

# Qualified Residential Treatment Program

## Bench Card

*This Bench Card has been created by the Administrative Office of the Court as a resource for judges. Bench Cards do not represent statements of law by the Idaho Supreme Court and do not constitute legal advice.*

### **PURPOSE**

When the Department has placed a child in a qualified residential treatment program.

### **DEFINITIONS<sup>1</sup>**

Qualified Residential Treatment Program (QRTP): A program that has a trauma informed treatment model designed to address the needs of the child with serious emotional or behavioral disorders or disturbances, is able to implement the treatment identified for the child by the assessment of the child required under I.C. § 16-1619A(2), and is licensed and accredited in accordance with state and federal law.

Qualified Individual (QI): A trained professional or licensed clinician who is not connected to or affiliated with any placement setting in which a child is placed by the Department and who is not an employee of child and family services, unless a waiver has been approved by the authorized agency.

### **WHEN<sup>2</sup>**

Legal custody is vested in the Department and the Department has placed the child in a QRTP, then within 60 days of a placement in a QRTP, the court shall enter an order approving or disapproving the placement in accordance with the following timeline:

1. The Department shall file notice of the placement with the court within 7 days of the placement. The notice shall identify the placement and the date of the placement.
2. Within 30 days of the placement, a QI shall conduct an assessment and prepare a written assessment report.
3. The Department shall file an amendment to the case plan with a copy of the assessment report within 5 days of the receipt of the assessment report but not later than 35 days from the date of the placement.
4. Within 7 days of the filing of the assessment, any party may file a written response to the assessment report or amendment to the case plan.
5. The court will hold a hearing within 14 days of the filing of the assessment and rule on the matter unless the hearing is waived by the parties.
6. Within 60 days of the start of each placement in a QRTP, the court shall approve or disapprove the placement and enter an order to that effect.

### **WHO MAY BE PRESENT**

1. The general public shall be excluded, and only such persons shall be admitted as are found by the court to have a direct interest in the case.<sup>3</sup>
2. The child may be excluded from hearings at any time at the discretion of the court.<sup>4</sup> A counselor, friend, or other person may be permitted to remain in the courtroom at the witness stand as the child testifies.<sup>5</sup>

## EVIDENCE

1. The Rules of Evidence do not apply.<sup>6</sup>
2. The court will approve the Department's placement unless the court finds by a preponderance of the evidence that the placement is not in the best interest of the child.<sup>7</sup>

## MAKING THE RECORD

### *Contents of the Assessment:*<sup>8</sup>

The assessment must be conducted by a QI and must specify:

1. Why the needs of the child cannot be met by the family of the child or in a foster home;
2. Why the recommended placement in a QRTP is the setting that will provide the most effective and appropriate level of care in the least restrictive environment; and
3. How that placement is consistent with the short-term and long-term goals for the child, as set forth in the case plan or the permanency plan currently in effect.

### *Findings (must be written and case specific):*<sup>9</sup>

Within 60 days of the start of each placement in a QRTP, the court shall:

1. Consider the assessment, determination, and documentation made by the QI;
2. Determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement in a QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child;
3. Approve or disapprove the placement; and
4. The assessment by the QI and the court's determination to approve or disapprove the placement in a QRTP shall be made part of the case plan for the child. If the court approves the placement in a QRTP, the court shall order the amended case plan for the child.

## ORDER<sup>10</sup>

1. The order approving or disapproving the placement must be entered not later than 60 days from the date of placement. If the court does not approve the placement, placement will be decided by the legal custodian.
2. If the court approves the placement, the court shall order the amended case plan for the child.

## REVIEW AND PERMANENCY HEARINGS

*(See Review and Permanency Hearing Bench Cards for additional information)*

When legal custody of a child is vested in the Department and the court has approved placement of the child in a QRTP, then at each review<sup>11</sup> and permanency hearing,<sup>12</sup> the Department shall document:

1. That ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a QRTP provides the most effective and appropriate level of care for the child that is in the least restrictive environment, and that the placement is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child;
2. The specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and
3. The efforts made by the Department to prepare the child to return home or to be placed with a fit and willing relative, with a legal guardian, with an adoptive parent, or in a foster family home.

## ENDNOTES

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<sup>1</sup> Effective as of 10/1/2021. the Department has received a waiver from Administration on Children Youth and Families (ACYF) to allow a QI clinician to be an employee of the Department.

<sup>2</sup> I.C. §§ 16-1619(5)(b); 16-1619A.

<sup>3</sup> I.C. § 16-1613(1); I.J.R. 39(h), I.J.R. 52(a).

<sup>4</sup> I.C. § 16-1613(1).

<sup>5</sup> I.C. § 16-1613(2).

<sup>6</sup> I.R.E. 101(e)(6).

<sup>7</sup> I.J.R. 43(3).

<sup>8</sup> I.C. § 16-1619A(2)(e).

<sup>9</sup> I.C. § 16-1619A.

<sup>10</sup> I.J.R 43(6).

<sup>11</sup> I.C. § 16-1622.

<sup>12</sup> I.C. § 16-1620(4).