

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL FOR THE 43RD JUDICIAL CIRCUIT AND DISTRICT, BARREN AND METCALFE COUNTIES

Upon the recommendation of the Judges of the 43rd Judicial Circuit and District, Barren and Metcalfe counties, and being otherwise sufficiently advised,

The Twenty-Four Hour Accessibility to Protective Orders and Local Joint Jurisdiction Protocol for the 43rd 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
43RD JUDICIAL CIRCUIT AND DISTRICT
BARREN AND METCALFE 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 oaths to petitioner **during** regular business hours:
1. Barren County: The Barren Circuit/District Clerk, or Deputy Clerk, with or without the assistance of the Barren County Victim Advocate, shall *assist* moving parties in processing the petition.
 2. Metcalfe County: The Metcalfe Circuit/District Clerk, or Deputy Clerk, shall *assist* moving parties in processing the petitions.
- 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. Barren County: The Victim Advocate (or, in her absence, the County Attorney or his or her assistant) shall *assist* moving parties in preparing the domestic violence petition.
 2. Metcalfe County: The Domestic Violence Intake Assistant (or, in her absence, the County Attorney or his or her assistant) shall *assist* moving parties in preparing the domestic violence petition. In the event that Metcalfe County should acquire a Victim Advocate, then the Victim Advocate shall *assist* moving parties in preparing the domestic violence petition.
 3. In both Barren and Metcalfe counties, after regular business hours and on weekends, the senior officer of the law enforcement agency of the facility (where the intake worker described in subparagraphs 1 and 2 of paragraph B herein has been called to render services) should provide that a uniformed law enforcement officer in that command be personally present within sight or sound of the intake worker or the prosecutor or both of them.
- C. Upon receipt of a petition at any time, the authorized agency/officer shall present the petition to the following officials (in the following sequence depending on availability) for review within an hour of presentation:
1. Any District Court Judge or Trial Commissioner;
 2. Family Court Judge; or
 3. Circuit Court Judge

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 in the following manner:
 - 1. The circuit clerk shall assign to the District Court any interpersonal protective order case in which either petitioner or respondent is under the age of eighteen (18) years on the date on which the petitioner signs the petition.
 - 2. The circuit clerk shall assign to the Family Court any interpersonal protective order case which is not subject to assignment to the District Court under the preceding paragraph 1 herein.
- D. The schedule for hearings on protective orders is as follows:
 - 1. The Family Court staff shall furnish the appropriate parties listed in the previous paragraphs with a schedule of available dates and times for hearings on the domestic violence docket in Family Court, so as to enable the petition preparers to assign an appropriate date and time for a domestic violence hearing.
 - 2. The District Court staff shall furnish the appropriate parties listed in the previous paragraphs with a schedule of available dates and times for hearings on the appropriate docket in District Court, so as to enable the petition preparers to assign an appropriate date and time for the appropriate hearing.
- 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:

1.) The Barren Family Court staff shall *assist* aggrieved parties in processing affidavits supporting Domestic Violence Show Cause Orders. The Family Court staff shall assist with the scheduling of such matters for hearing by the Family Court Judge.

2.) The Metcalfe Circuit Clerk's office shall *assist* aggrieved parties in processing affidavits supporting Domestic Violence Show Cause Orders. The Family Court staff shall assist with the scheduling of such matters for hearing by the Family Court Judge.

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.

V. Amendment

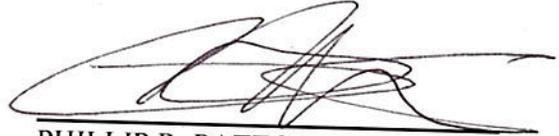
A. The Barren Family Court staff shall *assist* moving parties in processing motions to amend domestic violence orders. The Family Court staff shall assist with the scheduling of such matters for hearing by the Family Court Judge.

B. The Metcalfe Circuit Clerk's office shall *assist* moving parties in processing motions to amend domestic violence orders. The Family Court staff shall assist with the scheduling of such matters for hearing by the Family Court Judge.

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:

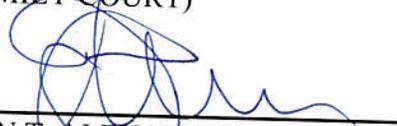
This the 23rd day of November, 2015



PHILLIP R. PATTON
JUDGE, FORTY-THIRD
JUDICIAL CIRCUIT COURT
FIRST DIVISION



W. MITCHELL NANCE
JUDGE, FORTY-THIRD
JUDICIAL CIRCUIT COURT
SECOND DIVISION
(FAMILY COURT)



JOHN T. ALEXANDER
JUDGE, FORTY-THIRD
JUDICIAL DISTRICT COURT