

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 20th day of November, 2012, the following order was made and entered:

RE: GUIDELINES FOR KANAWHA COUNTY PILOT DOMESTIC VIOLENCE COURT

On this day came Lisa Tackett, Director of the Division of Family Court Services, and presented to the Court a proposal related to guidelines for the Domestic Violence Court Pilot Project in Kanawha County, as created by the Legislature at W. Va. Code §48-27-301 and §51-2A-2.

The Court is appreciative of the time spent by The Honorable Louis Bloom, Judge, Thirteenth Judicial Circuit, The Honorable Michael Kelly, Judge, Eleventh Family Court Circuit, and The Honorable Julie Yaeger, Magistrate, Kanawha County, in reviewing, revising, and approving of the proposed guidelines for use in Kanawha County.

Upon consideration whereof, the Court is of the opinion to and does hereby approve the proposed guidelines, effective immediately, as follows:

“Guidelines for Kanawha County Pilot Domestic Violence Court

1. A case involving domestic violence is a unique, complex and potentially lethal situation and, as such, requires education, training and experience that create consistency and accountability. To insure that domestic violence cases get the expertise and attention necessary to hold offenders accountable and provide safety to victims the legislature created a pilot Domestic Violence Court. All domestic violence cases both civil and criminal shall be assigned to the judicial officer of the domestic violence court appointed by the West Virginia Supreme Court of Appeals or the domestic violence magistrate appointed by the Chief Circuit Judge.
2. These guidelines shall govern the procedure for purposes of assignment of criminal and civil domestic violence related cases in magistrate and family courts in Kanawha County, West Virginia. All domestic violence related criminal cases that meet the statutory requirements as provided in West Virginia Code § 48-27-301 shall be assigned to the domestic violence court. All other domestic violence related criminal cases shall be assigned to the designated domestic violence magistrate appointed by the Chief Circuit Judge. The domestic violence court presiding judicial officer,

appointed by the West Virginia Supreme of Appeals, shall determine if a domestic violence related criminal case meets the statutory requirements for entry to the domestic violence court. Domestic violence cases determined inappropriate for the domestic violence court shall be assigned to the magistrate appointed to hear domestic violence related criminal cases by the Chief Circuit Judge.

3. The presiding judicial officer may in his or her discretion transfer cases from the domestic violence court to the appointed domestic violence magistrate to lawfully expedite the criminal case.
4. The appointed judicial officer of the domestic violence court and the appointed domestic violence magistrate shall meet weekly to review all domestic violence related criminal cases to determine the cases to be assigned to the domestic violence court or the appointed domestic violence magistrate.
5. All proceedings involving domestic violence related criminal cases meeting the statutory requirements, after the initial appearance, shall be heard by the presiding judicial officer of the domestic violence court. Provided however, if the appointed domestic violence magistrate is available then the initial appearance shall be before the appointed domestic violence magistrate. If the appointed judicial officer or the appointed domestic violence magistrate is not available, then the on duty magistrate shall preside over the complaint, arrest warrant or summons, the initial appearance, or bail in a domestic violence related criminal proceeding.
6. All felony preliminary hearings involving domestic violence related criminal cases shall be heard by the appointed domestic violence magistrate.
7. The Rules of Criminal Procedure for the Magistrate Courts of West Virginia shall apply to criminal proceedings in the domestic violence court unless specifically provided for herein.
8. The appointed judicial officer of the domestic violence court or the appointed domestic violence magistrate may, as a condition of bond after a finding that the defendant is a danger to the victim, require the defendant to return to court periodically to ensure compliance with any and all conditions of his or her bond. During the compliance hearing the prosecuting attorney shall report to the court whether the defendant is complying with the conditions of bond and shall file any motion to revoke bond 10 days prior to the compliance hearing, unless good cause is shown as to why such requirements should be excused. If reasonable cause exists to determine that any condition of bond has been violated by the defendant, bond may be revoked or additional conditions provided by the court.
9. The appointed judicial officer of the domestic violence court or the appointed domestic violence magistrate may, as a condition of sentencing and/or probation, require the defendant to return to court periodically to ensure compliance with any and all conditions of sentencing and/or probation. During the compliance hearing the prosecuting attorney shall report to the court whether the defendant is complying with

the conditions of probation and shall file any motion to revoke probation 10 days prior to the compliance hearing, unless good cause is shown as to why such requirements should be excused. If reasonable cause exists to determine that any condition of probation has been violated by the defendant, the court may revoke probation and order the execution of the original sentence imposed, or the court may impose additional conditions of probation.

10. All domestic violence related criminal proceedings before the appointed judicial officer of the domestic violence court and the appointed domestic violence magistrate for purposes of this pilot project shall be recorded electronically on tapes or other electronic recording media. The magistrate clerk shall store and index the recordings.
11. All appeals to the circuit court from the domestic violence related criminal cases heard by the judicial officer of the domestic violence court shall be reviewed on the record established in the criminal trial and shall not be heard de novo. All appeals to the circuit court from the domestic violence related criminal cases heard by the domestic violence magistrate may be taken pursuant to West Virginia Code §50-5-13 and the Rules of Criminal Procedure for Magistrate Courts.
12. All civil domestic violence protective order cases shall be transferred to the domestic violence court. The presiding judicial officer shall hold all final hearings in civil protective order proceedings. The presiding judicial officer shall hear and issue all orders in civil emergency proceedings during designated times to be set by the presiding judicial officer. All other emergency domestic violence proceedings occurring during times not designated by the domestic violence court presiding judicial officer shall be heard by the on duty magistrate. Provided however, if the appointed domestic violence magistrate is on duty then the appointed domestic violence magistrate shall hear the emergency civil domestic violence proceedings.”

A True Copy

Attest: //s// Edythe Nash Gaiser
Deputy Clerk of Court