicant.

**Miscellaneous**

Both parents are required to secure the child(ren) in appropriate child restraint systems when transporting the child(ren).

These rules require that both parents understand the following:

1. That there may be circumstances from time to time with regard to work schedules and/or activities of the child(ren) which require flexibility and cooperation, and that changes in the scheduling may be required.
2. Each party must ensure the child(ren) is/are not tardy to school while child(ren) is/are in the party's care.
3. The party who received the child(ren)'s academic reports, school notices, and medical reports shall provide the other party access to these reports and shall advise the other party of their existence.
4. Each party shall advise the other of the child(ren)'s extra-curricular activities schedules, school photos, school programs, and any related activities. The parties shall not require the child(ren) to deliver these messages and shall not depend upon the child(ren) to advise the other party.
5. Each party shall ensure that, when the child(ren) is in his or her care, homework assignments are completed and schedules are met.

6. The parties shall discuss and attempt to agree upon how discipline will be consistently administered and what actions require discipline.

7. The parties shall strive to ensure consistency in the child(ren)'s routines and discipline.

8. If the child(ren) has been prescribed medications or treatments, the residential parent shall provide a sufficient amount of medication, any necessary medical equipment, and appropriate instructions for each visit.

9. Each party shall, as soon as possible, notify the other party of any medical emergency or serious illness of the child.

10. No party shall enter the other's residence without express invitation.

11. Neither timesharing, nor child support, may be withheld because of the other party's failure to comply with a court order.

12. When possible, the parties are encouraged to provide childcare for each other to both lessen the costs and to provide the child with more time with both parties.

13. Any medical bills that are to be divided shall be given to the other party within 14 days.

Each parent is under an affirmative duty to foster the love and affection of the child(ren) for the other parent. Neither parent shall do or say anything that would interfere with the love and affection of the child(ren) for the other parent. Neither parent shall allow third parties to do or say anything to or in the presence of the child(ren) that would interfere with the love and affection of the child(ren) for the other parent. In addition to these general duties, neither parent shall:

- a) Have the child(ren) deliver money or messages from one parent to the other parent and thus place the child(ren) in the middle.
- b) Ask the child(ren) to keep a secret from the other parent and, in effect, teach the child(ren) to lie.
- c) Quiz the child(ren) about what is going on at the other parents' home and thus turn the child(ren) into a spy.
- d) Say unkind things about the other parent to the child(ren) or in the presence of the child(ren).
- e) Try to conduct parental business when exchanging the child(ren).
- f) Make any threats or start arguments with the other parent when exchanging the child(ren).
- g) Ask the child(ren) directly or subtly, "Which of us do you really want to be with?" and thus place the burden on the child(ren).
- h) Allow the child(ren) to take control of parenting time whenever he or she wants to do so.
- i) Have child(ren) refer to a stepparent or significant other as "mother" or "father".
- j) Eavesdrop on or interrupt the child(ren)'s telephone conversation with the other parent.

- k) Discuss court proceedings with the child(ren) or attempt to influence the child(ren)'s testimony.
  - l) Schedule or enroll child(ren) in activities which will affect parenting time without first consulting and obtaining written consent of the other parent.
- Violation of these rules may affect or limit a parent's right to parenting time or shared parenting and/or be subject to sanctions of the court.

**29<sup>TH</sup> JUDICIAL CIRCUIT STANDARD VISITATION GUIDELINES**

- I. The non-residential parent shall be entitled to a minimum of every other weekend beginning on Friday at 3:00 p.m. or after school –until Monday at 8:00 a.m. or deliver the child(ren) to school or daycare, whichever is earlier.
- II. The non-residential parent shall be entitled to one overnight per week, if the parties can't agree then it will be Wednesday at 3:00 p.m. or after school until Thursday at 8:00 a.m. or deliver the child(ren) to school or daycare, whichever is earlier.
- III. Each parent shall be entitled to reasonable daily telephone contact when the child(ren) are in the care of the other parent.
- IV. If a holiday is celebrated on a Monday (Martin Luther King Jr. Day, President's Day, Memorial Day, Labor Day) following a parent's regularly scheduled parenting time, then that parent shall be entitled to extended their parenting time until 6:00 p.m. on that holiday.
- V. These four (4) holidays shall be divided between the parents as follows:

New Year's Day  
Halloween

Easter  
July 4<sup>th</sup>

In odd-numbered years, the non-residential parent shall be entitled to parenting time on the holidays in the left column and the residential parent shall be entitled to parenting time on the holidays in the right column above.

In even-numbered years, the residential parent shall be entitled to parenting time on the holidays in the left column above and the non-residential parent shall be entitled to parenting time on the holidays in the right column above.

Parenting time on these days shall be from 8:00 a.m. until 6:00 p.m., subject to the following exceptions: If it is a school day, parenting time shall be from 3:00 p.m. or after school until 8:00 p.m. that same evening.

- If Easter falls on the weekend before Spring Break the parent entitled to parenting time during Spring Break shall be entitled to parenting time for Easter.
- July 4<sup>th</sup> visitation shall be from 5:00 p.m. until 8:00 a.m. the following day.

VI. Thanksgiving

The non-residential parent shall be entitled to parenting time beginning 3:00 p.m. or after school the day school ends for Thanksgiving holiday until 3:00 p.m. Thanksgiving Day in every even-numbered year. The non-residential parent shall be entitled to parenting time beginning at 3:00 p.m. on Thanksgiving Day until 6:00 p.m. the day before school begins after the holiday every odd-numbered year. The opposite applies to the residential parent.

Christmas

The non-residential parent shall be entitled to parenting time beginning 3:00 p.m. or after school the day school ends for Christmas holiday until 12:00 noon Christmas Day in every odd-numbered year. The non-residential parent shall be entitled to parenting time beginning at 12:00 noon on Christmas Day until 6:00 p.m. the day before school begins after the holiday every even-numbered year. The opposite applies to the residential parent.

Mother's Day and Father's Day

Regardless of any apparent conflict herein, the father shall have the child(ren) on Father's Day. The mother shall have the child(ren) on Mother's Day. Those parenting times shall be from 8:00 a.m. to 6:00 p.m.

Child's Birthday

In even-numbered years, the child and any siblings that are common to the parties shall spend his/her birthday with the residential parent from 3:00 p.m. or after school to 9:00 p.m. The non-residential parent shall have the day before or the day after the actual birthday from 3:00 p.m. or after school to 9:00 p.m. In odd-numbered years, the child and any siblings that are common to the parties shall spend his/her birthday with the non-residential parent from 3:00 p.m. or after school to 9:00 p.m. The residential parent shall have the day before or the day after the actual birthday from 3:00 p.m. or after school to 9:00 p.m.

Fall Break

In odd-numbered years, the non-residential parent shall be entitled to parenting time from 3:00 p.m. or after school on the day school ends for the break until 6:00 p.m. the following Friday, at which time the residential parent shall be entitled to parenting time until 8:00 a.m. on the Monday the child(ren) return to school. The opposite applies in even-numbered years.

Spring Break

In even-numbered years, the non-residential parent shall be entitled to parenting time from 3:00 p.m. or after school on the day school ends for the break until 6:00 p.m. the following Friday, at which time the residential parent shall be entitled to parenting time until 8:00 a.m. on Monday the day the child(ren) return to school. The opposite applies in odd-numbered years.

Summer Break

For children less than three (3) years old on June 1: The non-residential parent shall have the child(ren) three (3) days in June and three (3) days in July that shall be added to that parent's first visitation weekend in June and first visitation weekend in July. The parties may agree to whether said days shall be before or after the weekend, but if it can't be agreed upon, then the days shall be before the weekend visitation.

For children three (3) years old and older on June 1: The non-residential parent shall be entitled to parenting time from 6:00 p.m. the first Friday school is out until the

following Friday at 6:00 p.m. The parents shall alter every other week Friday to Friday during Summer Break. The child(ren) shall return to the residential parent the Friday before school is scheduled to start. The residential parent shall not schedule camps or other activities during the non-residential parent's period of summer visitation without the written permission of the non-residential parent. If the child's third birthday is June 2 or after then the visitation for children three or older does not begin until the following year.

No summer parenting time shall interfere with the child(ren)'s ability to pass to the next grade. The parent that has the child shall make arrangements to get the child to school.

**All holiday, summer, child's birthday, fall and spring break shall take precedence over regular alternating visitation periods, but the pattern of alternation shall remain the same.**

**Attachment "D"**

**CLASS D FELONY PRETRIAL DIVERSION PROTOCOL  
FOR THE 29<sup>TH</sup> JUDICIAL CIRCUIT**

**1. DEFINITION**

Pre-trial 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 or duration of the diversion agreement shall not be less than the time required to make restitution in full, subject to certain conditions established by the Court

**2. PERSONS ELIGIBLE**

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 incarceration within the ten (10) years prior to commission of the current offense, shall be eligible for pre-trial diversion.

- a. The person charged must enter a plea of guilty or a plea pursuant to North Carolina v. Alford, before becoming eligible for pretrial diversion.
- b. Persons ineligible for probation, parole or conditional discharge under KRS 532.045 shall be ineligible for this program.
- c. A person convicted of a Class D felony for which early release is disallowed by statute, including KRS 189A.010(8) and KRS 189A.120(2), shall be ineligible for this program.
- d. No person shall be eligible for this program more than once in any five (5) year period.
- e. A person convicted of a sex crime as defined in KRS 17.500 is ineligible for pretrial diversion under KRS 533.250(1)(d).

**3. PROCEDURE**

- a. After indictment in circuit court, and no later than 45 days before trial, any person eligible for the program may apply to the Circuit Court and the Commonwealth for entry of pre-trial diversion order.
- b. If applying for pretrial diversion, counsel for the 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(2)
- d. Before making the recommendation to the Court, the Commonwealth shall:
  - i. Have a criminal record check from Courtnet and shall supply a copy to the Court and Defendant.
  - ii. Interview and seek input from the victim and/or victim's family and advise them of the time, date and place the motion will be heard by the Court;

- iii. Conduct any other investigation that the Commonwealth Attorney's Office believes is reasonable necessary in making a decision whether to recommend pre-trial diversion; and
- iv. When diversion is recommended, the prosecutor must make a written recommendation to the Court of conditions of the pre-trial diversion as well as appropriate sentence to be imposed if the diversion agreement is unsuccessful. KRS 533.252(3)

#### 4. ACCEPTANCE AND SUPERVISION

The Court may, in its discretion and with the consent of the Commonwealth, order pre-trial diversion for eligible defendants upon terms and conditions it deems appropriate. Supervision of the participants in the program shall be performed by the Division of Probation and Parole and the provisions of KRS 533.030 relating to conditions of probation and restitution shall, so far as possible, be applicable to pre-trial diversion. No Judgment of Conviction shall be entered on the plea of guilty at the time of the entry of the pre-trial diversion order. Judgment of conviction shall be entered on if the Defendant fails to comply with the terms of the Diversion as set forth below.

- i. The order of Diversion shall include:
  - a. Restitution if applicable
  - b. Duration of the diversion
  - c. Require the defendant to obey all rules and regulations imposed by Probation and Parole
  - d. As required by KRS 533.030(1), conditions of probation-restitution, direct the defendant not to commit any offense during the period of pre-trial diversion. Specifically, direct the defendant to comply with any other provision of KRS 533.030 or any other condition the Court deems appropriate.

- ii. The order of Diversion may include:
  - a. That the defendant remain drug and alcohol free and be subject to random drug testing at the defendant's sole cost and expense, if applicable.
  - b. That the defendant have no violation of the Penal Code or the Controlled Substances Act.
  - c. That the defendant possess no firearm or any other deadly weapon.
  - d. Duration of the pretrial diversion shall not exceed five (5) years without agreement of the defendant. Duration of the diversion agreement shall not be less than the time required to make restitution in full.

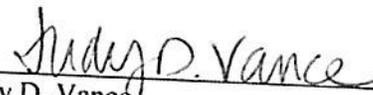
#### 5. REVOCATION

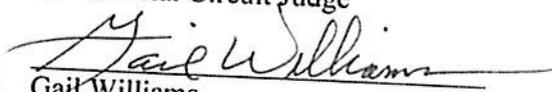
- a. After a hearing, with notice to the Commonwealth's Attorney and defendant, the Court may revoke or void defendant's participation in the pre-trial diversion

program upon showing of failure to comply with the conditions of diversion or failure to make satisfactory progress. AOC Form 345, styled Order Voiding Pretrial Diversion of a Class D Felony, was designed for that purpose.

- b. If a pre-trial diversion program is revoked or voided, a judgment of conviction shall be entered and the defendant shall be sentenced according to law, based on this or her prior plea of guilty.
  - c. Under KRS 533.256(2), the same criteria applicable to probation revocation hearings apply to a proceeding to void diversion. Pursuant to KRE 1101(d)(5), the Rules of Evidence are inapplicable to 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.
6. COMPLETION OF DIVERSION PROGRAM
- If the defendant successfully completes the provision of the pretrial diversion agreement, the charges against the defendant shall be dismissed and the matter shall be treated as required by KRS 533.258.

Approved, this the 8<sup>th</sup> day of April, 2014, by the Hon. Judy D. Vance, Chief Circuit Judge of the 29<sup>th</sup> Judicial Circuit and Gail Williams, Commonwealth's Attorney, to be effective immediately.

  
\_\_\_\_\_  
Judy D. Vance  
29<sup>th</sup> Judicial Circuit Judge

  
\_\_\_\_\_  
Gail Williams  
Commonwealth's Attorney  
29<sup>th</sup> Judicial Circuit