

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING RULES OF COURT PRACTICE AND PROCEDURE FOR THE 2ND JUDICIAL CIRCUIT, FAMILY COURT DIVISION, McCRACKEN COUNTY

Upon recommendation of the Judges of the 2nd Judicial Circuit, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 2nd Judicial Circuit, Family Court Division, McCracken County, are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 21st day of January 2014.


CHIEF JUSTICE JOHN D. MINTON, JR.

**RULES OF COURT
PRACTICE AND PROCEDURE
COMMONWEALTH OF KENTUCKY**

**SECOND JUDICIAL CIRCUIT COURT
McCRACKEN COUNTY
FAMILY COURT DIVISION**

WEBSITE

<http://courts.ky.gov/circuitcourt/familycourt/sites/mccracken.htm>

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**FAMILY COURT RULES
OF THE SECOND JUDICIAL CIRCUIT
(FCRP2)**

RULE 1 INTRODUCTION

101 Introduction

These are the Rules of Practice of the Second Circuit (McCracken County) Family Court (hereinafter referred to as "Family Court"). These Rules supplement the Kentucky Rules of Civil Procedure, the Kentucky Rules of Criminal Procedure and the Family Court Rules of Procedure and Practice (FCRPP). All previous rules adopted by the McCracken Family Court are hereby rescinded.

102 Effective Date

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

103 Citation

These Rules shall be cited as FCRP2 (Family Court Rules of Procedure).

104 Holidays

Family Court shall adhere to the list of Court Holidays as set out by the Administrative Office of the Courts.

105 Family Court Case Data Information Sheet

All cases filed or reopened in Family Court shall, with the filing of any petition or motion (in the case of a reopening), complete an AOC-FC-3 Family Court Case Data Information Sheet, which may be obtained in the Circuit Court Clerk's Office.

RULE 2 COURT SCHEDULING/ MOTION HOUR / PROCEDURES FOR FILING

201 Schedule

The following is the hearing schedule for cases before the Family Court.

MONDAY	Domestic Relations Hearings / Trials and lengthy hearings
TUESDAY	9:00 Paternity Court (1 st , 2 nd , 3 rd , and 4 th Tuesdays)
	1:30 Domestic Relations Motion Hour

WEDNESDAY 8:30 Domestic Violence Counseling Reviews (1st and 3rd)
9:00 Domestic Violence Court
1:30 Circuit Court Civil Rules (1st Wednesday)
1:30 Child Support Hearings (2nd Wednesday)

THURSDAY 8:30 Dependency, Abuse & Neglect (1st and 3rd)
8:30 Juvenile Status Offenses (2nd and 4th)

FRIDAY Domestic Relations Hearings / Trials and lengthy hearings

Other hearings may be scheduled around regularly scheduled dockets and Motion Hour.

Adoptions and Terminations of Parental Rights hearings may be scheduled by calling the Family Court Judge's Office.

Temporary Removal Hearings (72 hour hearings) and emergency status hearings shall be scheduled for 1:00 p.m. Monday through Friday to accommodate the time requirements.

202 Filing of Motions

Except for Domestic Relations (CI) actions, all Motions shall be filed and served no later than 4:30 p.m. three business days preceding the appropriate docket.

203 Service of Motions

Unless otherwise specifically provided, service of motions and notice of hearings shall be made in conformity of CR 5.02. Proof of service shall be made by "Certificate of Service" setting forth proof of the time and manner of service, to whom was service made and signed by the person making the service and filed of record before any action is taken on the motion.

RULE 3 ADOPTIONS/TERMINATION OF PARENTAL RIGHTS

301 Pretrial conferences -involuntary termination of parental rights

With regard to FCRPP 34(1), the pretrial conference required for involuntary termination of parental rights cases may be conducted in the companion DNA action (if such exists).

302 Appointment of GAL and parents' attorney

In all Termination of Parental Rights actions filed by the Cabinet arising from the removal of the child in a Dependency Neglect or Abuse action in this county, the clerk shall appoint the same attorney for the child as was appointed in the DNA action. Likewise, the clerk shall appoint the same attorney as appointed in the DNA action for the parent, if the parent requests and qualifies for appointed counsel.

303 Adoption Records

Within 30 days of the entry of the final order in an adoption case, the Clerk shall place all papers and records in a suitable envelope which shall be sealed. The Clerk or Deputy Clerks are permitted to unseal and open an adoption file only for such reasons as are necessary in the performance of their duties as custodians of the records and may furnish certified copies of the Findings, Conclusions and Order of Adoption to the adoptive parents, however, the records shall not be opened for inspection by any other person except on written order of the court.

RULE 4 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

401 Domestic Violence Protocol and 24 Hour Access Policy

The Uniform Protocol for handling Domestic Violence Cases for the Second Judicial Circuit is incorporated herein by reference as if copied and set forth verbatim, attached as Appendix 1.

402 Motions

Motions for Domestic Violence actions shall be noticed for the beginning of the appropriate and regularly scheduled docket.

403 Amendments to Domestic Violence Orders

Any amendment to a Domestic Violence Order shall be set forth in the proper state approved AOC form(s) which are available in the Circuit Clerk's Office.

RULE 5 PATERNITY

501 Motions

Motions for Paternity actions shall be noticed for the beginning of the appropriate and regularly scheduled docket.

Motions for custody and child support, including modifications thereof, must strictly comply with statutory and rule requirements before a hearing will be granted.

502 Reopening fees

Motions to modify regarding support, custody or visitation brought by a private attorney or filed by a party pro se, shall be assessed a reopening fee of \$50.00, regardless of whether the original action was filed without costs under Title IV-D, unless the motion is brought in forma pauperis.

RULE 6 **DEPENDENCY NEGLECT AND ABUSE**

601 **Filing of Motion / Scheduling Hearing**

Prior to filing a (non-emergency) motion for the Dependency, Neglect and Abuse docket, a court date and time must be obtained from a member of the Family Court staff.

Service of the motion and notice of hearing shall be made by the County attorney when the Cabinet is the moving party.

602 **County attorney to assist non-Cabinet Petitioners**

In any non-Cabinet Petition seeking emergency custody of a minor child, the Petitioner may seek the assistance from the County Attorney's Office before filing of the action.

603 **Filing after hours Emergency Orders**

Pursuant to FCRPP 19(3)(a), all Orders for Emergency Custody received after normal business hours shall be filed with the Clerk of the court no later than close of the next work day .

604 **Attorney Appointment List**

The Court shall establish a list of attorneys for purposes of appointing counsel for the child (GAL) and attorney for the parent(s). Any attorney requesting to be placed on the list shall complete GAL training available through AOC. At any time that the Court finds that the GAL or parent's attorney is not effectively performing his or her duties in representing their client the Court may order the attorney removed from the list for appointment.

605 **Dispositional Reports**

The Dispositional reports required under FCRPP 28 shall be provided to all counsel of record at least three (3) business days prior to the hearing. It shall be sufficient to fax, e-mail or hand deliver the reports to counsel.

RULE 7 **DOMESTIC RELATIONS PRACTICE**

701 **Motion Hour Practice**

A. All motions to be heard on the Domestic Relations Docket on Tuesday at 1:30 p.m. shall be limited to Circuit Court (CI) filings. The motion shall be filed by 4:30 p.m. the Wednesday prior to the Tuesday motion docket. Motions filed after the deadline shall be automatically passed to the next Motion Hour. No evidence will be received at Motion hour except the statutory proof necessary for a Decree of Dissolution. Legal arguments on Motions shall be limited to motions for entry of interlocutory decree, and arguments taking less than five (5) minutes (2.5 minutes per side). Otherwise a separate hearing will be scheduled. Uncontested dissolution actions shall be noticed for

Motion Hour, however, time permitting, the Court will approve and sign for entry the Decree prior to the docket call, unless a deficiency(s) exists.

B. In compliance with FCRPP Rule 2(8), a hearing on the *Ex Parte* Motion for Child Support shall be set for the next Motion Hour following the signing of the *Ex Parte* Child Support Order.

C. Motions brought by the Division of Child Support in "CI" actions for establishment, modification or enforcement, including contempt, shall not be placed on the Tuesday Motion hour docket, but instead, shall be placed on the 2nd Wednesday 1:30 docket and shall be heard in full at that time unless a continuance is granted for good cause. Good cause shall include an opportunity to obtain counsel or have counsel appointed in Contempt actions.

702 Divorce Education Programs

In any divorce action involving minor children, counsel for the Petitioner or a Pro Se Petitioner shall file a Form AOC FC-3 with the clerk and shall send a copy to the Family Court Office at 301 S. 6th St., Paducah, KY 42003.

Families involved in a divorce proceeding where there are minor children may be ordered to participate in the Families In Transition program. Information regarding the Families In Transition Program can be obtained at the Family Court Office.

Failure to Attend. Unless attendance is waived for good cause shown, if court ordered, failure to attend the Families In Transition Program shall result in delay of the court action, imposition of costs and/or attorney's fees, and/or any other appropriate sanction, including contempt.

703 Case Management Conference / Settlement Conference

Notwithstanding the provisions of FCRPP 2(6), whenever the Court grants an Interlocutory Decree of Dissolution of Marriage, a case management conference shall be scheduled. Prior to the Case Management Conference the parties shall have an extrajudicial settlement conference to attempt to settle and identify issues. Counsel for the parties shall submit a settlement conference report to the Court prior to the Case Management Conference outlining any agreements and items remaining in dispute.

704 Mediation

A. The Family Court Judge may, by appropriate order, refer any case to mediation with or without the consent of the parties except in cases when a domestic violence order is in effect. Mediation may be ordered at any time during the proceeding. Cases shall be referred to a Court-approved mediator unless the parties agree to the use of another mediator who must have the same qualifications as one on the court-approved list of providers.

B. Except as otherwise provided by this rule or ordered by the Court for good cause shown, all mediation documents and mediation communications are confidential and shall not be disclosed. Mediation documents and communications are not subject to

disclosure through discovery or any other process, and are not admissible into evidence in any judicial proceeding. An exception to this rule is that the mediator shall be responsible for reporting abuse according to KRS 209.030 and KRS 620.030.

C. If a case is settled prior to or during mediation, an attorney for one of the parties shall prepare and submit to the Court an order reflecting the fact of settlement as in any other case. If some, but not all, of the issues in the case are settled during mediation or if agreements are reached to limit discovery or on any other matter, the parties shall submit a joint statement to the Court enumerating the issues that have been resolved and the issues that remain for trial. This statement shall be submitted within ten (10) days of the termination of mediation.

705 Closing actions

In any bifurcated dissolution of marriage action the final order resolving any remaining issues shall be designated as "Final Supplemental Decree". The clerk shall close any action wherein a Final Supplemental Decree is filed.

RULE 8 STATUS OFFENSES

801 Status Offense Hearings / Runaway Hearings

Emergency Status Offense Hearings / Runaway Hearings shall routinely be scheduled at 1:00 p.m. Monday – Friday (excluding holidays and weekends).

802 Filing of Motion / Scheduling Hearing

Motions for Status actions shall be noticed for the beginning of the appropriate and regularly scheduled docket.

RULE 9 MISCELLANEOUS

901 Appearances, Waivers and Agreements

Any unrepresented party who signs and acknowledges an appearance and waiver shall do so before a notary or deputy clerk. All agreements and agreed orders shall contain a proper clerk's certificate with the correct mailing addresses for the attorneys or parties if not represented by counsel unless the party has an active Emergency Protective Order or Domestic Violence Order against the opposing party. If there is an active EPO or DVO then the address of the protected party shall be supplied to the clerk on a separate paper so that the protected party may receive their copy.

902 Child Support Payments

All child support payments shall be directed to be paid through the Division of Child Support.

903 Reopening Fee

With regard to FCRPP3 (6) the reopening fee does not apply to Motions for Contempt/Motions for Rule. However, any Motion for Contempt (or Rule) which is used to disguise other relief will be assessed a \$50.00 reopening fee if the Court determines that the motion is an attempt to circumvent the payment of a reopening fee.

904 Medical and Daycare Expenses

All orders setting forth a percentage for reimbursement of daycare or uninsured medical expenses shall include a specific provision for giving notice to the payor requesting reimbursement of the expenses and a specific provision for how and when reimbursement is to be paid.

905 Identification of Counsel or Party Required

Every pleading, motion and any other paper filed in the record by counsel or party shall contain the printed name, address, telephone number, fax number and e-mail address, if fax and e-mail are available, of the attorney or party signing the paper. A rubber stamp shall not be deemed a signature either under this rule or CR 11.

906 Video Copies of In-Chamber Interviews with Children

Pursuant to FCRPP 27 , the Circuit Court Clerk's Office shall not release any Family Court video in-chamber interviews with children without a specific written order of the Family Court Judge. An individual requesting a judicial order must provide the Family Court Judge a written explanation for the request which specifically indicates the portion of the video record being requested is an in-chamber interview with a child and specific purpose of the request.

907 Personal Identifiers

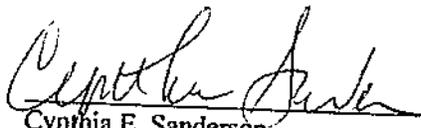
A. The Family Court Case Data Sheet must be fully completed in all cases. In addition, all pleadings must comply with the requirements of KRS Chapters 205, 403, 405, 406 and 407 by providing the personal identifying information required in those chapters. However, except as set forth in paragraph B below, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court pursuant to the above-stated chapters, 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.

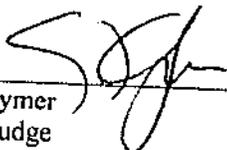
As used in this section, "personal identifier" means a Social Security number or tax-payer identification number, date of birth, or financial account number.

B. Pleadings, documents, or exhibits filed in actions deemed confidential by statute need not be redacted, and any access to those files shall be governed by KRS 199.570, KRS 610.340, KRS 625.045 and KRS 625.108.

908 Child Visitation Guidelines

Visitation with minor child(ren) may be awarded in accordance with McCracken County Standard Visitation Schedule (attached hereto as Appendix 2. The schedules are guidelines for the parents and the Court in establishing time-sharing /visitation that is in the best interest of the family. The guidelines will not serve as a default. The parties may agree without a hearing to any schedule so long as it serves the best interest of the children.

 /Date 1-9-14
Cynthia E. Sanderson
Family Court Judge
Second Judicial Circuit

 /Date 1-9-14
Craig Clymer
Circuit Judge
Second Judicial Circuit

 /Date 1-9-14
Tim Kaltenbach
Circuit Judge
Second Judicial Circuit

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX 1 OF THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 2ND JUDICIAL CIRCUIT, FAMILY COURT DIVISION, MCCrackEN COUNTY

Upon the recommendation of the Judges of the 25th Judicial Circuit, Clark and Madison counties, and being otherwise sufficiently advised,

The amendment to Appendix 1 of the Local Rules of Practice and Procedure for the 2nd Judicial Circuit, Family Court Division, is hereby approved. This order shall be effective as of the date of this Order and shall remain in effect until further orders of this court.

Entered this 4th day of February 2016.


CHIEF JUSTICE

APPENDIX 1

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL
JOINT JURISDICTION PROTOCOL
2nd JUDICIAL CIRCUIT AND DISTRICT
McCRACKEN COUNTY**

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

I. Uniform Protocol for Handling Cases

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

The Circuit Court Clerk of McCracken County and any of their sworn deputy clerks;
The County Attorney of McCracken County and any Assistant County Attorneys.

- B. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner after regular business hours and weekends:

The Circuit Clerk of McCracken County, and all of their sworn deputies;
The Sheriff of McCracken County and all other sworn deputies and dispatchers;
The Jailer of McCracken County and all of their sworn deputies;
The County Attorney of McCracken County and any Assistant County Attorney;
The Chief of Police for the city of Paducah and any other incorporated city in McCracken County and all sworn officers and dispatchers within their departments;
Any Kentucky State Police Officer found in McCracken County.

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

McCracken Family Court Judge, if available. In the event that the McCracken Family Court Judge is unavailable, the petition shall be presented to a McCracken District Court Judge and then to a McCracken Circuit Court Judge of general jurisdiction if a District Court Judge is unavailable.

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

McCracken Family Court Judge, if available. In the event that the McCracken Family Court Judge is unavailable, the petition shall be presented to a McCracken District Court Judge and then to a McCracken Circuit Court Judge of general jurisdiction if a District Court Judge is unavailable.

III. Assignment of Cases

- A. Pursuant to KRS 403.735 and KRS 456.030, jurisdiction over petitions filed under this chapter is concurrent between district, circuit, and family court.
- B. The judge reviewing a petition for an order of protection shall indicate in the "Court Action" section of the petition whether the resulting action is a domestic violence action under KRS Chapter 403 or an interpersonal protective order action under KRS Chapter 456.

C. The circuit clerk shall assign interpersonal protective order cases to the Family Court.

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

Wednesday at 9:00 a.m., unless otherwise scheduled by the McCracken Family 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

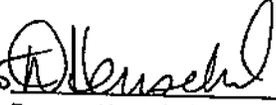
A. Pursuant to KRS 403.763 and KRS 456.180, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.

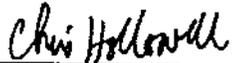
B. Petitioners seeking to initiate contempt proceedings should contact the Circuit Court Clerk's Office or the County Attorney's office in the county where the protective order was issued.

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:

 /Date 12/30/15  /Date 1/9/16
William A. Kitchen
District Judge
Second Judicial District
Deanna Henschel
Family Court Judge
Second Judicial Circuit

 /Date 12/23/15  /Date 1/11/16
Christopher B. Hollowell
District Judge
Second Judicial District
Craig Clymer
Circuit Judge
Second Judicial Circuit

 /Date 12/23/15
Tim Kaltenbach
District Judge
Second Judicial District