

APPENDIX A

DOMESTIC VIOLENCE PROTOCOL
TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY
PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION
DOMESTIC VIOLENCE PROTOCOL
6th JUDICIAL CIRCUIT AND DISTRICT
DAVISS COUNTY

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts. See also RDDC 5 for additional rules relating to Domestic Violence cases.

I. Uniform Protocol for Processing Cases

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. 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.
- C. Domestic violence matters may be reassigned from the district court division to circuit court when there is a dissolution/custody proceeding pending.
- D. No jurisdiction shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.
- E. Domestic violence cases shall be reassigned or transferred to another circuit or district court under the following

circumstances: See RDDC 1D(iv)(c), where there is a recusal pursuant to KRS 26A.015, or when a Judge determines on the record that it is in the interest of justice or judicial economy to do so.

Consistent with FCRPP 12, when a case is transferred to another court, the emergency protective order shall continue and the summons shall be reissued by the transferring court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court receiving the transfer.

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:

The Daviess Circuit Court Clerk or any of her officers in the Juvenile Division may both receive Petitions and administer oaths. The Office of Crime Victims' Advocacy may assist in the preparation of a Petition. Any Judge or notary public may also administer oaths, but the Petition itself and any Emergency Protective Order must still be received by the Juvenile Clerk or appropriate Circuit Division where a custody/dissolution exists.

1. The necessary forms can be obtained through the office of the Juvenile Clerk. The Crime

Victims' Advocate can assist in preparing the forms. Crime Victims' Advocate offices are located in the Kirtley Annex behind the Holbrook Judicial Center, and can be contacted at (270) 685-4357.

2. The completed forms shall be presented to the office of the Juvenile Clerk. The Juvenile Clerk shall assign the case to a division of the Daviess District Court according to the guidelines set forth in RDDC 104D(3) unless a custody/dissolution exists.
3. The Juvenile Clerk shall give copies of all documents to the Petitioner and shall notify law enforcement to serve Respondent or shall provide Petitioner an extra copy to be given to the law enforcement agency who will serve the Respondent.

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. Persons seeking an EPO should contact law enforcement or emergency services. Law enforcement or emergency services shall contact the prosecutor on-call or, if not available, any prosecutor who can be reached, who shall have copies of all necessary forms and will assist Petitioner in preparing the documents and acknowledge affiant's signature and administer the oath.
2. The District Judge serving on-call duty, or such other Judge as

may be available in the event the on-call Judge cannot be reached, shall review the petition and, if an EPO is entered, shall set a hearing date. When reviewing the Petition, the Judge shall administer the oath if such has not already been done. The signing Judge shall see that copies of the forms are provided to the Petitioner and to the law enforcement agency who will be serving Respondent.

3. Upon receipt of the documents, the Juvenile Clerk shall open a file and assign the case to the Division holding Juvenile Court on the date set for the hearing. If upon review, the Juvenile Clerk finds the case should be assigned to a different Division or Circuit, pursuant to RDDC 104D(3), the Juvenile Clerk shall, if practicable, cause an amended notice of hearing to be sent to the parties. If sending an amended notice of hearing is not possible, on the date of the hearing as originally set by the on-call Judge, the Juvenile Clerk shall notify the sitting Judge of the pre-existing or pending case and the sitting Judge may choose to transfer the case and reset the hearing if it serves the interests of justice to do so.

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

The District Judge serving day duty unless that Judge is not present in the courthouse and then any available District Judge or Circuit Judge may review the Petition. If

the Judge reviewing the Petition learns there are related or pending matters before another Judge, the reviewing Judge may request that the Judge with more familiarity review the Petition.

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

The District Judge serving night duty and if that judge cannot be reached then any available District Judge or Circuit Judge may review the Petition. If the Judge reviewing the Petition learns there are related or pending matters before another Judge, the reviewing Judge may request that the Judge with more familiarity review the Petition..

- E. Petitions will be reviewed within an hour of presentation to a Judge unless it is impossible due to the unavailability of a Judge.
- F. **Scheduling:** All petitions shall be set for hearing no more than fourteen (14) days from the issuance of the Emergency Protective Order. At that time, parties should be present with evidence, necessary witnesses, and counsel if so desired. For lack of service or other good cause, the Judge may continue the hearing and re-issue the EPO, if necessary. The schedule for domestic violence hearings is as follows:

Domestic Violence Hearings are conducted routinely in each of the Divisions of Daviess District Court in conjunction with the Juvenile Docket held on Mondays, Wednesdays and Fridays. Where there is a holiday, or when a regular session of Juvenile Court has been cancelled, it may

be necessary for a Judge who is not assigned the case to conduct the hearing on that Judge's Juvenile day. When it is appropriate for the hearing to be held in Circuit Court, the Juvenile Clerk shall contact the Circuit Clerk for a hearing date within the statutory time frame and notify the parties and any counsel.

III. Contempt Proceedings

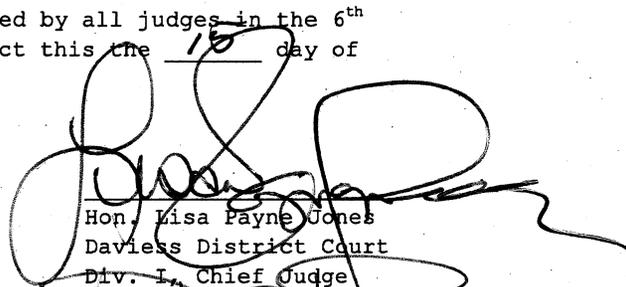
- A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.
- B. Petitioners seeking to initiate contempt proceedings should contact: The Daviess County Attorney's Office ("County Attorney") for explanation of remedies and possible criminal prosecution
- 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.
- D. Motions for Contempt shall be served upon the Respondent no less than five (5) days before the scheduled hearing.
- E. Pursuant to FCRPP 11(2), the Court shall advise Respondent of his or her rights and, if Respondent cannot afford counsel, shall appoint a Public Defender. The Judge may reset the hearing for the appearance of the Public Defender or for Respondent to obtain counsel.

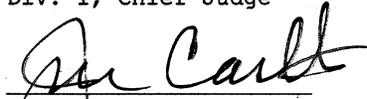
All general orders, forms, policies and procedures unique to this jurisdiction and relating to domestic violence are contained in the Local Rules of the Daviess District and Circuit Court or contained in this protocol. The standard AOC forms for Petition, EPO, Summons, DVO,

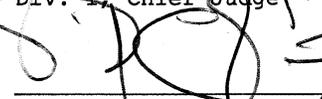
and Motions in Domestic Violence proceedings are utilized throughout this jurisdiction and can be obtained through the Daviess Circuit Court Clerk, the Juvenile Clerk, or downloaded from the AOC website at www.courts.ky.gov/forms.

The above protocol is adopted by all judges in the 6th Judicial Circuit and District this the 15 day of March, 2012:


Hon. Jay Wethington
Daviess Circuit Court
Div. I, Chief Judge


Hon. Lisa Payne Jones
Daviess District Court
Div. I, Chief Judge


Hon. Joseph Castlen
Daviess Circuit Court
Div. II


Hon. David Payne
Daviess District Court
Div. II


Hon. Nick Burlew
Daviess District Court
Div. III