

Section 223(a)(11)(B) of the JJDPa Checklist

Please note that use of this form is not required. It is intended to be a tool to assist in determining whether an instance of noncompliance with Section 223(a)(11)(B) of the JJDPa has occurred.

Complete this form for each instance occurring on or after December 21, 2021, in which a **juvenile is charged as an adult and detained in an adult jail or lockup** while awaiting trial or other legal process.

Section I

Answer “Yes” or “No” to each of the following questions:

- | | | | |
|----|--|-----|----|
| ① | Was the juvenile sight and sound separated from adult inmates? _____ | Yes | No |
| ② | Do any of the following exceptions apply? | | |
| a. | <input type="checkbox"/> The juvenile was detained for a period that did not exceed six hours for processing or release; | | |
| b. | <input type="checkbox"/> The juvenile was detained for a period that did not exceed six hours while awaiting transfer to a juvenile facility; | | |
| c. | <input type="checkbox"/> The juvenile was detained for a period that did not exceed six hours during which period the juvenile made a court appearance; | | |
| d. | <input type="checkbox"/> The juvenile was detained for no more than 48 hours while awaiting an initial court appearance in a jail or lockup that was outside a metropolitan statistical area (as defined by the Office of Management and Budget), and the state had no existing acceptable alternative placement available; | | |
| e. | <input type="checkbox"/> The juvenile was detained in an adult jail or lockup located where conditions of distance to be traveled or the lack of highway, road, or transportation did not allow for a court appearance within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay was excusable; or | | |
| f. | <input type="checkbox"/> The juvenile was detained in an adult jail or lockup located where conditions of safety existed (such as severely adverse, life-threatening weather conditions that did not allow for reasonably safe travel) and the court appearance was delayed until no more than 24 hours after the time that such conditions allowed for reasonably safe travel. | | |
| | _____ | Yes | No |

If the answers to both of the questions in Section I is “Yes,” there is compliance with section 223(a)(11)(B) of the JJDPa. **Skip to Section III.**

If the answer to either of the questions in Section I is “No,” **proceed to Section II.**

Section II

Answer “Yes” or “No” to each of the following questions:

- | | | |
|--|--|----|
| ① Was there a court hearing to consider whether it was in the interest of justice to detain the juvenile in an adult jail or lockup allowing sight/sound contact with adult inmates? _____ | Yes | No |
| ② Is there a written court order following the hearing determining it is in the interest of justice to detain the juvenile in an adult jail or lockup or such that (s)he has contact with adult inmates? _____ | Yes | No |
| ③ Does the order indicate that the court considered ALL of the following factors? _____
a. The age of the juvenile;
b. The physical and mental maturity of the juvenile;
c. The present mental state of the juvenile, including whether the juvenile presents an imminent risk of harm to the juvenile;
d. The nature and circumstances of the alleged offense;
e. The juvenile’s history of prior delinquent acts;
f. The relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also to protect the safety of the public as well as other detained youth; and
g. Any other relevant factor. | Yes | No |
| ④ Following the initial hearing and court order, was there a court hearing at least every 30 or (in the case of a rural jurisdiction) 45 days, that the individual has been detained in the adult jail or lockup or such that (s)he has sight or sound contact with adult inmates, to review whether it is still in the interest of justice to permit the juvenile to be so detained? _____ | Yes | No |
| | N/A; youth detained less than 30 days | |
| ⑤ If the individual has been detained in a jail or lockup for adults such that (s)he has sight or sound contact with adult inmates for 180 days or more, is there a written court order finding "good cause" for an extension or documentation of a waiver for good cause hearing by the juvenile? _____ | Yes | No |
| | N/A; youth detained less than 180 days | |

Proceed to Section III.

Section III

Are the answers to **both questions** in Section I “Yes”?

Yes _____ **Compliance** with Section 223(a)(11)(B) of the JJDPA

If the answer to **one or both** of the questions in Section I is “No,” are the answers to **all** of the questions in Section II “Yes”?

Yes _____ **Compliance** with Section 223(a)(11)(B) of the JJDPA

No _____ **Noncompliance** with Section 223(a)(11)(B) of the JJDPA

Please send completed form to John.Turner@nebraska.gov or call (531) 310-1762