



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

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

What the JJDP A Means for Judges

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 provisions that will impact juvenile court judges.

WHAT'S NEW¹: Changes in H.R. 6964 to two of the JJDP A's core requirements—Deinstitutionalization of Status Offenders and Jail Removal core requirements—directly impact judges and the judicial process.

Deinstitutionalization of Status Offenders (DSO) Core Requirement Change: Since its creation in 1974, the JJDP A has prohibited young people from being placed in secure confinement for status offense behaviors such as running away from home and skipping school. In the 1980s, an exception was added to this, which permitted judges to detain youth if they were found in violation of a valid court order (VCO). The 2018 reauthorization clarifies when a judge is able to use the VCO exception and provides strict guidelines if a VCO is issued.²

VCO requirements under the new law: When a youth is taken into custody for the violation of a valid court order issued for committing a status offense:

- An appropriate public agency must be promptly notified;
- Within 24 hours, an authorized representative of the agency must interview the status offender in person; and
- Within 48 hours, that representative must submit an assessment regarding the immediate needs of the status offender to the court that issued the order, and the court must conduct a hearing.

The hearing mentioned above shall determine two things: (1) “whether there is reasonable cause

¹ The amendments made to the Juvenile Justice and Delinquency Prevention Act by this law will not take effect until the beginning of Fiscal Year 2020.

² Nearly half of states prohibit secure detention for status offenses through state law. The Act4JJ Coalition, the National Council of Juvenile and Family Court Judges, and the Coalition for Juvenile Justice, have all called for a phase out of this practice.

to believe that such status offender violated such order”; and (2) an appropriate placement of the youth pending disposition of the violation.

If a court determines a young person charged with a status offense should be placed in a secure detention facility or correctional facility³ 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 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.

Jail Removal Core Requirement Change: Under the reauthorized JJDP, all youth, including those charged as adults, must be removed from all adult facilities by December 21, 2021. The definition of “adult” in the new statute is tied to each state’s age of criminal responsibility and extended age of jurisdiction.

There is one exception to the jail removal requirement. A court⁴ can hold a hearing and find that keeping a minor in an adult facility is “in the interest of justice.” In making this determination, the court must weigh seven factors:

1. The youth’s age;
2. Their physical and mental maturity;
3. Their present mental state, including whether they present an imminent risk of self-harm;
4. The nature and circumstances of the charges;
5. The youth’s history of delinquency;
6. The relative ability of the available adult and juvenile facilities to both meet the needs of the individual but to protect the public and other youth in their custody; and
7. “[A]ny other relevant factor.”

³ Both secure detention facility and secure correctional facility are defined in the JJDP as “any public or private residential facility which includes construction fixtures designed to physically restrict the movement and activities of juveniles or other individuals held in lawful custody in such facility.”

⁴ The JJDP does not specify whether this hearing must be held in juvenile or criminal court.

In the event that a court decides that detaining a youth in an adult facility is necessary, a **hearing must be held once every 30 days**⁵ to review whether the placement is still in the best interest of justice. Even when it is in the interest of justice, **the Act places a 180 day ceiling on the total time a youth can be held in an adult facility**. The court cannot exceed this maximum unless there is a finding of good cause for an extension or the youth waives the 180 day maximum. When a youth is held in an adult facility under these conditions, sight and sound separation requirements are still in effect.

Research and TA: In addition to the changes under the core requirements, H.R. 6964 requires the Office of Juvenile Justice and Delinquency Prevention and the Office of Justice Programs to provide “training and technical assistance to enhance the capacity of State and local courts, judges, and related judicial personnel to — (1) improve the lives of children currently involved in or at risk of being involved in the juvenile court system; and (2) carry out the requirements” of the law. Additional training and technical assistance also must be provided to juvenile court judges and judicial personnel on appropriate services and placement for youth with mental health or substance abuse needs.

This fact sheet was prepared by:



⁵ A hearing must be held no later than 45 days in rural jurisdictions.