

	JUSTICE AND PUBLIC SAFETY CABINET DEPARTMENT OF JUVENILE JUSTICE POLICY AND PROCEDURES	AUTHORITY and REFERENCES: 505 KAR 1:130 KRS 15A.0652 KRS 640.040; 640.120 1-JPAS-2-7103,7111
CHAPTER: Juvenile Services in Community		
SUBJECT: Youthful Offenders –Confined, Shock Probated, and Transferred to the Department of Corrections		
POLICY NUMBER: DJJ 616		
TOTAL PAGES: 5		
EFFECTIVE DATE: 1/04/2016		
APPROVAL: Bob D. Hayter		COMMISSIONER

I. POLICY

The Department of Juvenile Justice (DJJ) shall maintain custody and control of Youthful Offenders sentenced to confinement to the Department by a Circuit Court, in compliance with all applicable state laws and regulations.

II. APPLICABILITY

This policy and procedure shall apply to all community service offices.

III. DEFINITIONS

Refer to Chapter 600

IV. PROCEDURES

- A. A Youthful Offender who is sentenced to confinement by a Circuit Court shall serve the sentence in a DJJ operated facility or licensed facility until one of the following, whichever occurs first (Reference KRS 640.030):
 - 1. Sentence expires;
 - 2. Probated;
 - 3. Shock probated;
 - 4. Paroled;
 - 5. Transferred to the Department of Corrections; or
 - 6. Attains the age of eighteen (18) and five (5) months.
- B. Youthful Offenders awaiting placement by the Classification Branch while residing in detention shall:
 - 1. Be taken into custody and placed within sixty (60) days of sentencing in accordance with KRS 640.030(2).
 - 2. Have contact from a DJJ representative at least once per week while in non-DJJ detention centers and county adult detention centers.
 - 3. Be subject to DNA collection in accordance with KRS 17.170. The following steps shall be completed within ten (10) days.

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- a. The JSW shall submit a DNA request memorandum to the JSDS for approval.
 - b. Once approved the JSW shall notify the facility superintendent and RN that youth is required to submit DNA sample.
 - c. The JSW shall complete The DNA Sample Information Sheet and electronically transfer to the facility RN.
 - d. Once the JSW has receive confirmation that the sample has been collected, the JSW shall document in the electronic record.
- C. Transportation to the facility shall be in accordance with KRS 605.080. The Classification Branch shall arrange the placement of the Youthful Offender who is sentenced to confinement. It shall be the duty of the Commonwealth Attorney after the imposition of a Youthful Offender is sentenced to confinement to cause to be immediately transmitted to the facility or program with the commitment papers, a concise statement of the facts adduced at the trial or at the hearing of a plea of guilty. Reference KRS 640.060.
- D. Youthful Offenders shall remain in placement and in the custody of the Department until age eighteen (18), at which time the youth shall be returned to the sentencing court for a final sentencing hearing pursuant to KRS 640.030, unless the Youthful Offender has been probated or released on parole. The sentencing hearing shall be held on or about the youth's eighteenth (18th) birthday. At this hearing, the court shall make one (1) of the following determinations:
1. Whether the Youthful Offender shall be placed on probation or conditional discharge;
 2. Whether the Youthful Offender shall be returned to the Department to complete a treatment program, which treatment program shall not exceed the Youthful Offender's attainment of the age eighteen (18) years and five (5) months. At the conclusion of the treatment program, the Youthful Offender shall be returned to the sentencing court for a determination as set forth in KRS 640.030(2)(b); or
 3. Whether the Youthful Offender shall be incarcerated in an institution operated by the Department of Corrections. Reference KRS 640.030(2)(c).
- E. Youth initially sentenced between the ages of eighteen (18) and the age of eighteen (18) and five (5) months:
1. If a Youthful Offender has attained the age of eighteen (18) years but less than eighteen (18) years and five (5) months prior to initial sentencing, that individual shall be returned to the sentencing court upon attaining the age of eighteen (18) years and five (5) months if that individual has been sentenced to a period of placement or treatment with DJJ. The court shall have the same dispositional options as currently provided in KRS 640.030(2)(a) or (c); and
 2. DJJ shall inform the sentencing court of any Youthful Offender in their custody pursuant to this section who has attained the age of eighteen (18)

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and five (5) months, and the court shall enter a court order directing the sheriff or jailer to transport the Youthful Offender to the county jail to await sentencing pursuant to KRS 640.030(2)(a) or (c).

F. Shock Probation

1. If a Youthful Offender is remanded by the Circuit Court to the custody of DJJ for placement in a residential facility as a result of probation being denied at the initial sentencing hearing, or an original order of probation was revoked as a result of a violation(s), and the Youthful Offender is sentenced and in custody, the Youthful Offender may enter a motion requesting shock probation. This motion shall be made no earlier than thirty (30) days, or no later than one hundred eighty (180) days after incarceration, following his conviction and sentencing. Reference KRS 439.265; KRS 439.267.
2. The Court shall consider any motion for shock probation filed in accordance with above referenced statute within sixty (60) days, and shall enter its ruling within ten (10) days after considering the motion. The Youthful Offender may, at the discretion of the sentencing court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of his sentence. The offender may be released from custody by the Court and granted probation under the supervision of the Department. Reference KRS 439.265(2); KRS 439.267.
3. If the Circuit Court grants the motion, the Circuit Court may issue an order of probation which specifies the length of the probation period and the imposed conditions of probation.
4. The JSW shall initiate community supervision of the Youthful Offender granted shock probation in accordance with DJJPP 605 (Community Supervision).
5. Requests for revocation of shock probation shall be processed in accordance with DJJPP 615 (Probation of Youthful Offenders).
6. Transportation to the facility upon revocation of shock probation shall be in accordance with KRS 605.080.

G. Transferring a Youthful Offender to the Department of Corrections:

1. Per KRS 640.070(1), upon motion of the Department, the sentencing Circuit Court may, after notice and hearing, order a Youthful Offender transferred to an adult facility operated by the Department of Corrections if it is established by a preponderance of the evidence that the Youthful Offender has:
 - a. By his aggressive behavior, injured or endangered the life or health of another Youthful Offender or staff members in the facility or program;
 - b. Escaped from the facility or program from which he is being held;
 - c. By his actions, caused disruption in the facility or program by encouraging other residents to engage in aggressive behavior which

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- has injured or endangered the life or health of other residents or staff of the facility or program;
- d. By his actions, caused disruption in the facility or program, smuggled contraband into the facility or program, caused contraband to be smuggled into the facility or program, or engaged in other types of behavior which have endangered the life or health of other residents or staff of the facility or program; or
 - e. By his actions, has established a pattern of disruptive behavior not conducive to the established policies and procedures of the program.
2. A Youthful Offender may be transferred to the Department of Corrections following the process set forth in KRS 640.070(4) if a Youthful Offender is mentally ill and is dangerous to themselves or others, and cannot be adequately treated in the Youthful Offender program.
 3. DJJ may, after consultation with the Department of Corrections, request for a Youthful Offender to remain in the custody of a DJJ facility or program, until the expiration of the sentence or until the Youthful Offender is released on parole, but in no event past twenty-one (21) years of age. Reference KRS 640.075(1).
 4. Any Youthful Offender, whose custody has been retained by DJJ as provided in KRS 640.075, may be immediately transferred to the Department of Corrections if the Youthful Offender causes any disruption to the program, or attempts to escape.
 5. Any Youthful Offender who attains the age of twenty-one (21) while in custody of the Department shall be immediately transferred to the Department of Corrections. Reference KRS 640.075(3).
 6. When a Youthful Offender is transferred to the Department of Corrections in accordance with the provisions of KRS Chapter 640, the Department shall transfer a copy of the all records relating to the Youthful Offender to the Department of Corrections. Reference KRS 640.110.

V. STAFF TRAINING

- A. The Juvenile Services District Supervisor shall ensure that community staff are trained annually on the following:
 1. Circuit court proceedings;
 2. Youthful Offender confinement and case management; and
 3. Youthful Offender transfer to the Department of Corrections.
- B. The Juvenile Services Regional Manager and the Division of Legal Services shall collaborate and produce a training component regarding Youthful Offender statutes.

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VI. MONITORING MECHANISM

The Division Director of Community and Mental Health Services or designee, in conjunction with the Quality Assurance Branch, shall develop monitoring protocols to be used by the Juvenile Services District Supervisor or Juvenile Services Specialist that review the administration of the standards of confinement and transfer for Youthful Offenders.