

RULE CHANGE 2008 (06)

CHAPTER 28

THE COLORADO RULES OF JUVENILE PROCEDURE

(Forms in this Appendix are available from the Colorado courts web page at

<http://www.courts.state.co.us/chs/court/forms/selfhelpcenter.htm>
.)

Rule 3.8. Status Offenders

Juveniles alleged to have committed offenses which would not be a crime if committed by an adult (i.e., status offenses), shall not be detained for more than 24 hours excluding non-judicial days unless there has been a detention hearing and judicial determination that there is probable cause to believe the juvenile has violated a valid court order (JDF 560). A juvenile in detention alleged to be a status offender and in violation of a valid court order shall be adjudicated within 72 hours exclusive of non-judicial days of the time detained. A juvenile adjudicated of being a status offender in violation of a valid court order (JDF 561) may not be disposed to a secure detention or correctional placement unless the court has first reviewed a written report (JDF 562) prepared by a public agency which is not a court or law enforcement agency. The purpose of the report is to provide the court with useful information prior to sentencing. The report shall address the juvenile's behavior and the circumstances which brought the juvenile before the court and shall assess whether all less restrictive dispositions have been exhausted or are clearly inappropriate. The court is not bound by the recommendations contained in the report. The written report must be signed and dated either before or on the date the juvenile is sentenced to detention. Nothing herein shall prohibit the court from ordering the placement of juveniles in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this rule. Juveniles alleged to have violated C.R.S. 18-12-108.5 or adjudicated delinquent for having violated C.R.S. 18-12-108.5 are exempt from the provisions of this rule.

COMMITTEE COMMENT

The reference to "valid court orders" is taken from the federal Juvenile Justice and Delinquency Prevention Act (JJJPA) of 1974, as amended, which is found at 42 U.S.C.A. 5601-~~5751~~ et seq. The Office of Juvenile Justice and Delinquency Prevention in April, 1995, issued final regulations to implement that portion of ~~the of~~ the JJJPA, as amended in 1992, which addresses the detention and secure confinement of status offenders. These regulations, which are found at 28 C.F.R. 31.303 (f)(3) set forth the legal requirements for issuing of "valid court orders," the violation of which by a status offender may, in certain circumstances, authorize juvenile courts to detain and/or commit such youth to secure confinement. The appendix to these rules contains a form for issuing a valid court order, ~~and~~ a form order for making a secure placement disposition for violation of a valid court order, and a form for a written report to the court.

The Committee's intent in drafting this rule is not to encourage more frequent use of detention for status offenders. The Committee recognizes that Congress and the OJJDP assumed that courts would exhibit self-restraint and exercise the valid court order exclusion only in cases of status offenders who chronically fail to follow court orders. The Colorado supreme court in In the Interest of J.E.S., 817 P.2d 508 (Colo. 1991) quoted from In Re Ronald S., 9 Cal. App. 3D 866, 138 Cal. Rptr. 387 (1977) to comment on the use of secure confinement for status offenders.

Certainly not all [status offenders] need to be placed in secure facilities. However, some do and in these cases the juvenile court judge must have the authority to detain in a secure facility--if status offenders are to remain in the juvenile court. 69 Cal. App. 3d at 875, 138 Cal. Rptr. at 393.

Ohio Representative Ashbrook, who sponsored the valid court order amendment, stated that without the amendment courts would be limited in their ability to work with youths who continually flout the will of the court and that it would make "helping that young person much more difficult." (126 Cong. Rec. H. 10 10932). Ashbrook contemplated that the valid court order exception would primarily be used to provide treatment rather than punishment.

The Committee recommends that the Courts adopt this benevolent approach and use the valid court order exception to

ensure that secure placements are used only for recalcitrant status offenders.

Runaways who are in violation of their probation do ~~ne~~not fall under this rule.

Trial courts are encouraged to use the forms provided for in this rule and contained in the special forms index (JDF 560, JDF 561 and JDF 562). The order to secure placement as a disposition for violation of valid court order (JDF 561) must be signed and dated on the day the juvenile enters detention. When the provided forms are utilized, signed and dated properly, the court's order sentencing the status offender to detention complies with the requirements of the Juvenile Justice and Delinquency Prevention Act.

**FORMS
SPECIAL FORM INDEX**

The following forms replace current Form 1 and Form 2.

(AMENDED)	JDF 560	Valid Court Order for Status Offenders Pursuant to CRJP 3.8 - Replaces Form 1
(AMENDED)	JDF 561	Secure Placement As Disposition for Violation of Valid Court Order Pursuant to CRJP 3.8 - Replaces Form 2
(NEW)	JDF 562	Valid Court Order Written Report Pursuant to CRJP 3.8

Amended and Adopted by the Court, En Banc February 21, 2008, effective immediately.

BY THE COURT:

Nancy E. Rice
Justice, Colorado Supreme Court