

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

TO: Circuit Court Clerks  
FROM: Kevin J. Smalley, Manager Clerk Services  
DATE: January 1, 2011

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. IT 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 THE CHANGES/MODIFICATIONS. PLEASE DIRECT ANY QUESTIONS REGARDING THESE UPDATES TO CLERK SERVICES AND/OR THE OFFICE OF GENERAL COUNSEL AT THE AOC.

1. **Multiple Chapters Affected (Family Court Rules of Procedure and Practice):**

New Family Court Rules of Procedure and Practice will become effective January 1, 2011. These rules state, that certain forms that were previously optional, are now **MANDATORY**. Any references to these forms in the manual have been updated to note that they are mandatory.

These forms include:

AOC form 152 – Uniform Child Support Order; AOC form DNA – 1; AOC Form DNA – 4; AOC form DNA – 5; AOC form DNA – 6; AOC form DNA – 9; AOC form JW-40; AOC form DNA 2.1 and AOC form DNA – 2.2

While these forms are mandatory, the clerk (as the keeper of the record) must accept forms as presented for filing and then allow the Judge to determine if they need to be amended.

There will be separate emails from Clerks Services and the Office of General Counsel regarding updated forms and their availability either by mail or the Intranet/Internet.

2. **Bail Bonds Chapter:**

- Property Bond Section has been clarified to read as follows:

Paragraph 7. A bond in which the defendant or surety pledges real property, located in Kentucky, instead of cash to guarantee the defendant's appearance. Review the court order and determine the amount of property required to set bond for the defendant. RCr 4.04(1)(d)(v).

- a. Require the defendant or his surety to file AOC Form 360, Sworn Schedule. RCr 4.34(1). The schedule must include a legal description of the real estate.

NOTE: A "manufactured home," as defined in KRS 186.650, can only be accepted as part of the real property to be used as security on a property bond if the owner of the manufactured home (1) executes and files with the county clerk an affidavit of conversion to real estate pursuant to KRS 186A.297 that states that the manufactured home has been or will be permanently affixed to the real estate and (2) accompanies the affidavit with a surrender of the Kentucky certificate of title. A "recreational vehicle" (as defined in KRS 186.650), including a travel trailer, camping trailer, truck camper, and motor home, should never be included in the value of real property.

- b. Require the defendant or the surety to file a statement from the Property Valuation Administrator of the county where the land is located, showing the value of the land. In addition, if the defendant or surety wants you to include the value of the manufactured home in the value of the land, require him or her to file a certified copy of the applicable affidavit of conversion to real estate that was filed with the county clerk, accompanied by a certified copy of the Kentucky certificate of title for the manufactured home that was surrendered to the county clerk. CAVEAT: The PVA statement of value should already include the value of the manufactured home. Do not add the value of the manufactured home a second time. RCr 4.34(1).

### **3. Appeals to Circuit Court Chapter; Appeals to Supreme Court/Court of Appeals Chapter; and Motion to Proceed In Forma Pauperis Chapter:**

- In the above chapters, the manual will now reflect the following language concerning denials of motions to proceed in forma pauperis:

If the order denies the motion to proceed in forma pauperis, give notice of entry to the parties. The petitioner or appellant has **thirty (30)** days from the notice of entry of the order to pay the required filing fees and certified mail service fee, or appeal the judge's order.

### **4. Appeals to Circuit Court Chapter and Appeals to Supreme Court/Court of Appeals Chapter**

- In the two chapters referenced above, the manual will now reflect the following language:

Upon receipt of a notice of appeal from an inmate in a criminal case; apply the "FILED" stamp, add the date and your initials to the envelope containing the motion, the motion itself and any documents pertaining to the motion. Make a notation in the memo screen: Inmate Appeal and USPS envelope.

These new additions have been made to the manual in order to comply with RCr 12.04(5) which states if an inmate files a notice of appeal in a criminal case, the notice shall be considered filed if its envelope is officially marked as having been deposited in the institution's internal mail system on or before the last day for filing with sufficient First Class postage prepaid.

**5. Citation Chapter:**

"Other Prepayables" chart has been replaced and updated to reflect UOR's effective January 1, 2011.

**6. Fees and Costs Chapter:**

The Fees and Costs chapter has been updated to reflect the Clerk's Accounting Manual changes as follows:

b. Master Commissioner Judicial Sales Fee:

\$200.00 – Money Collected for others effective 1/1/2011

\$100.00 – Money Collected for others prior to 1/1/2011

For a judicial sale which is withdrawn prior to the sale date, and a new sale as scheduled within six months of the original sale date, an additional Judicial Sales Administrative Fee shall not be charged. For any judicial sale which is rescheduled after six months from the original sale date, shall be considered a new referral fee for judicial sale and additional Judicial Sales Administrative Fee of \$200.00 shall be charged.

Please feel free to contact Clerk Services if you have any questions.

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