

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 35TH JUDICIAL CIRCUIT, FAMILY COURT DIVISION, PIKE COUNTY

Upon recommendation of the Judges of the 35th Judicial Circuit, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 35th Judicial Circuit, Family Court Division, Pike 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 31st day of July 2013.


CHIEF JUSTICE JOHN D. MINTON, JR.

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

**PIKE CIRCUIT COURT
35TH JUDICIAL CIRCUIT
FAMILY DIVISION**

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RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE

101 Preface

These are the Uniform Rules of Court Practice and Procedures of the Pike Circuit Court, Family Division (Pike Family Court). These Rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCr) and the Kentucky Rules of Civil Procedure (CR). These rules shall be the only operative Pike Family Court Rules. All previous rules adopted by the Pike Family Court are hereby rescinded.

102 Effective Date

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

103 Citation

These Rules shall be cited as PFRP (Pike Family Court Rules of Practice).

104 Holidays

Holiday schedules may be obtained at the Pike Circuit Court Clerk's Office and the Pike Family Court Office.

RULE 2 COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

201 Regular Motion Hour Schedule

A. The Pike Family Court does not utilize a Motion Hour per se. Counsel and pro se litigants who use Court Net will find that all motions are scheduled for Friday's at 1:00 p.m. This is not a scheduled hearing, **NO ATTENDANCE IS REQUIRED**. All motions filed in Pike Family Court by 12:00 pm on Wednesday shall be placed on the Court's weekly motion docket. The judge will rule on said motions by sustaining, overruling, or assigning for a status conference to determine how much time is needed for said hearing.

202 Deadline for Serving and Filing Motions

A. All motions filed pursuant to PFRP 201 (A) shall be filed and clocked no later than 12:00 pm on Wednesday with copies to be either mailed, hand delivered or sent by electronic transmission (CR 5.02). All motions filed after 12:00 pm shall be placed on the following week's motion hour.

203 Emergency Motions

A. All motions requiring emergency action by the Court shall be filed as detailed in PFRP 201 (A). In addition, a copy of said motion shall be delivered to the Pike Family Court Judge's office for review. Attached to said motion shall be two orders: (1) granting said motion and scheduling for hearing; and, (2) denying said motion and scheduling for hearing.

RULE 3 ADOPTIONS / TERMINATION OF PARENTAL RIGHTS

301 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

The Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for the 35th Judicial Circuit and District, consisting of Pike County, Kentucky, is attached in Appendix A and incorporated by reference as if set out fully herein.

402 Procedures for Filing and Obtaining Emergency Protective Orders

A verified petition for a Domestic Violence Order (DVO) and Ex Parte Emergency Protective Order (EPO) shall be filed at the Pike Circuit Court Clerk's office located in the Hall of Justice, 89 Division Street, Pikeville, Kentucky. The clerk's office is open from 8:00 a.m. - 4:00 p.m. Monday through Friday exclusive of holidays. After hours and on holidays the domestic violence forms may be obtained from the following: (1) any law enforcement agency in Pike County; and, (2) Trial Commissioner.

403 Violation of Domestic Violence Orders

Without limiting a party's choice of remedies, alleged violations of Domestic Violence Orders may be referred to the Pike District Court for possible prosecution, or the Pike Family Court for a contempt hearing. The option of which remedy to seek will be at the discretion of the Petitioner.

404 Hearings

Cases shall be scheduled within fourteen days of filing. If parties require more than fifteen minutes to present their evidence the Court may assign the parties to the end of the docket or the parties may request the hearing be scheduled for a later date with more time allotted for the hearing.

RULE 5 PATERNITY

501 Motion Practice

Motions for default judgments for failure to plead or otherwise defend, as provided by the Rules of Civil Procedure, shall not be noticed for a hearing before the Court but shall be filed with the Court and stand submitted upon filing. If the court determines a hearing is necessary under CR 55.01, a hearing date will be assigned.

502 Guardian Ad Litem/Military Attorney appointed for actions filed pursuant to KRS 406

1. In order to be appointed as Guardian Ad Litem, any licensed attorney in good standing with the Kentucky Bar Association may apply. The appointment is to be made and compensation paid according to the statute, case law, or civil rule authorizing the appointment.
2. Motions for compensation shall be accompanied by an affidavit indicating:
 - a. The statutory basis for appointment;
 - b. The hours of service rendered with a brief description of the services rendered and reasonableness of the fee requested; and
 - c. That the action or proceedings have been concluded.
3. Guardians Ad Litem appointed to represent unmarried infants, persons of unsound mind, or adult prisoners shall notify the respondent of his/her appointment as a Guardian Ad Litem, inform the respondent of the nature of the proceeding and of the respondent's right to have genetic testing conducted.

503 Redocketing Fee

- A. Pursuant to FCRPP 14(1), a \$50.00 redocketing fee shall not be paid for motions in cases brought pursuant to Title IV-D of the Social Security Act for child support modification or enforcement. However, where an action is initiated pursuant to Title IV-D but subsequent motions regarding child support, custody or visitation are brought by a private attorney or are filed by a party pro se, rather than by Title IV-D counsel, the fee shall be charged unless the motion is brought in forma pauperis.

504 Permission to Review and Copy Paternity Case Files

Upon receipt of the Pike Circuit Court Clerk's Office of an attorney's statement seeking permission to review and copy a paternity case file, **OR** upon the receipt by the Pike Circuit Clerk's Office of a party's signed and notarized release authorizing an attorney to inspect the party's paternity case file, for reasons relating to representation in that action of a party thereto, the Clerk's office shall grant the attorney access to such a file.

Pursuant to KRS 406.035, the attorney seeking permission to review and/or copy the paternity file shall sign a statement that the order of judgment is the only information which may be shared with the client and that all other information in the case cannot be disclosed to the client, including information relating to domestic violence or child abuse as well as the addresses of the parties. Regardless of the subsequent representation or non-representation of the party, any information contained in such file is confidential and subject to the attorney-client privilege.

505 Access to Paternity Cases for Attorneys and Guardians Ad Litem Representing Incarcerated Parents

The Pike Circuit Court Clerk's Office shall allow attorneys and Guardians Ad Litem who are representing incarcerated parents in paternity cases to have access to the records of those actions.

RULE 6 DEPENDENCY, NEGLECT, AND ABUSE

601 Petition

A. All petitions shall be filed in accordance with FCRPP 20. The petition shall be submitted to the Family Court Judge for determination of legal sufficiency. If the Family Court Judge is unavailable the petition shall be presented to a district for review. If after review, the judge determines that the petition fails to state grounds for action pursuant to KRS Chapter 620, the petition shall be dismissed. If the petition is approved, the judge shall initial the petition for filing. A copy shall be distributed to the assistant county attorney assigned to prosecute dependency actions and the original shall be filed with the Office of the Pike Circuit Court Clerk.

B. Any petition filed with this Court shall comply with the following conditions:

1. Citations to specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and
2. Full information concerning the child's parents and their address(es). The petitioner shall make diligent efforts to locate the child's parents, including but not limited to, initiating contact with the Child Support Division of the Pike County Attorney's Office.

602 The Effects of Service on Only One Parent/Persons Exercising Custodial Control or Supervision

The judge may permit the Temporary Removal Hearing or the adjudicatory hearing to go forward when the non-custodial parent has not been served in accordance with FCRPP 18.1 if it is established on the record that petitioner has made diligent efforts to serve all other parties including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent. The petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served.

603 Time for Temporary Removal Hearing

The Temporary Removal Hearing shall be held according to the following guidelines:

- A. The Temporary Removal Hearing shall be scheduled on the dependency docket within 72 hours, excluding holidays and weekends, of the issuance of an ECO. If the dependency docket will not be held within 72 hours, the Temporary Removal Hearing will be scheduled for the division's emergency docket within 72 hours of the issuance of the ECO. Such hearing should be scheduled toward the end of the 72 hours to allow time for service to be attempted.
- B. The Temporary Removal Hearing shall be held no earlier than the day following the filing of the petition to allow time for service to be attempted.

604 Guardians Ad Litem and Parent Attorneys

The Court shall assign a Guardians Ad Litem to each case when the petition is filed, in order to facilitate consistent, high-quality advocacy representation of all parties. Counsel for the person exercising custodial control shall be appointed at the temporary removal hearing.

605 Duty of Guardian Ad Litem and Parent Attorney to Continue

After a Guardian Ad Litem or parent attorney accepts an appointment, representation shall continue through all stages of the dependency, neglect, abuse, or termination of parental rights and adoption proceedings. All parties shall be served with notice of an attorney's request to withdraw.

606 Records and Transcripts

A videotaped record of all proceedings shall be kept and copies shall be available to the parties and their counsel upon request in accordance with the provisions of FCRPP 27.

607 Dispositional Hearing

At the dispositional hearing CHFS shall provide the court with the information required pursuant to FCRPP 28 by completing form DNA 12. In addition, if the siblings have been separated, CHFS shall explain the reasons for the separation.

RULE 7 DOMESTIC RELATIONS PRACTICE

701 Required Case Information

- A. Case Data Information sheet shall be filed with the petition (Form AOC-FC-3).
- B. Preliminary Verified Disclosure Statements (Form AOC-238) shall be filed seven (7) days before the Case Management hearing by each party.

702 Divorce Education Program

- A. In accordance with FCRPP 6(4), families involved in a divorce proceeding where there are minor children may be ordered to participate in a divorce education program a/k/a Families in Transition (FIT).
- B. Parties may request waiver of attendance in the divorce education program a/k/a Families in Transition (FIT) by filing a verified Motion stating grounds for said waiver.

703 **Mediation**

A. Mediation

If mediation is agreed to by the parties and ordered by the court pursuant to FCRPP 2(6), the parties shall engage in said mediation unless the exceptions provided under KRS 403.036 apply.

B. Requirements for Property Mediation

The parties shall exchange and provide to the mediator, in no less than five (5) working days prior to the mediation conference, the following:

1. Supplement to financial disclosure statement regarding any material change:
2. A short statement including definition of the issue to be addressed by the mediator and a brief narrative statement of any special problems affecting the case (e.g. closely held corporation, medical problems of any family member, etc.).
 - a. Copies of all documents supporting valuation of assets;
 - b. Copies of all documents verifying monthly payments and outstanding balances on all debts; and,
 - c. All information and copies of all documents requested by the mediator prior to the mediation conference.

C. Adjournment

The mediator may suspend or terminate mediation whenever, in the opinion of the mediator, the matter is not appropriate for further mediation or at the request of either party.

D. Counsel

The parties shall attend the mediation conference and shall appear promptly at the time and location for the scheduled mediation conference. The attorneys for each party may attend and participate, subject to the defined roles of the mediator, and shall at all times be permitted to privately communicate with their respective clients.

E. Compensation of Mediator

The mediator shall be compensated at the rate agreed upon by the mediator and the parties.

Completion of Mediation

1. At the conclusion of mediation, the mediator shall report without comment to the Court and the Pike Family Court Office as to the outcome of the mediation, (i.e. a full agreement, partial agreement or mediation terminated). A termination or non-agreement shall be without prejudice to either party.
 - a. Handwritten or recorded mediation agreements must be typed and signed by all parties and their counsel, if any, within ten (10) working days.
2. The Court shall retain final authority to accept, modify, or reject an agreement.
3. The parties shall have the affirmative duty to contact the court's secretary and remand any pending hearings concerning resolved issues.

F. Confidentiality

1. Mediation proceedings shall be held in private and all communications, verbal or written, made in the proceedings shall be confidential. The same protection shall be given to communications between the parties in the presence of the mediator, and to all communications, verbal or written, with the Pike Family Court Office or designee. The only exception to this Rule is that the mediator shall be responsible for reporting abuse according to KRS 209.030, KRS 209A.030 and KRS 620.030.
2. All conduct and communications made during a mediation conference shall be treated as settlement negotiations and shall be governed by K.R.E. 408.
3. Mediators shall not be subpoenaed regarding the disclosure of any matter discussed during the mediation which is considered confidential. This privilege and immunity resides with the mediator and may not be waived by the parties.

RULE 8 STATUS OFFENSES

There are no local rules pertaining to Status Offense cases. See FCRPP 37 through 44 for uniform statewide rules.

RULE 9 MISCELLANEOUS

901 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 e-mail address of the attorney or party signing the paper. A rubber stamp shall not be deemed a signature either under this Rule or CR 11.

902 Protection of 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 taxpayer 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 PFRP 504 and by KRS 199.570, KRS 610.340, KRS 625.045 and KRS 625.108.

903 Notice of Submission

In accordance with SCR 1.05(8), when any action stands submitted for final adjudication, counsel or unrepresented parties shall file an AOC Form 280 with the Judge, Family Court Clerk and Administrative Office of the Courts.

904 Video Copies of In-Chamber Interviews with Children

Pursuant to FCRPP 17, the Pike County Circuit Court Clerk's Office shall not release any Pike Family Division 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 for the request.

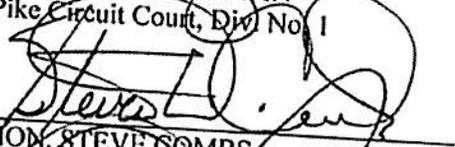
905 Requests for Confidential Video Records

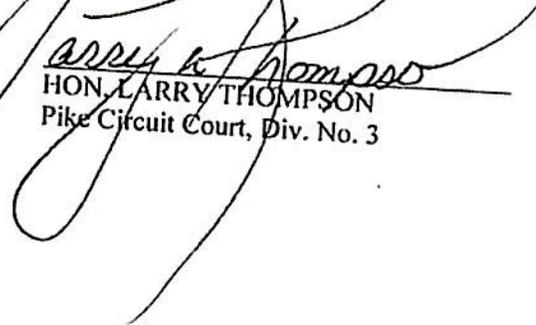
The Pike County Circuit Court Clerk's office shall not release any copies of Pike Family Court confidential video records, except for Paternity actions, without a specific written order from the presiding Family Court Judge. An individual requesting a judicial order must file a written motion, with notice to all parties, including the child's Guardian Ad Litem, if any, and set forth the purpose for the request.

Except that, pursuant to KRS 610.340(2), this shall not apply to public officers or employees engaged in the investigation and prosecution of cases under KRS Chapters 600 through 645 or other prosecutions authorized by the Kentucky Revised Statutes, as certified by that public officer or employee. Said public officer or employee shall use and distribute this information only for investigation or prosecution of offenses under the Kentucky Revised Statutes.

Approved and promulgated by Order of all Judges of the Pike Circuit Court and Family Court, this the 12 day of July, 2013.


HON. EDDY COLEMAN
Pike Circuit Court, Div. No. 1


HON. STEVE COMBS
Pike Circuit Court, Div. No. 2


HON. LARRY THOMPSON
Pike Circuit Court, Div. No. 3

Supreme Court of Kentucky

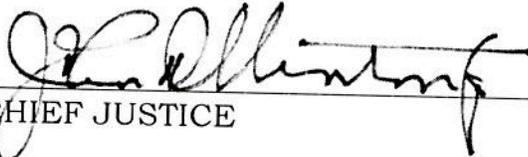
ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX A OF THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 35TH JUDICIAL CIRCUIT, FAMILY DIVISION, PIKE COUNTY

Upon the recommendation of the Judges of the 35th Judicial Circuit, Pike County, and being otherwise sufficiently advised,

The amendment to Appendix A of the Rules of Court Practice and Procedure for the 35th Judicial Circuit, Family 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 11th day of December 2015.


CHIEF JUSTICE

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL
JOINT JURISDICTION PROTOCOL
35TH JUDICIAL CIRCUIT AND DISTRICT
PIKE 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:

Circuit Judges; District Judges; Trial Commissioners; Circuit Court Clerk and Deputy Circuit Court Clerks; Pike County Advocacy and Support Staff. Should the petitioner be unable to come to the courthouse during regular business hours, then any Law Enforcement officer may administer the oath and submit the petition to the court.

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

Circuit Judges; District Judges; Trial Commissioner; Circuit Court Clerk and Deputy Circuit Court Clerks; Pike County Advocacy and Support Staff; and any Law Enforcement Officer may administer the oath and submit the petition to the Court.

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

Trial Commissioner; Circuit Judge (Family Division); District Judges; and Circuit Judges, (General Jurisdiction).

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

Trial Commissioner; Circuit Judge (Family Division); District Judges; and Circuit Judges (General Jurisdiction).

III. Assignment of Cases

- A. Pursuant to KRS 403.735 and KRS 456.030, jurisdiction over petitions filed under these chapters 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 domestic violence and interpersonal protective order cases to the Pike Family Court.
- D. The schedule for hearings on protective orders is as follows:

Mondays at 1:00 p.m.

- 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 Pike County Attorney.
- 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.

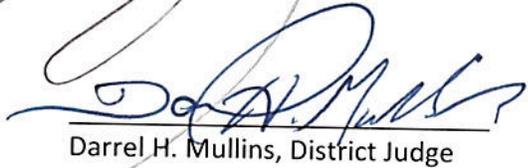
The above protocol is adopted by all judicial officers in the circuit:



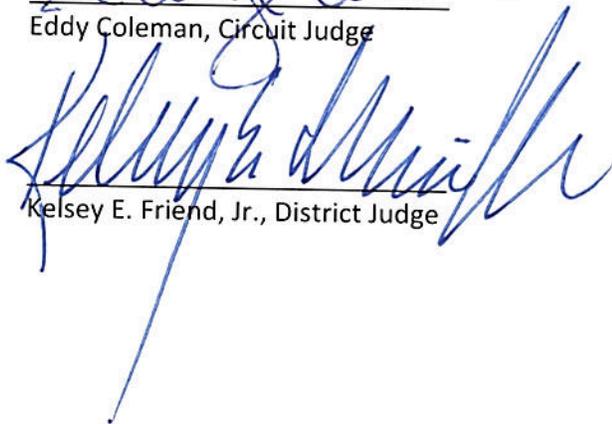
Larry Thompson, Circuit Judge



Eddy Coleman, Circuit Judge



Darrel H. Mullins, District Judge



Kelsey E. Friend, Jr., District Judge