

202A.061 Release from hospital -- Certification review hearing -- Two certifications required.

- (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 professionals to immediately notify the court if either of the professionals have certified that the person:
 1. Is an individual with 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; 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 reasonable conditions, and for whom court-ordered outpatient treatment or release with 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.
- (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) (a) In any proceeding for involuntary hospitalization under the applicable provisions of this chapter, if the criteria for involuntary hospitalization are not certified by at least two (2) examining qualified mental health professionals, the court shall, without taking any further action, terminate the proceedings and order the release of the person.
- (b) The qualified mental health professionals shall certify to the court within twenty-four (24) hours, excluding weekends and holidays, of the examination, their findings and opinions as to whether the person shall be involuntarily hospitalized.

Effective: October 1, 2026

History: Amended 2026 Ky. Acts ch. 92, sec. 13, effective October 1, 2026. -- Created 1982 Ky. Acts ch. 445, sec. 9, effective July 1, 1982.

Legislative Research Commission Note. This section was enacted in 1982 Acts,

Chapter 445, which contains the following language in Section 45 of that Act: "This Act shall become effective on July 1, 1982." The Ky. Constitution, in Section 55, requires that a reason be set forth for the emergency. However, no reason is set forth in this Act. The effective date for 1982 Acts with no emergency provision is July 15, 1982.