

Supreme Court of Kentucky

ORDER

**IN RE: ORDER APPROVING DOMESTIC VIOLENCE PROTOCOL FOR THE
10TH JUDICIAL CIRCUIT AND 57TH JUDICIAL DISTRICT, NELSON
COUNTY**

Upon recommendation of the Judges of the 10th Judicial Circuit and 57th Judicial District, Nelson County, and being otherwise sufficiently advised,

The Domestic Violence Protocol for Nelson County is hereby approved. This shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 15th day of May 2009.


CHIEF JUSTICE

**DOMESTIC VIOLENCE PROTOCOL
FOR NELSON COUNTY, KENTUCKY**

I. 24 HOUR ACCESS

Pursuant to KRS 403.730, in order to insure 24 hour access to domestic violence emergency protective orders, the following procedures will be in effect:

1. Domestic Violence Petitions, emergency protective orders and summons will be kept and made available to the public at the Bardstown City Police Dispatcher's Office.

2. Whenever the office of the Nelson Circuit Clerk is closed, the officers and/or employees of the Bardstown Police Department, Nelson County Sheriff's Department and Kentucky State Police are hereby authorized to provide and verify domestic violence petitions sought by victims of domestic violence on behalf of themselves or for others as provided by statute.

3. Upon verification of a domestic violence petition by any of the above officers and/or employees, the Judge of the Nelson District Court shall be notified for purposes of issuing an emergency protective order. If said judge is unavailable, said order shall be required from any other available judge authorized by law to execute said emergency protective orders as soon as practicable, which orders may be received by facsimile reproduction when available.

4. The above officers and/or employees are also authorized to issue the appropriate summons to be served with any EPO issued pursuant to this order.

5. As soon as practical on the next day the office of the Nelson Circuit Clerk is open, a copy of all petitions, orders and summons issued pursuant to this order shall be

delivered by the Bardstown Police Department to the Nelson Circuit Clerk's Office for further disposition pursuant to the joint domestic violence protocol.

II. DOMESTIC VIOLENCE PROTOCOL

1. (General Provisions) All domestic violence petitions shall be assigned a domestic violence "D" case number with the appropriate trailer number, if any, regardless of who reviews the petition and orders the case filed.

A. This protocol addresses the procedure for petitions filed during the pendency of a dissolution or child custody proceeding.

B. If a verified motion relating to domestic violence is filed in the dissolution or child custody proceeding, the motion must be filed on AOC 275.1, as a Petition, pursuant to KRS 403.730 (2), and shall be assigned a domestic violence "D" case number with the appropriate number regardless of the fact that it was filed as a motion in the Circuit Court dissolution or child custody case.

C. The judge number of the judge reviewing the petition and ordering the case filed shall be entered on the case screen as the opening judge.

D. LINK entry for an EPO and DVO issued shall be made in accordance with the Domestic Violence Holder of the Record User Agreement made between the Bardstown Police Department and the Nelson Circuit Clerk's Office and approved by the Nelson District Court.

2. Procedures for domestic violence petitions filed during regular office hours:

A. At the time the case is opened the deputy clerk will 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 either Circuit Judge, if no District Judge is available. If an EPO is issued the clerk shall file the petition as a domestic violence “D” case and schedule a domestic violence hearing in the District Court.

2. If it is determined that a dissolution or child custody proceeding is pending in Circuit Court, the deputy clerk shall deliver the petition to the appropriate Circuit Judge, or the District Judge if neither Circuit Judge is available. If an EPO is issued, the clerk shall file the petition as a domestic violence “D” case and schedule the domestic violence hearing as directed by the issuing judge.

(a) If there is a regularly scheduled civil or domestic violence docket in Circuit Court within 14 days, the hearing shall be scheduled on the appropriate date within that time period. If there is no civil or domestic violence docket scheduled within that time frame, the matter shall be scheduled for a hearing in the District Court within that time period and at that time the District Judge shall enter a domestic violence order or, if appropriate, shall extend the emergency protective order and schedule the matter for the Circuit Court at a regularly scheduled date for civil or domestic violence hearings within the appropriate time frame.

(b) The deputy clerk shall cross reference the “D” case with the dissolution or child custody case. Additionally, if a domestic violence order is issued, upon entry, the deputy clerk shall place a copy of the EPO/DVO in the file of the Circuit Court dissolution or child custody case.

3. Procedure for domestic violence petitions filed after regular business hours and weekends.

A. Upon receipt by the clerk of a verified domestic violence petition taken after regular business hours (after-hours and weekends), and a domestic violence petition hearing has already been scheduled with the District Judge, the deputy clerk shall 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 file the petition (and the protective order issued, if any) as a domestic violence “D” case in the District Court, regardless of which judge ordered that the petition be filed; and; calendar the hearing by completing a scheduled event screen on the Case Management System.

2. If it is determined that a dissolution or child custody proceeding is pending in Circuit Court, the deputy clerk shall notify the District Judge of the pendency of same. The District Judge shall conduct the scheduled domestic violence hearing; and, enter a domestic violence order or, if appropriate, extend the emergency protective order and comply with the following:

(a) If there is a regularly scheduled civil or domestic violence docket in Circuit Court within 14 days, the hearing shall be scheduled on the appropriate date within that time period. If there is no civil or domestic violence docket scheduled within that time frame, the matter shall be scheduled for a hearing in the District Court within that time period and at that time the District Judge shall enter a domestic violence order or, if appropriate, shall extend the emergency protective order and schedule the matter for the Circuit Court at a regularly scheduled date for civil or domestic violence hearings within the appropriate time frame.

(b) The clerk shall cross-reference the “D” case with the dissolution or child custody case. Additionally, a copy of the domestic violence order shall be placed in the file of the Circuit Court dissolution or child custody case.

B. If pursuant to the 24 hour accessibility order a judicial officer is needed for the issuance of an emergency protective order and the District Judge is unavailable, either Circuit Judge shall be contacted to consider emergency protective order petitions. If both of the Circuit Judges are unavailable, the regularly elected judge of the 10th Judicial District shall be contacted to issue emergency protective orders as provided in this protocol and an order shall be issued by the Chief Regional Judge to so authorize said judge. If none of the above judicial officers are available, then any sitting Circuit Judge may be contacted.

III. HEARINGS

1. Domestic Violence hearings shall be held in District Court, except for changes noted on the official monthly calendar, on Wednesday at 9:00 a.m.

2. The domestic violence hearings in Circuit Court shall be heard on the first and third Wednesdays at 9:00 a.m. for Division 1 and 10:30 a.m. for Division 2, or such other times as the Circuit Court shall schedule domestic violence hearings.

3. If while a domestic violence matter is pending in the District Court, a dissolution or child custody proceeding is filed in the Circuit Court, the presiding District Judge may, if appropriate, enter or continue such protective orders and process deemed necessary to schedule the matter before the Circuit Court.

4. Contempt Proceedings:

A. If a domestic violence order or emergency protective order is issued or modified by the Circuit Court, the District Court may, arraign any defendant arrested on a contempt warrant and docket for a hearing at the next available Circuit Court motion or domestic violence hour.

B. If a domestic violence order or emergency protective order is issued by the District Court, and not modified by the Circuit Court, then the District Court shall arraign any defendant arrested on a contempt warrant and conduct contempt proceedings even if a dissolution action or child custody action is pending in the Circuit Court.

C. The District Court shall arraign and proceed with trial and final disposition of a defendant charged with a criminal offense for violating an EPO or DVO, even if the order was issued or modified by the Circuit Court. (Civil proceedings and criminal proceedings for the same violation of a protective order are mutually exclusive; therefore, the District Judge should never dismiss a misdemeanor case arising out of a violation of an EPO or DVO, unless a contempt hearing for the same incident has already been heard. If this occurs, the case cannot be heard as a civil contempt before the Circuit or District Judge since KRS 403.760 (5) states that “once either proceeding has been initiated the other shall not be undertaken regardless of the outcome of original proceeding.”)

5. Motions to amend or contempt matters etc. filed after the decree of dissolution and arising out of domestic violence “D” cases where the Circuit Judge was assigned the “D” case shall be assigned to the Judge of the Circuit Court.

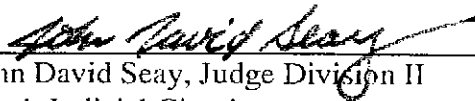
6. Domestic violence petitions properly filed in this county when there is an action for dissolution of marriage pending in another county shall be assigned to the

judge of the District Court unless cause is shown to transfer same to the Circuit Court where the dissolution of marriage is pending.

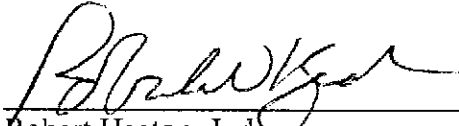
This Domestic Violence Protocol is subject to the approval of the Supreme Court and once it has been approved by the Supreme Court it shall become a part of the Rules of Court for Nelson County, Kentucky, and become effective immediately.



Charles C. Simms, III, Judge Division I
Tenth Judicial Circuit



John David Seay, Judge Division II
Tenth Judicial Circuit



Robert Heaton, Judge
Fifty Seventh Judicial District