Supreme Court of Kentucky

ORDER

IN RE: **ORDER APPROVING THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 26TH JUDICIAL DISTRICT, HARLAN DISTRICT COURT**

Upon recommendation of the District Judge of the 26th Judicial District, Harlan District Court, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the Harlan District 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 25th day of July 2012.

CHIEF JUSTICE JOHN D. MINTON, JR.

HARLAN COUNTY DISTRICT COURT

26TH JUDICIAL DISTRICT

RULES OF PRACTICE AND PROCEDURE

COMMONWEALTH OF KENTUCKY

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RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE

101 Preface

These are the Local Rules of the Harlan District Court. These Rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCr) and the Kentucky Rules of Civil Procedure (CR). These rules shall be the only operative Harlan District Court Rules.

102 Effective Date

The effective date of these rules shall be thirty (30) days after the Kentucky Supreme Court's approval.

103 Citation

These Rules shall be cited as Harlan District Court Practice and Procedure (HDPR).

104 Holidays

The Harlan County District Court will follow the Kentucky Court of Justice holiday schedule and may be obtained at the Harlan Court Clerk's Office or at http://courts.ky.gov.

RULE 2 COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING

201 Regular Motion Hour Schedule

A. Criminal arraignments shall be heard each Monday at 9:00 AM.
B. Criminal motion hour, preliminary hearings and pretrial conferences shall be heard each Monday at 1:00 PM. All said motions shall be filed with the Harlan Circuit Court Clerk's office no later than 4 PM on the Thursday before the next said motion Hour. Pretrial conferences may also be heard on Tuesdays at 9:00 AM as scheduled by the Court.
C. Juvenile Dependency Neglect and Abuse, Status Offense and Public Offense matters shall be heard each Wednesday at 9:00 AM. Temporary Removal Hearings as a result of the issuance of an Emergency Custody Order shall be heard within 72 hours of issuances of the emergency order, exclusive of holidays and weekends.
D. Paternity and Child Support matters shall be heard on the 1st and 3rd Wednesday of each month at 1:30 PM.
E. Bad Check Docket shall be heard on the 2nd Wednesday of each month at 1 PM.
F. Domestic Violence matters shall be heard each Thursday at 8:30 AM.
G. Small Claims matters shall be heard each Thursday at 10:00 AM.
H. Probate matters shall be heard each Thursday at 1:00 PM. All probate motions shall be filed with the Harlan Circuit Court Clerk's office no later than 4 PM on the Tuesday before the next Probate Motion Hour.

I. Civil motions and Evictions shall be heard each Thursday at 1:30 PM. All said civil motions shall be filed with the Harlan Circuit Court Clerk's office no later than 4 PM on the Tuesday before said Motion Hour.
J. Show cause and contempt hearings for all fine collection matters shall be heard on the 1st Friday of each month at 1:30 PM.

202 Exceptions to Regular Motion Hour Schedule

Exceptions to the regular motion hour schedule shall be at the discretion of the District Judge.

203 Deadline for Filing Motions

Deadlines for filing motions are indicated in HDPR 201 above.

RULE 3 DOMESTIC VIOLENCE PROTOCOL & 24 HOUR ACCESS POLICY

301 Twenty-four (24) Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol

The Twenty-four (24) Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for Harlan County is located in Appendix 1 to these local rules and incorporated as if set out fully herein.

RULE 4 PATERNITY

See FCRPP 14 and 15. There are no local rules relating to Paternity in the Harlan District Court.

RULE 5 DEPENDENCY, NEGLECT, AND ABUSE

501 Procedure for Emergency Custody Orders

In Harlan County, to obtain an Emergency Custody Order as set forth in FCRPP 19:

A. During normal working hours, 8:30 a.m. to 4:30 pm. Monday through Friday, excluding holidays, persons seeking an Emergency Custody Order (ECO), shall come to the Harlan Circuit Court Clerk's Office.

B. After working hours and on weekends and holidays, a social worker shall contact the District Court judge or trial commissioner.

502 Petition

Any petition filed with this Court shall comply with the following conditions:

1. Citations to specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and
2. Full information concerning the child's parents and their address(es). The petitioner shall make diligent efforts to locate the child's parents, including but not limited to initiating contact with the Child Support Division of the Harlan County Attorney's Office.

503 The Effects of Service on Only One Parent/Persons Exercising Custodial Control or Supervision

The judge may permit the Temporary Removal Hearing or the adjudicatory hearing to go forward when the non-custodial parent has not been served in accordance with FCRPP 18(1) if it is established on the record that petitioner has made diligent efforts to serve all other parties including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent. The petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served.

RULE 6 STATUS OFFENSES

There are no local rules relating to Status Offense cases in the Harlan District Court. For uniform statewide rules of procedure see FCRPP 37 through 44.

RULE 7 MISCELLANEOUS RULES RELATING TO FAMILY LAW PRACTICE

701 Identification of Counsel or Party Required

Every pleading, motion and any other paper filed in the record by counsel or party shall contain the case number, typed or printed name, address, telephone number and e-mail address of the attorney or party signing the paper. A rubber stamp shall not be deemed a signature either under this Rule or CR 11.

702 Protection of Personal Identifiers

A. In addition, all pleadings must comply with the requirements of KRS Chapters 205, 403, 405, 406 and 407 by providing the personal identifying information required in those chapters. However, except as set forth in paragraph B below, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court pursuant to the above-stated chapters, parties shall comply with CR 7.03(1)(b) by filing one copy from which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support

matters attendant to the case, or a person authorized to view the copy by specific orders of the court.
As used in this section, "personal identifier" means a Social Security number or tax-payer identification number, date of birth, or financial account number.

B. Pleadings, documents, or exhibits filed in actions deemed confidential by statute need not be redacted, and any access to those files shall be governed by KRS 199.570, KRS 610.340, KRS 625.045 and KRS 625.108.

The HDPR is hereby adopted by the Harlan District Court Judge:

Jeffrey J. Brock / Date 4-12-2012
Hon. Jeffrey J. Brock, District Judge

Supreme Court of Kentucky

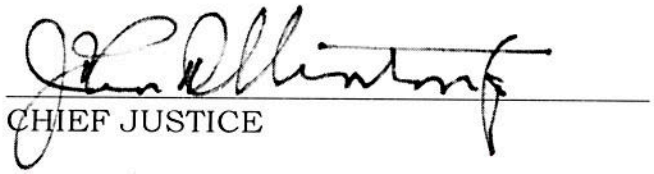
ORDER

IN RE: ORDER APPROVING AMENDMENT TO APPENDIX 1 OF THE RULES OF PRACTICE AND PROCEDURE FOR THE 26TH JUDICIAL DISTRICT, HARLAN COUNTY

Upon the recommendation of the Judges of the 26th Judicial District, Harlan County, and being otherwise sufficiently advised,

The amendment to Appendix 1 of the Rules of Practice and Procedure for the 26th 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

TWENTY-FOUR HOUR ACCESSIBILITY TO PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION PROTOCOL
26th JUDICIAL CIRCUIT AND DISTRICT
HARLAN 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 or trial commissioner unless impossible due to no judge or trial commissioner being available.

II. Twenty-four Hour Accessibility

A. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **during** regular business hours:
Harlan County Circuit Court Clerk's Office.

B. The following agencies and officers are authorized to take protective order petitions and administer oaths to petitioner **after** regular business hours and weekends:
Kentucky State Police Post #10 (Harlan)
Harlan County Trial Commissioner

C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:
District Judge, unless a dissolution or child custody proceeding is pending in Circuit Court. If a dissolution or child custody proceeding is pending, the petition shall be presented to the Circuit Judge for consideration. If the Circuit Judge is unavailable, then the District Judge may sign the protective order and schedule the matter in Circuit Court for a hearing.

D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:
The Harlan District Court Trial Commissioner which has been approved by the Supreme Court.

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:

Protective order matters shall be heard each Thursday at 8:30 a.m. in the Harlan District Court and on Monday at 9:00 a.m. in Harlan Circuit Court.

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: Harlan Circuit Court Clerks Office, who will set the matter for a hearing on the next available Domestic Violence docket.

C. No petitioner may be held in contempt for failure to appear at a domestic violence hearing or prosecute a criminal violation of a protective order.

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

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

Hon. Kent Hendrickson

November 24, 2015
Date

Hon. Jeffrey J. Brock

11-24-2015
Date