

The Prohibiting Detention of Youth Status Offenders Act of 2022 – H.R. 7976

U.S. Representative Tony Cárdenas

Every year, thousands of kids are incarcerated for “status offenses” including truancy, breaking curfew or running away from home—acts that would not be considered crimes if they were committed by an adult. The Prohibiting Detention of Youth Status Offenders Act of 2022 would phase out and then prohibit states from detaining youth for status offenses, in favor of responses that better support youth.

To prevent unnecessary confinement of youth, the Prohibiting Detention of Youth Status Offenders Act would eliminate the use of the so-called “valid court order” (VCO) exception that currently permits states to place youth status offenders in detention facilities. The legislation provides one year for states currently using the VCO exception to come into compliance with the Act, as well as an additional year for states that can show hardship and a good-faith effort to reduce the number of youth status offenders placed in a detention facility.

While the number of status offenses petitioned in courts decreased by 53 percent between 2005 to 2019, during 2019, there were still approximately 4,200 instances of a youth being detained in response to a status offense. Most youth who engage in status and other minor offenses never progress to more serious behavior and will age out of the behavior without court intervention. These cases have a disproportionate impact on communities of color, with Black youth and American Indian and Alaska Native youth comprising higher rates of petitioned status offenses cases relative to their population size.

History of the VCO Exception

The Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974, the first comprehensive piece of federal juvenile justice legislation, included as a core mandate the deinstitutionalization of status offenders— the “DSO” requirement. However, in 1980 the JJDP was amended to allow judges to issue detention orders in status offense cases if the offense violated a valid court order. Since this amendment, the VCO exception has been used thousands of times each year to institutionalize children. A number of states have already outlawed or stopped using the VCO exception, with 32 states and territories reporting no uses of the VCO exception in FY2016. In the Juvenile Justice Reform Act of 2018, Congress limited the time that a juvenile could be detained under a VCO exception to no more than 7 days.

This legislation is supported by Act4JJ, Alianza for Youth Justice, Anti-Recidivism Coalition, Association of Children's Residential & Community Services, Boys Town, Center for Children's Law and Policy, Center for Disability Rights, The Child Advocacy Program at Harvard Law School, Child Welfare League of America, Children's Advocacy Institute, Children's Rights, Coalition for Engaged Education, Columbia Justice Lab – Youth Justice Initiatives, First Focus Campaign for Children, The Gault Center, Human Rights for Kids, Juvenile Law Center, Legal Counsel for Youth and Children, National CURE, National Juvenile Justice Network, National Network for Youth, National Partnership for Juvenile Services, New Earth, Project Kinship, The Sentencing Project, Southern Poverty Law Center Action Fund, Sycamores, Visionary Youth Los Angeles, Youth Correctional Leaders for Justice, Youth First Initiative, Youth Law Center, Youth Sentencing & Reentry Project and Youth Villages.

Senator Bob Casey has introduced companion legislation in the Senate.