

**RULE 8.350. PLACEMENT OF CHILD IN LEGAL CUSTODY OF THE DEPARTMENT INTO RESIDENTIAL TREATMENT CENTER AFTER ADJUDICATION OF DEPENDENCY**

**(a) Placement.**

(1) Whenever the Department of Children & Families believes that a child in its legal custody may require placement in a long-term residential treatment center or hospital, the department shall arrange to have the child assessed by a qualified evaluator as provided by law and shall file notice of this with the court and all parties. Upon the filing of this notice by the department, the court shall appoint a guardian ad litem for the child, if one has not already been appointed, and may also appoint an attorney for the child. Both the guardian ad litem and attorney, if appointed, shall meet the child and shall have the opportunity to discuss the child's suitability for residential treatment with the qualified evaluator conducting the assessment.

(2) Upon the completion of the evaluator's written assessment, the department shall provide a copy to the court and to all parties. The guardian ad litem shall also provide a written report to the court and to all parties indicating the guardian ad litem's recommendation as to the child's placement in residential treatment and the child's wishes.

(3) (A) If the department seeks to change the child's placement to residential treatment, the department shall immediately file a motion with the court to amend the child's case plan pursuant to Rule 8.410 (c). The motion shall state whether all parties, including the child, are in agreement.

(B) Upon the filing of the motion by the department, the court shall enter an order setting the matter for hearing within 5 working days. If the department's motion and/or the guardian ad litem's report indicates that the child is not in agreement, then the court shall appoint an attorney to represent the child, if one has not already been appointed. The clerk of the court shall provide timely written notice of the date, time, and place of the hearing to all parties and attorneys. The child's guardian ad litem and/or attorney shall notify the child of the date, time, and place of the hearing, and the department shall arrange for the child's transportation to the hearing.

(4) If all parties are in agreement at the scheduled hearing, then the revised case plan placing the child in residential treatment, as well as any other corresponding amendments regarding services and visitation, may be approved by the court. However, if any party, including the child, is not in agreement, then the court shall set the matter for hearing within 10 working days. If the child has not already been appointed an attorney, then the court shall appoint an attorney to represent the child. If requested by the child's attorney, the court may appoint an expert to evaluate the child and provide a second opinion regarding the child's suitability for residential treatment. The child's attorney may request a continuance to prepare for the hearing, not to exceed an additional 5 working days. If the evaluator's written assessment indicates that the child requires immediate placement in a long-term residential treatment center or hospital and that such placement cannot wait for the hearing, then the department may place the child pending the hearing, unless the court orders otherwise.

(5) (A) At the hearing, the court shall consider, at a minimum, all of the following:

(i) The recommendation of the department's counselor or authorized agent that the residential treatment or hospitalization is in the child's best interest, based on an independent assessment of the child, and a showing by the department that the placement is the least restrictive available alternative.

(ii) The recommendation of the guardian ad litem.

(iii) A case review committee recommendation, if there has been one.

(iv) The findings of the evaluation and suitability assessment prepared by the qualified evaluator.

(v) The views regarding placement in residential treatment that the child expresses to the court.

(B) All parties shall be permitted to present evidence and, through their counsel, call and cross-examine witnesses.

(C) Based on clear and convincing evidence, if the court determines that the child meets the criteria to be suitable for placement in residential treatment as provided by law, then the court shall amend the case plan to place the child in residential treatment and shall impose any other conditions of placement, services, or visitation that are appropriate.

(D) If the court determines that the child is not suitable for residential treatment as provided by law, then the court shall order the department to place the child in the least restrictive setting that is best suited to meet the child's needs.

**(b) Continuing Residential Placement Reviews.**

(1) If the child is placed in residential treatment, the court shall conduct a hearing to review the status of the child's residential treatment plan no later than 3 months after the child's admission. The court shall conduct review hearings at least every 3 months thereafter, until the child is placed in a less restrictive setting.

(2) An independent review of the child's progress towards achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court and all parties in writing at least 72 hours before each 3-month review hearing. The guardian ad litem shall also provide a written report to the court and to all parties, indicating the guardian ad litem's recommendation as to the child's continuing placement in residential treatment and the child's wishes, at least 24 hours before each 3-month review hearing.

(3) If the child contests continued residential treatment, then the court shall appoint an attorney for the child, if one has not already been appointed. The court shall ensure that the child is continuously represented by a guardian ad litem, and by an attorney if appointed, for as long as the child remains in residential treatment.

(4) If the court determines at any hearing that the child is not suitable for continued residential treatment as provided by law, then the court shall order the department to place the child in the least restrictive setting that is best suited to meet the child's needs and shall amend the child's case plan accordingly.

**(c) Presence of Child.**

The child has the right to be heard directly by the court. The child shall be present at all hearings, and the department shall arrange for the child's presence. However, if the court finds that the child's mental or physical condition is such that the child's presence in court is not in the child's best interest, then the child shall be provided the opportunity to directly express his or her views to the court via telephone.