

# Supreme Court of Kentucky

## ORDER

**IN RE: TWENTY-FOUR (24) HOUR ACCESSIBILITY EMERGENCY  
PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION  
DOMESTIC VIOLENCE PROTOCOL  
24<sup>TH</sup> JUDICIAL CIRCUIT AND DISTRICT  
JOHNSON, MARTIN AND LAWRENCE COUNTIES**

Pursuant to KRS 403.735 and the previous Order of this Court, the attached 24-Hour Accessibility Policy and Domestic Violence Protocol for the 24<sup>th</sup> Judicial Circuit, consisting of Johnson, Martin and Lawrence Counties, is hereby approved.

Entered this 8 day of August, 2005.

  
CHIEF JUSTICE

**DOMESTIC VIOLENCE LOCAL PROTOCOL GOVERNING THE 24TH JUDICIAL CIRCUIT/DISTRICT COVERING JOHNSON, MARTIN AND LAWRENCE COUNTIES.**

**I. TWENTY FOUR (24) HOUR ACCESSIBILITY POLICY**

Access to obtain an Emergency Protective Order (EPO) shall be available twenty-four hours a day 365 days a year. Regular and after hours procedures for the 24<sup>th</sup> Judicial Circuit are as follows:

Johnson County: Any person seeking relief through the provisions of an Emergency Protective Order and meeting the criteria as set forth in KRS 403.725 can obtain relief through the Cabinet for Health and Family Services office, whose regular business hours are 8:00am-4:30pm, Monday-Friday. After Hours (4:30pm-8:00am) Emergency Protective Orders can be obtained through Johnson County Sheriff's Department, Paintsville City Police, Kentucky State Police, or by contacting 911 Dispatch.

Martin County: Any person seeking relief through the provisions of an Emergency Protective Order and meeting the criteria as set forth in KRS 403.725 can obtain relief through the Cabinet for Health and Family Services office, whose regular business hours are 8:00am-4:30pm, Monday Through Friday. After hours (4:30pm-8:00am) Emergency Protective Orders can be obtained through Martin County Sheriff's Department, Inez City Police, Kentucky State Police, or by contacting 911 Dispatch.

Lawrence County: Any person seeking relief through the provisions of an Emergency Protective Order and meeting the criteria as set forth in KRS 403.735, can obtain relief through the Lawrence Circuit Clerk's Office, whose regular business hours are 8:00am-4:30pm, Monday-Friday and 8:30am-12:00pm during Saturdays. After regular business hours (4:30pm-8:00am) Emergency Protective Orders can be obtained through the Lawrence County Sheriff's Department, Louisa City Police Department, Kentucky State Police, or by contacting 911 Dispatch.

**II. PERSONS AUTHORIZED TO TAKE PETITIONS FOR EMERGENCY PROTECTIVE ORDERS**

Pursuant to KRS 403.730(2), the following persons, in addition to the District and Circuit Judges, are authorized to provide Domestic Violence Petition forms to a person seeking an EPO, to take oath of the person making the petition affirming the truthfulness of its content, and to verify the signature of that person.

1. Johnson, Martin, and Lawrence Circuit Court Clerks and all Deputy Clerks.
2. Martin, and Lawrence County Trial Commissioners.
3. Law Enforcement Officers, including Sheriffs of Martin, Lawrence, Johnson and their Deputies; City Police Officers of Louisa, Paintsville, and Inez and Kentucky State Police Officers.

4. Domestic Violence Victims advocates serving the court in their designated areas.
5. Social Service Workers employed by the Cabinet for Health and Family Services in there designated areas.
6. Family Court Support Workers for the 24<sup>th</sup> Judicial Circuit.
7. County Attorneys and Assistant County Attorneys for Johnson, Lawrence and Martin Counties.

### **III. PROCEDURES UPON RECEIPT OF A PETITION FOR AN EMERGENCY PROTECTIVE ORDER (EPO)**

**The Kentucky Court of Justice Uniform Protocol for Domestic Violence Cases is adopted as a part of the local Domestic Violence Protocol for the 24<sup>th</sup> Judicial Circuit.**

After any of the above named parties has received a Domestic Violence Petition and affidavit taken under oath, that party shall present the Petition for Emergency Protective Order to the Family Court Judge. In the event that the Family Court Judge cannot be located within a reasonable period, any District Judge or Trial Commissioner of the 24<sup>th</sup> Judicial Circuit shall be contacted. If none of the before mentioned persons can be reached, the Circuit Judge of the 24<sup>th</sup> Judicial Circuit shall be contacted. Once a petition has been signed by the court, the Clerk shall send the petition to LINK for entry. Upon service and LINK entry, the petition will be returned to the Circuit Clerk's office.

Upon review of the petition, if the Court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the Court shall issue an Emergency Protective Order containing one or more of the following restraints:

- (a) Restraining the adverse party from any contact or communication with the petitioner except as directed by the court;
- (b) Restraining the adverse party from committing further acts of domestic violence and abuse;
- (c) Restraining the adverse party from disposing of or damaging any of the property of the parties;
- (d) Directing the adverse party to vacate the residence shared by the parties to the action;
- (e) Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420, granting temporary custody; or
- (f) Entering other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse, or any combination thereof.

### **IV. SERVICE OF EMERGENCY PROTECTIVE ORDERS**

Persons mentioned in section II providing Emergency Protective Orders to persons seeking relief are to also complete additional forms provided to them by the 24<sup>th</sup> Judicial Family Court. Persons mentioned in section II are to complete Domestic Violence

Petitioner Information (FAM24-2) and Respondent Information forms (FAM24-2).  
Petitioner Information forms (FAM24-1) is to be filed in the case file as sealed.  
Respondent Information forms (FAM24-2) are to accompany the Emergency Protective Order given to Law Enforcement to assist them in serving the respondent.

Pursuant to KRS 403.735(5), an Emergency Protective Order shall become binding and effective at the time of personal service or when the respondent is given notice of the existence and terms of the order by a peace officer or the court, whichever is earlier. After notice of the existence and terms of the order is given to the respondent, a peace officer or the court may enforce the terms of the order, and act immediately upon any violation of the order. After notice of the order, all reasonable efforts shall be made by the peace officer or the court to arrange for personal service of the order upon the respondent.

Verbal Notification of an Emergency Protective Order shall be attempted by Law Enforcement or an officer of the court in the 24<sup>th</sup> Judicial Circuit when other means of personal service have failed. The Officer verbally notifying the respondent of the terms and conditions of the Emergency Protective Order shall complete an Emergency Protective Order Notification form (FAM24-3) as provided by the 24<sup>th</sup> Family Court, and make arrangements with respondent for time and place for personal service. Verbal notification does not supersede the responsibility of the officer to make personal (physical) service of the order pursuant to KRS 403.735(5), 403.740(5). All proofs of service shall be returned to the clerk's office to be filed in the case file. If only verbal notification has been made and respondent has not been personally served, a completed Emergency Protective Order Notification form (FAM24-3) shall be returned to the clerk's office and filed in the case. If neither personal service nor verbal notification can be made, Law Enforcement shall return to the Clerk's office a list of attempts that have been made to serve respondent.

Pursuant to KRS 403.735(5), an Emergency Protective Order shall become binding and effective at the time of personal service or when the respondent is given notice of the existence and terms of the order by a peace officer or the court. An officer of the court or Law enforcement officer verbally notifying a respondent shall complete an Emergency Protective Order Notification form (FAM24-3), including affixing their signature stating that they have informed the respondent of the terms and conditions of the Emergency Protective Order, Petitioner's name, its date, time and location, and what date respondent agreed to receive personal service. The following persons are authorized to provide notification to the respondent of an active Emergency Protective Order when attempts of personal service have failed:

- A. Local Law Enforcement officers including Sheriffs of Martin, Johnson, and Lawrence, their Deputies and staff; City Police Officers of Paintsville, Louisa, and Inez; and any Kentucky State police officer.
- B. Court Personnel of the 24<sup>th</sup> Family Court, including Family Court Support Worker or other Court support staff.

## V. DOMESTIC VIOLENCE HEARING

After the issuance of an Emergency Protective Order, a hearing will be held within a fourteen-day period pursuant to KRS 403.740(4) and KRS 403.745(2). If the court should find from a preponderance of the evidence that an act or acts of Domestic Violence and abuse have occurred and may again occur, the Court may order one or more of the following:

- (a.) Restraining the adverse party from any contact or communication with the petitioner except as directed by the court;
- (b.) Restraining the adverse party from committing further acts of domestic violence and abuse;
- (c.) Restraining the adverse party from disposing of or damaging any of the property of the parties;
- (d.) Directing the adverse party to vacate the residence shared by the parties to the action;
- (e.) Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420, awarding temporary custody;
- (f.) Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, awarding temporary support;
- (g.) Directing that either or both parties receive counseling services available in the community, except that the court shall not order or refer the parties to participate in mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.715 to 403.785; or
- (h.) Entering other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse.

Pursuant to KRS 403.750(2) any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for an additional period of up to three (3) years. The number of extensions shall not be limited.

The Domestic Violence Order may be amended by proper motion by either party and may not be limited as to the number of amendments.

If upon the hearing date the Petitioner fails to appear, the court, dependent upon the severity of the allegations made, may:

- (1.) Request the Family Court Support Worker contact the petitioner and reissue the emergency protective order setting a hearing date not to exceed 14 days; or
- (2.) Dismiss the petition without prejudice because of petitioner's failure to appear.

If the Respondent fails to appear at the hearing and has been physically served or verbally notified of the terms and conditions of the Emergency Protective Order, the Court may do one or more of the following:

- (1.) Hold a hearing in his/her absence. If a Domestic Violence Order is issued, the Circuit Clerk's office of the serving county shall cause a copy of the Domestic Violence Order to be hand-delivered to the Respondent or shall mail the Order to Respondent's last known address.
- (2.) Issue a domestic violence show cause summons for the Respondent to show cause as to why he/she should not be held in contempt of court for failure to appear for court proceedings and also reissue the emergency protective order for a hearing date not to exceed fourteen days.

If Respondent has not been physically served or verbally notified of the terms and conditions of the active emergency protective order and Petitioner desires to pursue a Domestic Violence Order, the court shall reissue the emergency protective order until Respondent can be served or notified. A hearing date shall be set not to exceed fourteen days pursuant to KRS 403.745(4).

During the pendency of a Domestic Violence proceeding, when it is discovered that a dissolution/child custody matter is pending in another county in Kentucky, the Family Court Judge may transfer the Domestic Violence Case to the other county or may retain the Domestic Violence case and confer with the Judge in the Court where the dissolution/child custody matter is pending, in the Judge's discretion.

## **VI. VIOLATIONS OF EMERGENCY PROTECTIVE ORDERS/DOMESTIC VIOLENCE ORDERS**

If there is an allegation of a violation of an EPO or DVO, the person alleging the violation may either file for a show cause with the Circuit Clerk's Office in the county in which the protective order was issued for a hearing to be held by the Family Court Judge or file a criminal complaint with the County Attorney's Office for a hearing to be held by a District Court Judge.

Pursuant to KRS 403.760(5), civil proceedings and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once either proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.

Unless a motion for show cause is filed, alleged violations of Emergency Protective Orders or Domestic Violence Orders should be referred to the law enforcement agency within the jurisdiction in which the violation occurred. Any Violations of an EPO or DVO within Paintsville City Limits shall be reported to the Paintsville City Police Department, Johnson County Sheriff's Office or Kentucky State Police. Any violations within Johnson County but outside Paintsville City limits shall be reported to the Johnson County Sheriff's Office or Kentucky State Police.

Any Violations of an EPO or DVO within Inez City Limits shall be reported to the Inez

City Police Department, Martin County Sheriff's Office or Kentucky State Police. Any violations within Martin County but outside Inez city limits shall be reported to the Martin County Sheriff's Department or Kentucky State Police.

Any Violations of an EPO or DVO within Louisa City Limits shall be reported to the Louisa City Police Department, Lawrence County Sheriff's Office or Kentucky State Police. Any violations within Lawrence County but outside Louisa city limits shall be reported to the Lawrence County Sheriff's Department or Kentucky State Police.

Pursuant to KRS 403.760(2), any peace officer having probable cause to believe that the violation of an order issued under the provisions of KRS 403.740 or 403.750 has occurred, whether an emergency protective order or domestic violence order, and after service on the respondent or notice to the respondent as provided under KRS 403.735, shall arrest the respondent without a warrant for violation of the protective order pursuant KRS 500.020, 403.715, and 403.740.

## **VII. 24<sup>TH</sup> JUDICIAL DOMESTIC VIOLENCE SCHEDULED EVENTS**

### **JOHNSON COUNTY**

**Domestic Violence Court cases scheduled to be heard every Tuesday at 9:00am.**

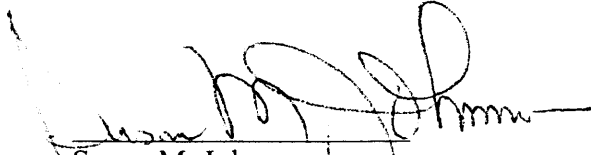
### **MARTIN COUNTY**

**Domestic Violence Court cases scheduled to be heard the 1<sup>st</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Wednesday of each month at the hour of 11:00 am.**

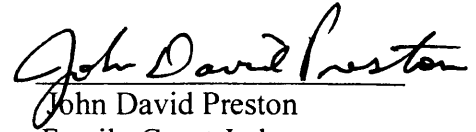
### **LAWRENCE COUNTY**

**Domestic Violence Court cases scheduled to be heard the 2<sup>nd</sup> and 4<sup>th</sup> Monday of each month at the hour of 11:00am.**

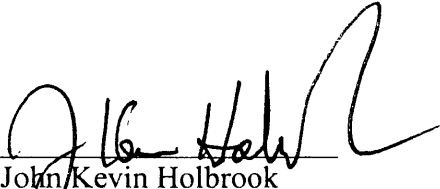
**RECOMMENDED BY THE CIRCUIT, FAMILY & DISTRICT  
COURT JUDGES OF THE 24<sup>TH</sup> JUDICIAL DISTRICT**



Susan M. Johnson  
Chief Regional District Judge  
24<sup>th</sup> Judicial District



John David Preston  
Family Court Judge  
24<sup>th</sup> Judicial Circuit



John Kevin Holbrook  
District Judge  
24<sup>th</sup> Judicial District



Daniel Reid Sparks  
Circuit Judge  
24<sup>th</sup> Judicial Circuit

**DOMESTIC VIOLENCE  
PETITIONER INFORMATION**

\*\*\*\*\*

**PETITIONER NAME** \_\_\_\_\_  
**SOCIAL SECURITY #** \_\_\_\_\_  
**DATE OF BIRTH** \_\_\_\_\_

**MAILING ADDRESS** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PHYSICAL ADDRESS** (directions to home) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**HOME TELEPHONE #** \_\_\_\_\_  
**WORK #** \_\_\_\_\_  
**EMERGENCY #'s** \_\_\_\_\_  
\_\_\_\_\_

**CELL #** \_\_\_\_\_  
\_\_\_\_\_

**OTHER CONTACT PERSON** (include relationship, address, home phone and work phone number)

\_\_\_\_\_  
\_\_\_\_\_

**DOMESTIC VIOLENCE  
RESPONDENTS INFORMATION**

\*\*\*\*\*

**RESPONDENTS NAME:** \_\_\_\_\_  
**SOCIAL SECURTIY #:** \_\_\_\_\_  
**DATE OF BIRTH:** \_\_\_\_\_

**MAILING ADDRESS**

**PHYSICAL ADDRESS (directions to home)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EMPLOYER:** \_\_\_\_\_  
**WORK ADDRESS:** \_\_\_\_\_  
**WORK PHONE #:** \_\_\_\_\_

**OTHER LOCATIONS RESPONDENT COULD BE LOCATED**

**(This should include family homes, friends homes or other locations the person is frequently at, include the times at which the respondent can be located at this location, include the phone numbers of these locations)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EMERGENCY PROTECTIVE ORDER  
NOTIFICATION**

\_\_\_\_\_  
I, \_\_\_\_\_, working with the  
\_\_\_\_\_, notified the RESPONDENT,  
\_\_\_\_\_, via telephone on \_\_\_\_\_, and  
informed the RESPONDENT of the Emergency Protection Order issued on  
\_\_\_\_\_. I informed the RESPONDENT of the following conditions  
set forth in the EPO.

- 1 NAME OF PETITIONER \_\_\_\_\_
- 2 DATE OF HEARING \_\_\_\_\_
- 3 PLACE OF HEARING \_\_\_\_\_
- 4 They are restrained from committing further acts of abuse or threats.
- 5 That they are restrained from any contact with the PETITIONER.
- 6 That they are restrained from any and all communication with PEITIONER
- 7 That they have to remain at least \_\_\_\_\_ feet way PETITONER
- 8 That they are restrained from disposing or damaging any property.
- 9 That they have to vacate the residence.

**ARRANGEMENT FOR PERSONAL SERVICE**

The RESPONDENT agreed to stop by the office and pick up a copy of the EPO and Domestic Violence Petition on \_\_\_\_\_.

\_\_\_\_\_  
OFFICER\ OTHER SERVING PERSON