



## Office of Children and Family Services

### FAQ's for Recent Reforms Related to Persons in Need of Supervision (PINS)

#### Diversion Services and Practices

- Q. When LDSS is the PINS Diversion Services lead agency is LDSS required to use the YASI?**
- A.** LDSS as the lead agency for PINS Diversion services is not required to use the Youth Assessment and Screening Instrument (YASI). LDSS may request access to the YASI Caseworks assessment tool from the Division of Criminal Justice Services, Office of Probation and Correctional Alternatives at [opcaYASI@dcjs.ny.gov](mailto:opcaYASI@dcjs.ny.gov).
- Q. What assessment tools such as the YASI does OCFS recommend LDSS use?**
- A.** The Youth Assessment and Screening Instrument (YASI) and the Youth Level of Service-Case Management Inventory (YLS-CMI) are two validated risk assessment tools that assess the risk and needs of youth and are used for service planning. They are not required to be used by the LDSS and at this time OCFS does not have a recommended assessment tool other than the required sex trafficking screening and assessment tools.
- Q. Are the assessment tools such as the YASI free?**
- A.** The YASI is not a free assessment tool, it is a software product developed by Orbis Partners, Inc. and functions on the *Case Works* platform. To request access to the YASI assessment please contact the Division of Criminal Justice Services, Office of Probation and Correctional Alternatives at [opcaYASI@dcjs.ny.gov](mailto:opcaYASI@dcjs.ny.gov). For a quick overview of the YASI, please click on this link [Yasi Assessment Orbis website](#).
- Q. If LDSS is the lead agency and completing the PINS intake, is LDSS required to complete a Massachusetts Youth Screening Instrument Version 2 (MAYSI-2) or is that just for probation departments that are the lead agency?**
- A.** LDSS is not required to use the MAYSI-2 to identify mental health needs but may opt to do so
- Q. Are there any strategies that can be employed to reduce the filing of PINS petitions?**
- A.** OCFS encourages localities to utilize collaborative case reviews prior to filing a petition, having an accessible continuum of community-based services, developing strong collaborations with school districts, and utilizing effective engagement strategies to partner with families. Localities in rural communities that have limited resources are encouraged to consider regional approaches to community-based services.
- Q. Are respite and voluntary placements an option, with parental consent?**
- A.** To clarify use of terms, preventive respite is not considered a placement and, therefore, cannot be ordered by a court. Preventive respite is available when immediate relief is needed to maintain or

Andrew M. Cuomo, Governor

Shelia J. Poole, Commissioner



## Office of Children and Family Services

restore family functioning or as a diversion for youth. Respite must be voluntary. A youth cannot be placed by the court in respite. LDSS can access respite services with parent and youth consent and such service is required as part of PINS Diversion services in the locality. Voluntary Placement of youth in foster care remains a legal option when case circumstance dictates such in accordance with the applicable statutes and regulations.

### **Q. Can you describe what family support services would look like?**

**A.** Under FCA §458-m, programs designated as Family Support Services (FSS) are established to provide services to children and families with the goal of preventing a child from being adjudicated as a person in need of supervision and help prevent out-of-home placements of such youth or to prevent a petition from being filed under article seven of the family court act. These programs shall provide comprehensive services to such children and their families, either directly, or through referrals with partner agencies, including but not limited to:

- Rapid family assessments and screenings
- Crisis intervention
- Family mediation and skills building
- Mental and behavioral health services including cognitive interventions;
- Case management
- Respite services
- Educational advocacy; and
- Other family support services.

The services shall be trauma-responsive, family focused, gender-responsive, and evidence based or informed and strengths based and shall be tailored to the individualized needs of the child and family based on the assessments and screenings conducted by the family support services program. The programs must have capacity to serve families outside of regular business hours including evenings and weekends.

### **Q. Will there be expanded availability of diagnostic settings for runaway PINS youth?**

**A.** Deeper conversations and a review of best practices are continuing. Counties are encouraged to utilize community-based diagnostic resources for youth rather than out of home centers. Some counties have utilized Supervision and Treatment Services for Juveniles Program (STSJP) funding to support such services. In some instances, youth who go missing or leave home without permission will continue that same behavior while in placement. So, placement may not be a solution for such behavioral issues.

### **Q. What are the unique skills needed for child welfare caseworkers serving adolescents?**

**A.** The case practice for child welfare staff serving adolescents is distinct. Caseworkers are supporting parents and caregivers to “outlast the adolescent behaviors” many of which subside naturally with individualized support and age. Ideally, adolescent caseworkers should enjoy working with older youth, be fluent with social media, youth culture and have a working knowledge of peer to peer support models. Adolescent behaviors must also be assessed as potential trauma reactions;



## Office of Children and Family Services

supports and interventions should be from a trauma-informed and trauma-responsive approach. Knowledge of motivational interviewing or family mediation resources is additionally helpful.

**Q. What are the OCFS practice recommendations if a youth and or their parent refuse services, and problematic behaviors continue or worsen with interventions in place? What does OCFS suggest the LDSS do if a petition is not encouraged/allowed?**

**A.** There is no prohibition on a PINS petition being explored when there is no substantial likelihood that the youth and his or her family will benefit from further diversion attempts. (FCA §735) However, before filing a PINS petition, interdisciplinary teams should explore other potential alternatives such as family team meetings, dispute resolution centers, and restorative justice approaches supported with STSJP, DSS preventive or Youth Development Program funding. If a family is refusing services, and there is a suspicion of child abuse or maltreatment, the SCR must be contacted.

### **Truancy and Education Concerns**

**Q. Where probation completes the intake, but DSS is technically the lead, is DSS still reviewing the truancy allegations before any school can petition? Or should that be the probation department?**

**A.** Per Chapter 362 of the Laws of 2018, the lead agency must review the steps taken by the school district to resolve the educational issues prior to a PINS petition being filed, regardless of whether the school district is the petitioner. PINS petitions that include an allegation of truancy, must detail the steps taken by the school district to address the truancy issue. The local procedures should be outlined in any Cooperative Agreement and the PINS Diversion Services Section of the Child and Family Services Plan. From a best practice perspective, the Probation Department and LDSS should collaboratively assess that all diversion efforts have been exhausted prior to the filing of a PINS petition for all allegations.

**Q. If a school filed a PINS petition and the court placed the youth in care prior to 1/1/20 with truancy as the only concern, will the youth need to be removed from placement by 1/1/20?**

**A.** For youth already placed on a truancy adjudication, the recent change in law has no effect. Youth adjudicated and placed prior to 1/1/2020, must finish out the terms of their current order/adjudication. The LDSS may pursue options such as shortened lengths of stay in placement and a period of trial discharge with aftercare services based on local practice. Please note, however, that after January 1, 2020, any petition for extension of placement born out of that pre-2020 truancy adjudication would not be valid.

**Q. What dispositional options will be available for an adjudicated PINS probationer who continues to be a truant in violation of the conditions of probation? If a locality can't place truants, what other options are there?**

**A.** It is recommended that the PINS diversion lead agency work closely with the local schools to identify the underlying factors contributing to the truancy and to identify solutions to meet the youth's



## Office of Children and Family Services

educational needs. If the underlying factor is educational neglect by the parent or caregiver, then the SCR must be contacted.

**Q. Will OCFS remove allegations of educational neglect on SCR reports after 1/1/2020 for youth age 14 and older?**

**A.** No. Neglect of a child of school age can be the result of a parent's failure to provide the minimum degree of care in providing education for the child such that the child is impaired or at imminent risk of impairment. As the Family Court Act definition of Neglect is still clear on that matter, the allegation of educational neglect must continue to be available to the Statewide Central Register of Child Abuse and Maltreatment (SCR) as the county based LDSS.

### **PINS Pre-dispositional Placement**

**Q. Is a youth in foster care if they are in a pre-dispositional placement?**

**A.** No. While the law provides that pre-dispositional placements are to be in a foster care setting, but as the court has not transferred legal care and custody of the child to the LDSS, the child is not in foster care

**Q. As PINS pre-dispositional placements are not foster children, is there any guidance from OCFS regarding liability, releases, authorizations to treat, etc.?**

**A.** The parent/guardian retains all rights, as they do with preventive respite. All releases and authorizations required to meet the physical, psychological and medical needs of a youth while in pre-dispositional placement should be obtained.

**Q. Is there a list of authorized voluntary agencies who are currently able to provide pre-dispositional services in in their current foster care settings of group homes and RTCs. Do the agencies have authority to co-mingle these new PINS placements with foster care children?**

**A.** Pre-dispositional placements can occur in any foster care setting certified or licensed by OCFS or an authorized agency (Foster boarding home, Group home, Residential Treatment Center) so long as there is a court order and the required findings prior to the pre-dispositional placement. There is no prohibition against co-mingling PINS PDP placed youth with youth in foster care in any foster care setting. Please be aware, for Foster Family Boarding Homes, the entity that has certified the home will have notice/documentation obligations for any children in foster care in the home before the PDP youth may begin to reside there.

**Q. Does a voluntary agency need to have a special program to accommodate youth who need parents/guardians to sign authorizations for medical and mental health treatment needs while in pre-dispositional care?**

**A.** No. Pre-dispositional placements may occur in any foster care setting certified or licensed by OCFS or another authorized agency.



## Office of Children and Family Services

**Q. Can the local district contract with a local certified foster family, not affiliated with a voluntary agency, but certified by the department to be the placement resource for pre-dispositional placements? The ADM only speaks to creating a new contract with VA's.**

**A.** Yes. Pre-dispositional placements may occur in any foster care setting certified or licensed by OCFS or another authorized agency. These would include a foster family boarding home, group home and residential treatment center.

**Q. Will OCFS be issuing a model contract for pre-dispositional placement services?**

**A.** OCFS is not issuing a model contract for pre-dispositional placement services to leave flexibility at the local level. OCFS offers the following suggestions for contracting with authorized agencies for pre-dispositional care and maintenance services:

- 1) In the immediate term, consider utilizing the approved small dollar amount (under \$50,000) contract mechanism in the County that satisfies Office of the State Comptroller's rules.
- 2) Consult with your County Legal team and explore an addendum to county preventive respite contracts for the purchase of pre-dispositional care and maintenance services. Please note that pre-dispositional care and maintenance services are not eligible for preventive funding.
- 3) Create new contracts for pre-dispositional care and maintenance services.

**Q. Is there contract language that OCFS recommends for pre-dispositional placements?**

**A.** The LDSS should utilize local protocols for contracting for PINS pre-dispositional placements in a foster care setting while being mindful of the PINS reform legislation. For PINS pre-dispositional placements ordered to a foster care setting, all laws, rules and regulations that govern such settings apply. For youth who agree to a short-term safe house, those rules and regulations govern.

There are no specific regulations for pre-dispositional placement of youth related to a Family Court Act Article 7 matter. There are specific limited timeframes outlined in the legislation and specific findings by the court which must be made prior to the order of a pre-dispositional placement. The cost of any pre-dispositional placements cannot be funded or reimbursed by the state. Expenditures must not be authorized in the Welfare Management System (WMS), paid through the Benefits Issuance Control System (BICS), or claimed in the Automated Claiming System (ACS).

The LDSS should consult with their local legal and contracting teams in deciding how to contract for pre-dispositional placement services. Services provided under pre-dispositional placement contracts should include but not be limited to intake requirements including obtaining consents and information regarding medical, mental health, developmental needs and education needs from parents/guardians, transportation to court where relevant, and visitation/access to family members.

### **PINS Post-dispositional Placement**

**Q. Is there a prohibition of placing PINS youth with JD youth?**

**A.** There is no preclusion of youth adjudicated as PINS co-mingling with youth adjudicated a Juvenile Delinquent (JD) in foster care.



## Office of Children and Family Services

**Q. Should each LDSS be provided with copies of the pre-dispositional investigation (PDI) for the case record?**

**A.** FCA §782 was not changed by the PINS Reform legislation. Per FCA §782-a, the family court so placing the youth shall transmit a copy of the orders of the family court pursuant to FCA §§752 and 754, and of the probation report and all other relevant evaluative records in the possession of the family court and probation department related to such child. If the PDI does not arrive with the placement order, it is recommended that the LDSS confer with the placing judge's office.

**Q. Is it possible for LDSS to get the PDI earlier? (It is troubling to receive the PDI at court. The LDSS is being asked to find a placement without access to information necessary to complete the referral packet.)**

**A.** Probation is required to provide the PDI directly to the court unless the court directs them to share it with other providers for the purposes of placement and service planning. Per FCA §782-a, the family court so placing such person shall transmit a copy of the orders of the family court pursuant to FCA §§ 752 and 754, and of the probation report and all other relevant evaluative records in the possession of the family court and probation department related to such child. Close collaboration with Probation for awareness of potential placements and the ability to request records timely is recommended.

**Q. Can LDSS use Supervised Independent Living Programs (SILP) for PINS youth?**

**A.** There is no prohibition on using SILPS for any youth provided they otherwise meet the federal, state and local requirements.

**Q. If a child was adjudicated a PINS before January 1, 2020, but the disposition was not until after January 1, does the new law control disposition?**

**A.** Yes.

**Q. If a PINS youth was placed before January 1, 2020, is the time frame of the placement now shortened by the new law?**

**A.** This depends on whether the placement being asked about is pre-dispositional or post-dispositional. For pre-dispositional placements, the new law relates only to petitions filed on or after January 1, 2020. For post-dispositional placements (following adjudication) any new placement order issued following January 1, 2020 will be bound by the new time frames.

**Q. For post-January 1, 2020 PINS Placements, does the placement duration start at 2 months?**

**A.** The first period of post-dispositional PINS placement can last no longer than 60 days. It is expected that the 60-day period of placement is viewed as a period for focused problem solving and permanency planning with a view of all youth returning to the community after this period. Extensions of placement should be sought only after vigorous efforts for immediate reunification have not been successful. Please also note that the extensions are "up to" timeframes – the extensions are not required to utilize the maximum allowable times.



## Office of Children and Family Services

**Q. Can an LDSS file for an extension of post-dispositional placement after the youth turns 18 without the youth's consent?**

**A.** In accordance with FCA §756-a(g), no placement may be made or continued beyond the youth's 18<sup>th</sup> birthday without his or her consent. Without the consent of the youth, no additional extensions of placement may be ordered.

**Q. How do I continue placement for PINS youth over the age of 18?**

**A.** The LDSS will not be able to petition for an extension of placement if the county has reached the maximum number of extensions. If the youth and the service team deem such to be in the best interest of the youth and no permanency options have been located, the LDSS will need to pursue other legal avenues to retain custody of the youth with their permission.

**Q. If a youth is placed in care on a PINS petition prior to 1/1/20 and has already had multiple extensions, can the LDSS request additional extensions or up to the two potential extensions for these cases?**

**A.** The provisions in FCA§756-a took effect January 1, 2020 and apply to any decisions for extension of placement that occur on or after such date, regardless of the date the petition is filed. If clarification is needed on the applicability, please see the effective date provision section 24 of Part K of Chapter 56 of the Laws of 2019.

**Q. If the court determines that it is in the child's best interest to extend placement for a third time, what would be the length of time for that extension?**

**A.** If the court orders an extension of placement under FCA §756-a (d)(ii), the legislation does not outline the time frame for such extension. Extensions of placement should be sought only after vigorous efforts for reunification have not been successful. Please also note that the extensions are "up to" timeframes – the extensions are not required to utilize the maximum allowable times.

**Q. Can a foster family boarding home with emergency certification be a placement for a PINS youth even if it is for 60 days?**

**A.** Yes, LDSS can complete an emergency certification of a foster parent for PINS youth. All regulatory standards must be met. LDSS may also want to explore the use of certifying or approving emergency foster homes for this population, when kinship options are not available.

### **Warrants and Other Court Orders**

**Q. If a PINS youth is located on a warrant after regular business hours and refuses to go home and/or parents refuse to take them, where will they go if they cannot go to non-secure detention (NSD)?**

**A.** Crisis Intervention is a required service under PINS Diversion Services for each locality. Each county will need a process to address the emergency safety planning for youth when the caregiver is unable or unwilling to accept the youth into their own home. Respite (informal or formal), is also a required service under PINS Diversion Services within each locality and should be explored. The



## Office of Children and Family Services

youth and caregiver should agree to this intervention. It is also good practice to assist the youth and family to identify safe agreed upon, natural supports, including kin and fictive kin, who could be utilized during times of family crisis.

**Q. Can courts order electronic monitoring for pre-disposition PINS youth?**

**A.** Electronic monitoring may still be ordered by the court for pre-dispositional PINS youth. The use of this tool should be time limited and part of an overall service plan for the youth and family.

**Q. With an adjudicated PINS youth, are Orders of Protection still available to place on parents to ensure that the youth engages in services?**

**A.** FCA §759, which provides for the issuance of an order of protection for a person who is before the court and is a parent or other person legally responsible for the child's care or the spouse of the parent or other person legally responsible for the child's care, or respondent or both, was not changed by the PINS reform legislation. Orders of protection are still available, in accordance with all applicable laws and regulations.

### **Funding and Claiming**

**Q. What funding can be used for PINS placements?**

**A.** Effective January 1, 2020, there is no state funding reimbursement for any PINS placements. No state (or Title IV-E) funding may support pre-dispositional placements. No state dollars may be used to fund PINS pre and/or post-disposition placement, including current PINS placements of youth in foster care. Post-dispositional PINS placements may be Title IV-E eligible if the youth meets the IV-E eligibility criteria for foster care youth. It is important to note that all requirements of the Family First Prevention Services Act legislation will apply to youth in post-dispositional placements under Article 7 of the Family Court Act after September 2021. For the purposes of post-dispositional placements for dually eligible TANF-EAF and Title IV-E eligible children, the local share requirements for Title IV-E cannot be matched with other federal funds, including TANF-EAF. Localities may use TANF-EAF funds to cover 100 percent of the post-dispositional placement of PINS.

Preventive funding may be utilized to provide supportive and rehabilitative services, in accordance with Social Services Law §409, to expedite the safe return of a youth in foster care back to their home; all preventive funding eligibility requirements apply. Chaffee funds may also be utilized, as per eligibility requirements, to support the youth while in foster care, but may not be utilized to fund the PINS placement (19-OCFS-LCM-08).

**Q. What is the claiming process for pre-dispositional placements? Given that they are entirely local share, will OCFS track the costs through our typical payment and claiming structure?**

**A.** The ADM, 19-OCFS-ADM-22, contains instruction for claiming in Attachment A—System Instructions for Youth Ordered to Pre-dispositional Placement in a Foster Care Setting and Post-dispositional Placement under Article 7 of the Family Court Act—outlines that expenditures for pre-



## Office of Children and Family Services

dispositional youth residing in a foster care setting **must not** be authorized in WMS, paid through BICS or claimed in the Automated Claiming System. These expenditures shall be processed outside of these systems as there is no claiming allowed for these placements. Additionally, as the expenditure is entirely local share, the localities should establish a payment route directly between the district and agencies as a local invoicing process which should only be used for pre-dispositional placement.

**Q. What funding sources are envisioned for meeting the treatment needs of youth found to have co-occurring mental health and substance abuse?**

A. PINS reform did not impact these areas specifically, as youth with substance abuse concerns are not best treated in foster care but rather in OASAS licensed programs. Medicaid state plan services, STSJP or preventive funds may continue to be used to support the behavioral health needs of youth in the community.

**Q. What funding stream is Youth Development Program funding?**

A. Youth development program funding is 100% state funding and is allocated through each municipal youth bureau to support delinquency prevention and statewide positive youth development for all youth ages 0-21 in NYS.

### **Collaboration Strategies**

**Q. How will Runaway Homeless Youth (RHY) programs be affected by this legislation?**

A. RHY programs may be impacted by increased utilization of these programs to the extent they will be identified as a short-term safe house intervention for youth identified as trafficked who are willing to participate in such intervention. RHY programs are also very experienced in responding to the needs of youth who leave home without consent and should be engaged at the local level by the LDSS for effective collaborations.

**Q. How should an LDSS respond when the recommendation from probation is to place youth with substance use disorders and at risk of sex trafficking?**

A. PINS reform did not impact the area of substance use disorders specifically, as youth with substance abuse concerns are not best treated in foster care but rather in OASAS licensed programs. Supervision and Treatment Services for Juvenile Programs (STSJP) or preventive funds may be used to support the behavioral health needs of youth in the community and for aftercare.

Please also see the resources available for concerns regarding the trafficking of youth at NYS OCFS: <https://ocfs.ny.gov/programs/human-trafficking/index.php>

There is a special provision found in SSL § 447 that will allow youth who have been found by the Court to be sexually exploited to be directed to a short-term safe house (runaway and homeless youth program (FCA §§ 720 and 739)), as a pre-dispositional placement or a long-term safe house at disposition. (FCA § 756).

OCFS encourages each LDSS to use the implementation of this legislation as an opportunity to strengthen agency partnerships and PINS diversion work. Localities are encouraged to leverage



## Office of Children and Family Services

Court Improvement Projects and Juvenile Justice collaborations to assess system impacts of the PINS Reform legislation and amend practice and protocols as necessary.

**Q. Are there state level discussions occurring between OASAS, OMH, and OPWDD around services for youth who are non-compliant?**

**A.** There are state-level discussions occurring between these agencies and OCFS with a focus on how to collectively support positive youth and family outcomes. NYS system of care partners are offering trained facilitation at the local level for those counties interested. For further information, please contact Angela Keller, NYS OMH at [Angela.Keller@OMH.ny.gov](mailto:Angela.Keller@OMH.ny.gov). Additionally, counties can refer the case to the NYS Council on Children and Families Hard to Serve process which can be found at <https://www.ccf.ny.gov/council-initiatives/hard-place-hard-serve-unit/>

**Q. What are the OCFS/DCJS expectations to probation when LDSS is the lead agency, yet probation still plays a big role in the dispositional outcome?**

**A.** OCFS encourages each LDSS to use the implementation of this legislation as an opportunity to strengthen agency partnerships and PINS diversion work. Localities are encouraged to leverage Court Improvement Projects and Juvenile Justice collaborations to assess system impacts of the PINS Reform legislation and amend local practice and protocols as necessary.

**Q. How are communities/parents being made aware of these changes?**

**A.** OCFS issued 19-OCFS-ADM -22 in December 2019 to address the changes in the PINS Reform legislation. Additionally, OCFS encourages localities and other stakeholders to identify the best means to provide outreach efforts that need to occur in their communities related to the PINS Reform legislation. As the implementation and specific resources to support youth and families are locally administered, OCFS would recommend localities continue to share information with community stakeholders, families and youth.

**For more information regarding the implementation of the PINS legislation, please visit the**

**OCFS website at: <https://www.ocfs.ny.gov/programs/youth/pins/>**

**Please contact us with any additional questions at the PINS mailbox: [PINS@OCFS.ny.gov](mailto:PINS@OCFS.ny.gov)**