

QRTP Questions

1. Scenario 2 indicates that Jane Doe has been in foster care for 16 continuous months. Doesn't that trigger the timeline provisions related to termination of parental rights outlined in the Adoption and Safe Families Act (ASFA, Public Law 105–89) and TCA 36-1-113?

A: The question is an important one and reminds us that the guardian ad litem (GAL) has a duty under Tennessee Supreme Court Rule 40 to elevate the child's best interests in any analysis, and in that way, Jane's GAL must keep Jane's need for permanency squarely in the team's sight.

Under ASFA, when a child has been in foster care for 15 of the most recent 22 months, the State must file a petition to terminate parental rights, unless one of the following three conditions applies: (1) a relative is caring for the child, (2) there is a compelling reason that termination would not be in the best interests of the child, or (3) the State has not provided the family the needed services within the required deadlines. TCA 36-1-113 (h)(1)(a) codifies this federal requirement into state law, providing that: In the case of a child who has been in foster care under the responsibility of the department for fifteen (15) of the most recent twenty-two (22) months, the department shall file a petition to terminate the parental rights of the child's parents and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption.

In the training we noted that there might be a compelling reason why TPR had not been filed (related to Covid, potentially), but that information was not provided in the order to streamline the QRTP analysis.

2. In Jane's hypothetical, if there is no compelling reason that TPR shouldn't be filed; shouldn't Jane's GAL pursue reasonable efforts advocacy on her behalf?

A: In Tennessee, according to TCA § 37-1-166, DCS must provide reasonable efforts to: (1) prevent the need for removal of the child from the child's family; (2) make it possible for the child to return home; or (3) to place the child in a timely manner in accordance with the permanency plan. Reasonable efforts are the exercise of reasonable care and diligence by the department to provide services related to meeting the needs of the child and the family. The federal law requires the exercise of reasonable efforts to prevent the removal of a child from his or her home and to make it possible for a child who has been placed in out-of-home care to be reunited with his or her family (42 U.S.C. § 671(a)(15)).

In Tennessee, the judicial officer overseeing the child's care in the custody of the department must make a reasonable efforts finding at every proceeding ordering a child's return home or retention in the department's custody. If the court finds that the department has not exercised reasonable efforts on the child or family's behalf, then the agency will lose federal IV-E funding related to that child's case. Unless the

no reasonable efforts finding relates to the initial removal into care, the department will have an opportunity to rehabilitate their efforts, and bring evidence of reasonable efforts back to the court, in order to have the IV-E funding restored for that child's case.

Jane's GAL could address the issue of the delay directly with the DCS attorney involved in the case and could file a motion with the court if the facts support such advocacy.

3. If the GAL and the judge both agree that the QRTP in Jane's case was an inappropriate level of care, is this an example of a lack of reasonable efforts, since an inappropriate placement could delay permanency?
 - A. *Possibly, but not necessarily. A court could find that reasonable care and diligence were exercised by the department, but that the department reached a different conclusion following its analysis and under the guidance of the Qualified Individual. In the end, the finding by the judge that the placement in the QRTP was not appropriate eliminates the department's access to IV-E funding for that child's case after 30 days. In that case, a reasonable effort finding related to placement would not achieve a different outcome specific to that IV-E funding.*
4. If the Qualified Individual at the Vanderbilt Center of Excellence (COE) determines that the QRTP is not appropriate, does it go to court?
 - A. *No, at that point, the department has 30 days to move the child or lose IV-E funding. In either case, there is no need for a court review.*
5. What happens to the documentation from the Qualified Individual at the Vanderbilt COE regarding QRTP placement determination? Does the COE submit that to the court?
 - A. *If the QRTP placement is endorsed by the COE, then the recommendation of the COE is provided by the department to the court for its review.*
6. Can the COE delay making their placement recommendation? Can they take the matter "under advisement"?
 - A. *If the COE does not make its placement recommendation within 30 days of placement, for any reason, the agency will lose its IV-E funding for that child while the child is in that placement.*
7. This extra oversight regarding QRTP placement is important. Can we expand this oversight process to any child in the custody of the department placed in group care settings, rather than just applying to IV-E eligible children?
 - A. *The department will take this recommendation under advisement.*

8. How can we be sure that the information included in the Child Adolescent Needs and Strengths Assessment is high quality and thorough?

A. Use your voice in the placement/placement disruption CFTM. Ask the FSW and the FSW's supervisor the tough questions that relate to the child's specific needs.