

FAMILIES IN NEED OF SERVICES ASSISTANCE PROGRAM



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WHAT IS FINS?

The Families in Need of Services (FINS) became effective in all courts having juvenile jurisdiction on July 1, 1994, as Title VII of the Louisiana Children's Code. This title of the Children's Code represents a substantial consolidation of former proceedings known under the Code of Juvenile Procedure as **Children in Need of Supervision** [CINS] and **Parents in Need of Supervision** [PINS]. The **Families in Need of Services** [FINS] process is designed to permit the juvenile court to return to its original role of coordinating community resources to assist and reinforce the family in an effort to prevent delinquency and family disintegration. FINS goals are to reduce formal juvenile court involvement while generating appropriate community services to benefit the child and improve family relations.

HOW DOES FINS WORK?

- Submit a **written complaint** to the FINS program alleging a family is in need of services. **ChC Article 731**
- **Who may file a complaint?** A caretaker, other adult family member, any representative of an agency having responsibility or ability to supply services to a family or any other person authorized by the court may file a complaint. Most common, however, law enforcement, school officials and parents make referrals. The complaint must allege at least one of the grounds listed under *ChC Article 730*. **ChC Article 731**
- **Grounds** for such a complaint include the following: **ChC Article 730**
Allegations that a family is in need of services must assert one or more of the following grounds:

Grounds 1-5 - The first five grounds as listed under Article 730 specifically "address certain types of misconduct by children which are not criminal offenses and thus cannot be categorized as delinquent acts." These types of children are usually classified as "status offenders", "unrulies", or "PINS" ("persons in need of services").

Grounds (1-5) - Status Offenses (Misconduct by children which are not criminal offenses/cannot be categorized as delinquent acts.)

- (1) **Truancy** _____
Willfully and Repeatedly Violated Lawful School Rules _____
- (2) **Child is Ungovernable** _____
- (3) **Child is a Runaway** _____
- (4) **Child - Intoxicating Beverage** _____
 - **Repeatedly Possessed or Consumed**
 - **Misrepresented/Deceived Age for Purchasing/Receiving**
 - **Repeatedly Loitered/Area Where Principal Commodity Sold or Handled**
- (5) **Child Committed Offense Applicable Only to Children** _____
[Catch-all provision which includes any criminal offense that contains an age prohibition as one of its elements, for example having gold teeth, smoking cigarettes, buying model glue, or being tattooed.]

Ground 6 - Policy decision to limit delinquency proceedings to those children ten years of age or older. "Ground (6) recharacterizes the commission by a nine-year-old or younger child of a general criminal offense, which would otherwise be termed a delinquent act, as cause for intervention in a FINS case."

- (6) **Criminal/Delinquent Act Committed by a Child under Age 10** _____

Grounds (7) and (8) permit intervention due to a parent's/caretaker's dereliction that is directly tied to the child's problems.

- (7) **Caretaker Caused, Encouraged, or Contributed to Child's Behavior under Article 730** or for an older child, the Commission of Delinquent Act _____
- (8) **Caretaker Willfully Failed to Attend School Meetings [Must have accompanying allegations of truancy, habitual school rule violation, or serious educational problems that require parental/caretaker involvement.]** _____

Ground (9) - See Article 804(3) and (4) which define "Delinquent act" and "Delinquent child". Intervention is permitted based on finding that child is "incompetent to proceed with a delinquency matter under Article 832 et. seq."

- (9) **Child Incompetent to Proceed with a Delinquency Matter under Article 832** _____

Ground 10 - HB1259 (2010) defines cyberbullying as the transmission of any electronic textual, visual, written, or oral communication with the malicious and willful intent to coerce, abuse, torment, or intimidate a person under the age of eighteen. "Electronic textual, visual, written, or oral communication" is defined as any communication of any kind made through the use of a computer online service, internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or online messaging service. Although not specific to the school setting, the statute criminalizes cyberbullying, stating that whoever commits cyberbullying shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both. **If the offender is under the age of seventeen, the matter shall be governed exclusively by the provisions of Title VII of the Children's Code.**

- (10) **Child Found to have Engaged in Cyberbullying** _____

Upon filing of a complaint, the process proceeds as follows:

- Complaint Filed** - Family meets with FINS Intake Officer who conducts an initial interview, often referred to as an **Informal Family Conference**. Child and/or family member is asked to complete an initial screening to assess and identify behavioral, substance abuse, mental health and other social needs or problems. **ChC Articles 729, 729.1, 730 and 731**
- When appropriate or necessary, the FINS officers may convene a **Mandatory Conference** to be attended by the child, his or her parents or other legal custodian, and representatives of any public institution having legal responsibility or discretionary ability to supply services to the family, which according to the **Informal Family Service Plan Agreement (IFSPA)** may be needed. **ChC Articles 743**
- Family completes an **Informal Family Service Plan Agreement (IFSPA)**, including among others, the identification of the conduct of the child, caretaker, or any other family member causing serious harm to the child and the services needed by that individual to reduce or eliminate the problems within the family unit. The IFSPA also includes a description of the services which are needed, the availability of services, and a plan for ensuring that any such services that are available are secured and delivered. The duration of the initial IFSPA is six months, with a maximum duration of 12 months. The family is expected to cooperate with efforts to resolve its problems as recommended by FINS. **ChC Article 744**
- Non-compliance**. If an underlying FINS ground(s) continues to exist and recommendations are not followed, the FINS officer may request the DA file a petition to refer the family to court. A **Mandatory Conference**, if not held previously, "may be held at any time before or after a petition is filed but shall be held before any appearance to answer." **ChC Article 743**. If an adjudication hearing should happen, each and every member of the family shall be subject to the jurisdiction of the court. **ChC Article 745**
- Petition**. If there are reasonable grounds to believe that the family is in need of services, a family in need of services proceeding shall be commenced by petition filed by the district attorney or any other attorney authorized by the court. **Ch CArt. 746**

ADVANTAGES

- √ Children and families have the opportunity to access services that are targeted to properly address the underlying causes of pre-delinquent behavior.
- √ Following an extensive interview to assess the unique needs of each family, a family service plan is developed.
- √ Compliance with the service plan is monitored by FINS staff and other designated individuals for a maximum of six months without further judicial order.
- √ An IFSPA shall not be considered an adjudication. The child and family are not brought before a judge/court unless the underlying FINS ground(s) continues to exist and there is failure by family members to cooperate with the mandates of the service plan.
- √ FINS proceedings include both **informal and formal processes**. The **informal process** is designed to focus on the family unit, rather than just the child. Informal FINS goals are to promote early intervention and help facilitate the receipt of needed services, rather than court intervention and imposing a punishment.

Every parent, every grandparent, every teacher, preacher, leader, and citizen must commit to save our children. If our children thrive, the nation thrives. If our children fall, America falls with them. - Marian Wright Edelman

CHILD IN NEED OF CARE AND/OR DELINQUENCY PROCEEDINGS

When a court renders a **FORMAL ADJUDICATION** judgment that a family is in need of services - "the need for family services plan conference is obviated. Instead the court should order a predisposition report in accordance with Article 773, if necessary and thereafter proceed to a formal disposition in accordance with Articles 777-784." For further discussion, see Author's Notes to Article 730.

Other grounds for FINS intervention exist, though they are not enumerated in Article 730.

1. DELINQUENCY ADJUDICATION HEARING

Article 884(B) authorizes the court to recharacterize the child as a member of a family in need of services, rather than a delinquent child. Clearly, if Article 730 of the FINS Title has been proved, then the predicate has been met; "the evidence warrants such an adjudication." For example, if the child is charged with theft by taking that occurred during a period in which the child is a runaway, the court might properly enter a finding that the child is a FINS child rather than a delinquent. An additional example, though a delinquency petition charged an eleven-year-old with criminal trespass (on school property), after hearing the evidence, the court might conclude that the child was more properly characterized as a FINS child for having repeatedly violated lawful school rules. For further discussion, see Author's Notes to Article 844 and Article 730.

2. CHILD IN NEED OF CARE PROCEEDING

Article 666(B) - If the evidence demonstrates that the child's family is in need of services, the court may enter an adjudication that, instead, the family is in need of services, the child's family to be in need of services and proceed to a disposition in accordance with Chapters 10 and 12 of Title VII. Paragraph B affirms that an adjudication that the family is in need of services ("FINS") is an available form of a lesser included determination in a child in need of care proceeding. The grounds for FINS adjudication encompass violations of responsibility by either the child and/or the caretaker which warrant continued court involvement but are deemed less serious than the required showing that a child is in need of care (or that the child is delinquent). The clear intent of the legislature was to provide for judicial supervision of this class of children who are engaging in conduct which is detrimental to their development and well-being or who are being harmed due to the action or inaction of their caretakers, in lieu of affixing the stigma of a finding of abuse or neglect, (See State in the Interest of Gras, 33 So.2d 641 (La. Ct. App. 4th Cir. 1976).

The lines between a child in need of care case and a FINS case are often blurred. However, the court's discretion to enter this alternative adjudication is not boundless. Thus at the child in need of care proceeding, persuasive evidence must have been presented that a family is a "family in need of services." The grounds for the FINS adjudication are exclusive as provided directly by Article 749, which states "the petition shall aver one or more of the FINS grounds." **Article 730 clearly sets forth only ten statutory grounds upon which an adjudication of a family in need of services can be based.** As with child in need of care adjudications, the allegations supporting a FINS adjudication must be proven by a preponderance of the evidence (See State in the Interest of KM, et al., 220 So. 3d 20 (La. Ct. App. 3d.Cir. 2017. See also Articles 665, 730 and 770). **Abuse and neglect' that does not "seriously endanger" or "substantially threaten or impair" the child's physical, mental or emotional health, as required by definition of abuse and neglect, will not suffice for a FINS adjudication unless the parents stipulate to such an adjudication.**

Article 628(A) Prior to the filing of a petition, and with the consent of the department, **if the child is in the custody of the department**, the court or district attorney may authorize an informal adjustment agreement or refer the matter to an intake officer as a families in need of services case.

DISPOSITIONAL ALTERNATIVES - Article 779

- A. In any case in which the family has been adjudicated to be in need of services, the court may impose the following orders directly affecting any child of the family:
- (1) Order the child to submit to counseling or to psychiatric or psychological examination or treatment.
 - (2) Order the child to cooperate in accepting particular services from any public institution or agency or from any private institution or agency willing and able to provide him with needed services.
 - (3) Place the child in the custody of a caretaker or other suitable person on such terms and conditions as deemed in the best interests of the child and the public.
 - (4) Place the child on probation on such terms and conditions as deemed in the best interests of the child and the public.
 - (5) Assign the child to the custody of a private or public institution or agency, except that the child shall not be placed in a correctional facility designed and operated exclusively for delinquent children, nor shall such facility accept the child.
 - (6) Make such other disposition or combination of the above dispositions as the court deems to be in the best interests of the child and the public.
- B. In any case in which the family has been adjudicated to be in need of services, the court may impose any of the following orders directly affecting a caretaker:
- (1) Order the caretaker to submit to counseling or to psychiatric or psychological examination or treatment.
 - (2) Order the caretaker to cooperate in accepting particular services from any public institution or agency or from any private institution or agency willing and able to provide him with needed services.
 - (3) Order the caretaker to cooperate in connection with any part of the disposition order directly affecting the child.
 - (4) Impose any other conditions reasonably related to improving the family relationship.
 - (5) Order the caretaker to perform court-approved community service activities. If feasible, the court-approved community service activities shall be conducted by the caretaker and child together.
- C. In any case in which the family has been adjudicated to be in need of services, the court may order any public institution or agency and its representatives to:
- (1) Provide any services specified in its order as necessary to improve the family relationships or reunite the family in the best interests of the child, provided only that such services are available within the agency or institution.
 - (2) Report at least once every six months in writing concerning the progress of the family in receiving and accepting the services ordered.

Acts 1991, No. 235, §7; Acts 1995, No. 1095, §3; Acts 2010, No. 314, §1.