

202A.028 Hospitalization by court order -- Procedures -- Duties of county attorney -- Alternatives -- Transportation -- Release.

- (1) Prior to completion of an examination by a qualified mental health professional under this section, the professional shall make a good-faith attempt to contact the petitioner to obtain any additional relevant information necessary to the petition.
- (2)
 - (a) Prior to the release of a person subject to an examination under this section, the county attorney may make an ex parte motion for a certification review hearing. The court shall review the ex parte motion upon its receipt.
 - (b) If the review indicates that the person presents an imminent threat of danger to self, family, or others, the court shall order the qualified mental health professional to immediately notify the court if the professional has certified that the person:
 1. Is an individual with a mental illness;
 2. Presents a danger or threat of danger to self, family, or others as a result of the mental illness; and
 3. Does not meet all the criteria for involuntary hospitalization under KRS 202A.026.
 - (c) The court shall review the certification under paragraph (b) of this subsection and consider if the person has been the subject of proceedings under this chapter, prior to the current proceeding, and is exhibiting an escalation of dangerous behavior. After review, the court may:
 1. Order the person to be hospitalized in a place designated by the cabinet until the certification review hearing is held within forty-eight (48) hours, excluding weekends and holidays;
 2. Release the person, subject to reasonable conditions, and set the certification review hearing to be held within forty-eight (48) hours, excluding weekends and holidays; or
 3. Deny the county attorney's motion for a certification review and authorize the release of the person.
 - (d)
 1. At the certification review hearing, the person shall be appointed counsel who may present evidence and cross examine witnesses on the person's behalf.
 2. The qualified mental health professional that performed the examination shall testify about the certification under paragraph (b) of this subsection. This testimony may be given remotely.
 3. Notwithstanding subparagraph 2. of this paragraph, the court may accept the certification under paragraph (b) of this subsection in lieu of testimony upon agreement of all parties and stipulation of the person that he or she meets the criteria for involuntary hospitalization under KRS 202A.026, provided that outpatient treatment is determined to be the least restrictive mode of treatment.
 - (e) Upon conclusion of the certification review hearing, if the court finds by clear and convincing evidence that the person is an individual with a mental illness

who presents a danger or threat of danger to self, family, or others as a result of the mental illness, who may reasonably benefit from court-ordered outpatient treatment or release with other reasonable conditions, and for whom court-ordered outpatient treatment or release with other reasonable conditions is the least restrictive alternative mode of treatment available, the court may order the person to:

1. Receive community-based outpatient treatment that shall not exceed three hundred sixty (360) days and comply with any other reasonable conditions necessary to ensure compliance; or
 2. Be released with any reasonable conditions necessary to ensure the safety of self, family, or others and avoid readmittance to a hospital setting.
- (3) (a) Failure to comply with an order for community-based outpatient treatment or release with conditions under subsection (2)(e) of this section shall not be grounds to find the person in contempt of court but shall be prima facie evidence that:
1. The person can benefit from inpatient hospitalization; and
 2. Inpatient hospitalization is the least restrictive mode of treatment.
- (b) If a new petition for involuntary hospitalization is filed within twelve (12) months of an order for community-based outpatient treatment or release with conditions under subsection (2)(e) of this section, the clerk of the court shall provide the prior order to:
1. The court with the petition for involuntary hospitalization; and
 2. The qualified mental health professional along with the court's order for examination.
- (c) The qualified mental health professional who conducts the examination as described under paragraph (b)2. of this subsection shall independently evaluate the person, considering the person's prior order for community-based outpatient treatment or release with conditions, and certify whether he or she meets the criteria for involuntary hospitalization under KRS 202A.026.
- (d) A person shall not be involuntarily hospitalized based solely on his or her failure to comply with a prior order for community-based outpatient treatment or release with conditions.
- (4) Following an examination by a qualified mental health professional and a certification by that professional that the person meets the criteria for involuntary hospitalization, a judge may order the person hospitalized for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. For the purposes of this section, the qualified mental health professional shall be:
- (a) A staff member of a regional community program for mental health or individuals with an intellectual disability;
 - (b) An individual qualified and licensed to perform the examination through the use of telehealth services; or
 - (c) The psychiatrist ordered, subject to the court's discretion, to perform the

required examination.

- (5) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours, excluding weekends and holidays, unless further held under the applicable provisions of this chapter.
- (6)
 - (a) Any person admitted to a hospital under subsection (1) of this section or transferred to a hospital while ordered hospitalized under subsection (1) of this section shall be transported from the person's home county by the sheriff of that county or other peace officer as ordered by the court.
 - (b) The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital.
 - (c) The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.
- (7)
 - (a) Any person released from the hospital under subsection (2) of this section shall be transported to the person's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the treatment plan of that person.
 - (b) The transportation cost of transporting the patient to the patient's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.
- (8) A person who has been held under subsection (1) of this section shall not be held in jail pending evaluation and transportation to the hospital.
- (9) A court order under subsection (4) of this section shall expire after thirty (30) days if not served upon the person subject to the order.

Effective: October 1, 2026

History: Amended 2026 Ky. Acts ch. 92, sec. 9, effective October 1, 2026. -- Amended 2015 Ky. Acts ch. 61, sec. 2, effective June 24, 2015. -- Amended 2012 Ky. Acts ch. 146, sec. 33, effective July 12, 2012. -- Amended 2000 Ky. Acts ch. 487, sec. 1, effective July 14, 2000. -- Amended 1994 Ky. Acts ch. 498, sec. 2, effective July 15, 1994. -- Created 1988 Ky. Acts ch. 139, sec. 3, effective July 15, 1988.