

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
(Amended After Comments)

505 KAR 1:410. Isolation and protective custody.

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

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

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 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 isolation and protective custody in juvenile detention centers and youth development centers.

Section 1. Isolation.

(1) Isolation shall only apply to juveniles in juvenile detention centers and youth development centers.

(2) A juvenile may be placed in isolation if the juvenile constitutes a threat to the safety or security of the facility, staff, or a juvenile.

(3) The following situations may constitute a threat to the safety or security of the facility, staff, or a juvenile and may result in an isolation placement:

- (a) Assault or attempted assault;
- (b) Sexual assault or attempted sexual assault;
- (c) Attempted escape or attempted absent without leave;
- (d) Escape;
- (e) Participating in a riot;
- (f) Planning a riot;
- (g) Possessing dangerous contraband; or
- (h) Causing extensive property damage.

(4) Authorization shall be obtained from the facility manager~~{superintendent}~~, youth services program supervisor, administrative duty officer, or shift supervisor prior to placing a juvenile into isolation. If prior authorization cannot be obtained without jeopardizing the safety and security of the facility, staff, or other juveniles, authorization shall be obtained immediately following the safe securing of the juvenile. An isolation placement shall not exceed four (4) hours without further action as stated in subsections (5) through (7) of this section.

(5) Isolation in a detention center.

(a) The facility manager~~{superintendent}~~ may authorize a juvenile to remain in isolation beyond an initial four (4) hour period, not to exceed twenty-four (24) hours.

(b) An extension of an isolation placement beyond twenty-four (24) hours and up to thirty-six (36) hours shall require the approval of the division director. The division director shall consider whether the juvenile:

- 1. Has regained control of their behavior; and
- 2. Is no longer a threat to the security, safety, or orderly management of the facility.

(c) An extension of an isolation placement beyond thirty-six (36) hours and up to a maximum of forty-eight (48) hours shall require the approval of the division director and the chief of mental health services. For the extension decision, they shall consider:

- 1. Whether the juvenile has regained control of their behavior; and
- 2. Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and

3. The mental health issues of the juvenile.
- (d) If a highly assaultive juvenile requires isolation for more than forty-eight (48) hours, an extension of an isolation placement beyond forty-eight (48) hours shall require the approval of the respective division director and the chief of mental health services. Any extension made shall be reviewed every twenty-four (24) hours and shall not exceed five (5) days. For the extension decision, they shall consider:
1. Whether the juvenile has regained control of their behavior; and
 2. Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and
 3. The mental health issues of the juvenile.
- (6) Isolation in youth development centers and group homes.
- (a) The **facility manager**~~superintendent~~ may authorize a juvenile to remain in isolation beyond an initial four (4) hour period, not to exceed twenty-four (24) hours.
- (b) An extension of an isolation placement beyond twenty-four (24) hours and up to thirty-six (36) hours shall require the approval of the facilities regional administrator. For the extension decision, the FRA shall consider whether the juvenile:
1. Has regained control of their behavior; and
 2. Is no longer a threat to the security, safety, or orderly management of the facility.
 3. An extension of an isolation placement beyond thirty-six (36) hours and up to a maximum of forty-eight (48) hours shall require the approval of the respective division director and the regional psychologist. For the extension decision, they shall consider:
 - a. Whether the juvenile has regained control of their behavior; and
 - b. Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and
 - c. The mental health issues of the juvenile.
- (c) If a highly assaultive juvenile requires isolation for more than forty-eight (48) hours, an extension of an isolation placement beyond forty-eight (48) hours shall require the approval of the respective division director, the regional psychologist, and the chief of mental health services. Any extension made shall be reviewed every twenty-four (24) hours and shall not exceed five (5) days. For the extension decision, they shall consider:
1. Whether the juvenile has regained control of their behavior; and
 2. Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and
 3. The mental health issues of the juvenile.
- (7) The nurse shift program supervisor or on call nurse designee shall be notified as soon as feasible to determine if there are contra-indications for the juvenile being placed in isolation.
- (a) The facility nurse or health **services protocol** trained staff shall assess a juvenile placed in isolation as soon as it is safe to do so, as dictated by the director of medical services.
- (b) Injuries, bruises, scratches, and other observations shall be noted by a minimum of two (2) staff. The nurse or designee shall document the date, time, and results of the assessment.
- (8) Isolation may be used if requested by a juvenile and staff concur that the placement is in the best interest of the juvenile.
- (9) An assessment of a juvenile in isolation shall not be required to occur within the deadlines established in subsections (5) ~~through~~ (7) of this section, if the deadline falls within the normal sleep time for the facility. A delayed assessment shall occur within two hours of the normal awake time for the facility.

(10) A juvenile in isolation shall be visited at least once a day by the **facility manager**~~superintendent~~ or designee, medical or medically trained staff, and clinical or social work staff or designee. A juvenile may request a visit from clergy or other religious representative. All interactions with the juvenile during placement on isolation shall be documented.

(11) The regional psychologist or designee shall conduct interviews and assessments for disturbances in mental status, including, for example, depression; suicidal ideation; impaired thought processes, cognition or memory; agitation; paranoia; self-injurious behavior; evidence of bruises or other signs of trauma; and whether the juvenile's behavior has escalated beyond the staff's ability to control the juvenile by counseling or disciplinary measures.

(12) If a juvenile exhibits deterioration in mental status while in isolation, the regional psychologist shall be contacted to determine the most appropriate action based on the treatment needs of the juvenile.

(13) If a juvenile's problem behavior lasts twenty-four (24) hours and there appears to be a need for continued intervention, qualified health personnel shall assess the juvenile daily.

(14) The juvenile in isolation shall be afforded living conditions and privileges approximating those available to the general population, including modified access to recreation and educational and treatment services taking into consideration the juvenile's **and facility** safety **and security** needs.

(15) The juvenile shall be responsible for the daily cleaning of their living area in isolation.

(16) Release from isolation may occur based on the juvenile's behavior and state of mind.

Section 2. Isolation of suicidal juveniles.

(1) Isolation shall not be used as a suicide precaution.

(2) A juvenile who is suicidal may only be placed in isolation if the juvenile presents an immediate assault risk to staff or other juveniles as evidenced by physical actions and other less restrictive interventions have failed or are not appropriate. All other suicide protocols shall be followed.

Section 3. Protective Custody.

(1) A juvenile requiring protection from others may be placed in protective custody until alternative permanent housing is found within the facility or the juvenile is transferred to another facility.

(2) The **facility manager**~~superintendent~~ or designee may order immediate placement in protective custody or isolation if it is necessary to protect the juvenile from harm. This action shall be reviewed every twenty-four hours of placement by the **facility manager**~~superintendent~~ or designee. Separation from the general population beyond twenty-four (24) hours shall require approval by the **facility manager**~~superintendent~~ and Treatment Director and shall consider any mental health issues of the juvenile. The chief of mental health services and regional psychologist shall be consulted. The action shall be reviewed by the treatment team within seventy-two (72) hours.

(3) The youth development center treatment team may develop a special management plan to assure the safety of and continuous services and programming for the juvenile.

(50 Ky.R. 276, 1113; eff. 3-5-2024.)

VICKI REED, Commissioner

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes search parameters.

(b) The necessity of this administrative regulation:

This administrative regulation meets statutory authorization or requirements in KRS 15A.065(1), 15A.0652, 15A.160, 605.150, 635.095, and 640.120 for administrative regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

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.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

The regulation provides direction and information to department staff and juveniles concerning staff duties and the procedures that govern operations of facilities with juveniles in the custody of the department.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation:

Not applicable

(c) How the amendment conforms to the content of the authorizing statutes:

Not applicable

(d) How the amendment will assist in the effective administration of the statutes:

Not applicable

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This affects approximately 632 DJJ employees, 348 juveniles, and their families.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Staff will be trained on behavior management and progressive discipline. Juveniles will be informed of rules, incentives, and progressive discipline consequences.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The administrative regulation will assist in the effective and orderly management of the department and its facilities.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

(b) On a continuing basis:

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

DJJ budgeted funds for the biennium.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

An increase in funding is not anticipated.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish any fee.

(9) TIERING: Is tiering applied?

No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

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(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 15A.065, 15A.0652, 15A.160, 15A.305, 200.080-200.120, 605.150, 635.095, 640.120, 645.250, Chapters 600-645

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will not create any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will not create any revenue.

(c) How much will it cost to administer this program for the first year?

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

(d) How much will it cost to administer this program for subsequent years?

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This administrative regulation is not anticipated to generate any cost savings.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This administrative regulation is not anticipated to generate any cost savings.

(c) How much will it cost the regulated entities for the first year?

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

(d) How much will it cost the regulated entities for subsequent years?

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] A major economic impact to the agency is not anticipated.