



Procedures Related to Status Offenders Held in Secure Detention for Violation of a Valid Court Order

State of California:

Senate Bill 1296 was signed into law in June 2014; provisions of this legislation prohibit status offenders who are found in contempt of court from being held in secure detention. Please note that the federal Juvenile Justice and Delinquency Prevention Act continues to allow secure detention for status offenders in contempt of court; you may wish to consult with your county counsel regarding such situations.

Below are excerpts of related amended statutes

California Code of Civil Procedure Section 1219 (c) was added:

(c) Notwithstanding any other law, a court shall not imprison, hold in physical confinement, or otherwise confine or place in custody a minor for contempt if the contempt consists of the minor's failure to comply with a court order pursuant to subdivision (b) of Section 601 of, or Section 727 of, the Welfare and Institutions Code, if the minor was adjudged a ward of the court on the ground that he or she is a person described in subdivision (b) of Section 601 of the Welfare and Institutions Code. Upon a finding of contempt of court, the court may issue any other lawful order, as necessary, to secure the minor's attendance at school.

Welfare and Institutions Code Section 601 (b) was amended to read:

(b) If a minor has four or more trancies within one school year as defined in Section 48260 of the Education Code or a school attendance review board or probation officer determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or to correct the minor's persistent or habitual refusal to obey the reasonable and proper orders or directions of school authorities, or if the minor fails to respond to directives of a school attendance review board or probation officer or to services provided, the minor is then within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court. However, it is the intent of the Legislature that ~~no~~ a minor who is described in this subdivision, adjudged a ward of the court pursuant solely to this subdivision, or found in contempt of court for failure to comply with a court order pursuant to this subdivision, shall not be held in a secure facility and shall not be removed from the custody of the parent or guardian except during school hours for the purposes of school attendance.

Juvenile Justice and Delinquency Prevention Act:

Status offenders may only be held in juvenile detention facilities under limited circumstances. There are specific instances where a Welfare and Institutions Code §601 Ward of the Court may be committed to a detention facility. The Juvenile Justice and Delinquency Prevention Act (JJDPa) Valid Court Order (VCO) Exception provides that post-disposition status offenders (WIC §601 Wards of the Court) found to

have violated a valid court order and who have been given full due process rights may be committed to a juvenile detention facility.

The JJDPa 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.”*

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

- An appropriate public agency must be promptly notified that the youth is held in custody for violating the order;
- Not later than 24 hours during which the youth is held, an authorized representative of the agency shall interview, in person, the youth; and
- Not later than 48 hours during which the youth is held:
 - o The representative must submit an assessment to the court that issued the order regarding the immediate needs of the youth; and
 - o The court shall conduct a hearing to determine whether there is reasonable cause to believe that the youth violated the order and the appropriate placement of the youth pending disposition of the alleged violation.

If all of the items listed above were satisfied, the WIC §601 Ward of the Court may be held in a juvenile detention center pursuant to the JJDPa, but should not be held any longer than necessary to make an informed disposition.

The Valid Court Order (VCO) Exception Checklist must be completed and returned with the Status and Non Offender Detention Report for all youth committed to juvenile hall and a copy of the Minute Order specifying terms.