

Supreme Court of Kentucky

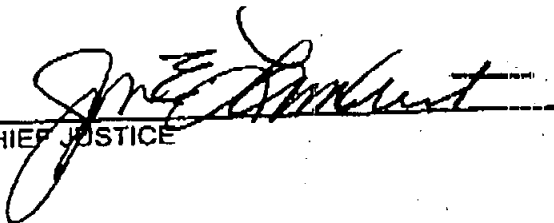
ORDER

IN RE: ORDER APPROVING THE AMENDED LOCAL RULES OF
PRACTICE OF THE JEFFERSON CIRCUIT COURT, FAMILY
DIVISION, THIRTIETH JUDICIAL CIRCUIT

Upon recommendation of the Chief Judge of the Jefferson Circuit
Court, Family Division, Thirtieth Judicial Circuit, and being otherwise sufficiently
advised,

The attached Rules of Court and Practice and Procedure for the
Jefferson Circuit Court, Family Court Division, Thirtieth Judicial Circuit, are
hereby approved.

ENTERED: August 3, 2006.


CHIEF JUSTICE

RULES OF COURT
PRACTICE AND PROCEDURE
COMMONWEALTH OF KENTUCKY

JEFFERSON CIRCUIT COURT
FAMILY DIVISION

WEBSITE

<http://www.courts.ky.gov>

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RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE

101 Preface

- A. These are the Uniform Rules of Court Practice and Procedures of the Jefferson Circuit Court, Family Division, hereinafter referred to as Family Court and shall be enforced in all divisions of the Jefferson Family Court. These Rules supplement the Kentucky Rules of Civil Procedure and the Kentucky Rules of Criminal Procedure. These rules shall be the only operative Jefferson Family Court Rules of Court Practice and Procedure. All previous rules adopted by the Jefferson Family court are hereby rescinded.
- B. These Rules are supplemented by Family Court Standing Orders, which are available from the Family Court Administrator. All areas of practice shall adhere to time frames as mandated by the Kentucky Supreme Court.
- C. The Court may assess costs and fees or impose appropriate sanctions against a party not complying with any of these Rules.

102 Mission Statement

The mission of Jefferson Family Court is to provide a central forum for fair and prompt resolution of legal problems affecting families and children, whether court intervention is initiated by a family member or by a governmental agency. The Court strives to transcend the traditional adjudicatory function and adversarial process and to look beyond the immediate crisis, fashioning remedies and orders designed to minimize future court involvement.

103 Goals

- A. The ultimate goal of the Court is the resolution of domestic relations cases within a framework of due process, protection, and rational, efficient conflict resolution. This goal is one that benefits both individual families and the community as a whole. Through community education, the Court works to create an awareness and understanding of its functions and activities.
- B. Cognizant of the fact that traditional legal approaches may create new barriers to relationships and exacerbate problems within families, the Court encourages alternative dispute resolution, and, as appropriate, recommends or orders counseling, self-help and other available, suitable governmental and community services. The Court acknowledges that power imbalances, whether physical, emotional or intellectual, between and among family members can undermine fair resolution, and attempts to take such imbalances into account while providing due process to each party.
- C. Parties before the Court come from all segments of society and are a culturally diverse population. To ensure that they and counsel are treated with dignity, respect, fairness and informed decision-making, the Court provides opportunities

for itself and others involved in Family Court to stay abreast of legal and social developments and to otherwise enhance their skills and knowledge on topics affecting families. An Advisory Committee acts as a continuing liaison with the Family Court and with other agencies within the legal and social service systems.

- D. The "one judge, one staff, one family" rule is followed whenever possible, providing a more efficient system for both the family and the Court by reducing the number of hearings on related matters, as well as the risk of inconsistent resolutions and attempts to forum shop. Although all judges preside over their courtroom as they deem appropriate, regular communication and collaboration among Family Court judges promotes uniformity of policies and practices. Enforcement of orders maintains the integrity of the judicial process and fosters the effective administration of justice.
- E. To accomplish its mission and to allow for analysis and evaluation of its work, the Court endeavors to maintain accurate and complete records as required by law; and further, to permit, where authorized by law and appropriate, immediate access to records. Family Court also strives for sound management, incorporating modern administrative practices which assure uniform delivery of services and effective, economical and efficient utilization of public resources.
- F. The goal of the Jefferson Family Court is the disposition of ninety percent (90%) of all family law cases within twelve (12) months of case filings.

104 Effective Date

The effective date of these rules shall be thirty (30) days after Kentucky Supreme Court approval.

105 Citation

These Rules shall be cited as JFRP.

106 Style and Case Numbers

Information regarding style and case numbers shall be available from the Family Court Clerk's Office.

107 Jurisdiction

Family Court has jurisdiction of the following cases:

Dissolution of Marriage, Child Custody, Visitation, Maintenance and Support, Equitable Distribution of Property in Dissolution Cases, Adoption, Termination of Parental Rights, Domestic Violence and Abuse Proceedings Subsequent to the Issuance of an Emergency Protective Order, Paternity, Uniform Interstate Family Support Act, Dependency, Neglect, and Abuse, and Juvenile Status Offenses.

The Family Court is the proper division for the appeal of a hearing officer's final administrative child support and/or medical order pursuant to KRS 13B.140 and 405.450.3.

108 Assignment of Cases

Case assignment among the judges shall be available in the Family Court Clerk's Office, the Family Court Administrator's Office, or on the Family Court Website:
(<http://www.courts.ky.gov>)

109 Time Standards / Flow Charts

Time standards are administrative guidelines to be used as management tools. Jefferson Family Court has established target goals and expectations of practice within its individual areas of jurisdiction. Illustrations of timelines as driven by statute and local rules are found in flowcharts.

110 Holidays

Holiday schedules may be obtained at the Family Court Clerk's Office, The Family Court Administrator's Office, or on the Family Court website:
(<http://www.courts.ky.gov>)

RULE 2 MOTION HOUR

201 Regular Motion Hour Schedule

- A. For Circuit Court actions in Family Court, Motion Hour shall be on Monday. The schedule may be obtained at the Family Court Clerks Office, the Family Court Administrator's Office or on the Family Court website:
(<http://www.courts.ky.gov>)
- B. Motions for Paternity, Dependency, Neglect and Abuse, and Domestic Violence actions shall be noticed for the beginning of the regularly scheduled docket.
- C. Emergency Dependency and Status motions may be made on any day of the week, with appropriate notice, on each division's Emergency Dependency and Status docket, upon approval of an assistant county attorney. Non-emergency Dependency and Status motions shall be noticed for the beginning of the regular scheduled docket.

202 Exceptions to Regular Motion Hour Schedule

There shall be no Motion Hour during the week of the Judicial College. Whenever a state holiday falls on a Monday, the Motion Hour shall be held on the following Tuesday. If the court is closed for any other unforeseen reason, i.e. inclement weather, the Motion Hour shall be passed to the following Monday.

203 Deadline for Serving and Filing Motions

- A. All Circuit Court motions shall be filed and clocked no later than noon on the preceding Thursday with service of copies to be mailed by Wednesday or hand-delivered or by facsimile transmission by noon on Thursday. Unless otherwise ordered by the Court, motions filed after noon on such Thursday shall be automatically passed to the next following Motion Hour.
- B. All non-emergency District Court Motions, (Paternity, Dependency, Neglect and Abuse, Domestic Violence, and Status) shall be filed, clocked and noticed no later than noon three business days preceding the appropriate District docket.

RULE 3 ADOPTIONS / TERMINATION OF PARENTAL RIGHTS

301 Flowcharts

See Pages 9 – 13 for adoption and termination of parental rights flowcharts.

302 Petition

Every petition in an adoption or termination of parental rights action shall include the case number of any related Dependency and/or Termination of Parental Rights case and the name of any Guardian ad Litem previously appointed.

303 Guardian ad Litem

- A. In all actions for adoption or termination of parental rights which require appointment of a Guardian ad Litem, counsel shall make a motion and tender an order for a Guardian ad Litem for the child or children. In the best interest of the child, the Court shall appoint a Guardian ad Litem taking into consideration any previously appointed Guardian ad Litem in any related Dependency and/or Termination of Parental Rights case.
- B. Upon the filing of an action, the case shall be brought, along with any related Dependency and/or Termination of Parental Rights case, to the appropriate judge of the division.
- C. Guardian ad Litem standards and expectations of practice, are on pages 14 - 15.

304 Counsel for Parents

- A. Whenever a parent in an action for involuntary termination of parental rights moves the Court for an appointment of counsel, supported by an affidavit of indigency, the clerk shall bring the Court any related Dependency files.
- B. If the appointment of counsel is appropriate, the Court may offer the parent the option of being represented by the same counsel who represented the parent in the Dependency proceedings.

305 Involuntary Termination of Parental Rights

- A. Immediately upon the filing of any petition for involuntary termination of parental rights, the petitioner shall obtain a pretrial date from the secretary of the assigned division. In the event that the parents are not served prior to the pretrial date, then the pretrial shall be used as a case status review to expedite the procedure.

- B. At the conclusion of the pretrial and once all parties have been properly served, the Court shall set a trial date within sixty (60) days of the motion by a party in accordance with KRS 625.080 (5). Once set, the Court shall not reschedule any trial date except upon good cause shown.
- C. The Court shall expedite the case by giving priority thereto and to render a decision within thirty (30) days of submission.

306 Voluntary Termination of Parental Rights

- A. Within three (3) days after a petition is filed, the Court shall schedule a hearing to be conducted within seven (7) days of the petition unless waived by the petitioner.
- B. Voluntary Termination actions shall be assigned to the Family Court that last heard the dependency proceedings regarding the involved child(ren).

307 Guardian ad Litem Fee Affidavit

Motions for compensation shall be accompanied by an affidavit detailing:

1. The statutory basis for appointment;
2. The hours of service rendered and the hourly fee requested;
3. That the action or proceeding has been concluded.

ADOPTION / TERMINATION OF PARENTAL RIGHTS

APPENDIX

ADOPTION CHECKLIST

RELATIVE/STEPPARENT ADOPTION [pursuant to KRS 199.470(4)(a)]

- ___ Petition: KRS 199.490 - Prior to filing petition, child must have resided continuously in the home of the Petitioner for at least ninety (90) days immediately prior to the filing of the petition. KRS 199.470(3)
- ___ Service on Natural Parents KRS 199.480(2) or Entry of Appearances and Waivers
- ___ Service on Custodian on Behalf of Child(ren) KRS 199.480(2)
- ___ Consent to Adoption by Natural parents - KRS 199.500/KRS 99.011(14) OR Adoption without Consent of Natural Parent KRS 199.502
- ___ Warning Order Attorney Report, if applicable
- ___ Confidential Report by Cabinet KRS 199.510
- ___ Report of Expenses and Order approving KRS 199.590.(6)(a)(b)
- ___ Judgment of Adoption (will probably be filed at hearing) KRS 199.520

NON-RELATIVE ADOPTION

- ___ Petition KRS 199.490
- ___ Copies of Order Terminating Parental Rights Of Natural Parents KRS 199.490(2) OR Entry of "Appearance and Waiver and Consent to Adoption by Natural Parents - KRS 199.500/KRS 199.011(14) OR Adoption without Consent of Natural Parent KRS 199.502
- ___ If Cabinet has custody of child(ren), a written Consent by the Cabinet. If this is an independent non-relative adoption, a letter from the Cabinet placing the child(ren) with the Petitioner(s). KRS 199.470
- ___ Temporary Custody Order if child was placed prior to Cabinet approval KRS 199.473(2)
- ___ Affidavit and Order appointing Guardian ad Litem for child(ren) KRS 199.480(2)
- ___ Service on Guardian ad Litem or Custodian of Child(ren) KRS 199.480(2)
- ___ Service on the Cabinet for Families and Children if they have custody of child(ren) KRS 199.480(2)
- ___ Warning Order Attorney Report, if applicable
- ___ Confidential Report by Cabinet KRS 199.510
- ___ Report of Guardian ad Litem (will probably be filed at hearing) - KRS 199.590(6)(a)(b)
- ___ Judgment of Adoption (will probably be filed at hearing) KRS 199.520

NOTE: Make sure the names of the natural parents and the child's former last name do not appear in the pleadings and that there are separate judgments for each child. KRS 199.520 (1)

Make sure adoption expenses are not excessive. KRS 199.590(6)(a)(b)

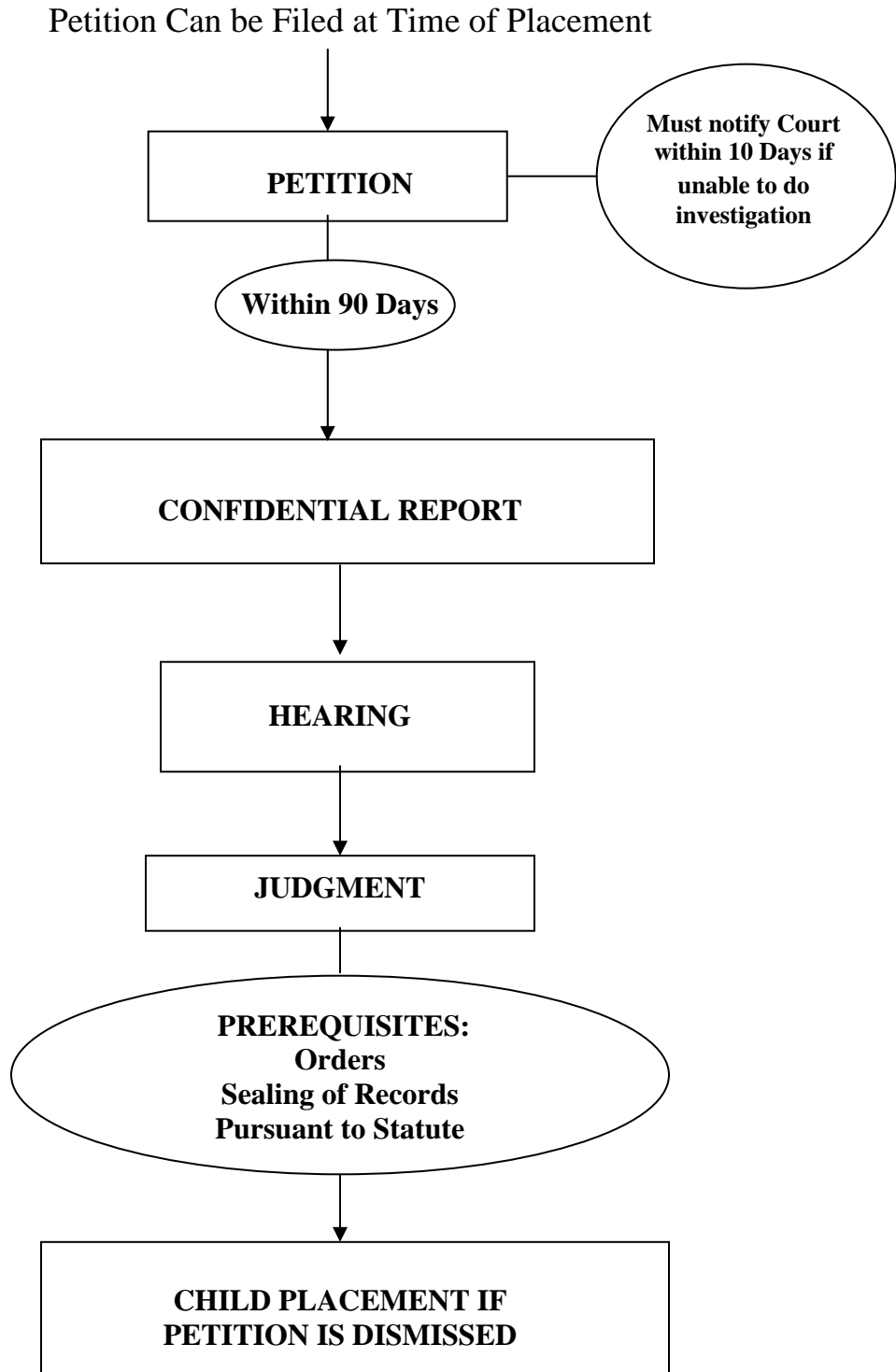
Make sure that Consents are not signed prior to seventy-two (72) hours after giving birth and that they are not revoked in following twenty (20) days. Consents not revoked after twenty days are final and irrevocable. KRS 199.500(5)

Make sure Guardian ad Litem Reports are made after reviewing Confidential Reports. No fee orders should be signed until date of judgment or after.

Make sure the Guardian ad Litem is present for the hearing. KRS 199.515

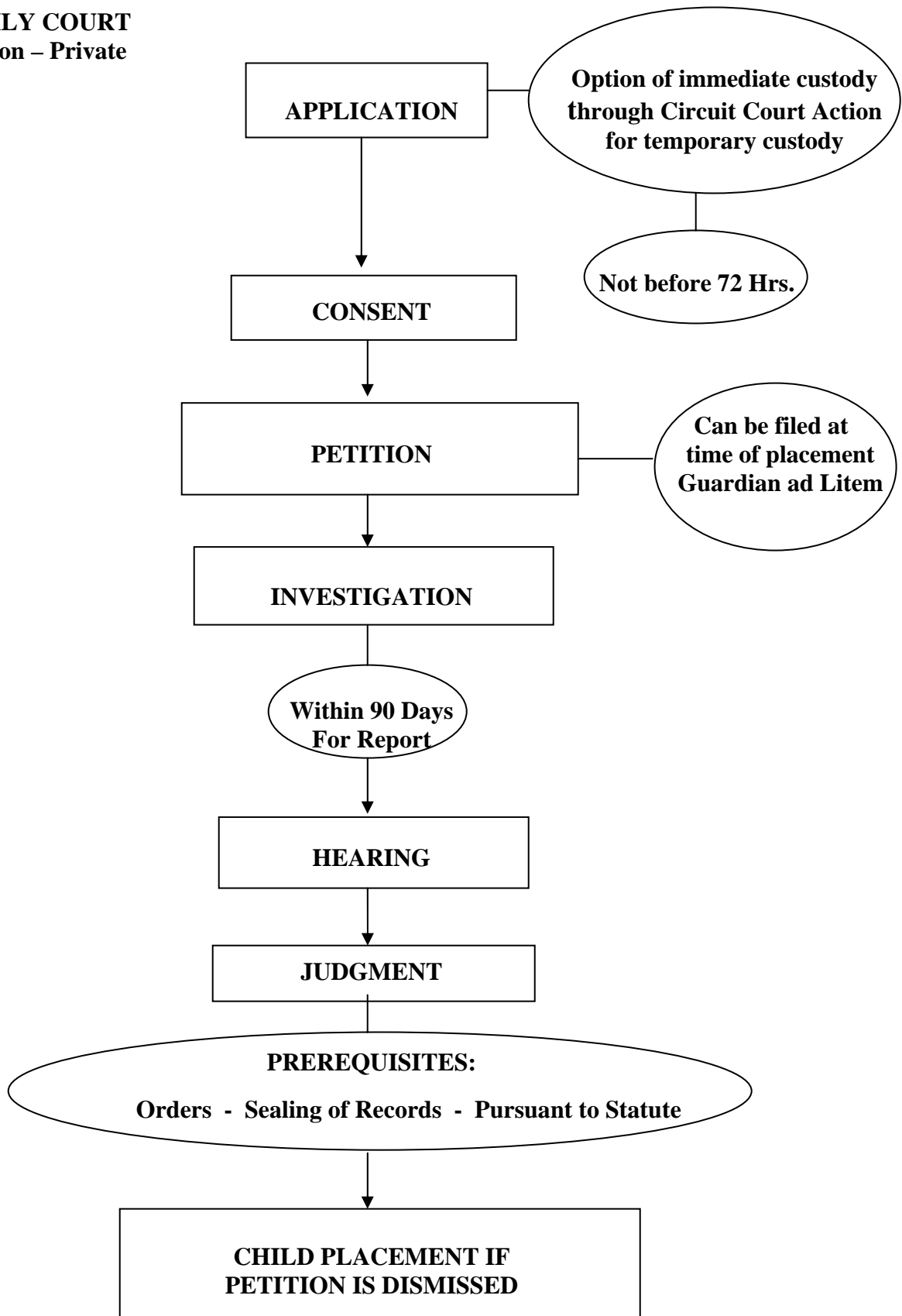
Make sure there is a Confidential Report in all cases. It is often argued that immediate relatives, as set forth in KRS 199.470(4)(a), are exempted from obtaining a Confidential Report from the Cabinet. KRS 199.470 sets forth the requirements prior to the filing of the petition. It does not address the Cabinet's approval of the adoption after the filing as set forth in KRS 199.510.

FAMILY COURT
Adoption – Cabinet or Agency Licensed by Cabinet



UPDATED 5/27/03

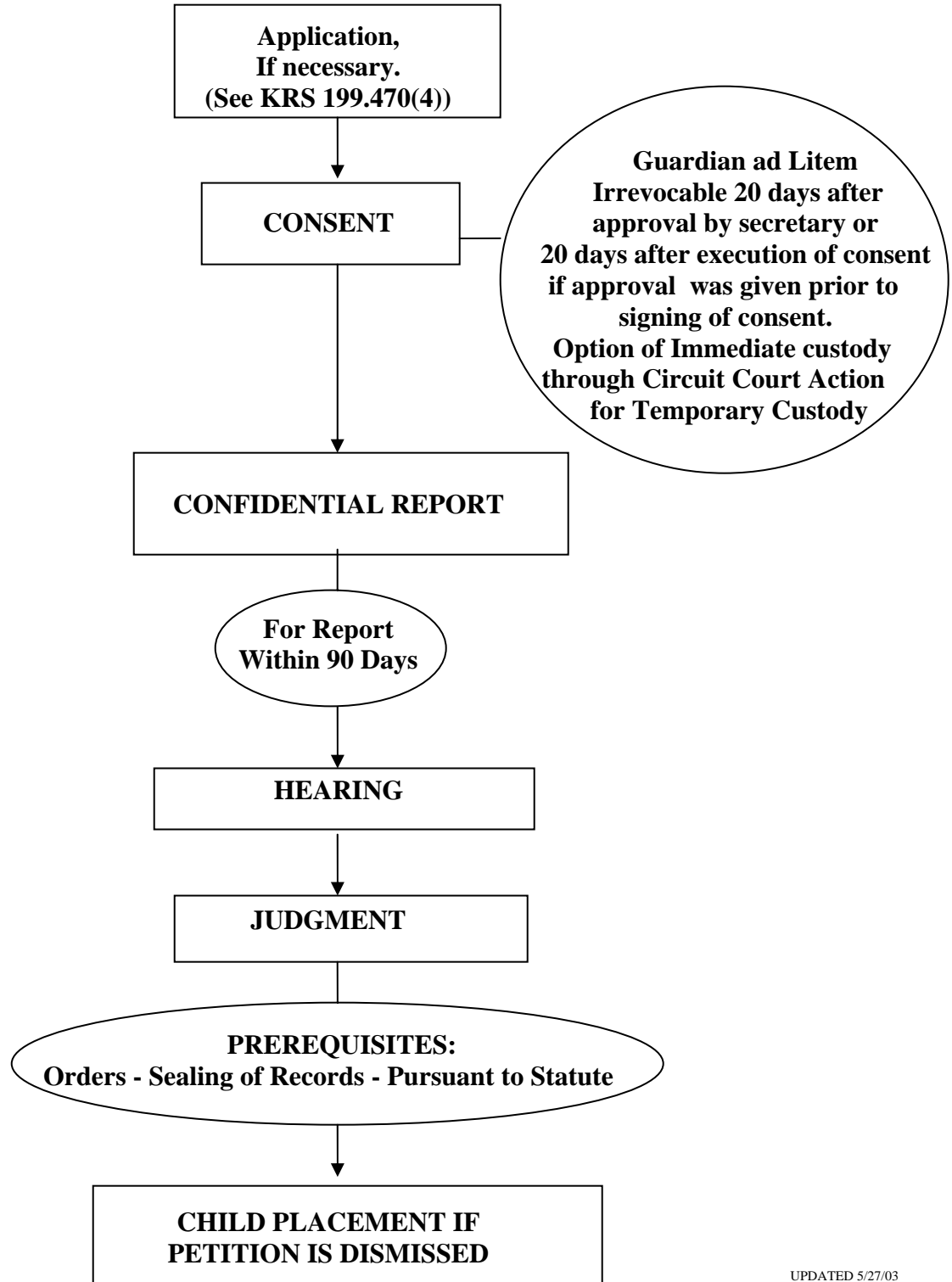
FAMILY COURT
Adoption – Private



UPDATED 5/27/03

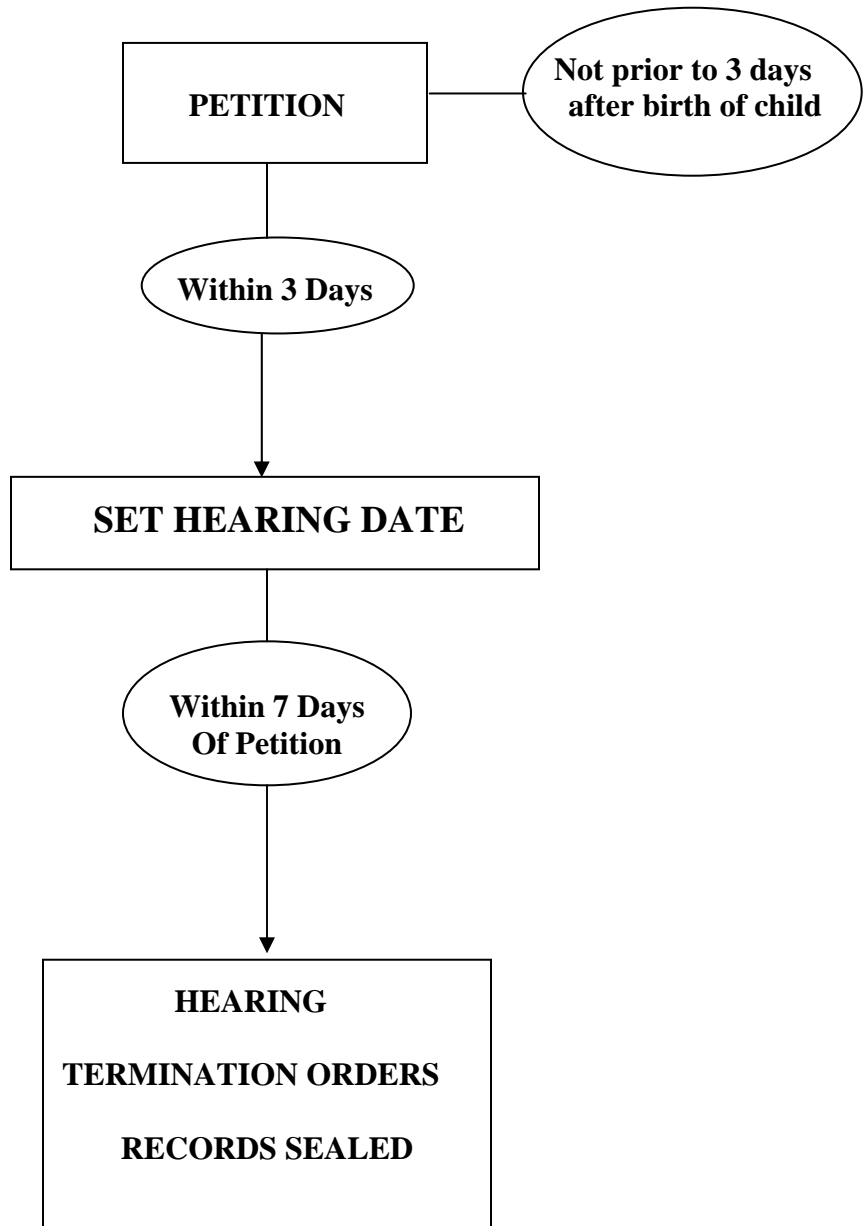
FAMILY COURT
Adoption – Stepparent/Relative

**Child must reside with Petitioner for 90 Days prior to Petition
(KRS 199.470(3))**

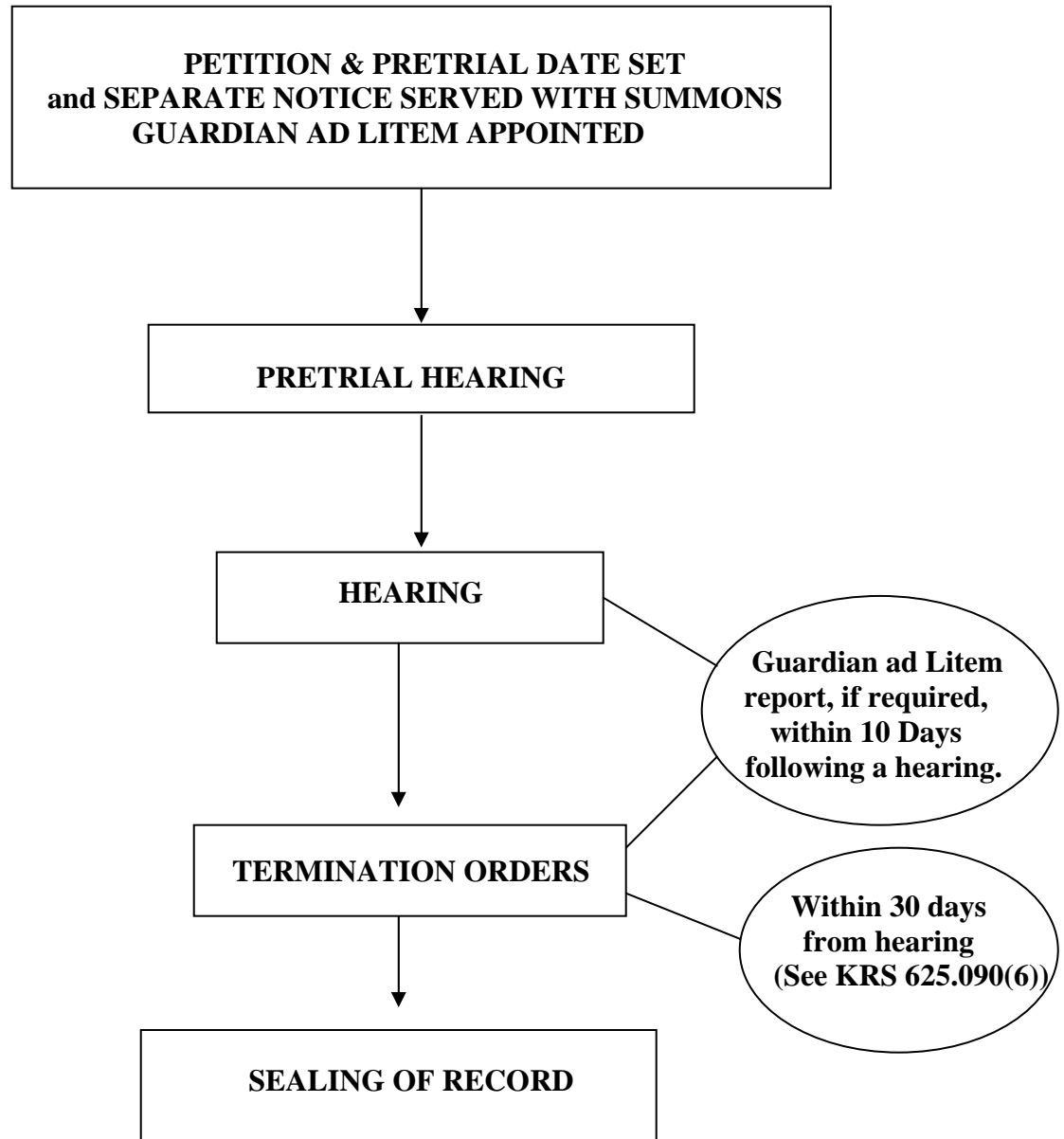


UPDATED 5/27/03

FAMILY COURT
Voluntary Termination



FAMILY COURT
Involuntary Termination



UPDATED 5/27/03

RESPONSIBILITY OF APPOINTED GUARDIAN AD LITEM

Any attorney appointed Guardian ad Litem in either a voluntary termination, an involuntary termination, or an adoption case, must be prepared to be available on short notice. Cases of these natures are, by statute, entitled to expedited hearings and it is extremely important that Guardians carry out their functions promptly and efficiently.

A. VOLUNTARY TERMINATIONS

1. For an underage birth parent:
 - a. Review the pleadings in the case and the applicable statutes to make sure that the case is “in order” for the termination hearing.
 - b. Meet with or speak by phone with the birth parent and/or next friend prior to the day of the hearing.
2. For an infant:
 - a. Involuntary terminations will involve representation of either an underage birth parent or an infant, and Guardians “represent” them just as they would represent the interests of any other client. Guardians for the child advocate the best interest of the child. The Guardian ad Litem is expected to file a written report before or at the time of the hearing.
 - b. Review the pleadings in the case and the applicable statutes to make sure that the case is “in order” for the termination hearing. A brief meeting with the birth parent(s) prior to court on the day of the hearing is recommended.

B. INVOLUNTARY TERMINATIONS

1. For an underage birth parent:
 - a. Review the pleadings in the case and the applicable statutes to make sure that the case is “in order” for the termination hearing.
 - b. Meet with or speak by phone with the birth parent and/or next friend prior to the day of the hearing.
2. For an infant:
 - a. Review the pleadings in the case and the applicable statutes to make sure that the case is recommended.
 - b. A brief meeting with the birth parent(s) prior to court on the day of the hearing is recommended.

C. ADOPTIONS

For an infant:

- a. Review the pleadings in the case and the applicable statutes to make sure that the case is in order for the adoption hearing.
- b. There is no obligation to visit the prospective adoptive parents in their home. That examination and meeting has previously been done by

Kentucky's Cabinet for Family and Children or by a licensed child placing agency.

- c. A brief meeting with the prospective adoptive parent(s) prior to court on the day of the hearing is recommended.

ADOPTION AND PERMANENCY GUIDELINES

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PERMANENCY HEARING

WHO SHOULD BE PRESENT:

- A. The judge who has monitored the case from the first hearing;
- B. The child, unless inappropriate for a specific reason;
- C. Parent(s) whose rights have not been relinquished or terminated;
- D. The Indian custodian, the child's tribe and attorney, if applicable;
- E. Attorney(s) for parent(s);
- F. Assigned child welfare caseworker(s);
- G. Prosecuting or agency attorney;
- H. Attorney for child, if applicable;
- I. Guardian ad Litem for the child, whether attorney, social worker or other paid non-attorney or CASA;
- J. Foster parent(s), legal risk foster parent(s), or adoptive parent(s);
- K. Relatives, other interested persons, and witnesses;
- L. Court reporter or suitable recording technology; and
- M. Court security other than court staff.

QUESTIONS THAT MUST BE ANSWERED:

In All Cases, What Are The Child's Special Needs?

- A. Updates on health and educational information;
- B. A description of the child's current placement and behavior;
- C. A description of the services provided to the child, the progress the child has made and issues that still need to be addressed, including cultural needs;
- D. If a member of a sibling group, information on the status of the relationship and contact between siblings.

If Reunification Is Recommended:

- A. How have the conditions or circumstances leading to the removal of the child been corrected?
- B. Why is this plan in the best interest of the child?
- C. How often is visitation occurring and what is the impact on the child?
- D. What is the date and detailed plan for the child's safe return home and follow-up supervision after family reunification?
- E. What are the plans to continue any necessary services to the child?
- F. What are the plans to continue any necessary services to the family?
- G. If a change of school will occur, what will be done to prepare for the transition?

If Termination Of Parental Rights And Adoption Is Recommended:

- A. What are the facts and circumstances supporting the grounds for termination?
- B. What reasonable efforts were made to reunify?
- C. Why is this plan in the best interest of the child?
- D. Has the petition been filed and if not, what is the date it will be filed?
- E. Are there relatives who will adopt the child if TPR is granted? If so, is the child living with the relative? If not, why not? If there are no relatives willing and able to adopt, why not?
- F. If relative adoption is not the plan, is adoption by the foster parent(s) the plan? If not, why not?
- G. If an adoptive home must be recruited, what efforts are being made to identify potential adoptive homes both locally and in other jurisdictions? Are there adults with whom the child has a positive relationship and are they potential adopting families?
- H. Will adoption with contact be recommended and why or why not?
- I. What counseling will occur to assist the child to deal with this change of plan?
- J. If the child is an Indian child, have ICWA requirements been met?

If Permanent Guardianship or Permanent Custody is Recommended:

- A. Why is the option preferable to TPR and adoption? Why is it in the best interest of the child?
- B. What reasonable efforts were made to reunify?
- C. What are the facts and circumstances demonstrating the appropriateness of the individual or couple to serve as a permanent family to the child? Is there another person who spends significant time in the home, and, if so, has that individual been interviewed for appropriateness?
- D. Has there been full disclosure to the family of the child's circumstances and special needs?
- E. What is the plan to ensure that this will be a permanent home for the child?
- F. What contact will occur between the child and the parents, siblings and other family members?
- G. What financial support will be provided by the biological parents?
- H. What are the plans to continue any necessary services to the child? How will these services be funded after guardianship or custody has been granted?
- I. If the child is not already placed in this home, why not and:
 - 1. How often is visitation occurring and what is the impact on the child?
 - 2. What is the date and detailed plan for the child's placement in this home and follow-up supervision after placement?
 - 3. If a change of school will occur, what will be done to prepare for this transition?

If Another Plan Is Being Recommended:

- A. What are the compelling reasons not to proceed with reunification, TPR, permanent guardianship or permanent custody? What is the plan, and why is this plan in the child's best interest?
- B. What reasonable efforts were made to reunify the child with the parent(s)?
- C. How will this plan provide stability and permanency for the child?
- D. What contact will occur between child and parents, siblings and other family members?
- E. What are the plans to continue any necessary services to the child?

- F. If the child is a teenager, what is the plan to prepare the child for independent living?
- G. If the child is not already placed in this home, why not and:
 - 1. How often is visitation occurring and what is the impact on the child?
 - 2. What is the date and detailed plan for the child's placement in this home and follow-up supervision after placement?
 - 3. If a change of school will occur, what will be done to prepare for the transition?

FINDINGS AND CONCLUSIONS:

- A. Persons present and whether absent parties were provided with appropriate notice; verification that reports offered into evidence have been provided to all parties in advance of the hearing.
- B. A finding as to what reasonable efforts the agency has made to reunify the family and to finalize a permanent plan. A well-designed, appropriate case plan and meaningful case reviews should prevent unexpected findings of "no reasonable efforts" at this stage of a case. Should it be found that additional remedial steps are necessary, specific expectations should be set out in a detailed order, with a short time frame (e.g. 30 days) for holding the follow-up permanency hearing. A copy of the order should be forwarded to the head of the social services agency.
- C. A statement addressing special factors or conditions of the child that are identified as special needs, what services are to be provided to address these needs and who is responsible for providing the services.
- D. The Court's determination of the permanent plan for the child and why the plan is in the best interest of the child. The order should state the steps to be taken and timelines for accomplishing the permanent goal. If the plan is reunification, the date for reunification should be stated.
- E. If the plan is termination of parental rights and the petition has not yet been filed, the order should state expected time frame for filing a petition for TRP that must be within thirty (30) days. If the petition has been filed, the Court should schedule pre-trials, mediation, and trial dates.
- F. If the plan is termination of parental rights, and a parent wishes to relinquish parental rights at the permanency hearing, the Court should be prepared to accept the relinquishment and include the relinquishment in the order.
- G. For any plan, next hearing date and purpose unless all court and agency involvement is terminated (i.e., permanent guardianship, permanent custody, or reunification without protective supervision).

TERMINATION OF PARENTAL RIGHTS HEARINGS

WHO SHOULD BE PRESENT:

- A. The judge who has monitored the case from the first hearing;
- B. Parent(s);
- C. Attorney(s) for the parent(s);
- D. If an Indian child, the child's tribe, the attorney for the child's tribe, if any, and the Indian custodian;
- E. Assigned social services worker(s);
- F. Prosecuting or agency attorney(s);
- G. Guardian ad Litem for the child, whether attorney, social worker, or other paid non-attorney, or CASA;
- H. Attorney for the child, if applicable;
- I. Foster parent(s), legal risk foster parent(s), or adoptive parent(s);
- J. Relatives who are caretakers of the child or who are involved in an adoption with contact agreement, when applicable;
- K. Court reporter or suitable recording technology; and
- L. Court security and other Court staff

QUESTIONS THAT MUST BE ANSWERED TO DETERMINE WHETHER GROUNDS EXIST FOR TERMINATION OF PARENTAL RIGHTS AND WHETHER TERMINATION AND ADOPTION ARE IN THE BEST INTEREST OF THE CHILD:

When Mediation Results in Voluntary Relinquishment of Parental Rights:

- A. Was the parental consent to relinquish voluntary and informed and not based on any particular placement for the child?
- B. Have both biological parents consented to relinquishment?
- C. Why are relinquishment and adoption in the best interests of the child?
- D. Is there a recommendation for adoption with contact? How is this recommendation, or lack thereof, in the best interest of the child?

- E. For Indian children, the Court must comply with the requirements of the ICWA which states that voluntary relinquishments must be:
 - 1. Executed in writing;
 - 2. Recorded before a judge and accompanied by the presiding judge's certificate that the term and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian;
 - 3. Certified by the Court that the parent or the Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood.
 - 4. Any consent given prior to or within ten (10) days after the birth of the child shall not be valid.

When The Case Goes To Trial:

- A. Were all parties properly identified and served?
- B. Has the evidence presented shown that statutory grounds for termination of parental rights exist?
- C. Were reasonable efforts made to reunify? (Unless waived in the dependency neglect and abuse case.)
- D. Is termination of parental rights in the best interests of the child?

QUESTIONS THAT MUST BE ANSWERED TO DETERMINE WHETHER REASONABLE EFFORTS ARE BEING MADE TOWARD ADOPTION AND TO FINALIZE THE PERMANENT PLAN:

In All Cases, What Are The Child's Special Needs?

- A. Current health and educational information;
- B. A description of the child's current placement;
- C. A description of the services provided to the child, the progress the child has made and the issues still to be addressed, including cultural needs;
- D. Has the child received counseling with regard to termination of parental rights and how is the child adjusting to the plan of adoption?

If The Plan Is Relative or Foster Home Adoption:

- A. What, if anything, remains to be done before the home is approved as the adoptive home? Can the adoption home study be waived and replaced with the kinship care of foster home study?
- B. Is there another person who spends significant time in the home, and, if so, has that individual been interviewed for appropriateness?

- C. Has there been full disclosure to the relative or foster parent regarding the child's history and any current or potential disabilities?
- D. What is the time frame for finalization?
- E. Have all appropriate subsidies been identified and has all paperwork been completed with regard to these subsidies? Will services follow the family if they move out of state? Is the adopting family aware of the details of all appropriate subsidy issues?

If An Adoptive Home Has Been Recruited:

- A. A detailed description of the family. Is there another person who spends significant time in the home, and, if so, has that individual been interviewed for appropriateness?
- B. If the child is an Indian child, does the home meet the placement preferences list in ICWA, and, if not, why not? What efforts has the agency made to identify a placement under ICWA?
- C. Has there been full disclosure to the adopting family of the child's circumstances and special needs?
- D. What remains to be done, if anything, to process and approved the home?
- E. What is the visitation and placement plan and time frame?
- F. If the family's ethnicity is different from the child's, what efforts will be made to ensure relationships between the child and others of the same ethnicity?
- G. If the home is in another locality from where the child currently lives, what are the plans to meet the child's educational and special needs for services? How will the educational and services transitions occur?
- H. Have all appropriate subsidies been identified and has all paperwork been completed with regard to these subsidies? Will services follow the family if they move out of state? Is the adopting family aware of the details of all appropriate subsidy issues?
- I. After placement in the adoptive home, what contact will the child have with the prior caretaker and others who have had positive relationships? Is the adopting family agreeable to any contact plan that may have been recommended with the biological parent(s)?

If An Adoptive Home Must Be Recruited:

- A. What efforts are being made to identify potential adoptive homes both locally and in other jurisdictions? On what adoption exchanges and Internet sites is the child listed? What other efforts such as newspapers, television spots and match parties are being made?
- B. What is the status of investigating adults with whom the child has or has had a positive relationship with regard to their potential to become adopting families?
- C. How many potential families have expressed interest in the child and what is the status of the investigation of each family?

FINDINGS AND CONCLUSIONS:

- A. Persons present and how absent parties were provided with appropriate notice, paying particular attention to any biological parent, tribal representative or Indian custodian not present.
- B. If there was a voluntary relinquishment of parental rights, efforts made by the Court to ensure the relinquishment was voluntary and informed. For Indian children, this must include the special requirements of ICWA.
- C. How reasonable efforts were made to reunify the family. If no efforts were reasonable, a statement that, based on family circumstances and child health and safety, all reasonable efforts were made. For Indian children, reasonable efforts findings must include the special requirements of ICWA.
- D. If the case went to trial, whether or not termination of parental rights is granted. If so, under what statutory grounds and the specific reasons why the statute applies in this case. For Indian children, findings must include the special requirements of ICWA.
- E. Why termination of parental rights is in the best interest of the child.

IN A SEPARATE ENTRY:

- A. What is being done to ensure that reasonable efforts are being made to find an adoptive home, with specific steps and time frames that are to occur.
- B. A description of any special factors or conditions of the child that are identified as special needs, what services are to be provided to address these needs and who is responsible for providing each service.
- C. The date and time of the next review set for within ninety (90) days.

REVIEW HEARINGS THAT FOLLOW PERMANENCY OR TPR HEARINGS

Who Should Be Present?

- A. The judge who has monitored the case from the first hearing;
- B. The child, unless inappropriate for specific reasons;
- C. Parent(s) whose rights have not been relinquished or terminated;
- D. Attorney(s) for the parent(s);
- E. Assigned social services worker(s);
- F. Prosecuting attorney or agency attorney;
- G. For Indian children, a representative for the child's tribe and tribal attorney, if any;
- H. Guardian ad Litem for the child, whether attorney, social worker, or other paid non-attorney, or volunteer of CASA;
- I. Attorney, for the child, if applicable;
- J. Foster parent(s);
- K. Relatives, other interested persons and witnesses;
- L. Court reporter or suitable recording technology; and
- M. Court security and other Court staff.

QUESTIONS THAT MUST BE ANSWERED:

In All Cases, What Are The Child's Special Needs?

- A. Updates on health and educational information;
- B. Updates on what is being offered to address the child's cultural needs, if applicable;
- C. A description of the child's current placement adjustment; and
- D. A description of the services being provided to the child, the progress the child has made and issues that still need to be addressed.

If Reunification Is The Permanent Plan:

- A. What progress has been made on each of the issues that prevented implementation of this plan at the permanency hearing?
- B. How often is visitation occurring and what is the impact on the child and family?
- C. What is the date and detailed plan for the child's safe return home and follow-up supervision after family reunification?
- D. What are the plans to continue any necessary services to the child?
- E. What are the plans to continue any necessary services to the family?
- F. If a change of school will occur, what will be done to prepare for the transition?
- G. If the family has not made adequate progress to enable a safe return home, what alternate permanent plan is recommended and what are the steps and time frames for its implementation?

If Permanent Guardianship Or Permanent Custody Is The Permanent Plan:

- A. What progress has been made on each of the issues that prevented implementation of this plan at the permanency hearing?
- B. What contact is occurring between the child and parents, siblings, other family members, and tribal and clan members, if applicable, and is this contact working well for the child and all involved individuals?
- C. Has there been full disclosure regarding the child's background history and current or potential disabilities?
- D. What are the plans to continue any necessary services to the child? How will these services be funded after guardianship or custody has been granted?
- E. What is the plan for financial support from the biological parents?
- F. Is there any reason that permanent guardianship or permanent custody should not be granted today?
- G. If sufficient progress has not been made to enable the granting of permanent guardianship or permanent custody at this hearing, what alternate permanent plan is recommended and what are the steps and time frames for its implementation?

If Relative Or Foster Home Adoption Is The Permanent Plan:

- A. What progress in approving the relative or foster home as the adoptive home has been made since the termination of parental rights hearing? If it is not yet approved, why not, what remains to be done, and when will it be approved?
- B. Has there been full disclosure regarding the child's history, and current or potential disabilities?
- C. If adoption with contact has been agreed upon, what contact is occurring between the child and parents, siblings, other family members, or tribal and clan members, if relevant, and is this contact working well for the child and all involved individuals?
- D. How soon can the adoption be finalized? What specific steps must occur and what is the time frame for each of the steps?
- E. Has the adoption assistance agreement been negotiated? If not, why not? Have all appropriate subsidies been identified and has all paperwork been completed with regard to these subsidies? Will services follow the family if they move out of state? Is the adopting family aware of the details of all appropriate subsidy issues?
- F. Has the relative or foster parent been made aware of ways to access needed services after the adoption is finalized? Has the relative or foster parent been given contacts for support groups or other adopting families who can serve as mentors and support?

If An Adoptive Home Has Been Recruited Since The Last Hearing But The Child Has Not Yet Been Placed In The Home:

- A. A detailed description of the family and the neighborhood in which the family lives. Is there another person who spends significant time in the home, and, if so, has this individual been interviewed for appropriateness?
- B. If the child is an Indian child, does the home meet the placement preferences listed in ICWA and if not, why not? What efforts has the agency made to identify a placement under ICWA?
- C. Has there been full disclosure to the adopting family of the child's circumstances, history, special needs, and potential disabilities?
- D. Have all available subsidies been identified and discussed with the adopting family?
- E. Is the adopting family aware of any adoption with contact agreement and are they accepting of the agreement?

- F. What is the visitation and placement plan and its time frame? If visits have begun, how are the child and the adopting family adjusting?
- G. If the home is out of state, have all the ICPC and ICAMA regulations been followed? Are there any known or anticipated issues relative to these compacts that may cause delays and if so, what is being done to resolve or avoid the delays?
- H. What remains to be done, if anything, to process and approve the home and what are the time frames for this to be completed?
- I. If the family's ethnicity is different from the child's what efforts will be made to support relationships between the child and others of the same ethnicity? Does the adopting family understand the special aspects of the child's ethnicity?
- J. If the home is in another locality from where the child currently lives, what are the plans to meet the child's educational and special needs for services? How will educational and services transitions occur?
- K. After placement in the adoptive home, what contact will the child have with the prior caretaker and others with whom the child has had positive relationships?

If The Child Has Been Placed In An Adoptive Home Since The Last Hearing:

- A. A detailed description of the family and the neighborhood in which the family lives. Is there another person who spends significant time in the home, and, if so, has this individual been interviewed for appropriateness?
- B. If the child is an Indian child, does the home meet the placement preferences listed in ICWA and, if not, why not?
- C. What efforts has the agency made to identify a placement under ICWA?
- D. When was the child placed in the home and what was the pre-placement process?
- E. How is the child adjusting to the new home?
- F. If the home is out of state, have all ICPC and ICAMA regulations been followed? Are there any known or anticipated issues relative to these compacts that may cause delays and, if so, what is being done to resolve or avoid the delays?
- G. Has there been full disclosure regarding the child's background history and current or potential disabilities?
- H. If the family's ethnicity is different from the child's, what efforts will be made to support relationships between the child and others of the same ethnicity? Does the adopting family understand the special aspects of the child's ethnicity?

- I. If the home is in another community from where the child previously lived, what are the plans to meet the child's educational and special needs for services? How have or will the educational and service transitions occur?
- J. If adoption with contact has been agreed upon, what contact is occurring between the child and parents, siblings or other family members and is this contact working well for the child and all involved individuals?
- K. What contact will the child have with the prior caretaker and others with whom the child has had positive relationships?

Review Hearings That Follow Permanency Or TPR Hearings:

- A. What is the time frame for adoption finalization? What specific steps must occur and what is the time frame for each of the steps?
- B. When will the adoption assistance agreement be negotiated? What plans are there to identify all appropriate subsidies and when will paperwork be completed with regard to these subsidies? Will services follow the family if they move out of state? Is the adopting family aware of the details of all appropriate subsidy issues?
- C. Has the adopting family been made aware of ways to access needed services after the adoption is finalized? Has the adopting family been given contacts for support groups or other adopting families who can serve as mentors and support?

If The Child Has Been In The Adoptive Home Since The Last Hearing:

- A. What progress has been made since the last hearing toward finalization? When will finalization occur? What specific steps must occur and what are the time frames for each step?
- B. Have any new problems or issues occurred since the last hearing? What is the plan to address the problems or issues?
- C. If full disclosure regarding the child's background history and current or potential disability had not yet occurred at the last hearing, has it now occurred?
- D. If adoption with contact has been agreed upon, what contact is occurring between the child and parents, siblings, and other family members and is this contact working well for the child and all involved individuals?
- E. Has the adoption assistance agreement been negotiated? If not, why not? Have all appropriate subsidies been identified and has all paperwork been completed with regard to these subsidies? Will services follow the family if they move out of state? Is the adopting family aware of the details of all appropriate subsidy issues?

- F. Has the adopting family been made aware of ways to access needed services after the adoption is finalized? Has the adopting family been given contacts for support groups or other adopting families who can serve as mentors and supporters?

If The Agency Is Recruiting An Adoptive Home:

- A. What efforts have been made since the termination of parental rights hearing or last review hearing to identify potential adoptive homes both locally and in other jurisdictions?
- B. If the child is an Indian child, what efforts are being made to identify potential adoptive homes in the child's tribal community?
- C. What is the status of investigation adults with whom the child has or has had a positive relationship with regard to their potential to become adopting families?
- D. On what adoption exchanges and Internet sites is the child listed?
- E. How many potential families have expressed interest in the child and what is the status of investigating each family?
- F. What efforts are being made by the agency to comply with ICWA placement preferences, if applicable?

If Another Plan Is The Permanent Plan:

- A. What progress has been made since the permanency hearing and is the existing permanent plan still in the child's best interest?
- B. Do the compelling reasons not to proceed with reunification TPR, permanent guardianship, or permanent custody that existed at the permanency hearing still apply?
- C. If they do not, what is the new permanent plan and how is it in this child's best interest? What are the steps and time frames that have occurred, or still need to occur to fully implement this new plan?
- D. What is the frequency and duration of contact that is occurring between the child and parents, siblings, other family members, tribal or clan members, or other significant adults? Is this contact working well for the child and all involved individuals?
- E. What is the plan to prepare the child for independent living?
- F. If a change of placement is planned:
 - 1. Why is this change necessary and in the best interest of the child?

2. What is the plan for pre-placement visits? Have they begun and how is the child responding? What is the detailed plan for the child's placement in this home and follow-up supervision after placement?
3. If a change of school or services providers will occur, what will be done to ease the transition?

FINDINGS AND CONCLUSIONS:

- A. Who is present at the hearing and whether absent parties were provided with appropriate notice. If child is an Indian child, the Court should verify whether the child's tribe received notice and was offered an opportunity to participate. It should be verified that reports provided to the Court were made available to all parties prior to the hearing.
- B. A finding as to whether the agency has made reasonable efforts to finalize a permanent home with detail to support the finding. If the child is in an adoptive home, the finding should indicate whether the agency is doing everything possible, as quickly as possible, to approve the home, complete all aspects of the adoption assistance agreement including subsidies and services, and move toward finalization. If an adoptive home must be recruited, the finding should indicate whether the agency is doing everything possible, as quickly as possible, to list the child on all appropriate exchanges, internet sites, and with all appropriate private agencies, and to promptly screen and complete home studies on prospective adopting parents.
- C. If the child is an Indian child, a finding as to whether the agency has complied with the placement preference within ICWA, and if not, the efforts made to comply.
- D. If there are any changes or adjustments to the permanent plan, a description with time lines for implementation and the reasons that these adjustments or changes are in the best interests of the child.
- E. If visitation issues, including agreements for adoption with contact, apply, are the terms and schedules of visitation being complied with and are they effective?
- F. A statement addressing special factors or conditions of the child that are identified as special needs, what services are being provided to address the needs and how is the child progressing?
- G. Any specific orders that are to be implemented.
- H. Unless the permanent plan is finalized at the hearing, the date and time for the next review or finalization hearing.

HEARINGS TO FORMALIZE CASE CLOSURE AND FINALIZE ADOPTIONS

Who Should Be Present:

- A. The judge who has monitored the case since the first hearing;
- B. The child;
- C. The child's tribe, if applicable;
- D. The adoptive parent(s), permanent custodian or guardian, and their children and relatives;
- E. Parent(s) whose rights have not been relinquished or terminated;
- F. Contestants of the action;
- G. Assigned social services worker and adoption worker, if applicable;
- H. Attorney, Guardian ad Litem, or CASA for the child;
- I. Attorneys for the parties;
- J. Other interested parties and witnesses;
- K. Court reporter or suitable recording technology; and
- L. Court security and other Court staff.

Questions That Must Be Answered:

- A. What is the child's current adjustment in the home, school, and community?
- B. Why is the finalization of this permanency arrangement in the best interest of the child?
- C. Do the adopting parent(s), the permanent custodian(s), or the permanent guardian(s) understand the rights and responsibilities of this newly created parent-child relationship?
- D. Has there been full disclosure regarding the child's background history and current or potential disabilities?
- E. If required by law, does the child consent to the adoption?

- F. If applicable, do the adopting parent(s), the permanent custodian(s), or the permanent guardian(s) understand and agree with any ongoing contact that is proposed with the child's biological family or other significant persons in the child's life?
- G. If this is an adoption finalization, has the adopting family signed the adoption agreement and are there any questions regarding the agreement?
- H. If this is a permanent custody or permanent guardianship, do all parties understand the residual rights of the parents? What are the arrangements for financial support from the biological parents to the custodians or guardians?
- I. Are all necessary services and support systems in place?
- J. Does the new family know who to contact if they need assistance in the future?
- K. Have all legal requirements been met?

FINDINGS AND CONCLUSIONS:

- A. Who is present at the hearing and whether absent parties were provided with legal notice. It should be verified that reports provided to the court were made available to all parties prior to the hearing. If the child is an Indian child, whether the child's tribe was notified of the hearing and the opportunity to participate and, if not, why not?
- B. If any issues were contested, the Court's decision(s) and reasons for the decision(s)
- C. A finding as to why the adoption, permanent custody, or permanent guardianship is in the best interest of the child.
- D. A finding that full disclosure of the child's history and current or potential problems has been made.
- E. A finding that reasonable efforts were made to finalize a permanent home.
- F. A statement and description of the new legal relationship and its terms and conditions, including any post-finalization contact agreements.
- G. If required by state law, a finding that the child consents to the adoption, custody, or guardianship.
- H. If this is an adoption finalization, a finding that all rights of birth parents have been relinquished or terminated and that any necessary consents to the adoption have been obtained.
- I. If this is an adoption finalization, incorporation of the adoption assistance agreement by reference.

- J. If custody or guardianship is granted, clear definition of visitation and support orders relating to the biological parent(s).
- K. A clear statement that the Court's involvement in this case is now concluded.

RULE 4 DOMESTIC VIOLENCE PETITIONS

401 Procedures for Filing and Obtaining Emergency Protective Orders

- A. A verified petition for a Domestic Violence Order (DVO) of protection and an ex parte Emergency Protective Order (EPO) shall be filed at the Judicial Center, 700 West Jefferson Street, Louisville, Kentucky 40202 or the hall of Justice, 600 West Jefferson Street, Louisville, Kentucky 40202. Times and locations for filing an emergency protective order may be obtained from the Judicial Center's Family Court Clerks Office at (502) 595-4697 or 595-3025
- B. The requirements for the contents of the domestic violence petitioner shall conform with KRS 403.730.

402 Violation of Domestic Violence Orders:

- A. Alleged violations of Domestic Violence Orders shall be processed as criminal actions for a violation and referred to District Court for prosecution, except as set forth in 402 (B)
- B. Alleged violations of Domestic Violence Orders pertaining to visitation, child support, counseling, or firearms provisions shall be initiated through the Family C and scheduled for contempt hearings on the appropriate Family Court docket.

403 Hearings

Cases shall be scheduled in fifteen minute intervals to ensure that all cases set for a given date and time are heard in a timely manner. If parties require more than fifteen minutes to present their evidence, the Court may assign the parties to a time at the end of the docket, or the parties may be given another date.

DOMESTIC VIOLENCE PETITIONS

APPENDIX

GUIDELINES FOR THE DOMESTIC VIOLENCE DOCKET

Guidelines for Judges:

- A. Recognize that domestic violence is "coercive behavior used to maintain power and control by one person over another in an intimate relationship", rather than a violent response to that coercive control.
- B. Understanding the dynamics of domestic violence is vital to identifying it. Remember that denial, rationalization, and minimization are used as coping mechanisms by abuse victims and are proof of the victimization process.
- C. Be aware of the lethality risk of each case on the docket. Every case before the Court has the potential to become a homicide or suicide.
- D. Stagger the Emergency Protective Order docket. This reduces the length of time parties wait for their case to be called, and may reduce the stress and trauma associated with appearing in court, as well as reducing the risk of further coercion to the petitioner.
- E. In the absence of a stipulation to the jurisdiction of the Court, pursuant to KRS 403.750, a hearing shall be held to determine whether an act or acts of domestic violence and abuse occurred, and may occur again. The hearing shall be conducted in a manner which comports with fundamental fairness and due process.
- F. Because a respondent's presence is known to pressure petitioners, control the placement of the parties in the courtroom to ensure they are not near each other.
- G. Ask the parties present in court to identify themselves on the record. It may be helpful for the Court to know that witnesses, Child Protective Services (CPS), Adult Protective Services (APS), or Center for Women and Families personnel are present in the courtroom. Respect the center's staff requests to remain anonymous.
- H. Inquire as to the relationship between the parties and determine if the relationship is within the statutory requirements. If the Court lacks jurisdiction to proceed, explain the reason to the parties, as well as any available options such as a criminal complaint.
- I. Read the petition **aloud** on the record. While not reading the petition may serve as a check of the petitioner's veracity, it is recognized that appearing in court may be a very intimidating experience. It is often difficult for the petitioner to verbalize the extent of the violence, or to focus the testimony to relevant information, particularly in the presence of the respondent. Additionally, due to the trauma petitioners are typically under when they file the EPO, they may not recall the exact wording on the petition.

- J. Inquire about any past history of abuse, not just the most recent incident. The law requires that, in order to enter a Domestic Violence Order, the Court has to make a finding that an act of violence or abuse has occurred **and may again occur**. The greatest indicator that it may again occur is if there have been prior threatening or physical behaviors.
- K. Because of the cyclical nature of domestic violence, recognize the belief by some petitioner's that temporary cessation of violence by the respondent will be permanent. In these cases, inform petitioners seeking to dismiss orders that they have the option of removing the "no contact" provision of an order while keeping the other protections in place. This can be important to petitioners if they know the respondent will be ordered to receive treatment.
- L. Prior to dismissing an EPO petition at the petitioner's request, have the APS social worker, SAC advocate, or Family Court Support Worker (FCSW) talk with the petitioner, outside the presence of the respondent, to explain their options, and to ensure that the victim has not been intimidated or coerced into requesting the dismissal.
- M. Explain the difference, on the record, between an EPO and a restraining order in situations where a request is made to dismiss the EPO because a restraining order will be sought in the divorce case. Law enforcement may not respond to an allegation of violation of a restraining order.
- N. The Court shall make a finding of domestic violence if such is established by a preponderance of the evidence. Subsequent to such a finding, the Court shall consider all remedies provided under KRS 403.750 and issue appropriate orders.
- O. Although there is an "imminent" requirement for the temporary ex parte order to be issued, remember that the law does not require the abuse to be recent for a DVO to be entered. The law states only that the Court must find by a preponderance of the evidence that an act(s) of domestic violence or abuse has occurred and may again occur. The abuse does not have to be recent for the Court to make a finding and enter a DVO
- P. In the event that a finding pursuant to KRS 403.750 is not made, the Court shall dismiss the petition.
- Q. As whether abuse of alcohol and/or drugs was a factor in the violence, and require an assessment and treatment if appropriate.
- R. Be aware of the mental status of the respondent (specifically substance abuse, suicide threats, obsessiveness, jealousy, and dominance) and order additional mental health treatment if appropriate.
- S. Inquire whether the respondent's use of violence has escalated, because this is a significant risk factor for the petitioner.

- T. The Court should take time to explain the available remedies (temporary custody, child support, orders that allow contact, etc.), and to solicit feedback from the petitioner to ensure that there is sufficient comprehension. Petitioners are likely to be functioning on an emotional level rather than an intellectual level due to their trauma.
- U. The Court should make every effort to determine and issue orders pertaining to temporary custody and support utilizing the criteria set forth in KRS 403.750. When an order of protection requires restraining the respondent from contact or communication with the petitioner, the Court shall utilize the criteria set forth in KRS 403.270, 403.320, and 403.420 to award temporary custody.
- V. Review the criminal record checks for history of violent crimes, drug/alcohol charges and sexual offenses as indicators of the respondent's dynamics and treatment needs, as well as lethality assessment.
- W. In accordance with KRS 403.735, issue mutual protective orders only when cross petitions are filed.
- X. Enter mutual DVOs only after a hearing, if it is determined that BOTH parties acted as predominant aggressors, and that neither was acting primarily in self defense or in response to the coercive control against them.
- Y. When entering an order not already provided on the DVO form, write it on the form in the section: "In order to assist in eliminating further acts of domestic violence and abuse ..."
- Z. When ordering the respondent to have "no contact or communication" with the petitioner, include a distance of at least 1,000 feet that the respondent must stay away, in order to recognize the impact the respondent's presence has on the petitioner.
- AA. Refrain from adding "unlawful" in the no contact section of the Domestic Violence Order. The Law Information Network of Kentucky (LINK) system does not have the capability of entering such an order. "No Unlawful Contact" may be included in the section: "In order to assist in eliminating further acts ..."
- BB. Mandate the respondent into treatment only utilizing certified providers of Domestic Violence Offender Treatment and Substance Abuse Treatment, pursuant to Kentucky statute.
- CC. When ordering Domestic Violence Offender Treatment or Substance Abuse Treatment, refer the respondent to be monitored through the Court Monitoring Center (CMC), and give the respondent a show cause date to show enrollment into treatment and proof of compliance with CMC

- DD. Recognize that it is potentially dangerous for the Court to order or recommend marital counseling in cases of domestic violence because this may make the relationship more dangerous.
- EE. Make provisions in the order to protect any children from the respondent's violence, and consider sole custody when the parties are under "no contact" orders.
- FF. When there are motions to DISMISS a DVO case, advise the parties that a Domestic Violence Order has been entered and therefore the case cannot be dismissed. However, the order can be amended pursuant to statute.
- GG. Recognize that petitioners are often overwhelmed by their circumstances and the proceedings and may not follow through with corrective steps the Court orders, nor should the Court issue orders against a party who seeks protection and has not engaged in acts of domestic violence.
- HH. If the petitioner is not present the first time the case is before the Court, the statute requires the Court to re-issue the EPO, and either order that the sheriff serve the petitioner with notice, or order that a subpoena be issued for the petitioner.
- II. Dismiss the case, "without prejudice" when the petitioner is not present and attempts to bring her/him before the Court are unsuccessful, or service is not obtained on a re-issued EPO.
- JJ. Inquire about the respondent's possession or access to firearms and whether they have been used in any prior abuse incidents. Require the respondent to surrender any firearm to the sheriff's office, and include as a provision of the order, a prohibition to possess, purchase, or attempt to possess, purchase, or obtain a firearm during the duration of the order.
- KK. Advise the respondent regarding the consequences and criminal sanctions for violations of the DVO, including the possession of firearms.
- LL. Consider referring petitioners to attend the Domestic Violence Information Sessions, where appropriate and not punitive.
- MM. When dismissing a DVO, note the reason, (lack of jurisdiction, preponderance of evidence not found, etc.) on the order as required by state law.
- NN. Do not dismiss the domestic violence action "on condition", as there is no jurisdiction to enter orders absent a finding of domestic violence.

- OO. In the event that the petitioner fails to appear at the original hearing, the Court shall consider continuing the case for an additional hearing, reissue the EPO pursuant to KRS 402.740(4) and
1. Order service on the respondent;
 2. Send notice of same to petitioner at petitioner's address; or
 3. Issue order of personal appearance for petitioner; and/or
 4. Request that the Family Court Support Worker or APS social worker attempt to contact the petitioner.
- PP. In the event that the respondent has been served and fails to appear, the Court shall proceed with the hearing, make appropriate findings, and, in the event that finding of domestic violence is made, enter a default judgment and subsequent orders as provided by law, to be served on the respondent by the sheriff's office.
- QQ. When a respondent has been ordered to vacate a residence, the best practice shall be to designate a third party to retrieve the respondent's property.
- RR. The Court should state clearly the scope of the order and the effect of non-compliance to the parties on the record. The Family Court Support Worker should then provide instruction and information sheets regarding the Court's orders to the parties at the conclusion of the hearing.
- SS. When the Court finds that continued contact with the respondent is in the best interest of the child(ren), the Court should consider visitation, supervised or unsupervised, in cases where the respondent has vacated the residence.

Guidelines for Family Court Support Workers (FCSW)

- A. Complete criminal record checks on both parties prior to the hearing. Examine the record checks for any notations of active warrants, and advise the courtroom sheriff of their existence.
- B. Complete a Family Court record search on both parties and pull any related files for the Emergency Protective Order (EPO) hearing. It is of particular importance to have dependency cases available for the Court to review at the EPO hearing
- C. Submit a Monitoring Center (CMC) compliance verification form and complete an updated criminal record check on respondents coming before the Court for a show cause hearing. Copy the CMC compliance form and place in each respondent's file.
- D. Review the EPO case files prior to the court date in order to:
 1. Check the summons to verify the correct court date, time, and location for the hearing.

2. Check the sheriff's information sheet for allegations of the respondent's drug/alcohol use, possession of firearms, or supervision by Probation and Parole.
 3. Note whether there were allegations in the petition that children were victims, or present when the violence occurred.
 4. Contact Child Protective Services (CPS) either by use of the approved form or by phone to determine if the cabinet is active.
 5. If the Cabinet is active, contact the worker to determine if they are aware of the EPO and upcoming hearing, inquire as to the status of their investigation and whether they will be present for the hearing. Refer the CPS worker to that division's Adult Protective Service (APS) worker if the CPS worker is unable to attend the hearing.
 6. For show cause orders that the sheriff has not been able to serve, check the file for other possible addresses where the respondent may be served.
 7. On motions to dismiss or amend: Complete an updated criminal record check on the respondent, and a CMC compliance check if the respondent was ordered to treatment.
- E. Fax a copy of the calendar to the division's APS social worker. Note the relationship of the parties, if service has been effectuated, if there are children in common, and the purpose of any motions.
- F. Develop a system with the division's APS worker to ensure that they receive referrals on all cases coming before the Court that APS is mandated by statute to investigate.
- G. On the Court date:
1. When the Court has entered an order for child support to be paid, request a paralegal from the Child Support Division to calculate child support, complete any necessary documents to establish paternity, etc.
 2. When the respondent has been ordered to complete treatment monitored by Court Monitoring Center (CMC), place a copy of the EPO petition, the respondent's record history, and the pink copy of the CMC referral in an envelope and give to the respondent to register at the Court Monitoring Center.
 3. Explain the orders of the Court to both parties. Include an explanation for filing motions to amend or extend the Domestic Violence Order. Inform the respondent how to register with CMC and advise that written proof of attendance in counseling from the provider is required at the show cause hearing.
 4. When the Court has issued a "no contact" order, meet with the parties separately to negotiate a visitation agreement.
 5. Refer the petitioner to attend a Domestic Violence Information Session.
 6. Provide the parties with a copy of the Family Court "Domestic Violence Order" brochure.
 7. Link petitioners with the APS social worker or advocate from The Center for Women and Families.

- 8. Allow petitioners to wait in the conference room instead of the waiting area.
- 9. If there is no "Return of Service" form from the sheriff's office in the file, call sheriff's office to inquire if the respondent was served with the EPO.
- H. Follow the established protocol when there is notification from the sheriff's office that a firearm has not been surrendered.
- I. When given a file containing an affidavit on counseling non-compliance, the FCSW should review the file to determine that the respondent has not already been re-referred. If it appears that the respondent is non-compliant, the FCSW should complete the show cause order, give it to the judge for signature, and return the file to the EPO clerk's office for processing.
- J. Assist the bench clerk with completion of the CMC order or show cause order when requested.
- K. Refrain from taking EPO files to FCSW offices after court, until the bench clerks and EPO clerks have completed the processing and copying of order.

Guidelines for Emergency Protective Order Clerks:

- A. When completing the affidavit section of the petition, use the language of the petitioner, but ask for specific details, i.e., where were you hit, by what, how many times, etc.
- B. Ask if there was any prior history of abuse, or threats of harm. Note so on the petition.
- C. List all acts of violence and threats of harm to the petitioner and/or any children.
- D. Note in the petition if the respondent threatened suicide.
- E. List the full names and birth dates of any children of either party, or who are present in the home.
- F. Suggest that photographs be taken of any injuries.
- G. Provide the petitioner with information regarding resources, services, and advocacy available.
- H. If the petitioner appears to be in crisis and in need of immediate services, provide the petitioner with the telephone number for the Center for Women and Families and Adult Protective Services.
- I. Explain the difference between an EPO and a criminal complaint and advise the right to file both.

- J. Depending upon the facts and circumstances alleged, a criminal complaint may also be filed. In situations where both a criminal complaint and a domestic violence petition are filed, the clerk should attempt to have both signed simultaneously by the judge.
- K. Explain all of the options for relief, including the request for temporary custody of the children. Ask if a divorce action or other custody action is pending, and note on the petition.
- L. Do not mention the petitioner's whereabouts in the petition, for example, "The petitioner is staying at the spouse abuse center," or, "The petitioner is moving to Indiana with relatives."
- M. Complete a Family Court record search for any new or existing EPO/DVO pending dissolution or child custody proceedings involving the same parties and inform the judge or trial commissioner of such.
- N. Explain the protections given on the EPO, the court date, time, and location of the hearing to the petitioner. Advise that the petitioner must attend the hearing, even if the protective order is not longer desired. Advise the petitioner to call the clerk's office if any emergency exists and the petitioner will not be able to attend the hearing, as well as provide the petitioner with the telephone number for the EPO clerk's office.
- O. Explain that the EPO is a valid court order and cannot be changed at the discretion of the petitioner, i.e., the petitioner cannot invite the respondent to return to the residence if the respondent has been ordered to vacate.
- P. Upon issuance of an Emergency Protective Order (EPO) or Domestic Violence Order (DVO), the Court, via the clerk, shall send notification of same to all appropriate law enforcement agencies, which may include agencies in one or more counties, such as the place of petitioner's residence and employment.
- Q. The clerk, upon filing of an EPO/DVO petition, shall send a copy to Adult Protective Services.
- R. A Family Court Judge, District Court Judge, Circuit Court Judge, or a Trial Commissioner shall review the petition and shall issue an EPO, if appropriate. Otherwise, the clerk shall file the petition and issue a summons for service, as mandated by KRS 403.745.

Guidelines for Deputy Sheriffs:

- A. Review each EPO case file prior to the docket to be aware of volatile or potential problem cases, i.e., serious physical injury, use of weapons, etc.
- B. Review the criminal record checks for any notations of outstanding warrants; and, if so, call to verify whether the warrant is still active, and serve them.

- C. Ensure the parties are not left alone in the courtroom without court personnel or a neutral third party present.
- D. Notify the Court immediately of any violation of a protective order that occurs in the sheriff's presence in the waiting room.
- E. Post a sign-up sheet for the litigants, attorneys, advocates, and social workers to use.
- F. Inform attorneys who request hearings over fifteen (15) minutes long, that their case will be called at the end of the docket, or scheduled for a hearing at a later date.

Guidelines for Adult Protective Services Social Worker:

- A. Upon receipt of the assigned referral containing the EPO petition, the assigned Community Based Services social worker will make every attempt to contact and interview the victim prior to the EPO hearing. If unable to reach the victim, the worker will interview the victim on the day of the hearing.
- B. Follow the established Department protocol for attempting to reach victims by telephone calls and letters.
- C. During the initial interview with the domestic violence victim, the social worker will:
 - 1. Determine the validity of the report;
 - 2. Assess safety needs and develop a safety plan with the victim;
 - 3. Obtain information regarding the current and past incidents of violence;
 - 4. Provide information to the victim about dynamics of abuse, resources , and options for victims of abuse;
 - 5. Offer ongoing Community Based Services protective and supportive services.
- D. The social worker will also provide information regarding:
 - 1. What happens in EPO hearing;
 - 2. Options for relief on the Domestic Violence Order;
 - 3. Domestic Violence Information sessions;
 - 4. Counseling alternatives;
 - 5. Meaning of “no contact” orders;
 - 6. When applicable, explanations of temporary custody orders, visitation schedules and child support.
- E. When requested by the victim, the social worker will provide advocacy and support at the EPO hearing.
- F. Following the EPO hearing, the social worker will review the Domestic Violence Order with the victim and answer any questions.

- G. When requested by the Court, the social worker will link the victim with advocates and prosecutors from the County Attorney's Office.

RULE 5 PATERNITY

501 Flowchart

See page 49 for the paternity flowchart.

502 Motion Practice

- A. Motions for wage assignments pursuant to KRS 403.215 and KRS 405.465, appointment of Guardian ad Litem, for Guardian ad Litem fees, and to compel discovery shall not be placed on the regular docket but shall stand submitted to the Court unless a written objection and request for hearing is filed within ten (10) days of the date contained in the Certificate of Service.
- B. The Jefferson Family Court, recognizing the need to make the court system available to those person financially unable to retain counsel, has initiated a "pro se motion" procedure. Parties without counsel may complete a "pro se motion" form provided by the Family Court Clerk's Office.
- C. A copy of the motion shall be mailed to the opposing party or counsel, at least three (3) business days excluding Saturday, Sunday, or holidays prior to the date on which the motion is scheduled to be heard. Notice to an opposing party represented by the Jefferson County Attorney may be accomplished by placing a copy of the completed motion form in the Jefferson County attorney basket located at the Family Court Clerk's Office.
- D. Motions for default judgments for failure to plead or otherwise defend, as provided by the Rules of Civil Procedure, shall not be noticed for a hearing but shall be filed with the Court and will stand submitted upon filing. If the court determines a hearing necessary under CR 55.01 a hearing date will be assigned.
- E. Motions to modify, suspend, or terminate child support, and to determine arrearages accrued on child support orders shall be scheduled or referred for an out of court post-settlement conference conducted by the Jefferson County Attorney's Child Support Division. Forms for post-settlement motions can be obtained at the Family Court Clerk's Office.

503 Pretrial Procedures

- A. Genetic Testing
 - 1. In all cases in which an answer of denial is filed by the defendant, a pretrial order will be entered by the Court requiring both parties and the child to submit to genetic tests in accordance with KRS 406.081 and KRS 406.091. Within thirty (30) days of receipt of the genetic report, the scheduling party shall file the original report with the Court in support of a motion to dismiss, a motion for trial, or a motion for summary judgment.

2. In those cases in which the genetic test report excludes the defendant from the paternity of the child, the Court, after the expiration of thirty (30) days from the date of the filing of the exclusionary report, will enter an order of dismissal in favor of the defendant unless motion for additional testing pursuant to KRS 406.091 is filed prior to the expiration of the thirty (30) days.

B. Pretrial Conference

1. In all cases in which the defendant files an answer admitting to the paternity of the child, or signs an affidavit of paternity, or the genetic test report contains an inclusionary result, the case shall be scheduled by either party for an out of court pretrial conference conducted by the Jefferson County Attorney's Child Support Division.
2. The purpose of the out of court pretrial conference is to explore the possibility of settlement, to simplify the issues and agree upon the issues of fact and law to be heard by the Court, and to explore possible stipulations of fact and documents that will avoid unnecessary proof.
3. In the event a case cannot be settled at the out of court pretrial conference the parties shall certify their attendance at the conference and identify all unresolved issues. Pretrial certification forms may be obtained from the Jefferson County Attorney's Child Support Division.
4. No case shall be scheduled for a hearing on the regular court docket for trial, motion for judgment on the pleadings, motion for summary judgment, or motion for an original child support order without first scheduling a pretrial conference.
5. Nothing in this Rule shall prohibit the parties from entering into an agreed judgment of paternity and order of support and filing the same for approval by the Court off-docket without conducting an out-of-court pretrial conference.

504 Guardian ad Litem/Military Attorney

- A.
 1. In order to be appointed as Guardian ad Litem, any licensed attorney in good standing with the Kentucky Bar Association may apply, subject to continued ratification by a majority of the members of the Court. The appointment is to be made an compensation paid according to the statute, case law, or civil rule authorizing the appointment.
 2. Application is to be made by submitting the appropriate form, which is available in the Family Court Administrator's Office. Appointees serving as Guardians ad Litem who fail to demonstrate appropriate knowledge of the statutes, law and procedures in the area in which appointment is made, maybe stricken from the list by a majority vote of the members of the Court.
 3. Appointments shall be made by blind rotation under the following procedures except for good cause shown by the Court on the record.

4. The Family Court Administrator's Office shall maintain the Paternity Guardian ad Litem List. The judges appoint the Guardians ad Litem on a rotating basis. After each appointment the Guardian ad Litem shall be rotated to the end of the list.
 5. Motions for compensation shall be accompanied by an affidavit indicating:
 - a. The statutory basis for appointment;
 - b. The hours of service rendered with a brief description of the services rendered and reasonableness of the fee requested; and
 - c. That the action or proceedings have been concluded.
 6. Guardians ad Litem appointed to represent unmarried infants, persons of unsound mind, or adult prisoners shall notify the defendant of his/her appointment of a Guardian ad Litem, inform the defendant of the nature of the proceeding and of the defendant's right to have genetic testing conducted.
 7. Within sixty (60) days of the appointment, the Guardian ad Litem shall file and answer on behalf of the defendant or a report stating that, after careful examination of the case, he/she is unable to present a defense.
- B. Appointments of military attorneys are made pursuant to Title 50, appendix Subsection 502 et seq., the Soldiers' and Sailors' Relief Act, specifically, 50 Appendix Subsection 520. The duties of a military attorney are the same as those of a Guardian ad Litem and, in appropriate cases, include the filing of motion for a stay of the proceedings where the conduct of the military defendant's defense is materially affected by the reason of the defendant's military service.
1. A motion and a request for a hearing for a stay of proceedings shall be supported by an affidavit containing specific reasons why the military defendant's service materially affects his ability to conduct his defense.
 2. The affidavit shall include the following information:
 - a. Present duty station and expected duration of present military assignment.
 - b. Residential address if different from duty station address.
 - c. Accrued leave to which defendant is entitled and number of days of leave which accrue to the defendant each month.
 - d. Any other information of a similar nature which would affect the defendant's ability to defend the action.
 3. The failure of the Guardian ad Litem/Military Attorney to file an answer or report within sixty (60) days of notification of appointment may result in sanctions being imposed against the attorney and removal from the Family Court Guardian ad Litem/Military Attorney List.

505 Administrative Establishment of Support Obligations

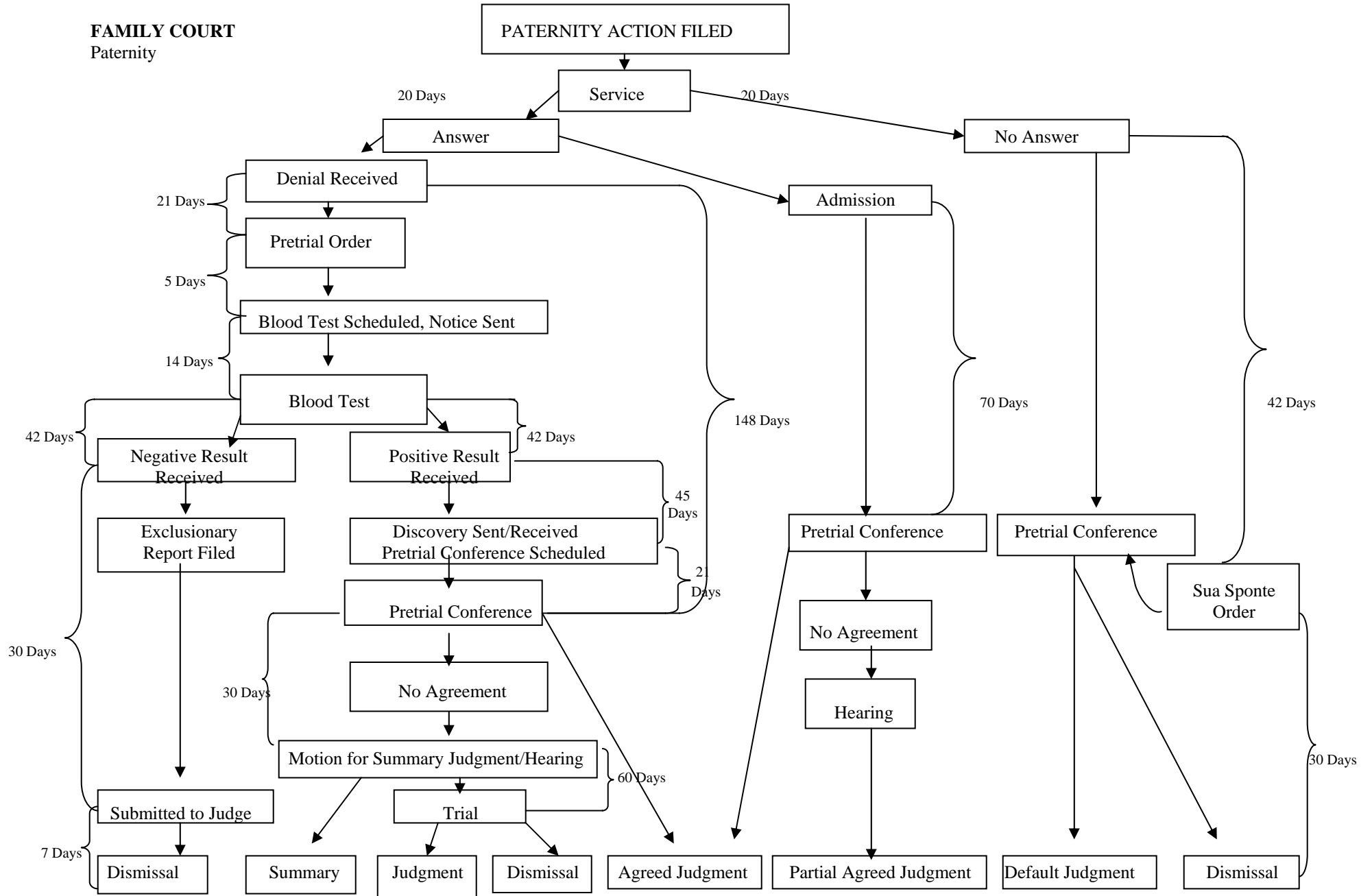
- A. The Jefferson County Attorney, Child Support Division, as Agent for the Cabinet for Health and Family Services (CHFS), may administratively establish a child support and/or medical obligation pursuant to KRS 405.430, if:
1. paternity is not in question,
 2. there is no existing order of child support,
 3. the non-custodial parent resides or works in Kentucky, and

- 4. the non-custodial parent's address is known.
- B. The support obligation shall be determined in accordance with the guidelines found in KRS 403.212.
- C. Pursuant to KRS 405.450, the non-custodial parent shall have the right to appeal the administrative order to a CHFS hearing officer.
- D. No Petition for Review of an administrative order shall be filed in Family Court until all administrative remedies have been exhausted. Judicial review shall be conducted in accordance with KRS 13B.150.

PATERNITY

APPENDIX

FAMILY COURT
Paternity



RULE 6 DEPENDENCY, ABUSE, AND NEGLECT

601 Flowcharts

See pages 56 - 57 for dependency, abuse, and neglect flowcharts.

602 Introduction/Scope and Applicability

These rules shall govern dependency, abuse, and neglect actions as defined by the Kentucky Unified Juvenile Code and known collectively as "dependency actions."

603 Procedure for Emergency Custody Orders

- A. During normal working hours, 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding holidays, persons seeking an Emergency Custody Order (ECO), shall come to the Jefferson County Judicial Center's Family Court Clerk's Office. If a Family Court Support Worker assists a person in obtaining an Emergency Custody Order, the support worker is to fax a copy to the Cabinet for Families and Children's Hotline. If a Cabinet for Families and Children's social worker is granted an Emergency Custody Order, the social worker is to provide a copy to the agency. A copy shall also be provided to the person seeking the Emergency Custody Order prior to leaving the Family Court Clerk's Office. The original Emergency Custody Order shall remain with the Family Court Clerk's Office.
- B. After working hours, 4:30 p.m. to 11:00 p.m., Monday through Friday and on weekends until 11:00 p.m., the on-call district Court Judge shall be contacted. If the judge grants the Emergency Custody Order, the judge shall complete the Emergency Custody Order and file the original order with the Family Court Clerk's Office on the next working day. If the Emergency Custody Order is granted at the Home of the Innocents (HOI), the law enforcement officer of Home of the Innocents staff will complete the Emergency Custody Order and provide the original order to the Cabinet for Families and Children. The Cabinet for Families and Children will file the original order with the Family Court Clerk's Office on the next working day. The Temporary Removal Hearing date shall be scheduled within 72 hours excluding weekends and holidays.
- C. After working hours, 11:00 p.m. to 7:00 a.m., Monday through Sunday, the on-call trial commissioner shall be contacted. If a Cabinet for Families and Children social worker is granted the Emergency Custody Order, the worker shall complete the Emergency Custody Order and file the original order with the Family Court Clerk's Office on the next working day. The Temporary Removal Hearing date shall be scheduled within 72 hours excluding weekends and holidays.

If the Emergency Custody Order is granted at the Home of the Innocents, the trial commissioner will assign the hearing date at the time the Emergency Custody Order is granted. The trial commissioner will fax a copy of the order to the Cabinet for Families and Children's Hotline on the morning of the next working day. The original Emergency Custody Order will be filed in the Family Court Clerk's Office.

- D. Scheduling of an Emergency Custody Order hearing should be at the end of the seventy-two (72) hours as provided by KRS 620.060 (3). The seventy-two hours are exclusive of weekends and holidays.
- E. A judge or trial commissioner shall accept testimony or affidavits from person requesting the ex parte order. Any testimony in support of the request may be taken telephonically if recorded.
- F. If an Emergency Custody Order is rejected/denied, the completed Order should be marked "Rejected/Denied", and taken to the Family Court Clerk's Office. If a case already exists regarding the child(ren) involved, the denied Emergency Custody Order will be placed in that file. If a case does not exist, the denied Emergency Custody Order will be placed in a file specifically for denied orders.
- G. A copy of an Emergency Custody Order shall be served with any petition upon parents or persons exercising custodial control or supervision.

604 Petition

- A. Within 72 hours, excluding weekends and holidays, after the issuance of an Emergency Custody Order or the taking of the child into custody, the Cabinet for Families and Children, in conjunction with the Cabinet for Families and Children's paralegals and the county attorney, shall prepare a petition and the Family Court Clerk's Office an initial summons. The Cabinet for Families and Children's paralegal shall meet with the assistant county attorney who shall check the petition for legal sufficiency. If the petition is rejected, the Cabinet for Families and Children's paralegal shall return both the petition and the summons list to the Family Services Worker for correction and/or additions for re-submission to the county attorney. If the petition is approved the assistant county attorney assigned to the docket to prosecute dependency actions. The original shall be filed with the Family Court Clerk's Office.
- B. Any petition filed with this Court shall comply with the following conditions:
 - 1. Citations to specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and
 - 2. Full information concerning the child's parents and their address(es) if known after diligent efforts to locate them have been made by the petitioner, including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent.

605 Service of the Summons and Petition

The Summons shall command the parent(s) or person(s) exercising custodial control (PECC) to appear and shall have attached a copy of the petition. Service shall be made sufficiently in advance of the temporary removal hearing in the manner prescribed by law.

606 The Effects Of Service On Only One Parent/Person Exercising Custodial Control Or Supervision

The judge may permit the Temporary Removal Hearing or the adjudicatory hearing to go forward when the non-custodial parent or person exercising custodial control has not been served in accordance with Rule 605 if it is established on the record that Petitioner has made diligent efforts to serve all other parties in time to permit them to prepare for and participate in the hearing, including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent. The Petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served.

607 Time for Temporary Removal Hearing

The temporary removal hearing shall be held according to the following guidelines:

- A. If an Emergency Custody Order has been issued, the petition shall be filed on the next working day following the issuance. The temporary removal hearing shall be scheduled on the appropriate division's Dependency docket is that docket will be held within seventy-two (72) hours of the issuance of the Emergency Custody Order. If the division's Dependency docket will not be held within seventy-two hours, the Temporary Removal Hearing will be scheduled for the division's Emergency docket within seventy-two hours of the issuance of the Emergency Custody Order. Such hearing should be scheduled toward the end of the seventy-two hours to allow time for service to be attempted. An exemption may be permitted where, upon review of the petition or request of the petitioner, the assistant county attorney deems it necessary to set the temporary removal hearing for an earlier date and time.
- B.
 - 1. If an Emergency Custody Order has not been issued, or if no custodial or protective orders are needed for the child's immediate protection, the temporary removal hearing should be scheduled on the division's Dependency docket within ten (10) days of the filing of the petition
 - 2. If custodial or other protection of an immediate nature such as for medical, educational, or housing issues are needed without the criteria for an Emergency Custody Order being met, the temporary removal hearing may be scheduled for the division's Dependency docket. If the morning Dependency docket will not be held within seventy-two hours, the temporary removal hearing maybe scheduled for the division's Emergency

docket. Such hearing however, can be held no earlier than the day following the filing of the petition, to allow time for service to be attempted

608 Guardians ad Litem and Parents' Attorneys

- A. The Family Court has adopted guidelines for attorneys representing children and indigent parents or persons exercising custodial control (PECC) which reflect the expectations of the Court. See pages 60 - 65.
- B. The Court shall assign three Guardians ad Litem and three or four parents' attorneys to each division of Family Court in order to facilitate consistent high-quality advocacy representation of all parties.
- C. The attorneys will be appointed by the Family Court judges and reviewed for continued appointments on an annual basis.

In the event the case is redocketed for dependency, neglect, abuse, termination of parental rights, or adoption case, the Court shall appoint, if available, the same Guardian ad Litem and parent's attorney, if requested by the parent.

609 Duty of Guardian ad Litem and Parents' Attorney to Continue

After a Guardian ad Litem or parents' attorney accepts an appointment, representation shall continue through all stages of the dependency, neglect, abuse, termination of parental rights, and adoption proceedings until the case has been remanded from the docket. Attorneys may be permitted to withdraw only with leave of court in accordance with the Rules of Professional Responsibility . All parties shall be served with notice of an attorney's request to withdraw.

610 Guardian ad Litem Fees

Pursuant to Civil Rule 17.03(5), affidavits in support of a motion for a fee shall reflect the reasonableness of the fee requested and the apportionment of the time between family members if more than one child is involved. The affidavit shall also reflect that the requested fee is in compliance with Rule 17.03(5).

611 Time for Adjudicatory Hearing

The adjudicatory hearing shall be held within the time frames as directed by statute unless the time limit is waived by an agreement of all parties and approved by the Court.

612 Agreed Order

Any agreements reached by the parties may be submitted on an agreed order form and shall be signed by the parties and counsel.

613 Admission of a Stipulation of Facts/Jurisdiction

The Family Court has adopted a Stipulation of Facts form to be used for the purpose of establishing facts and jurisdiction. Such stipulation must be joined by all parties.

614 Continuances

Extensions of time and continuances shall be granted only for good cause with supporting reasons stated on the record subject to provisions of Kentucky law and the Federal Adoption and Safe Family Act (ASFA).

615 Records and Transcripts

A videotaped record of all proceedings shall be kept and copies shall be available to the parties and their counsel upon request. All exhibits admitted into evidence shall be retained by the court so long as it has jurisdiction over the child unless preservation of an exhibit is no longer necessary or unless the exhibit is returned to a party.

616 Dispositional Hearing

Following an adjudication a dispositional hearing shall be held as required by law unless waived by the Guardian ad Litem for the child. At the dispositional hearing the Cabinet for Families and Children shall provide the court with the following information. The court report shall be filed before the hearing date.

- A. A description of the efforts made by the agency to prevent removal of the child from the home.
- B. A description of the efforts since placement to reunify the family including services that have been sought, offered, or provided when the Cabinet's recommendation includes placement of the child away from home.
- C. An explanation of why the child cannot be protected from the identified problems in the home even with the provision of services.
- D. Identification of relatives or friends who have been contacted about providing a placement for the child.
- E. A description of the recommended goal and duration of placement.
- F. A suggested visitation plan and, after citing specific findings, an explanation of any proposed court-ordered restrictions to be placed on the visits.
- G. The location of any siblings and, if the siblings are to be separated, a statement of the reasons for separation and a plan for frequent sibling visitation.

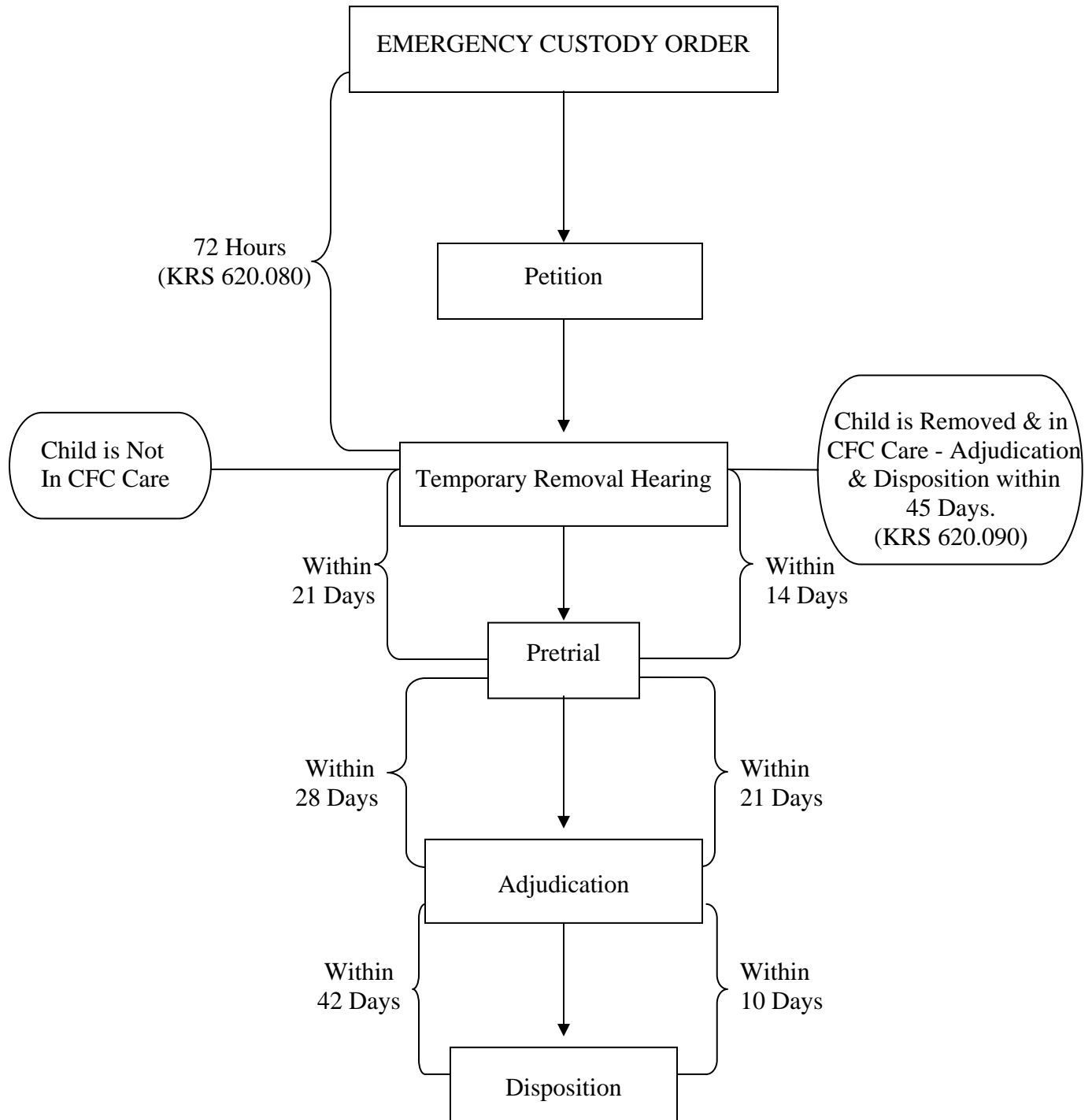
617 Visitation Agreements

Visitation agreements, if used, are to be set out in the case treatment plan [KRS 620.180(2)(A)(1)] or the case permanency plan [KRS 620.230(2)(J)] All parties attending the case planning meeting shall sign the agreement and a copy shall be sent to the court.

DEPENDENCY, ABUSE, AND NEGLECT

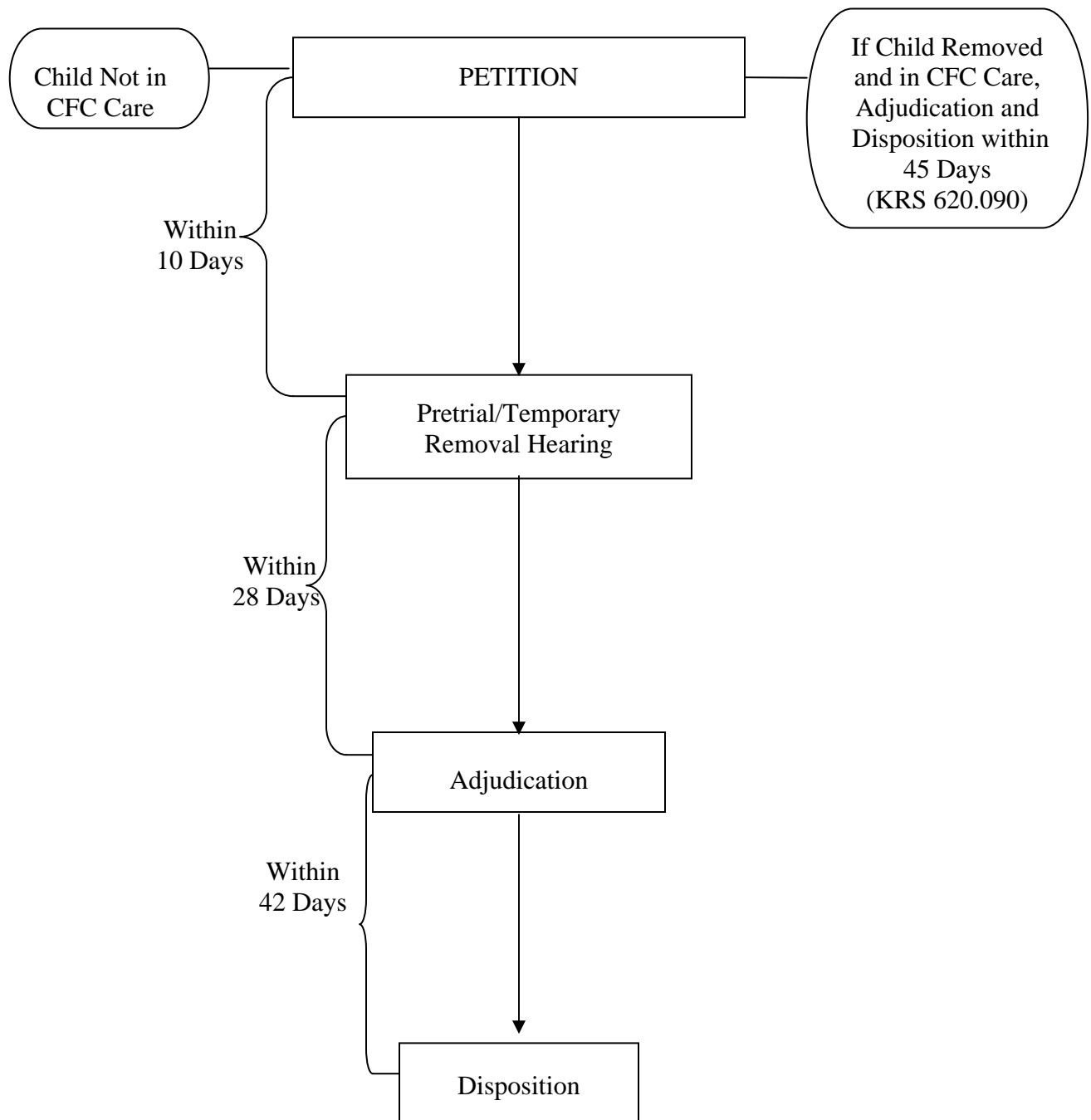
APPENDIX

FAMILY COURT
Dependency, Neglect, and Abuse – Emergency



FAMILY COURT

Dependency, Neglect, and Abuse – Non-Emergency



CASE NO. _____

JEFFERSON FAMILY COURT
DIVISION _____

IN THE INTEREST OF CHILD(REN)

ORDER APPOINTING GUARDIAN AD LITEM

*** **

Good cause appearing, IT IS ORDERED that pursuant to KRS 625.041, 625.080 that a practicing attorney of this Court be, and is hereby, appointed Guardian ad Litem to protect the interest of child(ren) until the disposition of the case or unless sooner discharged by the Court subject to the “duties of a Guardian ad Litem” set forth on the reverse side of this Order and incorporated herein.

IT IS ALSO ORDERED that the said Guardian ad Litem shall serve effective immediately and shall receive reasonable fees and costs.

IT IS FURTHER ORDERED that the Guardian ad Litem shall:

- A. Be allowed access to the child by the caretaker of the child whether caretaker individuals, authorized agencies or health care providers
- B. Have, upon presentation of this Order to any agency, hospital, organization, school, individual, or office, including, but not limited to the Clerk of this Court, human services and/or child caring agencies, public or private institutions and/or facilities, medical and mental health professionals, law enforcement agencies and the attorney General, the authority to inspect and receive copies of any records, notes, and electronic recordings concerning the child that are relevant to the proceedings filed under this chapter without the consent of the child or individuals and authorized agencies who have control of the child;
- C. Hold any information received from any such source as confidential, and shall not disclose the same except to the Court and where allowed by the Court, to other parties to this case and where provided by law;
- D. Be given notice of all hearings and proceedings including; but not limited to, administrative, family, civil, criminal Grand Juries, or appellate, and all conferences including, but not limited to, multi-disciplinary team meetings, individual educational program meetings or inter-agency cluster meetings involving the child and shall protect the best interest of the child therein, unless otherwise ordered by the Court.
- E. Appear at all hearings, court proceedings, and monitor or attend case planning conferences to protect the best interest of the child unless otherwise directed by the Court; and
- F. Have party status in any agreement or plan entered into on behalf of the child.

JUDGE

Court Date: _____

DATE

Time: _____

Family Court #: _____

THE DUTIES OF A GUARDIAN AD LITEM (GAL)

The Guardian ad Litem (GAL) is a full participant in the court proceeding and is the only party whose sole duty is to protect the child's needs and interests. The GAL assumes the role of an advocate for the child's interests and in no way represents the petitioner (usually an agency) or the respondents (usually the parents or custodians). A. GAL is appointed because of the child's immaturity and lack of judgment. Therefore, the GAL: stands in the child's shoes and exercises substitute judgment for the child.

In fulfilling this child centered role, the GAL performs ten important and interrelated duties. The GAL:

- A. Acts as an independent fact finder (or investigator) whose task it is to review all relevant records and interview the child, parents, social workers, teachers, and other persons to ascertain the facts and circumstances of the child's situation;
- B. Ascertains the interest of the child taking into account the child's age, maturity, culture and ethnicity including maintaining a trusting, meaningful relationship with the child via face-to-face contact;
- C. Seeks cooperative resolutions to the child's situation within the scope of the child's interest and welfare;
- D. Provides information through testimony or report with recommendations to the Court to assure that all relevant facts are before the Court.
- E. Appears at all hearings to represent the child's interest, providing testimony when required;
- F. Explains the court proceedings to the child in language and terms that the child can understand;
- G. Asks that clear and specific orders are entered for the evaluation, assessment, services, and treatment of the child and the child's family;
- H. Monitors implementation of service plans and dispositional orders to determine whether services ordered by the Court are actually provided, are provided in a timely manner, and are accomplishing their desired goal;
- I. Informs the Court promptly in writing or orally if the services are not being made available to the child and/or families, if the family fails to take advantage of such services, or if such services are not achieving their purpose, and brings to the Court's attention any violation of orders, or new developments requiring the Court's attention; and
- J. Advocates for the child's best interests in mental health, educational, family court, juvenile justice, criminal justice, and other community systems.

GUIDELINES FOR ATTORNEYS
REPRESENTING PARENTS IN DEPENDENCY CASES

I. TRAINING

A. REQUEST PRIOR TO REPRESENTATION

Prior to being appointed to represent any party in a dependency matter, all attorneys should:

1. Be familiar with dependency law and related areas;
2. Visit a shelter/emergency foster home/juvenile detention center; and
3. “Actively participate: in at least three (3) dependency actions from the Temporary Removal Hearing or pretrial through disposition. (One means of doing this is to spend a period of apprenticeship with experience attorneys, which would involve all aspects of representing clients in dependency matters).

B. CONTINUING EDUCATION REQUIREMENTS

1. All attorneys should have at least eight (8) hours of mandatory continuing training each year.
2. Suggested subject areas of instruction include the following:
 - a. Child development;
 - b. Family dynamics, with an emphasis on cultural aspects of families;
 - c. Special resources for children/families:
 - i. Special education programs
 - ii. Regional centers
 - iii. Adoption assistance subsidies
 - iv. Victim witness assistance
 - v. Mental health services
 - vi. Social Security/SSI/AFDC, etc
 - vii. Private insurance
 - viii. Other litigants (PI, family law, UCCJA, Parental Kidnapping Protection Act, Interstate Compact for the Placement of Children, Interstate Compact on Juveniles, Indiana Child Welfare Act);
 - d. Substance abuse;
 - e. Reasonable efforts;
 - f. Risk assessment/case plans;
 - g. Adoptability issues;
 - h. Guardianship, including funding issues;
 - i. Placement preferences;
 - j. Relative placements; and,
 - k. Writ/appeal procedures,

II. INVESTIGATION

Note: All attorneys should investigate as necessary to ascertain the facts, including the interviewing of witnesses, and maintain written records available for inspection by judges at any time. Attorneys should not rely solely on the report of the social worker.

A. INTERVIEWS

1. **Child/Client** – the attorney should determine the following from the client or social worker if appropriate:
 - a. Extent of contact agency has had with child prior to removal;
 - b. What services would have been helpful in avoiding removal;
 - c. If the child is old enough, his or her goals and concerns about placement and whether there are relatives or close family friends who would be willing to take the child;
 - d. Regarding the child, the attorney should:
 - i. Meet with child away from court setting and try to provide continuity and develop a trusting relationship. Explain, in age-appropriate language, the nature of the attorney/client relationship;
 - ii. Visit child in his/her home and observe child and child's interactions with others in the home. Assess the severity of the injuries and the child's general health and condition;
 - iii. Ask about and investigate resources that the child can think of, including relatives or friends;
 - iv. Regardless of the child's age, attempt to interview or at least observe the child. Observations are helpful in determining the accuracy of the petition and court report, or the statements of witnesses or parties; and,
 - v. Investigate the interests of the child beyond the scope of juvenile proceeding and report to the court other interests of the child that may be protected by other administrative or judicial proceedings.
2. **Agency Social Worker**
The attorney should determine:
 - a. Family's prior contacts with Child Protective Services;
 - b. Who made decision to remove child: Child Protective Services worker or police;
 - c. Basis for removal, specific harms which removal was designed to prevent;
 - d. Alternatives to removal such as in-home services or removal of the perpetrator, and whether these services were considered prior to removal; and,
 - e. Contacts agency has made with parent and child since child was removed.

3. **Witnesses**

Where appropriate the attorney should interview:

- a. Representatives of other agencies with whom the family has been involved, either through Child Protective Services referral or on the family's own initiative; and,
- b. Persons who have had significant contact with the child and may have relevant information about the child.

B. **DISCOVERY/DOCUMENT PRODUCTION**

1. The attorney should obtain and review the agency's records. Where necessary, attorneys for children should determine and utilize available discovery procedures. The attorney should look for:
 - a. Case plan: Was parent involved in its development? Are the goals in the plan related to the reasons for which child was removed?:
 - b. Services provided or requested by the family prior to the child's removal;
 - c. Arrangements for visitation; and,
 - d. Projected date of the child's return.
2. The attorney should obtain and review all court pleadings and support documents.
3. The attorney should obtain and review all necessary and relevant records, including medical, psychological, school, etc.

C. **CONSULTATION WITH EXPERTS**

Attorneys should be familiar with local experts who can provide attorneys with consultation and testimony on the reasonableness and appropriateness of efforts made to maintain the child in the home.

III. **HEARINGS**

Note: All attorneys should be aware of the statutory requirements regarding time limits and continuances.

A. **JURISDICTION HEARING**

1. Adjudication without trial:
 - a. If the attorney concludes, after full investigation and preparation, that the petition will probably be sustained, the attorney should so advise client and request consent to discuss settlement of case if appropriate;
 - b. The attorney should keep the client advised of all settlement discussions and communicate all proposals made by the other parties, when appropriate;
 - c. Where client's participation in psychiatric, medical, or other diagnostic treatment program is significant in obtaining client's desired result, the attorney should so advise client; and
 - d. The attorney should explore options to removal of child such as informal supervision, mediation, and intensive in-home services

2. Where circumstances warrant, the attorney should promptly make any motions material to the protection of the client's rights, such as motions to dismiss the petition, to suppress evidence, or for mental examination. Such motions should ordinarily be in writing and should be scheduled for hearing prior to the jurisdiction hearing.
3. Contested Jurisdiction Hearing:
 - a. Present all evidence relevant to the allegations in the petition obtained during the attorney's pretrial investigation; and,
 - b. Attorney should be familiar with those statutes that deal with children as witnesses.

B. DISPOSITION HEARING

1. The attorney should be familiar with dispositional alternatives and community services that might be useful in the formation of a dispositional plan.
2. The attorney should investigate all sources of evidence that will be represented at the hearing and interview material witnesses. The attorney also has an independent duty to investigate the client's circumstances, including such factors as previous history, family relations, economic condition, and any other information relevant to disposition.
3. The attorney, where appropriate, should seek to secure the assistance of psychiatric, psychological, medical or other expert personnel needed for purposes of evaluation, consultation, or testimony with respect to formation of a dispositional plan. The attorney should inquire into local procedures for retention and appointment of experts.
4. Counseling of client prior to disposition, when appropriate:
 - a. The attorney should explain to client the nature of the hearing, the issues involved, and the alternative open to the court. He should also explain fully the nature, obligations, and consequences of any proposed dispositional plan; and,
 - b. When psychological or psychiatric evaluations are ordered or arranged by the attorney prior to disposition, the attorney should explain the nature of the procedure and encourage the client's cooperation.
5. The attorney should examine fully any witness whose evidence is damaging to the client's interests and challenge the accuracy, credibility, and weight of any reports or other evidence before the court.
6. When a dispositional decision has been reached, it is the attorney's duty to explain the nature, obligations, and consequences of the disposition to the client, and the need for the client to cooperate with the dispositional orders.

C. REVIEW HEARINGS

1. Planning for the hearing:
 - a. All attorneys should confer periodically with their clients and the social worker and review:
 - i. Service plan;
 - ii. Extent of compliance with plan; and,
 - iii. Continued appropriateness of plan.
 - b. In monitoring the provisions of dispositional services, the attorney should return the matter to court if necessary to protect the client's interest; and,
 - c. Attorneys should make sure they receive a supplemental report and a notice of the hearing from the social worker or probations officer at least ten (10) calendar days before the hearings.
2. At all review hearings, attorneys for all parties should present evidence relevant to the appropriateness of the child's continued dependency and placement, including but not limited to, evidence regarding the provision of reasonable services and ensure that appropriate findings are made.

IV. SPECIAL CONSIDERATIONS FOR ATTORNEYS APPEARING IN DEPENDENCY ACTIONS

A. GENERAL

All attorneys appearing in dependency actions have the same general mandate: to vigorously represent their client's interests within applicable legal and ethical boundaries. This includes:

1. investigating the allegations;
2. advising client of risks and benefits of possible courses of action;
3. determining clients' interests; and,
4. representing those interests vigorously to the Court and other parties.

The attorney must, first and foremost, strive to acquire and develop basic advocacy skills such as client interviewing, case investigation, negotiation and trial practice.

B. ATTORNEYS FOR CHILDREN

1. Communications skills/knowledge of child development: Communicating with child clients for whatever purpose and especially with regard to legal matters may require efforts beyond those normally required for effective communications with adult clients. Attorneys for children should therefore be especially sensitive to the child's background and stage of development. Knowledge of the basic stages of child development will help the attorney develop that sensitivity and age-appropriate communications skills. Effective establishment of any meaningful attorney-client relationship. Knowledge of child development will also help the attorney to assess the evaluations that are so often a factor in dependency cases.

2. Investigation:
The attorney for the child has the same ethical duties as attorneys for the other parties to independently investigate the facts and conduct discovery (see previous section on INVESTIGATION). In many cases a child will be especially concerned with issues regarding his or her placement. The child's attorney should investigate as many placement alternatives as possibly appropriate to the child's situation and discuss these possibilities with the child. Knowledge of community and other resources independent of the child's social worker will be helpful in this regard.
3. Litigation practice and strategy:
Again, the child's attorney has the same rights and duties as other attorneys to prepare and conduct litigation in the furtherance of the child's interests. Knowledge of the substance and procedure of dependency actions is, of course, important for all attorneys. The child's attorney should be especially aware of statutory or case law that pertains particularly to children who are the subject of dependency actions or their attorneys.

RESOURCE GUIDELINES
IMPROVING COURT PRACTICE IN CHILD ABUSE AND NEGLECT CASES

RESOURCE GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases, published by the National Council of Juvenile and Family Court Judges, Reno, Nevada 1995. All rights reserved.

PRELIMINARY PROTECTIVE HEARING CHECKLIST

Persons Who Should Always Be Present At The Preliminary Protective Hearing:

- A. Judge or judicial officer
- B. Parents whose rights have not been terminated, including putative fathers
- C. Relatives with legal standing or other custodial adults
- D. Assigned caseworkers
- E. Agency attorney
- F. Attorney for parents (separate attorneys if conflict warrants)
- G. Legal advocate for the child and/or GAL/CASA
- H. Court reporter or suitable recording technology
- I. Security personnel

Persons Whose Presence May Also Be Needed At The Preliminary Protective Hearing:

- A. Age appropriate children
- B. Extended family members
- C. Adoptive parent(s)
- D. Judicial case management staff
- E. Law enforcement officers
- F. Service providers
- G. Adult or juvenile probation or parole officer
- H. Other witnesses

Courts Can Make Sure That Parties and Key Witnesses Are Present By:

- A. Requiring quick and diligent notification efforts by the agency;
- B. Requiring both oral and written notification in language understandable to each party and witness.
- C. Requiring notice to include reason for removal, purpose of hearing, availability of legal assistance; and,
- D. Requiring caseworkers to encourage attendance of parents and other parties.

Filing The Petition

- A. A sworn petition or complaint should be filed at or prior to the time of the preliminary protective hearing.
- B. The petition should be complete and accurate.

Key Decisions The Court Should Make At The Preliminary Protection Hearing:

- A. Should the child be returned home immediately or kept in foster care prior to trial?
- B. What services will allow the child to remain safely at home?
- C. Will the parties voluntarily agree to participate in such services?
- D. Has the agency made reasonable efforts to avoid protective placement of the child?
- E. Are responsible relatives or other responsible adults available?
- F. Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child?
- G. Will implementation of the service plan and the child's continued well-being be monitored on an ongoing basis by GAL?CASA?
- H. Are restraining orders, or orders expelling an allegedly abusive parent from the home appropriate.
- I. Are orders needed for examinations, evaluations, or immediate services?
- J. What are the terms and conditions for parental visitations?
- K. What consideration has been given to financial support of the child?

Additional Activities At The Preliminary Protective Hearing:

- A. Reviewing notice to missing parties and relatives;
- B. Serving the parties with a copy of the petition;
- C. Advising parties of their rights; and
- D. Accepting admissions to allegations of abuse or neglect.

Submission Of Report To The Court

- A. The Court should require submission of agency and/or law enforcement reports at least one hour prior to the preliminary protective hearing.
- B. Reports to the Court should describe all circumstances of removal, any allegations of abuse or neglect, and all efforts made to try to ensure safety and prevent need for removal.

The Court's Written Findings Of Fact and Conclusions Of Law At The Preliminary Protective Hearing Should:

Be written in easily understandable language which allows the parents and all parties to fully understand the Court's order.

If Child Is Place Outside The Home:

- A. Describe who is to have custody and where child is to be placed;
- B. Specify why continuation of child in the home would be contrary to the child's welfare (as required to be eligible for federal matching funds);
- C. Specify whether reasonable efforts have been made to prevent placement (including a brief description of what services, if any, were provided and why placement is necessary); and,
- D. Specify the terms of visitation.

Whether Or Not The Child Is Returned Home:

- A. Provide further directions to the parties such as those governing future parental conduct and any agency services to the child and parent agreed upon prior to adjudication.
- B. Set date and time of next hearing.

Resource Guideline:

It is recommended that sixty (60) minutes be allocated for each preliminary protective hearing.

ADJUDICATION HEARING CHECKLIST**Persons Who Should Always Be Present At The Adjudication Hearing:**

- A. Judge or judicial officer
- B. Parents whose rights have not been terminated, including putative fathers
- C. Relatives with legal standing or other custodial adults
- D. Assigned caseworker
- E. Agency attorney
- F. Attorney for parents (separate attorneys if conflict warrants)
- G. Legal advocate for the child and/or GAL/CASA
- H. Court reporter or suitable technology
- I. Security personnel

Persons Whose Presence May Also Be Needed At The Adjudication Hearing:

- A. Age-appropriate children
- B. Extended family members
- C. Adoptive parents
- D. Judicial case management staff
- E. Law enforcement officers
- F. Service providers
- G. Other witnesses

Key Decisions The Court Should Make At The Adjudication Hearing:

- A. Which allegations of the petition have been proved or admitted, if any;
- B. Whether there is a legal basis for continued court and agency intervention; and,
- C. Whether reasonable efforts have been made to prevent the need for placement or to safely reunify the family.

Additional Decisions At The Adjudication Hearing:

If the disposition hearing will not occur within a short time after the adjudication hearing, the judge may need to make additional temporary decisions at the conclusion of adjudication. For example, the judge may need to:

- A. Determine where the child is to be placed prior to disposition hearing;
- B. Order further testing or evaluation of the child or parents in preparation for the disposition hearing;
- C. Make sure that the agency is, in preparation for disposition, taking prompt steps to evaluate relatives as possible caretakers, including relatives from outside the area;
- D. Order the alleged perpetrator to stay out of the family home and have no contact with the child;
- E. Direct the agency to continue its efforts to notify non-custodial parents, including unwed fathers; and
- F. When the child is to be in foster care prior to disposition, set terms for visitation, support, and other intra-family communication including both parent-child and sibling visits.

The Court's Written Findings of Fact and Conclusions of Law At The Adjudication Hearing Should:

- A. Accurately reflect the reasons for state intervention.
- B. Provide sufficiently detailed information to justify agency and court choices for treatment and services.
- C. Provide a defensible basis for refusing to return a child home or terminating parental rights if parents fail to improve.
- D. Be written in easily understandable language so that all parties know how the Court's findings relate to subsequent case planning.

- E. Set date and time of next hearing, if needed.

Resource Guidelines

It is recommended that a minimum, of thirty (30) minutes be allocated for each adjudication hearing.

DISPOSITION HEARING CHECKLIST

Persons Who Should Always Be Present At The Disposition Hearing:

- A. Judge or judicial officer
- B. Parents whose rights have not been terminated, including putative fathers
- C. Relative with legal standing or other custodial adults
- D. Assigned caseworker
- E. Agency attorney
- F. Attorney for parents (separate attorneys if conflict warrants)
- G. Legal advocate for the child and/or GAL/CASA
- H. Court reporter or suitable technology
- I. Security personnel

Persons Whose Presence May Also Be Needed At The Disposition:

- A. Age-appropriate children
- B. Extended family members
- C. Adoptive parents
- D. Judicial case management staff
- E. Law enforcement officers
- F. Service providers
- G. Adult or juvenile probation or parole officer

- H. Other witnesses

Submission Of Reports To The Court

Predisposition reports should include:

- A. A statement of family changes needed to correct the problems necessitating state intervention, with timetables for accomplishing them;
- B. A description of services to be provided to assist the family; and ,
- C. A description of actions to be taken by parents to correct the identified problems.

When The Agency Recommends Foster Placement, And Affidavit Of Reasonable Efforts Should Be Submitted. The Following Are Some Additional Key Elements Of The Affidavit:

- A. A description of the efforts made by the agency to avoid the need for placement and an explanation why they were not successful;
- B. An explanation of why the child cannot be protected from the identified problems in the home even if services are provided to the child and family; and,
- C. Identification of relatives and friends who have been contacted about providing a placement for the child.

Other Information That Should Be Included Either In The Affidavit Of Reasonable Efforts Or An Accompanying Court Report Is:

- A. A description of the placement and where it is located;
- B. Proposed arrangements for visitation;
- C. Placement of the child's siblings and, if they are to be apart, proposed arrangements for visitation;
- D. An appropriate long-term plan for the child's future; and,
- E. Proposed child support.

Key Decisions The Court Should Make At The Disposition Hearing:

- A. What is the appropriate statutory disposition of the case and long-term plan for the child
- B. Where should the child be placed?

- C. Does the agency-proposed case plan reasonably address the problems and needs of child and parent?
- D. Has the agency made reasonable efforts to eliminate the need for placement or prevent the need for placement?
- E. What, if any, child support should be ordered?
- F. When will the case be reviewed?

The Court's Written Findings Of Fact And Conclusions Of Law At The Disposition Hearing Should:

- A. Determine the legal disposition of the case, including the custody of the child, based upon the statutory options provided under state law.
- B. State the long-term plan for the child (e.g. maintenance of the child in the home of a parent, reunification with a parent or relative, permanent placement of child with a relative, placement of the child in a permanent adoptive home.)
- C. When applicable, specify why continuation of child in the home would be contrary to the child's welfare.
- D. Where charged with this responsibility under state law and based upon evidence before the court, approve, disapprove or modify the agency's proposed case plan.
- E. Determine whether there is a plan for monitoring the implementation of the service plan and assuming the child's continued well-being? Is a GAL/CASA available to do this?
- F. When placement or services are ordered that were not agreed upon by the parties, specify the evidence or legal basis upon which the order is made.
- G. Specify whether reasonable efforts have been made to prevent or eliminate the need for placement.
- H. Specify terms of visitation.
- I. Specify parental responsibilities for child support.
- J. Be written in easily understandable language so that parents and all parties fully understand the Court's order.
- K. Set date and time of next hearing, if needed.

Resource Guideline:

It is recommended that a minimum of thirty (30) minutes be allocated for each disposition hearing.

REVIEW HEARING CHECKLIST**Persons Who Should Always Be Present At The Review Hearing:**

- A. Judge or judicial officer
- B. Parents whose rights have not been terminated, including putative fathers
- C. Age-appropriate children
- D. Relatives with legal standing or other custodial adults
- E. Foster parents
- F. Assigned caseworker
- G. Agency attorney
- H. Attorney for parents (separate attorneys if conflict warrants)
- I. Legal advocate for the child and/or GAL/CASA
- J. Court reporter or suitable technology
- K. Security personnel

Persons Who Presence May Also Be Needed At The Review Hearing:

- A. Extended family members
- B. Adoptive parents
- C. Judicial case management staff
- D. Service providers
- E. Adult or juvenile probation or parole officer
- F. Other witnesses
- G. School officials

Key Decisions The Court Should Make At The Review Hearing:

- A. Whether there is a need for continued placement of a child;
- B. Whether the court-approved, long-term permanent plan for the child remains the best plan for the child.
- C. Whether the agency is making reasonable efforts to rehabilitate the family and eliminate the need for placement of a child.
- D. Whether services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances.
- E. Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs.
- F. Whether the terms of visitation need to be modified.
- G. Whether terms of child support need to be set or adjusted.
- H. Whether any additional court orders need to be made to move the case toward successful completion.
- I. What time frame should be set forth as goal to achieve reunification or other permanent plan for each child.

Submission Of Reports To The Court: Pre-Review Report:

Pre-review reports by the child welfare agency and the GAL/CASA can serve the same purpose as predisposition reports. Pre-review reports should include:

- A. A statement of family changes needed to correct the problems necessitating state intervention, with timetables for accomplishing them;
- B. A description of services to be provided to assist the family; and ,
- C. A description of actions to be taken by parents to correct the identified problems.

Affidavit Of Reasonable Efforts:

When the agency recommends continued foster placement, an affidavit of reasonable efforts should be submitted. The following are some key elements of the affidavit:

- A. A description of the efforts made by the agency to reunify the family since the last disposition or review hearing and an explanation why those efforts were not successful;

- B. An explanation why the child cannot presently be protected from the identified problems in the home even if services are provided to the child and family.

The Court's Written Findings Of Fact and Conclusions Of Law At the Review Hearing Should:

- A. Set forth findings as to why the children are in need of continued placement outside the parents' home or continued court supervision, including the specific risks to the child;
- B. Set forth findings as to whether and why family reunification and an end to court supervision continued to be the long-term case goal;
- C. Set forth findings as to whether the agency has made reasonable efforts to eliminate the need for placement, with specific findings
- D. Set forth detailed findings of fact and conclusions of law as to whether the parents are in compliance with the case plan and identify specifically what further actions the parents need to complete;
- E. Set forth orders for the agency to make additional efforts necessary to meet the needs of the family and move the case toward completion;
- F. Be written in easily understandable language which allows the parents and all parties to fully understand what action they must take to have their children returned to their care;
- G. Approve proposed changes in the case plan and set forth any court-ordered modifications needed as a result of information presented at the review;
- H. Identify an expected date for final reunification or other permanent plan for the child;
- I. Make any other orders necessary to resolve the problems that are preventing reunification or the completion of another permanent plan for the child; and,
- J. Set date and time of next hearing, if needed.

Resource Guideline:

It is recommended that thirty (30) minutes be allocated for each review hearing.

PERMANENCY PLANNING HEARING CHECKLIST

Persons Who Should Always Be Present At The Permanency Planning Hearing:

- A. Judge or judicial officer
- B. Age-appropriate children
- C. Parents whose rights have not been terminated, including putative fathers
- D. Relatives with legal standing or other custodial adults
- E. Assigned caseworker
- F. Agency attorney
- G. Attorney for parents (separate attorneys if conflict warrants)
- H. Legal advocate for the child and/or GAL/CASA
- I. Court reporter or suitable technology
- J. Security personnel

Persons Whose Presence May Also Be Needed At The Permanency Hearing:

- A. Extended family members
- B. Foster parents
- C. Prospective adoptive parents
- D. Judicial case management staff
- E. Service providers
- F. Adult or juvenile probation or parole officer
- G. Other witnesses

Key Decisions The Court Should Make At The Permanency Planning Hearing:

- A. The child is to be returned home on a specific date.
- B. The child will be legally freed for adoption
- C. The custody of the child will be transferred to an individual or couple on a permanent basis;

- D. The child will remain in foster care on a permanent or long-term basis
- E. Foster care will be extended for a specific time, with a continued goal of family reunification.

Submission Of Reports To The Court:

A report for permanency planning hearing should:

- A. Specify the relief being sought and address the same issues that the judge needs to determine;
- B. Examine the reasons for excluding higher priority options; and,
- C. Set forth a plan to carry out the placement decisions.

When the Report Or Petition Requests That A Child Be Returned Home On A Date Certain, It Should Set Forth:

- A. How the conditions or circumstances leading to the removal of the child have been corrected;
- B. The frequency of recent visitation and its impact on the child; and,
- C. A plan for the child's safe return home and follow-up supervision after family reunification.

When The Report Requests Termination Of Parental Rights, It Should Set Forth:

- A. Facts and circumstances supporting the grounds for termination; and,
- B. A plan to place the child for adoption.

When A Custody Award To An Individual Or Couple Is Proposed, The Report Should Set Forth:

- A. Facts and circumstances refuting the grounds for termination of parental rights (demonstrating the fitness of the parents) or showing that although the child cannot be placed with parents, termination is not in the best interest of the child;
- B. Facts and circumstances demonstrating the appropriateness of the individual or couple to serve as permanent caretaker of the child; and,
- C. A plan to ensure the stability of the placement.

When Permanent Foster Care With A Specific Family Is Proposed, The Report Should Set Forth:

- A. Facts and circumstances refuting the grounds for termination of parental rights (demonstrating the fitness of the parents) or showing that, although the child cannot be placed with parents, termination is not in the best interest of the child;
- B. Fact and circumstances explaining why custody is not practical or appropriate;
- C. Facts and circumstances demonstrating the appropriateness of foster parents' and the foster parents' commitment to permanently caring for the child; and,
- D. A plan to ensure the stability of the placement.

When Long-Term Foster Care Is Proposed Because The Child Cannot Function In A Family Setting, The Report Should Set Forth:

- A. Facts and circumstances leading to that conclusion; and,
- B. A plan to prepare the child to live in a family setting at the earliest possible time and for visitation with parents and siblings.

When Long-Term Foster Care In Connection With Independent Living Arrangements Is Proposed, The Report Should Set Forth:

- A. Facts and circumstances refuting the grounds for termination of parental rights (demonstrating the fitness of the parents) or showing that, although the child's cannot be placed with parents, termination is not in the
- B. Facts and circumstances explaining why continued custody or permanent foster care is not appropriate at the same time that independent living services are being provided; and,
- C. A plan to prepare the child for independent living and for visitation between the child, parents, and siblings.

When An Extension Of Foster Care For A Time Certain Is Proposed With A Goal Of Reunification, The Report Should Set Forth:

- A. Facts and circumstances showing that the parents and child have a strong and positive relationship, parents have made substantial progress toward the child's return home, and return home is likely within the next six months;
- B. Facts and circumstances showing why it is too early to specify a time certain for reunification; and,
- C. A plan to achieve reunification within six months.

When Court's Written Findings Of Fact And Conclusions Of Law At The Permanency Planning Hearing Should:

- A. Be prepared within a reasonable time after the permanency planning hearing;
- B. Be written in easily understandable language so that parents and all parties fully understand the Court's order;
- C. Provide documentation for further proceedings;
- D. Address the same issues as those to be addressed in the report discussed above; and,
- E. Set date and time of next hearing, if needed.

Resource Guideline:

It is recommended that sixty (60) minutes be allocated for each permanency planning hearing.

RULE 7 DOMESTIC RELATIONS PRACTICE

701 Flowcharts

See pages 91 - 93 for the dissolution flowchart.

702 Assignment, Hearing and Consolidation of Cases

Trials in chief of all domestic relations cases and all hearings relating to child custody shall be heard by a judge. The foregoing provisions shall not preclude the use of depositions as provided in CR 32.01. This rule does not affect the method of taking proof in uncontested or settled actions as provided in JFRP 711 B.

703 Required Case Information

- A. A Case Data Information sheet shall be filed with the petition (Form AOC-FC-3). See page 94.
- B. In any divorce action involving minor children, the Family Court Clerk's Office shall provide a copy to the Families In Transition Office.

704 Appearances, Waivers, and Agreements

- A. A party who is not represented by counsel shall sign and acknowledge Appearances Waivers and Agreements before a notary or deputy clerk.
- B. All Agreements and Agreed Orders shall contain the correct mailing addresses for the attorneys and parties.

705 Divorce Education Program, Procedure, and Failure to Attend

- A. Families involved in a divorce proceeding where there are minor children shall be ordered to participate in a Divorce Education Program unless such order is waived for good cause shown. A sliding scale regarding fees for the program is available for qualifying families. Copies of all signed waivers shall be forwarded by the judicial secretaries to the Families In Transition Office.

It shall be the responsibility of petitioner's counsel to notify the petitioner of the Order of Attendance. See page 95. Information regarding the Divorce Education Program can be obtained at the Family Court Administrator's Office.

The Family Court Clerk's Office shall notify the respondent that the parties meet the criteria for attendance at the Divorce Education Program by attaching the notification to the petition being served on the respondent. A schedule of sessions and brochure shall accompany this notification of requirement to attend.

B. Scheduling of Attendance

1. Within thirty (30) days following the filing of the petition, petitioner shall schedule his/her own attendance as well as that of any minor children residing with petitioner who are required to attend the Divorce Education Program. The petitioner and minor children shall complete participation in the program within sixty (60) days following the filing of the petition.
2. Within thirty (30) days following service or entry of appearance, the respondent shall schedule the attendance of the respondent and minor children residing with the respondent who are required to participate in the Divorce Education Program and they shall complete their participation within sixty (60) days following service upon the respondent or entry of appearance by the respondent.
3. Unless attendance is waived for good cause shown, a party's failure to attend the Divorce Education Program may result in delay of the court action and imposition of costs and/or attorney's fees, and/or any other appropriate sanctions, including contempt.

706 Mediation

A. Mediation

Parties shall engage in mediation on all substantive issues, except for those exceptions provided under KRS 403.036 and KRS 403.160, before scheduling any hearings with the Court.

B. Procedure

1. Parties shall participate in mediation within ninety (90) days following service upon the respondent or entry or appearance by the respondent.
2. If the parties cannot agree on a mediator, the court shall appoint a mediator.
3. The initial mediation session shall be no less than two (2) hours.

C. Requirements for Property Mediation

Each party shall file with the court and mediator, in no less than five (5) working days prior to the mediation conference, the following:

1. Supplement to financial disclosure statement regarding any material change:
2. A short statement including definition of the issue to be addressed by the mediator and a brief narrative statement of any special problems affecting the case (e.g. closely held corporation, medical problems of any family member, etc.).
 - a. Copies of all documents supporting valuation of assets;
 - b. Copies of all documents verifying monthly payments and outstanding balances on all debts; and,
 - c. All information and copies of all documents requested by the mediator prior to the mediation conference.

D. Qualifications and Applications for Court-Approved Mediators

A Court-Approved mediator shall:

1. Complete a minimum of forty (40) hours in a family mediation training program approved by the Jefferson Family Court Term and have a college degree, prior basic education and training in the Behavioral Sciences or be an attorney licensed to practice in the Commonwealth of Kentucky.
2. Applications may be obtained from the Family Court Administrator's Office.
3. The Family court Judges shall approve additions or deletions to the approved mediator list.

E. Disqualification of a Mediator

Any party may move the Court to disqualify a mediator. Mediators have a duty to disclose any fact bearing on their qualifications, including any fact which would be grounds for disqualification of judge. If the Court rules that a mediator is disqualified, an order shall be entered setting forth the name of a qualified replacement. Nothing in this provision shall limit the discretion of a mediator to refuse any assignment. A mediator may elect voluntary disqualification, which is final upon written notification to the parties, the Court, and the Family Court Administrator (Form 706). See page 96.

F. Interim or Emergency Relief

Litigation, other than requests for emergency relief, shall be suspended during the course of mediation. Mediation shall continue while such interim relief is sought, absent a contrary order of the Court or a decision of the mediator or either party to adjourn pending disposition.

G. Adjournment

The mediator may suspend or terminate mediation whenever, in the opinion of the mediator, the matter is not appropriate for further mediation or at the request of either party. This shall be reported to the Court and the Family Court Administrator.

H. Failure to Appear for Mediation

If either party should fail to appear without reasonable notice and/or good cause for any mediation session, at the conclusion of the case, the Court shall, upon motion, award attorney's fees and/or costs or impose any other appropriate sanctions including contempt.

I. Counsel

The parties shall attend the mediation conference and shall appear promptly at the time and location for the scheduled mediation conference. The attorneys for each party may attend and participate, subject to the defined roles of the mediator, and shall at all times be permitted to privately communicate with their respective clients.

J. Compensation of Mediator

1. The mediator shall be compensated at the rate agreed upon by the mediator and the parties if the mediator is chosen by agreement. If the mediator is appointed by the Court, the fee for the mediation shall be reasonable and no greater than the standard rate determined by the Family Court judges. Unless otherwise varied by agreement of the parties or by order of the Court, each party shall pay an equal share of the charges of the mediator. A mediator shall give written explanation of the fees and related costs, including time and manner of payment, to the parties prior to the mediation. The explanation shall include the basis for and about of charges, if any, for:
 - a. Mediation sessions;
 - b. Preparation for sessions;
 - c. Travel time;
 - d. Postponement or cancellation of mediation sessions by the parties and the circumstances under which such charges will normally be assessed or waived;
 - e. Preparation of the parties' written mediation agreement if prepared by the mediator; and,
 - f. All other items billed by the mediator.
2. A mediator should provide mediation services pro bono or at a reduced rate of compensation whenever appropriate. See pages 97 - 98.

K. Completion of Mediation

1. In cases where the parties do not reach any agreement or mediation is terminated, the mediator shall immediately report to the Court and the Family Court Administrator. Such termination or non-agreement shall be without prejudice to either party. See page 96.
2. Handwritten or recorded mediation agreements must be typed and signed by all parties and their counsel, if any, within ten (10) working days.
3. The Court shall retain final authority to accept, modify, or reject an agreement.
4. The parties shall have the affirmative duty to contact the court's secretary and remand any pending hearings concerning resolved issues.
5. At the conclusion of mediation, the mediator shall report without comment to the Court and the Family Court Administrator as to the outcome of the mediation, (i.e. a full, partial, or no agreement) by using Form 706. See page 96.

L. Confidentiality

1. Mediation proceedings shall be held in private and all communications, verbal or written, made in the proceedings shall be confidential. The same protection shall be given to communications between the parties in the presence of the mediator, and to all communications, verbal or written, with the Family Court Administrator or designee. The only exception to this Rule is that the mediator shall be responsible for reporting abuse according to KRS 209.030 and KRS 620.030.

2. All conduct and communications made during a mediation conference shall be treated as settlement negotiations and shall be governed by K.R.E. 408.
3. Mediators shall not be subpoenaed regarding the disclosure of any matter discussed during the mediation which is considered confidential. This privilege and immunity resides with the mediator and may not be waived by the parties.

707 Parenting Coordinator

The purpose of the Parenting Coordinator is to provide parents in high conflict an alternative to litigation and expensive, divisive court battles, and to make decisions or recommendations that are in the best interest of the children. A high conflict family requires assistance in resolving persistent conflicts. A Parenting Coordinator may be ordered when a mediation is unsuccessful or inappropriate due to domestic violence.

A. Role of Parenting Coordinator

The Parenting Coordinator shall facilitate parents' making and implementing joint decisions in the best interest of their minor children and, when agreed to by the parties, make decision, with the exception of custody or primary residence, on behalf of families.

The Parenting Coordinator may address the following issues:

1. Revising parenting schedule or conditions (other than a court-ordered requirement of supervision), telephone, or any other type of contact;
2. Making and amending orders regarding exchange and/or transportation of the child, including specifying time and place of exchange;
3. Changing education, daycare, and/or extracurricular activities for the child;
4. Requiring a parent to submit or produce a child to submit to a substance abuse screen, psychological or custody evaluation, and provide release for reports or results.
5. Making orders more specific to facilitate implementation;
6. Changing the times for religious observances and training by the child; and
7. Other issues set forth specifically by the parties.

B. Decisions by a Parenting Coordinator

The parties may agree to work with a Parenting Coordinator by signing an Agreed Order.

C. **Recommendations by a Parenting Coordinator**

If the parties do not agree to work with a Parenting Coordinator, the Court may order the parties to a Parenting Coordinator who will make written recommendations (not decisions) to the Court. The Court will consider the Parenting Coordinator's report and other evidence at a hearing when making decisions that are in the best interest of the child(ren).

D. **Parenting Coordinator Qualifications**

1. The Parenting Coordinator shall have (a) either a minimum of a master's degree in psychology or social work, The Parenting Coordinator shall have (a) either a minimum of a master's degree in psychology or social work, or (b) forty (40) hours of training in mediations, and (c) either five (5) years experience in mediation or five (5) years experience in family therapy; OR
2. The Parenting Coordinator shall have (a) a minimum of five (5) years practicing family law as an attorney with concentration of at least fifty percent (50%) of his/her practice in family law, and (b) forty (40) hours of training in mediation, and (c) either five (5) years experience in mediation or five (5) years negotiating conflict and achieving parenting plans.
3. Parenting Coordinators shall participate in an initial training session and periodic training sessions as implemented by the Parenting Coordinator Advisory Committee.
4. The Family Court term shall decide who is qualified to serve as a Parenting Coordinator.

E. **Parenting Coordinator Cost**

1. **By Agreed Order:**

The Parenting Coordinator's hourly fee shall be set by the Parenting Coordinator pursuant to an agreement between the parties of the fees of the Parenting Coordinator.

2. **By Court Order:**

If the Court appoints a Parenting Coordinator to make recommendations to the Court, the parties shall pay the Parenting Coordinator's hourly fee as allocated by the Court.

708 **Pendente Lite Motions**

- A. Unless filed pursuant to KRS 402.160, all motions for temporary child support **and** objections thereto must be submitted with a child support worksheet, supporting documentation of all year to date gross income from all sources, the most recently filed federal and state income tax returns, verification of the cost of health insurance for the child/children only, and verifications of childcare expenses. This information shall be filed and provided to the other party 10 days prior to the hearing. In addition, counsel shall certify, prior to any hearing being held, that reasonable efforts were made to resolve the issue in dispute.

- B. All motions for temporary maintenance **and** objections thereto must be submitted with supporting documentation of all year to date gross income from all sources, the most recently filed federal and state income tax returns, and a statement of monthly living expenses. This information shall be filed and provided to the other party 10 days prior to the hearing. In addition, counsel shall certify, prior to any hearing being held, that reasonable efforts were made to resolve the issue in dispute.
- C. Except as provided in KRS 403.036, there shall be a standing referral to mediation for all other non-financial pendente lite issues, provided however, that either party may, at any time, apply to the Court for emergency relief.
- D. Notwithstanding the provisions of this rule, the Court may, in its discretion, order the parties to attend mediation on all pendente lite issues prior to a hearing being held thereon. Motions for restraining orders and hearing on matters pertaining to domestic violence shall not be referred to mediation, but set for a hearing before the Court.

709 Mandatory Case Disclosure

- A. Petitioner shall complete the Mandatory Case Disclosure (MCD) pursuant to the instructions contained therein and sign it in the presence of a notary or Family Court deputy clerk. The MCD shall be filed pursuant to the instructions contained therein, and a copy sent together with any supporting documentation required in the MCD to the Respondent or Respondent's attorney within 30 days of the filing of the petition unless ordered sooner by the court. Each question must be answered. A copy of the MCD may be obtained from the Family Court Clerk's Office.
- B. Respondent shall complete the Mandatory Case Disclosure (MCD) pursuant to the instructions contained therein and sign it in the presence of a notary or Family Court Deputy clerk. The MCD shall be filed pursuant to the instruction contained therein and a copy sent together with any supporting documentation required in the MCD to the Petitioner or Petitioner's attorney within 45 days following service upon the Respondent or entry of appearance by the Respondent, unless ordered sooner by the Court. Each question must be answered. However the Respondent may instead sign an acknowledgement before a notary or Family Court deputy clerk, which acknowledgement shall state that there are no other assets or debts other than those listed in the Petitioner's Mandatory Case Disclosure. A copy of the acknowledgement form may be obtained from the Family Court Clerk's Office.
- C. Mandatory Case Disclosure and/or acknowledgement must be filed in all cases, even if all issues are resolved by agreement.

710 Exchange Of Releases For Information And Documents

Within forty (45) days following service upon the respondent, entry of appearance by the respondent, or at any time thereafter the parties shall sign and return all releases for relevant information and documents prepared and submitted by the other party. Such releases shall contain a provision directing that any information and/or documents provided in writing to the requesting counsel or Pro Se party shall simultaneously be transmitted to the other counsel or Pro Se party, at requesting party's expense. Nothing in this rule precludes the adverse party from the ability to file for protective orders.

711 Case Management Conference

- A. In accordance with JFRP 706B , the parties shall participate in mediation within ninety (90) days following service upon the respondent or entry of appearance by the respondent. Upon the conclusion of mediation, if the parties have been unable to resolve all issues, they shall within ten (10) days obtain from the Court a date for a Case Management Conference. The parties shall be required to mediate all disputed issues prior to the Case Management Conference. Where mediation is waived or delayed for good cause shown or is not required due to domestic violence (KRS 403.036), the Case Management Conference shall be scheduled within sixty (60) days following service upon the respondent.
- B. Both parties and their counsel shall attend the Case Management Conference.
- C. Each party shall file the following documents at least seven (7) days prior to the Case Management Conference:
 - 1. Any pertinent motions,
 - 2. Any stipulations, and/or agreements reached.
- D. In the event of the failure of a party or parties to appear at the Case Management Conference, the Court may, in accordance with its pretrial order, conduct a hearing at which proof may be taken or the case dismissed, as the Court may determine appropriate.
- E. Settlement Conference
The parties shall conduct an extra-judicial settlement conference with counsel in attendance. Participation in Mediation satisfies the Settlement Conference requirement. Certification shall be filed three (3) days before the Case Management Conference.
- F. Trial
The trial shall be held as scheduled, except for good cause shown.

712 Requirements for Entry of Decree.

- A. A motion for final decree shall be accompanied by:
 - 1. In default cases, a military affidavit and the attorney's certificate that no answer or pleadings have been received by counsel.
 - 2. A written request for restoration of a party's former name if desired, unless the request is provided for in prior pleadings, entry of appearance or the agreement.
 - 3. Certificates demonstrating that both parties and their children have completed the Divorce Education Program (JFRP 705), if applicable, unless waived by the Court.

B. Proof in Uncontested or Settled Cases.

- 1. Proof shall be by written interrogatories, deposition, or if good cause is shown, orally before the Court.
- 2. Either party may offer proof for the purpose of entering a decree.
- 3. When motion for final decree is made more than ninety (90) days after proof has been taken, an affidavit shall be filed stating that there has been no normal resumption of the marriage relationship and that no material change in circumstances has occurred since the taking of the proof. Such affidavit shall be accompanied by certification that notice has been given to the other party.
- 4. Where proof is submitted by Interrogatories and the parties have executed a settlement agreement resolving all issues, a motion to enter a decree need not be placed upon the Court's docket for motion hour but may be submitted directly to the court with notice to the opposing party unless a waiver of notice has been filed.

713 Post-Decree Litigation

- A. All post-decree matters regarding modification of child support must be submitted with a child support worksheet, documentation of all year to date gross income from all sources, the most recently filed federal and state income tax returns, verification of the cost of health insurance for the child/children only, and verification of child care expenses. The responding party is to similarly file financial information. All parties shall exchange said information 10 days prior to the hearing. In addition counsel shall certify, prior to any hearing being held, that reasonable efforts were made to resolve the issues in dispute.
- B. All post-decree matters regarding the maintenance issues must be submitted with a statement of monthly living expenses, supporting documentation of all year to date gross income from all sources, and the most recently filed federal and state income tax returns. The responding party is to similarly file financial information. All parties shall exchange said information 10 days prior to the hearing. In addition, counsel shall certify, prior to any hearing being held, that reasonable efforts were made to resolve the issues in dispute.

- C. All post—decree matters regarding the modification of custody and visitation shall be referred to mediation prior to a hearing unless exempted due to domestic violence or exempted by the Court.

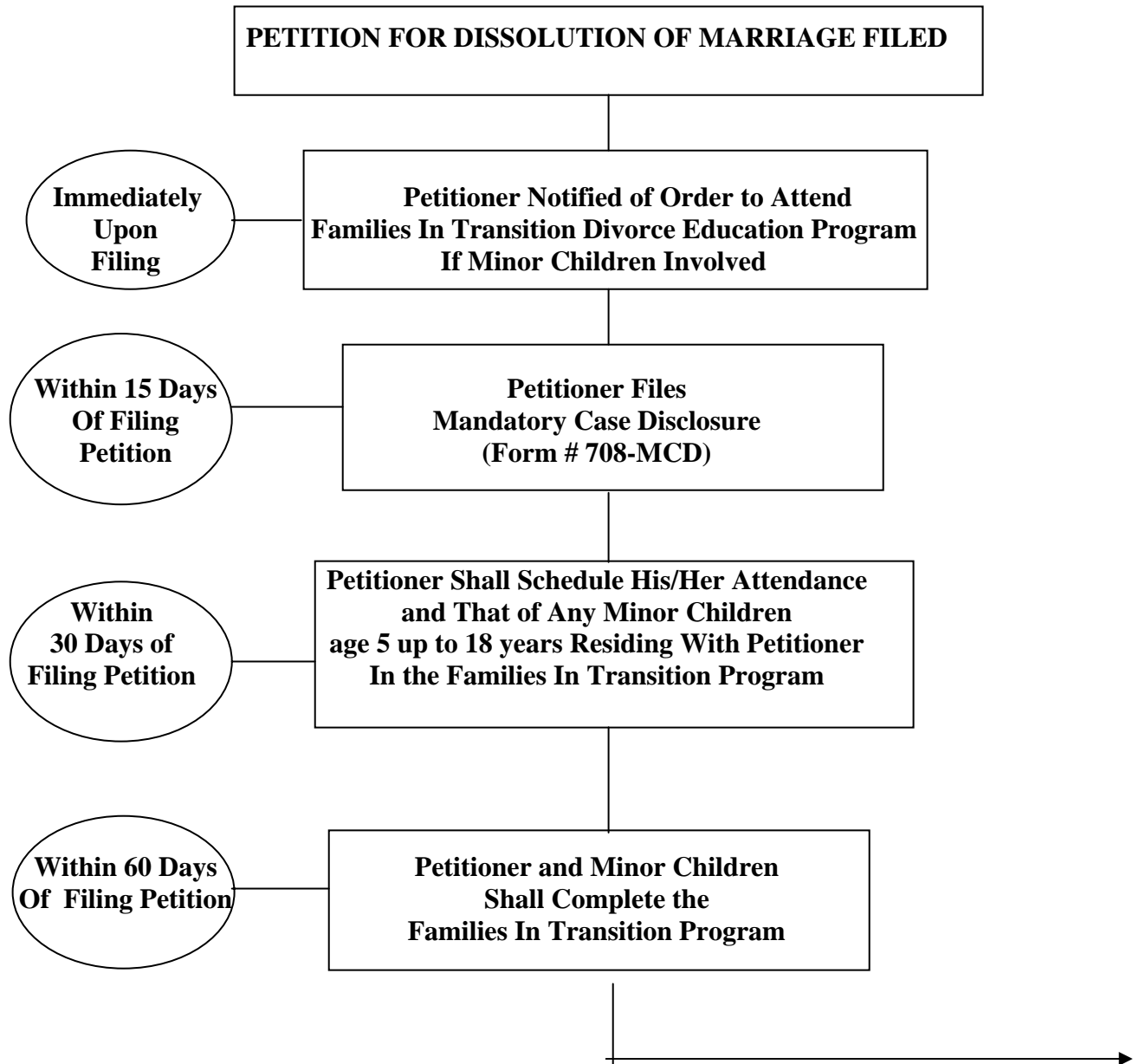
714 Administration Establishment of Support Obligations

- A. The Jefferson County Attorney, Child Support Division, as Agent for the Health and Family Services (CHFS), may administratively establish a child support and/or medical obligation pursuant to KRS 405.430, if:
 - 1. paternity is not in question;
 - 2. there is no existing order of support;
 - 3. the non-custodial parent resides or works in Kentucky; and
 - 4. the non-custodial parent's address is known.
- B. The support obligation shall be determined in accordance with the guidelines found in KRS 403.212.
- C. Pursuant to KRS 405.450, the non-custodial parent shall have the right to appeal the administrative order to a CHFS hearing officer.
- D. No Petition for Review of an administrative order shall be filed in Family Court until all administrative remedies have been exhausted. Judicial review shall be conducted in accordance with KRS 13B.150

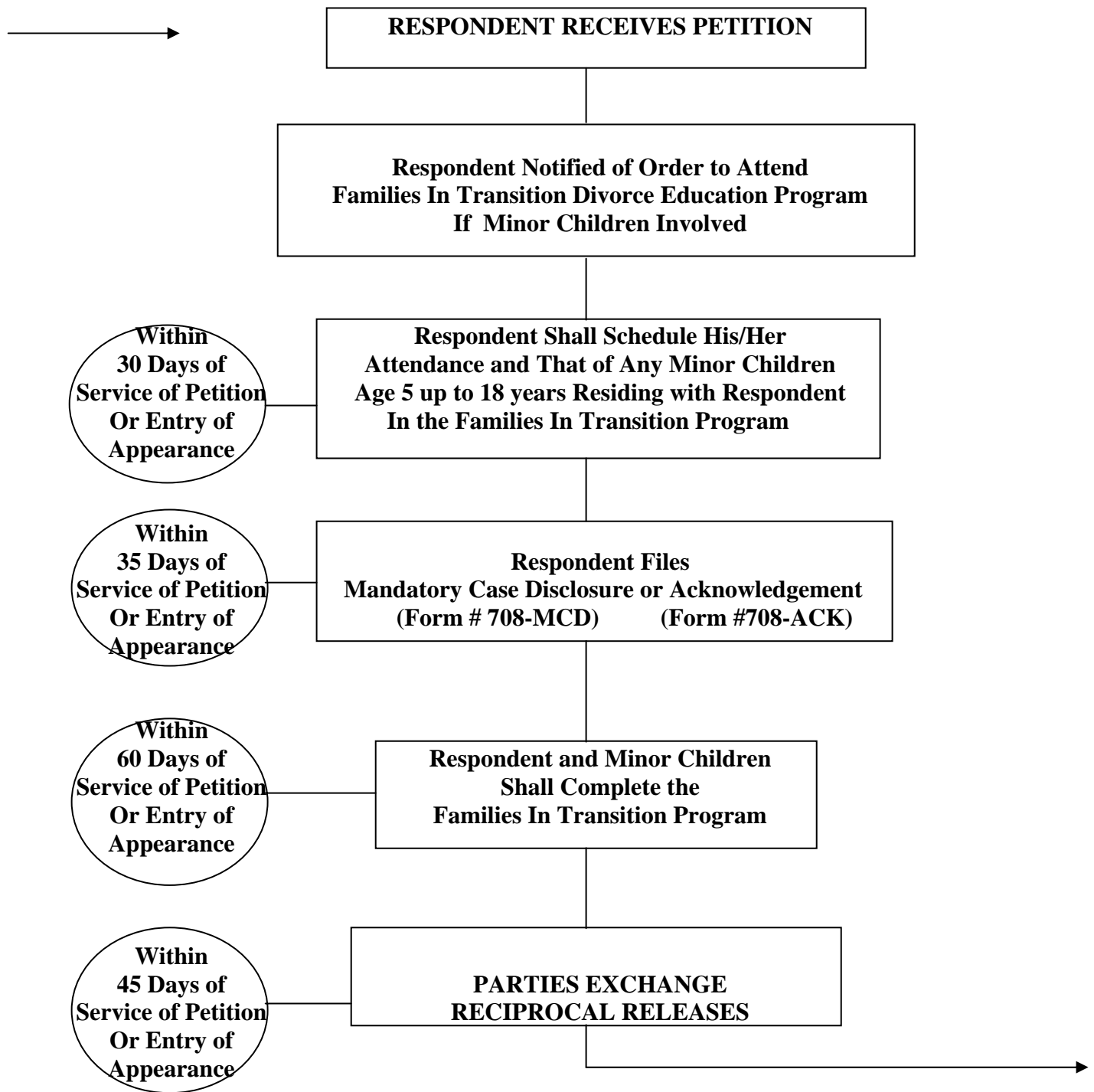
DOMESTIC RELATIONS PRACTICE

APPENDIX

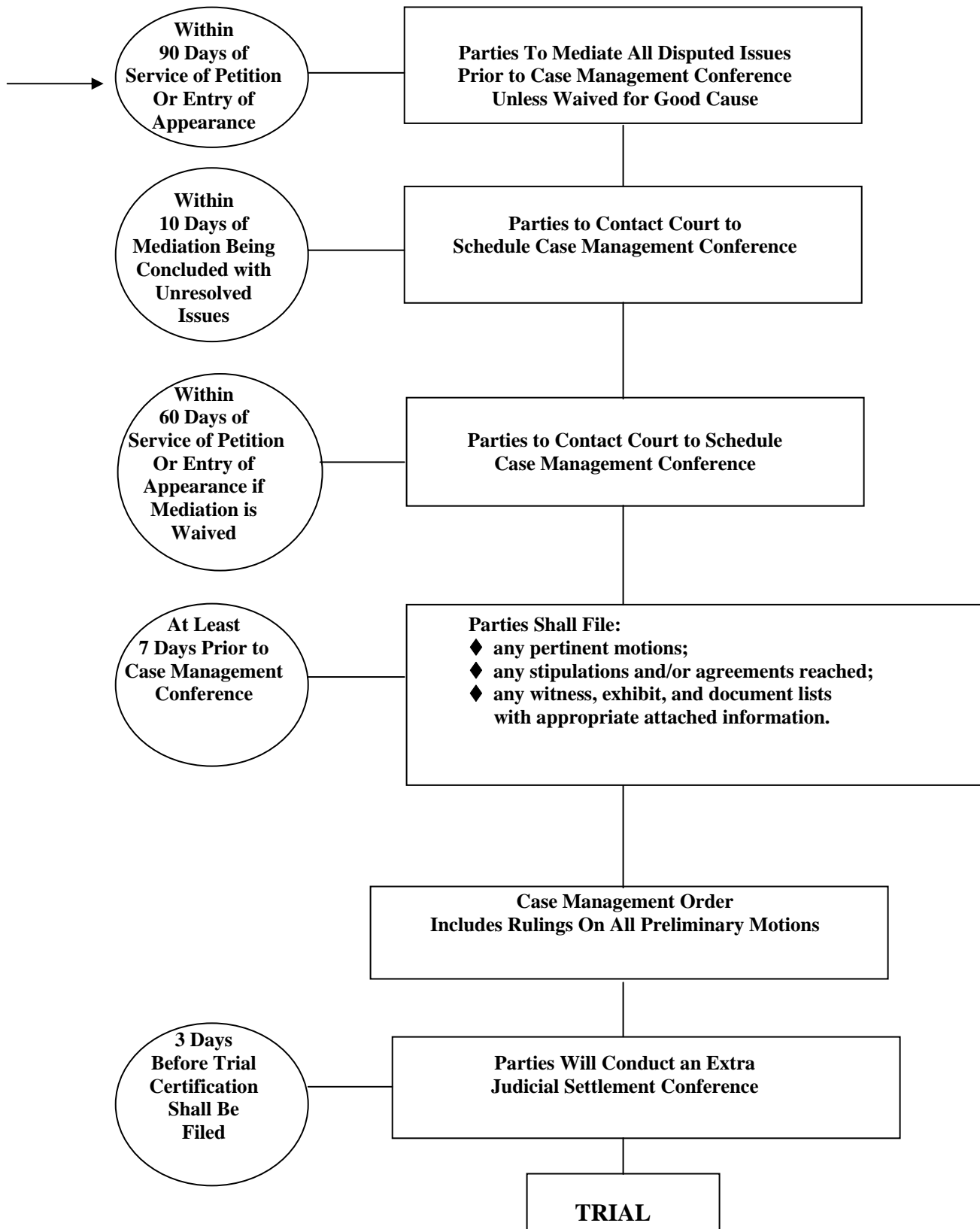
**FAMILY COURT
DISSOLUTION
DISSOLUTION - PETITIONER**



FAMILY COURT
DISSOLUTION - RESPONDENT



FAMILY COURT
DISSOLUTION - JOINT



AOC-FC-3
Rev. 11-99
Commonwealth of Kentucky
Court of Justice

- ☐ Minor Children Involved
☐ Protective Order Issued For:
☐ Petitioner
☐ Respondent



☐ CIRCUIT ☐ DISTRICT
☐ FAMILY COURT
CASE DATA INFORMATION SHEET

For Office Use Only

Case #: _____

County / Division: _____

PETITIONER:

Name: _____

Address: _____

Telephone: (_____) _____

DOB: _____

SSN: _____

Relationship to Respondent: _____

RESPONDENT:

Name: _____

Address: _____

Telephone: (_____) _____

DOB: _____

SSN: _____

Relationship to Petitioner: _____

For ALL OTHER PARTIES to this case: please list below the name, current address, date of birth (DOB), social security number (SSN), and relationship to the Petitioner, of any other parties to this action, or children of the Petitioner or Respondent. If there is not enough room below, please attach a separate sheet with all the information requested.

OTHER PARTIES / CHILDREN:

Name: _____

Address: _____

Telephone: (_____) _____

DOB: _____

SSN: _____

Relationship to Petitioner: _____

Name: _____

Address: _____

Telephone: (_____) _____

DOB: _____

SSN: _____

Relationship to Petitioner: _____

Name: _____

Address: _____

Telephone: (_____) _____

DOB: _____

SSN: _____

Relationship to Petitioner: _____

Name: _____

Address: _____

Telephone: (_____) _____

DOB: _____

SSN: _____

Relationship to Petitioner: _____

Please list any / all cases, pending, or heard within the last five (5) years, that have involved the parties or children of the parties in Family, District or Circuit Court. Please provide the case number, name of party and type of case: _____

**This form shall be completed in full,
pursuant to local rule and in
compliance with federal law.**

Signature of Preparer / Relationship to Petitioner

Print Name: _____

Address: _____

Phone: (_____) _____

DISTRIBUTION: Cabinet for Families and Children, placing a copy in the County Attorney's Wage Withholding Order Box in Circuit Clerk's Office

NO. _____

JEFFERSON FAMILY COURT
DIVISION _____

PETITIONER

vs.

RESPONDENT

ORDER OF ATTENDANCE TO
FAMILIES IN TRANSITION PROGRAM

* * * * *

IT IS HEREBY ORDERED that all parents with minor children shall attend the Families In Transition program, a divorce education program. Children from the age of five (5) and up to eighteen (18) years shall also attend the Families in Transition program. A list of dates, times, and sites of the Families in Transition program is attached.

The parties to this action shall register within thirty (30) days. The parties shall complete the program within sixty (60) days from the receipt of this Order.

Failure to attend the Families In Transition program may result in delaying the Court action, assessment of costs or attorney's fees or suffering any other appropriate sanctions for contempt.

The parties may call (502) 595-3618 to register.

STEPHEN GEORGE, CHIEF JUDGE
JEFFERSON FAMILY COURT

DATE

Revised 5/10/02

JFRP Form 706
Court Number _____

JEFFERSON FAMILY COURT
MEDIATION OUTCOME

Jefferson Family Court
Division: _____

Petitioner
Total Fee: _____

Address

City, State, Zip Code

vs.

Respondent

Total Fee: _____

Address

City, State, Zip Code

PLEASE CHECK ALL THAT APPLY

_____ 1. Parties have completed mediation:

_____ A. Mediation terminated – No Agreement

OR

_____ B. Mediation concluded:

_____ 1. Partial Agreement:

_____ Custody/Visitation issues

_____ Property/Maintenance issues

_____ 2. Full Agreement:

_____ Custody/Visitation issues

_____ Property/Maintenance issues

_____ 2. Parties have not completed mediation:

_____ A. Petitioner did not contact the mediator

_____ B. Respondent did not contact the mediator.

_____ C. Neither party contacted the mediator

_____ D. Unable to schedule because: _____

_____ E. Mediation canceled because Petitioner did not attend

_____ F. Mediation canceled because Respondent did not attend

_____ G. Order requiring mediation rescinded

_____ H. Mediator advised by (name and relation to case) _____
that issues have been settled.

_____ I. Mediator feels case is inappropriate for mediation

_____ J. Mediator voluntarily disqualifies self

Mediator's Signature

CC: Court File
Petitioner's Attorney/Pro Se Party
Respondent's Attorney/Pro Se Party
Jim Birmingham, Jefferson Family Court Administrator
700 W. Jefferson St., Ste 220, Louisville, KY 40202
FAX: (502) 595-3472

Telephone Number

Date Completed

**JEFFERSON FAMILY COURT MEDIATION
FEE SCHEDULE**

1. The following sliding scale does not apply if either party's Annual Gross Income is equal to or greater than \$38,000. For non-sliding scale cases the maximum fee shall not exceed \$160.00 per hour. Each party shall be responsible for paying a percentage of the fee based on their proportional share of their combined Annual Gross Income.
2. In court-ordered mediation, each party's fee will be calculated according to his/her Annual Gross Income as reported on the Financial Disclosure Statement which must be filed with the court prior to the Case Management Conference.
3. A party who fails to provide the Annual Gross Income information to the court on the Financial Disclosure Statement shall pay 100% of the mediator's entire fee. If both parties fail to provide the Annual Gross Income information to the court, the mediator's entire fee shall be divided equally between the parties.
4. If the sliding scale applies, each party will pay according to the following chart:

<u>Individual Salary Range</u>			<u>Individual Fee Per Hour</u>
0	-	\$4,999	\$5.00
\$5,000	-	\$7,499	\$10.00
\$7,500	-	\$9,999	\$15.00
\$10,000	-	\$14,999	\$25.00
\$15,000	-	\$17,999	\$40.00
\$18,000	-	\$24,999	\$50.00
\$25,000	-	\$31,999	\$60.00
\$32,000	-	\$37,999	\$70.00

(6-25-03)

JEFFERSON FAMILY COURT MEDIATION
FEE FORM

I. Gross Annual Income:

Petitioner: _____

Respondent: _____

- A. If both parties' Individual Incomes are less than \$38,000, then apply each to the **Sliding Fee Schedule** below to determine the Individual Fee:

<u>Individual Gross Income Range</u>			<u>Individual Fee Per Hour</u>
0	-	\$ 4,999	\$5.00
\$ 5,000	-	\$ 7,499	\$10.00
\$ 7,500	-	\$ 9,999	\$15.00
\$ 10,000	-	\$ 14,999	\$25.00
\$ 15,000	-	\$ 17,999	\$40.00
\$ 18,000	-	\$ 24,999	\$50.00
\$ 25,000	-	\$31, 999	\$60.00
\$ 32,000	-	\$ 37,999	\$70.00

- B If either party is over \$38,000, then each party shall pay a percentage of the maximum fee based on the party's proportional share of the Combined Annual Gross Income:

- 1) Combined Annual Gross Income: _____
- 2) Individual % of Combined Annual Gross Income [Ind. ÷ Gross = %]
Petitioner _____% Respondent _____%
- 3) \$160. % = Individual fee (record in section II below)
Petitioner _____% Respondent _____%

- C. 1) If either party fails to provide income information to the mediator within 10 working days of the entry of the mediation order, then the non-complying party shall pay the total maximum fee:

Complying Party: -0- Non-complying party: \$160.00

- 2) If both parties fail to provide income information, each party shall pay one half of the total maximum fee:

Petitioner: \$80 Respondent: \$80

II. Individual Fees:

Petitioner: _____

Respondent: _____

Prepared by: _____

Date: _____

RULE 8 STATUS OFFENSES

801 Time Frames

See page 100 for the status flowchart.

802 Jurisdiction

Family Court has jurisdiction of status offenses as defined by KRS 23A100 (2)(d). This jurisdiction includes status offenses under KRS Chapter 630 except where proceedings under KRS Chapter 635 or 640 are pending.

STATUS OFFENSE PRACTICE

APPENDIX

FAMILY COURT STATUS OFFENDER DETENTION GUIDELINE

The Family Court is in agreement with the Juvenile Justice and Delinquency Prevention (JJDP) Act deinstitutionalization of status offenders provisions. Status children should not be placed with the Jefferson County Youth Center's (JCYC) general population prior to an arraignment. In order to facilitate the timely release of these children to non-secure alternatives, the Family court will make reasonable efforts to insure the following procedures are utilized:

1. Release to Cabinet for Human Resources if the child is committed;
2. Contact the child's parents or legal guardians;
3. If the parents of legal guardians are unavailable or unwilling to accept the child contact;
 - a. Another responsible adult or relative, including the person who has been exercising custodial control but does not have actual legal custody; or
 - b. Alternative Placement Service (APS).

As part of the release process the case shall be placed on the appropriate Family Court Division 1:00 p.m. emergency docket if the child was taken into custody on a bench warrant or place in APS.

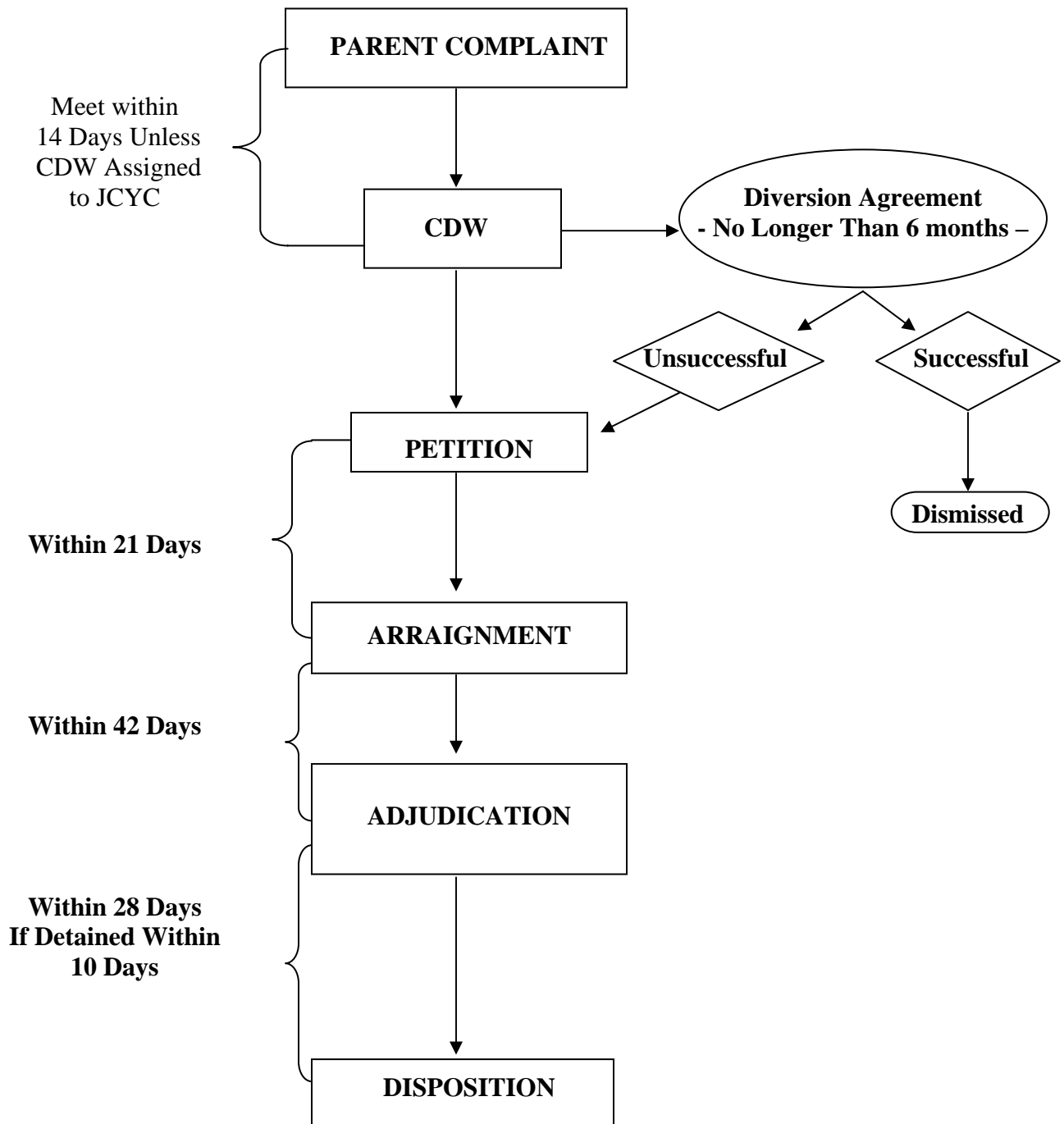
Before a child is found in contempt, the Court will have advised the child of his/her rights and warned of the consequences regarding contempt. If taken into custody for contempt, the Court will recommend that the child not be placed in general population until given and opportunity for a court hearing. The same release procedures should be followed for these cases. If there are any questions regarding the Court Order, JCYC should follow these steps:

1. Contact the Family Court Judge who issued the Court Order;
2. If the Judge is unavailable, attempt to contact other Family Court Judges;
3. If Family Courts Judges are unavailable then contact the duty Judge.

If the Family Court Judge determines at a court hearing that the child is in contempt, then the child can be considered for secure detention. If the child is to be detained, the Court Order will indicate that detention resulted from violation of a valid Court Order.

FAMILY COURT

Status



CDW – Court Designated Worker
JCYC – Jefferson County Youth Center

RULE 9 MISCELLANEOUS

901 Consolidating and Joining Together of Related Actions

- B. Pursuant to CR 42.01, when two or more different actions are pending involving the same parties and common questions of law or fact those cases any be consolidated except that District court level actions shall not be consolidated with simultaneously but the files shall be maintained separately.
- C. A motion either to consolidate or to joint together related actions shall first be made in the Family Court and upon the approval of the Family Court, counsel may move the Circuit or District Court to hear such actions together with the pending action in Family Court.

902 Subpoenas for Medical Records and Psychiatric or Other Privileged Records

- A. Subpoenas for medical records shall be issued pursuant to KRS 422.300 et seq.
- B.
 - 1. Subpoenas and accompanying orders for release of psychiatric and other privileged records shall only be issued by the Family court upon motion by the requesting party with notice to all parties and an opportunity for objection. The order will be signed if there is no objection within seven (7) days.
 - 2. The medical, psychiatric or other privileged records may be destroyed or returned to the appropriate party when the order is final and no longer appealable.

903 Videotaped Depositions

Videotaped depositions may be taken in actions pending in the Jefferson Family Court and shall be taxed as costs. Notice to take depositions shall be in accordance with the rules of Civil Procedure. At the deposition, the videotape recorder shall be operated by a person qualified to operate such recording equipment. That person is to mark the recording with the style and number of the action and the name of the witness, and to file a certificate which identifies said recording.

Videotaped depositions shall be taken under the following conditions:

- 1. The party noticing the deposition shall provide the operator with a copy of JFRP 903. At the beginning of the taping of the deposition, the operator of the video camera will focus on each attorney, party and witness present at the taking for the deposition, and such person(s) shall be identified; or the operator may read a statement introducing the parties to the litigation by name and the attorneys present without focusing on each person, at the election of the noticing party.

2. The camera will remain stationary at all times during the deposition and will not “zoom” in or out on the witness except those times during the deposition when the witness is displaying for the judge’s viewing, exhibits or other pieces of demonstrative proof that can only be fairly and reasonably seen on the videotape by use of the camera “zooming” in on said evidence. The purpose of this clause is so that the camera will not “zoom” in on a witness solely to give unfair or undue influence using the words of the witness, and does not apply to the “zooming” in for other purposes described above.
3. A stenographic transcript, addition to the videotape recording, will not be necessary. Any party desiring same may obtain it at that party’s cost.
4. The videotape itself will be kept in the possession of the attorney taking the deposition and will be available for the Court and any and all counsel to compare the stenographic transcript, if any, and the videotape recording, the discrepancies will be resolved by agreement of counsel or ruling of the Court if counsel cannot agree. The decision on the manner in which to handle the discrepancies, insofar as the videotape is concerned, will be included in the agreement of counsel or ruling of the Court.
5. All objections will be reserved and shall not be stated on the videotape except for objections relating to the form of the question. Objections to testimony on the videotape and the ruling thereof will be resolved by agreement of counsel or ruling of the Court if counsel cannot agree. All objections relating to said depositions must be made at least ten (10) days before trial. An edited version shall be presented at trial.
6. Admissibility of the tape may be objected to by any counsel if a review of the finished tape reveals any technical errors giving undue influence to the testimony of the witness which would unfairly prejudice the side objecting; or if the judge would be unfairly prejudicial to the side so objecting.

904 Telephone Conference

Any motion may be heard and any conference may be held by a telephonic conference call among the judge and counsel for the respective parties. Dates for pre-trial conferences may be obtained by telephonic conference with a Judge’s office provided that such conference includes counsel for all parties. Counsel seeking said conference shall be responsible for including all necessary counsel. Trial and hearing dates may likewise be scheduled by telephonic conference at the discretion of the judge. In all instance for out of county attorneys, telephonic conference calls are mandatory unless said out of county attorneys decline.

905 Identification of Counsel Required

Every pleading, motion and any other paper filed in the record by counsel shall contain the case number, typed or printed name, office address and telephone number of the attorney signing the paper. A rubber stamp shall not be deemed a signature either under the Rule or CR 11.

906 Notice of Submission

In accordance with SCR 1.05(8), when any action stands submitted for final adjudication, all attorneys shall notify the Administrative Office of the Courts forthwith, in writing and with a copy to the judge, by the filing of AOC Form 280.

907 Penalties

This Court may assess costs and fees or impose appropriate sanctions against a party not complying with any of these Rules.