202A.0805 Discharge review hearing -- Procedures -- Transfer to inpatient psychiatric hospital owned by Commonwealth.

(1) (a) Upon motion of the county attorney under KRS 202A.051(11)(a)2.b.ii., the hospital shall provide a copy of the discharge plan as soon as practicable to the court and the respondent's counsel of record. The court, upon motion of the county attorney or the court's own motion, shall conduct a review hearing:

1. To determine if the discharge plan gives the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment; and

2. At the earliest practicable time, consistent with due process and the availability of counsel, and in no event later than seven (7) days after the motion is made, except with the respondent's consent or upon the court's finding that extraordinary circumstances exist and that delay is indispensable to protect the respondent and the community.

(b) This hearing shall only be conducted for a respondent who within the past twelve (12) months has been found incompetent to stand trial in a criminal proceeding and has not been committed under KRS Chapter 202C.

(2) The court shall verify that discharge planning procedures were completed to give the respondent a realistic opportunity to avoid recurrence of substantial symptom burden that would necessitate psychiatric hospitalization. Those procedures shall include but not be limited to any of the following:

(a) Documenting the housing status of the respondent or that housing services were offered and the respondent declined;

(b) Scheduling an outpatient treatment appointment for no later than seven (7) days after discharge;

(c) Providing or prescribing a thirty (30) day supply of medication;

(d) Documenting a transportation plan that may include securing a bus pass, taxi voucher, or an acknowledgment that the respondent will walk or the respondent's family will provide transportation;

(e) Developing and documenting a crisis plan with contact information for services that are available twenty-four (24) hours a day;

(f) Developing a transfer of care plan or attempting to develop a transfer of care plan with the respondent if the respondent has met with an outpatient provider or an appointment with the outpatient provider has been scheduled; or

(g) Contacting the respondent's family or other support systems, if the respondent consents.

(3) For respondents with decision-making capacity who refuse housing or other services under subsection (2) of this section, the discharge plan shall document:

(a) That housing and other services were offered and explained;

(b) The respondent's reasons for refusal;

(c) That the respondent understands the potential consequences of his or her choices;

(d) That risk reduction strategies were offered, including access to crisis contacts,

mobile crisis services, drop-in services, and other safety-oriented resources; and

(e) That there is a plan for periodic outreach to offer services.

(4) If the court finds by clear and convincing evidence that the discharge plan does not give the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment, then the respondent shall not be discharged and the court shall order the hospital to submit within seventy-two (72) hours a revised discharge plan that gives the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment.

(5) (a) If a respondent is not discharged under subsection (4) of this section, a review hearing shall be conducted by the court within seven (7) days of the hospital's submission of a revised discharge plan.

(b) 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 hospital, 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.

(c) 1. The Commonwealth shall present evidence regarding whether:

a. The respondent continues to meet the criteria for involuntary commitment under KRS 202A.026; and

b. The discharge plan gives the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment.

2. The respondent shall be represented by counsel and be afforded an opportunity to present evidence and to cross-examine any witnesses.

(d) The Kentucky Rules of Evidence shall apply and proceedings shall be heard by a judge without a jury.

(e) The respondent's right to this hearing shall not be waived.

(f) 1. At the conclusion of a review hearing, the court shall make written findings of fact concerning whether:

a. The criteria for involuntary commitment under KRS 202A.026 continue to be satisfied; and

b. The discharge plan gives the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment.

2. If the court finds, by clear and convincing evidence, that the criteria continue to be satisfied and that the discharge plan does not give the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment, the court shall enter an order authorizing the continued care and treatment of the respondent until the expiration of the order under KRS 202A.051(11)(a).

3. If the court does not make the finding required in subparagraph 2. of this

paragraph, the court shall discharge the respondent to comply with the discharge plan unless the court finds 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 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, in which case the court shall discharge the respondent and may order:

a. For a respondent who meets the criteria for court-ordered assisted outpatient treatment set forth in KRS 202A.0815:

i. That a treatment plan be developed in accordance with KRS 202A.0817 within forty-eight (48) hours; and

ii. The respondent to receive court-ordered assisted outpatient treatment under KRS 202A.0811 to 202A.0831;

b. For any other respondent who may benefit from outpatient treatment:

i. A qualified mental health professional to develop a treatment plan within forty-eight (48) hours;

ii. The respondent to receive community-based outpatient treatment that shall not exceed three hundred sixty (360) days; and

iii. The respondent to comply with any other reasonable condition necessary to ensure compliance; or

c. The respondent to be released with any reasonable conditions necessary to ensure the safety of self, family, or others and avoid readmittance into a hospital setting.

(6) The Commonwealth, respondent, or hospital where the respondent is being hospitalized may make a motion for an additional review hearing if a material change in circumstances has occurred and the respondent no longer meets the criteria for involuntary hospitalization under KRS 202A.026. If the court has probable cause to believe that a material change in circumstances has occurred, the court shall:

(a) Conduct a review hearing within fourteen (14) days of the filing of the motion for an additional review hearing; and

(b) Order the respondent to be evaluated as described under subsection (5)(b) of this section.

(7) (a) Any respondent being hospitalized under this section shall be transferred to an inpatient psychiatric hospital owned by the Commonwealth upon request of the hospital or psychiatric facility where the respondent is being held.

(b) An inpatient psychiatric hospital contracted with the cabinet shall not request transfer under paragraph (a) of this subsection.

Effective: October 1, 2026

History: Created 2026 Ky. Acts ch. 92, sec. 16, effective October 1, 2026.

Legislative Research Commission Note (10/1/2026). 2026 Ky. Acts ch. 92, sec. 16, which created this statute, included a reference to "Section 20 of this Act" in subsection (5)(f)3.a.i. of this statute. Section 20 of that Act was codified at KRS 202A.0815. However, it is clear from the text of the Act that the reference was meant to be "KRS 202A.0817." This manifest clerical or typographical error has been corrected in codification under KRS 7.136.