

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 52ND JUDICIAL CIRCUIT, GRAVES CIRCUIT COURT

Upon recommendation of the Circuit Judge of the 52nd Judicial Circuit, Graves Circuit Court, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the Graves Circuit Court 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 14th day of March 2014.


CHIEF JUSTICE JOHN D. MINTON, JR.

**RULES OF PRACTICE
OF THE
GRAVES CIRCUIT COURT
52nd JUDICIAL CIRCUIT**

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RULES OF PRACTICE
OF THE
GRAVES CIRCUIT COURT

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**RULES OF PRACTICE
OF THE
GRAVES CIRCUIT COURT**

Rule 1. Introduction/Administrative Procedure

101. Introduction/Preface

These rules shall, except for cause as determined by the Court, govern practice in the Graves Circuit Court, subject, however, to applicable Rules of Civil Procedure, Family Court Rules of Practice and Procedure, and Rules of Criminal Procedure.

102. Effective date

These rules shall be effective upon approval by the Chief Justice of the Kentucky Supreme Court.

103. Citation

These rules may be cited as "RGCC" or "Rules of the Graves Circuit Court."

104. Assignment of Cases

There is only one division of the Graves Circuit Court.

105. Holidays

Holidays shall be those recognized by the Court of Justice.

Rule 2. Court Scheduling/Motion Hour/Procedures for Filing - Domestic

201. Regular Motion Hour Schedule - Domestic

A. Domestic motions will be set for 1:30 p.m. on each Monday. The docket will be called at 1:30 p.m. on those days, but the attorneys and their respective clients shall be present at 1:00 p.m. for settlement conferences, negotiations, and for attempts to narrow the issues.

- B. Motions noticed for domestic motion hour shall not be allowed extended testimony at that time. Those motions requiring more than fifteen (15) minutes of proof shall be docketed for hearing on a date to be assigned by the Court on motion of the moving party.
- C. Motions, including those for Interlocutory Decrees or final Decrees, that are submitted for decision upon Depositions shall note that fact, and shall not be set for a time certain.
- D. Pursuant to FCRPP 2(5), a completed AOC-237, Status Quo Order, may be filed at the time the petition for dissolution is filed, and shall be presented at the initial court appearance.
- E. The attorney for petitioner, or petitioner if pro se, shall file a motion requesting a Case Management Conference pursuant to FCRPP 2(6).
- F. Subject to KRS 403.044, and upon proper notice, an Interlocutory Decree may be obtained.
- G. Motions for Interlocutory Decrees and Motions for Uncontested Final Decrees shall be accompanied by proposed Findings of Fact, Conclusions of Law, and a proposed Decree.

202. Exceptions to Regular Motion Hour Schedule

Exceptions to the regular motion hour schedule shall be only for cause, and upon Order of the court.

203. Deadlines for Serving and Filing Motions

Domestic motions to be heard on a particular Monday will be limited to those filed with the Clerk of the court before the close of business on the Tuesday preceding the scheduled motion hour and served that same day by fax or actual service on the opposing party or counsel. Service, if made by mail, shall require three (3) additional days notice. Responses and counter-motions, if any, shall be filed at least one (1) day prior to domestic relations motion days which would be the close of business on Friday preceding motion day on Monday.

Rule 3. Adoptions/Termination of Parental Rights

301. Uncontested adoptions and uncontested terminations of parental rights shall be noticed for immediate hearing at 1:30 p.m. on a Monday motion day. Motions to set contested adoptions or contested terminations of parental rights shall be noticed for 1:30 p.m. on a motion day and a hearing date shall be set at that time.

302. Proposed Findings of Fact, Conclusions of Law, and Judgment, shall be tendered with any motion to set an adoption or termination. Petitioner's attorney, or Petitioner, if pro se, shall be responsible for placing adoption/termination matters on the Court's docket so that the time limits set out in KRS 625.042 or FCRPP 36 shall, if applicable, be complied with.

Rule 4. Domestic Violence Protocol and 24 Hour Access Policy

401. The Domestic Violence Protocol and 24 Hour Access Policy is attached hereto as Appendix "A", and is incorporated herein as if copied in full.

Rule 5. Domestic Relations Practice

501. Contested Actions

In all contested domestic actions, prior to filing a motion for the court to set a trial date, the parties shall attend a settlement conference, either in person or by telephone, at which all contested issues shall be identified, and a Report of Settlement Conference, identifying all contested and settled issues, shall be filed with the Motion.

- A. All proceedings in contested actions for the dissolution of a marriage shall be heard by the Court, provided the testimony of any witness not a party may be taken by deposition. However, it is the responsibility of the attorney or party desiring to use the deposition of such non-party witness to see that the deposition is taken, transcribed, and filed prior to 48 hours in advance of the trial.
- B. The hearing on the motion to set for trial shall be noticed for 1:30 p.m. on Mondays. Both parties and their respective counsel shall attend. It is intended for the Court, without hearing the evidence, to inform the parties at that time of initial impression regarding each contested issue outlined in the settlement conference memorandum.
- C. Each side shall furnish the opposing party with the names and addresses of all witnesses that they intend to call at trial and a brief summary of the testimony not less than thirty (30) days prior to the scheduled trial date.
- D. In the event either party fails to comply with the requirements of paragraphs B and C. above, or either party files an incomplete schedule, or fails to comply with the FCRPP, the Court, upon its own motion or upon motion of any party to show

cause, may make such orders in regard to the failure as are just, which, among other things, may include the following:

1. An order that the matters set forth in the compliant party's schedules be taken as established;
2. An order prohibiting the non-compliant party from introducing designated matters in evidence;
3. An order staying further proceedings until the disobedient party has filed the required schedules; or,
4. An order assessing all Court costs, including attorney fees, against the non-compliant party.

502. Court Approved Child Visitation Schedule

Pursuant to FCRPP 8(2), the parties may utilize the time-sharing / visitation schedule for the 52nd Judicial Circuit located in Appendix "B" which is adopted at the request of the Graves County Bar Association. This schedule shall not be used as a default schedule when the parties are unable to agree but rather should be used as a basis for determining a schedule that meets the needs of the family. Notwithstanding the foregoing, midweek overnight timesharing/visitation shall only be in alternate weeks.

503. Children in the Middle Training

- A. Pursuant to FCRPP 6(4), in a dissolution proceeding, where there is a minor child or children born or adopted of the marriage that is aged six (6) years through seventeen (17) years ("subject children"), the Court may order the parties and/or children to attend and participate in Children in the Middle training and no decree

shall be entered unless the parties attend and produce a certificate of completion awarded by the trainer to the Court.

- B. If ordered to attend the Children in the Middle training and a party refuses or fails to attend, or if the custodial parent refuses or fails to have the children attend the training, the Court may issue a show cause in regard to the failure or refusal as is just, and which may include after the show cause hearing the following:
1. An order refusing to assign a date for final adjudication of the divorce until the party requesting the dissolution attends the training;
 2. An order declining to set or enforce temporary or permanent visitation rights for the non-compliant party until the non-compliant party attends the training;
 3. An order reserving the granting or approval of temporary or final custody; and
 4. In lieu of any of the foregoing orders or in addition thereto, an order treating as contempt of Court the failure to obey an order to attend the training.
- C. If ordered to attend the training, a fee of \$10.00 shall be paid by each party at the time of attending the training; provided, however, no fee shall be payable by a party allowed to proceed *in forma pauperis*, provided the party brings to the training a copy of the order allowing him or her to so proceed. Each party ordered to attend shall also bring his or her case number to the training so that his or her attendance can be properly identified.

- D. If ordered to attend, the Petitioner must file his or her certificate of attendance prior to, or at the time of, filing documents for a final hearing. The Respondent shall file his or her certificate of attendance prior to the final hearing. The certificate of attendance of the subject children shall be filed prior to the hearing.
- E. The Clerk of the Court will maintain a schedule of the time and place of the Children in the Middle training. Unless the Petitioner and Respondent agree otherwise, if ordered to attend the Petitioner shall attend the training in any even numbered month and the Respondent in any odd numbered month. The subject children shall attend at the time the custodial parent attends. The custodial parent is the parent with legal custody, sole or primary. If legal custody has not been granted, then the custodial parent is the parent with actual custody. If neither parent has sole or primary legal custody, or actual physical custody, if legal custody has not been granted, the Petitioner shall have the subject children attend at the time he or she attends.

Rule 6. Miscellaneous Rules Relating to Domestic Practice

601. Redaction of Personal Identifiers (CR 7.03)

- A. 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.

602. Rules of General Application

Rules 702, 703, and 705 through 713 apply to Domestic practice in the Graves Circuit Court, as well as general civil procedure.

Rule 7. General Civil

701. Motion Days - Non-Domestic (Civil) Cases

- A. Excepting legal holidays, motion days ("rule days") shall be conducted on each Monday, unless otherwise ordered by the Court.
- B. Civil motions will be set for 8:30 a.m. each Monday. Ordinarily, no testimony will be heard on rule day, and if more than very brief argument is to be presented, the motion shall be set by the Court for a time certain.
- C. Unless otherwise provided by statute, rule, or order, motions shall be filed with the Clerk before the close of business on Tuesday preceding the scheduled motion

hour and served that same day by fax or actual service on the opposing party or counsel. Service, if made by mail, shall require three (3) additional days notice. Responses and counter-motions, if any, shall be filed at least one (1) day prior to rule day, which would be the close of business on Friday preceding rule day on Monday.

702. Continued Motions

An attorney who will be unable to be present at the time set for a motion shall immediately contact the moving attorney and attempt to establish a mutually agreeable time for the hearing of the motion. Should this prove unsuccessful, a party desiring the continuance shall immediately file for a continuance in writing, stating the reasons for the continuance, and shall send a copy directed to the attention of the Judge, as well as filing it with the Clerk. If no hearing can be scheduled prior to the date the motion was originally set for hearing, the motion will be automatically continued until an agreed-upon hearing date is scheduled or until the next motion hour, whichever occurs first.

703. Motion Under CR 78(2)

A movant, at his option, may bring his motion under the provisions of CR 78(2) which makes provision for the determination of motions without oral hearings upon brief written statements of reasons in support and opposition. The movant, in his certificate of service or elsewhere in the motion, shall state that the motion is made under CR 78(2) and shall direct the opposing attorney's attention to the fact that under this local Rule, the motion may be granted routinely by the Court ten (10) days after filing, unless an objection is received or a response filed. Should the party opposing the motion under Rule CR 78(2) wish to have an oral hearing on the question, he may state so in his response and notice said response for hearing at rule day at a given time. Motions should be filed under either CR 78(2) or noticed for a date certain. Motions which are not filed under one or the other of these provisions may be considered defective or even nugatory and void. A motion to set a case for trial shall not be brought under CR 78(2).

704. Pretrial Conference: Civil Cases - Non-Domestic

- A. Pretrial conferences shall be held as a matter of course in all jury actions and upon the motion of either party or upon the Court's own motion in all other actions.
- B. No case shall be set for a pretrial conference or a trial until all discovery of the parties has been taken. If a party moves for a trial date and certifies that his discovery of a party has been taken and the other party's attorney states he is not through taking discovery of a party, then thirty (30) days will be allowed for that discovery to be completed, at which time the attorney can re-notice his motion for a trial date.

- C. No case shall be set for a pretrial conference or trial until the plaintiff has certified to the Court that all medical and expert depositions have been scheduled.
- D. Pretrial conferences in all jury actions shall be held at a time designated by the Court. The attorney attending the pretrial conference shall be familiar with the case and shall be prepared and authorized to make such arguments, stipulations, and decisions as may be required during said conference in conformity with the terms of the Pretrial Conference Order.
- E. Except for good cause shown, before a case is heard at the pretrial conference, the parties shall comply with the following:
1. pleadings must be completed and the issues made up;
 2. discovery proceedings complete;
 3. present to the Court at the pretrial conference written instructions incorporating the parties' then understanding of the issues and the law without prejudice to the right to present further instructions as may be indicated by subsequent proceedings;
 4. the parties shall be prepared at the pretrial conference to stipulate certain facts as to the admissibility of certain documents or other evidence, or withdraw certain allegations or defenses appearing in the pleadings, whenever possible; and if same can be done, without prejudice to the presentation of the case by either party;
 5. in tort actions involving personal injury, be prepared to exchange such medical reports and copies of medical bills or evidence of special damages as are subject to discovery under the Rules of Civil Procedure;

6. at least sixty (60) days prior to the pretrial conference, all parties shall exchange a list of witnesses intended to be called at the trial with a brief summary as to the testimony of each witness;
 7. at least thirty (30) days prior to the pretrial conference, all parties shall exchange a list of all documents, charts, etc., intended to be introduced as evidence at the trial, and shall exchange a list of all stipulations they believe can be agreed upon at the pretrial conference.
- F. If a pretrial order is not entered at the time, the attorneys shall be responsible for preparation and submission of a pretrial order incorporating the Court's rulings, agreements, or stipulations of the parties and any matter designated by the Court not later than ten (10) days following the pretrial conference. The Court may require each party to submit a trial brief consisting of a short memorandum of his view of the facts and law on which he will rely; and if so, the Court shall fix the time for filing such briefs in the pretrial order.
- G. Any party that has failed to comply with the Court's pretrial order may be subject to any or all of the following:
1. an order that the matters set forth in the obedient party's compliance documents be taken as established;
 2. an order prohibiting the disobedient party from introducing a designated document or presenting instructions or taking further proof by deposition;
 3. the Court may remove the action from the trial docket;
 4. an order assessing all Court costs against the disobedient party;

5. if both parties fail to comply, the Court may, on its own motion, dismiss the action without prejudice and assess the costs accordingly.

H. Cases that have been previously assigned for trial and continued shall not be given preference as to trial dates, except in those cases where good cause appears for giving such preference.

705. Motions and Motion Docket: Generally

Form of Motion and Docketing

- A. No motion shall be accepted for filing by the Clerk unless accompanied by a separate proposed order. Unless other arrangements have been made with the Court, pleadings delivered to the Court shall be treated as mere courtesy copies.
- B. Each motion shall contain a Notice, which shall specify the date, time, and place for the hearing.
- C. The Clerk shall maintain a motion docket and shall docket in the order received all motions assigned for hearing on each motion day, either by Court order or by notice duly served. This motion docket will be called on motion day.
- D. All attorneys and their respective clients who attend motion day are to remain outside the jury rail until their particular motion is called for hearing by the Court. When their particular motion is called for hearing, the attorneys shall proceed to the two counsel tables and shall argue the motion from the counsel tables and are not to approach the Bench until permission from the Court is requested and
- E. Every motion, other than the ones which may be heard ex parte, shall appear upon the motion docket, provided that any motion which is accompanied by an agreed order signed by counsel for all parties affected by the order shall not appear on the

motion docket. All motions going to the merits of the case, including motion to dismiss, motion for summary judgment, motion to strike, and motion under CR 12.02, shall be accompanied by a brief statement of the grounds for the motion with citation of authorities relied upon. Failure to file a statement of grounds with supporting authorities may be grounds for overruling the motion. Any party properly served with a motion accompanied by a statement of grounds and authorities shall file a response containing a statement of grounds for opposing the motion with citation of supporting authorities. Such response shall be filed at or prior to the time specified in the notice of hearing of the motion. Failure to file a response may be grounds for sustaining the motion, but the time for filing a response may be extended for good cause shown.

- F. If an agreed order signed by counsel for all parties affected is submitted to the Clerk prior to the call of the motion docket, counsel need not attend the call of the motion docket.
- G. If additional time is allowed in any proceeding for supplementation of the record, or for briefing, counsel shall, when the time has expired, or the supplementation or briefing completed, advise the Court that the matter is ready for a decision.

706. Entry of Orders and Judgments

Whenever any rule is made or opinion rendered, an order or judgment in conformity therewith shall be tendered by counsel for all parties thereto in conformity to the ruling or opinion and shall be presented to the Court. If the party against whom the order or judgment is to be entered is not represented by counsel, or be represented by counsel who declines to attest the order or judgment, such fact shall be endorsed

thereon. When signed by the Judge, the order or judgment shall be delivered to the Clerk for entry. After entry, the Clerk shall mail attested copies of the order or judgment to all parties or their respective attorneys as required by the Rules of Civil Procedure.

707. Motions, Pleadings, Briefs and Orders

All civil, criminal, and domestic orders to be entered by the Court shall contain a Clerk's certification of service for all parties.

708. Exhibits to Pleadings, Answers to Interrogatories, and Request for Admissions

- A. Any pleading that refers to an exhibit as attached to the pleading shall, in fact, be accompanied by such exhibit, and opposing counsel shall not be required to respond to such pleading which fails to include the referenced exhibit.
- B. When answering interrogatories or request for admissions, the replying party shall, as a part of his answer, set forth immediately preceding the answer the questions or the request made with respect to which such answer is given.

709. Order of Submission

- A. Upon submission of any action to the Court for final judgment, the parties shall prepare and present to the Court an order of submission setting forth in particular the issue or issues on which the action is submitted.
- B. An action shall be submitted only upon the entry of an order of submission.
- C. No further pleadings, proof, or briefs, unless ordered or allowed by the Court for good cause shown, shall be filed after the entry of the order of submission.
- D. The Court may, but need not, pass upon any such action before such order of submission.

E. On any motions submitted to the Court for decision, the Court is to make all reasonable efforts to enter a decision on the motion within thirty (30) days after date of submission.

F. On all cases tried by the Court without the benefit of a jury, the Court shall make all reasonable efforts to enter a decision in the case within sixty (60) days after submission.

710. Copy of Complaint to be Filed

Whenever a civil complaint is filed, sufficient copies thereof, including the names of the attorneys and the true copies of all affidavits, jurats, and exhibits, shall be left with the Clerk for service on each defendant pursuant to Civil Rules of Procedure.

711. Procedure on Rules for Contempt

The proper procedure in procuring a rule for contempt is as follows: A motion should be filed asking for the rule, and this should be supported by a sufficient affidavit showing that applicant is entitled to the same. When the motion and affidavit are filed, the Clerk of the Courts may issue the rule ex parte, which rule shall not come on for hearing sooner than five (5) days from the date the rule is served, unless otherwise ordered; and no rule shall come on for hearing unless the same has been served upon the person in contempt by an officer authorized to serve a summons.

The rule shall contain a short statement of the grounds for its issuance.

712. Courtroom Decorum

In addition to expecting that the attorneys present in Court should be appropriately attired, the parties, witnesses and spectators shall also dress appropriately. Among other items, shorts, garments with inappropriate messages, and tank tops are inappropriate. Attorneys are expected to advise their clients and witnesses of the

dress code. Unless otherwise ordered by the Court, children under the age of six (6) shall not be in the Courtroom.

Rule 8. Criminal

801. Jury Terms

There will be six (6) jury terms of the Graves Circuit Court per calendar year during the following months, unless otherwise ordered by the Court: January, March, May, July, September, and November.

802. Grand Jury

- A. Grand Jury shall be empanelled for an entire year during the month of January of each year and shall consist of twelve (12) members and a number of alternates as determined by the Court.
- B. The Grand Jury shall meet in regular session every other month during the calendar year on a date designated by the Circuit Judge.

803. Criminal Arraignments and Motions

- A. When the Grand Jury returns its indictments, the Court shall designate a date for arraignments on regular criminal motions days (Mondays at 9:00 a.m.)
- B. Both the defendant and his attorney must be present at the arraignment. The attorney appearing for the defendant at the arraignment shall represent the defendant in all future stages of the proceeding. An attorney shall not withdraw from employment after arraignment in a criminal proceeding without permission of the Court.
- C. At the time of arraignment, each defendant shall be assigned a date for a status conference with the Commonwealth's Attorney.

- D. If the defendant is represented by counsel, said counsel may file a written Entry of Appearance and a Waiver of Formal Arraignment. This written waiver must be signed by the defendant and counsel and shall provide for the defendant to appear at the scheduled status conference and pretrial conference. Defendant's appearance at the status conference mentioned in the waiver shall be a condition of defendant's bond.
- E. If defendant is not on bond from District Court, the formal arraignment may not be waived.
- F. All criminal motions shall be filed with the Clerk and noticed for hearing at criminal motion hour, which shall be each Monday at 9:00 a.m., unless otherwise ordered by the Court.

804. Status Conference and Pretrial: Criminal Cases

- A. The Commonwealth Attorney's office shall set aside one day every other month for scheduled status conferences between the Commonwealth and defense counsel. The defendant's presence shall be required.
- B. The status conference will be scheduled through the office of the Commonwealth Attorney and shall be at least thirty (30) days after the scheduled formal arraignment.
- C. At least ten (10) days prior to the status conference, the Commonwealth Attorney shall have filed a copy of the indictment, the Commonwealth's Bill of Particulars and all pertinent discovery and shall be prepared to make the Commonwealth's offer at the status conference.

- D. The Commonwealth shall, within seven (7) days after the status conference, submit to the Court, and to the Defendant, the Commonwealth's written plea bargain agreement or sentence recommendation in the case. The defendant shall have until the close of the pretrial conference to accept or reject the plea bargain agreement or sentence recommendation submitted by the Commonwealth Attorney or to negotiate further with the Commonwealth Attorney. If a plea bargain agreement can be entered into between the parties, the defendant shall be prepared to enter his plea at the pretrial conference. After the plea is entered, a sentencing hearing will be scheduled. If no plea bargain agreement can be entered into, the Commonwealth Attorney shall withdraw his offer at the conclusion of the pretrial conference, and the case will be assigned for an immediate trial date.
- E. At the time of arraignment, each case shall be assigned a pretrial conference date. The pretrial conference shall be at least seven (7) days after the status conference.
- F. All pretrial motions shall be filed and served prior to the pretrial conference, requesting a special hearing date for any motion requiring testimony or argument anticipated to last more than fifteen (15) minutes.
- G. The attorney appearing for the defendant at arraignment shall be in attendance at the pretrial conference and shall submit such written motions as he shall expect to offer in the case at least seven (7) days prior to the pretrial conference. No additional motions may be offered after pretrial conference, except by leave of the Court and upon a showing of excusable neglect or if it concerns a matter of which

he was not aware or which did not come to his attention prior to the time of the pretrial conference or in the interest of justice.

These Rules are adopted pursuant to the authority granted by Rule 78 of the Kentucky Rules of Civil Procedure and SCR 1.040(3), and these Rules, as amended, and any revision and/or addition or deletion to these Rules shall become effective and apply with full force and effect to all actions filed or pending as of the date of their approval by the Chief Justice of the Supreme Court. These Rules shall become effective upon approval of the Chief Justice of the Supreme Court.

WITNESS MY HAND this 11/14 day of March, 2014.

T. C. Stark
Timothy C. Stark, JUDGE
GRAVES CIRCUIT COURT

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX A OF THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 52ND JUDICIAL CIRCUIT, GRAVES COUNTY

Upon the recommendation of the Judges of the 52nd Judicial Circuit, Graves County, and being otherwise sufficiently advised,

The amendment to Appendix A of the Local Rules of Practice and Procedure for the 52nd Judicial Circuit 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

APPENDIX "A" – Domestic Violence Protocol and 24 Hour Access Policy

**TWENTY-FOUR (24) HOUR ACCESSIBILITY TO EMERGENCY
PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC
VIOLENCE POTOCOL
52ND JUDICIAL CIRCUIT AND DISTRICT
GRAVES COUNTY**

Pursuant to KRS 403.735, and KRS 456.030, and in compliance with Family Court Rules of Practice and Procedure (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four (24) hour accessibility to emergency protective orders (EPOs) and temporary interpersonal protective orders (TIPOs) and to establish written procedures for domestic violence 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 FCRRP 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 domestic violence petitions and administer oaths to petitioner **during** regular business hours:

Graves Clerk of the Courts or any deputy clerk at the Graves County Courthouse, 100 East Broadway, Mayfield, Kentucky, from 8:00 a.m. to 4:30 p.m., Monday through Friday.

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

1. Graves Circuit Court Clerk and all Deputy Clerks;
2. Graves County Attorney, Assistant County Attorney and County Attorney's office staff;
3. Graves County Jailer and all Deputy Jailers;
4. Sheriff of Graves County and all Deputy Sheriffs;
5. All officers of the Kentucky State Police;
6. All police officers for the City of Mayfield, Kentucky;
7. All police officers for the City of Wingo, Kentucky.

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

During regular business hours the person receiving and verifying the Petition shall, if possible, deliver the Petition to the Circuit/District Court Clerk's Office and that officer shall immediately present the Petition to the District Judge of the 52nd Judicial District found within Graves County and if the District Judge cannot be located within the county, the Petition shall be presented to the Circuit Judge of the 52nd Judicial Circuit found within Graves County. In the event neither judge can be found within the county, the Petition shall be presented to a District or Circuit Judge found in any county adjoining Graves County.

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

During hours other than regular business hours, the person receiving and verifying the complete Domestic Violence Petition shall deliver the Petition to the Mayfield Police Department or other appropriate law enforcement agency and an officer of that agency shall immediately present the Petition to the District Judge of the 52nd Judicial District

found within Graves County and if the District Judge cannot be located within the county, the Petition shall be presented to the Circuit Judge of the 52nd Judicial Circuit found within the county. In the event neither judge can be found within the county, the Petition shall be presented to Hon. Hunter B. Whitesell II, District Judge for the 1st Judicial District, pursuant to Order entered by Chief Justice, John D. Minton, on September 16, 2014. If he is not available, the Petition shall be presented to a District or Circuit Judge found in any county adjoining Graves County.

1. **Circuit Court** - domestic violence hearing shall be scheduled during the court's regular domestic relations motion hour, with all cases being scheduled for each Monday at 1:30 p.m. (excluding holidays) unless otherwise ordered by the circuit judge.
2. **District Court** - domestic violence hearings shall be scheduled for any Monday morning at 8:30 a.m. (excluding holidays) unless otherwise ordered by the district 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 to the District Court.
- D. The schedule for hearings on protective orders is as follows:
 1. **Circuit Court** - domestic violence hearings shall be scheduled during the court's regular domestic relations motion hour, with all cases being scheduled for each Monday at 1:30 p.m. (excluding holidays) unless otherwise ordered by the circuit judge.
 2. **District Court** - domestic violence hearings shall be scheduled for any Monday morning at 8:30 a.m. (excluding holidays) unless otherwise ordered by the district judge.

IV. Contempt Proceedings

- A. Pursuant to KRS 403.760 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 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:

During regular business hours, the Graves Clerk of the Courts, or the Graves County Attorney's Office. After regular business hours, the petitioner may request law enforcement to initiate a criminal proceeding.
- C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

The undersigned hereby acknowledge 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 judges in the circuit and district.

Timothy C. Stark /Date 11/25/15
Timothy C. Stark
Graves Circuit Judge

Deborah Hawkins Crooks /Date 11/25/15
Deborah Hawkins Crooks
Graves District Judge

APPENDIX "B" – Visitation / Timesharing Schedule

VISITATION/TIMESHARING SCHEDULE

In addition to the Model Time-Sharing / Visitation Guidelines referred to in FCRPP 8, the parties may utilize the following time-sharing / visitation schedule in the 52nd Judicial Circuit adopted at the request of the Grave County Bar Association. This schedule is not to be used as a default schedule when the parties are unable to agree but, rather, should be used as a basis for determining a schedule that meets the needs of the family. This minimum schedule for time-sharing / visitation may apply both as a temporary order and/or a final visitation order and as otherwise ordered by this Court:

- Alternate weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m.
- Wednesdays or Thursdays (at the discretion of the non-residential parent) of the week there is no weekend visitation from the time school is out until the following morning. The alternate night will be the same each week.
- Spring Break in even numbered years (regardless of length).
- Summer Break will be as follows: The non-residential parent shall have visitation from June 1st through June 30th of each year, with the residential parent to then have alternate weekend and alternate mid-week visitation. The parties shall divide July equally, with one parent to have from July 1st through July 15th and the other from July 16th through the 31st. These weeks will be alternated annually. This summer schedule only applies where alternate weekend visitation is applicable and both parents are willing and able to keep all scheduled activities for the child(ren) while in their respective care.
- Fall Break in odd number years (regardless of length).
- Thanksgiving Day on even-numbered years. If it falls on the Thursday before the non-residential parent's scheduled weekend visitation, then visitation shall continue through 6:00 p.m. Sunday.
- Christmas Break shall be divided as follows: The residential parent shall have visitation in odd-numbered years from the time school is out until 1:00 p.m. on Christmas Day and the non-residential parent shall have the child from 1:00 p.m. Christmas Day until 6:00 p.m. on New Years' Day. In even-

numbered years the non-residential parent shall have visitation from 5:00 p.m. on the day school is out until 1:00 p.m. on Christmas Day.

- The mother shall have visitation on each Mother's Day, and the father shall have visitation on each Father's Day. Visitation shall be from 9:00 a.m. until 9:00 p.m.

The following General Rules shall apply to all visitation:

1. In the event that the non-residential/visiting parent is 30 minutes late for any period of visitation, the visitation is forfeited.
2. The custodial/residential parent has the right to refuse visitation if the other parent is under the influence of alcohol, drugs or intoxicants.
3. Both parents must secure the child in an approved child restraint system while transporting the child.
4. Despite the specifics of the standard order of visitation, the custodial/residential parent is encouraged to permit additional visitation with the other parent and is directed to accommodate and encourage such visitation.
5. The above-referenced school schedules (spring, fall break, holidays) shall also apply to children not yet of school age.
6. Both parties shall have reasonable and open contact with the children by telephone, except in those cases where a Domestic Violence Order prohibits such contact.
7. Each parent should provide to the other parent contact numbers and addresses (unless a Domestic Violence Order is in effect) where the child(ren) can be located during their scheduled time-sharing visitation time.
8. The Time-Sharing/Visitation Schedule set by the Court for holidays, school

breaks, and summer break should control over regularly scheduled time-sharing/visitation time even if this allows successive time-sharing/visitation periods.

9. If a child is ill, the parent who has the child should give 24 hour notice, if possible, to allow for appropriate plans to be made.

When a joint custodian seeks to relocate he or she shall comply with the requirements of FCRPP7(2)(a). When a sole custodian seeks to relocate he or she shall comply with the requirements of FCRPP 7(2)(b)