

National Models: Detention and Alternative Graduated Responses for Status Offending Youth

Detention: In the last half century we have seen policy makers, advocates, and stakeholders debate the merit and utility of using detention for young people accused of status offenses. The prevailing trend nationwide has been to diminish or eliminate the use of detention for these young people. There are myriad reasons why using detention for status offenders does more harm than good. Placing status offenders with more “deep-end” youth—those in the delinquency system—exposes them to negative peer influences that can often worsen, rather than improve, their behavior. Furthermore, the most up-to-date research in the juvenile justice field reveals that, aside from those youth who absolutely must be confined as a matter of public safety, treating kids at home and in their communities has much better behavioral outcomes than incarceration. FINS-type kids, who have not committed a crime, let alone a serious one, squarely fall in the category of youth whose needs are better met outside of detention.

As a matter of federal law, youth charged with status offenses may not be placed in secure detention or locked confinement if a state is to receive any federal funding through the JJDPA. The one exception to this rule is that when a judge makes an order in a status offense case—for example, ordering a youth to attend school—that child may be detained for violating the court’s order, as a matter of contempt. This policy has come to be known as the “VCO exception” to the JJDPA, and is the primary means by which status offending youth end up in detention in states that comply with the JJDPA. Recently, however, the VCO is falling into disfavor as jurisdictions around the country increasingly recognize the harms associated with placing status offenders in detention and the limited gains that such an approach achieves.

Model jurisdictions have implemented legislative reform which either limits or denies the ability to detain a child who is accused of a status offense. Through this legislative effort they have, by and large, eliminated the practice of detaining status offenders altogether. Connecticut’s statutes, for example, prohibit holding a child whose family has been adjudicated as a Family with Service Needs (FWSN) in juvenile detention, and prohibits adjudicating FWSNs delinquent solely for violating a court’s FWSN order. These jurisdictions have accomplished this in a variety of ways.

Alternatives to Detention and Court Process: First and foremost, the centerpiece of model status offender systems is that youth are served out of court, in the community, and with limited—if any—option of entering the juvenile justice system at all. This “closing of the front door” effectively eliminates the possibility of detention at the outset, as these youth are not even involved in a system with the authority to detain them. Instead, they are diverted to alternatives to court/detention based in the community and connected to a range of services.

Some jurisdictions—even those that prohibit the use of detention for status offenders—have found alternative short-term residential options for status offenders who need them, not as a punitive matter, but as a matter of safety and crisis management. Florida, for example, prohibits status offenders from being placed in a detention facility with delinquents as a matter of law. However, its voluntary shelters



provide a “respite” option for families who need a brief cooling-off period. Additionally, adjudicated status offenders in Florida can, under very narrow circumstances, be placed in a secure shelter setting. Connecticut’s Family Support Centers (FSC) are “one stop shops” that provide an alternative to court and detention, offering various services for families with service needs, including immediate contact with a referred family (within three hours of referral), 24-hour crisis intervention, case management, family mediation, educational advocacy, psycho-educational and cognitive-behavioral support groups, and one-on-one therapeutic sessions. They also have ready access to respite care for youth. In Cook County, Illinois, Youth Outreach Services, Inc. (YOS) provides a community-based programming to youth ages 11 to 17 and their families at risk of entering the court system. They offer a crisis intervention program which operates 24-hours/day serving youth who run away or are involved in family conflicts. Crisis intervention services also include temporary respite placement, family and individual counseling, substance abuse intervention, and conflict mediation. If the youth is dealing with truancy issues they can be linked to in-house academic support counselors.

Graduated Responses: Nationally, as jurisdictions move away from using detention, they have developed alternative ways to address non-compliance or technical violations by youth under their supervision. Recognizing that there are gradations in the type of violations young people under supervision commit, jurisdictions have developed local responses based on the severity of the behavior. If the violating behavior is less serious the response will also be less severe and vice versa. Model Jurisdictions such as Portland, Oregon, Cook County, Illinois, and Santa Cruz, California, have helped limit both delinquent and status offender further penetration into the system by implementing these graduated response grids.

Louisiana Models—Detention and Graduated Sanctions/Responses:

There are no current state detention standards on FINS, and there is no statewide monitoring through the Louisiana Juvenile Detention Association or DCFS; however state legislation has mandated detention standards to be in place in all Louisiana Detention Centers by January of 2013. Currently, each local detention center makes decisions on their admissions without reference to state standards.

A number of jurisdictions around Louisiana have voluntarily adopted the model approach of keeping status offenders and low risk delinquents out of detention. Some have done this for many years, as a matter of philosophy and principle.

- Calcasieu Parish, for example, has long strived to keep FINS youth out of court, as well as detention; they have instituted an admission risk screening tool, do not allow the admission of low risk youth to detention, and promote alternatives that are more appropriate, less costly, and more effective.
- Jefferson Parish juvenile justice system also understands the importance of keeping FINS youth out of detention. In 2007, Jefferson Parish developed a Detention Assessment Screening Instrument to be utilized at the point of booking by the Jefferson Parish Sheriff’s Office which screens low risk youth out of detention. (This assessment instrument provides a point score to youth who are arrested). Youth arrested for a status offense are not held in detention due to a low score on this valid risk tool.



- Finally, in Rapides Parish, local stakeholders involved with Models for Change have worked to implement new practices and policies within the informal FINS system that keep youth out of court, and thereby out of detention. In 2008, Rapides Parish also implemented a Detention Screening Instrument in collaboration with local law enforcement. Since involvement with Models for Change, overall detention admissions, and admissions for FINS offenses, have declined in Rapides Parish.¹

Summary of Available and Relevant Louisiana Data:

Based on data from the Louisiana Models for Change (LaMfC) initiative, below is a summary of available data on FINS youth sent to local detention collected by Louisiana Models for Change and local detention centers. There is no current state level data available for youth you are detained and charge/s.

Local Detention Data Available via Louisiana Models for Change

- In 2010, 2% of admissions (4) to detention in Calcasieu Parish (i.e., Calcasieu Juvenile Detention Center) were for FINS offenses. That was down from 6% (19) in 2009.
- In 2010, the average length of stay in Calcasieu Parish Detention Centers for FINS offenses was 9 days.
- In 2010, 1.5% of admissions to detention in Rapides Parish (i.e., Renaissance Detention Center) were for a FINS offense. That was down from 8.8% in 2006.
- From 2006-2010, the average length of stay in Renaissance Detention Center for FINS admissions was one week.

Summary of Relevant Model Legislation:

Though states are permitted under JJDPa to place status offenders in secure facilities for violating a valid court order, many states have chosen to prohibit such placements. Studies have *not* shown detention to be an effective deterrent, and yet many status offenders are detained in secure detention facilities.² Both Louisiana and Florida allow status offenders to be placed in secure detention facilities as the result of a valid court order violation.³ However, in addition to having the option to place the child in a secure facility, the Florida court can choose to provide an alternative sanction for the child.⁴ Each circuit has an alternative sanctions coordinator who coordinates and maintains program alternatives such as community service.⁵ Explicitly providing for a person to maintain such programs can help ensure a child

¹ It is important to note that these data cannot be used to conclusively show that the implementation of the DSI *caused* these trends displayed above. A great deal of reform efforts have occurred (and are currently underway) in the Rapides Parish Juvenile Justice System over the past several years. At the same time, additional policy and procedure changes have occurred at the detention center during this time frame. Thus, a range of different factors may have contributed to the decline in detention admissions for FINS offenses.

² See KENDALL, *supra* note 1, at 8.

³ See FLA. STAT. § 984.09 (2010); LA. CHILD. CODE ANN. art. 782 (2009).

⁴ See FLA. STAT. § 984.09 (2010).

⁵ See *id.*

is not just being sent to secure facilities because the court has no other mechanism for addressing the violation.

Neither Connecticut nor New York allow for detention in a secure facility as a result of a valid court order violation. In Connecticut, if a child violates a court order, then the child can be ordered to be under supervision or more restrictive measures.⁶ The New York laws provide that the court can revoke the previous order and provide another order that would have been allowed at the time of the original disposition hearing, declare the child a delinquent, or can take other steps to provide more restrictive disposition.⁷ While these additional consequences are less severe than placing the child in a secure facility, they still allow the court to address a child's noncompliance and further ensure future compliance.

In contrast to the New York and Connecticut provisions, and even the Florida provisions, the Louisiana law does not provide for any alternative sanctions for a child who has violated a valid court order; the only disposition mentioned in the statute is placement in a juvenile shelter or detention facility.⁸

Ultimately, states should enact legislation that disallows or limits status offenders to be placed in detention as a result of any action stemming from a status offense. States can begin by enacting legislation that mandates the creation of alternatives to detention and calls for these to be created within a reasonable period of time and then calls for elimination of detention within an additional period of time.

Best practice guidelines and detention admission data reporting should also be incorporated in Detention Standards in this regard as a best practice model. Detention centers should adopt risk screening tools, so that beds are used wisely, and low risk youth are not placed in detention. Alternatives to detention should be developed in collaboration with state agencies and local governments to increase the option for status offending youth who need crisis response and brief respite care.

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⁶ See CONN. GEN. STAT. § 46b-149f (2010).

⁷ See N.Y. FAMILY COURT LAW § 746-48, 749a (McKinney 2010).

⁸ See LA. CHILD. CODE ANN. art. 782, 791 (2009).