

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

IMPORTANT INFORMATION!!

PLEASE COPY THIS LETTER AND DISTRIBUTE TO EACH DEPUTY IN YOUR OFFICE.

THIS LETTER SERVES AS AN "INDEX" TO THE UPDATED SECTIONS OF THE MANUAL. THIS LETTER DOES NOT INCLUDE THE UPDATE IN ITS ENTIRETY; THEREFORE, IT IS *VERY IMPORTANT AND NECESSARY* THAT YOU AND YOUR EMPLOYEES GO TO EACH SECTION OF THE MANUAL SET OUT IN THIS LETTER AND REVIEW CHANGES OR MODIFICATIONS, AS WELL AS ANY NEW SECTIONS ADDED. IF YOU HAVE QUESTIONS OR NEED FURTHER EXPLANATION OF THE UPDATES, PLEASE DO NOT HESITATE TO CALL THE OFFICE OF GENERAL COUNSEL AT THE AOC.

TO: Circuit Court Clerks

FROM: Sara Boswell Dent, Deputy General Counsel
Linda P. Sullivan, Staff Attorney

DATE: **October 1, 2005**

Please note that the last revision to the Circuit Court Clerks Manual was on June 20, 2005. This memorandum identifies the sections which have been revised since that time. These revisions are effective October 1, 2005, and are as follows:

1. **Throughout the Manual** you may find that many clerical and grammatical errors have been corrected and document codes have been added. Additionally, in certain sections, language has been clarified but such clarifications did not change the meaning or content of those sections. **Please note that these minor revisions are not individually referenced in this instruction memorandum.**
2. **ADOPTIONS:** Paragraph 3 was revised to direct the use of the EXISTING NAME OF THE CHILD, rather than the child's adoptive name in the style of the case and on the party screen.
3. **ARBITRATION:** A completely new section has been added for processing arbitration awards in DUI cases.
4. **CITATIONS:** Paragraph 10(e) added regarding entry of blood test results into system.

Paragraph 10(g) added regarding the reporting of moving violation convictions by holders of commercial drivers licenses (CDL).

5. **EXPUNGEMENT OF DISMISSED OR ACQUITTAL CASES:** Paragraph 3(b) revised to direct use of AOC Form AOC 497.1 "Notification of Expungement Form".
6. **FEES AND COSTS:** Paragraph 2(d) of the "District Criminal" Section revised to reflect 6/20/05 statutory change in arrest/executing process fees in felony misdemeanor cases.

Paragraph o(1) moved from juvenile section and added to fees and costs miscellaneous section regarding clerk's responsibility (if requested) to complete clerk's certification section of Authorization for Payment form for peace officer's transportation of a juvenile.

Paragraph o(2) moved from juvenile section and added to fees and costs miscellaneous section to clarify that, in juvenile proceedings, no public officer is entitled to receive any fee for service of process or for attendance in court proceedings. (Other persons, however, may be paid for service of process and attendance as witnesses in court proceedings if acting under court order).

7. **FOREIGN PROTECTIVE ORDER (FPO):** Section revised throughout to clarify that FPOs may be taken to family court judges in addition to available district and circuit judges.

Section revised throughout (regarding both uncertified and certified FPOs) to clarify that the next trailer number should be assigned if the same petitioner and same respondent have a prior case.

Section revised throughout (regarding uncertified and amended uncertified FPOs) to clarify that these orders are initially valid for 14 days.

Section revised throughout (regarding uncertified and amended uncertified FPOs) to clarify that no domestic hearing is to be scheduled, but tickler system should be used to remind the judge within 10 days (of receipt of the uncertified copy of the FPO) if no certified copy of a FPO has been received. If no certified copy is received, the FPO will be extended for an additional 14 days.

Paragraph 4a revised to clarify that no domestic violence hearing is required to validate a FPO.

Paragraph 4e added regarding requirement to inform LINK and the applicant of receipt of a certified copy of a FPO.

Paragraph 4f revised to clarify that the FPO will expire within 28 days if no certified copy is received. (Petitioner may, however, apply to the court for a Kentucky FPO).

Paragraph 4h revised to clarify that the court must be notified in writing if no certified FPO has been received within 10 days from the time the uncertified copy of the FPO is received.

Paragraph 5c (1) added to instruct NOT to served notice of authentication of an amended FPO.

Paragraph 6 revised to add requirement that a petitioner who has tendered a FPO, must notify the clerk (within 2 working days) of receipt of any change in a FPO. Petitioner must also give the clerk a copy of the amended FPO.

Paragraph 7b(3) revised to clarify notice for amended FPO is also required.

8. **GRAND JURY DISPOSITIONS:** Paragraph 5 revised with note/reminder that there should be no grand jury referral lists for juveniles.

9. **INSPECTION OF RECORDS:** Paragraph 1b(3) revised to clarify that randomized jury lists are confidential, but the names of jurors selected as grand and petit jurors are not confidential.

Paragraph 1a(3)(a) revised to clarify that only the addresses of the petitioner and minor children are confidential in domestic violence cases.

10. **INVOLUNTARY ADMISSION:** Paragraph 6h revised to clarify that it is the respondent's spouse, parents or nearest relative or friend who must be given notice of entry of orders.

11. **JUVENILE:** The entire juvenile section has been reorganized for easier reference. The youthful offender section has been amended to reflect correct procedures, particularly regarding the transfer of juveniles from district court to circuit court.

1. **MOTION FOR SHOCK PROBATION:** Paragraphs 1 &5 revised to clarify that a motion screen should be attached with a scheduled events screen under the original case number. Paragraph 1 revised to delete reference to RCr 11.42 because it applies only to motions to vacate, set aside or correct a sentence.

Paragraph 7 revised to add instruction for adding a charge.

13. **PROBATE:** Paragraph 2, regarding receipt of will prior to probate, has been deleted.

Paragraph 2a revised to clarify that the form for probating a foreign will is same as for domestic will (AOC Form 805).

Paragraph 5 revised to clarify that notice must be given to all persons who have requested notice.

Paragraph 6 revised to delete requirement that petition be sent to Department of Revenue separately and prior to sending the order probating the will and appointing fiduciary/executor. Both the petition and order can no be sent at the same time.

Paragraph 8b(1) revised to allow clerk to provide a certified copy of a copy of the will that is maintained in the file. If a certified copy of the original is specifically requested, direct the requestor to the county clerk's office where the original will is filed. (See also paragraphs 26b and 54e regarding this issue).

Paragraph 10 revised to clarify that the clerk only has to advertise fiduciary appointments made since the previous month's advertisement. One advertisement for each appointment is sufficient. (See also paragraph 40).

Paragraph 14 revised to clarify that a motion filed by a fiduciary for permission to sell real property, must be served in the same manner as an initiating document (i.e. complaint). However, a summons should not be issued in this situation.

Paragraph 28 revised to clarify to that the clerk should only return the probate case to district court (with the circuit court's final judgment/order) if the case was transferred.

Paragraph 37 revised to omit requirement to send copy of fiduciary bond to the Department of Revenue.

Paragraph 38 revised to clarify the requirement to send a copy of the petition and order appointing guardian/conservator to the Department of Revenue.

Paragraph 46 revised regarding service of motion to sell property (as in paragraph 14) and payment of fees for certified mail by guardian/conservator.

Paragraph 47 revised to clarify that trust registration should not be entered into existing probate case if there is one.

Paragraph 49 revised regarding service of motion to sell property (as in paragraph 14) and payment of fees for certified mail by trustee.

Paragraph 54d revised regarding requirement to send copy of a petition to dispense to personal representative if administration or letters testamentary have been previously granted. Also omits requirement to send copy of the petition to Department of Revenue.

14. **SMALL CLAIMS:** Paragraph 9 revised to provide for entry of judgments.
15. **MISCELLANEOUS:** Throughout the manual, revisions have been made to reflect a statutory change which allows service of process on Sundays and holidays without an affidavit. Also, instruction to use the "SCIP" code

has been added where installment payments are deferred or ordered by the court.

Help, questions/comments: If you have any questions or comments relating to the revisions listed in this instructional memorandum, or any other issues concerning the content of the Manual, please do not hesitate to call the Office of the General Counsel at AOC.