



National Center for Youth Law

July 3, 2008

Director

John F. O'Toole

Deputy Director

Patrick Gardner

Senior Attorneys

Pat Arthur

Admitted only in NY & WA

William L. Grimm

Admitted only in MD

Rebecca Gudeman

Leecia Welch

Attorneys

Molly Dunn

Bryn Martyna

Of Counsel

Diane Bessette

Edward Opton

Equal Justice Works Fellow

Fiza Quraishi

Director of Development

Dan De Vries

Director of Communications

Tracy Schroth

Administrator

Maria Salzano

Assistant to the Director

Frankie Guzmán

Administrative Staff

Ethel L. Oden-Brown

Dainellee D. Stoll

The Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Senator Feinstein:

On behalf of the National Center for Youth Law, I write to express our support for S. 3155, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2008. Passage of this Act will help ensure the safe and fair treatment of youth involved in juvenile justice systems around the nation. While we are supportive of the bill, we strongly urge you to strengthen the Deinstitutionalization of Status Offenders (DSO) core requirement by eliminating the Valid Court Order (VCO) exception.

The original Juvenile Justice and Delinquency Prevention Act (JJDPA), enacted in 1974, contained a complete prohibition on the locked detention of status offenders. This prohibition, a core element of the JJDPA, was based on the recognition that placing status offenders in secure detention fails to address the issues underlying their behavior (running away from home or a foster placement, skipping school), and exposes these young people to additional harm from incarceration. To become eligible for federal funding, states were required to remove status offenders from secure detention facilities and encouraged to develop community based prevention and intervention programs as a more efficient and effective way to address the non-delinquent behaviors of these youth.

In 1980, however, the JJDPA was amended to allow status offenders who violated valid court orders to be confined in secure detention. The valid court order (VCO) exception was enacted at the urging of juvenile court judges frustrated with the lack of detention alternatives and their inability to enforce judicial orders. Unfortunately, what was intended as an exception to the DSO core requirement has become the rule.

A recent report by the National Center for Juvenile Justice indicates that in 2004 over 400,000 youth were held in custody due to status offenses. The 2006 Census of Juveniles in Residential Placement reported a single day count of 4,717 status offenders in residential placement, 3,715 of whom were in locked facilities. The incarceration of status offenders punishes children who are neither dangerous nor violent, and increases the likelihood of future delinquent or criminal behavior. Allowing the secure detention of status offenders may also reduce the incentive for communities to provide alternative prevention and diversion programming that can effectively address the underlying causes of the youths' behavior.

The National Center for Youth Law has advocated for more than thirty years to reduce our nation's reliance on incarceration as the means to address adolescent behaviors that present little or no risk to public safety. Our organization was recently involved in a successful challenge in the Washington State Supreme Court to the incarceration of teenage girls running away from foster care placements in violation of juvenile court orders. In that case, the runaway girls were locked in secure detention facilities for indefinite periods, one for 60 days, despite a state statute that limited the sanction for violating a valid court order to a maximum period of seven days in detention.

S.3155, as introduced, also limits the maximum period of confinement for valid court order violations to seven days. Based upon our experience in Washington State, we do not believe that the ceiling of seven days for secure detention sufficiently strengthens the DSO core requirement. Therefore, we strongly urge you to eliminate the valid court order exception in S. 3155 entirely. A complete prohibition of the locked detention of status offenders, as contained in the original JJDP, is the only way to meaningfully restore the DSO core requirement and reduce the number of status offenders being incarcerated in our nation's juvenile prisons and jails at great human and societal cost.

We support S. 3155 as a significant step towards improving the JJDP and offer ourselves as a resource as the bill moves through the legislative process. Thank you for your efforts on behalf of youth, families, and communities across the country.

Sincerely,



Patricia J. Arthur
Senior Attorney

On Behalf of the National Center for Youth Law