

Supreme Court of Kentucky

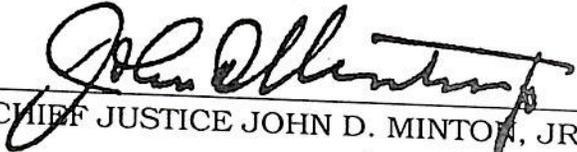
ORDER

IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 4TH JUDICIAL CIRCUIT, FAMILY COURT DIVISION, HOPKINS COUNTY

Upon recommendation of the Judges of the 4th Judicial Circuit, and being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 4th Judicial Circuit, Family Court Division, Hopkins 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 5th day of April 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

**Commonwealth of Kentucky,
Hopkins Circuit Court
Fourth Judicial Circuit, Division II
Family Court Rules of Practice
2011**

Rule 1: Introduction and Administration

Rule 1.01: Introduction.

These are the Local Rules of Practice of the Hopkins Family Court. These Rules supplement the Kentucky Rules of Civil Procedure (CR), the Kentucky Family Court Rules of Procedure and Practice (FCRPP), and the Kentucky Rules of Criminal Procedure (RCr). All prior rules for the Hopkins Circuit Court and the Hopkins District Court pertinent to practice in the Family Court are amended or rescinded as reflected herein.

Where specified, these Rules may be supplemented by Family Court Calendars and Policies adopted periodically by the Court after notice to the Hopkins County Bar Association and the Hopkins Circuit Clerk, and approval of the Kentucky Supreme Court. If approved and adopted, policies, procedures, or calendars shall be available from the Offices of the Family Court Judge.

Rule 1.02: Effective Date.

The effective date of these Rules shall be the date of approval by the Kentucky Supreme Court.

Rule 1.03: Citation.

These Rules may be cited as "LRFC" (Local Rules of the Family Court), or "Local Rules".

Rule 1.04: Jurisdiction.

Pursuant to *KRS 23A.100*, the Hopkins Family Court has subject matter jurisdiction of the following types of cases:

- * Adoptions;
- * Child Custody and Parenting Times;
- * Child Visitation;
- * Child Support Actions, including URESA and UIFSA actions;
- * Civil Contempt for Violation of Orders Issued in civil and juvenile actions;
- * Civil Contempt for Violation of Domestic Violence Orders;
- * Juvenile Dependency, Neglect, and Abuse Actions;
- * Dissolution of Marriage and matters ancillary thereto;
- * Domestic Violence Actions;
- * Juvenile Status Offenses;
- * Paternity;
- * Termination of Parental Rights;

* Subject to jurisdictional limitations, other actions that may be transferred to the Family Court from the Hopkins Circuit Court, Division One or from the Hopkins District Court for purposes of consolidation or convenience.

Also pursuant to *KRS 23A.100*, the Family Court shall be the primary forum for these cases, except that nothing shall be construed to limit the concurrent jurisdiction of the District Court where necessary and applicable. Pursuant to *KRS 23A.110*, additional jurisdiction of the Family Court shall be liberally construed and applied to promote the underlying purposes outlined in the statute.

Rule 1.05: Consolidation of Related Cases.

Pursuant to *CR 42.01*, when two (2) or more different actions have been filed, or are pending in the Hopkins Family Court involving the same parties and common issues of law or fact, those cases may be consolidated at the discretion of the Family Court Judge. Upon consolidation, these consolidated actions shall from thenceforth bear one case number, pursuant to the regulations or policies of the Administrative Office of the Courts.

The complaint or petition of each action, and the required case data form (FC-3) filed in Hopkins Family Court shall set forth whether there are existing cases related to the action being filed and shall include the case number and the subject matter of the related action. If there are no other related actions, the petition or complaint and the case data form (FC-3) shall so state.

Rule 1.06: Dress Requirements.

During court proceedings, all attorneys, staff, and litigants shall dress in an appropriate style and manner. The Court will not dictate fashion, but requires that one's appearance be suitable to the situation, and respectful of the forum.

Attorneys and their assistants should generally choose business attire. Litigants, witnesses, and persons accompanying them to court should also dress in a befitting manner. At a minimum, no one shall wear shorts, tank tops, halter tops, apparel with inappropriate graphics or messages, sexually suggestive clothing, or other attire that is improper for the setting. No one shall wear sunglasses, hats, or gloves unless medically necessary or required for religious purposes; everyone must wear shoes.

Weapons, chewing gum, cellular telephones, profanity, and the use of tobacco products are prohibited in the courtroom. To ensure safety and civility in the courtroom, additional restrictions may be imposed by the Court or the court bailiffs.

Rule 2: Court Scheduling/Motion Hour/Procedures for Filing.

Rule 2.01: Court Calendar.

The following is a *general* schedule for matters routinely before the Hopkins Family Court. This schedule is subject to review and revision and may be modified by the Family Court Judge to accommodate holidays, weather conditions, circumstances of the parties, or other schedules, as the Judge deems necessary to efficiently and effectively accomplish the business of the Court.

Calendars of holidays, motion hours, make-up days, and other pertinent dates will be distributed to the local bar each month and will be provided to the Hopkins Circuit Clerk, Family Division for posting. The Court will not be in session on the dates designated as Kentucky Court of Justice Holidays. Specific dates are available on the COJ website (www.kycourts.net) and will be included in the monthly calendar provided by the Court. A calendar may be obtained during normal business hours by contacting the offices of the Family Court Judge.

Actions or issues requiring a final evidentiary hearing before the Court (e.g. contested dissolution of marriage cases, child custody determinations including findings regarding *de facto* custodians, voluntary and involuntary termination of parental rights, adoptions, etc.) must be scheduled for a time and date certain as outlined in subsequent sections of these rules.

Subject to necessary modification as previously noted, the Hopkins Family Court shall be in session pursuant to the following schedule:

***First and Third Mondays of Each Month:**

9:00 a.m., CST--Domestic Violence Actions

10:30 a.m., CST--Domestic Motion Hour

(Motions for Contempt, to Compel, to Set a Date, to Require Custodial Evaluation, to Require Accounting, to Adopt Agreement, to Enter Interlocutory Decree, to Set a Hearing Date, Etc.)

***Second and Fourth Mondays of Each Month:**

Matters scheduled for specific times by Order of the Court (e.g. Final evidentiary hearings; truancy court at high schools; adoptions; TRO hearings; *Ex parte* hearings; cases requiring emergency actions, etc.).

***Tuesdays of Each Month:**

9:00 a.m., CST-- General Juvenile Docket:

Dependency, Neglect, Abuse Cases

Status Offenses

Juvenile Contempt, Detention, and TRO Hearings

***First and Third Wednesdays of Each Month:**

Matters scheduled for specific times by Order of the Court (e.g. Final evidentiary hearings; truancy court at high schools; adoptions; TRO hearings; *Ex parte* hearings; cases requiring emergency actions, etc.).

***Second and Fourth Wednesdays of Each Month:**

9:00 a.m., CST--*Pendente Lite* Hearings

***Thursdays of Each Month:**

9:00 a.m., CST--Child Support and Paternity Matters brought by or involving the Hopkins County Child Support Unit.

***Fridays of Each Month:**

Matters scheduled for specific times by Order of the Court (e.g. Final evidentiary hearings; adoptions; TRO hearings; *Ex parte* hearings; cases requiring emergency actions, etc.).

Rule 2.02: Filing and Scheduling Motions.

Written motions shall be filed with the Hopkins Circuit Clerk, Family Division, at **least seven (7) calendar days prior** to the date the action is scheduled to be heard. Motions and notices not filed by this deadline shall not be placed on the court's docket without first obtaining leave of the Court.

All motions must be legible and shall contain a notice of hearing date and time. No motion or other matter may be placed on the Court's docket by telephone, facsimile transmission, or electronic mail except as may be permitted by the Court.

Rule 2.03: Responses to Motions.

The Court generally does not *require* written responses to motions. However, should a party wish to tender a written response, that response should be filed no later than Noon, CST the day prior to the scheduled hearing date. A photocopy of the motion and any accompanying information shall be placed in the possession of opposing counsel or the opposing party (by hand-delivery, electronic mail, or facsimile transmission), with a courtesy copy to the judge, by 2 p.m., CST on the day the response is filed.

The Court may grant leave to deviate from these time restrictions in the interest of justice, fairness, or equity.

Rule 2.04: Service of Motions and Responses Thereto.

Each motion and notice shall contain a certificate of service setting forth the party or attorney to whom the photocopy was delivered, the method(s) of delivery, and the date that the photocopy was delivered or transmitted.

Photocopies of motions and/or notices shall be mailed or hand-delivered to opposing parties or counsel, with a courtesy copy to the judge's office, on the same date the motion or notice is filed. Motions and notices may be delivered to opposing counsel by electronic mail and by facsimile transmission, *if* telephonic notice is given prior to transmitting the documents and *if* opposing counsel agrees prior to doing so.

Rule 2.05: Motions Routinely Granted.

Pursuant to CR 78, certain matters may be decided without oral hearing, upon the brief written statement or affidavit supporting the motion. The movant may submit a motion that is routinely granted in this manner and shall provide notice that the motion is made pursuant to CR 78 and this local rule. The notice shall specify that the motion may be routinely granted without hearing by the Court, upon the expiration of ten (10) calendar days if no response is filed.

The notice may take substantially the following form:

This motion is submitted to the Court for decision pursuant to Kentucky CR 78 and Local Rule 2.05. This motion may be routinely granted by the Court ten (10) calendar days from the date of filing, without a hearing on the motion, unless a response or objection is filed. If the opposing party wishes to have this matter heard in open Court, s/he must so state in the response, and shall set the matter for determination on a regular motion hour docket, with appropriate notice to all parties and to the Court.

Rule 2.06: Motions Relating to Discovery.

A. Motions to Comply or Compel. The parties and their attorneys have a duty to make a good faith effort to resolve, by agreement among them, any disputes that arise in the course of discovery.

No motion pertaining to discovery shall be filed or heard unless there is appended to or included in such motion a certificate of counsel that s/he has conferred with opposing counsel, that the parties are unable to reconcile their differences on the matter, and that all extrajudicial means have been exhausted in an effort to reconcile their differences.

To the extent that extrajudicial means have not disposed of the matter, the party seeking discovery may then file a motion to obtain relief, to be heard on the Court's motion hour docket. The motion may be accompanied by supporting argument or explanation, with citation to legal authority if desired. The motion must include either a copy of or a reference to the discovery requests in dispute.

B. Sanctions. The Court considers willful, deceptive, deliberate, or protracted noncompliance with discovery to be a serious matter and will not hesitate to sanction parties and/or attorneys when appropriate. Sanctions will include remedies as outlined in the Kentucky Rules of Civil Procedure and as deemed suitable by the Kentucky Court of Justice in order to effectuate a just resolution.

Rule 3: Adoption and Termination of Parental Rights Actions

All actions for adoptions and termination of parental rights shall be in strict conformity with the statutory requirements. (See *KRS Chapters 199 and 625*.)

Parties shall observe the statutory requirements of mandatory appointment of Guardians *ad Litem*. (See *KRS 199.480*, in addition to requirements imposed by *KRS Chapter 625*.)

The attorney for the Petitioner should contact the Court for a specific date and time for the final hearing only after all procedural requirements have been met, including the home investigation where necessary. (It is not necessary to set a motion for a hearing date on the court docket. Dates and times may be obtained by telephone or electronic mail from the Family Court Judge's office.)

Upon obtaining the date and time for the hearing the Petitioner's attorney shall file a Notice of Hearing with the Circuit Clerk, giving notice to all parties in interest, including all Guardians *ad Litem*, in compliance with the notice requirements of the statute. The proposed Judgment of Adoption shall be tendered to the Court at the time the notice of hearing on the adoption petition is filed.

Rule 4: Domestic Violence Protocol and Twenty-Four Hour Access Policy.

Pursuant to *KRS 403.735*, and in compliance with *FCRPP 13*, the local Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol is attached hereto as Appendix 1 and is incorporated herein by reference as if set out in full.

Rule 5: Paternity and Related UIFSA/URESAs Actions.

Parties to these actions shall adhere to the procedures mandated by statutory state and federal law and shall ordinarily be scheduled by the petitioner or the movant on the regular child support docket (Thursdays at 9 a.m., CST), complying with all requirements for filing and notice. In cases wherein child support is ordered, a completed uniform child support order (AOC-152) shall be tendered by the movant.

Rule 6: Dependency, Neglect, and Abuse Actions.

Parties to these actions shall adhere to the procedures and timeframes mandated by statutory state and federal law, as well as the Kentucky FCRPP. These actions shall ordinarily be set by the Court on a regular juvenile docket (Tuesdays at 9 a.m., CST). At the time a petition for a DNA action is filed, a Guardian *ad Litem* (GAL) and a Court Appointed Special Advocate (CASA) shall be appointed for the child. The GAL and the CASA agency shall receive copies of all pleadings and notices.

However, emergency custody orders may be obtained outside of normal business hours by contacting the Family Court Judge or the On-Call Judge directly. When an Emergency Custody Order is issued, the judge issuing the order shall set a date for the temporary removal hearing within the time constraints of the statute.

Court files for dependency, neglect, or abuse actions are confidential and shall not be accessed except in compliance with AOC policy and statutory law.

Rule 7: Procedures for Domestic Relations Practice.

Rule 7.01: Filing Fees.

Unless permitted by the Court to proceed *in forma pauperis*, filing fees (as are required by the Kentucky Court of Justice, the Administrative Office of the Courts, and Kentucky Revised Statutes) shall accompany the filing of the petition and applicable motions. When a litigant is granted leave to proceed *in forma pauperis*, such determination allows the petition or motion to progress, but is not a final allocation of costs and fees. Absent the parties' agreement, the Court will determine this allocation in the final disposition of the matter.

Rule 7.02: Petition.

The Petition, when filed, shall be accompanied by:

- * A completed Summons as required by statute and Kentucky Civil Rules;
- * A completed Vital Statistics Form (in dissolution of marriage actions);
- * A Case Data Form fully completed with identifiers (AOC-FC-3); and
- * Other documentation as may be required by the Kentucky Rules of Civil Procedure or the Kentucky Family Court Rules of Procedure and Practice.

Rule 7.03: Discovery and Disclosure.

The parties shall comply with the provisions for discovery, including time and scope limitations, provided by the Kentucky Rules of Civil Procedure, and shall complete all discovery prior to requesting a case management conference or a final evidentiary hearing.

Rule 7.04: Case Management Conferences.

A. Purpose. Recognizing that domestic actions frequently require revisits to the court system, the Court specifically requests that, during case management conferences, attorneys and litigants display attitudes of respect, conciliation, and negotiation, with an objective of improving relations between the parties.

The attorneys, litigants, and the Staff Attorney shall strive to accomplish the purposes of the conferences, which include, *inter alia*:

- * Determining the issues on which the parties agree;
- * Reducing those agreements to written orders;
- * Ascertaining what issues remain unresolved;
- * Attempting resolution of those issues;
- * Outlining the issues and necessary proof for the final evidentiary hearing;
- * Assisting the parties in reducing and resolving conflict; and
- * Bringing about closure and conclusion for the parties.

B. Format. At any time after discovery is complete and in compliance with FCRPP 2(6), the attorney for either party may contact the Family Court Staff Attorney to schedule a case management conference. The Staff Attorney shall provide available dates and times and schedule the conference at a mutually agreeable time; an Order shall be entered accordingly.

The Staff Attorney shall conduct the conferences after notice to attorneys and *pro se* litigants. All parties and attorneys shall be present. Children are not permitted to attend the conference.

The parties and their attorneys are expected to arrive prepared to discuss the issues and with an attitude toward resolution of such issues if possible. Parties and their attorneys shall bring documentation necessary to establish values, incomes, and expenses.

The Final Verified Disclosure Statements (AOC-239) shall be exchanged with a copy provided to the staff attorney at least seven (7) calendar days prior to the date scheduled for the conference. Pursuant to FCRPP 3(4), the parties and their attorneys shall provide all documentation requested by the Staff Attorney and shall be prepared to identify witnesses, documents, and exhibits. (In short, parties and attorneys should arrive as if prepared for trial.) Pursuant to Kentucky FCRPP 3(3)(b), the final disclosure statement shall be filed of record in the court file no later than 10 days prior to the hearing on the matter

Unexcused or negligent failure to comply with these procedures, to attend the conferences scheduled, or to produce required documentation may result in sanctions against that party or that attorney. Additionally, intentional protraction of the litigation, including cancellation or rescheduling of the conference without cause, may also result in sanctions.

Offers of settlement made during the conferences are NOT admissible during the final evidentiary hearing pursuant to Kentucky Rules of Evidence. However, if the parties reach an agreement settling all or any portion of the pending issues, the verbal agreement shall be audio-recorded by the staff attorney in the presence of the litigants and attorneys.

Should the parties resolve the contested issues prior to the case management conference, they shall promptly notify the Staff Attorney so that other cases may be scheduled in the reserved slot.

If, in organizing the case for the conference, the parties or attorneys determine that it will not be possible to competently participate in the conference, they shall cancel and reschedule the conference as soon as possible.

Rule 7.05: Settlement Agreements and Child Support Orders.

At any time after the filing of the petition the parties may file an executed settlement agreement addressing the division of property, the allocation of debt, child custody, support, timesharing, or other issues pertinent to the action.

Child support obligations shall be computed pursuant to the Kentucky Child Support Guidelines (*KRS 403.212*) and a completed child support worksheet shall be attached to the agreement. If the parties wish to waive enforcement of the child support obligation, or to deviate from the guidelines, the agreement must specifically state that the parties acknowledge the Guideline amount and that, with such knowledge, they voluntarily agree to either waive enforcement of the obligation until further orders of the Court or to deviate from the Guideline amount and set child support at the amount to which they have agreed.

A FULLY completed uniform child support order with all identifiers (AOC-152) shall be tendered at the time the agreement is filed, even in those cases where enforcement of the support obligation is waived.

Rule 7.06: Final Evidentiary Hearings for Unresolved Issues.

After completion of the case management conference, either party, or both jointly, may move the Court for a hearing date to address any unresolved issues. This motion shall be set on the Court's motion hour docket pursuant to the motion practice adopted herein, or attorneys may submit a joint request directly to the Court by electronic mail.

Should the parties resolve the issues pending before the Court prior to the hearing date, they shall promptly notify the Court and file a notice vacating the hearing date with the Circuit Clerk.

Rule 7.07: Final Decree or Order in Uncontested Actions.

Upon the expiration of the time requirements set forth by the applicable statute or civil rule, and upon completion of all requirements of the Kentucky FCRPP and these Local Rules, either or both parties may move for the entry of a decree or final order. The motion shall be accompanied by a proposed decree, adopting any settlement agreement or order of the Court if applicable, and a uniform child support order (if minor children are involved and if an order has not previously been entered). Certificates of completion or enrollment in court-ordered counseling, treatment, education, or monitoring programs shall be filed prior to or with the motion for entry of the decree or order.

Upon entry of the final decree or order, the action shall be removed from the Court's active docket.

Rule 8: Status Offenses

These actions shall customarily be set by the Court on a regular juvenile docket (Tuesdays at 9 a.m., CST). Juveniles having a scheduled court appearance when school is in session are required to return to school on that day, following their court appearance. They are provided an excuse for their absence, but are responsible for delivering that excuse to school personnel.

Court files for juveniles prosecuted for status or public offenses are confidential and shall not be accessed except in compliance with AOC policy and statutory law.

Rule 9: Miscellaneous

Rule 9.01: Education and Monitoring Programs.

A. Parent Education and Monitoring Programs.

The Court may require litigants to complete counseling, treatment, education, or monitoring programs which the Court deems appropriate with the costs of those programs allocated by order of the Court.

B. Failure to Enroll, Attend, Comply, or Complete.

Failure to enroll, attend, comply, or complete required education and monitoring programs may result in a finding of contempt of court with appropriate disposition and remedies within the discretion of the Court. Failing to enroll, comply, attend, or complete these programs may result in the temporary delay of entry of the decree or order and may affect that party's parenting schedule.

However, no party shall be permitted to delay the entry of the final decree or order by willfully refusing to comply with orders of attendance. The opposing party may seek an order of specific compliance and entry of the decree or order upon filing, noticing, and scheduling the appropriate motion; costs *may* be allocated to the non-compliant party in the Court's discretion. These matters shall be scheduled on the motion hour docket or may be docketed with a hearing previously scheduled.

C. Verification of Completion or Compliance and Waiver of Attendance.

The litigant ordered to participate in the program shall obtain and tender a certificate or verification of completion or compliance.

Parties in unique or unusual circumstances arising *after* the entry of the order may be eligible for a waiver of attendance, compliance, or completion. Either party may seek a waiver from the Court upon filing of a motion together with an affidavit setting forth the basis for the request. These motions may be submitted pursuant to LRFC 2.04.

Rule 9.02: Guardians *ad Litem* and Warning Order Attorneys.

Guardians *ad Litem* shall be appointed by the Court, except in those cases where appointment by the Circuit Clerk is appropriate. All Guardians *ad Litem* assigned to serve in the Hopkins Family Court shall participate in and complete the training provided by the Administrative Office of the Courts.

Appointment of a warning order attorney shall be made upon request.

Rule 9.03: Conflict With Law.

These Rules shall be interpreted so as to conform to all applicable Kentucky and federal statutory and case law. Where there appears to be a conflict between these rules and the law, these rules must be interpreted so as to comply with all applicable law.

Nothing in these Rules shall be deemed to override Kentucky Court of Justice policies and requirements or those of the Administrative Office of the Courts. When in conflict, these rules shall yield to policies, requirements, and procedures of those agencies.

Rule 9.04: Personal Identifiers.

Where personal identifiers are required by statute or contained in other documents or exhibits filed with the court, 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.

Where not required by statute, identification as is reasonably necessary shall be made and shall include place holders as follows:

- a. Date of birth: The month and year shall be identified. The day of the month shall be satisfied by a place-holder (e.g. 12/xx/2009).
- b. Social security number: The last four digits shall be identified. The initial five digits shall be concealed by place-holders (e.g. xxx-xx-1234).
- c. Financial and account information: Only the type of the account, the name of the financial institution and the last four digits of the account shall be used to identify this information (e.g., Checking account, Name of Bank, *1234; or Credit Card, Name of Store or Business, *1234).

Rule 9.05: Mediation.

Nothing in these Rules shall be construed to discourage or to prohibit voluntary mediation. Additionally, the Court may, in its discretion, refer the parties to mediation

services for resolution of some or all the issues pending before the Court. Orders specific to the case shall be entered where the parties are ordered to mediate any issue.

Rule 9.06: Submission of Additional Proof or Memoranda.

Following a hearing, the parties may request that the Court "leave the record open" for submission of additional proof or for filing of memoranda. If the motion is granted, at the conclusion of the supplementation the parties shall file a joint motion to submit the action to the Court for determination of the issues and shall provide a photocopy of the motion to the Court.

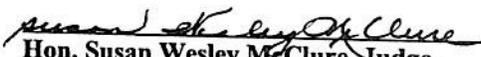
Rule 9.07: Child Timesharing Guidelines and Code of Conduct.

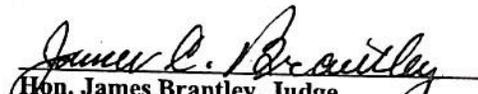
The Hopkins Family Court Timesharing Guidelines and the Code of Conduct (2011) are attached hereto as Appendix 2 and 3 for the parties' convenience and discussion. The parties are also referred to the Model Time-Sharing Guidelines incorporated into the Kentucky FCRPP. Both sets of guidelines are merely suggestions for the parties' use in attempting to reach a resolution; they do not create a presumption or a mandate of a particular timesharing schedule. The parties are encouraged to reach an agreement that will serve the needs of the family and that will be specific to their case. Because each case presents unique facts and circumstances, the final schedule as agreed by the parties or as established by the Court may or may not contain portions of these models.

Rule 9.08: Additional Assistance.

The Family Court Judge and Staff are available and willing to provide information, referrals for services, and additional assistance when possible. However, pursuant to the Kentucky Court of Justice mandates, neither the Court, nor the Family Court Staff, nor the Circuit Clerk, nor any deputy clerk is permitted to provide legal services or advice to litigants.

ENTERED, this the 26 day of March 2012.


Hon. Susan Wesley McClure, Judge


Hon. James Brantley, Judge

Supreme Court of Kentucky

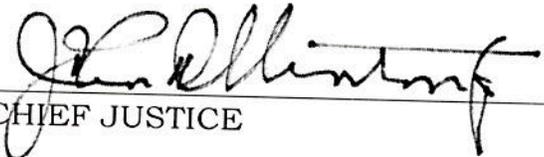
ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX 1 OF THE RULES OF COURT PRACTICE AND PROCEDURE FOR THE 4TH JUDICIAL CIRCUIT, FAMILY COURT DIVISION, HOPKINS COUNTY

Upon the recommendation of the Judges of the 4th Judicial Circuit, Family Court Division, Hopkins County, and being otherwise sufficiently advised,

The amendment to Appendix 1 of the Rules of Court Practice and Procedure for the 4th 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 21st day of December 2015.


CHIEF JUSTICE

**TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND
LOCAL JOINT JURISDICTION PROTOCOL
4TH JUDICIAL CIRCUIT AND DISTRICT
HOPKINS 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 unless impossible due to no judge 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 – 7:30 a.m. to 4:00 p.m.:

Hopkins Circuit Court Clerk's Office
Hopkins County Justice Center
120 East Center Street
Madisonville, Kentucky 42431

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

Any local city or county law enforcement officer in Hopkins County
All Kentucky State Police Officers officially on duty in Hopkins County

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

First to the Family Court Judge; and if unavailable then to the District Court Judges; and if unavailable then to the Circuit Court Judge.

- D. Petitions will be reviewed within one hour of presentation to a judge unless it is impossible due to the unavailability of a judge.

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

The on-call District Judge or Family 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 and circuit courts.
- 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 and domestic protective orders to Family Court.

D. The schedule for hearings on protective orders is as follows:

Domestic violence orders to Family Court which shall be heard pursuant to local family court rules.

Interpersonal protective orders to District Court on the first and third Tuesdays of each month at 1:30 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:

Alleged violation of domestic violence orders to Family Court.

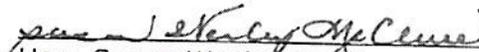
Alleged violation of interpersonal protective orders to District Court.

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.

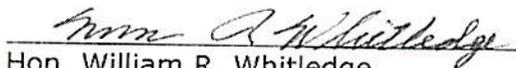
The above protocol is adopted by all judicial officers in this circuit:



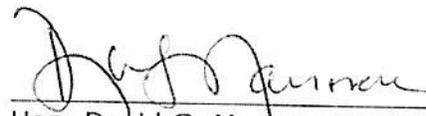
Hon. James C. Brantley
Date: 11/23/15



Hon. Susan Wesley McClure
Date: 11-23-15



Hon. William R. Whitley
Date: 11/23/15



Hon. David G. Massamore
Date: 11-23-2015

COMMONWEALTH OF KENTUCKY
HOPKINS CIRCUIT COURT,
DIVISION II, FAMILY COURT
MADISONVILLE, KENTUCKY 42431

-D-

Notice of Rights and Order in
DOMESTIC VIOLENCE ACTIONS

Pursuant to the revised *KRS 403* (2010 HB1, Amanda's Law), the Petitioner is hereby notified that he or she is entitled to discuss the allegations with the county attorney, even if the petition for an emergency protective order (EPO) or domestic violence order (DVO) is denied.

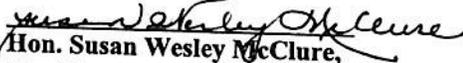
If the Petitioner desires to meet with the county attorney to determine any options the Petitioner may have regarding filing criminal charges, the Petitioner may contact the county attorney to do so. If contacted by the Petitioner, the county attorney is obligated by statute to meet with the Petitioner and to comply with the statutory mandates for such meetings. Contacting the county attorney is not mandatory and does not affect this action or the domestic violence orders in any way. Speaking with the county attorney is a decision left solely to the Petitioner.

Pursuant to *KRS 403.720(2)*, the following persons are entitled to seek protective orders under this statute: Spouse, ex-spouse, grandparent, parent, child, stepchild, member of an unmarried couple with a child in common, member of an unmarried couple who are living together or who have formerly lived together in an intimate relationship, and a child-victim living in the same household as the Respondent regardless of the relationship. Persons not in these relationships who are the victims of violence or abuse are referred to the county attorney and to law enforcement to discuss criminal charges and to private counsel to discuss civil matters.

The Petitioner is notified that he or she **must appear at each hearing** scheduled in this action by the Court, in order to obtain the relief requested. Failure of the Petitioner to appear may result in dismissal of the action or denial of the motion.

The Circuit Clerk's Office shall distribute a copy of this Notice and Order to the County Attorney, pursuant to *Amanda's Law*, and to any person who presents himself or herself to file a domestic violence petition. A photocopy of this Order shall be deemed an original for purposes of entering the order into the court record.

ENTERED this the 26 day of March, 2012


Hon. Susan Wesley McClure,
Hopkins Circuit Judge,
Division II, Family Court

Clerk's Distribution:

___ County Attorney
___ Petitioner, receipt verified _____ Date: ___/___/___

Appendix 2
Hopkins Family Court Time-Sharing Guidelines
2012

It is usually in the child's best interests that each parent or custodian has frequent, meaningful, and continuing physical contact with the child. The parties, in exercising time-sharing, should be cooperative and should adapt to the circumstances of the children and of the parties. These guidelines are not intended to foreclose the parties from agreeing to visitation in addition to those days outlined. The parties are expected to fairly and reasonably modify time-sharing when circumstances so require. The parties are expected to communicate these needs to each other and to provide as much advance notice as is possible.

Where the schedules provide for different times for children of different ages, families may choose to maintain the age categories so as to give the children and parties separate time together. If the parties are unable to agree, the children shall participate in timesharing together and the parties shall abide by the "children older than 24 months" schedule for all the children, regardless of ages.

I. Alternating Holidays. Holidays of importance to the parties and the child should be divided between the parties pursuant to a mutually agreeable schedule. However if the parties are unable to agree, the following 6 holidays shall be divided:

- | | |
|---------------------------------|-------------------------|
| 1. Martin Luther King, Jr., Day | 2. Easter |
| 3. Memorial Day | 4. July 4 th |
| 5. Labor Day | 6. Halloween that |

In odd-numbered years, the Petitioner shall be permitted timesharing on the odd-numbered holidays in the left column above. In even-numbered years, the Petitioner shall be permitted timesharing on the even-numbered holidays in the right column above. The Respondent shall be permitted timesharing on the remaining holidays in those years.

Timesharing on these days shall be from 8 a.m. until 7 p.m., CST unless the child is in school on that day. If the child is in school, timesharing shall begin at the child's release from school and shall continue until 7 p.m., CST that evening.

If the holiday falls on a Friday preceding, or a Monday following a party's regularly scheduled time, there shall be no interruption and the timesharing period shall continue until the regularly scheduled period ends or until the holiday period ends, whichever is later. (For example, if the Petitioner is scheduled to exercise time with the child on the weekend prior to MLK Day, the Petitioner's time does not end on Sunday evening, but extends until that Monday evening.) Where a holiday falls on a weekend day (Friday, Saturday or Sunday), the holiday takes precedence.

II. Mothers' Day and Fathers' Day. These holidays, regardless of any conflict with other timesharing periods, shall be allocated to the appropriate parent from 8 a.m., CST until 7 p.m., CST.

III. Weekday Time. The non-residential party shall be permitted timesharing from 3 p.m. until 7 p.m., CST on Tuesday of each week. The non-residential parent shall be permitted to speak frequently with the child by telephone, but no less than on Thursday evenings between the hours of 6 and 7 p.m., CST. If the non-residential party's employment hours prohibit this day or time, the parties shall cooperate and communicate to agree on four hours of weekly time that accommodates the parties' schedules, whether on an alternate day of the week or divided between two days of that week.

IV. Weekend Time. For children ages 24 months and younger, the non-residential party shall be permitted timesharing from 7 p.m., CST, Friday until 7 p.m., CST, Saturday each week.
For children older than 24 months, the non-residential party shall be permitted timesharing from 7 p.m., CST Friday until 7 p.m., CST, Sunday on alternating weekends.

V. Fall and Spring Breaks from School. (These periods apply only to children who are enrolled in school.) The residential party shall be permitted fall break and spring break in the even-numbered years and the non-residential party shall be permitted fall break and spring break in the odd-numbered years. (This arrangement ensures that each party is permitted one of the breaks each academic year.) This time shall begin at the release of school and shall continue until 3 p.m., CST on the day prior to school resuming.

During these weeks, timesharing with the other party shall abate. If the child is required to attend extended school during these breaks, the party exercising timesharing shall bear the responsibility of ensuring the child's attendance and compliance.

VI. Thanksgiving. In odd-numbered years, the non-residential party shall be permitted time with the children from 3 p.m., CST on the Tuesday preceding Thanksgiving until 8 a.m., CST on the Friday following Thanksgiving. The residential party shall be permitted time with the children from 8 a.m., CST on that Friday through the weekend.

In even-numbered years, the residential party shall be permitted time with the child from 3 p.m., CST on the Tuesday preceding Thanksgiving until 8 a.m., CST on the Friday following Thanksgiving. The non-residential party shall be permitted time with the children from 8 a.m., CST on that Friday until 7 p.m., that Sunday.

VII. Christmas and New Years' Holidays. In odd-numbered years, the non-residential party shall be permitted time

a. With children over 24 months of age: From 7 p.m., CST December 23 until Noon, CST December 25 and from 7 p.m., CST, December 27 until Noon, CST, January 1.

b. With children 24 months of age and younger: From Noon, CST, December 24 until 3 p.m., CST, December 25, and from Noon, CST, December 31 until 3 p.m., CST, January 1.

In even-numbered years, the non-residential party shall be permitted time

a. With children over 24 months of age: From Noon, CST December 25 until Noon, CST, January 1.

b. With children 24 months of age and younger: From Noon, CST, December 25 until 3 p.m., CST, December 26, and from Noon, CST, December 30 until 3 p.m., CST December 31.

The residential party shall be permitted time with the children during times not specified.

VII. Summer and Vacation Schedules. For children who have reached the age of four (4) by January 1 of that calendar year, the non-residential party shall be permitted two uninterrupted summer timesharing periods: (1) From Noon, CST, June 15 until Noon, CST, June 30; and (2) From Noon, CST, July 15 until Noon, CST, July 30 of that calendar year. Weekend and weekday timesharing for the residential parent shall abate during these times.

For children who are younger than the age of four years on January 1 of that calendar year, the non-residential party shall be permitted four interrupted summer timesharing periods of 7 days each from Noon to Noon, CST, as follows: (1) May 15 until May 22; (2) June 1 until

June 8; (3) July 10 until July 17; and August 1 until August 8. Weekend and weekday timesharing for the residential parent shall abate during these times.

Regardless of the child's age, the residential party shall be entitled to 2 ten-day periods of uninterrupted summer vacation time with the children. During this time, the non-residential party's weekday and weekend time shall abate. However *Mothers' Day, Fathers' Day, Memorial Day, and July 4th* shall follow the holiday schedule.

If the employment of either party provides for a designated vacation (e.g., miners' vacation, etc.), the parties shall cooperate and communicate and shall modify the periods to permit the parties to exercise time with the children during those designated vacations.

VIII. Child's Birthday. All parties shall be permitted to exercise time with the child on the child's birthday. If the parties are unable to agree, the party who is NOT scheduled to spend time with the child on that date shall be permitted timesharing from 4 p.m. until 7 p.m., CST.

Appendix 3 Timesharing Code of Conduct

Visitation as a Shared Experience. It is intended that timesharing be a shared experience for siblings. Therefore, unless otherwise excepted, all children shall participate in the visitation periods. It is recognized that the ages of the children, or the activities or illnesses of the children may occasionally prohibit this.

Child's Participation and Activities. The parties shall not defer solely to the child's decision whether visitation shall be exercised or shortened. The parents may consult the child, but shall not be bound by the child's wishes and shall not give the child that impression. Timesharing with the non-residential party takes precedence over extracurricular activities when the visitation cannot be reasonably scheduled so as not to conflict with these events. The non-residential party shall be permitted to participate and attend the child's activities and shall meet the parental responsibilities (transportation when the child is in his or her care, supervision, booster work, etc.) that accompany those activities. The residential parent shall not arrange for excessive activities that interfere with or prohibit the child from spending meaningful time with the other party.

Negative Conduct. All parties shall refrain from speaking negatively about each other in the presence of the children or within earshot of the children and shall ensure that other persons likewise refrain. Parties shall not attempt to negatively impact the child's relationship with the other party and shall not request that the children choose one party over another. Parties shall not interrogate the children regarding the activities or actions of another party. No party shall discuss (or enable third persons to discuss) with the child the issues of custody, modification of custody, child support, or timesharing unless all parties have so agreed. No party shall deny the child access to another party and shall not threaten to do so as a method of disciplining the child.

Communication Between Parties. Parties shall keep each other advised of current home and employment addresses and telephone numbers at which they (and the child when in their care) can be reached. Parties shall refrain from communicating or contacting each other at places of employment unless specifically prearranged or in the event of an emergency. The party who receives the child's academic reports, school notices, and medical reports shall provide the other party access to these reports and shall advise the other party of their existence. Each party shall advise the other of the child's extra-curricular activities, schedules, school photos, school programs, and any related activities. The parties shall not require the child to deliver these messages and shall not depend upon the child to advise the other party.

Daily Routines. Parties should coordinate plans for bedtimes, homework schedules, and other household rules as much as possible. Each party shall ensure that, when the child is in his or her care, homework assignments are completed and schedules are met. The parties shall discuss and attempt to agree upon how discipline will be consistently administered and what actions require discipline. The parties shall strive to ensure consistency in the child's routines and discipline.

Relocation. Relocation requirements are specifically addressed in the Kentucky Civil Rules, FCRPP III, 7(2). The parties shall abide by these requirements.

Medical Treatment and Insurance. If the child has been prescribed medications or treatments, the residential party shall provide a sufficient amount of medication, any necessary medical equipment, and appropriate instructions for each visit.

Each party shall, as soon as possible, notify the other party of any medical emergency or serious illness of the child. Elective medical procedures shall only be performed after both parties have been afforded the opportunity to discuss the options with the referring professional. Each party shall be given adequate information to weigh the benefits and the risks of each choice. Should one party learn that the child is in need of psychotherapy or counseling that information shall be given to the other party. Both parties shall be afforded the opportunity to discuss this option with the referring professionals.

The party who has secured healthcare insurance for the child shall promptly supply insurance forms, a listing of approved healthcare providers, and the procedures for using the health insurance to the other party. The party who, except in an emergency, takes the child to a provider who is not approved or qualified under the insurance plan shall bear the additional costs thus created. When one party is obligated to pay part or all of the child's medical expenses, the billings shall be promptly furnished to the obligated party.

Religious Training. Each parent is entitled to choose and follow his or her own religious beliefs and further, to teach those beliefs to the child. Each party shall provide the other with information concerning any religious training or teaching in which the child has been formally enrolled, and shall provide the place of worship to the other party.

Clothing. The residential party shall send an appropriate supply of clean clothing for the child for use during the non-residential party's time. This clothing shall be returned with the child, clean and in good repair (when reasonably possible). The non-residential party shall advise the other party of any special activities or events that may be scheduled; the residential party shall ensure that the type and amount of clothing sent with the child is appropriate for these events and activities.

Necessary Food, Supplies, and Hygiene. Each party shall be responsible for providing the food and supplies that are necessary for the child during the time the child is in his or her care. Both parties shall ensure that the child is properly bathed, groomed, and fed during the time the child is in his or her care. Each party shall maintain adequate food and supplies for the child. These include, but are not limited to, an age-appropriate bed, linens, diapers, wipes, bottles, formula, humidifiers, shampoo, soap, lotion, diaper cream, toys, books, thermometer, over-the-counter medications and first-aid supplies.

Transportation. Unless otherwise agreed or ordered by the Court, the parties shall share the costs of transportation in the same proportion as they bear the total child support obligation.

Whoever transports the child shall hold a valid operator's license and shall exercise utmost caution. The child shall be secured in age-appropriate restraints, including car seats, booster seats, and seat belts when riding in an automobile.

Privacy of Residence. No party shall enter the other's residence without express invitation. Unless otherwise agreed or ordered, the children shall begin and end the timesharing periods at the front entrance of the parties' residences.

Intoxicants. No party shall relinquish the child to anyone, including a party, who is under the influence of any intoxicant.

Cancellation and Duty to Wait. The child and the residential party have no duty to wait for the visiting party more than 30 minutes from the appointed start time of the period. A party more than 30 minutes late to begin a timesharing period shall forfeit that period, excepting emergencies.

Notice of Intent or Inability to Exercise Timesharing. If at all possible, the non-residential party shall give a minimum of 3 days' notice of his or her intent NOT to exercise all or part of a scheduled period. When such notice is not reasonably possible, the maximum notice permitted by the circumstances shall be given. The residential party shall likewise provide notice, when good cause exists that necessitates cancellation or modification of a scheduled period.

If a scheduled period cannot occur due to illness or other good cause, a substituted and mutually agreeable timesharing period shall be arranged and shall occur as quickly as possible.

Child Support. Unless a court order otherwise provides, child support obligations continue through all timesharing periods. Child support and timesharing are mutually exclusive. Neither timesharing, nor child support, may be withheld because of the other party's failure to comply with a court order.

Childcare. Where possible, the parties are encouraged to provide childcare for each other to both lessen the costs and to provide the child with more time with both parties.

