



Michigan Supreme Court

State Court Administrative Office

Court Services Division

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-4835

MEMORANDUM

DATE: March 24, 2021

TO: Family Division Judges
Family Division Administrators
Circuit Court Administrators

FROM: Tanya Morrow, Management Analyst

RE: Public Act 389 of 2020 (SB 700)
Detainment of Status Offenders Who Violate a Valid Court Order

Part of the Juvenile Justice Reform Act of 2018¹ requires the state's Juvenile Justice and Delinquency Plans be modified to provide alternatives to detention, reduce the number of children in secure detention and correctional facilities, and promote evidence-based programs and practices. [Public Act 389 of 2020](#) will bring the state into compliance with the requirements of the Juvenile Justice Reform Act of 2018. It amends the Juvenile Code to address the detainment of status offenders under the jurisdiction of the court who violate a valid court order. This legislation was signed into law on January 4, 2021, and is effective April 4, 2021. This memo is intended to provide a summary of the legislation and guidance to courts to assist with successful implementation.

[MCL 712A.1](#) amends the definition of juvenile to a person less than 18 years of age. This provides for the change in age from 17 years of age to 18 years of age effective October 1, 2021. Additionally, the amendments define the terms "public agency" and "secured facility".

[MCL 712A.15](#) amends the definition of the term "petition" to include a petition or supplemental petition for violation of valid court order for status offenders.

MCL 712A.15(2) removes juveniles who have run away from the list of children who may be taken into custody pending a hearing. Further, it adds status offenders who violate a valid court order to the list of children who can be detained pending a hearing.

MCL 712A.15(3) provides that, if a juvenile is taken into custody for violating a valid court order, as a status offender and is detained in a secure facility, the petitioner shall ensure that an

¹ [Juvenile Justice Reform Act of 2018](#)

appropriately trained, licensed, or certified mental health or substance abuse professional interviews the juvenile in person within 24 hours to assess their immediate mental health and substance abuse needs. The assessment may be completed upon filing the petition, prior to any order for placement in a secure facility. The law does not require the use of a specific assessment tool; however, the Department of Health and Human Services (DHHS) recommends using CAFAS.² If the assessment occurs while the juvenile is in secure detention, the cost of the assessment is reimbursable under the Child Care Fund (CCF). If the assessment occurs before the juvenile's placement in secure detention, it may³ be reimbursed under the CCF.

The petitioner must provide the assessment to the court within 48 hours of the placement, and the court must conduct a hearing to determine if there is reasonable cause to believe that the juvenile violated the court order and to determine their appropriate placement pending the alleged violation.

[MCL 712A.18](#) provides additional procedures for courts to follow when a status offender who has violated a valid court order is detained. The addition of MCL 712A.18(k) adds a requirement for the court to include specific findings and language in a court order, if the court finds that a juvenile status offender has violated a valid court order and orders the juvenile placed in secure detention. In that case, the court order must include all of the following:

- The specific court order the juvenile violated;
- The factual basis for determining that the juvenile violated the court order;
- The court's findings of fact to support a determination that there is no appropriate, less restrictive alternative placement available considering the juvenile's best interest;
- The length of time the juvenile may remain in the secure facility shall not exceed seven days;
- The plan for the juvenile's release from the facility; and
- A statement that the order cannot be renewed or extended.

The addition of MCL 712A.18(l) requires that upon a juvenile status offender's second or subsequent violation of a court order, the court must find both of the following have occurred:

- The juvenile violated a court order after the date the court issued the first order under subdivision (k); and
- The court has procedures in place to ensure that a juvenile held in a secure facility is not in custody more than seven days or the length of time authorized by the court, whichever is shorter.

The State Court Administrative Office is working to address needed amendments to court rules, procedures, and forms.

² [Functional Assessment Systems : Child And Adolescent Functional Assessment Scale - CAFAS \(fasoutcomes.com\)](#)

³ If the assessment is ordered and the youth is not placed in a secured detention facility, the assessment would only be reimbursable through the Child Care Fund if 1) the youth was already involved in an intensive In Home Care program that budgeted for assessments; OR 2) the youth was placed in a community-based Juvenile Justice out-of-home care placement, as the assessment could be reimbursed as a non-scheduled payment. These options are applicable only in the event that no other fund source (Medicaid, private insurance, etc.) is available and the assessment is not ordered as a competency evaluation. Contact DHHS for additional details regarding eligibility.