

## LIST OF UPDATES TO THE CIRCUIT CLERK'S MANUAL

TO: Circuit Court Clerks  
FROM: Marc Theriault, AOC General Counsel  
DATE: **June 25, 2013**

### IMPORTANT INFORMATION!!

PLEASE COPY THIS MEMO 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 MEMO AND REVIEW THE CHANGES/MODIFICATIONS. PLEASE DIRECT ANY QUESTIONS REGARDING THESE UPDATES TO THE DEPARTMENT OF LEGAL SERVICES AT AOC.

### **ADOPTIONS**

The following information has been inserted in the Adoptions section:

- Separate petitions shall be filed for each child and individual case numbers shall be assigned. All siblings' files shall be assigned to the same judge. FCRPP 32(2)(a).
- Every petition shall include the case number of any underlying juvenile case, specifically dependency, neglect or abuse or termination of parental rights cases, and shall include the name of any guardian ad litem previously appointed. FCRPP 32(2)(b).
- Pursuant to FCRPP 33, in the event of an uncontested adoption, a hearing shall be held within 60 days of the filing of a request for a final hearing.

### **CHANGE OF VENUE**

Family Court Rule of Practice and Procedure (2)(2) has been included in the rule/statute citation in the chapter heading.

### **CIRCUIT CRIMINAL/CITATIONS/DISTRICT CRIMINAL COMPLAINTS (DEFENDANT FOUND INCOMPETENT TO STAND TRIAL)**

Newly enacted KRS 186.560 requires that persons found incompetent to stand trial are prohibited from operating a motor vehicle during the period of a person's incompetency. The following information has been inserted into the Circuit Criminal, Citations and District Criminal Complaints Sections.

A person found incompetent to stand trial is prohibited from operating a motor vehicle during the period of the person's incompetency. KRS 186.560.

Upon a finding of incompetency for any charge use disposition type "INC – Incompetent to Stand Trial." An abstract reporting record will be generated notifying DOT.

License surrendering procedures:

Confiscate license. KRS 189A.200(3), or

Have defendant sign a Transportation Cabinet Division of Drivers Licensing Form TC 94-9 Denial Statement indicating defendant does not possess a driver's license, or

Issue a duplicate license and confiscate. KRS 189A.200(3). The location code should match the issuing location, but the issuing location will not match the address for an out-of-county conviction.

When the individual is found competent to stand trial, manually enter a "COR – correction record" for each charge in which a report was generated due to the "INC" disposition.

## **COMMISSIONERS OF CIRCUIT COURT**

Family Court Rule of Practice and Procedure 4 has been included in the rule/statute citation in the chapter heading.

## **DISSOLUTION OF MARRIAGE**

The following note has been added in the section on filing fees:

NOTE: Refer to the Fees and Costs section of this manual relating to actions reopening a case six months from the entry of the decree for the purpose of modifying the decree.

Additionally, a new section on Notice of Relocation (Family Court Rule of Practice and Procedure 7) has been added.

## **DOMESTIC VIOLENCE**

A new section on Notice of Relocation (Family Court Rule of Practice and Procedure 7) has been added.

## **EXPUNGEMENT OF DISMISSED CASES/EXPUNGEMENT OF MISDEMEANOR AND VIOLATION CONVICTIONS /EXPUNGEMENT OF PURGED OR DESTROYED CASES**

These expungement sections have been revised to amend language pertaining to sealing of the record and the obligations of the clerk to expunge the record.

## **INSPECTION OF RECORDS**

Confidentiality of records exceptions regarding the Kentucky State Police and Child Fatality Review Panel have been added.

## **JUVENILE**

The following new sections have been inserted throughout the Juvenile chapter:

Electronic or stenographic record of interviews with children, including a recording of any in-camera proceedings, shall be filed under seal with the clerk and may be made available to the parties or their counsel on motion and written order of the court. Upon direction of the judge recordings made in a county other than where the action is filed shall be delivered to the clerk of the county where the action is filed by the court ordering the hearing when there are multiple courts in a jurisdiction. FCRPP 27.

- Separate petitions shall be filed for each child and individual case numbers shall be assigned. All siblings' files shall be assigned to the same judge. FCRPP 20(1).
- Any new allegation or request for removal after a child has achieved permanency shall be filed as a new action. FCRPP 31.
- A copy of the petition shall also be mailed or provided by the clerk to the Cabinet for Health and Family Services, the county attorney, any guardian ad litem, and any counsel of record, no later than the business day following the filing of the petition. FCRPP 20(2).
- Provide notice of the temporary removal hearing to the parents or other person exercising custodial control or supervision, county attorney, the Cabinet for Health and Family Services, any guardian ad litem, and any counsel of record. FCRPP 21.

- After the hearing, when you receive a signed AOC Form DNA-3, apply the “ENTERED” stamp; add the date and your initials. Complete a document screen using the document code based on the box checked on the form by the judge. AOC Form DNA-3 is a mandatory form. FCRPP 21.

- Two new scheduled event types have been added:

ILR – Independent Living Review

PPR – Permanent Placement Review

- If you receive AOC Form JW 40.1, Unsuccessful Diversion Agreement, apply the “FILED” stamp to the JW 40.1 form; add the date and your initials. Complete a document screen using document type “AUD.”

### **PATERNITY PROCEEDINGS**

The following information regarding paternity reopenings has been added at the end of the chapter:

Pursuant to FCRPP 14, district court may decline jurisdiction on custody and visitation and refer the action to circuit court. A party may also file an action for custody, visitation, or support in circuit court after the entry of a judgment of paternity in district court.

In family court jurisdictions the family court judge may order the custody, visitation, and support matters in a paternity action be initiated in a circuit action. In such instance, a new circuit civil petition shall be filed by the movant/petitioner and the appropriate filing fee shall be paid unless in forma pauperis status is granted by the court. FCRPP 14(3).

### **PROBATE (NAME CHANGE)**

The following note has been inserted in the section regarding Juvenile Name Change:

NOTE: A name change petition for a child may be filed in Family Court or Circuit Court (of a county without a Family Court) when having a case before it involving the family. When filed in an active “CI” or “J” case there is no filing fee for the name change petition. KRS 401.020.

### **TERMINATION OF PARENTAL RIGHTS**

The following sections have been inserted throughout the Termination of Parental Rights chapter:

- A separate petition shall be filed for each child and individual case numbers shall be assigned. In the case of siblings, cases shall be assigned to the same judge. FCRPP 32(2)(a).
- If an existing or previous DNA proceeding has been filed in your county regarding the child named in the petition, assign the case to the same family court division that heard the DNA action. The petition shall include the case number of any underlying juvenile case, specifically dependency, neglect, or abuse or termination of parental rights cases, and shall include the name of any guardian ad litem previously appointed. FCRPP 32(2)(b).
- If an order terminating parental rights is entered, certify a copy of the order and forward to the clerk of the court in the underlying dependency, neglect and abuse case. FCRPP 35.
- The clerk of the court in the underlying DNA case shall place the certified copy of the Order in the underlying DNA record as identified in the order and schedule a review hearing within 90 days from the date of entry of the order of the termination of parental rights. The case shall continue to be scheduled for review as directed by the court at least annually until permanency is achieved. FCRPP 36.
- Immediately upon the filing of an involuntary termination petition, assign a pretrial date and provide to the petitioner. FCRPP 34(1).