



Detention of Status Offenders / Children in Need of Services (CHINS)

The law that applies to the detention of status offenders (CHINS in Georgia) comes from two sources of law: Georgia Code (O.C.G.A) and Federal Regulations (JJDP). This document briefly highlights the similarities and differences between the two. All definitions are paraphrased for readability.

Georgia Code (O.C.G.A.)

15-11-2

CHINS definition

A "Child in Need of Services" under Georgia law means a child who is in need of care, guidance, counselling, structure, supervision, treatment, or rehabilitation AND meets one of the following criteria:

- Habitually truant from school
- Habitually disobedient of the reasonable commands of his or her parent/guardian/legal custodian
- Runaway
- Committed an offense applicable only to a child
- Wanders or loiters about the streets, highway, or any public place, between the hours of 12:00 A.M and 5:00 A.M. Disobeys the terms of supervision contained in a court order which has been directed to such child, who has been adjudicated a CHINS
- Patronized any bar where alcoholic beverages are being sold, unaccompanied by his or her parent/guardian/legal custodian, or who possesses alcoholic beverages
- Committed a delinquent act and is in need of supervision but not in need of treatment or rehabilitation

15-11-64

Collection of information by juvenile court clerks; reporting requirement

- Each clerk of the juvenile court shall collect the following information for each child in need of services, delinquent child, and child accused of a class A designated felony act or class B designated felony act and provide such information to DJJ as frequently as requested by DJJ:
 - (1) Name;
 - (2) Date of birth;
 - (3) Sex;
 - (4) Race;
 - (5) Offense charged;
 - (6) Location of the offense, including the name of the school if the offense occurred in a school safety zone, as defined in Code Section 16-11-127.1;

- (7) The name of the referral source, including the name of the school if the referring source was a school;
 - (8) Disposition of the case; and
 - (9) Date of and authority for commitment, if applicable.
- Each clerk of the juvenile court shall report to the Administrative Office of the Courts the total number of petitions or motions filed under subsection (b) of Code Section 15-11-682 for the previous calendar year and, of that number, the number in which the court appointed a guardian ad litem, the number in which the court appointed counsel, the number in which the judge issued an order authorizing an abortion without notification, the number in which the judge denied such an order, and, of the last, the number of denials from which an appeal was filed, the number of appeals that resulted in denials being affirmed, and the number of appeals that resulted in reversals of such denials. Each clerk shall make such report by March 15 of each year for the previous calendar year. The individual reports made to the Administrative Office of the Courts shall be held confidential and not subject to disclosure under Article 4 of Chapter 18 of Title 50, relating to open records. The Administrative Office of the Courts shall provide aggregated statistics only in accordance with subsection (g) of Code Section 16-12-141.1. Such individual reports shall be destroyed six months after submission to the Administrative Office of the Courts.

15-11-411/ 15-11-410

Treatment of CHINS

- An officer may hold a child who is taken into custody on the suspicion of being a CHINS for no more than 12 hours. During that time the child should be released to the child's parents, taken to a shelter for CHINS, brought before the juvenile court, or have been subject to a detention review decision by an Intake Officer. IF none of the above happens, the child should be released.
- Units of local government are authorized to establish facilities for juveniles to be informally detained after being taken into custody for CHINS, but the child should not be restrained in cells or other places apart from other children unless the child engages in disruptive behaviour while at the informal holding facility.

15-11-135 (b)/ 15-11-412 / 15-11-413

Places of Detention

The least restrictive placement should be used consistent with youth's needs. If the youth is unable to be placed with the parent/guardian/legal custodian, the youth may be placed in the custody of DFCS who shall promptly arrange for foster care, or in limited circumstances placed in a DJJ facility.

A youth who is alleged to be a CHINS may be held in a secure juvenile facility until a custody hearing is held, provided that a detention assessment has been administered and the youth is held **for less than 24 hours** and any of the following apply:

- Runaway
- Habitually disobedient of the reasonable commands of his or her parent/guardian/legal custodian
- Failed to previously appear at a scheduled hearing

A youth who is alleged to be a 'Dependent Child' in custody **may never** be held in a secure juvenile facility.

A youth who is alleged or adjudicated 'CHINS' or 'Dependent Child' in custody **may never be held** in an adult jail, adult lock up, or other adult detention facilities.

To summarize O.C.G.A.

- ⇒ An alleged or adjudicated 'CHINS' or 'Dependent Child' may never be held in an adult jail, adult lock up, or other adult detention facilities
 - ⇒ An alleged CHINS should always be placed in the least restrictive placement which includes: the parent/guardian/legal custodian, DFCS, or in secure juvenile custody (limited circumstances)
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Federal Regulations (JJDP 42 U.S.C. 5601)

Secure Custody: When a juvenile is physically detained or confined in a locked room or cell or is handcuffed to a stationary object. The juvenile is not free to leave the building.

Non-secure custody: The juvenile may be in custody but is 'free' to leave the building. The juvenile may not be handcuffed to a stationary object and may be placed in a room with no lock on the door. The juvenile must be under constant supervision.

42 U.S.C. 5633 Section 223(a)(11)(A)

Deinstitutionalization of Status Offenders

- Status offenses are offenses that are only crimes if committed by children, such as skipping school, running away, breaking curfew, and the possession or use of alcohol.
- Status offenders **may not be held in secure custody** in adult jails, adult lock ups, or other adult detention centers.
- These juveniles **may be detained in a non-secure area of an adult jail**, adult lockup, or other adult detention center for processing while awaiting transportation to a non-secure shelter care facility, a juvenile detention center, or while waiting release to a parent or guardian.
- Status offenders may be held in secure juvenile detention if one of following exceptions is met: 1. 24 directly prior and after a court appearance; 2. Out of State runaways; 3. Youth Handgun Safety Act (18 U.S.C. 922(x)).

42 U.S.C. 5633 Section 223(a)(12)

Separation of Juveniles of Incarcerated Adults

- All youth must be sight and sound separated with adult inmates, regardless if they are in secure or non-secure custody.

To summarize JJDP

- ⇒ Status offenders may never be in secure custody in an adult jail, adult lock up, or other adult detention facility.

- ⇒ An alleged status offender may be held in a secure juvenile detention facility for up to 24 hours (excluding weekends or holidays) prior and after to an appearance before the juvenile court.
- ⇒ Out of state runaways and youths who are in violation of the Youth Handgun Safety Act (18 U.S.C. 922(x)) may be held beyond 24 hours.

Georgia Code and Federal Regulations prohibit status offenders/CHINS to be securely held in adult jails, adult lock ups, or other adult detention facilities; in limited circumstances may allow for status offenders/CHINS to be held in secure juvenile detention facilities.

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