

# Supreme Court of Kentucky

## ORDER

**IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 32ND JUDICIAL CIRCUIT AND DISTRICT, BOYD COUNTY**

Upon the recommendation of the Judges of the 32nd Judicial Circuit and District, Boyd County, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 32nd Judicial Circuit and District 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 7th day of January 2016.

  
CHIEF JUSTICE

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL  
JOINT JURISDICTION PROTOCOL  
32<sup>ND</sup> JUDICIAL DISTRICT AND CIRCUIT – BOYD 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. Circuit Court Clerks shall process all protective order cases in accordance with the rules and procedures set forth in the "Domestic Violence Proceedings" section of 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 1<sup>st</sup> Circuit Court or 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. 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, and then as soon as practical.

## 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:

All Ashland, KY Police Officers  
All Catlettsburg, KY Police Officers  
All Kentucky State Police Officers serving the Post 14 area in Boyd County, KY  
The Boyd County Sheriff and all Deputy Sheriffs  
The Boyd Circuit Court Clerk and all Deputy Clerks

The Boyd Circuit Court Clerk shall, upon request of any of the above Law Enforcement Agencies (hereinafter "Agency"), supply sufficient Protective Order Petition and Order forms and summons to that Agency to meet their needs.

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

All Ashland, KY Police Officers  
All Catlettsburg, KY Police Officers  
All Kentucky State Police Officers serving the Post 14 area in Boyd County, KY  
The Boyd County Sheriff and all Deputy Sheriffs  
The Boyd Circuit Court Clerk and all Deputy Clerks

- C. Those persons authorized to take Petitions shall, upon request, provide the Petition forms to any person qualified pursuant to KRS 403.700 and KRS 456.030, et. seq. to request protection under the guidelines set forth therein.
- D. The Petitioner shall fully complete the Petition and present the same to the authorized party who shall:
1. Check the Petition for completeness, and if properly completed;
  2. Administer an oath to the Petitioner affirming the truthfulness of the contents of the Petition;
  3. Have the Petitioner sign the Petition; and
  4. Sign and date the Petition, including agency under whose authorization they are empowered to act herein.
- E. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

Any person qualified to seek protection under a Kentucky emergency protective order or temporary protective order shall be advised to take the Petition to the Boyd Circuit Court Clerk's Office in the Boyd County Judicial Center in Catlettsburg, Kentucky. If necessary, a law enforcement officer shall accompany the Petitioner to the Boyd County Judicial Center to provide for the safety of the Petitioner.

The Petitioner shall present the Petition to the Clerk or a Deputy Clerk who shall process the Petition by assigning the same to an appropriate Judge, and present the Petition to that Judge, or if unavailable, to any available Judge for review of the Petition and appropriate action as set out below.

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

Upon completion of the procedure set forth in Section III herein, the law enforcement officer authorized to take the Petition shall contact their Agency Dispatcher who shall in turn contact a Boyd County District or Circuit Judge.

In the event that NO Boyd County Judges are available, then the Dispatcher shall attempt to contact any Judge available in an adjoining County, who may review a Petition consistent with the Regional Program Administration Charter.

1. Upon making contact with an available Judge, the following procedure shall be followed:

- a. If contact is made and the Judge has a fax machine available, a copy of the Petition will be faxed to the Judge for review.

If APPROVED, the Judge will sign an EPO or TIPO and fax a copy to the 911 Dispatch Center for entry into LINK/NCIC systems, and will fax a copy to the requesting agency for distribution. The Agency will keep the original Petition and copy of the EPO or TIPO which will be returned to the Boyd Circuit Court Clerk's Office the next regular business day.

The law enforcement officer will then:

- (i) Provide the Petitioner with a copy of the Petition and EPO or TIPO and summons;
- (ii) Attempt to locate the Respondent and serve said Respondent with copies of the Petition (with Petitioner's address redacted) and the EPO or TIPO and Summons;
- (iii) Return the original Petition and a copy of the EPO/TIPO and Summons showing service upon the Respondent to the Agency to be returned to the Boyd Circuit Clerk's Office the next regular business day;
- (iv) If not served prior to the day of the hearing, the unserved EPO/TIPO and Summons shall be returned to the Boyd Circuit Clerk's Office no later than 12:00 noon on the date of the hearing.

If DENIED, the Petitioner will be so advised and all originals and faxed copies will be returned by the Agency to the Clerk's Office the next regular business day.

- b. If the Judge contacted does not have a fax machine available, then the agency's dispatcher shall have an officer dispatched to a location designated by that Judge with the original Petition, EPO/TIPO and Summons.

If APPROVED, the Judge will sign the EPO/TIPO and accompanying Summons, keep the original Petition and EPO/TIPO and return them to the Boyd Circuit Clerk's Office on the next regular business day.

The law enforcement officer will then:

- (i) Immediately fax or hand deliver copies of the Petition and EPO/TIPO to the 911 Dispatch Center for entry in to the Kentucky LINK/NCIC system;
- (ii) Provide the Petitioner with a copy of the Petition and EPO or TIPO and summons;
- (iii) Attempt to locate the Respondent and serve said Respondent with copies of the Petition (with Petitioner's address redacted) and the EPO or TIPO and Summons;
- (iv) Return the original Petition and a copy of the EPO/TIPO and Summons showing service upon the Respondent to the Agency to be returned to the Boyd Circuit Clerk's Office the next regular business day;
- (v) If not served prior to the day of the hearing, the unserved EPO/TIPO and Summons shall be returned to the Boyd Circuit Clerk's Office no later than 12:00 noon on the date of the hearing.

If DENIED, the Petitioner will be so advised and all originals and copies will be kept by the Judge and returned to the Clerk's Office the next regular business day.

### **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 and circuit 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. All EPOs and TIPOs issued by any Judge authorized herein shall set a date for hearing the issues on the FOLLOWING THURSDAY at 9:30 a.m. at the Boyd County Judicial Center in Cattlesburg, Kentucky. It shall be the duty of the Boyd Circuit Clerk's Office to assign an appropriate Case Number and verify that the matter is set before the proper Judge.
- E. In the event it is determined that the parties have an existing Domestic Violence Case or Dissolution/Child Custody case pending in another County within this State, then the Protective Order Case in Boyd County shall forthwith be transferred to the County having pending jurisdiction over the parties. If necessary, 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 Boyd Circuit Clerk's Office. Civil Contempt proceedings brought as a result of a violation of an EPO/TIPO shall be heard by the Judge issuing the Order.
- 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/district:



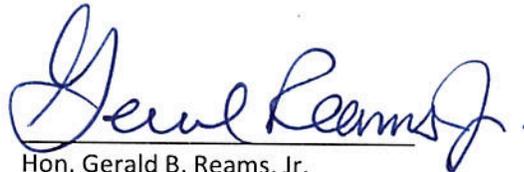
Hon. George W. Davis  
Judge, Boyd Circuit Court  
Division I



Hon. C. David Hagerman  
Judge, Boyd Circuit Court  
Division II



Hon. Scott T. Reese  
Judge, Boyd District Court  
Division I



Hon. Gerald B. Reams, Jr.  
Judge, Boyd District Court  
Division II