

**202C.020 Petition for involuntary commitment proceeding -- Guardian ad litem -- Duty of Commonwealth's attorney.**

- (1) When a defendant who is charged with a qualifying offense has been found, after a hearing under KRS Chapter 504, to be incompetent to stand trial with no substantial probability that the defendant will attain competency within three hundred sixty (360) days, the Commonwealth's attorney's office serving the county of criminal prosecution shall immediately petition the Circuit Court that found the defendant incompetent to stand trial or, if the finding was by a District Court, the Circuit Court in the county of the criminal prosecution, for an involuntary commitment proceeding, to include an evidentiary hearing and a commitment hearing, if applicable, under this chapter.
- (2)
  - (a) Upon the filing of the petition, the court shall assign a guardian ad litem to represent the best interest of the respondent, independent of the respondent's defense attorney.
  - (b) The guardian ad litem shall:
    1. Be a full and active participant in all proceedings other than the evidentiary hearing under KRS 202C.030. At the evidentiary hearing, the guardian ad litem's role shall be limited to assisting the respondent with decision-making related to the hearing, including but not limited to whether to waive the hearing, whether to stipulate to the allegations, and whether to testify. The guardian ad litem shall not act as an attorney advocate at the evidentiary hearing;
    2. Independently investigate, assess, and advocate for the respondent's best interest;
    3. Not be a replacement for the respondent's defense attorney; and
    4. Be paid an hourly rate not to exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, to be paid by the Finance and Administration Cabinet.
  - (c) If the respondent has retained or been appointed a defense attorney in the criminal case, that attorney may continue to represent the respondent in proceedings under this chapter. If, at any time during the pendency of proceedings under this chapter, the respondent is not represented by an attorney, the court shall appoint counsel for the respondent, without a showing of indigency, to be provided by the Department of Public Advocacy or its designee.
- (3) The Circuit Court shall have exclusive jurisdiction over all proceedings under this chapter.
- (4) The Circuit Court in the county of the criminal prosecution shall retain jurisdiction over all proceedings under this chapter until the respondent is discharged.

**Effective:** October 1, 2026

**History:** Amended 2026 Ky. Acts ch. 92, sec. 27, effective October 1, 2026. -- Created 2021 Ky. Acts ch. 175, sec. 7, effective April 1, 2021.