

20TH JUDICIAL
COURT

Franklin, Gasconade and
Osage Counties

LOCAL COURT
RULES

April 2014

20th JUDICIAL CIRCUIT

LOCAL COURT RULE 1 Reassignment of Civil Cases

(amended: 06-23-03)

(a) Pursuant to Supreme Court Rule 51.05(e)(2), in all civil cases in which the Presiding Judge has been disqualified, the cases will be reassigned according to the following chart:

FRANKLIN COUNTY

<u>Divisions Disqualified or Recused</u>	<u>New Division</u>
P.J.	C.J.
C.J. & then P.J.	6, 5, 7, 4, 3 (in order)
P.J. & then C.J.	7, 5, 6, 4, 3 (in order)
5 & P.J.	6, 7, C.J., 3, 4 (in order)
6 & P.J.	7, 5, C.J., 3, 4 (in order)
7 & P.J.	6, 5, C.J., 4, 3 (in order)

GASCONADE COUNTY

<u>Divisions Disqualified or Recused</u>	<u>New Division</u>
P.J.	C.J.
C.J. & P.J.	4, 3, 7, 6, 5 (in order)
4 & P.J.	3, C.J., 7, 6, 5 (in order)

OSAGE COUNTY

<u>Divisions Disqualified or Recused</u>	<u>New Division</u>
P.J.	C.J.
C.J. & P.J.	3, 4, 6, 7, 5 (in order)
3 & P.J.	4, C.J., 6, 7, 5 (in order)

C.J. = Circuit Judge, not presiding

P.J. = Presiding Judge

A case will be reassigned to the new division in the specific order listed, provided that it will not be reassigned to a division which has recused or been disqualified. For example, if Divisions C.J., P.J. and 6 have previously recused or been disqualified in a Franklin County case, the case will be assigned to Division 5.

The presiding judge shall not be permitted to make the assignment of the case after disqualification of the presiding judge. Any clerk or deputy clerk may make the appropriate docket entry to reassign a case in accordance with this rule.

(b) In Franklin County, cases originating in Division 6 shall be reassigned to Division 7 upon recusal or disqualification and those originating in Division 7 shall be reassigned to Division 6 upon recusal or disqualification.

The associate circuit judge shall not be permitted to make the assignment of the case after disqualification of that judge. Any clerk or deputy clerk may make the appropriate docket entry to reassign a case in accordance with this rule.

(c) In Gasconade County, cases originating in Division 4 shall be reassigned to Division 3 upon recusal or disqualification.

The associate circuit judge shall not be permitted to make the assignment of the case after disqualification of that judge. Any clerk or deputy clerk may make the appropriate docket entry to reassign a case in accordance with this rule.

(d) In Osage County, cases originating in Division 3 shall be reassigned to Division 4 upon recusal or disqualification.

The associate circuit judge shall not be permitted to make the assignment of the case after disqualification of that judge. Any clerk or deputy clerk may make the appropriate docket entry to reassign a case in accordance with this rule.

APPROVED BY THE COURT EN BANC: June 23, 2003

LOCAL COURT RULE
20TH JUDICIAL CIRCUIT
RULE 2: PARENT EDUCATION PROGRAM
(amended 11/15/2012)

- a) All parties in any proceeding for dissolution of marriage, legal separation, paternity, who have filed pleadings or who have otherwise entered their appearance with this Court, shall be required to participate in and successfully complete a court approved parent education program to educate parents as to the possible detrimental effects of divorce on children and how to avoid these negative effects.
- b) In any other cases involving custody or visitation, the Court may, at the discretion of the Judge, order parties to attend a court approved parent education program.
- c) The Petitioner or Movant shall attend said program within forty-five (45) days of filing the petition or motion. The Respondent shall attend said program within forty-five (45) days of the date of service of process or of receipt of the petition or motion if service is waived.
- d) If Petitioner or Movant fails to attend said program within forty-five (45) days of the date of filing, the Court may dismiss the pending case. If the Respondent fails to attend said program within forty-five (45) days from the date of service or of receipt of the petition or motion if service is waived, the Court may strike the responsive pleadings. The Court may impose any other appropriate sanctions provided by law.
- e) Each party attending said program is responsible for paying the attendance fee of \$30 thru 12/31/12 and \$40 beginning 01/01/13.

Parties may petition the Court to waive the attendance fee. Upon good cause shown, the Court may waive said attendance fee.

- f) For good cause shown, the Court may waive application of this rule.

APPROVED BY THE COURT EN BANC: November 15, 2012

20th JUDICIAL CIRCUIT COURT

LOCAL COURT RULE 3

Any party filing a civil case in the circuit court, except for small claims cases and cases in which costs are waived or are to be paid by the county or state or any city shall, at the time of filing the suit, deposit with the clerk of the court a surcharge in the amount of fifteen dollars (\$15.00) in addition to all other deposits required by law or court rule for the purpose of funding the law library in the respective counties of the 20th Judicial Circuit.

The secretary to the presiding judge is hereby designated as treasurer of the Law Library Fund in FranklinCounty. The Circuit Clerk of Gasconade County is hereby designated as the treasurer of the Law Library Fund in GasconadeCounty. The Circuit Clerk of Osage County is hereby designated as the treasurer of the Law Library Fund in OsageCounty.

APPROVED BY THE COURT EN BANC: October 18, 2000.

**LOCAL COURT RULE 4 - amended
CHILDREN'S EDUCATION PROGRAM**

EXPIRED July 31, 2003.

20th JUDICIAL CIRCUIT

LOCAL COURT RULE 5 Absence of Judge

If the circuit judge of either division is unavailable, the other circuit judge may sit as the judge of the division in which the judge is unavailable and perform all the duties of the unavailable judge. Likewise if the associate circuit judge of any division is unavailable, any other associate circuit judge or circuit judge may sit as the judge of the division in which the judge is unavailable and perform all of the duties of the unavailable judge.

APPROVED BY THE COURT EN BANC: April 14, 2003

20th JUDICIAL CIRCUIT

LOCAL COURT RULE 6

Automatic Assignment to Associate Circuit Judges

The following cases will be assigned to Associate Circuit Judges at the time of filing:

- (1) change of name proceedings;
- (2) appeals from the municipal divisions;
- (3) municipal ordinance violations where a jury is requested;
- (4) applications for trial de novo in small claims cases; and
- (5) petitions for review of driver's license revocations or suspensions and/or for hardship driving privileges.

In Franklin County, case assignments will alternate between Divisions 6 and 7.

APPROVED BY THE COURT EN BANC: June 23, 2003

20th JUDICIAL CIRCUIT

LOCAL COURT RULE 7

Bond Money Refund

(amended: 10-28-08)

The clerk shall not refund monies posted as bond other than upon tender of the bond receipt or order of the court. The clerk shall first deduct and retain all unpaid fines, court costs, court ordered restitution, and other fees after which the clerk shall refund any balance to either the defendant or the defendant's designated payee. All bonds shall be retained until all fines and costs have been paid. Notice hereof shall be printed on the bond and incorporated in the receipt for cash bond monies.

APPROVED BY THE COURT EN BANC: October 28, 2008

20th JUDICIAL CIRCUIT

LOCAL COURT RULE 8 Time Payment Fee

Pursuant to Chapter 488.5025, RSMo, the Court will assess a fee of twenty-five dollars on each person who pays a court-ordered judgment, penalty, fine, sanction, or court costs on a time-payment basis, including restitution and juvenile monetary assessments. A time-payment basis is any judgment, penalty, fine, sanction, or court cost not paid in full, within thirty days of the date the court imposed the judgment, penalty, fine, sanction, or court cost. All sums collected pursuant to this rule shall be governed by Section 488.429, RSMo. The Court may waive the fee upon its own motion or upon application of a party.

The secretary to the presiding judge is hereby designated as treasurer of the Time-Payment Fee Fund in FranklinCounty. The Circuit Clerk of Gasconade County is hereby designated as the treasurer of the Time-Payment Fee Fund in GasconadeCounty. The Circuit Clerk of Osage County is hereby designated as the treasurer of the Time-Payment Fee Fund in OsageCounty.

APPROVED BY THE COURT EN BANC: 07-14-06

20th JUDICIAL CIRCUIT

LOCAL COURT RULE 9

(amended: 07-09-13)

**Assessment of Civil Court Costs
For Post-Judgment Motions
Filed in Franklin County**

Any party filing the following motions in Circuit Level Civil Cases shall pay the filing fee listed:

- Contempt Motion in domestic relations cases -- \$140.00;
- Contempt Motion in miscellaneous civil cases -- \$108.00;
- Revival of Judgment/ScireFacias Motion in miscellaneous civil cases -- \$108.00.

APPROVED BY THE COURT EN BANC: July 9, 2013

20th JUDICIAL CIRCUIT

LOCAL COURT RULE 10
Proposed Judgments

In default and uncontested cases, the party seeking relief shall submit the proposed judgment for the court's review at the commencement of the hearing. Additional copies of the proposed judgment shall be supplied for each party affected by the judgment.

APPROVED BY THE COURT EN BANC: 12-21-12

20th JUDICIAL CIRCUIT

LOCAL COURT RULE 11 Policies Regarding Infant Termination of Parental Rights and Adoption

I. JURISDICTION

This Court shall have the exclusive and original jurisdiction in all termination of parental rights and adoption cases concerning any child who is under the prior and continuing jurisdiction of this Court as a result of a proceeding pursuant to the provision of Chapter 211, RSMo.

JURISDICTION FOR ADOPTION CASES

In instances where no prior jurisdiction exists with any Court pursuant to the provisions of Chapter 211, RSMo, this Court shall have jurisdiction in adoption cases in which any of the following exists:

1. the petitioner(s) reside(s) in the Counties of Franklin, Osage or Gasconade at time of the filing of the petition;
2. the child sought to be adopted was born in Franklin, Osage or Gasconade County;
3. the child sought to be adopted physically lives in any of said counties at the time of filing;
4. the birth mother resides in Franklin, Osage or Gasconade at the time of the filing of the petition;
5. the birth father resides in any of said counties at the time of the filing of the petition.

In instances where the child is under the prior and continuing jurisdiction of another Court pursuant to the provision of Chapter 211 RSMo, this Court shall only have jurisdiction in adoption cases where the jurisdiction has been transferred to this Court by the Court having such prior jurisdiction with the consent of this Court. Such consent shall be requested in the form of a Motion to Accept Jurisdiction from another Court and shall be considered on a case by case basis. Acceptance of jurisdiction from another Court in adoption cases will be granted upon the demonstration of serious and adequate reasons.

JURISDICTION FOR TERMINATION OF PARENTAL RIGHTS CASES

With respect to termination of parental rights cases, in the absence of prior jurisdiction over the subject child, this Court shall only have jurisdiction in cases in which the subject child is physically present in Franklin, Osage or Gasconade County at the time of the filing of the petition. In addition, this Court requires that the subject child remain in the either of said counties on a continuous basis up through the time that the petition for termination of parental rights is heard. Any exception to this requirement will be considered on a case by case basis upon a written request from the agency seeking legal custody of the child.

The factual basis for the jurisdiction of this Court may be periodically randomly verified by the assigned Deputy Juvenile Officer or other Officers of the Court.

II. NEUTRAL FOSTER HOME PLACEMENT

In all termination of parental rights cases and in all non-relative adoption cases in which this or any Court does not have prior and continuing jurisdiction of the subject child pursuant to the provisions of Chapter 211, RSMo, the subject child shall be placed and remain in a neutral foster home until termination of parental rights or transfer of custody is granted by an order of this Court. For purposes of this policy, a neutral foster home is defined as a licensed foster home wherein the foster parents are not the prospective adoptive parents. Any exception of this policy will be considered on a case by case basis upon written request from either the agency seeking legal custody of the child or the attorney for the prospective adoptive parents seeking a transfer of custody of the child. Requests for exceptions shall be submitted to the Judge.

In addition, any and all contact which takes place between the subjective child and the prospective adoptive parents or between the birth parents and the prospective adoptive parents prior to the termination of parental rights or the transfer of legal custody to the prospective adoptive parents shall be disclosed in writing as soon as possible to this Court. Any such contact must be supervised by personnel of the licensed child-placing agency with prior written disclosure to the Court. No overnight visitation shall be permitted unless specifically approved by the Judge. Any request for an exception shall be submitted to the Judge.

III. LAWFUL AND ACTUAL CUSTODY

The adoption statute requires that the adoptive parent(s) have “lawful and actual custody” of the subject child for a period of at least six (6) months prior to the entry of the adoption decree. “Lawful and actual custody” is interpreted by this Court to mean the actual physical presence of the subject child in the home of the petitioner(s) for at least six (6) continuous and uninterrupted months immediately prior to the entry of the adoption decree pursuant to a Court Order.

Note: A Court Order for transfer of custody to the adoptive petitioner(s) shall not be required in a step-parent adoption, placement of a child in the home of the petitioner(s) pursuant to a court order granting care, custody and control to the child-placing agency, or as otherwise permitted by the Judge.

IV. PUTATIVE FATHERS

In all termination of parental rights cases filed by the Juvenile Officer, service is required only on putative fathers who have asserted their paternity. However, in all termination of parental rights cases filed by the Juvenile Officer, it shall be the policy of this Court that service upon putative fathers who have not affirmatively asserted their paternity be obtained if the putative father can be located after reasonable efforts.

In adoption cases filed pursuant to Chapter 453, RSMo, in which service on a putative father is not required by statute and that putative father has failed to affirmatively assert this paternity, service shall be at the discretion of the petitioner(s) for adoption. However it is advised that service be obtained in instances in which the putative father can be located.

In cases in which the petition for adoption grounds such as abandonment and/or neglect with respect to a putative father, service is always required. Service is also required on any person adjudicated by a court to be the father of the child and any person who has timely filed a notice of intent to claim paternity of the child pursuant to Section 192.016, RSMo, or an acknowledgement of paternity pursuant to Section 193.087, RSMo.

In all adoption cases in which the child is conceived and/or born out of wedlock in which the child’s legal father is not his/her biological father, the attorney for the petitioner(s) shall request a search of the putative father registry in the state in which the subject child was born. Such request shall be made regardless of any prior termination of parental rights action.

It shall be the duty and responsibility of the agency and/or attorneys for petitioner(s) to obtain any and all information concerning any putative father, including, identity, whereabouts and assertion of paternity. All efforts to obtain such information shall be documented in writing and provided to the Court.

V. TRANSFER OF PHYSICAL CUSTODY WITHOUT AGENCY INVOLVMENT

No person shall surrender or transfer physical custody of a child for the purposes of adoption to another or take possession or charge of a child without first having obtained an order of the Court. This Court shall only issue such an order after a full investigation as described in Section 453.070, RSMo has been completed by an authorized agency and submitted in writing to this Court.

In any adoption case in which it is determined that the petitioners have obtained the physical custody of the subject child without an order of a court of competent jurisdiction, a full written description of the circumstances under which the petitioner(s) obtained the physical custody of the child shall be submitted in writing to this Court by the attorney for the petitioner(s). The Juvenile officer shall conduct a preliminary investigation and this court may order an investigation and report as described in Section 453.070, RSMo, and pursuant to Section 453.110, RSMo.

VI. RECEIPT OF HOME STUDY FOR PRE-ADOPTIVE PLACEMENT

This Court requires that an adoptive home study be submitted at the time of the termination of parental rights hearing if any appropriate pre-adoptive placement is selected prior to the termination of parental rights. If an appropriate pre-adoptive placement is not identified prior to the termination of parental rights hearing, the agency will submit a copy of the adoptive home study at the earliest possible date after the hearing.

VII. ATTORNEY REPRESENTATION FOR PETITIONER(S) FOR ADOPTION

Petitioner(s) are required to be represented by an attorney from the time of the filing of the petition in all adoption matters unless waived by the Judge for serious and adequate reasons.

VIII. WAIVER OF ADOPTION HOME STUDY BY COURT ORDER

An adoption home study is required in all cases unless such requirement is waived pursuant to court order.

Pursuant to Section 453.070.5, RSMo home studies will only be waived in adoptions where all the parties have consented and the minor is the natural child of one of the petitioners. In all cases the attorney for the petitioner(s) is to submit a Motion to Waive Adoption Home Study for the consideration of the Judge.

IX. FEES AND EXPENSES

AFFIDAVIT OF EXPENSES – PETITIONER(S)

A completed Affidavit of Account form must be submitted by the petitioner(s) at the time of filing the petition for adoption. The petitioner(s) are also required to file an updated and comprehensive Affidavit of Account form immediately prior to the hearing date. The updated form will be provided by the clerk along with the Proposed Decree of Adoption which the attorney is to complete when the case is set on the docket. These Affidavits of Account are to be submitted on the form entitled Affidavit of Account which has been approved by the Court en banc, a copy of which is attached hereto, and is available from the Clerk.

The attorney will be requested to supply the Court with further itemization documentation or specific explanation for any and all assessed costs viewed as ambiguous, vague or unreasonable. Costs will be reviewed by the Judge on a case by case basis. Legal fees are subject to further explanation or itemization at the discretion of the Judge.

Any request for an unusual expense is to be submitted at the earliest possible date to the Judge.

The petitioner(s) (through their attorney and in person) may be required to appear for a pre-trial conference with the Judge regarding the Affidavit of Account prior to docketing the adoption matter for hearing.

AFFIDAVIT OF EXPENSES – AGENCY

Prior to the docketing of any transfer of custody or adoption matter, the child-placing agency (with the exception of the Missouri Children's Division) is required to submit to this Court an affidavit containing itemization of all agency fees and expenses and a full written description of any and all services provided to the petitioners, the subject child and the birth parents at the time of the submission of the Adoptive Home Study. No transfer of custody or adoption matter will be docketed without receipt of said affidavit by this Court.

Any request for an unusual expense is to be submitted at the earliest possible date to the Judge.

In addition, this Court may at any time require any agency to submit the following items for inclusion in its affidavit of expenses:

- A. Dates of each service given to each petitioner and the subject child.
- B. The number of hours of each service provided to each petitioner and the subject child on each date.
- C. The name of each service provider utilized on each date.
- D. The specific cost of each specific service provided to the petitioner(s) and the subject child on each date.
- E. The specific cost of each specific service provided to the birth parent(s) on each date.

The agency may be required to appear for a pre-trial conference with the Judge regarding the affidavit of expenses prior to docketing the transfer of custody or adoption matter for hearing.

X. APPEARANCE OF CHILD FOR HEARINGS

The subject child or children of any adoption matter are required to appear in person for all transfer of custody and adoption finalization hearings at this Court unless excused by Court Order in advance of a hearing due to unusual circumstances.

**THESE PROCEDURES SHALL BE EFFECTIVE FOR ALL INFANT
TERMINATION OF PARENTAL RIGHTS CASES AND ADOPTION
CASES FILED ON OR AFTER JANUARY 1, 2014.**

APPROVED by the Court en banc at it's meeting on July 9, 2013.

Affidavit of Account – Adoption

C. Expenses incurred in obtaining a preplacement assessment and an assessment during the proceeding for adoption:

Total \$ _____

(Name of Agency _____)

D. Reasonable legal expenses of the birth parents and adoptive Parents connected with the adoption:

Total \$ _____

(Attached Attorney's itemized billing statement)

E. Court costs:

Total \$ _____

F. Travel expenses connected with the adoption

Total \$ _____

G. Administrative expenses connected with the adoption

Total \$ _____

H. Reasonable living expenses, including but not limited to food, shelter, utilities, transportation or clothing expenses of the birth Parents and child;

Total \$ _____

(Attach description and itemization of all costs)

Affidavit of Account – Adoption

1. Other costs: (Please describe and itemize)

Total \$ _____

2. Petitioner (s) understand (s) that the Court may decline to issue a decree of adoption and order the transfer of lawful custody of the above-referenced child if, after a hearing, the Court determines that any payments, transfers or consideration were unreasonable or other than those permitted under Section 568.175, RSMo. or that Petitioner (s) failed to report all payments, transfers or consideration given by or on behalf of the Petitioner (s) in connection with the placement for adoption.

3. Petitioner (s) have paid no other fees and have incurred no additional expenses to the best of their knowledge, information and belief.

Petitioner

Petitioner

State of Missouri)
)
_____ of _____)

Subscribed and sworn to before me this ____ day of _____, 20__.

Notary Public

My commission expires:_____

20th JUDICIAL CIRCUIT

LOCAL COURT RULE 12 Special Process Server

(1) The Circuit Clerk may, in the Circuit Clerk's discretion, approve a person to be appointed as a special process server if the person meets the following requirements:

- (a) Be a citizen of the United States of America.
- (b) Be at least 18 years old.
- (c) Has Errors and Omissions Coverage in a minimum amount of \$100,000. (Note: This requirement shall only be in effect until June 1, 2014).
- (d) Completes an Application and Affidavit for Placement on List of Approved Process Servers and file the same with the Circuit Clerk.

(2) The Circuit Clerk shall prepare and maintain a list of all persons approved to be appointed a special process server.

(3) The Circuit Clerk may, at any time in the Circuit Clerk's discretion, terminate approval of a person to be appointed as a special process server.

(4) Any Circuit Court Judge, any Associate Court Judge, the Circuit Clerk and any Deputy Circuit Clerk may appoint any approved person to be a special process server for a specific party in a specific case upon filing of an appropriate motion.

Note: Any order issued pursuant to this rule does not authorize a person to carry a concealed firearm. Opinion Atty.Gen.No.190-96, Kenney, April 9, 1996.

APPROVED BY THE COURT EN BANC: 03-13-14