

504.110 Alternative handling of defendant depending on whether he or she is competent or incompetent to stand trial -- Commitment proceeding.

- (1) If the court finds the defendant incompetent to stand trial but there is a substantial probability the defendant will attain competency in the foreseeable future, it shall commit the defendant to a treatment facility or a forensic psychiatric facility and order the defendant to submit to treatment for sixty (60) days or until the psychologist or psychiatrist treating him or her finds the defendant competent to stand trial, whichever occurs first, except that if the defendant is charged with a felony, he or she shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for Health and Family Services or the secretary's designee determines that the defendant shall be treated in another Cabinet for Health and Family Services facility. Within ten (10) days of that time, the court shall hold another hearing to determine whether or not the defendant is competent to stand trial.
- (2) If the court finds the defendant incompetent to stand trial and there is no substantial probability he or she will attain competency in the foreseeable future:
 - (a) 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 criminal prosecution, to initiate an involuntary commitment proceeding under KRS 202C.010, 202C.020, 202C.030, 202C.040, and 202C.050 if the defendant is charged with 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; or
 - (b) The court shall conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B if the defendant is charged with an offense not listed in paragraph (a) of this subsection.
- (3) A defendant who is the subject of an involuntary commitment proceeding under KRS 202C.010, 202C.020, 202C.030, 202C.040, and 202C.050 shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for Health and Family Services or the secretary's designee determines that the defendant shall be treated in another Cabinet for Health and Family Services facility, during the pendency of the proceeding.
- (4) If the court finds the defendant competent to stand trial, the court shall continue the proceedings against the defendant.

Effective: April 1, 2021

History: Amended 2021 Ky. Acts ch. 175, sec. 5, effective April 1, 2021. -- Amended 2005 Ky. Acts ch. 99, sec. 655, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 607, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 139, sec. 17, effective July 15, 1988. -- Created 1982 Ky. Acts ch. 113, sec. 6, effective July 15, 1982.