

Valid Court Order Checklist

For the purpose of determining whether a valid court order exception can be claimed, all of the following conditions must be present:

1. _____ Was the juvenile brought before a court of competent jurisdiction?
2. _____ Did the court order regulate future conduct of the juvenile?
3. _____ Did the juvenile receive adequate and fair warning of the consequences of violation of the order at the time it was issued?
4. _____ Was the warning provided to the juvenile and to his attorney and/or to his legal guardian in writing?
5. _____ Was the warning reflected in the court record and proceedings?
6. _____ Was there a judicial determination, based on a hearing, that there was probable cause to believe the juvenile violated the court order?
7. _____ Was the probable cause hearing held within 24 hours of the juvenile's placement in secure detention, excluding weekends and holidays?
8. _____ Was the violation hearing conducted within 72 hours, excluding weekends and holidays?
9. _____ Prior to issuance of the court order, and during the violation hearing, were the following due process rights provided?
 - _____ The right to have the charges against the juvenile in writing served upon him in a reasonable time before the hearing;
 - _____ The right to a hearing before a court;
 - _____ The right to an explanation of the nature and consequences of the proceedings;
 - _____ The right to legal counsel, and the right to have such counsel appointed by the court if indigent;
 - _____ The right to confront witnesses;
 - _____ The right to present witnesses;

_____ The right to have a transcript or record of the proceedings; and

_____ The right of appeal to an appropriate court.

10. _____ At the violation hearing, did the judge determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community? This determination, if it results in a disposition of secure confinement (commitment to a secure facility), must be informed by a written report to the judge that reviews the behavior of the juvenile and the circumstances under which the juvenile was brought before the court and made subject to such order; determines the reasons for the juvenile's behavior; and, determines whether all dispositions other than secure confinement have been exhausted or are clearly inappropriate. This report must be prepared and submitted by a public agency other than a court or law enforcement agency.

If all of the above conditions are present, and the juvenile status offender is found in a violation hearing to have violated a valid court order, the juvenile may be held in a secure detention or correctional facility, but not an adult jail or lockup. However, a nonoffender such as a dependent or neglected child, cannot be placed in a secure detention or correctional facility for violating a valid court order.