

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 39TH JUDICIAL CIRCUIT AND DISTRICT, BREATHITT, POWELL AND WOLFE COUNTIES

Upon the recommendation of the Judges of the 39th Judicial Circuit and District, Breathitt, Powell and Wolfe counties, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 39th 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 11th day of December 2015.


CHIEF JUSTICE

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL
JOINT JURISDICTION PROTOCOL
39th JUDICIAL CIRCUIT AND DISTRICT
BREATHITT, POWELL and WOLFE COUNTIES**

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 receiving judge may hear the matter.
- 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:

i. BREATHITT COUNTY

The Breathitt Circuit Court Clerk or any Breathitt Deputy Clerk
Breathitt County Judicial Center
1131 Main Street
Jackson, Kentucky 41339
Phone: (606) 666-5768
Regular Business Hours: Monday-Friday 8:00 a.m. to 4:00 p.m.

ii. POWELL COUNTY

The Powell Circuit Court Clerk or any Powell Deputy Clerk
Powell County Courthouse
52 Washington Street
Stanton, Kentucky 40380
Phone: (606) 663-4141
Regular Business Hours: Monday and Friday 8:00 a.m. to 6:00 p.m.
Tuesday, Wednesday & Thursday 8:00 a.m. to 4:30 p.m.

iii. WOLFE

The Wolfe Circuit Court Clerk or any Wolfe Deputy Clerk
Wolfe County Judicial Center
Hwy 191
Campton, Kentucky 41301
Phone: (606) 668-3736
Regular Business Hours: Monday-Friday 8:00 a.m. to 4:00 p.m.
(5:00p.m. on the 1st Friday of each Month)

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

i. BREATHITT COUNTY

The Breathitt County Sheriff or any Breathitt County Deputy Sheriff
Any Officer of the Jackson Police Department
Any member of the Kentucky State Police

Call 911 or Jackson City Dispatch at (606) 666-2424

ii. POWELL COUNTY

The Powell County Sheriff or any Powell County Deputy Sheriff
Any Officer of the Stanton or Clay City Police Department

Any member of the Kentucky State Police

Call 911 or Powell County Emergency Dispatch at (606) 663-4116

iii. WOLFE COUNTY

The Wolfe County Sheriff or any Wolfe County Deputy Sheriff
Any member of the Kentucky State Police

Call 911 or Jackson City Dispatch at (606) 666-2424

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:
- i. The verified petition shall be presented to the 39th Judicial Circuit's Family Court Judge. However, if the Family Court Judge is absent or otherwise unavailable the petition shall be presented to the Trial Commissioner for the county of the petition's origin, if any. In the event that Trial Commissioner is absent or otherwise unavailable or the petition's county of origin is Wolfe County, then the petition shall be presented to the District Court Judge in the 39th Judicial Circuit.
 - ii. If neither the Family Court Judge, Trial Commissioner or District Court Judge is available, then the petition shall be presented to the General Jurisdiction Circuit Court Judge for the 39th Judicial Circuit.
 - iii. In the event no judge or trial commissioner can be found within the 39th Judicial Circuit then the petition may be presented to any Family Court Judge, District Court Judge or Circuit Court Judge in any surrounding county pursuant to the Regional Program Administration Charter.
- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:
- i. The verified petition shall be presented to the 39th Judicial Circuit's Family Court Judge. However, if the Family Court Judge is absent or otherwise unavailable the petition shall be presented to the Trial Commissioner for the county of the petition's origin, if any. In the event that Trial Commissioner is absent or otherwise unavailable or the petition's county of origin is Wolfe County, then the petition shall be presented to the District Court Judge in the 39th Judicial Circuit.
 - ii. If neither the Family Court Judge, Trial Commissioner or District Court Judge is available, then the petition shall be presented to the General Jurisdiction Circuit Court Judge for the 39th Judicial Circuit.
 - iii. In the event no judge or trial commissioner can be found within the 39th Judicial Circuit then the petition may be presented to any Family Court Judge,

District Court Judge or Circuit Court Judge in any surrounding county pursuant to the Regional Program Administration Charter.

iv. Once an Emergency Protective Order or Emergency Interpersonal Protective Order has been signed by a Judge or Trial Commissioner, the Order shall be sent with the Petition to LINK for entry. Upon service and LINK entry, the Petition shall be returned to the appropriate Circuit Court Clerk's Office to be assigned either to the Family or District Court as set out in this protocol.

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 District Court.
- D. The schedule for hearings on protective orders is as follows:
 - i. DOMESTIC VIOLENCE ORDER HEARINGS:
 - a. Breathitt County: 1st, 2nd, 3rd and 4th Wednesdays at 9:00 a.m.
 - b. Powell County: 1st, 2nd, 3rd and 4th Mondays at 9:00 a.m.
 - c. Wolfe: 1st, 2nd, 3rd and 4th Tuesdays at 9:00 a.m.
 - ii. INTERPERSONAL PROTECTIVE ORDER HEARINGS:
 - a. Breathitt County: Each Monday at 11:00 a.m.
 - b. Powell County: Each Tuesday at 11:00 a.m.
 - c. Wolfe: Each Wednesday (except the 1st Wednesday each month) at 11:00 a.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 receiving judge may hear the matter.

IV. Contempt Proceedings

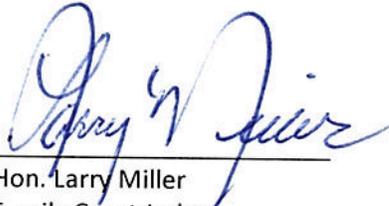
- A. Pursuant to KRS 403.763 and KRS 456.180, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually

exclusive. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.

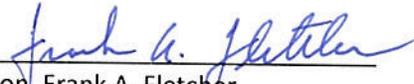
- B. Petitioners seeking to initiate contempt proceedings should contact:
- i. Their respective County Attorney's Office if they seek to file criminal charges, OR
 - ii. Their respective Circuit Court Clerk's Office if they seek to file civil contempt charges.
- C. No petitioner may be held in contempt 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.

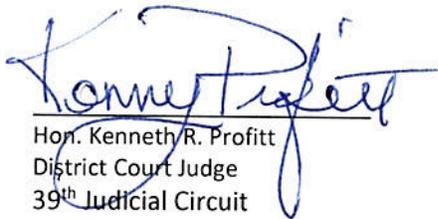
All judicial officers in the 39th Judicial Circuit adopt the above protocol this 25th day of November 2015.



Hon. Larry Miller
Family Court Judge
39th Judicial Circuit



Hon. Frank A. Fletcher
Circuit Court Judge
39th Judicial Circuit



Hon. Kenneth R. Profitt
District Court Judge
39th Judicial Circuit