

**610.265 Detention of children in specified facilities -- Time frame for holding detention hearing -- Release of child required if hearing not held as specified.**

- (1) Any child who is alleged to be a status offender or who is accused of being in contempt of court on an underlying finding that the child is a status offender may be detained in a nonsecure facility, a secure juvenile detention facility, or a juvenile holding facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of committing a public offense or of being in contempt of court on an underlying public offense may be detained in a secure juvenile detention facility or juvenile holding facility for a period of time not to exceed forty-eight (48) hours, exclusive of weekends and holidays or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing.
- (2) Within the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a detention hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.
- (3) If the court orders a child detained, that detention shall be served as follows:
  - (a) If the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance.
  - (b) Except as provided in KRS 630.080(2), if it is alleged that the child is a status offender, the child may be detained in a secure juvenile detention facility for a period not to exceed twenty-four (24) hours after which detention shall occur in a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance subject to the court's review of the detention order prior to the next court appearance.
  - (c) If a status offender or a child alleged to be a status offender is charged with violating a valid court order, the child may be detained in a secure juvenile detention facility, a juvenile holding facility, or in a nonsecure setting approved by the Department of Juvenile Justice, for a period not to exceed forty-eight (48) hours, exclusive of weekends and holidays, pending the child's next court appearance.
  - (d) Prior to ordering a status offender or alleged status offender who is subject to a valid court order securely detained because the child violated the valid court order, the court shall:
    1. Affirm that the requirements for a valid court order were met at the time the original order was issued;
    2. Make a determination during the adjudicatory hearing that the child violated the valid court order; and

3. Within forty-eight (48) hours after the adjudicatory hearing on the violation of a valid court order by the child, exclusive of weekends and holidays, receive and review a written report prepared by an appropriate public agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a prior written report is included in the child's file, that report shall not be used to satisfy this requirement. The child may be securely detained for a period not to exceed forty-eight (48) hours, exclusive of weekends and holidays, pending receipt and review of the report by the court. The hearing shall be conducted in accordance with the provisions of KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure or nonsecure detention of a status offender.
  - (e) If the child is charged with a public offense, or contempt of court on an underlying public offense, and the county in which the case is before the court is not served by a state operated secure detention facility under the statewide detention plan, detention may occur in a secure juvenile detention facility, juvenile holding facility, or a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance, subject to the court's review of the detention order prior to that court appearance.
  - (f) If the child is charged with a public offense, or contempt on a public offense, and the county in which the case is before the court is served by a state operated secure detention facility under the statewide detention plan, the child shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance.
- (4) If, at the hearing conducted under subsection (2) of this section, the court conducts an adjudicatory hearing on the merits of a violation of a valid court order, that hearing shall conform to the requirements of KRS 630.080.
- (5) If the detention hearing is not held as provided in subsection (1) of this section, the child shall be released as provided in KRS 610.290.
- (6) If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult, and the Department of Juvenile Justice or the cabinet, as appropriate.

**Effective:** July 15, 2008

**History:** Amended 2008 Ky. Acts ch. 87, sec. 5, effective July 15, 2008. -- Amended 2004 Ky. Acts ch. 160, sec. 3, effective April 21, 2004. -- Amended 2000 Ky. Acts ch. 193, sec. 5, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 606, sec. 4, effective July 15, 1998. -- Created 1988 Ky. Acts ch. 350, sec. 32, effective April 10, 1988.

**Legislative Research Commission Note (7/15/2008).** 2008 Ky. Acts ch. 87, sec. 5 amended KRS 610.265. This amendment inserted the following phrase at the

beginning of subsection (4) of this section: "If, at the hearing conducted under subsection (3) paragraph (c) of this section, ...". It appears that this reference is not correct. Subsection (3)(c) of this section does not mention hearings. It appears that the reference should have been to subsection (2) of KRS 610.265, which does deal with hearings. The Reviser of Statutes has made this change under the authority of KRS 7.136(1)(e).