

202C.040 Commitment hearing -- Scheduling, and conduct of -- Participation by Commonwealth's attorney, respondent, and guardian ad litem -- Standard of proof -- Waiver of right to commitment hearing prohibited.

- (1) A commitment hearing shall be held within twenty (20) days, excluding weekends and holidays, after the court finds that the evidence presented in an evidentiary hearing pursuant to KRS 202C.030 supports a finding that the respondent is guilty of the charged crime against him or her by a preponderance of the evidence.
- (2) The commitment hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, at a forensic psychiatric facility, or other suitable place.
- (3) The Commonwealth's attorney's office serving the county of criminal prosecution which led to the finding that the respondent was incompetent to stand trial shall present evidence regarding whether the respondent meets the criteria for involuntary commitment under KRS 202C.050. The respondent and the respondent's guardian ad litem shall be afforded an opportunity to testify, to present evidence, and to cross-examine any witnesses.
- (4) The manner of proceeding and the rules of evidence shall be the same as those in any criminal proceeding. The standard of proof shall be proof beyond a reasonable doubt. Proceedings shall be heard by the judge unless a party or the guardian ad litem requests a jury.
- (5) The respondent's right to the commitment hearing shall not be waived.

Effective: April 1, 2021

History: Created 2021 Ky. Acts ch. 175, sec. 9, effective April 1, 2021.