



# OJJDP FACT SHEET

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## Key Amendments to the Juvenile Justice and Delinquency Prevention Act Made by the Juvenile Justice Reform Act of 2018

### Background

Congress enacted the Juvenile Justice and Delinquency Prevention (JJDP) Act (Pub. L. No. 93-415, 34 U.S.C. § 11101 *et seq.*) in 1974. This landmark legislation established the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to support local and state efforts to prevent delinquency and improve the juvenile justice system.

Prior to 2018, Congress last reauthorized the JJDP Act on November 2, 2002. The reauthorization (the 21st Century Department of Justice Appropriations Authorization Act, Pub. L. No. 107-273, 116 Stat. 1758) supported OJJDP's established mission while introducing important changes that streamlined the Office's operations and brought a sharper focus to its role. The provisions of that reauthorization took effect in fiscal year (FY) 2004 (October 2003).

In December 2018, the [Juvenile Justice Reform Act \(JJRA\) of 2018](#) was signed into law, reauthorizing and substantially amending the [JJDP Act](#). The amendments made by the JJRA become effective in FY 2020 (October 1, 2019).

However, some provisions of the Act will become effective at a later date.<sup>1</sup> Detailed information about the current regulations for the OJJDP Formula Grants program is contained in the [OJJDP Formula Grant Regulation, 28 C.F.R. Part 31, Subpart A](#).

### Summary

This fact sheet describes the major components of the JJRA, including the effective application dates, definition of terms, annual reporting requirements, state allocations, state plan requirements, and the distribution of funds not allocated due to state noncompliance.

## Key Amendments

### Effective Application Date

The JJRA amendments apply to FY 2020 and subsequent awards but do not apply to FY 2019 and earlier awards. This means that, for several years, states will have open awards governed by the JJDP Act prior to the JJRA amendments, and other awards governed by the JJDP Act as amended by the JJRA.<sup>2</sup>

<sup>1</sup> See State Plan Requirements.

<sup>2</sup> Ibid.



## Definition of Terms

Definitions have changed for some of the terms used in the statute, including “adult inmate,” “contact” (which is now “sight or sound contact”), “Indian tribe” (does not change eligibility requirements for tribes), and “jail or lockup for adults.”

## Annual Reporting Requirements

Additional data points included in the description of OJJDP’s annual report do not impose additional reporting requirements on states. OJJDP may ask states to submit these data elements on a voluntary basis; if they are not submitted, it will not result in a state’s noncompliance nor will it affect a state’s eligibility. (Section 207)

## State Allocations

### *Minimum Allocation*

If the aggregate amount appropriated for a fiscal year to carry out this title is less than \$75,000,000, then (i) the amount allocated to each state other than a state described in clause (ii) for that fiscal year shall not be less than \$400,000; and (ii) the amount allocated to the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands for that fiscal year shall not be less than \$75,000.

If the aggregate amount appropriated for a fiscal year to carry out this title is not less than \$75,000,000, then (i) the amount allocated to each state other than a state described in clause (ii) for that fiscal year shall not be less than \$600,000; and (ii) the amount allocated to the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands for that fiscal year shall not be less than \$100,000.

### *Planning and Administration*

States will now be required to designate “not less than one individual” for the purpose of coordinating state compliance efforts. (Section 222(c))

### *State Advisory Group Allocation*

Previously, the State Advisory Group allocation for all states was 5 percent of the minimum state allocation. The JJRA amends this to allow for the State Advisory Group allocation to be not more than 5 percent of each state’s allocation. (Section 222(d))

## State Plan Requirements

### *Publication on State’s Website*

States will now be required to post their final state plans on their public websites 60 days after the plans are finalized (i.e., have received final approval from OJJDP). (Section 223(a))

### *State Advisory Group*

States will now be required to have members on the State Advisory Group who have additional expertise (e.g., adolescent development) and members who have additional qualifications (e.g., state license or certification in mental health or substance abuse), along with additional representation (e.g., representatives of victim or witness advocacy groups and tribal representation in states where tribes are located). Additionally, if a state is unable to fill the positions of individuals who are or have been under the jurisdiction of the juvenile justice system, it may appoint a parent or guardian of such an individual. (Section 223(a)(3))

### *Juvenile Crime Analysis*

States must, within 1 year of enactment of the JJRA (by December 21, 2019), include in their juvenile crime analysis a plan to:

- Eliminate the use of restraints on known pregnant juveniles in secure juvenile detention and correctional facilities during labor, delivery, and post-partum recovery unless credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others (Section 223(a)(7)(B)(ix)(I)); and
- Eliminate the use of abdominal restraints, leg and ankle restraints, wrist restraints behind the back, and four-point restraints on known pregnant juveniles unless credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff, or others; or reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method (Section 223(a)(7)(B)(ix)(II)).

States must, within 2 years of enactment of the JJRA (by December 21, 2020), implement the plan to eliminate the use of restraints on known pregnant juveniles as described in Sections 223(a)(7)(B)(ix)(I) and (II). (The term “restraints” is defined at Section 103(33).)

## **Program Areas**

The JJRA added a number of program areas that states may support with Title II formula grant funds, including (1) legal representation for juveniles (223(a)(9)(G)); (2) informing juveniles of the opportunity for records expungement and sealing, and providing them with assistance (223(a)(9)(U)); (3) addressing the needs of girls in or at risk of entering the juvenile justice system (223(a)(9)(V)); and (4) monitoring for compliance with core requirements and providing training and technical assistance on the core requirements to secure facilities. (223(a)(9)(W))<sup>3</sup>

### **Juveniles Treated as Adults**

By December 21, 2021, unless found by a court to be in the interest of justice, juveniles who are being charged and tried as adults (1) may not have sight or sound contact with adults and (2) may not be detained in a jail or lockup for adults (except as provided under the jail removal requirement). The determination of whether such detention would be in the interest of justice must (1) be after a hearing, (2) be in writing, and (3) take into consideration several criteria (e.g., the juvenile's age, physical and mental maturity, present mental state, history of delinquency). When the court finds such detention to be in the interest of justice, additional requirements must be met. This requirement was added to Section 223(a)(11), which is one of the core requirements with which failure to comply will result in a reduction in funding. (Section 223(a)(11)(B))

### **System of Compliance Monitoring**

States must now describe an "effective" system of monitoring for compliance with the core requirements but no longer need to include nonsecure facilities in their monitoring universe. (Section 223(a)(14))

### **Racial and Ethnic Disparities**

The requirements to address "disproportionate minority contact" have been revised. States must now identify and reduce racial and ethnic disparities (as defined in Section 103(41)). (Section 223(a)(15))

### **Valid Court Order**

Additional requirements have been imposed for use of the valid court order (VCO) exception to the deinstitutionalization of status offenders requirement.

Specifically, within 48 hours after the juvenile is taken into custody for violation of the VCO, 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. Such placement may not exceed 7 days and 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. 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). (Section 223(a)(23))

### **Additional Information Required in State Plan**

States must include in their state plan a description of any of the following that the state has or will have in place:

- Policies, procedures, and training in effect for the staff of juvenile state correctional facilities to eliminate the use of dangerous practices, unreasonable restraints, and unreasonable isolation, including by developing effective behavior management techniques. (Section 223(a)(29))
- The evidence-based methods that will be used to conduct mental health and substance abuse screening, assessment, referral, and treatment for juveniles who request or need a screening or are held for more than 24 hours in a secure facility that provides for an initial screening. (Section 223(a)(30)(A))
- How the state will seek, to the extent practicable, to provide or arrange for mental health and substance abuse disorder treatment for juveniles determined to be in need of such treatment. (Section 223(a)(30)(B))
- How reentry planning for juveniles will include a written case plan based on an assessment of needs that includes the pre- and post-release plans for juveniles, the living arrangements to which the juveniles are to be discharged, and any other plans developed for the juveniles based on an individualized assessment. (Section 223(a)(31))
- An assurance that the agency of the state receiving funds under this title collaborates with the state educational agency receiving assistance under Part A of Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 *et seq.*) to develop and implement a plan to ensure that, in order to support educational progress—

<sup>3</sup>While states have been permitted to expend funds for compliance monitoring as one of the program areas included in the solicitation, compliance is now included in the Act as a specific program area.

- (a) Student records of adjudicated juveniles, including electronic records if available, are transferred in a timely manner from the educational program in the juvenile detention or secure treatment facility to the educational or training program into which the juveniles will enroll;
  - (b) Credits of adjudicated juveniles are transferred; and
  - (c) Adjudicated juveniles receive full or partial credit toward high school graduation for secondary school coursework satisfactorily completed before and during the period of time during which the juveniles are held in custody, regardless of the local educational agency or entity from which the credits were earned. (Section 223(a)(32))
- Policies and procedures to screen for, identify, and document in state records the identification of victims

of domestic human trafficking, or those at risk of such trafficking, and to divert such youth to appropriate programs or services, to the extent practicable. (Section 223(a)(33))

**Note:** States are not required to have these plans, policies, and/or procedures in place, but rather to describe what they currently have in place or plan to put in place.

### **Funds Not Allocated Due to State Noncompliance**

The funds that remain unallocated due to state allocation reductions for noncompliance with the core requirements will be reallocated to states that are in compliance (50 percent of the total of unallocated funds) and for training and technical assistance to states to support compliance with the core requirements (50 percent of the total of unallocated funds). (Section 223(c)(2))

OJJDP is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office for Victims of Crime; and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking.

For information about other OJJDP programs, go to [ojjdp.gov](http://ojjdp.gov).