

## Valid Court Order Exception Checklist

**One of the core aims of the Formula Grants Program**, authorized under Title II, Part B, of the Juvenile Justice and Delinquency Prevention Act (1974) **is to reduce or eliminate the institutionalization of status offenders**. In order to be eligible for Formula Grants Program funding, a state must meet 33 statutory eligibility requirements, one of which is to provide that juveniles charged with status offenses will not be placed in secure detention facilities or secure correctional facilities, with certain exceptions. One of these exceptions is for a status offender who has violated a valid court order (VCO) issued in connection with the status offense. See 34 U.S.C. § 11133(a)(11)(A). This document outlines the requirements that must be met for states to use the VCO exception (34 U.S.C. 11133(a)(23)), including requirements that were added by the Juvenile Justice Reform Act of 2018.

**Request a copy of the valid court order and attach it to this form.**

**Complete this form in order to determine whether the requirements for using the valid court order exception were met. In order for those requirements to be met, the answers to all of the following questions must be “yes”:**

### Relevant Statutory Definitions

- “The term **‘valid court order’** means a court order given by a juvenile court judge to a juvenile-- (A) who was brought before the court and made subject to such order; and (B) who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States” (34 U.S.C. § 11103(16)).
- “The term **‘status offender’** means a juvenile who is charged with or who has committed an offense that would not be criminal if committed by an adult” (34 U.S.C. § 11103(42)).
- “The term **‘assessment’** includes, at a minimum, an interview and review of available records and other pertinent information...by an appropriately trained professional who is licensed or certified by the applicable State in the mental health, behavioral health or substance abuse fields...and which is designed to identify significant mental health, behavioral health, or substance abuse treatment needs to be addressed during a youth’s confinement” (34 U.S.C. § 11103(38)).

### 1. Was there a valid court order?

Was the court order given to a juvenile who was brought before a juvenile court judge and made subject to such order?

Did the court order regulate future conduct of the juvenile?

Did the juvenile receive the full due process rights guaranteed by the Constitution of the United States?

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### 2. Were the following requirements met after the juvenile was taken into custody for violating a valid court order issued for committing a status offense?

Was an appropriate public agency promptly notified that the status offender was held in custody for violating a valid court order?

Not later than 24 hours during which the status offender was held, did an authorized representative interview, in person, the status offender?

Not later than 48 hours during which the status offender was held –

Did the representative submit an assessment to the court that issued such order, regarding the immediate needs of the status offender?

Did the court conduct a hearing to determine whether there was reasonable cause to believe that the juvenile violated the court order?

During the hearing, did the court determine the appropriate placement of the status offender, pending disposition of the violation alleged?

### 3. If the court determined that the status offender should be placed in a secure detention facility or secure correctional facility for violating a valid court order, did the court issue a written order that:

Identifies the valid court order that has been violated?

Specifies the factual basis for determining that there is reasonable cause to believe that the status offender has violated the valid court order?

Includes 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?

Specifies the length of time, not to exceed 7 days, that the status offender may remain in a secure detention facility or correctional facility, and includes a plan for the status offender's release from such facility?

May not be renewed or extended?

### 4. Are there procedures in place to ensure that any status offender held in a secure detention facility or correctional facility pursuant to a valid court order does not remain in custody longer than 7 days or the length of time authorized by the court, whichever is shorter? Yes      No

#### CONCLUSION:

If the answers to all of the above questions are "yes," the juvenile may be placed in a secure juvenile detention or secure juvenile correctional facility, for no more than 7 days, but may not be detained in a secure adult facility, for any length of time. Because the valid court order exception applies only when a juvenile is taken into custody for having violated a valid court order issued for committing a status offense, a nonoffender, such as a dependent or neglected child, cannot be placed in a secure detention or correctional facility without it resulting in a Deinstitutionalization of Status Offenders violation.