

#### **403.740 Emergency protective order.**

- (1) If, upon review of the petition, as provided for in KRS 403.735, the court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall issue, upon proper motion, ex parte, an emergency protective order:
  - (a) Restraining the adverse party from any contact or communication with the petitioner except as directed by the court;
  - (b) Restraining the adverse party from committing further acts of domestic violence and abuse;
  - (c) Restraining the adverse party from disposing of or damaging any of the property of the parties;
  - (d) Restraining the adverse party from going to or within a specified distance of a specifically described residence, school, or place of employment of the petitioner, minor child of the petitioner, family member, or member of an unmarried couple protected in the order;
  - (e) Directing the adverse party to vacate the residence shared by the parties to the action;
  - (f) Utilizing the criteria set forth in KRS 403.270, 403.320, and KRS 403.822, grant temporary custody;
  - (g) Restraining the adverse party from approaching the petitioner or a minor child of the petitioner within a distance specified in the order, not to exceed five hundred (500) feet; or
  - (h) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse; or any combination thereof, except that the use of a global positioning monitoring system shall not be ordered.
- (2) Except as provided in KRS 403.036, if the court issues an emergency protective order pursuant to subsection (1) of this section, the court shall not order or refer the parties to mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.735.
- (3) An emergency protective order issued in accordance with this section shall be issued without bond being required of the petitioner.
- (4) An emergency protective order issued in accordance with this section shall be effective until the full hearing provided for in this subsection or in KRS 403.745, or until withdrawn by the court. Upon the issuance of an emergency protective order, the court shall set a date and time for a full hearing, within fourteen (14) days as provided for in KRS 403.745, and shall summon the adverse party to appear. If, at the hearing, the adverse party is not present and has not been served, the emergency protective order shall remain in place, and the court shall direct the issuance of a new summons for a hearing set not more than fourteen (14) days in the future. If service has not been made on the adverse party prior to seventy-two (72) hours before that hearing or a subsequent hearing, the emergency protective order shall remain in place and the court shall continue the hearing and issue a new summons with a new date and time for the hearing to occur, which shall be within fourteen

(14) days of the originally scheduled date for the continued hearing. Before issuing the new summons, the court shall note the length of time that has passed since the issuance of the emergency protective order, during which the adverse party has not been served. The court shall repeat the process of continuing the hearing and reissuing a new summons after noting the lapse of time since the issuance of the emergency protective order until the adverse party is served at least seventy-two (72) hours in advance of the scheduled hearing. In issuing the summons, the court shall simultaneously transmit a copy of the summons or notice of its issuance and provisions to the petitioner.

- (5) The adverse party shall be personally served with a copy of the emergency protective order, a copy of the summons setting the full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure. No service fee shall be assessed to the petitioner.
- (6)
  - (a) The provisions of this section permitting the continuance of an emergency protective order shall be limited to six (6) months from the issuance of the initial emergency protective order.
  - (b) If the respondent has not been served within the six (6) month period, the emergency protective order shall be rescinded without prejudice. Prior to the expiration of the emergency protective order, the court shall provide notice to the petitioner stating that if the petitioner does not file a new petition the order shall be rescinded without prejudice.
  - (c) A new emergency protective order shall not be issued by the court unless the petitioner files a new petition, which shall start the six (6) month process again.
  - (d) The total length of time that a series of emergency protective orders may remain in effect without the respondent being served shall not exceed two (2) years.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 170, sec. 2, effective July 15, 2010. -- Amended 2004 Ky. Acts ch. 133, sec. 44, effective July 13, 2004. -- Amended 1996 Ky. Acts ch. 99, sec. 16, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 172, sec. 6, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 6, effective July 13, 1984.