

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

505 KAR 1:410. Restrictive housing and protective custody.

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

STATUTORY AUTHORITY: KRS 15A.0652, 605.150, 635.095, 640.120

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.0652, 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 restrictive housing and protective custody in juvenile detention centers and youth development centers.

Section 1. General Provisions.

(1) Restrictive housing means the removal of a juvenile from the general population and placement in a room with the door closed and secured due to a direct and clear threat to the safety or security of the facility, staff, the juvenile or other juveniles. The juvenile's personal items may be removed, including the mattress and bed linen. A mattress and bed linen shall be returned to the juvenile during normal sleeping hours unless the juvenile uses the mattress or linen to obstruct the view into the room or to obstruct the view of the in-room camera, attempts to destroy the mattress or linen, is on suicide watch pursuant to 505 KAR 1:120, or otherwise uses the mattress or linen in a manner that creates a safety risk to the juvenile, other juveniles, or facility.

(2) Any reference to "isolation" in 505 KAR Chapter 1 or any DJJPP shall be interpreted to be a reference to "restrictive housing."

(3) Restrictive Housing shall only apply to juveniles in juvenile detention centers and youth development centers.

(4) Restrictive housing shall only be used for behavior management. Restrictive housing shall not be used for punishment, staff convenience, or minor rule violations.

(5) Restrictive housing shall only be used for a direct and clear threat to the safety or security of the facility, staff, juvenile or other juveniles (hereinafter "direct and clear threat"), and only where less restrictive interventions have failed or cannot be safely implemented. Direct and clear threats include:

- (a) Assault or attempted assault;
- (b) Sexual assault or attempted sexual assault;
- (c) Attempted escape;
- (d) Escape;
- (e) Participating in a riot;
- (f) Planning a riot;
- (g) Possessing dangerous contraband as defined by KRS 520.010(3);
- (h) Causing extensive property damage; or
- (i) Any other serious or violent behavior that compromises the safety and security of residents or staff.

(6) The authorizations and visits in Section 2 and administrative reviews in Section 3(6) of this Administrative Regulation are suspended from 8:00 p.m. to 6:00 a.m., and any delayed action shall occur within two (2) hours of 6:00 a.m. If the juvenile is asleep, he or she should not be disturbed for those purposes.

(7) Prior to going into restrictive housing, the direct and clear threat shall be explained to the juvenile and an opportunity provided for the juvenile to explain the behavior. The juvenile's statement shall be contemporaneously documented on the incident report. The

release criteria in the plan shall state the behavioral expectations required for release, be explained to the juvenile, and be signed by the juvenile. If the juvenile is at the time unwilling or unable to sign, the juvenile's signature is not required, and staff shall indicate in writing such unwillingness or inability.

(8) Staff shall make direct visual contact with the juvenile at staggered intervals not to exceed fifteen (15) minutes, and if the juvenile is awake, staff shall determine if the juvenile is in compliance with the plan for release. These checks shall be contemporaneously documented on an observation log.

(9) If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the shift supervisor or above shall return the juvenile to the general population as soon as practicable. The time of release and the identity of the person releasing shall be documented contemporaneously on an observation log.

(10)

(a) If the juvenile continues to demonstrate negative or concerning behaviors and does not respond to reasonable redirection and guidance from staff, or the juvenile's behavior escalates or is beyond control, a qualified mental health professional (QMHP) shall be contacted as soon as possible by the administrative duty officer (ADO), youth services program specialist (YSPS), or superintendent but in no event not more than one (1) hour after the conduct occurs.

(b) The QMHP shall assess the juvenile to determine if acute psychiatric symptoms are contributing to the juvenile's behavior. Acute psychiatric symptoms include suicidal ideation, homicidal ideation, plan/intent to engage in self-injurious behaviors, mood disturbance, psychosis, thought-disordered thinking, symptoms associated with previous trauma or other signs of severe psychological distress.

(c) Based on the outcome of the assessment, the QMHP shall make recommendations for appropriate intervention.

(11) If at any time a juvenile exhibits deterioration in mental status during a restrictive housing placement, including by failing to respond, by their statements, by their refusal to eat, or by their refusal to perform personal hygiene as observed by staff during the fifteen (15) minute checks, a QMHP shall be contacted immediately to determine the most appropriate action based on the treatment needs of the juvenile. The contact and the person making the contact shall be contemporaneously documented in an observation log.

(12) The juvenile shall be afforded living conditions and privileges approximating those available to the general population including modified access to recreation, educational and treatment services, taking into consideration the safety and security of the juvenile and the facility. All services shall be contemporaneously documented on a services log. Any adjustments shall be documented, including the reason for the change.

(13) The juvenile shall be responsible for keeping their room clean while in restrictive housing.

Section 2. Authorizations.

(1) Initial authorization shall be obtained from the facility superintendent, YSPS, ADO, or shift supervisor prior to placing a juvenile in restrictive housing placement and documented. If prior authorization cannot be obtained without jeopardizing the safety or security of the facility, staff, or juvenile, authorization shall be obtained immediately following the safe securing of the juvenile, but in no event not more than one (1) hour.

(2) An initial restrictive housing placement shall not exceed four (4) hours.

(3) An extension beyond an initial four (4) hour period, not to exceed eight (8) hours shall only be granted after the superintendent or the ADO has visited with the juvenile to determine if the juvenile can comply with the plan for release. These visits and the specific behaviors noted shall be contemporaneously documented on an observation log. If the juvenile is under reasonable control and demonstrating behavior according to the

terms of the plan for release, the juvenile shall be released. If not, the extension shall be approved and shall be contemporaneously documented on an observation log with the reason for the extension.

(4) An extension of a restrictive housing placement beyond eight (8) hours, and for each four (4) hour extension up to twenty-four (24) hours, shall require approval of the executive director. The decision shall only be made after the superintendent or the ADO has visited with the juvenile to determine if the juvenile can comply with the plan for release. These visits and the specific behaviors noted shall be documented contemporaneously on an observation log. If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released. If not, the extension shall be approved and shall be contemporaneously documented on an observation log with the reason for the extension, and additional approval shall be obtained every four (4) hours.

(5) An extension of a restrictive housing placement beyond twenty-four (24) hours, and for each four (4) hour extension up to forty-eight (48) hours, shall require the approval of the Commissioner after consulting with the mental health authority or designee only after review and approval of the executive director. The executive director shall decide only after the superintendent or the ADO has visited with the juvenile to determine if the juvenile can comply with the plan for release and the mental health assessment has been done as set out in Section 3(5) of this administrative regulation. These visits and the specific behaviors noted shall be documented contemporaneously on an observation log. If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released. If not, the extension shall be approved and shall be contemporaneously documented on an observation log with the reason for the extension, and additional approval shall be obtained every four (4) hours.

(6) An extension of a restrictive housing placement beyond forty-eight (48) hours, and for each four (4) hour extension up to seventy-two (72) hours, shall require the approval of the cabinet secretary or designee after consulting with the mental health authority only after review and approval of the commissioner and the executive director. The commissioner and executive director shall only decide only after the superintendent or ADO has visited with the juvenile to determine if the juvenile can comply with the plan for release and the mental health assessment has been done as set out in Section 3(5) of this administrative regulation. These visits and the specific behaviors noted shall be contemporaneously documented on an observation log. If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released. If not, the extension shall be approved and shall be contemporaneously documented on an observation log with the reason for the extension, additional approval shall be obtained every four (4) hours, and appropriate mental health treatment shall be provided.

(7) A restrictive housing placement shall not exceed seventy-two (72) hours or three (3) days. If grounds meriting restrictive housing placement are present after three (3) days, a special management plan modifying any treatment plan authorized by 505 KAR 1:120 to account for the placement status shall be created by a QMHP. The mental health authority and the commissioner shall evaluate whether a mental health hospitalization of the juvenile should be pursued.

Section 3. Visits and Assessments.

(1) The facility nurse shall be consulted as soon as possible, or within one hour of placement, to determine if there are medical contraindications for the juvenile being placed in restrictive housing and this consultation shall be documented on an observation log.

- (2) The facility nurse shall assess juveniles placed in restrictive housing as soon as possible, but in no event later than one (1) hour.
- (3) Injuries, bruises or scratches, and observations shall be noted by a minimum of two (2) staff and photographed by staff who were not involved in the incident. The nurse shall document the date, time, and results of the assessment.
- (4) The juvenile shall receive a visit from the facility nurse every twenty-four (24) hours unless medical attention is needed more frequently. The visit shall be documented contemporaneously in an observation log.
- (5) If a juvenile's direct and clear threat behavior lasts twenty-four (24) hours, a QMHP shall assess the juvenile no less than every twelve (12) hours. Any treatment provided shall be documented contemporaneously in the juvenile's medical record.
- (6) An administrative review shall be conducted and documented by a facility superintendent, ADO, YSPS, counselor or shift supervisor, within four (4) hours of placement in restrictive housing, and a reassessment shall be done at each shift change or a minimum of eight (8) hours, thereafter, to determine the juvenile's readiness for release. The reviews shall be completed by a staff member not involved in the incident. In instances where a prior room restriction, intensive room supervision, or room confinement placement was not successful and a restrictive housing placement was started, this review shall take place as soon as the restrictive housing protocol has started.
- (7) Juveniles in restrictive housing shall be visited at least once every twenty-four (24) hours by the superintendent or ADO, medical staff, and clinical or social work staff. A juvenile may request a visit from a member of the clergy, if available. All visits with the juvenile during placement on restrictive housing shall be documented contemporaneously on an observation log and services log.

Section 4. Documentation.

- (1) All documentation shall be legible.
- (2) When a juvenile is removed from the general population and placed on restrictive housing, a restrictive housing packet shall be started and shall include:
 - (a) An incident report;
 - (b) A services log;
 - (c) A medical checklist;
 - (d) An observation log and addendum(s);
 - (e) A plan for release; and
 - (f) Any professional/administrative reviews.
- (3) An incident report shall include:
 - (a) Restrictive housing shall be indicated on the incident report.
 - (b) The juvenile's explanation of the juvenile's behavior or statement should be included, if any.
 - (c) The name and title of the staff requesting and authorizing the initial placement and the transition to restrictive housing or extension, and the time approval was requested and received;
 - (d) The reason for the placement with specific detail about how the juvenile presents a risk to safety and security or orderly facility operations;
 - (e) The duration of the placement; and
 - (f) The reason for each extension request, the reason the request was granted or denied, and the duration of the extension.
- (4) A plan for release shall:
 - (a) Be authored by the staff in conjunction with the shift supervisor;
 - (b) State the behavior expectation for release from the room placement;
 - (c) Be explained to the juvenile by staff;

(d) Be signed by the juvenile. If a juvenile refuses to sign, the plan shall be explained orally by a noninvolved staff member and witnessed by a third party.

(e) Include specific behaviors related to the incident necessary for the juvenile to obtain release such as:

1. Regain control of their behavior;
2. Able to interact in a calm manner; and
3. Is no longer a direct and clear threat to the security, safety, or orderly management of the facility.

(f) Not include generalized attitude without specific behaviors listed. Failure to clean the room shall not be the sole grounds to deny release.

(5) Observation log.

(a) Behavioral observations shall be documented in an observation log and the shift supervisor shall be notified of any medical or behavioral health issues that would warrant immediate attention for follow-up.

(b) The observations shall include the youth's comments and any credible threats as observed by staff familiar with the youth's behavior.

(c) The fifteen (15) minute checks shall be documented on an observation log.

(d) The time of the release and the person releasing shall be contemporaneously documented in an observation log.

(6) A services log shall document all services provided to the juvenile while in room restriction including recreation, education, meals, and counseling.

(7) The documentation shall be placed in the juvenile's individual client record.

Section 5. Restrictive housing for suicidal juveniles.

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

(2) A juvenile who is suicidal may only be placed in restrictive housing 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 6. Protective Custody.

(1) Restrictive housing shall not be used for protective custody.

(2) 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.

(3) The superintendent or designee may order immediate placement in protective custody if it is necessary to protect the juvenile from harm. This action shall be reviewed every twenty-four (24) hours of placement by the superintendent or designee. Separation from the general population beyond twenty-four (24) hours shall require approval by the superintendent who shall consider any mental health issues of the juvenile. The mental health authority and a QMHP shall be consulted by the superintendent. The action shall be reviewed by a multidisciplinary team, composed of at least a DJJ corrections officer or youth worker, the juvenile's counselor, health care staff, and the superintendent or designee, within seventy-two (72) hours to decide on alternative permanent housing.

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

Section 7. Restrictive Housing for juveniles under 18 U.S.C. § 5043.

(1) If a juvenile is in DJJ custody while being proceeded against in federal district court under 18 U.S.C. § 5043, then a QMHP shall evaluate that juvenile if the juvenile is placed in a restrictive housing placement for three (3) hours.

(2) If the QMHP's evaluation indicates that continued placement in restrictive housing is necessary, then staff shall refer the juvenile to a hospital for admission and treatment.

RANDY WHITE, Commissioner