JUSTICE AND PUBLIC SAFETY CABINET

Department of Juvenile Justice

(New Administrative Regulation)

505 KAR 1:250. Drug screening and testing.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 15A.210, 200.115, 605.150, 635.095, 635.100(7), 635.500, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 15A.210, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes procedures for the drug screening and testing of juveniles in the custody of the department.

Section 1.

(1) Juveniles are subject to drug screening and testing at any time and shall be provided with documentation regarding the drug screening and testing process and the consequences of a positive drug test during intake and orientation. The consequences of a positive drug screen or test may include:

(a) Progressive discipline;

(b) Movement to a more restrictive level of care;

(c) Revocation of probation or supervised placement;

(d) Criminal charges filed by a law enforcement agency; or

(e) Sanctions by the court.

(2) A juvenile shall be informed, in writing, that failure or refusal to cooperate by providing a specimen, within two (2) hours of a request, is a major rule violation and may result in discipline. A juvenile may be kept on one-to-one supervision until they provide a specimen.

(3) Confidentiality. Facility staff and the laboratory involved in any aspect of the drug screening or testing program shall maintain strict standards of confidentiality, as required by law.

(4) If the juvenile admits to any drug usage prior to the drug screen, the juvenile shall be asked to sign a statement acknowledging the use and that the screen may be positive. Prior to providing a written statement, the juvenile shall be informed that the written statement may be used in legal proceedings. This written statement shall not be coerced and shall be provided by the juvenile voluntarily. The specimen shall still be collected.

(5) Positive Screen Result. If the drug screen is positive, the juvenile shall be asked to sign a statement acknowledging that he or she has been using drugs and that the results of the drug screen are accurate. Prior to providing a written statement, the juvenile shall be informed that the written statement may be used in legal proceedings. This written statement shall not be coerced and shall be provided by the juvenile voluntarily.

(a) A confirmation test shall be conducted after a positive drug screen.

(b) Confirmation Test Results. Facility staff shall notify the juvenile of the confirmation test results within twenty-four (24) hours of receipt. A juvenile on furlough shall be notified of the results within one (1) business day. Except for positive screens or tests upon initial intake at a detention center, a penalty slip or disciplinary review notice shall be issued and the disciplinary review process in 505 KAR 1:XXX shall be followed.

(c) A juvenile testing positive for drugs shall be subject to progressive discipline.

VICKI REED, Commissioner

APPROVED BY AGENCY: May 15, 2023
FILED WITH LRC: May 15, 2023 at 3:59 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 22, 2023, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Amy Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegsContact@ky.gov.