

Use of the Valid Court Order

State-by-State Comparisons

32 States and Territories Reported Zero Uses of the VCO

Connecticut Delaware Dist. Of
Columbia Florida Hawaii Illinois
Iowa Maine Maryland
Massachusetts Minnesota Mississippi
Missouri Montana Nebraska New
Hampshire New Jersey New Mexico
New York North Carolina North
Dakota Oklahoma Pennsylvania
Rhode Island Vermont West Virginia
Wyoming Puerto Rico American
Samoa Guam Virgin Islands No.
Marianas

16 States and Territories Reported Between 1 and 100 Uses of the VCO

California (1) Indiana (1) South
Carolina (2) Alaska (3) Wisconsin (5)
Arizona (6) Georgia (9) South Dakota (11)
Colorado (12) Nevada (19) Kansas (28)
Alabama (25) Oregon (49) Texas (69)
Idaho(73) Louisiana (83)

8 States and Territories Reported More Than 100 Uses of the VCO

Utah (103)* Tennessee (222)
Kentucky (264) Ohio (588)
Michigan (630) Arkansas (832)
Virginia (327) Washington (1723)**

Number of Uses in Parentheses. Note that Wyoming does not fully participate in the JJDPDA and did not report data.

Unless otherwise noted, numbers above reflect information supplied to OJJDP and were used to make determinations for FY 2016 funding.

Information available at: <https://ojjdp.ojp.gov/state-use-valid-court-order-exception> Last accessed Oct. 4, 2019.

**March 24, 2017 Utah signed into law H.B. 239. The law aims to improve public safety outcomes by diverting low-level cases from court, reducing the number of youth removed from home, and reinvesting averted costs into community-based programming statewide for youth and families.*

***May 8, 2019 Washington State signed into law S.B. 5290. The law will phase out the state's use of the VCO by July 1, 2021.*

In 1974, Congress passed the Juvenile Justice and Delinquency Prevention Act (JJDPDA) to provide a set of uniform standards of care and custody for court-involved youth across the country.ⁱ The JJDPDA sets forth four core requirements, or protections, which states must comply with in order to be eligible for federal juvenile justice funding under the statute.ⁱⁱ The Deinstitutionalization of Status Offenders (DSO) core requirement of the JJDPDA provides that youth charged with status offenses, and abused and neglected youth involved with the dependency courts, may not be placed in secure detention or locked confinement.ⁱⁱⁱ (A status offender is a youth charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. The most common examples of status offenses are chronic or persistent truancy, running away, violating curfew laws, or possessing alcohol or tobacco.) This provision seeks to ensure that youth who have not committed a delinquent or criminal offense are not held with children who have and that they instead receive the family- and community-based services needed to address and ameliorate the root causes of their behavior.^{iv}

In 1980, the JJDPDA was amended to add the valid court order (VCO) exception to the DSO core requirement.^v While the DSO protection remained intact, judges and others were given the option of placing adjudicated status offenders in locked detention if they violated a VCO, or a direct order from the court, such as “stop running away from home” or “attend school regularly.”^{vi} States must report uses of the VCO to the federal Office of Juvenile Justice and Delinquency Prevention.

The dangers of using the VCO are widely recognized and more than half of all states have stopped using the VCO. In jurisdictions that still do use the VCO, the 2018 JJDPDA reauthorization ensures that it is used as an exception as opposed to a rule.^{vii}

As part of its Safety, Opportunity and Success project, CJJ released its *National Standards for the Care of Youth Charged with Status Offenses*.^{viii} The *National Standards* aim to promote best practices for this population, based in research and social service approaches, to better engage and support youth and families in need of assistance. Given what we know the *National*

Standards call for an absolute prohibition on detention of non-delinquent youth and seek to divert them entirely from the delinquency system by promoting the most appropriate services for families and the least restrictive placement options for status offending youth.

The *National Standards* were developed by the Coalition for Juvenile Justice (CJJ) in partnership with the National Council of Juvenile and Family Court Judges (NCJFCJ) and a team of experts from various jurisdictions, disciplines and perspectives, including juvenile and family court judges, child welfare and juvenile defense attorneys, juvenile corrections and detention administrators, community-based service providers, and practitioners with expertise in responding to gender-specific needs.

The *National Standards* build on the original intent of the Juvenile Justice and Delinquency Prevention Act (JJDP A) and its Deinstitutionalization of Status Offenders core requirement, ongoing efforts to eliminate the Valid Court Order exception in Congress, and the “safety, permanency and well-being” framework set forth in the Adoption and Safe Families Act of 1997 (ASFA). Like ASFA’s focus on the child’s best interest, the *National Standards* call for system responses that keep youth and their families’ best interests at the center of the intervention.

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ⁱ *cf.* 42 USC § 5602 (2012).

ⁱⁱ 42 U.S.C. § 5633(a)(11- 13), (22) 2012.

ⁱⁱⁱ 42 U.S.C. § 5633(a)(11) 2012.

^{iv} 42 U.S.C. § 5601(a)(10) 2012.

^v PL 96-509, 1980 S 2441, 94 Stat. 2755 (December 1980).

^{vi} *cf.* Id.

^{vii} Act4JJ. “Juvenile Justice and Delinquency Prevention Act (JJDP A) Fact Sheet Series - Core Protections: Deinstitutionalization of Status Offenders.” February 2019. Available at <http://www.act4jj.org/sites/default/files/resource-files/Deinstitutionalization%20of%20Status%20Offenders%20-%20FINAL.pdf>. Last accessed on October 7, 2019.

^{viii} To view a copy of the National Standards please visit: <http://bit.ly/2pKQS77>.