

# Supreme Court of Kentucky

## ORDER

**IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 41ST JUDICIAL CIRCUIT, FAMILY COURT DIVISION, CLAY, JACKSON, AND LESLIE COUNTIES**

Upon recommendation of the Judges of the 41st Judicial Circuit, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 41st Judicial Circuit, Family Court Division, Clay, Jackson, and Leslie counties, 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 4<sup>th</sup> day of April 2012.

  
CHIEF JUSTICE JOHN D. MINTON, JR.

**FAMILY COURT RULES FOR 41<sup>ST</sup> JUDICIAL CIRCUIT**  
**CLAY, JACKSON AND LESLIE COUNTIES**

**RULE 1. INTRODUCTION**

**1.01 Introduction**

- A. These are the Rules of Practice of the Family Court for the 41<sup>st</sup> Judicial Circuit and shall be cited as “FCR” for Family Court Rules. These Rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Civil Procedure, the Kentucky Rules of Criminal Procedure and the Rules of the Clay, Jackson and Leslie Circuit Courts, for all Family Court matters.
- B. Effective date of these is 30 days after approval by the Kentucky Supreme Court.

**1.02 Mission Statement**

- A. The mission of Family Court in the 41<sup>st</sup> Judicial Circuit, consisting of Clay, Jackson and Leslie Counties, is to offer families and children the best possible resolutions to the legal problems they encounter as quickly, efficiently and thoroughly as humanly possible.

**1.03 Jurisdiction**

- A. The jurisdiction of the Family Court shall include cases involving:
  - 1. Domestic or family issue or dissolution of marriage;
  - 2. Child custody;
  - 3. Visitation;
  - 4. Support, maintenance and property distribution;
  - 5. Adoption and termination of parental rights;
  - 6. Domestic violence, including emergency protective orders;
  - 7. Status offenses, beyond control children and runaways;
  - 8. Paternity;
  - 9. Dependency, neglect or abuse.

**RULE 2. COURT SCHEDULING/MOTION HOUR/PROCEDURES**

**2.01** The following is a hearing schedule for cases before the Family Court:

**MONDAYS**

**LESLIE COUNTY**  
**9:00AM Domestic Violence, Divorce**  
**11:00AM Juvenile**

**TUESDAYS**                      **JACKSON COUNTY**  
   **9:00AM Domestic Violence, Divorce**  
   **11:00AM Juvenile**

**WEDNESDAYS**                      **CLAY COUNTY**  
   **9:00AM Domestic Violence, Divorce**

**THURSDAYS**                      **CLAY COUNTY**  
   **9:00AM Juvenile**

**FRIDAYS**                              **CLAY, JACKSON, LESLIE COUNTIES**  
   **Special Hearings (By Assignment Order)**

**\*\*\* Note:** Motions and hearings scheduled shall be heard that day, except any motion or hearing expected to require a hearing of two (2) hours or more will be assigned for hearing at a specific time by the Court.

#### **2.02 Consolidation of Related Actions**

Pursuant to CR 42.01, when two or more different actions are pending involving the same parties and common questions of law or fact those cases may be consolidated. Common issues may be heard in both cases simultaneously, but the files shall be maintained separately.

#### **RULE 3. ADOPTIONS / TERMINATION OF PARENTAL RIGHTS CASES**

There are no local rules relating to Adoptions or Terminations of Parental Rights. Refer to FCRPP 32 – 36 for uniform statewide rules.

#### **RULE 4. DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY**

##### **4.01. Twenty-Four Hour Accessibility and Joint Jurisdiction Domestic Violence Protocol.**

The Twenty-Four Hour Accessibility and Joint Jurisdiction Domestic Violence Protocol for the 41<sup>st</sup> Circuit and District, consisting of Clay, Jackson and Leslie Counties, is attached in Appendix A, and is incorporated by reference as if fully set out herein.

#### **RULE 5. PATERNITY**

There are no local rules relating to Paternity. Refer to FCRPP 14 & 15 for uniform statewide rules.

**RULE 6. DEPENDENCY, NEGLECT AND ABUSE CASES**

- A. All Dependency, Neglect and Abuse cases in Family Court shall be filed no less than 72 hours, exclusive of weekends and holidays, from the issuance of an emergency custody order and before the temporary removal hearing with service on all parties and social workers (where applicable).
- B. A temporary removal hearing will be scheduled no more than 10 days after the filing of a petition for dependency neglect and abuse when no emergency custody order has been issued.

**RULE 7. DOMESTIC RELATIONS PRACTICE**

There are no local rules relating to Domestic Relations Practice. Refer to FCRPP 2 through 9 for uniform statewide rules.

**RULE 8. STATUS OFFENSES**

There are no local rules relating to Status Offenses. Refer to FCRPP 37 through 44 for uniform statewide rules.

**RULE 9. MISCELLANEOUS**

**Applicability of Rules of Civil and Criminal Procedure**

These Rules are subject to the Kentucky Kentucky Family Court Rules of Procedure and Practice, and the Kentucky Rules of Civil and Criminal Procedure and applicable statutes.

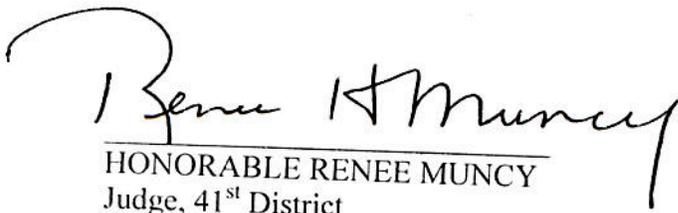
This 28<sup>th</sup> day of March, 2012.



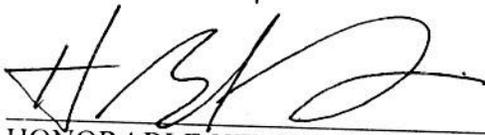
HONORABLE GENE CLARK  
Judge, 41<sup>st</sup> Circuit  
Family Court Division



HONORABLE OSCAR GAYLE HOUSE  
Judge, 41<sup>st</sup> Circuit



HONORABLE RENEE MUNCY  
Judge, 41<sup>st</sup> District  
Division 1



HONORABLE HENRIA BAILEY-LEWIS  
Judge, 41<sup>st</sup> District  
Division 2

# Supreme Court of Kentucky

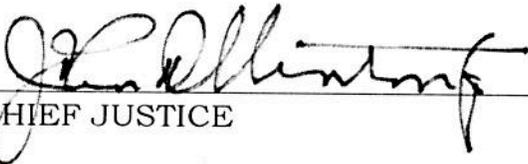
## ORDER

**IN RE: ORDER APPROVING AMENDMENT TO APPENDIX A OF THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 41ST JUDICIAL CIRCUIT, FAMILY COURT DIVISION, CLAY, JACKSON AND LESLIE COUNTIES**

Upon the recommendation of the Judges of the 41st Judicial Circuit, Clay, Jackson and Leslie counties, and being otherwise sufficiently advised,

The amendment to Appendix A of the Rules of Court Practice and Procedure for the 41st Judicial Circuit, Family Court 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

**REVISED TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS  
AND LOCAL JOINT JURISDICTION PROTOCOL  
41<sup>ST</sup> JUDICIAL CIRCUIT AND DISTRICT  
CLAY, JACKSON and LESLIE 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 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 the time 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 provide protective order petition forms and to take protective order petitions and administer oaths to the petitioner **during regular business hours:**

Clay Circuit Court Clerk and all Deputy Clerks  
Jackson Circuit Court Clerk and all Deputy Clerks  
Leslie Circuit Court Clerk and all Deputy Clerks  
Police Dispatch (911 Center) Centers for Clay, Jackson and Leslie Counties and all  
Officers who work at said dispatch centers  
Clay County Sheriff and all Deputy Sheriffs  
All Police Officers for the City of Manchester, Kentucky  
Jackson County Sheriff and all Deputy Sheriffs  
All Police Officers for the City of McKee, Kentucky  
Leslie County Sheriffs and all Deputy Sheriffs  
All Police Officers for the City of Hyden, Kentucky  
Kentucky State Police Officers

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

Police Dispatch (911 Center) Centers for Clay, Jackson and Leslie Counties and all  
Officers who work at said dispatch centers  
Clay County Sheriff and all Deputy Sheriffs  
All Police Officers for the City of Manchester, Kentucky  
Jackson County Sheriff and all Deputy Sheriffs  
All Police Officers for the City of McKee, Kentucky  
Leslie County Sheriffs and all Deputy Sheriffs  
All Police Officers for the City of Hyden, Kentucky  
Kentucky State Police Officers

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the Family Court Judge. If the Family Court Judge is not available, the Petition shall be presented to either of the District Judges, beginning with the District Judge on call. In the absence of a District Judge, the Petition shall be presented to the Trial Commissioner, if the particular county has a Trial Commissioner. In the absence of the latter, the petition shall be presented to the Circuit Judge.
- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to Family Court Judge. If the Family Court Judge is not available, the Petition shall be presented to either of the District Judges, beginning with the District Judge on call. In the absence of a District Judge, the Petition shall be presented to the Trial Commissioner, if the particular County has a Trial Commissioner. In the absence of the latter, the petition shall be presented to the Circuit Judge.

- E. Petitions for Protective Orders will be reviewed within an hour of the time they are presented to a Judge, unless such review is impossible due to the unavailability of a Judge or trial commissioner.

### III. Assignment of Cases

- A. Pursuant to KRS 403.735 and KRS 456.030, jurisdiction over petitions filed under this chapter is concurrent between Family, 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 domestic violence cases and interpersonal protective order cases to the Family Court.
- D. The schedule for hearings on protective orders is as follows: Clay Family Court – Wednesdays at 9:00 a.m. in the Family Courtroom on the 3<sup>rd</sup> Floor of the Clay County Justice Center; Jackson Family Court – Tuesdays at 9:00 a.m. in the Family Courtroom on the 3<sup>rd</sup> Floor of the Jackson County Justice Center; Leslie Family Court – Mondays at 9:00 a.m. in the Courtroom in the Court House Annex, next to the Courthouse in downtown Hyden, Kentucky.
- 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.

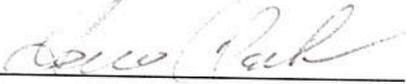
### IV. Contempt Proceedings

- 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. In the event that a respondent is arrested by a law enforcement officer for alleged criminal violation of a protective order, the District Court shall maintain exclusive jurisdiction over the alleged misdemeanor criminal offense.
- B. Petitioners seeking to initiate contempt proceedings should contact the Circuit Clerk’s office for the County of the Court which issued the emergency protective order or protective order. Civil contempt proceedings shall be assigned to the regular Domestic Violence docket of the Family Court.

- 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 and district attached to this protocol and incorporated by reference.

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

  
\_\_\_\_\_  
HON. EUGENE H. CLARK, JUDGE  
CIRCUIT COURT – FAMILY COURT DIVISION  
DATE: 10/29/15

  
\_\_\_\_\_  
HON. HENRIA BAILEY-LEWIS, JUDGE  
DISTRICT COURT (DIVISION 2)  
DATE: 10-28-15

  
\_\_\_\_\_  
HON. OSCAR GAYLE HOUSE, JUDGE  
CIRCUIT COURT  
DATE: 10/30/15

  
\_\_\_\_\_  
HON. ALLEN B. ROBERTS, JUDGE  
DISTRICT COURT (DIVISION 1)  
DATE: 10/30/2015