

JUSTICE AND PUBLIC SAFETY CABINET

Department of Juvenile Justice

(Amended After Comments)

505 KAR 1:250. Drug screening and testing.

RELATES TO: KRS 15A.065, 15A.0652, ~~15A.067,~~ 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, ~~15A.067,~~ 15A.160, ~~15A.210,~~ 200.115, 605.150, 635.095, 635.100(7), 635.500, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, ~~15A.067,~~ 15A.160, ~~15A.210,~~ 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes procedures for the drug screening and testing of juveniles in the custody of the department.

Section 1.

(1) Juveniles are subject to drug screening and testing at any time and shall be provided with documentation regarding the drug screening and testing process and the consequences of a positive drug test during intake and orientation. The consequences of a positive drug screen or test may include:

- (a) Progressive discipline;
- (b) Movement to a more restrictive level of care;
- (c) Revocation of probation or supervised placement;
- (d) Criminal charges filed by a law enforcement agency; or
- (e) Sanctions by the court.

(2) A juvenile shall be informed, in writing, that failure or refusal to cooperate by providing a specimen, within two (2) hours of a request, is a major rule violation and may result in discipline. A juvenile may be kept on one-to-one supervision until the juvenile provides~~they provide~~ a specimen.

(3) Confidentiality. Facility staff and the laboratory involved in any aspect of the drug screening or testing program shall maintain strict standards of confidentiality, as required by law.

(4) If the juvenile admits to any drug usage prior to the drug screen, the juvenile shall be asked to sign a statement acknowledging the use and drug used and that the screen may be positive. Prior to providing a written statement, the juvenile shall be informed that the written statement may be used in legal proceedings. This written statement shall not be coerced and shall be provided by the juvenile voluntarily. The specimen shall still be collected.

(5) Positive Screen Result. If the drug screen is positive, the juvenile shall be asked to sign a statement acknowledging that he or she has been using drugs and that the results of the drug screen are accurate. Prior to providing a written statement, the juvenile shall be informed that the written statement may be used in legal proceedings. This written statement shall not be coerced and shall be provided by the juvenile voluntarily.

(a) A confirmation test by a laboratory shall be conducted after a positive drug screen.

(b) Confirmation Test Results. Facility staff shall notify the juvenile of the confirmation test results within twenty-four (24) hours of receipt. A juvenile on furlough shall be notified of the results within one (1) business day. Except for positive screens or tests upon initial intake at a detention center, a penalty slip or disciplinary

review notice shall be issued and the disciplinary review process in 505 KAR 1:~~400-XXX~~ shall be followed.

(c) A juvenile testing positive for drugs shall be subject to progressive discipline.
(50 Ky.R. 241, 1087; eff. 3-5-2024.)

VICKI REED, Commissioner

APPROVED BY AGENCY: October 12, 2023

FILED WITH LRC: October 12, 2023 at 3:15 p.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes procedures for the drug screening and testing of juveniles in the custody of the department.

(b) The necessity of this administrative regulation:

This administrative regulation meets statutory authorization or requirements in KRS 15A.065(1), 15A.0652, 15A.160, 605.150, 635.095, and 640.120 for administrative regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

The regulation provides direction and information to department staff and juveniles concerning the drug screening and testing of juveniles.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation:

Not applicable

(c) How the amendment conforms to the content of the authorizing statutes:

Not applicable

(d) How the amendment will assist in the effective administration of the statutes:

Not applicable

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This affects approximately 632 DJJ employees, 348 juveniles and their families.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The facilities will need to follow the procedures for drug screening and testing of juveniles.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The administrative regulation will assist in the effective and orderly management of the department and its facilities.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

(b) On a continuing basis:

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

DJJ budgeted funds for the biennium.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

An increase in funding is not anticipated.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does establish any fee.

(9) TIERING: Is tiering applied?

No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

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(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 15A.065, 15A.0652, 15A.160, 200.080-200.120, 605.150, 635.095, 640.120, 645.250, Chapters 600-645

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will not create any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will not create any revenue.

(c) How much will it cost to administer this program for the first year?

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

(d) How much will it cost to administer this program for subsequent years?

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This administrative regulation is not anticipated to generate any cost savings.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This administrative regulation is not anticipated to generate any cost savings.

(c) How much will it cost the regulated entities for the first year?

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

(d) How much will it cost the regulated entities for subsequent years?

An exact cost of compliance is unknown, but it is not anticipated that this administrative regulation will increase current costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] A major economic impact to the agency is not anticipated.