

Supreme Court of Kentucky

ORDER

IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE 44TH JUDICIAL DISTRICT COURT, BELL COUNTY

Upon recommendation of the Judges of the 44th Judicial District, Bell County, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 44th District, Bell County 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 22nd day of March 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

RULES OF PRACTICE AND PROCEDURE

FOR THE FORTY-FORTH JUDICIAL DISTRICT

BELL DISTRICT COURT



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**RULES OF PRACTICE AND PROCEDURE
FOR THE 44TH JUDICIAL DISTRICT
BELL DISTRICT COURT**

RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE

101 Preface

These are the Local Rules of the Bell 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 Bell 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 Bell District Court Practice and Procedure (BDPR).

104 Holidays

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

RULE 2 COURT SCHEDULING/MOTION HOUR/PROCEDURES FOR FILING

201 Regular Motion Hour Schedule

- A. Criminal arraignments shall be heard each Monday, Tuesday, Wednesday and Friday at 9:00 A.M. An arraignment may be scheduled for any other day and time only upon leave of the Court.
- B. Criminal motion hour shall be heard each Monday at 9:30 A.M or the 2nd and 4th Thursday of each month at either 9:30 A.M or 1:30 P.M. Preliminary hearings shall be heard each Tuesday at 1:30 P.M. Pretrial conferences shall be heard the 2nd and 4th Thursday of each month at either 9:30 A.M. or 1:30 P.M. All said motions shall be filed with the Bell Circuit Court Clerk's office no later than 4:00 P.M. on the Wednesday before the next said motion Hour.
- C. Juvenile Dependency Neglect and Abuse, Status Offense and Public Offense matters shall be heard the 1st and 3rd Thursdays of each month at either 9:30 A.M. or 1:30 P.M.

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 10:30 A.M.
- E. Domestic Violence matters shall be heard each Monday at 1:30 P.M.
- F. Small Claims matters shall be heard the 3rd Friday of each month at 9:30 A.M.
- G. Probate matters shall be heard the 1st and 3rd Wednesdays of each month at 1:30 P.M. All probate motions shall be filed with the Bell Circuit Court Clerk's office no later than 4:00 P.M. on the Wednesday before the next Probate Motion Hour.
- H. Civil Motions and Evictions shall be heard the 1st and 3rd Wednesday of each month at 1:30 P.M. All said civil motions shall be filed with the Bell Circuit Court Clerk's office no later than 4:00 P.M. on the Wednesday before said Motion Hour.
- I. Show cause and contempt hearings for all fine collection matters shall be heard each day at 9:00 A.M.
- J. Proof hearings shall be heard each Wednesday at 9:00 A.M.
- K. Drug Court shall be held each Wednesday at 10:00 A.M.

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 BDPR 201 above.

RULE 3 DOMESTIC VIOLENCE

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 Bell County is located in the Appendix 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 Bell District Court.

RULE 5 DEPENDENCY, NEGLECT, AND ABUSE

501 Procedure for Emergency Custody Orders

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

- A. During normal working hours, 8:00 A.M. through 4:00 P.M., Monday through Friday, excluding holidays, persons seeking an Emergency Custody Order (ECO), shall come to the Bell Circuit Court Clerk's Office.
- B. After working hours and on weekends and holidays, a social worker shall contact the District Court Judge.

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 Bell 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

See FCRPP 37 through 44. There are no local rules relating to Status Offense cases in the Bell District Court.

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.

RULE 8 CIVIL/CRIMINAL PRACTICE RULES

801 Transportation of Defendants

If a Defendant is incarcerated outside of Bell County and a court hearing at which he is required to appear is scheduled in the action against him, the Defendant, if the court hearing is scheduled at the request or notice of the Defendant, or the Commonwealth in all other cases, shall tender to the Court an order directing the appropriate authority to transport the Defendant no later than seven (7) days prior to the court hearing, or as soon as possible after the scheduling of the court hearing if there are fewer than seven (7) days between the scheduling of the court hearing and the hearing itself. The order shall include the following information: (i) The name of the Defendant; (ii) the designation of the authority responsible for transporting the Defendant; (iii) the physical address of the facility from which, and to which, the Defendant is to be transported; (iv) the date, time and nature of the court hearing for which the Defendant is to be transported; and (v) an instruction, if appropriate, that the Defendant shall be returned upon conclusion of the court hearing for which the Defendant is to be transported.

802 Appearance of Defendants in Criminal Cases

- A. Defendant **shall** be present at all court events, unless otherwise ordered by the Court.
- B. If a Defendant fails to appear at a court event at which he is required to appear, including an arraignment, the Bell Circuit Court Clerk shall issue a bench warrant for the arrest of the Defendant.
- C. No warrant for the arrest of the Defendant shall be issued if the Defendant, or another on his behalf, presents to the Court, at or prior to the court event at which the Defendant is required to appear, sufficient evidence of good cause whereby he cannot appear.
- D. If a warrant for the arrest of a Defendant has been issued and has not been served, counsel for the Defendant may file of record with the Bell Circuit Court Clerk a motion to recall the warrant, which shall state with specificity good cause for the Defendant's failure to appear, and which shall be accompanied with sufficient evidence thereof.
- E. If a warrant for the arrest of a Defendant has been issued and has been served, the matter shall be rescheduled at the next available criminal motion day.

The BDPR is hereby adopted by the Bell County District Court Judge:


Hon. Robert T. Yoakum

03-15-2012
Date

Appendix 1

TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL FOR THE 44TH JUDICIAL CIRCUIT AND DISTRICT OF BELL 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 Bell Circuit and District Courts.

I. Uniform Protocol for Handling 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 Bell District Court to the Bell Circuit Court when there is a dissolution/custody proceeding pending.
- D. Domestic violence cases are civil matters within the purview of CR 41.01 and there is not a “no-drop” policy in Bell County.
- E. If the court determines there is a dissolution or custody matter pending in another circuit, the domestic violence case shall be transferred to the Circuit Court where that matter is pending. Pursuant to FCRPP 12, any emergency protective order issued in a case that is transferred shall continue and the summons shall be reissued by the initiating Bell County Circuit or District Court, pursuant to KRS 403.740(4), for a period not to exceed fourteen (14) 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 of 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:

Bell County Circuit Court Clerk’s Office

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

Middlesboro (KY) Police Department

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the 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 District Judge cannot be located during regular business hours, the petition may be presented to the Circuit Judge.

- D. Upon receipt of a petition **after** regular business hours, weekends, and holidays the authorized agency/officer shall present the petition to the Bell District Judge. If the District Judge cannot be located after regular business hours, the petition may be presented to the Circuit Judge.
- 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. The schedule for domestic violence hearings is as follows:

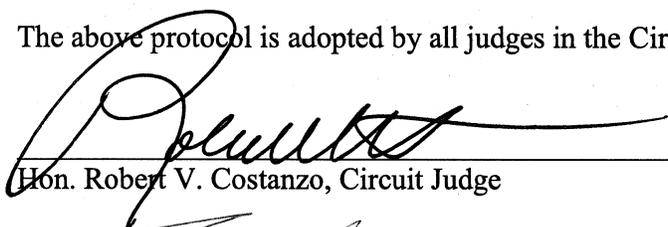
Domestic Violence matters shall be heard each Monday at 1:30 P.M. in the Bell District Court. If Monday should fall on a holiday, the designated time shall be Tuesday at 1:30 P.M.

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 civil contempt proceedings should contact Office of the Bell Circuit Court Clerk, who will set the matter for a hearing on the next available Domestic Violence docket.
- 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.

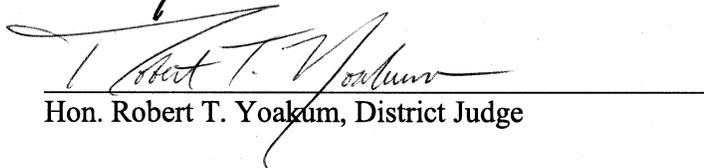
All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judges in the Circuit/District:



Hon. Robert V. Costanzo, Circuit Judge

3-15-12
Date



Hon. Robert T. Yoakum, District Judge

03/15/2012
Date