

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:120. Admission; searches and release.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes admission, search, and release procedures for restricted custody centers.

Section 1. Policy and Procedure. Each center shall develop written admission, orientation, and release procedures to be included in the center's policy and procedure manual.

Section 2. Admission.

(1) Jail personnel shall ensure that each prisoner is transferred under proper legal authority by a duly authorized officer.

(2) Prisoner records shall be delivered to the center when the prisoner is admitted. The admitting jail personnel shall make certain that all required forms are complete and that information is current.

Section 3. Searches.

(1) Jail personnel shall conduct a search of each prisoner and his possessions upon admission.

(a) Each prisoner shall be searched for contraband in a manner jail personnel reasonably determine is necessary to protect the safety of fellow prisoners, jail personnel, and facility security. The search shall be conducted in a private area and in a manner which protects the prisoner's dignity to the extent possible in that particular center.

(b) A prisoner may be strip searched only on reasonable suspicion that is based upon the existence of objective information that may predict the likelihood of the presence of a weapon, drugs, or other item of contraband concealed on a particular prisoner. Reasonable suspicion may be based upon one (1) or more of the following examples:

1. A current felony offense, fugitive status, or past felony conviction involving violence or drug charges;
2. Institutional behavior, reliable information, or history that indicates possession or manufacturing of a dangerous contraband, the refusal to submit to a clothed pat down search, or a clothed pat down search reveals the possession of a dangerous contraband;
3. Contact with the public by a contact visit, court appearance that takes place in an area to which the public may have access, or after transport from or through an area to which the public may have access; or
4. The court has ordered commitment to custody after arraignment, conviction, sentencing, or other court appearance and the prisoner was not in custody prior to the court appearance.

(c) The jailer shall require that a strip search or body cavity search be documented in writing. Documentation shall include:

1. Basis for reasonable suspicion to conduct a search;
2. Date and time of search;

3. Name of prisoner;
 4. Name of person conducting search;
 5. Type of search; and
 6. Result of search.
- (d) A strip search shall be conducted by jail personnel of the same sex as the prisoner, and in a private area.
- (e) Probing of body cavities shall:
1. Not be done unless there is reasonable suspicion to believe that the prisoner is carrying contraband in a body cavity; and
 2. Be conducted in a private location, under sanitary conditions, by a licensed medical professional, acting within his statutory scope of practice.
- (2) Each center shall develop written policies and procedures specifying the personal property that a prisoner may retain in his possession.
- (a) Cash or personal property taken from a prisoner upon admission shall be listed by complete description on a receipt form, and securely stored pending the prisoner's release. The receipt shall be signed by the receiving jail personnel and the prisoner.
- (b) Personal property released to a third party shall have the prisoner's signature of approval and the signature receipt of the third party.

Section 4. Orientation.

- (1) The prisoner shall sign to indicate if he has received an oral and a written copy of the prisoner orientation information. This document shall be placed in the prisoner's file. Special assistance shall be given to any illiterate or non-English speaking prisoner.
- (2) The orientation shall provide the prisoner with information regarding his confinement, including the following:
 - (a) Information pertaining to rising and retiring, meals, mail procedures, work assignments, telephone privileges, visitation, correspondence, commissary, medical care, and other matters related to the conditions of the prisoner's confinement;
 - (b) Rules of prisoner conduct established pursuant to 501 KAR 7:060, Section 1(3);
 - (c) Disciplinary procedures;
 - (d) Information regarding work, educational and vocational training, counseling, and other social service programs; and
 - (e) Procedures for making a request or registering a complaint with the center's jail personnel or department personnel. Prisoners shall follow the grievance procedure and attach a copy of the grievance forms if requesting a review by the department.

Section 5. Release.

- (1) Written legal authorization shall be required prior to the release or removal of a prisoner from confinement.
- (2) When any prisoner is released or removed for any legal purpose to the custody of another, the identity of the receiving authority shall be verified.
- (3) A written record shall be kept of the time, purpose, date, and authority for release or removal from confinement, and into whose custody the prisoner is released or removed.
- (4) Prior to the release or removal of a prisoner, the receiving authority shall sign an authorized release form.
- (5) Before jail personnel releases a prisoner to an out-of-state jurisdiction, jail personnel shall consult with the appropriate prosecutorial office in the county.
- (6) Property, not legally confiscated or retained, receipted from the prisoner upon admission shall be returned to the prisoner when the prisoner is released.
- (7) Each prisoner shall sign a receipt for property returned at the time of release.
- (8) A complaint regarding property returned shall be submitted in writing with specific details within twenty-four (24) hours from the time of release.

Section 6. Transfer.

(1) The jailer shall develop policy and procedure to determine the conditions under which a prisoner becomes ineligible to remain at the restricted custody center and shall be transferred to the secure jail.

(2) A prisoner transferred to the secure jail shall be accompanied by:

(a) An incident report specifying the reasons for the transfer;

(b) The prisoner's record; and

(c) The prisoner's personal property.

(13 Ky.R. 827; eff. 11-11-1986; Am. 19 Ky.R. 1880; eff. 6-7-1993; 26 Ky.R. 182; 27 Ky.R. 92; eff. 7-17-2000; 31 Ky.R. 1576; 1808; eff. 5-26-2005; 37 Ky.R. 2987; 38 Ky.R. 590; eff. 10-7-2011; 48 Ky.R. 958; eff. 3-1-2022.)

The Jail Standards Review Commission established pursuant to KRS 441.055(1)(b) has approved the standards in this administrative regulation at its meeting on July 13, 2021 prior to its filing with the Legislative Research Commission in compliance with KRS 13A.120(3), 13A.220(6)(a), and 441.055(2).

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: July 23, 2021

FILED WITH LRC: August 3, 2021 at 12:15 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation will be held on October 21, 2021, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Any person who wishes to be heard at this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If a notice of intent to attend the hearing is not received by that date, the hearing may be cancelled. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2021. Send written notice of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegContact@ky.gov.