



STATE OF WISCONSIN – DEPARTMENT OF JUSTICE
DIVISION OF LAW ENFORCEMENT SERVICES

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To: Sheriffs and Jail Administrators
Juvenile Detention Centers
Judges, District Attorneys, Public Defenders
Department of Corrections
Department of Children and Families
Juvenile Justice Stakeholders

From: Wisconsin Department of Justice - Juvenile Justice Programs Unit

Subject: Juvenile Justice and Delinquency Prevention Act Core Requirement Update - 223(a)(11)(B), Removing Juveniles Charged as Adults

The Juvenile Justice and Delinquency Prevention Act in Wisconsin:

The Wisconsin Department of Justice (DOJ) is the designated state agency for ensuring compliance with the core requirements of the federal Juvenile Justice and Delinquency Prevention Act (JJDP). WI DOJ administers federal grant funds from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to units of local government and nonprofit organizations to improve the state's juvenile justice system. Wisconsin's eligibility to receive federal grant funds is dependent on demonstrating statewide compliance with the statutorily defined core requirements.

One such core requirement is **223(a)(11)(B), Removing Juveniles Charged as Adults**. OJJDP has recently changed the guidance associated with this core requirement. The information below supersedes all previous DOJ memos referencing this core requirement.

Updated Requirement:

Per Section 223(a)(11)(B) of 34 U.S.C. § 11133, a juvenile who is charged as an adult cannot be detained or confined in an adult jail or lockup or have sight or sound contact with adult inmates in a secure adult facility unless a court determines, after a hearing, and in writing, that it is in the interest of justice to permit a juvenile to be detained or confined in a jail or lockup for adults or have sight or sound contact with adult inmates in a secure facility.

OJJDP has revised its guidance and informed Wisconsin DOJ that this core requirement applies to **all** individuals under the age of 17 (the age of full criminal responsibility in Wisconsin) charged as adults. **Anyone under the age of 17 charged as an adult must have a 223(a)(11)(B) hearing prior to or within 6 hours of being detained or confined in an adult jail or lockup (48 hours, excluding weekends and legal holidays, for facilities with a Wisconsin DOJ approved Rural Exception).** This includes youth waived into adult court **and** individuals under the age of 17 charged under original adult jurisdiction statutes.

Any individual under the age of 17 charged as an adult and detained or confined in a jail or lockup for adults **must** be sight and sound separated from adult inmates during the time preceding the 223(a)(11)(B) hearing.

Additional Details:

- The required 223(a)(11)(B) judicial findings are listed on Wisconsin Court System Form CR-219.
- After the initial hearing, a judge must hold a review hearing every 30 days (45 days for facilities with a Wisconsin DOJ approved Rural Exception) and make updated 223(a)(11)(B) findings, using the CR-219.
- The maximum amount of time someone under the age of 17 charged as an adult may be detained in a jail or adult lockup is 180 days, unless the court determines, in writing, that there is good cause for an extension, or the defendant waives this time limit.
- If an individual under the age of 17 charged as an adult is housed in a juvenile detention facility, no 223(a)(11)(B) hearings are required.
- Once an individual charged as an adult turns 17, they have reached the age of full criminal responsibility in Wisconsin. 223(a)(11)(B) hearings are no longer required.
- Once an individual is convicted of an adult offense, 223(a)(11)(B) hearings are no longer required.
- 223(a)(11)(B) hearings may be held virtually.
- The core requirements of the JJDPa are separate from PREA standards.
- If a facility would like more information regarding approval for a Rural Exception, please contact Matt Allord (information below).

Procedural Considerations:

As noted above, if an individual under the age of 17 is charged as an adult and detained or confined in an adult jail or lockup, a 223(a)(11)(B) hearing and form CR-219 must be completed prior to transfer or within 6 hours (48 hours, excluding weekends and legal holidays, for facilities with a Wisconsin DOJ approved Rural Exception). **Wisconsin DOJ requests that any adult jail or lockup that detains or confines an individual under the age of 17 charged as an adult immediately notifies the DOJ Juvenile Justice Programs Unit Supervisor using the contact information below. If an individual under the age of 17 charged as an adult is booked and released or immediately transported to a juvenile detention facility, no notification is necessary.**

An individual under the age of 17 charged as an adult may be housed in a juvenile detention facility for the duration of the pending case or until a 223(a)(11)(B) hearing and CR-219 are completed.

The DOJ - Juvenile Justice Programs Unit appreciates the collaboration and partnership with juvenile justice stakeholders in adhering to these core requirements to continue to receive federal funding for youth programs throughout the state. Please do not hesitate to reach out with any requests for additional training/technical assistance, questions, or concerns.

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