

Rule 65. Behavior, Diversion, and Education (BDE) Program

(A) Purpose

The Behavior, Diversion, and Education ("BDE") Program diverts juveniles aged thirteen (13) years or younger at the time of the offense and who have been accused of a sex offense against a family or household member away from formal court proceedings and into treatment as soon as possible. The primary goal of the BDE Program is to provide families with a safe space to address the offending behavior while protecting the victim.

(B) Eligibility Criteria

Participation in the BDE Program is voluntary and requires parental involvement. Cases must meet the following criteria:

(1) The alleged offender:

- (a)** is age thirteen (13) years or younger at the time of the offense and under the age of eighteen (18) at the time of the referral;
- (b)** has no prior adjudications for a sex offense (O.R.C. ch. 2907) or any felony of the first or second degree; and
- (c)** has had no past or current treatment for sexual offending with recurrent sexual behavior unrelated to the current case/matter.

(2) The alleged victim is a family or household member as defined in O.R.C. § 2919.25(F). Juveniles in the custody of the Cuyahoga County Division of Children and Family Services are not precluded from participation in the Program.

(3) Additional factors to be considered that may disqualify a matter include:

- (a)** Age difference between the alleged offender and victim;
- (b)** Physical injury to the victim;
- (c)** Number of victims;
- (d)** Length of time victim and/or alleged offender in the home; or
- (e)** Input from the victim's family.

(C) Referral to the Program

Eligible cases may be referred to the BDE Program either by the Cuyahoga County Prosecutor's Office ("CCPO") before the filing of a formal complaint or by the Court after the filing of a complaint. Court referrals shall be made during the arraignment or pre-trial stage of the case, and in no event after any admission, adjudication, or testimony by the victim. Prior to a Court referral, an eligibility hearing shall be held and the victim and/or the victim's family shall be given the opportunity to attend.

(D) Post-Complaint Referrals by the Court

- (1) The BDE Program does not require any formal hearings, including arraignment or an admission pursuant to Juv. R. 29. The Program shall not be used as a dispositional order.
- (2) Scheduling
 - (a) The case shall remain open until successful completion of treatment.
 - (b) An Engagement Review Attorney Conference shall be scheduled approximately thirty (30) days after referral to determine if the child is engaged in treatment.
 - (c) A Treatment Review Attorney Conference shall be scheduled approximately six (6) months after the Engagement Review Attorney Conference to determine treatment progress.
 - (d) The prosecutor, defense counsel, and guardian *ad litem* (if applicable) shall attend and update the Court at all Attorney Conferences.
 - (e) The treatment providers and Care Coordinators shall not attend the Attorney Conferences but shall provide information to the attorneys and Court through written reports as requested.

(E) Successful Completion

If the alleged offender successfully completes treatment through the BDE Program, the treatment provider shall send a letter of successful completion to the Care Coordinator and it shall be entered into the Court's case management system. The Care Coordinator shall notify the Jurist, prosecutor, defense counsel, guardian ad litem (if applicable), and BDE Committee of the successful completion. The Jurist shall sign a journal entry stating the BDE program has been successfully completed, case dismissed with prejudice and ordering an immediate seal of the case. A successful completion closing letter from the Court's Early Intervention and Diversion Center and CCPO shall be sent to the alleged offender and victim. The Care Coordinator shall properly dispose of any physical documents they have on the matter.