**§ 353.7. Placement in qualified residential treatment programs.** 1. The provisions of this section shall apply when a respondent is placed on or after September twenty-ninth, two thousand twenty-one and resides in a non-secure setting that is a qualified residential treatment program, as defined in section four hundred nine-h of the social services law, and whose care and custody were transferred to a local social services district or the office of children and family services in accordance with this article.

2. (a) When a respondent is in the care and custody of a local social services district or the office of children and family services pursuant to this article, such social services district or office shall report any anticipated placement of the respondent into a qualified residential treatment program as defined in section four hundred nine-h of the social services law to the court and the attorneys for the parties, including the attorney for the respondent, forthwith, but not later than one business day following either the decision to place the respondent in the qualified residential treatment program or the actual date the placement change occurred, whichever is sooner. Such notice shall indicate the date that the initial placement or change in placement is anticipated to occur or the date the placement change occurred, as applicable. Provided, however, if such notice lists an anticipated date for the placement change, the local social services district or office shall subsequently notify the court and the attorneys for the parties, including the attorney for the respondent, of the date the placement change occurred, such notice shall occur no later than one business day following the placement change.

(b) When a respondent whose legal custody was transferred to a local social services district or the office of children and family services in accordance with this article resides in a qualified residential treatment program as defined in section four hundred nine-h of the social services law, and where such respondent's initial placement or change in placement in such qualified residential treatment program commenced on or after September twenty-ninth, two thousand twenty-one, upon receipt of notice required pursuant to paragraph (a) of this subdivision and motion of the local social services district or the office of children and family services with legal custody of the

respondent, the court shall schedule a court review to make an assessment and determination of such placement in accordance with subdivision three of this section. Notwithstanding any other provision of law to the contrary, such court review shall occur no later than sixty days from the date the placement of the respondent in the qualified residential treatment program commenced.

3. (a) Within sixty days of the start of a placement of a respondent referenced in subdivision one of this section in a qualified residential treatment program, the court shall:

(i) Consider the assessment, determination, and documentation made by the qualified individual pursuant to section four hundred nine-h of the social services law;

(ii) Determine whether the needs of the respondent can be met through placement in a foster family home and, if not, whether placement of the respondent in a qualified residential treatment program provides the most effective and appropriate level of care for the respondent in the least restrictive environment and whether that placement is consistent with the short-term and long-term goals for the respondent as specified in the respondent's permanency plan; and

(iii) Approve or disapprove the placement of the respondent in a qualified residential treatment program. Provided that, where a qualified individual determines that the placement of the respondent in a qualified residential treatment program is not appropriate in accordance with the assessment required pursuant to section four hundred nine-h of the social services law, the court may only approve the placement of the respondent in the qualified residential treatment program if:

(A) the court finds, and states in the written order that:

(1) circumstances exist that necessitate the continued placement of the respondent in the qualified residential treatment program;

(2) there is not an alternative setting available that can meet the respondent's needs in a less restrictive environment; and

(3) that continued placement in the qualified residential treatment program serves the respondent's needs and best interests or the need for protection of the community; and

(B) the court's written order states the specific reasons why the

court has made the findings required pursuant to clause (A) of this subparagraph.

(iv) Nothing herein shall prohibit the court from considering other relevant and necessary information to make a determination.

(b) At the conclusion of the review, if the court disapproves placement of the respondent in a qualified residential treatment program the court shall, on its own motion, determine a schedule for the return of the respondent and direct the local social services district or office of children and family services, as applicable, to make such other arrangements for the respondent's care and welfare that is in the best interest of the respondent and in the most effective and least restrictive setting as the facts of the case may require. If a new placement order is necessary due to restrictions in the existing governing placement order, the court may issue a new order.

4. The court may, on its own motion, or the motion of any of the parties or the attorney for the respondent, proceed with the court review required pursuant to this section on the basis of the written records received and without a hearing. Provided however, the court may only proceed with the court review without a hearing pursuant to this subdivision upon the consent of all parties. Provided further, in the event that the court conducts the court review requirement pursuant to this section but does not conduct it in a hearing, the court shall issue a written order specifying any determinations made pursuant to clause (A) of subparagraph (iii) of paragraph (a) of subdivision three of this section and provide such written order to the parties and the attorney for the respondent expeditiously, but no later than five days.

5. Documentation of the court's determination pursuant to this section shall be recorded in the respondent's case record.

6. Nothing in this section shall prohibit the court's review of a placement in a qualified residential treatment program from occurring at the same time as another hearing scheduled for such respondent, including but not limited to the respondent's permanency hearing, provided such approval is completed within sixty days of the start of such placement.