

635.060 Options of court at dispositional hearing -- Mental health assessment for committed child.

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing, may impose any combination of the following, except that the court shall, if a validated risk and needs assessment tool is available, consider the validated risk and needs assessment submitted to the court and parties by the Department of Juvenile Justice or other agency before imposing any disposition:

- (1) Order the child or his parents, guardian, or person exercising custodial control to make restitution or reparation to any injured person to the extent, in the sum and upon the conditions as the court determines. However, no parent, guardian, or person exercising custodial control shall be ordered to make restitution or reparation unless the court has provided notice of the hearing, provided opportunity to be heard, and made a finding that the person's failure to exercise reasonable control or supervision was a substantial factor in the child's delinquency;
- (2) (a) Place the child:
 1. Under parental supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine, or
 2. On probation under conditions that the court shall determine.
- (b)
 1. At the time the child is placed on probation, the court shall explain to the child the sanctions which may be imposed if the court's conditions are violated, and shall include notice of those sanctions as part of its written order of probation. A child placed on probation shall be subject to the visitation and supervision of a probation officer or an employee of the Department of Juvenile Justice.
 2. The conditions of probation shall include authorization for the use of graduated sanctions prior to a court review for the imposition of a term of detention. If the court has previously imposed graduated sanctions for a violation of conditions of supervision by a child monitored by the court, or makes a finding that the graduated sanctions have previously been imposed for a child on probation, then the court may impose a sanction of up to thirty (30) days' detention for a violation of the conditions of supervision or probation. A court may not impose detention prior to use of graduated sanctions unless there is clear and convincing evidence that there are no graduated sanctions available that are appropriate for the child and the child is an immediate threat to himself or others. Except where commitment has been probated pursuant to subsection (5) of this section, a child may not be committed or recommitted to the Department of Juvenile Justice for a violation of a condition of probation.
- (c) A child placed on probation or supervision with court monitoring shall remain subject to the jurisdiction of the court as follows, except that if a person is placed on probation after the person reaches the age of seventeen (17) years and six (6) months, the probation shall be for a period not to exceed one (1)

year:

1. If the child was adjudicated for an offense that would be a violation if committed by an adult, the period of probation or supervision shall not exceed thirty (30) days, except that the court may order up to three (3) months of supervision if the court-ordered treatment includes a program that requires longer than thirty (30) days to complete;
 2. If the child was adjudicated for an offense that would be a misdemeanor if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the period of probation or supervision shall not exceed six (6) months, except that the court may order up to twelve (12) months of supervision if the court-ordered substance abuse or mental health treatment includes a program that requires longer than six (6) months to complete;
 3. If the child was adjudicated for an offense that would be a Class D felony if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the period of probation or supervision shall not exceed twelve (12) months; or
 4. If the child was adjudicated for an offense that would be a felony offense if committed by an adult, other than a Class D felony offense, or for an offense involving a deadly weapon, or for an offense in which the child has not been declared a sexual offender pursuant to KRS 635.510, the child may be placed on probation up to age eighteen (18);
- (3) (a) If the child was adjudicated for an offense other than an offense that would be a violation if committed by an adult, order the child confined in an approved secure detention facility or detention program, as authorized by KRS Chapter 15A, as follows:
1. If the child is fourteen (14) years of age but less than sixteen (16) years of age, the child may be confined for a period of time not to exceed forty-five (45) days; or
 2. If the child is sixteen (16) years of age or older, the child may be confined for a period of time not to exceed ninety (90) days.
- (b) Any child detained under this section, other than a child previously assessed pending a detention hearing, shall be assessed by a mental health professional to determine if the child exhibits behavior that indicates the child could benefit from cognitive behavioral therapy, other evidence-based behavioral health programs, substance use disorder treatment, or treatment in a psychiatric facility for serious mental illness. Any treatment recommended under this paragraph shall be provided by the Department of Juvenile Justice and may be provided pursuant to a contract between the Justice and Public Safety Cabinet and a behavioral health services organization.
- (c) The Justice and Public Safety Cabinet may enter into a contract or contracts with at least one (1):

1. Mental health professional whose communications with the child shall be confidential in conformity with the Kentucky Rules of Evidence, to provide the assessment required by paragraph (b) of this subsection; and
 2. Behavioral health services organization that is accredited and qualified to provide behavioral health treatment.
- (d) Behavioral health services organizations contracted pursuant to paragraph (c) of this subsection may utilize restorative practices designed to hold the participant accountable to the victim if there is an identified victim and, in the professional opinion of the behavioral health service provider, it is safe to do so.
- (e) The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to this subsection in accordance with the statewide detention plan and administrative regulations implementing the plan;
- (4) (a) Order the child to be committed or recommitted to the custody of the Department of Juvenile Justice, grant guardianship to a child-caring facility or a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person if:
1. The child was adjudicated for an offense that would be a misdemeanor or Class D felony if committed by an adult and the child has at least three (3) prior adjudications, excluding prior adjudications of offenses designated as a violation, or at least four (4) prior adjudications of violations, which do not arise from the same course of conduct; or
 2. The child was adjudicated for an offense involving a deadly weapon, an offense in which the child has been declared a juvenile sexual offender under KRS 635.510, or an offense that would be a felony offense if committed by an adult, other than a Class D felony.
- (b) The commitment shall be for the following term, subject to KRS 635.070 and the power of the court to terminate the order and discharge the child prior thereto:
1. If the child was adjudicated for an offense that would be a misdemeanor if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the child may be committed for a period not to exceed twelve (12) months, including all time spent in the treatment plan established pursuant to KRS 15A.0652;
 2. If the child was adjudicated for an offense that would be a Class D felony if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the child may be committed for a period not to exceed eighteen (18) months, including all time spent in the treatment plan established pursuant to KRS 15A.0652;
 3. If the child was adjudicated for an offense that would be a felony offense if committed by an adult, other than a Class D felony offense, or an offense involving a deadly weapon, the child may be committed up to

age eighteen (18);

4. If the child was adjudicated for an offense that results in the child being declared a juvenile sexual offender, the commitment shall be as provided in KRS 635.515;
 5. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty-one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; and
 6. If a child is committed after the child reaches the age of seventeen (17) years and six (6) months, and except as provided in subparagraph 4. of this paragraph, the commitment shall be for a period not to exceed one (1) year.
- (c) The Department of Juvenile Justice shall:
1. Accept physical custody of a child who is detained in an approved secure juvenile detention facility in accordance with KRS 15A.200 to 15A.240 at the time the child is committed or recommitted to the custody of the Department of Juvenile Justice. The Department of Juvenile Justice shall remove the child from the approved secure juvenile detention facility and secure appropriate placement as soon as possible but not to exceed thirty-five (35) days of the time of commitment or recommitment; and
 2. Pay for the cost of detention from the date of commitment or recommitment, on the current charge, until the child is removed from the detention facility and placed.
- (d) All orders of commitment may include advisory recommendations the court may deem proper in the best interests of the child and of the public.
- (e) Any child committed under this section, other than a child previously assessed pending a detention hearing, shall be assessed by a mental health professional to determine if the child exhibits behavior that indicates the child could benefit from cognitive behavioral therapy, other evidence-based behavioral health programs, substance use disorder treatment, or treatment in a psychiatric facility for serious mental illness. Any treatment recommended under this paragraph shall be provided by the Department of Juvenile Justice and may be provided pursuant to a contract between the Justice and Public Safety Cabinet and a behavioral health services organization.
- (f) The Justice and Public Safety Cabinet may enter into a contract or contracts with at least one (1):
1. Mental health professional whose communications with the child shall be confidential in conformity with the Kentucky Rules of Evidence, to provide the assessment required by paragraph (e) of this subsection; and
 2. Behavioral health services organization that is accredited and qualified to provide behavioral health treatment.
- (g) Behavioral health services organizations contracted pursuant to paragraph (f)

of this subsection may utilize restorative practices designed to hold the participant accountable to the victim if there is an identified victim and, in the professional opinion of the behavioral health service provider, it is safe to do so; or

- (5) (a) The court may probate or suspend a commitment ordered pursuant to subsection (4) of this section, except that if a court probates or suspends a commitment in conjunction with any other dispositional alternative, that fact shall be explained to the juvenile and contained in a written order.
- (b) Any probation or suspension imposed shall not exceed the time limitations established under subsection (2) of this section.
- (c) If the child successfully completes the conditions of probation, the court shall terminate the case.
- (d)
 1. The court may, for violations of the conditions of probation, revoke the probation or suspension ordered under this section and order the child committed.
 2. The period of the commitment shall not exceed the terms established under subsection (4) of this section.
 3. Any time a child has spent in out-of-home placement as a result of a violation of a condition of probation or suspension under this section shall be credited toward the period of commitment.
 4. If a commitment is probated or suspended after a child reaches the age of seventeen (17) years and six (6) months, the period of the suspension, and commitment if revoked, shall be for a period not to exceed one (1) year, but not to exceed age nineteen (19).

Effective: June 29, 2023

History: Amended 2023 Ky. Acts ch. 105, sec. 5, effective June 29, 2023. -- Amended 2014 Ky. Acts ch. 132, sec. 47, effective July 1, 2015. -- Amended 2004 Ky. Acts ch. 160, sec. 5, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 257, sec. 16, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 606, sec. 6, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 358, sec. 41, effective in part July 1, 1997, and in part July 15, 1997. -- Amended 1994 Ky. Acts ch. 226, sec. 3, effective July 15, 1994; and ch. 489, sec. 3, effective July 15, 1994. -- Amended 1988 Ky. Acts ch. 350, sec. 98, effective April 10, 1988. -- Created 1986 Ky. Acts ch. 423, sec. 129, effective July 1, 1987.

Legislative Research Commission Note (7/15/96). Under 1996 Ky. Acts ch. 358, sec. 67(3), the amendments to this statute substituting the Department of Juvenile Justice for cabinet in subsection (2) of this statute, making changes in subsection (4) of this statute, and creating the text following subsection (6) of this statute by Section 41 of that Act become effective July 1, 1997. By their express terms, the amendments from 1996 Ky. Acts ch. 358, sec. 41 relating to subsections (4) and (5) of this statute become effective July 1, 1997, and the renumbering of subsection (6) is a necessary consequence thereof. Under 1996 Ky. Acts ch. 358, sec. 67(6), the amendment to subsection (1) of this statute by Section 41 of that Act becomes effective July 15, 1997. Under 1996 Ky. Acts ch. 358, sec. 67(1), the amendment to subsection (2) of this statute (other than the substitution of the Department of Juvenile Justice for cabinet) by Section 41 of that Act becomes effective July 15, 1997.