

May 18, 2005

Teleconference Handouts

PINS Teleconference

Sponsored By NYS OCFS

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 [SSL 34-a (4)(b)] Executive Law (ExL) 243-a, relating to Adjustment Services Planning by probation departments, is REPEALED.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)]

**Memorandum of Understanding (MOU) for Cooperative Diversion Procedures
Between
Probation Department and Local Social Service District
(Component of Required County Annual Plan Update)**

Due Date: July 1, 2005

INSTRUCTIONS

This document includes the directions for completing one of the required components of your required county plan. It includes the questions that need to be answered when completing the plan. Following the questions, a Guidance Section is provided. This guidance section is designed to offer suggestions, clarification or optional ways for counties in their response to the required questions. The Guidance does not include additional requirements. Counties are encouraged to adapt the format to best represent their work, making sure they provide direction through a table of contents on where required information is to be found.

MOU on Cooperative Procedures Between LDSS and Probation Requirements

This legislation requires that the diversion services portion of the required county plan be “based on a written understanding between the local social services district and the probation department which outlines the cooperative procedures to be followed by both parties regarding diversion services pursuant to Section 735 of the FCA, consistent with their respective obligations as otherwise required by law.” Below are the directions for reporting these established cooperative procedures accounting for the new requirements of this legislation.

Please put the response to these questions in a document with the following heading:

**_____ County
Memorandum of Understanding
Between
Probation Department and Local Social Service District
July 1, 2005**

To facilitate the joint review process, it would be useful for counties to follow the outline below. It is also important to allow flexibility to counties. If your format does not conform to this outline, please include a table of contents to show where the required parts of this section will be found. Please paginate this response.

1) Designate lead agency.

Please identify either the local social services district or the probation department as the lead agency for the purpose of providing diversion services in your county.

Guidance: This decision is a locally determined choice. It provides an opportunity for counties to configure their diversion services based on the efficiencies and strengths existing within their county. This decision may be impacted by current arrangements for diversion, the designated lead agency for PINS Adjustment Services under the previously authorized Section 735, or the currently designated lead agency for detention. Counties may want to consider other existing

collaborative efforts such as SPOA or CCSI in making this determination. Since the designation is made within the county plan, it may be changed in the future through an amendment to the plan or at the time of the next submission for the plan. While it is required to identify one lead agency, cooperative procedures agreed to may determine that agencies other than the lead agency are responsible for some functions or services.

2) Development of Collaborative Diversion Procedures.

Please briefly describe the planning process the county engaged in to develop these procedures. Please include a list of stakeholders or agencies involved in the process.

Guidance: The intent here is to have a brief description of who in the county has been involved to date in this process. Schools and law enforcement officials are critical partners, and these new requirements impact significantly on how they interact with the diversion process. With the requirements for respite and other services, engaging service providers, Youth Bureaus, detention facilities and others will be important considerations. Lists of RHYA Coordinators (in counties that have these positions), detention facilities, designated county lead agencies for detention and other resources are available on the OCFS website at www.ocfs.state.ny.us. If this planning process has been reported elsewhere in the Strategic Component, please cross-reference that section.

For each of the items below, please describe the procedures and/or the steps being undertaken to establish procedures to provide the required systemic responses to this population.

- a) Developing inventory of available targeted community services (by geography) to include:

Provide an inventory of available community services targeted for this population for each category below. For each service, please identify the geographic area within the county this service covers. Please note that it is required that the first three categories be available.

- i. residential respite**
- ii. crisis intervention**
- iii. diversion services/ other alternatives to detention**
- iv. alternative dispute resolution services (optional)**

Guidance: If there are existing inventories of services, please feel free to reference them and attach as an appendix to this submission. Counties may have existing respite programming available through LDSS preventive services, other state agencies or local providers. Counties may have existing RHYA programs, which are now authorized to provide respite and or “crisis intervention” services as additional services. Some counties may want to coordinate efforts with providers to establish regional services. The Office of Court Administration (OCA) supports conflict resolution programming in counties (for more information, please contact Mark Collins, Uniform Court Services – State Alternative Dispute Resolution Office – (518) 238-2888 ext. 234.

Counties need to identify the geographic areas services cover. This may include towns, school districts, or sections of the county (south/north) as determined by the county or local practice.

b) Description of Procedures for Initiating and Delivering Diversion Services

Please describe the procedures initiating diversion services and developing a plan for providing these services. These procedures should include descriptions of:

- i. **how and by whom the county will provide an immediate response to families and youth in need of services. Please include provisions for 24 hour response capability.**
- ii. **how and to whom potential petitioners refer a case,**
- iii. **how and by whom the initial conference will be scheduled,**
- iv. **how and by whom eligibility for PINS diversion will be determined,**
- v. **how and by whom suitability for diversion services will be determined),**
- vi. **how an assessment will be made to determine whether the youth would benefit from residential respite services or other alternatives to detention,**
- vii. **what assessment protocols will be used to determine risks, needs and strengths,**
- viii. **how and by whom referral to services and a case plan will be developed, including any case plan protocols that will be used.**

Guidance: Probation departments have had regulations, court rules and procedures previously established to guide the diversion process. LDSS has regulations regarding preventive services. Many counties have developed Designated Assessment Services (DAS) and other procedures. Counties may, and are encouraged to, include existing practices to the extent they are effective and are consistent with the new requirements.

c) Determination of Case Closing

Please identify the criteria and procedures (including who is responsible) to be used in determining the closing of cases. This needs to include a process for notification of the potential petitioner when services are terminated based on a determination that interventions were successful, detailing the diligent efforts undertaken. If a case is unsuccessfully terminated because there is no substantial likelihood of the youth and family benefiting from further attempts or services and the case has not been successfully diverted, procedures should include a process for notifying the potential petitioner and preparing a report of diligent efforts undertaken to be made available to the court at the initial appearance.

3) Informing Stakeholders

Please describe the process and steps taken to inform stakeholders of these new procedures. This includes law enforcement, courts, schools, public and private service providers, families and the community.

Guidance: With the significant changes created by this new legislation, it is important to communicate your county's new procedures to others involved in providing services, and

processing cases. Potential petitioners, especially parents and schools will need to be aware of changes. Schools have always been important partners, working closely with them now in light of the increased requirements to provide diversion services has heightened their significance. If your county engaged in a broad inclusive planning process, some of this communication could have been included in that section.

DRAFT

April 27, 2005

TO: Judges of the Family Court
Chief Clerks of the Family Court

FROM: Jonathan Lippman

SUBJECT: New Persons in Need of Supervision (PINS) Statute and Revised Uniform Forms
for Use in PINS Proceedings in Family Courts

As part of the Fiscal Year 2005-2006 budget, the New York State Legislature enacted amendments to the Family Court Act that significantly alter the legal framework for Persons in Need of Supervision (PINS) proceedings. *See* Laws of 2005, ch. 57, Part E. The new statute, which is retroactive to April 1, 2005, *inter alia*, requires all counties to provide diversion services through a designated agency, changes the duties of law enforcement officers upon apprehending suspected PINS, requires allegations regarding school district efforts in all petitions alleging habitual truancy, requires that compliance with the diversion provisions be alleged in all PINS petitions and prohibits Family Court clerks from accepting petitions for filing that do not contain a notice from the diversion agency. It further prohibits the Family Court from ordering detention “unless the court determines that there is no substantial likelihood that the youth and his or her family will continue to benefit from diversion services and that all available alternatives to detention have been exhausted;” the criterion for detention regarding the likelihood that the child will commit a crime before the return date has been eliminated. Both the new statute and a brief summary prepared by the New York State Office of Children and Family Services are attached for your reference.

Attached is an Administrative Order promulgating five forms, effective immediately, for use in persons in need of supervision (PINS) proceedings in Family Court. These forms, which have been approved by the Family Court Advisory and Rules Committee, conform to requirements of the new PINS statute. All are revisions of existing forms.

The revisions to the forms include the following:

- General Forms 6 and 6a: The condition regarding counseling in the temporary and final order of protection forms for PINS cases has been revised to include “other services,

including alternative dispute resolution services...” *See* Family Court Act §759.

- Form 7-1: The recognizance to produce a child has been revised to direct the parent or other person legally responsible for the child to bring the child to the agency designated to provide diversion services for PINS, instead of bringing the child directly to Family Court. *See* Family Court Act §§724(b)(i), 735(a).

- Form 7-3: The order directing detention has been revised to include two additional criteria for detention, that is, that “there is no substantial likelihood that the Respondent and his or her family will continue to benefit from diversion services and all available alternatives to detention have been exhausted.” Additionally, the language regarding the serious risk that the Respondent would commit a crime before the return date has been deleted. *See* Family Court Act §§720(5)(a), 739(a).

- Form 7-4: The PINS petition form has been revised to include two additional allegations – first, the steps that the school district or local educational agency has taken to improve the child’s attendance and behavior in cases alleging habitual truancy, and, second, the fact that the petitioner has complied with the requirements of Family Court Act §735 regarding cooperation with the agency designated to provide diversion services. Since the statute prohibits the clerks from accepting petitions for filing that lack the documentation mandated by Family Court Act §735(g), the petition indicates that a copy of the required notice from the designated diversion agency must be attached. *See* Family Court Act §§732(a),(d); 735(c),(g).

A hard copy of the revised forms is attached and revisions will be incorporated into the Universal Case Management System statewide. We will also be posting the forms on the Unified Court System CourtNet intranet and internet web-sites. *See* www.nycourts.gov.

Please replace the existing forms with the newly promulgated forms.

cc.: Hon. Ann T. Pfau
Hon. Joan B. Carey
Hon. Jan H. Plumadore
Administrative Judges

ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to Section 212 of the Judiciary Law and Section 214 of the Family Court Act, I hereby rescind the following five forms for use in Family Court proceedings in the courts of the Unified Court System of the State of New York:

GENERAL FORMS

- GF-6 TEMPORARY ORDER OF PROTECTION (Articles 3 and 7)
- GF-6a ORDER OF PROTECTION (Articles 3 and 7)

PERSONS IN NEED OF SUPERVISION FORMS (Family Court Act Art. 7)

- 7-1 RECOGNIZANCE TO PRODUCE CHILD
- 7-3 ORDER DIRECTING DETENTION
- 7-4 PETITION

I hereby prescribe the following five forms for use in Family Court proceedings in the Unified Court System of the State of New York:

GENERAL FORMS

- GF-6 TEMPORARY ORDER OF PROTECTION (Articles 3 and 7)
- GF-6a ORDER OF PROTECTION (Articles 3 and 7)

PERSONS IN NEED OF SUPERVISION FORMS (Family Court Act Art. 7)

- 7-1 RECOGNIZANCE TO PRODUCE CHILD
- 7-3 ORDER DIRECTING DETENTION
- 7-4 PETITION

Chief Administrative Judge of The Courts

Dated:

AO/

/05

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF _____

RECOGNIZANCE TO PRODUCE CHILD

I, [specify name]: _____, residing at [specify address]:
_____, am the [check applicable box]:
parent other person legally responsible for the care of [specify child’s name]: _____
_____, a child born on [specify date of birth]: _____.

I hereby promise to bring the child on [specify date and time]: _____
to the following agency designated to provide diversion services [check applicable box]:
 Department of Probation, located at [specify address]: _____

 Department of Social Services, located at [specify address]: _____

 New York City Administration for Children’s Services, located at [specify address]:

I UNDERSTAND THAT IF I DO NOT BRING THE CHILD AS PROMISED TO THE
ABOVE-NAMED AGENCY ON THE DATE AND TIME INDICATED, THE FAMILY
COURT MAY ISSUE A WARRANT DIRECTING THAT I AND MY CHILD BE BROUGHT
TO THE FAMILY COURT.

Dated: _____

Signature of Parent or Person Legally Responsible

PRINT NAME

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....
In the Matter of

Docket No.

A Person Alleged to be a Person
In Need of Supervision,

PETITION

Respondent

.....

TO THE FAMILY COURT:

The under signed Petitioner respectfully alleges upon information and belief that:

1. Petitioner, _____, resides at _____.

2. Petitioner is a person authorized to institute a proceeding under Article 7 of the Family Court Act by reason of the fact that (s)he is [specify relationship to Respondent]:

3. The Respondent above-named is a [check applicable box]: male female who was born on [specify]: _____.

4. The Respondent [check applicable box]: is is not a Native American child subject to the Indian Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963).

5. The following are the names and addresses of the parent(s) or other person(s) legally responsible for the care of Respondent or with whom Respondent resides:

<u>Name</u>	<u>Residence</u>	<u>Relationship</u>
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6. Respondent [check applicable boxes]:

does not attend school in accord with the provisions of part one of Article 65 of the Education Law

is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of parent or other lawful authority

violates the provisions of section 221.05 of the Penal Law in that (s)he:

[Set forth in a concise statement of the acts of which the foregoing allegations are based and the time and place they allegedly occurred]:

7. [Applicable in cases where habitual truancy is alleged and/or where petitioner is an official of a school district or local education agency]: The school district or local education agency has taken the following steps to improve the Respondents's school attendance and/or behavior prior to the date of this petition:

8. Respondent was under eighteen years of age at the time of foregoing acts and is now under eighteen years of age.

9. Petitioner has complied with the requirements of Family Court Act §735. [Attach notice from designated diversion services agency].

10. Respondent requires supervision or treatment.

11. As to the allegations herein made upon information and belief, the sources of Petitioners' information and grounds of belief are [check applicable boxes]:

- the statements and admissions of Respondent
- the statements and depositions of witnesses now on file with this Court
- other [specify]:

WHEREFORE, Petitioner requests that the Respondent be adjudged a person in need of supervision and dealt with in accordance with the provisions of Article 7 of the Family Court Act.

Dated: _____ ,

Petitioner

Petitioner

Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

NOTICE: [Applicable where Petitioner is the parent or other person legally responsible for the Respondent child]: Upon placement of the Respondent child with the Department of Social Services or any other agency, the Petitioner may be named as the Respondent in a child support petition brought pursuant to Article 4 of the Family Court Act and may be liable for the support of the child.

VERIFICATION
(Individual)

STATE OF NEW YORK)
) ss.:
COUNTY OF)

_____, being duly sworn, deposes and says:

That (s)he is the
in the above-entitled proceeding and is acquainted with the facts and circumstances thereof; that (s)he
has read the foregoing and knows the contents thereof; that the same is true to (his) (her) own
knowledge, except as to matters therein stated to be alleged on information and belief and as to those
matters (s)he believes it to be true.

Petitioner

Sworn to before me this
day of ,

(Deputy) (Clerk of the Court)
(Notary Public)

Verification
(Agency)

STATE OF NEW YORK)
) ss.:
COUNTY OF)

_____, being duly sworn, deposes and says:

That (s)he is the of
 , an agency authorized to originate the above-entitled proceeding, and is acquainted
with the facts and circumstances therein; that (s)he has read the foregoing and knows the contents
thereof; that the same is true to (his)(her) own knowledge, except as to matters therein stated to be
alleged on information and belief and as to those matters (s)he believes it to be true.

Name

Title

Sworn to before me this
day of ,

Notary Public

At a term of the Family Court of the
State of New York, held in and for the
County of _____,
at _____ New York
on _____.

P R E S E N T:

Hon.
Judge

In the Matter of

Docket No.

A Person Alleged to be a Person
In Need of Supervision,

ORDER DIRECTING
DETENTION OF
CHILD
(Post-Petition)

Respondent.

A petition under Article 7 of the Family Court Act, sworn to on _____, _____,
having been filed in this Court alleging that the above-named Respondent is a person in need of
supervision; and

Respondent having been brought before this Court and a preliminary hearing having
been held, this Court finds that [Note: judicial findings must be made under both I and II below]:

I. Criteria for Detention [REQUIRED]:

Detention of the Respondent is necessary pursuant to Family Court Act §739 because there is a
substantial probability that Respondent will not appear in court on the return date, and there is
no substantial likelihood that the Respondent and his or her family will continue to benefit from
diversion services and all available alternatives to detention have been exhausted.

This determination is based upon the following facts and for the following reasons [specify]:

II. Required “Best Interests” and “Reasonable Efforts” Findings [REQUIRED; check applicable
boxes and provide case-specific reasons in both A and B, below]:

- A. Continued placement in, or return to, the Respondent’s home [check applicable box]:
 would would not be contrary to the Respondent’s best interests, based upon the

following facts and for the following specific reasons [specify]:

This determination is based upon the following specific documents and evidence:

- Probation Department report, dated [specify]:
- Mental health evaluation, dated [specify]:
- Testimony of [specify]:
- Other [specify]:

; AND

B. Reasonable efforts, where appropriate, to prevent or eliminate the need for removal of the Respondent from the home, and, if the Respondent was removed prior to the date of the hearing, to return the Respondent safely to his or her home:

- were made as follows [specify]:
- were not made but the lack of efforts was appropriate [check all applicable boxes]:
 - because of a prior judicial finding pursuant to Family Court Act §754(2) that the authorized agency was not required to make reasonable efforts to reunify the Respondent with the parent(s) person(s) legally responsible for Respondent’s care [specify date of finding]:
 - because of other reasons [specify]:

were not made.

This determination is based upon the following specific documents and evidence:

- Probation Department report, dated [specify]:
- Mental health evaluation, dated [specify]:
- Testimony of [specify]:
- Other [specify]:

III. Special Circumstances Findings [REQUIRED where Respondent is 16 years or older]:

- The following special circumstances warrant detention [specify]:

NOW, therefore, it is hereby

ORDERED that Respondent is remanded to _____, to be detained pending further proceedings herein on _____; and it is further

ORDERED that the custodial authority produce Respondent on that date subject to further order of this Court; and it is further

ORDERED that in the event the child absconds from the above-named facility, written notice of that fact shall be given within 48 hours by an authorized representative of the facility to the Clerk of Court, stating the name of the child, the docket number of this proceeding, the date on which the child absconded, and the efforts made to locate and secure the return of the child. *See* 22 N.Y.C.R.R. §205.64.

ENTER

Judge of the Family Court

Dated: _____, _____.

Check applicable box:

- Order mailed on [specify date(s) and to whom mailed]: _____
- Order received in court on [specify date(s) and to whom given]: _____

At a Term of the Family Court
County of _____, State of New York
(address) _____

PRESENT: Hon

In the Matter of a Proceeding under
Article _____ of the Family Court Act

TEMPORARY
ORDER OF PROTECTION
[Articles 3 and 7]

Docket No. _____
Family Unit No. _____
 Ex Parte
 Respondent present in court
(check one)

Respondent

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND DETENTION.

Whereas the Family Court has made a determination in accordance with [check applicable box]:
 Article 3 (juvenile delinquency) Article 7 (Person in Need of Supervision) of the Family Court Act, and good cause having been shown,

Now, therefore, it is hereby ordered that [specify first name, middle initial and last name] _____, the above-named respondent, observe the following conditions of behavior:

Check Applicable Box(es):

Stay away from [name(s) of protected persons] _____ and/or from the home of _____ school of _____ business of _____ place of employment of _____ other [specify]: _____ ;

Refrain from assault, harassment, menacing, reckless endangerment, disorderly conduct, intimidation, threats, or other interference with [specify victim(s) or members of victim's family or household] _____ ;

[The following paragraphs apply only to Article 7 orders of protection; check applicable box(es)]:
 Refrain from (indicate acts) _____ that create an unreasonable risk to the health, safety or welfare of [specify child(ren)] _____ ;

Permit [specify individual]: _____, entitled by court order or separation agreement, to visit with [specify child(ren)] _____

_____, during the following periods of time [specify] _____; under the following terms and conditions [specify]: _____;

Participate in family counseling or other professional counseling activities, or other services, including alternative dispute resolution services, deemed necessary for the rehabilitation of the Respondent and not contrary to Respondent's religious beliefs, conducted by an authorized person or agency to which the Respondent has been referred [specify program or services]: _____;

Permit [specify individual] _____ to enter the residence during [specify date/time] _____ to remove personal belongings not in issue in litigation;

Pay or provide access to health or medical insurance for necessary medical care and treatment arising from the incident or incidents forming the basis of the order [specify beneficiary of treatment and coverage] _____;

Custody of respondent during the term of this order is awarded to [specify individual] _____ under the following terms and conditions [specify]: _____

Observe other condition(s) as are necessary to further the purposes of protection [specify conditions]: _____

It is further ordered that this order of protection shall remain in effect until [specify]: _____

Federal law provides that this order must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if it is established that the person against whom the order is sought has been or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect that person's rights (18 U.S.C. §§ 2265, 2266).

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, WHICHEVER IS EARLIEST.

ENTER

Judge of the Family Court.

Date: _____

Check applicable box:

Personal Service executed [specify date]: _____

Order mailed on [specify date(s) and to whom mailed]: _____

Order received in court on [specify date(s) and to whom given]: _____

At a Term of the Family Court
County of _____, State of New York
(address) _____

PRESENT: Hon. _____

In the Matter of a Proceeding under
Article 3 7 of the Family Court Act

ORDER OF PROTECTION
[Articles 3 and 7]

Docket No. _____
Family Unit No. _____

(check one):
 Upon default
 Respondent present in court

Respondent

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND DETENTION.

Whereas the Family Court has made a determination in accordance with [check applicable box]:
 Article 3 (juvenile delinquency) Article 7 (Person in Need of Supervision) of the Family Court Act,

[Applicable to Article 3 only]: and good cause having been shown,

Now, therefore, it is hereby ordered that [specify first name, middle initial and last name]
_____, the above-named respondent, observe the following conditions of behavior:

Check Applicable box(es):

Stay away from [name(s) of protected persons] _____
and/or from the home of _____ school of _____
 business of _____ place of employment of _____
 other [specify]: _____ ;

Refrain from assault, harassment, menacing, reckless endangerment, disorderly conduct,
intimidation, threats, or other interference with [specify victim(s) or members of victim's family or
household] _____ ;

[The following paragraphs apply only to Article 7 orders of protection; check applicable box(es)]:

Refrain from (indicate acts) _____
that create an unreasonable risk to the health, safety or welfare of [specify child(ren)] _____ ;

Permit [specify individual]: _____, entitled by court order or
separation agreement, to visit with [specify child(ren)] _____

_____, during the following periods

of time [specify] _____ ; under the following terms and conditions [specify]: _____ ;

Participate in family counseling or other professional counseling activities, or other services, including alternative dispute resolution services, deemed necessary for the rehabilitation of the Respondent and not contrary to Respondent's religious beliefs, conducted by an authorized person or agency to which the Respondent has been referred [specify program or services]: _____ ;

Permit [specify individual] _____ to enter the residence during [specify date/time] _____ to remove personal belongings not in issue in litigation;

Pay or provide access to health or medical insurance for necessary medical care and treatment arising from the incident or incidents forming the basis of the order [specify beneficiary of treatment and coverage] _____ ;

Custody of respondent during the term of this order is awarded to [specify individual] _____ under the following terms and conditions [specify]: _____

Observe other condition(s) as are necessary to further the purposes of protection [specify conditions]: _____

It is further ordered that this order of protection shall remain in effect until [specify]: _____

Federal law provides that this order must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if it is established that the person against whom the order is sought has been or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect that person's rights (18 U.S.C. §§ 2265, 2266).

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, WHICHEVER IS EARLIEST.

ENTER

Judge of the Family Court.

Date: _____

Check applicable box:

- Personal Service executed [specify date]: _____
- Order mailed on [specify date(s) and to whom mailed]: _____
- Order received in court on [specify date(s) and to whom given]: _____

**Person In Need Of
Supervision:**

- Less than 18 years of age and

AND

- Does not attend school (Education Law Article 65); or

**Person In Need Of
Supervision:**

- Is incorrigible, ungovernable, or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority; or
- Who violates the provisions of section 221.05 of the penal law (unlawful possession of marihuana)

**Person In Need Of
Supervision:**

- Youth **at risk** of having a PINS petition filed
- Youth **alleged** to be a PINS
- Youth **adjudicated** a PINS

**Diversion Services
Are Mandated For:**

- Youth at risk of becoming the subject of a Person In Need of Supervision (PINS) petition

AND:

- Their families
- Diversion services include pre-petition adjustment efforts and preventive services

Services Must Include:

- Immediate (24hr/ day) response to families in crisis
- Appropriate alternatives to detention

Services Must Include:

- Crisis intervention programs, including family crisis counseling and alternative dispute resolution; and
- Residential respite services for a youth in crisis for up to 21 days

**Diversion Services
No Longer Time Limited:**

- NO SUBSTANTIAL LIKELIHOOD that the youth and his/ her family will benefit from further diversion services

Non-Secure Detention Reform:

- Pre-petition detention criteria:
 - No substantial likelihood that the youth and his/ her family will continue to benefit from diversion services;

AND:

- All available alternatives to detention have been exhausted

Non-Secure Detention Reform:

- Post-petition detention criteria:
 - Substantial probability that he or she will not appear in court on the return date

AND:

- All available alternatives to detention have been exhausted

Petition Filing Changes:

- Parent:
 - May only file where documentation from lead agency indicates that parent cooperated with unsuccessful diversion services

Petition Filing Changes:

- School District - Must document the steps taken by school district to improve school attendance or the conduct of the youth
- Lead Agency

Family Court:

- Order additional diversion efforts
- Order the youth and his/ her parent to participate in diversion services

**Post-Adjudication
PINS Detention Reform:**

- No more than 15 days after disposition awaiting placement
- One 15 day extension approved by OCFS Regional Office where documented that:
 - the youth is in need of specialized treatment or placement AND
 - diligent efforts by LDSS to locate an appropriate placement.

Other Provisions:

- Lead agency designation
- Planning changes

Other Provisions:

- Runaway and Homeless Youth Programs and Transitional Independent Living Support Programs (TILSP):
 - May provide crisis intervention and respite services
 - Increase from 12 to 18 months the maximum period that a youth may stay in a TILSP

Planning Requirements:

- All counties must include diversion in required consolidated services or integrated county plan
- OCFS & DPCA jointly approve

Planning Requirements:

- Notification of Lead Agency
- Annual Plan Update (APU) for plan
- Memorandum of Understanding
- **Due July 1st!**

**Memorandum of Understanding
Between
Probation and Social Services:**

- Stakeholders
- Lead Agency
- Collaborative procedures

Memorandum of Understanding
Between
Probation and Social Services:

- Collaborative procedures:
 - Available services for residential respite crisis intervention, alternatives to detention, diversion
 - Provisions for immediate response, assessment, service delivery, case closing

Diversion Services:

- All cases within scope of Family Court Act are eligible
- AND
- All cases are suitable for an initial diversion attempt

Diversion Services:

- Include access to preventive services
- Required to have residential respite and crisis intervention services
- Court may order parents to participate in diversion services

Timeframes:

- Provides for immediate response (24 hours on call)
 - crisis intervention services
- No time limits for provision of diversion services
- Preventive services can be provided up to age 18

Timeframes:

- Cases closed for diversion only when lead agency determines that there is no substantial likelihood that the youth and his/her family will benefit from further services

Referral For Petition:

- Cannot occur until diversion services attempted
- Requires documented exhaustion of diversion services

Referral For Petition:

- Where court order to parent(s) necessary for engagement
- Where parent is refusing to cooperate with diversion services, lead agency may petition to court

**PINS Diversion
Respite Includes:**

- Respite programs as presently exist under the regulations
- Approved runaway programs and
- Transitional independent living support programs (TILSPs)

**Respite-Program
Requirements:**

- Must be appropriately licensed or certified as a residential program
- Must be approved by the social services district (or, for foster boarding homes, by the voluntary agency) as a respite provider

Respite-Types of Programs:

- Certified or approved foster boarding homes
- Certified emergency foster boarding homes
- Licensed agency boarding homes
- Licensed group homes

Respite- Types of Programs:

- Licensed group residences
- Licensed institutions
- Programs certified or approved by OMH or OMRDD to provide care for children
- Individuals approved by district, voluntary agency or preventive agency to provide respite

Respite- Types of Programs:

- Approved runaway programs
- TILSPs

Respite Legal Requirements:

- Respite regulations are at 18 NYCRR Part 435
- Regulations that set forth general licensing and operational standards also apply

Respite-Custody and Consent:

- Custody remains with parents
- Youth can remain in respite only with parental consent and consent of youth
- Youth cannot be compelled to remain in respite

Runaway and Homeless Youth Shelters:

- Runaway and Homeless Youth Shelter may provide respite to PINS population as a separate program

**Runaway and Homeless
Youth Shelters:**

- While the RHYA allows a youth to remain in an approved runaway program (Part I Crisis Shelter program) for 30 days, the maximum length of stay for a Respite placement is 21 days

Detention Facilities:

- Cannot be used for respite
- Authorized agencies that operate detention programs could operate respite programs, but the detention programs cannot be used for respite - must be separate programs

Respite IS NOT Detention:

- Detention is only available:
 - Court Remand
 - Warrant
 - Post-adjudication
- Detention does not require youth to consent

Respite IS NOT Detention:

- Youth can return home at any time from Respite
- Respite must include immediate attempts at reunification of family

**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)]

**School Districts and
Local Educational
Agencies (LEA):**

- Meet with Lead Agency to review efforts made by the school district or LEA to improve the youth's attendance and/or conduct in school, and engage in further efforts if beneficial to youth

Role of the Court:

- Court review of documentation
 - Parents
 - Schools
- Court serves as the “check and balance” of diversion efforts

Role of the Court:

- Order further diversion activities
- Order the parents to participate in the diversion activities

Peace and Police Officers:

- Police officer must always attempt to return the youth to custody of parent
- When youth returned home, the parent must promise to return youth to Lead Agency (see new OCA form)

Peace and Police Officers:

- If unsafe or unable to return the youth home, may bring to:
 - Lead Agency
 - Respite program
 - Runaway program

Post-Disposition Admission of PINS In Detention:

- After being admitted to custody of local commissioner (i.e., post-disposition), can be directed to a detention facility for up to 15 days

Post-Disposition Admission of PINS In Detention:

- Extension of 15 days can be approved by OCFS Regional Office if written LDSS provides documentation that:
 - youth is in need of specialized treatment or placement; and
 - diligent efforts are being made by LDSS to locate an appropriate placement

Funding:

- Existing resources:
 - County funds
 - Youth bureaus
 - Probation
 - School districts
 - Law Enforcement
 - DCJS

**Alternatives to Detention/ PINS
Diversion Funding:**

- The 2005-2006 Budget includes \$5.2 million for Alternatives to Detention/ PINS:
 - \$3.8 million to social services districts for community initiatives
 - \$1.4 million for state-level contracts including Vera technical assistance

**Alternatives to Detention/ PINS
Diversion Funding:**

- \$3.8 million:
 - Funds to be used to reduce the use of detention
 - Social services districts invited to submit applications
- LCM to be issued

**Alternatives to Detention/ PINS
Diversion Funding:**

- Proposals need to describe the proven effective program and/or services the county plans to develop or expand
 - Amount of funds requested
 - Target population
 - Outcomes
 - Duration of the project

**Flexible Fund for
Family Services**

- Social Services districts may use a portion of their FFFS allocations for:
 - PINS services
 - Prevention services
 - Detention Diversion services

**Child Welfare Services
65% State Reimbursement:**

- 65% state reimbursement also available to social services districts for preventive PINS diversion services net of available federal funds provided the district meets its Flexible Fund child welfare threshold
- The state funds may not be used to supplant other existing state or local funds
