

202C.060 Involuntary commitment review hearing -- Conduct of hearing -- Schedule for review hearings -- Participation by qualified mental health professionals, Commonwealth's attorney, respondent, and guardian ad litem -- Waiver of right to commitment hearing prohibited.

- (1) (a) A review hearing to determine if a respondent involuntarily committed under this chapter should remain in a forensic psychiatric facility shall be conducted by the court that issued the initial order in accordance with subsection (2) of this section; and
- (b) If at any point during the respondent's placement at a forensic psychiatric facility it appears that the respondent no longer meets the criteria for involuntary commitment under KRS 202C.050 because there has been a material change in circumstances or there is new evidence to present, the respondent or the respondent's guardian ad litem may request a review hearing pursuant to this section.
- (2) The schedule for review hearings shall be as follows:
 - (a) From the initial order of commitment, a review hearing shall be conducted no earlier than ninety (90) days and no later than one hundred twenty (120) days; and
 - (b) After the review hearing under paragraph (a) of this subsection, review hearings shall be conducted not less than once every two (2) years unless a review hearing has been requested under subsection (1)(b) of this section.
- (3) (a) Prior to each review hearing, the court shall cause the respondent to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health professionals shall, no fewer than seven (7) days prior to the hearing, excluding weekends and holidays, certify to the court their findings as to whether the respondent meets the criteria for involuntary commitment under KRS 202C.050.
- (b)
 1. In addition to the examinations required under paragraph (a) of this subsection, the respondent shall undergo evaluations of competency at least once every two (2) years to be conducted at a forensic psychiatric facility.
 2. Upon a finding by the forensic psychiatric facility that the respondent's competency has been restored, the forensic psychiatric facility shall provide written notice of restoration to the court, the Commonwealth, the respondent's attorney of record, the respondent's guardian ad litem, and all other parties of record within ten (10) days of the determination of restoration.
 3. Upon receipt of the notice of restoration of the respondent's competency, a status conference shall be held within thirty (30) days, unless the court orders a later hearing for good cause shown.
- (4) A review hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court

in chambers, remotely from a forensic psychiatric facility, or in another suitable place. The respondent shall be present in person or remotely for all review hearings, unless presence is waived by the respondent through counsel.

- (5)
 - (a) The Commonwealth's attorney's office serving the county of criminal prosecution which led to finding that the respondent was incompetent to stand trial shall present evidence regarding whether the respondent continues to meet the criteria for involuntary commitment under KRS 202C.050.
 - (b) The respondent, through counsel, shall be afforded an opportunity to present evidence, and to cross-examine any witnesses.
 - (c) The respondent's guardian ad litem shall be permitted to participate in the review hearing in a best-interest, friend-of-the-court capacity and may submit independent recommendations to the court regarding the respondent's best interest.
- (6) The manner of proceeding and the rules of evidence shall be the same as those in any criminal proceeding. The standard of proof shall be proof beyond a reasonable doubt. Proceedings shall be heard by a judge without a jury.
- (7) The respondent's right to this hearing shall not be waived.
- (8) At the conclusion of a review hearing, the court shall make written findings of fact concerning whether the criteria for involuntary commitment under KRS 202C.050 continue to be satisfied based upon proof beyond a reasonable doubt. If the court finds that the criteria continue to be satisfied, the court shall enter an order authorizing the continued care and treatment of the respondent at the forensic psychiatric facility. Otherwise, the court shall enter an order requiring the respondent to be discharged.

Effective: October 1, 2026

History: Amended 2026 Ky. Acts ch. 92, sec. 31, effective October 1, 2026. -- Created 2021 Ky. Acts ch. 175, sec. 11, effective April 1, 2021.