

202A.076 Conduct of hearings.

- (1) The preliminary hearing need not be formal and may include the receiving of the qualified mental health professionals' reports as evidence. The hearing may be held by the court in chambers, at a hospital, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses who appear and testify against him. The court may exclude all persons not necessary for the conduct of the hearing. The respondent and his attorney 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 a hospital, or other suitable place. The respondent shall be afforded an opportunity to testify, to present, and cross-examine witnesses against him. The manner of proceeding and rules of evidence shall be the same as those in any criminal proceeding including the burden of proof beyond a reasonable doubt. 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.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 139, sec. 7, effective July 15, 1988. -- Created 1982 Ky. Acts ch. 445, sec. 14, effective July 1, 1982.

Legislative Research Commission Note. This section was enacted in 1982 Acts, Chapter 445, which contains the following language in Section 45 of that Act: "This Act shall become effective on July 1, 1982." The Ky. Constitution, in Section 55, requires that a reason be set forth for the emergency. However, no reason is set forth in this Act. The effective date for 1982 Acts with no emergency provision is July 15, 1982.