

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 42ND JUDICIAL CIRCUIT, FAMILY COURT DIVISION, CALLOWAY AND MARSHALL COUNTIES

Upon recommendation of the Judges of the 42nd Judicial Circuit, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 42nd Judicial Circuit, Family Court Division, Calloway and Marshall 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 3rd day of September 2014.


CHIEF JUSTICE JOHN D. MINTON, JR.

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

**42ND JUDICIAL CIRCUIT COURT
CALLOWAY & MARSHALL COUNTIES
FAMILY COURT DIVISION**

WEBSITE

<http://courts.ky.gov/circuitcourt/familycourt/sites/callowaymarshall.htm>

REVISED 2/2014

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**FAMILY COURT RULES
OF THE 42ND JUDICIAL CIRCUIT
(FCRP42)**

Rule 1 Introduction

101 Introduction

These are the Rules of Practice of the Forty-Second Circuit (Calloway and Marshall Counties) Family Court (hereinafter referred to as "Family Court"). These Rules supplement the Kentucky Rules of Civil Procedure, the Kentucky Rules of Criminal Procedure and the Family Court Rules of Procedure and Practice (FCRPP). All previous rules adopted by the Calloway/Marshall Family Court are hereby rescinded.

102 Effective Date

The effective date of these Rules shall be thirty (30) days after Kentucky Supreme Court Approval.

103 Citation

These Rules shall be cited as FCRP42 (Family Court Rules of Procedure).

104 Holidays

Family Court shall adhere to the list of Court Holidays as set out by the Administrative Office of the Courts which will be published annually in the Kentucky Bar Association newsletter.

Rule 2 Court Scheduling/Motion Hour/ Procedures for Filing/Additional Fees

201 Schedule

The following is the hearing schedule for cases before the Family Court.

CALLOWAY		
Monday	8:30 a.m.	Dependency, Neglect and Abuse
	1:00 p.m.	Child Support and Paternity (2nd & 4th Mondays)
	1:00 p.m.	Juvenile Status Offenses (1st Monday)
	2:00 p.m.	Contempt (2nd & 4th Mondays)
	Wednesday	8:30 a.m.

	9:30 a.m.	Scheduled hearings
	8:30 a.m.	Domestic Violence
	10:30 a.m.	Scheduled Hearings
MARSHALL		
Tuesday	8:30 a.m.	Domestic Violence
	10:30 a.m.	Scheduled Hearings
Wednesday	8:30 a.m.	Motion Hour (1st & 3rd Wednesdays)
	9:30 a.m.	Scheduled Hearings
Friday	8:30 a.m.	Dependency, Neglect and Abuse
	1:00 p.m.	Child Support and Paternity (2nd & Fourth Fridays)
	1:00 p.m.	Juvenile Status Offenses (1st Friday)
	2:00 p.m.	Contempt (2nd & 4th Fridays)

202 Motion Hour

All motions to be heard on the Wednesday motion docket shall be filed at least five (5) working days prior to the Wednesday motion docket, unless otherwise allowed by the Family Court Judge. Motion hour shall be limited to uncontested motions, motions to schedule hearings and motions which can be limited to legal arguments only.

203 Family Court Case Data Information Sheet

All cases filed or reopened in the Family Court division of the Circuit Court shall, with the filing of any petition or motion (in the case of a reopening), complete an AOC-FC-3 Family Court Case Data Information Sheet, which may be obtained in the Circuit Court Clerk's Office.

204 Reopening Cases

204.1 With regard to FCRPP 3(6) the "\$50 reopen after six months fee" does not apply to Motions for Contempt/Motions for Rule.

204.2 Personal service shall be made pursuant to the Kentucky Rules of Civil Procedure in domestic relations cases reopened after six (6) months from the entry of the final decree for the purpose of modifying a decree. On

such cases, service on any prior attorney of record does not constitute service under the Kentucky Rules of Civil Procedure.

205 Copy Expenses

All litigants are responsible for bringing sufficient copies of all exhibits intended to be entered into evidence. Failure to comply with this requirement may subject the non-complying litigant to assessment of additional court costs for copy charges.

Rule 3 Adoptions/Termination of Parental Rights

301 Adoption Records

Except as otherwise provided, upon entry of the final order in an adoption case, the Clerk shall place all papers and records in a suitable envelope which shall be sealed and shall not be opened for inspection by any person except on written order of the court or as otherwise permitted under this rule. The Clerk or Deputy Clerks are permitted to unseal and open an adoption file only for such reasons as are necessary in the performance of their duties as custodians of the records and may furnish certified copies of the Order of Adoption to the adoptive parents.

Rule 4 Domestic Violence Protocol and 24 Hour Access Policy

The Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for the 42nd Judicial Circuit and District is attached as Appendix A and incorporated herein by reference as if copied and set out at length herein as is set forth verbatim.

Rule 5 Paternity

501 Petitions

All petitions for paternity must include one of the following:

- a. The mother's husband as a party to the action if the child was born during lawful wedlock or within ten (10) months thereafter; or
- b. The affidavit of the Petitioner addressing the issue as to the mother's marital status when the child was born and within ten (10) months prior to the birth of the child.

Rule 6 Dependency Neglect and Abuse

601 Notice of Hearing

In order to comply with Adoption and Safe Families Act (ASFA) of 1997, the Guardian Ad Litem in all dependency, neglect and abuse cases shall notify the juvenile's current foster family or custodian if other than the Cabinet for Families and Children, of all hearings coming before Family Court.

602 Release of Confidential Records

The Clerk of the court is authorized to release confidential juvenile records of Dependency, Neglect or Abuse proceedings to the attorney (whether it be an appointed public defender, private attorney, or court-appointed attorney) for the juvenile or the juvenile's parent in a corresponding criminal or civil legal action. "Corresponding legal action" shall include but is not limited to: divorce actions, termination of parental rights actions, juvenile status offense actions, or criminal actions involving the same or similar transactions and occurrence alleged in the dependency, neglect or abuse action.

603 Protocol for Filing Dependency, Neglect and Abuse Petitions

During normal working hours (8:00 a.m. - 4:30 p.m.), Monday through Friday, excluding holidays, persons filing a Petition for Dependency, Neglect or Abuse shall file said Petition with the Clerk of the Court no later thirty minutes prior to the closing hours. At all other times, persons who wish to file a Petition for Dependency, Neglect and Abuse shall contact local law enforcement or the Cabinet for Health and Family Services. If the circumstances warrant, local law enforcement or the Cabinet for Health and Family Services shall contact the Family Court Judge or, if unavailable, the District Judge in accordance with FCRPP 19 to determine whether an emergency custody order should be entered. All Petitions for Dependency, Neglect and Abuse received after normal business hours shall be filed with the Clerk of the court by noon on the next business day in compliance with FCRPP 20.

Rule 7 Domestic Relations Practice

701 Appearances, Waivers and Agreements

Any unrepresented party who signs and acknowledges an appearance and waiver or agreement shall do so before a notary or deputy clerk. All agreements and agreed orders shall contain the correct mailing addresses for the attorneys or parties if not represented by counsel unless the party has an active Emergency Protective Order or Domestic Violence Order against the opposing party.

702 Mediation

- a. Pursuant to FCRPP 2(6)(a), the Family Court Judge may, by appropriate order, refer the case to mediation with or without the consent of the parties. Cases shall be referred to a Court-approved mediator or the parties may select a mediator with equivalent experience who is not on the Court-approved list.
- b. Except as otherwise provided by this rule or ordered by the Court for good cause shown, all mediation documents and mediation communications are confidential and shall not be disclosed. Mediation documents and communications are not subject to disclosure through discovery or any other process, and are not admissible into evidence in any judicial or administrative proceeding. An exception to this rule is that the

mediator shall be responsible for reporting abuse according to KRS 209.030 and KRS 620.030.

c. If a case is settled prior to or during mediation, an attorney for one of the parties shall prepare and submit to the Court an order reflecting the fact of settlement as in any other case. If some, but not all, of the issues in the case are settled during mediation or if agreements are reached to limit discovery or on any other matter, the parties shall submit a joint statement to the Court enumerating the issues that have been resolved and the issues that remain for trial. This statement shall be submitted within ten (10) days of the termination of mediation. Unsettled cases shall then be returned to the Court's active docket and in accordance with FCRPP 2(6)(b).

Rule 8 Status Offenses

There are no local rules pertaining to Status Offense Cases. See FCRPP 37 – 44.

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, fax 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 Video Copies of In-Chamber Interviews with Children

Pursuant to FCRPP 27, the Circuit Court Clerk's Office shall not release any Family Court 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 of the request.

903 Requests for Confidential Video Records

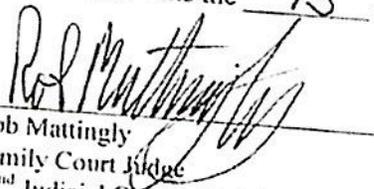
The Circuit Court Clerk's office shall not release any copies of Family Court confidential video records without a specific written order from the Family Court Judge. An individual requesting a judicial order must file a written motion, with notice to all parties, including the child's Guardian Ad Litem,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

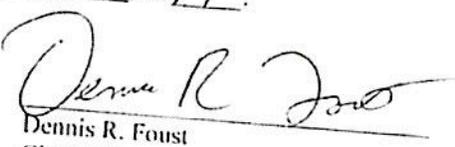
Except that, pursuant to KRS 610.340 (2), this shall not apply to public officers or employees engaged in the investigation and prosecution of cases under KRS Chapters 600 through 645 or other prosecutions authorized by Kentucky Revised Statutes, as certified by that public officer or employee. Said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

904 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 tax-payer 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 KRS 199.570, KRS 610.340, KRS 625.045 and KRS 625.108.
- C. Upon a dissolution of marriage case being closed, the Clerk of the Circuit Court is hereby authorized to unseal the envelope and remove the VS-300 for mailing to Kentucky's Office of Vital Statistics; otherwise the sealed envelope may only be unsealed upon direction of the presiding judge or the Circuit Court Clerk and is to be re-sealed. The clerk shall keep a record in the form of a log as to when the envelope was unsealed, by whom and for what purpose the envelope was unsealed.

APPROVED this the 13 day of March, 2014.


Rob Mattingly
Family Court Judge
42nd Judicial Circuit, Division II


Dennis R. Foust
Circuit Court Judge
42nd Judicial Circuit, Division I

Supreme Court of Kentucky

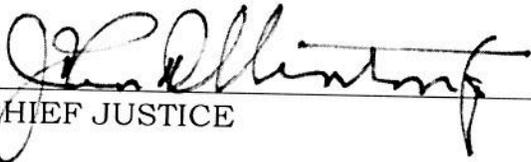
ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX A OF THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 42ND JUDICIAL CIRCUIT, FAMILY COURT DIVISION, CALLOWAY AND MARSHALL COUNTIES

Upon the recommendation of the Judges of the 42nd Judicial Circuit, Calloway and Marshall counties, and being otherwise sufficiently advised,

The amendment to Appendix A of the Rules of Court Practice and Procedure for the 42nd 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

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL
JOINT JURISDICTION PROTOCOL
42ND JUDICIAL CIRCUIT AND 42ND AND 58TH JUDICIAL DISTRICTS
CALLOWAY AND MARSHALL 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 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 oaths¹ to petitioner **during** regular business hours²:
1. The Circuit Court Clerks of Calloway and Marshall Counties and any of their sworn deputy clerks; and
 2. The County Attorneys of Calloway and Marshall Counties and any Assistant County Attorneys or office staff employees.
- B. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **after** regular business hours and weekends:
1. The Circuit Clerks of Calloway and Marshall Counties, and all of their sworn deputies;
 2. The Sheriffs of Calloway and Marshall Counties and all other sworn deputies and dispatchers;
 3. The Jailers of Calloway and Marshall Counties and all of their sworn deputies;
 4. The County Attorneys of Calloway and Marshall Counties and any Assistant County Attorney;
 5. The Chiefs of Police for the cities of Murray, Benton, Calvert City and any other incorporated city in Calloway and Marshall Counties and all sworn officers and dispatchers within their departments;
 6. Murray State University Campus Police Officers; and
 7. Any Kentucky State Police Officer found in Calloway or Marshall Counties.

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

The petition shall be presented to the Family Court Judge, if the judge is in the county and available. In the event the Family Court Judge is not in the county or is unavailable, the clerk shall seek the consideration of the matter by any of the following judicial officers, in the order listed: the District Judge in the county, the District Judge for the adjacent county located in the 42nd Judicial Circuit, and then the Circuit Judge of Division I in the 42nd Judicial Circuit. Finally, if none of the foregoing can be located, the clerk shall seek consideration of any District, Family or Circuit Judge in any Kentucky county.

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

The authorized agency or individual handling the petition for an Emergency Protective Order or Interpersonal Protective Order petition shall deliver the petition for consideration to the District Judge of the county, or if unavailable or not found within the county, to the Family Court Judge, the District Court Judge of the adjacent county

¹ The individual taking the petition should review it for completeness prior to swearing the petition.

² "Regular business hours" is defined as between the hours of 8:00 a.m. and 4:30 p.m.

located in the 42nd Judicial Circuit, and then the Circuit Judge for Division I for the 42nd Judicial Circuit, in that order. If none is available, the petition shall be delivered for consideration to any District, Family or Circuit Judge in any Kentucky County.

A copy of all petitions and Emergency Protective Orders issued during non-office hours shall be delivered to the appropriate clerk's office at the beginning of the next regular office day by the agency where the petition was initiated to be processed.

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 Family Court.
- D. The schedule for hearings on protective orders is as follows:
 - 1. In Calloway County, the hearings are conducted each Thursday at 8:30 a.m.;
 - 2. In Marshall County, the hearings are conducted each Tuesday at 8:30 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 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 Circuit Court Clerk's Office in the county where the Emergency Protective Order of Domestic Violence was issued.
- 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.

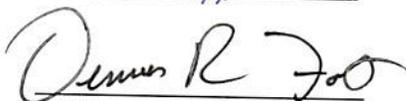
The undersigned hereby acknowledge that all general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

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



ROB MATTINGLY
Family Court Judge
42nd Judicial Circuit, Div. II

Date: 11/10/15



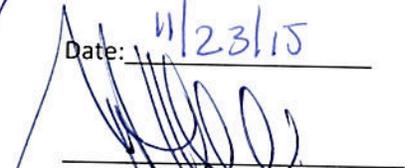
DENNIS R. FOUST
Circuit Court Judge
42nd Judicial Circuit, Div. I

Date: 11/10/15



RANDALL A. HUTCHENS
District Court Judge
42nd Judicial District

Date: 11/23/15



JACK M. TELLE
District Court Judge
58th Judicial District

Date: 11-10-15