

202B.160 Hearing procedures -- Rights of guardians and immediate family members.

- (1) The preliminary hearing need not be formal and shall include the receiving of reports of the qualified professional in the area of intellectual disabilities as evidence. The hearing may be held by the court in chambers, at an ICF/ID, or other suitable place. The respondent shall be afforded an opportunity to testify, to present witnesses, and to cross-examine any witnesses. The respondent and the attorney for the respondent may waive respondent's right to a preliminary hearing.
- (2) The final hearing may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the mental or physical health of the respondent. The hearing may be held by the court in chambers, at an ICF/ID, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine any witnesses. The manner of proceeding and the rules of evidence shall be the same as those in any criminal proceeding, except that the standard of proof shall be by clear and convincing evidence. Proceedings shall be heard by a judge unless a party requests a jury trial. Neither the respondent nor the respondent's attorney may waive the respondent's right to a final hearing.
- (3) Guardians and immediate family members of the respondent shall be allowed to attend all hearings, conferences or similar proceedings; may be represented by private counsel, if desired; may participate in the hearings or conferences as if a party to the proceedings; may cross-examine witnesses if desired; and shall have standing to appeal any adverse decision.

Effective: July 12, 2012

History: Amended 2012 Ky. Acts ch. 146, sec. 50, effective July 12, 2012. -- Created 1990 Ky. Acts ch. 147, sec. 15, effective July 13, 1990.