AN ACT relating to the care and treatment of individuals with mental illness.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) ***"Benefit from treatment" means the desired outcomes of treatment in a psychiatric hospital for an individual with a mental illness, including but not limited to:***

(a) Symptom management and increased stability;

(b) A lessening of irrational thoughts and behaviors;

(c) Reduced risk of harm; or

(d) Acquisition of skills for self-care and for interacting and living in the community;

(3) "Cabinet" means the ~~[Kentucky]~~Cabinet for Health and Family Services;

(4)~~[(3)]~~ "Contract mental health evaluator" means a qualified mental health professional who is employed by or under contract with a community mental health center, crisis stabilization unit, mental institution, or any other facility designated by the secretary to provide mental health evaluations to determine whether an individual meets the criteria for involuntary hospitalization;

(5)~~[(4)]~~ "Danger" or "threat of danger to self, family, or others" means***, as a result of mental illness, a person:***

(a) Presents a substantial ***risk of serious*** physical harm ***to***~~[or threat of substantial physical harm upon]~~ self, family, or others ***as evidenced by recent behavior, threats, or conduct demonstrating such risk;***~~[,]~~

(b) Has attempted or threatened suicide or has expressed suicidal ideations and there is a reasonable probability of serious self-harm unless prompt and

adequate treatment is provided;

(c) Is unable without supervision or assistance to provide for~~[including actions which deprive self, family, or others of the]~~ basic ***personal needs,***~~[means of survival]~~ including provision for reasonable shelter, food, ~~[or]~~clothing***, or medical care, so that there exists a substantial likelihood of death, serious physical injury, or serious physical debilitation***; ***or***

(d) Is experiencing psychiatric deterioration, demonstrated by a substantial decline in functioning from the person's baseline, such that the person's judgment, insight, or ability to recognize the need for treatment is impaired, and without intervention, the person's condition will predictably result in:

1. A substantial risk of serious physical harm to self, family, or others;

2. Serious physical debilitation or self-neglect; or

3. Further loss of ability to engaged in safe or necessary self-care or to voluntarily seek needed treatment;

(6)~~[(5)]~~ "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for ~~[mentally ill persons or]~~individuals with an intellectual disability ***or mental illness***, who have been charged with or convicted of a felony;

(7)~~[(6)]~~ "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the ***cabinet***~~[Kentucky Cabinet for Health and Family Services]~~ as equipped to provide full-time residential care and treatment for ~~[mentally ill persons or]~~individuals with an intellectual disability ***or mental illness***; or

(b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for ~~[mentally ill~~

~~persons or ~~individuals with an intellectual disability ***or mental illness***;

(8) "Individual with a mental illness" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;

(9)~~[(7)]~~ "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(10)~~[(8)]~~ "Least restrictive alternative mode of treatment" means that treatment which will give ***an***~~[a mentally ill]~~ individual ***with a mental illness*** a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;~~[~~

~~(9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;]~~

(11)~~[(10)]~~ "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;

(12)~~[(11)]~~ "Petitioner" means a person who institutes a proceeding under this chapter;

(13)~~[(12)]~~ "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

(14)~~[(13)]~~ "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or

osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with ***individuals with a mental illness***~~[mentally ill persons]~~, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and

individuals with an intellectual disability;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health and individuals with an intellectual disability;

(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health and individuals with an intellectual disability; or

(h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one (1) of the following requirements:

1. Provides documentation that he or she has completed a psychiatric residency program for physician assistants;
2. Has completed at least one thousand (1,000) hours of clinical experience under a supervising physician, as defined by KRS 311.840, who is a psychiatrist and is certified or eligible for certification by the American Board of Psychiatry and Neurology, Inc.;
3. Holds a master's degree from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor agencies, is practicing under a supervising physician as defined by KRS 311.840,

and:

a. Has two (2) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or

b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least two (2) years; or

4. Holds a bachelor's degree, possesses a current physician assistant certificate issued by the board prior to July 15, 2002, is practicing under a supervising physician as defined by KRS 311.840, and:

a. Has three (3) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or

b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least three (3) years;

(15) ~~[(14)]~~ "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(16) ~~[(15)]~~ "Respondent" means a person alleged in a hearing under this chapter to be ~~[a mentally ill person or]~~an individual with an intellectual disability ***or mental illness***;~~[and]~~

(17) ~~[(16)]~~ "Secretary" means the secretary of the Cabinet for Health and Family Services~~[.~~

~~]~~***; and***

(18) "Serious mental illness":

(a) Means a diagnosable mental, behavioral, or emotional disorder that causes significant functional impairment that substantially interferes with or limits major life activities, including but not limited to:

1. Severe cognitive difficulties, including disorganized thinking, delusions, hallucinations, or memory impairment; or

2. Extreme mood fluctuations, apathy, or lack of motivation; and

(b) Includes but is not limited to the following disorders:

1. Schizophrenia spectrum and other psychotic disorders;

2. Bipolar and related disorders; and

3. Major depressive disorders that require treatment.

➔Section 2. KRS 202A.028 is amended to read as follows:

(1) ***Prior to completion of an examination by a qualified mental health professional under this section, the professional shall make a good-faith attempt to contact the petitioner to obtain any additional relevant information necessary to the petition.***

(2) (a) Prior to the completion of an examination under this section, the county attorney may make an ex parte motion for a certification review hearing. The court shall review the ex parte motion upon its receipt.

(b) If the review indicates that the person presents an imminent threat of danger to self, family, or others, the court shall order the qualified mental health professional to immediately notify the court if the professional has certified that the person:

1. Is an individual with a mental illness;

2. Presents a danger or threat of danger to self, family, or others as a result of the mental illness; and

3. Does not meet the other criteria for involuntary hospitalization under

Section 23 of this Act.

(c) The court shall review the certification under paragraph (b) of this subsection and consider if the person has been the subject of proceedings under this chapter, prior to the current proceeding, and is exhibiting an escalation of dangerous behavior. After review, the court may:

1. Order the person to be hospitalized in a place designated by the cabinet until the certification review hearing is held within forty-eight (48) hours, excluding weekends and holidays;

2. Release the person and set the certification review hearing to be held within forty-eight (48) hours, excluding weekends and holidays; or

3. Deny the county attorney's motion for a certification review.

(d) At the certification review hearing:

1. The qualified mental health professional that performed the examination shall testify about the certification under paragraph (b) of this subsection. This testimony may be given remotely; and

2. The person shall be appointed counsel who may present evidence and cross examine witnesses on the person's behalf.

(e) Upon conclusion of the certification review hearing, if the court finds by clear and convincing evidence that the person is an individual with a mental illness, who presents a danger or threat of danger to self, family, or others as a result of the mental illness, who may reasonably benefit from court-ordered outpatient treatment or release with other reasonable conditions, and for whom court-ordered outpatient treatment or release with other reasonable conditions is the least restrictive alternative mode of treatment available, the court shall order:

1. a. The person to receive community-based outpatient treatment that shall not exceed three hundred sixty (360) days; and

b. The person to comply with any other reasonable conditions necessary to ensure compliance; or

2. The person to be released with any reasonable conditions necessary to ensure the safety of self, family, or others and avoid readmittance to a hospital setting.

(3) (a) Failure to comply with any reasonable conditions or an order for community-based outpatient treatment under subsection (2)(e) of this section shall not be grounds to find the person in contempt of court but shall be prima facie evidence that:

1. The person can benefit from inpatient hospitalization; and

2. Inpatient hospitalization is the least restrictive mode of treatment.

(b) If a new petition for involuntary hospitalization is filed within twelve (12) months due to failure to comply with any reasonable conditions or an order for community-based outpatient treatment under subsection (2)(e) of this section, the court shall notify the qualified mental health professional who is conducting the examination of the person's:

1. Prior conditions or any order for community-based outpatient treatment; and

2. Failure to comply with those conditions or treatment.

(c) The qualified mental health professional who conducts the examination as described under paragraph (b) of this subsection, shall independently evaluate the person, considering the person's prior noncompliance, and certify that he or she meets the criteria for involuntary hospitalization under Section 23 of this Act.

(d) A person shall not be involuntarily hospitalized based solely on his or her failure to comply with conditions or an order for community-based outpatient treatment.

(4) Following an examination by a qualified mental health professional and a certification by that professional that the person meets the criteria for involuntary hospitalization, a judge may order the person hospitalized for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. For the purposes of this section, the qualified mental health professional shall be:

(a) A staff member of a regional community program for mental health or individuals with an intellectual disability;

(b) An individual qualified and licensed to perform the examination through the use of telehealth services; or

(c) The psychiatrist ordered, subject to the court's discretion, to perform the required examination.

(5)~~[(2)]~~ Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours, excluding weekends and holidays, unless further held under the applicable provisions of this chapter.

(6)~~[(3)]~~ ***(a)*** Any person admitted to a hospital under subsection (1) of this section or transferred to a hospital while ordered hospitalized under subsection (1) of this section shall be transported from the person's home county by the sheriff of that county or other peace officer as ordered by the court.

(b) The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital.

(c) The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet ***in accordance with***~~[, pursuant to]~~ KRS Chapter 13A.

(7)~~[(4)]~~ ***(a)*** Any person released from the hospital under subsection (2) of this section shall be transported to the person's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the treatment plan of that person.

(b) The transportation cost of transporting the patient to the patient's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation ***promulgated***~~[issued]~~ by the cabinet ***in accordance with***~~[pursuant to]~~ KRS Chapter 13A.

(8)~~[(5)]~~ ***A***~~[No]~~ person who has been held under subsection (1) of this section shall ***not*** be held in jail pending evaluation and transportation to the hospital.

(9) A court order under subsection (4) of this section shall expire after thirty (30) days if not served upon the person subject to the order.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) (a) Upon motion of the county attorney, the hospital shall give notice to the court and the county attorney if the hospital plans to discharge the respondent following the certification by a qualified mental health professional and before the preliminary hearing. Prior to discharge, the county attorney may make an ex parte motion for a certification review hearing. The court shall review the ex parte motion upon its receipt.

(b) If the review indicates that the respondent presents an imminent threat of danger to self, family, or others, the court shall order the qualified mental health professional to immediately notify the court if the professional has certified that the respondent:

1. Is an individual with a mental illness;

2. Presents a danger or threat of danger to self, family, or others as a result of the mental illness; and

3. Does not meet the other criteria for involuntary hospitalization under Section 23 of this Act.

(c) The court shall review the certification under paragraph (b) of this subsection and consider if the respondent has been the subject of proceedings under this chapter, prior to the current proceeding, and is exhibiting an escalation of dangerous behavior. After review, the court may:

1. Order the respondent to be hospitalized in a place designated by the cabinet until the certification review hearing is held within forty-eight (48) hours, excluding weekends and holidays;

2. Release the respondent and set the certification review hearing to be held within forty-eight (48) hours; or

3. Deny the county attorney's motion for a certification review.

(d) At the certification review hearing:

1. The qualified mental health professional that performed the examination shall testify about the certification under paragraph (b) of this subsection. This testimony may be given remotely; and

2. The respondent shall be appointed counsel who may present evidence and cross examine witnesses on the respondent's behalf.

(e) Upon conclusion of the certification review hearing, if the court finds by clear and convincing evidence that the respondent is an individual with a mental illness, who presents a danger or threat of danger to self, family, or others as a result of the mental illness, who may reasonably benefit from court-ordered outpatient treatment or release with reasonable conditions, and for whom court-ordered outpatient treatment or release with reasonable

conditions is the least restrictive alternative mode of treatment available, the court shall order the respondent to:

1. a. Receive community-based outpatient treatment that shall not exceed three hundred sixty (360) days; and

b. Comply with any other reasonable conditions necessary to ensure compliance; or

2. Be released with any reasonable conditions necessary to ensure the safety of self, family, or others and avoid readmittance to a hospital setting.

(2) (a) Failure to comply with any reasonable conditions or an order for community-based outpatient treatment under subsection (1)(e) of this section shall not be grounds to find the person in contempt of court but shall be prima facie evidence that:

1. The respondent can benefit from inpatient hospitalization; and

2. Inpatient hospitalization is the least restrictive mode of treatment.

(b) If a new petition for involuntary hospitalization is filed within twelve (12) months due to failure to comply with any reasonable conditions or an order for community-based outpatient treatment under subsection (1)(e) of this section, the court shall notify the qualified mental health professional who is conducting the examination of the respondent's:

1. Prior conditions or any order for community-based outpatient treatment; and

2. Failure to comply with those conditions or treatment.

(c) The qualified mental health professional who conducts the examination as described under paragraph (b) of this subsection, shall independently evaluate the respondent, considering the respondent's prior noncompliance, and certify that he or she meets the criteria for involuntary hospitalization

under Section 23 of this Act.

(d) A respondent shall not be involuntarily hospitalized based solely on his or her failure to comply with conditions or an order for community-based outpatient treatment.

➔Section 4. KRS 202A.051 is amended to read as follows:

(1) Proceedings for ***up to*** sixty (60) days or ***up to*** three hundred sixty (360) days of involuntary hospitalization of an individual shall be initiated by the filing of a verified petition in District Court.

(2) The petition and all subsequent court documents shall be entitled: "In the interest of (name of respondent)."

(3) The petition shall be filed by a qualified mental health professional, peace officer, county attorney, Commonwealth's attorney, spouse, relative, friend, or guardian of the individual concerning whom the petition is filed, or any other interested person.

(4) The petition shall set forth:

(a) Petitioner's relationship to the respondent;

(b) Respondent's name, residence, and current location, if known;

(c) The name and residence of respondent's parents, if living and if known, or respondent's legal guardian, if any and if known;

(d) The name and residence of respondent's husband or wife, if any and if known;

(e) The name and residence of the person having custody of the respondent, if any, or if no such person is known, the name and residence of a near relative or that the person is unknown; ***and***

(f) Petitioner's belief, including the factual basis therefor, that the respondent is ***an individual with a mental illness***~~[mentally ill]~~ and presents a danger or threat of danger to self, family or others if not restrained;~~[and]~~

(g) If the petition seeks a three hundred sixty (360) day involuntary hospitalization of the respondent, the petition shall further set forth that the

respondent has been hospitalized in a hospital or a forensic psychiatric facility for a period of thirty (30) days under the provisions of this chapter or KRS Chapter 504 within the preceding six (6) months***; and***

(h) Upon request of the county attorney, that the county attorney receives notice of any discharge by a hospital prior to the preliminary hearing under subsection (10) of this section.

(5) ***If the petition seeks a sixty (60) day involuntary hospitalization of the respondent, the county attorney may file a motion to amend the petition to seek up to a three hundred sixty (360) day involuntary hospitalization of the individual if the respondent has been hospitalized in a hospital or a forensic psychiatric facility for a period of thirty (30) days under the provisions of this chapter or KRS Chapter 504 within the preceding six (6) months.***

(6) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition. If the petitioner is a qualified mental health professional, the court may dispense with the examination.

(7)~~[(6)]~~ If after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be involuntarily hospitalized, the court shall, unless either the court or one (1) of the parties objects, implement the procedures provided in KRS 202A.028 and order the individual to be examined without unnecessary delay by a qualified mental health professional. If the person is not being ***hospitalized***~~[held]~~ under the provisions of this chapter, the court may order that the sheriff of the county or other peace officer transport the person to a hospital or psychiatric facility designated by the cabinet for the purpose of the evaluation. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to a hospital or

psychiatric facility. Following that, the procedures as set forth in KRS 202A.028 shall be carried out. Otherwise, the court shall:

(a) Set a date for a preliminary hearing within six (6) days from the date of ***hospitalization of***~~[holding]~~ the person under the provisions of this ***section,*** ~~[section (]~~excluding holidays and weekends***,***~~[)]~~ to determine if there is probable cause to believe the person should be involuntarily hospitalized;

(b) Notify the respondent, the legal guardian, if any, and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and the date and purpose of the preliminary hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and

(c) Cause the respondent to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health professionals shall certify within twenty-four (24) hours***,*** ~~[(]~~excluding weekends and holidays***,***~~[)]~~ their findings.

(8)~~[(7)]~~ (a) If the respondent is being presently ***hospitalized***~~[held]~~ under the provisions of this chapter, the court may order further ***hospitalization***~~[holding]~~ of the respondent to accomplish the examination ordered by the court.

(b) If the respondent is not being presently ***hospitalized***~~[held]~~ under the provisions of this chapter, the court may order that the sheriff of the county or a peace officer transport the respondent to a hospital or a psychiatric facility designated by the cabinet so that the respondent shall be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The sheriff or other peace officer may authorize, upon agreement of a person authorized by the peace officer, the cabinet, a private agency on contract with the cabinet, or an ambulance

service designated by the cabinet to transport the person to a hospital or psychiatric facility.

(9) ~~[(8)]~~ ***(a)*** When the court is authorized to issue an order that the respondent be transported to a hospital or psychiatric facility, the court may, in its discretion, issue a summons. A summons so issued shall be directed to the respondent, shall command the respondent to appear at a time and place ~~[therein]~~specified ***in the summons*** where the respondent shall be ~~[there]~~examined by two (2) qualified mental health professionals, at least one (1) of whom is a physician, and shall command the respondent's appearance at the preliminary hearing.

(b) If a respondent who has been summoned fails to appear for such examination or at the preliminary hearing, the court may order that the sheriff of the county or a peace officer transport the respondent to a hospital or psychiatric facility designated by the cabinet for the purpose of an evaluation.

(10) ~~[(9)]~~ If upon completion of the preliminary hearing, the court finds***:***

(a) 1. There is probable cause to believe the respondent should be involuntarily hospitalized, the court shall order a final hearing within twenty-one (21) days from the date of ***hospitalization of*** ~~[holding]~~ the respondent under ~~[the provisions of]~~this section to determine if the respondent should be involuntarily hospitalized.

2. If the court finds that probable cause exists under subparagraph 1. of this paragraph, the county attorney may motion the court at the conclusion of the preliminary hearing to require that a hearing be held prior to discharge of a respondent from the hospital. If the court grants this motion, the hospital shall be required to notify the court and the county attorney of the hospital's intent to discharge the respondent and the court shall conduct the hearing at the earliest practicable time, consistent with due process and the availability of

counsel, and in no event later than seven (7) days after the filing of the notice, except upon a finding of good cause for further delay.

3. Upon completion of the hearing, if the court finds that the respondent is an individual with a mental illness, who presents a danger or threat of danger to self, family, or others as a result of the mental illness, who may reasonably benefit from court-ordered outpatient treatment or release with other reasonable conditions, and for whom court-ordered outpatient treatment or release with other reasonable conditions is the least restrictive alternative mode of treatment available, the court shall order:

a. For a respondent who meets the criteria for court-ordered assisted outpatient treatment set forth in KRS 202A.0815:

i. That a treatment plan be developed in accordance with KRS 202A.0817 within forty-eight (48) hours; and

ii. The respondent to receive court-ordered assisted outpatient treatment under KRS 202A.0811 to 202A.0831;

b. For any other respondent who may benefit from outpatient treatment:

i. A qualified mental health professional to develop a treatment plan within forty-eight (48) hours;

ii. The respondent to receive community-based outpatient treatment that shall not exceed three hundred sixty (360) days; and

iii. The respondent to comply with any other reasonable conditions necessary to ensure compliance; or

c. The respondent to be released with any reasonable conditions necessary to ensure the safety of self, family, or others and avoid

readmittance into a hospital setting;

(b) There is no probable cause to believe the respondent should be involuntarily hospitalized but that the respondent is an individual with a mental illness, who presents a danger or threat of danger to self, family, or others as a result of the mental illness, who may reasonably benefit from court-ordered outpatient treatment or release with other reasonable conditions, and for whom court-ordered outpatient treatment or release with other reasonable conditions is the least restrictive alternative mode of treatment available, the court shall order:

1. For a respondent who meets the criteria for court-ordered assisted outpatient treatment set forth in KRS 202A.0815:

a. That a treatment plan be developed in accordance with KRS 202A.0817 within forty-eight (48) hours; and

b. The respondent to receive court-ordered assisted outpatient treatment under KRS 202A.0811 to 202A.0831;

2. For any other respondent who may benefit from outpatient treatment:

a. A qualified mental health professional to develop a treatment plan within forty-eight (48) hours;

b. The respondent to receive community-based outpatient treatment that shall not exceed three hundred sixty (360) days; and

c. The respondent to comply with any other reasonable conditions necessary to ensure compliance; or

3. The respondent to be released with any reasonable conditions necessary to ensure the safety of self, family, or others and avoid readmittance into a hospital setting; or

(c) ~~[(10)]~~ ~~[If the court finds]~~There is no probable cause ***to believe the respondent:***

1. Should be involuntarily hospitalized; or

2. Is an individual with a mental illness:

a. Who presents a danger or threat of danger to self, family, or others as a result of the mental illness;

b. Who may reasonably benefit from outpatient treatment or release with reasonable conditions; and

c. For whom outpatient treatment or release with reasonable conditions is the least restrictive alternative mode of treatment available,

the proceedings against the respondent shall be dismissed, and the respondent shall be released from any ***hospitalization***~~[holding]~~.

(11) If upon completion of the final hearing, the court finds***:***

(a) 1. The respondent should be involuntarily hospitalized, the court shall order the respondent***:***

a. Hospitalized in a hospital for a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred sixty (360) consecutive days from the date of the court order, whatever was the period of time that was requested in the petition***; and***

b. To comply with all conditions of the hospital's discharge plan.

2. If the court orders the respondent to be hospitalized under subparagraph 1. of this paragraph, the county attorney may motion the court at the conclusion of the final hearing to require that a hearing be held:

a. Prior to discharge of a respondent from the hospital. If the court grants this motion, the hospital shall be required to notify the court and the county attorney of the hospital's intent to discharge the respondent and the court shall conduct the hearing

at the earliest practicable time, consistent with due process and the availability of counsel, and in no event later than seven (7) days after the filing of the notice, except upon a finding of good cause for further delay; or

b. If the respondent within the past twelve (12) months has been found incompetent to stand trial in a criminal proceeding and has not been committed under KRS Chapter 202C in accordance with Section 9 of this Act.

3. Upon completion of the hearing described in subparagraph 2.a. of this paragraph, if the court finds that the respondent is an individual with a mental illness, who presents a danger or threat of danger to self, family, or others as a result of the mental illness, who may reasonably benefit from court-ordered outpatient treatment or release with other reasonable conditions, and for whom court-ordered outpatient treatment or release with other reasonable conditions is the least restrictive alternative mode of treatment available, the court shall order:

a. For a respondent who meets the criteria for court-ordered assisted outpatient treatment set forth in KRS 202A.0815:

i. That a treatment plan be developed in accordance with KRS 202A.0817 within forty-eight (48) hours; and

ii. The respondent to receive court-ordered assisted outpatient treatment under KRS 202A.0811 to 202A.0831;

b. For any other respondent who may benefit from outpatient treatment:

i. A qualified mental health professional to develop a treatment plan within forty-eight (48) hours;

ii. The respondent to receive community-based outpatient treatment that shall not exceed three hundred sixty (360) days; and

iii. The respondent to comply with any other reasonable conditions necessary to ensure compliance; or

c. The respondent to be released with any reasonable conditions necessary to ensure the safety of self, family, or others and avoid readmittance into a hospital setting;

(b) The respondent should not be involuntarily hospitalized but that the respondent is an individual with a mental illness, who presents a danger or threat of danger to self, family, or others as a result of the mental illness, who may reasonably benefit from court-ordered outpatient treatment or release with other reasonable conditions, and for whom court-ordered outpatient treatment or release with other reasonable conditions is the least restrictive alternative mode of treatment available, the court shall order:

1. For a respondent who meets the criteria for court-ordered assisted outpatient treatment set forth in KRS 202A.0815:

a. That a treatment plan be developed in accordance with KRS 202A.0817 within forty-eight (48) hours; and

b. The respondent to receive court-ordered assisted outpatient treatment under KRS 202A.0811 to 202A.0831;

2. For any other respondent who may benefit from outpatient treatment:

a. A qualified mental health professional to develop a treatment plan within forty-eight (48) hours;

b. The respondent to receive community-based outpatient treatment that shall not exceed three hundred sixty (360) days; and

c. The respondent to comply with any other reasonable conditions

necessary to ensure compliance; or

3. The respondent to be released with any reasonable conditions necessary to ensure the safety of self, family, or others and avoid readmittance into a hospital setting; or

(c) The respondent:

1. Should not be involuntary hospitalized; or

2. Is not an individual with a mental illness:

a. Who presents a danger or threat of danger to self, family, or others as a result of the mental illness;

b. Who may reasonably benefit from outpatient treatment or release with reasonable conditions; and

c. For whom outpatient treatment or release with reasonable conditions is the least restrictive mode of treatment available;

the proceedings against the respondent shall be dismissed, and the respondent shall be released from any hospitalization.

(12) (a) Failure to comply with any reasonable conditions under subsection (10) or (11) of this section shall not be grounds to find the person in contempt of court but shall be prima facie evidence that:

1. The person can benefit from inpatient hospitalization; and

2. Inpatient hospitalization is the least restrictive mode of treatment.

(b) If a new petition for involuntary hospitalization is filed within twelve (12) months due to failure to comply with any reasonable conditions under subsection (10) or (11) of this section, the court shall notify the qualified mental health professional who is conducting the examination of the person's prior conditions and failure to comply with those conditions.

(c) The qualified mental health professional who conducts the examination as described under paragraph (b) of this subsection, shall independently

evaluate the person, considering the person's prior noncompliance, and certify that he or she meets the criteria for involuntary hospitalization under Section 23 of this Act.

(d) A person shall not be involuntarily hospitalized based solely on his or her failure to comply with conditions.

(13) Any petition under this section shall expire after thirty (30) days if not served upon the respondent.

➔Section 5. KRS 202A.053 is amended to read as follows:

(1) ***(a) Except as provided in paragraph (b) of this subsection,*** a respondent who has been ordered involuntarily hospitalized following the preliminary hearing shall have venue for all subsequent proceedings, including the final hearing, transferred to the court of the county where the respondent is hospitalized.

(b) A court may order venue be transferred back to the county where the respondent resides if the court has ordered the respondent to receive outpatient treatment under Section 4 or 9 of this Act. The receiving county shall then assume venue and responsibility for the respondent's treatment plan and supervision, and shall make orders as the court sees fit.

(2) The court of the county where the preliminary hearing was held may, upon its own motion, or shall, upon motion of one (1) of the parties, retain venue over proceedings subsequent to the preliminary hearing.

(3) The court of the county where the county attorney has filed a motion for a certification review hearing under Section 2, 3, or 6 of this Act shall retain venue over the proceedings.

➔Section 6. KRS 202A.061 is amended to read as follows:

(1) Prior to completion of an examination by a qualified mental health professional under this section, the professional shall make a good-faith attempt to contact the petitioner to obtain any additional relevant information necessary to the petition.

(2) (a) Prior to the completion of an examination under this section, the county attorney may make an ex parte motion for a certification review hearing. The court shall review the ex parte motion upon its receipt.

(b) If the review indicates that the person presents an imminent threat of danger to self, family, or others, the court shall order the qualified mental health professionals to immediately notify the court if either of the professionals have certified that the person:

1. Is an individual with mental illness;

2. Presents a danger or threat of danger to self, family, or others as a result of the mental illness; and

3. Does not meet the other criteria for involuntary hospitalization under Section 23 of this Act.

(c) The court shall review the certification under paragraph (b) of this subsection and consider if the person has been the subject of proceedings under this chapter, prior to the current proceeding, and is exhibiting an escalation of dangerous behavior. After review, the court may:

1. Order the person to be hospitalized in a place designated by the cabinet until the certification review hearing is held within forty-eight (48) hours, excluding weekends and holidays;

2. Release the person and set the certification review hearing to be held within forty-eight (48) hours; or

3. Deny the county attorney's motion for a certification review.

(d) At the certification review hearing:

1. The qualified mental health professional that performed the examination shall testify about the certification under paragraph (b) of this subsection. This testimony may be given remotely; and

2. The person shall be appointed counsel who may present evidence and

cross examine witnesses on the person's behalf.

(e) Upon conclusion of the certification review hearing, if the court finds by clear and convincing evidence that the person is an individual with a mental illness, who presents a danger or threat of danger to self, family, or others as a result of the mental illness, who may reasonably benefit from court-ordered outpatient treatment or release with reasonable conditions, and for whom court-ordered outpatient treatment or release with reasonable conditions is the least restrictive alternative mode of treatment available, the court shall order the person to:

1. a. Receive community-based outpatient treatment that shall not exceed three hundred sixty (360) days; and

b. Comply with any other reasonable conditions necessary to ensure compliance; or

2. Be released with any reasonable conditions necessary to ensure the safety of self, family, or others.

(3) (a) Failure to comply with any reasonable conditions or an order for community-based outpatient treatment under subsection (2)(e) of this section shall not be grounds to find the person in contempt of court but shall be prima facie evidence that:

1. The person can benefit from inpatient hospitalization; and

2. Inpatient hospitalization is the least restrictive mode of treatment;

if the person is subject to subsequent proceedings under this chapter within twelve (12) months.

(b) If a new petition for involuntary hospitalization is filed within the twelve (12) month period due to failure to comply with any reasonable conditions or an order for community-based outpatient treatment under subsection (2)(e) of this section, the court shall notify the qualified mental health

professional who is conducting the examination of the person's:

1. Prior conditions or any order for community-based outpatient treatment; and

2. Failure to comply with those conditions or treatment.

(c) The qualified mental health professional who conducts the examination as described under paragraph (b) of this subsection, shall independently evaluate the person, considering the person's prior noncompliance, and certify that he or she meets the criteria for involuntary hospitalization under Section 23 of this Act.

(d) A person shall not be involuntarily hospitalized based solely on his or her failure to comply with conditions or an order for community-based outpatient treatment.

(4) (a) In any proceeding for involuntary hospitalization under the applicable provisions of this chapter, if the criteria for involuntary hospitalization are not certified by at least two (2) examining qualified mental health professionals, the court shall, without taking any further action, terminate the proceedings and order the release of the person.

(b) The qualified mental health professionals shall certify to the court within twenty-four (24) hours~~[(]~~, ~~[(]~~excluding weekends and holidays~~[)]~~~~[)]~~ of the examination, their findings and opinions as to whether the person shall be involuntarily hospitalized.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) If the court orders community-based outpatient mental health treatment under this chapter, the court shall:

(a) Appoint an outpatient provider agency recognized by the cabinet which shall assemble a multidisciplinary team; and

(b) Report every order for community-based outpatient treatment issued under this section to the Department for Behavioral Health, Developmental and Intellectual Disabilities.

(2) (a) The multidisciplinary team shall:

1. Regularly monitor the person's adherence to the conditions of the order and regularly report this information to the court, the county attorney, respondent's counsel, and any other party the court deems necessary; and

2. Consist of three (3) mental health professionals, including any of the following:

a. The respondent's doctor;

b. A nurse practitioner;

c. A prescriber;

d. A therapist;

e. A case manager;

f. A peer support specialist; or

g. Any other person deemed qualified by the court.

(b) Any interested party may report nonadherence to the conditions of the order to the court, the county attorney, respondent's counsel, and any other party the court deems necessary.

(3) Reports may be provided in written format, in person, or via electronic means, at the court's discretion.

(4) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A necessary to implement this section.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) A person's substantial failure to comply with a court order for community-based

outpatient treatment may constitute presumptive grounds for the court or an authorized staff physician to order a seventy-two (72) hour emergency admission.

(2) (a) Failure to comply with an order for community-based outpatient treatment shall not be grounds to find the person in contempt of court but shall be prima facie evidence that:

1. The person can benefit from inpatient hospitalization; and

2. Inpatient hospitalization is the least restrictive mode of treatment.

(b) If a new petition for involuntary hospitalization is filed within twelve (12) months due to failure to comply with any order for community-based outpatient treatment, the court shall notify the qualified mental health professional who is conducting the examination of the failure to comply.

(3) (a) Any person admitted to a hospital under subsection (1) of this section or transferred to a hospital while ordered hospitalized under subsection (1) of this section shall be transported from the person's home county by the sheriff of that county or other peace officer as ordered by the court.

(b) The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital.

(c) The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.

(4) (a) Any person released from the hospital under subsection (1) of this section shall be transported to the person's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the

treatment plan of that person.

(b) The transportation cost of transporting the patient to the patient's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) (a) Upon motion of the county attorney under subsection (11)(a)2.b. of Section 4 of this Act, no later than seventy-two (72) hours prior to the request for early release by a hospital of the period of involuntary hospitalization, the hospital shall provide a copy of the discharge plan to the court, the county attorney, and the respondent's counsel of record. The court, upon motion of the county attorney or the court's own motion, shall conduct a review hearing to determine if the discharge plan gives the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment.

(b) This hearing shall only be conducted for a respondent who within the past twelve (12) months has been found incompetent to stand trial in a criminal proceeding and has not been committed under KRS Chapter 202C.

(2) The court shall verify that discharge planning procedures were completed to give the respondent a realistic opportunity to avoid recurrence of substantial symptom burden that would necessitate psychiatric hospitalization. Those procedures shall include but not be limited to any of the following:

(a) Documenting the housing status of the respondent or that housing services were offered and the respondent declined;

(b) Scheduling an outpatient treatment appointment for no later than seven (7)

days after discharge;

(c) Providing or prescribing a thirty (30) day supply of medication;

(d) Documenting a transportation plan that may include securing a bus pass, taxi voucher, or an acknowledgment that the respondent will walk or the respondent's family will provide transportation;

(e) Developing and documenting a crisis plan with contact information for services that are available twenty-four (24) hours a day;

(f) Developing a transfer of care plan or attempting to develop a transfer of care plan with the respondent if the respondent has met with an outpatient provider or an appointment with the outpatient provider has been scheduled; or

(g) Contacting the respondent's family or other support systems, if the respondent consents.

(3) For respondents with decision-making capacity who refuse housing or other services under subsection (2) of this section, the discharge plan shall document:

(a) That housing and other services were offered and explained;

(b) The respondent's reasons for refusal;

(c) That the respondent understands the potential consequences of his or her choices;

(d) That risk reduction strategies were offered, including access to crisis contacts, mobile crisis services, drop-in services, and other safety-oriented resources; and

(e) That there is a plan for periodic outreach to offer services.

(4) If the court finds by clear and convincing evidence that the discharge plan does not give the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment, then the respondent shall not be discharged and the court shall order the hospital to submit within seventy-two

(72) hours a revised discharge plan that gives the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment.

(5) (a) If a respondent is not discharged under subsection (4) of this section, a review hearing shall be conducted by the court within seven (7) days of the hospital's submission of a revised discharge plan.

(b) A review 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, remotely from a hospital, or in another suitable place. The respondent shall be present in person or remotely for all review hearings, unless presence is waived by the respondent through counsel.

(c) 1. The Commonwealth shall present evidence regarding whether:

a. The respondent continues to meet the criteria for involuntary commitment under Section 23 of this Act; and

b. The discharge plan gives the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment.

2. The respondent shall be afforded an opportunity to present evidence and to cross-examine any witnesses.

(d) The Kentucky Rules of Evidence shall apply and proceedings shall be heard by a judge without a jury.

(e) The respondent's right to this hearing shall not be waived.

(f) 1. At the conclusion of a review hearing, the court shall make written findings of fact concerning whether:

a. The criteria for involuntary commitment under Section 23 of this

Act continue to be satisfied; and

b. The discharge plan gives the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment.

2. If the court finds, by clear and convincing evidence, that the criteria continue to be satisfied and that the discharge plan does not give the respondent a realistic opportunity to avoid imminent readmittance into an inpatient psychiatric hospital for treatment, the court shall enter an order authorizing the continued care and treatment of the respondent until the expiration of the order under subsection (11)(a) of Section 4 of this Act.

3. If the court does not make the finding required in subparagraph 2. of this paragraph, the court shall discharge the respondent to comply with the discharge plan unless the court finds that the respondent is an individual with a mental illness, who presents a danger or threat of danger to self, family, or others as a result of the mental illness, who may reasonably benefit from court-ordered outpatient treatment or release with other reasonable conditions, and for whom court-ordered outpatient treatment or release with other reasonable conditions is the least restrictive alternative mode of treatment available, in which case the court shall discharge the respondent and may order:

a. For a respondent who meets the criteria for court-ordered assisted outpatient treatment set forth in KRS 202A.0815:

i. That at a treatment plan be developed in accordance with KRS 202A.0817 within forty-eight (48) hours; and

ii. The respondent to receive court-ordered assisted outpatient treatment under KRS 202A.0811 to 202A.0831;

b. For any other respondent who may benefit from outpatient treatment:

i. A qualified mental health professional to develop a treatment plan within forty-eight (48) hours;

ii. The respondent to receive community-based outpatient treatment that shall not exceed three hundred sixty (360) days; and

iii. The respondent to comply with any other reasonable condition necessary to ensure compliance; or

c. The respondent to be released with any reasonable conditions necessary to ensure the safety of self, family, or others and avoid readmittance into a hospital setting.

(6) The Commonwealth, respondent, or hospital where the respondent is being hospitalized may make a motion for an additional review hearing if a material change in circumstances has occurred and the respondent no longer meets the criteria for involuntary hospitalization under Section 23 of this Act. If the court has probable cause to believe that a material change in circumstances has occurred, the court shall:

(a) Conduct a review hearing within fourteen (14) days of the filing of the motion for an additional review hearing; and

(b) Order the respondent to be evaluated as described under subsection (5)(b) of this section.

(7) (a) Any respondent being hospitalized under this section shall be transferred to an inpatient psychiatric hospital owned by the Commonwealth upon request of the hospital or psychiatric facility where the respondent is being held.

(b) An inpatient psychiatric hospital contracted with the cabinet shall not request transfer under paragraph (a) of this subsection.

➔Section 10. KRS 202A.0819 is amended to read as follows:

(1) At a hearing and at all stages of a proceeding for court-ordered assisted outpatient treatment, the respondent shall be:

(a) Represented by counsel;

(b) Accompanied by a peer support specialist or other person in a support relationship, if requested by the respondent; and

(c) Afforded an opportunity to present evidence, call witnesses on his or her behalf, and cross-examine adverse witnesses.

(2) If a respondent does not appear at the hearing, and appropriate attempts to elicit the respondent's appearance have failed, the court may conduct the hearing in the respondent's absence.

(3) A qualified mental health professional who recommends court-ordered assisted outpatient treatment for the respondent shall:

(a) Testify at the hearing, in person or via electronic means;

(b) State the facts and clinical determinations which support the allegation that the respondent meets the criteria stated in KRS 202A.0815; and

(c) Testify in support of the treatment plan provided pursuant to KRS 202A.0817, and for each category of proposed evidence-based treatment, he or she shall state the specific recommendation and the clinical basis for his or her belief that such treatment is essential to the maintenance of the respondent's health or safety.

(4) If after hearing all relevant evidence, the court does not find by clear and convincing evidence that the respondent meets the criteria stated in KRS 202A.0815, the court shall deny the petition and the proceedings against the respondent shall be dismissed.

(5) If after hearing all relevant evidence, the court finds by clear and convincing evidence that the respondent meets the criteria stated in KRS 202A.0815, the court

may order the respondent to receive assisted outpatient treatment for a period of time not to exceed three hundred sixty (360) days ***and to comply with any other reasonable conditions necessary to ensure compliance***. The court's order shall incorporate a treatment plan, which shall be limited in scope to the recommendations included in the treatment plan provided by the qualified mental health professional pursuant to KRS 202A.0817.

(6) The court shall report every order for assisted outpatient treatment issued under this section to the Department for Behavioral Health, Developmental and Intellectual Disabilities.

➔Section 11. KRS 202A.0823 is amended to read as follows:

(1) A person's substantial failure to comply with a court order for assisted outpatient treatment may constitute presumptive grounds for ***the court or*** an authorized staff physician to order a seventy-two (72) hour emergency admission~~[pursuant to KRS 202A.031]~~.

(2) (a) Upon the refusal of a person subject to a court order for assisted outpatient treatment to participate in any or all aspects of his or her treatment plan, the person's outpatient provider may establish a review committee that is made up of three (3) qualified mental health professionals to examine the appropriateness of the person's treatment plan. Within three (3) days of the refusal, the review committee shall meet the person and his or her counsel or other representative to discuss its recommendations.

(b) If the person still refuses to participate in any or all aspects of his or her treatment plan, the person's outpatient provider may petition the District Court for a de novo determination of the appropriateness of the proposed treatment.

(c) Within seven (7) days, the court shall conduct a hearing, consistent with the person's rights to due process of law, and shall utilize the following factors

in reaching its determination:

1. Whether the treatment is necessary to protect the person or others from harm;

2. Whether the person is incapable of giving informed consent to the proposed treatment;

3. Whether any less restrictive alternative treatment exists; and

4. Whether the proposed treatment carries any risk of permanent side effects.

(d) Upon completion of the hearing, the court shall enter an appropriate judgment.

(e) A judgment entered under paragraph (d) of this subsection may extend to treatment provided during a seventy-two (72) hour emergency admission.

(3) (a) Failure to comply with an order for assisted outpatient treatment shall not be grounds to find the person in contempt of court ***but shall be prima facie evidence that:***

1. The person can benefit from inpatient hospitalization; and

2. Inpatient hospitalization is the least restrictive mode of treatment.

(b) If a new petition for involuntary hospitalization is filed within twelve (12) months due to failure to comply with any order for assisted outpatient treatment, the court shall notify the qualified mental health professional who is conducting the examination of the person's:

1. Prior order for assisted outpatient treatment; and

2. Failure to comply with assisted outpatient treatment.

(c) The qualified mental health professional who conducts the examination as described under paragraph (b) of this subsection, shall independently evaluate the person, considering the person's prior noncompliance, and certify that he or she meets the criteria for involuntary hospitalization under

Section 23 of this Act.

(d) A person shall not be involuntarily hospitalized based solely on his or her failure to comply with an order for assisted outpatient treatment.

(4) (a) Any person admitted to a hospital under subsection (1) of this section or transferred to a hospital while ordered hospitalized under subsection (1) of this section shall be transported from the person's home county by the sheriff of that county or other peace officer as ordered by the court.

(b) The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital.

(c) The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.

(5) (a) Any person released from the hospital under subsection (1) of this section shall be transported to the person's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the treatment plan of that person.

(b) The transportation cost of transporting the patient to the patient's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.

➔Section 12. KRS 202A.091 is amended to read as follows:

(1) The court records of a respondent made in all proceedings pursuant to ***this*** ~~[KRS]~~

chapter ~~[202A]~~are hereby declared to be confidential and shall not be open to the general public for inspection except when such disclosure is provided in KRS 202A.016.

(2) Following the discharge of a respondent from a treatment facility or the issuance of a court order denying a petition for a commitment, a respondent may at any time move to have all court records pertaining to the proceedings expunged from the files of the court. The county attorney shall be given notice of ***the***~~[any such]~~ motion and shall have five (5) days in which to respond to ***the motion***~~[same]~~ or request a hearing ***on the motion***~~[thereon]~~.

(3) ***(a) Any petitioner under Section 4 of this Act who qualifies as a responsible party under KRS 311.631 may motion the court to participate in court proceedings and be informed by a hospital of the discharge plan prior to a respondent's release under this chapter, except for any confidential therapeutic communication or any other medical records.***

(b) The court may enter a written order allowing the petitioner to participate as described in paragraph (a) of this subsection, unless the court finds the petitioner's participation is not in the best interests of the respondent.

(4) Any person seeking information contained in the court files or the court records of proceedings involving persons under this chapter may file a written motion in the cause setting out why the information is needed. A District Judge may issue an order to disclose the information sought if he ***or she*** finds ***the***~~[such]~~ order is appropriate under the circumstances and if he ***or she*** finds it is in the best interest of the person or of the public to have ***the***~~[such]~~ information disclosed.

➔Section 13. KRS 202A.101 is amended to read as follows:

(1) The court which orders any person to the receiving hospital or psychiatric facility, under the provisions of this chapter~~[,]~~ shall ***immediately***~~[at once]~~ notify the receiving hospital or psychiatric facility that ***the***~~[such]~~ order has been made,

advising of the sex and condition of the person.

(2) After the facility has been ~~[so]~~notified, the court shall order the sheriff of the county or other peace officer to transport the patient within forty-eight (48) hours**,** ~~[(]~~excluding weekends and holidays**,**~~[)]~~ from the county in which the person is located to the hospital or psychiatric facility designated by the cabinet. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital.

(3) The transportation costs of transporting a person to a hospital or psychiatric facility, when performed by a peace officer, an ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with administrative regulation promulgated by the cabinet under the provisions of KRS Chapter 13A.

(4) In returning any patient to the county from which the patient is sent, the transportation cost of the sheriff or other peace officer, the ambulance service, or the other agency on contract with the cabinet transporting the patient shall be paid as provided in KRS 202A.028***(5)***~~[(4)]~~, when necessary.

(5) Whenever an individual is involuntarily hospitalized by a court order the patient shall be transported to the hospital designated by the cabinet and accompanied by the following documents:

(a) A copy of the petition for involuntary hospitalization, unless hospitalization takes place pursuant to KRS 202A.041 ***or Section 8 or 11 of this Act***;

(b) The certificate of qualified mental health professionals***, if any***; and

(c) The order of involuntary hospitalization.

(6) The hospital may refuse to receive any person who has been ordered to be involuntarily hospitalized by a court order if the papers presented with ***the***~~[such]~~ person at the hospital do not comply with the provisions of this chapter or if it does

not receive notification of the order of involuntary hospitalization as required by this chapter.

➔Section 14. KRS 202A.171 is amended to read as follows:

Except as provided otherwise in this chapter, an authorized staff physician of a hospital shall discharge an involuntary patient when he no longer meets the criteria for involuntary hospitalization.

➔Section 15. KRS 202C.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the ~~[Kentucky]~~Cabinet for Health and Family Services;

(2) "Commitment hearing" means the hearing under KRS 202C.040 to determine if a respondent meets the criteria for involuntary commitment under this chapter;

(3) "Danger" means substantial physical harm or threat of substantial physical harm upon self or others;

(4) "Evidentiary hearing" means the hearing under KRS 202C.030 to determine if the ***respondent is responsible for***~~[defendant committed]~~ the qualifying offense for which he or she was charged by a preponderance of the evidence;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for ~~[mentally ill persons or]~~individuals with an intellectual disability ***or mental illness*** who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the ***cabinet***~~[Kentucky Cabinet for Health and Family Services]~~ as equipped to provide full-time residential care and treatment for ~~[mentally ill persons or]~~individuals with an intellectual disability ***or mental illness***; or

(b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for ~~[mentally ill persons or]~~individuals with an intellectual disability ***or mental illness***;

(7) ***"Individual with a mental illness" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;***

(8) "Individual with an intellectual disability" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;

(9) ~~[(8)]~~ "Judge" means the judge who found the respondent incompetent to stand trial in the criminal proceeding from which the petition for involuntary commitment arose;

(10) ~~[(9)]~~ "Less restrictive alternative mode of treatment" means a treatment given outside of a forensic psychiatric facility which would provide a respondent with appropriate treatment or care consistent with accepted professional practice standards and protect the respondent's safety and the safety of others;~~[~~

~~(10) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;]~~

(11) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while

engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with ***individuals with a mental illness***~~[mentally ill persons]~~, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health and individuals with an intellectual disability;

(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health and individuals with an intellectual disability; or

(h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one (1) of the following requirements:

1. Provides documentation that he or she has completed a psychiatric residency program for physician assistants;
2. Has completed at least one thousand (1,000) hours of clinical experience under a supervising physician, as defined by KRS 311.840, who is a psychiatrist and is certified or eligible for certification by the American Board of Psychiatry and Neurology, Inc.;
3. Holds a master's degree from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor agencies, is practicing under a supervising physician as defined by KRS 311.840, and:

a. Has two (2) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or

b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least two (2) years; or

4. Holds a bachelor's degree, possesses a current physician assistant certificate issued by the board prior to July 15, 2002, is practicing under a supervising physician as defined by KRS 311.840, and:

a. Has three (3) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or

b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least three (3) years;

(12) "Qualifying offense" means a capital offense, a Class A felony, a Class B felony resulting in death or serious physical injury, or a violation of KRS 510.040 or 510.070;

(13) "Respondent" means a person who was a criminal defendant found incompetent to stand trial who is or was the subject of a petition for involuntary commitment filed under KRS Chapter 504;

(14) "Review hearing" means any hearing conducted to determine if a respondent continues to meet the criteria for involuntary commitment after the initial order for

involuntary commitment has been issued under this chapter; and

(15) "Secretary" means the secretary of the Cabinet for Health and Family Services.

➔Section 16. KRS 202C.020 is amended to read as follows:

(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) ***(a)*** Upon the filing of the petition, the court shall assign a guardian ad litem to represent the ~~[needs and]~~best interest of the respondent***, independent of the respondent's defense attorney***.

(b) The guardian ad litem shall***:***

1. Be a full and active participant in all proceedings other than the evidentiary hearing under KRS 202C.030***. At the evidentiary hearing, the guardian ad litem's role shall be limited to assisting the respondent with decision-making related to the hearing, including but not limited to whether to waive the hearing, whether to stipulate to the allegations, and whether to testify. The guardian ad litem shall not act as an attorney advocate at the evidentiary hearing;***~~[and shall]~~

2. Independently investigate, assess, and advocate for the ***respondent's***~~[defendant's]~~ best interest***;***~~[. The guardian ad litem is]~~

3. Not ***be*** a replacement for the ***respondent's*** defense attorney***; and***

4. Be paid an hourly rate not to exceed the maximum hourly rate

provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, to be paid by the Finance and Administration Cabinet.

(c) If the ***respondent***~~[defendant]~~ has retained or been appointed a defense attorney in the criminal case, that attorney may continue to represent the ***respondent***~~[defendant]~~ in proceedings under this chapter. If, at any time during the pendency of proceedings under this chapter, the ***respondent***~~[defendant]~~ is not represented by an attorney, the court shall appoint counsel for the ***respondent***~~[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.

(4) The Circuit Court in the county of the criminal prosecution shall retain jurisdiction over all proceedings under this chapter until the respondent is discharged.

➔Section 17. KRS 202C.030 is amended to read as follows:

(1) An adversarial evidentiary hearing on the record shall be held within ***forty-five (45)***~~[twenty (20)]~~ days, excluding weekends and holidays, of the filing of a petition pursuant to KRS 202C.020***, unless the court orders a later hearing for good cause shown***. Appropriate notice shall be served on all parties. The court shall order the Commonwealth to provide all available discovery to the respondent no later than seven (7) days, excluding weekends and holidays, before the hearing***, unless the court orders a later date for good cause shown***. ~~[No]~~Evidence ***that has not been disclosed through discovery shall not***~~[may]~~ be presented at the hearing~~[that has not been disclosed through discovery]~~.

(2) The respondent may stipulate to potential ***responsibility***~~[guilt]~~ and waive the hearing. A stipulation of potential ***responsibility shall not***~~[guilt cannot]~~ be used against the respondent in any future criminal prosecution or civil litigation.

(3) ***(a)*** The purpose of the evidentiary hearing shall be to determine whether sufficient evidence exists to support a finding that the respondent is ***responsible for***~~[guilty of]~~ the charged crime against him or her.

(b) The Commonwealth's attorney's office serving the county of criminal prosecution shall have the burden of proving the sufficiency of the evidence by a preponderance of the evidence.

(4) The evidentiary hearing shall be held before a judge without a jury. The rules of evidence shall apply. The respondent shall be permitted to present evidence and cross examine witnesses. The respondent may present evidence of affirmative defenses that could be raised at a criminal trial on the charged crime***, except for the defense of insanity***. The Commonwealth shall not have the burden of disproving an affirmative defense. The respondent must prove an affirmative defense by a preponderance of the evidence.

(5) (a) If the court determines that sufficient evidence has been presented to support a finding that the respondent is ***responsible for***~~[guilty of]~~ the charged crime against him or her, the court shall immediately schedule a commitment hearing under this chapter ***to be held*** within ***forty-five (45)***~~[twenty (20)]~~ days***, unless the court orders a later hearing for good cause shown***, excluding weekends and holidays.

(b) ***1.*** The court shall cause the respondent to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health professionals shall, ***no fewer than***~~[within]~~ seven (7) days, excluding weekends and holidays, prior to the hearing, certify to the court their

findings as to whether the respondent meets the criteria for involuntarily commitment under KRS 202C.050.

2. A copy of the findings submitted under subparagraph 1. of this paragraph shall be sent to the Commonwealth, the respondent's attorney of record, the respondent's guardian ad litem, and all other parties of record.

(6) If the court determines that insufficient evidence has been presented to support a finding that the respondent is ***responsible for***~~[guilty of]~~ the charged crime against him or her, the court shall order the immediate release of the respondent.

(7) ***Any***~~[No]~~ evidence or statement submitted by the respondent at the evidentiary hearing shall ***not*** be admissible in any criminal prosecution or civil litigation.

➔Section 18. KRS 202C.040 is amended to read as follows:

(1) A commitment hearing shall be held within ***forty-five (45)***~~[twenty (20)]~~ days***,*** ***unless the court orders a later hearing for good cause shown***, 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 ***responsible for***~~[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) ***(a)*** 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.

(b) The respondent ~~[and the respondent's guardian ad litem]~~shall be afforded an

opportunity to testify, ***and the respondent's counsel shall conduct the hearing on the respondent's behalf*** to present evidence~~[,]~~ and to cross-examine any witnesses.

(c) The respondent's guardian ad litem shall participate in the proceeding in a best-interest, friend-of-the-court capacity and may submit independent recommendations to the court or jury, if a jury has been requested, regarding the respondent's best interest.

(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.

➔Section 19. KRS 202C.050 is amended to read as follows:

(1) ***A***~~[No]~~ respondent shall ***not*** be involuntarily committed under this chapter unless there is a determination that:

(a) The respondent presents***, or would present if released,*** a danger to self or others as a result of his or her mental condition; ***and***

(b) ~~[The respondent needs care, training, or treatment in order to mitigate or prevent substantial physical harm to self or others;~~

~~(c) The respondent has a demonstrated history or recent manifestation of criminal behavior that has endangered or caused injury to others or has a substantial history of involuntary hospitalizations under KRS Chapter 202A or 202B prior to the commission of the charged crime; or~~

~~(d)]~~A ***presently available*** less restrictive alternative mode of treatment would endanger the safety of the respondent or others.

(2) When a respondent is involuntarily committed under this chapter, the cabinet shall place that respondent in a forensic psychiatric facility designated by the secretary.

➔Section 20. KRS 202C.060 is amended to read as follows:

(1) (a) A review hearing to determine if a respondent involuntarily committed under this chapter should remain in a forensic psychiatric facility shall be conducted by the court that issued the initial order ***in accordance with***~~[according to the provisions of]~~ subsection (2) of this section; and

(b) If at any point during the respondent's placement at a forensic psychiatric facility it appears that the respondent no longer meets the criteria for involuntary commitment under KRS 202C.050 because there has been a material change in circumstances or there is new evidence to present, the respondent or the respondent's guardian ad litem may request a review hearing pursuant to this section.

(2) The schedule for review hearings shall be as follows:

(a) From the initial order of commitment, a ~~[standard]~~review hearing shall be conducted ***no earlier***~~[not sooner]~~ than ninety (90) days and ***no***~~[not]~~ later than one hundred twenty (120) days; ***and***

(b) ***After the review hearing under paragraph (a) of this subsection, review hearings shall be conducted not less than once every two (2) years unless a review hearing has been requested under subsection (1)(b) of this section***~~[For the first two (2) years after the initial order of commitment, standard review hearings shall be conducted not less than one hundred eighty (180) days and not more than two hundred ten (210) days from the most recent review;~~

~~(c) Beginning two (2) years after the initial order of commitment, a standard review hearing shall be conducted not more than three hundred sixty-five (365) days from the most recent review hearing; and~~

~~(d) A heightened review hearing shall be conducted not more than five (5) years from the initial order of commitment and, thereafter, not more than five (5)~~

~~years from the most recent heightened review hearing~~].

(3) ***(a)*** Prior to each [~~standard~~]review hearing, the court shall cause the respondent to be examined without unnecessary delay by two (2) qualified mental health professionals, at least one (1) of whom is a physician. The qualified mental health professionals shall, ***no fewer than***[~~within~~] seven (7) days prior to the hearing, excluding weekends and holidays, certify to the court their findings as to whether the respondent meets the criteria for involuntarily commitment under KRS 202C.050.

(b) 1. In addition to the examinations required under paragraph (a) of this subsection, the respondent shall undergo evaluations of competency at least once every two (2) years to be conducted at a forensic psychiatric facility.

2. Upon a finding by the forensic psychiatric facility that the respondent's competency has been restored, the forensic psychiatric facility shall provide written notice of restoration to the court, the Commonwealth, the respondent's attorney of record, the respondent's guardian ad litem, and all other parties of record within ten (10) days of the determination of restoration.

3. Upon receipt of the notice of restoration of the respondent's competency, a status conference shall be held within thirty (30) days, unless the court orders a later hearing for good cause shown.

(4) A [~~standard~~]review 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, [~~or~~]remotely from a forensic psychiatric facility, or ***in another***[~~other~~] suitable place. The respondent shall be present in person or remotely for all review hearings, unless presence is waived by the respondent through

counsel.

(5) ***(a)*** The Commonwealth's attorney's office serving the county of criminal prosecution which led to finding that the respondent was incompetent to stand trial shall present evidence regarding whether the respondent~~[remains incompetent to stand trial and]~~ continues to meet the criteria for involuntary commitment under KRS 202C.050.

(b) The respondent***, through counsel,*** ~~[and the respondent's guardian ad litem]~~shall be afforded an opportunity to present evidence, and to cross-examine any witnesses.

(c) The respondent's guardian ad litem shall be permitted to participate in the review hearing in a best-interest, friend-of-the-court capacity and may submit independent recommendations to the court regarding the respondent's best interest.

(6) 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 a judge without a jury~~[, except that a respondent shall be entitled to a jury upon request if the respondent has not had a review hearing with a jury during the preceding twelve (12) months]~~.

(7) The respondent's right to this hearing shall not be waived.

(8) At the conclusion of a ~~[standard]~~review hearing, the court shall make written findings of fact concerning whether the criteria for involuntary commitment under KRS 202C.050 continue to be satisfied based upon proof beyond a reasonable doubt. If the court finds that the criteria continue to be satisfied, the court shall enter an order authorizing the continued care and treatment of the respondent at the forensic psychiatric facility. Otherwise, the court shall enter an order requiring the respondent to be discharged.~~[~~

~~(9) During a heightened review hearing, the procedures of a standard review hearing~~

~~shall apply. Additionally, the qualified mental health professionals who evaluated the respondent in preparation for the hearing shall be required to give live testimony and answer questions before the court. The respondent shall be physically present in the courtroom for the hearing. If the respondent is unable to attend for any reason, the hearing shall be rescheduled to a time, place, and manner in which the respondent is able to attend.~~]

➔Section 21. KRS 202C.130 is amended to read as follows:

(1) Forensic psychiatric facilities ordered to receive an involuntarily committed respondent shall have standing to petition the Circuit Court for any necessary clarification or modification of orders or judgments entered in proceedings under this chapter and to appeal from final judgments or orders entered in proceedings which have not complied with the provisions of this chapter.

(2) A copy ***of any motions filed under subsection (1) of this section*** shall be sent to the involuntarily committed respondent, the respondent's guardian ad litem, [~~and~~]the respondent's attorney of record, ***the Commonwealth, and all other parties of record***[~~ of whatever pleadings are filed by the hospital~~].

➔Section 22. KRS 202A.014 is amended to read as follows:

All proceedings for the involuntary hospitalization of ***individuals with a mental illness***[~~mentally ill persons~~] shall be initiated in the District Court of the county where the person to be hospitalized resides or in which he may be at the time of the filing of a petition.

➔Section 23. KRS 202A.026 is amended to read as follows:

A[~~No~~] person shall ***not*** be involuntarily hospitalized unless ***the***[~~such~~] person is ***an individual with a mental illness***[~~a mentally ill person~~]:

(1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness;

(2) Who can reasonably benefit from treatment; and

(3) For whom hospitalization is the least restrictive alternative mode of treatment presently available.

➔Section 24. KRS 202A.231 is amended to read as follows:

(1) Upon receipt of a certificate of the United States Public Health Service or ~~[such]~~other agency of the United States government that facilities are available for the care or treatment of any person ~~[heretofore]~~hospitalized in any mental hospital or other institution in this state for the care of ***individuals with a mental illness*** ~~[mentally ill persons]~~ and that such person is eligible for such care or treatment, the secretary, upon recommendation by any such hospital or institution in this state, is ~~[hereby]~~authorized to cause the transfer of any such person to the United States Public Health Service or other agency of the United States government for care or treatment. Upon effecting any such transfer, the hospitalizing court shall be notified ~~[thereof]~~by the secretary.

(2) Any person transferred as provided in this section shall be deemed to be placed in the custody of the United States Public Health Service or other agency of the United States government pursuant to the original hospitalization the same as if he ***or she*** had been originally so hospitalized.

(3) ***A*** ~~[No]~~ person shall ***not*** be transferred to any agency of the United States if he ***or she*** be confined pursuant to conviction of any felony or misdemeanor or if he ***or she*** has been acquitted of the charge solely on the ground of mental illness unless prior to transfer the court issuing the confining order shall enter an order to transfer after the motion and hearing. Any person transferred as provided in this section to any agency of the United States shall be hospitalized by such agency pursuant to the original order of hospitalization.

➔Section 25. KRS 202A.261 is amended to read as follows:

No public or private hospital, other than a state-operated or contracted mental hospital or institution, shall be required to provide services under KRS 202A.008, 202A.011,

202A.028, 202A.041, 202A.051, 202A.071, ~~[202A.081,]~~202A.0811 to 202A.0831, 202A.101, 202A.141, 202A.241, 202A.251, 202A.261, 202A.271, 202B.170, 202B.200, 387.540, 504.085, 600.020, 645.020, 645.120, and 645.280 unless the hospital agrees to provide the services. Any hospital shall make every reasonable attempt to cooperate with the implementation of KRS 202A.008, 202A.011, 202A.028, 202A.041, 202A.051, 202A.071, ~~[202A.081,]~~202A.101, 202A.141, 202A.241, 202A.251, 202A.261, 202A.271, 202B.170, 202B.200, 387.540, 504.085, 600.020, 645.020, 645.120, and 645.280.

➔Section 26. KRS 202A.271 is amended to read as follows:

Each public or private hospital, other than a state-operated or contracted mental hospital or institution, which provides services under KRS 202A.008, 202A.011, 202A.028, 202A.041, 202A.051, 202A.071, ~~[202A.081,]~~202A.0811 to 202A.0831, 202A.101, 202A.141, 202A.241, 202A.251, 202A.261, 202A.271, 202B.170, 202B.200, 387.540, 504.085, 600.020, 645.020, 645.120, and 645.280 shall be paid for the services at the same rates the hospital negotiates with the Department for Behavioral Health, Developmental and Intellectual Disabilities or the regional community program for mental health and for individuals with an intellectual disability.

➔Section 27. KRS 387.540 is amended to read as follows:

(1) (a) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report may be filed as a single and joint report of the interdisciplinary evaluation team, or it may otherwise be constituted by the separate reports filed by each individual of the team.

(b) If the court and all parties to the proceeding and their attorneys agree to the admissibility of the report or reports, the report or reports shall be admitted into evidence and shall be considered by the court or the jury if one is

impaneled.

(c) The report shall be compiled by at least three (3) individuals, including:

1. A physician, an advanced practice registered nurse, or a physician assistant;

2. A psychologist licensed or certified under the provisions of KRS Chapter 319; and

3. A person licensed or certified as a social worker or an employee of the Cabinet for Health and Family Services who has at least one (1) year of investigative experience and has completed training in conducting decisional capacity assessments. The social worker shall, when possible, be chosen from among employees of the Cabinet for Health and Family Services residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.011~~[(13)]~~. If the respondent is alleged to be partially disabled or disabled due to an intellectual disability, at least one (1) person participating in the compilation of the evaluation report shall be a qualified professional in the area of intellectual disabilities as defined in KRS 202B.010(12).

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations

may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) An opinion whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community center for mental health or individuals with an intellectual disability, a licensed facility for mentally ill or

developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employee of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6) of this section, the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least ten (10) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employee of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employee of a community center for mental health or individuals with an intellectual disability or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence shall be admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for the evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

➔Section 28. KRS 625.090 is amended to read as follows:

(1) The Circuit Court may involuntarily terminate all parental rights of a parent of a named child, if the Circuit Court finds from the record by clear and convincing evidence that:

(a) 1. The child has been adjudged to be an abused or neglected child, as defined in KRS 600.020~~[(1)]~~, by a court of competent jurisdiction;

2. The child is found to be an abused or neglected child, as defined in KRS 600.020~~[(1)]~~, by the Circuit Court in this proceeding;

3. The child is found to have been diagnosed with neonatal abstinence syndrome at the time of birth, unless his or her birth mother:

a. Was prescribed and properly using medication for a legitimate medical condition as directed by a health care practitioner that may have led to the neonatal abstinence syndrome;

b. Is currently, or within ninety (90) days after the birth, enrolled in and maintaining substantial compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care or postnatal care as recommended by her health care practitioner throughout the remaining term of her pregnancy or the appropriate time after her pregnancy; or

c. In the absence of a prescription for the treatment of a legitimate medical condition, agrees, prior to discharge from the hospital, to participate in a court-ordered assessment by a drug treatment provider and the assigning of a certified peer support specialist for referral to appropriate treatment, and agrees to participate in treatment which shall commence within ninety (90) days after the birth; or

4. The parent has been convicted of a criminal charge relating to the

physical or sexual abuse or neglect of any child and that physical or sexual abuse, neglect, or emotional injury to the child named in the present termination action is likely to occur if the parental rights are not terminated;

(b) 1. The Cabinet for Health and Family Services has filed a petition with the court pursuant to KRS 620.180 or 625.050; or

2. A child-placing agency licensed by the cabinet, any county or Commonwealth's attorney, or a parent has filed a petition with the court under KRS 625.050; and

(c) Termination would be in the best interest of the child.

(2) ***A***~~[No]~~ termination of parental rights shall ***not*** be ordered unless the Circuit Court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

(a) That the parent has abandoned the child for a period of not less than ninety (90) days;

(b) That the parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent has been convicted of a felony that involved the infliction of serious physical injury to any child;

(e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(f) That the parent has caused or allowed the child to be sexually abused or exploited;

(g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child;

(h) That:

1. The parent's parental rights to another child have been involuntarily terminated;

2. The child named in the present termination action was born subsequent to or during the pendency of the previous termination; and

3. The conditions or factors which were the basis for the previous termination finding have not been corrected;

(i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect;

(j) That the child has been in foster care under the responsibility of the cabinet for fifteen (15) cumulative months out of forty-eight (48) months preceding the filing of the petition to terminate parental rights; or

(k) That the child has been removed from the biological or legal parents more than two (2) times in a twenty-four (24) month period by the cabinet or a court.

(3) In determining the best interest of the child and the existence of a ground for termination, the Circuit Court shall consider the following factors:

(a) Mental illness as defined by KRS 202A.011~~[(9)]~~, or an intellectual disability

as defined by KRS 202B.010(9) of the parent as certified by a qualified mental health professional, or a disability as defined in KRS 199.011, if the mental illness, intellectual disability, or disability renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect as defined in KRS 600.020~~[(1)]~~ toward any child in the family;

(c) If the child has been placed with the cabinet, whether the cabinet has, prior to the filing of the petition:

1. Made reasonable efforts as defined in KRS 620.020 to reunite the child with the parents unless one or more of the circumstances enumerated in KRS 610.127 for not requiring reasonable efforts have been substantiated in a written finding by the District Court; or

2. Provided a parent with a disability as defined in KRS 199.011 with targeted adaptive and supportive services based on an individual assessment of the parent, or has received a written acknowledgement from the parent knowingly and affirmatively rejecting the offered services;

(d) The efforts and adjustments the parent has made in his or her circumstances, conduct, or conditions to make it in the child's best interest to return the child to his or her home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

(4) If the child has been placed with the cabinet, the parent may present testimony

concerning the reunification, adaptive or supportive services offered by the cabinet, and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent.

(5) If the parent proves by a preponderance of the evidence that the child will not continue to be an abused or neglected child as defined in KRS 600.020~~[(1)]~~ if returned to the parent, or if the parent proves by a preponderance of the evidence that appropriate and specifically targeted adaptive or supportive services based upon an individual assessment of the parent have not been offered or provided to the parent, the court in its discretion may determine not to terminate parental rights.

(6) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision as to each parent-respondent within thirty (30) days either:

(a) Terminating the right of the parent; or

(b) Dismissing the petition and stating whether the child shall be returned to the parent or shall remain in the custody of the state.

➔Section 29. The following KRS section is repealed:

202A.081 Court-ordered community-based outpatient treatment.

➔Section 30. This Act takes effect October 1, 2026.