

Exception for Status Offenders Who Violate a Valid Court Order

Updated to reflect Changes following passage of the Juvenile Justice Reauthorization Act (JJRA) of 2018

The Valid Court (VCO) Exception provides that adjudicated status offenders found to have violated a Valid Court Order may be securely detained in a juvenile detention or correctional facility. The JJDP Act of 1974, as amended, defines a valid court order as a court order given by a juvenile court judge to a juvenile who was brought before the court and made subject to such order; and who received, before the issuance of the order, the full due process rights guaranteed to such juvenile by the Constitution of the United States. It is important to note that status offenders who violate a valid court order cannot be held securely in an adult jail or lockup for any length of time. Additionally, the Valid Court Order Exception may not be used to detain status offenders accused of technical violations or other non-offenders.

For the VCO Exception to apply, the JJDP Act requires the following actions occur when a status offender is taken into custody for violating a valid court order:

- 1) An appropriate public agency must be promptly notified that such juvenile is held in custody for violating such order.
- 2) Not later than 24 hours during which such juvenile is held, an authorized representative of the agency¹ shall interview, in person, such juvenile.
- 3) Not later than 48² hours during which such juvenile is held:
 - Such representative must submit an assessment to the court that issued such order regarding the immediate needs of such juvenile.
 - Such court shall conduct a hearing to determine whether there is reasonable cause to believe that such juvenile violated the order.
 - NEW** ○ **If the court determines that placement in a secure detention or secure correctional facility is warranted, the court must issue a written order setting out the specific factual circumstances surrounding the violation of the VCO. These order must:**
 - **specify the factual basis for determining that there is reasonable cause to believe that the status offender has violated such order;**
 - **include findings of fact to support a determination 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;**
 - **specify the length of time, not to exceed 7 days, 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.**
- 4) **The court's order *may not* be renewed or extended. A second or subsequent order is not permitted with respect to violation of a particular VCO.**
- 5) **The JJRA also added a requirement that *procedures must be in place to ensure that a status offender is not detained longer than 7 days or the length of time directed by the court (whichever is shorter).***

Note: Although some states' common laws or statutes allow the courts to use traditional contempt power, failure to appear, or probation violation to upgrade a status offender to a delinquent offender, a status offender held for violating a valid court order remains a status offender, and the VCO process must be followed, unless the violation itself is a delinquent act as defined under federal law.

1) 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

2) While the JJDP Act states the reasonable cause hearing must occur within 48 hours Missouri only allows for 24 hours. Per 211.063. 1. RSMo: "A child accused of violating the provisions of subdivision (2) of subsection 1 of section 211.031 shall not be held in a secure detention placement for a period greater than twenty-four hours, excluding Saturdays, Sundays and legal holidays, unless the court finds pursuant to a probable cause hearing held within that twenty-four-hour period, that the child has violated the conditions of a valid court order..."

Valid Court Order (VCO) Exception Checklist for Juvenile Courts

Youth ID: _____ Date of Hold: _____ Completed By: _____

A Valid Court Order is defined as "a court order given by a juvenile court judge to a juvenile who was brought before the court and made subject to such order, and who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States." The Valid Court Order (VCO) *Exception* applies **ONLY** to adjudicated status offenders when detained for new status offenses.

The VCO Exception **MAY NOT** be applied to: Non-Offenders (including victims of child abuse/neglect), Status Offenders detained less than 24 hours (excluding weekends and legal holidays), Status Offenders detained for only technical (Non-Status) violations, youth currently accused of a delinquent offense, or to youth who have previously been adjudicated for delinquent offenses during the current term of probation. **The detention of non-offenders or of status offenders for technical violations will RESULT IN VIOLATIONS of the Deinstitutionalization of Status Offenders (DSO) Core Requirement.**

For a Valid Court Order Exception to be accepted, and to avoid instances of non-compliance (violations) with DSO, the following documentation must be provided by the juvenile office to the juvenile detention center*:

Petition and Order of Adjudication placing the youth on formal probation as a Status Offender. (This adjudication must occur PRIOR to the current stay in detention.)

Documentation of the On-Record Judicial Warning given to the youth and to the youth's attorney and/or legal guardian in writing prior to the current detention.

Copy of the Completed Valid Court Order (VCO) Exception Assessment. (This must include the date and time of the in-person interview by an appropriately trained professional who is licensed or certified in Missouri in the mental health, behavioral health, or substance abuse fields. The assessment, to include treatment needs to be addressed during confinement, must be completed within 24 hours of the juvenile arriving in detention.)

Documentation the VCO Exception Assessment was submitted to the judge for consideration prior to the 24 hour Reasonable Cause Hearing.

Documentation the Reasonable Cause Hearing was held within 24 hours (excluding weekends and legal holidays) of the Status Offender's placement in the juvenile detention center.

Copy of the Judicial finding specifying that Reasonable Cause exists to believe the juvenile violated their Valid Court Order. Order ***MUST*** include: **the factual basis for determining reasonable cause; findings of fact to support a determination there is no appropriate less restrictive alternative; specifies the length of time, not to exceed 7 days, the status offender may remain in a secure; and a plan for the status offender's release.**

* Additional documentation may be requested to verify the Valid Court Order Exception

VCO Exception Compliance Determination Worksheet

Youth ID (No Names): _____

Date and Time of Hold: _____

Current Offense: _____

Completed By: _____ **Date:** _____

A Valid Court Order is defined as “a court order given by a juvenile court judge to a juvenile who was brought before the court and made subject to such order, and who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States.” **A DSO violation will be reported if any of the following requirements are unmet or if documentation to support a requirement is not provided:**

1) On record warning, prior to the current detention stay, that violating the terms of the valid court order (by committing new status offenses) could result in placement at a secure juvenile facility.

Required Documentation (Please attach)	Received by Detention (Yes or No)	Verified by Compliance Monitor
Documentation of Formal Adjudication as a Status Offender		
Documentation of the Previous On-Record Warning		

If a juvenile is taken into custody for violating a valid court order by committing a new status offense, the following conditions must be met:

- 2) The appropriate public agency was promptly notified that such juvenile is held in custody for violating such order.
- 3) The juvenile was interviewed in person, by an authorized representative of the agency, within 24 hours of the juvenile’s placement in secure detention, excluding weekends and holidays.

Required Documentation (Please attach)	Received by Detention (Yes or No)	Verified by Compliance Monitor
Completed Copy of the Assessment with Documentation of the In-Person Interview		

4) Did the authorized representative submit an assessment to the court by a licensed or certified professional, prior to the 24 hour reasonable cause hearing regarding the significant mental health, behavioral health, or substance abuse treatment needs to be addressed during the youth's confinement?

Required Documentation (Please attach)	Received by Detention (Yes or No)	Verified by Compliance Monitor
Documentation of the Time and Date the Assessment was Submitted to the Court		

5) Was the reasonable cause hearing held within 24 hours of the juvenile’s placement in secure detention, excluding weekends and legal holidays?

Required Documentation (Please attach)	Received by Detention	Verified by Compliance Monitor
Documentation of the Time and Date of the Reasonable Cause Hearing		

6) If the court determines that placement in a secure detention or secure correctional facility is warranted, does the written order: *identify the VCO that was violated; *specify the factual basis for determining reasonable cause the VCO was violated; *include finding of fact that no appropriate less restrictive alternative is available; *specify the length of time, not to exceed 7 days, the status offender may remain in detention; and *include a plan for the status offender's release?

Required Documentation (Please attach)	Received by Detention (Yes or No)	Verified by Compliance Monitor
Written Order including specific factual circumstances surrounding the violation of the VCO		

Valid Court Order (VCO) Exception Assessment Report

IN THE INTEREST OF: _____ DOB: _____

Case No. _____

COMES NOW, _____

with the _____ and reports to the Court as follows:

The juvenile was placed in the _____ Juvenile

Detention Facility on the _____ day of _____, _____.

The juvenile was interviewed in person on _____ at _____

Describe the circumstances, events, or behaviors relevant to this incident:

Describe the immediate needs of this juvenile: (Include any significant mental health, behavioral health, or substance abuse treatment needs to be addressed during a youth's confinement.)

Describe the most appropriate placement alternatives available for this juvenile awaiting disposition on the alleged violation:

Respectfully Submitted,

Signed: _____ Date: _____

Printed: _____

I certify being licensed or certified by the State of Missouri in the mental health, behavioral health, or substance abuse fields.

Registration Board/Committee: _____

License/Certification Number: _____