

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND PROCEDURE, DOMESTIC RELATIONS/FAMILY LAW PRACTICE, FOR THE 32ND JUDICIAL CIRCUIT, BOYD COUNTY

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

The Rules of Court Practice and Procedure, Domestic Relations/Family Law Practice, for the 32nd Judicial Circuit, Boyd 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 30th day of March 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

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

DOMESTIC RELATIONS/FAMILY LAW PRACTICE

BOYD CIRCUIT COURT

32nd JUDICIAL CIRCUIT

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RULE 1 INTRODUCTION/ADMINISTRATIVE PROCEDURE

101 Preface

These are the Uniform Rules of Court Practice and Procedures of the Boyd Circuit Court with respect to the Family Law/Domestic Relations Practice. These Rules supplement the Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCR) and the Kentucky Rules (CR). These rules shall be the only operative Boyd County Court Rules for Family Law/Domestic Relations Practice. All previous rules adopted by the Boyd Circuit Court with respect to Family Law/Domestic Relations Practice are hereby rescinded.

102 Effective Date

The effective Date of these Rules shall be 30 days after the Kentucky Supreme Court approval.

103 Citations

These Rules shall be cited as the BCFRP (Boyd County Family Rules of Procedure)

104 Assignment of Cases

- a. All cases filed, will be assigned upon filing by the Circuit Court Clerk or his deputy at the time the case is filed.
- b. In the event the Judges of the respective divisions are disqualified from trying such cases so assigned for the reason of being attorney of record, or other reasons, the case in which such Judge is so disqualified shall be reassigned, by written order, to the other Division. The written Order reassigning the case shall be signed by the Judges of each Division.
- c. Where related actions are assigned to different Divisions, Judges may consolidate and/or transfer the actions to that Division of Court in which the first action was assigned. Both Judges must sign the Order transferring.

105 Holidays

Holiday schedules may be obtained at the Boyd County Circuit Clerk's Office.

RULE 2 COURT SCHEDULING/ MOTION HOUR/ PROCEDURES FOR FILING

201 Schedule

Motion hour will occur on Friday mornings. Division II will be held at 9:00 a.m., and Division I will be held at 9:30 a.m.

202 Deadlines

Motions shall be filed by Friday at 4:00 p.m. of the week preceding the Motion hour. If the courthouse is closed on Friday, then the motion must be filed by Thursday at 4:00 p.m.

203 Exceptions to Regular Motion Hour Schedule

If a state holiday falls on Friday, Motion Hour will be conducted on the following Friday. If the Court is closed for any unforeseen reason, Motion Hour shall be passed to the following Friday.

204 Responsive Pleadings

If a responsive pleading is faxed to the Court for consideration at motion hour, the responsive pleading must also simultaneously be faxed to opposing counsel/party. If a fax number is not available then it shall be mailed immediately to the opposing/party.

RULE 3 ADOPTION/TERMINATION OF PARENTAL RIGHTS

301 Sibling Cases

If there are siblings involved in any adoption/termination of parental rights case, the companion case shall be filed with the same Boyd Circuit Judge.

302 Review

In cases involving the termination of parental rights in which there is a companion juvenile case, the proof of review by the Juvenile Court shall be filed in the adoption/termination of parental rights case pursuant to FCRPP 32(2).

303 Guardian Ad Litem

If a Guardian Ad Litem has been appointed for the minor child in any juvenile court action, then the Petitioner's counsel shall notify the Boyd Circuit Clerk for appointment of the Guardian Ad Litem.

304 Temporary Custody Order

Temporary Custody Orders granted pursuant to KRS 199.473(7) shall be SEALED, and not opened to inspection by persons other than the parties to such proceedings and their counsel.

RULE 4 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

401 Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Practice and Procedure (hereinafter "FCRPP") 13, the local Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol is attached hereto as Appendix A and is incorporated herein by reference as if set out in full.

402 Violation of Domestic Violence Orders

- A. Without limiting a party's choice of remedies, any alleged violations of Domestic Violence Orders should be referred to the Boyd District/Circuit Court for possible prosecution, except as set forth in 402 (B).
- B. Without limiting a party's choice of remedies, alleged violations of Domestic Violence Orders pertaining to visitation, child support, counseling, or firearms provisions should be initiated through the Boyd District/Circuit Court and scheduled for contempt hearings on the appropriate court docket.

RULE 5 DOMESTIC RELATIONS PRACTICE

501 Domestic Relations Commissioner

- A. Cases involving child custody, child visitation/timesharing, child support, maintenance, property division and/or general divorce action may be referred to the Domestic Relations Commissioner pursuant to FCRPP 4. If there is a conflict with the assigned Domestic Relations Commissioner, the case shall be referred to the Domestic Relations Commissioner of the other division or a Special Domestic Relations Commissioner may be appointed if necessary. If a Special Domestic Relations Commissioner is appointed, the Special Domestic Relations Commissioner must have the same qualifications as the Domestic Relations Commissioner.
- B. Once the case is referred to the Domestic Relations Commissioner, the notice of hearing must be sent to all parties within seven (7) days. Continuances may only be made for good cause shown and written motion to opposing parties, unless the parties agree to the continuance. The Domestic Relations Commissioner has the authority to schedule and reset the hearings.
- C. The Domestic Relations Commissioner's Report and Recommendation shall be filed with the Clerk within twenty-one (21) days of the completion of the trial and the submission of evidence.

- D. Thereafter, either party has ten (10) days in which to file objections pursuant to FCRPP 4(4)(a).
- E. If the record is left open for the submission of evidence to the Domestic Relations Commissioner, then the attorneys and/or parties must file a joint motion that the matter now stands submitted to the Commissioner for report and recommendation.

502 Mediation

- A. If ordered by the Court pursuant to FCRPP2(6), the parties shall engage in mediation.
- B. **Requirements for Mediation of the Property Distribution**
At least five (5) days prior to the mediation, the parties shall exchange and provide to the mediator the financial disclosure statements and a short statement including the issues to be addressed.
- C. **Qualifications and Applications for Boyd Family Court Approved Mediators**
 - 1. The Boyd Circuit Court may maintain a list of approved mediators for family court issues.
 - 2. If any attorney wishes to become a court approved mediator then they must notify the Boyd Circuit Judges of their request. The Boyd Circuit Judges shall approve additions or deletions to the approved mediator list.
 - 3. The Mediator must have eight (8) years of family law experience, or have completed a forty (40) hour family law mediation class.
- D. Upon referral to Mediation, the parties must agree on a mediator. If the parties are unable to agree on a mediator within seven (7) days then the Court will select a mediator from the approved list.
- E. **Compensation of the Mediator**
 - 1. The mediator shall be compensated at the rate agreed upon by the mediator and the parties unless either or both qualify for the Family Court sliding scale fee schedule set out below. The mediator's fee may include, but not be limited to:
 - a. Mediation sessions;
 - b. Preparation for sessions;
 - c. Travel time;
 - d. Postponement or cancellation of mediation sessions; and

e. Preparation of the parties' written mediation agreement prepared by mediator

2. Sliding Fee Schedule

The parties shall pay the mediation fees based upon their percents of income. If one party does not have an income then the Court must calculate the percent in which the parties shall pay based upon expenses and monies available.

F. **Completion of Mediation**

At the conclusion of mediation, the mediator shall report without comment to the Court as to the outcome of the mediation. The Court shall retain final authority to accept, modify or reject a mediation agreement.

G. **Confidentiality**

Mediation proceedings shall be held in private. All communications made during the proceedings shall be confidential. All conduct and communication made during a mediation conference shall be considered settlement negotiations governed by K.R.E. 408. Mediators shall not be subpoenaed regarding the matters discussed during mediation which is considered confidential.

RULE 6 MISCELLANEOUS RULES RELATING TO FAMILY LAW PRACTICE

601 Identification of Counsel or Party Required

Every pleading, motion and any other paper filed with the Court shall contain the case number, typed or printed name, address, telephone number of the attorney or party signing the paper.

602 Protection of Personal Identifiers

A. 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, when personal identifiers are required by statute or contained in other documents or exhibits the parties shall comply with CR 7.03 by filing one copy from which the personal identifiers have been redacted and filing an unredacted copy in a marked and sealed envelope. The unredacted sealed copy may only be accessed by a party to the case, an attorney of record in the case, a judge of the court or other

authorized court personnel. The personal identifier means the date of birth, Social Security number, taxpayer identification number or financial account number.

- B. Pleadings, documents, or exhibits filed in actions deemed confidential by statute need not be redacted.

603 In-Chamber Interviews

Copies of in-chamber interviews with children shall not be released without written order. If an in-chamber interview is requested, the moving party must provide the Court a written explanation for the request which specifically indicates the portion of the video record being requested and the specific purpose for the request.

604 Disclosures

When parties are exchanging the preliminary disclosure statement and/or the final disclosure statement or objections thereto or list of witness and exhibits they must file a notice of compliance that the documents have been exchanged with the Clerk.

605 Guardian Ad Litem

- A. If a guardian ad litem is appointed in a family court matter (not involving a termination of parental rights as requested by the Cabinet for Health and Family Services) an Order Appointing a Guardian ad Litem will be prepared by the Judge's office that specifies the percentage of financial responsibility of each party. The fee will be determined based on the the following:
 - a. The character of the litigation;
 - b. The rights in controversy;
 - c. The nature, duration and extent of the services;
 - d. The responsibility, industry, diligence and accomplishment of the guardian;
 - e. The general methods of evaluating attorney fees; and
 - f. The allowance for services, if any, in the Court of Appeals.
- B. Any motions for payment of Guardian Ad Litem fees must be submitted with a verified time affidavit. The Guardian Ad Litem may obtain a copy of the court file/record at no cost.
- C. The GAL will collect said fees from the parties according to the Order Appointing Guardian ad Litem.

606 Cooperative Parenting and/or Divorce Education Class

The parties may be referred to a cooperative parenting and/or divorce education class if needed.

607 Sealed Records

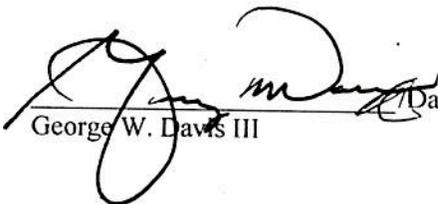
- A. If the Circuit Court Family matter also involves a juvenile court matter, then that portion of the Circuit Court file which contains the juvenile matter must be sealed.
- B. If any medical records for any party or a child of the parties are introduced into evidence, the portion of the file maintaining medical records shall be sealed and not released to anyone other than a party or attorney without a Court Order.
- C. If any educational records involving a minor child are introduced into evidence, those records shall be sealed and not released to anyone other than a party or attorney without Court Order.

608 Submission to the Court

- A. If the record is left open for the submission of evidence and/or memorandums to the Court, then when the case is ready to be submitted, the attorneys and/or parties must file a joint motion that the matter now stands submitted to the Court.

Approved:


_____/Date 3/22/12
Hon. C. David Hagerman


_____/Date 3-22-12
George W. Davis III

Supreme Court of Kentucky

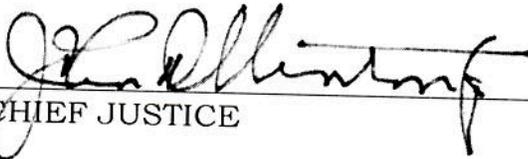
ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX A OF THE RULES OF COURT PRACTICE AND PROCEDURE, DOMESTIC RELATIONS/FAMILY LAW PRACTICE, 32ND JUDICIAL CIRCUIT BOYD COUNTY

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

The amendment to Appendix A of the Rules of Court Practice and Procedure, Domestic Relations/Family Law Practice, for the 32nd 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 7th day of January 2016.


CHIEF JUSTICE

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL
JOINT JURISDICTION PROTOCOL
32ND 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 1st 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

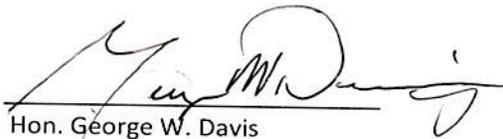
- A. Pursuant to KRS 403.735 and KRS 456.030, jurisdiction over petitions filed under this chapter is concurrent between district and circuit court.
- B. The judge reviewing a petition for an order of protection shall indicate in the "Court Action" section of the petition whether the resulting action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



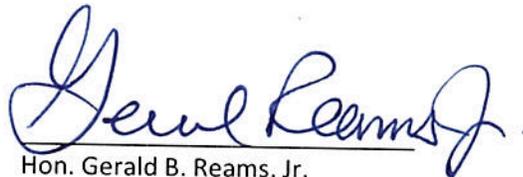
Hon. George W. Davis
Judge, Boyd Circuit Court
Division I



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