

908 KAR 3:025. Notification of discharge, transfer or escape of violent offenders.

RELATES TO: KRS 202A.026, 202A.051, 202A.101, 202A.201, 202A.241, 202A.410, 439.3401

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 202A.008, 202A.410(5), EO 2004-726

NECESSITY, FUNCTION, AND CONFORMITY: EO 2004-726, effective July 9, 2004, created the Cabinet for Health and Family Services and placed the Department for Behavioral Health, Developmental and Intellectual Disabilities within the cabinet. KRS 194A.050 authorizes the Cabinet for Health and Family Services to establish policies, procedures and administrative regulations necessary to carry out health programs. KRS 202A.410 requires the cabinet to notify law enforcement and correctional authorities of the discharge, transfer or escape of a violent offender from a psychiatric facility. This administrative regulation establishes the procedures for notifying law enforcement authorities that a violent offender has been discharged, transferred or has escaped from a state psychiatric facility.

Section 1. Definitions. (1) "Facility administrator" means the director of the facility or designee.

(2) "State psychiatric facility" or "facility" means a hospital operated or contracted by the Department for Behavioral Health, Developmental and Intellectual Disabilities Services.

(3) "Violent offender" is defined in KRS 439.3401.

Section 2. Identification of Violent Offenders. (1) If a person is committed to a state psychiatric facility pursuant to a court order issued in accordance with KRS 202A.101 and the order indicates that the person has been charged with or convicted of a violent crime as defined in KRS 439.3401, the facility staff person who authorized admission to the facility shall determine if the requirements of KRS 202A.101(5) have been met.

(2) Upon admission of a violent offender who has been involuntarily committed to a state psychiatric facility, the facility staff person who authorized the admission shall notify the facility administrator that the violent offender has been admitted. The notification shall specify:

- (a) The offender's name;
- (b) The offender's date of birth;
- (c) The criminal charge pending against the offender, if applicable;
- (d) The criminal charge for which the offender has been convicted, if applicable;
- (e) The county in which the offense occurred; and
- (f) The location where the offender is housed within the facility.

Section 3. Required Procedures for Notification of Transfer or Discharge. (1) Prior to the discharge or transfer of a violent offender who has been involuntarily committed, the facility administrator shall notify officials specified in KRS 202A.410 in the following manner:

- (a) The Department of Corrections in accordance with the provisions of 501 KAR 14:010;
- (b) The prosecutor in the county where the violent crime was committed by sending a certified or registered letter; and
- (c) The law enforcement agency with jurisdiction in the area to which the violent offender is discharged or transferred by sending a certified or registered letter.

(2) Notification of prosecutors and law enforcement agencies shall:

- (a) Include the date of discharge or transfer;

(b) The name and address of the facility to which a violent offender is transferred if applicable; and

(c) The information specified in Section 2(2)(a) through (e) of this administrative regulation.

(3) If a violent offender is ordered to be transferred to a psychiatric facility in accordance with KRS 202A.201, the psychiatric facility shall not transfer or discharge the offender except in accordance with KRS 202A.201(3).

Section 4. Required Procedures for Notification of Escape. (1) If a violent offender who has been involuntarily committed escapes from a psychiatric facility, the facility administrator shall notify the officials specified in KRS 210.410 no later than one (1) hour after an escape is discovered. The notification process shall be to the following entities as follows:

(a) The Department of Corrections in accordance with the provisions of 501 KAR 14:010;

(b) The prosecutor in the county where the violent crime was committed, by telephone, facsimile transmission, or other electronic device; and

(c) A local law enforcement agency that has jurisdiction in the area in which the facility is located, by telephone, facsimile transmission, or other electronic device.

(2) Notification of prosecutors and law enforcement agencies shall include:

(a) The date and time the escape was discovered; and

(b) The information specified in Section 2(2)(a) through (e) of this administrative regulation.

Section 5. Internal Procedures for Implementation. The facility administrator shall establish internal procedures to assure the proper and effective implementation of this administrative regulation. The internal procedures shall specify:

(1) Staff designated to make the notifications required by Sections 3 and 4 of this administrative regulation;

(2) Requirements for documentation of a discharge, transfer, or escape of a violent offender;

(3) Requirements for notifying the facility administrator if a violent offender is transferred, is discharged or escapes;

(4) Methods of monitoring the movement of violent offenders within the facility; and

(5) Methods for discovering, reporting, and documenting the escape of a violent offender. (25 Ky.R. 2082; Am. 2399; eff. 4-21-1999; TAm eff. 4-27-2016.)