

FCA ARTICLE 7: PINS.

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Persons In Need of Supervision are either: truant; incorrigible/ungovernable/disobedient and beyond lawful; or are possessing marihuana.

Family Court has exclusive original jurisdiction over PINS cases.

Child must have been under 18 when acts occurred. Petition filed after 18 must be dismissed; however Court may proceed if Resp turned 18 subsequent to filing.

Petition is properly filed where acts occurred; but the Court can transfer to the county of residence.

Court may at any time substitute a neglect case on its own motion.

A runaway shall be returned home; else if unsafe, brought to Office of Children and Family Services.

PINS shall NOT be in secure detention, nor any adult facility!

PINS kids are detained at Division for Youth; unless in a city with over 1 million people: foster care.

PINS Resps are only detained if they're not likely to benefit from Probation Diversion services; if over 16, "special circumstance" findings must also be made.

If an individual makes a "citizen's arrest" of a PINS, shall either bring them home, to court, or to a police/special peace officer. Police/special peace officer can bring the child home, or to a crisis center, to court; or can first question the child at a Chief Administrator certified facility, then bring the child to the "Lead Agency" for filing of a petition.

If the child is not released, a pre-petition must be filed by the next court session day; no later than 72 hours though. Upon a pre-petition: child is advised of rights to counsel, and to remain silent. Court then determines whether it appears to have jurisdiction, and whether or not it is likely for the child to benefit from Diversion services. If the Court detains the child, must also determine that such is in "Best Interests"; and also if "Reasonable Efforts" to prevent removal were made.

If the child is returned home by an officer, it is only on a written promise of a parent/person legally responsible to bring the child to court; thereafter a warrant can be issued upon such failure. Else a summons may issue upon filing of petition.

Petition must allege that child was under 18 at time of acts; that he/she requires

supervision or treatment; and what diversion efforts were made. Petition alleging truancy must also lay out the steps the school has taken to remedy the situation.

Petitioner can be police officer or special duty peace officer; parent or person legally responsible; someone who suffered injury by the Resp, or a witness to such incident; an authorized agency; or the Presentment Agency if a delinquency was replaced by a PINS.

"Lead Agencies" are in locales with more than 1 million residents, and are either Social Services or Department of Probation. Lead Agencies are tasked with providing services for Diversion.

Diversion: confer with family, and try to prevent filing of petition; allow for Residential Respite Care up to 21 days, or other alternatives to detention. Diversion services continue until successful, or until it is no longer likely that they will succeed; however they may continue even after filing of a petition in order to attempt to forestall foster care. Clerk can NOT file petition without documentation that diversion efforts were made, but were not successful.

If Resp fails to cooperate with services, Lead Agency shall provide a written termination notice; no petition shall be made prior to such notice. Clerk shall attach notice to petition; but case may proceed even if Clerk fails to do so, provided notice was actually made. If parent or person legally responsible failed to cooperate, they may not file a petition.

No statements made during Diversion can be used by any court prior to entry of fact-finding or conviction.

Upon filing of petition, summons is issued for Resp. Resp must be served at least 24 hours before hearing; if Resp or parent then requests adjournment, Court cannot proceed for at least 3 days. If Resp can't be served personally, Court can allow substituted service.

Court can also issue a warrant if Resp can't be served; won't obey; service would be ineffectual; Resp is likely to leave jurisdiction; or Resp on bail/parole has failed to appear. PINS warrants expire in 6 months; on Petr's showing of good cause, Court can extend another 6.

Parent or PLR who is NOT the petitioner shall also be summonsed by Clerk (1st class mail) if the address is known or can be ascertained; such summons shall have notice that if Resp is ultimately placed with Social Services, a neglect case may be filed against them.

After petition filing, Resp shall only be detained if it's "substantially likely" that he/she will not return to court, and that all other alternatives have been exhausted. Detention triggers "best interests" and "reasonable efforts" findings.

If Resp is detained, there must be a Probable Cause hearing within 3 days, may be adjourned on special circumstances for another 3 (not counting weekends, holidays); Resp can also waive the hearing. The evidentiary standard at probable cause is the same as for a Criminal Court Felony Complaint arraignment.

Court may also issue temporary order of protection.

If no parent/PLR is present for Resp, Court shall appoint Guardian ad litem unless inappropriate.

Court may exclude general public from PINS proceedings, and admit only "directly interested" persons/agencies.

Upon reading the petition report provided by the Lead Agency of its actions, Court can direct further Diversion; shall dismiss petition if successful.

Fact-finding must be beyond reasonable doubt, on material/relevant/competent proof. Out-of-court confession is not good enough unless corroborated.

If Resp is detained, fact-finding must be within 3 days; Court can adjourn on own/Petr motion for good cause up to another 3, or at Resp's request for a "reasonable" time. Successive adjournments only on "special circumstances" finding, with such reasons stated on record.

Court can Adjourn in Contemplation of Dismissal at or after fact-finding on own motion or that of any party. ACD is up to 6 months; Resp must be released. If not re-calendared before period expires, petition is dismissed in furtherance of justice.

If dispositional hearing is not held immediately after fact-finding: if Resp is detained the Court can adjourn on own motion for 2 periods of 10 days; else not detained = total of 2 months.

Probation reports and diagnostics are provided to court at least 5 days before dispo, and made available to Law Guardian (Resp personally only if pre-se) and other counsel if not "excepted" by Court.

Petition may be dismissed in interests of justice if Court determines that diversion failed because of Petr.

Disposition is finding by preponderance of material/relevant proof that Resp requires Supervision.

Court can discharge Resp with warning; suspend judgment for up to 1 year; or put Resp on Probation for up to 1 year. Court can extend probation/suspended judgment 1 more year on "exceptional circumstances".

Court can also place Resp for up to 12 months in own home, with relative, with another suitable person, or with Social Services; 12 month placement begins 60 days after first removal. If Resp is over 16: Special Circumstances finding needs to be made, and Independent Living services has to be addressed. Court can detain Resp up to 15 days pending transfer to Social Services placement.

Application for extension of placement shall be made at least 60 days prior to expiration; with notice to Resp, person caring for child, and Social Services. If petition was made later than 60 days - but in any case must have been BEFORE expiration - Court must first determine whether "good cause" exists before proceeding; else shall dismiss. Court shall otherwise hold a hearing, may temporarily extend placement on probable cause (that application would be granted) up to 30 days; additional period up to 15 if hearing not then concluded. Aggregate temporary extensions can NOT exceed 45 days; if still no determination, must dismiss.

Extensions are for period up to 1 year; but not past 18th birthday without Resp's consent, and in no event past 21st. Court must address reasonable efforts made to return child home; necessary independent living services for child over 16; and if placed out-state, whether such be necessary.

Court must also address PERMANENCY: first permanency hearing must be within 12 months from "entering" foster care, successive hearings within 12 months of first such.

Permanency hearing: determine reasonable efforts either to return home or to effectuate another plan which the Court may have set. Court also determines future permanency plan: return to parent; adoption; referral for legal guardianship; permanent placement with fit and willing relative; or - if compelling reasons why none of those be appropriate - an Alternate Permanent Planned Living Arrangement.

Court can also order restitution in conjunction with another disposition: up to \$1,000.00, and only if Resp is over 10 but less than 16.

Court can issue Order of Protection during term of dispo against Resp; **OR** against any other person before the Court, such as parent/PLR or spouse of such individual.

OP: stay away from home/school/business/job of Resp/parent/PLR/spouse; permit visitation; allow return to residence to get belongings; refrain from family offense; not endanger child; not kill "companion animal"; pay medical expenses for incident; attend family counseling. Court can also award custody during period of protective order. Violation of order may be punishable by up to 6 months commitment.

Law Guardian (Clerk if pro-se) shall notify Resp of right to appeal; and file papers if Resp so chooses.

Motion for new hearing must be on notice of at least 7 days, replies due at least 2

days before hearing.

Parent, guardian, agency, or "next friend" can file verified petition to terminate placement. Such person must have applied for release or Resp and been denied; or request was ignored for over 30 days. Agency MUST answer within 5 days of service. If denied, application cannot be renewed for 90 days (unless Court permits).

PINS finding is NOT a conviction and does not bar public office; Resp is not a criminal!