

Supreme Court of Kentucky

2026-03

ORDER

IN RE: Rules of Administrative Procedure, AP Part XXI, Procedures for Mental Health Courts

Pursuant to Section 116 of the Constitution of Kentucky, it is HEREBY ORDERED that AP Part XXI, Procedures for Mental Health Courts, of the Court of Justice Rules of Administrative Procedure are adopted as follows:

SECTION 1. Preamble

These rules establish the parameters for conducting mental health court. Mental health courts require judicial oversight, case management, and support through the Administrative Office of the Courts Department of Specialty Courts and operate through collaboration with non-KCOJ entities to provide services and/or service referrals.

SECTION 2. Definitions

- (1) “Mental health court” is a criminal court supervision program for persons diagnosed with a serious mental illness (SMI), intellectual disability, neurocognitive disorder, or co-occurring substance use disorder who voluntarily agree to behavioral health interventions and service connections.
- (2) “Mental health court team” or “MHC Team” is a multidisciplinary team consisting of, ideally, the mental health court judge, Specialty Courts staff, treatment provider, prosecutor, public defender, social worker, law enforcement officer, and probation officer. The MHC Team may also include other behavioral health professionals and mental health court stakeholders, as approved by the mental health court presiding judge.
- (3) “Local mental health court rules” means local court rules approved by the Supreme Court of Kentucky that conform to the rules herein and govern the mental health court in the applicable jurisdiction.
- (4) “Qualified Mental Health Professional” or “QMHP” is a licensed healthcare professional with the training and experience to treat people with mental health conditions.

SECTION 3. Funding and Fees

- (1) Mental health courts established after the effective date of these

Administrative Procedures may be funded through the Administrative Office of the Courts (AOC), federal grants, specifically allocated state or local government funds, non-profit entities, or a combination thereof. The AOC shall be the fiscal agent for any grants or donations received to operate mental health court. The AOC must be the applicant for grants whenever the AOC is qualified to apply, unless otherwise authorized by the Chief Justice.

- (2) No fee shall be imposed upon any participant or potential participant as a condition of participation in a mental health court, as there are no direct costs for participating in mental health court.

SECTION 4. Mental Health Court Referral and Eligibility

- (1) In jurisdictions with a mental health court, a written referral for an eligibility review and assessment for mental health court may be made at any time; however, no person may be referred for an eligibility review and assessment to a mental health court for civil contempt charges under KRS 222.430 – 222.480 (Casey’s Law) and KRS 202A.0811 – 202A.0831 (Tim’s Law).
- (2) No person shall be considered for admission or referred for a mental health court clinical evaluation unless the referring judge having original jurisdiction over the case has signed an Order Referring to Specialty Court.
- (3) A person may be eligible to participate in a mental health court if:
 - (a) The person has a diagnosed serious mental illness (SMI), intellectual disability, or neurocognitive disorder, and may also have a co-occurring substance use disorder or the person has untreated chronic psychosis or severe acute mental health issues;
 - (b) The person resides in the same county as the mental health court or resides in another county with transportation and meets the local mental health court guidelines;
 - (c) Participation in mental health court is deemed appropriate after completion of a clinical evaluation by an approved qualified mental health professional (QMHP) or review of psychiatric medical records; and
 - (d) The MHC team has determined that the person is a suitable candidate to enter the mental health court, taking into consideration risk and needs.
- (4) No one will be denied access to a mental health court based on race, ethnicity, gender, sexual orientation, sexual identity, physical or mental disability, religion, or socioeconomic status.

SECTION 5. Process For Admission Into a Mental Health Court

- (1) Upon receipt of the clinical evaluation results conducted by a qualified mental health professional and any other relevant information regarding the potential participant, the MHC Team shall provide the mental health court judge with a recommendation on whether the potential participant should be admitted into the mental health court.
- (2) The mental health court judge shall review the recommendation and shall have the final decision-making authority to accept or deny the potential participant into the mental health court.
- (3) The mental health court staff shall prepare a Notice of Referral Status that reflects the final decision of the mental health court judge to accept or deny the potential participant into the mental health court.
- (4) The Notice of Referral Status shall be tendered to the referring judge having original jurisdiction over the case for consideration of admission into mental health court.

SECTION 6. Admission Into a Mental Health Court

- (1) Upon an offer of admission into a mental health court and the potential participant's acceptance of the offer to enter mental health court, the referring judge shall execute an Order of Admission to Mental Health Court admitting the potential participant. The case shall remain with or be assigned to the local circuit or district court judge who presides over the mental health court.
- (2) The Mental Health Court Participant Agreement, Waiver of Rights, and Release of Information must be signed by a participant prior to the first mental health court appearance.

SECTION 7. Transfers Between Mental Health Courts

- (1) A potential participant or participant may request a transfer of venue to participate in a mental health court outside of the circuit or district where their underlying court case originated if the potential participant or participant has been sentenced to serve an alternative sentence in lieu of incarceration or has entered a guilty plea as part of a pretrial diversion program in the underlying court case.
- (2) The potential participant or participant may request the transfer at the time of referral for eligibility and assessment to the mental health court or after admission into a mental health court.
- (3) If a transfer is requested, the Specialty Court staff in the county where the underlying court case originated will initiate an informal conference with the Specialty Court staff in the transfer county to inquire about the possibility of transferring the case to that mental health court and to

identify any barriers that may hinder the transfer.

(4) Transfer of venue for mental health court participation shall be authorized under the following conditions:

- (a) The MHC team in the county where the potential participant or participant requests to transfer venue has agreed to accept the potential participant or participant;
- (b) The potential participant or participant has filed a Motion for Transfer, which was docketed before the referring judge; and
- (c) The referring judge has entered an order transferring venue of the potential participant's or participant's court case.
- (d) The potential participant's or participant's case will be assigned to a circuit or district court judge who conducts mental health court in the county where venue has been transferred.
- (e) Upon a participant's successful completion, administrative discharge, or termination from mental health court, an order transferring venue of the court case back to the county where the case originated shall be entered and all further proceedings shall be placed on the next available court docket in that county.

SECTION 8. Transfers Between Specialty Court Programs

Transfers between specialty court programs shall be permissible. Specialty court programs include drug court, mental health court, and veterans treatment court. A Notice of Transfer Between Specialty Court Programs must be completed to effectuate a transfer between Specialty Court programs.

SECTION 9. Mental Health Court Participant Requirements

- (1) Mental health court shall consist of a basic structure to address the individualized needs of each participant. The basic structure of a mental health court shall incorporate the following:
 - (a) Identification and clinical assessment;
 - (b) Stabilization with community supports;
 - (c) A person-centered treatment plan;
 - (d) Mental health treatment and interventions;
 - (e) Judicial oversight, case management, peer support, and court-ordered supervision.
- (2) The duration of a mental health court program shall be determined by the individual needs of the participant. Completion of a mental health court program shall require participation for a minimum of six (6)

months.

- (3) Mental health court program requirements must be in writing and approved by the Certification Board established under the Administrative Procedures of the Court of Justice, AP XIII Section 29, unless mental health court program requirements are provided for in local mental health court rules previously approved by the Chief Justice for the applicable jurisdiction. Mental health courts already operating with requirements approved by the Chief Justice under local rules are not required to be approved by the Certification Board.
- (4) Participants shall be given a clear and accurate description of the mental health court program, which includes the requirements for completing the program.

SECTION 10. Incentives

Incentives are tangible or intangible rewards earned by participants for positive steps taken towards compliance with their treatment plan, attaining a crime-free lifestyle, and engaging in prosocial activities. Incentives may include, but are not limited to, certificates and tokens, decreased supervision, increased privileges and responsibilities, praise from the mental health court judge and team, and other individual incentives approved by the MHC team.

Tangible incentives may be provided during the mental health court sessions and must be approved by the MHC team subject to compliance with applicable procurement policies or terms and conditions of any grant used to fund the local program.

Cash cannot be used as an incentive. General funds cannot be used to purchase incentives other than as set forth in the AP Part VII, Financial Regulations or other applicable court rule or procedure. Gift cards may be donated, or grant funds may be used to purchase incentives, including gift cards or fuel vouchers, if the terms of the grant allow for such.

SECTION 11. Responses For Failure to Comply with Mental Health Court Requirements

- (1) Each participant shall comply with the requirements and other conditions established by the mental health court. Failure to comply with the mental health court requirements and other conditions may result in the imposition of responses by the mental health court. Responses imposed for non-compliance shall be predictable, fair, consistent, and administered in accordance with evidence-based principles for effective behavior modification. Mental health court expectations and grounds for termination from the program shall be explained to each participant.

(2) Responses may include but are not limited to, admonishments from the mental health court judge, extension of time in the program, community service, increased program requirements or treatment services, residential mental health or substance use treatment, home incarceration, incarceration, termination from the mental health court, or any other response available to the mental health court judge.

SECTION 12. Suspended Status

(1) In the event a situation arises in which it becomes impracticable for a participant to meet mental health court requirements, the mental health court judge may issue an order placing the participant on suspended status. Examples of impracticability may include but are not limited to, contagious or infectious disease, short-term medical care for a family member, or any other reason that would cause a temporary inability to meet mental health court requirements. Once the participant has the ability to resume full participation in the mental health court, the mental health court judge shall enter an order resuming active status and returning the participant to mental health court supervision.

(2) During the time in which the participant is suspended, no credit shall be earned toward the completion of the mental health court requirements.

SECTION 13. Administrative Discharge

(1) If a mental health court participant cannot complete mental health court through no fault of their own, they may be administratively discharged. If the MHC team determines that administrative discharge is appropriate, the Specialty Courts staff shall complete a Notice of Administrative Discharge to provide to the mental health court judge. The Notice of Administrative Discharge shall be filed in the official court record and the case shall be assigned to the appropriate circuit or district court judge or venue shall be transferred as provided in Section 7 for further proceedings.

(2) An administrative discharge does not preclude future eligibility for mental health court.

SECTION 14. Voluntary Termination

Participants may request voluntary termination from mental health court utilizing a Request for Voluntary Termination. Mental health court participants may consult with their attorney. If the mental health court judge determines that the request is knowingly and voluntarily made, the mental health court judge shall grant the request. Upon entry of the Notice of Voluntary Termination, the case shall be assigned to the appropriate circuit or district court judge or venue shall be transferred as provided in Section 7 for further proceedings.

SECTION 15. Involuntary Termination

- (1) The Specialty Courts staff or MHC team may make a verbal recommendation to the mental health court judge to terminate a participant due to the participant's non-compliance. If the mental health court judge agrees to review the recommendation of termination, Specialty Courts staff shall complete a Notice of Violations, requesting the mental health court judge terminate the participant from mental health court. If the mental health court judge decides termination is appropriate, a Notice of Involuntary Termination shall be completed. The participant shall be notified of their termination during the mental health court session, unless the participant has absconded as provided in subsection (2) of this Section.
- (2) If a participant has absconded for a period of at least fifteen (15) days, the mental health court judge may sign a Notice of Involuntary Termination without the participant being notified and present during the next mental health court session.
- (3) Upon entry of the Notice of Involuntary Termination, the case shall be assigned to the appropriate circuit or district court judge or venue shall be transferred as provided in Section 7 for further proceedings.
- (4) The Notice of Involuntary Termination shall be filed in the official record.
- (5) All participants listed as "suspended absconded" shall be reviewed monthly with the mental health court judge and MHC team.

SECTION 16. Successful Completion of a Mental Health Court

- (1) A participant may be eligible for successful completion of mental health court after completing all mental health court requirements for active recovery and stabilization of the underlying severe mental illness, intellectual disability, neurocognitive disorder, or co-occurring substance use disorder diagnosis.
- (2) Upon successful completion of mental health court participant requirements in Section 9 of these Administrative Procedures, an order transferring the underlying court case back to where it originated shall be entered and all further proceedings shall be placed on the next available court docket of the referring judge.
- (3) Participants who successfully complete the requirements of mental health court are eligible to graduate. A mental health court graduation may be held for an eligible participant within ninety (90) days of successful completion, or at the discretion of the mental health court judge.

SECTION 17. Mental Health Court Sessions

- (1) Barring an emergency or other unforeseeable or unavoidable obstacle, a mental health court judge shall conduct a mental health court session as follows:
 - (a) One (1) mental health court session per week is encouraged; however, if weekly sessions are not possible, the mental health court judge maintains discretion to conduct at least two (2) mental health court sessions per month; and
 - (b) Mental health court sessions may be conducted in person, virtually, or a combination thereof.
- (2) Mental health court judges shall maintain a record of all mental health court sessions through written or recorded means. The method for maintaining the record shall be at the discretion of the presiding judge.

SECTION 18. Confidentiality

- (1) Mental health court sessions and mental health court staffing shall be confidential, and all proceedings shall be closed unless otherwise authorized by the mental health court judge.
- (2) Documents contained in a participant's mental health court case file shall be confidential, not subject to disclosure, and maintained separately from the underlying court case file, except for those documents specified in Section 19 of these rules.
- (3) MHC team members shall sign a confidentiality agreement.
- (4) MHC team members shall comply with state and federal confidentiality laws regarding participant treatment information.

SECTION 19. Filing of Mental Health Court Documents

Upon utilization of any of the following documents, the document(s) shall be filed by the Specialty Courts staff with the appropriate court clerk for inclusion in the court record of the underlying court case file:

- (1) Order Referring for Assessment to Mental Health Court;
- (2) Mental Health Court Notice of Defendant Referral Status;
- (3) Order of Admission;
- (4) Motion for Transfer;
- (5) Order Transferring;
- (6) Order Designating Suspended Status;
- (7) Order Resuming Active Status;
- (8) Notice of Voluntary Termination;

- (9) Notice of Involuntary Termination;
- (10) Notice of Violations (shall only be filed when the violations result in termination);
- (11) Notice of Transfer Between Specialty Court Programs;
- (12) Notice of Administrative Discharge; and
- (13) Acknowledgement of Successful Completion.

SECTION 20. Authorization for Mental Health Court Judges and New Mental Health Courts

- (1) After the effective date of these Administrative Procedures, before a judge presides over a new mental health court, the judge shall submit a request to SPCRequests@kycourts.net for approval by the Chief Justice of the Kentucky Supreme Court. If approved, the Chief Justice shall enter an order establishing the judge's jurisdictional authority to preside over mental health court.
- (2) AOC Specialty Courts shall provide appropriate training to the mental health court judge and Specialty Courts staff.

SECTION 21. Mental Health Court Team Training

- (1) MHC teams shall attend a formal pre-implementation training, provided by AOC Specialty Courts, before starting a new mental health court. Training shall include, but is not limited to, information on Best Practice Standards and the roles and responsibilities of the mental health court team members.
- (2) MHC team members, including judges, are encouraged to attend continuing education training at least once a year to ensure they have the most up-to-date knowledge about best practices on topics including mental health treatment, complementary treatment, and social services, behavior modification, community supervision, team decision making, and constitutional and legal issues in mental health courts.

This Order shall be effective upon entry, and until further Order of this Court.

Entered this 14th day of January, 2026.

All sitting; all concur.



CHIEF JUSTICE