

**202C.020 Petition for involuntary commitment proceeding -- Guardian ad litem -- Duty of Commonwealth's attorney.**

- (1) When a defendant who is charged with a qualifying offense has been found, after a hearing under KRS Chapter 504, to be incompetent to stand trial with no substantial probability that the defendant will attain competency within three hundred sixty (360) days, the Commonwealth's attorney's office serving the county of criminal prosecution shall immediately petition the Circuit Court that found the defendant incompetent to stand trial or, if the finding was by a District Court, the Circuit Court in the county of the criminal prosecution, for an involuntary commitment proceeding, to include an evidentiary hearing and a commitment hearing, if applicable, under this chapter.
- (2) Upon the filing of the petition, the court shall assign a guardian ad litem to represent the needs and best interest of the respondent. The guardian ad litem shall be a full and active participant in all proceedings other than the evidentiary hearing under KRS 202C.030 and shall independently investigate, assess, and advocate for the defendant's best interest. The guardian ad litem is not a replacement for the defense attorney. If the defendant has retained or been appointed a defense attorney in the criminal case, that attorney may continue to represent the defendant in proceedings under this chapter. If, at any time during the pendency of proceedings under this chapter, the defendant is not represented by an attorney, the court shall appoint counsel for the defendant, without a showing of indigency, to be provided by the Department of Public Advocacy or its designee.
- (3) The Circuit Court shall have exclusive jurisdiction over all proceedings under this chapter.

**Effective:** April 1, 2021

**History:** Created 2021 Ky. Acts ch. 175, sec. 7, effective April 1, 2021.