KENTUCKY CIRCUIT COURT CLERKS' MANUAL

Written and Edited by:

Office of Legal Services
Administrative Office of the Courts
100 Millcreek Park
Frankfort, KY 40601

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The Kentucky Circuit Court Clerks Manual (Clerks Manual) is published by the Administrative Office of the Courts (AOC) and written by the AOC Office of Legal Services. The Clerks Manual constitutes rules of the Kentucky Supreme Court pursuant to CR 1(2), RCr 1.02(2) and SCR 1.050(1) and is published for the purpose of establishing procedures for the daily operations in the Office of Kentucky Circuit Court Clerk.

The online version of the Clerks Manual is the official version and is current as of the date you are viewing it online. **BE ADVISED THAT THE CLERKS MANUAL IS SUBJECT TO REVISION AT ANY TIME AS A RESULT OF CHANGES NECESSARY PURSUANT TO STATUTE, COURT RULE, AND CASE LAW, AS WELL AS LEGAL INTERPRETATIONS MADE BY THE AOC OFFICE OF LEGAL SERVICES.**

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RULES OF COURT GOVERNING CLERK'S MANUAL

PURSUANT TO CR 1(2), RCr 1.02(2) AND SCR 1.050(1) THE PROVISIONS OF THIS MANUAL CONSTITUTE RULES OF THE KENTUCKY SUPREME COURT

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

TO: Circuit Court Clerks

FROM: Kelly Stephens, Deputy General Counsel

DATE: September 8, 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 THE DEPARMENT OF LEGAL SERVICES AT AOC.

A. CIRCUIT CRIMINAL CHAPTER:

Sealed Indictment section has been updated.

B. COURT INTERPRETERS:

This chapter has been updated to reflect procedures in revised AP Part IX.

C. DEFERRED PROSECUTION CHAPTER:

The chapter has been updated to include specific direction for the preparation of the sealing of a deferred prosecution case.

D. MOTION TO SET ASIDE AND VOID CHAPTER:

The chapter has been updated to include specific direction for the preparation of the voiding and sealing of a KRS 218A conviction.

GENERAL MAINTENANCE:

A general review of the manual revealed some items that needed to either be renumbered and/or grammatically corrected. Those items have been corrected throughout.

Please feel free to contact me if you have any questions.

Kelly Stephens
Deputy General Counsel
Office of Legal Services
100 Millcreek Park
Frankfort, KY 40601
(502) 573-2350 x. 50415
(502) 573-0343 (fax)

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

TO: Circuit Court Clerks

FROM: Kelly Stephens, Deputy General Counsel

DATE: June 8, 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 THE DEPARMENT OF LEGAL SERVICES AT AOC.

BAIL BONDS:

A new section has been added due to provisions of HB 463 regarding bail credits. This section shall read:

1.) Upon receipt from the jailer of AOC 365.2 (Notice of Bail Credit), apply the "FILED" stamp; add the date and your initials. Complete a document screen using document code "NBC".

2.) Refer to the KYCourts User Manual for updating the bail bond information.

CITATIONS:

A new section has been added due to provisions of HB 463 regarding credit for time served for non-payment of fines.

14. A defendant sentenced to jail for failure to pay fines shall receive credit against fines and costs for each day spent in jail at the following rates:

a. $50 per day if no community service is performed
b. $100 per day if eight (8) hours of community service is performed
c. 1/8 of $100 for each hour worked.

The jailer is responsible for tracking the amount of credit the defendant has earned.

15. Upon receipt from the jailer of AOC 426 (Notice of Jail Credit), apply the "FILED" stamp, add the date and your initials. File on a document screen using document code "NJC". Enter the amount credited in the "Jail Credit Amount" box.

DEFERRED PROSECUTION:

A new chapter has been added to address the new deferred prosecution program put into place by HB 463. It only applies to 1st and 2nd offenses of Possession of Controlled Substance 1st, class D felony.

FEES AND COSTS:

Effective June 8, 2011 the below link will direct users to the Circuit Court Clerk Accounting Manual. This will allow for information relating to fees and costs associated with the operation of Circuit Court Clerk offices to be more accurately maintained. Accounting Manual.

FIREARM PROHIBITIONS CHAPTER:

A new chapter has been added to address the new Firearm Prohibitions requirements in HB 308.

SMALL CLAIMS CHAPTER:

Changes have been made throughout this chapter to update the new jurisdiction limits of $2,500 for small claims and $5,000 for district civil cases. Also included are instructions for new forms AOC 191 Motion for Satisfaction of Judgment (Small Claims) and AOC 191.1 Order Entry of Satisfaction of Judgment (Small Claims).

UNIFORM GUARDIANSHIP AND PROTECTIVE PROCEEDINGS ACT:

A new chapter has been added to address procedures created by the new Uniform Adult Guardianship and Protective Proceedings Act in HB 164.

GENERAL MAINTENANCE:

A general review of the manual revealed some items that needed to either be renumbered and/or grammatically corrected. Formatting changes and navigational enhancements have been made throughout.

Please feel free to contact me if you have any questions.

Kelly Stephens,
Deputy General Counsel

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

TO: Circuit Court Clerks

FROM: Kevin J. Smalley, Manager Clerk Services

DATE: February 15, 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. **Expungement of Purged or Destroyed Case(s):**

   A new chapter has been created to deal with the expungement of cases already purged or destroyed pursuant to the Kentucky Court of Justice Record Retention Schedule.

2. **Fees and Costs Chapter:**

   The Circuit Civil Fees and Costs section shall now read:

4. Extraordinary Services per CR 3.02 and Reopening Fees per FCRPP.

   a. If your circuit judge signs an order that assesses additional costs for extraordinary services, collect the following fees in civil cases:

      (1) Each instance where the number of items filed surpasses 50 in number or a multiple thereof (the 51st item, 101st item, etc) – to be collected following entry of judgment.

      $50.00 -- Charges for Services

      (2) In civil cases where a jury trial exceeds four (4) days - to be collected following entry of judgment.

$100.00 -- per day Jury Fund

b. Reopening Fees (Mandatory fees per FCRPP):

(1) Domestic Relations where the case is reopened after six (6) months from the entry of the decree for the purpose of modifying the decree. Paid by movant. [Per FCRPP 3(6), effective January 1, 2011, a fee of $50 .00 shall be paid by the movant in domestic relations cases reopened after six months from the entry of the decree for the purpose of modifying the decree. This does not include motions in 42 U.S.C. Title IVD cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion, unless the movant is proceeding in forma pauperis.]

$50.00 -- Charges for Services

(2) Paternity determinations where the case is reopened after six (6) months from the entry of the paternity judgment for the purpose of modifying any support, custody or visitation ordered. Paid by movant. [Per FCRPP 14(1) effective January 1, 2011, a fee of $50.00 shall be paid by the movant in paternity cases reopened after six (6) months from the entry of the paternity judgment for the purpose of modifying any support, custody or visitation ordered. This does not include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion, unless the movant is proceeding in forma pauperis.

$50.00 -- Charges for Services

3. **<u>Paternity Proceedings</u>:**

Paragraph number 13 shall now read:

Upon receipt of a motion to modify a paternity judgment, filed six (6) months from the entry of the judgment, collect a filing fee as set forth in the Fees and Costs section of the manual. Do not collect this fee for motions that include 42 U.S.C. Title IV-D cases for child support enforcement.

Please feel free to contact me if you have any questions.

Kevin J. Smalley,
Manager, Clerk Services

ADDITIONAL COSTS FOR EXTRAORDINARY SERVICES
CR 3.02(3)(a), (b), (c)
(Circuit Court)

1. If you receive an order from your circuit judge assessing additional costs in cases requiring extraordinary services, apply the “ENTERED” stamp to the order; add the date and your initials. Enter the order on the docket sheet in your General/Administrative/Miscellaneous Order File. Mail a copy of the order to your local bar.

2. After entry of the order, collect the following fees:

   a. Collect a fee, as set forth in the Fees and Costs section of this manual, in domestic relations cases reopened after (6) months from the entry of the decree for the purpose of modifying the decree, to be collected from the movant at the filing of the motion.

   b. Collect a fee, as set forth in the Fees and Costs section of this manual, in civil cases in each instance in which the number of items filed surpasses 50 in number or a multiple thereof, (the 51st item, 101st item, etc.) to be collected following entry of the judgment.

   c. Collect a fee as set forth in the Fees and Costs section of this manual for each day of a civil jury trial in excess of four (4) days, to be collected following entry of the judgment.

      Note: Do not collect these fees if your circuit judge has not signed an order directing you to do so.

ADOPTIONS
KRS 199.470 through .630;
(Circuit Court or Family Court Division of Circuit Court)

Confidentiality

1. Adoption cases are confidential. Pending case files and records are not open to inspection by anyone except:

   a. The parties;

   b. Their attorneys; and

   c. The Cabinet for Health and Family Services.

   You may not disclose the names of any parties or furnish any copy of the records except on court order. KRS 199.570(1).

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is an agency of the Commonwealth of Kentucky. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

Petition for Adoption

3. Apply the "FILED" stamp to the petition; add the date and your initials. Open the case in the confidential "CO" division of KYCourts following instructions in the Case Add section of the KYCourts Manual. Generate the next case for "AD" adoption cases or use the next pre-numbered file folder. Use the case type "ADPT". Create a party screen for the child using the child's current name.

Summons Issuance

4. The summons and the petition shall be served together. The party requesting the summons shall furnish sufficient copies of the petition for this purpose. CR 4.04(1).

5. The initiating party will instruct whether service of the summons is by certified mail or personally delivered by the sheriff or other authorized person. CR 4.01(1).

   Certified Mail Service

6. If Certified Mail Service is requested:

a. Attach a copy of the petition to the summons. CR 4.04(1).

b. Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a)**.** In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

c. Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b), (c). Mail two attested copies of the complaint and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

Personal Service

7. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

a. Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the petition attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

b. Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Return of Service

8. When Return of Service is received:

a. Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

b. Personal Service

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

9. A civil summons may be issued and served on Sundays and holidays. KRS 454.125.

Guardian Ad Litem

10. If the plaintiff files an affidavit requesting the appointment of a guardian ad litem:

a. Apply the "FILED" stamp to the affidavit; add the date and your initials and file on a document screen.

b. Consult your roster of attorneys and make an appointment unless your judge wishes to make these appointments.

c. Prepare AOC Form 115, Appointment of Guardian Ad Litem (AGAL); apply the "FILED" stamp; add the date and your initials and file on a document screen. Use document type "AGAL". Attach a copy to the summons and complaint to be served on the defendant through the Guardian Ad Litem. Send a copy of the appointment to the attorney for the plaintiff and all other parties.

(1) If a guardian ad litem is not appointed when the complaint is filed, then the court, not the clerk, appoints a guardian ad litem to defend the action. You may make this appointment only when the judge is not present in the county. CR 17.03(2).

d. Complete a party screen for the guardian ad litem.

Petition to CHFS

11. Send two copies of the petition to:

Cabinet for Health and Family Services
Department for Community Based Services
Adoptions Section
275 East Main Street, 3-CE
Frankfort, Kentucky 40621

If the court designates some other person, agency or institution to make the required investigation, send one copy of the petition, and notify the Cabinet for Health and Family Services of this designation. Fees for copying and forwarding are to be taxed as costs. KRS 199.510.

12. When motions or other pleadings are filed in the case, apply the "FILED" stamp; add the date and your initials and file on the appropriate screen. When a motion or order sets a hearing, complete a scheduled events screen.

Adoption Judgment

13. When a signed judgment or order is received:

    a. Apply the "ENTERED" stamp to the judgment or order; add the date and your initials. Do not use the "FILED" stamp.

    b. Enter the judgment or order on the document screen in the computer including a brief description in the memo field. Use document type “JA". This constitutes entry of the judgment or order; the judgment or order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment.

    c. If the judgment changes the child’s name, create a party screen using the party type “NKA” now known as. Do not delete the original party screen.

    d. Give notice of entry of the judgment to the attorney for petitioners.

    e. Send an attested copy of the final judgment, whether granting, denying or dismissing the petition, to:

       Cabinet for Health and Family Services
       Department for Community Based Services
       Adoption Section
       275 East Main Street, 3-CE
       Frankfort, KY 40621

       This includes any amendment, reversal, modification or vacation of the judgment. KRS 199.520(3), 199.570(5).

VS 102 Forms

14. If Vital Statistics Form VS 102 (Adoption Information) is not filed concurrently with the petition, furnish the form to the petitioner or attorney for completion. After an adoption is ordered, complete the certification portion of Form VS-102. KRS 199.570(2). Mail to:

    Cabinet for Health and Family Services
    Office of Vital Statistics
    First Floor East
    275 East Main Street
    Frankfort, Kentucky 40621

Sealing the File

15. When the final order is entered, place the court file in a suitable envelope and seal it. Note the case number on the outside of the envelope and place in numerical order in a locked cabinet. These cases are not to be opened by anyone except on written court order. KRS 199.570(1).

    EXCEPTION: A copy of a judgment in an adoption case being appealed may be made available to a party to the appeal. Bone v. Shadoan, Ky., 746 SW2d 68 (1988).

16. Close the case by completing the disposition date, disposition type and judge disposition fields on the case screen.

Health Care Information

17. If you receive health care information for inclusion in an adoption case file, apply the "FILED" stamp; add the date and your initials. File by completing a document screen.

    a. If the adoption file is sealed, attach the document to the sealed file and deliver to the chief circuit judge. Follow the judge's order as to opening, and re-sealing the case file.

    b. If the health care information is received from a source other than the Cabinet for Health and Family Services, mail a copy of the information to:

Cabinet for Health and Family Services
Department for Community Based Services
Adoptions Section
275 East Main Street, 3-CE
Frankfort, KY 40621

AFFIDAVITS
CR 43.13, KRS 30A.070

1. An affidavit may be filed in your office requiring you to do an official act. Before you act, examine the affidavit for the following:

   a. Affiant must sign the affidavit;

   b. The notary public or other person who takes the affidavit must certify and sign it following the signature of the affiant;

   c. If the affidavit is made by an agent or attorney for someone else, the affidavit must show that the person is absent from the county, mentally incapable of taking an oath, or physically unable to attend before notary public or other person taking the affidavit. The affidavit must state the capacity of the affiant. You may take an affidavit concerning court proceedings, whether the affiant is acting as agent or attorney. CR 43.13, KRS 30A.070.

2. If you take an affidavit, you must:

   a. Have the affiant swear or affirm the truth of his statement and sign the affidavit in your presence.

   b. Certify and sign following the affiant's signature.

      Example: Subscribed and sworn to before me by _____ on

      _____, 20___.

      _____
      (Your name and official title)

   c. You do not need to be a notary public to certify court documents. Your clerk's oath serves that purpose. If you wish to certify non-court documents (outside the duties of the clerk's office), you need to become a notary public.

AGISTER'S LIEN AND WARRANT
(District Court)
KRS 376.400, 376.410, 446.010(6)

1. After a lien has been filed in the county clerk's office, the lien may be enforced in district court in the county where the animals were boarded.

2. When an affidavit to enforce an agister's lien is filed, the affidavit initiates the action. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the affidavit until the filing fees are paid unless the party is proceeding in forma pauperis or unless the party is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

3. Assign to a division using the procedure in your local court rules.

4. Apply the "FILED" stamp to the affidavit; add the date and your initials. CR 5.05(3). Refer to Case Add section of KYCourts Manual for instructions on opening the case. Use case type "OTH". Generate the next case number for district civil "C" cases or use the next pre-numbered file folder.

5. An agister's warrant will be prepared by the plaintiff or plaintiff's attorney and issued by the district judge. KRS 376.410. Apply the "FILED" stamp to the agister's warrant; add the date and your initials. Enter on a document screen. Use document type "AFAL".

6. Make a copy of the warrant. Give the plaintiff the original and one copy of the warrant, with a copy of the affidavit and/or other documents to be served attached to the copy. Instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2). When a return of service is made enter the return date in the memo field of the same document screen.

7. if the defendant posts a bond to stay the proceedings, you must:

   a. Require the surety to make an affidavit to show he/she qualifies. KRS 454.180, KRS 454.185. Taking the affidavit relieves you of liability for taking insufficient surety if the surety falsifies financial information. Commonwealth vs. Lewis, 181 Ky. 804, 205 S.W. 921 (1918). The surety must:

      (1) Be a resident of Kentucky.

      (2) Be worth double the sum to be secured, beyond debts.

(3) Have property in Kentucky, not exempt from execution, equal to the amount of bond.

b. Refuse any surety if you are in doubt as to the sufficiency to cover the amount of the bond. If your judge orders you to take a bond you must do so; the order protects you from liability for taking an insufficient bond.

c. Collect the bond filing fee as set forth in the Fees and Costs section of this manual for taking the bond, and give a receipt. KRS 64.005.

d. Apply the "FILED" stamp to the bond and affidavit; add the date and your initials and file by completing a document screen. Use document type "AFF". You may file the affidavit as an attachment by making a notation in the memo field.

e. Set a hearing by completing a scheduled events screen for the appropriate date.

f. When a signed judgment or final order is received:

(1) Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the judgment or order on the document screen, including a brief description. This constitutes entry of the judgment or order; the judgment or order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment as described below.

(3) After the judgment or order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment or order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

(4) Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of judgment. RCr 12.06.

(5) Close the case by completing the disposition date, disposition type and judge at disposition fields on the case screen.

AMENDED COMPLAINTS
CR 15.01

1. There are no filing fees for the filing of an amended complaint. The plaintiff should furnish sufficient copies for service on the defendant(s), in addition to the original, which is filed in your office. If you make the copies, collect a copy fee as set forth in the Fees and Costs section of this manual and give a receipt.

2. Apply the "FILED" stamp to the amended complaint; add the date and your initials. File on a document screen. Use document type "AMC".

3. Prepare a summons by completing a summons screen for each defendant in the case.

4. Attach a copy of the amended complaint and the original complaint to one copy of the summons.

5. Serve the defendants as requested by the plaintiff or attorney, following the instructions for personal service, certified mail, warning order or guardian ad litem.

APPEALS FROM ADMINISTRATIVE AGENCIES
(Circuit or District Court)
KRS 23A.010(4)

Petition for Review

1. A petition for de novo review (appeal) of a decision of an administrative agency is an original action in circuit court. KRS 23A.010. Reviews of cases from local agencies may be filed in district court. KRS 24A.010(2).

   EXCEPTIONS:

   a. A petition for review of a denial of a request for a license to carry a concealed weapon is filed in district court. KRS 527.010.

   b. A petition for review of an order of the fiscal court is filed in circuit court. KRS 23A.010(4).

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

3. Assign to a division using the procedure in your local court rules.

4. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Use case type "AB". Generate the next case number for circuit civil "CI" cases or district civil "C" cases or use the next pre-numbered file folder.

5. The clerk is required under CR 4.01(1) to issue a summons immediately upon the filing of a complaint.

   a. Generate a summons for each person to be served and make a copy. Use summons type "CI".

   b. The summons and the complaint (or other initiating document) shall be served together. The party requesting the summons shall furnish sufficient copies of the petition for this purpose. CR 4.04(1).

c. The initiating party will instruct whether service of the summons is by certified mail or personally delivered by the sheriff or other authorized person. CR 4.01(1).

6. If service is by certified mail:

a. Attach a copy of the complaint to the summons. CR 4.04(1).

b. Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

c. Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method, collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b), (c). Mail two attested copies of the complaint and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

7. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

a. Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the petition attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

b. Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

8. When a return of service is received:

a. Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

b. Personal Service

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

9. A civil summons may be issued and served on Sundays and holidays. KRS 454.125.

10. If a hearing is scheduled, calendar for the appropriate date by completing a scheduled events screen.

11. When a signed order is received:

    a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

    b. Enter the order on the document screen. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order as described below.

    c. After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

    d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of service of notice of entry of order. RCr 12.06

12. Close the case by completing the disposition date, disposition type, and judge at disposition fields on the case screen.

Agency's Record

13. After the case is completed and the time for filing a Notice of Appeal has elapsed (30 days), return the agency's record.

APPEALS TO CIRCUIT COURT
CR 72

Notice of Appeal

1. The time limits for filing appeals are as follows, calculated from notice of entry of the judgment:

   a. Civil actions - 30 days CR 73.02;
      Exceptions: Small claims cases - 10 days KRS 24A.340

   b. Forcible detainer cases - 7 days KRS 383.255

   c. Election contests - 10 days KRS 120.075, 120.175

   d. Paternity - 60 days KRS 406.051

   e. Criminal actions - 30 days RCr 12.04

   f. Juvenile matters - 30 days KRS 610.130
      Exceptions:
      Dependency, Neglect, Abuse - 30 days KRS 620.155
      Mental Health - 30 days KRS 645.260

Filing Fee

2. When you receive a notice of appeal or cross-appeal, collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the appeal until the filing fees are paid unless the appellant is proceeding in forma pauperis or unless the appellant is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

   Do not file the notice until payment is made unless the appellant is listed in the exception below or has filed a motion to proceed in forma pauperis with the notice of appeal. CR 73.02(1)(c), CR 5.05(4).

   If neither a filing fee, nor an in forma pauperis motion, is included with the notice of appeal, return the notice of appeal to the appellant with an explanation of the deficiency.

   a. Exception: There is no filing fee:

(1) In a criminal case when the appellant is represented by the Public Advocate/Defender,

(2) In a criminal or civil case when the appellant is the Commonwealth,

NOTE: City and county governments are not exempt from paying a filing fee unless the action is filed in the name of the Commonwealth.

(3) When a judicial officer is a party in his/her official capacity.

(a) CR 76.42(2)(b).

3. Appellant must file the original and enough copies of the notice to send to the clerk of the appellate court and all other parties. RCr 12.04(2), CR 73.03. If you prepare the notice for the criminal appellant, you will make the necessary copies.

Notice in Criminal Case

4. 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.

5. You must prepare and file the notice in a criminal case if requested by the appellant when proceeding without counsel. You may use the following sample. CR 73.03, RCr 12.04, RCr 11.02(2).

Court _____
Case No. _____
Date _____

Notice is given that _____, the defendant in this proceeding, hereby appeals to the _____ Court from the Order (describe it) (or from the Final Judgment) entered by this court on _____, 19 ____. The name of the appellee is the Commonwealth of Kentucky.

_____
Signature of Defendant

Filing Fee Paid

6. If a filing fee is paid, apply "FILED" stamp to the notice of appeal or cross-appeal; add the date and your initials; file on a document screen. Use document type "NA" for a notice of appeal and document type "NCA" for notice of cross-appeal.

Motion to Proceed In Forma Pauperis

7. When the notice of appeal is accompanied by an in forma pauperis motion with affidavit, apply the “TENDERED” stamp to the notice of appeal, (or write the word “TENDERED”); add the date and your initials and file on a document screen. Use document type "TD" for the notice of appeal.

   a. Apply "FILED" stamp to the motion; add the date and your initials and file on a motion screen.

      (1) Deliver the motion and order to the district judge.

      (2) When an order ruling on the motion is received apply the "ENTERED" stamp to the order; add the date and your initials and enter on a document screen. Use document type "OFP".

         (a) If the order sustains the appellant's motion, apply the “FILED” stamp to the notice of appeal (which has already been marked as “TENDERED”;) add the date and your initials and file by completing a new document screen. Use document type "NA". Move the notice of appeal from its location as a tendered document in the case file to correspond with its current filing. Do not cross through or otherwise obliterate the “TENDERED” notation on the notice.

         (a) If the judge denies the motion, give notice of entry of the order to the appellant and appellee. The appellant then has thirty (30) days to pay the required filing fee or appeal the judge's order.

            1) if a notice of appeal of the denial of the motion to proceed in forma pauperis is filed, immediately certify and send to the appellate court (circuit court):

               a) the motion to proceed in forma pauperis together with any attachments and any responses thereto;

               b) the order being appealed; and

               c) the copy of the transcript, video and audio tapes or digital recording of related hearing, if any.

            2) No filing fee or motion to proceed in forma pauperis is required in this instance.

Items Furnished Circuit Court

8. Mail a copy of the check or receipt and a copy of the Notice of Appeal showing the date filed to the appellate (circuit) clerk. Note in the memo field of the document screen the date of the mailing. CR 73.03, RCr 12.04(2).

9. Mail a copy of the Notice of Appeal showing the date filed to all attorneys of record or to the party if not represented by an attorney. CR 73.03.

   a. In a criminal or juvenile case, mail a copy of the notice to the Commonwealth's attorney.

   DUI Appeals

   a. In DUI Appeals, if the defendant's license has been mailed to Transportation Cabinet, mail a copy of the Notice of Appeal that has been stamped "FILED" to the Cabinet. Note in the memo field of the document screen the names of persons to whom copies were sent, and the date of the mailing. CR 73.03, RCr 12.04(2).

Appeal Bond

10. Appeal Bond

   Supersedeas Bond in Civil Case

   a. Supersedeas Bond in Civil Case (AOC Form 155, Supersedeas Bond):

      (1) A civil appellant may give a supersedeas bond to stay enforcement of judgment pending appeal. CR 73.04. The trial court retains jurisdiction to determine all matters related to the right to file a supersedeas bond, (the amount, sufficiency, and surety) even after a notice of appeal or other appellate steps have been taken. CR 73.06.

      (2) KRS 411.187 establishes a $100 million cap on any supersedeas bond for punitive or exemplary damages on a civil judgment that is appealed. By court order, the cap may be lifted and the bond requirement reinstated to the full amount of the judgment. This provision applies to all civil actions including pending appeals.

      (3) You must approve the bond unless the judge assumes this duty.

      (4) The bond must (unless the court orders otherwise):

(a) Show the surety's address; (the surety must be someone other than the appellant) Webb v. Webb, Ky., 500 S.W.2d 59 (1973); (there is no restriction against a corporation of which the appellant is president signing appellant's bond as surety);

(b) Undertake to pay the amount of the judgment stayed, plus interest, costs and any modification by the appellate court;

(c) If the judgment concerns particular property, or, if the property is held by the sheriff, the amount of the bond need cover only damages for use of property plus interest and costs.

(5) Collect the bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 64.005.

(6) Apply the "FILED" stamp to the bond and affidavit (AFF); add the date and your initials. File by completing a document screen. Use document type "AFF".

(7) Mail a copy of the bond to all appellees. CR 62.03. Make a notation of the mailing in the document screen memo where the bond is filed.

Bond in a Criminal Case

b. Bond in a Criminal Case:

(1) Provisions governing bail on pretrial release apply to bail on appeal. RCr 12.78(3).

(2) If the judge does not order a change in the bail, it remains effective.

(3) If the judge orders any changes in the bail, prepare a new bond in accordance with the judge's instructions.

(4) Collect the bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 64.005.

(5) Apply the "FILED" stamp to the bond; add the date and your initials. File by completing a bail screen.

(6) Send a copy of the bond to the Commonwealth Attorney. RCr 12.80. Make a notation of the service in the bail screen memo.

Time Limits for Preparation of Record to Circuit Court

11. You have 30 days to prepare the record on appeal. It is not necessary to wait 30 days to deliver the record to circuit court. CR 72.08; RCr 12.02.

    Exception: In a forcible detainer action, you have ten (10) days from the date the appellant deposits past-due rent monies with you to prepare and deliver the appeal record to the Circuit Court. KRS 383.255(2).

Preparing Record on Appeal to Circuit Court

12. Prepare the record on appeal to circuit court:

Recording Log/ Tape or Digital Disk

a. Copy the recording log. Indicate in red ink on the copy the beginning and ending numbers of the case being appealed. Locate the audio, video tape(s) or digital recording disk of the trial and place the copy of the log and tape(s) in the file. CR 72.04, RCr 12.02.

If a party requests a copy of a tape or digital recording disk:

Audio Cassette Tape

(1) Collect from the requestors a fee, per tape, as set forth in the Fees and Costs section of this manual. If the tape is mailed, collect certified mail fees as set forth in the Fees and Costs section of this manual.

(2) Send the original tape and a copy of the log sheet with the case circled in red ink, to the Administrative Office of the Courts for duplication. Do not send fees for the copy of the tape to AOC.

(3) When the original tape and the copy are returned to you, mail copy to requestor or notify he/she to pick up the copy.

Video Tape

(4) Collect from the requestor a fee, per tape, as set forth in the Fees and Costs section of this manual. If the tape is mailed, collect certified mail fees as set forth in the Fees and Costs section of this manual. Copy the tape on your video equipment and attach a copy of the log to the copy of the tape. Mail to the requestor or notify him/her to pick up the copy.

Digital Recording (Audio and/or Video)

(5) Collect from the requestor a fee, per disk, as set forth in the Fees and Costs section of this manual. If the disk is mailed, collect certified mail fees as set forth in the Fees and Costs section of this manual.

(6) Send the original disk and a copy of the log sheet with the case circled in red ink, to the Administrative Office of the Courts for duplication. Do not send fees for the copy of the disk to AOC.

(7) When the original disk and the copy are returned to you, mail copy to requestor or notify he/she to pick up the copy.

Case File

b. The appeal record includes the tapes, disks, copy of the recording log, contents of the file and:

(1) Criminal Cases

(a) Run a case history and copy the front of the case envelope;

(b) Retain the empty case envelope in your court and file in numerical order with other cases in that category.

(2) Civil Cases

(a) Run a case history and make a copy of the docket sheet, if one exists;

(b) Retain the empty case file and original docket sheet in your court and file in numerical order with other cases in that category.

b. Do not index or certify the record unless requested by the Court of Appeals. CR 72.04, RCr 12.02.

Transmitting the Record to Circuit Court

13. Deliver the record on appeal to the Circuit Court not more than 30 days from the filing of the first notice of appeal.

Record on Appeal in Circuit Court

14. Filing the Record on Appeal in Circuit Court. CR 72:

a. Juvenile, hospitalization and disability cases retain confidentiality on appeal, as well as the address of the petitioner and children in domestic violence cases.

b. When you receive the record on appeal from district court, stamp "FILED"; add date and your initials. Treat the entire record as a single item.

c. Assign to a division in circuits having more than one judge, using the procedure set out in your local court rules.

c. Refer to Cass Add section of KYCourts Manual for instructions on opening the case. Use case type "XR" for criminal appeals and case type "XI" for civil appeals. Assign the next number for circuit court appeals (XX) by using the next pre-numbered file folder. Note: Appeals of juvenile and health cases are filed in the confidential "CO" division. Remember to maintain confidentiality of the case file. KRS 610.340.

NOTE: If the appeal is a criminal appeal, complete a charge screen only for the charge(s) being appealed.

d. If the appellant in a civil case requests to file a supersedeas bond at this point in the appeal, direct the appellant to the district court. CR 73.06.

Appeal Perfected

15. Appellant will perfect his appeal by filing a statement of appeal within 30 days after the date of filing the first notice of appeal. CR 72.06, 72.08, and 72.10. Apply the "FILED" stamp to the statement of appeal; add the date and your initials. File on a document screen. Use document type "STA".

Within 30 days after the date on which the appellant's statement of appeal was filed, the appellee shall file and serve a counter-statement. CR 72.12. Apply the "FILED" stamp to the counter-statement; add the date and your initials. File on a document screen. Use document type "CS".

Filed Delivered to Judge

16. When the statement of appeal and appellee's counter-statement have been filed, immediately deliver the case to the judge for consideration. A notation of the referral should be made in the memo field of the case screen.

a. If the statement of appeal is not filed within the 30 day time limit, immediately deliver the case to the judge for dismissal.

b. At the expiration of 60 days, even if no counter-statement has been filed, immediately deliver the case to the judge for consideration.

NOTE: Create a tickler system for the 30 and 60 day time frames, referred to in a. and b. above, by completing a scheduled events screen.

Judgment Entry

17. When a judgment is received, apply the "ENTERED" stamp; add the date and your initials. Enter on a document screen. Serve notice of entry, unless notice has been waived, by mailing or hand delivering a copy of the decision to all parties; and in all traffic cases to:

Transportation Cabinet
Division of Driver Licensing
200 Mero Street, 2nd Floor
Frankfort, KY 40622

a. If the appeal is a criminal appeal, close the charge screen with the disposition date, disposition type, judge, trial type, original plea and final plea. Close the case by completing the disposition date and judge at disposition fields ONLY on the case screen.

b. If the appeal is a civil appeal, close the case by completing the disposition date, disposition type and judge at disposition fields on the case screen.

Statement of Costs

18. Upon final disposition of an appeal in circuit court, you must send the parties a statement of the portion, if any, of the filing fees charged to be reimbursed by one party to another.

a. All costs in civil cases must be paid by the unsuccessful party.

b. In criminal cases, no reimbursement is required from the Commonwealth, a municipality, or a pauper. CR 72.13.

c. Apply the "FILED" stamp to the statement; add the date and your initials. File on a document screen. Use document type "ST". In the memo field list the parties who were mailed the statement.

Motion for Discretionary Review

19. If the losing party files a motion in the Court of Appeals for discretionary review of the circuit court judgment, you will receive a copy of the motion and the Court of Appeals decision on the motion. CR 76.20(7), 76.20(9)(f).

a. If the Court of Appeals grants the motion, index, bind, certify and transmit the record to the Court of Appeals following the instructions in Appeals to Supreme Court/Court of Appeals section of this manual. CR 76.20(9)(c), 73.08.

b. When the Court of Appeals decides the case and returns the original record to you, return the district court's record to district court as set out in paragraph 20 below. CR 76.46(3).

20. If no motion for discretionary review in the Court of Appeals is made within 30 days from entry of judgment, the circuit court decision is final. CR 76.20(2)(a).

21. Return the district court's record to district court with a copy of the appellate court's ruling when the 30 day period for filing a motion for discretionary review has expired. Retain the circuit court record in circuit court.

    a. If the district court judgment is reversed and further proceedings are ordered, the case will proceed in district court.

    b. If the district court judgment is affirmed or the appeal is dismissed, the district court will enforce the judgment.

APPEALS TO SUPREME COURT/COURT OF APPEALS
CR 73-75,76.03; RCr 12.02, 12.04

Notice of Appeal

1. The time limits for filing appeals, calculated from notice of entry of the judgment, are as follows:

   a. Civil actions - 30 days CR 73.02; KRS 625.110;
   b. Criminal actions - 30 days RCr 12.04(3);
      Except:
   c. Paternity judgments - 60 days KRS 406.051.

Filing Fee

2. When you receive a notice of appeal or cross-appeal, collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. CR 76.42(2)(a)(I) or (ii). Checks are made payable to the Circuit Court Clerk. Do not process the appeal until the filing fees are paid unless the appellant is proceeding in forma pauperis or unless the appellant is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees UNLESS the action is filed in the name of the Commonwealth.

   Do not file the notice until payment is made, unless the appellant is listed in the exception below or an order has been entered allowing appellant to proceed in forma pauperis. CR 73.02(1)(b), CR 5.05(4).

   If neither a filing fee, nor an in forma pauperis motion, is included with the notice of appeal, return the notice of appeal to the appellant with an explanation of the deficiency.

   Exception: There is no filing fee:

   a. In a criminal case when the appellant is represented by the Public Advocate/Defender;

   b. In a criminal or civil case when the appellant is the Commonwealth;

   c. When a judicial officer is a party in his/her official capacity.

      CR 76.42(2)(b)

3. Appellant must file the original and enough copies of the notice to send to the clerk of the appellate court and all other parties. RCr 12.04(2), CR 73.03. If you prepare the notice for the criminal appellant, you will make the necessary copies.

Notice in a Criminal Case

4. 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.

5. You must prepare and file the notice in a criminal case if requested to do so by an appellant who is proceeding without counsel. You may use the following sample. CR 73.03, RCr 12.04, RCr 11.02(2).

Court _____
Case No._____
Date _____

Notice is given that _____ _____, the defendant in this proceeding, hereby appeals to the _____ Court from the Order (describe it) (or from the Final Judgment) entered by this court on _____, 19 ____. The name of the appellee is the Commonwealth of Kentucky.

_____
Signature of Defendant

Filing Fee Paid

6. If a filing fee is paid, apply "FILED" stamp to the notice of appeal or cross-appeal; add the date and your initials; file on a document screen. Use document type "NA" for a notice of appeal and document type "NCA" for notice of cross-appeal. If the record on appeal is a video, type "video" on the notice of appeal and highlight with a fluorescent marker.

Motion to Proceed In Forma Pauperis

7. When the notice of appeal is accompanied by an in forma pauperis motion with affidavit, apply the "TENDERED" stamp (or write the word "TENDERED") to the notice of appeal; add the date and your initials and file on a document screen. Use document type "TD". If the record on appeal is a video, type "video" on the Notice of Appeal and highlight with a fluorescent marker.

   a. Apply "FILED" stamp to the motion; add the date and your initials and file on a motion screen. Use motion type "PFP".

      (1) Deliver the motion and order to the circuit judge.

(2) When an order ruling on the motion is received apply the "ENTERED" stamp to the order; add the date and your initials and enter on a document screen.

(a) If the order sustains the appellant's motion, apply the “FILED” stamp to the notice of appeal (which has already been marked as “TENDERED”;) add the date and your initials and file by completing a new document screen. Use document type “OFP”. Move the notice of appeal from its location as a tendered document in the case file to correspond with its current filing. Do not cross through or otherwise obliterate the “TENDERED” notation on the notice.

(b) If the judge denies the motion, give notice of entry of the order to the appellant and appellee. The appellant then has thirty (30) days to pay the required filing fee or appeal the judge's order.

1) if a notice of appeal of the denial of the motion to proceed in forma pauperis is filed, immediately certify and send to the appellate court:

a) the motion to proceed in forma pauperis together with any attachments and any responses thereto;

b) the order being appealed; and

c) the copy of the transcript or of related hearing, if any.

2) No filing fee or motion to proceed in forma pauperis is required in this instance.

Pre-hearing Statement

8. In civil appeals (except prisoner applications seeking relief relating to confinement or conditions of confinement) give the filing party a Pre-hearing Statement when the notice of appeal or cross- appeal is filed. CR 76.03(1). It is the responsibility of each appellant and cross-appellant, or his/her attorney, to execute, sign, serve and file this statement with the Court of Appeals within 20 days from the filing of the notice of appeal or cross-appeal. CR 76.03(3).

Pleadings Mailed to Appellate Clerk

9. At such time as the notice of appeal or cross-appeal has been stamped “FILED”, mail the following to the Appellate Clerk and note the date of the mailing in the memo field on the document screen: (CR 73.03, RCr 12.04(2))

a. A copy of the Notice of Appeal or Cross-Appeal showing the date filed;

b. A copy of the check or receipt for the filing fee;

c. The judgment or order sought to be reviewed;

d. A certified copy of the case history and docket sheet, (if a docket sheet exists); and

e. Any opinion or findings of the circuit court and/or administrative agency.

The address of the Clerk of the Court of Appeals is:

360 Democrat Drive
Frankfort, KY 40601

The address of the Clerk of the Supreme Court is:

Room 209, Capitol Building
700 Capitol Avenue
Frankfort, KY 40601

10. Mail a copy of the notice of appeal or cross-appeal, showing the date "FILED" and a certified copy of the case history and docket sheet, (if a docket sheet exists), to all attorneys of record, and to any party not represented by an attorney. CR 73.03.

a. In a criminal case, mail a copy to:

Attorney General
Criminal Appellate Division
1024 Capital Center Drive
Frankfort, KY 40601

Make a notation in the memo field of the document screen of the names of the parties mailed the copies together with the date of mailing.

Amended Notice of Appeal

11. When an amended notice of appeal is received, apply the “FILED” stamp; add the date and your initials. File by completing a document screen. Use document type "AMNA". Mail a copy of the amended notice of appeal showing the date "FILED" to the appellate court clerk and all attorneys of record and to any party not represented by an attorney.

Appeal Bond

Supersedeas Bond in Civil Case

12. Supersedeas Bond in Civil Case (AOC Form 155, Supersedeas Bond):

    a. A civil appellant may give a supersedeas bond to stay enforcement of judgment pending appeal. CR 73.04. The trial court retains jurisdiction to determine all matters related to the right to file a supersedeas bond (the amount, sufficiency, and surety), even after a notice of appeal has been filed or other appellate steps have been taken. CR 73.06.

    b. KRS 411.187 establishes a $100 million dollar cap on any supersedeas bond for punitive or exemplary damages on a civil judgment that is appealed. By court order, the cap may be lifted and the bond requirement reinstated to the full amount of the judgment. This provision applies to all civil actions including pending appeals.

    c. You must approve the bond unless the judge assumes this duty.

    d. The bond must (unless the court orders otherwise):

        (1) Show the surety's address. The surety must be someone other than the appellant. Webb v. Webb, Ky., 500 S.W.2d 59 (1973). If the appellant is president of a corporation, it is permissible for the corporation to serve as surety on the bond provided the corporation is not a named party;

        (2) Undertake to pay the amount of the judgment stayed, plus interest, costs and any modification by the appellate court;

        NOTE: If the judgment concerns particular property, or, if the property is held by the sheriff, the amount of the bond need cover only damages for use and detention of the property, the costs of the action, costs on appeal, interest and damages for delay. CR 73.04(3).

    e. Collect the bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 64.005.

    f. Apply the "FILED" stamp to the bond and affidavit; add the date and your initials. File on a document screen. Use document type "BSU" for the bond and document type "AFF" for affidavit.

    g. Mail a copy of the bond to all appellees. CR 62.03. Make a notation of the mailing in the document screen memo where the bond is filed.

Bond in a Criminal Case

h. When a bond in a criminal case applies:

(1) Provisions governing bail on pretrial release apply to bail on appeal. RCr 12.78(3).

(2) If the judge does not order a change in the bail, it remains effective.

(3) If the judge orders any changes in the bail, prepare a new bond in accordance with the judge's instructions. Collect the bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 64.005.

(4) Apply the "FILED" stamp to the bond; add the date and your initials. File on a bail screen.

(5) Send a copy of the bond to the Commonwealth Attorney. RCr 12.80. Make a notation of the service in the bail screen memo.

Trial Tapes

13. Apply the “FILED” stamp to Tape “B” of any court trial or jury trial held in the case being appealed; add the date and your initials. File by completing a document screen. Use document type "TAPE". CR 98(2)(a)(I).

Designation of Record

14. When a Designation of Record (and attached certification as to the transcript, if any) is received, apply the "FILED" stamp; add the date and your initials. File on a document screen. Use document type "DOR".

    NOTE: When pre-trial or post-trial hearings are properly designated or ordered included by the appellate court, file Tape “B” of such hearings by completing a document screen. CR 98(3). Use document type “OST”.

Time Limits for Certification of Record

15. The following time limits for certification of a record to the Supreme Court/Court of Appeals apply:

Civil Cases

a. Civil Cases (all civil actions appealed to the Court of Appeals except applications from prisoners seeking relief relating to confinement or conditions of confinement).

(1) Video - thirty (30) days from the date of the order stating no pre-hearing conference shall be held or from the date of order reciting actions and agreements of pre-hearing conference. CR 73.08; CR 76.03(3).

(2) Non-Video -

(a) Written transcript. Ten (10) days from the filing of a transcript by the court reporter. CR 73.08. (Note: the appellant must file a designation of such a transcript within ten (10) days of the date of the Court of Appeals pre-hearing conference order. The court reporter then has fifty (50) days to complete and file the transcript. CR 75.01(3).)

(b) No transcript. Thirty (30) days from the date of the order of the Court of Appeals stating that no pre-hearing conference will be held or stating the results of the conference. CR 73.08.

(3) On your desk calendar or other manual calendar, note the date the record is due to be certified.

Prisoner Applications

b. Civil cases (Prisoner Applications Seeking Relief Relating to Confinement or Conditions of Confinement).

(1) Video - Thirty (30) days after filing of Notice of Appeal or thirty (30) days from date pauper motion is granted. CR 73.08; CR 76.03(3).

(2) Written Transcript - ten (10) days after the filing of the transcript by the court reporter.

(3) No Transcript - thirty (30) days after the filing of the Notice of Appeal or thirty (30) days from date pauper motion is granted. CR 73.08.

(4) On your desk calendar or other manual calendar, note the date the record is due to be certified.

Criminal Cases

c. Criminal Case time limits:

(1) Written Transcript - ten (10) days after filing of transcript by court reporter.

(2) Video Transcript - thirty (30) days after filing of Notice of Appeal or thirty (30) days from the date pauper motion is granted. CR 73.08.

(3) No Transcript - thirty (30) days after filing of Notice of Appeal or 30 days from date pauper motion is granted.

(4) In cases where a defendant is sentenced to twenty (20) years or more, the record is sent to the Supreme Court instead of the Court of Appeals. These cases are not automatic appeals and a notice of appeal is required. Ky Const. Section 110(2)(b); RCr 12.02.

(5) In cases where the death penalty is imposed the following additional instructions apply: KRS 532.075

(a) Prepare AOC Form 080, Clerk's Notice on Appeal of Capital Case. AOC Form 085, Report of Trial Judge of Capital Case will be completed by the trial judge. Do not file or docket the notice and report. CR 75.01(4).

(b) The record goes directly to the Supreme Court for automatic review, regardless of whether a Notice of Appeal was filed. RCr 12.02, KRS 532.075.

(6) On your desk calendar or other manual calendar, note the date the record is due to be certified.

Preparation of Record

16. Preparation of Record on Appeal to Supreme Court/Court of Appeals. CR 75.01, CR 75.07, CR 98, RCr 12.02.

Case File

a. Certify the entire original record up to and including the designation of record.

EXCEPTIONS:

(1) Do not include any depositions listed for exclusion in the designation of record. Depositions are the only part of the original record allowed to be excluded by a party.

(2) If the parties enter into an agreed statement of the case, which the trial court approves, apply the "FILED" stamp to the statement; add the date

and your initials and file on a document screen. Use document type "ST". Certify and send this statement to the appellate court instead of the original record. CR 75.15, RCr 12.02.

Case History

b. Include a certified copy of the case history and include a certified copy of the docket sheet, (if a docket sheet exists). CR 75.07(1), RCr 12.02. Retain the original docket sheet in your office.

Video Tapes

c. Tabs on tape spine are to be removed before forwarding tapes to the appellate court.

Trial Tapes

(1) The “B” tape of any court trial or jury trial held in the case being appealed shall be included in the original record on appeal. CR 75.01(1), CR 75.07(1) RCr 12.02. In criminal appeals, include the “B” Tape together with a copy of the “B” tape. CR 98(2)(a)(ii).

Pre-Trial/Post Trial Hearing Tapes

(2) Pre-Trial/Post-Trial Hearing Tapes. CR 98(3). The “B” Tape of any pre-trial or post-trial hearing, or any portion thereof, should not be sent to the appellate court unless:

(a) listed and identified by date on the designation of record filed by a party; or

(b) ordered to be included in the record by the appellate court.

In criminal appeals, include the “B” tape together with a copy of the “B” tape. CR 98(2)(a)(ii).

Tapes in Circuit Court Appeal Cases

(3) If the appeal record you are preparing is from a circuit court appeal case (XX), include any audio cassettes, video tapes and digital recording disks which were filed and made a part of the circuit court (XX) case.

Transcript of Evidence

d. Transcript of Evidence. CR 75.07(2), RCr 12.02, CR 75.02(1):

(1) When the court reporter files the original and a copy of the written transcript in your office, apply the "FILED" stamp to the transcript; add the date and your initials. File on a document screen. CR 75.01(6), 75.02(1). Use document type “CTGR”.

(2) The appellant may provide a Narrative Statement of the evidence if a transcript is unavailable; apply the "FILED" stamp, add the date and your initials and file on a document screen. Use document type "ST". Include this in the record on appeal upon approval of the trial court. CR 75.13, RCr 12.02.

Exhibits

e. Do not send physical exhibits other than documents, maps, charts, and other papers which can be placed in envelopes no larger than 10" x 13" unless the appellate court requests them; however, all exhibits in your custody should be certified as part of the record. CR 75.07(3), RCr 12.02.

Death Penalty Cases

f. Death penalty cases are automatically reviewed by the Supreme Court. Ky Const. Sect. 110, RCr 12.02. Include the following notices with the record but do not certify the Clerk's Notice as part of the record.

(1) AOC form 080, Clerk's Notice on Appeal of Capital Case;

(2) AOC form 085, Report of Trial Judge.

Multiple Appeals

g. Multiple Appeals:

(1) If more than one appeal is filed from the same judgment, prepare one record on appeal. CR 75.11, RCr 12.02.

(2) In criminal appeals, if one appeal is to the Supreme Court and another is to the Court of Appeals, send the original record to the Supreme Court and a certified copy to the Court of Appeals. CR 75.11, RCr 12.02.

(3) In criminal appeals with multiple defendants, when only one defendant is appealing, all papers filed in the case are a part of the original record on appeal.

Binding the Record

h. Binding the Record. CR 75.07(9) and (10), RCr 12.02, CR 98

(1) Use the case history and a copy of the docket sheet, (if a docket sheet exists), to prepare the index for the entire record.

(2) Arrange all parts of the record in the order in which they were filed or entered beginning with item #1 on the top and ending with the clerk's certification of the record. CR 75.07(10), RCr 12.02.

(3) Number the pages in consecutive order, at the bottom center. Note the page numbers on the case history and the copy of the docket sheet, (if a docket sheet exists). CR 75.07(11), RCr 12.02.

(4) Assemble into volumes of not more than 150 pages and securely bind at the left side in a black binder. You may order the prescribed binder by completing AOC 1002 Office Supply Order Form. The item number is ACC 25971, Report Cover. The report cover includes a paper fastener and label. Affix the label to the front of the binder showing the style of the case and indicate by Roman numeral the volume number. Place the index for each volume at the beginning of that volume. Create a master index for the entire record by copying the index at the beginning of each volume. Place the master index in the front of Volume I only, as the first item. CR 75.07(10)(11), RCr 12.02.

(a) Written transcripts, depositions, worker's compensation original records, or any administrative agency record should <u>not</u> be bound in the clerk's bound volumes or renumbered. However, these items should be certified as part of the record on appeal.

(5) All exhibits filed with the record, including those not sent to the appellate court, shall be sufficiently identified and the index shall direct where they may be found.

Record Certification

i. Record Certification: CR 72.04, 75.07. Complete AOC Form 076, Certification of Record on Appeal and Notice of Certification of Record on Appeal. Apply the "FILED" stamp to the certification/notice; add the date and your initials. File on a document screen. Use document type "NCR". CR 75.07(5). Mail a copy to the clerk of the appellate court and all attorneys in the case. CR 75.07(5), RCr 12.02. Note in the memo field the names of the parties to whom copies are mailed.

Transmitting the Record

17. To transmit the record to the Supreme Court/Court of Appeals:

Mailing Costs

a. Transmit the record by certified mail to the Court of Appeals or Supreme Court when the clerk of the Appellate Court requests. CR 75.07(12), RCr 12.02. Collect certified mail fees, as set forth in the Fees and Costs section of this manual, from the appellant unless the appellant is the public advocate, the Commonwealth or a pauper.

When to Mail

b. Retain control of the original record until the clerk of the appellate court requests it be transmitted.

Preparation of Briefs

18. Attorneys may remove the record from your office for the purpose of preparing briefs.

Record to Attorneys

a. You may lend the original record to attorneys to prepare briefs. However, retain the original of the transcript of evidence, the “A” and “B” video tapes and the evidentiary exhibits. CR 75.07(7). Lend the copy of the transcript and upon request of the attorney, copy video hearings and trials as specified by the attorney. Charge the attorney a fee, per tape copied, as set forth in the Fees and Costs section of this manual. If the copy is mailed to the attorney, collect certified mail fees as set forth in the Fees and Costs section of this manual.

b. Appellant withdraws the record first for 60 days and returns the record to you before or when the brief is filed. Appellee then withdraws the record for 60 days and returns the record to you before or when the brief is filed. Appellant may then withdraw the record for 15 days to prepare the reply brief. If the appellant is also a cross-appellant, a combination brief may be filed within 60 days after the date on which the last appellee’s brief is filed or due to be filed. CR 76.12(2)(a).

c. When an attorney withdraws the record, have the attorney sign an out card and place the card in the file as a substitute for the record.

d. Note withdrawals and returns in the memo field of the case screen. CR 75.07(8)(9).

Supplemental Record

19. When the trial or appellate court orders the record supplemented, or the parties file a stipulation to supplement the record:

    a. Prepare the supplemental record following the procedures herein beginning at No. 15, "Preparation of the Record on Appeal to Supreme Court/Court of Appeals." The supplemental record will begin with the first item filed after the original certification.

    b. Complete AOC Form 076, Certification of Record on Appeal and Notice of Certification of Record on Appeal, and designate at the top of the form "SUPPLEMENTAL". Apply the "FILED" stamp, add the date and your initials, and file on a document screen. Use document type "NCR".

    Transmittal

    c. Transmittal:

        (1) When the appellate clerk requests the record on appeal, include the supplemental record.

        (2) If the record on appeal has already been transmitted to the appellate court, transmit the supplemental record as soon as it has been prepared and certified.

Appeals in Special Cases

20. The following information addresses appeals in special cases:

    Denial of Motion to Proceed In Forma Pauperis

    a. When a Notice of Appeal of the denial of a motion to proceed in forma pauperis is received:

        (1) Apply the “FILED” stamp; add the date and your initials. File by completing a document screen. Use document type "NA". No filing fee or motion to proceed in forma pauperis is required to appeal a denial.

        (2) Immediately index and forward to the appellate court certified copies of:

            (a) The motion to proceed in forma pauperis together with any attachments and responses thereto;

            (b) The order being appealed;

            (c) Video or audio tape of the hearing, if one was made, or written transcript, if one was filed.

(3) Complete AOC Form 076, Certification of Record on Appeal. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen. Use document type "NCR". Serve on attorneys of record and parties not represented by counsel.

(4) Do not wait for the appellate court to request the record.

Denial of Pretrial Bail

b. When a Notice of Appeal of the denial of bail pending trial is received:

(1) Apply the "FILED" stamp; add the date and your initials. File by completing a document screen. Use document type "NA". Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the appeal until the filing fees are paid unless the appellant is proceeding in forma pauperis or unless the appellant is the Commonwealth. CR 5.05(4); KRS 453.010; CR 76.42(2)(a)(I) or (ii).

NOTE: City and county governments are not exempt from paying filing fees UNLESS the action is filed in the name of the Commonwealth.

(2) Within 30 days after the Notice of Appeal is filed index and forward to the appellate court certified copies of only that portion of the record that relates to bail bond.

(3) Complete AOC Form 076, Certification of Record on Appeal. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen. Use document type "NCR". Serve on attorneys of record and parties not represented by counsel.

(4) Do not wait for the appellate court to request the record.

Granting or Denying of Writ of Habeas Corpus

c. When a Notice of Appeal from the grant or denial of a Writ of Habeas Corpus is received:

(1) Apply the "FILED" stamp; add the date and your initials. File by completing a document screen. Use document type "NA". Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the appeal until the filing fees are paid unless the appellant is proceeding in forma pauperis or unless the appellant is the Commonwealth. CR 5.05(4); KRS 453.010; CR 76.42(2)(a)(I) or (ii).

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

(2) Immediately index, certify and forward to the appellate court the entire original case file.

(3) Complete AOC Form 076, Certification of Record on Appeal. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen. Use document type "NCR". Serve on attorneys of record and parties not represented by counsel.

(4) Do not wait for the appellate court to request the record.

Decision in Election Contest

d. When a Notice of Appeal from the decision in an election contest is received:

(1) Apply the "FILED" stamp; add the date and your initials. File by completing a document screen. Use document type "NA". Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the appeal until the filing fees are paid unless the appellant is proceeding in forma pauperis or unless the appellant is the Commonwealth. CR 5.05(4); KRS 453.010; CR 76.42(2)(a)(I) OR (ii).

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

(2) Immediately index, certify and forward to the appellate court the entire original case file.

(3) Complete AOC Form 076, Certification of Record on Appeal. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen. Use document type "NCR". Serve on attorneys of record and parties not represented by counsel.

(4) Do not wait for the appellate court to request the record.

Decision of Election Candidate Qualifications

e. Upon receipt of a telephonic directive from the Court of Appeals:

(1) Immediately index, certify and transmit the entire original case file.

(2) Complete AOC Form 076, Certification of Record on Appeal. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen. Use document type "NCR". Serve on attorneys of record and parties not represented by counsel.

(3) Do not wait for the appellate court to request the record.

Denial of Request for Self-Consent Abortion

f. When a Notice of Appeal from the denial of a request for a self-consent abortion is received:

(1) Apply the "FILED" stamp; add the date and your initials. File by completing a document screen. Use document type "NA". Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the appeal until the filing fees are paid unless the appellant makes a declaration indicating she has insufficient funds to pay the filing fee. KRS 311.732(6); CR 5.05(4); KRS 453.010; CR 76.42 (2)(a)(I) or (ii).

(2) No later than five (5) days from the filing of the Notice of Appeal, forward the entire, original record to the appellate court.

(3) Complete AOC Form 076, Certification of Record on Appeal. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen. Use document type "NCR". Serve on attorneys of record and parties not represented by counsel.

(4) Do not wait for the appellate court to request the record.

APPLICATION FOR DECLARATION OF DEATH
(District Court)
KRS 422

1. When an Application for Declaration of Death is received:

   a. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the application until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

      NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

   b. Assign to a division using the procedure in your local court rules.

   c. Apply the "FILED" stamp to the application; add the date and your initials. AOC Form 857, Application For And Declaration Of Death Due To A Catastrophic Event, may be used. Refer to Case Add section of the KYCourts Manual for instructions on opening the case. Use case type "OTH". Generate the next case number in the computer for district civil "C" cases or use the next pre-numbered file folder.

   d. Do not issue a summons.

   e. Deliver the case file to the judge.

2. When a signed order is received:

   a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the order on the document screen. Use document type “ADDCE”. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04.

   c. Serve notice of entry on the parties by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the parties or attorney. CR 77.04(1), RCr 12.06(1) and (3).

   d. The method of service and date of service must be completed on the document screen. RCr 12.06.

   e. If the order directs the Registrar of Vital Statistics to issue a death certificate at no charge, mail a certified copy of the Order to:

Cabinet for Health and Family Services
Registrar of Vital Statistics
First Floor
275 East Main Street
Frankfort, KY 40621

3. When the order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

APPLICATION FOR TRANSFER OF STRUCTURED SETTLEMENT
KRS 454
(Circuit Court)

1. An application for approval of the transfer of structured settlement payment rights may be filed in the county where the applicant resides or in the county where the original action was or could have been filed.

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the application until the filing fees are paid unless the applicant is proceeding in forma pauperis or unless the applicant is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

3. Have the judge assign a hearing date as requested by the applicant, (or do this yourself if the judge has delegated this duty to you). Do not issue a summons.

4. Assign to a division using the procedure in your local court rules.

5. Apply the “FILED” stamp; add the date and your initials. Refer to Case Add section of the KYCourts Manual for instructions on opening the case. Use case type "OTH". Generate the next case number in the computer for circuit civil “CI” cases or use the next pre-numbered file folder.

6. Calendar the hearing by completing a scheduled event screen.

7. When an order is received:

   a. Apply the “ENTERED” stamp; add the date and your initials. Do not use the “FILED” stamp.

   b. Enter the order on the document screen. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of entry of the order as described below.

   c. After the order is entered serve notice of entry on the parties by making a copy of the order that has been stamped “ENTERED” and mail or hand deliver it to the parties or attorney. CR 77.04 (1), RCr 12.06 (1) (3).

   d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of the order. RCr 12.06.

8. When the order closes the case, complete the disposition date, disposition type, and the judge at disposition fields on the case screen.

ARBITRATION

(District and Circuit Courts)
KRS 417.190-220

1. When a motion to enforce an arbitration award is received, treat the motion as an initiating document.

Filing Fee

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the motion until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

3. The petitioner must file enough copies of the motion for service upon each respondent, in addition to the original, which is filed in your office. If you make the copies, collect a $0.25-per-page copy fee.

Filing of Motion

4. Assign to a division using the procedure in your local rules.

5. Apply the “FILED” stamp to the motion. Add the date and your initials. CR 5.05 (3). Refer to the Case Add section of the KYCourts manual for instructions on opening the case. Generate the next case number in the computer for circuit civil “CI” cases or district civil “C” cases or use the next pre-numbered file folder.

6. If the motion sets a hearing date, complete a scheduled events screen.

Service of Initial Application (Motion)

7. Applications must be made by motion with a notice of hearing attached and an INITIAL application (notice with motion) must be served as if it were an initiating document (complaint) but do not issue a summons. KRS 417.190; CR 4.01 and 7.02(1). (NOTE: subsequent motions may be simply filed by the clerk and served by the party serving the motion.) The petitioner will instruct whether service of the initial application (notice with motion) is by certified mail or personal service. When you receive the notice and motion:

8. Apply the “FILED” stamp to the motion; add the date and your initials. Complete a scheduled events screen using event type “MH” and a motion screen using motion type “SOP”.

9. Unless waived in writing, written notice of the hearing must be given to all persons having a vested or contingent interest in the property, as identified by the petitioner, at least thirty (30) days prior to the hearing. At the direction of the petitioner, give notice of the hearing by printing a court notice and serve the notice with motion attached. If service is by certified mail, request that the petitioner pay the fees associated with service by certified mail and:

10. Collect postage fees as set forth in the fees and costs section of this manual. Mail the notice with motion attached by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the returned receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

Service under the long-arm statute:

11. Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve the notice with motion attached by this method, collect a fee for the Secretary of State as set forth in the fees and costs section of this manual. KRS 454.210(3)(b)(c). Mail two attested copies of the notice with motion attached by certified mail to:

    Secretary of State
    Commonwealth of Kentucky
    Capitol Building
    Frankfort, Kentucky 40601

12. If the service is by sheriff or other serving officer (CR 4.01(1)(b):

13. Make a copy of the notice and motion. Give the petitioner the 2 copies of the Court Notice with a copy of the motion attached and instruct petitioner to deliver them to the officer for service. The petitioner will pay the officer directly. CR 4.01(1)(b); KRS 23A.200(2) and 24A.170(2).

When a return of service is received:

Certified Mail

14. Apply the “FILED” stamp to the return receipt (green card); add the date and your initials. Complete a document screen using document type “ROS”. Enter name of person served and date of delivery in the memo field.

15. If the receipt is from the Secretary of State, enter the date of delivery shown on the return receipt (green card) in the memo field of the document screen. When

the Secretary of State mails notice to you concerning service or non-service of a respondent, enter the date of service or attempted service in the memo field of the document screen. Enter name of person served and date of delivery in the memo field. The service date field is not completed on a summons screen when service is through the secretary of state.

Personal Service

16. Apply the “FILED” stamp to the return of court notice. Add the date and your initials and complete a documents screen using document type “ROS”. Enter the name of person served and date of service in the memo field. You may use the memo field to record the service agency.

Judgment/Order

17. When a signed judgment or order is received, apply the “ENTERED” stamp to the judgment or order. Add the date and your initials. Do not use the “FILED” stamp.

18. Enter the judgment or order on the document screen, including a brief description. This notation constitutes entry of the judgment and the judgment or order does not become effective until this is done. RCr 11.04; CR 58. This is combined with the notation of service of entry of the judgment as described below.

19. After the judgment or order is ENTERED, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment or order that has been stamped “ENTERED” and mailing or hand-delivering to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3). Enter the method of service (mail or personal service) and notice of entry date on the document screen where the order is entered. RCr 12.06

20. When the judgment or order closes this case, enter the disposition date, disposition type and judge at disposition on the case screen.

21. Appeal from final orders or judgments shall be taken in the manner and to the same extent as from orders or judgments in a district or circuit civil action.

ATTACHMENT

KRS 425.301-316; 383.030
(Circuit or District Court)

1. Attachment is a prejudgment remedy by which the plaintiff seeks to reach property of the defendant, whether the property is in the hands of the defendant or a third person, as security for the payment of the judgment, which he hopes to obtain. KRS 425.301, 425.306. If the suit is for damages or recovery of money, the proper prejudgment writ is an attachment. A plaintiff may have an attachment for rent due under KRS 383.030.

Documents Required

2. The following documents are required to apply for the writ:

   a. A complaint and summons (KRS 425.301(3));

   b. A verified motion requesting the attachment (KRS 425.307) which:

      (1) Is under oath;

      (2) States the nature and amount of plaintiff's claim;

      (3) States that it is just;

      (4) States the statutory grounds for the attachment.

         (a) Defendant is a non-resident of Kentucky and absent from the Commonwealth; or

         (b) Has been absent from Kentucky for four months; or

         (c) Has left Kentucky to defraud his creditors; or

         (d) Is hiding or has left the county of his residence to avoid service of summons; or

         (e) Is removing or selling his property with intent to defraud his creditors. KRS 425.301(1) and (2) and KRS 425.306;

   c. A demand stating that the defendant has seven (7) days to either request a hearing or pay the claim in full; otherwise, an attachment shall issue (KRS 425.301(3));

   d. An affidavit showing compliance with the requirements of KRS 425.301(3) regarding notice and demand to the defendant.

Timing of Application

3. Timing of Application of the writ:

   a. If the motion, demand and affidavit are filed with the complaint, attach a copy of the motion and demand to the complaint and summons for service on the defendant.

   b. If the motion, demand, and affidavit are filed after the complaint, the plaintiff must deliver the motion and demand to the defendant or send the motion and demand by certified mail, return receipt requested, to defendant's last known place of address, at least seven (7) days and not more than sixty (60) days before the order granting the attachment is sought. KRS 425.301.

4. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the complaint until the filing fees are paid unless the plaintiff is proceeding in forma pauperis or unless the plaintiff is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

5. Do not collect the fee for service of process. KRS 23A.200(2) and 24A.170(2) provide for payment of these fees directly to the sheriff or other serving officer.

6. The plaintiff must file enough copies of all pleadings for service upon each defendant in addition to the original, which is filed in your office. If you make the copies, collect a copy fee as set forth in the Fees and Costs section of this manual and give a receipt.

7. Assign to a division using the procedure in your local court rules.

8. Apply the "FILED" stamp to the complaint, motion, demand, and affidavit; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Use case type "OTH". Generate the next case number in the computer for circuit civil "CI" cases or district civil "C" case or use the next pre-numbered file folder.

Summons Issuance

9. The initiating party will decide whether the summons is to be served by certified mail or personally delivered by the sheriff or other authorized person. CR 4.01(1).

Certified Mail Service

10. If Certified Mail Service requested:

    a. Attach a copy of the complaint to the summons. (Include the motion, demand and affidavit if filed with the complaint.) CR 4.04(1).

    b. Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

    c. Service under long-arm statutes.

       Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method, collect a fee for the secretary of state as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two copies of the summons and 2 attested copies of the complaint, motion, demand and affidavit by certified mail to:

       Secretary of State
       Commonwealth of Kentucky
       Capitol Building
       Frankfort, KY 40601

Personal Service

11. If service is by the sheriff or other serving officer. CR 4.01(1)(b).

    a. Make a copy of the summons. Give the plaintiff the two (2) summonses with a copy of the complaint, motion, demand and affidavit and/or other documents to be served attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

    b. Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Return of Service

12. When a Return of Service is received:

a. Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date filed of the summons screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. The service date filed is not completed on a summons screen when service is through the secretary of state.

b. Personal service:

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may record the service agency in the memo field.

13. A civil summons may be issued and served on Sundays and holidays upon an affidavit that the process cannot be executed after that day. KRS 454.125, 454.130.

14. Hearing:

No Hearing

a. If plaintiff asks you to issue the attachment without a hearing, check the affidavit of compliance to make sure enough time has elapsed from the date of notice to the defendant:

7 days from date of notice (KRS 425.301(3));

3 additional days if notice was by mail (CR 6.05).

Hearing Requested

b. If hearing is requested, note the hearing on the calendar by completing a scheduled events screen. Use scheduled event type "OH".

(1) When a signed order is received:

(a) Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

(b) Enter the order on the document screen including a brief description. Use document type "OST". This notation constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order as described below.

(c) After the order is entered, serve notice on every party not in default or who has not waived notice by making a copy of the order stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

(d) Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of the order. RCr 12.06.

Surety Bond

15. Before issuing the attachment, plaintiff must post a surety bond. KRS 425.309. Domestic Kentucky banks and savings and loan institutions do not need a surety on their bonds. KRS 425.001.

    a. Amount: Not less than double the amount of his/her claim;

    b. Obligation: To pay all costs and damages;

    c. Surety: Require the surety to make an affidavit to show qualification. KRS 454.180, 454.185. Taking the affidavit relieves you of liability for taking insufficient surety if the financial information is falsified. Commonwealth vs. Lewis, 181 Ky. 804, 205 S.W. 921 (1918). The surety must:

        (1) Be a resident of Kentucky.

        (2) Be worth double the sum to be secured, beyond debts.

        (3) Have property in Kentucky, not exempt from execution, equal to the amount of bond.

    d. Refuse any surety if you are in doubt as to their sufficiency to cover the amount of bond. If your judge orders you to take a bond you must do so; the order protects you from liability for taking an insufficient bond.

Fee for Issuing Attachment

16. Collect a fee for taking the bond and a fee for issuing the attachment as set forth in the Fees and Costs section of this manual, and give a receipt. Apply the "FILED"

stamp to the bond; add the date and your initials and file by completing a document screen. KRS 64.005, 23A.200, 24A.170.

Issuance of Writ of Attachment

17. Prepare and issue AOC Form 106, Writ of Attachment.

    a. Make a notation of the issuance of the attachment by completing a document screen. Use document type "WA". Use the date of issuance as the filing date. It is not necessary to make a copy for the case file; the officer's return will provide a copy.

    b. Give the attachment and a copy to the plaintiff for delivery to the sheriff or other serving officer. The plaintiff will pay the service fee directly to the officer.

    c. When a return of service is received; apply the "FILED" stamp; add the date and your initials. Enter the file stamp date and officer's return date in the memo field of the document screen where the attachment was issued.

Motion to Quash

18. If the defendant files a motion to quash the writ of attachment, apply the "FILED" stamp; add the date and your initials and file by completing a motion screen. Note the hearing on the calendar by completing a scheduled events screen.

19. When a signed order ruling on the motion is received:

    a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

    b. Enter the order on the document screen, including a brief description. Use document type "OQSH". This constitutes entry of the order and it does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order, as described below.

    c. Serve notice of entry of the order on every party not in default or who has not waived notice by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3). Enter the method of service (mail or personal delivery) and notice of entry date on the document screen where the order is entered.

20. When the order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

AUDIO RECORDING
(District Court)

1. Audio recording is used in District Court for the purpose of recording court proceedings. All proceedings are recorded unless a waiver is signed by the parties and counsel. AOC FORM 955, the recording log, is used for trials only. For other hearings, insert the digital counter number beside the case number on the court calendar.

Responsibilities of the Clerk.

2. You are responsible for the operation of the equipment, training of the personnel specifically charged with the operation of the equipment and with the proper maintenance and care of the recorder and its accessories.

    a. All cassette recorders must be cleaned at least once a week by dipping Q-tips in denatured alcohol and swabbing the recording heads, pinch-rollers and capstan. Should the operator notice a loss of activity on any channel, the machine should be cleaned. Digital CD recorders do not require cleaning.

    b. When you have completed recording an audio tape remove the tab from the spine of the tape. Removal of the tab prevents further recording on that particular tape.

    c. All cd's must be finalized at the end of the court session. Failure to do so means that the next day of court may have the present day as well as any other days that were not finalized on the CD. This can cause problems locating a CD for a particular court date when a request is made for a copy of court proceedings.

    d. Record at a speed of 2.4. If the wrong speed is used, any copy of the tape requested may be of poor quality. If you are unsure of the correct speed, call FACILITIES at AOC, for more information.

    e. Turn on all microphones in the courtroom and direct all persons speaking to stand next to or immediately behind the microphone in order to insure a clear and complete recording. If your original tape is of poor quality, any copy requested will also be of poor quality.

    f. Verify that the tape/CD number is entered on the log sheet or court calendar and that the counter number/time stamp on the machine is entered correctly beside the case number.

g. Keep careful inventory and individual maintenance records of all electronic recording equipment. Store all tapes/CD's and log sheets in a suitable location to prevent loss or alteration. All juvenile and involuntary hospitalization/admission and disability tapes/CD's must be labeled, kept confidential and stored apart from other district court tapes/CD's.

h. Notify the AOC in the event of a malfunction.

Request for Playback/Copy

i. The clerk has custody and control of the tape/CD. An attorney or other party requesting a playback of a proceeding shall do so in the presence and at the convenience of the clerk.

(1) If a copy of the tape/CD is requested:

(a) Collect the cost per tape/CD plus postage fees, as set forth in the Fees and Costs section of this manual, from the requesting person.

(b) Send the AOC the original tape/CD and a copy of the log sheet with the case circled in red ink. Verify that the tape/CD being sent belongs to the case indicated. The style of the case or the defendant's name and the starting counter number/time stamp are necessary to properly copy the tape/CD. Do not send the fee for the copy of the tape/CD to AOC.

(c) When the original tape and the copy are returned to you, mail to the requesting party or notify he/she to pick up the copy.

(d) The duplicate tape/CD can be played on a regular recorder at the speed of 1-7/8 inches per second or any CD player.

BAIL BONDS
(District or Circuit Court)
RCr 4, KRS 431.510-.545

Clerk's Responsibility

1. When bail is set, it is the clerk's responsibility to take the required security, write the bond, and process it.

    a. Follow the judge's order, i.e. if the judge's order specifies full cash, you may not accept property. RCr 4.04(3).

    b. The clerk is responsible for the sufficiency of bail. KRS 30A.060, RCr 4.32.

    c. Refuse any surety if you are in doubt as to the sufficiency to cover the amount of the bond. If your judge orders you to take a bond you must do so; the order protects you from liability for taking an insufficient bond.

    d. In addition to the circuit clerk, the chief circuit judge shall authorize another public official to prepare and accept bail bonds. KRS 30A.060(3), RCr 4.24. You are not responsible for the sufficiency of bail taken by the official. The official must turn over to you by the next business day the bail bond and any other papers, the money received, and the bond filing fee. RCr 4.28.

Conditions of Release

    e. The conditions of release listed on the bail bond form, including subsequent modifications, shall be entered on the bail bond screen in KY COURTS within twenty-four (24) hours of being filed, excluding weekends and holidays.

Uniform Schedule

2. When a defendant arrested for offenses listed in the uniform schedule of bail (Appendix A of the Criminal Rules) elects to post the amount listed in the uniform schedule of bail instead of waiting to appear before a judge:

    a. Inform the defendant that by doing this he/she waives his/her right to appear before a judge or trial commissioner within 12 hours to be considered for release on personal recognizance. RCr 4.20(1).

    b. If the uniform schedule allows for a 10% deposit, collect that amount but not less than $10. RCr 4.22. Otherwise collect the full amount listed in the schedule. KRS 431.540. Give a receipt.

    c. Collect the partial or full amount of the bond as required by the uniform schedule of bail plus the bond filing fee as set forth in the Fees and Costs

section of this manual for taking bonds, and give a receipt. KRS 64.005, RCr 4.26(1). This fee may be collected at the defendant's first court appearance (OAG 81-299) and may be waived if the defendant is indigent. Edmonson v. Commonwealth, Ky., 725 S.W. 2d 595 (1987).

d. Prepare AOC 365, Bail Bond; include thereon any nonfinancial conditions the judge has imposed. RCr 4.12 and 4.14.

e. Have the defendant sign the form in the boxed area in the middle AND at the bottom.

f. If someone other than the defendant deposits the money, the following persons cannot be sureties (RCr 4.30(2), KRS 431.510):

(1) Attorneys;

(2) Sheriffs and deputy sheriffs;

(3) Judges;

(4) Master commissioners and trial commissioners;

(5) Clerks and deputy clerks;

(6) For-profit bail bondsmen, whether individuals or corporations;

(7) Pretrial release officers.

g. If the bond is less than full cash: check affidavit and valuation requirements; if the surety qualifies, have the surety sign as surety in the boxed area of the form.

h. Have the judge sign the order to the jailer at the bottom of the form, or sign for the judge if you are authorized to do so.

i. Distribute the copies of the bond as indicated at the bottom.

j. Apply the "FILED" stamp to the top copy of the bond form; add the date and your initials. File on a bail screen. Within twenty-four (24) hours, excluding weekends and holidays, the conditions of release, including subsequent modifications must be entered on the bail screen.

ROR

3. Release on personal recognizance (known as ROR or OR): the defendant's written promise to appear. RCr 4.00(f), RCr 4.10.

a. Collect the bond filing fee as set forth in the Fees and Costs section of this manual for taking bonds and give a receipt. KRS 64.005. This fee may be collected at the defendant's first court appearance (OAG 81-299) and may be waived if the defendant is indigent. Edmonson v. Commonwealth, Ky., 725 S.W. 2d 595 (1987).

b. Prepare AOC 365, Bail Bond, including thereon any nonfinancial conditions the judge has imposed. RCr 4.12 and 4.14.

c. Have the defendant sign the form at the bottom.

d. Have the judge sign the order to the jailer at the bottom of the form, or sign for the judge if you are authorized to do so.

e. Distribute the copies of the bond as indicated at the bottom.

f. Apply the "FILED" stamp to the top copy of the bond form; add the date and your initials. File on a bail screen. Use bail type "OR". Within twenty-four (24) hours, excluding weekends and holidays, the conditions of release, including subsequent modifications, must be entered on the bail screen.

Unsecured bond

4. A promise by the defendant or surety to pay the designated amount upon a failure to appear when ordered by the court to do so or upon a breach of a material condition of release, not secured by any deposit of or lien upon property. RCr 4.00(h).

a. Collect the bond filing fee as set forth in the Fees and Costs section of this manual for taking bonds and give a receipt. KRS 64.005. This fee may be collected at the defendant's first court appearance (OAG 81-299) and may be waived if the defendant is indigent. Edmonson v. Commonwealth, Ky., 725 S.W. 2d 595 (1987). Do not collect the amount of the bond; this bond is only a promise to pay upon a failure to appear. RCr 4.00(h).

b. Prepare AOC 365, Bail Bond, including thereon any nonfinancial conditions the judge has imposed. RCr 4.12 and 4.14.

c. Have the defendant sign the form in the boxed area in the middle AND at the bottom.

d. If someone other than the defendant is guaranteeing the defendant's appearance, the following persons cannot be sureties (RCr 4.30(2), KRS 431.510):

(1) Attorneys;

(2) Sheriffs and deputy sheriffs;

(3) Judges;

(4) Master commissioners and trial commissioners;

(5) Clerks and deputy clerks;

(6) For-profit bail bondsmen, whether individuals or corporations;

(7) Pretrial release officers.

e. Verify affidavit requirements and if the surety qualifies, have the surety sign as surety in the boxed area of the form.

f. Have the judge sign the order to the jailer at the bottom of the form, or sign for the judge if you are authorized to do so.

g. Distribute the copies of the bond as indicated at the bottom.

h. Apply the "FILED" stamp to the top copy of the bond form; add the date and your initials. File on a bail screen. Use bail type "UN". Within twenty-four (24) hours, excluding weekends and holidays, the conditions of release, including subsequent modifications, must be entered on the bail screen.

Guaranteed Arrest Bond Certificate

5. Guaranteed Arrest Bond Certificate (RCr 4.18) is a printed card issued by the American Automobile Association (or similar organization) guaranteeing the appearance of its members on most motor vehicle violations. RCr 4.18(2).

a. You must accept this certificate in lieu of cash bail bond up to $500 for most motor vehicle offenses. RCr 4.18(1). The certificate may not be used on violations of KRS 189.520(2) (driving while intoxicated) or KRS Chapter 281 (motor carriers for hire). RCr 4.18(1)(b).

b. The certificate must:

(1) Have the defendant's signature, RCr 4.18(1), (2);

(2) Be in effect on the date of the violation, RCr 4.18(1)(a); and

(3) Carry a statement that the association guarantees the defendant's appearance or will pay the fine or forfeiture up to $500. RCr 4.18(2)(a), (b).

c. Collect the bond filing fee as set forth in the Fees and Costs section of this manual for taking bonds and give a receipt. KRS 64.005. This fee may be collected at the defendant's first court appearance (OAG 81-299) and may be waived if the defendant is indigent. Edmonson v. Commonwealth, Ky., 725 S.W. 2d 595 (1987).

d. Prepare AOC 365, Bail Bond, including any nonfinancial conditions the judge has imposed. RCr 4.12 and 4.14.

e. Have the defendant sign the form at the bottom.

f. Have the judge sign the order to the jailer at the bottom of the form, or sign for the judge if you are authorized to do so.

g. Distribute the copies of the bond as indicated at the bottom.

h. Apply the "FILED" stamp to the top copy of the bond form; add the date and your initials. File on a bail screen. Use bail type "GA". Within twenty-four (24) hours, excluding weekends and holidays, the conditions of release, including subsequent modifications, must be entered on the bail screen.

Full Cash Bond

6. A bond in which the full amount of the bond is deposited in your office either by the defendant or surety. RCr 4.00(b).

Partially Secured Cash Bond

A bond which requires a deposit of less than the full amount of the bond. The exact percentage depends on the judge's order, and may be as little as 10% of the amount of the bond. The designated percentage is paid to your office by the defendant or surety at the time of release of the defendant. In the event of forfeiture for nonappearance, the defendant or the surety is liable for the full amount of the bond. RCr 4.00(b).

a. Collect the partial or full amount of the bond as required by the court order or uniform schedule of bail plus the bond filing fee as set forth in the Fees and Costs section of this manual for taking bonds, and give a receipt. KRS 64.005, RCr 4.26(1). This fee may be collected at the defendant's first court appearance (OAG 81-299) and may be waived if the defendant is indigent. Edmonson v. Commonwealth, Ky., 725 S.W. 2d 595 (1987).

b. Prepare AOC 365, Bail Bond, including any nonfinancial conditions the judge has imposed. RCr 4.12 and 4.14.

c. Have the defendant sign the form in the boxed area in the middle AND at the bottom.

d. If someone other than the defendant is depositing the money, the following persons cannot be sureties (RCr 4.30(2), KRS 431.510):

(1) Attorneys;

(2) Sheriffs and deputy sheriffs;

(3) Judges;

(4) Master commissioners and trial commissioners;

(5) Clerks and deputy clerks;

(6) For-profit bail bondsmen, whether individuals or corporations;

(7) Pretrial release officers.

e. If it is less than a full cash bond: check affidavit and valuation requirements; if the surety qualifies, have the surety sign as surety in the boxed area of the form.

f. Have the judge sign the order to the jailer at the bottom of the form, or sign for the judge if you are authorized to do so.

g. Distribute the copies of the bond as indicated at the bottom.

h. Apply the "FILED" stamp to the top copy of the bond form; add the date and your initials. File on a bail screen. Use bail type "PS". Within twenty-four (24) hours, excluding weekends and holidays, the conditions of release, including subsequent modifications, must be entered on the bail screen.

Bail Bond Credit

1. Upon receipt from the jailer of AOC 365.2 (Notice of Bail Credit), apply the “FILED” stamp, add the date and your initials. Complete a document screen using document code “NBC”.

2. Refer to the KYCourts User Manual for updating the bail bond information.

Property Bond

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).

   c. The property must be worth twice the amount of the bond over and above any other encumbrances or exemptions. KRS 431.535 (1)(b), RCr 4.34(5). Each property owner has a $5000 homestead exemption. KRS 427.060, KRS 431.535(1)(b), RCr 4.34(5). There is another exemption pursuant to 11 U.S.C. § 522(d), currently in the amount of $20,200. (KRS 427.170)

      NOTE: the homestead exemption should not be applied to rental property. It should be deducted only from the value of property used as a permanent residence when determining its value for use as a property bond. The homestead exemption may be waived by the property owner for purposes of posting a property bond.

d. If you are satisfied with the value of the real property, collect the bond filing fee as set forth in the Fees and Costs section of this manual, the recording fee and lien release fee for the county clerk of each county in which the property is located, and give a receipt. KRS 64.005, 64.012, 142.010, RCr 4.36. The bond filing fee may be collected at the defendant's first court appearance (OAG 81-299) or may be waived if the defendant is indigent. Edmonson v. Commonwealth, Ky., 725 S.W. 2d 595 (1987).

e. The property cannot be used as security if it has been used as security on a bail bond within the preceding 12 months. (This requirement does not apply if the property belongs to the defendant or to a relative. Relative is defined as no further removed from the defendant than a first cousin, or the defendant's father-in-law, mother-in-law, son-in-law, or daughter-in-law. KRS 431.535(3)(e)).

f. Prepare AOC 365, Bail Bond, including thereon any nonfinancial conditions which the judge has imposed. RCr 4.12 and 4.14.

g. If the real property belongs to someone other than the defendant, the following persons cannot be sureties (RCr 4.30(2), KRS 431.510):

   (1) Attorneys;

   (2) Sheriffs and deputy sheriffs;

   (3) Judges;

   (4) Master commissioners and trial commissioners;

   (5) Clerks and deputy clerks;

   (6) For-profit bail bondsmen, whether individuals or corporations;

   (7) Pretrial release officers.

h. If the owner is an eligible surety, have the owner sign as surety in the boxed area in the middle of the form. The Sworn Schedule includes the affidavit.

i. Have the defendant sign the form in the boxed area in the middle AND at the bottom.

j. Have the judge sign the order to the jailer at the bottom of the form, or sign for the judge if you are authorized to do so.

k. Distribute the copies of the bond as indicated at the bottom of the form.

l. Send a certified copy of the bail bond and sworn schedule, and the recording fees collected, to the county clerk of each county in which the land is located. RCr 4.36.

m. Apply the "FILED" stamp to the top copy of the bond form; add the date and your initials. File on a bail screen. Use bail type "PB". Within twenty-four (24) hours, excluding weekends and holidays, the conditions of release, including subsequent modifications, must be entered on the bail screen.

NOTE: Affix a green sticker to the outside of the case file to denote a property bond has been posted in the case. This will alert you to release the bond in the county clerk's office according to the judge's order when the defendant has been sentenced and the case has been disposed of. Order the green sticker from AOC using item number AVE-8083-GG, and indicating the color fluorescent green.

Stocks and Bonds

8. Stocks and Bonds as security is a bond in which the defendant or surety deposits these securities instead of cash to guarantee the defendant's appearance. RCr 4.04(1)(d)(iv).

a. Require the defendant or the surety to file a sworn schedule containing the following information RCr 4.34(2), (3), (4):

(1) Description of the securities;

(2) Present market value of each;

(3) Total market value;

(4) That affiant(s) is/are the sole owner(s) of the securities;

(5) That the securities are not exempt from execution;

(6) That the property is security for the appearance of the defendant in accordance with the condition of release imposed by the court;

(7) That the property has not been used as security on a bail bond within the preceding 12 months. (This requirement does not apply if the securities belong to the defendant or to a relative. Relative is defined as no further removed from the defendant than a first cousin, or the defendant's father-in-law, mother-in-law, son-in-law, or daughter-in-law. KRS 431.535(2)(e)).

b. The valuation given in the sworn statement must be equal to the amount of the undertaking, over and above any encumbrances or exemptions. KRS 431.535(1)(a).

c. If you are satisfied with the value of the securities offered:

(1) Require the defendant or surety to deposit the securities with you with a statement of assignment of the securities giving you "stocks and bonds power" over the securities. KRS 431.535(1)(a).

(2) Mail a copy of the statement of assignment to the bank or other financial institution.

(3) You may require the defendant or surety to obtain a statement from the bank or other financial institution disclosing the amount of penalty for early withdrawal. If a penalty applies you may require the defendant or surety to post in cash the amount of the penalty x 365 days to cover the penalty in the event of forfeiture.

d. Collect the bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 64.005. This fee may be collected at the defendant's first court appearance (OAG 81-299) and may be waived if the defendant is indigent. Edmonson v. Commonwealth, Ky., 725 S.W. 2d 595 (1987).

e. Prepare AOC 365, Bail Bond, including thereon any nonfinancial conditions the judge has imposed. RCr 4.12 and 4.14.

f. If the securities are offered by someone other than the defendant, the following persons cannot be sureties (RCr 4.30(2), KRS 431.510):

(1) Attorneys;

(2) Sheriffs and deputy sheriffs;

(3) Judge;

(4) Master commissioners and trial commissioners;

(5) Clerks and deputy clerks;

(6) For-profit bail bondsmen, whether individuals or corporations;

(7) Pretrial release officers.

g. If the owner is an eligible surety, have the owner sign as surety in the boxed area in the middle of the form. The affidavit is covered by the sworn schedule described at the beginning of this section.

h. Have the defendant sign the form in the boxed area in the middle AND at the bottom.

i. Have the judge sign the order to the jailer at the bottom of the form, or sign for the judge if you are authorized to do so.

j. Distribute the copies of the bond as indicated at the bottom.

k. Apply the "FILED" stamp to the top copy of the bond form; add the date and your initials. File on a bail screen. Within twenty-four (24) hours, excluding weekends and holidays, the conditions of release, including subsequent modifications, must be entered on the bail screen.

l. Place the securities and defendant's assignment of "stocks and bonds power" in a lock box at your bank. AOC will pay any rental charges incurred for the lock box.

Bond Posted on Military Arrest

9. When bond is posted on a military arrest, collect the bail bond money and receipt as Money Collected For Others. Collect the bond filing fee as set forth in the Fees and Costs section of this manual. Mail a check for the bail bond money payable to the convening authority (commanding or commissioned officer or his/her authorized representative) along with other documents received that pertain to the arrest or confinement. KRS 35.050.

Change in Posted Bail Bond

10. Unless otherwise ordered, when the judge orders a change in an existing bond of any type, complete and process AOC Form 365, Bail Bond in the same manner as an original bond, including thereon any nonfinancial conditions which the judge has imposed. RCr 4.12 and 4.14.

    a. The following persons cannot be sureties (RCr 4.30(2), KRS 431.510):

        (1) Attorneys;

        (2) Sheriffs and deputy sheriffs;

        (3) Judges;

        (4) Master commissioners and trial commissioners;

(5) Clerks and deputy clerks;

(6) For-profit bail bondsmen, whether individuals or corporations;

(7) Pretrial release officers.

b. Do not charge a bond filing fee since this is a modification of the original bail bond.

Defendant Lodged in Another Jurisdiction

11. If a defendant is jailed in a county or state different from where he/she was charged, there are two ways to accomplish the posting of bond:

a. Complete the bond form and if required, have the surety sign in your presence. Fax the completed bond form (with surety's signature, if required) to the jail where the defendant is lodged. Direct the jailer or a notary to witness the defendant signing the bond. Have the signed bond form returned to you by hand-delivery or fax. Attach the bond form signed by the defendant form to the original bond form. Fax AOC Form 385 Release from Custody to the jail after the signed bond form is received. The release will alert the jail that you have received the bond form with the defendant's signature and the defendant may be released from jail; or

b. The circuit clerk (or jailer if so designated) of the county where the defendant is lodged may allow the defendant to post bond in that county. The clerk will receipt the bond money (if a cash bond) as Money Collected for Others and forward the bond paperwork, (including a copy of the receipt) together with a check for the amount of the bail bond to the clerk of the county where the defendant is charged.

Surety Requirements

12. When a Surety is Required on a bond:

a. The following persons cannot be sureties (RCr 4.30(2), KRS 431.510):

(1) Attorneys;

(2) Sheriffs and deputy sheriffs;

(3) Judges;

(4) Master commissioners and trial commissioners;

(5) Clerks and deputy clerks;

(6) For-profit bail bondsmen, whether individuals or corporations;

(7) Pretrial release officers.

b. The surety (except an approved corporate surety, KRS 304.21-350) must be a resident of Kentucky or own real estate in Kentucky. This is not required on a full cash bond. RCr 4.30(1).

c. Require the surety (except an approved corporate surety, KRS 304.21-350) to complete and sign the Affidavit of Surety contained in the boxed area of AOC 365, Bail Bond, describing the property with which he/she will cover the amount of the bond. This is not required on a full cash bond. RCr 4.30(1).

d. The surety must have nonexempt value equal to the amount of the bond. If there are several sureties, their combined nonexempt worth must be equal to the amount of the bond. RCr 4.32. Each property owner has a $5000 homestead exemption. KRS 427.060. This is not required on a full cash bond. RCr 4.30(1).

Bonds Receipted for More Than $10,000.00 Cash

13. When a bond is receipted for more than $10,000.00 cash, for the following offenses:

Controlled Substances, KRS Chapter 218A
Money Laundering or Racketeering, KRS 506.120

Federal Form 8300, reports of cash payments over $10,000.00 received in a trade or business, must be completed and submitted to the Internal Revenue Service within fifteen (15) days after receipt of such money. Mail the original of the form to:

Internal Revenue Service
Detroit Computing Center
P. O. Box 32621
Detroit, Michigan, 48232.

a. The clerk is responsible for filing IRS Form 8300 even if the jailer takes the bond. It is acceptable for the circuit clerk, deputy clerk or bookkeeper to sign the form. You must retain a copy of every Form 8300 filed for a period of five (5) years.

b. By January 31st of each year, you must provide a written statement to each person(s) named on each Form 8300 that you filed during the previous year. This statement must include your name and address; your title, (circuit clerk);

your office phone number and the total amount of reportable cash received from the person(s) during the year. The statement must include the fact that you are reporting the information to the Internal Revenue Service.

c. Civil and criminal penalties may be imposed for willful non-compliance with these guidelines.

d. In box #34 on the form type - Bail posted for (state specific criminal offense).

e. If the case number is available, include on the form.

f. Cash includes the following:

(1) US Currency totaling more than $10,000.

(2) Cashier's check, bank draft, money order or traveler's check less than $10,000 combined with US Currency to total more than $10,000.

(3) Cashier's check, bank draft, money order or traveler's check less than $10,000 combined with another cashier's check, bank draft, money order or traveler's check less than $10,000 to total more than $10,000.

This includes the amount of bail plus any fees (such as bail bond fee) if the total including fees makes the bond total over $10,000.

(4) Cash does not include personal checks, regardless of the amount.

g. Make a copy of the original form and after marking through the social security number, distribute copies as follows:

(1) File one copy in the respective case file and retain for five years.

(2) One copy to the bookkeeper in your office.

In case of an IRS audit, contact your AOC Court Services Judicial Auditor.

(3) The U.S. Attorney in the district where the defendant resides.

(4) The U.S. Attorney in the jurisdiction where the offense was committed if different from the defendant's Residence.

h. Refer to the Circuit Clerk's Accounting Manual for additional information.

i. The following list contains mailing addresses of all U.S. Attorneys: Click Here

Refunds

14. Refunds. RCr 4.44; 4.48; KRS 431.545.

A court order is required to release or refund a bond.

a. Apply the "ENTERED" stamp to the order; add the date and your initials. File on a document screen. Use document type "OREF"

Property Bond Release

b. When a property bond is ordered released:

(1) Complete AOC form 366 (Rev.8-02), Property Bond Lien Release Notification. Deliver it, together with the lien release fee collected at the time the bond was filed, to the County Clerk of the county where the real estate is situated. The lien on the real estate must be discharged and the release recorded in the margin by the county court clerk. RCr 4.44(3). Enter on a document screen. Use document type “PBR”.

(2) Within seven (7) days of the release by the county clerk, send notice of the release to the property owner.

(3) Lack of good cause for delay in releasing a lien will result in a daily fine of $100.00 TO $500.00. KRS 382.365.

Disposition of Bail Bond Moneys

c. When the court orders discharge of the bail bond upon compliance with conditions of release, release the bond and distribute the bail bond money as follows:

(1) Money deposited by defendant:

(a) 10% Bond -

Defendant found not guilty or case dismissed, return full amount. KRS 431.530(5). Defendant found guilty, retain 10% of amount deposited but not less than $5.00; on defendant's request, pay defendant’s attorney of record. KRS 431.530(3), (4); RCr 4.46.

If a percentage bond other than a 10% bond is posted, do not retain any percentage of the amount deposited.

(b) Other Amount of Cash -

Defendant found not guilty or case dismissed, return full amount. KRS 431.535(6); RCr 4.44(2).

Defendant found guilty, on court order, pay fine and/or costs; on defendant's request, pay attorney; return any remainder without retaining any percentage. RCr 4.44(2); 4.46.

(c) Stocks and Bonds -

Defendant found guilty, not guilty or case dismissed, return full amount. KRS 431.535(6).

(2) Money deposited by surety:

(a) 10% Bond -

Defendant found not guilty or case dismissed, return full amount. KRS 431.532(4).

Defendant found guilty, retain 10% of amount deposited but not less than $5.00. KRS 431.532(2), RCr 4.44(2).

If a percentage bond other than a 10% bond is posted, do not retain any percentage of the amount deposited.

(b) Other Amount of Cash -

Defendant found guilty, not guilty or case dismissed, return full amount. KRS 431.535(6).

(c) Stocks and Bonds -

Defendant found guilty, not guilty or case dismissed, return full amount. KRS 431.535(6).

(d) Money deposited by a surety cannot be applied to fines and costs without consent of the surety.

Forfeitures

15. If the court orders a forfeiture of bail:

a. If the court schedules a bond forfeiture hearing, complete a scheduled events screen for the next available court date and send notice of the hearing to the defendant and the defendant’s surety, if any. Use the

scheduled events code “BFH”. The hearing is to determine if the bond should be forfeited.

b. Apply the "ENTERED" stamp to the order; add the date and your initials. File on a document screen. Use document type "OFB". RCr 4.48(4).

NOTE: If the district court orders a forfeiture and the amount is beyond its jurisdiction, or if real estate is involved, send a copy of the district court's order and the bond to the circuit court. RCr 4.48(2). In circuit court, open the case following instructions in Case Add section of KYCourts Manual.

Generate the next circuit civil "CI" number or use the next pre-numbered file folder. Use case type “OTH”.

c. Serve a copy of the order by first class mail on the defendant and the surety at their last known addresses. RCr 4.48(1).

d. The defendant or surety has twenty (20) days after service of the order, or return of not found to appear. Create a tickler system for thirty (30) days from the date the order is mailed by completing a scheduled events screen. RCr 4.48(1).

d. If the defendant or surety request a hearing, complete a scheduled events screen for the next available court date. Use scheduled event code BFH.

NOTE: This hearing is not for the purpose of determining whether bond should be forfeited, but is for the purpose of determining whether the court's prior order of forfeiture should be reversed.

e. If no hearing is requested, after the thirty (30) days have elapsed, deliver the case file to the judge.

f. When a signed judgment is received, apply the "ENTERED" stamp to the judgment; add the date and your initials. Enter on a document screen and give notice of entry by mailing a copy of the judgment to the defendant and surety.

NOTE: When a bond is forfeited, the defendant or surety may be liable for the full amount of the bond, even if a lesser amount was deposited. RCr 4.48(1).

g. Forfeit the bond. Refer to the Accounting Manual for instructions or contact your judicial auditor.

h. If the forfeiture is a property bond, immediately send the judgment of forfeiture to each county clerk where the land is located. RCr 4.48(4).

Surrender of Defendant

16. Surrender of Defendant - Exoneration

a. If the surety requests refund of the bail bond at any time before the bond is forfeited, give the surety a certified copy of the bail bond. The surety gives the certified copy of the bail bond to any peace officer, who, with the certified copy of the bail bond, has authority to arrest the defendant in any county in the Commonwealth. The peace officer, upon arrest of the defendant, delivers the defendant and the certified copy of the bail bond to the jailer of the county in which the prosecution is pending.

b. If the jailer acknowledges in writing that a defendant has been surrendered to him/her the court shall, after notice of 5 days to the appropriate prosecutor, order that the surety or sureties be exonerated from liability on the bond or recognizance. Any money or bonds that have been deposited as bail shall be returned to the person making the deposit. RCr 4.50.

(1) Apply the "FILED" stamp to any acknowledgment filed by the jailer; add the date and your initials. File on a document screen. Use document type "ACK".

(2) If the court sets a hearing, calendar on a scheduled events screen.

(3) When a signed order is received, apply the "ENTERED" stamp; add the date and your initials. Enter on a document screen.

(4) Refund any money held pursuant to the court's order.

17. When bail is posted in one court and proceedings are in another court:

a. If bond is posted in district court but the case is transferred or appealed to circuit court, send the bond papers to circuit court with the rest of the case file. RCr 3.22, 4.54(1).

b. In cases involving change of venue, send the bond and any deposits to the court where venue has been ordered. RCr 3.12, 3.22, 8.26.

BAIL JUMPING WARRANT
KRS 520.070, 520.080
(District or Circuit Court)

1. When a warrant for bail jumping is ordered, add the charge of bail jumping to the existing case by completing a charge screen.

   a. UOR 49201, Bail Jumping, 1st degree, if original charge is a felony, or

   b. UOR 02605, Bail Jumping, 2nd degree, if the original charge is a misdemeanor.

2. Do not open a new case file.

   If the warrant is in a closed circuit court case, reopen the case by completing a special status screen.

3. Issue the warrant by completing a warrant screen. Use warrant type "WA".

4. When a return is received, enter the return information on the warrant screen and calendar the case by completing a scheduled events screen.

5. When a signed judgment or order is received, apply the "ENTERED" stamp; add the date and your initials. Enter on a document screen and give notice of entry.

6. If the judgment disposes of the charge, close the charge screen by completing the disposition date; disposition type; judge; trial type; original and final plea.

   NOTE: Court trial is entered as trial type disposition only when an actual trial is held. Except for the jury being empanelled to hear the case, the same set of circumstances as a jury trial must exist, i.e., opening statements by attorneys, cross-examination of witnesses, closing arguments and a finding by the court. The entry of a guilty plea in open court is not a court trial.

7. If a court trial or jury trial has been entered as the trial type, an original plea and final plea must be entered.

8. If an original plea has been entered, a final plea must be entered whether or not the defendant changes the plea. If no plea is entered, (example: charge is dismissed at arraignment), original and final plea are both left blank. Original plea and final plea reflect what the defendant has entered regardless of a different finding by the court.

9. If a sentence is imposed by the court, complete a sentence screen.

   NOTE: If the defendant is sentenced to time and the time is suspended or conditionally discharged, enter the time assessed in the "total sentenced" field. Enter time suspended or conditionally discharged in the "suspended" or "conditionally discharged" field.

10. When all charges are disposed of:

    a. District court case: the system will close the case screen by completing the disposition date and judge at disposition fields.

    b. Circuit court case: when the defendant has been sentenced, complete the disposition date and judge at disposition fields ONLY on the case screen.

11. If the court fails to address the charge, recalendar for the next court date for the judge to dismiss.

12. If the warrant is ordered for a juvenile charged with an adult crime, refer the matter to the CDW.

BANKRUPTCY NOTICE

1. When a notice of filing of bankruptcy is received:

   a. Apply the "FILED" stamp to the notice; add the date and your initials. File by completing a document screen. Use document type "NBK".

      NOTE: The case is stayed until an order of discharge is received from the bankruptcy court.

2. When you receive a bankruptcy discharge notice:

   a. Apply, the "FILED" stamp; add the date and your initials. File by completing a document screen.

   b. Schedule a hearing for the court to review the case by completing a scheduled events screen. Use scheduled events type "REV".

3. When a signed judgment or order is received, apply the ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

   a. Enter the judgment or order on the document screen, including a brief description. This notation constitutes entry of the judgment or order; the judgment or order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment or order as described below.

   b. After the judgment or order is ENTERED, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment or order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

   c. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of the order. RCr 12.06.

4. If the judgment or order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

BILL OF COSTS

1. When you receive a "Bill of Costs", apply the "FILED" stamp; add the date and your initials. File by completing a document screen. Use document type "BOC".

2. Complete a scheduled events screen for five days from the date of service on the losing party, (the bill of costs will state the date of service on the losing party). Make a notation in the memo "If no exceptions filed, endorse costs on judgment".

3. If an exception is received, apply the "FILED" stamp; add the date and your initials and file by completing a document screen. Use document type "EXPT". If the exception sets a hearing, complete a scheduled events screen.

4. At the end of the five day period, if no exceptions have been filed, endorse on the face of the judgment the amount of the costs as stated in the Bill of Costs and the notation, "Costs recoverable as a part of the judgment".

BONDS AND SURETIES IN CIVIL CASES
KRS 30A.060, 454.180 to 454.190, CR 81A

1. There are various types of civil bonds that may be filed with the clerk. You are responsible for the sufficiency of any surety accepted by you or your deputy. KRS 30A.060.

2. The court must set the amount of bond.

3. Require the surety to make an affidavit to show qualification. KRS 454.180, KRS 454.185. Taking the affidavit relieves you of liability for taking insufficient surety if the surety falsifies their financial situation. Commonwealth vs. Lewis, 181 Ky. 804, 205 S.W. 921 (1918).

   The surety must:

   a. Be a resident of Kentucky.

   b. Be worth double the sum to be secured, beyond debts.

   c. Have property in Kentucky, not exempt from execution, equal to the amount of bond.

4. Refuse any surety if you are in doubt as to the sufficiency to cover the amount of the bond. If your judge orders you to take a bond you must do so; the order protects you from liability for taking an insufficient bond.

5. Collect the bond filing fee as set forth in the Fees and Costs section of this manual for the taking bond, and give a receipt. KRS 64.005.

6. File the bond and affidavit by completing a document screen. Use document type "BSUR". You may file the affidavit as an attachment in the memo.

7. The following governmental agencies are exempt from giving bond in order to bring an action, take any steps in a proceeding, indemnify a party, or stay the enforcement of a judgment. CR 81A, KRS 454.190:

   a. The United States.

   b. The Commonwealth of Kentucky, its cities, counties, or other political subdivisions, their agencies or officers acting for them.

CALENDAR
(District Court)
CR 58(2)

1. You must keep a district court calendar for each court date. The calendar is created by completing a scheduled events screen. The calendar has space for the judge's notations on each case. These notations may include orders and judgments; therefore, maintenance of the calendar is very important. CR 58(2).

2. Complete a scheduled event screen for the correct court date.

Calendar Control

3. In any criminal case in which the judge sets a new appearance date for payment of a fine or an installment, complete a scheduled event screen for that date. If payment is made in full on or before that date, delete the scheduled events screen following instructions in the Counter Screen section of KYCourts Manual.

   - If an installment payment is made, overlay the scheduled date with the new payment due date. Continue doing this until the fine is paid in full.

     this procedure allows for calendar control of the case until the fine is paid.

4. The judge must sign each calendar page. This validates the judgments on that page. CR 58. Apply the "ENTERED" stamp; add the date and your initials.

5. Keep all original signed calendars in a master file by date.

   - EXCEPTION: Keep original signed calendars for confidential cases in the respective case files.

CASE NUMBERING AND COLOR CODING

Case Numbering

1. The case number consists of three components, each separated by a hyphen, as follows:

   a. Use the last two digits of the year to show the year of filing. Thus, a case filed in 2004 will bear the designation 04.

   b. Use a code letter to designate the type of case in accordance with the table in item 3 below.

   c. Number the cases in each category in consecutive order, beginning with 00001. There are special rules for numbering juvenile, disability, involuntary hospitalization/admission, domestic violence cases and circuit criminal cases with multiple defendants. Refer to Case Add section of the KYCourts Manual for special rules on numbering these cases.

2. Use color-banded stick-on labels when starting a case file to distinguish the different types of cases. Show the case number and the name of the first plaintiff and first defendant on the label. The colors for the various categories of cases are listed in Item 3 below.

Letter and Color Codes

3. The code letter and color code for each type of case is as follows:

Type of Case	Code Letter	File Label Color Code
District Court:		
Civil, Forcible Detainer and URESA	C	White
Domestic Violence	D	Light Blue
Involuntary Hospitalization/ Admission and Disability	H	Red
Small Claims	S	Orange
Probate and Name Change	P	Black

Juvenile and Paternity	J	Yellow
Traffic	T	White Envelope
Misdemeanor	M	Buff Envelope
Felony	F	Buff Envelope
Alcohol Intoxication Prepaid	AI	
Circuit Court:		
Civil, Domestic Relations Wills, Habeas Corpus and URESA	CI	Tan Contested
Adoption and Termination	AD	Dark Blue
Criminal (Including 11.42's)	CR	Green
Appeals from District	XX	Purple

Case Number Assignment T,M,F Cases

4. If offenses are mixed in nature on a district court citation/criminal complaint, i.e., felonies, misdemeanors, and/or traffic charges in some combination, the case type assigned will be that of the most serious offense.

   Exception: The following is a list of misdemeanor offenses and UOR codes that are filed as traffic cases if no felony offense is contained on the citation/criminal complaint:

To view misdemeanor offenses and UOR codes that are filed as traffic cases if no felony offense is contained on the citation/criminal complaint click UOR Codes

Example 1: Citation/criminal complaint contains a traffic, misdemeanor and felony offense. This is filed as a "F" case.

Example 2: Citation/criminal complaint contains a traffic and misdemeanor offense. This is filed as a "M" case, unless the misdemeanor **is**

listed above as an exception. If the misdemeanor is listed as an exception, it is filed as a "T" case.

Example 3: Citation/criminal complaint contains a misdemeanor offense only. This is filed as a "M" case, unless the misdemeanor is listed as an exception. If the misdemeanor is listed as an exception, it is filed as a "T" case.

CASES REFERRED TO GRAND JURY
(District Court)

1. If probable cause is established to refer a case to the grand jury:

   a. Complete the charge screen(s) closing information with disposition type of GDJ.

   b. Do not close the case screen until the grand jury has disposed of the charge(s).

   c. Do not transfer the case file to circuit court.

Grand Jury Referral List

   d. When the grand jury meets, print a grand jury referral list and furnish to the commonwealth attorney. Print and furnish the list at any other time when you are requested to do so.

      Important: In addition, on April 1st and October 1st each year print the same list and deliver to your commonwealth attorney and chief circuit judge.

2. When the circuit court notifies you that an indictment has been returned, transfer the case to circuit court.

   a. Print a case history.

   b. Send the contents of the file and the case history to circuit court;

   c. Retain the envelope in numerical order with other cases of that category.

CASES UNDER SUBMISSION
SCR 1.050(8)

1. When a case is submitted for final adjudication, it is the attorney's duty to complete AOC Form 280, Notice of Submission of Case for Final Adjudication, and distribute as follows:

   a. Original: Research and Statistics, Administrative Office of the Courts
   b. Copy 1: Clerk
   c. Copy 2: Judge
   d. Copy 3: Attorney

1. You should maintain a supply of these forms in your office, or instruct the attorney to print a copy from http://www.kycourts.net/forms/.

2. When the clerk's copy of the notice is received, staple to the left side of the file folder. It is not necessary to file the AOC Form 280 on a document screen.

4. If a motion is attached to the AOC Form 280, apply the "FILED" stamp to the motion; add the date and your initials. File by completing a motion screen checking the box labeled "Notice of Submission Filed". Schedule a hearing by completing a scheduled events screen. Refer to Motion Detail Screen in KYCourts Manual for entry of information.

5. When a judgment or order has been entered:

   a. Apply the "ENTERED" stamp to the judgment or order; add the date and your initials. File by completing a document screen.

   b. Serve notice of entry of the judgment or order on all parties by mail or hand delivery.

6. Remove the AOC form 280 from the case file and complete the clerk's portion and mail to:

   Administrative Office of the Courts
   Research and Statistics
   100 Millcreek Park
   Frankfort, KY 40601

   SCR 1.050(8). It is not necessary to make a copy for the file.

7. Direct all inquiries regarding the status of the case under submission to Research and Statistics at the AOC.

CHALLENGE TO ELECTION CANDIDACY
(Circuit Court)
KRS 118.176

1. When a motion is received that challenges the candidacy of an individual in a primary or general election, treat the motion as an initiating document.

Filing Fee

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the motion until the filing fees are paid unless the movant is proceeding in forma pauperis or unless the movant is the Commonwealth. CR 5.05(4); KRS 453.010.

> **NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.**

3. The plaintiff must file enough copies of the motion for service upon each defendant, in addition to the original, which is filed in your office. If you make the copies, collect a copy fee as set forth in the Fees and Costs section of this manual and give a receipt.

Filing of Motion

4. Assign to a division using the procedure in your local court rules.

5. Apply the "FILED" stamp to the motion; add the date and your initials. CR 5.05(3). Refer to Case Add section of the KYCourts Manual for instructions on opening the case. Use case type "OTH". Generate the next number in the computer for circuit civil "CI" cases or use the next pre-numbered file folder.

6. If the motion sets a hearing date, complete a scheduled events screen.

Service of Summons

7. The plaintiff will instruct whether service of summons is by certified mail or personal delivery.

Certified Mail Service

a. When certified mail service is requested:

(1) Attach a copy of the motion to the summons.

(2) Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

(3) Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b), (c). Mail two attested copies of the motion and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

Personal Service

b. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

(1) Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the motion and/or other documents to be served attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

(2) Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

8. Deliver the case file to the judge immediately.

Return of Service

9. When a return of service is received:

a. Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

b. Personal Service

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

Judgment/Order

10. When a signed judgment or order is received, apply the ENTERED" stamp to the judgment or order, add the date and your initials. Do not use the "FILED" stamp.

a. Enter the judgment or order on the document screen, including a brief description. This notation constitutes entry of the judgment or order; the judgment or order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment as described below.

b. After the judgment or order is ENTERED, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment or order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

c. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry or judgment. RCr 12.06.

NOTE: If the Order states that the Court has found that the candidate being challenged is not a bona fide candidate, this finding must be immediately certified to the Board of Elections. The Order may be challenged within five (5) days after the entry of the Order.

11. When the judgment or order closes the case, complete the disposition date, disposition type and judge at disposition on the case screen.

CHANGE OF VENUE
RCr 8.26, KRS 452.010 through 452.350

Transferring Court

1. When the court orders you to transfer a case to another county:

   a. Apply the "ENTERED" stamp to the order changing venue; add the date and your initials. Enter on a document screen. Use document type "OTRN". Make a notation in the memo field of the case screen regarding the transfer.

   b. Collect a mileage fee, as established by the Court of Justice Travel Policy, for taking the record to the other county, plus a copy fee as set forth in the Fees and Costs section of this manual for making a copy of the record (criminal case only) and give a receipt, unless the defendant is proceeding in forma pauperis. KRS 452.250(1), 23A.205, 24A.175.

   c. in a criminal case:

      (1) Print the case history; make a copy of the case file and the docket sheet, if a docket sheet exists. KRS 452.250(1).

      (2) Retain the copy of the case file and the original docket sheet, if a docket sheet exists.

      (3) Transmit the original case file, the case history and copy of the docket sheet, if a docket sheet exists.

      In a civil case:

      (1) Print the case history and make a copy of the docket sheet, if a docket sheet exists.

      (2) Transmit the original case file, the case history and copy of the docket sheet if a docket sheet exists. It is not necessary to copy the case file in a civil case.

      (1) Retain any original docket sheet in your office.

   d. If the case being transferred is a civil case, complete the disposition date (date the order to Transfer was entered), disposition type ("TRF") and judge a disposition fields on the case screen. If the case is a criminal case, complete the charge screen(s) with disposition type of "TRF" and add the date of disposition and judge at disposition ONLY on the case screen.

e. Take the record to the county to which venue has been changed or you may send it by a deputy clerk or some discreet person. KRS 452.250(1), RCr 8.26. If you define the U.S. Postal Service as a “discreet person”, you are still responsible for delivery of the record. If you elect to use the postal service, mail by certified mail, return receipt requested. Collect certified mailing costs from the party granted change of venue unless the party is the Commonwealth or proceeding in forma pauperis.

NOTE: City and county governments are not exempt from paying this fee unless the action is filed in the name of the Commonwealth.

f. Retain the file folder in a civil case and file in numerical order with other civil cases. Retain the file folder and the copy of the record in a criminal case and file in numerical order with other criminal cases. KRS 452.250(1).

Receiving Court

2. When a record is received from another court on a change of venue:

a. Apply the "FILED" stamp to the entire record as a single item; add the date and your initials.

b. Generate the next case number in the computer for the appropriate category. Refer to Case Add section of KYCourts Manual for instructions on opening the case. File on a document screen using document type of "DCF" district court file or "CCF" circuit court file.

After the judgment is entered that closes the case, Do not return the file to the originating court

CIRCUIT CRIMINAL CASES

Indictment/Information

1. A circuit criminal case is commenced with the filing of an indictment or information. An indictment is returned by the Grand Jury and information is filed by the commonwealth attorney.

Misdemeanor Indictment

a. An indictment returned by the Grand Jury for a misdemeanor, not joined with a felony charged in the same indictment, shall be docketed in district court. RCr 5.20. DO NOT OPEN THIS CASE IN CIRCUIT COURT. If the misdemeanor charge came from a district court case, file the indictment for the misdemeanor in that case file.

Joined with Felony

(1) Joined with Felony. An indictment for a misdemeanor joined with a felony shall be docketed in circuit court. RCr 5.20.

(2) When a No True Bill is returned on a misdemeanor, the circuit judge shall release the defendant from custody and bail. RCr 5.22.

2. There is no filing fee in criminal cases. KRS 453.190(1).

3. Apply the "FILED" stamp to the indictment or information; add the date and your initials. Refer to Case Add section of the KYCourts Manual for instruction on opening the case and handling of multiple defendants. Use case type "CR". Generate the next case number for circuit criminal "CR" cases or use the next pre-numbered file folder.

a. Open one (1) case file and assign one (1) case number when two (2) or more offenses, whether felonies, misdemeanors, violations, or any combination thereof, are charged in the same or related indictment, information, served criminal complaint or citation, where the offenses are of the same or similar character or are based on the same acts or transactions connected together or constituting parts of a common plan or scheme.

Sealed Indictment

b. Exception: Sealed Indictment.

(1) If the Court directs that the indictment be sealed, open the case in the sealed "SE" division. Do not disclose any information concerning the case.

(2) In the circuit "CI" division, complete a case screen only using the case number assigned to the case in the "SE" division. Enter the style of the case as "Sealed Record". Enter the original filing date, case type of "SE" sealed, and disposition date the same as the filing date. Enter the judge who sealed the indictment as the open judge and judge at disposition.

(3) At such time as the case becomes public record (unsealed), through Case Level Maintenance, delete the case in the circuit "CI" division and transfer the case from the sealed "SE" division to the circuit "CI" division.

Amended Indictment

c. When an amended indictment is received, apply the “FILED” stamp; add the date and your initials. File the amended indictment by completing a document screen. Use document type "OAI". Amend and add charge(s) screen, as appropriate, to reflect the charges amended. Follow the court’s direction for issuance of a summons or bench warrant. Complete a scheduled events screen as directed by the court. Do not assign a new case number.

Case Cross Reference

4. Cross reference the circuit criminal case with the underlying district court case number by completing a cross reference screen, when applicable. Refer to the Case Add section of KYCourts Manual for specific instructions.

5. Issue a warrant or summons as directed by the court.

Administrative Procedure

a. Set up a tickler system by completing a scheduled events screen for sixty (60) days from the filing date of the indictment. At the end of the sixty (60) day period, print the calendar. Any case(s) wherein the warrant or summons on indictment is not served close the charge screen with "AP" Administrative Procedure. Close the case by completing the disposition date and judge at disposition fields on the case screen.

b. At such time as the warrant is returned served, complete a special status screen to reopen the case. Remove the disposition date and disposition type from the charge screen. Do not change disposition information on the case screen.

Copy of Indictment to Mental Health

6. When a return of service is received, enter the return information on the warrant or summons screen.

7. When a hearing or trial is scheduled, calendar by completing a scheduled events screen.

8. When a signed judgment or order is received:

   a. Apply the "ENTERED" stamp to the judgment or order; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the judgment or order on the document screen, including a brief description. This notation constitutes entry of the judgment or order; the judgment or order does not become effective until this is done. RCr 11.04.

   c. After the judgment or order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment or order that has been stamped entered and mail or hand deliver it to the party or attorney. RCr 77.04(1), RCr 12.06(1)(3).

   d. Make an entry on the document screen showing the manner and date of the service of the notice of entry of the judgment or order. RCr 12.06.

Charge Closing

9. When a judgment or order disposes of a charge, close the charge screen by completing the disposition date, disposition type, judge, trial type, original plea and final plea fields.

   Court trial is entered as trial type disposition only when an actual trial is held. Except for the jury being present, the same set of circumstances as a jury trial must exist, i.e., opening statements by attorneys, cross-examination of witnesses, closing arguments and a finding by the court. The entry of a guilty plea in open court is not a court trial.

   If a court trial or jury trial has been entered as the trial type, an original plea and final plea must be entered.

   If an original plea has been entered, a final plea must be entered whether or not the defendant changes the plea. If no plea is entered, (example: charge is dismissed at arraignment), original and final plea are both left blank. Original plea and final plea reflect what the defendant has entered regardless of a different finding by the court.

10. Refer to instructions in KYCourts Manual for Disposition of offenses reportable to Driver Licensing.

    a. charge date before 10-1-00:
    Report the conviction date to Division of Driver Licensing at time of conviction. Complete the Report Type field with one of the following:

    EXCEPTION: If a defendant charged before 10/1/00 elects and is sentenced under DUI sentencing guidelines in effect on and after 10/1/00, report the conviction at the time of sentencing as set out in (2) immediately below.

    b. charge date on or after 10-1-00:
    Report the conviction date to Division of Driver Licensing at time of sentencing.

    (1) If sentencing does not occur at the time of finding of guilt or entry of guilty plea, refer to KYCourts Manual for instructions on deleting the conviction report.

    (2) When sentencing occurs:

Enter the length of time the defendant's operators' license is suspended/revoked. for specific instructions on entry of this information, refer to the KYCourts Manual.

You are no longer required to complete the disposition section on citations.

Sentence

11. If a sentence is imposed by the court, complete a sentence screen.

    Note: if the defendant is sentenced to time and the time is suspended or conditionally discharged, enter the time assessed in the "total sentenced" field. Enter time suspended or conditionally discharged in the "suspended" or "conditionally discharged" field.

12. When all charges in the case have been disposed of and the defendant has been sentenced, complete the disposition date and judge at disposition fields ONLY on the case screen.

13. If the judgment imposes a sentence of death or confinement, provide the sheriff with two certified copies of the judgment. RCr 11.22.

14. If ordered, collect the fine, court costs and applicable fees as set out in the Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

    a. Court costs are based upon the following.

        (1) Offenders will pay the court costs in effect on the violation date shown on the citation or indictment plus library fee and court facilities fee, if applicable.

        (2) Refer questions about receipting court costs to your Judicial Auditor.

    b. Court costs are not assessed unless there is a conviction. Absent a finding of indigency, imposition of court costs is mandatory anytime there is a conviction.

    c. If the court establishes an installment plan for the offender, schedule a show cause hearing using event type “SCIP” as ordered by the court. Use scheduled events type "SCIP". Apply payments first to court costs, then to restitution, then to fees and finally to fines, unless otherwise ordered by the Court. Contact your Judicial Auditor if you receive a court order directing you to apply payments in a different fashion.

Incompetency Determination

15. If an order is entered finding a defendant incompetent, mail a copy of the order to:

    State Board of Elections
    140 Walnut Street
    Frankfort, KY 40601- 3240
    KRS 30A.145.

Pretrial Diversion of a Class D Felony

16. When an application for pretrial diversion of a class D felony. KRS 533.250 - 533.262 is received:

    a. Apply the “FILED” stamp; add the date and your initials. File by completing a document screen.

    b. When AOC Form 347, Motion for Pretrial Diversion of Class D Felony is received, apply the “FILED” stamp; add the date and your initials. Schedule a hearing by completing a scheduled events screen and file the motion by completing a motion screen.

    c. When a signed order is received:

(1) Apply the “ENTERED” stamp to the order; add the date and your initials. Do not use the “FILED” stamp.

(2) Enter the order on the document screen, including a brief description. Use document type "OGMPD". This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment as described below.

(3) After the order is entered, serve notice of entry as shown in the distribution list at the bottom of the form.

(4) Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of the order. CR 12.06.

d. If the order grants the motion for pretrial diversion:

(1) Close the charge screen by completing the disposition type as “DIV” (Diversion).

(2) Schedule the date the charge is to be dismissed by completing a scheduled events screen. Enter in the memo field of the scheduled events screen, “dismissed/diverted”.

(3) Close the case screen by completing the disposition date field with the date the court ordered diversion and the judge at disposition field.

e. At the end of the pretrial diversion period when a signed order is received ordering the charge dismissed/diverted, overlay the disposition type and date on the charge screen with the disposition of “DD” (dismissed/diverted) and the date of the order. Do not change the disposition date on the case screen.

Voiding of Pretrial Diversion of a Class D Felony

17. When you receive a motion to void the pretrial diversion of a class D felony, apply the “FILED” stamp; add the date and your initials. Schedule a hearing by completing a scheduled events screen and file the motion by completing a motion screen. When AOC Form 346, Order Voiding Pretrial Diversion Of Class D Felony, is received:

a. Apply the “ENTERED” stamp to the order; add the date and your initials. Do not use the “FILED” stamp.

b. Enter the order on the document screen, including a brief description. Use document type "OVPD". This entry constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment as described below.

c. After the order is entered, serve notice of entry as shown in the distribution list at the bottom of the form.

d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of the order. CR 12.06.

e. If the order grants the motion to void the pretrial diversion, schedule a sentencing hearing as directed by the order by completing a scheduled events screen

f. When the defendant is sentenced and a signed AOC Form 445, Judgment and Sentence on Plea of Guilty, is received:

(1) Apply the “ENTERED” stamp to the order; add the date and your initials. Do not use the “FILED” stamp.

(2) Enter the order on the document screen, using document type “JSPG” and including a brief description. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment as described below.

(3) After the order is entered, serve notice of entry as shown in the distribution list at the bottom of the form.

(4) Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of the order. CR 12.06.

(5) Overlay the disposition type and disposition date on the charge screen according to the court’s order.

(6) Complete a sentence screen, if appropriate.

(7) Reopen and close a special status screen. Refer to Special Status Detail Screen section of KYCourts Manual for instructions.

18. To report convictions, refer to reporting convictions section of this manual.

Order to Corrections Cabinet

19. All court orders, opinions, or judgments relating to the custody of a convicted felon shall be served upon:

    Warden, Assessment Center
    Roederer Correctional Complex
    P.O. Box 69
    LaGrange, KY 40031

Order Involving Youthful/Public Offenders

20. When you have entered an order involving juveniles charged as youthful offenders/public offenders :

    a. Mail a copy to:

    Department of Juvenile Justice
    403 Wapping Street
    Frankfort, KY 40601

    b. If a youthful offender is found guilty of specified charges, serve notice of entry of the order on the principal of the school attended by the child as directed in the order.

Sex Offender Registration Form

21. When Probation and Parole Form P:227, Sex Offender Duty To Register Notification Form, signed by the judge is received, apply the “ENTERED” stamp; add the date and your initials. File by completing a document screen. Use document type ORSO. Give notice of entry of the judge’s order by distributing a copy of the form as shown in the distribution list at the bottom of the form.

Sex Offender Registration Non-Compliance Notice

22. When notification of non-compliance by a defendant of requirements of the Sex Offender Registry is received (KRS 17.510 (13)(b).):

    a. Apply the “FILED” stamp to the notification; add the date and your initials. File by completing a document screen. Use document type “NON”.

    NOTE: If the notification is received in a county other than the county of conviction, file in a miscellaneous file labeled "out of county sex offender non-compliance notices".

b. Mail or hand deliver a copy to the commonwealth attorney.

c. Notify the judge of the notification of non-compliance. Schedule a hearing as directed by the court or pursuant to motion or notice from the commonwealth attorney.

d. When a signed order is received:

(1) Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the order on the document screen (or manual docket sheet If the notification is received in a county other than the county of conviction). This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order as described below.

(3) After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1), (3).

(4) Make an entry on the document screen showing the manner (mail or personal delivery) and date of service of notice of entry of order. RCr 12.06

Restraining Order Following Stalking Conviction

23. When AOC Form 446, Restraining Order (Following Stalking Conviction), signed by the judge is received

a. Apply the "ENTERED" stamp to the order; add the date and your initials. File by completing a document screen. Use document type "ORSC".

b. Using the most expedient means reasonably available and within 24 hours following entry of AOC Form 446, Restraining Order (Following Stalking Conviction), hand deliver, fax or mail a copy as follows:

(1) Agency responsible for LINK entry;

(2) Petitioner or his/her attorney;

(3) Defendant or his/her attorney.

c. When an order rescinding AOC Form 446, Restraining Order (Following Stalking Conviction) signed by the judge is received, apply the "ENTERED" stamp to the order; add the date and your initials. File by completing a document screen. Use document Type "ORES".

d. Using the most expedient means reasonably available and within 24 hours following the entry of order rescinding AOC Form 446, Restraining Order (Following Stalking Conviction), hand deliver, fax or mail a copy as follows:

(1) Agency responsible for LINK entry;

(2) Petitioner or his/her attorney;

(3) Defendant or his/her attorney.

Kentucky Rule of Evidence (KRE) 412 Hearing in Rape and Similar Cases

24. Procedure to determine admissibility of evidence. For hearings held pursuant to KRE 412(c)(2), motions and related papers together with the audio or video tape of the hearing must be sealed and remain sealed unless the court orders otherwise.

a. When the motion(s) and related papers are received:

(1) Apply the "FILED" stamp; add the date and your initials. File by completing a motion or document screen as appropriate. If the pleading is a motion, schedule a court date by completing a scheduled events screen.

(2) Place the motion or other pleading in an envelope; mark the envelope "Confidential"; add the date and your initials. Seal the envelope.

(3) Place the sealed envelope in the case file.

b. If an audio or video hearing is held:

(1) Place the tape of such hearing in an envelope; mark the envelope "Confidential"; add the date and your initials. Seal the envelope.

(2) Place the sealed envelope in the case file.

c. Do not release the sealed envelope(s) from your custody except when actually used in the action or proceeding. If a request to review the case file is received, remove the envelope(s) from the case file.

d. An individual seeking to view the sealed envelope(s) must secure a court order giving him/her access.

e. When the case is closed, maintain the confidentiality of the pleadings.

CITATIONS
(District Court)
KRS 431.450

1. The circuit clerk is required to "maintain a system of accountability for all citations issued ... to assure that citations are not wrongfully destroyed, tampered with, or otherwise compromised in any manner." KRS 431.450(3). This section describes this statutory duty.

Transmittal List

2. Each day law enforcement officers serving your county will send you a completed transmittal list, with all citations issued or voided attached thereto. KRS 431.455(2).

   a. When a copy of a citation is received by the clerk prior to the original citation; create a case in the case management system utilizing the copy.

   b. When the original citation is received by the court, the case management system will display a message providing the case number;

   c. When the original citation is stamped filed; add the date and your initials and place the original in the case file.

3. Check the citations against the transmittal list. If there are any discrepancies, report them to the law enforcement agency involved. If you have reason to believe that citations are reported inaccurately, report the problem to Legal Services at the Administrative Office of the Courts.

   NOTE: If a citation is received charging a defendant with UOR code 030040, 60/360 Day Involuntary Hospitalization of Mentally Ill Person; or UOR 030050, Emergency Detention; or UOR code 030060, Involuntary Commitment of Mentally Retarded Person, do not open a case file. Retain the citation by stapling it to the officer's transmittal list submitted with the citation. If other charges are listed on the citation, file and process the citation but do not complete a charge screen for any charges with the codes listed herein.

4. Apply the "FILED" stamp to the transmittal list; add the date and your initials and file in a master file.

5. Do not open a case file on a citation with a UOR code for serving a warrant or summons.

Prepayable Citations

6. Prepayable Citations Paid Without Court Appearance. KRS 431.452 and KRS Chapters 150, 177, 189, 235, 281.

   a. Apply the "FILED" stamp to the citation; add the date and your initials. Open the case by completing the Citation Entry Screen(s). Generate the next case number in the computer for Traffic (TR), or Misdemeanor (M) Cases.

      (1) Open one (1) case file and assign one (1) case number when two (2) or more offenses, whether misdemeanors or violations, or any combination thereof, are charged in the same citation, where the offenses are of the same or similar character or are based on the same acts or transactions connected together or constituting parts of a common plan or scheme.

         (a) Check the prepayable box on the Citation Entry screen to denote the Citation is prepayable.

         (b) Enter the complaining witness in the Person # field on the Citation Entry screen.

         (c) Complete the Scheduled Events portion of the Citation Entry Screen:

         - Event Type - “ARR” Arraignment;
         - Court date - Enter the date shown on the citation;
         - Judge - “NA” Not Applicable;
         - Court Time - Arraignment Time (NOTE: Set the scheduled time for an “off-time” in order that the prepayable calendar will print separately from court appearance cases);
         - Court Code - Courtroom number, if applicable.

   b. Payment is due before the court date shown on the citation. KRS 431.452(3)(c). Collect the fine, court costs and applicable fees as set out in Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

      (1) Court costs are based upon the charge date.

(a) Offenders will pay the court costs in effect on the violation date shown on the citation plus library fee and court facilities fee, if applicable.

(b) Refer questions about receipting court costs to your Judicial Auditor.

(c) If the court establishes an installment plan for the offender, schedule a show cause hearing using event type “SCIP” as ordered by the court. Apply payments first to court costs, then to restitution, then to fees and finally to fines, unless otherwise ordered by the Court. Contact your Judicial Auditor if you receive a court order directing you to apply payments in a different fashion.

(2) Parking violations: There are no costs on a prepaid parking citation unless it involves parking in a fire lane or obstructing the traveled portion of a highway. KRS 24A.175(2).

(3) Seat belt violations: There are no costs on a citation for seat belt, whether prepaid or by court appearance, unless it is cited with another offense for which court costs are applicable. KRS 189.990(25).

(4) KRS 189.580(1)(b) or 6(b) offenses: There is no fine or court cost on a citation for only these offenses. KRS 189.993(12).

(5) If your office utilizes the automated accounting system, continue to enter the citation number on the receipt.

c. When payment is made, close the Charge screen by completing:

(1) Disposition Date - Payment Date;

(2) Disposition TPE - "PRPD" Prepayable Citation Paid;

(3) Disposition Judge - "NA" Not Applicable;

(4) Trial Type - “N” No Trial

d. Refer to instructions in KYCourts Manual for charge dispositions reportable to Division of Driver Licensing.

e. Complete a sentence screen by entering the Sentence Date, Judge as “N/A” Not Applicable and the amount of the fine and costs, and any other sentence ordered by the Court, e.g., STS.

f. When all charge dispositions in the case have been completed, the system will close the case screen by completing the Disposition Date and Judge at Disposition fields.

7. Prepayable Fine Chart.

a. Speeding Prepayables:

(1) Speeding fines in violation of KRS 189.390: Click Here

To view UOR Codes for Prepayable Speeding Offenses: see UOR Codes

(2) If the speeding charge is in a highway work zone area, the fine is double the amount shown.

(3) For speeding 21 to 25 mph over the limit in a 55 mph or greater speed zone, the prepayable fine shall be sixty dollars ($60).

(4) For any violation shown on the chart (speeding 1 to 25 mph over the limit), the defendant may elect to pay the fine, court costs and applicable fees as set out in Fees and Costs section of the manual, to the circuit clerk before the date of his/her trial or be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered a plea of guilty for all purposes. KRS 24A.175(1); KRS 24A.185(1)(3).

b. Prepayable Overweight Offenses

(1) When the excess load is 5000 lbs. or less, the fine is $.02 per pound for each pound for excess load. KRS 189.990(2)

(2) When the excess load is over 5000 lbs., the statute provides that the fine is $.02 per pound for each pound of excess load BUT the fine imposed must not be less than one hundred dollars ($100) or more than five hundred dollars ($500), i.e. between $100 to $500. Because an offender only has to pay the minimum fine amount if he/she chooses to prepay, the fine amount is $100 for an overweight violation of more than 5000 lbs. KRS 189.990(2).

c. To view Prepayalbe Overweight Offenses: See UOR Codes

d. Other Prepayables:

Other Prepayable Offenses:			
UOR	**KRS**	**UOR Description**	**Min. Fine**
09099	150.025	REGULATIONS NECESSARY TO IMPLEMENT KRS 150 PURPOSE	$50.00
09184	150.025	HUNT WITHOUT A HUNTER EDUCATION COURSE COMPLETION CARD	$50.00
08970	150.092	ENTRY ON LAND TO SHOOT/HUNT/FISH/TRAP W/O CONSENT, 1ST OFF	$100.00
08971	150.092	ENTRY ON LAND TO SHOOT/HUNT/FISH/TRAP W/O CONSENT, 2ND OFF	$300.00
09120	150.170	RESIDENT COMMERCIAL LICENSE VIOLATION	$50.00
09121	150.170	RESIDENT FISHING WITHOUT A LICENSE/PERMIT	$50.00
09122	150.170	RESIDENT HUNTING/TRAPPING WITHOUT LICENSE/PERMIT	$50.00
09102	150.180	BUY/SELL/TRANSP PROTECTED WILDLIFE MUSSELS/FISH/RAW FUR 1ST	$100.00
09103	150.180	BUY/SELL/TRANSP PROTECTED WILDLIFE MUSSELS/FISH/RAW FUR 2ND	$500.00
09104	150.180	BUY/SELL/TRANSPORT PROTECTED WILDLIFE MUSSELS/FISH/FUR 3RD	$2,000.00
09092	150.235(1)	LICENSE REQUIRED-TO BE CARRIED ON PERSON	$50.00
09081	150.236	PURCH/POSS KY HUNT/FISH LIC SUSP/REVKD OTH STATE JURSDICTION	$50.00
09051	150.240	OPERATING COMMERCIAL SHOOTING PERSERVE W/O PERMIT	$50.00
09003	150.280	PROPAGATION AND HOLDING OF PROTECTED WILDLIFE W/O	$50.00
09006	150.320	BIRDS NOT PROTECTED-NESTS AND EGGS	$50.00
09181	150.330(2)	HUNT WATERFOWL WITHOUT FEDERAL STAMP	$50.00
09054	150.355	FERRETS NOT TO BE USED FOR HUNTING	$50.00
09169	150.395	SPOTLIGHTING-USE OF ARTIFICIAL LIGHT	$150.00
09009	150.400	USE OF ILLEGAL TRAPS, TRAP APPROVAL/PROHIBITIONS/N	$50.00
09171	150.410	TRAPPING VIOLATIONS	$50.00
09068	150.411	TAXIDERMIST RECORDS: MOUNTINGS	$100.00
09089	150.4111(2)	TAXIDERMISTS MONTHLY REPORTS	$100.00
09011	150.412	GUIDE, RESTRICTION ON PARTICIPATION IN TAKING OF G	$100.00
09069	150.415	FURBUYER REPORTS AND RECORDS	$50.00
09071	150.416	FUR PROCESSOR REPORTS AND RECORDS	$50.00
09012	150.440	ROUGH FISH, OPEN SEASON AND CREEL LIMITS	$50.00
09013	150.445	FISH NOT TO BE TAKEN OTHER THAN BY POLE/LINE NEAR	$50.00
09014	150.450	FISHING GEAR USE REGULATIONS	$50.00
09101	150.450(2-3)	COMMERCIAL FISHING GEAR	$100.00
09015	150.470	CREEL AND SIZE LIMITS FOR FISH	$50.00
09095	150.520	MUSSELING VIOLATION-1ST OFFENSE	$100.00
09096	150.520	MUSSELING VIOLATION-2ND OFFENSE	$500.00
09097	150.520	MUSSELING VIOLATION-3RD OR > OFFENSE	$2,000.00
09105	150.525	BUY MUSSEL SHELLS W/O LICENSE - 1ST OFFENSE	$100.00
09106	150.525	BUYING MUSSEL SHELLS W/O LICENSE 2ND OFFENSE	$500.00
09107	150.525	BUYING MUSSEL SHELLS W/O LICENSE 3RD OFFENSE	$2,000.00
08974	150.603	KY WATERFOWL OR MIGRATORY BIRD PERMIT REQUIRED	$50.00
09078	150.640	ACTS OF DEPREDATION WHILE HUNTING/FISHING/TRAPPING	$100.00
00299	177.305	NO TARP ON TOP OF COAL TRUCK ON LIMITED ACCESS HIGHWAY	$20.00
00206	189.020	IMPROPER EQUIPMENT	$20.00
00209	189.020	VEHICLE A NUISANCE, NOISY, ETC.	$20.00
00131	189.030	FAILURE TO ILLUMINATE HEAD LAMPS	$20.00
00133	189.040	INSUFFICIENT HEAD LAMPS	$20.00
00226	189.040(1)	ONE HEADLIGHT	$20.00
00169	189.040(3)(A)	HI BEAM HEADLMPS INTENSTY-REVEAL PERSON AT 350 FT	$20.00
00170	189.040(3)(B)	LOW BEAM HEADLAMPS INTENSITY TO REVEAL PERSON AT 100 FT	$20.00
00171	189.040(3)(B)	HIGH BEAM HEADLAMPS IMPROPERLY AIMED	$20.00

00172	189.040(3)(C)	HIGH BEAM INDICATOR NOT WORKING	$20.00
00122	189.040(7)	FAILURE TO DIM HEADLIGHTS	$20.00
00222	189.040(7)(C)	GLARING HEADLIGHTS	$20.00
00214	189.040(8)	IMPROPER FLASHING LIGHTS	$20.00
00515	189.045	COLORED FLASHING LIGHTS WITHIN 100 FEET OF HIGHWAY	$100.00
00220	189.050(1)	NO TAIL LAMPS	$20.00
00234	189.050(2)	NO STOP LIGHT (MOTOR BUS TRANSPORTING PERSONS FOR	$10.00
00610	189.050(2)	OPERATING A TRUCK/SEMI-TRAILER W/O BRAKE LIGHTS (NOTE 1)	$10.00
00236	189.050(3)	NO STOP LIGHT ON MOTOR TRUCK/SEMI-TRAILER TRUCK	$10.00
00611	189.050(3)	OPERATING TRUCK OVER 84 WIDE W/O CLEARANCE/INDICATOR LIGHT	$10.00
00223	189.050(4)	NO CLEARANCE LIGHTS	$10.00
00245	189.050(4)(5)	LIGHT REQUIREMENTS ON MOTORLESS VEHICLES (EXCEPT BICYCLES)	$20.00
00240	189.055	NO BRAKE LIGHTS (PASSENGER VEHICLES)	$20.00
00235	189.060	NO LIGHT ON VEHICLES IN TOW	$20.00
00221	189.060(3)	NO WARNING FLAG/SIGNAL (PROJECTING LOAD)	$20.00
00224	189.070	NO FLAGS/FLARES	$20.00
00225	189.080	NO HORN	$20.00
00101	189.090(1)(2)(3)	DEFECTIVE BRAKES	$20.00
00227	189.090(4)	INADEQUATE TRAILER BRAKES (TRUCKS ONLY)	$10.00
00535	189.090(4)	OPER OF SEMI-TRUCK ETC. W/O EFFICIENT BRAKES-SEE N	$10.00
00304	189.095	SALE/DISPLAY OF UNAPPROVED BRAKE LININGS	$60.00
00232	189.100	DEFECTIVE STEERING GEAR	$20.00
00248	189.110	EXCESSIVE WINDSHIELD/WINDOW TINTING	$20.00
00238	189.110(1)	IMPROPER/NO WINDSHIELD	$20.00
00233	189.110(11)	NO WINDSHIELD WIPER	$20.00
00231	189.110(2)	OBSTRUCTED VISION AND/OR WINDSHIELD	$20.00
00201	189.120(1)	WINDOWS NOT SAFETY GLASS	$20.00
00498	189.125(2)	SEAT BELT ANCHOR	$20.00
00506	189.125(3)(A)	FAILURE TO USE CHILD RESTRAINT DEVICE IN VEHICLE	$50.00
00491	189.125(3)(B)	BOOSTER SEAT VIOLATIONS	$30.00
00499	189.125(6)	FAILURE TO WEAR SEAT BELTS	$25.00
00229	189.130	NO REAR VIEW MIRROR	$20.00
00205	189.140	INADEQUATE SILENCER (MUFFLER)	$20.00
00522	189.150	ESCAPING CONTENTS, SHIFTING/SPILLING LOADS	$20.00
00218	189.190	CHAINS ON HIGHWAY	$15.00
05055	189.190(5)	RUBBER ON VEHICLE TIRE LESS THAN 1 INCH THICK	$35.00
00118	189.205	USE OF REGROOVED TIRES ON HIGHWAY	$20.00
00305	189.205	SALE OF REGROOVED TIRES	$20.00
00627	189.227	ENFORCEMENT COMMERICAL MOTOR VEHICLE INSPECTOR - SEE NOTE 1	$10.00
00542	189.228	EVIDENCE OF OWNERSHIP - EA VIOLATION SEP OFF-SEE N	$10.00
00113	189.231(2)	DISREGARDING TRAFFIC CONTROL DEVICE, TRAFFIC LIGHT	$20.00
00173	189.231(2)	DISREGARDING COMPULSARY TURN LANE	$20.00
05220	189.231(2)	RUNNING SCALE INSTALLATION	$20.00
05221	189.231(3)	DISREGARD TRAFFIC REGULATION-1ST OFFENSE	$100.00
05637	189.231(3)	VIOLATION OF MINIMUM SPACING FOR TRUCKS - 1ST OFF	$100.00
00660	189.2329(1)	INTERFERING W/TEMPORARY TRAFFIC CONTROL DEVICE	$20.00
00625	189.285(1)(a)	NO MOTORCYCLE OPERATORS LICENSE	$20.00
00621	189.285(1)(b)	UNAPPROVED/NO EYE PROTECTIVE DEVICE (MOTORCYCLE)	$20.00
00622	189.285(1)(c)	NO REAR VIEW MIRROR ON MOTORCYCLE	$20.00
00623	189.285(2)(a)	NO PERMANENT SEAT FOR PASSENGER (MOTORCYCLE)	$20.00

00624	189.285(2)(B)	NO FOOTREST FOR PASSENGER (MOTORCYCLE)	$20.00
00617	189.285(3)	FAILURE TO COMPLY W/HELMET LAW <21 YRS. OLD	$20.00
00618	189.285(3)	FAILURE TO COMPLY W/HELMET LAW >21 YRS.	$20.00
00626	189.285(5)	REGS FOR OPERATING AND RIDING ON MOTORCYCLES	$20.00
00239	189.287	FAIL TO COMPLY W/BICYCLE SAFETY REGULATIONS	$10.00
00115	189.290	RECKLESS DRIVING	$20.00
00136	189.290	CARELESS DRIVING	$20.00
00137	189.290	CHANGING DRIVERS-CAR IN MOTION (RECKLESS DRIVING)	$20.00
00266	189.292	COMMUNICATION DEVICE VIOLATION, 1ST OFF	$25.00
00267	189.292	COMMUNICATION DEVICE VIOLATION, 2ND OR SUB	$50.00
00268	189.294	COMMUNICATION DEVICE VIOLATION, < 18 YOA, 1ST VIOLATION	$25.00
00269	189.294	COMMUNICATION DEVICE VIOLATION <18 YOA 2ND OR SUB	$50.00
00126	189.310(1)	FAIL TO GIVE RIGHT OF WAY TO VEH PASSING OPPOSITE	$20.00
00174	189.310(2)	FAILURE TO GIVE ONCOMING VEHICLE 1/2 OF HIGHWAY	$20.00
00175	189.310(3)	FAIL TO GIVE REASONABLE PRECAUTION TO ANIMAL BEING RID OR DR	$20.00
00109	189.330	IMPROPER TURNING	$20.00
00111	189.330	DISREGARDING STOP SIGN	$20.00
00270	189.330	IMPROPER LANE USAGE/VEHICLES KEEP TO RIGHT EXCEPT TO PASS	$20.00
00612	189.337(4)	PLACING/MAINTAINING IMITATION TRAFFIC CONT/DEV SIGNAL	$20.00
00613	189.337(5)	ALTER/DEFACE/DAMAGE TRAFFIC CONTROL DEVICE	$20.00
00177	189.338(1)(B)	FAILURE TO YIELD RIGHT OF WAY TO PEDESTRIANS	$20.00
00181	189.338(5)(A)	IMPROPER STOPPING AT FLASHING RED LIGHT	$20.00
00107	189.340	IMPROPER PASSING	$20.00
00271	189.340	DISREGARD/FAIL TO YIELD RIGHT OF WAY	$20.00
00272	189.340	FOLLOWING ANOTHER VEHICLE TOO CLOSELY	$20.00
00273	189.340	IMPROPER USE OF LEFT LANE/OVERTAKING VEHICLE	$20.00
00105	189.345	IMPROPERLY ON THE LEFT SIDE OF ROAD	$20.00
00123	189.350	SPEEDING UP WHEN BEING PASSED	$20.00
00517	189.375	IMPROPER DISCHARGE SCHOOL/CHURCH BUS PASSRNGERS -	$20.00
00108	189.380	FAILURE TO OR IMPROPER SIGNAL	$20.00
00139	189.420	DRIVING ON MOUNTAIN HIGHWAYS	$20.00
00110	189.430(1)	COASTING - CAR OUT OF GEAR ON DOWN GRADE	$20.00
00244	189.430(2)	COASTING PROHIBITED (COMMERICAL MOTOR VEHICLE)	$20.00
00179	189.430(3)	ALLOW VEH TO STAND ON GRADE W/O SETTING BRAKE & TU	$20.00
00300	189.430(3)	PERMIT MOTOR VEHICLE TO RUN UNATTENDED	$20.00
00591	189.439(3)	COUNTERFEITING HANDICAP PLACARD OR LICENSE PLATE	$250.00
00114	189.440	IMPROPER START FROM PARKED POSITION	$20.00
00580	189.450	IMPROPER PARKING VIOLATIONS	$20.00
00581	189.450	IMPROPER PARKING FIRELANE/BLOCK TRAVELED PORTION OF HIGHWAY	$20.00
00590	189.459(2)	UNAUTHORIZED PARKING IN A HANDICAPPED ZONE	$250.00
00512	189.470	TOO MANY PASSENGERS IN VEHICLE (FRONT SEAT)	$20.00
00228	189.480	IMPROPER TOWING	$20.00
00508	189.500	DRAGGING STONES OR LOGS ON HIGHWAY	$15.00
00255	189.515	OPERATING ATV WITHOUT HEADGEAR 16 OR > PUBLIC PROPERTY	$20.00
00256	189.515	OPERATOR/PASSENGER ATV WITHOUT HEADGEAR U/16 YOA	$20.00
00250	189.515(1)	OPERATING ATV ON ROADWAY	$20.00
00251	189.515(2)	OPERATING ATV ON PROPERTY W/O CONSENT	$20.00
00253	189.515(5A)	OPERATING ATV W/O SUPERVISION	$20.00
00470	189.530(2)	POSSESS OPEN ALCOHOL BEVERAGE CONTAINER IN A MOTOR VEHICLE	$35.00
00130	189.560(1)	FAILURE TO STOP AT RR CROSSINGS	$20.00

00128	189.560(1)(a)	DISREGARDING RR CROSSING FLASHER LIGHTS	$20.00
00576	189.570	HITCHHIKING/DISREGARDING TRAFFIC REGULATION BY PEDESTRIAN	$20.00
00189	189.575	FAILURE TO YIELD RIGHT OF WAY TO BLIND PEDESTRIAN	$20.00
05708	189.754	NOT REMOVING INJURIOUS SUB FROM HIGHWAY WHEN REMOV	$25.00
00547	189.820	SLOW MOVING VEHICLE EMBLEM REQUIRED-SEE NOTE 1	$20.00
00486	189.945(2)	USE OF MIRET BY UNAUTHORIZED PERSONS	$20.00
00106	189.960	FAILURE TO YIELD IN ROAD WORK ZONE	$20.00
02304	222.202(1)	ALCOHOL INTOXICATION IN A PUBLIC PLACE-1ST & 2ND O	$25.00
02305	222.202(2)	DRINKING ALCOHOLIC BEV IN PUBLIC PLACE-1ST & 2ND O	$25.00
06000	235.040	MOTORBOATS TO BE REGISTERED AND NUMBERED	$50.00
06002	235.110	FAILURE TO DISPLAY REG/CERTIFICATE NUMBERS AVAILAB	$50.00
06004	235.130	FAILURE TO TRANSFER OWNERSHIP OF A BOAT	$50.00
06010	235.200	NO APPROVED FIRE EXTINGUISHER	$50.00
06011	235.200	FAILURE TO HAVE AN EFFECT/APPROVED FLAME ARRESTOR	$50.00
06012	235.200	FAILURE TO HAVE A SIGNALLING DEVICE WHEN	$50.00
06014	235.200	OPERATING MOTORBOAT WITHOUT OR INEFFECTI	$50.00
06070	235.200	FAILURE TO CORRECT UNSAFE CONDITION	$50.00
06009	235.200(1)	FAILURE TO PROVIDE NATURAL OR MECHANICAL	$50.00
06007	235.200(1)(A)	NON APPROVED/INSUFFICIENT NUMBER/NO PERSONAL FLOAT	$50.00
06008	235.200(1)(B)	FAILURE TO ILLUMINATE/NO NAVIGATION LIGHTS	$50.00
06017	235.205	USE OF SIRENS AND FLASHING BLUE LIGHTS	$50.00
06019	235.220	IMPROPER USE OF A MOTORBOAT DEALERS PLATE	$50.00
06021	235.230	RENTING MOTORBOAT WITHOUT PROPER SAFETY EQ	$15.00
06026	235.250	FAILURE TO RENDER AID	$50.00
06090	235.250	FAILURE TO REPORT ACCIDENT IN EXCESS OF $500	$50.00
06024	235.280	RIDING ON BOW, ETC WHILE MOTORBOAT UNDERWAY	$50.00
06025	235.280	RIDING IN HIGH RISE/BASS SEAT AT GREATER THAN IDLE	$50.00
06035	235.280	OPERATING AN OVERLOADED MOTORBOAT	$50.00
06036	235.280	FAIL TO OPERATE BOAT AT IDLE SPEED HARBOR/CONGESTE	$50.00
06040	235.280	SWIMMING AT BOAT LAUNCHING AREA	$50.00
06041	235.280	WATER SKIING/KITING WITHOUT PROPER FLOATATION DEVI	$50.00
06043	235.280	SKING WITHOUT OBSERVER OR WIDE ANGLE MIR	$50.00
06044	235.280	FAILURE TO GIVE RIGHT-OF-WAY TO VESSEL OVERTAKEN	$50.00
06045	235.280	FAIL TO GRANT RIGHT-OF-WAY TO VESSEL CROSSING FROM RIGHT	$50.00
06046	235.280	MOTOR VESSEL NOT GIVING RIGHT-OF-WAY TO NONMOTORIZED VESSEL	$50.00
06047	235.280	MOTOR BOAT NOT MAINTAIN DIRECT COURSE WHEN PASS SAIL	$50.00
06048	235.280	FAIL TO GIVE RIGHT-OF-WAY TO VESSEL DEPART DOCK/PIER	$50.00
06049	235.280	FAILURE OF VESSEL PASSING HEAD-ON TO KEEP ON RIGHT	$50.00
06050	235.280	FAIL TO GIVE RIGHT-OF-WAY TO VESSEL APPROACHING SHORELINE	$50.00
06051	235.280	CHANGING COURSE ABRUPTLY CAUSING DANGER TO OTHER VESSEL	$50.00
06052	235.280	OPER IN CIRCULAR COURSE AROUND SWIMMER OR FISHERMAN	$50.00
06053	235.280	FAILURE TO KEEP RIGHT OF MIDDLE CHANNEL	$50.00
06056	235.280	VESSEL NOT U/COMPLETE CONTROL OF OPER AT ALL TIMES	$50.00
06057	235.280	DIVER NOT USING INTERNATIONAL DIVING FLAG	$50.00
06065	235.280	FAILURE TO OBTAIN PERMISSION FOR PLACE OF BUOYS	$50.00
06071	235.280	WATER SKIING IN PROHIBITED AREA	$50.00
06074	235.280	SKIING AFTER SUNSET OR BEFORE SUNRISE	$50.00
06075	235.280	OPERATING A VESSEL IN A RESTRICTED AREA	$50.00
06076	235.280	MOORING TO A NAVIGATIONAL BUOY	$50.00
06029	235.290	FAILURE TO OBTAIN PERMIT FOR REGATTA, RA	$50.00

09114	235.420	DISCHARGE SEWAGE FROM VESSELS TO WATER PROHIBITED, 1ST OFF	$15.00
09115	235.420	DISCHARGE SEWAGE FROM VESSEL PROHIBITED 2ND OFF	$100.00
09116	235.420	DISCHARGE SEWAGE FROM VESSEL PROHIBITED 3RD OFF	$300.00
09111	235.430	ALLOW SEWAGE FROM VESSEL TO REACH WATER, 2ND OFF	$15.00
09112	235.430	ALLOWING SEWAGE FROM VESSEL TO REACH WATER, 2ND OFF	$100.00
09113	235.430	ALLOWING SEWAGE FROM VESSEL TO REACH WATER 3RD OR > OFF	$300.00
05026	281.600	UNIFIED CARRIER REGISTRATION ACT VIOLATIONS	$25.00
05040	281.600	NO BILLS OF LADING	$25.00
05041	281.600	FAILURE TO DISPLAY FOR HIRE AUTHORITY RECEIPT	$25.00
05045	281.600	NO LEASE AGREEMENT	$25.00
05047	281.600	NO EXTERIOR ID/IMPROPER DISPLAY	$25.00
05048	281.600	COMMERCIAL VEHICLE OPERATOR REFUSE TO SUBMIT SAFETY INSP	$25.00
05050	281.600	VIOLATE RULES & REGS - HOUSEHOLD GOODS CARRIER	$25.00
05051	281.600	VIOLATION OF REGULATIONS - TAXICAB OPERATIONS	$25.00
05491	281.600	VIOL PART 390 FEDERAL SAFETY REGS - GENERAL POLICY	$25.00
05492	281.600	VIOL PART 392, FED SAFETY REG, DRIVING OF MOTOR VEHICLE	$25.00
05493	281.600	PT 393, FEDERAL SAFETY REGS, PARTS NEEDED FOR SAFE OPERATION	$25.00
05494	281.600	PT 394, FED SAFETY REGS, NOTIFY/REPORT/RECORD ACCIDENTS	$25.00
05495	281.600	PT 396, FED SAFETY REGS INSPECT/REPAIR/MAINTENANCE	$25.00
05496	281.600	PART 397/FEDERAL SAFETY REGS - TRANSPORTING HAZARDOUS MATERI	$25.00
05497	281.600	VEHICLE OPERATED ON HIGHWAY AFTER BEING PLACED OUT-OF-SERVIC	$25.00
05498	281.600	PART 395/FED SAFETY REGS - HOURS OF SERVICE FOR DRIVERS	$25.00
05499	281.600	PART 391 OF FED SAFETY REGS - QUALIFICATION OF DRIVERS	$25.00
05519	281.600	VIOLATION PART 383 FED SAFETY REG - COMMERCIAL DRIVER LICENS	$25.00
05039	281.615	NO KY PASSENGER AUTHORITY	$2,000.00
05042	281.615	NO INTRASTATE AUTHORIZED AUTHORITY	$2,000.00
05043	281.615	NO INTERSTATE EXEMPTED AUTHORITY	$2,000.00
05044	281.615	NO INTERSTATE AUTHORIZED AUTHORITY	$2,000.00
05049	281.624	NO HOUSEHOLD GOODS FOR HIRE CERTIFICATE - INTERSTATE	$25.00
05046	281.655	FAIL MAINTAIN LIABILITY/CARGO INSURANCE (FOR HIRE CARRIER)	$25.00
00469	281.720	IMPROPER USE OF CITY BUS TAGS	$25.00
05053	281.735	OVERCROWDING OF A HIRE PASSENGER VEHICLE	$25.00
05060	281.755	FAIL FOR HIRE CARRIER TO SUBMIT INSPECTION	$25.00
05054	281.757	LIGHTS/REFLECTORS ON COMM VEHICLE MUST BE PRESENT/OP/UNOBSTR	$250.00
00575	281.804	TAXI SOLICIT PASS ON BUS ROUTE	$25.00
05141	281.838	PICKUP/DELIVER IN KY OUT-OF-STATE W/OUT APPROPRIATE TAGS	$25.00

In addition to the fine indicated, collect court costs and applicable fees as set out in the Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

e. If a prepayable offense listed herein is cited with a non-prepayable offense, the officer will cite the violator to court. If the judge dismisses the non-prepayable offense PRIOR to the court date listed on the citation, the prepayable offense may be prepaid and the violator is not required to appear in court.

f. Parking Prepayables. Court costs are not collected for a parking citation when:

(1) If the offender does not request a hearing and the fine is paid before the court date; and

(2) the citation does not involve parking in a fire lane or blocking the travel portion of the highway.

Not Paid By Court Date

8. Prepayable Citations Not Paid By Court Date. When a prepayable traffic citation is not paid before the court date proceed as directed below. For other prepayables follow instructions under Other Prepayables section.

Traffic Citations:

a. Kentucky Resident:

(1) Photocopy the citation. The copy must be legible. Leave space on the left side of the copy for microfilm numbers. Obliterate any charges for which FTA may not issue, i.e. non-moving traffic violations.

(2) Place "FTA" label on the copy in the bottom left corner.

(3) Enter the issue date and the total amount due on the "FTA" label.

(4) Photocopy the labeled copy of the citation. Retain this copy and file with the original citation in the case file. This will be used at a later date to withdraw the suspension of the violator's license.

(5) Mail the labeled copy to:

Transportation Cabinet
Division of Drivers Licensing
200 Mero Street, 2nd Floor
Frankfort, KY 40622
Attn: FTA Section

(6) When the fine is paid:

(a) Retrieve the citation and photocopy (showing the label) from the case file. Collect the fine, court costs and applicable fees as set out in the Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

1) Court costs are based upon the charge date.

a) Offenders will pay the court costs in effect on the violation date shown on the citation plus library fee and court facilities fee, if applicable.

b) Refer questions about receipting court costs to your Judicial Auditor.

c) If the court establishes an installment plan for the offender, schedule a show cause hearing using event type “SCIP” as ordered by the court. Apply payments first to court costs, then to restitution, then to fees and finally to fines, unless otherwise ordered by the Court. Contact your Judicial Auditor if you receive a court order directing you to apply payments in a different fashion.

(b) If your office utilizes the automated accounting system, continue to enter the citation number on the receipt.

(c) Apply the "Satisfied" rubber stamp with red ink to the photocopy (showing the label) and enter the date satisfied. Mail to the Division of Driver Licensing, ATTN: FTA Section.

FTA withdrawals must be reported daily to alert the Division to halt its revocation procedures.

(d) Close the Charge screen by overlaying:

1) Disposition Date - payment date;

2) Disposition Type - “PRPD” Prepayable Citation Paid;

3) Disposition Judge - “NA” Not Applicable;

4) Trial Type - “N” No Trial

(e) Refer to instructions in the KYCourts Manual for charge disposition reportable to the Division of Driver Licensing.

You are no longer required to complete the disposition section on citations.

(f) Complete a sentence screen by entering the sentence date, Judge as “N/A” Not Applicable, the amount of the fine and costs and any other sentence ordered by the Court, e.g., STS.

(g) When all charges in the case have been completed, the system will close the case screen by completing the Disposition Date and Judge at Disposition fields.

(8) If the defendant requests a court appearance:

(a) Remove citation and the photocopy (showing the label) from the file.

(b) Apply the "Satisfied" rubber stamp with red ink to the labeled photocopy and enter the date satisfied. Mail labeled photocopy to the Division of Driver Licensing, ATTN: FTA Section.

FTA withdrawals must be reported daily to alert the Division to halt its license revocation procedures.

(c) Have your judge assign a court date or you may do so if your judge directs and enter on a scheduled events screen. Notify the defendant of the court date by court notice or summons as directed by your judge.

i) Notice:

Apply the "FILED" stamp to the notice; add the date and your initials and file on a document screen. Use

document type “NH”. Mail a copy of the notice to the defendant.

ii) Summons:

Generate a summons by completing the summons screen. Give to the sheriff or other peace officer for service. Do not make a copy for the file, the officer's return will provide a copy. When a return is received, enter the return information on the summons screen.

(d) When a signed calendar is received, it is an order or judgment for each case listed. CR 58. Apply the "ENTERED" stamp; add the date and your initials. Notice of entry of judgment is not required in traffic or misdemeanor cases. RCr 12.06(3).

(e) When the calendar disposes of a charge, close the charge screen(s) by adding disposition date, disposition type, judge, trial type, original plea and final plea fields.

NOTE: Court trial is entered as trial type disposition only when an actual trial is held. Except for the jury being empanelled to hear the case, the same set of circumstances as a jury trial must exist, i.e., opening statements by attorneys, cross-examination of witnesses, closing arguments and a finding by the court. The entry of a guilty plea in open court is not a court trial.

If a court trial or jury trial has been entered as the trial type, an original plea and final plea must be entered.

If an original plea has been entered, a final plea must be entered whether or not the defendant changes the plea. If no plea is entered, (example: charge is dismissed at arraignment), original and final plea are both left blank. Original plea and final plea reflect what the defendant has entered regardless of a different finding by the court.

(f) Refer to instructions in KYCourts Manual for charge dispositions reportable to the Division of Driver Licensing.

You are no longer required to complete the disposition section on citations.

(g) If a sentence is imposed by the court, complete a sentence screen.

NOTE: If the defendant is sentenced to time and the time is suspended or conditionally discharged, enter the time assessed in the "total sentenced" field. Enter time suspended or conditionally discharged in the "suspended" or "conditionally discharged" field.

(h) When all charge dispositions in the case have been completed, the system will close the case screen by completing the Disposition Date and Judge at Disposition fields.

(i) Place the original signed calendar in a master calendar file by date. It is not necessary to place a copy of the calendar in the case file.

(j) If ordered, collect the fine, court costs and applicable as set in the Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

1) Court costs are based upon the charge date.

a) Offenders will pay the court costs in effect on the violation date shown on the citation plus library fee and court facilities fee, if applicable.

b) Refer questions about receipting court costs to your Judicial Auditor.

c) If the court establishes an installment plan for the offender, schedule a show cause hearing using event type "SCIP" as ordered by the court. Apply payments first to court costs, then to restitution, then to fees and finally to fines, unless otherwise ordered by the Court. Contact your Judicial Auditor if you receive a court order directing you to apply payments in a different fashion.

2) Court costs are not assessed unless there is a conviction. Absent a finding of indigency, imposition of court costs is mandatory anytime there is a conviction.

b. Non-Resident:

(1) Prepare a “Notice of Failure to Respond to Citation or Appear in Court” (“FTA”) for a non-resident driver for a moving traffic violation.

(2) These forms are available from the:

Transportation Cabinet
Division of Drivers Licensing
200 Mero Street, 2nd Floor
Frankfort, KY 40622
ATTN: FTA Section

(3) Send the top two (2) copies to the drivers licensing division in the defendant’s home state. The address of the out of state licensing division will be provided by the Division of Drivers Licensing. File the remaining copies in the case file.

(4) When the fine is paid:

(a) Retrieve the remaining copies of the FTA notice from the case file. Collect the fine, court costs and applicable fees as set out in the Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

1) Court costs are based upon the charge date.

a) Offenders will pay the court costs in effect on the violation date shown on the citation plus library fee and court facilities fee, if applicable.

b) Refer questions about receipting court costs to your Judicial Auditor.

c) If the court establishes an installment plan for the offender, schedule a show cause hearing using event type “SCIP” as ordered by the court. Apply payments first to court costs, then to restitution, then to fees and finally to fines, unless otherwise ordered by the Court. Contact your Judicial Auditor if you receive a court order directing you to apply payments in a different fashion.

(b) Complete the remaining copy of the Failure to Appear Notice and send to the driver licensing division in the

defendant's home state. The address of the out of state licensing division will be provided by the Division of Drivers Licensing.

FTA withdrawals must be reported daily to alert the Division to halt its license revocation procedures.

(c) Close the Charge screen by overlaying:

1) Disposition Date - the payment date;

2) Disposition Type - "PRPD" Prepayable Citation Paid;

3) Disposition Judge - "NA" Not Applicable;

4) Trial Type - "N" No Trial.

(d) Refer to instruction in KYCourts Manual for charge dispositions reportable to the Division of Driver Licensing.

You are no longer required to complete the disposition section on citations.

(e) Complete a sentence screen by entering the Sentence Date, Judge as "N/A" Not Applicable and the amount of fine and costs and any other sentence order by the Court, e.g., STS.

(f) When all charge dispositions in the case have been completed, the system will close the case screen by completing the Disposition Date and the Judge at Disposition fields.

(5)If the defendant requests a court appearance:

(a) Remove citation and the photocopy (showing the label) from the file.

(b) Apply the "Satisfied" rubber stamp with red ink to the labeled photocopy and enter the date satisfied. Mail labeled photocopy to the Division of Drivers Licensing, ATTN: FTA Section.

FTA withdrawals must be reported daily to alert the Division to halt its license revocation procedures.

(c) Have your judge assign a court date or you may do so if your judge directs and enter on a scheduled events screen. Notify the defendant of the court date by court notice or summons as directed by your judge.

1) Notice:

Apply the "FILED" stamp to the notice; add the date and your initials and file on a document screen. Use document type ”NH”. Mail a copy of the notice to the defendant.

2) Summons:

Generate a summons by completing the summons screen. Use summons type “CR”. Give to the sheriff or other peace officer for service. Do not make a copy for the file, the officer's return will provide a copy. When a return is received, enter the return information on the summons screen.

(d) When a signed calendar is received, it is an order or judgment for each case listed. CR 58. Apply the "ENTERED" stamp; add the date and your initials. Notice of entry of judgment is not required in traffic or misdemeanor cases. RCr 12.06(3).

(e) When the calendar disposes of a charge, close the charge screen(s) by completing the disposition date, disposition type, judge, trial type, original plea and final plea fields.

NOTE: Court trial is entered as trial type disposition only when an actual trial is held. Except for the jury being empanelled to hear the case, the same set of circumstances as a jury trial must exist, i.e., opening statements by attorneys, cross-examination of witnesses, closing arguments and a finding by the court. The entry of a guilty plea in open court is not a court trial.

If a court trial or a jury trial has been entered as the trial type, an original plea and final plea must be entered.

If an original plea has been entered, a final plea must be entered whether or not the defendant changes the plea. If no plea is entered, (example: charge is dismissed at

arraignment), original and final plea are both left blank. Original plea and final plea reflect what the defendant has entered regardless of a different finding by the court.

(f) Refer to instructions in KYCourts Manual for charge dispositions reportable to Division of Driver Licensing.

You are no longer required to complete the disposition section on citations.

(g) If a sentence is imposed by the court, complete a sentence screen.

NOTE: If the defendant is sentenced to time and the time is suspended or conditionally discharged, enter the time assessed in the "total sentenced" field. Enter time suspended or conditionally discharged in the "suspended" or "conditionally discharged" field.

(h) When all charge dispositions in the case have been completed, the system will close the Case Screen by completing the Disposition date and Judge at Disposition fields.

(i) Place the original signed calendar in a master calendar file by date. It is not necessary to place a copy of the calendar in the case file.

(j) If ordered, collect the fine, court costs and applicable fees as set out in the Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

1) Court costs are based upon the charge date.

a) Offenders will pay the court costs in effect on the violation date shown on the citation plus library fee and court facilities fee, if applicable.

b) Refer questions about receipting court costs to your Judicial Auditor.

c) If the court establishes an installment plan for the offender, schedule a show cause hearing using event type "SCIP" as ordered by the court. Apply payments first to court costs, then to restitution,

then to fees and finally to fines, unless otherwise ordered by the Court. Contact your Judicial Auditor if you receive a court order directing you to apply payments in a different fashion.

2) Court costs are not assessed unless there is a conviction. Absent a finding of indigency, imposition of court costs is mandatory anytime there is a conviction.

8. Other Prepayables (Non-Traffic) Not Paid By Court Date:

a. Have your judge assign a court date or you may do so if your judge directs and enter on a scheduled events screen. Notify the defendant of the court date by court notice or summons as directed by your judge.

(1) Notice:

Apply the "FILED" stamp to the notice; add the date and your initials and file on a document screen. Use document type “NH”. Mail a copy of the notice to the defendant.

(2) Summons:

Generate a summons by completing a summons screen. Use summons type “CR”. Give to the sheriff or other peace officer for service. Do not make a copy for the file, the officer's return will provide a copy. When a return is received, enter the return information on the summons screen.

b. When a signed calendar is received, it is an order or judgment for each case listed. CR 58. Apply the "ENTERED" stamp; add the date and your initials. Notice of entry of judgment is not required in traffic or misdemeanor cases. RCr 12.06(3). Enter the information on the appropriate screen.

c. When the calendar disposes of a charge, close the charge screen(s) by adding disposition date, disposition type, judge, trial type, original plea and final plea fields.

NOTE: Court trial is entered as trial type disposition only when an actual trial is held. Except for the jury being empanelled to hear the case, the same set of circumstances as a jury trial must exist, i.e., opening statements by attorneys, cross-examination of witnesses, closing

arguments and a finding by the court. The entry of a guilty plea in open court is not a court trial.

If a court trial or jury trial has been entered as the trial type, an original plea and final plea must be entered.

If an original plea has been entered, a final plea must be entered whether or not the defendant changes the plea. If no plea is entered, (example: charge is dismissed at arraignment), original and final plea are both left blank. Original plea and final plea reflect what the defendant has entered regardless of a different finding by the court.

d. Refer to instructions in KYCourts Manual for charge dispositions reportable to Division of Driver Licensing.

You are no longer required to complete the disposition section on citations.

e. If a sentence is imposed by the court, complete a sentence screen.

NOTE: If the defendant is sentenced to time and the time is suspended or conditionally discharged, enter the time assessed in the "total sentenced" field. Enter time suspended or conditionally discharged in the "suspended" or "conditionally discharged" field.

f. When all charge dispositions in the case have been completed, the system will close the Case screen by completing the Disposition Date and Judge in Disposition fields.

g. Place the original signed calendar in a master calendar file by date. It is not necessary to place a copy of the calendar in the case file.

h. If ordered, collect the fine, court costs and applicable fees as set out in the Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

(1) Court costs are based upon the charge date.

(a) Offenders will pay the court costs in effect on the violation date shown on the citation plus library fee and court facilities fee, if applicable.

(b) Refer questions about receipting court costs to your Judicial Auditor.

(2) Court costs are not assessed unless there is a conviction. Absent a finding of indigency, imposition of court costs is mandatory anytime there is a conviction.

(3) If the court establishes an installment plan for the offender, schedule a show cause hearing using event type “SCIP” as ordered by the court. Apply payments first to court costs, then to restitution, then to fees and finally to fines, unless otherwise ordered by the Court. Contact your Judicial Auditor if you receive a court order directing you to apply payments in a different fashion.

Court Appearance Citations

9. When Court Appearance Citations (KRS 431.450) are received:

a. Apply the "FILED" stamp to the citation; add the date and your initials. Refer to Case Add section of the KYCourts Manual for instructions on opening the case. Generate the next case number for Traffic (T), Misdemeanor (M) or Felony (F) cases. Open the case by completing the citation entry screen, and the document (if needed), parties, bail, and scheduled events screen.

b. Open one (1) case file and assign one (1) case number when two (2) or more offenses, whether felonies, misdemeanors, violations, or any combination thereof, are charged in the same or related indictment, information, served criminal complaint or citation, where the offenses are of the same or similar character or are based on the same acts or transactions connected together or constituting parts of a common plan or scheme.

No Probable Cause

c. When a bond form is received indicating “no probable cause”, schedule the case for arraignment on the next available court date. County Of Riverside v. McLaughlin, 500 U.S.44 (1991).

d. When a signed calendar is received, it is an order or judgment for each case listed. Apply the "ENTERED" stamp; add the date and your initials. CR 58. Notice of Entry of judgment is not required in traffic or misdemeanor cases. RCr 12.06(3). Enter the information from the calendar on the appropriate screen.

- If a prepayable offense is cited with a non-prepayable offense, the officer will cite the violator to court. If the judge dismisses the non-

prepayable offense PRIOR to the court date listed on the citation, the prepayable offense may be prepaid and the violator is not required to appear in court.

e. If the order or judgment imposes jail time, complete AOC Form 425, Order of Commitment and deliver to the transporting officer.

f. When the calendar disposes of a charge, close the charge screen by completing the disposition date, disposition type, judge, trial type, original plea and final plea fields.

NOTE: Court trial is entered as trial type disposition only when an actual trial is held. Except for the jury being empanelled to hear the case, the same set of circumstances as a jury trial must exist, i.e., opening statements by attorneys, cross-examination of witnesses, closing arguments and a finding by the court. The entry of a guilty plea in open court is not a court trial.

If a court trial or jury trial has been entered as the trial type, an original plea and final plea must be entered.

If an original plea has been entered, a final plea must be entered whether or not the defendant changes the plea. If no plea is entered, (example: charge is dismissed at arraignment), original and final plea are both left blank. Original plea and final plea reflect what the defendant has entered regardless of a different finding by the court.

g. Refer to instructions in KYCourts Manual for charge dispositions reportable to Division of Driver Licensing.

You are no longer required to complete the disposition section on citations.

h. Sentence. If a sentence is imposed by the court, complete a sentence screen.

NOTE: If the defendant is sentenced to time and the time is suspended or conditionally discharged, enter the time assessed in the "total sentenced" field. Enter time suspended or conditionally discharged in the "suspended" or "conditionally discharged" field.

i. When all charges in the case have been completed, the system will close the case screen by completing the disposition date and judge at disposition fields.

j. Place the original calendar in a master calendar file by date. It is not necessary to place a copy of the calendar in the case file.

k. If ordered, collect the fine, court costs and applicable fees as set out in the Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

NOTE: If a speeding charge is in a school zone where flasher lights have been installed and are flashing, the court will direct that the fine amount listed on the chart, located in the prepayable section herein, be doubled.

(1) Court costs are based upon the charge date.

(a) Offenders will pay the court costs in effect on the violation date shown on the citation plus library fee and court facilities fee, if applicable.

(b) Refer questions about receipting court costs to your Judicial Auditor.

(2) Court costs are not assessed unless there is a conviction. Absent a finding of indigency, imposition of court costs is mandatory anytime there is a conviction.

(3) If the court establishes an installment plan for the offender, schedule a show cause hearing using event type “SCIP” as ordered by the court. Apply payments first to court costs, then to restitution, then to fees and finally to fines, unless otherwise ordered by the Court. Contact your Judicial Auditor if you receive a court order directing you to apply payments in a different fashion.

l. If a defendant is convicted of a second or subsequent charge of "No Insurance" (KRS 304.99-060), redocket the case for review in six (6) months for additional proof of security and payment receipt. If the license is suspended, copy the court calendar and mail to the Division of Drivers Licensing.

Fish & Wildlife Citations

10. Prepayable citations issued by a conservation or peace officer for a violation of KRS Chapter 150. When not paid by court date proceed as directed below.

11. Court appearance citations issued by a conservation or peace officer for a violation of KRS Chapter 150. If a person fails to appear in your court, proceed as directed below.
    a. Photocopy the citation. The copy must be legible.
    b. Mark "FTA" on the face of the citation in red ink.
    c. Photocopy the marked copy of the citation. Retain this copy and file with the original citation in the case file.
    d. Mail the marked copy to:

    Department of Fish and Wildlife
    Law Enforcement Division
    #1 Sportsman's Lane
    Frankfort, KY 40601

    e. Enter disposition information on the charge screen(s) using "FTA" disposition type.

12. When the Prepayable citation has been satisfied, retrieve the photocopy marked "FTA" from the case file. Mark "SATISFIED" on the face of the photocopy in red ink. Mail the marked copy to the Department of Fish and Wildlife.

13. When a Court appearance citation has been satisfied following a final disposition by the court, retrieve the photocopy marked "FTA" from the case file. Mark "SATISFIED" on the face of the photocopy in red ink. Mail the marked copy to the Department of Fish and Wildlife.

Jail Credit

14. Defendants who are incarcerated for failure to pay costs and fines or for failure to appear on contempt for failing to pay are entitled to a "Jail Credit" in various amounts, up to $100.00 per day. A defendant sentenced to jail for failure to pay fines shall receive credit against the fines and costs for each day spent in jail at the following rates:

    a. $50 per day if no community service is performed

    b. $100 per day if (8) eight hours of community service is performed

    c. 1/8 of $100 for each hour worked

Note: The jailer is responsible for tracking the amount of credit the defendant has earned.

15. Upon receipt from the jailer of AOC 426 (Notice of Jail Credit), apply the "FILED" stamp, add the date and your initials. File on a document screen using document code "NJC". Enter the amount of credit earned in the box provided.

Refer to the Jail Credit section of the Accounting Manual for information about applying the credit.

DUI Citations

16. When DUI Citations are received in District Court (KRS 189A):

    a. Apply the "FILED" stamp to the citation; add the date and your initials. Refer to Case Add section of KYCourts Manual. Generate the next case number in the computer for Traffic (T), or Felony (F) cases.

    b. Open one (1) case file and assign one (1) case number when two (2) or more offenses, whether felonies, misdemeanors, violations, or any combination thereof, are charged in the same or related indictment, information, served criminal complaint or citation, where the offenses are of the same or similar character or are based on the same acts or transactions connected together or constituting parts of a common plan or scheme.

    No Probable Cause

    c. When a bond form is received indicating "no probable cause", schedule the case for arraignment on the next available court date. County Of Riverside v. McLaughlin, 500 U.S.44 (1991).

    Driving History Record

    d. The defendant's driving history record (DHR) must be provided to the judge at arraignment. KRS 189A.210. You may provide this or Pretrial Services will do it for you. Apply the "FILED" stamp; add the date and your initials and file on a document screen.

Blood Test Report

    e. When the clerk receives the blood test report results, complete a document screen using document type "BTR" and enter the BA result in the field on the charge screen in KyCourts.

Pretrial Suspension

f. Pretrial Suspension:

(1) Types:

(a) The defendant refused a chemical test or has had his/her license revoked or suspended one (1) or more times in the five (5) years before this arrest for refusing a chemical test. KRS 189A.200(1)(a).

(b) This is the defendant's second or subsequent offense by having one (1) or more DUI convictions in the five (5) years before this arrest. KRS 189A.200(1)(b).

(c) Defendant was involved in an accident resulting in death or serious injury to person other than the defendant. KRS 189A.200(1)(c).

(2) License surrendering procedures:

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

(b) 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

(c) 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.

(3) Suspension Procedures.

(a) Calendar a license suspension review hearing within 30 days of the filing of the defendant's motion by completing a scheduled events screen. KRS 189A.200(2).

(b) Complete the top half of AOC 341, Pretrial Suspension Order. Apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Send license (or denial statement) and the form on a daily basis to Drivers Licensing. Complete a scheduled events screen, as ordered by the court, to recalendar the case for the

termination of the suspension order (completion of bottom half of AOC Form 341).

Termination

(c) When a termination of suspension is ordered, complete the bottom half of AOC Form 341. Apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Send termination of suspension orders on a daily basis to the Division of Drivers Licensing. Suspension is terminated as follows:

1) By court order. KRS 189A.200(5)(6). Remove suspension case from calendar if time listed in step (3) above has not expired;

2) When the court orders suspension terminated because case is not concluded at the end of the times listed in step (3) above. KRS 189A.200;

3) When judgment of acquittal entered (and if suspension is for chemical test refusal), the suspension period of step 2. (a) (1), (2), (3), or (4) above has expired. Even though acquitted, license of one suspended for test refusal will still be suspended for original suspension period. KRS 189A.107. KRS 189A.200. Remove suspension case from calendar if time listed in step (3) above not expired;

4) When judgment of conviction entered. Along with termination of suspension order, send uniform citation with court disposition. Remove suspension case from calendar if time listed in step (2) above not expired. KRS 189A.200(4)(h).

g. When a signed calendar is received, it is an order or judgment for each case listed. CR 58. Apply the "ENTERED" stamp; add the date and your initials. Notice of entry of judgment is not required in traffic or misdemeanor cases. Enter the information on the appropriate screens.

h. If the order or judgment imposes jail time, complete AOC Form 425, Order of Commitment, and deliver to transporting officer.

DUI Charge Closing

i. To close a DUI Charge:

(1) When the calendar disposes of a charge, close the charge screen by completing the disposition date, disposition type, judge, trial type, original plea and final plea fields.

Court trial is entered as trial type disposition only when an actual trial is held. Except for the jury being empanelled to hear the case, the same set of circumstances as a jury trial must exist, i.e., opening statements by attorneys, cross-examination of witnesses, closing arguments and a finding by the court. The entry of a guilty plea in open court is not a court trial.

If a court trial or jury trial has been entered as the trial type, an original plea and final plea must be entered.

If an original plea has been entered, a final plea must be entered whether or not the defendant changes the plea. If no plea is entered, (example: charge is dismissed at arraignment), original and final plea are both left blank. Original plea and final plea reflect what the defendant has entered regardless of a different finding by the court.

j. Refer to instructions in KYCourts Manual for charge dispositions reportable to Division of Driver Licensing.

(1) Charge date before 10-1-00:
Report the conviction date to Division of Driver Licensing at time of conviction.

EXCEPTION: If a defendant charged before 10/1/00 elects and is sentenced under DUI sentencing guidelines in effect on and after 10/1/00, report the conviction at the time of sentencing as set out in (2) immediately below.

(2) Charge date on or after 10-1-00:
Report the conviction date to Division of Driver Licensing at time of sentencing.

(a) If sentencing does not occur at the time of finding of guilt or entry of guilty plea, refer to KYCourts Manual for instruction on deleting the conviction report.

(b) When sentencing occurs:

Enter the length of time the defendant's operators' license is suspended/revoked. For specific instruction on the entry of this information, refer to KYCourts Manual.

You are no longer required to complete the disposition section on citations.

DUI Sentence

k. If a sentence is imposed by the court, complete a sentence screen.

NOTE: If the defendant is sentenced to time and the time is suspended or conditionally discharged, enter the time assessed in the "total sentenced" field. Enter time suspended or conditionally discharged in the "suspended" or "conditionally discharged" field.

l. When all charge dispositions in the case have been completed, the system will close the Case Screen by completing the Disposition Date and Judge at Disposition fields.

m. If ordered, collect the fine, court costs and applicable fees as set out in Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

(1) Court costs are based upon the charge date.

(a) Offenders will pay the court costs in effect on the violation date shown on the citation plus library fee and court facilities fee, if applicable.

(b) Refer questions about receipting court costs to your Judicial Auditor.

(2) Court costs are not assessed unless there is a conviction. Absent a finding of indigency, imposition of court costs is mandatory anytime there is a conviction.

(3) If the court establishes an installment plan for the offender, schedule a show cause hearing using event type "SCIP" as ordered by the court. Apply payments first to court costs, then to restitution, then to fees and finally to fines, unless otherwise ordered by the Court. Contact your Judicial Auditor if you receive a court order directing you to apply payments in a different fashion.

Not Guilty Disposition

n. Not Guilty Disposition. If the disposition is not guilty and a Pretrial Suspension was ordered:

(1) Chemical Test Refusal. Do not complete or send termination of suspension order (AOC Form 341) to Drivers Licensing.

(2) Subsequent offenders. Send termination of suspension order (AOC Form 341) to Drivers Licensing.

Disposition of Guilty

o. If the disposition is guilty:

A.D.E (ADE)

(1) (ADE) KRS 189A.040, 189A.045.

At sentencing, complete AOC Form 494, Notice to Attend Alcohol, Drug, Education Program, with program's name, address and phone number and give a copy to the defendant. Apply "FILED" stamp; add date and your initials. File on a document screen. Place the original in the case jacket and send a copy, with copy of uniform citation, to the program administrator.

(a) On a scheduled events screen, calendar a show cause hearing for 20 days from receipt of notice from ADE program that the defendant did not enroll or dropped out. Notify defendant of court date. Add the "FILED" stamp to the notice; add the date and your initials; file on a document screen. After the hearing, when an order is received, apply the "ENTERED" stamp; add the date and your initials. File on a document screen.

(b) When notice is received that defendant has completed the program, apply the "FILED" stamp; add the date and your initials. File on a document screen.

Operator's License Surrender

(2) Every operator's license suspended or revoked by the court shall be surrendered to the court. If AOC Form 342, Confiscation Order for Operators' License is received, apply the "ENTERED" stamp; add the date and your initials. Enter on a document screen. Give

2 copies to a peace officer for service on the defendant. When a return is received, apply the "FILED" stamp to the return; add the date and your initials. Enter the return date in the memo field of the document screen where the Confiscation Order for Operators' License is entered.

When you receive a surrendered or confiscated operator's license, forward immediately to:

Transportation Cabinet
Division of Driver Licensing
200 Mero Street, 2nd Floor
Frankfort, KY 40622

License Plate Impoundment

(3) License Plate Impoundment Procedure

(a) When a citation is received wherein a defendant is charged with a second or subsequent DUI, a Request for a Vehicle Registration Inventory must be faxed to the Division of Motor Vehicle Licensing. The fax number is (502) 564-9314 and is shown on the Request for Vehicle Registration Inventory Form which may be accessed by clicking here or proceeding to the last page of this manual. Print the form and complete requested information. Fax immediately to insure the defendant's license plate registration information is available to the Judge at the time of the defendant's arraignment.

The judge will designate who will be responsible for faxing the request for the Vehicle Registration Inventory. This may be the judge's secretary, a pretrial release officer, the circuit clerk or any other designee. It is important that you meet with your judge immediately to establish this procedure.

(b) When the faxed Vehicle Registration Inventory is received, apply the "FILED" stamp; add the date and your initials. File on a document screen.

(c) When you receive AOC Form 495.2, Order Requiring Impoundment of License Plate(s), apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Distribute the order according to the list at the bottom of the order. If the order specifies a date by

which the license plate(s) must be surrendered, complete a scheduled events screen.

Immediately transmit a copy of the Order Requiring License Plate Impoundment together with a copy of the Vehicle Registration Inventory to:

Kentucky Transportation Cabinet
Division of Motor Vehicle Licensing
200 Mero Street, W2-05-02
Frankfort, KY 40601

(d) Return of license plate when a hardship registration is granted at the same time the license plate is ordered impounded.

If a hardship license registration is granted by the judge at the same time license plate impoundment is ordered, there is no need for the license plate to be surrendered to the court. If an impounded license plate has been surrendered to the court and the order of impoundment has not been forwarded to Motor Vehicle Licensing at the time the hardship registration is granted, give the plate to the hardship registration recipient. Note the return of the plate in the memo box on the document screen for the order requiring impoundment of license plate(s). Once the order of impoundment has been sent to Motor Vehicle Licensing, the hardship registration recipient must go to the county clerk's office to reinstate the registration.

(e) When a license plate is received, note the receipt of the plate by entering the license plate number in the memo field of the document screen where the Order Requiring License Impoundment is entered.

(f) Handling of surrendered plates.

1) At your convenience, but at least once a week, forward surrendered plate(s) to:

Kentucky Transportation Cabinet
Division of Motor Vehicle Licensing
200 Mero Street, W2-05-02
Frankfort, KY 40601

2) Use these guidelines to determine the method of transmittal:

a) If you are transmitting less than ten (10) license plates, package the plate(s) together with a copy of the Vehicle Registration Inventory Forms and Orders Requiring License Plate Impoundment for each plate forwarded. Attach a pre-addressed business reply label furnished by Motor Vehicle Licensing.

b) If you are transmitting ten (10) or more license plates, and you have a United Parcel Service (UPS) daily account, package the plates as for any other UPS shipment. Include in the package a copy of the Vehicle Registration Inventory Form and Order Requiring License Plate Impoundment for each plate forwarded. Select freight collect - ground delivery and use Motor Vehicle Licensing Account No. E1393E.

c) If you are transmitting ten (10) or more license plates, and do not have a United Parcel Service (UPS) daily account, call Motor Vehicle Licensing at (502) 564-5301, for mailing instructions. Include in the mailing a copy of the Vehicle Registration Inventory Form and Order Requiring License Plate Impoundment for each plate forwarded.

(g) If the defendant fails to surrender all the license plate(s) listed on the Vehicle Registration Inventory from Transportation by the time specified in the Order Requiring License Plate Impoundment, schedule a show cause hearing, as directed by the court, by completing a scheduled events screen.

(h) When AOC Form 342, Confiscation Order for License Plate is received, apply the “ENTERED” stamp; add the date and your initials. Enter on a document screen. Give 2 copies to a peace officer for service on the defendant. When a return is received, apply the “FILED” stamp to the return; add the date and your initials. Enter the return date in the memo field of the document screen where the Confiscation Order for License Plate is entered.

Installation of Ignition Interlock Device (IID)

(4) Procedure for Installation of Ignition Interlock Device (IID).

(a) When the suspension time imposed by the court has expired for a defendant convicted of DUI, the defendant must have an IID installed on all vehicles he/she owns or leases, for a time period ordered by the court. This provision does not apply when the license plate(s) on vehicles owned or leased by the defendant have been impounded by the court. KRS 189A.340.

(b) Installation of IID may also be ordered by the court when a defendant is granted a hardship license. KRS 189A.410

(c) When AOC Form 495.4, Application for Order to Install Ignition Interlock Device (IID) is received, apply the "FILED" stamp; add the date and your initials. File on a document screen. Distribute application according to list at bottom of application.

(d) Deliver the application and case file to the judge or set for a hearing, as directed by the court, by completing a scheduled events screen.

(e) When AOC Form 495.5, Order Granting Permission To Install Ignition Interlock Device IID, is received, apply the "ENTERED" stamp; add the date and your initials. Enter on a document screen. Distribute according to list at bottom of order.

(f) If a copy of a "License Cancellation Letter" is received from the Division of Driver Licensing, apply the "FILED" stamp; add the date and your initials. File by completing a document screen. Bring to the attention of your judge by scheduling a court date on a scheduled events screen.

(g) Schedule periodic reporting of the operating status of the ignition interlock device, as directed by the court, by completing a scheduled events screen.

Hardship Vehicle Registration

o. When AOC Form 495.3, Application and Order for Hardship Vehicle Registration is received:

(1) Apply the “FILED” stamp to the application; add the date and your initials. File on a document screen in the same case as underlying charge(s). Do not collect a filing fee.

(2) Deliver the application and case file to the judge or set a hearing, as directed by the court, by completing a scheduled events screen.

(a) When the signed order is received, apply the “ENTERED” stamp; add the date and your initials. Enter on a document screen. Distribute the order according to list at bottom of the order.

NOTE: The pink copy is for the defendant to take to the county clerk’s office for reinstatement of defendant’s license plate registration.

NOTE: If a hardship license registration is granted by the judge at the same time license plate impoundment is ordered, there is no need for the license plate to be surrendered to the court. If an impounded license plate has been surrendered to the court and the order of impoundment has not been forwarded to Motor Vehicle Licensing at the time the hardship registration is granted, give the plate to the hardship registration recipient. Note the return of the plate in the memo box on the document screen for the order requirement impoundment of license plate(s). Once the order of impoundment has been sent to Motor Vehicle Licensing, the hardship registration recipient must go to the county clerk’s office to reinstate the registration.

IMPORTANT: If an Order Requiring Impoundment of (defendant’s) License Plate has been forwarded to the Division of Motor Vehicle Licensing, even though the license plate has not been transmitted, the hardship registration recipient MUST go to the county clerk’s office for reinstatement of defendant’s license plate registration.

Hardship Driver’s License

p. A defendant may apply for a hardship driver's license, which restores driving privileges once the defendant completes the minimum suspension period.
KRS 189A.410.

(1) Procedure for In-State Conviction.

(a) Defendant applies in county where offense occurred. 601 KAR 12:060 Sec. 1. Defendant must complete AOC Form 492.A, Affidavit for Hardship License and AOC Form 492, Application for Hardship License. Apply the "FILED" stamp to the affidavit and application; add the date and your initials.

(b) File the affidavit and application on document screens in the same case as underlying charge. Set hearing date on the scheduled events screen. Do not collect a filing fee. Distribute the application according to the list at the bottom of the application.

(c) Enter order. AOC Form 493, Hardship Driver's License Order. Apply the "ENTERED" stamp; add the date and your initials. Enter on a document screen. Distribute the order according to the list at the bottom of the order.

(d) If granted, defendant presents to driver's license clerk in defendant's county of residence his/her identification and:

1) two (2) copies of order,

2) withdrawal notice (WTH) from Division of Drivers Licensing (If not available, call 800-344-2552 to obtain expiration date of hardship license), and

(e) License issued.

1) A copy of the order is stapled to laminated license and given to defendant with decal. (If AOC Form 493 is used, attach yellow copy)

2) A copy of the order is attached to Drivers Licensing copy of license. (If AOC Form 493 is used, attach pink copy)

(2) Procedure for Out-of-State Conviction.

(a) Defendant applies in county of current residence and must complete AOC Form 492.A, Affidavit for Hardship License and AOC Form 492, Application for Hardship License. Apply the "FILED" stamp to the affidavit and application; add the date and your initials. Do not collect a filing fee.

(b) Refer to Case Add section of the KYCourts Manual for instructions on opening the case. Generate the next case number in the computer for district civil "C" cases or use the next pre-numbered file folder.

(c) Distribute the application according to the list at the bottom of the application. Do not issue a summons.

(d) Deliver the case file to the judge or if directed by the judge, schedule a hearing by completing a scheduled events screen.

(e) When AOC Form 493, Hardship Driver's License Order, is received, apply the "ENTERED" stamp; add the date and your initials. Enter on a document screen and distribute the order according to the list at the bottom of the order.

(f) If granted, defendant presents to driver's license clerk.

1) two (2) copies of order,

2) withdrawal notice (WTH) from Division of Drivers Licensing (If not available, call 800-344-2552 to obtain expiration date of hardship license), and

(g) License issued.

1) A copy of the order is stapled to laminated license and given to defendant with decal. (If AOC Form 493 is used, attach yellow copy)

2) A copy of the order is attached to Drivers Licensing copy of license. (If AOC Form 493 is used, attach pink copy)

Commercial Drivers' Licenses

q. Clerk shall report moving violation convictions by holders of commercial drivers licenses (CDL) (whether or not the violation occurs

in a commercial vehicle) to be posted to the driver's record within 10 days of conviction for in-state drivers and within 30 days for out-of-state drivers.

Carry Concealed Deadly Weapon (CCDW) Licenses

1. Do not collect court costs for a citation issued for any of the following noncriminal violations:

   a. failure to change a permanent address of a CCDW license holder;

   b. failure to provide notice to the KSP of the loss, theft or destruction of a CCDW license; or,

   c. failure to carry and/or display the CCDW license upon the request of a law enforcement officer.

No Pass/ No Drive Law KRS 159.051

AOC Form 297. Petition for Student Driving Privilege/ Reinstatement.
AOC Form 298. Student Driver's License Order.

The No Pass/ No Drive Law provides for denial or revocation of 16 or 17 year old student's driver's license when the student is a dropout or academically deficient.

1. Within 15 days after Transportation sends notice to student that the driver's license has been revoked or denied, the student's custodial parent, legal guardian, or next friend may request an ex parte hearing in district court for the purpose of getting the license reinstated.

2. File petition as district civil. Do not issue a summons. Schedule hearing on next available hearing date and inform petitioner.

3. Do not collect a filing fee.

Enter order.

a. Distribute copies as follows:
   1) Original - Court file
   2) Copy - Petitioner
   3) Copy:

      a) If driving privilege granted, to driver's license clerk.
      b) If driver's license reinstated, to Transportation Cabinet, Division of Driver's Licensing.

c) If driver's license denied or not reinstated, to Transportation Cabinet, Division of Driver's Licensing.

3. School Compliance Verification Form. This form is supplied by the student's school and used by the student when applying for a driver's permit or license, or when reapplying after denial or revocation of driving privilege. Keep in court file or send to Transportation.

CIVIL ACTIONS FILED BY INMATES

1. When an inmate files a petition in a civil action, it must be accompanied with the appropriate filing fees as set forth in the Fees and Costs section of this Manual, or a motion to proceed in forma pauperis.

   If a filing fee or motion to proceed in forma pauperis does not accompany the petition, return the petition to the inmate.

Filing Fee

2. If the petition is accompanied by a filing fee, the case proceeds as any other civil action.

Motion to Proceed IFP

3. If the petition is accompanied by a motion to proceed in forma pauperis:

   a. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of the KYCourts Manual for instructions on opening the case. Generate the next case number or use the next pre-numbered file folder for circuit civil, "CI" cases; district civil "C" or small claims "S" cases as appropriate.

   b. Issue a summons for each defendant in the case. The petitioner will direct if service is by certified mail or personal service. Collect certified mail fees as set forth in the Fees and Costs section of this manual and give a receipt. The petitioner will pay the personal service fee directly to the officer.*

   c. Deliver the file to the judge to rule on the IFP Motion.

   d. When an order ruling on the motion to proceed in forma pauperis is received, apply the "ENTERED" stamp; add the date and your initials and enter by completing a document screen. Give notice of entry to the parties.

   e. If the motion is granted, the case proceeds as any other civil case in that category.

   f. If the motion is denied, the order will direct dismissal if the inmate does not pay specified partial filing fees within 45 days of entry of the order.

(1) Schedule a hearing for 45 days from the entry of the order by completing a scheduled event screen. Make a notation in the memo that the Court is to dismiss the action if the fee is not paid. If the required fee is paid within the 45 day period, return to the scheduled event screen and remove the "date/scheduled" field. The case proceeds as any other civil case in that category.

(2) If the filing fee is not paid and the court enters an order dismissing the action, apply the "ENTERED" stamp to the order, add the date and your initials and enter on a document screen. Give notice of entry to the parties. Close the case screen by adding the closing information, i.e., disposition date, disposition type and judge at disposition.

g. If a notice of appeal of the denial of the motion to proceed in forma pauperis is filed, immediately certify and send to the appellate court:

(1) the motion to proceed in forma pauperis together with any attachments and responses thereto;

(2) the order being appealed;

(3) a copy of the transcript of related hearing, if any.

NO FILING FEES OR MOTION TO PROCEED IN FORMA PAUPERIS IS REQUIRED IN THIS INSTANCE.

CIVIL SUMMONS
CR 4

1. The Clerk is required under CR 4.01(1) to issue a summons immediately upon the filing of the complaint.

2. Generate a summons for each person to be served by completing a summons screen. CR 4.02.

   a. To expedite the filing of a lawsuit, THE ATTORNEY MAY CHOOSE to complete and return to you, a civil summons for signature at the time the complaint is filed. If the attorney is willing to prepare his/her own summons, you may provide the attorney with AOC Form 105, Civil Summons.

      In either instance a summons screen is completed.

3. The summons and the complaint (or other initiating document) shall be served together. The party requesting the summons shall furnish sufficient copies of their pleadings for this purpose. CR 4.04(1), 14.01.

4. The initiating party will decide whether the summons is to be served by certified mail or personally delivered by the sheriff or other authorized person. CR 4.01(1).

Certified Mail Service

5. When service by certified mail service is requested:

   a. Attach a copy of the complaint (or other initiating document to the summons). When a third party complaint is filed, attach a copy of the original complaint in addition to the third party complaint. CR 4.04(1), 14.01.

   b. Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). IN ORDER TO ACCOMPLISH PROPER SERVICE, YOU MUST CHECK THE RESTRICTED DELIVERY BOX ON THE RETURN RECEIPT (GREEN CARD).

Long-Arm Statutes

c. Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 54.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual KRS 454.210(3)(b),(c). Mail two attested copies of the complaint and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

Personal Service

6. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

   a. Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the complaint and/or other documents to be served attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

   b. Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Return of Service

7. When a return of service is received:

   a. Certified Mail

      Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

      If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. THE SERVICE DATE FIELD IS NOT COMPLETED ON A SUMMONS SCREEN WHEN SERVICE IS THROUGH THE SECRETARY OF STATE.

b. Personal Service

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

Return of Non-Service.

8. When a summons is returned unserved, leave the service date field blank on the summons screen and memo the reason and the date of non-service.

9. A civil summons may be issued and served on Sundays and holidays KRS 454.125

COMMISSIONERS OF CIRCUIT COURT

CR 53
AP Part IV

Master Commissioner.
Domestic Relations Commissioner.

1. Upon court order or by local rule, refer cases to the master commissioner or domestic relations commissioner. CR 53. AP Part IV, Section 3 (2).

2. When you receive a motion for judgment and order of sale, collect the Judicial Sales Administrative Fee (JSAF) as set forth in the Fees and Costs section of the Manual and give a receipt. Do not process the motion until the JSAF fee is paid. If a motion is received without payment, return it to the movant/attorney.

3. Apply the “FILED” stamp to the motion, add the date, and your initials.

4. Complete a scheduled event screen using “MH” event type, if the motion is noticed to be heard on a specific date and time. Use “MNH” event type, if the motion is not noticed to be heard on a specific date and time.

5. Complete a motion screen using “JOS” motion type.

6. When a signed order is received, apply the “ENTERED” stamp, add the date, and your initials. Complete a document screen using “JOS” document type.

7. Serve a copy of the order on all counsel of record, including the Master Commissioner.

Notice of Filing of Report.

8. When the commissioner files a report with sufficient copies for all parties, serve the report and notice of the filing of the report on all attorneys, and parties not represented by an attorney, who have appeared in the action by completing and mailing AOC Form 240, Notice of Filing. It is the commissioner’s duty to furnish sufficient copies of the report to the clerk for all attorneys or parties not represented by an attorney. CR 53.06(1). AP Part IV, Section 3 (3) and Section 5 (1).

9. Apply the "FILED" stamp to the Report and Notice of Filing; add the date and your initials and file on document screens in the computer. Use document type “NF”.

   Note: Do not apply the "entered" stamp to the commissioners report.

10. Parties may serve written objections on other parties within 10 days (3 additional days if notice is by mail) after being served with Notice of Filing of Commissioner's Report. CR 6.05. Application to the court for action upon the report and objection shall be by motion and notice. CR 53.06(2), 6.04.

11. When a motion and notice is filed for court action on the commissioner's report and any objections thereto, apply the "FILED" stamp to the motion; add the date and your initials and complete a motion screen. Schedule a hearing by completing a scheduled event screen. CR 53.06(2).

12. When a signed order is received adopting, modifying or rejecting the report:

    a. Apply the "ENTERED" stamp to the order; add the date and your initials. Do not use the "FILED" stamp.

    b. Enter the order by completing a document screen in the computer, including a brief description. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment as described below.

    c. After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04 (1), RCr 12.06 (1) and (3).

       Make an entry on the document screen showing the manner (mail or personal delivery) and date of service of notice of entry of the order. RCr 12.06.

CONDEMNATION PROCEEDINGS

(Circuit Court)
KRS 416.540 through 416.610

A condemnation proceeding is an action by any person, corporation or entity, including the Commonwealth of Kentucky, its agencies and departments, county, municipality and taxing district authorized and empowered by law to take private property for a public use under the right of eminent domain. A condemnation proceeding is commenced by the filing of a petition.

Petition

1. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid.

   NOTE: Governmental agencies, including the Commonwealth, ARE NOT exempt from payment of this filing fee. KRS 416.570.

2. The plaintiff must file enough copies of the petition for service upon each defendant, in addition to the original, which is filed in your office. If you make the copies, collect a copy fee as set forth in the Fees and Costs section of this manual and give a receipt.

3. Assign to a division using the procedure in your local court rules.

4. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. CR 5.05(3). Use case type “PR”. Generate the next number for circuit civil "CI" cases or use the next pre-numbered file folder.

5. Do not issue a summons at this time.

Commissioners

6. Following the filing of a petition to condemn property, the circuit court, or in the absence of the circuit judge, the circuit clerk, shall appoint three (3) impartial landowners as commissioners. KRS 416.580. Apply the "FILED" stamp to the appointment; add the date and your initials and file on a document screen. Use document type “OACO”. Provide copies to the appointees and attorney for the plaintiff.

7. Within fifteen (15) days from the date of their appointment, the commissioners shall submit a written report to the circuit court describing the property sought to be condemned and the amount awarded. Apply to "FILED" stamp to the report;

add the date and your initials and file by completing a document screen. Use document type “RCOM”.

8. The commissioners are entitled to collect a reasonable fee which shall be taxed as costs by the court.

Summons Issuance

9. Following the filing of the commissioners' report, issue a summons on the respondent/landowner by completing a summons screen. CR 4.02, CR 4.04(1). Use summons type “CI”.

10. The plaintiff will instruct whether service of the summons is by certified mail or personal service.

If service is by certified mail:

11. Attach a copy of the petition and the commissioners' report to the summons. CR 4.04(1).

12. Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

Service under the long-arm statutes:

13. Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the petition and summons by certified mail to:

    Secretary of State
    Commonwealth of Kentucky
    Capitol Building
    Frankfort, Kentucky 40601

If service is by the sheriff or other serving officer. CR 4.01(1)(b):

14. Make a copy of the summons. Give the plaintiff the original and one copy of the summons with a copy of the petition and the Commissioners Report attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for

service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

15. Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

When a return of service is received:

Certified Mail

16. Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

17. If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a respondent, enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

Personal Service

18. Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the respondent in the service date field of the summons screen.

19. A civil summons may be issued and served on Sundays and holidays upon an affidavit that the process cannot be executed after that day. KRS 454.125, 454.130.

Hearing

20. When the owner files an answer to the petition, apply the "FILED" stamp; add the date and your initials and file on a document screen. Schedule a hearing as directed by the court, by completing a scheduled events screen. If the owner prevails on the hearing, the court will order a final judgment entered in the case and the dismissal of the case.

21. If an order of final judgment and dismissal is received, apply the “ENTERED” stamp; add the date and your initials. Do not use the “FILED” stamp. Enter the judgment on the document screen. Include the notice of entry method. This constitutes entry of the judgment. The judgment does not become effective until this is done. RCr 11.04.

22. After entry of the final judgment, and order of dismissal, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment and order that has been stamped "ENTERED" and mail or hand deliver it to each party or each attorney of record for a party.. CR 77.04(1), RCr 12.06(1) and (3).

Interlocutory Judgment

23. If the owner does not file an answer to the petition, the court may enter an interlocutory judgment. When an interlocutory judgment is received, apply the “ENTERED” stamp; add the date and your initials. Do not use the “FILED” stamp. Enter the interlocutory judgment on the document screen, include the notice of entry method. This constitutes entry of the interlocutory judgment. The interlocutory judgment does not become effective until this is done. RCr 11.04. Do not close the case.

24. After entry of the interlocutory judgment, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the interlocutory judgment that has been stamped "ENTERED" and mail or hand deliver it to each party or each attorney of record for each party. CR 77.04(1), RCr 12.06(1) and (3).

Exceptions/Trial

25. Within 30 days from the entry of an interlocutory judgment, either party may file exceptions to the interlocutory judgment on the matter of the amount to be paid to the owner for the property. If exceptions are filed, the court will schedule a trial on the exceptions. Upon conclusion of the trial, the court will order a final judgment to be entered.

26. If no exceptions to the interlocutory judgment are filed, the court will order a a final judgment to be entered.

Payment to Owner

27. The court may order that the amount to be paid to the owner of the condemned property to be paid directly to the owner of the property or to the Circuit Clerk to be disbursed to the owner of the property. Any monies paid to the Clerk, should be handled according to the instructions of the Order. KRS 416.630. The Order, if separate from the final judgment, should be processed in the same manner as the final judgment.

Final Judgment

28. When the order of final judgment is received, apply the “ENTERED” stamp;

add the date and your initials. Do not use the “FILED” stamp. Enter the judgment on the document screen. Include the notice of entry method. This constitutes entry of the judgment. The judgment does not become effective until this is done. RCr 11.04.

29. After entry of the final judgment, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment and order that has been stamped "ENTERED" and mail or hand deliver it to each party or each attorney of record for each party. CR 77.04(1), RCr 12.06(1) and (3).

30. Close the case screen by completing the disposition date, disposition type and judge in the proper disposition fields.

CONFISCATION OF LICENSE TO CARRY CONCEALED WEAPON

1. When a license to carry a concealed weapon is confiscated by the court, mail the license together with a copy of the order of conviction to:

   Kentucky State Police Records Section
   1250 Louisville Road
   Frankfort, KY 40601

   EXCEPTION: If you receive a license to carry a concealed weapon which was suspended or revoked because of domestic violence:

   a. Place the license in an envelope and note “License to Carry Concealed Weapon” on the outside of the envelope.

   b. Staple the envelope inside the domestic violence case file.

   c. Upon request of the licensee, return the license to the licensee, IF:

      (1) the domestic violence order is terminated; or

      (2) a written order terminating the license suspension is entered.

CONSOLIDATED CASES

When an Order of Consolidation is received:

1. Apply the "ENTERED" stamp to the order; add the date and your initials. Enter the order by completing a document screen in each case included in the consolidation and give notice of entry.

   NOTE: In the memo field of each case screen make a notation of the case number(s) with which it is consolidated.

2. If the Order of Consolidation does not specify into which case the other case(s) is to be consolidated, consolidate it into the most recently filed case.

3. File all pleadings received, after the Order of Consolidation has been entered, in the case file designated by the court's order or in the most recently filed case. Pleadings filed prior to the Order of Consolidation remain in their respective case files.

4. When a judgment or order that closes the consolidated case is received, apply the "ENTERED" stamp; add the date and your initials. Enter the order by completing a document screen in each case included in the consolidation and give notice of entry.

5. When an order or judgment closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen for each case consolidated.

CORONER'S INQUEST VERDICT

KRS 72.420(3)

1. When a Coroner's Inquest Verdict, for murder, manslaughter, or other criminal act, is received:

   a. Apply the "FILED" stamp to the verdict; add the date and your initials.

   b. Maintain the verdicts by calendar year in a file folder labeled "Coroner's Inquest Verdicts."

2. This is the clerk's only duty pertaining to a coroner's inquest. If the coroner requests you to summons jurors or perform other duties, direct the coroner to KRS 72.420.

COUNTERCLAIMS AND CROSS CLAIMS
CR 13

1. There are no filing fees for a counterclaim or cross claim in a circuit court case. KRS 23A.200

2. In district court there is no filing fee unless the cross claim or counterclaim raises the amount in controversy to a higher filing category.

Small Claims

3. When a Counterclaim or Cross Claim is received in a small claim(s) case:

   a. If the amount of the counterclaim or cross claim does not exceed $2,500.00 (exclusive of interest and costs), there are no filing fees and a transfer of the case is not required.

   b. If the amount of the counterclaim or cross claim exceeds $2,500.00 but does not exceed $5,000.00, collect filing fees as set forth in the Fees and Costs section of this Manual and give a receipt. Do not process the counterclaim or cross claim until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

      NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

      The case is transferred to Civil District Court.

   c. If the amount of the counterclaim or cross claim exceeds $5,000.00 collect filing fees as set forth in the Fees and Costs section of this Manual and give a receipt. Do not process the counterclaim or cross claim until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

      NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

      Transfer the case to Circuit Court.

      KRS 24A.230; 24A.290; 24A.310(1)

District Civil

4. When a counterclaims or cross claims is received in a District Court case:

$500.00 or Less:

a. If the amount of the counterclaim or cross claim is $500.00 or less, do not collect filing fees and no transfer is required.

b. If the amount of the counterclaim or cross claim exceeds $500.00 but does not exceed $5,000.00, collect filing fees as set forth in the Fees and Costs section of this Manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

No transfer is required.

c. If the amount of the counterclaim or cross claim is over $5,000.00 collect filing fees as set forth in the Fees and Costs section of this Manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

Transfer the case to Circuit Court.

KRS 24A.120(1)

5. District Civil

$500.01 to $5,000.00:

a. If the amount of the counterclaim or cross claim does not exceed $5,000.00 do not collect a filing fee and a transfer of the case is not required.

b. If the amount of the counterclaim or cross claim exceeds $5,000.00 collect filing fees as set forth in the Fees and Costs section of this Manual and give a receipt. Do not process the petition until the filing fees are paid unless the

petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

Transfer the case to Circuit Court.

KRS 24A.120(1)

6. Apply the "FILED" stamp to the counterclaim or cross claim; add the date and your initials and file by completing a document screen.

Case Transfer

7. To transfer a case:

Originating Court

a. If you are the originating court:

(1) Note the transfer in the case screen memo field. Complete the closing information on the case screen.

(2) Transfer the contents of the case file including a copy of the case history and a copy of the docket sheet, if a docket sheet exists.

(3) Place the file folder in the numerical order with other cases in that category. Note on the file folder the court to which the case was transferred and the new case number if you know it.

(4) Prepare AOC Form 122, Notice of Transfer of Action. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen. Mail a copy of the notice to the plaintiff and defendant.

Receiving Court

b. If you are the receiving court:

(1) Apply the "FILED" stamp to the entire record from the originating court; add the date and you initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for District Civil "C" or Circuit Civil "CI" cases or use the next pre-numbered file folder.

(2) File the entire record from the originating court as a single item on a document screen using the document type "DCF".

Summons

8. If the court orders the summonsing of new parties:

   a. Ask the counter claimant or cross claimant to provide enough copies of his/her pleading, including the original complaint, for service on the new parties. If you make the copies, collect a copy fee as set forth in the Fees and Costs section of this manual from the counter claimant or cross claimant and give a receipt. KRS 24A.170(2)(c).

   b. Enter any new parties by completing a party screen and issue summons by completing a summons screen on the appropriate party.

   c. The counter claimant or cross claimant will decide if service is to be made by certified mail or personally delivered by the sheriff or other authorized person. CR 4.01(1).

   Parties in Default.

   d. Any parties who are in default for failure to appear must be given notice of pleadings asserting new or additional claims against them by summons or warning order, as requested by the attorney. CR 5.01.

   Certified Mail

9. If service is by certified mail:

   a. Attach a copy of the counterclaim or cross claim to the summons.

   b. Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached documents by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). IN ORDER TO ACCOMPLISH PROPER SERVICE, YOU MUST CHECK THE RESTRICTED DELIVERY BOX ON THE RETURN RECEIPT (GREEN CARD).

   c. Service under the long-arm statutes.

      Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual.

KRS 454.210(3)(b),(c). Mail two attested copies of the complaint and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, KY 40601

Personal Service

10. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

    a. Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the counterclaim or cross claim attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

    b. Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

11. A civil summons may be issued and served on Sundays and holidays upon an affidavit that the process cannot be executed after that day. KRS 454.125, 454.130.

COUNTY LAW LIBRARY DUTIES

KRS Chapters 172 and 453

By statute, the circuit clerk is the librarian of the county law library and entitled to a salary from the fiscal court of not less than $50 nor more than $100 per month for services as county law librarian. The clerk must see that county and state officials have access to the library at reasonable hours each day, except Sundays and holidays. KRS 172.110(1).

Inventory

1. At the commencement of the clerk's term, the clerk who is leaving office must turn over to his/her successor an inventory of all books, stationery, and other property in the library at the time the new clerk takes office, which the new clerk receipts to the clerk leaving office. The clerk is responsible on his/her official bond for the value of all books lost from the library during the term of office. KRS 172.120(2).

Fees Collected

2. The following fees are collected in counties electing the alternate method of financing law library. KRS 172.180. These are the only fees that may be collected by counties without an urban-county form of government.

   a. Upon receipt of an order issued by the Chief Circuit Judge requiring collection of the county law library fee under KRS 172.180, apply the "ENTERED" stamp; add the date and your initials. File in your "General/Administrative Order File" and make an entry on the docket sheet attached to the file.

   b. Upon entry of this order, begin collecting the following fees:

      District Criminal $ .50 max
      [not on examining trials and felony trials]

      District Civil 1.00 max

      Circuit Civil 1.00 max

      Exception: in the counties of Jefferson, Boyd, Warren, Kenton, Franklin, Christian, Henderson, Fayette, Campbell, Daviess, McCracken, Hardin, and Madison, (krs 81.010) the fees are:

      District Criminal $1.50 max
      [not on examining trials and felony trials]

District Civil	3.00 max
Circuit Civil	3.00 max

3. All counties having a county law library shall collect the following taxed attorney fees for the county library if the successful party is represented by an attorney. KRS 453.060(3); Circuit Civil $5.00 District Civil and Criminal $2.50 (except felonies). Court of Appeals Civil $10.00.

   Fees for Circuit and District Civil should be collected at the time of filing of the petition. Fees collected on criminal cases should be added to the court costs at the termination of the action.

   NOTE: The party against whom fees are ultimately assessed will be determined by the court at the termination of the proceedings. Unless the court otherwise orders, the clerk's only responsibility is to collect the fees as set forth herein. Any adjustments, refunds, reimbursements, etc, will be between the parties' attorneys as ordered by the court.

4. At the end of each month pay all sums collected during the preceding month to the trustees of the county law library. The clerk must make a full report of the payment and is entitled to receive a receipt for it. KRS 453.060(3).

General Duties

5. The clerk must keep the library rooms in order, preserve, arrange, and index all books, charts, maps and furniture belonging to the library. KRS 172.110(2). The details of this duty include, but are not necessarily limited to, the following:

   a. Discard superseded South Western Reporter 3d paperback advance sheets.

   b. Shelve promptly upon their receipt the bound Kentucky Decisions, and South Western Reporter 3d paperback advance sheets so that they are accessible to the judges, county and state officials, and the public at reasonable hours each day except Sundays and holidays. KRS 172.110(1).

   c. Receipt all state-owned books placed in the library and mail the receipts to the state law librarian. KRS 172.110(3).

   d. Keep a record in which the clerk charges each book to the person taking it from the library. The clerk must see that all books so taken are returned at the proper time. KRS 172.150.

e. Any person may use the books, but the clerk must not permit anyone to take them out of the library, except that officials and lawyers may take them to local courtrooms to be used in the argument of cases. Any person who has possession of a book belonging to the state must, upon request of the clerk, return it to the clerk. KRS 172.140.

Filing Reports

6. Annually in December, the clerk must inventory all books in the library belonging to the state and report the library inventory under oath to the state law librarian before January 1. KRS 172.110(4). There is a fine of $5.00 per month for every month this inventory is delinquent. KRS 172.990(1).

End Of Term

7. At the end of the clerk's term, the clerk must turn over to his/her successor an inventory of all books, stationery, and other property in the library. KRS 172.120(1).

Requests for Information

8. Circuit clerks may obtain information concerning the performance of their duties from:

   State Law Library
   Suite 200
   State Capitol
   Frankfort, KY 40601-3489
   Telephone: (502) 564-4848

   The state law library may order books for county law libraries and charge them to the county law library fund when so requested and when approved by the administrative assistant to the Chief Justice. KRS 27A.210(8).

COURT INTERPRETERS

Amended Administrative Procedures, Part IX

The court is required to appoint a qualified interpreter for each court appearance in any civil or criminal matter for each party, juror, witness or non-party, who is deaf or hard of hearing, cannot communicate in English which will prevent said person from properly understanding the nature of the proceedings or will substantially prejudice his or her rights. AOC Form INT-10 (Request for Interpreter/Assistive Technology "Deaf/Hard of Hearing" may be used. The court also provides interpreting services for deaf and hard of hearing attorneys who have been determined to be qualified to receive interpreting services. AOC Form INT-11 (Request for Interpreter/Assistive Technology Attorney who is "Deaf/Hard of Hearing") may be used.

> **Note: A non-party is one whose presence or participation in a court matter is necessary or appropriate, including but not limited to a parent or guardian of a juvenile and any of his or her family members involved in a juvenile proceeding, or a victim of crime or parent or guardian of a minor victim of a crime; or who is a family member, friend, or associate of a party or person participating in a court proceeding, who, along with the party or person, is an appropriate individual with whom the court should communicate.**

1. A Contact Person must be designated in each county by the Chief District Judge or Chief Circuit Judge who will be responsible for scheduling a staff interpreter or freelance interpreter for court proceedings or direct services. The contact person may be a judge's secretary, court administrator, or other Court of Justice employee.

2. Upon receipt of a request or need of an interpreter the Contact Person may contact:

   Court Interpreting Services with the request by email, phone or fax.
   statewideinterpreterrequest@kycourts.net
   http://courts.ky.gov/stateprograms/courtinterpreters/contactcis.htm
   Tel: 502-573-2350
   Fax: 502-573-1663

   an approved freelance interpreter or language provider company listed on the AOC Interpreter Directory:

   KCOJ Intranet site
   Microsoft Outlook Public Folders

Note: If your county has a staff interpreter you may contact them directly. You are required to schedule them if available. For contact information please refer to the AOC Interpreter Directory.

Remote Interpreting Services:

Telephone Interpreting Services

3. Interpreters for court proceedings or direct services may be obtained by telephone for brief, non-evidentiary proceedings, including pretrial interviews and verification, initial appearances, arraignments, and for other direct services necessitated by the Circuit Clerk. The telephone policy and instructions for using the AOC contracted telephone services are located in the Telephone Interpreting directory.

Video Interpreting Services

4. In those counties where Video Remote Language Interpreting services access to a certified American Sign Language interpreter is available 24/7. Video remote interpreting may be appropriate for communicating with the deaf and hard of hearing in various emergency situations.

Payment for services

Upon receipt of AOC INT-1 (Statement for Interpreting Services), mail to:

Court Interpreting Services Division
Administrative Office of the Courts
100 Millcreek Park
Frankfort, KY 40601

Please contact the Court Interpreting Services Division of the Administrative Office of the Courts if you have any questions.

COURT SECURITY INCIDENT REPORT

1. AOC Form PT-50, Court of Justice Incident Report should be completed for each work-related security incident involving Court of Justice personnel or occurring on property leased or maintained by the Court of Justice.

2. This form may be completed by the clerk, deputy clerk, judge, court designated worker, pretrial officer, AOC or any Court of Justice employee, bailiff, or member of law enforcement. Forms may be ordered from:

   Print Shop
   Administrative Office of the Courts
   100 Millcreek Park
   Frankfort, KY 40601

   NOTE: Court personnel may complete the form online by using the smart form found on the restricted portion of the Court of Justice website at AOC PT-50

3. All completed forms must be mailed or faxed to:

   Pretrial Services
   Administrative Office of the Courts
   100 Millcreek Park
   Frankfort, KY 40601
   Fax (502) 573-0327

CREMATION RESOLUTION

(District Court)
KRS 367.97527

1. A crematory or next of kin of a person who has filed a preneed cremation form may file a petition with the district court to stop the cremation.

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

3. Assign to a division using the procedure in your local court rules.

4. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions for opening the case. Generate the next case number in the computer for district civil "C" cases or use the next pre-numbered file folder.

5. Do not issue a summons.

6. Deliver the case file to the district judge.

7. When an order is received, apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

8. Enter the order on the document screen. This constitutes entry of the order; it does not become effective until this is done. RCr 11.04.

9. After entry of the order, serve notice of entry on the parties by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver to the parties or attorney. Enter the notice of entry method and date on the document screen when the order is entered.

10. When the order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

CRIMINAL SUMMONS AND ARREST WARRANTS

RCr 2.06; 2.10(2); 6.52; 6.56(1)

1. Generate a criminal summons or arrest warrant for each person to be served, as ordered by the judge, by completing the issuance portion of the summons or warrant screen.

2. Criminal summons or arrest warrants issued upon indictment are signed by the clerk. Criminal summons or arrest warrants issued upon complaints must be signed by a judge or trial commissioner. RCr 2.06, 6.54.

   a. In the event of the absence from a county of all district judges and all circuit judges and all trial commissioners, the circuit clerk in each county may issue criminal warrants prepared by the commonwealth's attorney or county attorney, who shall certify that there is no district judge, circuit judge or trial commissioner within the county. KRS 15.725(4).

      NOTE: The term "criminal warrants" includes search warrants.

3. Attach a copy of the complaint or indictment to the summons or arrest warrant. RCr 2.06(4).

4. Give the original summons or warrant and a copy to the sheriff, or peace officer of the county of issuance, for service. Do not prepare a copy for the case file; the officer's return will provide a copy. RCr 2.10(2)(a); 6.52.

   EXCEPTION: If the judge, county attorney or commonwealth attorney direct, serve a criminal summons by certified mail, return receipt requested. RCr 2.10(2)(b).

5. When a return is received, apply the "FILED" stamp; add the date and your initials. Note the return by completing the return portion of the summons or warrant screens. You may use the memo field to record the service agency.

6. Criminal process may be issued and served on Sunday. KRS 431.095.

DEFERRED PROSECUTION

KRS 218A.1415

NOTE: Applies only to 1st and 2nd offense of Possession of Controlled Substance 1st, class D felony.

Application

Upon receipt of AOC 331 (Application for Deferred Prosecution), apply the "FILED" stamp, add the date and your initials. Complete a document screen using document code "ADP".

Order Acknowledging/Terminating

1. Acknowledging - Upon receipt of AOC 331.1 (Order Acknowledging Deferred Prosecution), apply the "ENTERED" stamp, add the date and your initials. Complete a document screen using document code "OAKDP". Close the charge screen using disposition type "DP". Close the case screen.

2. Terminating - Upon receipt of AOC 332 (Order Terminating Deferred Prosecution), apply the "ENTERED" stamp, add the date and your initials. Users will need to move the current disposition date, type and judge information to the memo field and calendar for a hearing. Complete a document screen using document code "OTDP". When case is finally resolved, reopen and close a special status screen. Refer to Special Status Detail Screen section of KYCourts Manual for instructions.

Order Sealing

Sealing

1. Upon receipt of AOC 333 (Order Sealing Records for Successful Deferred Prosecution), apply the "ENTERED" stamp, add the date and your initials. Complete a document screen using document code "OSDP".

2. Move the current disposition date, type and judge information to the memo field and close out the charge as disposition type "DDP". Reopen and close a special status screen. Refer to the Special Status Detail Screen section of the KYCourts Manual for instructions.

3. If the order directs sealing of specific items, print the Supplemental Order Sealing Records for Successful Deferred Prosecution (AOC Form 336) from KY Courts and deliver to the judge for verification of specific items to be sealed.

NOTE: If charge(s) ordered sealed is in a circuit criminal case that originated in district court, you must print the

supplemental order sealing AOC Form 336 from the district court case as well as the circuit court case to be delivered to the circuit court judge.

4. Upon return of the completed AOC 336 from the judge, perform the necessary steps in KY Courts to affect the sealing of items. See your Release Note General File for these instructions.

5. If the case is not in the computer and if an original calendar can be located, make a copy and place in the original case file before sealing. Do not mark out the case on the copy.

6. Seal the original case jacket, case history (docket sheet and index card, if such exists), video tape and log in an envelope. Add the case number, the defendant's date of birth and the date of the sealed order to the outside of the envelope. Maintain in a locked file cabinet. Do not open except by court order. If the court orders the case unsealed, make appropriate notation on outside of envelope.

   EXCEPTION: If the tape includes other cases, make a notation on the log that the case file has been sealed. If a request for a copy is made, do not copy that portion of the tape that pertains to the sealed record.

7. It is not necessary to seal the audio tapes; the official retention and disposal schedule for district court tapes applies.

8. On the original calendar, obliterate the case and mark the obliteration "sealed"

9. If a charge(s) ordered sealed is in a circuit criminal case that originated in district court, you must also seal the charge in the district court case.

10. If you are asked about a sealed record, advise that no such record exists.

DEPOSITIONS TO BE USED IN OTHER STATES

CR 28.03; CR 45

CR 45

1. A party desiring to take depositions in this state to be used in proceedings outside this state may obtain a subpoena form from the clerk's office.

   a. Direct the party to the District Judge with the subpoena form (not signed by the clerk). If the judge signs the subpoena(s), do not retain any portion of the papers.

   b. If the judge issues an order for you to sign the subpoena(s):

      1. Apply the "FILED" stamp to the order; add the date and your initials. File in your General/Administrative/Miscellaneous Order file.

      2. Sign the subpoena(s) as ordered. Except for the court order, do not retain any portion of the papers.

DISABILITY PROCEEDINGS

KRS Chapter 387
(District Court)

1. Disability Proceedings Include:

   a. Adjudging a person fourteen years of age or older to be mentally or physically disabled to manage his/her affairs;

   b. Determining that the person is no longer mentally or physically disabled.

Venue

2. Jurisdiction and Venue:

   a. Jurisdiction for disability cases lies in district court.

   b. Venue for a respondent or ward who is a Kentucky resident is:

      (1) in the county where the respondent or ward resides,
      (2) county of domicile of respondent or ward, or
      (3) county where parent of respondent or ward who is a minor is domiciled. KRS 387.520(2).

Confidentiality

3. All court records in disability proceedings are confidential except:

   a. orders of appointment,
   b. judgments,
   c. orders affecting judgments. 387.770(1).

   Any person seeking to obtain confidential information contained in the court files or records may file a written motion stating why the information is needed. KRS 387.770(3). Maintain a log of individuals and entities granted access to the files or records by court order. KRS 387.770(3).

Filing Fee

4. Collect filing fees for appointment of guardian or conservator in disability cases as set forth in the Fees and Costs section of this manual and give a receipt. KRS 24A.170(1)(c)(f). There is no jury filing fee. KRS 24A.170. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

The county attorney is responsible for assisting the petitioner. KRS 387.560(3).

Disability Petition

5. Apply the "FILED" stamp; add the date and your initials to:

   a. The petition, AOC Form 740, Petition to Determine if Disabled and

   b. Verified application AOC Form 745, Application of Appointment of Fiduciary or Interdisciplinary Report AOC Form 765, Report of Interdisciplinary Evaluation Team. KRS 387.550(6).

      If no local conservator has been appointed and no petition in a disability proceeding is pending in this state, a domiciliary foreign conservator may file with a court in this state in a county in which property belonging to the disabled person is located, authenticated copies of the appointment and of any official bond given. The conservator may then exercise as to assets in this state all powers of a local conservator and may maintain actions and proceedings in this state subject to any conditions imposed on non-resident parties generally. KRS 387.520(3).

6. To determine if the respondent has a prior case in you court; if parties enter your court system the first time (no prior case file exists); or non-computer case file exists and a new petition is filed, refer to the Case Add section of the KYCourts Manual for instructions on opening the case. Assign an "H" number with a trailer number using the next pre-numbered folder.

Hearing

7. Scheduling and Order for Jury Trial:

   a. Schedule a jury trial (which cannot be waived) to be held within 30 days of the filing of the petition if the petition is filed with an interdisciplinary evaluation report. KRS 387.570(1), 387.550(1). If no interdisciplinary evaluation report is filed with the petition, the jury trial must be held within 60 days of the filing of the petition. KRS 387.550(1).

   b. Apply the "ENTERED" stamp to the order setting the hearing; add the date and your initials and file on a document screen. AOC Form 780, Order Setting for Hearing may be used. Note the jury trial on the calendar by completing a scheduled events screen.

c. Mail a copy of the order not less than 14 days before the hearing to:

(1) Petitioner
(2) Respondent
(3) Attorneys for both parties
(4) All persons named in the petition
(5) Person proposed for appointment as limited guardian, guardian, limited conservator, or conservator.
(6) Person with whom or facility where respondent resides. KRS 387.550(2).

Summons

8. Prepare a summons on the respondent by completing a summons screen. CR 4.01(1)(b).

Certified Mail Service

a. Certified Mail Service:

(1) Attach a copy of the petition to the summons. CR 4.04(1).

(2) Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

(3) Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the complaint and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

Personal Service

b. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

(1) Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the petition attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

(2) Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Return of Service

c. When a return of service is received:

(1) Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

(2) Personal Service

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

9. A civil summons may be issued and served on Sundays and holidays upon an affidavit that the process cannot be executed after that day. KRS 454.125, 454.130.

Interdisciplinary Team

10. If the court appoints the interdisciplinary team, apply the "ENTERED" stamp to the order; add the date and your initials and file on a document screen. AOC Form 750, Order for Examination may be used. KRS 387.540(7). Give notice of entry by mailing a copy of the order to:

a. Petitioner
b. Respondent
c. Attorneys for both parties
d. Team members
e. Individual or facility with custody of respondent

Interdisciplinary report must be filed with court and served on attorneys at least 10 days prior to hearing. KRS 387.540(7). Apply the "FILED" stamp to the report; add the date and your initials. AOC Form 765, Report of Interdisciplinary Team may be used. File on a document screen.

Appointment of Counsel

11. The court will appoint counsel if the respondent does not obtain counsel within one week of the filing of the petition. KRS 387.560(1). Apply the "ENTERED" stamp to the order; add the date and your initials and file on a document screen. AOC Form 755, Order Appointing Counsel may be used. Complete a party screen for the attorney. Give notice of entry by mailing a copy of the order to:

    a. Petitioner
    b. Respondent
    c. Attorneys for both parties
    d. All persons named in petition or facility or person with whom respondent resides
    e. Person proposed for appointment as limited guardian, guardian, limited conservator, or conservator

Disability Judgment

12. When a signed judgment is received, apply the "ENTERED" stamp; add the date and your initials. File on a document screen. AOC Form 785, Disability Judgment may be used. Give notice of entry by mailing a copy of the judgment to:

    Certified copies to:

    a. Guardian or conservator
    b. County clerk for recording. KRS 387.590(8). Petitioner is responsible for any recording fee.
    c. State Board of Elections, 140 Walnut Street, Frankfort, Ky. 40601-3240, within 10 days after judgment ONLY if the judge has ordered that the respondent shall not retain the right to vote by checking the box on the form. KRS 30A.145.

        (1) If wholly disabled: certified copy of judgment with respondent's date of birth and social security number if possible.

Note: If wholly disabled, send a copy to the Department of Transportation

(2) If partially disabled: certified copy of judgment with respondent's date of birth and social security number and certified copy of Order Appointing Guardian or Conservator.

Copies to:

(3) Petitioner
(4) Respondent
(5) Attorneys for both parties
(6) All persons named in petition
(7) Facility where or person with whom respondent resides

Appointment of Guardian/Conservator

13. When a guardian or conservator is appointed:

a. If the court orders a bond be posted, AOC Form 825, Fiduciary Bond may be used. Collect the bond filing fee as set forth in the Fees and Costs section of this manual. KRS 64.005. Apply the "FILED" stamp to bond; add the date and your initials and file by completing a document screen.

Fiduciary Bond

b. If the District Court directs that the assets of a ward's estate be deposited in a restricted account, the guardian or conservator is exempt from giving surety on his/her bond. KRS 387.070.

c. When the fiduciary bond is posted (if any bond required), enter Order of Appointment of Guardian or of Conservator. AOC Form 775, Order of Appointment of Guardian or AOC Form 770, Order of Appointment of Conservator may be used. KRS 395.130, 62.060. Apply "ENTERED" stamp to order; add the date and your initials and file by completing a document screen.

(1) Give notice of entry of the Order of Appointment by mailing copies as follows:

Certified copies to:

(a) Guardian or conservator
(b) County clerk for recording. KRS 387.590(8). Petitioner is responsible for any recording fee.

Copies to:

(c) Petitioner
(d) Respondent
(e) Attorneys for both parties
(f) All persons named in petition
(g) Facility where or person with whom respondent resides.

d. Do not advertise the appointment of the guardian or conservator. KRS 395.610(2).

14. Close the case screen by completing the disposition date, disposition type and judge at disposition fields.

15. Enter any order awarding fees. AOC Form 760, Order Awarding Fees may be used. KRS 387.540(8), 387.560(2). Apply the "ENTERED" stamp; add date and your initials. File by completing a document screen. Serve notice of entry on the person or entity to whom fees are awarded.

Inventory and Settlement

16. A guardian or conservator must file (KRS 387.670(4), 387.710):

a. An inventory within 60 days of appointment, KRS 387.710(1). Apply "FILED" stamp to inventory; add the date and your initials. File the inventory on a document screen.

b. A settlement every two years, within 120 days of the anniversary of the appointment, KRS 387.710(2), (may be informal if ward has no real property and possesses personal property of $1500 or less for any year of the biennial report, KRS 387.710(2)(c)); apply "FILED" stamp to settlement; add the date and your initials. File the settlement on a document screen. Present the settlement to the judge for approval.

c. A final settlement upon termination of appointment, KRS 387.710(3); apply "FILED" stamp to settlement; add the date and your initials. File the settlement on a document screen. Present the settlement to the judge for approval.

If no exceptions are filed within 30 days after settlement is approved, return vouchers to fiduciary. If exceptions filed, retain until settled, then return to fiduciary.

d. A guardian must also file an annual report as to the ward's condition. KRS 387.670. Apply "FILED" stamp to the report; add the date and your initials.

AOC Form 790, Annual Report of Guardian may be used. File the report on a document screen. Present the annual report to the judge for approval.

e. Do not advertise reports or settlements of the guardian or conservator. KRS 395.610(2).

f. Delinquent inventory and settlements. You must report in writing to the judge each month the names and addresses of all fiduciaries who are delinquent in filing an inventory or a settlement. KRS 395.635. Set up a tickler system to alert you of the names to be reported by completing a scheduled events screen for the date the inventory or settlement is due. Print and present the calendar to the judge on a monthly basis. If the inventory or settlement is filed before the due date, delete schedule event following instructions in Counter screen section of the KYCourts Manual.

Designation of Standby Guardian or Conservator

17. When you receive an application for designation of standby guardian or conservator for deposit: KRS 387.750

a. When you receive an application for designation as a standby guardian or conservator in a disability case, apply the "FILED" stamp to the application; add the date and your initials. File the application by completing a document screen. AOC Form 777, Verified Petition for the Voluntary Appointment of a Guardian or Conservator and Standby Guardian and Order may be used.

b. Do not issue a summons.

(1) Deliver the case file to the judge. If the judge directs, schedule a hearing and give notice. Complete a scheduled events screen for the date of the hearing.

Court Action on the Application

c. If the Court rules on the application and an order is received:

(1) Apply the "ENTERED" stamp to the signed order; add the date and your initials. Enter on a document screen. Give notice of entry to the attorneys of record and all parties not represented. Include notice of entry date and method.

(2) If the order designates the applicant as standby guardian or conservator, the applicant has ten (10) days following death, resignation, removal or incapacity of the guardian or conservator to accept the designation as standby guardian or conservator.

(3) When you receive an acceptance of the designation, apply the “FILED” stamp; add the date and your initials. File by completing a document screen. Serve a copy of the acceptance on the ward by mailing a copy to the ward and his/her nearest adult relative.

Appointment of Standby Guardian or Conservator

(4) When the fiduciary bond is posted (if any bond required) enter the order appointing the standby guardian or conservator and the fiduciary bond. The order portion of AOC Form 777, Verified Petition for the Voluntary Appointment of a Guardian or Conservator and Standby Guardian and Order and AOC Form 825, Fiduciary Bond, may be used. KRS 395.130, 62.060. Apply the “ENTERED” stamp to the order and “FILED” stamp to the bond; add the date and your initials. Enter on document screens.

(a) Collect the bond filing fee as set forth in the Fees and Costs section of this manual. KRS 64.005.

(b) Give notice of entry of the Order of Appointment by mailing:

Certified copies to:

1) Guardian or conservator
2) County clerk for recording. KRS 387.590(8). Petitioner is responsible for any recording fee.

Copies to:

3) Petitioner
4) Respondent
5) Attorneys for both parties
6) All persons named in petition
7) Facility where or person with whom respondent resides.

(5) Do not advertise the appointment of the standby guardian or conservator. KRS 395.610(2).

Inventory and Settlement

d. A standby guardian or conservator must file (KRS 387.670(4), 387.710):

(1) An inventory within 60 days of appointment, KRS 387.710(1). Apply "FILED" stamp to inventory; add the date and your initials. File the inventory on a document screen.

(2) A settlement every two years, within 120 days of the anniversary of the appointment, KRS 387.710(2), (may be informal if ward has no real property and possesses personal property of $1500 or less for any year of the biennial report, KRS 387.710(2)(c)); apply "FILED" stamp to settlement; add the date and your initials. File the settlement on a document screen. Present the settlement to the judge for approval.

(3) A final settlement upon termination of appointment, KRS 387.710(3); apply "FILED" stamp to settlement; add the date and your initials. File the settlement on a document screen. Present the settlement to the judge for approval.

If no exceptions are filed within 30 days after settlement is approved, return vouchers to fiduciary. If exceptions filed, retain until settled, then return to fiduciary.

(4) A standby guardian must also file an annual report as to the ward's condition. KRS 387.670. Apply "FILED" stamp to the report; add the date and your initials. AOC Form 790, Annual Report of Guardian may be used. File the report on a document screen. Present the annual report to the judge for approval.

(5) Do not advertise reports or settlements of the standby guardian or conservator. KRS 395.610(2).

(6) Delinquent inventory and settlements. You must report in writing to the judge each month the names and addresses of all fiduciaries who are delinquent in filing an inventory or a settlement. KRS 395.635. Set up a tickler system to alert you of the names to be reported by completing a scheduled events screen for the date that the inventory or settlement is due. Print and present the calendar to the judge on a monthly basis. If the inventory or settlement is filed before the due date, delete the scheduled event following instructions in counter screen section of the KYCourts Manual.

Voluntary Appointment of Guardian or Conservator on Contingency

18. When a petition for voluntary appointment of guardian or conservator on contingency is received: (KRS 387.330.)

    a. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

b. Apply the “FILED” stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case.

c. Immediately close the case screen by completing the disposition date, disposition type and judge at disposition.

Revocation

d. If a signed revocation of the voluntary petition is received:

(1) Apply the “FILED” stamp to the revocation; add the date and your initials.

(2) File by completing a document screen.

Judicial Proceedings

e. At such time as a verified statement is received:

(1) Apply the “FILED” stamp to the verified statement; add the date and your initials. File by completing a document screen.

(2) Deliver the case file to the judge. If the judge directs, schedule a hearing and give notice. Complete a scheduled events screen for the date of the hearing.

Appointment of Guardian/Conservator

(3) When a guardian or conservator is appointed and bond, if any, is set by the judge:

(a) When the fiduciary bond is posted (if any bond required), enter Order of Appointment of Guardian or of Conservator and Fiduciary Bond. AOC Form 775, Order of Appointment of Guardian or AOC Form 770, Order of Appointment of Conservator and AOC Form 825, Fiduciary Bond, may be used. KRS 395.130, 62.060. Apply "ENTERED" stamp to order and "FILED" stamp to bond; add the date and your initials. Enter on document screens.

(b) Collect the bond filing fee as set forth in the Fees and Costs section of this manual. KRS 64.005.

(c) Give notice of entry of the order of appointment by mailing:

Certified copies to:

1) Guardian or conservator
2) County clerk for recording. KRS 387.590(8). Petitioner is responsible for any recording fee.

Copies to:

3) Petitioner
4) Respondent
5) Attorneys for both parties
6) All persons named in petition
7) Facility where or person with whom respondent resides.

(d) Do not advertise the appointment of the guardian or conservator. KRS 395.610(2).

Inventory and Settlement

f. A guardian or conservator must file (KRS 387.670(4), 387.710):

(1) An inventory within 60 days of appointment, KRS 387.710(1). Apply "FILED" stamp to inventory; add the date and your initials. File the inventory on a document screen.

(2) A settlement every two years, within 120 days of the anniversary of the appointment, KRS 387.710(2), (may be informal if ward has no real property and possesses personal property of $1500 or less for any year of the biennial report, KRS 387.710(2)(c)); apply "FILED" stamp to settlement; add the date and your initials. File the settlement on a document screen. Present the settlement to the judge for approval.

(3) A final settlement upon termination of appointment, KRS 387.710(3); apply "FILED" stamp to settlement; add the date and your initials. File the settlement on a document screen. Present the settlement to the judge for approval.

If no exceptions are filed within 30 days after settlement is approved, return vouchers to fiduciary. If exceptions filed, retain until settled, then return to fiduciary.

(4) A guardian must also file an annual report as to the ward's condition. KRS 387.670. Apply "FILED" stamp to the report; add the date and your

initials. AOC Form 790, Annual Report of Guardian may be used. File the report on a document screen. Present the annual report to the judge for approval.

(5) Do not advertise reports or settlements of the guardian or conservator. KRS 395.610(2).

(6) Delinquent inventory and settlements. You must report in writing to the judge each month the names and addresses of all fiduciaries who are delinquent in filing an inventory or a settlement. KRS 395.635. Set up a tickler system to alert you of the names to be reported by completing a scheduled events screen for the date that the inventory or settlement is due. Print and present the calendar to the judge on a monthly basis. If the inventory or settlement is filed before the due date, delete the scheduled event following instructions in counter screen section of KYCourts Manual.

Petitions for Relief, Modification

19. A respondent in a disability case may petition the court (written or oral) for the appointment of an individual to assist the respondent in preparing a written Petition for Relief, Modification or Termination of a Disability Order entered by any court in the Commonwealth. KRS 387.620.

a. Case filed in your court:

(1) Oral Request - In the existing case, schedule a hearing, as directed by the court, by completing a scheduled events screen.

(2) Written Request - apply the "FILED" stamp to the petition; add the date and your initials. File in the existing case by completing a document screen. Schedule a hearing, as directed by the court, by completing a scheduled events screen.

(3) When an order appointing is received, apply the "ENTERED" stamp; add the date and your initials and file by completing a document screen. Serve notice of entry on the respondent and the individual appointed to assist the respondent.

b. No case in your court:

(1) Refer to instructions in Case Add section of KYCourts Manual for instructions on opening the case.

(2) Oral Request - Schedule a hearing, as directed by the court, by completing a scheduled events screen.

(3) Written Request - apply the "FILED" stamp to the petition; add the date and your initials and file by completing a document screen. Schedule a hearing, as directed by the court, by completing a scheduled events screen.

(4) When an order appointing is received, apply the "ENTERED" stamp; add the date and your initials and file by completing a document screen. Serve notice of entry on the respondent and the individual appointed to assist the respondent.

c. When the Petition for Relief, Modification or Termination of the Disability Order is filed:

(1) Apply the "FILED" stamp to the petition; add the date and your initials and file on a document screen in the existing case. AOC Form 795, Petition for Relief, Modification or Termination may be used.

(2) Schedule a hearing to be held within 30 days of the filing of the petition, by completing a scheduled events screen. KRS 387.620(4). Give notice of the hearing to all parties and persons named in the petition no less than 14 days prior to the hearing. KRS 387.620(4).

(3) If an order is received appointing counsel, apply the "ENTERED" stamp; add the date and your initials, and enter on a document screen.

(4) If a motion for a jury trial is received, apply the "FILED" stamp; add the date and your initials and file on a motion screen. Complete a scheduled events screen for the jury trial date.

(5) When a signed order is received, apply the "ENTERED" stamp; add the date and your initials and enter by completing a document screen. Give notice of entry to all parties and persons named in the petition.

(6) Send certified copy of restoration judgment or modification to originating court if restoration judgment or modification is ordered by court other than where original judgment was entered. KRS 387.620(8).

Emergency Appointments

20. Emergency Appointments. KRS 387.740.

a. Court may exercise powers of limited guardian or conservator or appoint one if:

(1) There is a disability proceeding pending, including appeal.

(2) There is a danger of serious impairment to the health or safety of respondent or damage or dissipation to his property if immediate action is not taken. KRS 387.740(1).

b. Apply "FILED" stamp to the petition, add the date and your initials. AOC Form 747, Petition/ Application for Emergency Appointment of Fiduciary may be used.

c. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Copy the case history at the close of each case. Place a tab on the side of the copy and insert in the file folder as a divider.

d. Set a hearing date within one week of filing of petition by completing a scheduled events screen. KRS 387.740(3). Apply "ENTERED" stamp to the order setting the hearing; add the date and your initials. AOC Form 780, Order Setting Hearing may be used.

(1) Respondent is entitled to counsel. KRS 387.740(3). If counsel is appointed by the court, apply "ENTERED" stamp to the order; add date and your initials. AOC Form 755, Order Appointing Counsel may be used.

(2) Give notice of entry by mailing copies of Hearing Order and Counsel Order (if applicable) to:

(a) All persons named in petition;
(b) County Attorney;
(c) Respondent's Counsel.

(3) Notice of time and place of hearing shall be given not less than 48 hours prior to hearing. KRS 387.740(3).

e. When a signed judgment is received, apply "ENTERED" stamp; add the date and your initials. AOC Form 748, Order for Emergency Appointment of Fiduciary may be used. Give notice of entry by mailing copies of judgment to:

Certified copies to:

(1) Guardian or conservator

(2) County clerk for recording. KRS 387.590(8). Petitioner is responsible for any recording fee.

(3) State Board of Elections, 140 Walnut Street, Frankfort, Ky. 40601-3240, within 10 days after judgment. KRS 30A.145.

(a) If wholly disabled: certified copy of judgment with respondent's date of birth and social security number if possible.

(b) If partially disabled: certified copy of judgment with respondent's date of birth and social security number and certified copy of Order Appointing Guardian or Conservator.

Copies to:

(4) Petitioner
(5) Respondent
(6) Attorneys for both parties
(7) All persons named in petition
(8) Facility where or person with whom respondent resides

f. When a guardian or conservator is appointed and bond (if any) has been posted:

(1) Enter Order of Appointment of Guardian or of Conservator and Fiduciary Bond. KRS 395.130, 62.060. Apply "ENTERED" stamp to order and "FILED" stamp to bond; add the date and your initials. Enter on documents screens.

(2) Collect the bond filing fee as set forth in the Fees and Costs section of this manual. KRS 64.005.

(3) Give notice of entry by mailing copies to:

Certified copies to:

(a) Guardian or conservator

(b) County clerk for filing and indexing. KRS 387.590(8). Petitioner is responsible for any recording fee.

Copies to:

(c) Petitioner
(d) Respondent
(e) Attorneys for both parties
(f) All persons named in petition
(g) Facility where or person with whom respondent resides.

(4) Do not advertise the appointment of the guardian or conservator. KRS 395.610(2).

g. Close the case screen by completing the disposition date, disposition type and judge at disposition fields.

Sale of Real Estate by Guardian/Conservator

21. When a motion is filed by a guardian/conservator for permission to sell real property:

a. Apply the “FILED” stamp to the motion; add the date and your initials. File by completing a motion screen and scheduled events screen.

b. Unless waived in writing, written notice of the hearing must be given to all known adult next of kin of the disabled person and any person with a vested or contingent interest in the property, as identified by the Guardian/conservator, at least 30 days prior to the hearing. Give notice of this hearing by printing Court Notice and serve with the motion attached by certified mail, return receipt requested.

c. When a signed order is received:

(1) Apply the "ENTERED" stamp to the order; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the order on the document screen in the computer, including a brief description. This constitutes entry of the order and it does not become effective until this is done. RCr 11.04. This is combined with the notation of service of entry of the order as described below.

(3) Serve notice of entry of the order on every party not in default or who has not waived notice by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3). Enter the method of service (mail or personal delivery) and notice of entry date on the document screen where the order is entered. RCr 12.06.

Expungement

22. Following dismissal or withdrawal of a petition or determination that a respondent is no longer disabled, the respondent may at any time move to have all court records pertaining to proceedings expunged, provided a full release of all claims arising from the proceedings is submitted. KRS 387.770(2).

a. Expungement of the record means the sealing of all papers in the proceeding, including the docket sheet, index cards, police records, Cabinet for Health and Family Services records and case files. This is done by court order.

b. Apply "ENTERED" stamp to the order; add date and your initials. Enter on a document screen. Notify any officials or agencies named in the order, and seal the records including all items mentioned in a. above. On the outside of the sealed envelope, add the case number, birth date of the respondent and the date of the order of expungement. It is not necessary to destroy the electronic tapes; the official retention and disposal schedule for district court tapes applies.

c. If you are asked about an expunged record, advise that no such record exists.

d. An expunged record can be reopened only upon petition to the court and an order specifying the names of those who shall have access to the file.

Disability Procedure Checklist

23. Disability Procedure Checklist

a. Petition.

b. Court sets jury trial date.

(1) Within 30 days after filing of petition if an interdisciplinary evaluation report IS filed with petition. KRS 387.550(1).

(2) Within 60 days if not filed with petition. KRS 387.550(1).

c. Clerk sends copies at least 14 days prior to hearing to:

(1) Petitioner;
(2) Respondent;
(3) Attorneys for both parties;
(4) All persons named in petition;
(5) Person proposed as guardian, limited guardian, limited conservator, or conservator. KRS 387.550(2).
(6) Person with whom or facility in which respondent resides;

d. Clerk issues summons.

e. Court appoints interdisciplinary team, if necessary. Clerk sends copies to:

1) Petitioner;

2) Respondent;
3) Attorneys for both parties;
4) Team members;
5) Individual or facility with custody of respondent. KRS 387.540(1),(7).

h. Court appoints counsel if respondent does not obtain counsel within one week of the filing of petition. Clerk sends copies to: KRS 387.560.

(1) Petitioner;
(2) Respondent;
(3) Attorneys for both parties;
(4) All person(s) named in petition or facility or person with whom respondent resides;
(5) Person proposed for appointment as Limited Guardian, Guardian, Limited Conservator or Conservator.

i. Judgment and Appointment. Clerk sends copies of Judgment and Appointment to:

Certified copies to:

(1) Guardian or conservator;
(2) County clerk for recording. Petitioner is responsible for recording fee, if any.
(3) State Board of Elections, 140 Walnut Street, Frankfort, KY 40601-3240 within ten (10) days after judgment. Send the judgment (AOC Form-785) only if the judge has ordered that the respondent shall not retain the right to vote by checking the box on the form.

Copies to:

(4) Petitioner;
(5) Respondent;
(6) Attorneys for both parties;
(7) All persons named in petition;
(8) Person with whom or facility in which respondent resides.

DISMISSAL NOTICES

CR 77.02(2)
(Circuit and District Courts)

1. Trial courts shall review all pending actions monthly.

2. For every case in which no pretrial step has been taken within the last year, notice shall be given to each attorney of record that the case will be dismissed in thirty days for want of prosecution except for good cause shown.

3. Have the judge assign a hearing date (or do this yourself if the judge has delegated this duty to you). This date must be at least 30 days after the notice is mailed.

4. Refer to Notice to Dismiss Due to Lack of Prosecution section of the KYCourts Manual for instructions on printing a report of cases that have had no activity for a year.

   a. Apply the "FILED" stamp to the printed notice; add the date and your initials and file the notice by completing a document screen. Mail a copy to each attorney or party not represented and place a copy in each case file.

   b. Calendar the hearing by completing a scheduled event screen in each case.

   c. When the order dismissing for lack of prosecution is signed:

      (1) Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

      (2) Enter the order on a document screen including a brief description. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order as described below.

      (3) After the order is entered serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04 (1), RCr 12.06 (1) and (3).

      (4) Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of the notice of entry of the order. RCr 12.06.

   d. If an order is received that continues the case to a future court date, complete a scheduled event screen.

e. If the order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

DISSOLUTION OF MARRIAGE

(Circuit Court or Family Court Division of Circuit Court)
KRS Chapter 403

1. Special reporting requirements are mandatory in dissolution and annulment proceedings.

VS 300 Form

a. Do not file a petition for dissolution or annulment unless Vital Statistics Form 300 (Certificate of Divorce or Annulment) is filed concurrently with the petition by the petitioner or attorney. KRS 213.116(4). The bottom portion must be written legibily and in unfading black or blue ink. KRS.213.041 (2). when the decree or order of annulment is entered, complete the bottom portion of the vs 300 form and mail monthly to:

Cabinet for Health Services
Office of Vital Statistics
First Floor
275 East Main Street
Frankfort, KY 40621

KRS 213.116(5). A supply of VS 300 Forms may be ordered from the above address.

Domestic Violence Petition/Verified Motion

2. All petitions/verified motions filed during the pendency of a dissolution or child custody proceeding alleging that an act of violence has occurred shall be assigned a Domestic Violence “D” case number with the appropriate trailer number. Use case type “DV”. The attorney for the petitioner shall complete an AOC 275.1 Domestic Violence Petition to accomplish entry of the information in the LINK system. KRS 403.730(2). Refer to Domestic Violence Proceedings for specific instructions.

Filing Fees

3. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

a. If the party is proceeding in forma pauperis, the complaint is accompanied by a Motion for Leave to Proceed In Forma Pauperis and a supporting affidavit. Any matter to be filed, including appeals, shall be considered filed on the date it is tendered. If the motion is overruled, the moving party has ten days to pay any required fees or costs or to appeal the decision. If the moving party fails to pay the required fees or costs or to seek review, the matter shall be treated as not timely filed. CR 5.05(4).

NOTE: If the party is an inmate, and the court denies waiver of fees, the inmate shall be given 45 days after the date of the order to pay any required fees or costs. KRS 454.410(3).

b. If a notice of appeal of the denial of the motion to proceed in forma pauperis is filed, immediately certify and send to the appellate court:

(1) the motion to proceed in forma pauperis together with any attachments and responses thereto;

(2) the order being appealed; and

(3) a copy of the transcript of related hearing, if any

No filing fees or motion to proceed in forma pauperis is required in this instance.

4. Do not collect the fee for service of process. KRS 23A.200(2) and 24A.170(2) provide that these fees shall be paid directly to the sheriff or other serving officer.

5. The petitioner must furnish a copy of the petition for service upon the respondent, in addition to the original which is filed in your office. If you make copies, collect a copy fee as set forth in the Fees and Costs section of this manual and give a receipt.

6. Assign to a division using the procedure in your local rules.

7. Apply the "FILED" stamp; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for circuit civil "CI" cases or use the next pre-numbered file folder.

Summons Issuance

8. The clerk is required under CR 4.01(1) to issue a summons immediately upon the filing of a complaint. Generate a summons for each person to be served by completing a summons screen. To expedite the filing of a lawsuit you may provide attorneys with AOC Form 105, Civil Summons, to complete and return to you for

signature at the time the complaint is filed. In either instance a summons screen is completed.

9. The summons and the petition shall be served together. The party requesting the summons shall furnish sufficient copies of the petition for this purpose. CR 4.04(1).

10. The initiating party will instruct whether service of the summons is by certified mail or personally delivered by the sheriff or other authorized person. CR 4.01(1).

Certified Mail Service

11. If certified mail service is requested:

    a. Attach a copy of the petition to the summons. CR 4.04(1).

    b. Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

    c. Service under the long-arm statutes:

       Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the complaint and summons by certified mail to:

       Secretary of State
       Commonwealth of Kentucky
       Capitol Building
       Frankfort, Kentucky 40601

Personal Service

12. If service by the sheriff or other serving officer is requested. CR 4.01(1)(b):

    a. Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the petition attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

b. Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Return of Service

13. When return of service is received:

a. Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

b. Personal Service

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen.

14. A civil summons may be issued and served on Sundays and holidays upon an affidavit that the process cannot be executed after that day. KRS 454.125, 454.130.

Warning Order Service

15. If a warning order is requested to obtain constructive service do not issue a summons (CR 4.05,4.06):

a. A complaint/affidavit will be filed with you stating the reason the defendant cannot be served and the defendant's last known address, or affiant's ignorance of such fact.

b. Consult your roster of attorneys and make the appointment. You may not appoint the plaintiff or the attorney, and these persons may not suggest anyone for the appointment. CR 4.07(1).

c. Prepare AOC Form 110, Appointment of Warning Order Attorney; apply the "FILED" stamp; add the date and your initials. Make a copy and attach to a copy of the complaint and deliver to the warning order attorney.

d. File the warning order by completing a document screen.

e. Complete a party screen for the warning order attorney.

16. When a motion or other pleadings except orders and judgments are received, apply the "FILED" stamp; add the date and your initials. File by completing the appropriate screen, i.e., scheduled events, motion or document.

Domestic Relations Commissioner

17. If the case is referred to a domestic relations commissioner:

a. When the commissioner files a report, prepare AOC Form 240, Notice of Filing Commissioners Report and serve the notice by mail on all parties who have appeared in the action. CR 53.06(1).

b. Add the “FILED” stamp to the report and notice; add the date and your initials. File by completing documents screens.

NOTE: Do not apply the "ENTERED" stamp to the Commissioner's Report.

c. Parties may serve written objections on other parties within 10 days after being served with the Notice of Filing of Commissioners Report. Application to the court for action upon the report and objection shall be by motion and notice. File stamp the motion and notice, add the date and your initials and complete a motion and scheduled event screen.

d. When a signed order is received adopting, modifying or rejecting the report, apply the "ENTERED" stamp to the order, add the date and your initials. Do not use the "FILED" stamp. Enter the order on a document screen including method and date of notice of entry. Serve notice of entry of the order by mail or hand delivery on every party who is not in default or who has not filed a written waiver of notice.

Investigator's Report in Custody Proceedings

18. If the court orders an investigation and report concerning custodial arrangements, upon receipt of the investigator’s report, apply the "FILED" stamp; add the date and your initials. File by completing a document screen. Mail a copy of the report to all attorneys of record and any party not represented by an attorney at least ten (10) days prior to any custody hearing. KRS 403.300(3).

Decree of Dissolution

19. When a signed decree or order is received:

    a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

    b. Enter the decree or order on the document screen including a brief description. This constitutes entry of the decree or order; the decree or order does not become effective until this is done. CR 79.01(1). This is combined with the notation of service of notice of entry of the decree or order as described below.

    c. After the decree or order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the decree or order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1)(3).

    d. Make an entry on the document screen showing the manner and date of service of notice of entry of the decree or order. RCr 12.06.

    e. If the decree or order includes child support (AOC Form 152, Uniform Child Support Order), place a copy of the order in a designated area (box or basket) in your office for the Cabinet for Health and Family Services. AOC Form 152 is a mandatory form.

20. When the decree of dissolution is entered, complete the disposition date, disposition type and judge at disposition fields on the case screen. Complete the bottom portion of VS Form 300 and mail on a monthly basis to:

    Cabinet for Health and Family Services
    Office of Vital Statistics
    First Floor - 275 East Main Street
    Frankfort, Ky 40621
    KRS 213.116(5).

DISTRICT COURT CRIMINAL COMPLAINTS

RCr 2.02

1. There is no filing fee in criminal cases. KRS 453.190(1)

2. If a person wishes to file a criminal complaint, direct him/her to the county attorney or commonwealth's attorney. The complaint must be made upon oath and must be signed. RCr 2.02.

3. Take the complaint to your district judge or trial commissioner.

> **Note: in the event of the absence from a county of all district judges and all circuit judges and all trial commissioners, the circuit clerk in each county may issue criminal warrants prepared by the commonwealth attorney or county attorney, who shall certify that there is no district judge, circuit judge or trial commissioner within the county. krs 15.725(5). (Note: the term "criminal warrants" includes search warrants.)**

Appearance Bond

4. A judge, trial commissioner, or other officer issuing an arrest warrant may require the complaining witness to post a bond to guarantee his/her attendance in court. Prepare the bond for the complaining witness's signature; collect the amount of the bond, the filing fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 431.017. Apply the "FILED" stamp to the bond; add the date and your initials. Attach the signed bond form to the bookkeeping bond card.

5. Pending complaints/warrants/summons are not court records and therefore, should not be maintained in the clerk’s office.

When Case is Opened

6. Do not open a case until the warrant or summons is served on a defendant.

7. When a warrant/summons is served on a defendant, apply the "FILED" stamp to the complaint; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case for T, M, or F cases.

> **NOTE: If an appearance bond was posted by the complaining witness, the signed bond form attached to the bookkeeping bond card should be filed in the case file.**

- Open one (1) case file and assign one (1) case number when two (2) or more offenses, whether felonies, misdemeanors, violations, or any combination thereof, are charged in the same or related indictment, information, served criminal complaint or citation, where the offenses are of the same or similar character or are based on the same acts or transactions connected together or constituting parts of a common plan or scheme.

No Probable Cause

When a bond form is received indicating “no probable cause”, schedule the case for arraignment on the next available court date. County Of Riverside v. McLaughlin, 500 U.S.44 (1991).

8. When a signed calendar is received, it is an order or judgment for each case listed. CR 58. Apply the "ENTERED" stamp; add the date and your initials. Notice of entry of judgment is not required in misdemeanor or traffic cases. RCr 12.06(3). Enter the information on the appropriate screen.

9. If the order or judgment imposes jail time, complete AOC Form 425, Order of Commitment and deliver to the transporting officer.

Charge Closing

10. When the calendar closes the charges, complete the disposition date, disposition judge, disposition type, trial type, original plea and final plea on the charge screen.

    NOTE: Court trial is entered as trial type disposition only when an actual trial is held. Except for the jury being empanelled to hear the case, the same set of circumstances as a jury trial must exist, i.e., opening statements by attorneys, cross-examination of witnesses, closing arguments and a finding by the court. The entry of a guilty plea in open court is not a court trial.

    If a court trial or jury trial has been entered as the trial type, an original plea and final plea must be entered.

    If an original plea has been entered, a final plea must be entered whether or not the defendant changes the plea. If no plea is entered, (example: charge is dismissed at arraignment), original and final plea are both left blank. Original plea and final plea reflect what the defendant has entered regardless of a different finding by the court.

11. Refer to instructions in the KYCourts Manual for charge disposition reportable to Division of Driver Licensing.

You are no longer required to complete the disposition section on citations.

Sentence

12. If a sentence is imposed by the court, complete a sentence screen.

    NOTE: If the defendant is sentenced to time and the time is suspended or conditionally discharged, enter the time assessed in the "Total Sentenced" field. Enter time suspended or conditionally discharged in the "Suspended" or "Conditionally Discharged" field.

13. When all charges in the case have been completed, the system will close the case screen by completing the disposition date and judge at disposition fields.

14. If ordered, collect the fine, court costs and applicable fees as set out in the Fees and Costs section of this manual, and give a receipt. KRS 24A.175(1); KRS 24A.185(1)(3).

    a. Court costs are based upon the charge date.

        (1) Offenders will pay the court costs in effect on the violation date shown on the citation plus library fee and court facilities fee, if applicable.

        (2) Refer questions about receipting court costs to your Judicial Auditor.

    b. Court costs are not assessed unless there is a conviction. Absent a finding of indigency, imposition of court costs is mandatory anytime there is a conviction.

    c. If the court establishes an installment plan for the offender, schedule a show cause hearing using event type “SCIP” as ordered by the court. Apply payments first to court costs, then to restitution, then to fees and finally to fines, unless otherwise ordered by the Court. Contact your Judicial Auditor if you receive a court order directing you to apply payments in a different fashion.

15. If a defendant is convicted of a second or subsequent charge of "No Insurance" (KRS 304.99-060), redocket the case for review in six (6) months for additional proof of security and payment receipt. If the license is suspended, copy the court calendar and mail to the Division of Drivers Licensing.

Sex Offender Order to Register

16. When Probation and Parole Form P:227, Sex Offender Duty To Register Notification Form, signed by the judge is received, apply the “ENTERED” stamp; add the date and your initials. File by completing a document screen. Give notice of entry of the judge’s order by distributing a copy of the form as shown in the distribution list at the bottom of the form.

Sex Offender Registration Non-Compliance Notice

17. When notification of non-compliance by a defendant of requirements of the Sex Offender Registry is received (KRS 17.510(13)(b)):

    a. Apply the “FILED” stamp to the notification; add the date and your initials. File by completing a document screen.

       NOTE: If the notification is received in a county other than the county of conviction, file in a miscellaneous file labeled "Out of county sex offender non-compliance notices".

    b. Mail or hand deliver a copy to the county attorney.

    c. Notify the judge of the notification of non-compliance. Schedule a hearing as directed by the court or pursuant to motion or notice from the county attorney.

    d. When a signed order is received:

       (1) Apply the “ENTERED” stamp; add the date and your initials. Do not use the “FILED” stamp.

       (2) Enter the order on the document screen (or manual docket sheet if the notification is received in a county other than the county of conviction). This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order as described below.

       (3) After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order that has been stamped “ENTERED” and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1),(3).

       (4) Make an entry on the document screen showing the manner (mail or personal delivery) and date of service of notice of entry of order. RCr 12.06

Restraining Order Following Stalking Conviction

18. When a Restraining Order (Following Stalking Conviction) signed by the judge is received:

    a. Apply the “ENTERED” stamp to the order; add the date and your initials.

    b. Using the most expedient means reasonably available and within 24 hours following entry of AOC Form 446, Restraining Order (Following Stalking Conviction), hand deliver, fax or mail a copy as follows:

        (1) Agency responsible for LINK entry;

        (2) Petitioner or his/her attorney;

        (3) Defendant or his/her attorney.

    c. When an order rescinding AOC Form 446, Restraining Order (Following Stalking Conviction) signed by the judge is received, apply the “ENTERED” stamp to the order; add the date and your initials.

    d. Using the most expedient means reasonably available and within 24 hours following the entry of order rescinding AOC Form 446, Restraining Order (Following Stalking Conviction), hand deliver, fax or mail a copy as follows:

        (1) Agency responsible for LINK entry;

        (2) Petitioner or his/her attorney;

        (3) Defendant or his/her attorney.

    e. The case file wherein a Restraining Order (Following Stalking Conviction) has been entered cannot be destroyed pursuant to the Records Retention Schedule of the Court of Justice until such time as the Restraining Order has expired. It is suggested that a colored sticker be attached to such case file as a reminder to retain the file until the Restraining Order has expired.

Kentucky Rule of Evidence (KRE) 412 Hearing in Rape and Similar Cases

19. Procedure to determine admissibility of evidence. For hearings held pursuant to KRE 412(c)(2), motions and related papers together with the audio or video tape of the hearing must be sealed and remain sealed unless the court orders otherwise.

    a. When the motion(s) and related papers are received:

        (1) Apply the “FILED” stamp; add the date and your initials. File by completing a motion or document screen as appropriate. If the pleading

is a motion, schedule a court date by completing a scheduled events screen.

(2) Place the motion or other pleading in an envelope; mark the envelope “Confidential”; add the date and your initials. Seal the envelope.

(3) Place the sealed envelope in the case file.

b. If an audio or video hearing is held:

(1) Place the tape of such hearing in an envelope; mark the envelope “Confidential”; add the date and your initials. Seal the envelope.

(2) Place the sealed envelope in the case file.

c. Do not release the sealed envelope(s) from your custody except when actually used in the action or proceeding. If a request to review the case file is received, remove the envelope(s) from the case file.

d. A party seeking to view the sealed envelope(s) must secure a court order giving him/her access.

e. When the case is closed, maintain the confidentiality of the pleadings.

DOCKET ENTRIES
CR 79.01

1. A docket entry in a case is made by completing the appropriate screen in KYCourts. From these entries a case history is created. This is the "docket sheet" for that case.

Computer Docket Entry

2. To make a computer docket entry.

   a. Complete a case screen with the opening information consisting of case number, style, filing date, case type and the opening judge.

   b. Complete a document screen for each pleading filed in the case. Give a brief description of the pleading in the memo field.

      - Motions are filed by completing a motion screen attached to a scheduled event screen.

   c. Complete a summons or warrant screen for each process issued. When a return is received, complete the service date and status fields on the same screen.

   d. Complete a document screen for each order and judgment including notice of entry method and date. Include a brief description in the memo field. The entry of orders and judgment is particularly important because it constitutes the entry of the order or judgment and the order or judgment does not become effective until it is entered. CR 58. Notice of entry is important because the date governs the running of time for appeal. CR 77.04(2).

Correct a Mistake

3. To correct an error in a docket entry, type the erroneous portion, exactly as written, in the memo field, enter the necessary correction in the proper field and overlay with the necessary correction.

DOMESTIC VIOLENCE PROCEEDINGS

KRS 403.715

(District Court, Circuit Court and Family Court Division of Circuit Court)

1. Domestic violence proceedings allow victims of domestic violence to obtain short-term protection against further violence through court protective orders and expanded law enforcement authority to intervene and assist victims. Domestic violence includes physical injury, serious physical injury, sexual abuse, assault, or fear thereof between family members or members of an unmarried couple. KRS 403.715, 403.720.

   In each jurisdiction, a local domestic violence protocol has been adopted by the district judge, family court judge (in counties where family court has been established) and circuit judge and approved by the chief justice of the Supreme Court. in addition to the information contained in this section, refer to your local domestic violence protocol for specific directions.

2. You are required to accept all domestic violence petitions. the judge or trial commissioner will make any determinations regarding the filing of the petition.

3. A domestic violence petition may be filed:

   a. In the county where the petitioner or minor child resides; or

   b. In the county of current residence if the petitioner or minor child have left their usual residence to avoid violence and abuse. KRS 403.725(1).

Access to File

4. Keep the case file in a locked cabinet. If a person, other than the petitioner or his/her attorney, requests access, do not give the person the file. Instead, make copies of the requested documents. Mark through the addresses of the petitioner and any minor children.

   a. Exception: The Cabinet for Health and Family Services is entitled to access the address of the petitioner and any minor children. KRS 403.715.

Domestic Violence Petition

5. All domestic violence petitions shall be assigned a domestic violence ‘D’ case number with the appropriate trailer number, regardless of who (District Judge, Trial Commissioner, Family Court Judge or Circuit Judge) reviews the petition and orders the case filed.

a. This includes petitions filed during the pendency of a dissolution or child custody proceeding.

(1) An attorney filing a verified motion stating an act of domestic violence has occurred in a dissolution or child custody proceeding must complete AOC Form 275.1 Domestic Violence Petition for entry in the LINK system. KRS 403.730(2).

6. There is no filing fee for domestic violence cases. KRS 403.730(3).

7. The petitioner should fill out the petition using AOC Form 275.1, Domestic Violence Petition. Give the petitioner the Domestic Violence brochure, a supply of which may be ordered from the Print Shop at AOC. The petitioner must sign the petition and it must be verified. KRS 403.730(1), (2). The petitioner must complete the motion for relief and sign the petition.

8. Jurisdiction for Filing Petition.

Non-Family Court Jurisdiction

a. At the time the petition is received, check the index of circuit court cases to ascertain if a dissolution or child custody proceeding is pending.

(1) If no dissolution or child custody proceeding is pending, the clerk shall deliver the petition to the district judge or trial commissioner, or to the circuit judge if no district judge or trial commissioner is available.

(2) If a dissolution or child custody proceeding is pending in circuit court, deliver the petition to the district judge, trial commissioner, or circuit judge, according to your local domestic violence protocol.

(a) Cross-reference the “D” case with the circuit “CI” case and place a copy of the EPO in the circuit “CI” case file and notify the circuit judge.

Family Court Jurisdiction

b. Deliver the petition to a District Judge unless the local domestic violence protocol approved by all the Circuit, Family and District Judges in the judicial circuit and approved by the Supreme Court provides otherwise.

If a dissolution or child custody case is pending, notify the Family Court Judge and cross-reference the “D” case with the circuit “CI” case and place a copy of the EPO in the circuit “CI” case file.

Denied/No Action Taken Petitions

1. If the judge/trial commissioner takes no action on the petition and does not issue an EPO or direct the issuance of a summons, the judge shall note that information on the petition. KRS 403.735(4).

2. Apply the “FILED” stamp to the petition; add the date and your initials.

3. Refer to the Case Add section of the KYCourts Manual for instructions on opening the case. Assign a case number using the next pre-numbered folder for domestic violence “D” cases including a trailer number. Assign a case type code of “DDP”.

   NOTE: Do not assign a new number if the same parties have a prior case in your court. Copy the case history at the close of each case. Place a tab on the side of the copy and insert in file folder as a divider.

4. The Judge number of the Judge or Trial Commissioner reviewing the petition and ordering the case filed as a denied petition shall be entered on the case screen as the opening judge.

   Note: do not include the petitioner’s address on the party screen.

   1. Close the case screen by completing the disposition date, disposition type code “DVD” (Domestic Violence Denied) and judge at disposition, i.e. District Judge, Family Court Judge or Circuit Judge. Note in the memo “Denied Petition”.

   2. If the court issues an EPO, proceed to Emergency Protective Orders.

   If the court determines that domestic violence/abuse exists and issues a summons, but does not issue an EPO, file the petition.

   a. Apply the "ENTERED" stamp to the petition; add date and your initials. Give a copy to the petitioner if the petitioner request.

      All domestic violence petitions are filed in district court to be heard by the district judge, family court judge or circuit judge as directed by your local domestic violence protocol.

   b. Refer to the Case Add section of the KYCourts Manual for instructions on opening the case. Assign a case number using the next pre-numbered folder for domestic violence "D" cases including a trailer number.

NOTE: Do not assign a new number if the same parties have a prior case in your court. Copy the case history at the close of each case. Place a tab on the side of the copy and insert in file folder as a divider.

c. The judge number of the judge or Trial Commissioner reviewing the petition and ordering the case filed shall be entered on the case screen as the opening judge.

d. Do not include the petitioner's address on the party screen.

e. If a dissolution or child custody proceeding is pending, the domestic violence case shall be cross-referenced with the dissolution or child custody case.

f. No bond is required of the petitioner; nor is the petitioner required to pay any fees for service. KRS 403.740(3)(5).

Summons/Court Date

5. Manually prepare or print AOC Form 275, Domestic Violence summons. In either instance, a summons screen must be completed. Include the court date (which must be within 14 days of the issuance of the summons, including the day of issuance, KRS 403.745 (1), (2)).

Summons Issued on a Juvenile

a. If the respondent is a juvenile, serve his resident guardian or committee if one is known to the petitioner or, if none is known, serve either his father or mother within this state or, if none, serve the person within this state having control of such individual. If there are no such persons enumerated above, the clerk shall appoint a practicing attorney as guardian ad litem who shall be served. If any of the persons directed by this section to be served is a petitioner, the person who stands first in the order named who is not a petitioner shall be served. CR 4.04(3).

b. Note the hearing date by completing a scheduled events screen. If a dissolution or child custody case is pending, complete the scheduled events screen for the calendar of the district judge, family court judge or circuit judge according to your local domestic violence protocol.

c. No bond is required of the petitioner; nor is the petitioner required to pay any fees for service. KRS 403.740(3)(5).

Service of Petition/Summons

d. Using the most expedient means reasonably available and within 24 hours following the issuance of the summons, hand deliver, fax or mail a copy of the petition and summons as follows (Please note that the original petition is to remain in the case file; only distribute copies with the petitioner's address and the address of any minor children marked through):

(1) Agency Assigned Service: The A.A.S. receives the original summons for return, a copy of the petition (with the address of the petitioner and address of any minor children marked through) and a copy of the summons for each respondent. KRS 403.770(2).

(2) Petitioner or his/her attorney.

(3) Agency responsible for LINK entry (KRS 403.770(2)).

(4) Circuit Clerk (certified copy) in the usual residence of the petitioner, if a different county from the filing county (KRS 403.770(4)).

(a) Receiving circuit clerk files in a "General Domestic Violence" file. Apply the "FILED" stamp; add date and your initials. When filed, the petitioner has the option for subsequent court proceedings to take place in the petitioner's usual or current county of residence. KRS 403.725(1). If subsequent proceedings are requested, remove all pleadings and file in the appropriate court following instructions beginning above.

(5) Local Department for Community Based Services, Cabinet for Health and Family Services. Do not mark through the address of the petitioner or any minor children. CHFS is entitled to access this information.

6. File the executed summons by applying the "FILED" stamp; add the date and your initials. Complete the service date field on the summons screen.

a. Using the most expedient means reasonably available and within 24 hours following the filing of the executed summons, hand deliver, fax or mail a copy of the executed summons to the Agency Responsible for LINK Entry. KRS 403.770(2).

Failure of Service Notice

b. File any written notice you receive from the Agency Assigned Service regarding the failure of service of a summons by applying the "FILED" stamp; add date and your initials. Memo this written notice (or any oral notice) on the summons screen. Also notify the issuing judge of the notice.

Emergency Protective Orders

7. If the court determines an emergency exists with regard to domestic violence and abuse, you will receive an Emergency Protective Order (EPO) granted by the district judge, trial commissioner, family court judge or circuit judge, in accordance with your local domestic violence protocol (AOC Form 275.2, Emergency Protective Order). Enter the order by applying the "ENTERED" stamp; add the date and your initials. Enter on a document screen.

Domestic Violence Summons/Court Date/Notice of Impending Expiration Unserved Emergency Order of Protection

a. Upon entry of the EPO, prepare the summons (AOC Form 275 DV Summons) and complete a summons screen. Include the court date (which must be within 14 days of the issuance of the summons). KRS 403.745(1)(2).

b. Note the hearing date by completing a scheduled events screen. The hearing is a bench trial before the district judge, family court judge or circuit judge, as appropriate under your local domestic violence protocol. Trial commissioners are not authorized to preside over these hearings. SCR 5.030).

8. Complete a scheduled events screen five months from issuance date using scheduled event type “TMN” To Mail Notice of Expiration of Unserved Emergency Protection Order. This date is used to remind clerk’s to mail AOC 275.13 (Notice of Impending Expiration of Unserved Emergency Protection Order) per distribution list.

9. Complete a scheduled events screen for six months from the issuance date using scheduled event type “REPO” Review Unserved EPO (Domestic Violence). This date is a review date to remind the clerk to deliver the court file along with AOC Form 275.3 (Order of Protection) to the Judge for review. Assign the review date in accordance with the local domestic violence court dates. The review date may be longer than the six month date to be in compliance with local domestic violence court dates.

a. No bond is required of the petitioner; nor is the petitioner required to pay any service fees. KRS 403.740(3)(5).

b. Upon request, the victim in a domestic violence case is entitled to a certified copy of any conditions of release of the respondent, at no charge.

EPO Service

10. Using the most expedient means reasonably available and within 24 hours following the entry and issuance of the EPO and summons, hand deliver, fax or

mail a copy of the summons, EPO, and a copy of the petition with the petitioner's address and the address of any minor children marked through on all copies as follows: (please note that the original Petition and original EPO is to remain in the case file; only distribute copies with the petitioners address and any minor children marked through):

(1) Agency Assigned Service: The A.A.S. receives the original summons, a copy of the EPO, a copy of the petition and a copy of the EPO and summons for each respondent.

(2) Petitioner or attorney.

(3) Agency responsible for LINK entry (KRS 403.770(2)).

(4) Circuit Clerk (certified copy) in the usual residence of the petitioner, if a different county from the filing county (KRS 403.770(4)).

(a) Receiving circuit clerk files in a "General Domestic Violence" file. Apply the "FILED" stamp; add date and your initials. When filed, this EPO has the same effect and is as enforceable as an order issued by the receiving court. When filed, the petitioner has the option for subsequent court proceedings to take place in the petitioner's usual or current county of residence. KRS 403.725(1). If subsequent proceedings are requested, remove all pleadings and file in the appropriate court following instructions above.

(5) Local Department for Community Based Services, Cabinet for Health and Family Services. Do not mark through the address of the petitioner or any minor children. CHFS is entitled to access this information.

(6) File a copy in the dissolution or child custody case if one is pending.

11. File the executed summons by applying the "FILED" stamp; add the date and your initials. Complete the service date field on the summons screen.

a. Using the most expedient means reasonably available and within 24 hours following the filing of the EXECUTED summons, hand deliver, fax or mail a copy of the executed summons to the Agency Responsible for LINK Entry. KRS 403.770(2).

Failure of Service Notice

b. File any written notice you receive from the Agency Assigned Service regarding the failure of service of a summons by applying the "FILED" stamp; add date and your initials. Memo this written notice (or any oral notice) on the summons screen. Also notify the issuing judge of the notice.

Domestic Violence Petition Taken After Hours

Non-Family Court Jurisdiction

12. When a domestic violence petition is taken after regular office hours and a domestic violence hearing has already been scheduled before the district judge, check the circuit court index to ascertain if a dissolution or child custody proceeding is pending.

    (1) If no dissolution or child custody proceeding is pending, file the petition and calendar the hearing with the district judge by completing a scheduled events screen.

    (2) If a dissolution or child custody proceeding is pending, notify the district judge, who will conduct the hearing already scheduled. If required by your local domestic violence protocol, all future hearings will be scheduled for the circuit judge to hear.

    (3) If future hearings are scheduled before the circuit judge, the district judge shall continue reissuing the summons until the matter can be heard before the circuit judge. Calendar any hearing by completing a scheduled events screen, using the appropriate judge number.

    (4) Cross-reference the “D” case with the circuit “CI” case, place a copy of the EPO in the Circuit “CI” case file, complete a document screen and notify the circuit judge of the EPO filing.

Family Court Jurisdiction

13. Schedule all hearings before the Family Court Judge.

14. If a dissolution or child custody case is pending, notify the Family Court Judge and cross-reference the “D” case with the circuit “CI” case and place a copy of the EPO and summons in the Circuit “CI” case file.

Note: All domestic violence petitions shall be assigned a domestic violence "D" case number with the appropriate trailer number, regardless of who (District Judge, Trial Commissioner, Family Court Judge or Circuit Judge) reviews the petition and orders the case filed.

Subsequent Summons

15. An EPO no longer automatically expires in 14 days. A subsequent summons may be issued for additional 14 day periods and may supersede an earlier summons

16. Upon reissuance of the summons, prepare AOC Form 275 (Domestic Violence Summons) and attach a copy of the EPO. Complete a summons screen including the court date which must be within 14 days of the issuance of the summons, KRS 403.745(1)(2).

    a. Note the hearing date by completing a scheduled events screen. The hearing is a bench trial before the district judge, family court judge or circuit judge, as appropriate under the provisions of your local domestic violence protocol. Trial commissioners are unauthorized to preside over these hearings. SCR 5.030.

    b. No bond is required of the petitioner; nor is the petitioner required to pay any service fees. KRS 403.740(3)(5).

Subsequent EPO Service

17. Using the most expedient means reasonably available and within 24 hours following the issuance of the summons, hand deliver, fax or mail a copy of the summons, EPO and a copy of the petition as follows: (please note that the original petition and original EPO is to remain in the case file. Only distribute copies with the petitioners address and any minor children marked through):

    (1) Agency Assigned Service: The A.A.S. receives the original summons, a copy of the EPO, a copy of the petition and a copy of the EPO and summons for each respondent.
    (2) Petitioner or attorney.
    (3) Agency responsible for LINK entry (KRS 403.770(2)).
    (4) Circuit Clerk (certified copy) in the usual residence of the petitioner, if a different county from the filing county (KRS 403.770(4)).

        (a) Receiving circuit clerk files in a "General Domestic Violence" file. Apply the "FILED" stamp; add date and your initials. When filed, this EPO has the same effect and is as enforceable as an order issued by the receiving court. When filed, the petitioner has the option for subsequent court proceedings to take place in the petitioner's usual or current county of residence. KRS 403.725(1). If subsequent proceedings are requested, remove all pleadings and file in the appropriate court following instructions above.

    (5) Local Department for Community Based Services, do not mark through the address of the petitioner or any minor children. CHFS is entitled to access this information.

    (6) File a copy in the dissolution or child custody proceeding, if one is pending.

18. File the executed summons by applying the "FILED" stamp; add the date and your initials. Complete the service date field on the summons screen.

    (a) Using the most expedient means reasonably available and within 24 hours following the filing of the executed summons, hand deliver, fax or mail a copy of the executed summons to the Agency Responsible for LINK Entry. KRS 403.770(2).

Failure of Service Notice

b. File any written notice you receive from the Agency Responsible for LINK Entry regarding the failure of service of a summons by applying the "FILED" stamp; add date and your initials. Memo this written notice (or any oral notice) on the summons screen. Also notify the issuing judge of the notice.

Note: A summons may be reissued and an EPO continued up to six (6) months from the issuance of the EPO. If the petitioner files a new petition before the expiration of the EPO, the six (6) month process begins again. The total length of time that a series of EPO's may remain in effect without the respondent being served shall not exceed two (2) years.

Domestic Violence Order

19. Enter the Domestic Violence Order (DVO), AOC Form 275.3, by applying the "ENTERED" stamp; add date and your initials. Enter on a document screen. The DVO may not be in effect for more than three years, but a new DVO may be issued for up to three years for an unlimited number of times. KRS 403.750(2).

    a. Using the most expedient means reasonably available and within 24 hours of entry of the order, hand deliver, fax or mail a copy to:

        (1) Petitioner or attorney.

            (a) The victim in a domestic violence case is entitled to a certified copy of the conditions of release of the respondent, at no charge.

        (2) Respondent or attorney.

        (3) Agency Responsible for LINK entry. KRS 403.770(2).

        (4) Circuit Clerk (certified copy) in the usual residence of the petitioner, if different county from the filing county. KRS 403.770(4).

(a) Receiving circuit clerk files
in a General Domestic Violence file. Apply the "FILED" stamp; add date and your initials. When filed, the petitioner has the option for subsequent court proceedings to take place in the petitioner's usual or current county of residence. KRS 403.725(1). If subsequent proceedings are requested, remove all pleadings and file in the appropriate court following the instructions above.

(5) Any other agency named in the order.

(6) File a copy in the dissolution or child custody proceeding, if one is pending.

20. Close the case screen by completing the disposition date, disposition type and judge at disposition, I.E. District Judge, Family Court Judge or Circuit Judge.

Appeal of Domestic Violence Order

21. When a Notice of Appeal of Domestic Violence Order is received:

a. If a domestic violence order signed by a district judge is appealed, collect filing fees for appeals to circuit court as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the appeal until the filing fees are paid unless the petitioner is proceeding in forma pauperis. CR 5.05(4); KRS 453.010.

b. If a domestic violence order signed by a circuit judge or family court judge is appealed, collect filing fees for appeals to Court of Appeals as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the appeal until the filing fees are paid unless the petitioner is proceeding in forma pauperis. CR 5.05(4); KRS 453.010.

Bench Warrant

22. If a Bench Warrant is ordered, prepare AOC Form 275.7 and complete a warrant screen. If a Forthwith Order of Arrest (AOC Form 275.4) or a Show Cause Order (AOC Form 275.5) is issued, apply the "ENTERED" stamp to the order; add date and your initials. Enter on a document screen.

a. Using the most expedient means reasonably available and within 24 hours of entry of the order, hand deliver, fax or mail a copy to:

(1) Agency Assigned Service: The A.A.S. receives the original for return and a copy for each respondent.

(2) Petitioner or attorney.

(3) Agency Responsible for LINK entry. KRS 403.770(2).

(4) Circuit Clerk (certified copy) in the usual residence of the petitioner, if different county from the filing county. KRS 403.770(4).

(a) Receiving circuit clerk files in a "General Domestic Violence" file. Apply the "FILED" stamp; add date and your initials. When filed, the petitioner has the option for subsequent court proceedings to take place in the petitioner's usual or current county of residence. KRS 403.725(1). If subsequent proceedings are requested, remove all pleadings and file in the appropriate court following instructions above.

(5) Any other agency named in the order.

(6) File a copy in the dissolution or child custody proceeding, if one is pending.

b. File the executed warrant or order by applying the "FILED" stamp; add the date and your initials. If a warrant, complete the service date field on the warrant screen. If an order, enter the service information in the memo field of the document screen where the order is entered.

(1) Using the most expedient means reasonably available and within 24 hours following the filing of the executed warrant or order, hand deliver, fax or mail a copy of the executed warrant or order to the Agency Responsible for LINK Entry. KRS 403.770(2).

Failure of Service of Bench Warrant

23. File any written notice you receive from the Agency Responsible for LINK Entry regarding the failure of service of a warrant or order by applying the "FILED" stamp; add date and your initials. Memo this written notice (or any oral notice) on the warrant or document screen. Also notify the issuing judge of the notice.

Motion to Amend

24. File Motion and Order to Amend Prior Domestic Violence Order, AOC Form 275.6. This motion is used by either the petitioner or respondent to change any terms of the existing order. KRS 403.750(3). Note the date, time and location of the hearing on the form. Apply the "FILED" stamp; add date and your initials. Complete a motion screen. Calendar the hearing by completing a scheduled events screen.

Notice of Motion

If the party filing the motion has not served the opposing party with the motion, mail a copy of the motion to the opposing party.

a. After the hearing, "ENTER" the Order by applying the "ENTERED" stamp; add date and your initials. Complete a document screen.

b. Using the most expedient means reasonably available and with 24 hours following the entry of the order by the clerk, hand deliver, fax or mail a copy to:

(1) Petitioner or attorney.

(2) Respondent or attorney.

(3) Agency Responsible for LINK Entry. KRS 403.770(2).

(4) Circuit Clerk (certified copy) in the usual residence of the petitioner, if different county from the filing county. KRS 403.770(4).

(a) Receiving circuit clerk files in a "General Domestic Violence" file. Apply the "FILED" stamp; add date and your initials. When filed, the petitioner has the option for subsequent court proceedings to take place in the petitioner's usual or current county of residence. KRS 403.725(1). If subsequent proceedings are requested, remove all pleadings and file in the appropriate court following instructions above.

(5) Any other agency named in the order.

(6) File a copy in the dissolution or child custody proceeding, if one is pending.

Violation of Protective Order

25. Violation of a Protective Order is filed as a criminal action. KRS 403.760, 403.763.

a. If you receive a COPY of the citation/complaint and warrant/summons, file in the originating domestic violence case by applying the "FILED" stamp; add date and your initials. Complete a document screen. Notify the judge who issued the EPO or DVO of the pending criminal action.

b. File a copy in the dissolution or child custody proceeding, if one is pending.

Contempt Proceeding

26. File any affidavit/motion for contempt regarding a violation of a protective order by applying the "FILED" stamp; add date and your initials. Complete a document or motion screen, as appropriate. Notify the issuing judge and schedule a hearing as directed, by completing a scheduled events screen.

    a. If a Bench Warrant (AOC Form 275.7) is ordered, prepare AOC Form 275.7 and complete a warrant screen. If a Forthwith Order of Arrest (AOC Form 275.4) or a Show Cause Order (AOC Form 275.5) is issued, apply the "ENTERED" stamp to the order; add date and your initials. Enter on a document screen.

    b. Using the most expedient means reasonably available and within 24 hours of entry of the order, hand deliver, fax or mail a copy to:

        (1) Agency Assigned Service: The A.A.S. receives the original for return and one copy for each respondent.

        (2) Petitioner or attorney.

        (3) Agency responsible for LINK entry. KRS 403.770(2).

        (4) Circuit Clerk (certified copy) in the usual residence of the petitioner, if different county from the filing county. KRS 403.770(4).

            (a) Receiving circuit clerk files in a "General Domestic Violence" file. Apply the "FILED" stamp; add date and your initials. When filed, the petitioner has the option for subsequent court proceedings to take place in the petitioner's usual or current county of residence. KRS 403.725(1). If subsequent proceedings are requested, remove all pleadings and file in the appropriate court following instructions above.

        (5) Any other agency named in the order.

        (6) File a copy in the dissolution or child custody proceeding, if one is pending.

    c. File the executed warrant or order by applying the "FILED" stamp; add the date and your initials and note the return information by completing the appropriate screen.

        (1) Using the most expedient means reasonably available and within 24 hours following the filing of the executed warrant or order, hand deliver,

fax or mail a copy of the executed warrant or order to the Agency Responsible for LINK Entry. KRS 403.770(2).

(2) If the executed warrant is received with a citation attached, but does not contain a criminal charge, return the citation to the agency serving the warrant. If the citation contains a criminal charge, open a district criminal 'M' case following instructions in Violation of Domestic Violence Order section.

Failure of Service of Bench Warrant

26. File any written notice you receive from the Agency Responsible for LINK. Entry regarding the failure of service of a warrant or order by applying the "FILED" stamp; add date and your initials. Memo this written notice (or any oral notice) on the warrant or order screen. Also notify the issuing judge of the notice.

Suspension of License to Carry Concealed Weapon

27. A license to carry a concealed weapon shall be suspended or revoked if an Emergency Protective Order or Domestic violence Order is issued against the licensee. KRS 237.110 (10)(k). The licensee must surrender the license to the court or a peace officer serving an EPO. The license is suspended until the DVO is terminated or the judge who issued the EPO/DVO terminates the suspension prior to the termination of the DVO.

    a. If you receive a license to carry a concealed weapon which was suspended or revoked because of domestic violence:

        (1) Place the license in an envelope and note "License to Carry Concealed Weapon" on the outside of the envelope.

        (2) Staple the envelope inside the domestic violence case file.

        (3) Upon request of the licensee, return the license to the licensee, IF:

            (a) The Emergency Protective Order/Domestic Violence Order is terminated; or

            (b) A written Order Terminating the License Suspension is entered.

Purchase or Attempt to Purchase Firearm by Respondent

If you receive information regarding the purchase or attempt to purchase firearm by a respondent named in an emergency protective or domestic violence order (KRS 237.095):

a. If the information is by written notice, apply the “FILED” stamp; add the date and your initials. File by completing a document screen.

b. If the information is received by a telephone call, note the date and message in the memo field of the case screen.

c. Alert the issuing judge of the information received.

d. Schedule a hearing and/or give notice as directed by the court.

Background Checks

27. Upon creation of a new case, a background check will automatically be requested from the AOC. If the judge subsequently requests you to obtain an updated background check, do so by following the instructions in the domestic violence checklist maintained in your Release Note General File.

28. If your county’s local government has entered into a contract for GPS monitoring, then you must request an updated background check for all contempt proceedings/show cause motions. Do so by following the instructions in the domestic violence checklist maintained in your Release Note General File.

Global Position Monitoring Systems

29. In the event that your county has contracted into GPS monitoring the following instructions apply:

30. You request an updated background proceedings/show cause motions from the AOC by following the instructions in your domestic violence checklist maintained in your Release Note General File

31. Prior to or at a contempt proceeding, the Respondent may request reduced costs by completing AOC 275.14 (Respondent’s Financial Statement Affidavit Agency Request for Reduced GPMS Costs, and Order). Apply the “FILED” stamp, add the date and your initials. Enter on a document screen.

32. Following a contempt preceding the judge may enter a Global Position Monitoring Systems Order AOC 275.15. Distribute per distribution list on the bottom of the form.

33. The petitioner or respondent may request that the GPMS order be modified.

34. File Motion and Order to Amend Prior Domestic Violence Order, AOC Form 275.6. This motion is used by either the petitioner or respondent to change any terms of the existing order. KRS 403.750(3). Note the date, time and location of the hearing on the form. Apply the "FILED" stamp; add date and your initials.

Complete a motion screen. Calendar the hearing by completing a scheduled events screen.

Notice of Motion

35. If the party filing the motion has not served the opposing party with the motion, mail a copy of the motion to the opposing party.

    a. After the hearing, "ENTER" the Order by applying the "ENTERED" stamp; add date and your initials. Complete a document screen.

    b. Using the most expedient means reasonably available and with 24 hours following the entry of the order by the clerk, hand deliver, fax or mail a copy to:

        (1) Petitioner or attorney.

        (2) Respondent or attorney.

        (3) Agency Responsible for LINK Entry. KRS 403.770(2).

        (4) Circuit Clerk (certified copy) in the usual residence of the petitioner, if different county from the filing county. KRS 403.770(4).

            (a) Receiving circuit clerk files in a "General Domestic Violence" file. Apply the "FILED" stamp; add date and your initials. When filed, the petitioner has the option for subsequent court proceedings to take place in the petitioner's usual or current county of residence. KRS 403.725(1). If subsequent proceedings are requested, remove all pleadings and file in the appropriate court following instructions above.

        (5) Any other agency named in the order.

        (6) File a copy in the dissolution or child custody proceeding, if one is pending.

36. The judge may enter a Modified GPMS Order using AOC 275.15. Distribute copies per distribution list on the bottom on the form.

37. Information obtained by a Global Positioning Monitoring System shall not be disclosed without a valid search warrant or an order issued by a court of competent jurisdiction. If GPMS provider files location information with a court, present it to the judge along with AOC 275.16 Order Sealing Information Obtained by GPMS. If the court enters the order file in the court file and seal the document provided by the GPMS provider.

DRUG COURT
DISTRICT/CIRCUIT COURT
(AP Part XIII)

Referral to Drug Court

1. Upon receipt of a referral to drug court, apply the "ENTERED" stamp to the order; add the date and your initials. Complete a document screen using "ORFDC" document code.

2. Schedule a hearing date to review acceptance into Drug Court. Complete a scheduled event screen using "DRUGR" event code.

3. Upon receipt of a notification from Drug Court of eligibility/ineligibility, apply the "FILED" stamp; add the date and your initials. Complete a document screen using "NDCE" document code for eligibility or "NDCIE" for ineligibility. If ineligible, schedule a hearing date for review by completing a scheduled event screen.

Transfer to Drug Court

Internal Transfer

1. Upon receipt of an order to transfer to drug court, AOC DC55-B, (Order Transferring), apply the "ENTERED" stamp; add the date and your initials. Complete a document screen using "OTRN" document code.

2. Update the current judge field on the case screen in KYCourts using the receiving drug court judge's number.

3. Assign all future proceedings using the drug court judge's number.

External Transfer – Originating County

1. Upon receipt of an order to transfer to drug court, AOC DC-55B (Order Transferring), apply the "ENTERED" stamp; add the date and your initials. Complete a document screen using document code "OTRN". Memo the county to which it is transferred.

2. For disposition of guilty, do not change the disposition screen.

3. For disposition of diversion, move the disposition of diversion to the memo field of the charge screen and close the charge out with TRFD, Drug Court Transfer and the date the transfer is ordered. Memo the county to which the case is being transferred.

4. Print two copies of the case history and make a copy of the order transferring. Keep a copy of the case history along with the copy of the transfer order in the file. Send all other original contents of the file to the receiving county.

5. Upon receipt of a copy of the transfer order, AOC DC-55B (Order Transferring), from the receiving county indicating the new case number, complete a cross-reference screen entering the division, case number, cross reference type “DT” (Drug Court Transfer Case) and cross reference date. Memo the county transferred to and the new case number from the receiving county.

External Transfer – Receiving County

1. Upon receipt of a Drug Court Transfer, open the case with case number type CR or M, based upon the level of the charge(s). Use case type “DCTG” (original disposition guilty) or “DCTD” (original disposition diversion).

2. For case type “DCTG” do not enter the charges. Close out the case screen, using the same date as the file date, and “DCT” as the disposition type. The disposition judge is the judge assigned to hear the case.

3. For case type “DCTD” enter the charges and any amended charges. Close out the charges with “DIV” using the date you file the case as the disposition date. Close out the case screen using the same date as the file date. Disposition judge is the judge assigned to hear the case. Schedule a review date for the diversion completion. This date will be retroactive to the date the defendant originally agreed to diversion in the originating county.

4. For cases with multiple dispositions of guilty and diverted or dismissed and diverted, use case type “DCTD”. Enter only the diverted charges using the instructions in #3.

5. Enter the document code “DCF” (District Court File) or ”CCF” (Circuit Court File) depending on the file type.

6. Complete a cross-reference screen entering the division case number in which users are entering case cross-reference information, cross-reference type “DT” (Drug Court Transfer) and cross-reference date. Memo the county transferred from and the case number from the transferring county.

7. Complete the bottom section of transfer order, AOC DC-55B, (Order Transferring), with your case information. Mail a copy to the originating county.

Completion of Diversion Program

1. Upon receipt of a completed diversion program, apply the “FILED” stamp to the Notice of Completion-Drug Court; add the date and your initials. Complete a document screen using document code “NCDC”.

2. Schedule a hearing date for review by completing a scheduled event screen.

3. When a signed order is received dismissing the charge(s) apply the “ENTERED” stamp; add the date and your initials. Complete a document screen using document code “ODIS”.

4. Overlay the disposition type and disposition date on the charge screen(s) using “DIS” disposition type. Use the date order was stamped “ENTERED” as the disposition date. Enter the original disposition information in the memo field of the charge screen(s).

Completion of Probation Program

1. Upon receipt of a completed probation program, apply the “FILED” stamp to the Notice of Completion-Drug Court; add the date and your initials. Complete a document screen using document code “NCDC”.

2. Schedule a hearing date to review sentence of probation by completing a scheduled event screen.

3. When a signed order is received dismissing the charge(s); apply the “ENTERED” stamp; add the date and your initials. Complete a document screen using document code “ODIS”.

4. Overlay the disposition type and disposition date on the charge screen(s) using disposition type “DIS”. Use the date order was stamped “ENTERED” as the disposition date. Enter the original disposition information in the memo field of the charge screen(s).

ENFORCEMENT OF WORKER'S COMPENSATION ORDER

(Circuit Court)
KRS 342.305

1. When you receive a certified copy of:

   a. a memorandum of agreement approved by an arbitrator or administrative law judge;

   b. an order or decision of an arbitrator, administrative law judge, or board;

   c. an award of an arbitrator or administrative law judge, which has not been appealed; or,

   d. an award of the board rendered upon an appeal,

   apply the "FILED" stamp; add the date and your initials.

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the pleadings until the filing fees are paid unless the party is proceeding in forma pauperis or unless the party is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

3. Assign to a division using the procedure in your local rules.

4. Refer to the Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number in the computer for circuit civil "CI" cases or use the next pre-numbered file folder.

5. Do not issue a summons.

6. Deliver the case file to the judge.

7. When a signed Order is received:

   a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the Order on the document screen including a brief description. This constitutes entry of the Order; the Order does not become effective until this is done. CR 79.01 (1). The docket notation is combined with the notation of service of notice of entry of the Order as described below.

c. After the Order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the Order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04 (1). RCr 12.06 (1) (3).

d. Make an entry on the document screen showing the manner and date of service of notice of entry of the Decree or Order. RCr 12.06.

8. When the Order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

EXECUTIONS

KRS 426, CR 69.03, CR 77.03
(Circuit or District Court)

1. A writ of execution is a post-judgment order to the sheriff to seize and sell property of the judgment debtor to satisfy the judgment of the court. Execution may also issue on certain bonds which have the effect of a judgment. These include bonds given by the purchaser at execution and judicial sales, replevin bonds and forthcoming bonds. KRS 426.610.

When to Issue

a. When a party requests the issuance of a writ of execution, do not Issue the writ of execution until 10 days after entry of judgment unless the court orders otherwise. KRS 426.030.

b. No execution on a judgment from another state may be issued in Kentucky until the foreign judgment is filed in the clerk's office pursuant to KRS 426.950-.975 and 20 days have passed and the foreign judgment has not been stayed by the Kentucky court.

c. Issue the writ of execution within 10 days after the expiration of a governor's stay of a judgment in favor of the state. KRS 135.030.

Motion Attacking Judgment

2. If a motion attacking the judgment is filed as provided in CR 62.01, do not issue th execution until 10 days after entry of judgment on the motion. City of Louisville v. Verst, 308 Ky. 46, 213 S.W. 2d 517 (1948).

   These motions include:

   a. Motion for new trial;

   b. Motion to amend or vacate the judgment;

   c. Motion for judgment notwithstanding the verdict;

   d. Motion for amending the findings.

Exceptions to Issuance

3. Do not issue the writ of execution if:

   a. Supersedeas Bond has been given pending appeal, CR 62.03;

b. Notice of Appeal has been filed by a governmental unit which is not required to file a supersedeas bond, CR 62.03;

c. Replevin Bond. The judgment debtor has filed a replevin bond to postpone collection of the judgment KRS 426.450(1). This bond is good for three months.

d. Judgment in Favor of State. A judgment in favor of the state and the governor has stayed the collection. KRS 135.030.

4. If a bond is filed, collect a bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen.

Fee for Issuance

5. Collect a fee, as set forth in the Fees and Costs section of this manual, for each execution issued and give a receipt.

Issuance of Execution

6. Have the judgment creditor or attorney prepare the execution. Use AOC Form 135 Execution Form.

Against Two or More Persons

a. If the judgment is against two or more persons jointly, issue the execution against them jointly. KRS 426.050.

Deceased Creditor

b. If any of the judgment creditors are deceased, make an endorsement on the execution showing the name of the decedent and of the person who takes the decedent's interest as shown by the following:

(1) A surviving party must file an affidavit showing the death and the right as a surviving party.

(2) A personal representative of the estate must file an affidavit showing the right to receive the decedent's interest, plus a certified copy of the order of appointment.

(3) A personal representative appointed in another state must also give a surety bond conditioned upon disposition of the property according to law.

(a) Require the surety to make an affidavit to show qualification. KRS 454.180, 454.185. Taking the affidavit relieves you of liability for taking insufficient surety if the financial information is falsified. Commonwealth vs. Lewis, 181 Ky. 804, 205 S.W. 921 (1918). The surety must:

1) Be a resident of Kentucky.

2) Be worth double the sum to be secured, beyond their debts.

3) Have property in Kentucky, not exempt from execution, equal to the amount of bond.

(b) Refuse any surety if you are in doubt as to their sufficiency to cover the amount of bond. If your judge orders you to take a bond you must do so; the order protects you from liability for taking an insufficient bond.

(c) Collect a bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen.

(4) If claimed under the will of the decedent, the claimant must file an affidavit showing the claimant's right, plus a copy of the will certified by the county clerk where the will is recorded.

(5) Apply the "FILED" stamp to the affidavits and/or certified documents; add the date and your initials. File by completing a document screen. If the affidavit has attachments those may be filed in the memo field on the document screen where the affidavit is filed.

Where to Issue

c. The execution may issue only to the county where the judgment was entered, or where defendant resides. If the plaintiff files an affidavit showing that defendant's property in those counties is insufficient, execution shall issue to any or as many counties as the plaintiff directs. Collect a fee, as set forth in the Fees and Costs section of this manual, for each execution issued and give a receipt. KRS 426.080. Apply the "FILED" stamp to the affidavit; add the date and your initials and file on a document screen.

Additional Executions

d. Additional Executions may issue to other counties without an affidavit, if the return of the first execution shows insufficient property was found. Collect a

fee, as set forth in the Fees and Costs section of this manual, for each execution issued and give a receipt. KRS 426.080.

Waiver of Replevy

e. If defendant has filed a waiver of the right to replevy, or any similar agreement, endorse a note to this effect on the writ. KRS 426.480.

Return Date

f. The return date on the execution shall be sixty (60) days from the date of issuance. Even though the serving officer may make a return before the expiration of the sixty (60) day period the judgment creditor cannot request a different return date.

7. Make a docket notation to show issuance of the execution by completing a document screen. Use the date of issuance as the filing date. Show any special endorsements in the memo field.

Service of Execution

8. Give the execution and a copy to the applicant for delivery to the sheriff. It is not necessary to make a copy for the case file; the sheriff's return will provide a copy. The applicant will pay the sheriff the service fee directly.

9. When the return is made, apply the "FILED" stamp; add the date and your initials. Enter the file stamp date and officer's return information in the memo field of the document screen where the execution was issued. The return should show when, how, and by whom it was served.

Execution Sale

10. An Order for Execution Sale may be issued after 14 days have elapsed from service of execution if no challenge to the execution has been made. KRS 426.440. Use AOC form 140 Order for Execution on Sale. Apply the "FILED" stamp, add the date and your initials and file on a document screen. Deliver to the sheriff for service. Make a notation in the memo field of the document screen that the order was delivered to the sheriff for service.

Affidavit to Challenge

11. If the judgment debtor files an Affidavit to Challenge Execution (AOC Form 135.1) within 10 days of service of execution:

    a. Apply the "FILED" stamp; add the date and your initials and file on a document screen.

b. Mail or hand deliver copies to the sheriff, judgment creditor, and judgment debtor.

c. Schedule a hearing by completing a scheduled events screen for the appropriate date.

12. When a signed judgment is received:

    a. Apply the "ENTERED" stamp to the judgment; add the date and your initials. Do not use the "FILED" stamp.

    b. Enter the judgment on the document screen, including a brief description.

    c. After the judgment is "ENTERED" serve notice of entry on the parties by making a copy of the judgment that has been stamped "ENTERED" and mail or hand deliver to the parties or attorney. CR 77.04(1), RCr 12.06(1) and (3).

    d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of the judgment. RCr 12.06.

13. If the defendant is given a replevin bond on a judgment in favor of the state that has expired without paying the judgment, issue execution at least every ten (10) months for five (5) years. After that time, issue when asked by the Commonwealth Attorney, County Attorney or Sheriff.

Executions From Other Courts

14. When land in your county is seized under an execution issued in another county, the sheriff will bring the execution to you. Make a copy and file it in a special file titled "Executions of Judgments of Other Courts". Return the original to the sheriff. KRS 426.110.

EXPUNGEMENT OF DISMISSED OR ACQUITTAL CASES
KRS 431.076
(District or Circuit Court)

1. A person found not guilty or whose case has been dismissed may, no sooner than sixty (60) days following dismissal or acquittal, file a petition/motion for expungement of such cases.
   a. A separate petition/motion must be filed for each criminal case and the charge(s) must be listed.

   b. A petition/motion for expungement of acquittal or dismissal with prejudice shall be filed on an AOC-497.2.

   c. A copy of the petitioner/movant's current AOC criminal history must be attached to the petition/motion.

      Note: do not file a petition/motion that has multiple cases listed for expungement; that is not filed on AOC 497.2; and that does not have the AOC criminal history record attached.

   d. All requests for an AOC Criminal History Record shall be made to the AOC Records Division of Pretrial Services at 100 Millcreek Park, Frankfort, KY 40601.

2. There is no filing fee for expungement based on an acquittal or dismissal.

3. When a petition/motion to expunge is received:

   a. Apply the "FILED" stamp; add the date and your initials. Complete a document screen in the existing case file using document type "PEXA".

   b. If the defendant requests a hearing, complete a scheduled events screen or prepare a manual calendar if the case is not in the computer. Give notice of the hearing by mailing a copy of the petition/motion with notice to the county or commonwealth attorney, as appropriate, and to:

      Assistant General Counsel
      Cabinet for Health and Family Services
      275 E. Main Street
      Frankfort, KY 40601

   c. If a hearing is not requested, deliver the file to the judge. If the court schedules a hearing, complete a scheduled events screen or prepare a manual calendar if the case is not in the computer. Give notice of the hearing

by mailing a copy of the petition/motion to the county or commonwealth attorney, as appropriate, and to:

Assistant General Counsel
Cabinet for Health and Family Services
275 E. Main Street
Frankfort, KY 40601

d. When an order denying or granting the expungement is received, apply the "ENTERED" stamp to the order; add the date and your initials. AOC Form 497 shall be used. Complete a document screen using document type “OEX”. If an order denies the expungement, note the denial in the memo on the document screen. Distribute a copy of the order to the defendant/attorney:

4. Mail a copy of the order of expungement, together with a copy of the citation, to each official or agency named in the order.

5. If the Court orders expungement:

a. If the case is not in the computer and an original calendar can be located, make a copy and place in the original case file before sealing. Do not mark out the case on the copy.

b. Seal the original case jacket, case history (docket sheet and index card if such exists), video tape and log in an envelope; add the case number, the defendant's date of birth and the date of the expungement order to the outside of the envelope. Maintain in a locked file cabinet. Do not open except by court order and make appropriate notation on outside of the envelope.

It is not necessary to seal the audio tapes; the official retention and disposal schedule for district court tapes applies.

EXCEPTION: If the tape contains other cases, make a notation on the log that the case file has been expunged. If a request for a copy of such tape is made, do not copy that portion of the tape that pertains to the expunged record.

c. On the original calendar, obliterate the case and mark the obliteration "expunged".

d. If a charge(s) ordered expunged is in a circuit criminal case that originated in district court, you must also expunge the charge(s) in the district court case file.

6. The court may also order expungement of records of other agencies. Such agencies are required to certify that their records have been expunged. When a certification of expungement is received from any agency, apply the "FILED" stamp; add the date and your initials. Place in a sealed envelope with the case number noted on the outside and attach to the expunged/sealed case file.

7. If you are asked about an expunged record, advise that no such record exists.

8. A petition may be filed to inspect the expunged record. Review the petition to determine the case number and date of birth of the individual and verify the existence of the expunged record.

    a. If the record does not exist, return the petition to the petitioner.

    b. If the record does exist, apply the "FILED" stamp to the petition; add the date and your initials. Attach to the expunged record and deliver to the judge.

9. When an order is received, apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Give notice of entry as directed by the court's order.

EXPUNGEMENT OF JUVENILE RECORD
KRS 610.330
(District Court and Family Court Division of Circuit Court)

1. Expungement of the record means the sealing of all papers in an existing juvenile proceeding, including the docket sheet, index cards if such exists, police records, Cabinet for Health and Family Services records and case files. This is done by court order.

2. If a petition is filed, apply the "FILED" stamp; add the date and your initials. File on a document screen. The court must set a hearing and notify:

   a. The county attorney and

   b. Anyone else the court or the juvenile believes to have relevant information.

      Notify persons for hearing by completing a Juvenile Summons for a Witness screen. Calendar the hearing by completing a scheduled events screen.

3. If the court orders an expungement, apply the "ENTERED" stamp to the order; add the date and your initials. Enter on a document screen. Send a copy of the order to:

   a. AOC Statistical Section;

   b. Anyone named in the court order;

   c. To expunge CHFS's records, mail a copy of the order to:

   Custodian of the Records
   Management and Evaluation Branch
   CHFS Building, 6th Floor
   275 East Main Street
   Frankfort, KY 40621

   d. To expunge records pertaining to juveniles charged as youthful or public offenders, mail a copy of the order to:

   Department of Juvenile Justice
   1025 Capital Center Drive
   3rd Floor
   Frankfort, KY 40601-8205

4. Place case file, case history (docket sheet and index card if such exists), in an envelope, add the case number, the juvenile's date of birth and the date of the

expungement order to the outside of the envelope, and seal. Do not open except by court order. If unsealed, make appropriate notation on outside of envelope. It is not necessary to seal the audio tapes; the official retention and disposal schedule for district court tapes applies.

5. If you are asked about an expunged record, advise that no such record exists. KRS 610.330(4). This includes military referrals.

Inspection of Expunged Record

6. A petition may be filed to inspect the juvenile's expunged record. Review the petition to determine the case number and date of birth of the juvenile and verify the existence of the expunged record.

   a. If the record does not exist, return the petition to petitioner.

   b. If the record does exist, apply the "FILED" stamp to the petition; add the date and your initials. Attach to the expunged record and deliver to the judge.

7. When an order is received, apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Give notice of entry as directed by the court's order.

EXPUNGEMENT OF MISDEMEANOR AND VIOLATION CONVICTIONS
KRS 431.078
(District or Circuit Court)

1. A person with certain misdemeanor or violation convictions may file a petition/motion for expungement no sooner than five years after completion of sentence or probation, whichever occurs later.

   a. A separate petition/motion must be filed for each criminal case and the charge(s) must be listed.

   b. A petition/motion for expungement of misdemeanor and violation conviction shall be filed on an AOC-496.2.

   c. A copy of the petitioner/movant's current AOC criminal history must be attached to the petition/motion.

   d. Collect a fee from the petitioner/movant for each case sought to be expunged as set forth in the Fees and Costs section of this manual and give a receipt. If charge(s) requested to be expunged is in a circuit criminal case, only collect one fee. (See paragraph 6b).

      Note: do not file a petition/motion that has multiple cases listed for expungement; that is not filed on aoc-496.2; that does not have the aoc criminal history record attached, and is not accompanied by the applicable fee(s).

   e. All requests for an AOC Criminal History Record shall be made to the AOC Records Division of Pretrial Services at 100 Millcreek Park, Frankfort, KY 40601.

2. When a petition is received, apply the "FILED" stamp; add the date and your initials. Complete a document screen in the existing case file using document type "PEXC".

3. Calendar a hearing date by completing a scheduled events screen or prepare a manual calendar if the case is not in the computer. Complete AOC Form 496.1, Notification of Expungement and serve a copy on:

   a. the county attorney;

   b. the crime victim if identified; and

   c. any other person requested to be notified by the petitioner in the petition.

4. When an order denying or granting the expungement is received; apply the "ENTERED" stamp to the order; add the date and your initials. Enter on a document screen. AOC Form 496, Expungement Order may be used for this purpose. Complete a document screen using document type “OEX”. If the order denies the expungement, note the denial in the memo on the document screen. Distribute a copy of the expungement order to:

   a. the county attorney; and

   b. the defendant or his/her attorney; and

   c. if granted, mail a copy of the order of expungement, together with a copy of the citation, to each official or agency named in the order.

5. When a petition/motion is denied and the case is not expunged, refund the fee(s) paid by the petitioner/movant according to the Refund section of the Circuit Court Clerk's Accounting Manual.

6. Expunge the case:

   a. If the case is not in the computer and if an original calendar can be located, make a copy and place in the original case file before sealing. Do not mark out the case on the copy.

      (1) Seal the original case jacket, case history (docket sheet and index card, if such exists), video tape and log in an envelope. Add the case number, the defendant's date of birth and the date of the expungement order to the outside of the envelope. Maintain in a locked file cabinet. Do not open except by court order. If the court orders the case unsealed, make appropriate notation on outside of envelope.

      EXCEPTION: If the tape includes other cases, make a notation on the log that the case file has been expunged. If a request for a copy is made, do not copy that portion of the tape that pertains to the expunged record.

      (2) It is not necessary to seal the audio tapes; the official retention and disposal schedule for district court tapes applies.

      (3) On the original calendar, obliterate the case and mark the obliteration "expunged."

   b. If a charge(s) ordered expunged is in a circuit criminal case that originated in district court, you must also expunge the charge in the district court case.

7. If you are asked about an expunged record, advise that no such record exists.

8. A petition may be filed to inspect the expunged record. Review the petition to determine the case number and date of birth of the individual and verify the existence of the expunged record.

   a. If the record does not exist, return the petition to petitioner.

   b. If the record does exist, apply the "FILED" stamp to the petition, add the date and your initials and attach it to the expunged record and deliver to the judge.

      (1) When an order is received, apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Give notice of entry as directed by the court's order.

EXPUNGEMENT OF PURGED OR DESTROYED CASES

1. A person, who seeks an expungement of a case that has already been purged or destroyed pursuant to the Kentucky Court of Justice Record Retention Schedule, may file a Petition/ Motion for Expungement. Review copy of documentation provided by the petitioner to verify offense(s) occurred in your county.

   a. A separate petition/motion must be filed for each criminal case and the charge(s) must be listed.

   b. A petition/ motion for expungement shall be filed on the appropriate form:
      AOC 496.2 for Expungement of Misdemeanor and Violation Convictions

      AOC 497.2 for Expungement of Acquittal or Dismissed with Prejudice Cases

   c. A copy of the petitioner/ movant's current AOC criminal history must be attached to the petition/ motion.

   d. If petition is for expungement of a conviction, collect a fee from the petitioner/ movant for each case sought to b expunged as forth in the Fees and Costs section of this manual and give a receipt.

      Note: do not file a petition/ motion that has multiple cases listed for expungement; that does not have the AOC criminal history record attached, and is not accompanied by the fee(s) if applicable.

   e. All requests for an AOC Criminal History Record shall be made to the AOC Research, Records and Statistics Division at 100 Millcreek Park, Frankfort, KY 40601, or online at http://courts.ky.gov/aoc/AOCFastCheck/

2. When a petition is received, apply the "FILED" stamp; add the date and your initials.

3. Calendar a hearing as directed by your judge. Prepare a manual calendar because the case is not in the computer. Do not add case to KyCourts.

4. Notice:

   a. If petition/ motion is for misdemeanor or violation conviction, prepare AOC Form 496.1, Notification of Expungement and serve a copy on:

- the county or commonwealth attorney, as appropriate;
- the crime victim if identified; and
- any other person requested to be notified by the petitioner in the petition.

b. If petition/ motion is for expungement of dismissed or acquittal cases, give notice of the hearing by mailing a copy of the petition/ motion to:
   - the county or commonwealth attorney, as appropriate; and
   - Assistant General Counsel, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, KY 40601.

5. When an order granting or denying the expungement is received, apply the "ENTERED" stamp to the order; add the date and your initials.

   a. If order is for misdemeanor or violation conviction AOC Form 496, Expungement Order may be used.

   b. If order is for expungement of dismissed or acquittal AOC Form 497, Expungement Order and Certification Form, shall be used.

6. Distribute copies to the agencies listed in the body of order and in the distribution list on bottom of order.

7. Place the order in an envelope to be sealed; on the outside of the envelope include the case number, the defendant's date of birth and the date the expungement order was entered. Seal the envelope.

8. Place sealed envelope in locked cabinet with other expunged cases.

EXTRADITION PROCEEDINGS
KRS 440.150-440.420
(District or Circuit Court)

1. When extradition proceedings from another state are filed in your court:

   a. Apply the "FILED" stamp to the initiating document; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case.

   b. Generate the next case number in the computer for district felony "F" cases, misdemeanor "M" cases or circuit criminal "CR" cases.

2. If bond is ordered, prepare AOC Form 365, Bail Bond.

   a. Collect the bond filing fee, as set forth in the Fees and Costs section of this manual, and any required security.

   b. Apply the "FILED" stamp to the bond; add the date and your initials and complete a bail screen.

   c. For further information, proceed to the Bail Bonds section of this manual.

3. When an order is received. Apply the "ENTERED" stamp; add the date and your initials. Enter on a document screen. Give notice of entry by providing the original to the Secretary of State and copies to the demanding agent, the court and the defendant.

4. When the order disposes of the charge, close the charge screen by completing the disposition date, disposition type, e.g. "EXT" or "DIS," judge, trial type, original plea and final plea fields. Close the case screen with disposition date and judge at disposition only.

5. If the court orders extradition, prepare certified copies of the order as necessary to accompany the defendant when released from your court's jurisdiction. Use AOC Form 065, Certification of Act of Congress. Affix your court seal on the Form

FEES AND COSTS

Effective June 8, 2011 the below link will direct users to the Circuit Court Clerk Accounting Manual. This will allow for information relating to fees and costs associated with the operation of Circuit Court Clerk offices to be more accurately maintained.
Accounting Manual

FILING OF PLEADINGS AND OTHER PAPERS

CR 5.05; 5.06

1. These instructions pertain to all pleadings and other papers filed in an action, except complaints, orders and judgments. For specific instructions on processing complaints, order and judgments, refer to How To File A Civil Action and Judgments And Orders sections.

   NOTE: If you receive discovery documents, follow your judge's order concerning filing these documents or returning them to the attorney or party.

2. At the time a document is received, apply the "FILED" stamp; add date and your initials. The endorsement of the date constitutes the filing of the paper. CR 5.05(3).

3. Add the case number if it does not already appear in the caption.

4. File the pleading by completing the appropriate screen in KYCourts.

5. Place the pleading or other paper in the case file.

FIREARM PROHIBITIONS

18 U.S.C. 922(g)(4),(d)(4);KRS 237.108

Notice

1. Upon receipt of :

a) AOC 700A – Verified Petition of Involuntary Treatment (Alcohol/Drug Abuse);
b) AOC 710 – Verified Petition for Involuntary Hospitalization and Involuntary Retardation Admission
c) AOC 740 – Petition to Determine if Disabled
d) AOC JV-16 – Order for Medical Examination or Treatment of a Juvenile
e) Or an order from the court showing the defendant incompetent to stand trial; not guilty by reason of insanity; or guilty but mentally ill.

Apply the "FILED" stamp, add the date and your initials. Complete a document screen using the appropriate document code. Provide the petitioner with AOC 034 (Personal Identifier Data Sheet) to complete and return to the clerk.

2. Place a blank AOC 031 (Notice of Firearm Prohibitions) in the case file for use by the judge in the event the judge determines the respondent is subject to 18 U.S.C. 922(g)(4), (d)(4); KRS 237.108.

3. Enter the personal indentifying data from AOC 031 (Notice of Firearm Prohibition) and AOC 034 (Personal Identifier Data Sheet), if returned) into KYCourts for electronic distribution to Kentucky State Police.

4. Upon receipt of a signed AOC 031 (Notice of Firearm Prohibitions), apply the "ENTERED" stamp, add the date and your initials. File on a document screen using document code "NFP".

Note: If user mistakenly enters document code of "NFP" it should not be deleted. Memo that it was entered in error and send a manual copy denoting same to the Kentucky State Police. KYCourts is not capable of removing the notice from KSP.

5. Distribute copies per list on bottom of AOC 031 (Notice of firearm Prohibition).

Petition

1. Upon receipt of AOC 032 (Petition/Motion for Removal of Firearm Prohibitions), apply the "FILED" stamp, add the date and your initials. Complete a document screen using document code "PRFP".

2. Complete the Notification of Hearing section of AOC 032 (Petition/Motion for Removal of Firearm Prohibition) and send per distribution list on bottom on form.

Order

1. Upon receipt of AOC 033 (Order Granting/Denying Petition/Motion for Removal of Firearm Prohibitions), apply the “ENTERED” stamp, add the date and your initials. If granted, use document code “OGRFP”. If denied, use document code “ODRFP”.

2. Distribute copies per list on bottom of AOC 033 (Order Granting/Denying Petition/Motion for Removal of Firearm Prohibition).

Note: Only send copy to Kentucky State Police if petition has been granted. Mail to:

Criminal Identification Records Branch
Kentucky State Police
1266 Louisville Rd.
Frankfort, KY 40601

FORCIBLE ENTRY AND DETAINER

(District Court)
KRS 383.200 through 383.275

1. Forcible entry is an action by the tenant who claims that the landlord has entered the premises unlawfully; Forcible detainer is an action by the landlord who claims that the tenant refuses to move.

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

3. Do not collect a fee for service of summons. KRS 23A.200(2) and 24A.170(2) provide that these fees shall be paid directly to the sheriff or other serving officer.

4. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Use case type “FD”. Generate the next case number for district civil "C" cases or use the next pre-numbered file folder. Assign to a division using the procedure in your local court rules.

5. Have the judge assign a trial date (or do this yourself if the judge has delegated this duty to you) and note on the calendar by completing a scheduled events screen.

Eviction Notice

Use eviction notice (EN) as summons type instead of civil summons "CI".

6. Make a copy of the eviction notice. Give the plaintiff the two (2) notices with a copy of the complaint and/or other documents to be served attached to the copy of the notice and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b). KRS 23A.200(2), 24A.170(2).

   Do not make a copy of the eviction notice for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

7. When a return of service is received, apply the "FILED" stamp to the notice; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen.

8. When a signed judgment or order is received:

   a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the judgment or order on the document screen. Use document type “JDF” or “JPF”. This constitutes entry of the judgment or order; it does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order or judgment as described below.

   c. After the order or judgment is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment or order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1)(3).

   d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of the judgment or order. RCr 12.06.

9. When the order closes the case, complete the disposition date, disposition type, and judge at disposition fields on the case screen.

Appeal

10. The defendant has seven (7) days after the entry of the judgment in which to file an appeal. KRS 383.255(1).

    a. Appellant must deposit with you the amount of rent now due and future rents, as they become due, during the pendency of the appeal. KRS 383.255(1).

       Note: Do not accept filing fee without rent deposit per AOC Form 215

    b. You have (10) days from the date of the deposit with you of past-due rents by the appellant to prepare the record and deliver to circuit court. KRS 383.255(2).

Warrant for Possession

11. If no appeal is filed after (7) days and the plaintiff requests that a warrant for possession be issued. KRS 383.245:

    a. Prepare AOC Form 220, Notice of Eviction and Warrant for Possession for judge's signature. The judge will complete the return date on the form.

    b. After the judge has signed the warrant, apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Use document type “EW”.

    c. Give to the plaintiff with instructions to deliver to the sheriff or other serving officer for service on the defendant(s).

12. When a return of service is made, enter the return date information in the memo field of the same document screen.

FOREIGN JUDGMENT

(Circuit or District Court)
KRS 426.950

1. A foreign judgment, decree, or order of a court of the United States or of any other court is entitled to full faith and credit in this Commonwealth. KRS 426.950. Judgment creditor may bring an action to enforce the judgment instead of proceeding herein. KRS 426.975.

Authentication

2. The foreign judgment must be authenticated in accordance with the Act of Congress (something similar to AOC 065, Certification of Court Records under Act of Congress) or with Kentucky law (something similar to AOC 060, Certification of Court Records). KRS 426.955.

Affidavit

3. Judgment creditor or his attorney must also make and file with the clerk an affidavit setting forth the name and last known post office address of the judgment debtor, the judgment creditor, and judgment creditor's attorney, if any, in the Commonwealth. Use AOC 160, Notice and Affidavit of Foreign Judgment Registration.

4. Collect the appropriate filing fees, as set forth in the Fees and Costs section of this manual and give a receipt. NOTE: The filing fee will be the same amount as if the same suit was originally filed in this state. KRS 426.970. Do not process the foreign judgment until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

Entry

5. Assign to a division using the procedure in your local court rules.

6. Apply the "ENTERED" stamp to the judgment and the "FILED" stamp to the notice and affidavit of foreign judgment registration; add the date and your initials. CR 5.05(3). Refer to Case Add section of KYCourts Manual for instructions on opening the case. Use case type “OTH”. Generate the next case for circuit civil "CI" or district civil "C" cases or use the next pre-numbered file folder.

7. Enter the judgment, notice, and affidavit by completing document screens. Use document type NAF and JRF.

    a. Once entered, a foreign judgment has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a kentucky judgment and the foreign judgment may be enforced or satisfied in a like manner. KRS 426.955.

8. After you have entered the judgment, serve notice of entry:

    a. Make a copy of the judgment that has been stamped "ENTERED".

Notice of Registration

    b. Separate one (1) copy of AOC 160, Notice and Affidavit of Foreign Judgment Registration, and mail with the copy of the judgment by first class mail to the judgment debtor at the address given in the notice and affidavit. KRS 426.960(2). Certified mail is recommended.

        (1) Return the two (2) bottom copies of AOC-160 to the judgment creditor or his/her counsel (if any).

        (2) If certified mail is used, collect postage fees as set forth in the Fees and Costs section of this manual. Mail the documents by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

        (3) Judgment creditor may mail a notice of the entry of the judgment to the judgment debtor, and file proof of mailing with the clerk. Stamp the proof of mailing "FILED", add date and your initials. CR 5.05(3). Make a notation in the memo field of the document screen where the judgment is entered and file in the case file.

        (4) If the foreign judgment is a decree of dissolution, mail AOC Form 160, Notice and Affidavit of Foreign Judgment Registration and the foreign judgment to the opposing party, leaving the judgment amount blank.

9. Place judgment and top copy (orig.) of AOC -160 in case file.

10. Close the case by completing the disposition date (same as filing date); disposition type (OTH); and judge at disposition fields on the case screen.

11. No execution or other process for enforcement shall issue until twenty (20) days after entry of the judgment. KRS 426.960(3).

FOREIGN PROTECTIVE ORDER (FPO)

KRS 403.7521
(District Court and Family Court Division of Circuit Court)

1. A petitioner who has a protective order issued by a court of another state may file that order in this state and receive protection in this state, otherwise known as "full faith and credit." AOC Forms 275.8, 275.9, 275.10, 275.11, and 275.12 are provided for this purpose.

Certified Copy of Foreign Protective Order

2. The petitioner who has a certified copy of the FPO, which is current, must complete AOC Form 275.9, Domestic Violence Foreign Protective Affidavit and Order (To be used for Certified Foreign Orders). The petitioner must sign the affidavit.

   a. Take the form and certified copy of the FPO immediately to any available district, circuit, or family court judge. Do not open a case file at this time.

   b. If the court authenticates the foreign protective order by completing and signing the form, apply the "ENTERED" stamp; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Assign a case number using the next pre-numbered file folder for domestic violence "D" cases including a trailer number.

      NOTE: Do not assign a new number if the same petitioner and same respondent have a prior case in your court. Use the prior case number and assign the next trailer number. Copy the case history at the close of each case. Place a tab on the side of the copy and insert in file folder as a divider.

   c. Do not include the petitioner's address on the party screen. do not issue a summons.

   d. Give notice of entry of the authentication of the foreign protective order by using the most expedient means reasonably available within 24 hours following the entry and issuance of the authentication by hand delivering, faxing or mailing a copy of the authentication as follows:

      (1) Do not serve notice on the respondent

      (2) Certified copy: Petitioner

(3) Copy:

(a) Law enforcement agency/dispatch center responsible for LINK entry.

(b) Local Department of Community Based Services, Cabinet for Health and Family Services.

e. Close the case by completing the disposition date; disposition type (OTH) and judge at disposition on the case screen.

Uncertified Copy of Foreign Protective Order

3. The petitioner who has an uncertified copy of the FPO must complete AOC Form 275.8, Domestic Violence Temporary Foreign Protective Affidavit and Order (To be used for Uncertified Foreign Orders). The petitioner must sign the affidavit.

a. Take the form and uncertified copy of the FPO immediately to any available district, circuit, or family court judge. Do not open a case file at this time.

b. If the judge completes and signs the form, the initial uncertified FPO will be valid for 14 days. Apply the "ENTERED" stamp; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Assign a case number using the next pre-numbered file folder for domestic violence "D" cases including a trailer number.

NOTE: Do not assign a new number if the same petitioner and same respondent have a prior case in your court. Use the prior case number and assign the next trailer number. Copy the case history at the close of each case. Place a tab on the side of the copy and insert in file folder as a divider.

c. Do not include the petitioner's address on the party screen. do not issue a summons.

Tickler System

4. Create a tickler system by creating a scheduled events screen, using event type “DV”(as a reminder), for 10 days from the filing of the FPO. If the tenth day is a weekend or holiday, schedule the event for the next working day.

Type in memo: Send notice to petitioner if certified copy has not been received.

a. Complete a scheduled events screen using event type “DV” for the date the uncertified FPO expires (within 28 days of the filing of the FPO). (See the AOC Form 275.8 for the specific date). If this date is a weekend or holiday, schedule the hearing for the next working day.

   (1) If the expiration date is 28 days from the filing of the FPO, type in memo, "Case to be dismissed if certified copy not received."

   (2) If the expiration date is less than 28 days from the filing of the FPO, type in memo, "Deliver file to judge for further orders."

b. Give notice of entry of the temporary uncertified FPO by using the most expedient means reasonably available and within 24 hours following the entry and issuance of the temporary uncertified FPO by hand delivering, faxing or mailing a copy of the FPO as follows:

   (1) Do not serve notice on the respondent

   (2) Certified copy: Petitioner

   (3) Copy:

      (a) Law enforcement agency/dispatch center responsible for LINK entry.

      (b) Local Department of Community Based Services, Cabinet for Health and Family Services.

c. Within 2 business days from the filing of the uncertified FPO, you must contact the issuing court (the petitioner should have put the name and address on the form) to request a certified copy of the FPO. You may call the issuing court or mail your request for a certified copy of the FPO. The issuing court may mail or fax you a certified copy.

d. If the certified copy of the FPO is not received within 10 days, notify the petitioner that the certified copy of the FPO has not been received by printing AOC Form 275.12 (Rev. 3-05), Ten Day Notice to Affiant, Re: Status of Temporary FPO and mail to the petitioner only. Also notify the court in writing that the certified FPO has been requested but not received (the court calendar from the 10-day tickler system, together with a notation, may be used). The court will then extend the FPO for an additional 14 days.

e. If a certified copy of the FPO is not received within 14 days, inform LINK and notify the applicant of its certification.

f. If the certified copy of the FPO is not received within 28 days, the FPO will expire and not be reissued. Petitioner may, however, apply to the court for a Kentucky emergency protective order.

g. If the certified copy of the FPO is received within 28 days:

(1) Deliver the certified FPO, a blank AOC Form 275.9, Domestic Violence Foreign Protective Affidavit and Order (To be used for Certified Foreign Orders) and the file to the judge.

The affidavit portion of form 275.9 will be left blank.

(2) If the judge authenticates the certified foreign protective order by completing and signing the form, apply the "ENTERED" stamp; add the date and your initials. Enter by completing a document screen. Use document type “OFPA”.

(3) Give notice of entry of the authentication of the certified foreign protective order by using the most expedient means reasonably available and within 24 hours following the entry and issuance of the authentication by hand delivering, faxing or mailing a copy of the authentication as follows:

(a) Do not serve notice on the respondent

(b) Certified copy: Petitioner

(c) Copy:

1) Law enforcement agency/dispatch center responsible for LINK entry.

2) Local Department of Community Based Services, Cabinet for Health and Family Services.

h. Close the case by completing the disposition date, disposition type (OTH) and judge at disposition on the case screen.

Certified Copy of Amended Foreign Protective Order

5. A petitioner who has a certified copy of an Amended Foreign Protective Order, which is current, must complete AOC Form 275.10, Affidavit and Order Amending Certified Domestic Violence Foreign Protective Order. The petitioner must sign the affidavit.

a. Take the form and certified copy of the amended FPO immediately to any available district, circuit, or family court judge.

b. If the judge authenticates the amended FPO by completing and signing the form, apply the "ENTERED" stamp; add the date and your initials. Enter by completing a document screen in the existing case file. Use document type “OFPA”.

c. Give notice of entry of the authentication of the amended foreign protective order by using the most expedient means reasonably available and within 24 hours following the entry and issuance of the authentication by hand delivering, faxing or mailing a copy of the authentication as follows:

(1) Do not serve notice on the respondent

(2) Certified Copy: Petitioner

(3) Copy: Law enforcement agency/dispatch center responsible for LINK entry, and Local Department for Community Based Services, Cabinet for Health and Family Services.

Uncertified Copy of Amended Foreign Protective Order

6. A petitioner who has tendered a FPO to a court must, within 2 working days of receipt of any expiration, vacation, modification to or other change in the FPO, notify the clerk of the changes and present the clerk with a copy of the amended FPO for authentication by the court. A petitioner who has an uncertified copy of an amended FPO must complete AOC Form 275.11, Affidavit and Temporary Order Amending Uncertified Domestic Violence Foreign Protective Order. The petitioner must sign the affidavit.

a. Take the form and uncertified copy of the amended FPO immediately to any available district, circuit, or family court judge.

b. If the judge authenticates the amended uncertified FPO by completing and signing the form, the initial uncertified FPO will be valid for 14 days. Apply the "ENTERED" stamp; add the date and your initials. Enter by completing a document screen in the existing case file. Use document type “OFPA”.

Tickler System

7. Create a tickler system by creating a scheduled events screen (type “DV”) (as a reminder) for 10 days from the filing of the amended. If the tenth day

is a weekend or holiday, schedule the event for the next working day. Type in memo: Send notice to petitioner if certified copy has not been received.

a. Complete a scheduled events screen using event type “DV” for the date the uncertified FPO expires, (within 28 days from the filing of the FPO). (See the form for the specific date). If this date is a weekend or holiday, schedule the hearing for the next working day.

   (1) If the expiration date is 28 days from the filing of the FPO, type in memo, "Case to be dismissed if certified copy not received."

   (2) If the expiration date is less than 28 days from the filing of the FPO, type in memo, "Deliver file to judge for further orders."

b. Give notice of entry of the temporary, uncertified FPO by using the most expedient means reasonably available and within 24 hours following the entry and issuance of the temporary, uncertified FPO by hand delivering, faxing or mailing a copy of the temporary uncertified FPO as follows:

   (1) Do not serve notice on the respondent

   (2) Certified Copy: Petitioner

   (3) Copy:

      (a) Law enforcement agency/dispatch center responsible for LINK entry, and

      (b) Local Department for Community Based Services, Cabinet for Health and Family Services.

c. Within 2 business days from the filing of the uncertified, amended FPO, you must contact the issuing court (the petitioner should have put the name and address on the form) to request a certified copy of the amended FPO. You may call the issuing court or mail your request for a certified copy of the amended FPO. The issuing court may mail or fax the certified copy.

d. If the certified copy of the amended FPO is not received within 10 days, notify the petitioner that the certified copy of the amended FPO has not been received by printing AOC Form 275.12, Ten Day Notice to Affiant, Re: Status of Temporary FPO and mail to the petitioner only. Also notify the court in writing that the certified FPO has been requested but not received (the court calendar from the 10-day tickler

system, together with a notation, may be used). The court will then extend the FPO for an additional 14 days.

If a certified copy of the FPO is received within 14 days, inform LINK and notify the applicant of its certification.

If the certified copy of the amended FPO is not received within 28 days, the FPO will expire and not be reissued. Petitioner may, however, apply to the court for a Kentucky emergency protective order.

e. If the certified copy of the amended FPO is received within 28 days:

(1) Deliver the certified amended FPO, a blank AOC form 275.10 Affidavit and Order Amending Certified Domestic Violence Foreign Protective Order and the file to the judge.

The affidavit portion of Form 275.10 will be left blank.

(2) If the judge authenticates the amended, certified FPO by completing and signing the form, apply the "ENTERED" stamp; add the date and your initials. Enter by completing a document screen. Use document type “OFPA”.

(3) Give notice of entry of the authentication of the certified, foreign protective order by using the most expedient means reasonably available and within 24 hours following the entry and issuance of the authentication by hand delivering, faxing or mailing a copy of the authentication as follows:

(a) Do not serve notice on the respondent

(b) Certified Copy: Petitioner

(c) Copy: Law enforcement agency/dispatch center responsible for LINK entry, and Local Department for Community Based Services, Cabinet for Health and Family Services.

f. Close the case screen by completing the disposition date, disposition type (OTH) and judge at disposition on the case screen.

Annual Validation of FPO’s

8. Foreign protective orders entered in LINK must be validated each year. LINK will send you a separate printout for each foreign protective order filed

in your court. When received, contact the original issuing court for validation. If LINK has not received validation from the circuit clerk within 31 days, the FPO will be removed from LINK.

GARNISHMENT AFTER JUDGMENT

KRS 425.501 TO 425.526
CR 69.02
(Circuit or District Court)

1. Garnishment is a special kind of execution by which property of the judgment debtor in the hands of a third party may be reached, including (but not limited to) wages in the hands of his/her employer. Garnishment before judgment is an attachment, and the procedures for issuing a writ of attachment must be observed. Proceed to attachment and writ of possession sections for procedures.

When to Issue

2. Follow the direction of the court's order specifying when a garnishment may be issued. In the absence of a court order and upon the filing of a proper affidavit by the judgment creditor, issue the garnishment ten days after judgment has been entered. KRS 426.030.

Exceptions to Issuance

a. If a motion attacking the judgment is filed as provided in CR 62.01, do not issue the garnishment until ten (10) days after entry of judgment on the motion. City of Louisville v. Verst, 308 Ky. 46, 213 S.W. 2d 517 (1948).

   (1) Motion for new trial;

   (2) Motion to amend or vacate the judgment;

   (3) Motion for judgment notwithstanding the verdict;

   (4) Motion for amending the findings.

b. Do not issue the garnishment if supersedeas bond has been given pending appeal. CR 73.04.

Affidavit for Garnishment

3. The judgment creditor's affidavit for garnishment must show the date of judgment, the amount due on the judgment, that the named persons hold property belonging to the judgment debtor, or are indebted to him/her. KRS 425.501(1). The affidavit is the last page of AOC Form 150 for Wage Garnishment. AOC Form 145 is the affidavit for Non-Wage Garnishment. Apply the "FILED" stamp to the affidavit; add the date and your initials. File by completing a document screen.

4. Bond is not required of the judgment creditor. KRS 425.501(2).

Fee

5. If satisfied with the affidavit, collect the bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt.

Issuance of Wage Garnishment

6. To Issue a Wage Garnishment (AOC Form 150):

   a. Have the judgment creditor or attorney complete AOC Form 150, Order of Wage Garnishment.

   b. Creditor or attorney will mail Notice of Rights (top page of AOC Form 150) to judgment debtor.

   c. Creditor or attorney will select method of service of Order (pages 2,3,4,5, of AOC Form 150).

      (1) If creditor or attorney requests service through clerk's office, collect postage fees as set forth in the Fees and Costs section of this manual and give a receipt.

      (2) If creditor or attorney chooses another method of service, give completed AOC Forms 150 and 150.4 to creditor or attorney.

Issuance of Non-Wage Garnishment

7. To Issue a Non-Wage Garnishment (AOC Forms 145 and 150.1):

   a. Have judgment creditor or attorney complete AOC Form 145, Affidavit for Writ of Non-Wage Garnishment and 150.1, Order of Garnishment (Non-Wage).

   b. Creditor or attorney will select method of service of order (AOC Form 150.1).

      (1) If creditor or attorney requests service through clerk's office, collect postage fees as set forth in the Fees and Costs section of this manual.

      (2) If creditor or attorney chooses another method of service, give completed AOC Forms 150 and 150.4 to creditor or attorney.

8. Make a docket notation of the issuance of the garnishment by completing a document screen. Use the date of issuance as the filing date.

   NOTE: If AOC Forms 150 and 150.4 are returned to the creditor or attorney for service, note this fact in the memo field of the document screen.

Return on Garnishment

9. If a return on the garnishment is received, apply the "FILED" stamp; add the date and your initials. Enter the file stamp date and the return of service information in the memo field of the document screen where the garnishment was issued.

Answer of Garnishee

10. When the Answer of Garnishee is received, apply the "FILED" stamp; add the date and your initials and file by completing a document screen.

Funds Held by Clerk

11.a. Wage Garnishment

If the creditor in a wage garnishment is not represented by an attorney, the garnishee will forward the funds to the clerk. Hold the funds for 15 days from the date of the employer's check. CR 69.02.

11.b. Non-Wage Garnishment

If proceeds from a non-wage garnishment are returned to the clerk, hold the funds for 15 days from the date of return of the proceeds unless otherwise ordered by the court.

Affidavit to Challenge

12. If the debtor believes the garnished funds/ property are exempt from garnishment, the debtor can challenge the garnishment by filing an AOC Form 150.2, Affidavit to Challenge Garnishment (Wage or Non-Wage).

    a. Wage Garnishment: AOC Form 150.2 must be completed within 13 days of the date on the payroll check from which funds were withheld.

    b. Non-Wage Garnishment: AOC Form 150.2 must be completed within 10 days of the garnishee's date of receipt of the garnishment.

    c. Set a hearing using the lower half of AOC Form 150.2 and note on court calendar by completing a scheduled events screen. File the original of AOC Form 150.2 by applying the "FILED" stamp; add date and your initials and complete a document screen. Give one copy to debtor and mail a copy to creditor's attorney.

    d. When AOC Form 150.3, Garnishment Challenge Order is received:

(1) Apply "ENTERED" stamp to the order, add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the order on a document screen including a brief description. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04.

(3) After the order is entered serve notice of entry on every party who is not in default or who has not filed a waiver of notice by making a copy of the order that has been stamped entered and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1)(3).

(4) Make an entry on the document screen showing the manner and date of service of notice of entry of the order. RCr 12.06.

Supplemental Garnishment

13. When a creditor or creditor's attorney files AOC Form 150.5, Affidavit and Supplemental Order of Wage Garnishment, for the unpaid balance and accrued interest:

    a. Creditor or attorney completes the affidavit (top portion of AOC Form 150.5), retains one copy and mails one copy to the debtor. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen.

    b. Collect a fee for the issuance of the supplemental garnishment as set forth in the Fees and Costs section of this manual and give a receipt.

    c. Issue the supplemental garnishment (bottom portion of AOC Form 150.5). Make a notation of the issuance of the supplemental garnishment by completing a document screen, using the date of issuance as the filing date. Creditor or attorney will select method of service of the garnishment.

    d. If a return of service on the garnishment is received, apply the "FILED" stamp; add the date and your initials. Enter the file stamp date and the return of service information in the memo field of the document screen where the garnishment was issued.

GRAND JURY DISPOSITIONS
(Circuit Court)

1. Dispositions on all cases heard by the Grand Jury are reported by Circuit Court. The Commonwealth Attorney must furnish dispositions for all Grand Jury activity to circuit court.

Transfer of District Court Files

2. When the list of cases referred to the Grand Jury is received from the commonwealth attorney showing the disposition of cases referred to the Grand Jury, deliver a copy to district court. The district court will transfer to circuit court the files for those defendants indicted.

Grand Jury Report

3. The Grand Jury Report should be placed in a master file by date.

No True Bill

4. If a No True Bill is returned, place it in the folder with the Grand Jury Reports.

Grand Jury Referral List

5. The Grand Jury referral list should indicate the action taken by the Grand Jury.

NOTE: There should not be a grand jury referral list for juveniles.

a. Access the district court case number and proceed to the charge(s) screen.

b. Change the disposition date to the date of disposition by the Grand Jury.

c. Change the disposition type to one of the following:

- IND - Indictment
- NTB - No True Bill
- DGJ - Dismissed after Grand Jury
- NGJ - No Grand Jury Action
- AGJ - Amended Down by Grand Jury
- AUGJ - Amended Up by Grand Jury

(1) If you are not sure that the charges on the indictment arose out of the same set of circumstances as the charges on the citation and your commonwealth attorney will not clarify it for you, close the charges in

district court with the Disposition Type "NGJ" (No Grand Jury Action). No action was taken on the charge as it appeared on the citation.

(2) If the charges did arise out of the same set of circumstances, even though the charges are not the same, close district court charges with "IND" (Indictment). Use district court citation number in circuit court case.

(3) If your commonwealth attorney will not supply a disposition, close the charge in district court with the disposition type "NGJ" (No Grand Jury Action).

GUARDIAN AD LITEM

CR 4.04(3), 17.03(2), KRS 387.305

1. If you are asked to appoint a guardian ad litem for the purpose of service of process for a defendant who is an unmarried person under 18 or a person of unsound mind (KRS 387.305):

   a. An affidavit will be filed with you stating that the defendant has no guardian, curator, or conservator residing in this state known to the affiant. KRS 387.305(1).

   b. Apply the "FILED" stamp to the affidavit; add the date and your initials. File the affidavit by completing a document screen.

   c. Consult your roster of attorneys and make an appointment unless your judge wishes to make these appointments.

   d. Prepare AOC Form 115, Appointment of Guardian Ad Litem. Apply the "FILED" stamp; add the date and your initials. File the appointment by completing a document screen. Make a copy of the appointment and attach to the summons and complaint to be served on the defendant through the guardian ad litem. A copy of the appointment is also given to the attorney for the plaintiff and all other parties.

   e. If a guardian ad litem was not appointed when the complaint was filed, then the court, not the clerk, appoints a guardian ad litem to defend the action. You may make this appointment only when the judge is not present in the county. CR 17.03(2).

   f. Complete a party screen for the guardian ad litem.

HABEAS CORPUS
(Circuit Court)
KRS 419.020-.130

Definition: Latin for "you have the body."

1. Habeas Corpus is a writ of inquiry designed to affect the speedy release of a person illegally deprived of his liberty. The writ is commonly used when a person is seeking to be released on bail or when a prisoner is challenging extradition or detainer proceedings.

Writ of Habeas Corpus

2. The petition for a writ of habeas corpus is filed in circuit court as a civil action. The writ must be signed by the judge issuing it and must be made returnable as soon as possible. KRS 419.030.

3. There is no filing fee in habeas corpus cases, however the judge granting the writ may require bond. KRS 419.040, CR 3.02(1)(a).

4. File the petition and affidavit.

    a. Assign to a division using the procedure in your local court rules.

    b. Apply the "FILED" stamp; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. CR 5.05(3). Generate the next case number for circuit civil "CI" cases or use the next pre-numbered file folder.

    c. Do not issue a summons.

5. Take the file folder immediately to any available circuit judge.

Issuance of Writ

6. If the judge issues the writ:

    a. Prepare Writ of Habeas Corpus using AOC Form 270;

    b. After the judge has signed the writ, apply the "ENTERED" stamp; add the date and your initials. File on a document screen.

    c. Deliver two (2) copies of the writ to the sheriff or other serving officer for service. Make a notation in the document screen memo of the date you deliver the writ for service.

d. Note the hearing on the calendar by completing a scheduled events screen.

e. When a return is received, enter the return information in the document screen memo.

Surety Bond

7. If the judge requires a bond, take the applicant's surety bond in the amount set by the court.

   a. Require the surety to make an affidavit to show qualification. KRS 454.180, 454.185. Taking the affidavit relieves you of liability for taking insufficient surety if the financial information is falsified. Commonwealth vs. Lewis, 181 Ky. 804, 205 S.W. 921 (1918). The surety must:

      (1) Be a resident of Kentucky.

      (2) Be worth double the sum to be secured, beyond debts.

      (3) Have property in Kentucky, not exempt from execution, equal to the amount of bond.

   b. Refuse any surety if you are in doubt as to their sufficiency to cover the amount of bond. If your judge orders you to take a bond you must do so; the order protects you from liability for taking an insufficient bond.

   c. Collect a bond filing fee as set forth in the Fees and Costs section of this manual. Apply the "FILED" stamp to the bond; add the date and your initials and file by completing a document screen.

8. When a signed order is received:

   a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the order on the document screen including a brief description. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order as described below.

   c. After the order is entered, serve notice on every party not in default or who has not waived notice by making a copy of the order stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of the order. RCr 12.06.

When the order closes the case, complete the disposition date, disposition type (OTH) other and judge at disposition fields on the case screen.

HOW TO FILE A CIVIL ACTION
CR 3, 4
(Circuit and District Courts)

Fees

1. Before the petition is filed, collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010. The filing fees do not include the taxed attorney fee that goes into the county law library. See Fees and Costs section for applicable taxed attorney fees.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

2. If the party is proceeding in forma pauperis, the complaint is accompanied by a Motion for Leave to Proceed In Forma Pauperis and a supporting affidavit. Any matter to be filed, including appeals, shall be considered filed on the date it is tendered. If the motion is overruled, the moving party has thirty days to pay any required fees or costs or to appeal the decision. If the moving party fails to pay the required fees or costs or to seek review, the matter shall be treated as not timely filed. CR 5.05(4).

   a. If a notice of appeal of the denial of the motion to proceed in forma pauperis is filed, immediately certify and send to the appellate court:

      (1) the motion to proceed in forma pauperis together with any attachments and any responses thereto;

      (2) the order being appealed; and

      (3) the copy of the transcript or related hearing, if any.

      No filing fees or motion to proceed in forma pauperis is required in this instance.

3. Do not collect the fee for service of process. KRS 23A.200(2) and 24A.170(2) provide that these fees shall be paid directly to the sheriff or other serving officer.

Filing Complaint

4. Filing Complaint. The plaintiff must file enough copies of the complaint for service upon each defendant, in addition to the original which is filed in your office. If you

make the copies, collect a copy fee as set forth in the Fees and Costs section of this manual and give a receipt.

Complaint Involving Consumer Protection

a. Complaint Involving Consumer Protection. Mail a copy of any complaint involving consumer protection issues to:

Office of the Attorney General
Consumer Protection Division
1024 Capital Center Drive
Frankfort, KY 40601

5. Assign to a division using the procedure in your local court rules.

6. Apply the "FILED" stamp add the date and your initials and assign a case number. CR 5.05(3). Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next number or use the next pre-numbered file folder for the proper category.

Summons Issuance

7. Generate a summons for each defendant, by completing a summons screen for each defendant in the case. CR 4.02, CR 4.04(1). To expedite the filing of the lawsuit, you may provide attorneys with AOC Form 105, Civil Summons, to complete and return to you for signature at the time the complaint is filed. In either instance, a summons screen is completed.

   a. The clerk is required under CR 4.01(1) to issue a summons immediately upon the filing of a complaint.

Warning Order Service

8. If a warning order is requested to obtain constructive service, do not issue a summons (CR 4.05, 4.06):

   a. A complaint/affidavit will be filed with you stating the reason the defendant cannot be served and the defendant's last known address, or affiant's ignorance of such fact.

   b. Consult your roster of attorneys and make the appointment. You may not appoint the plaintiff or the attorney, and these persons may not suggest anyone for the appointment. CR 4.07(1).

c. Prepare and sign the warning order form; apply the "FILED" stamp, add the date and your initials. Make a copy and attach to a copy of the complaint and deliver to the warning order attorney.

d. File the warning order by completing a document screen.

e. Complete a party screen for the warning order attorney.

Guardian Ad Litem

9. If you are asked to appoint a guardian ad litem (CR 4.04):

a. An affidavit will be filed with you stating that the defendant has no guardian, curator, or conservator residing in this state known to the affiant. KRS 387.305(1).

b. Apply the filed stamp to the affidavit; add the date and your initials. File the affidavit by completing a document screen.

c. Consult your roster of attorneys and make an appointment unless your judge wishes to make these appointments.

d. Prepare and sign the appointment of Guardian Ad Litem form. Apply the "FILED" stamp; add the date and your initials. File the appointment by completing a document screen. Make a copy and attach the copy to a summons and complaint to be served on the defendant through the guardian ad litem. A copy of the order is also given to the attorney for the plaintiff and all other parties.

e. If a guardian ad litem was not appointed when the complaint was filed, then the court, not the clerk, appoints a guardian ad litem to defend the action. You may make this appointment only when the judge is not present in the county. CR 17.03(2).

f. Complete a party screen for the guardian ad litem.

Service of Summons

10. The plaintiff will instruct whether service of summons is by certified mail or personal delivery.

Certified Mail

a. If service by certified mail is requested:

(1) Attach a copy of the complaint (or other initiating document to the summons). When a third party complaint is filed, attach a copy of the original complaint in addition to the third party complaint. CR 4.04(1), 14.01.

(2) Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

(3) Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the complaint and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

Personal Service

b. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

(1) Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the complaint and/or other documents to be served attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

(2) Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Return of Service

11. When a return of service is received:

a. Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

b. Personal Service

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

Motions/Pleadings

12. When motions or other pleadings are filed in the case, apply the "FILED" stamp; add the date and your initials and complete the appropriate screen, i.e., scheduled events, motion or document screen.

13. When a hearing or trial is scheduled, complete a scheduled event screen.

Voluntary Dismissal of Action

14. CR 41.01. When a notice of dismissal of an action is received:

    a. Apply the “FILED” stamp; add the date and your initials. Complete a document screen.

    b. Close the case by completing the disposition date, disposition type, and judge at disposition fields on the case screen.

    c. Notice of entry by the clerk of a voluntary dismissal is not required.

Judgment/Order

15. When a signed judgment or order is received, apply the "ENTERED" stamp to the judgment or order; add the date and your initials. Do not use the "FILED" stamp.

    a. Enter the judgment or order on the document screen, including a brief description. This constitutes entry of the judgment or order; the judgment or order does not become effective until this is done. RCr 11.04. This is

combined with the notation of service of notice of entry of the judgment as described below.

b. After the judgment or order is ENTERED, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment or order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

c. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry or judgment. RCr 12.06.

d. If the judgment or order involves consumer protection issues, mail a copy to:

Office of the Attorney General
Consumer Protection Division
1024 Capital Center Drive
Frankfort, KY 40601

e. If the judgment or order includes child support (AOC Form 152, Uniform Child Support Order), place a copy of the order in a designated area (box or basket) in your office for the Cabinet for Health and Family Services. AOC 152 is a mandatory form.

f. If the judgment or order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

INSPECTION OF ADOPTION RECORDS
KRS 199.572
(Circuit Court or Family Court Division of Circuit Court)

1. An adult, adopted person 21 years old or older may petition the circuit court for inspection of his/her adoption records retained by the clerk's office. AOC Form 290, Petition to Inspect Adoption Records may be used.

2. If there is no adoption file of record in your office, return the petition to the petitioner.

3. If an adoption is of record in your office, apply the "FILED" stamp to the petition; add the date and your initials and file on a document screen. Attach the petition to the sealed adoption file and deliver to the judge. Do not collect a filing fee or issue a summons.

Inspection Without Notification

4. If the court orders inspection without notification to Cabinet for Health and Family Services (CHFS): Apply the "ENTERED" stamp to the order; add the date and your initials. AOC Form 290.1, Order Granting Request to Inspect may be used.

   (a) Enter the order on the document screen, including a brief description. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04.

   (b) After the order is entered, serve notice of entry on the petitioner by making a copy of the order that has been stamped entered and mail it to the petitioner. CR 77.04(1), RCr 12.06(1)(3).

   (c) Make an entry on the document screen showing the manner and date of service on the notice of entry of the order. RCr 12.06.

CHFS to Notify

5. If the court orders chfs to notify biological parents: Apply the "ENTERED" stamp to the order; add the date and your initials. AOC Form 290.1, Order Requiring CHFS to Notify Biological Parents may be used. Enter on a document screen. Serve CHFS at address below by first class mail with a copy of both AOC 290 and AOC 290.1. Instruct the petitioner to contact CHFS at the following address regarding payment of a fee for adult adoptee searches:

Cabinet for Health and Family Services
Department for Community Based Services
Adoptions Section
275 E. Main Street, 3-CE
Frankfort, KY 40621
Telephone (502) 564-2147

KRS 199.572(3).

a. Apply the "FILED" stamp; add the date and your initials to any affidavit of notification of biological parents or affidavit that the parents are deceased or cannot be located. File on a document screen. Take the file to the judge.

b. Apply the "FILED" stamp; add the date and your initials to any affidavit tendered by the biological parents that authorizes or does not authorize inspection and file on a document screen. Send a copy to the CHFS address in item 5 above. Take the file to the judge.

c. When a signed order granting or denying the request to inspect is received:

(1) Apply the "ENTERED" stamp to the order; add the date and your initials. Do not use the "FILED" stamp. AOC Form 290.2, Order Granting or Denying Request to Inspect Adoption Records may be used.

(2) Enter the order on the document screen, including a brief description. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04.

(3) After the order is entered. Serve notice of entry on the petitioner by making a copy of the order that has been stamped entered and mail it to the petitioner. CR 77.04(1), RCr 12.06(1)(3).

(4) Make an entry on the document screen showing the manner and date of service of the notice of entry of the order. RCr 12.06. A copy should also be sent to the Cabinet for Health and Family Services at the address shown in item 5 above.

6. Reopen and Reseal the adoption record pursuant to the judge's order.

INSPECTION OF RECORDS

Confidential Records

1. The following court records are confidential. Do not allow inspection by the public. For persons entitled to inspection (for example, attorneys for parties, parties, government agencies), refer to the specific section.

   a. Confidential by statute.

      (1) Adoption. KRS 199.570.

         (a) Exception: A copy of a judgment in an adoption case being appealed may be made available to a party to the appeal. Bone v. Shadoan, Ky., 746 SW2d 68 (1988).

      (2) Disability. KRS 387.770.

         (a) Exception: Determinations of Disability and Orders of Appointment, Modification, and Termination are open to inspection.

      (3) Domestic Violence. KRS 403.770.

         NOTE: Only the address of the petitioner and the minor children is confidential.

      (4) Juvenile. KRS 610.320, 610.340. This includes records in circuit court on appeal from district court juvenile proceedings. F.T.P. v. Courier-Journal, Ky., 774 S.W. 2d 444 (1989); and Juvenile Court records transferred on court order to Circuit Court.

         (a) Exception: Records created once the case is transferred to circuit court are open to inspection. KRS 640.010.

         (b) Exception:

            Child and his/her parents may have access to the child's records. KRS 610.340(1).

            The child's attorney may have access to the record of their clients. KRS 610.340(3).

            Employees of the Cabinet for Health and Family Services, prosecutors, police, and their employees may have access to the

records of cases in which they are investigating or prosecuting. KRS 610.340(2).

Court appointed CASA volunteers may have access to court files in which they are involved by reason of their appointment.

Victims, victim's parents or legal guardian, or victim's spouse may have access to the petition, adjudication and disposition in all cases.

If adjudicated delinquent, the petition, adjudication and disposition in all cases involving a Class A, B or C felony or any offense involving a deadly weapon are public record.

If you are in doubt as to whether to allow access to the records, ask the person to get a court order permitting such access. KRS 610.340(3).

(5) Mentally Ill (Involuntary) Hospitalization. KRS 202A.091.

(6) Mental Retardation Admission. KRS 202B.180.

(7) Parole Information. KRS 439.510.

(8) Paternity. KRS 406.035.

(9) Presentence Investigation Report cannot be inspected. The court shall provide the defendant's counsel a copy of the report. It shall not be necessary to disclose the sources of confidential information. KRS 532.050(6). The PSI shall not be part of the court record. It should not pass through the hands of the Clerk or anyone in the Clerk's office. Should you discover the original or a copy of the PSI in the record, please consult the Judge.

b. Confidential by Statute and Administrative Procedures.

(1) The contents of any records or papers used by AOC or the clerk in connection with the jury selection process, unless required to be made public, are not to be disclosed. KRS 29A.110.

Exceptions: contents of jury selection records may be disclosed when you receive:

(a) a motion permitted by the rules of civil or criminal procedure; or

(b) an order from the Chief Justice.

(2) Juror Qualification Forms. AP II Sec. 7(7).

Exception: The trial judge, parties, and their attorneys of record may inspect the forms unless the chief circuit judge or designee determines in any instance in the interest of justice that the information shall be kept confidential or its use limited in whole or in part.

(3) Randomized jury lists are confidential but the names of jurors selected as grand and petit jurors are not confidential.

Unless the chief circuit judge or designee determines in the interest of justice that the names shall be kept confidential. AP II Sec. 10(9).

c. Confidential (sealed) by court order.

Inspection Procedures

2. Inspection Procedures.

a. 7/29/85 Kentucky Supreme Court Memorandum dated July 29, 1985 and included below in its entirety allows the clerk the discretion to deny inspection if "...the request to inspect is advanced primarily for a business purpose of the requesting entity and the request does not advance primarily a public interest or legitimate private interest..."

b. Clerk should allow inspection and copying of case files when possible, although a clerk may refuse inspection and copying if the request is too burdensome or disruptive to the clerk's office. If inspection and copying is not possible at the time of the request, the clerk should arrange a time, within three (3) business days of the inspection request, in which to allow inspection and copying.

c. Clerk may require requestor to make a written inspection request specifying what document(s) is to be inspected. 7/29/85 Kentucky Supreme Court Memorandum. Inspection requests by mail may be fulfilled at the clerk's discretion and upon payment of copy and postage fees.

d. Clerk or requestor, at clerk's discretion, may search computer reader terminal or index cards and pull record. Clerk may require requestor to search and inspect in clerk's presence. If parts of a record are confidential, clerk must search and make copies of non-confidential items.

e. Clerk or requestor may make copies of documents in a court file upon requestor's payment of the copy fee as set forth in the Fees and Costs

section of this manual. Note: Unless otherwise sealed or confidential, documents filed in the court record and prepared by a court reporter (for example: depositions and transcripts) are public record and copies may be obtained from the clerk. Copies of audio cassettes or disks and video tapes may be acquired at a cost as set forth in the Fees and Costs section of this manual.

f. Clerk is not required to create a record if one does not exist, e.g. lists.

g. Upon denial of a request, the requestor may petition for inspection to the presiding judge in the specific case to which inspection was denied. There are no filing fees. Apply the "FILED" stamp to the petition; add the date and your initials. Complete a document screen and deliver the file to the judge. Use document type “ODI”.

h. When a signed order is received, apply the "ENTERED" stamp; add the date and your initials. Complete a document screen. Use document type “OGI”. Give notice of entry to the petitioner.

Policy Concerning Inspection of Court Records

i. The following memorandum from the Chief Justice outlines the policy of the Supreme Court concerning inspection of court records:

MEMORANDUM

TO: Circuit Court Clerks

FROM: Chief Justice Robert F. Stephens

DATE: July 29, 1985

RE: Policy Concerning Inspection of Court Records

Unless otherwise directed by the Chief Justice or ordered by the Supreme Court, Circuit Court Clerk's and their deputies shall not be required to open Court Records for public inspection or copying if in the discretion of the clerk the request to inspect is advanced primarily for business purpose of the requesting entity and the request does not advance primarily a public interest or a legitimate private interest. In no event shall Circuit Clerk's or their deputies be required to open Court Records for public inspection unless the request to inspect is specific as to the nature and number of documents to be inspected, is in writing, and would not in the

discretion of the clerk place an unreasonable burden upon the resources of the Clerk's Office.

INVOLUNTARY ADMISSION
KRS Chapter 202B
(District Court)

1. Involuntary admission proceedings include the admission of mentally retarded adults. KRS 202B.010.

2. All involuntary admission proceedings and records are initiated in the district court of the county where the person to be admitted resides or in which he/she may be at the filing of the petition. KRS 202B.010, 202B.019.

3. All involuntary admission proceedings and records are confidential. KRS 202B.180(1). They are open to the respondent, the county attorney when assisting the petitioner, and the Commonwealth. KRS 202B.019. The respondent can move after discharge or denial of admission to have court records expunged on notice to the county attorney. KRS 202B.170. A person seeking inspection of involuntary admission records may file a written motion in the case in district court setting out why the information is needed. KRS 202B.170.

4. All admission petitions on the same respondent should be kept in the case file.

5. 72-hour emergency (without court action). KRS 202B.025.

   If a person requests help in getting a dangerous person in the hospital, you should refer them to your county attorney or district judge.

6. Involuntary admission. KRS 202B.140.

   a. There are no filing fees or jury fee for involuntary admission cases.

   b. The County Attorney is responsible for assisting the petitioner. KRS 202B.019.

Petition for Involuntary Admission

   c. When you receive a petition take it to any available district judge. Do not open a case file at this time. On an involuntary admission petition, the court will examine the petitioner under oath as to the contents of the petition. If petitioner is a Qualified Mental Retardation Professional (QMRP), the court may dispense with the examination. KRS 202B.025.

   d. Apply the "FILED" stamp to the petition; add the date and your initials.

   e. To determine if the respondent has a prior case in your court; if parties enter your court system the first time (no prior case file exists); or a non-computer

case file exists and a new petition is filed, refer to the Case Add section of the KYCourts Manual for instructions on opening the case. Assign an "H" number with a trailer number using the next pre-numbered file folder.

Copy the case history at the close of each case. Place a tab on the side of the copy and insert in file folder as a divider.

Appointment of Counsel

f. The court will appoint counsel from a list of private attorneys maintained by the clerk who have volunteered to represent mentally retarded respondents, to be compensated by the Finance Cabinet. Public Advocate appointments are made only if no other method of appointing counsel is available. KRS 202B.210.

Preliminary Hearing Date

g. The preliminary hearing date shall be within fifteen (15) days from the date of the filing of the petition, excluding weekends and holidays. KRS 202B.100, 202B.150. Note the hearing on the calendar by completing a scheduled events screen.

h. Enter the order appointing counsel and order setting preliminary hearing. Apply the "ENTERED" stamp to the orders; add the date and your initials. Enter the orders by completing a document screen. Use document type “OAC”. Give notice of entry by mailing copies of the orders to petitioner, respondent, respondent's attorney, respondent's legal guardian, if any, and if known, and the respondent’s spouse, parents, or nearest relative or friend. KRS 202B.100. Enter the attorney as a party by completing the party screen.

Examination of Respondent

i. The court will order the respondent examined by two QMRP, one of whom is a doctor. If respondent is presently residing in an Intermediate Care Facility/Mental Retardation (DCF/DR), residence may be continued to accomplish the court ordered examination. If respondent is not presently residing in a DCF/DR, the court may order the respondent, respondent's guardian, or any person or entity exercising custodial control of respondent to submit the respondent to an examination, by two (2) QMRP without unnecessary delay. KRS 202B.100.

(1) Apply the "ENTERED" stamp to the order; add the date and your initials. Enter on the document screen. Use document type “OE”. Give notice of entry by distributing copies of the order to:

(a) Respondent's attorney - one (1) copy

(b) Respondent - one (1) copy
(c) QMRP - one (1) copy (Attach to this copy two (2) copies of Certification of QMRP)

j. Within 24 hours (excluding weekends and holidays) the QMRP will certify their findings to the court. Apply the "FILED" stamp to the certification; add the date and your initials. File on a document screen. Use document type “CH”.

Hearing Held

k. KRS 202B.140, 202B.150.

(1) If probable cause is not found, apply the "ENTERED" stamp to the order; add the date and your initials and enter on a document screen. Close the case screen with the disposition date, disposition type and judge at disposition.

(2) If probable cause IS found, apply the "ENTERED" stamp to the order; add the date and your initials and enter on a document screen. If Form AOC 725 is utilized, use document type “OTV”, “ORV”, or “ODIS”, as appropriate.

(3) Give notice of entry by distributing copies to:

(a) Respondent's attorney - one (1) copy
(b) DCF/DR - one (1) copy (Attach to this copy a copy of Verified Petition and a copy of Examination Order and Certification).
(c) If court orders a peace officer to transport resident from county where respondent located to the DCF/DR, give the peace officer three (3) copies of Findings of Probable Cause and Order for:

1) Peace Officer's file;
2) Peace Officer's return;
3) DCF/DR (as in (b) above).

Final Hearing

7. Venue changes to county where hospital is located, unless there is a motion by one of the parties to retain venue. KRS 202B.110.

Venue is Changed

a. If venue is changed, close case screen with disposition date, disposition type of "TRF" and judge at disposition. Transfer original file, within 24 hours, to district court of county where hospital is located. Receiving court will

schedule final hearing within twenty (20) days of preliminary hearing date or within thirty (30) days of date of filing of petition if preliminary hearing waived. KRS 202B.150. Enter on document screen. If Form AOC 725 is utilized, use document type “OTV”, “ORV”, or “ODIS”, as appropriate.

Venue is Retained

b. If venue is retained, complete a scheduled events screen setting final hearing within twenty (20) days of preliminary hearing date or within thirty (30) days of date of filing of petition if preliminary hearing waived. KRS 202B.110.

c. Final hearings cannot be waived. KRS 202B.150. Jury trials are set only on a party's request. KRS 202B.150.

d. When an order is received, apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Use document type “OGC” or “ODIS”. Give notice of entry by distributing copies to:

(1) Respondent's attorney - one (1) copy
(2) Peace Officer - two (2) copies
(3) DCF/DR - one (1) copy (Attach to this copy a copy of Verified Petition and Certification of QMRP). KRS 202B.
(4) County attorney - one (1) copy
(5) CHFS - one (1) copy. KRS 202B.

e. Close the case screen by completing the disposition date, disposition type and judge at disposition.

f. File any annual reviews submitted to the court by an interdisciplinary team. Apply the "FILED" stamp; add the date and your initials and complete a document screen. Use document type “RIET” or “RCHR”.

Appeal

8. Appeals from final orders or judgments of the district court shall be taken in the same manner as other appeals from district court to circuit court.

Review Hearing

9. Not less than once in every five years following the initial admission or continued care order, schedule a status review hearing. You may do this by completing a scheduled events screen. Serve notice 20 days before the hearing to the facility, county attorney, and guardian or immediate family member. KRS 202B.250

Expungement

10. Following the discharge of a respondent from a treatment facility or court order denying petition for hospitalization, the respondent may move to have all records expunged. KRS 202B.180. The county attorney is given notice of any motion and has five (5) days to respond or request a hearing. KRS 202B.180.

    a. Expungement of the record means the sealing of all papers in the proceeding, including the docket sheet, index card, police records, Cabinet for Health and Family Services records and case files. This is done by court order.

    b. Apply the "ENTERED" stamp to the order; add the date and your initials. Notify any officials or agencies named in the order, and seal the records including all items mentioned in step a. On the outside of the sealed envelope, add the case number, the birth date of the respondent for identification and the date of the order of expungement. It is not necessary to destroy the electronic tapes; the official retention and disposal schedule for district court tapes applies.

    c. If you are asked about an expunged record, advise that no such record exists.

    d. An expunged record can be reopened only upon petition to the court and an order specifying the names of those who shall have access to the file.

INVOLUNTARY HOSPITALIZATION
(District Court)
KRS 202A

1. Involuntary hospitalization proceedings include the hospitalization of adults diagnosed with a mental illness. KRS 202A.012. For mental health procedures involving juveniles, follow procedures outlined in the Juvenile Mental Health section.

Confidentiality of Records

2. All involuntary hospitalization proceedings and records are confidential. KRS 202A.091(1). They are open to the respondent, the county attorney when assisting the petitioner, and the Commonwealth. KRS 202A.091(1), 202A.016. A court order is required for other individuals seeking access to the case file. KRS 202A.091(3).

3. If you receive a citation, which is NOT attached to a petition, charging a person with UOR Code 030040, 60/360 Day Involuntary Hospitalization of Mentally Ill Person; or UOR code 030050, Emergency Detention; or UOR Code 030060, Involuntary Commitment of Mentally Retarded Person, Do not open a case file. Retain the citation by stapling it to the officer's transmittal list submitted with the citation. If the citation is attached to a petition, open the case file based on the petition and retain the citation in the case file. Do not complete a charge screen for any UOR listed herein.

4. If you receive an AOC Form 712, Certification of Qualified Mental Health Professional, and no AOC Form 710, Verified Petition, proceed to 72 Hour Hospitalization.

5. If you receive an AOC Form 710, Verified Petition, proceed to 60/360 Day Not Filed by QMHP.

Warrantless Arrest

6. Under 202A.028, the respondent will have been taken into custody and transported to a hospital/facility by law enforcement without any action by the court. Law enforcement does not need to file any documents with the court to make a warrantless arrest and transport the respondent to a hospital/facility; Return to law enforcement any such documents tendered.

72 Hour Hospitalization

7. 72 Hour Hospitalization by Court Order Following a Warrantless Arrest. KRS 202A.028 AND 202A.041.

   a. After the respondent has been held and evaluated for 18 hours at the hospital/facility, a Qualified Mental Health Professional (QMHP) will either release the respondent or file with the clerk aoc form 712, Certification of Qualified Mental Health Professional (for 72 hour hospitalization). AOC Form 710, Verified Petition for Involuntary Hospitalization, does not need to be filed with the AOC Form 712, Certification of QMHP. KRS 202A.101(5)(a), 202A.041.

   b. Take the AOC Form 712, Certification of QMHP and a blank AOC form 713, order granting/denying 72 hour hospitalization, to any available district judge. do not open a case file at this time.

      (1) If the district judge is absent from the county or otherwise not available, take to the trial commissioner. SCR 5.030(f).

      (2) If both the district judge and trial commissioner are absent from the county or otherwise not available, take to any judge or justice of the Court of Justice. KRS 202A.011(7).

   c. When the judge signs and returns to you the AOC form 713, Order Granting/Denying 72 Hour Hospitalization, and the AOC Form 712, Certification of QMHP, open the case file. AOC Form 712, the Certification of the QMHP, is the initiating document.

      (1) All involuntary hospitalization proceedings and records are initiated in the district court of the county where the person to be hospitalized resides or in which the person may be at the time the petition is filed. KRS 202A.014. There are no filing fees or jury fee.

      (2) Keep hospitalization and disability cases on the same respondent in the same case file.

      (3) To determine if the respondent has a prior case in your court; if parties enter your court system the first time (no prior case file exists); or a non-computer case file exists and a new petition is filed, refer to the Case Add section of the KYCourts Manual for instructions on opening the case. Assign an "H" number with a trailer number using the next pre-numbered file folder.

      (4) Apply the "FILED" stamp to the certification; add the date and your initials. File on a document screen.

(a) "ENTER" the Order Granting/Denying the 72 Hour Hospitalization by applying the "ENTERED" stamp to the order; add the date and your initials. Enter the order in the computer by completing a document screen. Give notice of entry by mailing or hand delivering copies of the ORDER to:
(b) Respondent
(c) Respondent's Attorney
(d) Peace Officer-three copies (File, Return, Hospital - Attach to hospital's copy a copy of the completed Certification of QMHP; you will not have an AOC Form 710, Verified Petition, to send to the hospital; KRS 202A.101(5)(a)).
(e) CHFS

(5) Close the case screen by adding disposition date, disposition type of 72 hour commitment and judge at disposition. If the order was granted, you may receive from the QMHP within 72 hours an AOC Form 710, Verified Petition for Involuntary Hospitalization. If you receive a petition, proceed to 60/360 Day Not Filed by QMHP.

60/360 Day Not Filed by QMHP

8. Petition for 60/360 Day Not Filed by QMHP. KRS 202A.051.

a. When you receive an AOC Form 710, Verified Petition for Involuntary Hospitalization, take it to any available district judge. Do not open a case file at this time.

(1) If the district judge is absent from the county or otherwise not available, take to the trial commissioner. SCR 5.030(f).

(2) If both the district judge and trial commissioner are absent from the county or otherwise not available, take to any judge or justice of the Court of Justice. KRS 202A.011(7).

b. On a 60/360 day involuntary hospitalization petition, the court will examine the petitioner (who is not a QMHP) under oath as to the contents of the petition. KRS 202A.051. The county attorney is responsible for assisting the petitioner. KRS 202A.016. If the petition is a QMHP, proceed to “60/360 Day Filed by QMHP or Objection” section below.

(1) If the court finds probable cause for hospitalization based on the court's examination of the petitioner, and there is no objection to hospitalization by any party, you will receive AOC Form 711, Examination Order and Transport Order (For 72 Hour Hospitalization). Proceed to section (a) below.

If the court finds probable cause for hospitalization based on the court's examination of the petitioner, or based on the fact that the petitioner is a QMHP, and there is an objection to hospitalization by any party, proceed to “60/360 Day Filed by QMHP or Objection” section below.

(a) All involuntary hospitalization proceedings and records are initiated in the district court of the county where the person to be hospitalized resides or in which the person may be at the time the petition is filed. KRS 202A.014. There are no filing fees or jury fee.

(b) Keep all hospitalization and disability cases on the same respondent in the same case file.

To determine if the respondent has a prior case in your court; if parties enter your court system the first time (no prior case file exists); or a non-computer case file exists and a new petition is filed, refer to the Case Add section of the KYCourts Manual for instructions on opening the case. Assign an "H" number with a trailer number using the next pre-numbered file folder.

(c) Apply the "FILED" stamp to the petition; add the date and your initials. File the petition by completing a document screen.

(d) "ENTER" AOC Form 711, Examination Order by applying the "ENTERED" stamp to the order; add the date and your initials. Enter the order by completing a document screen. Give notice of entry by mailing or hand delivering copies of the petition and order to:

a) Respondent's Attorney
b) Peace Officer-four copies for:
    a) Respondent
    b) Peace Officer's file
    c) Peace Officer's return
    d) QMHP (Attach to this copy a blank AOC Form 712, Certification of QMHP).

(e) The QMHP will examine the respondent and complete AOC Form 712, Certification of QMHP. KRS 202A.028(1). Apply the "FILED" stamp to the certification; add the date and your initials. File the certification by completing a document screen. Use document type “CH”.

(f) The court reviews the certification and either dismisses the case or, if respondent meets the criteria for involuntary hospitalization,

orders the respondent hospitalized for 72 hours. KRS 202A.028(1). "ENTER" AOC Form 713, Order Granting/Denying 72 Hour Hospitalization by applying the "ENTERED" stamp to the order; add the date and your initials. Enter the order by completing a document screen. Use document type “OGH” or “ODH”. Give notice of entry by mailing or hand delivering copies of the order to:

a) Respondent's attorney
b) CHFS. KRS 202A.101(5)
c) Peace Officer-three copies

a) Peace Officer's file
b) Peace Officer's return
c) Hospital (Attach to this copy a copy of the completed AOC Form 710, Verified Petition for Involuntary Hospitalization and completed AOC Form 712, Certification of QMHP). KRS 202A.101(5).

(g) Close the case screen by adding disposition date; disposition type of 72 hour commitment and judge at disposition.

(h) If further hospitalization is required, the hospital/facility will, prior to expiration of 72 hours file in the county where hospital/facility is located a new AOC Form 710, Verified Petition for Involuntary Hospitalization. If hospital/facility files new petition, proceed to “60/360 Day Filed By QMHP or Objection” section below.

60/360 Day Filed by QMHP or Objection

9. Petition for 60/360 Day Filed by QMHP or Objection to Hospitalization.

a. When you receive an AOC Form 710, Verified Petition for Involuntary Hospitalization, from a QMHP, take it to any available district judge. Do not open a case file at this time.

(1) If the district judge is absent from the county or otherwise not available, take to the trial commissioner. SCR 5.030(f).

(2) If both the district judge and trial commissioner are absent from the county or otherwise not available, take to any judge or justice of the Court of Justice. KRS 202A.011(7).

(3) If the court finds probable cause for hospitalization based on the court's examination of the petitioner, or based on the fact that the petitioner is a QMHP, and there is an objection to hospitalization by any party, the court will appoint counsel and set a hearing, (preliminary).

b. All involuntary hospitalization proceedings and records are initiated in the district court of the county where the person to be hospitalized resides or in which the person may be at the time the petition is filed. KRS 202A.014. There are no filing fees or jury fee.

c. Keep all hospitalization and disability cases on the same respondent in the same case file.

To determine if the respondent has a prior case in your court; if parties enter your court system the first time (no prior case file exists); or a non-computer case file exists and a new petition is filed, refer to the Case Add section of the KYCourts Manual for instructions on opening the case. Assign an "H" number with a trailer number using the next pre-numbered file folder.

Apply the "FILED" stamp to AOC Form 710, Verified Petition; add date and your initials. File the petition by completing a document screen. Use document type “PIH”.

Order Appointing Counsel

d. Enter Order Appointing Counsel, Setting Hearing, and Appointing License Physician/QMHP/QMRP, AOC Form 715. Apply the "ENTERED" stamp; add date and your initials. Enter the order by completing a document screen. Use document type “OAC”.

Preliminary Hearing

(1) The preliminary hearing date shall be within six days from the date of respondent's detention (if detained) and/or examination (if not detained), excluding weekends and holidays. KRS 202A.051(6)(a),(b). Note the hearing on the calendar by completing a scheduled events screen.

(2) Provide notice of entry by mailing or hand delivering copies of the petition and order to:

(a) Petitioner
(b) Respondent's appointed attorney
(c) If known, Respondent's legal guardian, spouse, parent(s) or nearest relative or friend, (KRS 202A.051(6)(b))
(d) Respondent,
(1) if detained (KRS 202A.051(7)(a) and the peace officer transports (five copies):

a) Respondent
b) Peace Officer's file

c) Peace Officer's Return
d) Two copies for Hospital, one each for the Licensed Physician(s) and QMHP (Attach to each of the two copies a blank copy of AOC Form 712, Certification of QMHP), and

(2) if not detained, and no peace officer transports
a) Two copies for Hospital, one each for the Licensed Physician(s) and QMHP (Attach to each of the two copies a blank copy of AOC Form 712, Certification of QMHP),

Transport Order

e. If Respondent is not detained, and the court issues an examination/transport order or summons (KRS 202A.051(7)(b), (8)), prepare a detention/transport order or summons as directed by the court. If a summons is ordered, use AOC Form 706, Hospitalization/Disability Summons) and complete a summons screen. Use summons type “HD”. If an examination/transport order is signed, apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Use document type “OE”.

(1) Give five (5) copies of the summons (or examination/transport order); petition; and order appointing counsel, setting preliminary hearing and appointing physician/QMHP/QMRP to the Peace Officer for distribution as follows:

(a) Respondent
(b) Officer's File
(c) Officer's Return
(d) Two copies for Hospital, one each for the Licensed Physician(s) and QMHP (Attach to each of the two copies a blank copy of AOC Form 712, Certification of QMHP).
(e) File return of summons by applying the "FILED" stamp; add date and your initials. Enter the return information on the summons screen.

f. Certification of Physician/QMHP/QMRP. When the certification is received, apply the "FILED" stamp to the certification; add the date and your initials. File certification by completing a document screen. KRS 202A.051(6)(c). Use document type “CH”.

g. After the preliminary hearing:

Probable Cause Not Found

(1) If on AOC Form 725, Findings of Probable Cause and Order, the court does not find probable cause, apply the "ENTERED" stamp; add the date and your initials. Complete a document screen. If Form AOC 725 is utilized, use document type “OTV”, “ORV”, or “ODIS”, as appropriate. Give notice of entry by mailing or hand delivering to:

(a) Respondent and Respondent's attorney
(b) Peace Officer
(c) Hospital/Facility
(d) If known, Respondent's legal guardian, spouse, parent(s), or nearest relative or friend

(2) Close the case screen by completing the disposition date, disposition type and judge at disposition.

Probable Cause Found

(3) Probable Cause Found.

Venue Retained

(a) If on AOC Form 725, Findings of Probable Cause and Order, the court has found probable cause and retained venue, "ENTER" both AOC Form 725, Findings of Probable Cause and Order and AOC Form 726, Order Setting Final Hearing by applying the "ENTERED" stamp; add date and your initials and complete document screens for each order. If Form AOC is utilized, use document type “OTV”, “ORV”, or “ODIS”, as appropriate. The final hearing must be set within 21 days of detention (if detained) or examination (if not detained). Final hearings cannot be waived. KRS 202A.076(2). Calendar the hearing by completing a scheduled events screen. Jury trials are set only at the party's request. KRS 202A.076(2).

a) If Respondent is ordered to community based outpatient treatment the final hearing must be held within sixty days and may be continued for another sixty days. Calendar the hearing by completing a scheduled events screen. If during this community based outpatient treatment the QMHP files a request to have the respondent discharged, apply the "FILED" stamp to the request; add the date and your initials; complete a document screen and take the file to the judge. Use document type “REQ”.

b) Give notice of entry of Findings of Probable Cause and Order and Order Setting Final Hearing by mailing or hand delivering copies to:

a) Respondent's attorney
b) Peace Officer (four copies):

1) Respondent
2) Peace Officer's file
3) Peace Officer's return
4) Hospital (Attach to this copy a copy of the completed Verified Petition and a copy of the completed Certification of QMHP). KRS 202A.101(5).

c) County attorney.

Venue Transferred

(b) If on AOC Form 725, Findings of Probable Cause and Order, the court has changed venue to the county where the hospital is located, enter AOC Form 725, Findings of Probable Cause and Order by applying the "ENTERED" stamp; add date and your initials and complete a document screen.

a) Give notice of entry by mailing or hand delivering copies to:

a) Respondent's attorney
b) Peace Officer (four copies)

1) Respondent
2) Peace Officer's file
3) Peace Officer's return
4) Hospital (Attach to this copy a copy of the completed Verified Petition and a copy of the completed Certification of QMHP). KRS 202A.010(5).

2) Close case by completing the disposition date, disposition type ("transferred,") and judge at disposition fields. Transfer the original file, within 24 hours to the district court of the county where hospital is located.

Receiving Court

3) Apply the "FILED" stamp to the record received from the transferring court; add date and your initials. File the entire record as one pleading by completing a document screen. Use document type “RTRF”.

a) To determine if the respondent has a prior case in your court; if parties enter your court system the first time (no prior case file exists); or a non-computer case file exists and a new petition is filed, refer to the Case Add section of the KYCourts Manual for instructions on opening the case. Assign an "H" number with a trailer number using the next pre-numbered file folder.

b) Schedule final hearing within 21 days of detention (if detained) or examination (if not detained). KRS 202A.041(4). Use AOC Form 726, Order Setting Final Hearing. Final hearings cannot be waived.KRS 202A.076(2). Calendar the hearing by completing scheduled events screen. Jury trials are set only at the party's request. KRS 202A.076(2). Apply the "ENTERED" stamp to the order; add date and your initials and complete a document screen. Use document type “OST”.

c) Give notice of entry of the Order Setting Final Hearing by mailing or hand delivering copies to:

1) Respondent's attorney
2) Peace Officer file
3) Peace Officer return
4) Hospital/Facility – (Attach to this copy a completed copy of AOC form 710, Verified Petition for Involuntary Hospitalization, and a copy of the completed Certification of QMHP) KRS 202A.010(5).
(5) County Attorney

d) If Respondent is ordered to community based outpatient treatment the final hearing must be held within sixty days and may be continued for another sixty days. Calendar the hearing by completing a scheduled events screen. If during this community based outpatient treatment the QMHP files a request to have the respondent discharged or files an affidavit that it is in the best interest of the person to be picked up, apply the "FILED" stamp; add the date and your initials; complete a document screen and take the file to the judge. Use document type “REQ”.

e) After Final Hearing, "ENTER" the judgment and order. AOC form 730, Judgment and Order for 60/360 Day Involuntary Hospitalization. Apply the "ENTERED" stamp; add the date and your initials and complete a document screen. Use document type “ODIS” or “OGH”.

f) Give notice by mailing or hand delivering copies to:

1) Respondent's attorney
2) Peace Officer file
3) Peace Officer return
4) Hospital/Facility-(Attach to this copy a completed copy of AOC form 710, Verified Petition for Involuntary Hospitalization, AOC form 712, Certification of QMHP, and AOC form 730, Judgment and Order of Involuntary Hospitalization).
5) County Attorney
6) CHFS
7) If known-Respondent's legal guardian, spouse, parent(s), nearest relative or friend

g) Close the case screen by completing the disposition date, disposition type and judge at disposition.

Appeal

10. If a notice of appeal is received, use same procedure as any district to circuit court appeal. The hospital/facility ordered to receive the respondent is allowed to appeal under KRS 202A.141(1).

Petition for Clarification

11. You may receive a petition from the hospital/facility having custody of the respondent for clarification or modification of orders or judgments. Apply the "FILED" stamp to the petition; add the date and your initials. File the petition by completing a document screen. Use document type “PRMT”. The hospital is responsible for serving their pleadings on the respondent and respondent's attorney. KRS 202A.141(1).

Expungement

12. If you receive a motion to expunge the case file:

    a. Apply the "FILED" stamp to the motion; add the date and your initials. File the motion by completing a motion screen. The respondent must serve the county attorney with the motion. KRS 202A.091(2).

    b. If the county attorney files a motion to request a hearing, apply the "FILED" stamp to the motion; add the date and your initials. KRS 202A.091(2). Complete a motion screen and a scheduled events screen.

    c. When the order granting/denying expungement is received, apply the "ENTERED" stamp; add the date and your initials. Enter by completing a document screen. Use document type “OEX”.

(1) If the court grants the expungement, notify any officials or agencies named in the order, and seal the court records including any manual case file items (e.g. docket sheet, index card) in an envelope. On the outside of the sealed envelope, add the case number, the birth date of the respondent for identification and the date of the order of expungement. It is not necessary to include the electronic tapes in the sealed envelope or to destroy the tapes.

(2) If you are asked about an expunged record, advise that no such record exists.

(3) An expunged record can be reopened only upon petition to the court and an order specifying the names of those who shall have access to the file.

d. See KYII manual for expungement process.

INVOLUNTARY TREATMENT FOR ALCOHOL/DRUG ABUSE
(District Court)
KRS Chapter 222

1. Involuntary treatment proceedings include proceedings for 60/360 days of treatment for an individual, including juveniles, suffering from alcohol or other drug abuse. KRS Chapter 222. All rights guaranteed by KRS Chapter 202A and 210 to involuntarily hospitalized mentally ill persons shall be guaranteed to a person ordered to undergo treatment for alcohol and other drug abuse. KRS 222.430.

Confidentiality of Records

2. All involuntary treatment proceedings and records are confidential. KRS 222.430 and 202A.091(1). They are open to the petitioner and respondent, respondent's parents or legal guardian, spouse, or nearest relative or friend of the respondent, if named in the petition. KRS 222.430; 202A.091(1). A court order is required for other individuals seeking access to the case file. KRS 222.430; 202A.091(3).

Petition for 60/360 Day Treatment

3. Petition for 60/360 Day Involuntary Treatment. KRS 222.432.

   a. When you receive AOC Form 700A, Verified Petition for Involuntary Treatment, take it to any available district judge. Do not open a case file at this time.

      - If the district judge is absent from the county or otherwise not available, take to any judge or justice of the Court of Justice. KRS 222.430; 202A.011(7).

   b. The court will examine the petitioner under oath as to the contents of the petition. KRS 222.433.

      (1) If, based on the court’s review of the allegations contained in the petition and examination of the petitioner, the court finds No probable cause to believe the respondent should be ordered to undergo treatment; Do not open a case file. File the petition in a file labeled "Petitions for Involuntary Treatment - No Probable Cause". Maintain the file folder with other Health "H" cases.

      (2) If, based on the court’s review of the allegations contained in the petition and examination of the petitioner, the court finds probable cause to believe the respondent should be ordered to undergo treatment, a date shall be set for a hearing within 14 days.

c. Keep all involuntary treatment, hospitalization and disability cases on the same respondent in the same case file.

- To determine if the respondent has a prior case in your court; if parties enter your court system the first time (no prior case file exists); or a non-computer case file exists and a new petition is filed, refer to the Case Add section of the KYCourts Manual for instructions on opening the case. Assign an "H" number with a trailer number using the next pre-numbered file folder.

d. Apply the "FILED" stamp to the petition; add the date and your initials. File by completing a document screen.

Setting Hearing

4. The hearing date shall be within fourteen (14) days from the date of the filing of the petition, excluding weekends and holidays. KRS 222.433. Note the hearing on the calendar by completing a scheduled events screen.

Hearing, Examination and Appointment of Counsel

5. When you receive AOC Form 701A, Hearing, Examination and Appointment of Counsel Notice and Order, apply the "ENTERED" stamp; add the date and your initials. Enter the order by completing a document screen. Give notice of entry by mailing or hand delivering copies of the Petition and the Hearing Notice and Examination Order to:

   a. Respondent's Attorney
   b. Respondent
   c. Qualified Health Professional (Attach to this copy a blank AOC Form 703A, Certification of QHP)
   d. If known, Respondent's legal guardian, spouse, parent(s), or nearest relative or friend, KRS 222.433.
   e. Petitioner

6. If you receive notice that the respondent has failed to attend an examination or treatment, deliver the case file to the judge for direction on issuing a summons. If directed, complete AOC Form 702A, Summons Involuntary Treatment and deliver to the sheriff or other peace officer for service upon the respondent. KRS 222.435.

7. The QHP will examine the respondent and complete AOC Form 703A, Certification of Qualified Health Professional. KRS 222.433. Apply the "FILED" stamp to the certification; add the date and your initials. File the certification by completing a document screen.

Involuntary Treatment Ordered

8. Upon completion of the hearing, if the court finds the respondent should be ordered to undergo involuntary treatment, the court will order the respondent to 60 or 360 consecutive days of treatment or any other period of time agreed to by the parties. KRS 222.433. When you receive AOC Form 704A, Judgment and Order For Involuntary Treatment, apply the "ENTERED" stamp to the order; add the date and your initials. Enter the order by completing a document screen. Give notice of entry by mailing or hand delivering copies of the order to:

   a. Respondent's attorney
   b. Respondent
   c. Petitioner

72 Hour Hospitalization

9. When AOC Form 704A Judgment and Order for Involuntary Treatment is for 72 Hour Hospitalization, apply the "ENTERED" stamp to the order; add the date and your initials. Enter by completing a document screen. Give notice of entry by mailing or hand delivering copies of the order to:

   a. Respondent
   b. Respondent's Attorney
   c. Petitioner
   d. Hospital

Involuntary Treatment Denied

10. If the court denies involuntary treatment, apply the "ENTERED" stamp to the order; add the date and your initials and file by completing a document screen.

11. If, at any time after the petition is filed, the court finds that there is no probable cause to continue treatment or if the petitioner withdraws the petition, then the proceedings against the respondent shall be dismissed. KRS 222.433.

12. Close the case by completing the disposition date; disposition type and judge at disposition fields on the case screen.

Appeal

13. If a notice of appeal is received, use same procedure as any district to circuit court appeal.

List of Providers

14. When you receive a list of hospitals, psychiatric facilities and treatment providers from your regional community mental health/mental retardation board, deliver a copy of such list to your judge and maintain a copy in your office. KRS 210.485.

Expungement

15. If you receive a motion to expunge a case file (KRS 222.430; KRS 202A.091(2):

    a. Apply the "FILED" stamp to the motion; add the date and your initials. File the motion by completing a motion screen. Complete a scheduled events screen if a hearing is set. If a hearing is not set, deliver the case file to the judge.

    b. When the order granting/denying expungement is received, apply the "ENTERED" stamp; add the date and your initials. Enter by completing a document screen.

        (1) If the court grants the expungement, notify any officials or agencies named in the order, and seal the court records in an envelope. On the outside of the sealed envelope, add the case number, birth date of the respondent and the date of the order of expungement. Destroy pursuant to the official retention and disposal schedule. It is not necessary to include the electronic tapes in the sealed envelope or to destroy the tapes; the official retention and disposal schedule for district court tapes applies.

        (2) If you are asked about an expunged record, advise that no such record exists.

        (3) An expunged record can be reopened only upon petition to the court and an order specifying the names of those who shall have access to the file.

JUDGMENTS AND ORDERS
(Circuit and District)
CR 58, 77.04, 79.01, 79.02; RCr 11.04, 12.06

District Court Calendar

1. In district court cases the judge will record most judgments and orders of the court on the calendar. This will serve as the judgment or order for all the cases on the page. When the judge signs the calendar page, it has the same effect as if the judge had signed each of the judgments or orders on that page. CR 58.

    a. In district civil cases, where the court calendar is the order or judgment, make a copy of the calendar for each case on the page. This copy will constitute the judgment in the case. CR 58(2). Process each copy like any other judgment.

    b. Do not copy the calendar for traffic, misdemeanor cases, or preliminary felonies unless the case is referred to the grand jury.

Entry

2. When a signed judgment or order is received, apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

3. Enter the judgment or order, including a brief description on the document screen. This constitutes entry of the judgment or order; the judgment or order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment as described below.

NOE of Judgments and Orders

4. After the judgment or order is ENTERED, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment or order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. (Omit this step in traffic and misdemeanor cases.) CR 77.04(1), RCr 12.06(1) and (3). Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry or judgment. (Omit this step in traffic and misdemeanor cases.) RCr 12.06.

    NOTE: If the judgment or order allows an attorney to withdraw as counsel for a party in a case, complete the "Attorney Status" and "W/D" on the party screen. Mail or hand deliver a copy to the party in addition to the attorney withdrawing.

a. If the judgment or order includes child support (AOC Form 152, Uniform Child Support), place a copy of the order in a designated area (box or basket) in your office for the Cabinet for Health and Family Services. AOC Form 152 is a mandatory form.

5. If the judgment or order disposes of:

a. A civil case: complete the disposition date, disposition type and judge at disposition fields on the case screen.

b. A criminal charge: close the charge screen by competing the disposition date, disposition type, judge, trial type, original plea and final plea fields.

In a district criminal case - when all charges have been disposed of, the system will close the case screen by completing the disposition date and judge at disposition fields on the case screen.

In a circuit criminal case - when all charges in the case have been disposed of and the defendant has been sentenced, close the case by completing the disposition date and judge at dispositions fields on the case screen.

General/Administrative/Miscellaneous Orders

6. Maintain a General/Administrative/Miscellaneous Order file by year for entry of those orders received that are not a part of a case file in your office. Attach a manual docket sheet to the inside of the folder for entry of the orders. When a signed order is received, apply the "ENTERED" stamp; add the date and your initials and enter on the docket sheet. Mail or hand deliver copies as directed or appropriate.

JURY INFORMATION
KRS 29A
Administrative Procedures Part II

To some extent, your duties as clerk will depend upon the wishes of the chief circuit judge (and any designee) and the trial judge.

General Information.

1. The chief circuit judge may designate and authorize one or more judges of the court, the court's clerk, a deputy clerk, the court's administrator, or a deputy court administrator to excuse a juror from service on the basis of the information provided on the juror qualification form when the prospective juror:

   a. Is under eighteen (18) years of age;

   b. Is not a citizen of the United States;

   c. Is not a resident of the county;

   d. Has insufficient knowledge of the English language;

   e. Has been previously convicted of a felony and has not been pardoned or received a restoration of civil rights by the Governor or other authorized person of the jurisdiction in which the person was convicted;

   f. Is presently under indictment; or

   g. Has served on a jury within the past twenty-four (24) months.

   KRS 29A.080.

   The chief circuit judge may designate and authorize the designee to excuse a juror from service for a period not to exceed ten (10) days or to postpone jury service for a period not to exceed twelve (12) months. If your judge delegates this responsibility to you, you must enter the reason(s) for excuse or postponement in the space provided on the juror qualification form.

   Only the judge may excuse a juror from service entirely or postpone jury service for a period not to exceed twenty-four (24) months. KRS 29A.100(3).

   You may use AOC Form 010, Order Excusing or Postponing Jury Service, or AOC Form 006 Juror Notification postcard, to notify anyone who is excused or postponed before he/she comes to court.

Permanent Exemption

2. KRS 29A.040 KRS 29A.080. When a potential juror is determined to be deceased or the Chief Circuit Judge has granted a permanent exemption due to a permanent medical condition, notify AOC by:

   a. Affixing a juror label to the reverse side of AOC Form 005-A, Juror Qualification Form;

   b. Checking the appropriate box in the "For Office Use Only" portion of the form (either deceased or permanent medical condition);

   c. Signing or having the appropriate court official sign the bottom of the form:

      The form must be signed by the Chief Circuit Judge or his/her designee if the name is being purged due to death;

      The form must be signed by the Chief Circuit Judge if the name is being purged because of a permanent medical condition exemption, KRS 29A.080(3);

   d. Mail the signed form to:

      Auditing Services
      Administrative Office of the Courts
      100 Millcreek Park
      Frankfort, KY 40601

3. Collect a jury fee as set for in the Fees and Costs section of this manual. Collect the fee at the time a jury trial is requested from the person who makes the request, unless he/she has a court order permitting him/her to proceed in forma pauperis. AP II Sec. 33.

4. When a request for a jury is withdrawn or the case is settled at least two (2) court days before trial, refund the fee to the person who paid it. AP II Sec. 33(3). Refer to your Accounting Manual for additional instructions.

5. If two or more cases are consolidated and tried together, collect only one jury fee. AP II Sec. 33(2).

Randomized List

6. Randomized List. When your current supply of juror names is exhausted, obtain a randomized list of prospective jurors from AOC by sending a request to:

Auditing Services
Administrative Office of the Courts
100 Millcreek Park
Frankfort, KY 40601

This list may be obtained in panels on an “as needed” basis AP II Sec. 3. You will now receive jury lists and labels electronically by e-mail.

Summons

7. At least thirty (30) days prior to the time for reporting for service, summons the prospective jurors in sequential order from the randomized jury list using AOC Form 005, Juror Summons. Enclose AOC Form 005-A, Juror Qualification Form, with the summons. MAIL THE SUMMONS BY FIRST CLASS MAIL. KRS 29A.060.

NOTE: The sheriff is no longer involved in serving the initial summons. Those instances when the summons is served by the sheriff are:

a. If the envelope containing the Summons/Juror Qualification Form is returned by the Post Office as undeliverable, notify the judge as he/she may require personal service to be made by the sheriff.

b. If the Juror Qualification Form is not returned within ten (10) days, and the chief circuit judge or his/her designee directs, prepare another summons (AOC Form 005, Juror Summons and enclose AOC Form 005-A, Juror Qualification Form) for personal service by the sheriff.

8. Depending on procedures established by your chief circuit judge (or designee), prior to the reporting day for a new jury panel you may do the following:

a. Prepare numbered cards for the jury box, one for each juror not excused or postponed, with the identifying number from the randomized jury list.

b. Prepare accounting form, using AOC 582.1, Jury, Witness Reimbursement Schedule. Make a copy for use as an attendance sheet in the courtroom.

c. Make two copies of the juror qualification forms. On trial dates place the originals on the bench and place one copy on each counsel table. Retrieve when court adjourns.

9. The number of jurors required to be present before the selection process begins, will be determined by your judge(s).

Impaneling the Jury

10. When a jury for circuit or district court is to be chosen from a panel of prospective jurors, AP II Sec. 10:

    a. After roll call, for those jurors present, place numbered cards in a suitable box. Shake the box to mix the numbers.

    b. Draw as many cards as the judge orders; the numbers drawn represent the persons who will be the grand jury or petit jury.

    c. As cards are drawn, list the numbers drawn and the corresponding name from the randomized jury list. AOC 013, Juror Strike Sheet for District Court, or AOC 013A, Juror Strike Sheet for Circuit Court, may be used for this purpose.

    d. As jurors are excused, mark the name off the list and draw another card to replace the name as directed by the judge.

    e. When the panel is complete, give a copy of the list to each attorney who will then make peremptory challenges.

    f. Select the jury from the remaining names on the list as directed by the judge.

    g. Jurors not selected for the jury shall be assigned by the judge to another courtroom or dismissed for the day.

    h. A telephone answering device should be utilized for jurors to call before reporting for future jury duty. If you do not have an answering device, the AOC, upon request, will supply one for your office.

Selection Documents

11. Jury selection documents that are confidential:

    a. The contents of any records or papers used by AOC or the clerk in connection with the jury selection process, unless required to be made public, are not to be disclosed. KRS 29A.110.

       EXCEPTION: Contents of jury selection records may be disclosed when you receive an order from the Chief Justice or when requested for preparation or presentation of a motion under the rules of civil or criminal procedure.

    b. Juror Qualification Forms. AP II Sec. 7(7)

Exception: The trial judge, parties, and their attorneys of record may inspect the qualification forms unless the chief circuit judge or designee determines in any instance in the interest of justice that the information shall be kept confidential or its use limited in whole or in part. KRS 29A.070(7).

c. Jury Strike Sheets.

File by completing a document screen using the document type "SD" Sealed Document. Add "jury strike sheet" to the memo field. Place the strike sheets in an envelope, seal and place within the case file. Do not release the sealed envelope from your custody except on court order, when actually used in a proceeding or when requested for preparation or presentation of a motion permitted under the rules of civil or criminal procedure. If a request to review the case file is received, remove the envelope from the case file.

d. For copies made pursuant to the exceptions outlined above, collect a copy fee as set forth in the Fees and Costs section of this manual, plus postage fees as set forth in the Fees and Costs section of this manual for mailing costs for copies of jury selection documents furnished to out of town attorneys. Give a receipt. You are not required to make copies for local attorneys; however, you may make the forms available for review in your office.

12. Once a jury has been selected to hear a case or for grand jury service, the selected jurors' names are not confidential -

Except in the interest of justice, the Chief Circuit Judge, or his/her designee, may order that the names be kept confidential. AP Part II, Sec. 10(9).

Juror Fee

13. Pay each juror a fee as set forth of this manual for each day the juror answers roll call.

14. Upon request, complete AOC Form 015, Certificate of Juror Service. In addition, your judge may elect to give the jurors AOC Form 020, Juror Appreciation Certificate.

List Destruction

15. After the randomized jury list has been exhausted, and all persons selected to serve as jurors have been discharged, all records and papers compiled in the

selection process shall be destroyed. AP II, Sec. 14. After coordination with Court Services and the records eligible for destruction have been identified, call the Pretrial Services Accessioning Division at the AOC for assistance with paperwork and removal/destruction of the records.

JUVENILE CASES
KRS Chapter 600-645
(District Court and Family Court Division of Circuit Court)

Confidentiality of Juvenile Records

1. Unless specified to the contrary, all juvenile court records generated by any agency are deemed confidential and shall not be disclosed except to:

   a. Child;

   b. Child's parent/guardian or spouse. KRS 610.340(1); and

   c. Victims or other persons authorized to attend a juvenile court hearing, unless ordered by the Court for good cause.

2. Release of child's treatment, medical, mental or psychological records is prohibited unless presented as evidence in Circuit Court

3. The confidentiality rules do not apply to:

   a. Public officers or employees engaged in the investigation or prosecution of cases under the juvenile code or general statutes. This includes law enforcement.

   b. Employees of CHFS, DJJ, and the Crime Victims Compensation Board;

   c. Foster Care Review Board or its designee, and CASA Volunteers responsible for services under the juvenile code.

   d. Attorneys for parties involved in actions under juvenile code or other prosecutions under general statutes.

   e. Records disclosed under KRS 610.320 and KRS 610.345 to school personnel.

4. No person, including school personnel entitled to access juvenile records, shall further disclose information from such records except as permitted by specific Court order.

5. KRS 610.340(1)(c) prohibits the disclosure of any records resulting from the child's prior abuse and neglect under Title IV-B of the Federal Social Security Act to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.

6. Military recruiters do not have access to juvenile court records, even with a signed release/waiver, unless accompanied by the juvenile, who may now be an adult, when requesting a record.

7. To protect the confidentiality of juvenile records, petitions, orders, and other court documents should not be transmitted to or from the clerk's office by fax.

Public Record

8. If adjudicated delinquent, and the juvenile was fourteen (14) years of age or older at the time of the commission of the offense, the petition, adjudication order and disposition order in all cases involving a Capital offense, Class A, B, or C felony or any offense involving a deadly weapon, are public record.

9. Pursuant to 2006 HB 3, effective July 12, 2006, a separate public record shall be kept by the clerk of the court, accessible to the public. A list of all qualifying charge(s) in case(s)/trailer(s) as outlined in Number 8 above will be available for viewing/printing from the case management system. The report will be available for viewing by the public. If requested, the clerk shall provide a printed copy of the report.

10. When a request for public access is received, provide a copy of the petition, adjudication order and disposition order only. All other pleadings remain confidential.

When in doubt, request a court order permitting access to a juvenile record.

Dependency, Neglect, Abuse/Emergency Custody

11. There is no filing fee. KRS 610.350.

12. A DNA Petition may be filed by any interested person. KRS 620.070.

Petition/Dependency, Neglect, Abuse (DNA)

13. Apply the "FILED" stamp to the petition, AOC Form DNA-1; add the date and your initials. Complete a document screen using document type "PJDNA". AOC Form DNA-1 is a mandatory form.

14. Refer to the Case Add section of KY Courts Manual for instruction on opening the case. Assign a Juvenile "J" case number and appropriate trailer number using next pre-numbered file folder. If a previous case exists, enter into the existing case number under the next trailer number.

15. Assign appropriate case type based on charge(s):

a. CHA- Child Abuse

b. NEG – Neglect

c. DP – Dependency

16. In a Family Court jurisdiction, enter filing type (FC).

17. Complete party screen(s) using party types:

    a. CH – Child

    b. FM – Family Member

    c. CC – County Attorney

    d. GAL – Guardian Ad Litem

    e. CP – Custodial Person

    f. CHR – Cabinet for Health & Family Services

18. Add the juvenile's date of birth to the file label and on the file folder next to the label. If the label becomes lost, the date of birth will still be visible for use in records destruction.

Summons Issuance

19. Issue a summons using AOC Form DNA-7; attach a copy of the petition to the summons and deliver to the sheriff or other authorized agent for service. KRS 620.070. Complete a summons screen using summons type DNA.

20. If the person summonsed is not a parent or guardian of the child, the parent or guardian, or both, shall also be notified of the time and place of the court date.

21. Do not use Promise to Appear in lieu of issuing summons.

Charges

22. Add a charge for each box checked or listed on the petition. If no box is checked, return petition to the petitioner for completion.

23. The charge/violation date is the date the petition is sworn to under oath.

24. File any petition for contempt in the existing case file of the original charge. If the petition does not identify the charge, file the petition under a new trailer number.

Hearing

25. Schedule a hearing within 10 days. Complete a scheduled event screen using event type “TRH”.

26. Schedule subsequent hearings using event types:

    a. AH – Adjudication Hearing

    b. D – Disposition Hearing

    c. REV – Review/Permanency Hearing

27. If the adjudication hearing and disposition hearing are held at same time, both forms, AOC Form DNA-4 and AOC Form DNA-5, must be completed. AOC Forms DNA-4 and DNA-5 are mandatory forms.

Orders

28. When a signed order is received PRIOR to disposition of the case, apply the “ENTERED” stamp to the order; add the date and your initials. Complete a document screen, including date and method of service.

29. Serve a copy of the order on all persons/facilities named in the petition; including the juvenile, juvenile’s parents or persons exercising custodial control or supervision, facility, CASA (if applicable), CHFS (if applicable), GAL (Guardian Ad Litem), and any other parties named in the distribution list on the order.

30. KRS 620.220 requires copies of temporary custody orders and commitment orders to be forwarded to AOC Citizen Foster Care Review Board. As of May 4, 2009, no action is required by the clerk as this information is tracked electronically.

Court Appointed Special Advocate (CASA)

31. A court appointed special advocate may be appointed by the court to represent the best interests of an abused, neglected or dependent child. If a local CASA program is established in your court:

    a. When a juvenile case is referred to the CASA program:

(1) give notice of entry of an order of referral by mailing a copy of the order/calendar to all parties and the local CHFS office.

(2) send a copy of the dependency, neglect and abuse petition to the local program director for CASA.

b. Give notice of entry of all orders to the local program director in a CASA case.

c. When a hearing is scheduled in a CASA case, notify the local program director.

d. When reports from a CASA volunteer are received, apply the "FILED" stamp; add the date and your initials and file by completing a document screen.

Disposition of Case/Charge Closing

32. When a signed order is received that disposes of the case, apply the" ENTERED" stamp to the order, add the date and your initials. Complete a document screen, including date and method of service.

33. Serve a copy of the order on all persons/facilities named in the petition; including the juvenile, juvenile's parents or persons exercising custodial control or supervision, facility, CASA (if applicable), CHFS (if applicable), GAL (Guardian Ad Litem), and any other parties named in the distribution list on the order.

34. The Permanent Custody Order, AOC Form DNA-9 does not replace AOC Form DNA-6. Pursuant to KRS 620.027, this form may be used by District Court to determine matters of child custody and visitation. AOC Forms DNA-6 and DNA-9 are mandatory forms.

35. KRS 620.220 requires copies of temporary custody orders and commitment orders to be forwarded to AOC Citizen Foster Care Review Board. As of May 4, 2009, no action is required by the clerk as this information is tracked electronically

36. When a charge is disposed of, close the charge screen by completing the disposition date, disposition type, judge and trial type "N". Use disposition type, as applicable:

    a. CHR – Commitment to CHFS

    b. OTH – Commitment to agency or person other than CHFS

    c. DIS – Dismissed

    d. TRF – Transferred to another court/jurisdiction

e. INF – Informal Judgment

37. Do not dispose of the charge(s) when a temporary custody order is received. The charge(s) should only be closed when a final disposition has been made.

Emergency Custody Order (ECO)

38. A DNA case shall be initiated by the issuance of an Emergency Custody Order, AOC Form DNA-2. An ECO shall be accompanied by AOC Form DNA-2.1 Emergency Custody Order Affidavit. AOC Forms DNA-2 and DNA-2.1 are mandatory forms.

39. Apply the "ENTERED" stamp to the ECO; add the date and your initials. Complete a document screen using document type "OTC" or "OTR" based on the box checked on the form by the judge. Include the date and method of service. Serve a copy of the order on all parties as listed on the distribution of AOC Form DNA-2. Also serve a copy of the order on the parent or other person exercising custodial control or supervision by the person authorized to serve process. KRS 620.060(4).

40. Apply the "FILED" stamp to the ECO Affidavit; add the date and your initials. Complete a document screen using document type "AFF" specifying ECO in the memo field.

41. If you receive AOC Form DNA-2.2 Notice of Emergency Removal, apply the "FILED" stamp to the notice; add the date and your initials. Complete a document screen using document type "NER". AOC Form DNA-2.2 is a mandatory form.

Hearing

42. Schedule a hearing within 72 hours excluding weekends and holidays as directed by judge. Complete a scheduled event screen using event type "TRH".

43. 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.

Status/Delinquency Offenses (Public Offenses)

Status Offenses

44. There is no filing fee. KRS 610.350.

45. Status offense charges:

a. Beyond Reasonable Control of Parent, Guardian or School

b. Runaway

c. Truancy

d. Purchase of Tobacco.

46. In a Family court jurisdiction, determine if the juvenile has a pending charge or charges in district court. If a pending charge or charges exist, open the status offense case in district court. If no pending charge or charges exist in district court, open the status offense case in family court. KRS Chapter 635, KRS Chapter 640.

47. Enter “FC” filing type if case is being opened in Family court.

48. Use case type “ST”.

Delinquency/Status Petitions

49. Citations received for moving traffic violations issued to a juvenile (16) years or older are filed in the district court traffic division. This includes misdemeanor DUI charges. Any citation received for felony traffic offenses should be filed in the juvenile division of district court. KRS 610.010 (1) (a).

50. Apply the “FILED” stamp to the petition, AOC Form JV-1; add the date and your initials. Complete a document screen using document type “PJ”.

51. Apply the “FILED” stamp to the preliminary inquiry, AOC Form JW-40; add the date and your initials. Complete a document screen using document type “PI”. If a citation is filed with the petition and preliminary inquiry, return it to the Court Designated Worker (CDW). AOC Form JW-40 is a mandatory form.

52. Refer to the Case Add section of the KY Courts Manual for instruction on opening the case. Assign a Juvenile “J” case number and appropriate trailer number using the next pre-numbered file folder. If a previous case exists, enter into the existing case number under the next trailer number.

53. Complete party screen(s) using the following party types:

a. CH – Child

b. FM – Family Member

c. CW – Complaining witness

d. CC – County attorney

e. APA – Attorney/Public Advocate

f. CP – Custodial Person.

54. Add the juvenile's date of birth to the file label and on the file folder next to the label. If the label becomes lost, the date of birth will still be visible for use in a records destruction.

Summons Issuance

55. Issue a summons using AOC Form JV-17, Juvenile Summons, on the person(s) having custody or control of the child. The summons may be served by personal service or first class mail. Service by mail must be made at least 48 hours before the court date. Do not attach a copy of the petition to the summons. KRS 610.040.

56. If the person summonsed is other not a parent or guardian of the child, the parent or guardian, or both, shall also be notified of the time and place of the court date.

57. Do not use Promise to Appear in lieu of issuing summons.

Charges

58. Add charge(s) as listed on the petition.

59. The charge/violation date is the date the petition is sworn to under oath.

60. File any petition for contempt in the existing case file of the original charge. If the petition does not identify the charge, file the petition under a new trailer number.

Hearing

61. Schedule all court hearings by completing a scheduled event screen.

62. Use the following event types:

    a. ARR – Arraignment

    b. DH – Detention Hearing

    c. AH – Adjudication Hearing

    d. D – Disposition Hearing

e. REV – Review.

63. If the juvenile is being detained, schedule a detention hearing within 24 hours, exclusive of weekends and holidays, of the time the juvenile was taken into custody.

Orders

64. When a signed order is received Prior to disposition of the case, apply the "ENTERED" stamp; add the date and your initials. Complete a document screen, including date and method of service.

65. Serve a copy of the order on all persons/facilities named in the petition; including the juvenile, juvenile's parents or persons exercising custodial control or supervision, hospital/facility, attorneys of record, and any other parties named in the distribution list on the order.

66. Mail all orders pertaining to juveniles charged as youthful or public offenders to:

    Department of Juvenile Justice
    1025 Capital Center Drive
    3rd Floor
    Frankfort, KY 40601-8205

Disposition of Case/Charge Closing

67. When a signed order is received that disposes of the case, apply the "ENTERED" stamp to the order; add the date and your initials.
    Complete a document screen, including date and method of service.

68. Serve a copy of the order on all persons/facilities named in the petition; including the juvenile, juvenile's parents or persons exercising custodial control or supervision, hospital/facility, attorneys of record, and any other parties named in the distribution list on the order.

69. Mail a copy of the disposition order in cases pertaining to juveniles charged as youthful or public offenders to the Department of Juvenile Justice and the law enforcement agency(s) where both the offense was committed and the child resides. KRS 610.110 (3).

70. When a charge is disposed of, close the charge screen by completing the disposition date, disposition type, judge and trial type. Use disposition type:

    a. G – Guilty/Adjudication

b. DIS – Dismissed

c. DJJ – Commitment to DJJ (Department of Juvenile Justice)

d. CHR – Commitment to CHFS

e. CAD – Dismissed/Motion of Commonwealth

f. TRF – Transferred to another court/jurisdiction

g. NG – Not Guilty

h. INF – Informal Judgment/Juvenile only

i. OTH – Commitment to agency other than CHFS.

71. Do not add a sentence screen. Enter sentence details in the memo field of the charge screen.

Youthful Offender

72. When a youthful offender is transferred to circuit court by a district judge pursuant to KRS 640.010, the juvenile/youthful offender's court file pertaining to the transfer does not become a public record in circuit court until an indictment is returned and the juvenile/youthful offender has been arraigned.

a. In District Court:

(1) When transfer of a youthful offender to circuit court is ordered by the district judge, the juvenile court shall send the circuit court only the records, limited to the records of the present case in which the child has been charged, that pertain to the transfer. The remainder of the juvenile record remains confidential unless otherwise ordered by the court.

(2) Complete the charge disposition field using disposition type of "TRF". Prior to the grand jury meeting, print a grand jury referral list/report and furnish to the commonwealth attorney. Refer to the Browse Option section of the KYCourts Manual for instructions on printing a report from the browse screen. Print and furnish the list at any other time you are requested to do so.

IMPORTANT: In addition, on April 1st and October 1st each year print the same list and deliver to your commonwealth attorney and chief circuit judge.

b. In Circuit Court:

(1) Upon receipt by the circuit court of this record, open the case in the confidential "CO" division. Do not disclose any information concerning this case.

(2) In the circuit "CI" division, complete a case screen using the case number assigned to the case in the "CO" division. Enter the style of the case as "Sealed Record". Enter the original filing date, case type of "SE" sealed, disposition date (the same as filing date) and judge at disposition (same judge as opening judge).

(3) Upon return of an indictment and after arraignment, delete the case in the circuit "CI" division and transfer the case from the confidential "CO" division to the circuit "CI" division. The case is then open to the public for review.

NOTE: (1) The release of the child's treatment, medical, mental, or psychological records is not permitted unless the records are presented as evidence in circuit court. (2) The release of information under this section relative to the child's eligibility for services under Title IV-E or IV-B of the Federal Social Security Act is prohibited.

c. If returned to district court for further proceedings:

(1) IF a juvenile case is transferred to circuit court and the grand jury does not find probable cause to indict as a youthful offender, but does not find that there is probable cause to indict for another criminal offense, the juvenile shall not be tried in circuit court as youthful offender. The case shall be returned to district court for further proceedings and re-docketed for review (REV) by the judge. KRS Chapter 640.010(3).

(2) Close the charge screen in the circuit court case by completing the disposition date, appropriate disposition type, disposition judge and trial type.

(3) Upon return of the case from circuit court to district court, schedule a hearing in the district court case by completing a scheduled event screen using event type "REV".

Service of Pleadings on School Superintendent or Principal

71. Due to the importance of the school notification process, judges, clerks and court-designated workers are encouraged to discuss and adopt the procedure to be

followed in your jurisdiction to ensure the school superintendent or principal receives timely notice**.**

KRS 610.345(3) requires the judge to direct notification to the superintendent of the public school district in which the child is enrolled, or the principal of any private elementary or secondary school which the child attends in the following circumstances:

a. Juveniles adjudicated as Youthful Offenders – When the judge directs, mail a copy of the petition and the adjudication/disposition in the specified case. Before mailing these copies, mark through the name of the complaining witness. KRS 610.345(1).

b. Juveniles adjudicated guilty of an offense that would classify the juvenile as a violent offender under KRS 439.3401, or a felon under KRS Chapters 218A, 508, 510 or 527 (listed below).

When the judge directs, mail a copy of the charge using AOC-JV-1.1, Notification of Charge and the adjudication/disposition (AOC-JV-31) in the specified case, within 5 days of the disposition. Before mailing the copy, mark through the name of the complaining witness. KRS 610.345(2).

(1) To view a Capital Offense, Class A felony or any Class B felony involving the death of the victim or serious physical injury to a victim or Rape I or Sodomy I of the victim. KRS 439.3401(1); see UOR Codes

(2) To view a felony under KRS Chapter 218A (Controlled Substances): see UOR Codes

(3) To view a felony under KRS Chapter 508 (Assault and Related Offenses): see UOR Codes

(4) To view a felony under KRS Chapter 510 (Sexual Offenses): see UOR Codes

(5) To view a felony under KRS Chapter 527 (Involving the possession, carrying or use of a deadly weapon as defined by KRS 500.080(4)): see UOR Codes

c. Juveniles charged with an offense that would be a felony or misdemeanor if committed by an adult and the misdemeanor involves a controlled substance or the possession, carrying or use of a deadly weapon or physical injury to another person – When the judge directs, mail a copy of AOC-JV-1.1, Notification of Charge, within 24 hours of the time the petition is filed (unless this Notification has already been mailed by the court-designated worker) AND, upon entry of an

order of adjudication, mail a copy of the adjudication/disposition (AOC JV-31) of the case. Before mailing this copy, mark through the name of the complaining witness. KRS 610.345(3).

(1) To view any offense that would be a felony pursuant to the Kentucky Revised Statutes; see UOR Codes

(2) To view a misdemeanor under KRS Chapter 218A (Offenses Involving Controlled Substances): see UOR Codes

(3) To view a misdemeanor under KRS Chapter 527 (Offenses Relating to Firearms and Weapons): see UOR Codes

To view a misdemeanor under KRS Chapter 510 (sexual offenses): see UOR Codes

(4) To view a misdemeanor under KRS Chapter 508 (Assault and Related Offenses) only where there is physical injury to another person: see UOR Codes

Juvenile In Foster Care

72. When a juvenile is in foster care:

a. Notify the judge when a Case Permanency Plan or Progress Report on a child in foster care is filed.

b. When a permanency hearing is set by the court, schedule the hearing by completing a scheduled events screen. Give notice of this hearing to CHFS or DJJ; parents of the juvenile; foster parents; pre-adoptive parents; relatives providing care; CASA worker and CFCRB. Names and addresses of persons to be notified will be supplied by CHFS or DJJ with the Case Permanency Plan or Progress Report.

c. When a report is received from the CFCRB, apply the “FILED” stamp; add the date and your initials. File by completing a document screen. KRS 620.070(3).

Court Ordered Child Support

73. The court may order the parent to make payments through your office for the support of a juvenile who has been placed with the person, facility, agency, or cabinet to which the juvenile was committed or probated. Follow court order as to disbursement of this money. KRS 610.170. Your Accounting Manual addresses the handling of these monies.

Transfer of Cases

74. If you are the originating court:

    a. Note in the memo field of the case screen the jurisdiction the case is being transferred to.

    b. Make a copy of the Order Transferring and case history to be retained in the case file.

    c. Original contents of the case file. Attach the case history or court docket sheet (pre-sustain cases) to the top of the original case file. Mail the record to the receiving court by certified mail, return receipt requested. The record may also be hand-delivered by the clerk.

    d. Place the file folder in numerical order with other like cases.

75. If you are the receiving court and this case was not previously filed in your county:

    a. Apply the "FILED" stamp to the record received from the originating court; add the date and your initials. Refer to the Case Add section of the KY Courts Manual for instructions on opening the case. Assign a Juvenile "J" number and appropriate trailer using the next pre-numbered file folder. If a previous case exists, enter under the next trailer number. Complete a document screen for the entire record using document type Circuit Court File (CCF) or District Court File (DCF).

    b. If charge(s) were disposed in originating court, DO NOT add charge(s). Contact the Department of Court Services, Research & Statistics to notify them of the case number. This will keep the case number from appearing on your monthly QA report.

76. If you are the receiving court and this case was previously filed in your county:

    a. Apply the "FILED" stamp to the record received from the originating court; add the date and your initials. Complete a document screen using document type Circuit Court File (CCF) or District Court File (DCF).

    b. File the case back in the originating case.

    c. If the previous court has a newer charge disposition:

        (1) Move existing disposition to the memo field.

(2) Overlay the new disposition.

Appeals

77. Appeals from decisions in juvenile cases heard in the district court division are handled in the circuit court division. Refer to the Appeals to Circuit Court section of this manual for further instructions.

78. Appeals from decision in juvenile cases heard in the family court division are handled in the Court of Appeals. Refer to the Appeals to Supreme Court/Court of Appeals section of this manual for further instructions.

Payment of Juvenile Transport

79. Peace Officer's Expenses: If seeking reimbursement, any peace officer who transports a juvenile on a court order shall make an accounting of the expenses incurred including the distance traveled.

Upon oath of the transporting officer of the verified amount before a District or Family Court Judge, the Clerk shall certify an Authorization for Payment of Transportation Costs. KRS 605.080(2).

JUVENILE MENTAL HEALTH
KRS 645
(District Court)

Confidentiality

1. Proceedings and records are confidential except to the juvenile, parent(s), guardian(s) and attorney for the juvenile. Access by all other persons must be by court order. KRS 610.340.

NOTE: An involuntarily hospitalized juvenile has a right to copies of his or her complete record without charge and the right to appeal without bond or filing fees. KRS 645.035(2).

Voluntary Hospitalization

2. Voluntary Hospitalization. KRS 645.030.

A juvenile vonuntarily admitted to a hospital may give written notice of intent to leave at any time. KRS 645.190 (1). A copy of this notice is to be given to the court. Place these notices in a file labeled “Notices to Leave Hospital”.

Petition for Certification or Emergency Involuntary Hospitalization
(KRS 645.040 and 645.120)

3. There is no filing fee. KRS 610.350.

4. When a Petition for Certification OR a Petition for Emergency Involuntary Hospitalization, AOC Form JV-23, is received, apply the “FILED” stamp; add the date and your initials. Complete a document screen using document type “PIH”. Refer to Case Add section of KY Courts Manual for instructions on opening the case. Assign a Juvenile “J” number and appropriate trailer number using the next pre-numbered file folder. If a previous case exists, enter into the existing case number under the next trailer number.

5. Use case type “SP”- Special Proceedings.

6. Complete a charge screen using UOR 0028030-Emergency/involuntary hospitalization.

7. Enter as the charge/violation date the date the petition was sworn to under oath.

8. Place AOC Form JV-24, Order Granting Emergency Hospitalization and Evaluation and AOC Form JV-25, Order Denying Petition for Emergency Hospitalization in the case file. Immediately deliver the case file to the judge or the trial commissioner, if a judge is not available.

9. When a signed order is received, apply the “ENTERED” stamp; add the date and your initials. Complete a document screen using document type:

   a. “OGH” if AOC Form JV-24 is used.

   b. “ ODH” if AOC Form JV-25 is used.

   c. Include date and service method on the document screen.

10. Serve a copy of the order on CHFS, or the hospital/facility whichever is appropriate.

11. Close the charge screen by completing the disposition date, disposition type, judge, and trial type “N”. Use disposition type:

   a. HOS – Hospitalization/juvenile

b. DEN – Hospitalization-denied

c. DIS – Dismissed

d. TRF – Transferred to another court/jurisdiction.

60-Day Involuntary Hospitalization
KRS 645.040 - .100

12. When you receive a Verified Petition for Involuntary Hospitalization, AOC Form JV-23, apply the "FILED" stamp; add the date and your initials. Complete a document screen using document type "PIH". Refer to Case Add section of KY Courts Manual for instruction on opening the case. Assign a Juvenile "J" case number and appropriate trailer number using next pre-numbered file folder. If a previous case exists, enter into the existing case number under the next trailer number.

13. Use case type "SP", Special Proceedings.

14. Complete a charge screen using UOR 0028040, Involuntary Admit MH/juvenile.

15. Enter as the charge/violation date, the date the petition was sworn to under oath.

Appointment of Counsel

16. The court will appoint a public advocate to represent the juvenile. KRS 645.060(1).

17. Apply the "ENTERED" stamp to the order; add the date and your initials. Complete a document screen using document type "OAPAD" and enter date and method of service.

18. Complete a party screen for the public advocate using party type "APA".

Hearing

19. Schedule a hearing 7 days from the filing of the petition, excluding weekends and holidays as directed by the judge. Complete a scheduled event screen using event type "OTH".

20. If no pleading is filed by counsel for the juvenile contesting the petition within 7 days of the filing of the petition, excluding weekends and holidays, place AOC Form JV-26 and AOC Form JV-27 in the case file and deliver to the judge.

21. When a signed order is received, apply the “ENTERED” stamp; add the date and your initials. Complete a document screen, including date and method of service. Use document type:

    a. “OGH” if AOC Form JV-26 is used.

    b. “ ODH” if AOC Form JV-27 is used.

    c. Include date and service method on the document screen.

22. Serve a copy of the order on counsel of record and the hospital/facility, if appropriate.

23. Close the charge screen by completing the disposition date, disposition type, judge and trial type “N”. Use disposition type:

    a. HOS – Hospitalization/juvenile

    b. DEN – Hospitalization denied

    c. DIS – Dismissed

    d. TRF – Transferred to another court/jurisdiction.

Petition Contested

24. Counsel for the juvenile may advise the court in writing of the desire to contest the petition.

25. Apply the “FILED” stamp to the document; add the date and your initials. Complete a document screen.

26. Schedule a certification hearing within 7 days from the filing of the pleading contesting the petition, excluding weekends and holidays, as directed by your judge. Complete a scheduled event screen using event type “OH”.

27. When a signed order is received, apply the “ENTERED” stamp; add the date and your initials. Complete a document screen, including date and method of service. Serve a copy of the order on counsel of record and the hospital/facility, if appropriate.

Refusal of Treatment

28. A hospital/facility may petition the court for a determination if a patient, involuntary hospitalized, refuses treatment. KRS 645.170(3).

29. Apply the “FILED” stamp to the petition; add the date and your initials. Complete a document screen using document type “COM” and include in memo a brief description.

30. Schedule a hearing within 7 days of the filing of the petition, excluding weekends and holidays as directed by the judge. Complete a scheduled event screen using event type “OTH”.

31. When a signed order is received, apply the “ENTERED” stamp; add the date and your initials. Complete a document screen, including date and method of service. Serve a copy of the order on counsel of record and the hospital.

180-Day Recertification Procedure

KRS 645.110

32. Any interested person desiring to continue a juvenile’s hospitalization beyond 60 days, may file a recertification petition. The petition must be filed before the 60-day commitment is completed. AOC Form JV-23, Verified Petition for Involuntary Hospitalization should be used.

33. Apply the “FILED” stamp to the petition; add the date and your initials. Complete a document screen in the existing 60-day involuntary hospitalization case file using document type “PIH”.

34. Schedule a hearing within seven (7) days of the filing of the petition, excluding weekends and holidays as directed by the judge. Complete a scheduled event screen using event type “OTH”.

35. If no pleading is filed by counsel for the juvenile contesting the petition within 7 days of the filing of the petition, excluding weekends and holidays, place AOC Form JV-26 and AOC Form JV-27 in the case file and deliver to the judge.

36. When a signed order is received, apply the “ENTERED” stamp; add the date and your initials. Complete a document screen, including date and method of service. Use document type:

    a. “OGH” if AOC Form JV-26 is used.

    b. “ ODH” if AOC Form JV-257is used.

    c. Include date and service method on the document screen.

37. Serve a copy of the order on counsel of record and the hospital/facility, if appropriate.

38. Close the charge screen by completing the disposition date, disposition type, judge and trial type “N”. Use disposition type:

    a. HOS – Hospitalization/juvenile

    b. DEN – Hospitalization denied

    c. DIS – Dismissed

    d. TRF – Transferred to another court/jurisdiction

Recertification Petition Contested

39. Counsel for the juvenile may advise the court in writing of the desire to contest the petition.

40. Apply the “FILED” stamp to the document; add the date and your initials. Complete a document screen.

41. Schedule a certification hearing within 7 days from the filing of the pleading contesting the petition, excluding weekends and holidays, as directed by your judge. Complete a scheduled event screen using event type “OTH”.

42. When a signed order is received, apply the “ENTERED” stamp; add the date and your initials. Complete a document screen, including date and method of service. Serve a copy of the order on counsel of record and the hospital/facility, if appropriate.

MAINTENANCE OF COURT RECORDS
CR 79.05, KRS 30A.080

1. Your oath to preserve court records means that you are responsible for their safekeeping, but you are not responsible for any records which the court removes from your office. Summers vs. City of Louisville, 140 Ky. 253, 130 S.W. 1101 (1910).

2. Maintain all original papers filed in an action, court calendars, log sheets, transmittal sheets and miscellaneous orders of the court.

3. You are also responsible for all mechanical recordings used in court.

When Record May Be Removed

4. Do not allow any papers to be removed from your office except:

    a. When a case is transferred from district court to circuit court because the case is beyond the jurisdiction of district court.

    b. When an attorney makes a written request for the transfer of a record for proceedings (motions, etc.) to be held by the court outside the county, send the record to the circuit clerk in that county. After the proceeding, the record will be returned to you. CR 79.05(1).

    c. When there is an invasion or insurrection or other catastrophe. KRS 30A.080(3).

    d. In obedience to court order or rule. KRS 30A.080(3).

    e. Upon a change of venue.

    f. When attorneys prepare appellate briefs. CR 75.07(6).

    g. When the record is on appeal. CR 75.07(6).

    h. When the Supreme Court orders permanent transfer of the records. KRS 30A.080(4).

    i. When records are transferred to the Division of Public Records in accordance with the retention and disposal schedule adopted by the Supreme Court. KRS 30A.080(4).

5. When a record is removed for any of the above reasons except transfer to Public Records, make a notation of such removal in the memo field of the case screen or

on the docket sheet, or case jacket if the case is not in the computer. Prepare an "out" card and place in the file cabinet as a substitute for the file which has been removed. If the file is borrowed by attorneys for preparation of appellate briefs, have them sign the OUT card. If the record is not returned within a reasonable time, do not hesitate to ask for it.

Lost Pleading/File.

6. When any paper in a suit is lost, an existing "attested" copy may be substituted for the original with notice to the attorneys. If no attested copy exists, a court order is required. If an entire file is lost, notify the judge and attorneys of record. KRS 422.200.

MEDICAL RECORDS USED IN A DEPOSITION
(Circuit and District)
KRS 422.320

1. It is not your duty or responsibility to read or otherwise research pleadings in a case file to determine if medical records used in a deposition are included.

2. When medical records used in a deposition are received:

   a. Sign the receipt provided by the party delivering the records.

   b. Place the records in an envelope; apply the "FILED" stamp to the envelope; add the date and your initials. Indicate the name of the party delivering the records and mark the envelope "Medical Records-Confidential". Seal the envelope.

   c. File the record on a document screen. Use the document type "SD". Place the sealed envelope in the appropriate case file.

3. Do not release the sealed envelope from your custody except when actually used in the action or proceeding. If a request to review the case file is received, remove the envelope from the case file.

4. When the case is closed, maintain the confidentiality of the medical records.

5. If the case is appealed, include the envelope with other documents in the case in the record on appeal.

MILITARY ARRESTS
(Circuit and District)
KRS 35.050

1. When documents such as a warrant, order of confinement, bail bond or other papers are received pertaining to a military arrest, mail the documents received to the convening authority (commanding or commissioned officer or his/her authorized representative) shown on the documents. Do not open a case file.

   NOTE: If the convening authority sets a bail bond, receipt as Money Collected For Others and mail a check payable to the convening authority along with the other documents. KRS 35.050(3). Collect the bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt.

2. If a bail bond hearing is set by the judge, prepare a manual calendar. KRS 35.050(4).

3. When a signed calendar is received, apply the “ENTERED” stamp; add the date and your initials. Enter the order in your General/Administrative Order File and make an entry on the docket sheet attached to the inside of the file folder. Give notice of entry by mailing or delivering a copy to the convening authority.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS
CR 5.05(4)

1. When you receive a complaint, petition, or other document, and the pleading is accompanied by a motion for leave to proceed in forma pauperis, instead of the required filing fees, treat the pauper motion as a filing fee for purposes of opening the case.

   NOTE: There are special instructions for Motions for Leave To Proceed In Forma Pauperis filed with a Notice of Appeal. For those instructions, proceed to Appeals to Supreme Court/Court of Appeals and Appeals to Circuit Court sections.

2. Apply the "FILED" stamp to the pauper motion and the pleading; add the date and your initials.

3. If the pleading being filed is a complaint/petition:

   a. Refer to Case Add section of KYCourts Manual for instructions of opening the case. Generate the next case number or use the next pre-numbered file folder for the proper category.

   b. Issue a summons for each defendant in the case.

      NOTE: The clerk is required under Cr 4.01(1) to issue a summons immediately upon the filing of a complaint. Therefore, a summons is issued on a petition/complaint received for filing with a motion to proceed in forma pauperis attached. If the plaintiff directs service by certified mail, mail the summons with the complaint attached using postage funds provided to your office. If the plaintiff directs personal service, make a copy of the summons. Give the plaintiff the two summons with a copy of the complaint attached to the copy of the summons and instruct the plaintiff to deliver to the sheriff for service. The plaintiff will make arrangements for payment of the service fee with the officer directly.

4. If the pleading is part of an ongoing case, file by completing a document screen. File the pauper motion on a “PFP” motion screen.

5. Deliver the file to the judge.

6. When a signed order ruling on the motion is received, apply the "ENTERED" stamp to the order; add the date and your initials and enter on a document screen. Use the document type “OFP”. Give notice of entry of the order by making a copy of the order that has been stamped “ENTERED” and mail or hand deliver it to the party or attorney.

   a. If the order sustains the motion to proceed in forma pauperis, nothing further is required since you have already filed the pleading and issued the summons, if appropriate.

   b. 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.

      NOTE: If the party is an inmate, and the court denies waiver of fees, the inmate shall be given 45 days after the date of the order to pay any required fees or costs. KRS 454.410(3).

   c. If a notice of appeal of the denial of the motion to proceed in forma pauperis is filed, immediately certify and send to the appellate court:

      (1) the motion to proceed in forma pauperis together with any attachments and responses thereto;

      (2) the order being appealed;

      (3) a copy of the transcript or related hearing, if any.

      No filing fees or motion to proceed in forma pauperis is required in this instance.

MOTION FOR SHOCK PROBATION
KRS 439.265, 439.267
(District or Circuit Court)

1. Apply the "FILED" stamp to the motion; add the date and your initials. File the motion by completing a scheduled events screen and attaching a motion screen under the original case number.

2. There is no filing fee for this proceeding.

3. Do not issue a summons.

4. Complete a charge screen. The UOR number for shock probation for a felony charge is 0026090. The UOR number for shock probation for a misdemeanor charge is 0026100.

5. Take the folder to the judge who decided the case. If the judge sets a hearing, calendar on the scheduled events screen and attach a motion screen under the original case number.

6. When a signed judgment or order is received:

   a. Apply the "ENTERED" stamp to the judgment or order; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the judgment or order on the document screen, including a brief description. This constitutes entry of the judgment or order; the judgment or order does not become effective until this is done. RCr 11.04.

   c. After the judgment or order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment or order that has been stamped entered and mail or hand deliver it to the party or attorney. RCr 77.04(1), RCr 12.06(1)(3).

   d. Mail a copy of the judgment or order to the following address:

      Shock Probation
      Offender Information
      P.O. Box 2400
      Frankfort, KY 40601

   e. Make an entry on the document screen showing the manner and date of the service of the notice of entry of the judgment or order. RCr 12.06.

7. When the charge is disposed of, complete the charge screen with closing information by entering the disposition date, disposition type, judge, and trial type. Complete a sentence screen if appropriate.

8. Reopen and reclose case statistically only if there is a hearing and a signed order or judgment is received. Complete a special status screen as follows:

   - STATUS TYPE - "R" Reopened
   - STATUS DATE - Date Motion was Filed
   - TERMINATION DATE - Date the Judgment or Order was Entered
   - OPEN JUDGE - Judge Assigned to hear motion
   - CLOSE JUDGE - Judge who rules on motion

MOTION TO SET ASIDE/VOID CONVICTION
KRS 218A.275(9); 218A.276(8)
(District or Circuit Court)

1. When a motion to set aside and void a conviction of possession of marijuana or possession of controlled substance is received:

   a. Apply the “FILED” stamp to the motion; add the date and your initials;

   b. File the motion under the original case number by completing a scheduled events screen and adding a motion screen.

2. There is no filing fee for this proceeding.

3. Do not issue a summons.

4. Take the case file to the judge who decided the case. If the judge sets a hearing, calendar on a scheduled events screen.

5. Upon receipt of AOC 334 (Order Voiding Conviction and Sealing Records) apply the “ENTERED” stamp, add the date and your initials. Complete a document screen using document code “OVSR”.

6. Move the current disposition date, type and judge information to the memo field and close out the charge as disposition type “VSC”-Voided Sealed Conviction. Reopen and close a special status screen. Refer to the Special Status Detail Screen section of the KYCourts Manual for instructions.

7. If the order directs sealing of specific items, print the Supplemental Order Sealing records for Successful Deferred Prosecution (AOC Form 336) from KY Courts and deliver to the judge for verification of specific items to be sealed.

   NOTE: If charge(s) ordered sealed is in a circuit criminal case that originated in district court, you must print the supplemental order sealing AOC 336 from the district court case as well as the circuit court case to be delivered to the circuit court judge.

8. Upon return of the completed AOC 336 from the judge, perform the necessary steps in KY Courts to affect the sealing of items. See your Release Note General File for these instructions.

Seal the case

1. If the case is not in the computer and if an original calendar can be located, make a copy and place in the original case file before sealing. Do not mark out the case on the copy.
2. Seal the original case jacket, case history (docket sheet and index card, if such exists), video tape and log in an envelope. Add the case number, the defendant's date of birth and the date of the sealed order to the outside of the envelope. Maintain in a locked file cabinet. Do not open except by court order. If the court orders the case unsealed, make appropriate notation on outside of envelope.

   EXCEPTION: If the tape includes other cases, make a notation on the log that the case file has been sealed. If a request for a copy is made, do not copy that portion of the tape that pertains to the sealed record.

3. It is not necessary to seal the audio tapes; the official retention and disposal schedule for district court tapes applies.

4. On the original calendar, obliterate the case and mark the obliteration "sealed"

5. If a charge(s) ordered sealed is in a circuit criminal case that originated in district court, you must also seal the charge in the district court case.

6. If you are asked about a sealed record, advise that no such record exists.

MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE
RCr 11.42
(District or Circuit Court)

1. Apply the "FILED" stamp to the motion; add the date and your initials. File the motion under the original case number by completing a scheduled events screen and adding a motion screen.

2. There is no filing fee for this proceeding.

3. Send a copy of the motion to vacate, set aside or correct sentence to the Attorney General and to the Commonwealth's Attorney. Indicate the date of mailing on the copy and also in the memo field of the motion screen. RCr 11.42(4).

4. Do not issue a summons.

5. Complete a charge screen. The UOR number for motion to vacate, set aside or correct sentence is 0026070.

6. Take the folder to the judge who decided the case. If the judge sets a hearing, calendar on the scheduled events screen.

7. When a signed judgment or order is received:

   a. Apply the "ENTERED" stamp to the judgment or order; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the judgment or order on the document screen, including a brief description. This notation constitutes entry of the judgment or order; the judgment or order does not become effective until this is done. RCr 11.04.

   c. After the judgment or order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the judgment or order that has been stamped entered and mail or hand deliver it to the party or attorney. RCr 77.04(1), RCr 12.06(1)(3).

   d. Make an entry on the document screen showing the manner and date of the service of the notice of entry of the judgment or order. RCr 12.06.

   e. Mail a copy of the order to:

Research and Statistics
Administrative Office of the Courts
100 Millcreek Park
Frankfort, KY 40601

or you may fax the order to Research and Statistics at (502) 573-0358.

8. When the charge is disposed of, complete the charge screen with appropriate closing information by entering the disposition date, judge, disposition type, judge and trial type. Do not complete a sentence screen.

9. Reopen and reclose case statistically only if there is a hearing and a signed order or judgment is received. Complete a special status screen as follows:

   - STATUS TYPE - "R" Reopened
   - STATUS DATE - Date Motion was Filed
   - TERMINATION DATE - Date the Judgment or Order was Entered
   - OPEN JUDGE - Judge Assigned to hear the motion
   - CLOSE JUDGE - Judge who rules on motion

10. If the order vacates or sets aside the sentence of the original charge:

    a. On the original charge screen overlay the disposition date with the date the order ruling on the 11.42 motion was entered. Overlay the disposition type with “SAV”, Set Aside/Voided.

    b. Delete the sentence screen.

11. If an additional hearing is ordered by the judge, complete a scheduled events screen.

12. If the order <u>corrects the sentence</u> on the original charge, add an amended sentence to the original charge to reflect the court’s order

MOTOR CARRIER CITATIONS
KRS 281.670
(District Court)

1. If a holder of an out-of-state CDL fails to appear in your court for an offense NOT covered by the non-resident violator compact, issue an FTA notice to Division of Driver Licensing.

   a. Prepare a "Notice of Failure to Respond to Citation or Appear in Court" (FTA) form.

   b. Send top two copies to:

   Transportation Cabinet
   Division of Driver Licensing
   200 Mero Street, 2nd Floor
   Frankfort, KY 40622

   File remaining copies with citation.

2. The offenses not covered by the NRVC for which you may now issue an FTA notice include:

   a. offenses which mandate personal appearance
   b. moving traffic violations which carry suspension/revocation
   c. equipment violations
   d. size/weight violations
   e. transportation of hazardous material violations

3. Driver Licensing requires one of the following numbers to be on the FTA Notice:

   a. the motor carrier's KYU number
   b. federal DOT number
   c. ICC number
   d. DD (temporary) number

      A line for this number will be added to the form. Until the uniform citation is revised, the vehicle enforcement officers will include one of the above identification numbers in a corner of the post-arrest complaint.

4. If a holder of a Kentucky or out-of-state CDL, operating a commercial vehicle, is convicted of a moving or non-moving traffic charge, the clerk of the court shall, within 15 days, notify the motor carrier under whose permit the driver was operating. KRS 281.763. Make a copy of the completed original citation and mail it to the motor carrier.

OATHS AND AFFIRMATIONS
KRS 30A.070, 30A.050(2), 62.020

1. Circuit clerks and their deputies may administer oaths either in or out of court concerning any matter in which an oath may be legally given (KRS 30A.070), including the official oath of an officer within the district or county (KRS 62.020, 423.010). Under CR 43.11 and KRS 454.170 a solemn affirmation may be accepted in place of an oath.

Oath to Grand Jury

a. "Do you swear or affirm that you will hear and weigh carefully all the evidence presented to you, and that you will do your duty as prescribed by law, and that you will carry out carefully any investigations which you are requested to make?" AP II Sec. 27.

Oath to Witness

b. "Do you swear or affirm that you will tell the truth, the whole truth, and nothing but the truth?" AP II Sec. 27.

Oath to Petit Jury

c. "Do you swear or affirm that you will impartially try the case between the parties and give a true verdict according to the evidence and the law, unless dismissed by the court?" AP II Sec. 32.

Constitutional Oath

2. Circuit clerks may administer the following oath or affirmation to an elected official:

   I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of _____ according to law; and I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted any person thus offending, so help me God.

3. Upon request by the county clerk for a certification that he/she has been examined by you, pursuant to Section 100 of the Constitution, sign an affidavit prepared by the county clerk indicating that he/she:

a. was at least 21 years of age at the time of election;

b. is a Kentucky citizen;

c. has resided within Kentucky at least 2 years;

d. has resided in the county and district for which he/she was elected, for at least one year prior to the election.

Document for Administration of Oath

4. When the circuit clerk administers an oath to an elected official, the clerk must certify in writing that the constitutional oath was administered and the date of its administration must be filed in the following offices:

   a. In the Secretary of State's Office for a member of the General Assembly, an officer elected from the state at large, an officer elected from a district greater than one county, an officer elected from a city whose boundaries extend beyond those of a single county, an officer appointed cabinet secretary, an officer appointed a deputy or assistant to an elected constitutional officer and who is required by separate statute to take the oath of office;

   b. In the Governor's Office for the Secretary of State and the assistant;

   c. In the Office of the county clerk for the county from which an officer is elected to countywide office or office for a district within the county; not applicable if filed in the Secretary of State's office as outlined above;

   d. In the Office of a Circuit Clerk for a county clerk within the jurisdiction of that circuit clerk.

Circuit Clerks Oaths

5. Circuit Clerks and their deputies are required to take two oaths of office, the oath prescribed by Section 228 of the Constitution and the oath prescribed by KRS 30A.020, as follows:

   SECT. 228 OF KENTUCKY CONSTITUTION

   I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of Circuit Court Clerk (or Deputy Circuit Court Clerk) according to law; and I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I,

being a citizen of this State, have not fought a duel with deadly weapons within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted any person thus offending, so help me God.

KRS 30A.020

I do swear that I will well and truly discharge the duties of the office of Circuit Court Clerk (or Deputy Circuit Court Clerk) according to the best of my skill and judgment, making the due entries and records of all orders, judgments, decrees, opinions and proceedings of the court, and carefully filing and preserving in my office all books and papers which come to my possession by virtue of my office; and that I will not knowingly or willingly commit any malfeasance of office, and will faithfully execute the duties of my office without favor, affection or partiality, so help me God.

Performance Bond

6. Circuit clerks are covered by a blanket bond procured by the Administrative Office of the Courts on behalf of the clerks.

7. When a document or certification for administration of oath for anyone, including a judge or clerk is received for filing in your office:

    a. Apply the "FILED" or "ENTERED" stamp, as appropriate, to the document; add the date and your initials.

    b. File in your General/Administrative Order File. Enter the document on the docket sheet attached to the inside of the file folder. Furnish copies as requested.

ORGANIZATION OF CASE FILES

1. To maintain physical control of case files, file all open and closed cases together in numerical order. File cases with the same prefix in the case number and the same color coded label together, numerically by category. Do not file cases in alphabetical order.

2. Adoption, termination, juvenile, disability, involuntary hospitalization and admission case folders, docket sheets, docket binders and index cards must be kept locked and apart from other records. The index cards for all confidential categories may be filed together. Domestic violence docket sheets, docket binders, and index cards should be filed with other non-confidential docket sheets, binders and index cards if the petitioner's address does not appear on the docket sheets and index cards. Domestic violence case folders must be kept locked and apart from other records.

PATERNITY PROCEEDINGS
KRS Chapter 406
(District Court and Family Court Division of Circuit Court)

1. District court has jurisdiction of paternity proceedings and may order the non-custodial parent of a child born out of wedlock to make support payments. KRS 406.021; Sumner v. Roark, Ky. App.836 S.W.2d 434 (1992).

2. These hearings are conducted in the juvenile session of district court or family court division of circuit court. Venue is in the county where the alleged father is present or has property, or in the county where the mother resides. KRS 406.151. Keep the index cards and case files for those cases not in the computer with other juvenile indexes and files in a locked cabinet.

3. Paternity cases are not open for public inspection.

   Exceptions:

   a. These individuals may inspect an order or judgment of paternity:

      (1) Employees of governmental agencies in the performance of their duties;

      (2) All law enforcement agencies including county attorneys, Commonwealth's attorneys, District and Circuit Judges;

      (3) Anyone with a court order giving access to the order of paternity;

      (4) Either party to a paternity action under KRS Chapter 406 or his/her attorney of record KRS 406.035(3)

   b. No other information about a paternity case is to be inspected by anyone unless he/she has a court order giving access to the file. KRS 406.035(2).

Filing Fee

4. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

Petition

5. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Assign the next case number for Juvenile "J" cases. Do not assign a trailer number. The case type for paternity proceedings is “PA”.

Note: Do not complete a party screen for a child.

Paternity Summons

6. Generate a summons for each person to be served by completing a summons screen. CR 4.02. The initiating party will decide whether the summons is to be served by certified mail or personally delivered by the sheriff or other authorized person. CR 4.01(1).

Certified Mail Service

a. If Certified Mail Service is requested:

(1) Attach a copy of the complaint to the summons. CR 4.04(1).

(2) Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and date of delivery on the return receipt. CR 4.02(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

(3) Service under the long-arm statutes.

Under certain circumstances, defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method, collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the complaint and
summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

Personal Service

b. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

(1) Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the complaint and/or other documents to be served attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

(2) Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Return of Service

7. When Return of Service is requested:

a. Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

If the receipt is from the Secretary of State, enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant, enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

b. Personal Service

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen.

8. A civil summons may be issued and served on Sundays and holidays KRS 454.125.

9. When motions or other pleadings (except orders and judgments) are received, apply the "FILED" stamp; add the date and your initials and file by completing the appropriate screen, i.e., motion or document. Calendar any hearing on a scheduled events screen.

Paternity Judgment

10. When a signed judgment is received:

a. Apply the "ENTERED" stamp; add the date and your initials. Enter on a document screen.

b. Give notice of entry by mailing a copy of the entered judgment to the parties or their attorney.

c. Complete the notice of entry method and date on the document screen.

Paternity Report

11. Complete Form VS-8D, Paternity Report and mail to:

    State Registrar of Vital Statistics
    275 East Main Street
    Frankfort, KY 40601.

    This report is due no later than the 15th day of the month following the date of the order. KRS 213.071(2). A supply of this form may be ordered from Vital Statistics at the above address.

12. When the order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

13. Upon receipt of a motion to modify a paternity judgment, filed six (6) months from the entry of the judgment, collect a filing fee as set forth in the Fees and Costs section of the manual. Do not collect this fee for motions that include 42 U.S.C. Title IV-D cases for child support enforcement.

PETITION FOR DAMAGES PERTAINING TO CHILDHOOD SEXUAL ABUSE/ASSAULT
(Circuit and District Courts)
KRS 413.249

1. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

> **NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.**

Petition

2. Assign to a division using the procedure in your local court rules.

3. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Use case type "OTH". Generate the next case number for circuit civil "CI" cases or district civil "C" cases or use the next pre-numbered file folder.

4. The clerk is required under CR 4.01(1) to issue a summons immediately upon the filing of a complaint.

   a. Generate a summons for each person to be served and make a copy.

   b. The summons and the complaint (or other initiating document) shall be served together. The party requesting the summons shall furnish sufficient copies of the complaint for this purpose. CR 4.04(1).

   c. The initiating party will instruct whether service of the summons is by certified mail or personal delivery by the sheriff or other authorized person. CR 4.01(1).

Service and Return of Summons

5. Service of the Summons.

   a. If service is by certified mail:

      (1) Attach a copy of the complaint to the summons. CR 4.04(1).

(2) Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by

(3) certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

(4) Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the complaint and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

b. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

(1) Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the petition attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

(2) Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

6. When a return of service is received:

a. Certified Mail

(1) Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

(2) If the receipt is from the Secretary of State, enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen.

The service date field is not completed on a summons screen when service is through the secretary of state.

b. Personal Service:

(1) Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

7. A civil summons may be issued and served on Sundays and holidays upon an affidavit that the process cannot be executed after that day. KRS 454.125, 454.130.

Motion to Seal

8. If the petition is accompanied by a Motion to Seal:

a. Open the case in the confidential “CO” division. In the circuit "CI" division complete a case screen only, using the case number assigned to the case in the "CO" division. Enter the style of the case as "Sealed Record." Enter the original filing date, case type of "SE" (sealed) and the disposition date the same as the filing date. Enter the judge assigned the case as the open judge and judge at disposition.

b. Apply the “FILED” stamp to the motion to seal; add the date and your initials. Set the motion for hearing as directed by your judge. Use schedule type “MH”. File by completing a scheduled events and motion screen. Use motion type “SE”.

c. Seal the case file in a suitable envelope; add the case number to the outside of the envelope and file in numerical order with other cases.

d. The file may be unsealed for the inclusion of other papers, which may be filed during the pendency of the motion. Note the date and your initials on the outside of the envelope each time you open and reseal the record. For any other purpose, treat the record as confidential.

e. When the motion to seal is ruled upon, follow the court order for future handling of the record.

(1) If the court orders the case to be a public record (unsealed), through case level maintenance, delete the case number in the circuit “CI” or district “DI” division. Transfer the case from the confidential “CO” division to circuit “CI” or district “DI” division, as appropriate.

9. When a signed order is received:

   a. Apply the “ENTERED” stamp; add the date and your initials. Do not use the “FILED” stamp.

   b. Enter the order on the document screen. Use document type “OTS”. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order as described below.

   c. After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order that has been stamped “ENTERED” and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

   d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of service of notice of entry of order. RCr 12.06.

10. When the order closes the case, complete the disposition date, disposition type, and judge at disposition fields on the case screen.

PETITION FOR IMMEDIATE ENTITLEMENT TO CUSTODY
KRS 620.110
(Circuit Court)

1. When a Petition for Immediate Entitlement to Custody is received:

   a. Collect filing fees as set forth in the Fees and Costs Section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding informa pauperis or is the Commonwealth. CR 5.05(4); KRS 416.620(4).

      NOTE: City and county governments are not exempt from paying filing fees UNLESS the action is filed in the name of the Commonwealth.

   b. Apply the “FILED” stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for circuit civil “CI” cases or use the next pre-numbered file folder. File the case in the Confidential "CO" division of KYCourts. KRS 610.340. Do not re-enter the case number in the circuit civil "CI" division.

   c. Assign to a division using the procedure in your local court rules.

2. Do not issue a summons.

3. Immediately deliver the case file to the judge. If the judge directs, schedule a hearing by completing a scheduled events screen.

4. When an order is received:

   a. Apply the "ENTERED" stamp to the order; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the order on the document screen, including a brief description. This docket notation constitutes entry of the order; the order does not become effective until this is done. RCr 11.4. This is combined with the notation of service of notice of entry of the order as described below.

   c. After the order is entered, serve notice of entry on the parties by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. RCr 77.04(1), RCr 12.06(1),(3).

d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of the order. CR 12.06.

6. When an order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

PETITION/NOTICE FOR REMOVAL OF ACTION TO FEDERAL COURT
(Circuit or District Court)
28 U.S.C. Section 1446(a)(d)

1. If a case filed in circuit or district court is to be removed (transferred) to federal court, the removal proceedings must be initiated by the defendant in the pending action. 28 U.S.C. Section 1446(a).

2. When you receive a copy of the Petition/Notice for Removal, the transfer is complete. Do not send the case file to federal court. 28 U.S.C. Section 1446(d).

3. Apply the "FILED" stamp to the copy of the petition/notice; add date and your initials and file on a document screen.

4. Close the case by completing the disposition date, (filing date on petition for removal), disposition type "TRF" and the judge at disposition fields on the case screen.

PETITION PERTAINING TO SHERIFF'S INCAPACITY TO SERVE
(District and Circuit Court)

1. A Sheriff or his/her personal representative may petition the District or Circuit Court for an order determining that the Sheriff is physically or mentally unable to discharge the duties of his/her office.

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

3. Assign to a division using the procedure in your local court rules.

4. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Use case type "OTH". Generate the next case number for district civil "C" or circuit civil "CI" cases or use the next pre-numbered file folder.

5. Do not issue a summons.

6. Deliver the case file to the judge.

7. When an order is received, apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

8. Enter the order on the document screen. Use document type "OO". This constitutes entry of the order; it does not become effective until this is done. RCr 11.04.

9. After entry of the order, serve notice of entry on the parties by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver to the parties or attorney. Enter the notice of entry method and date on the document screen when the order is entered.

10. When an order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

PETITION TO DISCHARGE SECURITY INTEREST
(Circuit Court)
KRS 186.045

Petition

1. When a petition to order the discharge of a security interest is received:

    a. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

        NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

    b. Assign to a division using the procedure in your local court rules.

    c. Apply the "FILED" stamp to the petition; add the date and your initials. CR 5.05(3). Refer to Case Add section of KYCourts Manual for instructions on opening the case. Use case type “OTH”. Generate the next number for circuit civil "CI" cases or use the next pre-numbered file folder.

    d. Do not issue a summons.

    e. Deliver the case file to the judge immediately.

Judgment/Order

2. When a signed judgment or order is received, apply the "ENTERED" stamp to the judgment or order; add the date and your initials. Do not use the "FILED" stamp.

    a. Enter the judgment or order on the document screen, including a brief description. This constitutes entry of the judgment or order; the judgment or order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment as described below.

    b. After the judgment or order is ENTERED, serve notice of entry on every party who is not in default or who has not filed a written waiver by making a copy of the judgment or order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

c. Immediately send a copy of the order to the county clerk in the county where the security interest was originally filed. KRS 186.045(3).

d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry or judgment. RCr 12.06.

3. When the judgment or order closes the case, complete the disposition date, disposition type, and judge at disposition fields on the case screen.

PETITION TO MARRY
(District Court)
KRS 402.020, 402.030,402.210

1. Persons wishing to file a Petition To Marry may use AOC Form 201.

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis. CR 5.05(4); KRS 453.010.

3. Assign to a division using the procedure in your local court rules.

4. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for district civil "C" cases or use the next pre-numbered file folder.

   File on a document screen. Use document type “PPTM”.

   Do not issue a summons.

5. Have the judge assign a hearing date (or do this yourself if the judge has delegated this duty to you).

6. Calendar the hearing by completing a scheduled events screen.

7. When a signed order is received:

   a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the order on the document screen. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04.

   c. Serve notice of entry on the parties by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the parties or attorney. CR 77.04(1), RCr 12.06(1) and (3).

   d. The method of service and date of service must be completed on the document screen. RCr 12.06.

8. When the order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

PLEAS
KRS 27A.460 (5) & (6)

KRS 27A.460 (5) & (6) require the collection of data regarding defendant pleas.

Entering a plea:

1. When an original plea is entered a final plea must be entered.
2. When the trial type is Court ("C") or Jury ("J"), the original and final plea must be entered.
3. When the defendant pleads not guilty at the arraignment, enter "NG" as the original plea.
4. When the defendant pleads guilty at the arraignment, enter "G" as the original and final plea.
5. When the defendant pleads guilty at any court proceeding after the arraignment, enter "G" as the final plea.
6. When the defendant is found guilty at any court proceeding after the arraignment, enter "NG" as the final plea.
7. When the defendant is found guilty in absentia at any court proceeding, enter "NG": as the original and final plea.

Note: Final pleas do not necessarily reflect the charge disposition/court finding.

PROBATE
KRS 395
(District Court)

Decedent Estates

Creditor Claims/Requests/Demand

1. If you receive a claim from a creditor filed against an estate before the start of administration, or if you receive a request/demand for notice under KRS 395.012, apply the "FILED" stamp; add date and your initials. File alphabetically by decedent's last name in the Creditors Claims folder placed in the front of the probate file drawer. Make an entry of the filing of the creditors claim on the manual docket sheet attached to the inside of the folder. Return claim to creditor 10 years after filing if no probate case has been opened.

2. You will receive from the petitioner an original and a copy of a Petition for Probate of Will and Appointment of Executor or the petition will be for the Appointment of an Administrator. The petitioner may use AOC Form 805 for this purpose.

Foreign Will

a. Foreign Will: This includes a petition for the probate of a foreign will and the appointment of an ancillary administrator. KRS 394.150. The form for probating a foreign will is the same as that for a domestic will. Use AOC Form 805.

3. Collect the following fees:

Filing Fee

a. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis CR 5.05(4); KRS 453.010.

b. For later appointments in the same estate, there is no additional filing fee providing no final settlement has been filed.

c. Fee for publishing the notice of the appointment of the fiduciary is set by the newspaper which publishes the notice. KRS 424.160(1), (4).

Previous Case Number

4. Check your index for a previously assigned case number. If a case number exists and that number is a computer generated case number use the same number and

file folder. If the number is not in the computer, generate the next case number for probate "P" cases or use the next pre-numbered file folder.

5. Check the file folder in the front of your probate drawer for any previously filed creditor's claims or request/demand for notice under KRS 395.012. Transfer any documents to the probate file by completing a document screen. Use the filing date shown on the creditors claim or request/demand for notice. Serve all persons who have filed a request/demand for notice with any orders entered regarding the estate.

Petition for Decedent's Estates

6. When a petition is received, file by applying the "FILED" stamp; add date and your initials. Refer to Case Add section of the KYCourts Manual for instructions on opening the case. Use case type "PB".

Bond

7. After the court approves the fiduciary's bond, collect the fiduciary's bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 64.005. AOC Form 825, Fiduciary Bond, may be used for this purpose. Apply the "FILED" stamp to the bond; add date and your initials. File on a document screen. Use document type "BF". The bond must be posted before the order of appointment of fiduciary is entered.

Order Probating/Appointing

8. When the fiduciary bond is posted, enter the Order Probating the Will and Appointing Executor or Order Appointing Fiduciary by applying the "ENTERED" stamp; add date and your initials. AOC Forms 806 and 840 may be used for this purpose. Complete a document screen. Use document type "OWF" if AOC Form 806 is used. Use document type "OFIC" if AOC Form 840 is used. Give notice of entry by mail or hand delivery to the fiduciary and any person/entity who has filed a demand for notice. Send a copy of the Petition and Order Probating the Will and Appointing the Executor or Order Appointing Fiduciary to:

   Department of Revenue
   Inheritance and Estate Tax Area
   200 Fair Oaks Lane - 4th Floor
   Frankfort, KY 40601

   Make a notation of this mailing in the memo field of the document screen where the order is filed.

Will Certification

a. Make a copy of the original will and affix a certification that it is a copy of the original will. Apply the "FILED" stamp; add date and your initials. File by completing a document screen. Use document type “WI”.

b. Take the original will and a certified copy of the court order to the county clerk for recording. The petitioner is responsible for the recording fee. KRS 64.012; CR 79.05(2).

(1) If a request is made for a certified copy of the original will, provide a certified copy of the copy of the will in your file. if a certified copy of the original will is specifically requested, direct the requestor to the county clerk's office where the original will is filed.

c. When requested, attest a copy of the Order of Appointment and give to the fiduciary. Prepare certified copies of the appointment, if requested, and charge a fee for certification and a copy fee as set forth in the Fees and Costs section of this manual.

Tickler System

9. Create a tickler system for the filing of the inventory and settlement by completing a scheduled events screen for the date the inventory and settlement is due to be filed. Use event type “IN” for Inventory and “STL” for settlement.

Publication of Appointments

10. The clerk shall advertise monthly all fiduciary appointments made since the last publication. KRS 424.340. One notice is sufficient.

a. At the beginning of each month, start a new list of appointments of fiduciaries to be advertised. Add to your list as appointments are made during the month. At the end of the month, your list is complete and ready for publication. Use column headings on your list to match those items contained below regarding what the publication must contain:

(1) The name and address of the person whose estate is being administered;

(2) The name and address of the fiduciary;

(3) The date of appointment;

(4) The date by which creditors must file their claims (6 months after the appointment of the fiduciary), KRS 395.190;

(5) The name and address of the attorney representing the fiduciary, if any. KRS 424.340.

b. The publication fee is collected from the petitioner when the petition is filed. KRS 424.160(4).

c. Type of Newspaper in Which to Publish

The newspaper must be issued regularly and have a bona fide circulation in the area, and be published in the area if possible. A zoned edition may be used if published at least once a week, distributed in a specific geographic region of the newspaper's circulation area, and contains reporting and advertising of interest to subscribers in that geographic region. KRS 424.120.

d. Make a notation of the advertising of the appointment in the memo field of the document screen where the order of appointment is filed. Do not keep a copy of the publication in each case file.

11. Close the case at the time of appointment of the fiduciary by completing the disposition date, disposition type ("OTH") and judge at disposition fields on the case screen. Do not reopen the case when a settlement is filed.

Inventory for Decedents Estates

12. An inventory must be filed in duplicate two months from the time of qualifying. KRS 395.250.

a. Apply the "FILED" stamp to the inventory; add date and your initials. Complete a document screen. Use document type “INV”.

(1) Send the duplicate inventory to:

Department of Revenue
Inheritance and Estate Tax Area
200 Fair Oaks Lane - 4th Floor
Frankfort, KY 40601

Make a notation of this mailing in the memo field.

(2) If the inventory is filed in advance of the due date, delete the scheduled event following instructions in Counter Screen section of the KYCourts Manual.

Delinquent Inventory

b. On a monthly basis, print a calendar of the delinquent inventories and present the calendar to the judge. KRS 395.635. If an order is received, apply the "ENTERED" stamp; add date and your initials. Complete a document screen. Use document type “NPDI”. Give notice of entry as directed by the court.

Settlement for Decedents Estates

13. Settlements for decedents’ estates must be made by fiduciaries and trustees. A settlement is not required for testamentary trustees unless ordered by the court. KRS 395.610.

a. Types of Settlement

(1) Final: Due two years after the appointment. Use document type “SETF”.

(2) Periodic: Due two years after the appointment and annually thereafter, unless otherwise ordered by the court. KRS 395.610(1). Use document type “SETP”.

(3) Proposed: May be filed prior to filing a periodic or final settlement and prior to a distribution of assets. Use document type “SETPR”.

(4) Informal: Due at least six months from a fiduciary's appointment by a sole beneficiary or by beneficiaries who have waived settlement. No notice or advertisement required with informal settlement. KRS 395.605. Use document type “SETI”.

b. Apply the "FILED" stamp to the settlement; add date and your initials. Complete a document screen. Use document type outlined in 13(a) above.

NOTE: If the settlement is filed in advance of the due date, delete the scheduled event following instructions in Counter Screen section of the KYCourts Manual.

c. Informal Settlement: Deliver to the district judge and when an order is signed and returned to you, apply the "ENTERED" stamp to the informal settlement order; add date and your initials. Complete a document screen. Give notice of entry by mailing or hand delivering a copy of the order to the fiduciary or attorney and any person/entity who has filed a demand for notice.

d. Proposed, Periodic, Final Settlement: Set a hearing date by completing a scheduled events screen. Use scheduled event type “PBH”. (Your judge may want to set aside the same time each month for hearing these matters.)

EXCEPTION: If a final settlement has been filed in conformity with a proposed settlement, do not schedule a hearing. KRS 395.625. Deliver the settlement to the judge and when an order is received, proceed to 14.f. below (apply "ENTERED" stamp, etc.).

Publication of Settlement Hearing

e. Publish notice of the hearing in a local newspaper at least 10 days prior to the hearing, unless the court allows the fiduciary to send notices in lieu of publication or the court orders no publication or mailing of notice by the fiduciary when the estate is less than $2500.00. KRS 395.625. The notice must contain:

(1) The name of the estate

(2) The date and time of the hearing

(3) That exceptions to the settlement must be filed prior to the hearing

Make a notation of the advertisement in the memo field of the document screen where the settlement is filed.

f. Apply the "ENTERED" stamp to the settlement order; add date and your initials. Complete a document screen. Use document type “OAS”. Give notice of entry by mailing or hand delivering a copy of the order to the fiduciary or attorney and any person/entity who has filed a demand for notice.

NOTE: A party in a district court probate (decedent's estate) case may file a complaint regarding a district court PROPOSED SETTLEMENT within 30 days from entry of the district court order approving the settlement. If you receive such a complaint, refer the individual to circuit court.

Delinquent Settlements

g. On a monthly basis, print a calendar of the delinquent settlements and present the calendar to the judge. KRS 395.635. If an order is received, apply the "ENTERED" stamp; add date and your initials. Complete a document screen. Use document type “NFF”.

h. You may return vouchers (canceled checks) to the fiduciary 30 days after entry of the order approving the settlement.

Sale of Real Estate by Fiduciary

14. When a motion is filed by a fiduciary for permission to sell real property, it must be served in the same manner as an initiating document (complaint), but do not issue a summons. KRS 389A.010; CR 4.01. When the motion is filed:

a. Apply the "FILED" stamp to the motion; add the date and your initials. Complete a scheduled events screen using event type “MH” and a motion screen using motion type “SOP”.

b. Unless waived in writing, written notice of the hearing must be given to all persons having a vested or contingent interest in the property, as identified by the fiduciary, at least thirty (30) days prior to the hearing. At the direction of the fiduciary, give notice of this hearing by printing Court Notice and serve the notice with the motion attached.

(1) If service is by certified mail, request that the fiduciary pay the fees associated with service by certified mail and:

Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the notice with motion attached by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve the notice with motion attached by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the notice with motion attached by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

(2) If service is by the sheriff or other serving officer. CR 4.01(1)(b):

Make a copy of the notice and motion. Give the plaintiff the 2 copies of the Court Notice with a copy of the motion attached and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

(3) When a return of service is received:

Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials. Complete a document screen using document type “ROS”. Enter name of person served and date of delivery in the memo field.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the document screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the document screen. Enter the name of person served and date of delivery in the memo field. The service date field is not completed on a summons screen when service is through the secretary of state.

Personal Service

Apply the "FILED" stamp to the return of court notice; add the date and your initials and complete a documents screen using document type “ROS”. Enter the name of person served and date of delivery in the memo field. You may use the memo field to record the service agency.

c. When a signed order is received:

(1) Apply the "ENTERED" stamp to the order; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the order on a document screen including a brief description. This constitutes entry of the order and it does not become effective until this is done. RCr 11.04, CR 58. This is combined with the notation of service of notice of entry of the order as described below.

(3) Serve notice of entry of the order on every party not in default or who has not waived notice by making a copy of the order that has been stamped "ENTERED" and mailing or hand-delivering it to the party or attorney. CR 77.04(1) and RCr 12.06(1) and (3).

Enter the method of service (mail or personal delivery) and notice of entry date on the document screen where the order is entered. RCr 12.06.

Contested Will

15. If a will is contested, an original action is filed in circuit court. KRS 394.240

Filing Fee

16. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

17. Apply the "FILED" stamp to the complaint; add date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for circuit civil "CI" cases or use the next pre-numbered file folder. Use case type “OTH”.

18. The summons and the complaint shall be served together. The party requesting the summons shall furnish sufficient copies of their pleadings for this purpose. CR 4.04(1), 14.01.

19. The plaintiff will decide whether the summons is to be served by certified mail or personally delivered by the sheriff or other authorized person.

20. If service is by certified mail:

    a. Attach a copy of the Complaint to the summons. CR 4.04(1).

    b. Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

    c. Service under the long-arm statutes:

       Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 54.210(3)(a).

If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the complaint and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

21. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

    a. Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the complaint and/or other documents to be served attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

    b. Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

22. When a return of service is received:

    a. Certified Mail

        (1) Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

        (2) If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

    b. Personal Service

        (1) Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

23. A civil summons may be issued and served on Sundays and holidays upon an affidavit stating that the process cannot be executed after that day. KRS 454.125, 454.130.

Transfer of Probate File

24. If the court orders transfer of district court probate file:

    a. Apply the "ENTERED" stamp to the order; add date and your initials. File on a document screen in the district court case using document type “OTRN”. Give notice of entry by mailing or hand delivering a copy of the order to the parties/attorneys.

    b. In district court:

       If the probate file has not already been closed, close the case by completing the disposition date, disposition type ("TRF") and judge at disposition fields on the case screen. Transfer the contents of the case file and the case history to circuit court.

    c. In circuit court:

       Apply the "FILED" stamp to the district court record; add the date and your initials and file on a document screen as a single item using document type “DCF”.

25. When a signed judgment or order is received, apply the "ENTERED" stamp to the order; add date and your initials and complete a document screen. Give notice of entry by mail or hand delivery to the parties/attorneys. Complete the notice of entry method and date on the document screen.

Certification of Will

26. If the order admits a will to record:

    a. File a copy of the will by applying the "FILED" stamp; add date and your initials and certify it. Complete a document screen using document type “WI”.

    b. Take the original will and a certified copy of the court order to the county clerk for recording. The petitioner is responsible for the recording fee. KRS 64.012; CR 79.05(2).

       NOTE: if a request is made for a certified copy of the will, provide a certified copy of the copy of the will in your file. if a certified copy of the original will is

specifically requested, direct the requestor to the county clerk's office where the original will is filed.

c. If the probate case was not transferred, give copies of the will and the order to the district court.

27. Close the case by completing the disposition date, disposition type (OTH) and judge at disposition fields on the case screen.

28. If the probate case was transferred, return the district court (probate) case to district court together with a copy of the circuit court's final judgment or order.

Guardian or Conservator for Minor

29. This involves the appointment of a guardian, limited guardian or conservator for a person under the age of 18.

30. Jurisdiction is in District Court. KRS 387.020(1).

31. Venue.

    a. Resident Kentucky Minor:

        (1) In the county where the will of the minor's last surviving parent was probated, if that will nominates a guardian, limited guardian, or conservator pursuant to KRS 387.040, .020(2)(a).

        (2) In all other cases, in the county where the minor resides. KRS 387.020(2)(b).

    b. Non-resident Kentucky Minor:

        (1) In the county where the real or personal property of the minor is located. KRS 387.020(3).

        (2) If the minor has real or personal property in more than one (1) county, then venue is in any one of the counties where property of the minor is located and where proceedings are first brought for the appointment of a guardian, limited guardian, or conservator. KRS 387.020(3).

Filing Fee for Guardian/Conservator Appointment

32. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

33. Collect a fee for publication of notice of the appointment of the fiduciary. The amount of this fee is set by the newspaper which publishes the notice. KRS 424.160(1), (4).

34. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for probate "P" cases or use the next pre-numbered file folder using case type “GC”.

Petition for Appointment

35. When a petition for appointment of guardian, limited guardian or conservator is received, apply the "FILED" stamp; add date and your initials. AOC Form 852, Petition for Appointment of Guardian/Conservator for Minor, may be used. Complete a document screen using document type “PCM” for appointment of guardian.

Application

a. The petition must be accompanied by a verified application of the person/entity desiring appointment. KRS 387.025(1). AOC Form 853, Application for Appointment as Guardian/Conservator for Minor, may be used. Apply the "FILED" stamp; add date and your initials. Complete a document screen, using document type “AAM”.

Notice of Petition/Application

b. Note in the memo field that you have distributed copies of the petition and application to:

(1) Minor (if age 14 or older),

(2) Each person/entity named in petition KRS 387.025(5).

Notice of Hearing

36. Schedule a hearing by completing a scheduled events screen using event type “OH”. KRS 387.025. Notice of the hearing is given by the petitioner. KRS 395.016.

Bond of Guardian/Conservator

NOTE: If the District Court directs that the assets of a ward's estate be deposited in a restricted account, the guardian or conservator shall be exempt from giving surety on his or her bond.

37. The fiduciary bond surety may be corporate or personal. KRS 387.070, 395.130, 62.060. Collect the bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 64.005. Apply the "FILED" stamp to the bond; add the date and your initials. AOC Form 825, Fiduciary Bond, may be used. Complete a document screen using document type "BF". If a bond is required, the bond must be posted before the order of appointment is entered. Attest a copy and give to the fiduciary. Give notice of the filing of the bond by mailing or hand delivering a copy to the minor (if age 14 or older) and, each person/entity named in the petition.

    a. EXCEPTION: Unless otherwise ordered by the court, no bond is required from a limited guardian (KRS 387.070(2)) or guardian or conservator nominated by the will of the minor's last surviving parent if said will requests no surety. KRS 387.070(3).

    b. These persons cannot act as surety:

        (1) Master or other commissioner whose duty it is to settle the accounts of a guardian or conservator.
        (2) Judge.
        (3) Clerk of Court.
        (4) Practicing Attorney. KRS 387.070(4).

Order Appointing Guardian/Conservator

38. When the fiduciary bond, if required, is posted, apply the "ENTERED" stamp to the Order of Appointment; add date and your initials. Complete a document screen using document type "OAG" for appointment of guardian or "OCON" for appointment of conservator. AOC Form 854, Order of Appointment of Guardian/Conservator for Minor, may be used. Give notice of entry by mailing or hand delivering a copy of the order to the minor (if age 14 or older) and each person or entity named in the petition.

Tickler System for Guardian/Conservator

39. Create a tickler system for the filing of the inventory and settlement by completing a scheduled events screen using event type "IN" for inventory and "STL" for settlement for the date the inventory and settlement is due to be filed.

Advertising Appointments

40. The clerk shall advertise monthly all fiduciary appointments made since the last publication. One notice is sufficient. KRS 424.340.

    a. At the beginning of each month, start a new list of appointments of fiduciaries to be advertised. Add to your list as appointments are made during the month. At the end of the month, your list is complete and ready for publication. Use column headings on your list to match those items contained below regarding what the publication must contain:

        (1) The name and address of the person whose estate is being administered;

        (2) The name and address of the fiduciary;

        (3) The date of appointment;

        (4) The date by which creditors must file their claims (6 months after the appointment of the fiduciary), KRS 395.190;

        (5) The name and address of the attorney representing the fiduciary, if any. KRS 424.340.

    b. The publication fee is collected from the petitioner when the petition is filed. KRS 424.160(4).

    c. Type of Newspaper in Which to Publish

        The newspaper must be issued regularly and have a bona fide circulation in the area, and be published in the area if possible. A zoned edition may be used if published at least once a week, distributed in a specific geographic region of the newspaper's circulation area, and contains reporting and advertising of interest to subscribers in that geographic region. KRS 424.120.

    d. Make a notation of the advertising of the appointment in the memo field of the document screen where the order of appointment is filed. Do not keep a copy of the publication in each case file.

41. Close the case by completing the disposition date, disposition type and judge at disposition fields on the case screen. Do not reopen the case when a settlement is filed.

Inventory for Minor

42. A guardian or conservator must file an inventory within 60 days of appointment. KRS 395.250. Apply the "FILED" stamp to the inventory; add date and your initials. Complete a document screen using document type “INV”. If the inventory is filed in advance of the due date, delete the scheduled event following instructions in Counter Screen section of KYCourts Manual.

43. Delinquent Inventory. On a monthly basis, print a calendar of the delinquent inventories and present the calendar to the judge. KRS 395.635. If an order is received, apply the "ENTERED" stamp; add date and your initials. Complete a document screen. Give notice of entry as directed by the court.

Settlement for Minor

44. Guardians and conservators must file settlements as set out below.

    a. Types of Settlement.

        (1) One year after appointment and annually thereafter. KRS 387.175. Apply the "FILED" stamp; add date and your initials. Complete a document screen using document type “SET”.

        (2) If the minor's estate is valued at $5,000 or less, one year after appointment and every two years thereafter. KRS 387.175. Apply the "FILED" stamp; add date and your initials. Complete a document screen using document type “SET”.

        (3) Final Settlement upon termination of appointment. KRS 387.175; 395.610(1). Apply the "FILED" stamp; add date and your initials. Complete a document screen using document type “SETF”.

    b. If the settlement is filed in advance of the due date, delete the scheduled event following instructions in Counter Screen section of KYCourts Manual.

Advertisement of Settlements

Final Settlement

c. Publish notice of the filing of the settlement in a local newspaper at least 10 days prior to the hearing, unless the court allows the fiduciary to send notices in lieu of publications or the court orders no publication or mailing of notice by the fiduciary when the estate is less than $2500.00. KRS 395.625.

Periodic Settlements

Generally, newspaper advertisement of notices of the filing of annual accountings (i. e. periodic settlements) is only required when a hearing date has been set on the written

report of the settlement. However, there are specific exceptions that do not require advertising:

a. When the court allows the fiduciary to send written notice of the hearing in lieu of advertising.

b. If the value of the trust or estate is less than $2,500 and the assets are held in account only accessible via order of the court.

c. Reports and settlements of guardians and conservators of mentally disabled persons are not to be advertised.

d. Guardians under the Uniform Veterans' Guardianship Act.

e. A hearing on a settlement (annual or final) filed in conformity with an approved proposed settlement made under KRS 395.617.

Contents of Notices:

(1) The name of the estate;

(2) The date and time of the hearing;

(3) That exceptions to the settlement must be filed prior to the hearing.

Make a notation of the advertisement in the memo field of the document screen where the settlement is filed.

d. Apply the "ENTERED" stamp to the settlement order; add date and your initials. Complete a document screen using document type "OAS". Give notice of entry by mailing or hand delivering a copy of the order to the fiduciary or attorney.

45. Delinquent Settlement. On a monthly basis, print a calendar of the delinquent settlements and present the calendar to the judge. KRS 395.635. If an order is received, apply the "ENTERED" stamp; add date and your initials. Complete a document screen.

Sale of Real Estate by Guardian/Conservator

46. When a motion is filed by a Guardian/Conservator for permission to sell real property, it must be served in the same manner as an initiating document (complaint), but do not issue a summons. KRS 389A.010; CR 401. When the motion is filed:

a. Apply the "FILED" stamp to the motion; add the date and your initials.

Complete a scheduled events screen using event type “MH” and a motion screen using motion type “SOP”.

b. Unless waived in writing, written notice of the hearing must be given to all persons having a vested or contingent interest in the property, as identified by the guardian/conservator, at least thirty (30) days prior to the hearing. At the direction of the guardian/conservator, give notice of this hearing by printing a Court Notice and serve notice with the motion attached.

(1) If service is by certified mail, request that Guardian/Conservator pay the fees associated with service by certified mail and:

Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the notice with motion attached by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 54.210(3)(a). If you are asked to serve the notice with motion attached by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the notice with motion attached by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

(2) If service is by the sheriff or other serving officer. CR 4.01(1)(b):

Make a copy of the notice and motion. Give the plaintiff the 2 copies of the Court Notice with copy of the motion attached and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

(3) When a return of service is received:

Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials. Complete a document screen using document type “ROS”. Enter name of person served and date of delivery in the memo field.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the document screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. Enter name of person served and date of delivery in the memo field. The service date field is not completed on a summons screen when service is through the secretary of state.

Personal Service

Apply the "FILED" stamp to the return of court notice; add the date and your initials. Complete a document screen using document type “ROS”. Enter name of person served and date of delivery in the memo field. You may use the memo field to record the service agency.

c. When a signed order is received:

(1) Apply the "ENTERED" stamp to the order; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the order on a document screen including a brief description. This constitutes entry of the order and it does not become effective until this is done. RCr 11.04. CR 58. This is combined with the notation of service of notice of entry of the order as described below.

(3) Serve notice of entry of the order on every party not in default or who has not waived notice by making a copy of the order that has been stamped "ENTERED" and mailing or hand-delivering it to the party or attorney. CR 77.04(1) and RCr 12.06(1) and (3). Enter the method of service (mail or personal delivery) and notice of entry date on the document screen where the order is entered. RCr 12.06.

Trust Estate. KRS 386.660.

Registration of Trust

47. Do not enter into existing probate case if one exists. A trust is registered by the filing of a statement that:

    a. Indicates the name and address of the trustee in which the trustee identifies the trust:

        (1) Testamentary Trust (created by will): by the name of the testator and the date and place of domiciliary probate;

        (2) Written Inter Vivos (Living) Trust: by the name of each settlor and the original trustee and date of the trust instrument;

        (3) Oral Trust: by identifying the settlor or other source of funds and describing the time and manner of the trust's creation and the terms of the trust, including the subject matter, beneficiaries and time of performance);

    b. Acknowledges the trusteeship, and

    c. Indicates whether the trust has been registered elsewhere.

    d. There is no filing fee.

    e. Use case type “PB”.

    f. Apply the "FILED" stamp to the statement; add date and your initials. Refer to Case Add section of the KYCourts Manual for instructions on opening the case. Generate the next case number for probate "P" cases or use the next pre-numbered file folder. Do not issue a summons. Complete a document entry for the statement, using document type “ROT”.

    g. Close the case by completing the disposition date, disposition type ("OTH") and judge at disposition fields on the case screen.

Petition Pertaining to a Trust

48. When a Petition Pertaining to a Trust is received:

    a. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

    NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

b. Apply the "FILED" stamp to the petition; add date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Check your index for a previously assigned case number for registration of trust. If a number exists and that number is a computer generated case number, use the same number and file folder. If the number is not in the computer or a case number does not exist, generate the next case number for probate "P" cases or use the next pre-numbered file folder. Do not issue a summons. Use case type “PB”.

c. Provide the Trustee with a copy of the petition that has been stamped "FILED".

Hearing Notice

d. The petitioner (not the clerk) is responsible for providing notice of the time and place of any hearing to any interested person or attorney. KRS 386.665. The petitioner will file proof of this notice with you. Apply the "FILED" stamp to the notice; add date and your initials and complete a document screen using document type “NH”. Schedule the hearing by completing a scheduled events screen using event type “OH”.

Bond for Trustee

e. If a trustee is appointed and the court approves the fiduciary's bond, collect the fiduciary's bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 64.005. AOC Form 825, Fiduciary Bond, may be used for this purpose. Apply the "FILED" stamp to the bond; add date and your initials. File on a document screen using document type “BF”. The bond must be posted before the order of appointment of fiduciary is entered.

Order Appointing Trustee

f. When the fiduciary bond is posted, enter the Order Appointing the Trustee by applying the "ENTERED" stamp; add date and your initials. Complete a document screen using document type “OAT”. Give notice of entry by mail or hand delivery to the fiduciary.

g. Close the case at the time of appointment of the trustee by completing the disposition date, disposition type ("OTH") and judge at disposition fields on the case screen. Do not reopen the case when a settlement is filed.

Settlement of Trust

h. All trustees, except for testamentary trustees, will make a final settlement at the conclusion of the trust. KRS 395.610. When a settlement is received,

apply the "FILED" stamp; add date and your initials. Complete a document screen using document type “SETF”. Deliver to the judge.

i. When a signed order approving the settlement is received, apply the "ENTERED" stamp; add date and your initials and complete a document screen using document type “OAS”. Give notice of entry by mailing or hand delivering a copy of the order to the trustee or attorney.

Sale of Real Estate by Trustee

49. When a motion is filed by a trustee for permission to sell real property, it must be served in the same manner as an initiating document (complaint), but do not issue a summons. KRS 389A.010; CR 4.01. When the motion is filed:

a. Apply the "FILED" stamp to the motion; add the date and your initials. Complete a scheduled events screen using event type “MH” and a motion screen using motion type “SOP”.

b. Unless waived in writing, written notice of the hearing must be given to all persons having a vested or contingent interest in the property, as identified by the trustee, at least thirty (30) days prior to the hearing. At the direction of the trustee, give notice of this hearing by printing a Court Notice and serve the notice with the motion attached.

(1) If service is by certified mail, request that trustee pay the fees associated with service by certified mail and:

Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the notice with motion attached by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a notice with a motion attached by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the notice with motion attached by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

(2) If service is by the sheriff or other serving officer. CR 4.01(1)(b):

Make a copy of the notice and motion. Give the plaintiff the 2 copies of the Court Notice with motion attached and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

(3) When a return of service is received:

Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the memo field of the document screen using document type “ROS”. Enter the date of delivery in the service date field of the document screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the document screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the document screen. The service date field is not completed on a summons screen when service is through the secretary of state.

Personal Service

Apply the "FILED" stamp to the return of court notice; add the date and your initials and complete a document screen using document type “ROS”. Enter the date of service in the memo field of the document screen. You may use the memo field to record the service agency.

c. When a signed order is received:

(1) Apply the "ENTERED" stamp to the order; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the order on a document screen including a brief description. This constitutes entry of the order and it does not become effective until this is done. RCr 11.04; CR 58. This is combined with the notation of service of notice of entry of the

order as described below.

(3) Serve notice of entry of the order on every party not in default or who has not waived notice by making a copy of the order that has been stamped "ENTERED" and mailing or hand-delivering it to the party or attorney. CR 77.04(1) and RCr 12.06(1) and (3). Enter the method of service (mail or personal delivery) and notice of entry date on the document screen where the order is entered. RCr 12.06.

Name Change

50. When a petition for a name change is received (KRS 401):

a. Apply the "FILED" stamp to the petition; add date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Use document type “PNC”. Generate the next case number for district probate "P" cases or use the next pre-numbered file folder. Do not issue a summons. Use case type “OTH”.

b. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

51. Schedule a hearing by completing a scheduled events screen and notify the petitioner of the hearing date.

Juvenile

52. When a petition for a name change is received on behalf of a minor/juvenile:

a. Apply the “FILED” stamp to the petition: add date and your initials. Refer to Case Add section of KY Courts Manual for instructions on opening the case. Use document type “PNC”. Generate the next case number for district probate “P” cases by selecting the next pre-numbered file folder. Use case type “OTH”.

b. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid

unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

c. Generate a summons for the absent biological parent(s), by completing a summons screen. CR 4.02, CR 4.04(1). The clerk is required under CR 4.01(1) to issue a summons immediately upon the filing of a complaint/petition. Serve the summons as directed by the plaintiff/petitioner.

d. If the petition for a name change is signed by both biological parents Do not issue a summons.

Order of Name Change

53. When a signed order is received, apply "ENTERED" stamp; add date and your initials. Complete a document screen using document type “OCN”. Give notice of entry by mailing or hand delivering a copy of the order to the parties and attorneys, if any. Complete notice of entry method and date on the document screen.

If name change granted, send a certified copy of the order to the county clerk's office for recording and instruct the petitioner to pay the recording fee to the county clerk. KRS 64.012, 401.040.

54. Close the case by completing the disposition date, disposition type (OTH) and judge at disposition fields on the case screen.

Dispense with Administration

55. When a Petition to Dispense with Administration is received (KRS 395.455; 395.040):

Fee to Dispense with Administration

a. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

Previous Number

b. Check your index for a will of the decedent and a previously assigned case number. If a previous case number for an estate exists and that

number is a computer generated case number use the same number and file folder. If the number is not in the computer or if a case number does not exist, generate the next probate "P" number or use the next pre-numbered file folder.

Advise the judge if your records show that administration or letters testamentary (appointment orders) have been granted before application for an order dispensing with administration.

Claims of Creditors

c. Check the file folder in the front of your probate drawer for any previously filed creditor's claims or request/demand for notice under KRS 395.012. Transfer any documents to the estate's file by completing a document screen, and serve this person/entity with any orders entered regarding the estate.

Petition to Dispense

d. File the petition to dispense (accompanied by an affidavit of the beneficiaries to waive administration, if applicable) by applying the "FILED" stamp; add date and your initials. AOC Form 830, Petition/Order To Dispense With Administration, may be used. Use document type “PDA”. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Use case type “PB”. If administration or letters testamentary (appointment orders) have been granted previously, send a copy of the petition to the personal representative. KRS 395.490.

Will Certification

e. If received with the petition to dispense, make a copy of the original will and affix a certification that is a copy of the original will. Apply the “FILED” stamp; add date and your initials. File by completing a document screen. Use document type “WI”.

Take the original will and a certified copy of the court order to the county clerk for recording. The petitioner is responsible for the recording fee. KRS 64.012; CR 79.05(2).

If a request is made for a certified copy of the will, provide a certified copy of the copy of th ewill in your file. if a certified copy of the original will is specifically requested, direct the requestor to the county clerk’s office where the original will is filed.

Advertisement of Petition

f. It is the responsibility of the petitioner(s) to advertise the petition to dispense with administration and appointment of fiduciary (trustee). KRS 395.470. File the affidavit of the petitioner(s) indicating that the advertisement was made by applying the "FILED" stamp; add date and your initials. Complete a document screen using document type “AFF”.

g. If the court orders the filing of a fiduciary bond, collect the bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 64.005. AOC Form 825, Fiduciary Bond, may be used for this purpose. Apply the "FILED" stamp to the bond; add date and your initials. File on a document screen using document type “BF”.

h. After any ordered bond is posted, enter the Order Dispensing with Administration by applying the "ENTERED" stamp; add date and your initials. Complete a document screen using document type “ODA”. Give notice of entry by mail or hand delivery to the fiduciary and any person/entity who has filed a demand for notice.

Send a copy of the petition and Order Dispensing with Administration to:

Department of Revenue
Inheritance and estate Tax Area
200 Fair Oaks Lane – 4th Floor
Frankfort, KY 40601

Designation of Trustee

i. The order may contain a designation of a trustee who has the same right to sue for and collect claims and demands as an administrator. This is not the same as an appointment of a fiduciary.

Close the case by completing the disposition date, disposition type (OTH) and judge at disposition fields on the case screen.

Curators of Convicts, Absent and Aged/Infirm Persons. KRS Chapter 395, KRS 387.290 et. seq.(District Court)

56. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

57. Curator of Convicts only: KRS 387.290. In addition to the filing fee, collect certified mailing fees as set forth in the Fees and Costs section of this manual. Collect publication fees for the publication of notice of the appointment of the fiduciary. Notify the convicted person by certified mail, return receipt requested, that the petition has been filed; address this notice to the correctional facility where the person is incarcerated. All publication fees are set by the newspaper and are paid by the petitioner. KRS 424.340.

58. Curator for Absent Persons only: KRS 395.430. In addition to the filing fee, collect mailing fees as set forth in the Fees and Costs section of this manual. Notify the absent person by certified mail, return receipt requested, that the petition has been filed; address this notice to his last known address as shown in the petition. Collect fees for publication of notice of the appointment of the fiduciary. KRS 424.340. All publication fees are set by the newspaper and are paid by the petitioner.

59. Curator For Aged or Infirm Person only: KRS 387.320. A person who deems himself unfit by reason of advanced age or physical disability and weakness to manage real or personal property or business may petition the district court to appoint a curator. No notice or public hearing is required.

60. Apply the "FILED" stamp to the petition; add the date and your initials using case type “OTH”. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for probate "P" cases or use the next pre-numbered file folder. If a hearing is scheduled, complete a scheduled events screen using event type “OH”.

61. Usually summons is not issued in these cases; notice requirements vary from case to case. Follow any court orders as to notice.

62. The fiduciary's bond must be approved by the court, and you must attest it.

Collect the bond fee as set forth in the Fees and Costs section of this manual and give a receipt. KRS 64.005. Apply the "FILED" stamp to the bond; add the date and your initials and complete a document screen using document type “BF”. The bond must be posted before the order of appointment of fiduciary is entered**.**

62. When the fiduciary bond is posted, enter the order appointing fiduciary. Apply "ENTERED" stamp; add the date and your initials and file on a document screen using document type “OFID”. Upon request, provide certified copies of the appointment. Collect a certification fee and a copy fee as set forth in the Fees and Costs section of this manual and give a receipt.

63. Publish notice of appointment of fiduciaries in a local newspaper along with other fiduciary appointments for the month. KRS 424.340. This is not required for appointment of curator for aged or infirm person. KRS 387.320.

64. If a settlement is received, apply the "FILED" stamp; add the date and your initials. File on a document screen using document type “SET”. Publish notice of the hearing unless the court allows the fiduciary to send notices in lieu of publication. KRS 395.625. Make a notation of the advertisement in the memo field in the document screen.

65. When a settlement order is received, apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Give notice of entry by mail or hand delivery to the fiduciary or attorney.

66. Close the case by completing the disposition date, disposition type (OTH) and judge at disposition fields on the case screen.

Transfer of Fiduciary Account

67. A bank or trust company may transfer fiduciary accounts to an affiliate bank or trust company in the Commonwealth, providing written notice of the last account status report is given to the recipient thirty (30) days prior to the transfer. The bank's notice shall include the recipient's right to object to the transfer.

68. Objection to Transfer:

a. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the objection until the filing fees are paid unless the party is proceeding in forma pauperis or unless the party is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

b. Apply the "FILED" stamp to the Objection; add the date and your initials. Use case type “OTH”. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for probate "P" cases or use the next pre-numbered file folder.

c. If requested, issue a summons by completing a summons screen and schedule a hearing by completing a scheduled events screen using event type “OH”.

d. When a signed order is received, apply the "ENTERED" stamp; add the date and your initials. Do not use the filed stamp. Enter the order on a document screen and give notice of entry to all parties or attorneys.

e. Close the case by completing the disposition date, disposition type (OTH) and judge at disposition fields on the case screen.

69. Affidavit of Transfer (No Objection Received)

Within ten (10) days after a bank or trust company transfer an account, the transferring agency must file an affidavit regarding the transfer.

a. Filing fee for Affidavit of Transfer. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the affidavit until the filing fees are paid unless the party is proceeding in forma pauperis or unless the party is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

b. Apply the "FILED" stamp to the affidavit; add the date and your initials. Use case type “OTH”. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for probate "P" cases or use the next pre-numbered file folder. Do not issue a summons.

c. Close the case by completing the disposition date (same as filing date), disposition type (OTH) and judge at disposition (same as open judge) fields on the case screen.

PROBATION AND PAROLE FEE - OUT OF COUNTY
KRS 439.315
(Circuit Court)

1. The Corrections Cabinet is statutorily required to keep an account of all payments made by a probationer or parolee. The responsibility of the clerk is limited to receiving and receipting the payment of the parole or probation fee. Do not open a case or assign a case number.

2. When an individual appears in your office to pay a probation and parole fee:

   a. The defendant should have a probation order or parole certificate which indicates the supervision fee to be paid. The defendant should bring this order each time he comes to pay the fee. If the defendant does not have the order or certificate, refer the defendant to his local probation and parole officer.

   b. Prepare a receipt and distribute the copies as follows:

      (1) 1st and 3rd copies (white and yellow): defendant's copies;

      (2) 2nd copy (pink): daily check-out.

3. Refer questions concerning the collection of this fee to your judicial auditor.

PROTECTION OF ADULTS
(Circuit and District Courts)
KRS 209

1. There is no filing fee. Venue is in the court of the adult's residence, or if filed pursuant to KRS 209.130 (ex parte), the court of the county in which the adult is physically located. KRS 209.110(1).

Petition

2. When a Petition is received:

   a. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for circuit civil "CI" cases or use the next pre-numbered file folder. Use case type “OTH”.

   b. Immediately upon the filing of the petition, consult your roster of attorneys and appoint a guardian ad litem to represent the interest of the adult unless your judge wishes to make the appointment. The fee for the GAL is to be paid by the Cabinet for Health and Family Services. KRS 209.110(2)(6).

   c. Schedule a hearing by completing a scheduled events screen. Use scheduled events type “OTH”. The hearing may be heard by a district judge if the circuit judge is not present in the county. Note the date, time and location of the hearing on the petition.

   d. Prepare a summons to be issued on the adult and his/her guardian or caretaker. If none, serve the adult's guardian ad litem. Attach a copy of the petition to the summons, showing the date, time and location. Notice of the hearing shall also be sent to the adult's spouse, or, if none, the adult children or next of kin, if practical, by mailing a copy of the petition showing the date, time and location. Notice must be made at least 3 calendar days prior to the hearing.

Ex Parte Order

3. If no petition is filed and the court issues an ex parte order:

   a. Apply the "ENTERED" stamp to the order; add the date and your initials. The order is the initiating document. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for circuit civil "CI" cases or district "C" cases or use the next pre-numbered file folder. Use case type “OTH”. Give notice of entry of the order to the adult or his/her guardian or caretaker.

b. A hearing must be scheduled within 72 hours of the issuance of the order (exclusive of Sat. & Sun.). Have the judge assign a hearing date unless this duty is delegated to you. Complete a schedule events screen for the appropriate date and time. Use scheduled event type “OH”.

c. Give notice of entry of the ex parte order and hearing date to the adult or his/her guardian or caretaker.

4. When a signed order is received:

a. Apply the “ENTERED” stamp; add the date and your initials. Do not use the “FILED” stamp.

b. Enter the order on the document screen. Use document type “OEXP”. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order as described below.

c. After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order that has been stamped “ENTERED” and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of service of notice of entry of order. RCr 12.06.

5. When the order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

PUBLIC ADVOCATE APPOINTMENTS
KRS 31.100(4)(c)-.120; KRS 31.211
(Circuit or District Court)

Criminal Case

1. When the judge appoints the Department of Public Advocacy to represent a defendant and a signed Order of Appointment is received:

    a. Apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Use document type “OAPAD”. Give notice of entry by distributing copies of the order as indicated on the bottom of the form.

    b. If the court determines that the defendant is able to pay for legal services, the court may order the defendant to pay a partial fee, either in a lump sum or by installment payments. KRS 31.120(3); KRS 31.211. AOC form 206, Partial Fee Order or AOC Form 350, Indigent Financial Statement; Counsel Request; Affidavit and Order (for Criminal Proceedings), may be used for this purpose.

    c. When a signed Partial Fee Order is received; apply the "ENTERED" stamp, add the date and your initials and enter on a document screen. Use document type “ORCP”. Give notice of entry by distributing copies of the order as indicated on the bottom of the form.

    d. If requested, provide the public advocate with AOC Form 207, Order for Payment of Necessary Expense in Defense of Indigent. When a signed order is received, apply the "ENTERED" stamp; add the date and your initials and enter on a document screen. Use document type “OPE”. Give notice of entry by distributing copies of the order as indicated on the bottom of the form. Because of the confidentiality clause contained in the form, the order must be sealed within the case file. Use the document type "SD".

    e. The defendant must make court ordered payments through your office, KRS 31.211(1); give a receipt. You are required to accept payments whether in full or in installments. See the Circuit Court Clerk’s Accounting Manual for further instructions.

Civil Contempt Case

2. When an indigent defendant is charged with civil contempt and is facing incarceration, the court may appoint counsel using Department of Public Advocacy - DPA Form 001.

    a. When a signed DPA Form 001 is received:

(1) Apply the "ENTERED" stamp to the order; add the date and your initials. Retain the original for the court file and enter by completing a document screen. Use document type “OAPAD”.

(2) Mail copies of the order as directed in the distribution list at the bottom of the form.

b. Once the case is complete, counsel will submit DPA form 002 to the judge for payment. When a signed DPA Form 002 is received:

(1) Apply the "ENTERED" stamp; add the date and your initials. Retain the original for the court file and enter by completing a document screen. Use document type “OPAY”.

(2) Mail a copy of the order to the court appointed counsel. It is counsel's responsibility to submit the dpa-002 to the appropriate office for payment.

If you receive a signed copy of DPA form 003, apply the "FILED" stamp, add the date and your initials and file by completing a document screen.

RECORDED INTERVIEW AT CHILDREN'S ADVOCACY CENTERS
KRS 620.050 (10)
District Court

1. When a signed order is received directing you to seal a recorded interview at a children's advocacy center:

   a. Apply the "ENTERED" stamp to the order; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the order by completing a document screen, including a brief description. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the judgment as described below.

   c. After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04 (1), RCr 12.06 (1) and (3).

   d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of service of notice of entry of the order. RCr 12.06.

2. Place the interview in an envelope; mark the envelope "Confidential by Court Order"; add the date and your initials. Seal the envelope. File on a document screen using the document type "SD". Place the sealed envelope in the appropriate case file.

3. Do not release the sealed envelope from your custody except when actually used in the action or proceeding. If a request to review the case file is received, remove the envelope from the case file.

4. A party seeking to view a sealed interview must secure a court order giving him/her access.

5. When the case is closed, maintain the confidentiality of the interview.

If the case is appealed, include the sealed envelope with other documents in the case in the record on appeal.

RECORDS RETENTION ARCHIVING AND DESTRUCTION

The Kentucky Court of Justice Records Retention Schedules approved by the Chief Justice governs the Circuit Clerks' records. The Record Retention Schedule shall be followed for both transferring (Archiving) and destruction (disposal) of KCOJ records. All eligible records should be removed from the Clerk's office in a timely manner.

Archiving

1. To transfer permanent records to the State Archives Center or State Records Center operated by the Kentucky Department of Libraries and Archives, contact the Accessioning Unit at the AOC.

Destruction

2. Prior to the destruction of any disposable records in your office, contact Accessioning Unit. Once the records for destruction have been identified, the Accessioning Unit will make arrangements for the records to be transported for destruction and prepare all destruction certificates. The original destruction certificate(s) will be forwarded to the Kentucky Department of Libraries and Archives (KDLA) and a copy(s) will be given to the clerk.

   Note: The Accessioning Unit cannot complete the destruction and issue a certificate without proper identification of the items that are being destroyed. Therefore, the clerk must assist the Accessioning Unit in the identification of records that will be destroyed by labeling said records or keeping a list of what will be destroyed for the destruction certificate.

3. The KCOJ Records Retention Schedule identifies the record series that are eligible for destruction. The majority of the records are eligible for destruction based upon time lines or audit requirements.

4. It is the responsibility of the Clerk to identify the specific records eligible for disposal within the series mentioned below:

5. Additional requirements have been added for the following District Court Records series; Traffic Case File (Series 00189); Misdemeanor Case Files (series 00190); Felony Preliminary Hearing Files (series 00191). These records must meet the following criteria for destruction:

   a. Cases with disposition date older than 5 years (cases closed over 5 years)
   b. Excludes cases with an FTA that is less than 5 years old
   c. Excludes cases with open charges or charges closed less than 5 years

d. Excludes cases with charges for stalking – “002764, “05815”, “013242 “013243”
e. Excludes cases with document type “ORSC” – Order Restraining following stalking conviction”
f. Excludes enhanceable charges if the charge is a guilty disposition (“G”, “GM”, “GSS”, “PRPD”)
g. Excludes cases with a future scheduled event
h. Excludes cases with active warrants (AC, RU, HO status)
i. New enhanceable/KSP requested safety violation codes

6. Juvenile Additional requirements have been added for the following Juvenile Felony Case (series 00197, prior to July 15, 1997); Juvenile Felony Case (series 04751, after July 15, 1997); Juvenile Non-felony case (series 04752, after July 15, 1997) these records must meet the following criteria:

a. Cases with case disposition date older than 1 year with a case type code of “SP”, “OTH”,
b. Excludes cases with a charge less than 1 year old.
c. Excludes cases with a document less than 1 year old.
d. Excludes cases with scheduled event less than 1 year old.
e. Excludes cases with bail less than 1 year old.
f. Excludes cases with sentence less than 1 year old.
g. Excludes cases with bail less than 1 year old.
h. Excludes cases with summons less than 1 year
i. Excludes cases with warrant less than 1 year. Any remaining J cases that have been disposed that don’t have case type of ‘PA”, “SP”, “UR”, “OTH”, that are a party type code of “D”, or “CH”, and the defendant (child) is older than 23.
j. Excludes any cases with a Felony charge.
k. Excludes cases with document type “FED”
l. Excludes cases with a future scheduled event.
m. Excludes cases with active warrants (AC, RU, HO status)

7. Additional requirements have been added for the following District Civil (series 00186) and Small Claims (series 00185) these records must meet the following criteria:

a. Cases with case disposition date older than 5 years (cases closed over 5 years)
b. Excludes cases with DSTY document record.
c. Excludes cases with a future scheduled event.
d. Excludes cases with active warrants (AC, RU, HO status)

8. Additional requirements have been added for Domestic Violence (series 00822) these records must meet the following criteria.

a. Cases with case disposition date older than 10 years (cases closed over 10 Years)

b. Excludes cases with a charge less than 10 years old.
c. Excludes cases with a document less than 10 years old.
d. Excludes cases with a scheduled event less than 10 years old.
e. Excludes cases with a motion less than 10 years old.
f. Excludes cases with a sentence less than 10 years old.
g. Excludes cases with a bail less than 10 years old.
h. Excludes cases with a summons less than 10 years old.
i. Excludes cases with a warrant less than 10 years old.
j. Excludes cases with a future scheduled event.
k. Excludes cases with active warrants (AC, RU, HO status)

Retrieval of Case Files

9. To retrieve a case file from KDLA, determine the location of the file:

   a. From the State Archives Center: accession numbers begin with “A” (A2001-000) and the locations are alphanumeric (A35/D7-A);

   b. From the State Records Center: accession numbers begin with “R” (R2001-000) and the locations utilize roman numerals (VI-J-245).

Procedures for Any Record Request

The Circuit Court Clerk will:

10. Verify where the case is located: the Clerk’s Office, Archive Center or Record Center.

11. Use the Transmittal to find the location of the case needed. The case number and location in the center can be given to the citizen if that individual is performing the request.

12. Complete the Record Request (PRD-160). If the clerk is having the information sent directly to the citizen, make sure the citizen’s address and telephone number are included on the form.

Archive Center Request

13. After completing the Record Request, fax it to the Archive Center. The telephone number is located on the bottom of the Record Request form. If you need further assistance you can contact the Archive Center Supervisor at (502) 564-8300.

Record Center Request

14. After completing the Record Request, fax it to the Record Center. The telephone number is located on the bottom of the Record Request form. If you need further assistance contact the Record Center Supervisor at (502) 564-3617.

    a. Copies will not be made other than for specific documents, such as decrees, orders, and judgments. If additional copies or a copy of the entire case file is needed, the original file will be mailed to the Clerk. It will be the responsibility of the Clerk to make the copies.

The Archives Center and Records Center staff will not interpret information located in the case files. This prevents any chance of giving misinformation.

REDEMPTION OF LAND SOLD UNDER EXECUTION OR JUDICIAL SALE
KRS 426.220, 426.530

1. Under certain circumstances the defendant may, within a year from the sale, redeem or buy back his/her land which was sold on execution or at a judicial sale.

2. The defendant will deliver a receipt from the purchaser. Apply the "FILED" stamp; add the date and your initials. File the receipt on a document screen in the existing case file.

3. If you receive an affidavit regarding the status of the purchase and purchase money is deposited with you apply the "FILED" stamp to the affidavit and file on a document screen in the existing case file. Receipt the purchase money as "Money Collected for Others." Refer to your Accounting Manual.

REPLEVIN BOND
KRS 426.450, 426.470

1. The judgment debtor may postpone collection of most money judgments for three months by posting a replevin bond with surety. KRS 426.450.

2. Judgments which cannot be replevied are:

   a. A judgment to enforce a lien;

   b. A judgment against a collecting officer, attorney or agency in a suit for neglect of failure to fulfill his/her duties;

   c. A judgment of a surety against his/her principal;

   d. A judgment upon a debt due by obligation having the force of a judgment;

   e. A judgment for specific property or its value;

   f. A judgment on a sale, replevin, or forthcoming bond. KRS 426.470.

3. Require the surety to make an affidavit to show qualification. KRS 454.180, 454.185. Taking the affidavit relieves you of liability for taking insufficient surety if the financial information is falsified. Commonwealth vs. Lewis, 181 Ky. 804, 205 S.W. 921 (1918). He/She must:

   a. Be a resident of Kentucky.

   b. Be worth double the sum to be secured, beyond debts.

   c. Have property in Kentucky, not exempt from execution, equal to the amount of bond.

   Refuse any surety if you are in doubt as to the surety's sufficiency to cover the amount of bond. If your judge orders you to take a bond you must do so; the order protects you from liability for taking an insufficient bond.

4. Collect a bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. Apply the "FILED" stamp to the bond; add the date and your initials and file by completing a document screen. Use document type “BO”.

REPORTING CONVICTIONS

To The Division of Driver Licensing

1. Convictions affecting a defendant's license are electronically transmitted to the Division of Driver Licensing. For specific instructions regarding the transmission of conviction reports, consult the Driver's Licensing Manual, AOC Transmitted Convictions and/or the KYCourts Manual. For additional information of this manual, refer to subsection DUI Sentence under Citations section.

Conviction of a Physician, Paramedic, Nurse

2. The clerk shall mail an attested copy of the initiating document and judgment pertaining to all felony or misdemeanor convictions of physicians, paramedics and nurses. KRS 311.606(3).

   a. To report a conviction of a physician or paramedic, mail to:

   Kentucky State Board of Medical Licensure
   Hurstbourne Office Park
   310 Whittington Parkway, Suite 1B
   Louisville, Kentucky 40222

   b. To report a conviction of a nurse, mail to:

   Kentucky Board of Nursing
   312 Whittington Parkway, Suite 300
   Louisville, KY 40222-5172

No Insurance

3. Second or subsequent convictions for failure to secure insurance, KRS 304.99-060, must be docketed for a hearing in six months to show proof of security and payment. If the defendant fails to appear for the hearing, copy the court calendar and mail to Division of Drivers Licensing. KRS 304.99-060(4).

ROSTER OF ATTORNEYS
SCR 3.480-3.520

Appointments

1. Maintain a list of all attorneys who practice in your court to be used if your judge directs you to make appointments of warning order attorneys, guardians ad litem, or any other appointments. When counsel is to be assigned in a case, consult this list, and make appointments in rotation. You may wish to list the attorneys on index cards; after appointment is made, place that card at the back of the file box.

Legal Intern

2. If a legal intern (law student or graduate) is to appear in your court, he or she should file with you letters of approval from the Chief Justice of the Supreme Court, the law school dean, and the faculty director of the program. The intern should also file these letters with you if the law school he/she attended is located in your county. SCR 2.540. Staple the letters concerning the same intern together, and place in a special file with letters on other interns.

Suspended/Disbarred Attorneys

3. If an attorney is suspended or disbarred, you will receive an attested copy of the Supreme Court order. Place the order in a special file for suspended or disbarred attorneys. Remove any such person from your roster of attorneys, or indicate the person's status so that you will know the person is not entitled to practice law. SCR 3.050, 3.480.

Reinstatement

4. The name of an attorney whose membership has been restored should be reinstated on the roster of attorneys and should be removed from the special file of suspended or disbarred attorneys. SCR 3.500, 3.510, 3.520(4).

SEARCH WARRANTS
RCr 13.10
(Circuit or District Court)

1. If a request for a search warrant is received, direct the requestor to the county attorney or commonwealth attorney. Upon sufficient affidavit, the warrant is issued by a judge or other officer authorized to issue warrants.

   - In the event of the absence from a county of all district judges and all circuit judges and all trial commissioners, the circuit clerk in each county may issue criminal warrants prepared by the commonwealth's attorney or county attorney, who shall certify that there is no district judge, krs 15.725(5).

     Note: the term "criminal warrants" includes search warrants.

2. The issuing officer will file a copy of the search warrant and supporting affidavit with you.

3. Do not open a case file. Maintain an alphabetical file of these documents until a return is received.

4. When a return is received:

   a. Apply the "FILED" stamp to the affidavit and search warrant; add the date and your initials.

   b. If a case file exists which is the subject of the search warrant, file the affidavit and search warrant by completing a document screen. Use document type “ASW” (Form AOC 335) or “SW” (Form AOC 340). Make a notation of the date and hour of service in the memo field.

   c. If a case file does not exist, file in an alphabetical file of executed search warrants. Destroy one (1) year after date of issuance and notification to the county attorney.

SELF CONSENT ABORTION
KRS 311.732
Special Rules for Self Consent Abortion by a Minor
(District Court)

1. The case is Confidential and can be heard by the district or circuit judge.

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner checks the line on the petition indicating she has insufficient funds to pay. (The judge does not have to rule on this.) CR 5.05(4); KRS 453.010; KRS 311.732(6).

3. The petitioner or the petitioner's next friend may complete AOC Form 260, Abortion Petition. You must assist, if requested, in the preparation of the petition.

    a. Apply the "FILED" stamp; add the date and your initials and note the time the petition was received. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Assign a case number using the next pre-numbered file folder for juvenile "J" cases. DO NOT combine this petition with any other petitions on this minor in your court.

    b. Only the petitioner's initials may appear on the petition. You may enter her name on the party screen only. DO NOT use her name on the case screen or file folder. The case type is "Special Proceeding". Use case type “SP”.

File on document screen. Use document type “PAB”.

4. After you complete the "Notice" portion of the petition:

    a. Assign a hearing for the judge (circuit or district) by completing the scheduled events screen. The hearing must be held within 72 hours (including weekends and holidays) of the filing of the petition, unless the minor wants more time as indicated on the petition.

    b. Consult your roster of attorneys and appoint a Guardian Ad Litem. Fill in the name of the guardian ad litem in the space provided on the petition AOC Form 260. (Appointment of GAL is mandatory.) Use only the minor's initials when filling out AOC 115, Appointment of Guardian Ad Litem. Apply the "FILED" stamp to the appointment of GAL form; add the date and your initials and file on a document screen. Use document type “AGAL”. Complete a party screen for the guardian ad litem.

    c. If the petitioner has checked the line on the petition requesting counsel, you must appoint an attorney from your assigned counsel list. (This cannot be the same attorney as the GAL.)

5. Give the petitioner a copy of the petition. Serve the GAL with a copy of AOC 260 and AOC 115. Serve the appointed counsel (if applicable) with a copy of AOC 260. As time is of the essence, it is best to have the GAL (and appointed counsel, if applicable) served by the sheriff or other serving officer.

6. The judge has 72 hours (unless the petitioner requests more time) to hear and issue an order in the case. Be sure the hearing is either audio taped, video taped, or a written transcript is made. AOC 261 is the Order to be signed by the judge either granting or denying the abortion. Apply the "ENTERED" stamp to the order; add the date and your initials and file on a document screen. Use document type “OGAB” (Form AIC 261.1) or “ODAB” (Form AOC 261.2).

7. Close the case screen by completing the disposition date, disposition type and judge at disposition.

8. If the petition is denied, the petitioner has (3) days after entry of the order in which to file an appeal. Use AOC 262. File on document screen. Use document type “NAAB”. All appeals go to the Court of Appeals. Collect filing fees for Appeals to Court of Appeals as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid UNLESS the petitioner checks the line on the petition indicating she has insufficient funds to pay. (The judge does not have to rule on this). CR 5.05(4); KRS 453.010 KRS 311.732(6).

9. You have (5) days to complete, certify and transmit the record (including the audio tape or video tape) to the Court of Appeals.

10. If no appeal is filed within (30) days seal the court file and note only the case number on the outside of the envelope.

SERVICE OF PROCESS

A civil summons may be issued and served on Sundays and holidays.

Certified Mail Service

1. Upon receipt of a request of service by certified mail, attach a copy of the complaint (or other initiating document for the summons). When a third party complaint is filed, attach a copy of the original complaint in addition to the third party complaint.

2. Collect postage fees as set forth in the Accounting Manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

Long-Arm Statutes

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Accounting Manual. Mail two attested copies of the complaint and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

Personal Service

1. Upon request for service by the sheriff or other serving officer, make a copy of the summons. Give the plaintiff the 2 summons with a copy of the complaint and/or other documents to be served attached to the copy of the summons. Instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly.

2. Do not make a copy of the summons for the case file; the officer's return will provide a copy.

Return of Service

1. Upon receipt of a return of certified mail service: apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

2. Upon return receipt from the Secretary of State, enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service of a defendant enter the date of service in the service date field of the summons screen. If the notice of service concerns non service, leave the service date field blank and memo the reason and the date of non service.

3. Upon receipt of service by an officer (personal service), apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

Return of Non-Service.

When a summons is returned not served, leave the service date field blank on the summons screen and memo the reason and the date of non-service.

SETTLEMENT FOR MINOR OR PERSON UNDER DISABILITY
KRS 387.280
(District Court)

1. Petition for Custodian to Receive Money Settlement. The custodian of a minor or other person under disability may file a petition in district court to be paid a sum not exceeding ten thousand dollars ($10,000), when the minor or other person under disability, having no guardian or conservator, is entitled to receive this sum resulting from a settlement.

2. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

3. Have the judge assign a hearing date (or do this yourself if the judge has delegated this duty to you) and advise the petitioner of the date, time and place of the hearing. Do not issue a summons.

4. Apply the "FILED" stamp, add the date and your initials and assign a case number CR 5.05(3), by generating the next case number in the computer for district civil "C" cases or use the next pre-numbered file folder. Use case type “OTH”.

5. Assign to a division using the procedure in your local court rules.

6. File the case by completing the case document and party screens. Calendar the hearing by completing a scheduled events screen.

   a. Unless the court orders, the filing of an inventory and settlement is not required.

7. When a final order is received;

   a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

   b. Enter the order on the document screen. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of entry of the order as described below.

c. After the order is entered serve notice of entry on the parties by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the parties or attorney. CR 77.04(1), RCr 12.06(1)(3).

d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of the order. RCr 12.06.

8. If the settlement involves the sale of real property, the purchaser of the real property may pay the share of the minor or other person under disability into the court, without giving bond.

To close the case, complete the closing information on the case screen by adding the disposition date, disposition type, and the judge at disposition.

SMALL CLAIMS CASES
(District Court)
KRS 24A.200 to 24A.360

Complaint

1. Upon receipt of AOC 175, (Small Claims Complaint), collect filing fees as set forth in the Accounting Manual and give a receipt. NOTE: Jurisdictional limit in small claims is $2,500.00. No limit and no affidavit is required for claims brought by city, county, or urban county governments. CR 5.05(4); KRS 453.010.

2. Apply the "FILED" stamp to the complaint; add the date and your initials. Refer to Case Add section of the KYCourts User Manual for instructions on opening the case.

3. Assign a trial date at least 20 days but not more than 40 days after service of process. KRS 24A.280. The trial date will appear on the summons.

Summons

Attach the complaint to the summons and serve in the manner directed by the plaintiff. KRS 24A.280(2).

Settlement Agreement

1. Upon receipt of AOC 199, (Small Claims Settlement Agreement), apply the "FILED" stamp to the agreement; add the date and your initials. File on a document screen using document code “ASET”.

2. Upon receipt of a signed judgment and order AOC 199 (Small Claims Settlement Agreement) apply the “ENTERED” stamp, add the date and your initials. File on the document screen using document code “JSC”.

3. Serve notice of entry of the judgment on all parties. Enter the method of service (mail or personal delivery) and notice of entry date on the document screen.

4. If a case is ordered closed, complete the disposition date, disposition type and judge disposition fields on the case screen.

Counterclaim

1. Upon receipt of AOC 185, (Small Claims Counterclaim), apply the "FILED" stamp to the counterclaim; add the date and your initials and file on a document screen using document code “CC”.

2. Collect the filing fees as follows:

a. If the amount does not exceed $2,500.00, there is no filing fee.

b. If the amount is over $2,500.00 but does not exceed $5,000.00, the case is then transferred to civil district court. Collect filing fees as set forth in the Accounting Manual and give a receipt.

c. If the amount exceeds $5,000.00, collect filing fees as set forth in the Accounting Manual and give a receipt. The case is then transferred to circuit court.

NOTE: No counterclaims will be processed until the filing fees are paid unless the party is proceeding in forma pauperis or unless the party is the Commonwealth. City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth. CR 5.05(4), KRS 453.010.

Transfer

1. Prepare AOC 122, (Transfer of Action). Apply the "FILED" stamp; add the date and your initials. Enter on a document screen using document code “NTA”. Mail or hand-deliver a copy to all parties.

2. Close the case by completing the disposition date, disposition type of “TRF” and the judge at disposition fields on the screen. Make a notation of the transfer in the memo field of the case screen.

3. Transfer the contents of the case file including a copy of the cash receipt and the case history to the appropriate receiving court as set above in number 2. Retain the original file folder and cash receipt and file in numerical order with other Small Claims case files.

4. If the defendant requests a jury trial, collect the applicable transfer and jury fee as set forth in the Accounting Manual. Apply the "FILED" stamp to the request; add the date and your initials. File on a document screen using document code “REQ”. KRS 29A.270.

Receiving Court

Upon receipt of the case history, apply the "FILED" stamp, add the date and you initials. Refer to Case Add section of the KYCourts User Manual for instructions on opening the case. File the record transferred as a single item on the document screen using document code “RTRF”. Do not issue a summons.

Post Judgment

1. Upon receipt of AOC 197 (Small Claims Post Judgment Interrogatories), apply the "FILED" stamp, add the date and your initials. Complete a document screen using document code "INT".

   Note: After 30 days if no response has been filed, the winning party may complete AOC 198, (Small Claims Post Judgment Motion/Order Requiring Losing Party to Answer Interrogatories).

2. Upon receipt of AOC 198, (Small Claims Post Judgment Motion/Order Requiring Losing Party to Answer Interrogatories), apply the "FILED" stamp, add the date and your initials. Complete a Scheduled Event Screen.

3. If the court grants the motion, set a court date 30 days after entry of the order, by completing a Scheduled Events Screen. When an order is received, apply the "ENTERED" stamp; add the date and your initials. Enter on a document screen and give notice of entry on all parties. Make a notation of the notice of entry on the document screen.

Motion For Satisfaction of Judgment

1. Upon receipt of AOC 191 (Motion For Satisfaction of Judgment), apply the "FILED" stamp, add the date and your initials. Complete a Scheduled Events screen.

2. Upon receipt of AOC 191.1 (Order Entry of Satisfaction of Judgment), apply the "ENTERED" stamp, add the date and your initials. Complete a document screen using document code "SAT". Make a notation of the notice of entry on the document screen.

SPECIAL JUDGE APPOINTMENT

KRS 26A.015; 26A.020
Regional Administration Program Charter

1. If a special judge needs to be appointed due to absence of a sitting judge, the sitting judge must notify the chief regional district or circuit court judge who will appoint a special judge by written order. If a special judge needs to be appointed due to disqualification of a sitting judge, the sitting judge must certify the grounds to the chief regional district or circuit court judge.

   Exception:

   a. If there has been a recusal motion/affidavit filed pursuant to KRS 26A.020, based on the judge's inability to afford the party a fair and impartial trial or partiality in deciding an application for change of venue, apply the "FILED" stamp; add the date and your initials. File by completing a motion or document screen, as appropriate. Use motion type “AFF”. Immediately send a certified copy of the recusal motion/affidavit directly to the:

      Chief Justice of the Supreme Court
      Room 231, Capitol Building
      Frankfort, KY 40601.

      The Chief Justice will decide whether to appoint a sitting, senior or retired judge as special judge. KRS 26A.020.

   b. If there has been a recusal motion/affidavit filed pursuant to KRS 26A.015, do not forward to the Chief Justice. File the motion and schedule for hearing before the presiding judge.

2. When an order appointing a special judge is received, apply the "FILED" stamp to the Supreme Court's Order; add the date and your initials. File the order of appointment in a “Special Judge Appointments” master file by month. Make a docket notation on the manual docket sheet attached to the inside of the folder. Copy the case file, print the case history and copy the docket sheet if one exists. Mail the **copy** to the special judge. Maintain the original file in your office.

3. Mail a copy of each additional filing to the special judge. The original pleadings/ documents should be filed in KYCourts and kept with the original record in your office.

4. Under no circumstances should the original file be removed from your office except as outlined in CR 79.05.

Special Judge Numbers

5. When a special judge is appointed in your court:

   a. If the judge appointed is a senior status judge, enter 599999 in the current judge field.

   b. If the judge appointed is a retired district judge, enter 799999 in the current judge field.

   c. If the judge appointed is a retired circuit judge, enter 699999 in the current judge field.

   d. For all other judges appointed, call Research and Statistics Department at AOC to have the number entered into your system.

STATISTICAL INFORMATION
(Circuit and District Courts)

Pending Pre-Computer Cases

1. All pending pre-computer cases must be added to the case management system. Circuit clerks will no longer send blue cards to the department of Research and Statistics.

   a. Refer to the Case Add section of the KYCourts Manual for instructions on opening the case in KYCourts. Use the document type DCF if adding a district case and CCF if adding a circuit case.

      (1) On the case screen, enter the filing date stamped on the original petition, complaint or citation as the filing date and enter the original filing judge. If the original filing judge name and number do not match, enter the retired judge number for the applicable court, i.e., district - 799999 or circuit – 699999 in the open judge field. If the original filing judge has changed, enter the current judge number in the current judge field.

      (2) Complete a party screen for each party in the case.

      (3) Complete a scheduled events screen for any pending court date.

      (4) If the case being opened is a criminal case, complete a charge screen(s).

   (b) If the case is closed, but the blue card has not been sent to Research and Statistics, discard the blue card and close the case screen using the date on the order disposing of the case. In criminal cases, close the charge screen(s) with the “entered” date of the order finding the defendant guilty. Close the sentence and case screen with the “entered” date on the final judgment (the date the defendant is sentenced).

   (c) If the case is not closed, bring to the judge's attention by completing a scheduled events screen for your next court date.

Reopening/Closing of Pre-Computer Cases

2. When a pleading is received that reopens a pre-computer case, refer to Case Add section of the KYCourts Manual to open the case in KYCourts. Do not reopen using the manual docket sheet.

Civil Cases

a. Civil Cases:

(1) Apply the “FILED” stamp to the motion or other document that reopens the case; add the date and your initials.

(2) Complete a case screen using the ORIGINAL case number, filing date, case type, open judge, current judge (if applicable), disposition date, disposition type, judge at disposition.

(3) File all pleadings contained in the court record prior to the date of reopening as one item by completing a document screen using the document code “CCF” Circuit Court File.

(4) Complete a party screen for each party listed in the case file.

(5) Complete a scheduled event screen and attach a motion screen to file the motion that reopened the case. If a document other than a motion reopened the case, file on a document screen.

(6) When a signed order or judgment is received.

(a) Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

(b) Enter the order or judgment on a document screen. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order or judgment as described below.

(c) After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order or judgment that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1); RCr 12.06(1) and (3).

(d) Make an entry on the document screen showing the manner (mail or personal delivery) and date of service of notice of entry of the order or judgment. RCr 12.06.

(7) Reopen and reclose the case statistically. Complete a special status screen as follows:

- STATUS TYPE - Original disposition type
- STATUS DATE - Date motion or other pleading filed
- TERMINATION DATE - Date judgment or order entered
- OPEN JUDGE - Judge assigned to hear motion
- CLOSE JUDGE - Judge who rules on motion

Criminal Cases

b. Criminal Cases:

(1) Apply the “FILED” stamp to the motion or other document that reopened the case; add the date and your initials.

(2) Complete a case screen using the ORIGINAL case number, filing date, case type, open judge, current judge (if applicable), disposition date, and judge at disposition.

(3) File all pleadings contained in the court record prior to the date of reopening as one item by completing a document screen using the document code “CCF” (Circuit Court File).

(4) Complete a party screen for each party listed in the case file.

(5) Complete a defendant information screen.

(6) Complete a charge screen for each charge listed in the file.

(7) Complete a sentence screen for each charge, as appropriate.

(8) Complete a scheduled events screen and attach a motion screen to file the motion that reopened the case on a motion screen. If a document other than a motion reopened the case, file the document on a document screen.

(9) When a signed order or judgment is received:

(a) Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

(b) Enter the order or judgment on a document screen. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order or judgment as described below.

(c) After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order or judgment that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1); RCr 12.06(1) and (3).

(d) Make an entry on the document screen showing the manner (mail or personal delivery) and date of service of notice of entry of the order or judgment. RCr 12.06.

(10) Reopen and reclose the case statistically. Complete a special status screen as follows:

- STATUS TYPE - Original disposition type
- STATUS DATE - Date motion or other pleading filed
- TERMINATION DATE - Date judgment or order entered
- OPEN JUDGE - Judge assigned to hear motion
- CLOSE JUDGE - Judge who rules on motion

c. Make an entry on the manual docket sheet indicating the date the case was transferred to KY Courts. It is not necessary to keep a copy of the manual docket sheet in the case file.

Statistical Codes and Definitions

3. Refer any questions regarding statistical codes and definitions to Research and Statistics at AOC.

Case Types

a. Case Types:

AB -- ADMINISTRATIVE BOARD APPEALS - A petition for review of a decision of an agency, special district or board. It includes cases from such agencies as the Worker's Compensation Board and Public Service Commission, etc.

ADPT -- ADOPTION - A petition to take a child (children) into one's family legally and raise as one's own child.

CHA -- CHILD ABUSE - An action involving a child whose health or welfare is injured or threatened with physical or emotion injury when his parent, guardian or other person does not provide the child with adequate care, supervision, food, clothing, shelter, education or medical care necessary for the child's well-being.

CO -- CONTRACT - An action based upon an agreement, upon sufficient consideration, between two or more person to do or not to do certain things.

COM -- COMMITMENT PROCEEDINGS - Involuntary hospitalization proceedings include the hospitalization of mentally ill and mentally retarded adults.

CR -- CIRCUIT CRIMINAL - A crime punishable by death or imprisonment in the penitentiary.

DCTG – DRUG COURT TRANSFER GUILTY – Used by receiving county, when case containing offense are disposed of as “guilty” and case has been transferred to another county.

DCTD – DRUG COURT TRANSFER DIVERSION – Used by receiving county, when case containing offense(s) are disposed of as “diversion” and has been transferred to another county.

DDP – DENIED DOMESTIC PETITION – Civil proceeding for Denied Domestic Violence Petition.

DE -- DELINQUENCY - Violation of any federal, state, local law or municipal ordinance by a child, which if committed by an adult, would subject such adult to criminal prosecution.

DF -- DOMESTIC & FAMILY - Includes divorce, annulment, separation, and post-divorce hearings.

DIS -- DISABILITY PROCEEDINGS - Include adjudging a person fourteen years of age or older to be mentally or physically disabled to manage his affairs; determination that he is no longer mentally or physically disabled.

DP -- DEPENDENCY - An action involving a child, other than an abused or neglected child, who is under improper care, custody, control or guardianship, that is not due to an intentional act of the parent, guardian or person exercising custodial control or supervision of the child.

DV -- DOMESTIC VIOLENCE - Civil proceeding which allow victims of domestic violence to obtain short/long term protection against further violence.

EX -- EXPUNGED - To obliterate; to strike out.

FCL – FORECLOSURE – A legal procedure by which a mortgage is foreclosed.

FD -- FORCIBLE DETAINER - A district court case involving a landlord's repossession of his property from a tenant.

FE -- FELONY - A crime punishable by death or imprisonment in the penitentiary.

GC -- GUARDIAN/CONSERVATOR - A petition for the appointment of a new guardian/conservator.

MI -- MISDEMEANOR - A crime less than a felony, punishable by fine or imprisonment in a local or regional institution rather than penitentiary.

NEG -- NEGLECT - An action involving a child whose health or welfare is injured or threatened with physical or emotion injury when his parent, guardian or other person does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being.

OTH -- OTHER - Indicates a civil case not specifically designated such as state fiscal suits, writ of prohibition, etc.

PA -- PATERNITY - An action taken to determine a child's father and set support payments.

PB -- PROBATE - Relates generally to the management of financial affairs of the person by another person. Contested wills are the jurisdiction of the circuit court. All other probate matters are handled in district court.

PD -- PROPERTY DAMAGE - An action arising from an injury to property which the plaintiff believes was caused by the defendant.

PI -- PERSONAL INJURY - An action based upon physical and/or emotional injuries which the plaintiff believes was caused by the defendant.

PR -- PROPERTY RIGHTS - Includes land title, right-of-way, and condemnation matters.

SE -- SEALED - Used to close against inspection of the contents.

SG -- SEGREGATED - To separate or isolate from others or from a main body or group. (Only law enforcement records may be statutorily segregated. Court records are not records which may be segregated. York v Commonwealth, Ky. App., 815 S.W. 2d 415 (1991))

SP -- SPECIAL PROCEEDINGS - All other cases in juvenile court, i.e.; mental health proceedings, petition for abortion, etc.

ST -- STATUS - An act or conduct which is declared by statute to be an offense, but only when committed or engaged in by a juvenile, and adjudicated only by a juvenile court, i.e.; running away, truancy.

TR -- TRAFFIC - A serious traffic offense for which a court appearance is mandatory.

REV -- REVIEW OF TREATMENT - A petition for review or modification of treatment.

TPR -- TERMINATION - Indicates termination of parental rights case.

URESA -- URESA/UIFSA - UNIFORM RECIPROCAL ENFORCEMENT SUPPORT ACT - determination of paternity or enforcement of support ordered. Can be filed in district or circuit court.

XI -- CIVIL APPEAL - A complaint to a court of higher jurisdiction of an injustice done or error committed by a court of lower jurisdiction, whose judgment or decision the court above is called upon to correct or reverse.

XR -- APPEAL CRIMINAL - A complaint to a court of higher jurisdiction of an injustice done or error committed by a court of lower jurisdiction, whose judgment or decision the court above is called upon to correct or reverse.

Charge Disposition Types

b. Charge Disposition Types:

ACC -- AMENDED DOWN BY CIRCUIT COURT - An action taken by circuit court to change an offense to a lesser degree resulting in a possible decrease in penalty.

ACQ -- ACQUITTED - Legal and formal certification commonwealth did not prove the guilt of a person charged with a crime.

AD -- AMENDED DOWN - To change an offense to a lesser degree resulting in a possible decrease in penalty.

AFF -- AFFIRMED - Circuit court upheld decision/verdict rendered in district court case. USED IN CIRCUIT COURT CASES ONLY

AGJ -- AMENDED DOWN BY GRAND JURY - An action taken by the grand jury to change an offense to a lesser degree resulting in a possible decrease in penalty.

AMEND -- AMENDED - To change an offense back to original offense or amended to offense equal in penalty.

AP -- ADMINISTRATIVE PROCEDURE - (1) Use to dispose of a charge entered for "BA Refusal;" (2) Use to temporarily dispose of charge(s) in a circuit criminal case where a warrant/summons on indictment has not been served within 60 days from filing date.

AU -- AMENDED UP - To change an offense to a greater degree resulting in a possible increase in penalty.

AUGJ -- AMENDED UP BY GRAND JURY - An action taken by the grand jury to change an offense to a greater degree resulting in a possible increase in penalty.

CAD -- DISMISSAL BY MOTION OF PROSECUTOR - County or commonwealth attorney has requested judge to dismiss offense.

CHR -- COMMITMENT OF JUVENILE TO CHR - Custody and control of minor child is the responsibility of the Cabinet for Human Resources NOW KNOWN AS (Cabinet for Health and Family Services) by court order.

DD -- DISMISSED-DIVERTED - Successfully completed the provisions of a specific pretrial diversion agreement for “Class D felony offense. USED IN CIRCUIT COURT CASES ONLY.

DEC -- DECEASED - Defendant died before disposition of an offense.

DEN -- DENIED - To refuse to grant a petition or protest.

DGJ -- DISMISSED AFTER PRESENTED TO GRAND JURY - An action taken by grand jury to halt proceeding against an individual offense.

DIS -- DISMISSED - To put an action out of court by order of judge.

DIV -- DIVERSION - In circuit court used as a temporary disposition for Class “D” felony diversion; in district court used as a temporary disposition if charge is to be dismissed after successful completion of diversion. May be used as final disposition if charges are not to be dismissed. Diversion is an action or instance of diverting a defendant from a court proceeding in order to avoid a conviction for a first time offender for a violation, misdemeanor or felony charge.

DJJ -- COMMITMENT OF JUVENILE TO DJJ - Custody and control of minor is the responsibility of the Department of Juvenile Justice by court order.

ENH -- ENHANCED - To indicate penalty increases for the amount of time defendant is sentenced to prison or primary charge.

EXT -- EXTRADITION - Defendant delivered to another jurisdiction, i.e., another county, state or federal agency, as a result of an outstanding warrant presented to your district or circuit court.

FTA -- FAILURE TO APPEAR - Temporary closing - Defendant failed to appear at a hearing. Failure to appear notice sent to the Transportation Cabinet.

FTV -- FUGITIVE - Temporary closing - Defendant failed to show at a scheduled hearing during the course of a case, bench warrant issued for arrest.

G -- GUILTY - Finding by judge or jury that defendant did commit a crime.

GDJ -- GRAND JURY - Preliminary hearing held and judge found probable cause or defendant waived preliminary hearing and charges bound over to the grand jury.

GM -- GUILTY-MULTIPLE COUNTS - NOT USED

GNT -- GRANTED - To allow a petition or protest.

GSS -- GUILTY-SEALED SENTENCE - NOT USED

HNG -- HUNG JURY - A jury so irreconcilably divided in opinion that they cannot agree upon any verdict.

HOS -- HOSPITAL - JUVENILE ONLY - Mental Health case where juvenile is hospitalized.

INC -- INCOMPETENT TO STAND TRIAL - As a result of a mental condition, lack of capacity to appreciate the nature and consequences of the proceedings against one or to participate rationally in one’s own defense.

IND -- INDICTED - Grand jury believes the defendant more than likely committed the alleged crime as charged.

INF -- INFORMAL JUDGMENT - Used in district juvenile cases that do not result in formal commitment to a state or local agency. i.e.; when custody is entrusted to a relative.

MER -- MERGED - To be combined or united into one.

MST -- MISTRIAL - A trial of an action which cannot stand in law.

NG -- NOT GUILTY - A finding by judge or jury to the offense charged.

NGJ -- NO ACTION TAKEN BY GRAND JURY - Grand jury took no action on alleged charges against a defendant.

NTB -- NO TRUE BILL RETURNED BY GRAND JURY - Used to indicate the grand jury did not indict, no judgment of dismissal was entered, and no further action is expected.

OTH -- OTHER - Used when no jail or probation time, fine, or state traffic school attendance is imposed, but some action is taken. Use in juvenile cases that result in commitment to agencies other than the Cabinet for Human Resources N.A. Cabinet for Health and Family Services (i.e.; Comprehensive Care, YMCA).

PAR – PARDON – PRIOR TO ADJUDICATION ONLY – Executive Order of Pardon prior to judgment.

PCB -- PEACE BOND - NOT USED.

PTD -- PRETRIAL DIVERSION - The official suspension of criminal proceedings against a defendant at any point after a recorded filing but before entering a judgment and referral of the person to a treatment or care program.

PRPD -- PREPAYABLE CITATION PAID - Prepayable fees paid by a defendant cited for prepayable offenses prior to court date.

REM -- REMANDED - Remanded district court appeal XX case: Used when case is reversed and/or remanded. DO NOT USE REMAND FOR transferring CR cases; to continue a case generally or to remove a case from the docket.

REV -- REVERSED - To change the judgment rendered by a lower court. USED IN CIRCUIT COURT CASES ONLY.

SAV -- SET ASIDE/VOIDED - To cancel, annul, or revoke a judgment. Can be used as temporary or final disposition.

SR -- SEALED RECORD - Fastened up in a specific manner so as to be closed against inspection of the contents.

TRF -- TRANSFERRED - Used when case transferred from one jurisdiction to the other or when a change of venue is ordered.

TRFD – DRUG COURT TRANSFER – Used in originating county, indicating the defendant is currently placed in “drug court” diversion and the case has been transferred to another jurisdiction for monitoring purposes.

VAC -- VACATED JUDGMENT - Used in circuit criminal cases when motion is upheld for 11.42.

SUBPOENAS
CR 45; RCr 7.02; 13.04

1. Issue a subpoena to the requesting party with your signature only, leaving the blanks to be completed by the party. CR 45.01, 45.02, RCr 7.02. You may use AOC Form 025.

2. Do not make a docket entry for the issuance of blank subpoenas.

3. When a return is made on a subpoena, complete a document screen using "RS" Return of Subpoena as the document type and the file stamp date as the filing date. Enter the service date and the name of the party served in the memo field.

4. Do not file returns on civil subpoenas unless otherwise ordered by the court. CR 5.06(1)(d).

Note: Any attorney licensed to practice in this state may issue and sign a subpoena on behalf of the Court. However, criminal subpoenas must be issued by the court.

TERMINATION OF PARENTAL RIGHTS
KRS 625.020 - .120; 625.0405
(Circuit Court or Family Court Division of Circuit Court)

1. Termination cases are confidential. Pending case files and records are not open for inspection by anyone except:

   a. The parties;

   b. Their attorneys; and

   c. The Cabinet for Health and Family Services.

2. A petition for termination of parental rights shall be styled "In the Interest of _____, a minor child. For this reason, the Cabinet for Health and Family Services will not be listed as the petitioner.

3. You may not disclose the names of the parties or furnish any copy of the records except on court order. KRS 625.045(2), 625.108(2).

4. If you receive AOC Form 350, Order and Affidavit of Indigency, prior to a petition for termination of parental rights being filed:

   a. Apply the "FILED" stamp to the affidavit; add the date and your initials.

   b. Immediately deliver the affidavit to the circuit judge who, upon a finding of indigency, must make an appointment within 48 hours.

   c. When an order is received, apply the "ENTERED" stamp; add the date and your initials.

   d. If the order approves the appointment of counsel, have the judge appoint an attorney or you may make the appointment if the judge has delegated this authority to you.

   e. Mail a copy of the order of appointment to the attorney, CHFS and the indigent parent(s).

   f. File the affidavit and order(s) in the General/Administrative Order File. Make an entry of the documents on the docket sheet attached to the inside of the file folder.

Voluntary Termination

5. When a petition for Voluntary Termination of Parental Rights is received. KRS 625.040 (Circuit Court)

a. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: The statute requires a termination of parental rights petition be styled "In the Interest of _____, a minor child." For this reason, the Cabinet for Health and Family Services will not be listed as the petitioner; however, the filing fee is not applicable since they are filing the action. KRS 625.040(1).

City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

Voluntary Petition

b. Apply the "FILED" stamp to the petition, add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. In the confidential "CO" division, generate the next case number for adoption/termination "AD" or use the next prenumbered file folder.

Hearing

c. Assign a hearing date, to be held within 30 days of the filing of the petition, as directed by the court. Use AOC Form 030, Order Setting Trial/Hearing. Complete a scheduled events screen. Serve notice on local Cabinet for Health and Family Services (CHFS) representative if no statement is filed with the petition that CHFS will accept custody or if custody is to be placed with an individual and CHFS has not approved the placement. KRS 625.042(2).

Summons Issuance

d. The summons and the petition shall be served together. The party requesting the summons shall furnish sufficient copies of their pleadings for this purpose. CR 4.04(1), 14.01.

e. The initiating party will instruct whether service of the summons is by certified mail or personally delivered by the sheriff or other authorized person. CR 4.01(1).

Certified Mail Service

f. If service by Certified Mail is requested:

(1) Attach a copy of the petition to the summons. CR 4.04(1).

(2) Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

(3) Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the complaint and summons by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

Personal Service

g. If service is by the sheriff or other serving officer. CR 4.01(1)(b):

(1) Make a copy of the summons. Give the plaintiff the 2 summons with a copy of the petition attached to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

(2) Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Guardian Ad Litem

h. A guardian ad litem will be appointed to represent the child.

(1) Consult your roster of attorneys and make an appointment unless your judge wishes to make these appointments.

(2) Prepare AOC Form 115, Appointment of Guardian Ad Litem. Apply the "FILED" stamp; add the date and your initials and enter on a document

screen. Attach a copy of the summons and complaint to be served on the child through the Guardian Ad Litem. A copy of the order is also given to the attorney for the plaintiff and all other parties.

(a) If a guardian ad litem is not appointed when the complaint is filed, the court, not the clerk, appoints a guardian ad litem to defend the action. You may make this appointment only when the judge is not present in the county. CR 17.03(2).

(3) Complete a party screen for the guardian ad litem.

Return of Service

i. When a Return of Service is received:

(1) Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

(2) Personal Service

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

j. A civil summons may be issued and served on Sundays and holidays KRS 454.125.

k. When motions and other pleadings are filed in the case, apply the "FILED" stamp; add the date and your initials and complete the appropriate screen.

l. When a hearing or trial is scheduled complete a scheduled events screen.

m. When a signed order is received:

(1) Apply the "ENTERED" stamp to the order; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the order on the document screen, including a brief description. This notation constitutes entry of the order; the order does not become effective until this is done. RCr 11.04.

(3) After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order that has been stamped entered and mail or hand deliver it to the party or attorney. RCr 77.04(1), RCr 12.06(1)(3).

(4) Make an entry on the document screen showing the manner and date of the service of the notice of entry of the order. RCr 12.06.

Send a certified copy of the final order to the petitioner and to:

Cabinet for Health and Family Services
Adoption
Sixth Floor West
275 East Main Street
Frankfort, KY 40621.

KRS 625.045(1).

n. When an order closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

Sealing the File

o. When the final order is entered, place the court file in a suitable envelope and seal it. Note the case number on the outside of the envelope and place in numerical order in a locked cabinet. These cases are not to be opened by anyone except on written court order of the court which entered the final order. In the event of a court order to open a record, note the order on the envelope with the date of the order and your initials. The Cabinet for Health and Family Services and others as authorized by KRS Chapter 199, Adoptions, may open the record without a court order. KRS 625.045(2).

Involuntary Termination

6. When a petition for Involuntary Termination of Parental Rights is received: KRS 625.050. (Circuit Court)

a. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless

the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: The statute requires a termination of parental rights petition be styled "In the Interest of _____, a minor child." For this reason, the Cabinet for Health and Family Services will not be listed as the petitioner; however, the filing fee is not applicable since they are filing the action. KRS 625.050(1).

City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

Involuntary Petition

b. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts Manual of instructions on opening the case. In the confidential "CO" division, generate the next case number for adoption/termination "AD" or use the next prenumbered file folder.

Guardian Ad Litem/Public Advocate

c. A guardian ad litem will be appointed to represent the child, and counsel may be appointed pursuant to KRS Chapter 31 to represent either parent who is a party who is indigent. KRS 625.080(2), (3).

(1) To appoint the guardian ad litem for the child, consult your roster of attorneys and make an appointment unless your judge wishes to make these appointments.

(a) Prepare AOC Form 115, Order Appointment of Guardian Ad Litem. Apply the "FILED" stamp; add the date and your initials and enter on a document screen. Attach a copy of the summons and petition to be served on the child through the Guardian Ad Litem. A copy of the order is also given to the attorney for the plaintiff and all other parties.

If a guardian ad litem is not appointed when the complaint is filed, then the court, not the clerk, appoints a guardian ad litem to defend the action. You may make this appointment only when the judge is not present in the county. CR 17.03(2).

(b) Complete a party screen for the guardian ad litem.

(2) If the court orders the appointment of a public advocate for the parent, proceed to Public Advocate Appointments section.

Issuance of Summons

d. Service of the summons must be made by personal service or by constructive service where personal service is not possible. KRS 625.070(1).

Summons by Personal Service

(1) Make a copy of the summons. Give the two summonses to the plaintiff with a copy of the petition attached to the copy of the summons and instruct the plaintiff to deliver them to the sheriff or other serving officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2). Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Warning Order

(2) If constructive service is requested, a complaint/affidavit will be filed with you stating the reason the defendant cannot be served with a summons and the defendant's last known address or affiant's ignorance of such fact:

(a) Consult your roster of attorneys and make the appointment. You may not appoint the plaintiff or the attorney and these persons may not suggest anyone for the appointment. CR 4.07(1).

(b) Prepare the warning order form; apply the "FILED" stamp; add the date and your initials. Make a copy and attach to a copy of the petition and deliver to the warning order attorney. Do not issue a summons.

(c) File the warning order by completing a document screen.

(d) Complete a party screen for the warning order attorney.

Return of Summons

e. Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

f. When motions and other pleadings are filed in the case, apply the "FILED" stamp, add the date and your initials and complete the appropriate screen. When a hearing or trial is scheduled complete a scheduled events screen.

g. When a signed order is received:

(1) Apply the "ENTERED" stamp to the order; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the order on the document screen, including a brief description. This notation constitutes entry of the order; the order does not become effective until this is done. RCr 11.04.

(3) After the order is entered, serve notice of entry on every party who is not in default or who has not filed a written waiver of notice by making a copy of the order that has been stamped entered and mail or hand deliver it to the party or attorney. RCr 77.04(1), RCr 12.06(1)(3).

(4) Make an entry on the document screen showing the manner and date of the service of the notice of entry of the order. RCr 12.06.

Send a certified copy of the final order to the petitioner and to:

Cabinet for Health and Family Services
Adoption
Sixth Floor West
275 East Main Street
Frankfort, KY 40621.

KRS 625.108(1).

h. When an order closes the case, complete the disposition date, disposition type, and judge at disposition fields on the case screen.

File Sealed

i. When the final order is entered, place the court file in a suitable envelope and seal it. Note the case number on the outside of the envelope and place in numerical order in a locked cabinet. These cases are not to be opened by anyone except on written court order of the court which entered the final order. In the event of a court order to open a record, note the order on the envelope with the date of the order and your initials. The Cabinet for Health and Family Services and others as authorized by KRS Chapter 199, Adoptions, may open the record without a court order. KRS 625.108(2).

j. An appeal may be taken in accordance with the Rules of Civil Procedure. KRS 625.110.

TEMPORARY INJUNCTIONS AND RESTRAINING ORDERS
(Circuit Court)
CR 65

1. Temporary injunctions and temporary restraining orders are emergency orders to prevent immediate and irreparable injury, loss or damage in a pending circuit court action.

2. A temporary injunction is issued on motion after notice and hearing, and may restrict or direct the doing of an act.

3. A temporary restraining order may be issued without notice to the adverse party, and can only restrict the doing of an act.

4. Clerks may not sign temporary injunctions or temporary restraining orders.

Temporary Injunctions

5. When a motion for Temporary Injunction is received:

   a. Apply the "FILED" stamp to the motion; add the date and your initials. File the motion by completing a motion screen and note the hearing on the calendar by completing a scheduled events screen.

   b. If the court issues the injunction, take the applicant's surety bond in the amount set by the court. The surety's address must appear on the bond. CR 65.05.

      (1) Require the surety to make an affidavit to show qualification. KRS 454.180, 454.185. Taking the affidavit relieves you of liability for taking insufficient surety if the financial information is falsified. Commonwealth vs. Lewis, 181 Ky. 804, 205 S.W. 921 (1918). The surety must:

         (a) Be a resident of Kentucky.

         (b) Be worth double the sum to be secured, beyond debts.

         (c) Have property in Kentucky, not exempt from execution, equal to the amount of bond.

      (2) Refuse any surety if you are in doubt as to their sufficiency to cover the amount of bond. If your judge orders you to take a bond you must do so; the order protects you from liability for taking an insufficient bond.

(3) Collect a bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. Apply the "FILED" stamp; add the date and your initials and file the bond by completing a document screen.

c. Enter the signed injunction:

(1) Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the injunction on the document screen including a brief description. This docket notation constitutes entry of the injunction. The injunction does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the injunction as described below.

(3) Serve notice of entry of the injunction on the parties by making a copy of the injunction that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1)(3).

(4) Enter on the document screen the method (mail or personal delivery) and date of service of notice of entry of the injunction. RCr 12.06.

Temporary Restraining Orders

6. When you receive a Verified Complaint or Affidavit:

a. Apply the "FILED" stamp to the verified complaint or affidavit; add the date and your initials and file by completing a document screen. Immediately deliver the verified complaint or affidavit to a judge or trial commissioner, following this order of priority:

(1) A circuit judge of the court in which the action is pending;

(2) If no such judge is present in the county, then a district judge of that judicial district;

(3) If no such judge is present in the county, then a district court trial commissioner of that county if he/she is an attorney;

(4) Any circuit judge may act if no circuit judge of the court in which the action is pending is present in his/her judicial circuit. CR 65.03(2).

b. If the judge issues the restraining order, take the applicant's surety bond in the amount set by the court. The surety's address must appear on the bond. CR 65.05.

(1) Require the surety to make an affidavit to show qualification. KRS 454.180, 454.185. Taking the affidavit relieves you of liability for taking insufficient surety if the financial information is falsified. Commonwealth vs. Lewis, 181 Ky. 804, 205 S.W. 921 (1918). He/She must:

(a) Be a resident of Kentucky.

(b) Be worth double the sum to be secured, beyond debts.

(c) Have property in Kentucky, not exempt from execution, equal to the amount of bond.

(2) Refuse any surety if you are in doubt as to their sufficiency to cover the amount of bond. If your judge orders you to take a bond you must do so; the order protects you from liability for taking an insufficient bond.

(3) Collect a bond filing fee as set forth in the Fees and Costs section of this manual and give a receipt. Apply the "FILED" stamp; add the date and your initials and file the bond by completing a document screen.

c. Enter the restraining order:

(1) Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the order on a document screen, including a brief description. This docket notation constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order as described below.

(3) After the order is entered, serve notice on every party not in default or who has not waived notice by making a copy of the order stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

(4) Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of the order. RCr 12.06.

d. Give the sheriff or other serving officer two copies of the temporary restraining order for each person being served. One copy will be for the officer's return. If you are issuing the restraining order when the action is begun, attach a copy of the order to the summons along with the complaint. CR 65.03(4).

e. When a return of service is received; apply the "FILED" stamp to the return, add the date and your initials. Enter the return information in the memo field of the document screen where the restraining order is entered.

TENDERED DOCUMENTS

1. When a tendered document is received, apply the “TENDERED" stamp; (or write the word "TENDERED") add the date and your initials.

2. If the tendered document is attached to a motion, make a notation of the tendered document in the memo field of the motion screen.

3. If the document is tendered alone, complete a document screen using the document code "TD".

4. If the court later allows the tendered document to be filed, apply the "FILED" stamp (or “ENTERED” stamp if the document is an order or judgment); add the date and your initials. Complete a new document screen and move the document from its present location in the case file to the next item.

THIRD PARTY COMPLAINT
CR 14.01

1. When you receive an order allowing the filing of a third party complaint, apply the "ENTERED" stamp; add the date and your initials. File by completing the document screen.

Filing Fees

2. Filing Fees. Collect filing fees as set forth in the Fees and Costs section of this Manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

> **NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.**

Complaint

3. Apply the "FILED" stamp to the third party complaint; add the date and your initials and enter on a document screen. Complete a party screen(s) for new parties added.

> **NOTE: Complainant must file enough copies of both the original complaint and the third party complaint for service on each new party added. CR 4.04(1). Collect the required copying fee as set forth in the Fees and Costs section of this manual if you make these copies. KRS 23A.200(2)(c); 24A.170(2)(c).**

Summons

4. Issue a Third Party Summons for each party to be served by completing AOC Form 120, Third Party Summons. Complete a summons screen for each third party summons issued.

Service of Summons

5. The party filing the third party complaint will decide if service is to be made by certified mail or personally delivered by sheriff or other authorized person. CR 4.01(1).

Certified Mail Service

6. If service by certified mail is requested:

   a. Attach both a copy of the original complaint and a copy of the third party complaint to the summons. CR 14.01.

   b. Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the documents by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a). IN ORDER TO ACCOMPLISH PROPER SERVICE, YOU MUST CHECK THE RESTRICTED DELIVERY BOX ON THE RETURN RECEIPT (GREEN CARD).

   c. Service under the long-arm statutes. Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two attested copies of the complaint and summons by certified mail to:

      Secretary of State
      Commonwealth of Kentucky
      Capitol Building
      Frankfort, KY 40601

Personal Service

7. If service is by the sheriff or other serving officer:

   a. Make a copy of the third party summons. Give the plaintiff the 2 summons, with a copy of the third party complaint and the original complaint attached to the copy of the summons. Instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

   b. Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Return of Service

8. When a return of Service is received;

Certified Mail Return

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date field of the summons screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. THE SERVICE DATE FIELD IS NOT COMPLETED ON A SUMMONS SCREEN WHEN SERVICE IS THROUGH THE SECRETARY OF STATE.

Personal Service Return

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

9. A civil summons may be issued and served on Sundays and holidays KRS 454.125.

UIFSA UNIFORM INTERSTATE FAMILY SUPPORT ACT
(Circuit or Family Court Division of Circuit Court or District Court)
KRS Chapter 407

1. UIFSA actions may be filed in either district, circuit or family court. KRS 407.5102. There are no filing fees in a UIFSA action.

   EXCEPTION: When the petition includes a request for the establishment of paternity, file the case in the Juvenile "J" section of district court. For instructions on filing a paternity case, proceed to Paternity Proceedings section. Use case type "PA".

Initiating Court

2. When your Court is the Initiating Court:

   a. Assign to a division using the procedure in your local court rules.

   b. Apply the "FILED" stamp to the verified petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number or use the next pre-numbered file folder for district civil ("C") or circuit civil ("CI") cases.

   c. Open and close the case at the same time using a case type code of "UR" and disposition type "TRF".

   d. Forward three (3) copies each of the verified petition and its accompanying documents to the responding state's tribunal or appropriate support enforcement agency in the respondent's state, if known; or, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged. Your county attorney should provide you with the address.

   e. If you receive a court order entered in the responding court, apply the "FILED" stamp; add the date and your initials and file the order by completing a document screen. Give a copy to the county attorney.

Responding Court

3. When your Court is the Responding Court:

   a. You will receive three copies of a verified petition and any accompanying documents from the initiating court. Mail or hand deliver a copy to your county attorney.

b. Assign to a division using the procedure in your local court rules.

c. Apply the "FILED" stamp to the verified petition; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number or use the next pre-numbered file folder for district civil ("C") or circuit civil ("CI") cases. Use case type “UR”.

d. When a hearing is scheduled in the case, complete the scheduled events screen for the appropriate date.

- Notify the petitioner where and when the petition was filed. KRS 407.5305(1). Copy the petition that has been stamped “FILED” and mail to the petitioner.

e. Print a summons for the respondent and make a copy. Attach a copy of the petition and/or other documents to be served to the copy of the summons and deliver to the sheriff for service. CR 4.01(1)(b).

(1) Do not make a copy of the summons for the case file; the sheriff's return will provide a copy. CR 4.01(1)(b).

f. When a return of service is received:

(1) Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen.

g. A civil summons may be issued and served on Sundays and holidays KRS 454.125.

h. When a signed judgment or order is received:

(1) Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

(2) Enter the judgment or order on the document screen, including a brief description. This constitutes entry of the judgment and order; the judgment or order does not become effective until this is done. RCr 11.04.

(3) Serve notice of entry on the parties by making a copy of the judgment or order that has been stamped "ENTERED" and mail or hand deliver it to the parties or attorney. CR 77.04(1) RCr 12.06(1) and (3). The method of service and date of service must be filled in on the document screen.

(4) If the judgment or order includes child support (AOC Form 152, Uniform Child Support Order), place a copy of the order in a designated area (box or basket) in your office for the Cabinet for Health and Family Services. AOC Form 152 is a mandatory form.

(5) In addition to the parties in the case, mail a copy to the initiating court.

i. When the judgment or order closes the case, complete the disposition date, disposition type, and the judge at disposition fields on the case screen.

Registration of Support Order
Registration of Income-Withholding Order

4. When you receive a registration of Support Order or registration of Income-Withholding Order: KRS 407.5602

a. You will receive a letter of transmittal requesting registration and enforcement, two copies, including one certified copy, of all orders to be registered including any modification, and a sworn statement by the party seeking registration OR a certified statement by the custodian of the records showing the amount of any arrearage. The order is the initiating document. Give a copy to your county attorney. (You should file the document you receive for registration regardless of form.)

b. Assign to a division using the procedure in your local court rules.

c. Do not collect filing fees. Apply the "ENTERED" stamp to the order; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number or use the next pre-numbered file folder for district civil ("C") or circuit civil ("CI") cases.

d. File on a document screen. Use document type “OSUPW”. Open and close at the same time using a case type code of “OTH” and a disposition type “OTH”.

e. When the support order includes a request for the establishment of paternity and a paternity judgment is entered, seal the judgment in an envelope and place in the file. Memo in the memo field of the document screen where the judgment is entered, "SD" Sealed Document.

Notice of Registration

f. The county attorney will provide you with Form CS-158, Notice of Registration of Order. Apply the "FILED" stamp; add the date and your initials. Attach a copy of the registered order and any documents and relevant information accompanying the order. Mail to the respondent/obligor by regular first class

mail. File the notice and affidavit by completing a document screen. Use document type “NAFS”.

g. Upon registration of an income-withholding order for enforcement, notify the obligor’s employer by mailing a copy of the registered order.

h. If a petition to vacate the registration is filed by the respondent/obligor, file same by completing a document screen. Use document type “MIS”

5. A petition for Modification of a Foreign Support Order may be filed at the same time as a request for registration, or later. Follow the procedures outlined in paragraph 3 above, Responding Court.

UNIFORM CASE MANAGEMENT STANDARDS

SUPREME COURT OF KENTUCKY

In Re: Uniform case management standards

To establish uniformity in the filing of criminal charges throughout Kentucky, it is the policy of the Court of Justice to open one (1) case file and assign one (1) case number when two (2) or more offenses, whether felonies, misdemeanors, violations, or any combination thereof are charged in the same or related indictment, information, served criminal complaint or citation, where the offenses are of the same or similar character or are based on the same acts or transactions connected together or constituting parts of a common plan or scheme. The foregoing shall be effective on January 1, 1999.

ENTERED: December 21, 1998.

Joseph E. Lambert
Chief Justice

UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)
(REGISTRATION OF FOREIGN CHILD CUSTODY ORDER)
(Circuit Court or Family Court Division of Circuit Court)
KRS Chapter 403

Registration Of Order

1. When you receive a letter or other documentation requesting registration of a foreign custody order together with two copies of the foreign custody order (one of which must be a certified copy) and a statement:

   a. Apply the "FILED" stamp to the letter or other documentation and the statement; add the date and your initials. Apply the "ENTERED" stamp to the certified copy of the custody order; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for circuit civil ("CI") cases or use the next pre-numbered file folder.

      NOTE: If you have a dissolution or child custody proceeding in your court, file the documents in that case by completing a document screen.

   b. Do not collect a filing fee. do not issue a summons. Collect certified mail fee as set forth in the Fees and Costs section of this manual from the party requesting registration.

      NOTE: If the non-registering party is a non-resident, collect additional fees for the Secretary of State as set forth in the Fees and Costs section of this manual.

   c. Give notice of the registration of the foreign custody order by completing AOC Form 165, Notice of Registration of Foreign Child Custody Order. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen. Attach the remaining copy of the foreign custody order to a copy of the Notice of Registration of Foreign Child Custody Order and mail by certified mail, return receipt requested to the non-registering party.

      Certified Mail Service

      (1) Mail the notice of registration and custody order by certified mail, return receipt requested, with instructions to deliver to addressee only and to show the address where delivered and the date of delivery on the return receipt. CR 4.01(1)(a)**.** In order to accomplish proper service, you must check the restricted delivery box on the return receipt (green card).

(a) Service under the long-arm statutes:

Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If the non-registering party is a non-resident, serve the custody order and notice of registration by this method. Collect a fee for the Secretary of State as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b), (c). Mail two copies of the custody order with the notice of registration by certified mail to:

Secretary of State
Commonwealth of Kentucky
Capitol Building
Frankfort, Kentucky 40601

Return of Service

(2) When Return of Service is received:

(a) Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the memo field of the document screen where the custody is entered.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of document screen where the custody order is entered. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the document screen where the custody order is entered.

d. A party has twenty (20) days from the receipt of the notice to contest the registration. Create a tickler system for thirty (30) days from the day the notice is mailed by completing a scheduled events screen. At the end of the thirty days, if no objection is filed, the registration is confirmed. Complete AOC Form 166, Confirmation of Registration of Foreign Child Custody Order and deliver to the judge for signature. When the signed Confirmation is received, apply the "ENTERED" stamp; add the date and your initials and file by completing a document screen. Mail a copy by first class mail to all parties named in the registration.

e. At the end of the thirty day period referred to in d. above, if no objection is received, close the case by completing the disposition date, disposition type and judge at disposition fields on the case screen.

Judicial Proceedings

2. If a petition or motion for enforcement is filed with the foreign custody order, or at a later time:

a. Apply the "ENTERED" stamp to the certified copy of the custody order (if the order has not already been entered) and apply the "FILED" stamp to the petition or motion; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for Circuit Civil "CI" cases or use the next pre-numbered file folder.

NOTE: If a petition or motion to initiate judicial proceedings is filed after the child custody order has been registered, file pleadings initiating judicial proceedings in the same file as the registration of the foreign custody order.

b. Collect filing fees as set forth in the Fees and Costs Section of this manual and give a receipt. Do not process the petition or motion until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

c. If notice of the registration of the foreign custody order has not already been given, complete AOC Form 165, Notice of Registration of Foreign Child Custody Order. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen.

NOTE: Collect certified mail fees as set forth in the Fees and Costs section of this manual from the party requesting registration. If the non-registering party is a non-resident, collect additional fees for the Secretary of State as set forth in the Fees and Costs section of this manual.

Attach the remaining copy of the foreign custody order to a copy of the Notice of Registration of Foreign Child Custody Order and mail by certified mail, return receipt requested to the non-registering party.

d. A party has twenty (20) days from receipt of the notice to contest the registration. Create a tickler system for thirty (30) days from the day the notice is mailed by completing a scheduled events screen. At the end of the thirty days, if no objection is filed, the registration is confirmed. Complete AOC Form 166, Confirmation of Registration of Foreign Child Custody Order and deliver to the judge for signature. When the signed Confirmation is received, apply the "ENTERED" stamp; add the date and your initials and file by completing a document screen. Mail a copy by first class mail to all parties named in the registration.

Objection to Registration

3. If you receive an objection to the registration of the foreign custody order:

   a. Apply the "FILED" stamp; add the date and your initials and file by completing a document screen. Deliver the case file to the judge. If the court orders a hearing, complete a scheduled events screen. Print a Court Notice/Notice of Hearing from the Court Notice document screen in KYCourts and mail by first class mail to all parties named in the registration.

   b. When a signed confirmation or order is received, apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp. Enter the confirmation or order on the document screen. Include the notice of entry method and notice of entry date. This constitutes entry of the confirmation or order.

   c. After entry of the confirmation or order, serve notice of entry on all parties to the proceeding by making a copy of the confirmation or order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1).

   d. If the judgment or order includes child support (AOC Form 152, Uniform Child Support Order), place a copy of the order in a designated area (box or basket) in your office for the Cabinet for Health and Family Services. AOC Form 152 is a mandatory form.

4. If you receive a warrant or court order to take physical custody of a child, apply the "FILED" or "ENTERED" stamp, as appropriate; add the date and your initials. File by completing a document screen. Use document type “OCUS”. Give two copies of the warrant or order to the sheriff or other law enforcement officer for service.

5. When you receive an order that closes the case, complete the disposition date, disposition type and judge at disposition fields on the case screen.

6. If you receive an affidavit or other pleading alleging the health, safety or liberty of a party/child would be jeopardized by disclosing identifying information, place the information designated in the affidavit or other pleading in a suitable envelope and seal the envelope. Apply the "FILED" stamp to the envelope; add the date and your initials. If a request to review the case file is received, remove the envelope from the case file.

   - Do not release the sealed envelope from your custody except when actually used in the action or proceeding and do not unseal the information unless the court orders you to do so.

UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS ACT
(DISTRICT COURT)
KRS 287

Request from out of state court

Upon receipt of an order from another State Court requesting District Court to perform a duty regarding adult guardianship and/or adult protective proceedings, apply the "FILED" stamp; add the date and your initials. Add the case per instructions in the KYCourts User Manual using case number type "H".

Guardian or Conservatorship or Issuance of an Adult Protective Order Transferred to Another State

1. Upon receipt of a motion of a guardian or conservator appointed in district court to transfer the guardianship or conservatorship to another state, apply the "FILED" stamp; add the date and your initials. Complete a scheduled event screen. Distribute per distribution list.

2. Upon receipt of an order granting or denying the motion to transfer the guardianship or conservatorship apply the "ENTERED" stamp, add the date and your initials. Complete a document screen using document code "OG" or "OD". The court will order the guardian or conservator to petition for guardianship or conservatorship in the other state.

3. Upon receipt of a provisional order accepting the proceeding from the court to which the proceeding is transferred, apply the "FILED" stamp; add the date and your initials. Complete a document screen using document code "OO" and memo "Order Accepting Transfer". Deliver the file to the district judge.

4. Upon receipt of an order confirming the transfer and terminating the guardianship or conservatorship, apply the "ENTERED" stamp, add the date and your initials. Complete a document screen using document code "OO" and memo "Order Confirming Transfer and Terminating the Guardianship or Conservatorship."

Guardianship or Conservatorship or Issuance of a Protective Order Transferred to this State

1. Upon receipt of a petition to transfer a guardianship or conservatorship to this state, apply the "FILED" stamp, add the date and your initials. Collect the appropriate filing fee set forth in the fees and section of the accounting manual. Complete a scheduled event screen. Distribute per distribution list. Refer to the Case Add section of the KYCourts User Manual for instruction on addition a case.

2. Upon receipt of an order accepting the petition and appointing the guardian or conservator as guardian or conservator in this state to transfer the proceeding, apply the “ENTERED” stamp, add the date and your initials.

3. Upon receipt of an order denying the petition to accept the guardianship or conservatorship of another state, apply the “ENTERED” stamp, add the date and your initials. Complete a document screen using document code “OD”.

> **Note: An order denying the petition does not affect the ability of the guardian or conservator to seek appt. in the state by filing a petition for guardianship or conservatorship.**

Registration of a Foreign Guardianship Order

Receive and file as a foreign judgment.

Registration of a Foreign Protective Order

Receive and file as a foreign judgment.

> **Note: This allows the out of state guardian to enforce property rights of the ward in Kentucky.**

UNIFORM VETERANS' GUARDIANSHIP ACT
KRS 388
(District Court)

1. Do not collect a filing fee.

2. A jury trial is not required but may be requested. KRS 388.250.

3. Apply the "FILED" stamp to the petition; add the date and your initials.

4. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number for "H" Health cases or use the next pre-numbered file folder.

5. Present the petition for appointment of fiduciary to the judge for approval. KRS 388.270.

6. If a bond is ordered by the court, apply the "FILED" stamp to the bond; add the date and your initials. AOC Form 825, Fiduciary Bond, may be used for this purpose. File the bond by completing a document screen. Use document type “BF”. The bond must be posted before the order of appointment of fiduciary is entered.

7. When the Order of Appointment of Fiduciary is received and when the bond has been posted, (if one is required), apply the "ENTERED" stamp to the order; add the date and your initials and complete a document screen. Use document type “OFID”. Give notice of entry to the attorney or the fiduciary if not represented.

8. When the order closes the case complete the disposition date, disposition type and judge at disposition fields on the case screen.

9. Do not advertise appointments or accountings. KRS 395.610(2).

10. A biennial accounting shall be submitted by the fiduciary on the anniversary date of the appointment. Apply the "FILED" stamp to the accounting; add the date and your initials. File by completing a document screen. Use document type “MIS”. Deliver the accounting to the judge for approval. KRS 388.280(1).

11. Send a copy of all court orders in any guardianship proceeding in which the Veteran's Administration is an interested party to the office of the Veteran's Administration in your area. KRS 388.280(2).

12. You must furnish without charge a copy of any record requested for the purpose of determining eligibility for veterans' benefits. KRS 388.340.

UNSATISFIED CIVIL JUDGMENT INVOLVING MOTOR VEHICLE ACCIDENT KRS 187.400

1. When a judgment is entered in a case involving a motor vehicle accident and the judgment remains unsatisfied for a period of sixty (60) days, form TC 94-65 Department of Transportation is required to suspend the license and registration of any person against whom such judgment was rendered, upon receipt of a certified copy of the judgment. The Transportation Cabinet has instituted form TC 94-65 which the clerk may use to certify that a judgment has not been satisfied.

2. At the request of the judgment creditor, prepare form TC 94-65; check the appropriate paragraph and sign; apply the "FILED" stamp; add the date and your initials. File on a document screen. Use document type “RCJ”. Do not charge a fee.

3. Mail a copy to:

   Transportation Cabinet
   Division of Driver Licensing
   200 Mero Street, 2nd Floor
   Frankfort, KY 40622

4. This form is only submitted for judgments entered concerning personal injury and property damage resulting from an automobile accident.

VIDEO RECORDING
(Circuit and District Court)
CR 98; 3.02; 3.03

Clerk's Responsibility

1. The official record of court proceedings shall be constituted of two (2) video tape recordings, recorded simultaneously.

   Note: when you have completed recording a video tape remove the tab from the spine of the tape. Removal of the tab prevents further recording on that particular tape.

2. For identification purposes, the clerk shall designate on each of the two original video tape recordings, the following:

   a. on the first line:

      (1) the judicial circuit or district number;

      (2) the court division number (if any);

      (3) the last two digits of the current year;

      (4) the letters "VCR";

      (5) the number of the tape (counting all tapes used since the start of the current calendar year);

      (6) the letter "A" shall be assigned to one of the tapes and the letter "B" is assigned to the other tape,

      (7) the number of the tape used in the proceeding being identified;

      (8) and the case file number of the proceeding being identified.

      Example: 22-3-02-VCR-015-A-1, 04-CR-00123.

   b. on the second line, the caption of the proceeding recorded on the tape. Example: Smith V. Jones,

   c. on the third line, the date on which the tape was recorded. Example: 10/17/04.

3. The Clerk retains custody of both Tape “A” and Tape “B”. When a notice of appeal is filed in a case where a court or jury trial was held, Tape “B” shall be filed with the clerk and certified by the clerk as part of the record on appeal. CR 98(2)(a)(I). In a criminal appeal, include the “B” Tape together with a copy of the “B” tape in the record on appeal.

> **NOTE: If the designation of record lists dates on which hearings were taped for any pre-trial and/or post-trial motions, or any portions thereof, Tape “B” of such recordings shall be filed with the clerk and certified by the clerk as part of the record on appeal. CR 98(3). In a criminal appeal, include in the appellate record the “B” Tape together with a copy of the “B” tape.**

4. The trial judge or designee shall make a written exhibit list, a written trial log, and a written log listing the tape references of where each witness' testimony begins and ends on the tape. The list shall be kept with the record and a copy shall be maintained with the tape. CR 98(2)(b).

Request for Copy.

5. Upon request, prepare a duplicate copy of a tape. If the hearings requested are located on several different tapes, you may copy all the hearings on one tape. Collect a fee as set forth in the Fees and Costs section of this manual for each duplicate tape prepared. CR 3.02(2)(f); CR 3.03(3)(e).

VIOLATION OF DOMESTIC VIOLENCE ORDER
KRS 403.763
(District Court)

1. A violation of a domestic violence order is filed as a criminal action.

2. When a citation or complaint is received for violation of a protective order, file in district criminal as a new criminal case.

3. Copy the citation or complaint and warrant/summons and send to the district court where the original Domestic Violence protective order was entered.

    a. When the originating court receives the copy of the citation/complaint and warrant/summons;

        (1) Apply the "FILED" stamp; add the date and your initials;

        (2) File in the originating domestic violence case by completing a document screen.

        (3) Notify the original issuing judge of the pending criminal action.

4. Upon request, the victim in a domestic violence case is entitled to a certified copy of any conditions of release of the respondent, at no charge.

WARNING ORDER
CR 4.05, 4.06, 4.07

1. If a plaintiff or attorney files a complaint/affidavit with you showing that the defendant cannot be served with a summons, you must issue a warning order and appoint a warning order attorney. CR 4.06(1). This is known as constructive service.

   a. Do not issue a summons

   b. A complaint/affidavit will be filed with you stating the reason the defendant cannot be served and the defendant's last known address, or affiant's ignorance of such fact.

   c. Consult your roster of attorneys and make the appointment. You may not appoint the plaintiff or the attorney, and these persons may not suggest anyone for the appointment. CR 4.07(1).

   d. Prepare AOC Form 110, Warning Order; apply the "FILED" stamp; add the date and your initials. Make a copy and attach to a copy of the complaint and deliver to the warning order attorney.

   e. File the warning order by completing a document screen.

   f. Complete a party screen for the warning order attorney.

WRIT OF POSSESSION
(Circuit or District Court)
KRS 425.011,012

1. A writ of possession is an attachment that reaches specific personal property which is the subject of the suit. KRS 425.011.

Documents Required

2. The following documents are required to apply for the writ:

   a. A complaint and summons (KRS 425.012);

   b. A verified motion requesting the writ of possession (KRS 425.011) which:

      (1) Is under oath;

      (2) Shows the basis of plaintiff's claim;

      (3) States that plaintiff is entitled to the possession of the property (if a written instrument is the basis of plaintiff's claim, it shall be attached);

      (4) Shows that the property is wrongfully detained;

      (5) States how and why defendant holds the property according to the best information and belief of the plaintiff:

      (6) Describes the property and a statement of its value;

      (7) States the location of the property, and if the property, or some part of it, is in a private place which may have to be entered to take possession;

      (8) State that the property has not been taken for a tax assessment, or fine, pursuant to statute, or seized under an execution against the plaintiff, or if so seized, a statement that it is exempt.

   c. A demand stating that the defendant has seven (7) days to either request a hearing or pay the demand in full; otherwise a writ of possession shall issue (KRS 425.012);

   d. An affidavit showing compliance with the requirements of KRS 425.012.

Timing of Application

3. Timing of Application of the writ:

a. If the motion, demand and affidavit are filed with the complaint, attach a copy of the motion and demand to the complaint and summons for service on the defendant.

b. If the motion, demand, and affidavit are filed after the complaint, the plaintiff must deliver the motion and demand to the defendant or send the motion and demand by certified mail, return receipt requested, to the defendant's last known place of address, at least seven (7) days and not more than sixty (60) days before the order granting the writ of possession is sought. KRS 425.012.

4. Collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the complaint until the filing fees are paid unless the plaintiff is proceeding in forma pauperis or unless the plaintiff is the Commonwealth. CR 5.05(4); KRS 453.010.

NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

5. Do not collect the fee for service of process. KRS 23A.200(2) and 24A.170(2) provide for payment of these fees directly to the sheriff or other serving officer.

6. The plaintiff must file enough copies of all pleadings for service upon each defendant in addition to the original which is filed in your office. If you make the copies, collect a copy fee as set forth in the Fees and Costs section of this manual and give a receipt.

7. Assign to a division using the procedure in your local court rules.

8. Apply the "FILED" stamp to the complaint, motion, demand and affidavit; add the date and your initials. Refer to Case Add section of KYCourts Manual for instructions on opening the case. Generate the next case number or use the next pre-numbered file folder for district civil ("C") or circuit civil ("CI") cases.

9. Prepare a summons by completing a summons screen on each defendant in the case. CR 4.02, CR 4.04(1).

Summons Issuance

10. The initiating party will decide whether the summons is to be served by certified mail or personally delivered by the sheriff or other authorized person. CR 4.01(1).

Certified Mail Service

11. If Certified Mail Service is requested:

    a. Attach a copy of the complaint to the summons. (Include the motion, demand and affidavit if filed with the complaint.) CR 4.04(1).

    b. Collect postage fees as set forth in the Fees and Costs section of this manual. Mail the summons and attached pleadings by certified mail, return receipt requested. CR 69.01.

        (1) If restricted delivery is requested, you must check the Restricted Delivery box on the return receipt (green card) to accomplish restricted delivery. CR 4.04(1)(a).

    c. Service under long-arm statutes.

        Under certain circumstances defendants who are non-residents of Kentucky may be served through the Kentucky Secretary of State. KRS 454.210(3)(a). If you are asked to serve a summons by this method, collect a fee for the secretary of state as set forth in the Fees and Costs section of this manual. KRS 454.210(3)(b),(c). Mail two copies of the summons and 2 attested copies of the complaint, motion, demand and affidavit by certified mail to:

    Secretary of State
    Commonwealth of Kentucky
    Capitol Building
    Frankfort, KY 40601

Personal Service

12. If service is by the sheriff or other serving officer. CR 4.01(1)(b), 69.01, 45.03.

    a. Make a copy of the summons. Give the plaintiff the two (2) summonses with a copy of the complaint. Attach the motion, demand and affidavit (if filed with the complaint) and/or other documents to be served to the copy of the summons and instruct the plaintiff to deliver them to the officer for service. The plaintiff will pay the officer directly. CR 4.01(1)(b), KRS 23A.200(2), 24A.170(2).

    b. Do not make a copy of the summons for the case file; the officer's return will provide a copy. CR 4.01(1)(b).

Return of Service

13. When return of service is received:

    a. Certified Mail

Apply the "FILED" stamp to the return receipt (green card); add the date and your initials and enter the date of delivery in the service date filed of the summons screen.

If the receipt is from the Secretary of State enter the date of delivery shown on the return receipt (green card) in the memo field of the summons screen. When the Secretary of State mails notice to you concerning service or non-service of a defendant enter the date of service or attempted service in the memo field of the summons screen. The service date field is not completed on a summons screen when service is through the secretary of state.

b. Personal service:

Apply the "FILED" stamp to the summons; add the date and your initials. Enter the date the officer served the defendant in the service date field of the summons screen. You may use the memo field to record the service agency.

14. A civil summons may be issued and served on Sundays and holidays KRS 454.125.

15. Hearing:

No Hearing

a. If plaintiff asks you to issue the attachment without a hearing, check the affidavit of compliance to make sure enough time has elapsed from the date of notice to the defendant:

7 days from date of notice (KRS 425.301(3));

3 additional days if notice was by mail (CR 6.05).

Hearing Requested

b. If a hearing is requested, note the hearing on the calendar by completing a scheduled events screen.

(1) When an order is received:

(a) Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

(b) Enter the order on the document screen including a brief description. This docket notation constitutes entry of the order; the

order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order as described below.

(c) After the order is entered, serve notice on every party not in default or who has not waived notice by making a copy of the order stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3).

(d) Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of the order. RCr 12.06.

Surety Bond

16. Before issuing the attachment, plaintiff must post a cash or surety bond. KRS 425.111. Domestic Kentucky banks and savings and loan institutions do not need a surety on their bonds. KRS 425.001.

    a. Amount: Not less than twice the value of the property as determined by the court;

    b. Obligation: To pay all costs and damages;

    c. Surety: Require the surety to make an affidavit to show qualification. KRS 454.180, 454.185. Taking the affidavit relieves you of liability for taking insufficient surety if the financial information is falsified. Commonwealth vs. Lewis, 181 Ky. 804, 205 S.W. 921 (1918). The surety must:

        (1) Be a resident of Kentucky.

        (2) Be worth double the sum to be secured, beyond debts.

        (3) Have property in Kentucky, not exempt from execution, equal to the amount of bond.

    d. Refuse any surety if you are in doubt as to the surety's sufficiency to cover the amount of bond. If your judge orders you to take a bond you must do so; the order protects you from liability for taking an insufficient bond.

17. Collect a bond filing fee for taking the bond and a fee for issuing the writ as set forth in the Fees and Costs section of this manual and give a receipt. Apply the "FILED" stamp to the bond; add the date and your initials and file by completing a document screen. KRS 64.005, 23A.200, 24A.170.

Issuance of Writ of Possession

18. AOC has no form for a Writ of Possession; this must be prepared by the attorney. KRS 425.046.

    a. Issue the writ by signing and adding the date.

    b. Make a docket notation of the issuance of the writ by completing a document screen. Use the date of issuance as the filing date. It is not necessary to make a copy for the case file; the officer's return will provide a copy.

    c. Give the writ and a copy to the plaintiff for delivery to the sheriff or other serving officer. The plaintiff will pay the service fee directly to the officer.

    d. When a return of service is received; apply the "FILED" stamp; add the date and your initials. Enter the file stamp date and officer's return date in the memo field of the document screen where the writ was issued.

Motion to Quash

19. If the defendant files a motion to quash the writ of possession, apply the "FILED" stamp; add the date and your initials and file by completing a motion screen, and note the hearing on the calendar by completing a scheduled events screen.

20. When a signed order ruling on the motion is received:

    a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

    b. Enter the order on the document screen including a brief description. This constitutes entry of the order and it does not become effective until this is done. RCr 11.04. This is combined with the notation of service of notice of entry of the order, as described below.

    c. Serve notice of entry of the order on every party not in default or who has not waived notice by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the party or attorney. CR 77.04(1), RCr 12.06(1) and (3). Enter the method of service (mail or personal delivery) and notice of entry date on the document screen where the order is entered. RCr 12.06.

21. When the order closes the case complete the disposition date, disposition type and judge at disposition fields on the case screen.

WRIT OF PROHIBITION/WRIT OF MANDAMUS
CR 81, 76.36
(Circuit Court)

1. A writ of prohibition is an original action in circuit court directing a district judge or other party not to perform an act.

2. A writ of mandamus is an original action in circuit court directing a district judge or other party to perform an act.

3. If you receive a petition for writ of prohibition or mandamus pertaining to a circuit judge's ruling, direct the petitioner to file the petition in the court of appeals.

4. When you receive a petition for writ of prohibition or mandamus, collect filing fees as set forth in the Fees and Costs section of this manual and give a receipt. Do not process the petition until the filing fees are paid unless the petitioner is proceeding in forma pauperis or unless the petitioner is the Commonwealth. CR 5.05(4); KRS 453.010.

   NOTE: City and county governments are not exempt from paying filing fees unless the action is filed in the name of the Commonwealth.

5. Assign a division using the procedure in your local court rules.

6. Apply the "FILED" stamp to the petition; add the date and your initials. Refer to Case Add section of KYCourts for instructions on opening the case. Generate the next case number for circuit civil "CI" cases or use the next pre-numbered file folder.

7. Do not issue a summons.

8. Mail a copy of the petition stamped "FILED" to the respondent and to the real party in interest (party who prevailed in district court or other underlying matter), if applicable.

9. Schedule an event 10 days from the date of the filing of the petition by completing a scheduled events screen. Enter the event type "OTHER" and memo "deliver file to circuit judge on this date if no response has been filed."

10. If a response is filed, apply the "FILED" stamp; add the date and your initials. File on a document screen. Take the file to the judge.

11. When a signed order is received;

a. Apply the "ENTERED" stamp; add the date and your initials. Do not use the "FILED" stamp.

b. Enter the order on the document screen. This constitutes entry of the order; the order does not become effective until this is done. RCr 11.04. This is combined with the notation of service of entry of the order as described below.

c. After the order is entered serve notice of entry on the parties by making a copy of the order that has been stamped "ENTERED" and mail or hand deliver it to the parties or attorney. CR 77.04(1), RCr 12.06(1)(3).

d. Make an entry on the document screen showing the manner (mail or personal delivery) and date of the service of notice of entry of the order. RCr 12.06.

12. When an order closes the case, complete the disposition date, disposition type, and judge at disposition fields on the case screen.

Motor Vehicle Licensing
Transportation Cabinet
200 Mero Street
Frankfort, KY 40622
(502) 564-5301
Fax for Requests (502) 564-9314
Attention: Eric Redmon

Request for a Vehicle Registration Inventory

Court Information:

Name of Requester _____

Title of Requester _____

Phone Number _____

Circuit Clerk Fax Number _____

Vehicle Information Requested for:

Drivers License Number _____

Name of Offender _____
(Last, First, Middle)

Date of Birth _____

Case Number _____

County of Citation _____

Prior Memorandums

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!!

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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. <u>Appeals to Circuit Court Chapter; Appeals to Supreme Court/Court of Appeals Chapter; and Motion to Proceed In Forma Pauperis Chapter:</u>

- 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 **<u>thirty (30)</u>** 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. <u>Appeals to Circuit Court Chapter and Appeals to Supreme Court/Court of Appeals Chapter</u>

- 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. <u>Citation Chapter</u>:

“Other Prepayables” chart has been replaced and updated to reflect UOR’s effective January 1, 2011.

6. <u>Fees and Costs Chapter:</u>

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.

Kevin J. Smalley,
Manager, Clerk Services

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

TO: Circuit Court Clerks

FROM: Kevin J. Smalley, Manager Clerk Services

DATE: October 13, 2010

IMPORTANT INFORMATION!!

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1. **BAIL BOND :**

   The previous language has been revised to accommodate recent case law. The current criteria for determining the sufficiency of property for bail bonds has changed. The clerk should no longer rely on whether property is affixed to the land when considering it as real estate for bail bond purposes.

   The appropriate criteria for determining whether property such as mobile homes, manufactured homes, etc. should be considered along with the value of land for securing a bail bond is now whether such property has been legally converted into realty. If the personal property has not been properly converted into real estate, only the land should be used as value for the bail bond.

   In addition, recreational vehicles as defined by KRS 186.650 (travel trailers, campers and motor homes) are personal property and should never be considered along with the value of land for purposes of securing a bail bond.

   When in doubt whether a manufactured home should be included in the property value for securing bail bonds, refuse the bond (RCr 4.32) or request a determination from the judge.

2. **DRUG COURT:**

The Drug Court chapter has been replaced to accommodate the addition of new Drug Court Transfer procedures.

3. PROBATE:

Periodic Settlements shall now read:

Generally, newspaper advertisement of notices of the filing of annual accountings (i.e. periodic settlements) is only required when a hearing date has been set on the written report of the settlement. The following situations do not require advertising:

a. When the court allows the fiduciary to send written notice of the hearing in lieu of advertising.
b. If the value of the trust or estate is less than $2,500 and the assets are held in account only accessible via order of the court.
c. Reports and settlements of guardians and conservators of mentally disabled persons.
d. Guardians under the Uniform Veterans' Guardianship Act.
e. A hearing on a settlement (annual or final) filed in conformity with an approved proposed settlement made under KRS 395.617.

4. STATISTICAL INFORMATION:

The following three new codes have been added to the Statistical Information Chapter for the purpose of drug court transfers:

"DCTG" Drug Court Transfer Guilty (original disposition guilty)
"DCTD" Drug Court Transfer Diversion (original disposition diversion)
"TRFD" Drug Court Transfer

5. MEMORANDUM CHANGES:

When the Clerks Manual is updated a memorandum is placed at the front of the manual that indicates the changes. It has come to our attention that previous corrections have been made in the body of the text; but not in the memorandums. Additionally, previous incorrect information in two memos has been changed as follows:

a.) Memo: April 1, 2009, Adoption section now contains a strikethrough:

Adoptions:
Page 55, number 3, will now read:
Apply the "FILED" stamp to the petition; add the date and your initials. Open the case in the confidential "CO" division of KYCourts following instructions in the Case Add Section of the KYCourts Manual. Generate the next case for "AD" adoption cases or use the next pre-numbered file

folder. Use the case type “ADPT”. ~~**Use the NEW name of the child in the style of the case and on the party screen**~~

This line was removed since the petitioner should be accepted and filed as presented.

b.) Memo: April 1, 2009, Subpoenas section now contains a strikethrough:

Subpoenas:
Page 533
~~**Any attorney licensed to practice in this state may issue and sign a subpoena on behalf of the Court.**~~

Note: Any attorney licensed to practice in this state may issue and sign a subpoena on behalf of the Court in Civil Cases. However, criminal subpoenas must be issued by the court.

The strikethrough and note were added for clarification and as the result of subsequent interpretation.

6. GRAMMAR AND SPACING ISSUES:

Throughout the manual spelling, punctuation, numbering, heading and spacing
issues have been resolved.

7. UOR CHARTS:

Throughout the manual UOR and KRS charts have been replaced and updated to reflect current data and materials. These include:

These charts include:

Misdemeanor Offenses filed as Traffic Cases
UOR Codes for Prepayable Speeding Offenses
Prepayable Overweight Offenses
Other Prepayable Offenses
Other Prepayable Offenses (where the court calculates fines)
Felony Offenses under KRS 218A
Felony Offenses under KRS 508
Felony Offenses under KRS 510
Felony Offenses under KRS 527
Misdemeanor Offenses under KRS 218A
Misdemeanor Offenses under KRS 508
Misdemeanor Offenses under KRS 510
Misdemeanor Offenses under KRS 527

8. **INTERNET LINKS:**

Throughout the manual, outdated charts have been removed and replaced with links to live charts that will be easier to maintain. This will better insure that information is accurate and current at all times. These include:

Fines for Speeding (Legislative Research Commission)
United States Attorneys' Office Contact Information

Please feel free to contact me if you have any questions.

Kevin J. Smalley,
Manager, Clerk Services

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

IMPORTANT INFORMATION!!

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TO: Circuit Court Clerks

FROM: Cindra K. Walker, General Counsel and Kevin Smalley, Manager Clerk Services

DATE: July 15, 2010

1.) Circuit Criminal Chapter:

There is no longer a requirement to send a copy of an Indictment to the Department for MH/MR services. This instruction has been removed and is no longer necessary to complete.

2.) Domestic Violence Chapter:

House Bill 1 has changed the way domestic violence cases will be processed and the Domestic Violence chapter has many revisions; please take the time to review the entire chapter for changes. Furthermore, a release note detailing all changes affecting the clerk's office is being sent simultaneously with the clerk manual changes.

3.) Records Retention, Archiving and Destruction Chapter:

The name of the chapter has been changed from Records Destruction or Transfer to Records Retention, Archiving and Destruction as this will more appropriately reflect its content.

The Record Retention Schedule has been reinstated and changes have been made that will allow you to destroy certain Traffic (series 00189), Misdemeanor

(series 00190) and Felony (series 00191) case files. You will also notice a change to the Juvenile Felony Case (series 00197, prior to July 15, 1997); Juvenile Felony Case (series 04751, after July 15, 1997); Juvenile Non-felony case (series 04752, after July 15, 1997) and Domestic Violence (series 00822). Please review the chapter for your specific needs and call the Accessioning Unit for assistance.

Furthermore, a release note has been simultaneously sent to the clerk's office that will include information on the records destruction procedures and records retention schedule.

4.) Statistical Information Chapter:

The case type DDP has been added to reflect civil proceedings for denied domestic violence petitions.

5.) Update on Uniform Offense Reporting Code (UOR):

AOC and KSP are working together to update the UOR code list to provide the new and obsolete codes. This list will be available in the next release note. Until the update is complete, users shall use the miscellaneous code (0026890) for misdemeanor offenses, the miscellaneous code (0910000) for felony offenses and the miscellaneous code (0006990) for traffic offenses. If using a miscellaneous code, memo the original charge in the charge memo field. When the new codes are released, users must update the miscellaneous code with the new code.

TO: Circuit Court Clerks

FROM: Kelly Stephens, Deputy General Counsel

DATE: February 24, 2010

IMPORTANT INFORMATION!!

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1. Amending "Expungement of Misdemeanor and Violation Convictions" chapter.

Amended to require a fee for each case, as opposed to each charge, sought to be expunged. This amendment brings the Circuit Court Clerk's Manual into compliance with KRS 431.078(5). Paragraph 1.d. now reads as follows:

d) Collect a fee from the petitioner/movant FOR EACH CASE SOUGHT TO BE EXPUNGED as set forth in the Fees and Costs section of this manual and give a receipt. If charge(s) requested to be expunged is in a circuit criminal case, only collect one fee. (See paragraph 6b).

2. Amending "Fees and Costs" chapter.

Amended to require an expungement fee of $100.00 per case, as opposed to per charge, for misdemeanor/violation convictions. This amendment brings the Circuit Court Clerk's Manual into compliance with KRS 431.078(5). Paragraph 2.b. now reads as follows:

b) Expungement Fee (misdemeanor/violation conviction)

$100.00 per case (effective 7/1/08)

Expungement Fee (no conviction)

None.

Please feel free to contact me if you have any questions.

LIST OF UPDATES TO CIRCUIT COURT CLERK'S MANUAL

TO: Circuit Court Clerks

FROM: Kevin J. Smalley, Manager Clerk Services

DATE: July 23, 2009

IMPORTANT INFORMATION!!

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

1. **Expungement of Dismissed or Acquittal Cases**

Page 307, number 6 shall now read as follows:

The court may also order expungement of records of other agencies. Such agencies are required to certify that their records have been expunged. When a certification of expungement is received from any agency, apply the "Filed" stamp; add the date and your initials**. Place in a sealed envelope with the case number noted on the outside and attach to the expunged/sealed case file.**

2. **Statistical Information:**

The following existing case type was previously not in the manual and is now being added:

FCL – Foreclosure- A legal procedure by which a mortgage is foreclosed.

The following charge disposition type is new and has been added:

PAR – Pardon – Prior to Adjudication only - Executive Order of Pardon prior to judgment.

3. **UOR Codes:**

New and obsolete UOR Codes were released by KSP and a release note is being pushed statewide to update KYCourts II accordingly on July 23, 2009.

Please feel free to contact me if you have any questions.

Kevin J. Smalley,
Manager, Clerk Services

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

TO: Circuit Court Clerks

FROM: Kevin J. Smalley, Manager Clerk Services

DATE: May 11, 2009

IMPORTANT INFORMATION!!

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1. **Postage:**

Miscellaneous Fees – Beginning with page 323

Postage per one ounce
.44

Certified Mail Fees
With postage scale, One ounce
10.04
Each additional ounce
.44

Without postage scale, normal mailing (standard #10 envelope)
10.04

Large Mailings
11.04

Services of Process by Secretary of State on a non-resident defendant:
Certified mail with restricted delivery
14.50 – Money Collected For Others

2. **Peace Officer's Expense:**

Juvenile Cases, Page 422 added paragraph for Payment of Juvenile Transport

Payment of Juvenile Transport

Peace Officer's Expenses: If seeking reimbursement, any peace officer who transports a juvenile on a court order shall make an accounting of the expenses incurred including the distance traveled.

Upon oath of the transporting officer of the verified amount before a District or Family Court Judge, the Clerk shall certify an Authorization for Payment of Transportation Costs. KRS 605.080(2).

3. **Juvenile Section:**

Page 401 and 402, number 30 and 35 will now read:

KRS 620.220 requires copies of temporary custody orders and commitment orders to be forwarded to AOC Citizen Foster Care Review Board. As of May 4, 2009, no action is required by the clerk as this information is tracked electronically.

Please feel free to contact me if you have any questions.

Kevin J. Smalley,
Manager, Clerk Services

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

TO: Circuit Court Clerks

FROM: Kevin J. Smalley, Manager Clerk Services

DATE: April 1, 2009

SUBJECT: Clerk's Manual Update

****

IMPORTANT INFORMATION!!

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1. **Adoptions:**

   Page 55, number 3, will now read:

   Apply the "FILED" stamp to the petition; add the date and your initials. Open the case in the confidential "CO" division of KYCourts following instructions in the Case Add Section of the KYCourts Manual. Generate the next case for "AD" adoption cases or use the next pre-numbered file folder. Use the case type "ADPT". ~~Use the NEW name of the child in the style of the case and on the party screen.~~ ** this line was removed since the petitioner should be accepted and filed as presented.

2. **Bail Bonds:**

   Page 118, letter C.

   The Federal Homestead Exemption is now $20,200.00 instead of the $18,450.00.

3. **Citations:**

   A. Prepayable Fine Chart, Page 172

   The chart now includes 70 MPH

4. **Disability Proceedings**:

Drivers License/Disabled Persons, Page 247

A Note as been added that reads as follows:

Note: If wholly disabled, send a copy to the Department of Transportation

5. **Dismissal Notice Section**:

Page 262, number 1 will now read:

1. Trial courts shall review all pending actions **every month**.

6. **Dissolution of Marriage:**

Page 264 number 1. a., will now read:

a. Do not file a petition for dissolution or annulment unless Vital Statistics Form 300 (Certificate of Divorce or Annulment) is filed concurrently with the petition by the Petitioner or attorney. KRS 214.116(4). **THE BOTTOM PORTION MUST BE WRITTEN LEGIBILY AND IN UNFADING BLUE OR BLACK INK.** Continue from here as previously indicated.

7. **Fees and Costs:**

Page 313

Updates to the Fees and Costs Section of the Manual have been made, effective July 1, 2008.

A. District Civil page 313, number 1:
$55.00 – Civil Filing Fee

B. Third Party complaint Page 314, number 8:
$30.00 – Civil Filing Fee

C. Transfer to Circuit when counterclaim or cross claim exceeds $4,000, page 314, number 9:
$60.00 – Civil Filing Fee

D. Counterclaim or Cross Claim exceeds $500 but less than $4,000, page 315 number 10:
$25.00 – Civil Filing Free
$5.00 – Court Technology – MCFO

E. District Criminal, page 316:

$130.00 – Criminal & Traffic Costs (effective 7/1/2008) and
Library Fee, if applicable.

F. Expungement Fee (misdemeanor/violation convictions), page 317, letter b:

$100.00 per charge

Expungement Fee (no conviction)

None

G. DUI Service Fee, page 317, letter C:

$375.00 – DUI Service Fee (charges after 7/1/08)

H. Circuit Civil including original actions of Administrative Agencies, Special Districts or Boards, page 318, number 3:

$115.00 -- Civil Filing Fee (effective 7/1/08)

I. Third-party Complaint, page 319, number 3

$30.00 -- Civil Filing Fees

J. Court costs are collected per case, page 320, Number 6, letter a:

$ 130.00 – Criminal & Traffic Costs (effective 7/1/08) and
25.00 -- Court Facilities Fee, if applicable

K. Appeals, pages 321, number 7 letters a – e:

District Civil Appeals/Cross Appeals to Circuit Court - CR 3.03(2)(a)

$60.00 -- Civil Filing Fee
10.00 --Court Technology

District Criminal Appeals/Cross Appeals to Circuit Court

$60.00 -- Civil Filing Fee

Civil Appeals/Cross Appeals to Court of Appeals - CR 76.42

$150.00 -- Civil Filing Fee
25.00 -- Court Facilities Fee, if applicable

Appeals or Cross Appeals from Circuit Court, Family Division, to the Court of Appeals, from Orders determining: (a) Paternity, (b) Dependency, Neglect or Abuse (c) Domestic Violence and (d) Juvenile Status Offense

$75.00 – Civil Filing Fee

Criminal Appeals/Cross Appeals to Court of Appeals - CR 76.42

$150.00 -- Civil Filing Fee

Civil and Criminal Appeals/Cross Appeals to Supreme Court - CR 76.42

$150.00 -- Civil Filing Fee

L. Miscellaneous Fees:

a. Postage, pages 322-323

As Set by United States Postal Service -- Money Collected for Others

Postage per one ounce

$ .42

Certified Mail Fees

With postage scale

(a) One ounce

$9.62

(b) Each additional ounce

$ .42

Certified Mail Fees

Without Postage Scale

(c) Normal Mailings

$9.62

(d) Large Mailings

$10.62

b. Bond Filing Fee (including ROR) - KRS 64.005

$25.00 -- Bond Filing Fee

c. Providing a copy of an audio cassette tape (per tape)

$10.00 -- Charges for Services

d. Providing a copy of a video tape (per tape)

$20.00 -- Charges for Services

e. Issuing orders of attachment, executions, and post judgment writs of possession

$20.00 -- Charges for Services

f. Issuing original and supplemental garnishments

$10.00 -- Charges for Services

Civil:

(1) Jury Demand:

(a) Jury of 6

$30.00 -- Charges for Services

(b) Jury of more than 6

$60.00 -- Charges for Services

(2) Service of Process - $40.00 paid by party to officer when requesting services. Not collected by Circuit Court Clerk.

($50.00 if county has an ordinance for the collection of Court Facilities Fees)

(c) Certified mail with restricted delivery

$14.30 -- Money Collected For Others

****

(11) No Seat Belt Fines
$25.00-Criminal Traffic Fines, no court costs assessed when it is the only offense on the citation. Reference KRS 189.990(25) and KRS 189.125(6)

****

(12) Criminal Littering-MCFO
Any fines assessed for KRS 433.753, 433.757, & 512.070 are to be split-60% to Fiscal Court, 40% to issuing agency.

****

(13) No Booster Seat Fines (effective 7/1/08) – warnings only for the 1st year; $30.00 – Criminal Traffic Fines, no court costs assessed when it is the only offense on the citation. Allow defendants to purchase a booster seat in lieu of paying the fine. Reference KRS 189.990, KRS 186.574 and 431.451 (effective 7/1/09)

8. Forcible Entry & Detainer:

Page 330

Collect rent deposit with filing

9. **Subpoenas**:

Page 533

~~Any attorney licensed to practice in this state may issue and sign a subpoena on behalf of the Court.~~

Please feel free to contact Clerk Services if you have any questions.
Kevin J. Smalley,
Manager, Clerk Services

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

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TO: Circuit Court Clerks

FROM: Cindra K. Walker, General Counsel

DATE:November 30, 2007

CITATIONS section –

Revised table in Paragraph 7.c. to increase fine amounts for certain prepayable violations.

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TO: Circuit Court Clerks

FROM: Cindra K. Walker, General Counsel

DATE:November 16, 2007

1. **AGISTER'S LIEN AND WARRANT** section –

Deleted former Paragraph 7 and Renumbered last paragraph as 8.f.(5).

2. **BAIL BOND** section –

Removed former Paragraph 1.e. entitled No Probable Cause.

3. **CIRCUIT CRIMINAL CASES** section –

Beginning at former Paragraph 2 on Page 150, began Renumbering paragraphs as Paragraphs 6 through 25.

18.f.(2) Corrected code – "OVPD" Revised to "JSPG."

Revised 14.f.(5) as follows: Overlay the disposition type and disposition date on the charge screen according to the court's order.

4. **CITATIONS** section –

Added:

To Paragraph 2.

a. When a copy of a citation is received by the clerk prior to the original citation; create a case in the case management system utilizing copy.
b. When the original citation is received by the court, the case management system will display a message providing the case number.
c. When the original citation is stamped filed; add the date and your initials and place the original in the case file.

NOTE: New and obsolete UOR codes were released by the KSP prior to these revisions to the Circuit Court Clerks Manual. Therefore, the Manual has been updated to reflect those changes.

5. **DISABILITY** section –

Renumbered subparagraphs 23.h. and 23.i. to 23.f. and 23.g.

In Paragraphs 12.c. and 23.g.(3), Added that clerk should send a copy of the disability judgment to the State Board of Elections only when the judge has check – marked the box finding that the respondent shall <u>not</u> retain the right to vote. KRS 30A.145. KRS 387.580 (3)(c).

6. **EXPUNGEMENT OF DISMISSALS OR ACQUITTALS** section

Removed: AOC's address and phone number

Removed: Research and Statistics name from the bottom of form AOC 497.

7. **EXPUNGEMENT OF MISDEMEANOR AND VIOLATION CONVICTIONS** section –

Removed: AOC's address and phone number

Removed: Research and Statistics name from the bottom of form AOC 496.

8. **GARNISHMENT AFTER JUDGMENT** section –

Renumbered Paragraphs 11 through 13.

In subsection entitled "Funds Held by Clerk" (new Paragraph 11)–Added language regarding Non-Wage Garnishment to state as follows:

> If proceeds from a non-wage garnishment are returned to the clerk, hold the funds for fifteen (15) days from the date of return on the proceeds unless otherwise ordered by the court.

9. **JUVENILE CASES** section –

Clarified 3.b and 3.c to identify which state agencies and volunteers have access to which juvenile records, as follows:

3b Employees of CHFS, DJJ, and the Crime Victims Compensation Board.

3c Foster Care Review Board or its designees, and CASA volunteers responsible for services under the juvenile code.

Revised: 72.c (1) The case shall be returned to district court for further proceedings and re-docketed for review (REV) by the judge.

10. **PETITION FOR DAMAGES PERTAINING TO CHILDHOOD SEXUAL ABUSE/ASSAULT** section –

Revised: Page heading on pages 438-441 wrong – should read * "PETITION FOR DAMAGES PERTAINING TO CHILDHOOD SEXUAL ABUSE/ASSAULT"

11. **PETITION FOR REMOVAL OF ACTION TO FEDERAL COURT** section –

Revised: Title revised to read Petition/Notice for Removal of Action to Federal Court.

12. **PLEAS** section - **NEW SECTION** as follows:

PLEAS
KRS 27A.460 (5) & (6)

KRS 27A.460 (5) & (6) require the collection of data regarding defendant pleas

Entering a plea:

1. When an original plea is entered a final plea must be entered.
2. When the trial type is Court ("C") or Jury ("J"), the original and final plea must be entered.
3. When the defendant pleads not guilty at the arraignment, enter "NG" as the original plea.
4. When the defendant pleads guilty at the arraignment, enter "G" as the original and final plea.
5. When the defendant pleads guilty at any court proceeding after the arraignment, enter "G" as the final plea.
6. When the defendant is found guilty at any court proceeding after the arraignment, enter "NG" as the final plea.

7. When the defendant is found guilty in absentia at any court proceeding, enter “NG”: as the original and final plea.

Note: Final pleas do not necessarily reflect the charge disposition/court finding.

13. **PROBATE** section –

Revised: 49.b (3) to correct the code from pg. 473 from “ROD” to “ROS”

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TO: Circuit Court Clerks

FROM: Sara Boswell Dent, Deputy General Counsel

DATE: July 12, 2006

1. **Citations section** –
   a. Added paragraph 5 directing that no case file be opened on a citation with a UOR code for serving a warrant or summons.

   b. New paragraph 6.b (3) regarding no court costs on a seat belt violation.

   c. New paragraph 6.b (4) regarding no court costs on KRS 189.580(1)(b) or 6(b) offenses.

   d. New section on Fish and Wildlife Citations and clerk's duty to notify Department of Fish and Wildlife when defendant fails to appear.

   e. New section on Carry Concealed Deadly Weapon License regarding no court costs for certain noncriminal violations.

   f. NOTE: New and obsolete UOR codes were not released by the KSP prior to these revisions to the Circuit Court Clerks Manual. Upon the release of same, the Manual will be updated to reflect those changes. Until such time, you should utilize the generic UOR codes for offenses for which no code is available.

7. **COMMISSIONERS OF THE CIRCUIT COURT** section –
   Added new paragraphs 2 – 7 regarding the collection of the Judicial Sales Administrative Fee (JSAF) by the Circuit Court Clerk. DO NOT PROCESS THE MOTION UNTIL THE JSAF FEE IS PAID.

8. **DOMESTIC VIOLENCE PROCEEDINGS** section –

   Correction of statutory citation in paragraph 27 due to statutory change in 2006 HB 290.

9. **DRUG COURT** section –
   a. Revised paragraph 11 to clarify duty to schedule an event on the criminal docket upon completion of probation program.

   b. Added new paragraph 12 and 13 regarding the duty to file drug court documents pursuant to new Rules of Administrative Procedure.

10. **EXPUNGEMENT OF DISMISSALS OR ACQUITTALS** section

    Various amendments throughout to require petitioners to utilize AOC petition form, attachment of AOC criminal history to the petition, and identification of appropriate document codes.

11. **EXPUNGEMENT OF MISDEMEANOR AND VIOLATION CONVICTIONS** section

    Various amendments throughout to require petitioners to utilize AOC petition form, attachment of AOC criminal history to the petition, payment of the fee for each charge to be expunged UP FRONT, clerk's use of AOC Form 496.1, Notification of Expungement and identification of appropriate document codes.

12. **FEES AND COSTS** section –

    This section has been replaced with the Accounting Manual Fees and Costs section so they are in complete conformity. Substantive changes include:
    a. Circuit Civil section has new paragraph 5 requiring the collection of the $100.00 fee from parties upon entry of order referring to master commissioner or special master commissioner.

    b. Miscellaneous Fees section on postage has been revised to conform to federal changes effective January 8, 2006.

    c. Miscellaneous Fees section on Civil Service of Process has been revised to include that $40.00 fee is paid by party to officer and not collected by the clerk.

    d. Added sections regarding all-terrain vehicles, handicapped parking fines and tire chains.

13. JUVENILE CASES section –

a. Added language in paragraph 3 regarding Confidentiality to clarify that public officers or employees, including law enforcement officers, have access to juvenile cases when engaged in the investigation of a juvenile under the code.

b. Revised Public Record section and added new paragraphs 8, 9 and 10 regarding 2006 HB 3 and public access to certain juvenile records.

14. JUVENILE MENTAL HEALTH section –

Deleted reference to Family Court Division of Circuit Court in the heading of the section.

15. PROBATE section –

a. New paragraph 52 on Juvenile Name Change. Requires issuance of summons upon absent biological parent.

b. Deleted requirement for mailing of notice of petition/application and order appointing guardian/conservator for minor to Department of Revenue in paragraphs 35 and 38.

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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.

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TO: Circuit Court Clerks

FROM: Sara Boswell Dent, Deputy General Counsel

DATE: January 31, 2005

The following sections have been updated:

1. **Throughout the manual**, where instructions are given to collect a specific fee, a referral is made to the Fees and Costs section of the manual for the correct amount to be collected.

2. **Throughout the manual**, at the request of Research and Statistics at the AOC, code types to be used on the various screens in KYCourts have been added as appropriate. (This will be an ongoing addition to your manual and at this point, does not include all code types used).

3. **APPEALS TO CIRCUIT COURT** section -

   Subsection *Record on Appeal in Circuit Court* has been clarified to direct the clerk to assign the next pre-numbered file folder instead of generating the case number and to complete a charge screen only for the charge(s) being appealed;

   Subsection *File Delivered To Judge* includes a directive to create a tickler system for time frames referred to in this subsection.

4. **APPEALS TO SUPREME COURT/COURT OF APPEALS** section -

a. Subsection *Notice of* Appeal added the time frame of 60 days for the filing of a notice of appeal from a family court paternity judgment (information only);

b. New subsection *Tapes in Circuit Court Appeal Cases* directs that audio and video tapes and digital recording disks filed in a circuit court appeal (XX) case are included in the record on appeal to the Court of Appeals.

5. **AUDIO RECORDING** section -

This section has been modified to include instructions for digital recordings.

6. **BAIL BONDS** section -

Subsection *Forfeitures* has been rewritten to clarify the procedure when a bond forfeiture has been ordered by the judge.

7. **BANKRUPTCY NOTICE** section -

This section has been rewritten at the request of Research and Statistics. When a bankruptcy notice is received, the case screen closing information will not be completed until a judge's order is entered that closes the case.

8. **CALENDAR** section -

This section has been clarified to reflect its application to district court only as provided in Civil Rule 58.

9. **CASE NUMBERING AND COLOR CODING** section -

At the request of Research and Statistics at the AOC, a new subsection *Case Number Assignment T,M,F Cases* is included which gives instructions for the assignment of a case number when violation, misdemeanor and felony offenses are included on the same citation.

10. **CASES UNDER SUBMISSION** -

This section has been rewritten to clarify the procedure relating to AOC Form 280, Notice of Submission of Case for Final Adjudication.

11. **CIRCUIT CRIMINAL CASES** and **DISTRICT COURT CRIMINAL COMPLAINTS** sections -

Subsection *Sex Offender Registration Non-Compliance Notice* includes instruction for filing this notice when it is received in a county other than the county of conviction.

12. **CITATIONS** section -

Under subsection *License Plate Impoundment* the address for mailing a copy of the court's order for license plate impoundment and the license plates impounded has been changed to:

Kentucky Transportation Cabinet
Division of Motor Vehicle Licensing
200 Mero Street, W2-05-02
Frankfort, KY 40601

13. **COURT INTERPRETERS** section -

Rewritten to conform to Amended Administrative Procedures, IX.

14. **DEPOSITIONS TO BE USED IN OTHER STATES** section -

Added instruction for clerk to sign the subpoena when court order directs together with instruction to file such court order in the General/Administrative/Miscellaneous Order file.

15. **DISABILITY PROCEEDINGS** section -

New subsection *Sale of Real Estate By Guardian/Conservator* has been added which outlines the procedure for a guardian or conservator to sell real estate.

16, **DISABILITY PROCEEDINGS; EXPUNGEMENT OF JUVENILE RECORD; EXPUNGEMENT OF DISMISSED OR ACQUITTAL CASES; EXPUNGEMENT OF MISDEMEANOR AND VIOLATION CONVICTIONS; INVOLUNTARY ADMISSION; INVOLUNTARY HOSPITALIZATION; INVOLUNTARY TREATMENT FOR ALCOHOL/DRUG ABUSE** sections -

Directive to **add the date of the order of expungement** to the outside of the envelope in which the records are sealed.

17. **DISSOLUTION OF MARRIAGE** section -

Added new subsection, *Investigator's Report in Custody Proceedings* which outlines the filing of such report and the mailing thereof to all attorneys of record.

Subsection *VS 300 Form* has been rewritten to include a directive that the bottom portion of the form must be written legibly and in unfading black ink.

18. **DOMESTIC VIOLENCE PROCEEDINGS** section -

Subsection *Domestic Violence Petition* - new directive to obtain domestic violence brochures from the Print Shop at AOC.

The list of individuals who may file a domestic violence petition has been deleted from this section since the clerk must accept ALL petitions and deliver to the judge.

19. **EXPUNGEMENT OF DISMISSED OR ACQUITTAL CASE; EXPUNGEMENT OF MISDEMEANOR AND VIOLATION CONVICTIONS; MOTION TO SET ASIDE/VOID CONVICTION; MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE** sections -

Fax number for Research and Statistics at the AOC provided.

20. **FEES AND COSTS** section -

Subsection *Miscellaneous Fees* - added fee for providing a copy of a digital recording (audio and/or video) of $15.00 per disk

21. RENAMED **THE JURY** section TO **JURY INFORMATION**.

22. **JURY INFORMATION** section -

Deleted paragraph 9. which set out the number of jurors required to be present in the courtroom before selection process begins. An amendment to KRS 29A.060 removed this requirement. The number of jurors required to be present before selection process begins will be determined by your judge(s).

23. **JUVENILE MENTAL HEALTH** section -

A new subsection *Forms* has been added which lists all forms created for use in Juvenile Mental Health proceedings.

24. **PETITION FOR EMANCIPATION OF A MINOR** section -

This section has been deleted from the manual. There is no statutory authority for emancipation of a minor. If you receive such a petition and need assistance, please call Court Services at the AOC.

25. New section **PETITION FOR IMMEDIATE ENTITLEMENT TO CUSTODY** added:

Gives instruction for filing and processing a petition for immediate entitlement to custody.

26. **PROBATE** section -

Subsections *Sale of Real Estate by Fiduciary; Sale of Real Estate by Guardian/Conservator*; and *Sale of Real Estate by Trustee* have been added. These sections give instructions for filing and processing a motion for the sale of property in a decedent's estate; guardianship estate and trust estate.

27. **PROBATION AND PAROLE FEE** section -

This section has been renamed **PROBATION AND PAROLE FEE - OUT OF COUNTY** to clarify this procedure applies only to those fees collected for cases outside your county.

28. **STATISTICAL INFORMATION** section -

Under subsection *Charge Disposition Types*, the definition for DIV - Diversion has been rewritten to include violation charges as well as misdemeanor and felony charges.

29. **TERMINATION OF PARENTAL RIGHTS** section -

Subsections *Voluntary Termination, Guardian Ad Litem*; and *Involuntary Termination, Guardian Ad Litem/Public advocate*; instruction to use AOC Form 115, Appointment of Guardian Ad Litem in lieu of AOC Form DNA-10, Order Appointing Guardian Ad Litem.

30. **UNSATISFIED CIVIL JUDGMENT INVOLVING MOTOR VEHICLE ACCIDENT** section -

Instruction added that a fee is not charged for completing and signing form TC 94-65.

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TO: Circuit Court Clerks

FROM: Scott Furkin, General Counsel

DATE: October 4, 2004

The following sections have been updated:

1. **THROUGHOUT THE MANUAL** the address for the Inheritance and Estate Tax Section at the Department of Revenue has been updated. The current address is:

Department of Revenue
Inheritance and Estate Tax Area
200 Fair Oaks Lane - 4th Floor
Frankfort, KY 40601

2. **BAIL BONDS** section, subsections *Property Bonds* and *Refunds* - updated to include instruction for clerk to collect both the recording fee and lien release fee for the county clerk at the time the bond is filed.

3. **FEES AND COSTS** section, subsection *Miscellaneous Fees* - updated to include collection of property bond lien release fee.

4. **UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)** section - updated to include collection of certified mail fee from the registering party.

5. **SPECIAL JUDGE APPOINTMENTS** section - updated to include judge numbers to be added to current judge field when a special judge is appointed. This is important since it removes the case from the pending

caseload of the prior judge and adds it to the pending caseload of the judge appointed to handle the case.

6. **RECORDED INTERVIEW AT CHILDREN'S ADVOCACY CENTERS** section - KRS cite and court designation has been added.

7. **STATISTICAL INFORMATION** section - added new subsection *Pending Pre-Computer Cases* which is instruction for opening pending pre-computer cases in KYCourts together with instruction to discard blue closing cards. Blue cards are no longer sent to Research and Statistics.

8. **SCHOOL DROPOUT DRIVER'S LICENSE RESTRICTION** section has been deleted. The Kentucky Supreme Court has declared the underlying statute unconstitutional.

9. *Prelease Probation*, a subsection under **CIRCUIT CRIMINAL CASES** section has been deleted. The Kentucky Supreme Court has declared the underlying statute unconstitutional.

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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 CALL COURT SERVICES AT THE AOC.

TO: Circuit Court Clerks

FROM: Sara Boswell Dent, Deputy General Counsel

DATE:July 13, 2004

The following new sections have been added to your manual:

1. ***UNIFORM CHILD CUSTODY JURISDICTION ENFORCEMENT ACT*** Section replaces former section UCCJA (UNIFORM CHILD CUSTODY JURISDICTION ACT). This includes instructions for both the registration of a foreign custody order and judicial proceedings. New forms for these proceedings will be mailed to your office this week.

2. ***INVOLUNTARY TREATMENT FOR ALCOHOL/DRUG ABUSE*** Section includes filing procedures when you receive a petition for involuntary treatment for alcohol/drug abuse. New forms for these proceedings will be mailed to your office this week.

The following sections have been updated:

3. ***FEES AND COSTS*** Section - updated to add increase in court costs effective 7/13/04 and directive to send fine amount only to Animal Control and Care Fund made payable to Kentucky State Treasurer.

4. ***CITATIONS*** Section - subsection, Prepayable Fine Schedule has been updated to include new violations, UOR codes and fine amounts; subsection Court Appearance Citations includes directive that fines for speeding in a school zone are doubled.

5. ***JUVENILE CASES*** Section - sets out list of pleadings in a case file that contain specific charges which are to be sent to the school superintendent of public schools or principal of a private school **when judge directs you to do so**.

6. ***ADOPTIONS AND INSPECTION OF ADOPTION RECORDS*** Section - address for Cabinet for Health and Family Services has been corrected **from** 275 East Main Street, 3-EC **to** 275 East Main Street, 3-CE.

7. ***PATERNITY PROCEEDINGS*** Section - instruction added directing that a party screen **not** be completed for a child.

8. ***THROUGHOUT THE MANUAL***, instruction has been added to include the case number (in addition to the date of birth) to the outside of the envelope of a sealed expungement.

LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL

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TO: Circuit Court Clerks

FROM: D. Scott Furkin, General Counsel

DATE: June 22, 2004

As you can readily see, the Circuit Clerk's Manual, which was introduced to you at your series of regional meetings and at the clerk's conference last week, is greatly improved. The General Counsel's office is pleased and excited about providing you with a more user-friendly manual to assist you in your job as clerks of the court.

To access the manual: Select **Help** from your **Menu Bar** in KYCourts and then **Clerk's Manual**. To the left of the screen is the Table Of Contents, which will always be visible wherever you are in the manual. With the exception of the first three sections listed, the Table of Contents is in alphabetical order.

To access a section: **Click once on that section**. The plus sign to the left of a section title denotes there are more listings under that section. **Click once** on the **plus sign** and it changes to a **minus sign** and expands to allow you to view all sub-sections under that particular section. To access a subsection, **click once on the subsection**. When you click on the minus it changes to the section title only.
Section titles are listed in the upper right corner of each page to let you know where you are within the manual.

To copy and paste a portion of the manual into another document: Click on the **text select tool** and **highlight** the desired text; right-click your mouse and select **copy**. Go to your document, right click your mouse and select **paste.**

To print:

Multiple pages: From the table of contents: Click once on the section you want to print from and scroll until you come to the pages you desire. Look at the bottom of your screen for a page number where you will start to print and determine, by scrolling, the last page number you want to print. (You may also locate the page numbers of the section you want to print by clicking once on Table of Contents). After you have determined the page(s) you want to print, click on **File**, then **Print** and insert the page numbers in the **Pages From** field under **Print Range**.
A single page: Go to the page in the manual you want to print and select **Current Page** option under **Print Range**.
WARNING: If you select **All** under **Print Range** and **Print,** the entire manual will print!

To search the manual: In addition to locating information from the Table of Contents, you may click on the **Binoculars** icon on your menu bar, or click on **Edit** and then **Find** to locate information within the manual. Remember that this is a "search and find" function only, so be sure that you are using the correct spelling of the words or phrases for which you are looking.

Updates to manual: Each time the manual is updated, a message advising you of an update will appear as the first item when you open KYCourts. When you open the manual, **click** on the plus sign to the left of LIST OF UPDATES TO CIRCUIT CLERK'S MANUAL section which will expand to a list of dates. **Click** on the most recent (newest) date. This is your explanation of what has been updated.

Manual is tamper-proof: You cannot add, change or otherwise alter any of its contents. It is hoped you will spend time navigating it and becoming familiar with all it offers.

Help, questions/comments: If you have difficulty opening the manual or using this new format, please do not hesitate to call the Helpdesk at 800-860-4262. If you have questions or comments concerning the content of the manual, call the Office of the General Counsel at AOC.

Changes since February of this year and included herein, are as follows:

1. **Throughout the Manual,** all references to SUSTAIN have been removed and substituted with references to KYCourts**.**

2. **FEES AND COSTS** SECTION**:** Increase in court costs has been added to subsections, District Criminal and Circuit Criminal; Fees for Arrest and Executing Process has been clarified in subsections District Criminal and Circuit Criminal; master commissioner's fee has been added to subsection, Circuit Civil**.**

3. **CASES REFERRED TO GRAND JURY** SECTION: Directive to print a grand jury referral list on April 1st and October 1st each year and deliver to the Commonwealth Attorney and Chief Circuit Judge, in addition to list printed when the grand jury meets, has been added to subsection Grand Jury Referral List.

4. **CIRCUIT CRIMINAL CASES** SECTION**:** Procedure for setting up a tickler system for closing circuit criminal cases with disposition type, AP has been added**.**

5. **STATISTICAL INFORMATION SECTION**: Definition for Administrative Procedure has been added to subsection Charge Disposition Types.

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TO: Circuit Court Clerks

FROM: Sara Boswell Dent, Deputy General Counsel

DATE: February 29, 2004

1. **THROUGHOUT THE MANUAL** *KRS 416.620(4)* has been replaced with *KRS 453.010* with respect to collection of fees for filing a complaint or petition.

The following sections have been updated:

2. **CIRCUIT CRIMINAL CASES** - includes current address for Department of Corrections**.**

3. **ADDITIONAL COSTS FOR EXTRAORDINARY SERVICES** - corrected cite reference.

4. **RECORDS DESTRUCTION OR TRANSFER** - updated entire section to include current information and directions for the destruction of records, transfer and/ or retrieval of records from Archives.

5. **WARNING ORDER: HOW TO FILE A CIVIL ACTION -** Subsection, *Warning Order Service* and **DISSOLUTION OF MARRIAGE** - Subsection *Warning Order Service* added directive that summons is not to be issued when a warning order attorney is appointed.

6. **WRIT OF PROHIBITION/WRIT OF MANDAMUS -** rewritten to include that "other party" in addition to the District Judge, may be directed to or not to perform an act.

7. **FEES AND COSTS -** Subsection, *Appeals* corrected the fee for an appeal/cross appeal to Court of Appeals to show the court facilities fee, if applicable, is only collected on a civil appeal. It does not apply and is not collected on a criminal appeal.

8. **APPEALS TO SUPREME COURT/COURT OF APPEALS** - Subsection, *Supplemental Record* - added directive that in addition to the trial or appellate court ordering a record supplemented, the parties may stipulate that a record be supplemented**.**

9. **DISABILITY PROCEEDINGS -** Subsection, *Appointment of Guardian/Conservator* - clarified the directive for notice of entry of the Order Of Appointment and distribution of copies.

10. **THE JURY -** Subsection, *Selection Documents* **-** added jury strike sheets to the list of selection documents that are confidential.

11. **CASE NUMBERING AND COLOR CODING** - Under File Label Color Code, changed the color "buff" to **"**tan" for file labels used for circuit civil cases**.**

12. **BAIL BONDS** - Subsection, *Surety Charged With Contempt* **-** has been deleted. Follow the directives of the court's order when an individual is found in civil or criminal contempt.

13. **TERMINATION OF PARENTAL RIGHTS** - Subsections, *Voluntary Termination and Involuntary Termination* - gives new instruction to use AOC Form DNA-10, Order Appointing Guardian Ad Litem when an appointment of a guardian ad litem is made.

14. **APPEALS TO CIRCUIT COURT** - Subsection, *Motion for Discretionary Review* - added directive to retain the district court record in circuit court until such time as the 30 day period for the filing of a motion for discretionary review has expired.

15. **CITATIONS** - Subsection, *Prepayable Fine Chart; Speeding Prepayables and Other Prepayables* have been revised to conform to UOR tables used by enforcement officers.

17. **COURT SECURITY INCIDENT REPORT –** AOC Form PT-50, Court of Justice Incident Report previously mailed to John Conley, Commander, Court Security Services is to be mailed to:

Pretrial Services
Administrative Office of the Courts
100 Millcreek Park
Frankfort, Kentucky 40601

Fax (502) 573-0327

18. **CONSOLIDATED CASES –** clarified instruction on consolidation of cases to direct pleadings filed on and after the Order of Consolidation entered are filed/entered under the case number and placed in case file designated by the Order of Consolidation or if not specified, in the most recently filed case.

19. **EXPUNGEMENT OF MISDEMEANOR/VIOLATION CONVICTIONS; EXPUNGEMENT OF DISMISSED OR ACQUITTAL CASES –** clarified language when circuit criminal charge is expunged, the clerk is to expunge underlying district court.