

Understanding Section 223(a)(11)(B) of the Juvenile Justice and Delinquency Prevention Act: Background and Consequences of Noncompliance in South Carolina

I. What is the Section 223(a)(11)(B) of the Juvenile Justice and Delinquency Prevention Act (JJDP A)?

The Juvenile Justice and Delinquency Prevention Act (JJDP A) is a federal law that makes funding for justice programs available to states that comply with the JJDP A's core requirements. One of those core requirements is Section 223(a)(11)(B) of the JJDP A, which states that juveniles who are charged as adults (1) may not be housed in an adult jail or lockup or (2) have sight or sound contact with adult inmates – unless determined by a court that it is in the interest of justice to do so. This law also applies to seventeen-year-olds charged as adults in South Carolina. In determining whether it is in the interest of justice to house a juvenile in an adult facility, the court must consider:

1. the age of the juvenile;
2. the physical and mental maturity of the juvenile;
3. the present mental state of the juveniles including whether the juvenile represents a risk of self-harm;
4. the nature and circumstances of the alleged offense;
5. the juvenile's history of prior delinquent acts;
6. the relative ability of the available adult and juvenile detention facilities to not only meet the specific needs of the juvenile but also protect the safety of the public as well as other detained youth; and
7. any other relevant factor.

If a seventeen-year-old is ordered detained in adult detention facility at the initial hearing, the youth is entitled to a review hearing every 30 days to determine if detention in the adult facility continues to be in the interest of justice. An order continuing in an adult facility requires an order with written findings. The review hearings are waivable. The youth's right to review hearings terminates upon the youth attaining the age of 18.

II. State and County Data in South Carolina

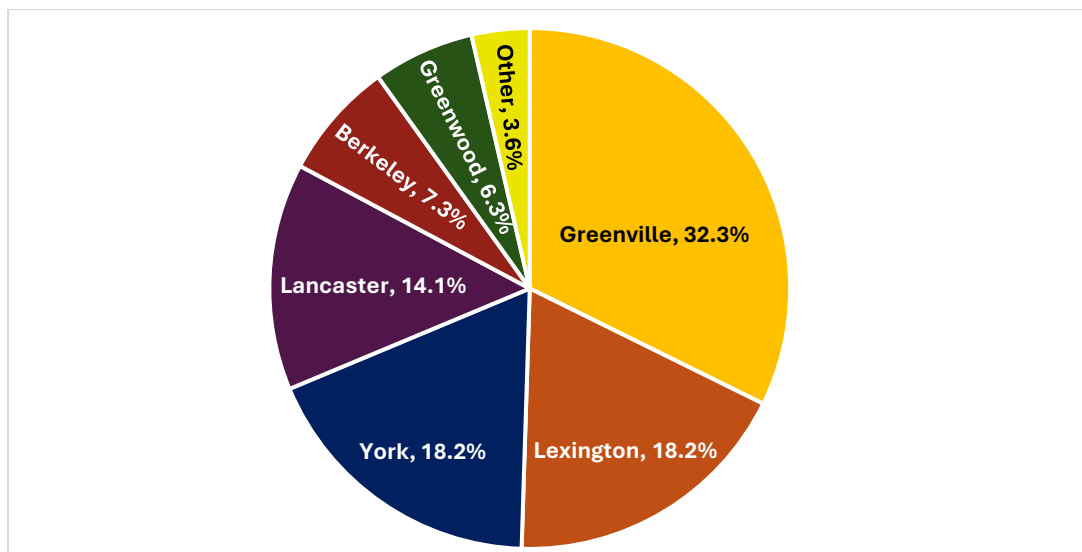
There is no indication that South Carolina courts conduct initial hearings or periodic reviews to determine whether it is in the interest of justice to detain these youth in adult facilities. Any time an interest of justice hearing does not occur for a juvenile housed in an

adult facility, the state obtains a violation against the JJDPA. According to 2024 data provided by the Office of Highway Safety and Justice Programs at the South Carolina Department of Public Safety, there have been 192 cases statewide where an interest of justice hearing was not conducted for juveniles charged as adults, based on available jail data provided by nine counties in South Carolina.

Table 1. Number of Juveniles Charged as Adults Who Have Not Had an Interest of Justice Hearing in 2024: Statewide and by County

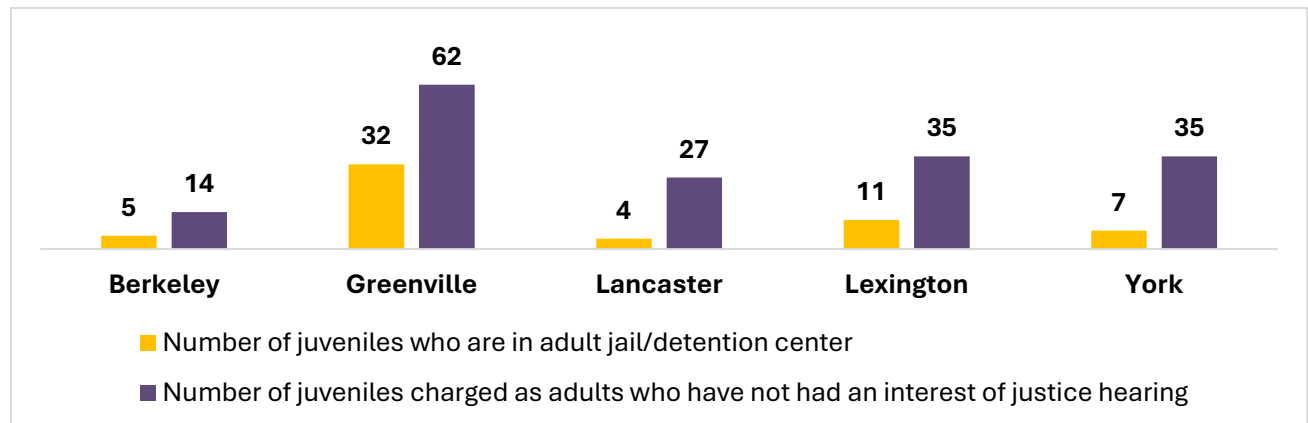
County	Number of Juveniles	Percent
South Carolina	192	100.0%
Greenville	62	32.3%
Lexington	35	18.2%
York	35	18.2%
Lancaster	27	14.1%
Berkeley	14	7.3%
Greenwood	12	6.3%
Other	7	3.6%

Figure 1. Percentages of Juveniles Charged as Adults Who Have Not Had an Interest of Justice Hearing by County in 2024



Additionally, Berkeley, Greenville, Lancaster, Lexington, and York counties account for 90% of the total number of violations (n=192). The number of violations from these counties (n=173) alone has exceeded the total number of violations allowed by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) for South Carolina (n=172) in 2024 based on the state's juvenile population.

Figure 2. Number of Juveniles Who Are In Adult Jail/Detention Center by Top Counties in 2024



III. Why Are Interest of Justice Hearings Necessary?

Interest of justice hearings are a federally mandated requirement under the JJDPa that states that hearings must be conducted for juveniles charged as adults to determine, in writing, whether their detention with adult inmates is in the best interest for the juvenile and the public while considering several statutorily prescribed criteria (e.g., the juvenile’s age, physical and mental maturity, history of delinquency, etc. See Section I for full list of criteria). These hearings help judges maintain a timely evaluation of the juvenile’s:

- mental, physical, and social adjustment to the facility,
- most urgent needs such as personal safety and medical concerns,
- progress in rehabilitative interventions, and
- the current state of safety for the juvenile and public.

Courts can play a significant role in reducing the number of violations that accumulate by implementing an initial interest of justice hearing building on existing hearing mechanism (e.g., juvenile’s bond hearings).

IV. Consequences of Noncompliance of the Section 223(a)(11)(B)

Because youth in adult facilities face unique challenges when housed with adult inmates, awareness of the potential physical and psychological impacts on these youth is crucial. Further, noncompliance with the JJDPa has system-wide consequences for South Carolina’s juvenile justice system as a whole. Some major consequences of noncompliance are listed below:

1. Housing seventeen-year-olds in adult facilities can undermine the ultimate focus on rehabilitation for youth because adult facilities often take a more punitive approach to justice than juvenile detention centers.
2. The general population in adult facilities are more developmentally mature than those in juvenile facilities. Because of this, juveniles are vulnerable to violent attacks and sexual assault by other inmates and staff.¹
3. Regardless of the length of time a youth stays in an adult facility, the experience can have profound consequences on their health, general wellbeing, and lifestyle long after their sentence has been served. This includes increased risk of physical and mental health concerns,² diminished income and employment opportunities,³ and premature death.⁴
4. Continuous noncompliance with Section 223(a)(11)(B) leads to a substantial reduction in state funding for juvenile delinquency prevention services, programs, and resources. Additionally, with the Prison Rape Elimination Act (PREA)'s sight and sound separation requirement mirroring those of the JJDP, South Carolina can also be at risk of losing additional funding due to noncompliance through PREA. Sight and sound separation requirement prohibits "agencies from placing youthful inmates in housing units where they may have sight, sound, or physical contact with adult inmates."⁵
5. Many small South Carolina adult detention centers do not have the physical capacity to abide by the JJDP's (and PREA's) sight and sound separation requirement. Some facilities end up having to displace other inmates to house even as few as two juveniles separately. For example, separate housing units meant for those with specific medical or mental health isolation needs are often used for these youth when they enter the detention center because some jails have no separate juvenile wings.⁶

¹ Levitt, L. (2010). The comparative risk of mistreatment for juveniles in detention facilities and state prisons. *International Journal of Forensic Mental Health*, 9, 44-54. doi: 10.1080/14999013.2010.483344

² Semenza, D. C., Silver, I. A., & Jackson, D. B. (2024). Youth incarceration in adult facilities and mental health in Early Adulthood. *Journal of Adolescent Health*, 7, 989-995.
<https://doi.org/10.1016/j.jadohealth.2024.01.008>

³ Silver, I. A., Semenza, D. C., & Nedelc, J. L. (2023). Incarceration of youth in an adult correctional facility and risk of premature death. *JAMA Network Open*, 6(7), doi:[10.1001/jamanetworkopen.2023.21805](https://doi.org/10.1001/jamanetworkopen.2023.21805).

⁴ Silver, I. A., Semenza, D. C., & Woolredge, J. (2024). The lasting effects of incarcerating juveniles in adult facilities: Examining the impact on employment and income from age 18-37.

⁵ National PREA Resource Center. (n.d.). *§115.14 Youthful inmates, juveniles, and youthful detainees*. [115.14 | PREA](#)

⁶ M. Mathison, Juvenile Justice Resource Attorney at the Children's Law Center, internal memorandum, June 6, 2026.

The Goal of Rehabilitation for Youth

Juvenile detention centers and adult facilities are created to house populations with different needs, and both take different approaches to justice. Juvenile detention centers are designed with the developmental, psychological, and physical needs of youth.⁷ Rehabilitation services are prioritized in juvenile justice with the assumption that intervention can be successful in curbing criminal behavior in adolescents rather than extensive contact with the criminal justice system.

On the other hand, adult sentences are handled with a more punitive approach than juvenile sentences, creating the potential for harsh and intense environments. Adult inmates often experience severe overcrowding, inconsistent protection from staff, and a lack of access to necessary medical treatment.⁸ In turn, these conditions can encourage rampant violence and retaliation, sexual assault involving both inmates and staff, and death. Youth are still vulnerable to the influence of violence even in well-resourced adult facilities. For example, in one study by Park and Sullivan (2021), researchers found that although juveniles in an adult prison rated “excellent” for programming quality had similar or sometimes greater access to rehabilitative services than those in a juvenile detention facilities, 90% of the youth in the adult facilities engaged in violent acts compared to 60% of those in juvenile detention centers.⁹ This finding highlights the significant influence of an adult detention environment that extends beyond the facility’s programming.

The Vulnerability of Youth in Adult Facilities

The general population in adult facilities are more physically and developmentally mature than those in juvenile facilities. Because of this, juveniles are more vulnerable to victimization through violence and sexual assault. Some may be threatened into silence, choose to retaliate using violence, join gangs, or pay others to protect themselves from intimidation. In a study conducted by Cavanaugh et al. (2024), letters from juvenile inmates housed in adult facilities reveal inadequate and unsanitary living conditions, brutal attacks on themselves or others, and the demoralization that occurs when trying to survive under these circumstances. From these stories, the quotes below reflect the impact of living in adult prisons and jails from the perspective of those living in it:

- “Any guidance [to juveniles] comes from career criminals with no intention of changing their ways. . .[Adult prison] was not an environment conducive to

⁷ Youth.gov. (n.d.). *Juvenile justice*. <https://youth.gov/youth-topics/juvenile-justice>

⁸ Equal Justice Initiative. *Prison conditions*. <https://eji.org/issues/prison-conditions/>

⁹ Park, I., & Sullivan, C. J. (2021). Youth in adult and juvenile correctional facilities: Comparison of services and behavioral management. *Criminal Justice Policy Review*, 32(9), 992-1017.

rehabilitation. It was a cesspool devoted to bringing out the worse in any human being infected by it.”

- “It has taken everything in my power to keep away from violence and other anti-social behavior that is rewarded and expected by both staff and population.”
- “Jail & Prison is not safe for youth. Especially if they’re small & won’t fight for themselves. [Juveniles get things stolen from them, beaten up, and more] because the youth are not hardened criminals. At least not yet. Sending 17 year olds to Jail & Prison turns them into hardened criminals.”¹⁰

The Far-Reaching Effects of Incarceration on Health and Employment

The experience of incarceration can have deep and lasting impacts on a youth’s emotional and physical health, life expectancy, and their ability to build a stable life post-incarceration. Delayed, incorrect, or withheld medical attention can lead to chronic health conditions for youth which may be exacerbated by poor living conditions and a hostile environment. Researchers have found that, on average, youth in adult facilities are significantly more depressed in their early adulthood than those who are not incarcerated in adult facilities, with their depression ratings increasing the longer they stay in these facilities.¹¹

Beyond the impact on mental health, long-term incarceration can have a profound impact on youth’s life expectancy. In fact, researchers have found that youth who were incarcerated in an adult facility had a 33% increase in the risk of death compared to other youth who were not¹². Further, previously incarcerated youth face a notable disadvantage when starting an independent life post-incarceration. Silver, Semenza, and Wooldredge (2024) found that youth incarcerated in adult facilities had a 28% reduction in average income and were also employed for shorter amounts of time compared to their non-incarcerated peers.¹³

¹⁰ Cavanaugh, C., Orr, C., Kitzmiller, M. K., Martinez, R., & Villarruel, F. (2024). Understanding the lived experiences of youth incarcerated in adult facilities through their letters: A content analysis. *Punishment & Society*, 26(5), 812-839.

¹¹ Semenza, D. C., Silver, I. A., & Jackson, D. B. (2024). Youth incarceration in adult facilities and mental health in early adulthood. *Journal of Adolescent Health*, 74, 989-995.

¹² Silver, I. A., Semenza, D. C., & Nedelc, J. L. (2023). Incarceration of youth in an adult correctional facility and risk of premature death. *JAMA Network Open*, 6(7), doi:10.1001/jamanetworkopen.2023.21805.

¹³ Silver, I. A., Semenza, D. C., & Wooldredge (2024). The lasting effects of incarcerating juveniles in adult facilities: Examining the impact on employment and income from age 18-37. *SSRN Electronic Journal*. [10.2139/ssrn.4762726](https://ssrn.com/abstract=4762726)

Strain on Local Jails

The South Carolina Association of Jail Administrators, Director James Floyd of the Marion County Detention Center described the strain that housing children and seventeen-year-olds places on smaller detention facilities in South Carolina. Sight and sound separation requires segregated housing units, which are limited or nonexistent in smaller jails, and the vast majority of which were not designed to comply with such requirements. Where these separate housing units do exist, they are usually reserved for adult inmates who require medical or mental health isolation for safety reasons. When one or more seventeen-year-olds are detained, those separate units can no longer be used to accommodate the adult inmates with special housing needs. The entry of a single seventeen-year-old may displace multiple adult inmates from an area of the facility.

JJDP and PREA Funding Losses

Title II Formula Grants are federal funding given to states to develop and evaluate policies, training programs, alternative placement options, and more to bring states into compliance with the JJDP. Core requirements of the JJDP include (1) deinstitutionalization of status offenders, (2) separation of juveniles from adult inmates (separation), (3) removal of juveniles from adult jails and lockups (jail removal), and (4) addressing racial and ethnic disparities.¹⁴ When a state is not in compliance with any of the four requirements of the JJDP, states lose 20% of funding for each core requirement with which the state is noncompliant.

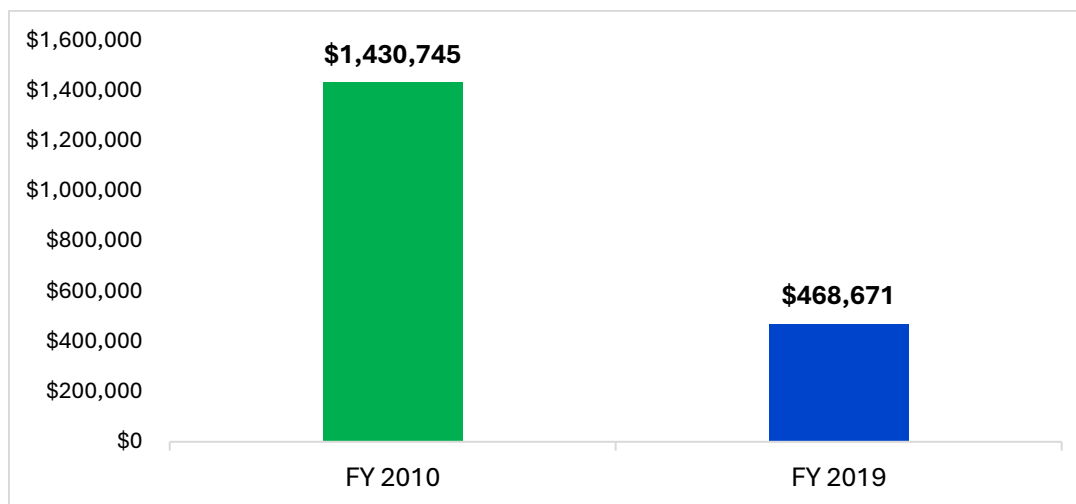
To put these losses into perspective, between 2002 and 2018, federal juvenile justice funding decreased approximately 42% nationwide. However, in a nine-year span (2010-2019), South Carolina lost approximately 67% of its block grant and formula funding alone.¹⁵ In dollar amounts, South Carolina was funded \$1,430,745 in 2010 through various formula and block grants. By 2019, the state had only \$468,671 in Title II funds to use. Title II is the last remaining formula and block grant source for JJDP purposes in South Carolina as of 2019.¹⁶

¹⁴ Office of Juvenile Justice and Delinquency Prevention. State Compliance With JJDP Act Core Requirements. <https://ojjdp.ojp.gov/states/state-compliance-jjdp-act-core-requirements>

¹⁵ Federal block grants are distributed to states to develop their own projects addressing broad policy areas rather than specific guidelines. Formula grants are noncompetitive awards where the amount of funds a state receives is determined based on a formula including factors such as population and census data.

¹⁶ Act 4 Juvenile Justice. (2020, July). *Profile of federal juvenile justice and delinquency prevention funding: South Carolina*. [https://www.act4jj.org/sites/default/files/ckfinder/files/South%20Carolina\(2\).pdf](https://www.act4jj.org/sites/default/files/ckfinder/files/South%20Carolina(2).pdf)

Figure 3. South Carolina's funds for Juvenile Justice and Delinquency Prevention Act Purposes from Fiscal Years 2010 and 2019



According to the Juvenile Justice Compliance Monitor of the Office of Highway Safety and Justice Programs at the South Carolina Department of Public Safety, the Section 223(a)(11)(B) of the JJDPA currently falls under the core requirement of deinstitutionalization of status offenders, a requirement that South Carolina is out of compliance with that has resulted in the loss of 20% of Title II funding. However, should the Office of Juvenile Justice and Delinquency Prevention decide to make Section 223(a)(11)(B) of the JJDPA its own provision, this could put South Carolina at a risk of losing 40% of Title II funding at once in the upcoming years because no interest of justice hearings are being conducted in the state, as shown in Section II of this report.¹⁷ This funding loss can make it increasingly more difficult for county facilities to get in compliance with the JJDPA, especially in counties with fewer resources for their youth and/or those that transport seventeen-year-old inmates to larger counties for housing. Further, funding would be reduced for other juvenile justice programming under Title II, such as diversion and intervention programs.

Non-compliance with JJDPA also underscores potential PREA non-compliance among local facilities, which may present increased tort liability. A recent class-action lawsuit in South Carolina attempted to hold correctional facilities liable for sexual assault in facilities where PREA non-compliance is alleged.¹⁸ Although the Supreme Court recently held in the

¹⁷Brittany Cain, the Juvenile Justice Compliance Monitor for the Office of Highway Safety and Justice Programs in South Carolina, shared this information with the Governor's Juvenile Justice Advisory Council (GGJAC) at an August 2026 meeting.

¹⁸ Henson, et al v. S.C. Department of Corrections and S.C. Department of Juvenile Justice, Op. No. 28343, (S.C. Sup. Ct. field July 22, 2026) (Howard Advance Sheet No. 27 at 12)

Henson case that a class of inmates could not bring a collective action against state agencies based on PREA non-compliance, it left open the possibility of liability in individual suits, which remain a major source of potential liability for state and local facilities.”

Additionally, non-compliance may also pose accreditation problems for local jails, as national accrediting agencies are required to adopt PREA standards in order to be eligible for federal funding.¹⁹ Thus, even without direct fiscal penalties, local facilities could be impacted by PREA non-compliance, through loss of accreditation.

These funding losses would only increase the strain on South Carolina’s juvenile justice system. In the past two years, there have been issues of underemployment and high turnover, overcrowding in facilities, and lack of medical access for youth, among other major issues in the juvenile justice system.²⁰ Therefore, Title II funding is essential to helping our state address the urgent issues needed to ensure the safety and wellbeing of the public and youth.

V. Summary and Conclusion

Section 223(a)(11)(B) of the JJDPa requires that prison and jails separate youth from adult inmates in separate housing units and ensure that sight and sound separation is maintained. Additionally, courts are required to hold interest of justice hearings for juveniles charged as adults while keeping a few statutorily prescribed criteria in mind, including the juvenile’s age, their present mental state of the juvenile, and their prior record of delinquent acts. During these hearings, courts are meant to provide justification, in writing, for the decision to maintain the youth under these circumstances.

For every youth that is in an adult facility, South Carolina receives a violation against the JJDPa every 30 days that an interest of justice hearing is not held. There is no indication that South Carolina courts conduct initial hearings or periodic reviews to determine whether it is in the interest of justice to detain these youth in adult facilities. As a result, some consequences of the noncompliance include disrupted rehabilitation efforts, an increased risk of victimization for juveniles, long-term effects on youth health and employment, and funding losses for the juvenile justice system.

Though the adult justice system operates under a different philosophy than the juvenile justice system, youth in adult prisons and jails still experience the same needs and

¹⁹ Prison Rape Elimination, 42 U.S.C. §15608. (2014).

²⁰ Clifford, T. (2024, December 19). *Audit of South Carolina Department of Juvenile Justice shows agency at ‘breaking point.’* The State. <https://www.thestate.com/news/local/crime/article297246224.html>

vulnerabilities as those in juvenile facilities. As one inmate from the Cavanaugh study states, “[c]hildren are still children, regardless of what they have done wrong and are still learning traits that will form their personalities for life and will be hard to break as they get older.”²¹ Therefore, interest of justice hearings are essential for judges to maintain a timely evaluation of the youth’s mental, physical, and social adjustment to the facility, most urgent needs such as personal safety and medical concerns, progress in rehabilitative interventions, and the current state of safety for the juvenile and public. These hearings can also help ensure that the youth in adult facilities are still receiving the care, attention, and rehabilitation resources necessary for a successful reentry into society after their sentence.

²¹ Cavanaugh, C., Orr, C., Kitzmiller, M. K., Martinez, R., & Villarruel, F. (2024). Understanding the lived experiences of youth incarcerated in adult facilities through their letters: A content analysis. *Punishment & Society*, 26(5), 812-839.