JUSTICE AND PUBLIC SAFETY CABINET

Department of Juvenile Justice

(New Administrative Regulation)

505 KAR 1:310. Leave, releases, and furloughs.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, 439.600, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 605.150, 635.095, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 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 the requirements for leaves, releases, and furloughs for juveniles in the custody of the department.

Section 1.

(1) Supervised off-grounds activities, day releases, furloughs, and approved leave for emergencies may be permitted to meet the treatment objectives of public offenders who are in custody. Authorized leave may be granted for youthful offenders consistent with the requirements of KRS 439.600.

(2) Eligibility for day releases and furloughs shall be consistent with the juvenile's track. At a minimum, the plan for day releases and furloughs consistent with the assigned Track shall be as follows:

(a) Misdemeanor track – one (1) day release and one (1) weekend furlough or up to seventy-two (72) hours.

(b) Felony track – one (1) day release and two (2) weekend furloughs or up to seventy-two (72) hours for each approved furlough.

(c) A juvenile sentenced as a YO shall not be eligible for day release or furlough without approval of the Commissioner.

(d) A juvenile probated as a YO but committed as a public offender shall be eligible for day release and furlough as stated in paragraphs (a) – (c) of this subsection.

(3) Off-grounds activities, day releases, and furloughs shall be used for public offenders, unless extenuating circumstances exist or the treatment team determines that the use of furloughs is contraindicated in assisting the juvenile in achieving treatment goals.

(4) A juvenile assigned to a Level 4 facility may be eligible for individual or group off-grounds activities, community activities, day releases, or furloughs with approval of the division director.

(5) The juvenile's treatment team shall recommend a day release or furlough only after the juvenile achieves progress level, excluding medical and emergency furloughs. Day passes may be issued for a juvenile obtaining progress level. A juvenile shall not be furlough eligible until the last week of progress level.

(6) Planning for day releases and furloughs shall be discussed during aftercare planning at the initial treatment planning meeting.

Section 2. Day Releases.

(1) For day releases to the parent or caregiver the following shall occur:

(a) If the day release will include the juvenile visiting their home, the home evaluation shall be updated if the preliminary home evaluation was not conducted within the past six (6) months.

(b) The juvenile and parent or caregiver shall sign and receive a copy of the day release agreement incorporated by reference in this administrative regulation.

(c) The juvenile shall comply with the requirements in the day release agreement.

(d) The unescorted day release of a youthful offender shall require approval of the Commissioner or designee consistent with the provision of KRS 439.600.

(e) Declared juvenile sexual offenders shall only be approved for a day release, furlough, or emergency leave by the treatment team.

(2) For day releases for education or work release, the following shall occur:

(a) Program procedures may allow for a juvenile's participation in unescorted leave for employment or school programs.

(b) Approvals shall be requested for unescorted day releases for ongoing educational or career related activities on an individual basis.

(c) For declared juvenile sex offenders, a reassessment shall be completed.

(3) The conditions of the day release and documentation shall be given to the juvenile prior to the day release.

Section 3. Furloughs.

(1) Prior to a juvenile being approved for furlough, the following shall occur:

(a) An updated home evaluation on the proposed furlough residence shall be completed;

(b) A furlough agreement shall be developed and approval obtained prior to a furlough;

(c) The juvenile and parent or caregiver shall have the furlough agreement explained to them. The juvenile and parent or caregiver shall sign and receive a copy of the furlough agreement and shall receive furlough documentation to accompany them during the furlough.

(d) If the juvenile is a youthful offender, a furlough request shall be submitted to the commissioner for final approval of the furlough.

(e) Furlough time for a declared juvenile sex offender, prior to program completion, shall be considered on a case-by-case basis and shall not exceed ten (10) days. A reassessment shall be completed for the declared juvenile sex offender prior to furlough, unless the furlough is less than thirty (30) days and the juvenile is expected to return to the facility after the furlough.

(2) While on furlough, the juvenile shall comply with the requirements of the furlough agreement and maintain daily contact with the facility as required in the furlough agreement.

(3) A furlough shall be planned in a manner that the juvenile's educational needs continue to be met by facility educational staff, including scheduling furloughs around weekends and holidays. Educational staff may also lengthen school days during the week to allow the juvenile to go on furlough on a Friday or Monday, provided all local educational requirements continue to be met.

(4) Furloughs to out-of-state locations shall be pursuant to the DJJ interstate compact policies incorporated by reference in 505 KAR 1:190.

Section 4. Medical Furloughs.

(1) Medical furloughs for juveniles in a youth development center and group home shall be requested for approval.

(2) A medical furlough of a youthful offender may be authorized as provided in KRS 439.600.

(3) A medical furlough shall be governed by a written medical furlough agreement, which shall outline the length of the medical furlough and behavioral expectations of the juvenile during the medical furlough.

(4) The medical furlough agreement shall be signed by the juvenile and parent or caregiver before the juvenile is placed on medical furlough.

(5) A copy of the signed agreement shall be given to the juvenile and parent or caregiver supervising the juvenile during the medical furlough.

(6) Medical furloughs shall be granted for the duration specified by the juvenile's attending physician and approved by Director of Medical Services.

Section 5. Emergency Furlough.

(1) The circumstances of the emergency shall be verified before an emergency furlough request is submitted for approval.

(2) An emergency furlough shall not exceed more than seven (7) consecutive days without authorization from the commissioner or designee.

(3) The emergency furlough for a youthful offender shall only be approved as provided in KRS 439.600. Prior to the emergency furlough of a youthful offender, a written request shall be submitted to the superintendent requesting final approval of the emergency furlough.

(4) The juvenile and parent or caregiver shall have the emergency furlough agreement explained to them. The juvenile and parent or caregiver shall sign and receive a copy of the emergency furlough agreement and shall receive documentation to accompany them during the emergency furlough.

(5) During the emergency furlough period, contact shall be maintained with the juvenile and parent or caregiver.

(6) For the critical illness or death of an immediate family member, the juvenile may be allowed to go to the bedside under escort or alone, if statutes and circumstances allow. The procedures for emergency furlough shall be followed.

Section 6. Non-Compliance. If a juvenile is not compliant with the agreement during a day release, medical furlough, emergency furlough, or furlough, the following shall occur:

(1) The day release, medical furlough, emergency furlough, or furlough may be cancelled at any time due to the juvenile's non-compliance with the agreements or other significant factors related to the juvenile's status in the program.

(2) If a violation or circumstance occurs that would result in cancellation of the release or furlough, the following shall apply:

(a) If the juvenile is with the parent or caregiver, the parent or caregiver shall notify the JSW and youth counselor of the alleged violation or circumstance.

(b) A commissioner's warrant shall be used to facilitate the return of a juvenile to the designated facility when the juvenile is absent without leave while on furlough or day release.

Section 7. Leave from a Detention Center.

(1) Escorted leaves for the purpose of obtaining necessary medical, dental, or mental health care shall require authorization from the Superintendent and shall not require an order of the court. All other escorted leaves shall require a written court order.

(2) Transport during an escorted leave shall be conducted in accordance with 505 KAR 1:XXX.

(3) Unescorted leave for any purpose shall occur only upon written order of the court.

Section 8. Release from Detention.

(1) A juvenile released on medication shall be provided a minimum of three (3) days medication supply.

(2) A juvenile in an alternative to secure detention program shall not be required to be physically returned to the detention center to be processed for release upon receipt of a court order authorizing the juvenile's release.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Day Release", 2023; and

(b) "Furlough Agreement", 2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Juvenile Justice Web site at https://djj.ky.gov/About%20DJJ/Pages/lrcfilings.aspx.

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.