



**OFFICE OF THE COMMONWEALTH'S ATTORNEY  
COMMONWEALTH OF KENTUCKY  
30<sup>th</sup> JUDICIAL CIRCUIT**

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**GOVERNOR SIGNS BILL CLOSING LOOPHOLE INVOLVING  
INCOMPETENT DEFENDANTS DEEMED DANGEROUS**

Early this morning Governor Andy Beshear signed into law House Bill 310. Included in this bill is language from Senate Bill 239 which creates a new chapter in the Kentucky Revised Statutes, Chapter 202C. KRS 202C provides a mechanism to protect the public from harm as well as ensure due process rights of a person accused of serious crimes who has been found incompetent to stand trial.

Prior to the adoption of this bill, a defendant accused of serious crimes who had been determined to be incompetent to stand trial and was considered to present a danger to himself or others as a result of his mental illness could be involuntarily hospitalized only if it was further determined that the defendant could reasonably benefit from treatment. Were it determined that the defendant would not reasonably benefit from treatment he had to be released into the public.

This new chapter allows the Commonwealth Attorney to file a petition for an involuntary commitment for a person found incompetent to stand trial, is not likely to gain competency in the near future, is still a danger to himself or others but who would **not** benefit from additional treatment. Following the filing of the petition, an evidentiary hearing would be held before a circuit court judge wherein the defendant would be represented by both an attorney as well as a guardian ad litem appointed by the Court. The hearing would be held within twenty (20) days from the filing of the petition following an evaluation by two qualified medical health professionals. In that hearing the Commonwealth would be required to prove by a preponderance of the

evidence that the defendant is guilty of the charged offense and prove beyond a reasonable doubt that involuntary commitment is necessary.

If it is found that the defendant should be involuntarily committed, the defendant shall be placed in a forensic psychiatric facility. Following the initial commitment the chapter requires a series of follow-up reviews to determine if continued involuntary commitment is necessary. The defendant would have all the rights of any patient who is being treated at a medical facility.

I wish to publicly thank Governor Beshear and his legislative team who worked hard to review the final bill after it was presented to him on Tuesday. I am equally grateful for the bipartisan efforts of the Kentucky General Assembly, and especially for the work of Senators Morgan McGarvey and Julie Raque Adams and Representative Jason Nemes. Work on this bill began last year through a cooperative effort involving the Office of the Commonwealth's Attorney, local defense attorneys, public health officials and Senator McGarvey. While the legislation did not pass in 2020 due to the COVID pandemic, the groundwork was laid for this year's successful work.

The passage of this important bill is an excellent example of what good can be achieved when we all work together for the benefit of the Commonwealth.