

MENTAL HEALTH ASSESSMENTS AND PLANS OF TREATMENT UNDER I.C. § 20-511A AND I.J.R. 54

BENCH CARD

PURPOSE

- Part I. Mental Health Assessment and Plan of Treatment:¹ To ensure an appropriate court-approved mental health assessment and plan of treatment is created and implemented by the Department of Health and Welfare for juveniles who suffer from a substantial increase or persistence of a serious emotional disturbance.²
- Part II. Screening Team:³ Review the Department of Health and Welfare's mental health assessment and plan of treatment and any other relevant information, and make written recommendations to the court.
- Part III. Court Approval and Implementation of Plan of Treatment:⁴ To adequately address, with supportive or corrective measures, the juvenile's needs with respect to a serious emotional disturbance.

WHEN

- Part I. Mental Health Assessment and Plan of Treatment: *At any stage of the proceedings* if the judge has reason to believe that the juvenile:
1. is suffering a substantial increase or persistence of a serious emotional disturbance;⁵ **and,**
 2. such condition has not been adequately addressed with supportive services and/or corrective measures, or the juvenile's needs with respect to serious emotional disturbance are not being met or have not been met;⁶
- the court may order a mental health assessment and plan of treatment. The order shall set a time for the submission to the court, which may be extended for good cause. Notice of the order shall be given to all interested parties.⁷
- Part II. Screening Team: At any time after determining there is reason to believe the conditions in Part I above are present, the court may order the convening of a screening team to review the mental health assessment and plan of treatment and make written recommendations to the court.⁸

The order shall set a time for the submission of the written recommendations, which may be extended for good cause. Notice of the order shall be given to all interested parties.⁹

- Part III. Court Approval and Implementation of Plan of Treatment: After receiving the mental health assessment and plan of treatment from the Department of Health and Welfare, any recommendations from the screening team, and any additional recommendations for treatment, the court may make a determination as to whether the conditions in Part I are present.¹⁰

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A court hearing is **required** if:

1. the court determines that a hearing would be helpful in making such determinations;
2. any interested party objects to the entry of such a determination or order; or
3. inpatient or residential treatment would be required as part of the plan of treatment, unless the hearing is waived by the juvenile and the parents or guardians of the juvenile.¹¹

WHO MAY BE PRESENT

Part I. Mental Health Assessment and Plan of Treatment:

*Interested Parties:*¹²

1. the juvenile;
2. the juvenile's parents, guardians and custodians;
3. the juvenile's counsel;
4. the prosecuting attorney;
5. the Department of Health and Welfare;
6. the Department of Juvenile Corrections;
7. county probation; and
8. any other agencies or persons designated by the court.

The general public may be admitted only after the court makes a determination as to the confidentiality status of the juvenile case records and proceedings.¹³

Part II. Screening Team:

The court shall designate a leading member of the screening team who shall have the responsibility for scheduling meetings and submitting the written recommendations of the screening team to the court.¹⁴

Parents and guardians of the juvenile or juvenile offender, if available, shall be included in the screening team and consulted with regard to the plan of treatment. The screening team should also consist of representatives from:¹⁵

1. the Department of Health and Welfare;¹⁶
2. county probation;
3. local school officials;
4. the Department of Juvenile Corrections; and
5. other agencies or persons designated by the court.

Part III. Court Approval and Implementation of Plan of Treatment:

*Interested Parties:*¹⁷

1. the juvenile;
2. the juvenile's parents, guardians and custodians;
3. the juvenile's counsel;
4. the prosecuting attorney;
5. the Department of Health and Welfare;

6. the Department of Juvenile Corrections;
7. county probation; and
8. any other agencies or persons designated by the court.

The general public may be admitted only after the court makes a determination as to the confidentiality status of the juvenile case records and proceedings.¹⁸

HEARING PROCESS

Part I. Mental Health Assessment and Plan of Treatment

Evidence:

1. The Rules of Evidence do not apply.
2. The evidentiary standard is reason to believe.

Making the Record:

The court may rely upon the record, the proceedings or upon affidavit of a party, state or county agency, or any person having physical custody of the juvenile.

*Findings:*¹⁹

The court may order the Department of Health and Welfare to submit a mental health assessment and plan of treatment if the court has reason to believe that the juvenile:

1. is suffering a substantial increase or persistence of a serious emotional disturbance²⁰ which impairs the juvenile's ability to comply with the orders and directives of the court, or, which presents a risk to the juvenile's safety or well-being or the safety of others; **and**
2. such condition has not been adequately addressed with supportive services and/or corrective measures previously provided to the juvenile, or the juvenile's needs with respect to the serious emotional disturbance are not being met or have not been met.

Order:

The order for mental health assessment and plan of treatment shall include:

1. The time for submission of the mental health assessment and plan of treatment, which may be extended for good cause.²¹
2. Notice of the order to all interested parties.²²
3. Notice to the juvenile's parents that initial costs of the preparation of the assessment and plan of treatment, and any additional evaluation and/or recommendations, may be borne by the Department of Health and Welfare; however, these costs and all costs associated with assessment and treatment shall be the responsibility of the parents according to their ability to pay based upon the sliding fee scale established by the Department of Health and Welfare.²³
4. Whether a screening team is ordered. If a screening team is ordered, the order must also:
 - a. designate a leading member of the screening team who shall have the responsibility for scheduling meetings and submitting written recommendations of the screening team to the court; and

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- b. set a time for the submission of the written recommendations, which may be extended for good cause.²⁴

Order for Participation and Release of Information:

To assist in the preparation of the assessment, plan of treatment, and/or the recommendations of the screening team, the court may order:

1. the juvenile;
 2. the parents or guardians of the juvenile;
 3. the Department of Health and Welfare;
 4. county probation;
 5. the Department of Juvenile Corrections;
 6. school officials; or
 7. any agencies that have treated or had custody of the juvenile,
- to participate and release any pertinent information or records regarding the juvenile to the Department of Health and Welfare, the court, and/or the screening team for the purpose of mental health assessment and preparation of a plan of treatment.²⁵

Part II. Screening Team

Order:

The court may order a screening team to:

1. review the mental health assessment and plan of treatment prepared by the Department of Health and Welfare and any other relevant information; and
2. make written recommendations to the court.

Part III. Court Approval and Implementation of Plan of Treatment:

Evidence:

1. The Rules of Evidence do not apply.
2. Inpatient or residential treatment shall not be ordered unless the court determines by clear and convincing evidence that the following conditions are present and that such treatment is required.²⁶
 - a. The juvenile is suffering a substantial increase or persistence of a serious emotional disturbance;²⁷ **and**
 - b. such condition has not been adequately addressed with supportive services and/or corrective measures, or the juvenile's needs with respect to serious emotional disturbance are not being met or have not been met.²⁸

Making the Record:

The court shall hold a hearing before approving or implementing a plan of treatment or entering an order if:

1. the court determines that a hearing would be helpful in making such determinations;
2. any interested party objects to the entry of such a determination or order; or
3. inpatient or residential treatment would be required as part of the plan of treatment, unless the hearing is waived by the juvenile and the parents or guardians of the juvenile.

At the hearing, the parties may present evidence in support of, or opposed to, the information from any source. Each party shall have the right to present any relevant evidence on the issue of whether:

1. the juvenile is suffering a substantial increase or persistence of a serious emotional disturbance;²⁹
2. such condition has not been adequately addressed with supportive services and/or corrective measures, or the juvenile's needs with respect to serious emotional disturbance are not being met or have not been met;³⁰ **and**
3. what should be included in the plan of treatment, if any, ordered by the court.

Findings:

After any required hearings and the consideration of the mental health assessment and plan of treatment, and the recommendations from the screening team, the court shall determine if:

1. the juvenile is suffering a substantial increase or persistence of a serious emotional disturbance;³¹ and
2. such condition has not been adequately addressed with supportive services and/or corrective measures, or the juvenile's needs with respect to serious emotional disturbance are not being met or have not been met.³²

Upon making the above findings the court shall order mental health services in accordance with the approved plan of treatment.

If additional information is necessary for the court to make the determination, the court may order an evaluation and/or recommendations for treatment to be furnished by a psychiatrist, licensed physician or licensed psychologist, with the expenses of such evaluation and/or recommendations to be borne by the Department of Health and Welfare.³³

Order:

If the court finds that such conditions are present, the court will order:

1. the Department of Health and Welfare to provide mental health treatment as designated by the approved plan of treatment; and, if necessary,
2. the parents, legal guardians or custodians to adhere to the treatment designated in the plan of treatment.

Review of Approved Plan of Treatment:

A review hearing will be held within 120 days of the Order Approving Plan of Treatment or more frequently as determined by the court. At the review hearing, the court will review compliance with the approved plan of treatment and any motions concerning the plan. The court may:

1. order the approved plan of treatment remain in full force and effect;
2. approve recommended modifications to the plan of treatment, as appropriate; or
3. find the Department of Health and Welfare Children's Mental Health program has fulfilled its obligations under the I.C. § 20-511A order approving plan of treatment.³⁴

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Representatives from the Department of Health and Welfare, county probation, local school officials, the Department of Juvenile Corrections and/or other agencies or persons designated by the court shall attend case review hearings as scheduled by the court.³⁵

¹ I.C. § 20-511A; I.C. § 16-2403(13); I.J.R. 54.

² “Serious emotional disturbance” means a diagnostic and statistical manual of mental disorders (DSM) diagnosable mental health, emotional or behavioral disorder, or a neuropsychiatric condition which results in a serious disability, and which requires sustained treatment interventions, and causes the child’s functioning to be impaired in thought, perception, affect or behavior. A disorder shall be considered to “result in a serious disability” if it causes substantial impairment of functioning in family, school or community that is measured by and documented through the use of a standardized instrument approved by the department and conducted or supervised by a qualified clinician. A substance abuse disorder does not, by itself, constitute a serious emotional disturbance, although it may coexist with serious emotional disturbance. I.C. § 16-2403(13).

³ I.C. § 20-511A(2); I.J.R. 54(c).

⁴ I.C. § 20-511A(4); I.J.R. 54(f).

⁵ I.C. § 20-511A(1), I.C. § 16-2403(13).

⁶ I.C. § 20-511A(1), I.C. § 16-2403(13).

⁷ I.J.R. 54(b); A minimum of 30 days is typically needed for the Department to facilitate an assessment of the youth and to develop a treatment plan. See also IDAPA 16.07.37.105 to IDAPA 16.07.37.115.

⁸ I.C. § 20-511A(2); I.J.R. 54(c).

⁹ I.J.R. 54(c).

¹⁰ I.C. § 20-511A(4), I.C. § 16-2403(13); I.J.R. 54(f).

¹¹ I.C. § 20-511A(4); I.J.R. 54(f).

¹² I.J.R. 54(a)(1).

¹³ I.J.R. 6, I.J.R. 52; I.C.A.R. 32.

¹⁴ I.J.R. 54(c).

¹⁵ I.C. § 20-511A(2); I.J.R. 54(c).

¹⁶ May include representatives from the Idaho Department of Health and Welfare’s Child and Family Services, Children’s Mental Health program, and/or Children’s Developmental Disabilities program.

¹⁷ I.J.R. 54(a)(1).

¹⁸ I.J.R. 6, I.J.R. 52; I.C.A.R. 32.

¹⁹ I.C. § 20-511A(1).

²⁰ I.C. § 16-2403(13). See also endnote 2.

²¹ I.J.R. 54(b); A minimum of 30 days is typically needed for the Department to facilitate an assessment of the youth and to develop a treatment plan. See also IDAPA 16.07.37.105 to IDAPA 16.07.37.115.

²² I.J.R. 54(a)(1).

²³ I.C. § 20-511A(3) and (5); I.J.R. 54(b) and (e).

²⁴ I.J.R. 54(c).

²⁵ I.J.R. 54(d).

²⁶ I.J.R. 54(h).

²⁷ I.C. § 20-511A(1), I.C. § 16-2403(13). See also endnote 2.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ I.C. § 20-511A(3); I.J.R. 54(e).

³⁴ I.J.R. 54(j).

³⁵ I.C. § 20-511A(4).