

202A.029 Release from hospital prior to preliminary hearing -- Certification review hearing -- Community-based outpatient treatment and conditions for release. (Effective October 1, 2026)

- (1) (a) Upon motion of the county attorney, the hospital shall give notice to the court and the county attorney if the hospital plans to discharge the respondent following the certification by a qualified mental health professional and before the preliminary hearing. Prior to discharge, 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 respondent 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 respondent:
 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 respondent 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 respondent 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 respondent, 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 respondent shall be appointed counsel who may present evidence and cross examine witnesses on the respondent'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 respondent 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 respondent 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 respondent 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.
- (2) (a) Failure to comply with an order for community-based outpatient treatment or release with conditions under subsection (1)(e) of this section shall not be grounds to find the respondent in contempt of court but shall be prima facie evidence that:
1. The respondent 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 (1)(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 respondent, considering the respondent'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 respondent 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.

Effective: October 1, 2026

History: Created 2026 Ky. Acts ch. 92, sec. 10, effective October 1, 2026.