

Chapter 57 of the Laws of 2005
PINS REFORM LEGISLATION SUMMARY
Effective April 1, 2005

Counties and the City of New York

- Each county and the City of New York is mandated to provide diversion services to youth at risk of becoming the subject of a Person In Need of Supervision (PINS) petition and their families. [FCA 712 and 735(a)]
- Each county and the City of New York must designate either the local social services district (LDSS) or probation department as “lead agency” for the provision of PINS diversion services. [FCA 735(a)]
- Each county and the City of New York must offer PINS diversion services designed to provide an immediate response to families in crisis and must identify and use appropriate alternatives to detention. [FCA 712, 735(d)]
- LDSS multi-year consolidated plans or integrated county plans (“child and family services plans” as of 2008), as applicable, must include a diversion services portion that will be jointly established and approved by OCFS and the Division of Probation and Correctional Alternatives (DPCA). LDSS and local probation department must establish cooperative procedures for diversion services. [SSL 34-a (4)(b)] Executive Law (ExL) 243-a, relating to Adjustment Services Planning by probation departments, is REPEALED.

Social Services Districts/ Probation Departments as Designated Lead Agency

- In providing diversion services, the lead agency must:
 - Convene a conference with person(s) seeking to file a PINS petition, the youth (potential respondent), and his/her family concerning diversion services;
 - Diligently attempt to prevent the filing of a PINS petition and/or placement as a PINS into foster care;
 - Assess whether youth may benefit from residential respite (with consent of parent); and
 - Determine whether alternatives to detention are appropriate. [FCA 735 (b)]
- Determine (and document) whether to continue diversion services or whether there is no substantial likelihood that the youth and his/her family will benefit from further diversion attempts. There is no time limited restriction on diversion services. [FCA 735 (c)]

- Where a school district or Local Educational Agency (LEA) seeks to file a PINS petition, review efforts made by the school district or LEA to improve the youth's attendance and/or conduct in school, engage school/LEA in further efforts if beneficial to youth. [FCA 735 (d)]
- Advise the potential petitioner when diversion efforts terminate and whether such efforts were successful. Provide necessary documentation to the Family Court (FCT) and potential petitioner where there is no bar to filing a PINS petition. [FCA 735(g)]
- Where a PINS petition is filed, report to FCT regarding diversion attempts. FCT may order additional diversion efforts and may order youth and parent to participate. [FCA 742(b)]
- Lead agency (and any diversion services provider) may not use any statement made by a respondent youth against him/her at a fact-finding hearing or if transferred to a criminal court prior to conviction. [FCA 735(h)]
- A PINS placed with LDSS post-disposition, may remain in detention for no more than 15 days after disposition (previously was 30 days outside of NYC). OCFS may approve a 15-day extension upon written documentation by LDSS that the youth is in need of specialized treatment and the diligent efforts made by LDSS to locate an appropriate placement. [FCA 756(c), SSL 398(3)(c)]

Peace and Police Officers

- Peace and police officers may not bring runaways to non-secure detention unless unable to or unsafe to return youth home. [FCA 718(b)]
- Peace and police officers taking a PINS youth into custody may take the youth to FCT only where the officer affirms that he/she attempted and was unable to: (i) release the youth to his/her parents to be produced before the lead agency; (ii) take the youth to lead agency; or (iii) take the youth to an approved runaway program or other respite/crisis program. [FCA 724(b)]

Family Court Judges/Clerks

- FCT may not order pre-petition detention for an alleged PINS unless the court determines there is no substantial likelihood that the youth and his/her family will continue to benefit from diversion services and all available alternatives to detention are exhausted. [FCA 728(d)]
- No PINS petition may be filed without documentation by the lead agency that diversion services were terminated because there is no substantial likelihood of further benefit.

- A parent may not file PINS petition where diversion was terminated as unsuccessful because of the parent's lack of cooperation.
- Any PINS petition filed by a school district or LEA must include the steps taken by school district or LEA to improve the school attendance or conduct of the respondent [FCA 732(a)] and document provision of diversion services [FCA 732(d) and 735]
- A PINS respondent may be remanded to non-secure detention only if the FCT determines that there is a substantial probability that he/she will not appear in court on the return date and all available detention alternatives have been exhausted. [FCA 739(a)] Serious risk of committing a crime is no longer grounds or basis to remand a PINS to detention.
- Where a PINS petition is filed, the lead agency must make a written report to FCT regarding diversion attempts. [FCA 742(a)]
- FCT may order additional diversion efforts. [FCA 742(b)]
- FCT may order the youth and parent to participate in additional diversion services. [FCA 742(b)]
- FCT may include alternative dispute resolution and other services as a condition of a PINS order of protection. [FCA 759(f)]

School Districts and Local Educational Agencies (LEA)

- Any PINS petition filed by a school district or LEA must include the steps taken by school district or LEA to improve the school attendance or conduct of the respondent. [FCA 732(a)]

Non-Secure Detention Providers

- Peace and police officers may not bring runaways to non-secure detention unless unable to or it is unsafe to return youth home. [FCA 718(b)]
- A PINS respondent may be remanded to non-secure detention only where there exists a substantial probability that he/she will not appear in court on the return date and all available detention alternatives have been exhausted. [FCA 739(a)] Serious risk of committing a crime is no longer grounds to remand a PINS to detention.
- A PINS placed with LDSS may remain in detention for no more than 15 days after placement. OCFS may approve a 15 day extension upon written documentation by LDSS that the youth is in need of specialized treatment and diligent efforts by LDSS to locate an appropriate placement. [FCA 756(c)]

Runaway and Homeless Youth Programs

- Approved runaway programs and transitional independent living support programs (TILSP) would be permitted to provide crisis intervention and respite services to youth in need of crisis intervention or respite services. Respite services may be provided for up to 21 days. [ExL 532-a (3), (4), (5) and (6)]
- Increases from 12 to 18 months the maximum period that a youth may stay in a TILSP. [ExL 532-a (6)]
- Permits a TILSP to continue to provide services to homeless youth not yet 18 but who has reached the 18 month maximum until he/she is 18 or for up to an additional 6 months if the youth is still less than 18. [ExL 532-d (f)]