

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 31ST AND 36TH JUDICIAL CIRCUITS AND DISTRICTS, FLOYD, KNOTT AND MAGOFFIN COUNTIES

Upon the recommendation of the Judges of the 31st and 36th Judicial Circuits and Districts, Floyd, Knott and Magoffin counties, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 31st and 36th Judicial Circuits and Districts 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 8th day of January 2016.


CHIEF JUSTICE

**TWENTY-FOUR HOUR ACCESSIBILITY TO
PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL
31st and 36th JUDICIAL CIRCUITS AND DISTRICTS
FLOYD, KNOTT, & MAGOFFIN COUNTIES**

Pursuant to KRS 403.735 and KRS 456.030, and in compliance with Family Court Rules of Practice and Procedure (FCRPP) 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 domestic violence matters in which there may be joint jurisdiction between the Circuit/Family and District Courts.

I. Uniform Protocol for Processing 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 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. Protective order matters may be reassigned from the district court division to circuit/family court when there is a dissolution/custody proceeding pending.
- E. "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 abuse, stalking, or sexual assault shall not order the petitioner to take any affirmative action.
- F. Protective order cases shall be reassigned or transferred to another circuit under the following circumstances:
 - 1. There is a pending custody and /or dissolution action in another circuit.
 - 2. The Court either on its own motion or at the request of one/or both parties, recuses due to a conflict.

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:

Floyd County:

Floyd Family Court Clerk's Office Mountain Comprehensive Care Center
2nd Floor Justice Center 104 South Front Avenue
127 South Lake Drive Suite 100 Prestonsburg, KY 41653
Prestonsburg, KY 41653 (606)886-8572 or 886-4301
Phone #: (606)889-1651

Knott County:

Knott County Attorney's Office
54 W. Main Street
Hindman, KY 41822
(606)785-5355

Magoffin County:

Cabinet for Health and Family Services
Division of Protection and Permanency
125 Church Street
Salyersville, KY 41465
(606)349-3122

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

Floyd County:

Mountain Comprehensive Care Center
Crisis Line: 1-800-422-1060

Floyd County Sheriff's Office
1st Floor Floyd County Courthouse Annex
3rd Avenue
Prestonsburg, KY 41653
Phone #: (606)886-6171

Knott County:

Contact local Law Enforcement agency or
Kentucky State Police by calling 911

Magoffin County:

Contact local Law Enforcement agency or
Kentucky State Police by calling 911

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:
1. The petition shall be presented to the district judge(s) and/or trial commissioner.
 2. If the district judge and/or trial commissioner is not available, then the petition shall be presented to the circuit judge(s).
 3. In the event that the district judge, trial commissioner, and/or circuit judge(s) is not available, the petition may be presented to the family court judge.
- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:
1. The petition shall be presented to the district judge(s) and/or trial commissioner.
 2. If the district judge(s) and/or trial commissioner is not available, then the petition shall be presented to the circuit judge(s).
 3. In the event that the district judge(s), trial commissioner, and/or circuit judge(s) is not available, the petition may be presented to the family court judge.
- E. 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.
- F. The schedule for protective order hearings is as follows:
- Floyd County:
1st, 2nd, 3rd, & 4th Tuesdays at 9:00 a.m.
- Knott County:
1st, 2nd, 3rd, and 4th Mondays at 9:00 a.m.
- Magoffin County:
1st, 2nd, 3rd, & 4th Thursdays at 9:00 a.m.

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.

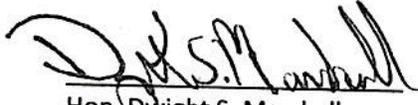
- D. Cases may be reassigned or transferred between courts if it is determined that there are other actions pending or circumstances indicate that review by the other court is proper. KRS 403.725, KRS 456.030. If reassignment or transfers occurs, the issuing Judge shall re-issue a summons until the matter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

IV. Contempt Proceedings

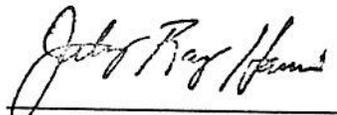
- A. Pursuant to KRS 403.760 and KRS 456.060, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.
- B. Petitioners seeking to initiate contempt proceedings should contact:
1. The petitioners may contact their respective county attorney's office to seek the filing of criminal charges.
 2. Or, the petitioners may contact their respective family court clerk's office to seek civil contempt charges.
- C. No petitioner may be held in contempt for failing to appear at a protective order hearing or to prosecute a criminal violation of a protective order.

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 circuit/district:

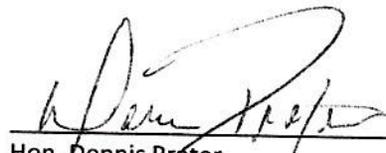

Hon. Dwight S. Marshall
Family Court Judge

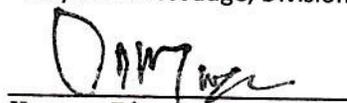

Hon. Thomas Smith
Floyd Circuit Judge, Division II


Hon. Johnny Ray Harris
Floyd Circuit Judge, Division I


Hon. Kimberley Childers
Knott/Magoffin Circuit Judge


Hon. Eric Hall
Floyd District Judge, Division II


Hon. Dennis Prater
Knott/Magoffin District Judge


Hon. Jimmy Ray Marcum, II
Floyd District Judge, Division I

