

1 AN ACT relating to temporary custody orders.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 403.280 is amended to read as follows:

- 4 (1) A party to a custody proceeding may move for a temporary custody order. The  
5 motion must be supported by an affidavit as provided in KRS 403.350. The court  
6 may award temporary custody under the standards of KRS 403.270 after a hearing,  
7 or, if there is no objection, solely on the basis of the affidavits. ***If the parents or a***  
8 ***de facto custodian joined under subsection (9) of this section present a temporary***  
9 ***custody agreement and mutually agreed plan for parenting time, and the court***  
10 ***confirms that the agreement adequately provides for the welfare of the child, the***  
11 ***agreement shall become the temporary custody order of the court.***
- 12 (2) ***In making an order for temporary custody, there shall be a presumption,***  
13 ***rebuttable by preponderance of evidence, that the parents or a de facto custodian***  
14 ***joined under subsection (9) of this section shall have temporary joint custody and***  
15 ***shall share equally in parenting time.***
- 16 (3) ***If a deviation from equal parenting time is warranted, the court shall construct a***  
17 ***parenting time schedule which maximizes the time each parent or de facto***  
18 ***custodian joined under subsection (9) of this section has with the child and is***  
19 ***consistent with ensuring the child's welfare.***
- 20 (4) ***Each temporary custody order shall include specific findings of fact and***  
21 ***conclusions of law, except when the court confirms the agreement of the parties.***
- 22 (5) ***Any temporary custody order shall address the circumstance in which physical***  
23 ***possession of the child will be exchanged.***
- 24 (6) ***Subject to KRS 403.320(4) and 403.340(5), modification of a temporary custody***  
25 ***order may be sought when there is a material and substantial change in the***  
26 ***circumstances of the parents, de facto custodian, or child.***
- 27 (7) If a proceeding for dissolution of marriage or legal separation is dismissed, any

1 temporary custody order is vacated unless a parent or the child's custodian moves  
2 that the proceeding continue as a custody proceeding and the court finds, after a  
3 hearing, that the circumstances of the parents and the best interests of the child  
4 require that a custody decree be issued.

5 ~~(8)~~~~(3)~~ If a custody proceeding commenced in the absence of a petition for dissolution  
6 of marriage or legal separation under KRS 403.822(1)(a) or (b) is dismissed, any  
7 temporary custody order is vacated.

8 ~~(9)~~~~(4)~~ If a court determines by clear and convincing evidence that a person is a de  
9 facto custodian, the court shall join that person in the action, as a party needed for  
10 just adjudication under Rule 19 of the Kentucky Rules of Civil Procedure.