

	<b>JUSTICE AND PUBLIC SAFETY CABINET DEPARTMENT OF JUVENILE JUSTICE POLICY AND PROCEDURES</b>	<b>AUTHORITY and REFERENCES: 505 KAR 1:130 KRS 15A.0652 KRS 640.040; 640.120 1-JPAS-2-7103,7111</b>
<b>CHAPTER: Juvenile Services in Community</b>		
<b>SUBJECT: Youthful Offenders –Confined, Shock Probated, and Transferred to the Department of Corrections</b>		
<b>POLICY NUMBER: DJJ 616</b>		
<b>TOTAL PAGES: 5</b>		
<b>EFFECTIVE DATE: February 2, 2018</b>		
<b>APPROVAL: Carey D. Cockerell</b>		<b>, COMMISSIONER</b>

**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 contracted facility until (Reference KRS 640.030):

1. Sentence expires;
2. Probated;
3. Shock probated;
4. Paroled;
5. Transferred to the Department of Corrections (DOC);
6. Attains the age of eighteen (18);
7. Attains the age of eighteen (18) and five (5) months; or
8. Attains the age of twenty (21), if DJJ and DOC have agreed to retain custody pursuant to KRS 640.075.

B. Youthful Offenders convicted and awaiting classification placement shall:

1. Be 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 facility.

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3. Be subject to DNA collection in accordance with DJJPP Chapter 1 (DNA Sampling). The following steps shall be completed within ten (10) days.
  - a. The JSW shall submit a DNA request memorandum to the JSDS for approval.
  - b. Once approved the JSW shall notify a 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 received 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.
- D. Placement of confined youthful offender shall be in accordance with the Classification and Placement Manual.
  1. The JSW and Juvenile Services District Supervisor (JSDS) shall ensure all federal requirements are met, including: legal safeguards, reasonable efforts, aftercare or permanency goals, medical needs, visitation, grievance procedures, notifications, independent living needs, periodic and dispositional court hearings, and educational needs.
  2. The JSW shall remain the case manager and shall continue to provide services to the youth and their parent or caregiver while the youthful offender is confined in placement. If safety conditions exist that cause the JSW to not make home visits, after consultation with the JSDS, the JSW shall note the safety concerns in the electronic record and may utilize the assistance of law enforcement or meet the youth and family in a safe, neutral location.
  3. The JSW shall have at a minimum one (1) in-person contact and one (1) phone contact with the parent or guardian each month while the youth is confined.
  4. The JSW shall provide the placement with all necessary information that can be accessed such as medical card, school records, medical records, birth certificate, and social security card.
  5. A JSW shall have monthly face-to-face contact with the youth and youth's counselor in any DJJ Classification placement. An exception shall be made when a youth's placement is further than 500 miles round trip from the JSW's office of assignment. If the exception applies, then the JSW shall alternate on a monthly basis between a face-to-face contact and two (2) telephonic contacts per month.
  6. When the monthly face-to-face contact is made by a JSW other than the assigned JSW, the assigned JSW shall make at a minimum one (1) video or telephone contact with the youth and the facility program counselor each month.

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- E. 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, completed sentence, 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 ; or
  3. Whether the Youthful Offender shall be incarcerated in an institution operated by the DOC. Reference KRS 640.030(2)(c).
- F. 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) 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).
- G. Shock Probation
1. If a Youthful Offender is remanded by the Circuit Court to the custody of DJJ for placement in a residential facility, the Youthful Offender may file a motion requesting shock probation. Reference KRS 439.265; KRS 439.267.
  2. 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.
  3. The JSW shall initiate community supervision of the Youthful Offender granted shock probation in accordance with DJJPP 605 (Community Supervision).

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4. Requests for revocation of shock probation shall be processed in accordance with DJJPP 615 (Probation of Youthful Offenders).
5. Transportation to the facility upon revocation of shock probation shall be in accordance with KRS 605.080.

#### H. Parole

The JSW shall initiate transfer of supervision to the DOC Probation and Parole for supervision of any Youthful Offender in the custody of DJJ granted parole, regardless of age.

#### I. Transferring a Youthful Offender to the Department of Corrections

1. Per KRS 640.070(1), upon motion of DJJ, the sentencing Circuit Court may, after notice and hearing, order a Youthful Offender transferred to an adult facility operated by DOC 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 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 them self or others, and cannot be adequately treated in the Youthful Offender program.
3. Any Youthful Offender ordered transferred to DOC may remain in DJJ custody following approval by the Commissioner of DJJ, after consultation with the Commissioner of DOC.
4. DJJ residential facilities may submit a request to the Commissioner's Office to retain jurisdiction of any youthful offender beyond age eighteen (18). The request shall contain justification for retention of the youthful offender and reflect consensus approval of the facility and JSW. Factors for consideration in determination for justification of approval may include that the youth:
  - a. Is physically or emotionally immature;
  - b. Is participating in treatment and continues to make progress;

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- c. Is completing education or vocational requirements;
  - d. Will serve out their sentence prior to the attainment of the age of twenty-one (21); or
  - e. Has special needs that can best be met in a DJJ program.
5. DJJ staff shall not disclose the decision on extended jurisdiction to anyone prior to court's final decision.
  6. The decision to retain a Youthful Offender shall be the sole discretion of DJJ. The courts will have no role in the decision making process regarding the retention of a Youthful Offender.
  7. The Commissioner's Office, in consultation with the Office of Legal Counsel, shall make the determination as to whether a Youthful Offender shall be transferred to the Department Of Corrections for causing a program disruption or attempting to escape.
  8. 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).
  9. 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 Office of Legal Counsel shall collaborate and produce a training component regarding Youthful Offender statutes.

**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.