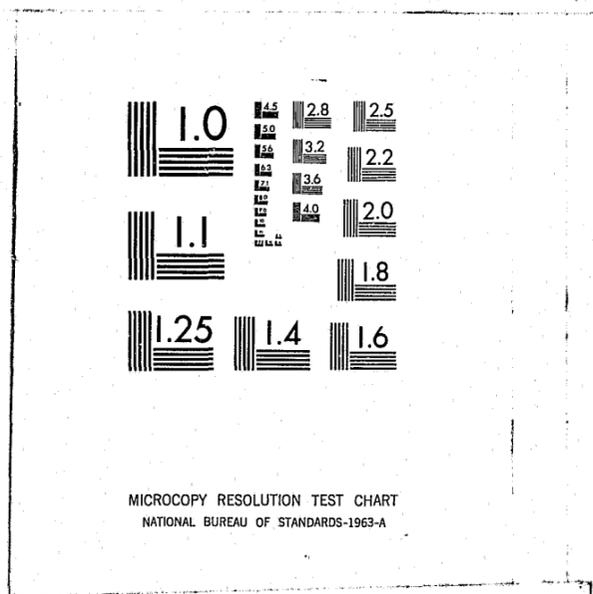


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# the State Legislative Leaders Foundation



LEGISLATIVE TECHNICAL ASSISTANCE  
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## DEINSTITUTIONALIZATION OF STATUS OFFENDERS: A COMPILATION AND ANALYSIS OF STATE STATUTES

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Report No. 4

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The removal of status offenders from secure facilities, often referred to as deinstitutionalization, is an area of juvenile justice which has received considerable attention and undergone tremendous changes in the past decade. Much of the activity can be attributed to the following two factors: 1) the willingness of many state legislators to recognize the necessity of differentiating between the treatment accorded to status offenders and that to delinquents, and 2) the increased role of the federal government in juvenile justice.

This report examines in detail the laws of the 50 states as they relate to the deinstitutionalization of status offenders (DSO). It contrasts current statutes with laws effective prior to 1974 regarding the requirements of separate treatment of status offenders from delinquents.

The Juvenile Justice and Delinquency Prevention Act of 1974 (the Act) established within the Justice Department's Law Enforcement Assistance Administration (LEAA) an Office of Juvenile Justice and Delinquency Prevention (OJJDP). The Office was created to increase the federal government's impact on juvenile justice on the national and state levels.

In establishing OJJDP, Congress outlined in the 1974 legislation some of the major objectives toward which OJJDP was mandated to strive. Monies were appropriated under the Act to assist the Office to achieve these objectives. If a state wished to participate in the Act, and thereby be eligible to receive funds appropriated under the Act, it had to agree to demonstrate progress in meeting stated objectives.

One of the most prominent objectives outlined was the deinstitutionalization of status offenders and non-offenders. The goal of deinstitutionalization was defined in Sec. 223. (a) (12) (A) of the Act as follows: "... juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such non-offenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities ..." Juveniles charged with offenses that would not be crimes if committed by adults are referred to as status offenders. The most common status offenses are running away from home, truancy and being beyond the control of one's parents. State statutes use a variety of terms to define this group of juveniles including: status offenders, unruly children, wayward minors and persons/minors/children in need of supervision. In guidelines issued pursuant to the Act, a juvenile detention or correctional facility was defined as "(a) Any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or nonoffenders; or (b) Any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult offenders" (LEAA Guidelines M4100.1F).

Since the Act has been in effect, 47 states have agreed to the outlined requirements, including the deinstitutionalization of status offenders, and received funds appropriated under the Act. Nebraska,

Oklahoma, and Wyoming have never participated, while South Dakota, North Dakota and Nevada voluntarily withdrew from the Act after initial participation. The reasons for nonparticipation often involve fundamental disagreements with the federal deinstitutionalization and separation requirements. Some states view the financial incentive as insufficient contrasted with the expenditure of state funds necessary to achieve compliance with the Act. Recent legislative and programmatic changes in Nebraska and Oklahoma have generated renewed interest in possible participation in the Act.

For a state to continue to participate in the Act and receive funds, it must demonstrate substantial progress, defined as 75% compliance, within three years from the date of its initial participation. Within five years a state must achieve 100% compliance. Yearly monitoring reports from each participating state are prepared by the State Planning Agency (SPA) and sent to OJJDP for review.

Regarding deinstitutionalization of status offenders, the monitoring reports demonstrate state progress in two ways: 1) through compilation of data on the reduction of status offenders in detention and correctional facilities, and 2) by supplying a narrative on the past year's activities which have impacted, either positively or negatively, on the ability to achieve compliance.

Legislative activities are highlighted in many states' monitoring reports. In some states, this activity concerns programmatic changes such as increased funding for shelter facilities, changes in detention criteria, or transfer of responsibility for temporary custody from one to another state agency. Other states have enacted basic changes in their laws to achieve at least statutory compliance with the deinstitutionalization requirements of the Act. While OJJDP is interested in actual rather than statutory compliance, the degree to which a state legislature debates and enacts legislation to promote deinstitutionalization is an indication of that state's interest and support for the goals of the Act. In 1974, most states made no differentiation in their handling of status offenders and delinquents. This lack of differentiation is no longer the case.

Sarri and Levin in Juvenile Delinquency: Comparative Analysis of Legal Codes in the United States list in their section on state statutes as amended through 1972, 26 states that classified status offenders with criminal type offenders and subjected them to the same treatment in both pre-and post-adjudication situations. Even in those states where the statutes did separate these groups into two distinct categories of juveniles subject to court jurisdiction, the distinction was often little more than a matter of semantics. Of the 25 jurisdictions that had established separate status offender categories in 1972, only four states (Delaware, Maryland, Vermont and Georgia) required separate detention housing for status offenders. There was no difference in the dispositional alternatives for status offenders in seven of the 25 jurisdictions. Of the remaining 18 jurisdictions which had restrictions on the dispositions for status offenders, it cannot be assumed they included prohibitions on the placement of status offenders with delinquents in secure

facilities. In some states, the different dispositional structures had nothing to do with placement. They related instead to the court's ability to order fines or restitution only in delinquency cases. In other states where placement alternatives were different for the two groups, the judge was often only required to make a finding that the status offender was not amenable to treatment in an open setting before ordering the juvenile placed in a secure facility.

Our report indicates that the situation is very different today. While not necessarily in total "statutory" compliance with the Act, states have come a long way in the past decade in recognizing the need to handle status offenders differently from delinquents. Only 11 states classify status offenders and criminal-type offenders under the same category, as compared to 25 in 1972. Of those 11, six states have separate subsections covering status offenses resulting in at least some differences in the treatment of status offenders. Operating under such a statutory scheme, Indiana provides for separate placement of both alleged and adjudicated status offenders. Five states, Colorado, Delaware, Florida, Iowa and Pennsylvania, place status offenders in the dependent child category. The remaining 34 states have created separate categories for status offenders and criminal-type offenders, although this does not necessarily dictate separate treatment for these two groups as specified in the deinstitutionalization mandates of the Act.

Since 1974 several states have amended their juvenile statutes specifically to be in compliance with the Act. In terms of the pre-adjudicatory process, 21 states are statutorily in agreement with the Act's deinstitutionalization mandates of nonsecure detention for status offenders. Twenty-three states have statutes that prohibit the sentencing of status offenders to secure juvenile correctional facilities.

Several states have philosophical disagreements with the specific requirements of deinstitutionalization as defined by OJJDP. These disagreements are reflected in their statutes. These states will frequently have a general prohibition against placing status offenders in secure settings followed by language permitting secure detention or confinement for a clearly defined subcategory of status offenders. These exceptions include most often the following four subcategories: 1) runaways, 2) juveniles not amenable to treatment in an open facility, 3) juveniles who are a danger to themselves or others, and 4) second time alleged or adjudicated status offenders.

Seven states specifically allow the secure detention of runaways beyond 24 hours. This permits authorities to make arrangements for the return of the juvenile to his/her parents. In California, a runaway may be securely detained up to 72 hours when there is difficulty in locating the parents or where the distance is too great to accomplish the return of the runaway any earlier. Colorado permits runaways whose legal residence is within Colorado to be securely detained for 48 hours and extends this period to seven days for out-of-state runaways.

Status offenders who are deemed not amenable to treatment, either by judicial or administrative decree, can be held in secure settings specifically in seven states. Georgia courts can commit such an adjudicated status offender to the Division of Children and Youth upon a determination that the juvenile is not amenable to treatment. Ohio, Oklahoma, Tennessee and Alabama have similar provisions. The Commissioner of the Department of Youth Services in Massachusetts can transfer an habitual school offender, who proves to be unmanageable, to a training school.

Danger to oneself or others is used in four states to permit the secure detention of status offenders. Colorado, North Carolina, Oregon and Tennessee have such provisions. In Colorado, a child needing oversight (CHINO), which is defined as a juvenile who endangers others or is a danger to himself, may be held in secure detention for an indefinite period of time.

The last major subcategory of status offenders exempted from general prohibitions against secure treatment comprises what are commonly called second time status offenders. A second time status offender is a juvenile who, having been adjudicated a status offender and given some type of disposition, is returned to court either on new charges of status offenses or for violating the initial disposition. States permitting such action maintain that when a status offender violates the dispositional order, he/she commits the crime of violating a lawful court order and is therefore a delinquent. An alternative position held by OJJDP asserts that such a juvenile remains a status offender as no act was committed which independently would constitute a crime to make him/her liable as delinquent. Alabama, Alaska, Missouri, New Hampshire and Texas all permit second time adjudicated status offenders to be committed to secure institutions established for the treatment of delinquents. The lack of clear statutory language on this issue makes it difficult to know how many other states follow this practice.

The figures above include only those states where a particular subcategory of status offender is singled out for possible placement in a secure facility. This clearly does not represent the total number of states permitting such treatment. In an additional 10 states, the law allows all status offenders to be held in or committed to a secure institution. Several states do not have absolute prohibitions on all post-adjudicatory secure commitment. Delaware prohibits status offenders from being placed with delinquents while not mentioning the level of security permissible. This seemingly would permit the use of a secure facility exclusively for status offenders. Hawaii and Maryland have similar statutes. In Connecticut, Louisiana, Mississippi Nebraska and North Dakota a somewhat different statutory construction exists which creates the possibility of status offenders being committed to secure facilities. In these states the court is prohibited from committing the status offender to state training schools. Placement in a privately operated secure facility is, however, not addressed in those state statutes.

This report compiles statutes of the fifty states relevant to the deinstitutionalization of status offenders both pre- and post-adjudication. The information was collected from the most recent supplements available which, in most cases, included 1979 legislative changes. 1980 legislative changes enacted in Arizona, Florida, Indiana, Maine, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, and Washington are included. Rather than merely compiling a chart of the number of states permitting some type of secure treatment of status offenders or the number of states in complete statutory compliance with the OJJDP DSO guidelines, this report supplies the citations and exact quotes of the relevant statutes from all 50 states. This will permit the reader to obtain a full appreciation of the differences among the states in their approach to this issue.

## ALABAMA

### Pre-adjudication

- o 12-15-1. Definitions  
"(11) Detention care. The temporary care of delinquent children or children alleged to be delinquent in secure custody pending court disposition or transfer to a residential facility or further care of a child adjudicated a delinquent; provided, however, that detention care may also include temporary care of children in need of supervision until January 1, 1978."  
  
"(23) Shelter care. The temporary care of children in group homes, foster care or other nonpenal facilities."

### Post-adjudication

- o 12-15-71  
"(b) Unless a child found dependent shall also be found to be delinquent, he shall not be committed to or confined in an institution established for the care and rehabilitation of delinquent children or detention facility; provided, however, that nothing in this subsection shall be construed to prohibit the placement of dependent children in any other residential facility as defined in subsection (21) of section 12-15-1."  
(Subsection 21 of 12-15-1 lists the following--foster family home, group home, halfway house, and forestry camps. These facilities are not considered juvenile detention or correctional facilities under the JJDP Act.)  
  
"(e) No child found to be in need of supervision, unless also found to be delinquent, shall be committed to or placed in an institution or facility established for the care and rehabilitation of delinquent children unless the court finds upon a further hearing that the child is not amenable to treatment or rehabilitation under any prior disposition or unless such child is again alleged to be a child in need of supervision and the court, after hearing, so finds."  
(General prohibition with two exceptions:  
1) Those deemed not amenable to treatment.  
2) Children with two adjudications of in need of supervision.)

## ALASKA

### Pre-adjudication

- o 47.10.140 Temporary detention and detention hearing.  
"(f) A peace officer may detain a minor who is evading the person having legal custody of him if the minor is not otherwise subject to arrest or detention under (a) of this section, for the sole purpose of either (1) returning the minor to the person having legal custody of him or (2) if the minor prefers, taking him to an office specified by the Department of Health and

Social Services, facility or contract agency of the Department of Health and Social Services where such exists in the community. Immediately upon detaining a minor under this provision, the peace officer shall advise him of his right to social services under AS 47.10.142 (b), and if known, the peace officer shall advise the person having the legal custody of the minor of his detention."

(The process requiring the Department of Health and Social Services to notify the court within 12 hours of a juvenile's detention and the court to hold a detention hearing within 48 hours after notification is the same for a child in need of aid, as outlined above, and for delinquent minors, as outlined in 47.10.140 (a) - (d).)

- o 47.10.142. Emergency custody and temporary placement hearing.  
"(a) The Department of Health and Social Services may take emergency custody of a minor upon discovering any of the following circumstances:  
1) the minor has been abandoned;  
2) the minor has been grossly neglected by his parents or guardian, as 'neglect' is defined in AS 47.17.070 (5), so that immediate removal from his surroundings is, in the determination of the department, necessary to protect his life;  
3) the minor has been abused, as 'abuse' is defined in AS 47.17.070 (1), so that immediate medical attention is necessary, in the determination of the department.  
b) A minor who has left home and is evading the person having legal custody of him may obtain the services of the department. The department shall assess the situation and furnish the minor with the social services it considers appropriate to protect the well-being of the minor and to preserve his family life if preserving it is considered desirable under the circumstances. If, after assessing the situation, considering the wishes of the minor, and furnishing appropriate social services, the department considers it necessary, the department may take emergency custody of the minor.  
c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the parents or the person or persons having custody of the child and the court of the action and file with the court a petition alleging that the child is a child in need of aid.  
d) The court shall immediately, and in no event more than 48 hours after being notified unless prevented by lack of transportation, hold a hearing at which the minor, if his health permits, and his parents or guardian, if they can be found, shall be permitted to be present. The court shall determine whether probable cause exists for believing the minor to be a child in need of aid, as defined in AS 47.10.290 (8). The court shall inform the minor, and his parents or guardian, if they can be found, of the reasons given as constituting probable cause and the reasons given as authorizing his temporary placement.  
e) If the court finds that probable cause exists it shall order the minor committed to the department for temporary placement, or

order him returned to the custody of his parents or guardian subject to the department's supervision of his care and treatment. If the court finds no probable cause it shall order the minor returned to the custody of his parents or guardian." (47.10.190 "Conditions governing detention" within Article 2 "Juvenile Institutions" does not distinguish between the detention of delinquent minors and of children in need of aid.)

#### Post-adjudication

- o 47.10.080. Judgment and orders.  
"(b) If the court finds that the minor is delinquent it shall ... place the minor in the juvenile facility which the department considers appropriate and which may include a juvenile correctional school, detention home, or detention facility...." (Using this section as its basis the Supreme Court of Alaska In The Matter of E.M.D., A Minor Child. No. 1524. 490 P. 2d 658 (1971) ruled that only a delinquent child can be incarcerated in a correctional setting.  

however

The Court In The Matter of L.A.M. vs. State 547 P. 2d 827 ruled that a child in need of supervision who violates the court order can be found to be a delinquent and sentenced appropriately.)

### ARIZONA

#### Pre-adjudication

- o 8-223  
"B. Any peace officer having a child in temporary custody for reasons other than the commission of a delinquent act may place the child in a shelter care or minimally secured facility."

#### Post-adjudication

- o 8-241. Disposition and commitment.  
"(3) It may award an incorrigible child:  
(e) to the department of corrections without further directions as to placement by that department."  
(1977 legislation repealed 8-241 (3) (e). The 1980 session enacted legislation removing from the definition of delinquent acts references to violations of the law, other than crimes; acts which constitute a public offense, which could only be committed by a child or minor; and failure to obey a lawful order of the juvenile court. These references were included in the definition of an incorrigible child. The most immediate effect of this legislation is to confine the legal category of delinquents to those juveniles who commit acts which if done by adults would constitute crimes and thereby to prohibit all status offenders from being committed to the department of corrections.)

### ARKANSAS

#### Pre-adjudication

- o 45-603. Definitions.  
"(9) "Shelter care" means the physically unrestrictive facility utilized for the "Juvenile in Need of Supervision" pending disposition by the court for placement or commitment of the juvenile."
- o 45-604. Time in secure detention limited.  
"A juvenile shall not be incarcerated in "Secure Detention" for more than seventy-two (72) hours for investigative purposes in order to determine his identity, age, background, purpose for apprehension, and whether the juvenile is a "Juvenile in Need of Supervision" or is a "Delinquent Juvenile", without benefit of an order from the proper court authorizing further detention for the purposes aforementioned."

#### Post-adjudication

- o 45-606. Placement or detention of juvenile in need of supervision.  
"A juvenile determined to be a "Juvenile in Need of Supervision" shall not be placed or detained in a "Secure Detention" facility, or any facility utilized for the detention of alleged or adjudicated "Delinquent Juveniles," and shall not be placed in any facility utilized for the detention of adults held for, charged with, or convicted of a crime."
- o 45-607. Transfer of juveniles in need of supervision on or before August 1, 1977.  
"One or before the 1st day of August, 1977, any juvenile determined to be a "Juvenile in Need of Supervision"--that is, and juvenile who has been charged with or who has committed offenses that would not be criminal by an adult--shall be released from all "Secure Detention" facilities, juvenile or adult detention or correctional facilities, and shall be transferred to "Shelter Care" facilities, licensed foster homes or homes approved by the court, facilities operated by a licensed child welfare agency, or any suitable facility designated by the court."  
(This law was passed on March 18, 1977.)

### CALIFORNIA

#### Pre-and Post-adjudication

##### Dependent Children

- o Welfare and Institutions Code 206.  
"No person taken into custody solely upon the ground that he is a person described in Section 300 (which is a dependent child) or adjudged to be such and made a dependent child of the juvenile

court pursuant to this chapter solely upon that ground shall, in any detention under this chapter, be brought into direct contact or personal association with any person taken into custody on the ground that he is a person described by Section 601 or 602 (status offenders and delinquents).... The facilities required by such section shall, with regard to minors alleged or adjudged to come within subdivision (a), (b), or (d) of Section 300 be nonsecure ... minors alleged or adjudged to come within subdivision (c) of Section 300 shall be secure."  
(300 (c) refers to minors physically dangerous to others due to mental disorders.)

#### Pre and Post-adjudication

##### Status Offenders

- o Welfare and Institutions Code 207.  
"(b) ... no minor shall be detained in any jail, lockup, juvenile hall, or other secure facility who is taken into custody solely upon the ground that he is a person described by Section 601 or adjudged to be such or made a ward of the juvenile court solely upon that ground, except as provided in subdivision (c)."  
(Section 601 refers to status offenders.)
- o Welfare and Institutions Code 207.  
"(c) A minor taken into custody upon the ground that he is a person described in Section 601, or adjudged to be a ward of the juvenile court solely upon that ground, may be held in a secure facility, other than a facility in which adults are held in secure custody, in any of the following circumstances:  
(1) For up to 12 hours after having been taken into custody for the purpose of determining if there are any outstanding wants, warrants, or holds against the minor in cases where the arresting officer or probation officer has cause to believe that such wants, warrants, or holds exist.  
(2) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his parent or guardian.  
(3) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his parent or guardian, whose parent or guardian is a resident outside of the state wherein the minor was taken into custody, except that such period may be extended to no more than 72 hours when the return of the minor cannot reasonably be accomplished within 24 hours due to the distance of the parents or guardian from the county of custody, difficulty in locating the parents or guardian, or difficulty in locating resources necessary to provide for the return of the minor.  
(Section 601 refers to status offenders.)  
(d) Any minor detained in juvenile hall pursuant to subdivision (c) may not be permitted to come or remain in contact with any person detained on the basis that he has been taken into custody upon the ground that he is a person described in Section 602 or

adjudged to be such or made a ward of the juvenile court upon that ground."  
(Section 602 refers to delinquents.)

#### COLORADO

##### Pre-adjudication

- o 19-2-103. Detention and shelter - hearing - time limits - restriction.  
"(3) (a) (I) No child taken into custody pursuant to section 19-1-101 (1) (a) or a child who seriously endangers others or is a danger to himself pursuant to section 19-2-101 (1) (b) shall be held in a detention or shelter facility longer than forty-eight hours, excluding Saturdays, Sundays and court holidays, unless a petition has been filed or the court determines that it would be contrary to the welfare of the child or of the community to release the child from detention. The juvenile court in each judicial district shall make provisions so that either the judge or commissioner is available to set bond seven days a week.  
(II) No child taken into custody pursuant to section 19-2-101 (1) (c) shall be held in a detention facility or jail longer than forty-eight hours, at which time the child may be released to the custody of his parent, guardian, or legal custodian. If the child cannot be released to his parent, guardian, or legal custodian, he shall be released to a representative of the county department of social services, a representative of a community mental health center, clinic, or hospital approved by the executive director of the department of institutions, or, upon prior written or verbal approval of the court, a responsible adult. If the child is released to an agency other than his parent, guardian, or legal custodian, the court shall hold a detention hearing pursuant to subsection (2) of this section.  
(III) Notwithstanding the provisions of subparagraph (II) of this paragraph (a), a child who is alleged to be a runaway from a state other than Colorado may be held in a detention facility or jail up to seven days, during which time arrangements shall be made for returning the child to his parent, guardian, or legal custodian."  
(Delinquents under 19-2-101 (1) (a) and children needing oversight under 19-2-101 (1) (b) can be held in a detention facility for an indefinite period of time. A runaway under 19-2-101 (1) (c) can remain in detention for 48 hours.)

##### Post-adjudication

- o 19-3-114. Commitment to department of institutions.  
"(2) (a) Unless and until otherwise changed by the department of institutions, the Lookout Mountain school for boys, and the Mount View girls' school are designated as the receiving centers for delinquent children committed to the department."

## CONNECTICUT

### Pre-adjudication

- o 46b-142  
"(a) Any police officer who receives a report from the parent or guardian of a child that such child is a member of a family with service needs, as defined in section 46b-120 ... shall respond in one of the following ways: (1) He may decline to take any further action ... (2) He may transport the child to the home of the child's parent or guardian ... (3) He may refer the child to the superior court ... or on or before August 1, 1980, he may transport the child to any state operated detention home; (4) He may allow the child to remain in protective custody ... (5) He may transport or refer the child to any public or private agency serving children...."
- o 46b-120  
"A Family with Service Needs is a family which includes a child who (a) has without just cause run away from his parental home or other properly authorized and lawful place of abode; (b) is beyond the control of his parent, parents, guardian or other custodian; (c) has engaged in indecent or immoral conduct; or (d) has been habitually truant or who, while in school, has been continuously and overtly defiant of school rules and regulations."

### Post-adjudication

- o 17-420. Transfer to other agencies or institutions.  
"(a) When the commissioner, or his designee, determines that a change of program is in the best interest of any child or youth committed or transferred to the department, he, or his designee, may transfer such person to any appropriate resource or program administered by or available to the department, to any other state department or agency, or to any private agency or organization within or without the state under contract with the department; provided no child or youth voluntarily admitted to the department under section 17-419 shall be placed or subsequently transferred to Long Lane School or the Connecticut School for Boys ...."

## DELAWARE

### Pre-adjudication

- o 10-933. Duties of officer having child in custody.  
"A peace officer may take into custody a child he believes to be dependent, neglected or delinquent. Any peace officer having taken such a child into custody shall immediately notify the child's custodian .... If the custodian refuses to accept the child or cannot be located or cannot provide adequate care for the child, the peace officer shall: (1) When the child is not charged with a delinquent act, immediately contact the Division of Social

Services, who shall be responsible for further pursuing the whereabouts of the custodian or providing shelter and care for the child in a shelter home, foster home, group home, private agency home or other appropriate facility for children. The child shall not be placed in the same facility or institution for children charged with or found to be delinquent."  
(Under HB 303 passed in the 1978 legislative session, status offenses were incorporated into the dependent category.)

### Post-adjudication

- o 10-937. Adjudication; disposition following adjudication; commitment to custody of Department of Corrections; effect.  
"(f) A dependent or neglected child shall not be placed in the same facility or institution for children charged with or found to be delinquent."

## FLORIDA

### Pre-adjudication

- o 39.01. Definitions.  
"(9) Child who is found to be dependent means a child who ... pursuant to this chapter is found ...  
(c) to have persistently run away from his parents ...  
(d) to be habitually truant from school ...  
(e) to have persistently disobeyed the reasonable and lawful demands of his parents ..."  
"(32) 'Shelter' means a place for the temporary care of a child who is alleged to be or who has been found to be dependent, pending court disposition before or after adjudication, or after execution of a court order. Shelter may include a facility which provides 24-hour continual supervision for the temporary care of a child who is placed pursuant to s.39.402 (4)."
- o 39.401. Taking a child alleged to be dependent into custody.  
"(2) If the person taking the child into custody is not an intake officer, he shall:  
(a) Release the child to a parent, guardian, legal custodian, responsible adult approved by the court when limited to temporary emergency situations, responsible adult relative, responsible adult approved by the department, or court-approved runaway shelter if the person taking the child into custody has reasonable grounds to believe the child has run away from a parent, guardian, or legal custodian; following such release, the person taking the child into custody shall make a full written report to the intake office of the department within 3 days; or  
(b) Deliver the child to an intake officer of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is dependent, and make a full written report to the intake office of the department within 3 days.

(3) If the child is taken into custody by, or is delivered to, an intake officer, the intake officer shall review the facts and make such further inquiry as necessary to determine whether the child should remain in custody, or be released. Unless shelter is required as provided in s.39.402 (1), the intake officer shall:

(a) Release the child to his parent, guardian, or legal custodian, a responsible adult relative, a responsible adult approved by the department, or a court-approved runaway shelter; or  
(b) Authorize placement of a caretaker/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child."

o 39.402

"(4) Any child who is a runaway and who is likely to injure himself or others or who is in need of care and treatment and lacks sufficient capacity to determine what course of action is in his own best interest may be placed in a shelter as defined under s.39.01 (32) for a period of time not to exceed 48 hours excluding Saturdays, Sundays, and legal holidays without an order by the court directing placement in a shelter in excess of such time."  
(SB409, passed in the 1980 session, repealed the state's authority to detain runaways in a detention facility or jail.)

Post-adjudication

Powers of disposition for dependent children (39.41) gives no option that would allow placement in a juvenile correctional facility.

GEORGIA

Pre-adjudication

o 24A-1403. Place of detention.  
"(e) A child alleged to be unruly may be detained or placed in shelter care only in the facilities stated in paragraphs (1) and (2) of subsection (a) or in a secure juvenile detention facility for a period not to exceed 72 hours. Provided, however, upon written order of the judge having jurisdiction of the case and upon good cause shown, a child alleged to be unruly may be detained for one additional period not to exceed 48 hours. A child unruly or alleged to be unruly may be detained or placed in shelter care only in the facilities stated in paragraphs (1) and (2) subsection (a) or in a secure juvenile detention facility. In no case shall an unruly or alleged unruly child be held in a secure detention facility longer than a total period of 72 hours. Provided, however, upon written order of the judge having jurisdiction of the case and upon good cause shown, a child alleged to be unruly may be detained for one additional period not to exceed 48 hours. Provided, further, in the event a child alleged to be unruly comes within the purview of Chapter 99-34, the Interstate Compact on Juveniles, and the proper authorities of a demanding state have made an official return request to the proper authorities of this

State, the provisions of the Interstate Compact on Juveniles shall apply to said child.

(f) A child alleged to be deprived may be detained or placed in shelter care only in the facilities stated in paragraphs (1) and (2) of subsection (a) or in a shelter care facility operated by the court."

((a) (1) refers to a licensed foster home or home approved by the court. (a) (2) refers to a facility operated by a licensed child welfare agency. 24A-401 (g) defines an unruly child basically as a status offender.)

Post-adjudication

o 24A-2301. Disposition of deprived child.

"(b) Unless a child found to be deprived is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children."

o 24A-2303. Disposition of unruly child.

"If the child is found to be unruly, the court may make any disposition authorized for a delinquent child except that, if commitment to the Division of Children and Youth be ordered, the court shall first find that the child is not amenable to treatment or rehabilitation pursuant to subsections (a), (b), or (c) of Section 24A-2302."

HAWAII

Pre-adjudication

o 571-32

"Any child taken into custody who requires care away from his home but who does not require secure physical restriction shall be given temporary care in any available foster family home or other shelter facility."

Post-adjudication

o 571-48. As to a child adjudicated under section 571-11 (2).

"(2) The court may vest legal custody of the child, after prior consultation with the agency or institution in a local governmental agency or institution licensed or approved by the State to care for children, with the exception of an institution primarily for the care and treatment of children committed under section 571-11 (1) or in any private agency or institution authorized by the court to care for children.

... provided that the child may not be committed to a public or private institution operated solely for the treatment of law violators."

(571-11 (1) refers to delinquent children; 571-11 (2) refers to status offenders and non-offenders.)

## IDAHO

### Pre-adjudication

- o 16-1802. Definitions.  
"(j) 'Detention' means the temporary care of children who require secure custody for their own or the community's protection in physically restricting facilities pending court disposition."
- o 1601811. Apprehension and release of children--detention.  
"1. A peace officer may take a child into custody, or a private citizen may detain a child until the child can be delivered forthwith into the custody of a peace officer, without order of the court:  
(a) when he has reasonable cause to believe that the child has committed an act which would be a felony if committed by an adult; or  
(b) when in the presence of a peace officer or private citizen the child has violated any local, state or federal law or municipal ordinance; or  
(c) when there are reasonable grounds to believe the child has run away from his parents, guardian or legal custodian.  
2. When a child is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court.  
3. The person in charge of a detention facility shall give immediate notice to the court that the child is in his custody.  
4. No child shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order."

(There is no statutory prohibition on placement of status offenders with alleged or adjudicated delinquents. During the 1980 session a bill HB617 was introduced which would have restricted the use of juvenile detention facilities to delinquents and required status offenders to be housed in other facilities. It would have amended 16-1811 to read "(c)... Status offenders shall not be placed in any jail or juvenile detention facilities but instead may be placed in juvenile shelter facilities except in the case of runaways where there is a specific detention request from a foreign jurisdiction to hold the child pending transportation arrangements. In the case of the latter no runaway subject to a foreign jurisdiction detention request shall be held longer than forty-eight (48) hours, excluding weekends and holidays." HB 617 did not pass.)

### Post-adjudication

The dispositions listed under 16-1814 "Decree-probation-commitment..." do not distinguish between delinquents and status offenders.

## ILLINOIS

### Pre-adjudication

- o 37-701-9. Detention.  
"Detention means the temporary care of a minor alleged or adjudicated as a person described in Section 2-2 who requires secure custody for his own or the community's protection in physically restricting facilities pending disposition by the court or execution of an order for placement or commitment."  
(This section became effective 1/1/80. Section 2-2 refers to a delinquent minor.)
- o 37-703-6  
"(4) Only where there is reasonable cause to believe that the minor taken into custody is a person described in Section 2-2 may the minor be kept or detained in a detention home or county or municipal jail."
- o 37-702-3. Minor otherwise in need of supervision.  
"(d) ...on or after January 1, 1974, any minor who violates a lawful court order made under this Act."  
(This section indicates that status offenders who violate a court order can not be placed in secure detention as alleged delinquents.)

### Post-adjudication

- o 37-705-2. Kinds of dispositional orders.  
"(b) A minor under 18 years of age found to be in need of supervision under Section 2-3 may be (1) committed to the Department of Children and Family Services, subject to Section 5 of 'An Act creating the Department of Children and Family Services, codifying its powers and duties, and repealing certain Acts and Sections herein named', except that the limitations of said Section 5 shall not apply on or after January 1, 1974, to a minor so adjudicated under paragraph (d) of Section 2-3 of this Act; (2) placed under supervision and released to his parents, guardian or legal custodian; or (3) placed in accordance with Section 5-7 with or without also being placed under supervision. Conditions of supervision may be modified or terminated by the court if it deems that the best interests of the minor and the public will be served thereby. A minor in need of supervision by reason of his addiction, described in paragraph (c) of Section 2-3, may be placed under the treatment supervision of the Department of Mental Health and Developmental Disabilities instead of or in addition to the disposition provided for in this paragraph; or (4) ordered partially or completely emancipated in accordance with the provisions of the 'Emancipation of Mature Minors Act', enacted by the Eighty-First General Assembly.  
(c) A minor under 18 years of age found to be neglected under Section 2-4 may be (1) continued in the custody of his parents, guardian or legal custodian, (2) placed in accordance with Section 5-7; or (3) ordered partially or completely emancipated in accordance with the provisions of the 'Emancipation of Mature Minors Act', enacted by the Eighty-First General Assembly.

## INDIANA

### Pre-adjudication

- o 31-6-4-6.5  
"(a) A child alleged to be a delinquent under IC 31-6-4-1 (b) (2), except as provided in subsection (c), or a child alleged to be a child in need of services may not be held in:  
(1) a secure facility; or  
(2) a shelter care facility that houses persons charged with, imprisoned for, or incarcerated for crimes."  
(A delinquent child under 31-6-4-1 (b) (2) is a status offender, while a child in need of services is a neglected or abused child.)

"(c) A child who is alleged to be a delinquent child because of an act under IC 31-6-4-1 (a) (2) may be held in secure detention for forty-eight hours."  
(A delinquent child under 31-6-4-1 (a) (2) is a runaway.)

### Post-adjudication

- o 31-6-4-16. Dispositional hearing and decree.  
(e) In all juvenile cases coming before the juvenile court (delinquents, status offenders, and CHINS)  
"the juvenile court may:  
(1) order supervision ... (2) order the child to receive out-patient treatment at a social service agency, psychological, psychiatric, medical, or educational facility ... (3) remove the child from his home and place him in another home or shelter care facility...  
(4) award wardship to any person or shelter care facility...  
(5) partially or completely emancipate the child ...."

"(g) If the child is a delinquent child under section (1) (b) (1) of this chapter, the juvenile court may: (1) enter any dispositional decree specified by subsection (e); (2) place him in a secure private facility for children ... (3) award wardship either to the department of correction for housing in any correctional facility for children or to any community-based correctional facility for children ... (4) order him to pay restitution ... (5) order confinement in a secure facility for children in the juvenile part of the county jail for not more than ten (10) days ...."  
(A delinquent child under (1) (b) (1) refers to a child under 18 who commits an act that would be a crime if committed by an adult.)

## IOWA

### Pre-adjudication

- o 232.22. Place in detention.  
"1. No child shall be placed in detention unless:  
a. The child is being held under warrant for another jurisdiction; or  
b. The child is an escapee from a juvenile correctional or penal institution; or  
c. There is probable cause to believe that

the child has violated conditions of release imposed under section 232.54 and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or d. There is probable cause to believe the child has committed a delinquent act, and: (1) There is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearances; or (2) There is a serious risk that the child if released may commit an act which would inflict serious bodily harm on the child or on another; or (3) There is a serious risk that the child if released may commit serious damage to the property of others."  
(232.54 refers only to juveniles on probation supervision for committing a delinquent act.)

### Post-adjudication

- o 232.2 Definitions.  
"43. 'Secure facility' means a physically restricting facility in which children adjudicated to have committed a delinquent act may be placed pursuant to a dispositional order of the court."  
(By definition this subsection excludes all status and non-offenders from juvenile correctional facilities.)
- o 232.103. Referring to the dispositional options available for a child in need of assistance.  
"(4) The child shall not be placed in the Iowa training school for boys or the Iowa training school for girls."

## KANSAS

### Pre-adjudication

- o 38-841  
"(a) Subject to the provisions of subsection (b), from and after July 1, 1980, no status offender shall be ordered placed in a juvenile detention or correctional facility. If the court orders a status offender to be committed to the custody of the secretary of social and rehabilitation services or otherwise orders a status offender to custody outside the child's home, the status offender shall not be placed in a facility other than a shelter facility except as permitted by subsection (b).  
(b) A status offender may be placed in a juvenile detention or correctional facility pending a detention hearing provided by KSA 1978 Supp. 38-815(b). Pursuant to a detention hearing a court may order a child to remain in a juvenile detention or correctional facility for not to exceed twenty-four (24) hours following the detention hearing, excluding Saturdays, Sundays and other days when the district court is not open for the regular conduct of business."  
(This statute permits a status offender to remain in a detention facility for as long as 72 hours, excluding nonjudicial days. This is based on the fact that the detention hearing must only occur within 48 hours and the statute permits an additional 24 hours in detention following the hearing.)

### Post-adjudication

- o 38-825  
"... Notwithstanding the foregoing, no deprived child shall be placed in the youth center at Topeka, Atchison or Beloit or the youth rehabilitation centers at Larned, Osawatomie or Topeka. On and after July 1, 1980, the provisions of this section relating to placement or custody of a child shall be subject to the limitations of KSA 1978 Supp. 38-841."
- o 38-826  
"... Notwithstanding the foregoing, no wayward or truant child shall be placed in the youth center at Topeka, Atchison or Beloit or the youth rehabilitation centers at Topeka, Osawatomie or Larned."

### KENTUCKY

#### Pre-adjudication

Unless otherwise indicated the following citations are based on SB 309 passed during the 1980 session. The effective date of this legislation is July 1, 1982.

- o 3  
"(38) Status offenses include instances in which the child who has previously been adjudicated a status offender and who has subsequently violated a court order and is found to be in contempt of court."
- o 64  
"(4) Detention of status offenders should only be used for very specific and constructive purposes, when all other least restrictive alternatives to detention have been attempted and are not feasible."
- o 68  
"(6) Only when alternatives (1) through (5) in this section have been exhausted, may a person deliver a child to a secure facility except those facilities that house adult offenders."  
(Subsections 1 through 5 include non-secure alternatives.)
- o 72  
"No child shall be detained as a means or form of punishment. When a child is detained as provided in Section 68 (6) of the Chapter for the alleged commission of an offense as provided in Section 66 (deals with status offenses) a hearing shall be held as soon as is practical, but within twenty-four (24) hours of the detention exclusive of Saturdays and Sundays, and legal holidays. In order for the court to detain the child, the Commonwealth shall establish probable cause that:  
(1) A status offense has been committed and that the child committed the offense. If the Commonwealth fails to establish these grounds, the petition shall be dismissed and the child shall

be released. If the grounds are established, the child may be held in secure detention as provided in Section 68 (6) of this chapter pending an adjudicatory hearing only if the Commonwealth shows probable cause to believe that:

- (a) All alternatives to secure detention have been exhausted; and
- (b) The child has a recent record of failing to appear at court hearings and requires detention to assure his presence at subsequent hearings; or
- (c) The child has run away from a secure or non-secure facility; or
- (d) The alleged status offender has run away from his home and his parents, guardian, or person exercising similar custodial control or supervision of the child has orally agreed to assure physical custody or pay for his transportation within forty-eight (48) hours. The child may on his own motion present to the court reasons why he should not be returned to his parents or person exercising similar custodial control or supervision of the child. Upon consideration of such motion the court may in its discretion place the youth in a non-secure facility and concurrently order that a protective services investigation be commenced as allowed by KRS Chapter 208B; or
- (e) The department has initiated or intends to initiate transfer of the youth by competent document under the provisions of the interstate compact pursuant to Section 29 of the Act; or
- (f) The child is a danger to himself or others, unless he is suspected of having a mental or emotional disorder and requires medical attention in which case the child shall be placed for evaluation in a facility in accordance with KRS Chapter 208G; or
- (g) The child is, by himself, or in association with an adult who profits therefrom engaging in illegal sexual activity, including prostitution as prohibited by KRS Chapter 530, indecent exposure as prohibited by any acts prohibited by KRS Chapter 531."

- o 65  
"(1) 'Danger to himself' means that it is shown by substantial proof that in the near future the person may cause severe bodily harm to himself or attempt suicide as evidenced by recent threats or overt acts. This includes acts which deprive self of the basic means of survival, including provisions for reasonable shelter, food, or clothing."
- o 74  
"No alleged status offender shall be held in secure detention as provided in Section 68 (6) of this Act pending adjudication for a period exceeding ten (10) days after the detention hearing pursuant to Section 76 of this Act, unless waived by the child, and the court considers this waiver in his best interest. Under no circumstances shall a child be held in secure detention more than ten (10) days after the exercise of this waiver."
- o KRS 208.010. Definitions.  
"(9) 'Status action' is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be

termed criminal or delinquent, and such children shall not be considered delinquents;  
(10) 'Dependency action' is any action brought on behalf of a neglected, dependent, abandoned or needy child;  
(11) 'Violation' means any offense, other than a traffic infraction, for which a sentence to a fine only can be imposed."

- o KRS 208.060. Conduct of hearings.  
"(c) After adjudication, a determination by the court that detention pending disposition is necessary shall be based on a finding of the court by a preponderance of the evidence that the circumstances surrounding the child are such as to endanger his safety or welfare or that of the community."
- o KRS 208.192. Detention hearing; right to counsel.  
"(d) Secure detention for status offenders is to be used in only those cases when the court is of the opinion that other alternatives are either not available or cannot provide the degree of control and safety necessary to assure the safety and security of the child."

#### Post-adjudication

- o 75  
"No adjudicated status offender shall be held in secure detention as provided in Section 68 (6) of this Act pending disposition for a period exceeding ten (10) days after the adjudication hearing, unless waived by the child and the court considers it in the child's best interest. Under no circumstances shall a child be held in secure detention more than ten (10) days after the exercise of this waiver."
- o 77  
"No status offender shall be held in secure detention after disposition for a period exceeding twenty-four (24) hours."
- o 76  
"(4) When all appropriate resources have been reviewed and considered insufficient to adequately address the needs of the child and his family, the court may commit the child to the department for such services as may be necessary. The department shall consider all appropriate local remedies to aid the youth and his family subject to the following conditions:  
(a) Status offenders may not be placed in secure facilities for residential treatment;  
(b) Treatment programs for status offenders shall be community based and nonsecure;  
(c) The department may place the child in a nonsecure public or private education agency accredited by the department of education."

- o KRS 208.200. Probation or commitment of child convicted of public offense, or who is delinquent, neglected, needy or dependent.  
"(1) If in its decree the juvenile court finds that the child comes within the purview of subsections (1) or (2) of KRS 208.020, the court may, by order: ...  
(b) Commit the child to the custody or guardianship of a private or public institution or agency other than the department authorized to care for such children, or under the guardianship of a suitable person. Such a commitment shall be until the age of twenty-one (21) subject to the power of the court to discharge the child prior thereto, or of the governing authorities of said agency or institution to do so upon notice to the court. In committing a child to a private institution or agency the court shall select one that is approved by the department of human resources and children committed to such an institution or agency shall be subject to the visitation and supervision of a probation officer or child welfare worker.  
(c) Commit the child to the department. Such commitment shall be for an indeterminate period not to exceed the age of twenty-one (21).  
(2) If, in its decree, the juvenile court finds that the child comes within the purview of subsection (1) or (2) of KRS 208.020, the court may dispose of the child as provided in subsection (1) of this section, except that if a child comes within the purview of paragraph (d) of subsection (1) of KRS 208.020, the court may not commit the child to the department unless the department has indicated to the court that it has facilities and funds available to care for the child and is willing to accept the commitment."  
(KRS 208.020 "Jurisdiction of juvenile court" includes delinquents, status offenders and non-offenders. KRS 208.020 (1) (d) refers to dependent, neglected, needy or abandoned children.)

#### LOUISIANA

##### Pre-adjudication

- o C.J.P. Art. 34. Duty of peace officer with child in custody.  
"A child taken into custody for commission of a delinquent act shall be taken to a juvenile detention center. A child taken into custody as a child in need of supervision or care shall be taken to a shelter care facility."
- o C.J.P. Art. 41. Place of continued custody prior to adjudication.  
"(b) Following a hearing, the court may order a child whose continued custody is authorized pursuant to Paragraphs 3 through 7 of Article 40 placed in a shelter care facility."  
(3-7 refer to non-delinquent matters.)

### Post-adjudication

- o C.J.P. Art. 83. Disposition; adjudication of delinquency.  
"(c) A child may be committed to a juvenile detention center or other suitable facility or, if no such facility is available, to the Department of Corrections for a direct contempt of court or for constructive contempt due to repeated failure to comply with a judgment of disposition. Provided, however, that no child committed under this provision shall be physically housed in the same dormitory, room or area used to house children adjudicated delinquent for behavior other than direct or constructive contempt."
- o C.J.P. Art. 84. Disposition; children in need of supervision.  
"(b) A child in need of supervision shall not be committed to the Department of Corrections."
- o C.J.P. Art. 85. Disposition; children in need of care.  
"(b) A child in need of care shall not be committed to the Department of Corrections."

### MAINE

The only status offender categories covered under Maine statutes are runaways and offenses involving intoxicating liquor.

### Pre-adjudication

- o Chapter 511. Interim care; runaways  
3501. Interim care.  
"(2) Limit. Under no circumstances shall any juvenile taken into interim care be held involuntarily for more than 6 hours."  
"(7) Interim care, restriction on placement and transportation.  
A. A child taken into interim care shall not be placed in a jail or other secure correctional facility intended or used to detain adults accused or convicted of crimes or juveniles accused or adjudicated of juvenile crimes.  
B. Notwithstanding paragraph A, a juvenile taken into interim care may be held, if no other appropriate placement is available, in the public sections of a jail or other secure correctional facility if there is an adequate staff to supervise the juvenile's activities at all times."

### Post-adjudication

- o 15-3103 (2). Dispositional powers.  
"... no commitment to the Maine Youth Center or to other detention may be imposed for conduct described in subsection 1, paragraph B and C."  
(This subsection relates to possession of marijuana and use of alcohol.)

- o 15-3504. Runaway juveniles, shelter and family services needs assessment.

"If the juvenile refuses to return home and is under the age of 16 years, and if no other living arrangements agreeable to the juvenile and to the parent, guardian or custodian can be made, an intake worker shall offer the juvenile shelter in a licensed emergency shelter care facility, licensed group home or licensed foster home which is located as close as possible to the residence of the parent, guardian or custodian. The intake worker shall also refer the minor and his family to the Department of Human Services for a family services needs assessment.

Nothing in this section shall be interpreted as interfering with the right of a parent, guardian or legal custodian to exercise control over and take custody of his child."

### MARYLAND

### Pre-adjudication

- o C.J. 3-815. Detention and shelter care prior to hearing.  
"(e) A child alleged to be in need of supervision or in need of assistance may not be placed in detention. If the child is alleged to be in need of assistance by reason of a mental handicap, he may be placed in shelter care facilities maintained or licensed by the Department of Health and Mental Hygiene or if these facilities are not available, then in a private home or facility approved by the court. If the child is alleged to be in need of assistance for any other reason, or in need of supervision, he may be placed in shelter care facilities maintained or approved by the Social Services Administration, or the Juvenile Services Administration, or in a private home or shelter care facility approved by the court."

### Post-adjudication

- o C.J. 3-823. Limitations on place of commitment.  
"(b) A child who is not delinquent may not be committed or transferred to a facility used for the confinement of delinquent children."

### MASSACHUSETTS

### Pre-adjudication

- o 119-39E. Petitions seeking determination that child is in need of services ....  
"Whenever a child is referred to a probation officer for assistance, such officer shall have the authority to refer the child to an appropriate public or private organization or person for psychiatric, psychological, educational, occupational, medical, dental or social services and shall have the authority to conduct conferences with the child and the child's family for the

purpose of effecting adjustments or agreements which are calculated to resolve the situation which formed the basis of the application or petition and which will eliminate the need for a judicial trial on the merits. During the pendency of such referrals or conferences, neither the child nor his parents may be compelled to appear at any conferences, produce any papers, or visit any place. However, if the child or his parents fail to participate in good faith in the referrals or conferences arranged by the probation officer, the probation officer shall so certify in writing, and the clerk shall issue a petition, if one has not already been issued, and shall set a date for a trial on the merits. The judge who conducted the hearing on the issuance of a petition shall not preside at any subsequent hearing on the merits. If the child is being detained in any facility pending the determination as to whether a petition shall issue, or pending a trial on the merits, and a determination is made either not to issue the petition or to refer the child to the probation officer, the person in charge of the facility wherein the child is detained shall be notified immediately and the child shall be immediately released."

(Children in need of services include repeated runaways, habitually disobedient children, truants and those who violate school regulations.)

#### Post-adjudication

- o 119-39 G  
"A child found to be in need of services shall not be committed to any county training school. A child found to be in need of services shall not be committed to an institution designated or operated for juveniles adjudicated delinquent. However, such child may be committed to a facility which operates as a group home to provide therapeutic care for juveniles regardless of whether juveniles adjudicated delinquent are also provided care in such facility and may, in addition, be referred ... (to) foster care. Order of disposition for 6 month period, can be extended after review ...."
- o 119-58  
"... in the cases of habitual school offenders and truancy violations, the court may commit such child to the custody of the commissioner of youth services and authorize him to place such child in the charge of any person, and, if at any time thereafter the child proves unmanageable, to transfer such child to that facility or training school which in the opinion of said commissioner, after study, will best serve the needs of the child ...."

#### MICHIGAN

No statutory distinctions are made between delinquents and status offenders in pre- and post-adjudicatory placements.

#### MINNESOTA

##### Pre-adjudication

- o 260.173  
"(3) ... if the child had been taken into custody and detained as one who is alleged to be delinquent by reason of:  
(a) being uncontrolled by his parent, guardian, or other custodian because of waywardness or habitual disobedience; or  
(b) having committed an offense which would not constitute a violation of a state law or local ordinance if he were an adult; or  
(c) having been previously adjudicated delinquent, or conditionally released by the juvenile court without adjudication of delinquency has violated his probation parole, or other field supervision under which he had been placed as a result of behavior described in this subdivision; he may be placed only in a shelter care facility."
- o 260.173  
"(2) Notwithstanding the provisions of subdivision if the child had been taken into custody pursuant to section 260.165, subdivision 1, clause (a), or had been found in surroundings or conditions reasonably believed to endanger his health or welfare, and is not alleged to be a delinquent, he may be detained only in a shelter care facility."
- o 260.015. Definitions.  
"(16) Shelter care facility means a physically unrestricting facility, such as a group home or a licensed facility for foster care, excluding a detention home."

##### Post-adjudication

- o 260.185. Dispositions; delinquent child.  
"(c) (4) Except for child found to be delinquent as defined in 260.015 subdivision 5, clauses (c) and (d) the juvenile can be placed in a county home school, if the county maintains a home school or enters into an agreement with a county home school ...  
(d) Except for children found to be delinquent as defined in 260.015 subdivision 5, clauses (c) and (d) transfer legal custody by commitment to the commissioner of correction."  
(5 (c) and (d) refer to truant and disobedient juveniles.)
- o 260.191. Dispositions; children who are neglected, dependent, or neglected and in foster care.  
"Subdivision 1. If the court finds that the child is neglected, dependent, or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:  
(a) Place the child under the protective supervision of the county welfare board or child placing agency in his own home under conditions prescribed by the court directed to the correction of the neglect or dependency of the child;  
(b) Transfer legal custody to one of the following:  
(1) A child placing agency; or  
(2) The county welfare board ...."

## MISSISSIPPI

### Pre-adjudication

- o 43-21-303. Taking into custody without a custody order.  
"(1) No child in a matter in which the youth court has original exclusive jurisdiction shall be taken in custody by any person without a custody order except that:  
(a) a law enforcement officer may take a child in custody if:  
(i) grounds exist for the arrest of an adult in identical circumstances; and  
(ii) such law enforcement officer has probable cause to believe that custody is necessary as defined in section 43-21-301 (3); and  
(iii) such law enforcement officer can find no reasonable alternative to custody; or  
(b) a law enforcement officer or an agent of the department of public welfare may take a child into custody if:  
(i) there is probable cause to believe that the child is in immediate danger of personal harm; and  
(ii) such law enforcement officer or agent has probable cause to believe that immediate custody is necessary as defined in section 43-21-301 (3) (b); and  
(iii) such law enforcement officer or agent can find no reasonable alternative to custody.  
(2) When it is necessary to take a child into custody, the least restrictive custody should be selected.  
(3) Unless the child is immediately released, the person taking the child into custody shall immediately notify the judge or his designee. A person taking a child into custody shall also make continuing reasonable efforts to notify the child's parent, guardian or custodian and invite the parent, guardian or custodian to be present during any questioning.  
(4) A child taken into custody shall not be held in custody for a period longer than reasonably necessary, but not to exceed twenty-four (24) hours, and shall be released to his parent, guardian or custodian unless the judge or his designee authorizes temporary custody ...."

### Post-adjudication

- o 43-21-607. Dispositional alternatives in children in need of supervision cases.  
"(f) ... give legal custody of the child to any of the following but in no event to any state training school."
- o 43-21-609. Dispositional alternatives in neglect and abuse cases.  
"(e) ... give legal custody of the child to any of the following but in no event to any state training school."

## MISSOURI

### Pre-adjudication

No statutory provision prohibiting the secure detention of status offenders and non-offenders.

### Post-adjudication

- o 211.181.1  
"(2) When a child is found by the court to come within the provisions of subdivision (2) of subsection 1 of section 211.031, the court shall ... (2) Commit the child to the custody of: (a) A public agency or institution authorized by law to care for children or place them in family homes; except that a child may be committed to the Department of Social Services, Division of Youth Services, if he is presently under the court's supervision after an adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031."  
(As 211.031 (2) and (3) refer to status offenders, the effect of this 1980 legislation is that now only second time status offenders can be committed to the Division of Youth Services. As the only secure facilities in Missouri are operated by the division, the effect is the deinstitutionalization of first time status offenders.)

## MONTANA

### Pre-adjudication

- o 41-5-306  
"(4) A youth alleged to be in need of supervision or care shall be placed only in the facilities stated in subsection (1) of this section and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses."  
(41-5-306 (1) includes foster homes, homes approved for shelter care, licensed attention homes, facilities operated by a child welfare agency, and other facilities operated as shelters.)

### Post-adjudication

- o 41-5-523. Disposition of delinquent youth and youth in need of supervision.  
"(d) transfer legal custody to the department of institutions; provided, however, that in the case of a youth in need of supervision, such transfer of custody does not authorize the department of institutions to place the youth in a state youth correctional facility and such custody may not continue for a period of more than 6 months without a subsequent court order after notice and hearing."

## NEBRASKA

### Pre-adjudication

No statutory provision prohibiting the secure detention of status offenders and non-offenders.

### Post-adjudication

- o 43.210.01. Child in need of special supervision; orders permitted.

"When any child is found by the court to be a child as defined by subdivision (4) of section 43.202 he may (1) enter such order as it is empowered to enter in the case of a child described in subdivision (3) of section 43-202 except that no such child shall be committed to the Youth Development Center-Kearney or the Youth Development Center-Geneva, or (2) enter such order committing or placing the child to the care and custody of the Department of Public Welfare."

(43-202 (3) refers to wayward, disobedient, and truant juveniles.)

## NEVADA

### Pre-adjudication

- o 62.170

"(3) Whenever it is possible to do so, special efforts shall be made to keep children who are neglected or in need of supervision apart from children charged with delinquent acts." (According to 62.040 a child in need of supervision who violates a court order is a delinquent.)

### Post-adjudication

No statutory language distinguishing the placements for delinquents and status offenders.

## NEW HAMPSHIRE

### Pre-adjudication

- o 169-D:10. Release prior to initial appearance.

"I. An officer taking a child into custody pursuant to RSA 169-D:8 shall release the child to a parent, guardian or custodian pending initial appearance; however, if a parent, guardian or custodian is not available upon taking the child into custody, the court shall be notified, thereupon the child's release shall be determined by the court.

II. Pending the initial appearance, the court shall release the child to one of the following, which in the court's opinion is the least restrictive and most appropriate:

- (a) A parent or guardian;

- (b) A relative or friend; or

- (c) A group home, crisis home, or shelter care facility with expenses charged according to RSA 169-D:29."

(Children under 169-D:8 are children in need of services, New Hampshire's status offender category.)

### Post-adjudication

- o 169-D:17. Dispositional hearing.

"I(b) The court may release the child to:

- (1) A relative or suitable adult; or

- (2) A group home, crisis home, or shelter care facility with expenses charged in accordance with RSA 169-D:29.

II. Any child placed under this section with someone other than a relative shall be placed in a facility licensed pursuant to RSA 170-E."

"V (c) A child found guilty of contempt may be remanded to the youth development center provided: (1) such child shall be placed in a facility certified by the board of trustees of the youth development center as one in which the child shall not come in contact with minors charged or adjudicated as delinquent; (2) such child shall be afforded the services made available to delinquents; and (3) that the facility not be one used for solitary confinement."

- o 169-B:19. Dispositional hearing (for delinquents).

"(f) Release the minor in the care and supervision of a group home, crisis home or shelter care facility, which is not used for the placement of children in need of services or a child found to be abused or neglected, with expenses charged according to RSA 169-B:40."

## NEW JERSEY

### Pre-adjudication

- o 2A:4-56. Criteria for placing juvenile in detention or shelter care.

"a. Where it will not adversely affect the health, safety, or welfare of a juvenile, he or she shall be released pending the disposition of a case to one or both parents or guardian, if any, upon assurance being received that such responsible person or persons accept responsibility for the juvenile and will bring him before the juvenile and domestic relations court as ordered.

b. A juvenile charged with delinquency may not be placed or retained in detention under this act prior to disposition except as otherwise provided by law, unless:

(1) Detention is necessary to secure the presence of the juvenile at the next hearing; or

(2) The nature of the conduct charged is such that the physical safety of the community would be seriously threatened if the juvenile were not detained.

c. A juvenile may not be placed or retained in shelter prior to

disposition unless:

- (1) There is no appropriate adult custodian who agrees to assume responsibility for the juvenile, and the release of a summons to the juvenile is not appropriate; or
- (2) Shelter care is necessary to protect the health or safety of the juvenile; or
- (3) Shelter care is necessary to secure his presence at the next hearing; or
- (4) The physical or mental condition of the juvenile makes his immediate release impractical."

#### Post-adjudication

- o 2A:4-62  
"(b) No juvenile in need of supervision shall be committed to or placed in any institution or facility established for the care of delinquent children or in any facility, other than an institution for the mentally retarded, a mental hospital or facility for the care of persons addicted to controlled dangerous substances, which physically restricts such juvenile committed to or placed in it."

### NEW MEXICO

#### Pre-adjudication

- o 32-1-25  
"(E) A child alleged to be a child in need of supervision or a neglected child may not be detained in a jail or other facility intended or used for the incarceration of adults charged with criminal offenses, or for the detention of children alleged to be delinquent children, except as specified for a child in need of supervision under Subsection B of this section, but may be detained in the following shelter care facilities:  
(1) a licensed foster home, or a home otherwise authorized under the law to provide foster or group care; or  
(2) a facility operated by a licensed child welfare services agency; or  
(3) any other suitable place, other than a facility for care and rehabilitation of delinquent children to which children adjudicated as delinquent children may be confined under Section 32-1-34 NMSA 1978, designated by the court, and which meets the standards for detention facilities under the Children's Code."  
  
"(B) Until July 1, 1978, and not thereafter, a child alleged to be a delinquent or a child in need of supervision may be detained pending court hearing in a jail or other facility for incarceration of adults, but only if:  
(1) a detention facility established by the Department of Corrections (corrections division) or (for) children alleged to be delinquent children or in need of supervision is not available,  
(2) the facility meets the standards for detention facilities under the Children's Code,

- (3) the detention is in a room separate and removed from incarcerated adults,
- (4) adequate supervision is provided,
- (5) detention in the facility does not exceed forty-eight hours, and
- (6) upon the expiration of the forty-eight hour time limitation, detention shall, if necessary, be continued in facilities specified under this section for children alleged to be delinquent or for children alleged to be in need of supervision, as appropriate."

#### Post-adjudication

- o 32-1-34. Disposition of adjudicated neglected child, delinquent child or a child in need of supervision.  
"(C) If a child is found to be in need of supervision, the court may enter its judgment making any of the following dispositions for the supervision, care and rehabilitation of the child:  
(1) any disposition that is authorized for the disposition of a neglected child;  
(2) transfer legal custody to the health and social services department (human services department) or other appropriate agency, but not one to which the custody of delinquent children is entrusted; or  
(3) place the child on probation under those conditions and limitations the court may prescribe.  
(D) Unless a child found to be neglected or in need of supervision is also found to be delinquent, the child shall not be confined in an institution established for the care and rehabilitation of delinquent children. No child found to be delinquent or in need of supervision shall be committed or transferred to a penal institution or other facility used for the execution of sentences of persons convicted of crimes."

### NEW YORK

#### Pre-adjudication

- o Family Court Act 720. Detention.  
"2. The detention of a child under ten years of age in a secure detention facility shall not be directed under any of the provisions of this article.  
3. Where the director of the state division for youth certifies that a county has available conveniently accessible and adequate non-secure detention facilities in conformance with the requirements of subdivision B of section two hundred eighteen-a of the county law or that the city of New York has available conveniently accessible and adequate non-secure detention facilities, a child alleged or adjudicated as a person in need of supervision may not be placed by that county or the city of New York in a secure detention facility, effective six months from the date of said certification. A copy of such certification shall be filed with the county executive, if there be one, otherwise with the chairman of the board of supervisors or, in the case of

the city of New York, with the mayor thereof. The director shall forward copies of such certification to the director of the budget, chairman of the senate finance committee and the chairman of the assembly ways and means committee."

- o County Law 218-a. County detention facilities for juvenile delinquents and persons in need of supervision.  
"B. Notwithstanding any other provision of law, each board of supervisors shall provide or assure the availability of conveniently accessible and adequate non-secure detention facilities, certified by the state division for youth, as resources for the family court in the county pursuant to article seven of the family court act, to be operated in compliance with the regulations of the division for youth for the temporary care and maintenance of alleged juvenile delinquents and persons in need of supervision held for or at the direction of a family court."

#### Post-adjudication

- o Family Court Act 756. Placement.  
"(a) (iii) (3) place a child adjudicated either as a juvenile delinquent or as a person in need of supervision in a youth center pursuant to the provision of section five hundred two of the executive law. No child placed pursuant to this subparagraph may be transferred by the division for youth to a secure facility."
- o Executive Law, Article 196-Division for Youth, Title 3-State schools, centers; detention facilities.  
In 1976 a revamping of this title which outlines procedures for state juvenile correctional facilities removed all references to a person in need of supervision.
- o Executive Law 515-a. Secure facilities.  
"I. As used in this article, 'secure facility' means a residential facility in which a juvenile delinquent may be placed under this article, which is characterized by physically restricting construction, hardware and procedures, and is designated as a secure facility by the division under this section."

### NORTH CAROLINA

#### Pre-adjudication

- o 7A-574. Criteria for secure or non-secure custody.  
"In no case shall a juvenile alleged to be abused, neglected, or dependent be placed in secure custody."  
"(b) When a request is made for secure custody, the judge may order secure custody only where he finds there is a reasonable factual basis to believe that the juvenile actually committed the offense as alleged in the petition, and  
(1) The juvenile is charged with a nondivertible offense; or  
(2) That the juvenile is presently charged with one or more felonies; or

- (3) That the juvenile has willfully failed to appear on the pending delinquency charge or has a record of willful failures to appear at court proceedings; or
- (4) That by reason of the juvenile's threat to flee from the court's jurisdiction or circumstances indicating preparation or design to flee from the court's jurisdiction there is reasonable cause to believe the juvenile will not appear in court on a pending delinquency charge unless he is detained; or
- (5) That exhaustive efforts to identify the juvenile have been futile or by reason of his being a nonresident of the State of North Carolina there is reasonable cause to believe the juvenile will not appear in court on a pending delinquency charge unless he is detained; or
- (6) That the juvenile is an absconder from any State training school or detention facility in this or another state; or
- (7) That the juvenile has a recent record of adjudications for violent conduct resulting in serious physical injury to others, the petition pending is for delinquency, and the charge involves physical injury; or
- (8) That by reason of the juvenile's recent self-inflicted injury or attempted self injury there is reasonable cause to believe the juvenile should be detained for his own protection for a period of less than 24 hours while action is initiated to determine the need for inpatient hospitalization, provided that the juvenile has been refused admittance by one appropriate hospital; or
- (9) That the juvenile alleged to be undisciplined by virtue of his being a runaway should be detained for a period of less than 24 hours to facilitate reunion with his parents or to facilitate evaluation of the juvenile's need for medical or psychiatric treatment."  
(By (b) (8) of the above section a status offender, an undisciplined offender in North Carolina, can be held in secure detention for less than 24 hours as a result of self inflicted injuries requiring detention for self protection.)

#### Post-adjudication

- o 7A-648. Dispositional alternatives for delinquent or undisciplined juvenile.  
"In the case of any juvenile who is delinquent or undisciplined, the judge may:  
(1) Continue the case for no more than six months in order to allow the family an opportunity to meet the needs of the juvenile through more adequate home supervision, through placement in a private or specialized school or agency, through placement with a relative, or through some other plan approved by the court;  
(2) Place the juvenile under the protective supervision of a court counselor for no more than one year so that the court counselor may assist the juvenile in securing social, medical, and educational services and may work with the family as a unit to insure the juvenile is provided proper supervision and care;  
(3) Excuse the juvenile from compliance with the compulsory school attendance law when the judge finds that suitable alternative plans can be arranged by the family through other

community resources for one of the following: an education related to the needs or abilities of the juvenile including vocational education or special education; a suitable plan of supervision or placement; or some other plan that the judge finds to be in the best interest of the juvenile."  
(Delinquents can be committed to an institution according to 7A-649 which outlines the options available to the court only in delinquent cases.)

## NORTH DAKOTA

### Pre-adjudication

- o 27-20-16. Place of detention.  
"1. A child alleged to be delinquent or unruly may be detained only in:
  - a. A licensed foster home or a home approved by the court;
  - b. A facility operated by a licensed child welfare agency;
  - c. A detention home or center for delinquent or unruly children which is under the direction or supervision of the court or other public authority or of a private agency approved by the court; or
  - d. Any other suitable place or facility, designated or operated by the court. The child may be detained in a jail or other facility for detention of adults only if the facility in subdivision c is not available, the detention is in a room separate and removed from those for adults, it appears to the satisfaction of the court or the juvenile supervisor that public safety and protection reasonably require detention, and it is so ordered.""4. A child alleged to be deprived may be placed in shelter care only in the facilities stated in subdivision a, b, and d of subsection 1 and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent or unruly."

### Post-adjudication

- o 27-20-32. Disposition of unruly child.  
"If the child is found to be unruly the court may make any disposition authorized for a delinquent child except commitment to the state industrial school. If after making the disposition the court finds upon a further hearing that the child is not amenable to treatment or rehabilitation under the disposition made it may make a disposition otherwise authorized by section 27-20-31."

## OHIO

### Pre-adjudication

- o 2151-312. Place of detention.  
"(A) A child alleged to be delinquent, unruly, or a juvenile traffic offender may be detained only in the following places:
  - (1) A certified foster home or a home approved by the court;

- (2) A facility operated by a certified child welfare agency;
- (3) A detention home or center for delinquent children which is under the direction or supervision of the court or other public authority or of a private agency and approved by the court;
- (4) Any other suitable place designated by the court."

- o 2151.31. Apprehension, custody, and detention.  
"A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the complaint unless his detention or care is required to protect the person and property of others or those of the child, or because the child may abscond or be removed from the jurisdiction of the court, or because he has no parents, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required, or because an order for his detention or shelter care has been made by the court pursuant to this chapter."

### Post-adjudication

- o 2151.354. Disposition of unruly child.  
"If the child is adjudged unruly the court may:
  - (A) Make any of the dispositions authorized under section 2151.353 of the Revised Code;
  - (B) Place the child on probation under such conditions as the court prescribes;
  - (C) Suspend or revoke the operator's or chauffeur's license issued to such child; suspend or revoke the registration of all motor vehicles registered in the name of such child.If after making such disposition the court finds, upon further hearing, that the child is not amenable to treatment or rehabilitation under such disposition, the court may make a disposition otherwise authorized under section 2151.355 of the Revised Code."  
(Section 2151.353 covers disposition for dependent or neglected children.)

## OKLAHOMA

### Pre-adjudication

- o 10-1116  
"(d) A child who has been taken into custody as a child in need of supervision may not be placed in any detention facility pending court proceedings; but must be placed in shelter care or foster care or released to the custody of his or her parents. Provided, that where a child is taken into custody as a child in need of supervision as a result of being a runaway, the court may order the child placed in detention pending court proceedings when it finds said detention to be essential for the safety of the child or community."

**Post-adjudication**

- o 10-1116  
"(a) (1) ... No child who has been adjudicated in need of supervision or deprived upon the basis of truancy or non-compliance with the mandatory school attendance law alone may be placed in a public or private institutional facility or be removed from the custody of the lawful parent, guardian or custodian of the child."  
"(c) No child who has been adjudicated in need of supervision or deprived may be placed in a state juvenile correctional institution, unless the child has demonstrated himself to be unmanageable in a less restrictive placement and has been given an administrative transfer hearing by the Department."
- o 10-1137. Adjudication as child in need of supervision - Placement - Notice and reason - Administrative transfer hearings.  
"(a) Whenever a child who has been adjudicated by the court as a child in need of supervision has been committed to the Department, the Department may place the child in an institution or other facility maintained by the state or under its licensure for dependent or neglected children, or in a foster home, or in a state school for the mentally retarded if eligible for admission thereto. Provided, that where a child in need of supervision has proved unmanageable in one of the placements authorized herein, the Department may place said child in an institution or facility for delinquent children, subject to the hearing requirements of subsection (b) of this section.  
(b) When it is determined by the Department to place a child in an institution or facility for delinquent children, notice thereof, together with the reason or reasons therefor, shall be given to the court having original jurisdiction, and to the child's parent, guardian, or attorney of record. Thereafter, the Department shall initiate administrative transfer hearings to seek the transfer of said child. The Department shall develop rules and regulations for the conduct of such administrative transfer hearings. The rules and regulations for the conduct of said hearings shall provide for the following minimum standards:  
1. The right of the child to be represented by an attorney; and  
2. The right of the child to notice of the alleged placement violations; and  
3. The right of the child to present evidence in the explanation, mitigation, or denial of the alleged placement violation. In administrative transfer or parole revocation hearings the juvenile division of the district court of the county where the request is made shall aid the administrative and parole process of the Department by:  
1. Determining eligibility for and amount of bail;  
2. Deciding any intermediate custody issue; and  
3. Appointing legal counsel for the child, and fixing the amount of his compensation to be paid by the court fund of the county of committing jurisdiction if the court determines that the child is eligible for free legal services. Otherwise, the court shall order

the parents to pay for legal services. The situs of said hearing may be in the county in which a violation of administrative or parole rules occurs, or in the case where a child has been placed in an institution, in the county where the institution is located.  
4. Where the action is brought in a county other than the county of committing jurisdiction, after the court has appointed counsel and fixed the amount of his compensation, the court clerk shall bill the county court fund of the court of committing jurisdiction which shall pay for all legal expenses incurred under this section."

**OREGON**

**Pre-adjudication**

- o 419-575. Place of detention or shelter care while child in temporary custody.  
"(1) The juvenile court of each county shall designate the place or places in the county or at a reasonably short distance outside the county in which the children are to be placed in detention or shelter care when taken into temporary custody. A child taken into temporary custody shall be placed in shelter care rather than detention unless the person placing the child in detention has reason to believe that the child will be found to be within the jurisdiction of the court by reason of paragraph (a) or (f) of subsection (1) of ORS 419.476 or the behavior of the child immediately endangers the physical welfare of the child or of another."  
(419.476 (a) deals with an act which is in violation of a United States, state, county or city law or ordinance; (f) deals with running away from home.)

**Post-adjudication**

- o 419.509. Limitation on division's authority to place child in certain institutions.  
"(1) A child placed in the legal custody of the Children's Services Division shall be placed in a juvenile training school or in a private institution operated as a training school for children requiring secure custody in the following cases and no other:  
(a) The child is found to be within the jurisdiction of the juvenile court by reason of a ground set forth in paragraph (a) of subsection (1) of ORS 419.476; and  
(b) The juvenile court having jurisdiction so orders."  
(419.476 refers to juvenile delinquents.)

**PENNSYLVANIA**

**Pre-adjudication**

- o 6325. Detention of child.  
"A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless his

detention or care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because he has no parents, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required, or an order for his detention or shelter care has been made by the court pursuant to this chapter."

- o 6327. Place of detention.  
"(e) Detention of dependent child.--A child alleged to be dependent may be detained or placed only in a Department of Public Welfare approved shelter care facility as stated in subsection (a) (1), (2) and (5), and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses, but may be detained in the same shelter care facilities with alleged delinquent children."
- o 6302. Definitions.  
"Dependent child. A child who:  
(1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals;  
(2) has been placed for care or adoption in violation of law;  
(3) has been abandoned by his parents, guardian, or other custodian;  
(4) is without a parent, guardian, or legal custodian;  
(5) while subject to compulsory school attendance is habitually and without justification truant from school;  
(6) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of his parents, guardian or other custodian and who is ungovernable and found to be in need of care, treatment or supervision;  
(7) is under the age of ten years and has committed a delinquent act;  
(8) has been formerly adjudicated dependent and is under the jurisdiction of the court, subject to its condition or placements and who commits an act which is defined as ungovernable in paragraph (6); or  
(9) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (6)."

"Shelter care. Temporary care of a child in physically unrestricted facilities."

- o 6335. Release or holding of hearing.  
"(a) General rule.--After the petition has been filed the court shall fix a time for hearing thereon, which, if the child is in detention or shelter care shall not be later than ten days after the filing of the petition. If the hearing is not held within such time, the child shall be immediately released from detention or shelter care. A child may be detained or kept in shelter care for an additional single period not to exceed ten days where:  
(1) the court determines at a hearing that:

- (i) evidence material to the case is unavailable;
  - (ii) due diligence to obtain such evidence has been exercised; and
  - (iii) there are reasonable grounds to believe that such evidence will be available at a later date; and
- (2) the court finds by clear and convincing evidence that:
- (i) the life of the child would be in danger;
  - (ii) the community would be exposed to a specific danger; or
  - (iii) the child will abscond or be removed from the jurisdiction of the court."

#### Post-adjudication

- o 6351. Disposition of dependent child.  
"(b) Limitation on confinement.--Unless a child found to be dependent is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children."

### RHODE ISLAND

#### Pre and Post-adjudication

There is no statutory provision mandating separate treatment for delinquents and status offenders, referred to as wayward children in Rhode Island.

### SOUTH CAROLINA

#### Pre-adjudication

- o 14-21-590. Jurisdiction of family court.  
"(2) (b) When the authorized representative of the Department of Juvenile Placement and Aftercare determines that detention is necessary, he shall make a diligent effort to place the child in an approved home, facility or program separate from any secure facility, when such alternatives are appropriate and available. The Department of Juvenile Placement and Aftercare shall provide to the court a list of appropriate facilities to be utilized for such placement. When the Department of Juvenile Placement and Aftercare determines that a secure facility is necessary, a child may only be detained in a facility which has sight and sound separation from adults. The Department of Juvenile Placement and Aftercare shall develop specific written criteria to use in determining: (1) whether detention is necessary for the protection of the community, to insure an orderly court process or to serve the best interest of the child; and (2) whether a secure or nonsecure facility is appropriate for detention of the child. The Department of Juvenile Placement and Aftercare shall provide the court and law enforcement agencies with a copy of such criteria. ... After January 1, 1982, a child who is taken into custody because of a violation of law which would not be a

criminal offense under the laws of this State if committed by an adult shall not be placed in a detention facility."

**Post-adjudication**

14-21-620 "Disposition of cases ... "does not distinguish between the dispositions of status offenders and delinquents."

**SOUTH DAKOTA**

**Pre-adjudication**

There is no statutory prohibition against the detention of status offenders.

**Post-adjudication**

- o 26-8-40.1. Dispositional decree for child in need of supervision. "No child committed under the provisions of this section shall be placed in the state training school at Plankinton or any other training school."

**TENNESSEE**

**Pre-adjudication**

- o 37-214. Detention of a child.  
"(a) A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless his detention or care is required to protect the person or property of others or of the child, or because the child may abscond or be removed from the jurisdiction of the court, or because he has no parent, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required, or an order for his detention or shelter care has been made by the court pursuant to this chapter. (b) It is the intent of the general assembly that whenever treatment resources are available all unruly children except runaways shall not be detained for more than twenty-four (24) hours exclusive of nonjudicial days. Runaways shall not be detained for more than five (5) days including weekends and holidays. Nothing herein shall prohibit the court from ordering the placement of children in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this section."
- o 37-216. Place of detention.  
"(d) A child alleged to be dependent or neglected may be detained or placed in shelter care only in the facilities stated in paragraphs (1), (2), and (4) of subsection (a) and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent."  
(37-216 does not distinguish between alleged delinquents or unruly children where detention is concerned.)

**Post-adjudication**

- o 37-232. Unruly child - Disposition.  
"(a) If the child is found to be an unruly child the court may make such disposition as authorized by 37-231, subdivision (1), (2) or (5), that is best suited to such child's treatment, rehabilitation and welfare.  
(b) It is the intent of the general assembly that unruly children should not categorically be institutionalized. When, however, upon three (3) or more court proceedings as authorized by 37-208 or 37-210, such child is found to be unruly and not amenable to treatment or rehabilitation, the court may make such disposition as authorized by 37-231."  
(37-232 (1) deals with disposition of a dependent or neglected child, (2) with probation, and (5) with assessing a fine. The other options include placement in facilities for delinquent children under the direction of the court or other local public authority; commitment to the state department of corrections, and to the custody of the county department of children's services where they exist.)

**TEXAS**

**Pre-adjudication**

- o 54.01. Detention hearing.  
"(a) If the child is not released under Section 53.02 of this code, a detention hearing without a jury shall be held promptly, but no later than the second working day after he is taken into custody; provided, however, that when a child is detained on a Friday or Saturday, then such detention hearing shall be held on the first working day after the child is taken into custody."  
  
"(e) At the conclusion of the hearing, the court shall order the child released from detention unless it finds that:  
(1) he is likely to abscond or be removed from the jurisdiction of the court;  
(2) suitable supervision, care, or protection for him is not being provided by a parent, guardian, custodian, or other person;  
(3) he has no parent, guardian, custodian, or other person able to return him to the court when required;  
(4) he is accused of committing a felony offense and may be dangerous to himself or others if released; or  
(5) he has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released."  
(Using this statute as its basis the Texas juvenile court judges' committee to the state bar holds that while any child may be held longer than 48 hours, if it is in the child's best interest, the authority to detain is restricted to the following subcategories of status offenders:  
(1) Those who refuse to identify themselves; (2) out-of-county or out-of-state runaways; (3) infectious carriers of venereal disease;

(4) those who when placed in an open shelter respond with combative, destructive, or threatening behavior.)

#### Post-adjudication

In 1975 the legislature amended 54.04 "Dispositional Hearing" to omit (g) which read: "In no event may the court commit a child to the Texas Youth Council because the child engaged in conduct defined in Subdivision (2), (3), or (4) of Section 51.03 (b) of this code."

(These subdivisions deal with status offenses.)

- o 54.05. <sup>but</sup> Hearing in modifying disposition.  
"(g) a disposition based solely on a finding that the child engaged in conduct indicating a need for supervision may not be modified to commit the child to the Texas Youth Council. A new finding in compliance with Section 54.03 of this code must be made that the child engaged in delinquent conduct as defined in Section 51.03 (a) of this code."

### UTAH

#### Pre-adjudication

The section outlining placement of children in detention or shelter facilities 78-3a-30, makes no distinction between delinquents, status offenders and non-offenders.

#### Post-adjudication

- o 78-3a-39. Dispositions.  
"... a child who is found to come under the jurisdiction of the court solely on the ground of neglect or dependency pursuant to section 78-3a-16 (2) (a) may not be committed to the state youth development center or any similar institution within or without this state, nor to the state youth corrections agency."

### VERMONT

#### Pre-adjudication

- o 33-639. Taking into custody.  
"A child may be taken into custody:  
(1) Pursuant to the laws of arrest of this state,  
(2) Pursuant to an order of the juvenile court under the provisions of this chapter,  
(3) By a law enforcement officer when he has reasonable grounds to believe that the child is in immediate danger from his surroundings, and that his removal is necessary for his protection,  
(4) By a law enforcement officer when he has reasonable grounds to believe that the child has run away from his parents, guardian, or legal custodian."

- o 33-641. Criteria for detaining children; order of detention.  
"(a) A child taken into custody under section 640(2) of this title shall not be detained prior to the hearing on a petition filed under the authority of this chapter unless an order for his detention has been made and filed by the juvenile court pursuant to the provisions of this chapter.  
(b) The order for his detention or placement in shelter care shall contain the name of the place of his detention, the reason for his detention or shelter care, and the date, hour and place of the detention hearing to be held pursuant to section 643 of this title. A copy of said order shall be immediately delivered by a law enforcement officer to a parent, guardian, or custodian of the child, if they can be found, or to a guardian ad litem, to the state's attorney having jurisdiction, to the commissioner of social and rehabilitation services if it appears that the child may be in need of care or supervision and to the commissioner of corrections if it appears that the child may be delinquent."

#### Post-adjudication

- o 33-656. Disposition of child in need of care or supervision.  
"(A) The commissioner of social and rehabilitation services, who may place the child under his supervision and authority in a family home, a treatment, rehabilitative or educational institution or facility, including the Weeks school, or a hospital, as the commissioner may determine in his judgment to be in the best interests of the child, subject, however, to the provisions of section 662 of this title and in the case of a placement in the Weeks school, subject to the approval of the commissioner of corrections."
- o 33-662.  
"(d) A child found by a court to be a child in need of care or supervision ... shall not be placed in or transferred to the Weeks school or to an institution used primarily for the treatment or rehabilitation of delinquent children. (e) Any child found by a court to be a child in need of care or supervision as defined in paragraph (C) of section 632(a) (12) of this title in proceedings held under the authority of this chapter may be placed in or transferred to Weeks school or other facility used for the treatment or rehabilitation of delinquent children only if the child is afforded an opportunity for a fair hearing as authorized by 3 V.S.A. section 3091 prior to such placement or transfer, except that such placement or transfer may be made at any time without a prior hearing in cases where no other suitable placement is immediately available and (1) the child presents a risk of injury to himself, to others, or to property, or (2) the responsible person in the child's present placement refuses to continue providing the necessary care or supervision, or (3) for any other reason the child is in immediate need of the care and security of the Weeks school or other such facility, so long as an opportunity for a hearing is thereafter afforded."  
(The Weeks school was closed permanently by the Department of Corrections, and therefore this secure placement is no longer an option.)

## VIRGINIA

### Pre-adjudication

- o 16.1-247  
"(E) (3) Place the child taken into custody pursuant to 16.1-246 (B) in shelter care after the issuance of a detention order pursuant to 16.1-255."  
(Section 16.1-246 (B) refers to a child in need of services.)
- o 16.1-249. Detention with a court order.  
"but  
"(A) (3)... a child who is alleged to be in need of services may be detained in a detention home, for good cause, for a period not to exceed seventy-two hours prior to a detention hearing being held pursuant to 16-1-250."  
("This time limit is meant to take into account non-judicial days. When calculating violations, great care is taken to ensure that status offenders and non-offenders detained for 24-72 hours were detained in congruence with federal requirements." - Quote from the Virginia Fourth Annual Monitoring Report, p.8.)
- o 16-1-250  
"(D) When the judge finds that a child who is alleged to be in need of services has been detained in a detention home prior to the detention hearing, the judge shall order his release from the detention home. The child shall not be returned to a detention home after the detention hearing; provided, however, the judge may impose singly or in combination conditions 1,2 or 3 listed in this paragraph D.  
(1) Place the child in the custody of a parent, guardian, legal custodian or other person standing in loco parentis under their supervision, or under the supervision of an organization or individual agreeing to supervise him; or  
(2) Place restrictions on the child's travel, association or place of abode during the period of his release; or  
(3) Impose any other condition deemed reasonably necessary and consistent with the criteria for detaining children specified in 16.1-248 ...."

### Post-adjudication

- o 16.1-279. Dispositions.  
"(D) Unless a child found to be abused, neglected, or in need of services shall also be found to be delinquent and shall be older than ten years of age, he shall not be committed to the State Board of Corrections."

## WASHINGTON

### Pre-adjudication

- o 13.32A.030. Definitions - Regulating leave from semi-secure facility.

"(4)'Semi-secure facility' means any facility, including but not limited to crisis residential centers or specialized foster homes, operated in a manner to reasonably assure that youth placed there will not run away: Provided, that such facility shall not be a secure institution or facility as defined by the federal juvenile justice and delinquency prevention act of 1974 (P.I. 93-415; 42 U.S.C. Sec. 5634 et seq.) and regulations and clarifying instructions promulgated thereunder. Pursuant to rules established by the department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center."

- o 13.32A.050. Officer taking juvenile into custody - When authorized - Maximum hours of custody.  
"A law enforcement officer shall take a juvenile into custody:  
(1) If a law enforcement agency has been contacted by the parent of the child that the child is absent from custody without consent; or  
(2) If a law enforcement officer reasonably believes that a juvenile is in circumstances which constitute a serious danger to the juvenile's physical safety; or  
(3) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement. In no case may law enforcement custody extend more than six hours from the time of the juvenile's initial contact with the law enforcement officer."
- o 13.32A.060. Officer taking juvenile into custody - Procedure - Transporting to home or crisis residential center.  
"(1) An officer taking a juvenile into custody under RCW 13.32A.050 shall inform the juvenile of the reason for such custody and shall transport the juvenile to his or her home if the juvenile consents. The officer so releasing a juvenile from custody shall inform the parent of the reason for taking the juvenile into custody and may, if he or she believes further services may be needed, inform the juvenile and the person to whom the juvenile is released of the nature and location of appropriate services.  
(2) If, in the judgment of the law enforcement officer, it is not practical nor in the best interests of the family to take the juvenile home, the law enforcement officer shall take the juvenile to a designated crisis residential center licensed by the department and established pursuant to chapter 74.13 RCW. The department shall ensure that all the enforcement authorities are informed on a regular basis as to the location of the designated crisis residential shelter or shelters in their judicial district, where juveniles taken into custody under RCW 13.32A.050 may be taken."

- o 74.13.032. Crisis residential centers, regional and others, number - Establishment - Staff - Duties - Facilities semi-secure.

"(1) The department shall establish, by contracts with private vendors, not less than eight regional crisis residential centers, which shall be structured group care facilities licensed under rules adopted by the department. Each regional center shall have an average of at least four adult staff members and in no event less than three adult staff members to every eight children. The staff shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles, and carry out the responsibilities outlined in RCW 13.32A.090.

(2) The department shall, in addition to the regional facilities established under subsection (1) of this section, establish not less than thirty additional crisis residential centers pursuant to contact with licensed private group care or specialized foster home facilities. The staff at the facilities shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles, and carry out the responsibilities stated in RCW 13.32A.090. The responsibilities stated in RCW 13.32A.090 may, in any of the centers, be carried out by the department. Crisis residential facilities shall be operated as semi-secure facilities."

- o 74.13.033. Crisis residential centers - Removal from, when - Services available - Unauthorized leave.

"(1) If a resident of a center becomes by his or her behavior disruptive to the facility's program, such resident may be immediately removed to a separate area within the facility and counseled on an individual basis until such time as the child regains his or her composure. The department may set rules and regulations establishing additional procedures for dealing with severely disruptive children on the premises, which procedures are consistent with the federal juvenile justice and delinquency prevention act of 1974 and regulations and clarifying instructions promulgated thereunder. Nothing in this section shall prohibit a center from referring any child who, as the result of a mental or emotional disorder, or intoxication by alcohol or other drugs, is suicidal, seriously assaultive or seriously destructive toward others, or otherwise similarly evidences an immediate need for emergency medical evaluation and possible care, to a community mental health center pursuant to RCW 72.23.070 or to a mental health professional pursuant to chapter 71.05 RCW whenever such action is deemed appropriate and consistent with law."

- o 74.13.034. Crisis residential centers - Removal to another center - Placement in secure detention facility - Legislative intent.

"(1) A child taken into custody and taken to a crisis residential center established pursuant to RCW 74.13.032 (2) may, if the center is unable to provide appropriate treatment, supervision, and structure to the child, be taken at department expense to another crisis residential center or the nearest regional crisis

residential center. Placement in both centers shall not exceed seventy-two hours from the point of intake as provided in RCW 13.32A.130.

(2) A child taken into custody and taken to a crisis residential center established by this chapter may be placed physically by the department or the department's designee and at departmental expense and approval, in a secure detention facility operated by the county in which the center is located for a maximum of twenty-four hours, including Saturdays, Sundays, and holidays, if the person in charge of the crisis residential center finds that the child is severely, emotionally, or behaviorally, disturbed to the point that the child is suicidal, seriously assaultive, or seriously destructive towards others and the center is unable to provide appropriate supervision and structure. Any child who takes unauthorized leave from the center, if the person in charge of the center cannot provide supervision and structure adequate to ensure that the child will not again take unauthorized leave, may be taken to a secure detention facility subject to the provisions of this section.

Provided, that juveniles placed in such a facility pursuant to this section may not, to the extent possible, come in contact with alleged or convicted juvenile or adult offenders.

(3) Any child placed in secure detention pursuant to this section shall, during the period of confinement, be provided with appropriate treatment by the department or the department's designee, which shall include the services defined in RCW 74.13.033 (2). If the child placed in secure detention is not returned home or if an alternative living arrangement agreeable to the parent and the child is not made within twenty-four hours after the child's admission, the child shall be taken at the department's expense to a crisis residential center. Placement in the crisis residential center or centers plus placement in juvenile detention shall not exceed seventy-two hours from the point of intake as provided in RCW 13.32A.130."

#### Post-adjudication

- o 13.32A.180. Three-month placement disposition plan - Hearing - Court order - No placement in secure residence.

"(1) At a dispositional hearing held to consider the three-month dispositional plan presented by the department the court shall consider all such recommendations included therein. The court, consistent with the stated goal of resolving the family conflict and reuniting the family, may modify such plan and shall make its dispositional order for a three-month out-of-home placement for the child. The court dispositional order shall specify the person or agency with whom the child shall be placed, those parental powers which will be temporarily awarded to such agency or person including but not limited to the right to authorize medical, dental, and optical treatment, and parental visitation rights. Any agency or residence at which the child is placed must, at a minimum, comply with minimum standards for licensed family foster homes.

(2) No placement made pursuant to this section may be in a secure residence as defined by the federal Juvenile Justice and

Delinquency Prevention Act of 1974 and clarifying interpretations and regulations promulgated thereunder."

- o 13.34.140. Order of disposition for certain dependent children, alternatives - Placement in facilities.  
"If after a fact-finding hearing it has been proven beyond a reasonable doubt that a child is dependent within the meaning of RCW 13.34.030(2) (d), and after consideration of the predisposition report and after a disposition hearing, the court may order one of the following dispositions of the child:  
(a) Placement of the child in an alternative nonsecure residential facility pursuant to RCW 13.32.040;  
(b) Commitment to the department of social and health services for placement in a custodial diagnostic and treatment facility for not more than thirty days only if other less restrictive alternatives have failed, if such a treatment facility is available, and if the diagnosis and treatment is reasonably expected to prevent degeneration of the child's conduct into serious delinquent behavior. Provided, that such housing and treatment shall be entirely separate from that of youth who have been found guilty of committing a felony or misdemeanor."

#### WEST VIRGINIA

##### Pre-adjudication

- o 49-5-8  
"Any child taken into custody as a runaway shall not be held in custody more than forty-eight hours without a court order, or more than seven days in any event. Such child shall not be confined in a facility wherein people are being detained for an offense which would be a crime if committed by an adult."
- o 49-5-16  
"(a) A child charged with or found to be delinquent solely under subdivision (3), (4) or (5) section four (49-1-4), article one of this chapter, shall not be housed in a detention or other facility wherein persons are detained for criminal offenses or for delinquency offenses which would be crimes if committed by an adult."  
(49-1-4 (3), (4) and (5) deal with status offenses.)

##### Post-adjudication

- o 49-5-13  
"(6) Upon an adjudication of delinquency pursuant to subsection (3) or (4) section four (49-1-4) article one of this chapter, and upon a finding that the child is so totally unmanageable, ungovernable, and antisocial that the child is amenable to no treatment or restraint short of incarceration, commit the child to a rehabilitative facility devoted exclusively to the custody and rehabilitation of children adjudicated delinquent pursuant to said section (3) or (4)."

- o 49-5B-5. Juvenile Offender Rehabilitation Act (1979).  
"... Provided, however, that a portion of such facility may be designed and operated as a secure facility used exclusively for status offenders whom the juvenile court has specifically found so unmanageable, ungovernable and antisocial that no other reasonable alternative exists, or could exist, for treatment or restraint other than placement in a secure facility. Temporary residents of the facility shall only be placed in the secure portion of the facility by order of the juvenile court upon a specific finding by the court that the child is likely to injure himself or others or run away if placed in a less restrictive environment."

#### WISCONSIN

##### Pre-adjudication

- o 48.227. Approval of runaway homes; procedures.  
"(6) This section does not preclude the right of the child to be released immediately upon his or her request to the custody of a parent, guardian or legal custodian."
- o 48.208. Criteria for holding a child in a secure detention facility.  
"A child may be held in a secure detention facility if the intake worker personally interviews the child and one of the following conditions applies: ...  
(4) Probable cause exists to believe that the child, having been placed in nonsecure custody by an intake worker under s.48.21(4), has run away or committed a delinquent act and no other suitable alternative exists."

##### Post-adjudication

- o 48.345. Disposition of child adjudged in need of protection or services.  
"If the judge finds that the child is in need of protection or services, it shall enter an order deciding one or more of the dispositions of the case as provided in s.48.34 under a care and treatment plan except that the plan shall not:  
(1) Transfer the custody of the child to the subunit of the department administering corrections;  
(2) Order restitution;  
(3) Order payment of a forfeiture;  
(4) Restrict, suspend or revoke the driving privileges of the child;  
or  
(5) Place any child not specifically found to be developmentally disabled, mentally ill or to have exceptional educational needs in facilities approved for the treatment of those categories of children under chs. 46, 49, 51, 115 and 880."

WYOMING

Pre-adjudication

- o 14-6-207. Same; delivery of child pending hearing; placing of neglected child; separate detention; notice if no court order.

"(b) A child alleged to be neglected shall be placed for shelter care in a foster home or other child care facility certified by the department of health and social services or approved by the court. If facilities are not immediately available, a child alleged to be neglected may be housed, fed and protected at the county jail but not locked in a cell or otherwise detained or treated as a delinquent child."

Post-adjudication

- o 14-6-229. Decree where child adjudged neglected, delinquent or in need of supervision; dispositions; terms and conditions; legal custody.

"(v) Transfer temporary legal custody to a state or local public agency responsible for the care and placement of neglected children, but the child shall not be committed to the Wyoming industrial institute or the Wyoming girls' school unless also found delinquent or in need of supervision."

DEINSTITUTIONALIZATION OF STATUS OFFENDERS

AN ANALYSIS OF STATE STATUTES

Explanation of Terms Used in the Chart

1. The YES/NO classification refers to whether or not the state's statutes require deinstitutionalization of status offenders. A YES, however, does not mean complete statutory compliance with the mandate of the Act. If a state has a general prohibition coupled with an exception permitting secure placement for a subcategory of status offenders it was given a YES. A state which has a general prohibition coupled with an exception that could be applicable to all status offenders was given a NO. In accordance with the Act status offenders can be securely held for less than 24 hours and still be in compliance.
2. The separate category refers to the statutory scheme outlining the juvenile court's jurisdiction over status offenders. A YES means there is a totally separate category which includes all status offenders and no other group of juveniles. NO means the state has a category which includes both status and criminal-type offenders and makes no discrimination between the two groups within the category. The third classification is very similar to the previous one. Status offenders are in the same general category as criminal-type offenders but clearly delineated in a separate subsection(s). The last alternative is for status offenders to be incorporated within the category of dependent children and subject to the less restrictive dispositions available for dependents.
3. PRE is shorthand for pre-adjudication. This term refers to the period from a juvenile being taken into custody by the police to the ordering of a disposition by the court. POST refers to post-adjudication. This period begins at the point at which the juvenile is subject to a court disposition until she/he is no longer under the jurisdiction of the court.

DEINSTITUTIONALIZATION OF STATUS OFFENDERS - AN ANALYSIS OF STATE STATUTES

STATE	YES/NO	EXCEPTIONS/EXPLANATIONS	SEPARATE CATEGORY
ALABAMA			
PRE	YES		
POST	YES	Second time status offenders and those not amenable to treatment may be committed to secure facilities.	YES
ALASKA			
PRE	NO	Department of Health and Social Services is not mandated to establish separate detention facilities for status offenders.	YES
POST	YES	Second time status offenders may be committed to secure facilities.	
ARIZONA			
PRE	NO	Police officer may place status offender in a shelter care or minimally secure facility.	YES
POST	YES		
ARKANSAS			
PRE	NO	A juvenile taken into custody may be detained in secure detention for 72 hours to determine, among other things, if he/she is a juvenile in need of supervision.	YES
POST	YES		
CALIFORNIA			
PRE	YES	An alleged status offender may be held in secure detention for 12 hours to check for outstanding warrants. A runaway may be held for 24 hours to arrange return to his/her parents, or for 72 hours if the distance from the county is too far to accomplish return in 24 hours.	YES
POST	YES		
COLORADO			
PRE	YES	A runaway from Colorado may be securely detained for 48 hours. Out-of-state runaways may be securely detained for 7 days. Children who are alleged to be CHINOS, children whose behavior or conditions endanger their own or others' welfare, may after a court finding be securely detained indefinitely.	Yes. Status offenders are included in same category as dependent children.
POST	YES		
CONNECTICUT			
PRE	YES		
POST	NO	Statute only prohibits placement in state-run secure training school, but is silent on placement in private secure facilities.	YES
DELAWARE			
PRE	NO	Statute prohibits the detention and placement of alleged and adjudicated status and nonoffenders with delinquents, but is silent on placement in a secure facility exclusively for status and nonoffenders.	Yes. Status offenders are included in the category of dependent children.
POST	NO		
FLORIDA			
PRE	YES		
POST	YES		YES
GEORGIA			
PRE (nonoffenders)	YES		YES
(status offenders)	NO	An alleged status offender may be securely detained for 72 hours with a 48-hour extension upon court approval.	
POST (nonoffenders)	YES		
(status offenders)	NO	Upon a court finding that the adjudicated status offender is not amenable to treatment he/she may be committed to the same facilities to which delinquents are committed.	
HAWAII			
PRE	NO		Separate sub-section of delinquent category covers status offenders.
POST	NO	Statute prohibits commitment to facilities in which delinquents are held but is silent on whether status offenders may be committed to secure facilities used exclusively for status offenders.	
IDAHO			
PRE (nonoffenders)	YES		NO
(status offenders)	NO		
POST	NO		
ILLINOIS			
PRE	YES		YES
POST	YES		
INDIANA			
PRE	YES	Alleged runaways may be securely detained for 48 hours.	Separate sub-section of delinquent category covers status offenders.
POST	YES		

STATE	YES/NO	EXCEPTIONS/EXPLANATIONS	SEPARATE CATEGORY
IOWA			
PRE	YES		Yes. Status offenders are included in the category of dependent children.
POST	YES		
KANSAS			
PRE	NO	An alleged status offender may be securely detained for 48 hours prior to a court hearing and an additional 24 hours after a hearing, excluding nonjudicial days.	YES
POST	YES		
KENTUCKY			
PRE (based on 1980 legislation, effective 7/1/82)	NO	An alleged status offender may be securely detained for 24 hours, excluding nonjudicial days, prior to a hearing and for an additional 10 days following such hearing. Upon the child's consent such detention can be continued for an additional 10 days.	YES
POST	YES	After adjudication a status offender can be securely detained for 24 hours and for an additional 10 days pending disposition with child's consent. The disposition of a status offender cannot be in a secure residential facility.	
LOUISIANA			
PRE	YES		YES
POST	NO	Statute prohibits placement of status and nonoffenders to Department of Corrections, but does not specifically prohibit placement in private secure facilities.	
MAINE			
PRE	YES	An alleged runaway may be securely detained for 6 hours.	YES
POST	YES		
MARYLAND			
PRE	YES		YES
POST	NO	Statute prohibits status offenders from being committed to facilities for delinquents, but is silent on placement of status offenders to a secure facility exclusively for status offenders.	
MASSACHUSETTS			
PRE	YES	Status offenders are handled in the social service system rather than through the juvenile justice system.	YES
POST	YES	Habitual school offenders and truancy violators, if deemed by the commissioner to be unmanageable, can be transferred to a training school.	
MICHIGAN			
PRE	NO		NO
POST	NO		
MINNESOTA			
PRE	YES		Separate sub-section of delinquent category covers status offenders.
POST	UNCLEAR		
MISSISSIPPI			
PRE	NO		YES
POST	NO	Statute prohibits committing status and nonoffenders to the state training school, but is silent on placement in other state or private secure facilities.	
MISSOURI			
PRE	NO		Separate sub-section of delinquent category covers status offenders.
POST	YES	Second-time status offenders can be committed to secure facilities within Division of Youth Services.	
MONTANA			
PRE	YES		YES
POST	YES		
NEBRASKA			
PRE	NO		YES
POST	NO	Statute prohibits placement of status offenders in state-run secure facilities, but is silent on placement in private secure facilities.	
NEVADA			
PRE	NO	Statute favors placement of status offenders in separate facilities from delinquents, but does not mandate such placement.	YES
POST	NO		
NEW HAMPSHIRE			
PRE	YES		YES
POST	YES	A status offender found guilty of contempt (a second-time status offender) may be placed in the youth development center, although separate from delinquents.	
NEW JERSEY			
PRE	YES		YES
POST	YES		
NEW MEXICO			
PRE	YES		YES
POST	YES		

STATE	YES/NO	EXCEPTIONS/EXPLANATIONS	SEPARATE CATEGORY
NEW YORK			
PRE	YES		YES
POST	YES		
NORTH CAROLINA			
PRE	YES	Alleged runaways may be securely detained for 24 hours. Juveniles who, due to self-inflicted injuries or attempted self-injuries, are a danger to themselves may be securely detained.	YES
POST	YES		
NORTH DAKOTA			
PRE (nonoffenders)	YES		YES
(status offenders)	NO		
POST	NO	Statute prohibits status offenders from placement in the state-run secure facilities, but is silent on placement in private secure facilities.	
OHIO			
PRE	NO		YES
POST	NO	An adjudicated status offender may be committed to a secure facility if the court finds the juvenile not to be amenable to treatment.	
OKLAHOMA			
PRE	YES	Alleged runaways may be securely detained if the court finds it necessary for the child's or community's welfare.	YES
POST	YES	Adjudicated status offenders placed with the Department of Human Services may be transferred to a secure facility if an administrative hearing results in a finding that the juvenile is unmanageable in a less restrictive setting. No child deemed a status offender solely on the basis of truancy or violation of school attendance laws may be removed from his/her home.	
OREGON			
PRE	YES	Alleged runaways may be securely detained; children whose behavior immediately endangers their health may also be securely detained.	Separate sub-section of delinquent category covers status offenders.
POST	YES		
PENNSYLVANIA			
PRE	YES		Yes. Status offenders are included in the category of dependent children.
POST	YES		
RHODE ISLAND			
PRE	NO		YES
POST	NO		
SOUTH CAROLINA			
PRE	YES (after 1/82)		NO
POST	NO		
SOUTH DAKOTA			
PRE	NO		YES
POST	YES		
TENNESSEE			
PRE (nonoffenders)	YES	Statute recommends but does not require that alleged status offenders not be detained for longer than 24 hours exclusive of judicial days.	YES
(status offenders)	NO	Runaways may be detained for no more than 5 days including weekends and holidays.	
POST	NO	Adjudicated status offenders should not categorically be institutionalized except if upon 3 or more court proceedings they are found to be unruly and not amenable to treatment or rehabilitation.	
TEXAS			
PRE	NO		NO
POST	NO		
UTAH			
PRE	NO		NO
POST (nonoffenders)	YES		
(status offenders)	NO		
VERMONT			
PRE	YES	Statute requires status offenders to be under the authority of the commissioner of social and rehabilitation services and delinquents under the authority of the commissioner of corrections.	YES
POST	YES	Although statute provides for secure placement alternative in certain cases, there is no facility for the secure placement of status offenders. Weeks School has been closed and the only remaining secure facility is limited to delinquents.	
VIRGINIA			
PRE	YES	Alleged status offenders may be securely detained for good cause for up to 72 hours.	YES
POST	YES		

STATE	YES/NO	EXCEPTIONS/EXPLANATIONS	SEPARATE CATEGORY
WASHINGTON			
PRE	YES	An alleged runaway placed in a crisis residential center who either takes an unauthorized leave or is by his/her conduct suicidal or a danger to others may be securely detained for 24 hours.	YES
POST	YES		
WEST VIRGINIA			
PRE	YES		Separate sub-section of delinquent category covers status offenders.
POST	NO	An adjudicated status offender may be committed to a secure facility if the court finds that the juvenile is unmanageable and not amenable to treatment in a less restrictive setting. Placement must be in a portion of the facility exclusively used for status offenders.	
WISCONSIN			
PRE	YES	An alleged status offender who, having been placed in a non-secure setting, runs away may be securely detained.	YES
POST	YES		
WYOMING			
PRE (nonoffenders)	NO	Statute prohibits committing nonoffenders in the state-run secure facilities, but is silent on placement in private secure facilities.	YES
(status offenders)	NO		

**END**