

## BENCH CARD on Requirements under Section 223(a)(11)(B) of the Juvenile Justice and Delinquency Prevention Act Concerning Juveniles Charged as Adults

Including Amendments to the Juvenile Justice and Delinquency Prevent Act (JJDPa)  
Made by the Juvenile Justice Reform Act (JJRA) of 2018 Bench Card Series

### General Rule

Section 223(a)(11)(B) of the JJDPa (34 U.S.C. § 11133(a)(11)(B)) provides that juveniles who are charged and prosecuted as adults (1) **may not be detained or confined in an adult jail or lockup** (except as provided under the jail removal requirement at section 223(a)(13) (34 U.S.C. § 11133(a)(13)), and (2) **may not have sight or sound contact with adult inmates**—unless determined by a court, after a hearing and in writing, that it is in the interest of justice to do so.

### Subsequent Hearing Requirements

**If the court determines that it is in the interest of justice to permit a juvenile to be held in a jail or lockup for adults:**

- **The court must hold a hearing no less than every 30 days or in the case of rural\* jurisdictions, no less than 45 days**, to review whether it is still in the interest of justice to permit the juvenile to continue to be detained in an adult jail or lockup or have sight or sound contact with adult inmates.
- The **juvenile shall not be held in any jail or lockup for adults**, or permitted to have sight or sound contact with adult inmates, for more than 180 days, unless
  - the court, in writing, determines there is good cause for an extension, or
  - the juvenile expressly waives this limitation.

### Factors

**In determining whether it is in the interest of justice to detain (or continue to detain) a juvenile in accordance with Section 223(a)(11)(B), the Court must take into consideration several statutorily-prescribed criteria:**

- the **age** of the juvenile;
- the **physical and mental maturity** of the juvenile;
- the **present mental state** of the juvenile including whether the juvenile represents a risk of self-harm;
- the **nature and circumstances** of the alleged offense;
- the juvenile's **history of prior delinquent acts**;
- 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
- **any other relevant factor.**

### Definition of Adult Inmate

**The term “adult inmate” means an individual who:**

- **has reached the age** of full criminal responsibility under applicable State law; and
- **has been arrested and is in custody** for or awaiting trial on a criminal charge, or is convicted of a criminal offense; and
- **does not include** an individual who—
  - at the time of the offense, **was younger than the maximum age** at which a youth can be held in a juvenile facility under applicable state law; and
  - **was committed to the care and custody or supervision**, including post-placement or parole supervision, of a juvenile correctional agency by a court of competent jurisdiction or by operation of applicable state law (34 U.S.C. § 11103(26)).

\* As defined by the Office of Management and Budget, the term “rural” means an area that is not located in a metropolitan statistical area.