



**CAMPAIGN OF THE NATIONAL JUVENILE JUSTICE & DELINQUENCY  
PREVENTION COALITION**

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**Juvenile Justice and Delinquency Prevention Act (JJDP A) Fact Sheet Series**

**Core Protections: Deinstitutionalization of Status Offenders**

**BACKGROUND:** The week of December 10, 2018, Congress passed [H.R. 6964](#), the Juvenile Justice Reform Act of 2018 (the Act) with overwhelming bipartisan support. The President signed the bill into law on December 21, 2018, amending the Juvenile Justice Delinquency Prevention Act (JJDP A) after years of collaborative efforts among juvenile justice organizations and advocates across the United States.

Below, please find a summary and impact of the bill's provisions related to the Deinstitutionalization of Status Offenders (DSO) core requirement.

**WHAT CHANGED:**<sup>1</sup> Status offender is now defined as “a juvenile who is charged with or who has committed an offense that would not be criminal if committed by an adult.” Common examples of these behaviors include running away from home, skipping school, willful defiance, and being out after curfew. Generally speaking, states are not permitted to detain youth for engaging in status offense behaviors. An exception continues to exist in the law known as the valid court order (VCO) exception. This means that if a judge issues an order with conditions attached to a child who was brought before them on a status offense, the child can be incarcerated if they don't follow the judge's orders.

Since its addition to the JJDP A in the 1980s, the VCO exception has enabled thousands of young people to be incarcerated for status offense behaviors. The [dangers](#) of this practice are widely recognized and more than half of all states have [stopped](#) using the VCO. In jurisdictions that still do use the VCO, H.R. 6964 ensures that it is used as an exception as opposed to a rule.

The Act prohibits young people from being placed in a secure detention facility or a secure correctional facility if they are charged with an offense that would not be a crime for an adult. An exception exists if they have been charged with a gun violation under U.S.C. Tit. 18 Sec. 922(x)(2), if they are held in accordance with the Interstate Compact on Juveniles, or if they are “charged with or ha[ve] committed a violation of a valid court order issued and reviewed in

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<sup>1</sup> The amendments made to the Juvenile Justice and Delinquency Prevention Act by this law will not apply until the beginning of Fiscal Year 2020.

accordance with paragraph (23).”<sup>2</sup>

**Valid Court Order Requirements:** H.R. 6964 clarifies, for the first time, what constitutes a valid court order for purposes of detaining a young person charged with a status offense. The Act states that if a court determines a young person charged with a status offense should be placed in a secure detention facility or correctional facility for violating a valid court order the court must issue a written order that contains the following information:

- The court must identify the valid court order that has been violated;
- The court must specify the factual basis for determining that there is “reasonable cause to believe that the status offender has violated such order”;
- The court must include “findings of fact to support a determination that there is no appropriate less restrictive alternative available to placing the status offender in such a facility, with due consideration to the best interest of the juvenile”; and
- The court must specify the length of time, not to exceed 7 days, that the young person may remain in a secure detention facility or correctional facility, and must include a plan for their release from the facility.

An order to detain a young person charged with a status offense may not be renewed or extended; and “the court may not issue a second or subsequent order ... relating to a status offender unless the status offender violates a valid court order after the date on which the court issues an order.”

States that use the VCO exception are required to have procedures in place to ensure that any youth charged with a status offense who is held in a secure detention facility or correctional facility does not remain in custody longer than the time authorized by the court.

**Data Collection:** H.R. 6964 also includes new data collection provisions related to use of the VCO. It requires states to provide (1) the number of status offense cases petitioned to court, as well as (2) the number of youth held in secure detention for status offenses, (3) the findings used to justify the use of secure detention, and (4) the average length of time that they were detained.

States must also include in their three-year plan a plan to provide alternatives to detention for “status offenders, survivors of commercial sexual exploitation, and others, where appropriate, such as specialized or problem-solving courts or diversion to home-based or community-based services or treatment for those youth in need of mental health, substance abuse, or co-occurring disorder services at the time such juveniles first come into contact with the juvenile justice system.”

**Reentry Plans:** H.R. 6964 requires states for the first time to come up with a plan for how they will address reentry of young people who are placed in detention. This is particularly important for young people charged with status offenses, many of whom may have runaway from home and may not have stable housing to return to.

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<sup>2</sup> In addition to young people charged with status offenses, H.R. 6964 also prohibits the detention of a young person who “is not charged with any offense; and “(II)(aa) is an alien; or “(bb) is alleged to be dependent, neglected, or abused.”

H.R. 6964 requires state plans to include a description of how reentry planning will include a written case plan based on an assessment of needs that includes— (1) the pre-release and post-release plans for the youth; (2) the living arrangement to which the youth will be discharged; and (3) any other plans developed for the juveniles based on an individualized assessment. States must also clarify their review processes for reentry plans.

For additional resources on reentry planning, click [here](#).

*This fact sheet was prepared by:*



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