

Louisiana FINS

Louisiana's Families in Need of Services Laws Providing the Right Services to Children and Families

By Curtis Nelson, Jr.

Everyone monitoring news outlets have heard comments that more needs to be done to prevent children from engaging in criminal activity, which, due to their minor status, is referred to as delinquency activity. Concerns about public safety and how to effectively work with youth engaging in risky and sometimes dangerous behavior have once again become a hot topic for the Louisiana Legislature, juvenile justice stakeholders and the public.

Louisiana Children's Code and FINS

In Louisiana, the Children's Code specifically provides an early intervention process to help the state's troubled youth avoid going into the deep end of the juvenile and criminal justice system. The laws are found under the provisions of Title VII of the Louisiana Children's Code in the section "Families in Need of Services" (the FINS statutes). The FINS provisions were enacted to address the various status offenses that, if not properly addressed, could contribute to a child engaging in delinquency later in life; or, putting the child at a higher risk for victimization; or placing an overall increased potential for physical and mental health issues, including addiction.¹ A status offense is a non-criminal act considered a law violation only because of the youth's status as a minor.² Typical status offenses include

truancy, running away from home, violating curfew, underage use of alcohol, and general ungovernability.³

In Louisiana, the status offender's laws begin in the Children's Code at article 726 through article 791.1. Louisiana's recognized status offenses are specifically found at Children's Code article 730 which lists 10 grounds to allege that a family is in need of services. Under Louisiana law, allegations can be made directly against both the child and caretaker.

Intent of the FINS Provisions

Louisiana Children's Code article 726 provides that the purpose of the FINS is to define self-destructive behaviors by the child and conduct by other family members which contribute to the child's harm and which warrant court intervention in the family's life so that appropriate services to remedy the family's dysfunction can be secured.⁴ Herein lies the legislative emphasis on the state's need to quickly identify self-destructive activity and to quickly put in place appropriate intervention services before a Louisiana child starts engaging in criminality. The social research has shown the need for immediate and efficacious community-based alternatives to help status-offending youths and their families strengthen family relationships, adopt social-control mechanisms, and develop protective fac-

tors to prevent future criminality among status offenders.⁵

Under Louisiana law, the Legislature put in place two very specific mechanisms that allow state juvenile courts to work directly with children and families to prevent delinquency and further criminality — the Informal FINS and the Formal FINS processes. The Informal FINS process is contained within Louisiana Children's Code articles 732, 743, 744 and 745. These four articles establish Louisiana's informal FINS process that allows the child and caretaker to voluntarily work with trained professionals to identify the problems within the home and to connect the family with community-based services (*i.e.*, tutoring, counseling, parenting classes, family or individual therapy, or mentoring). The Informal FINS process should be short in duration to quickly address the disruptive behavior and to eliminate the unnecessarily prolonged involvement with the family. In Louisiana, the intake FINS staff develops an informal family services plan agreement with an initial six-month duration period that can be extended for an additional six months if there are no improvements.

In situations where the voluntary services are not correcting the family's problems, or the circumstances are so severe that the child's protection or control is at risk, then Louisiana law allows for the

district attorney or any other attorney authorized by the court to file a Formal FINS Petition alleging one of the 10 grounds found at Louisiana Children's Code article 730.⁶ The nature of the proceeding before the juvenile court judge is civil without a jury, and the burden upon the petitioner is to prove the allegations of the petition by a preponderance of evidence.⁷ Should the juvenile court find that the evidence supports a finding that the family is in need of services, then the court has the authority to place the child on probation in the home of the caretaker or other suitable person to receive community-based services; or, the court can assign the child to the custody of a private or public institution (*i.e.*, Office of Juvenile Justice, Department of Children and Family Services, or Louisiana Department of Health) to receive more intensive treatment services. Louisiana law is clear that, if the court assigns the child to the custody of a private or public institution, that child shall not be placed in a correctional facility designed and operated exclusively for delinquent children.⁸

Many juvenile justice stakeholders believe that removal of a child from his/her home or community should be the last option to address the underlying problems of the family. Researchers have examined the general impact of institutionalization on juvenile offenders, and it has been consistently demonstrated that confinement in correctional facilities does not reduce reoffending and may increase it for certain youths.⁹ In some cases, if a status offender is placed in the same facilities with youth who have committed more serious crimes, that status offender's deviant attitudes and behaviors may increase and create more antisocial behaviors.¹⁰ And lastly, research has shown that confinement fails to address underlying causes of status-offending behavior, and thus may not deter youths from committing future crimes.¹¹

The Informal and Formal FINS processes, if used appropriately, can be an effective tool to address anti-social adolescent behavior to prevent youth from engaging in delinquency behavior. The caution, however, is to not criminalize what otherwise would be considered normal adolescent behavior. Children and adolescents commonly experiment with

behaviors that are not considered positive or prosocial, such as lying, being truant, or defying parents.¹² Such experimentation allows youth to discover the negative consequences of their behaviors and learn from their mistakes; and most of the youths who engage in status or other minor offenses never progress to more serious behaviors.¹³

While the Informal and Formal FINS processes are available legal tools to help children and teens, the processes should only be used when the behavior being exhibited in the home or community is self-destructive and the child's protection or control is at severe risk. Consistently going to school is necessary for the proper development of all children. Following the reasonable rules of a caretaker's home that allows the child to thrive in a safe and healthy home is important. Running away from home can put a child at risk to dangers such as human trafficking. Cyberbullying and bullying can have damaging effects on the targeted child. No child should engage in underage drinking due to their lack of maturity. Louisiana status offender laws address all of the above risky behaviors.

Conclusion

Louisiana has a statutory court process to intervene early in the lives of children and adolescents to address risky behavior that could be a precursor to delinquency. A review of the Louisiana Supreme Court statistical data reveals that, for calendar year 2021, the juvenile courts handled 3,045 Informal FINS cases. Of those 3,045 cases, 60.53% were cases involving truancy; 28.14% were cases involving reports of ungovernable behavior; 3.12% were cases involving reports of runaway behavior; 5.25% involved matters of willful violations of school rules; and 2.96% were other reasons.¹⁴

Louisiana has the statutory framework in place to do more to keep young people from going down the road of involvement in the juvenile and criminal justice system. More efforts should be made to build the capacity of the state's FINS process in order to serve more children and families. For every child the state can provide early intervention community-based

services to, that is one less child who has to be arrested, detained or removed from the community to be put in either a group home or secured facility for the commission of a delinquent act which annually costs the state millions of dollars.¹⁵ For every child that our state can prevent from engaging in a delinquent act, that single prevention effort improves our state's overall goal of having safe, healthy and thriving communities.

FOOTNOTES

1. Greenwood and Turner, 2011; Chuang and Wells, 2010; Buffington, Dierkhising and Marsh, 2010; Henry, Knight and Thornberry, 2012; Mersky, Topitzes and Reynolds, 2012.
2. Development Services Group, Inc., 2015. "Status Offenders." Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, www.ojjdp.gov/mpg/litreviews/Status_Offenders.pdf.
3. *Id.*
4. La. Children's Code art. 726.
5. Development Services Group, Inc., 2015, *supra* note 2.
6. La. Children's Code art. 746.
7. La. Children's Code art. 768, 769 and 770.
8. La. Children's Code art. 779.
9. *Id.*
10. Levin and Cohen, 2014.
11. Hughes, 2011; Holman and Ziedenberg, 2006.
12. Development Services Group, Inc., 2015, *supra* note 2.
13. *Id.*
14. Statistics provided by the Louisiana Supreme Court Families in Need of Services Assistance Program.
15. <https://ojj.la.gov/data-resources/data-reports/>.

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