

**635.020 Criteria for determining how child is to be tried.**

- (1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.
- (2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (4) If a child charged with a felony in which a firearm, whether functional or not, was used by the child in the commission of the offense had attained the age of fourteen (14) years at the time of the commission of the alleged offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with KRS 640.010.
- (5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (8) All offenses arising out of the same course of conduct shall be tried with the felony

arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

**Effective:** June 29, 2021

**History:** Amended 2021 Ky. Acts ch. 132, sec. 2, effective June 29, 2021. -- Amended 2002 Ky. Acts ch. 257, sec. 15, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 534, sec. 11, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 538, sec. 17, effective April 13, 1998; and ch. 606, sec. 85, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 358, sec. 40, effective July 15, 1997. -- Amended 1994 Ky. Acts ch. 396, sec. 12, effective July 15, 1994. -- Amended 1988 Ky. Acts ch. 350, sec. 95, effective April 10, 1988. -- Created 1986 Ky. Acts ch. 423, sec. 125, effective July 1, 1987.