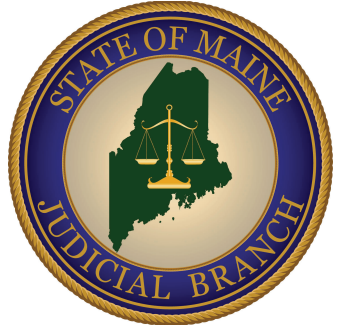




A GUIDE FOR

Families in Juvenile Cases

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The Maine Juvenile Code, 15 M.R.S. § §3001-3701, referenced in this guide, can be found at: legislature.maine.gov/legis/statutes/.

Important Disclaimer

The specific requirements concerning your case are contained in the statutes, rules, and administrative orders. This is only a guide.

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INTRODUCTION

Maine Juvenile Court is the system that handles most cases involving youth. A youth is an individual under 18 years of age at the time the alleged offense was committed. A youth is brought into Juvenile Court when the State alleges that an offense has been committed that would be considered a crime if an adult had done the same thing.

This guide will give readers an overview of how youth may come to be involved in a juvenile case. It will provide information on the case process, the role of law enforcement, Juvenile Community Corrections Officers from the Department of Corrections, staff of the Department of Health and Human Services, and others who typically participate in a case.

The guide is written both for youth who may be involved in a case and also, just as importantly, for parents, guardians, family members, legal custodians, and community members who want to better understand Maine's juvenile justice system.

A simple glossary of key terms is included at the end of this guide. Words in **bold** are defined in the glossary.

I. IMPORTANT INFORMATION FOR PARENTS, GUARDIANS, & LEGAL CUSTODIANS

Parents, guardians, and legal custodians:

- Must be notified that the youth has been arrested without undue delay;
- Have a right to know where the youth is being held;
- May be present during any questioning; and
- Are required to attend court hearings.

It is very important for parents to help youth:

- Follow any requirements of an **informal adjustment** process;
- Follow any *Juvenile Conditions of Release (JV-006)* that the court may set; and
- Fulfill all the terms of a **disposition** ordered by the court after **adjudication**.

A **Juvenile Community Corrections Officer (JCCO)** may be involved in a juvenile case from the investigative stage through the disposition. In some cases, the JCCO may arrange an informal adjustment of the case instead of having the case proceed in Juvenile Court.

II. FAQs FOR PARENTS, GUARDIANS, & LEGAL CUSTODIANS

1. If my youth is arrested, when will I be notified?

Law enforcement must notify a parent, guardian, or legal custodian of the **arrest** “without unnecessary delay.” Law enforcement must also tell a parent, guardian, or legal custodian where the youth is and the name and telephone number of the JCCO who has been contacted. If the youth has been **detained**, the parent, guardian, or legal custodian must be told that a **detention** hearing will be held within 48 hours, not including Saturday, Sunday, and legal holidays, and the time and place of the hearing. See Part IV. What Happens in a Juvenile Case for more information.

2. If my youth is arrested, can I see or be with my youth during questioning?

Yes. See “Notice of arrest to parent, guardian, or legal custodian” in Part IV. What Happens in a Juvenile Case.

3. Am I financially responsible if my youth injures someone or causes property damage?

A parent, legal guardian, or legal custodian of a youth between the ages of 7 and 17 who lives at home is responsible for up to \$800 in damages when the youth “willfully or maliciously” causes damage to property or injures a person. See 14 M.R.S. § 304.

4. Am I financially responsible for my youth's actions if my youth is driving my car?

State law provides that any vehicle owner who allows a juvenile to drive a vehicle on a public street is responsible for damages if the juvenile is negligent in operating the vehicle. See 29-A M.R.S. § 1651.

5. Am I required to attend my youth's court hearings?

Yes, unless you are unable to attend for a good reason and have gotten permission from the court before the court date to not attend. See Copy of **summons** to parent, guardian, or legal custodian in Part IV. What Happens in a Juvenile Case.

6. Who is permitted to attend my youth's court proceedings?

A youth's hearing may be closed or open to the public depending upon what offense the youth is charged with and the age of the youth. See Part V. Confidentiality & Court Records.

7. What are the consequences if my youth is adjudicated of a juvenile crime?

This is an important question, but the answer depends on many factors. Ask the youth's lawyer. The youth's lawyer can explain what the “collateral consequences” might or will be if the youth is adjudicated of having committed a juvenile crime, including the following:

- Getting into college;
- College or post-secondary scholarships, grants, or federally-subsidized loan programs;
- Joining the U.S. military;
- Receiving different forms of federal assistance;
- Getting a driver's license;
- Having firearms;
- Applying for a job with certain employers;
- Renting an apartment; and
- The youth's immigration status, if the youth is not a U.S. citizen.

8. Can I participate in or be present at meetings between the youth and the defense lawyer?

The “client” of any attorney representing a youth is that youth, not the youth's parents or guardians. The youth decides whether a parent is allowed to be in the room with the youth and the lawyer when there is a meeting. If a parent is in the room, the conversations between the youth and the lawyer may no longer be considered confidential.

III. CASES INVOLVING JUVENILES NOT HEARD IN JUVENILE COURT

Certain motor vehicle and hunting and fishing offenses

Some cases charging youth with committing illegal acts are not processed in the Juvenile Court. Instead, they are handled in the Unified Criminal Docket. These crimes include operating a motor vehicle without a license, fishing without a license, speeding, texting while driving, and many crimes involving motor vehicles, snowmobiles, ATVs, and watercraft. See 15 M.R.S. § 3103(1)(E-F).

Being tried as an adult

If a youth is charged with a serious crime — murder, or a Class A, B, or C crime if committed by an adult, the **prosecuting attorney** may file a motion to have the youth tried as an adult.

After the motion is filed, the **judge** will hold a **bind-over hearing** to determine if the youth should be tried as an adult. At the bind over hearing, the court considers testimony about the seriousness of the crime charged, evaluations, and whether the current juvenile system can provide any necessary services to the youth. If a youth is bound over, all remaining court matters are held in adult criminal court and the youth is subject to adult penalties. See 15 M.R.S. § 3101(4).

Right to appeal a bind over decision

If the youth or the youth's parent, guardian, or legal custodian disagrees with the court's bind over decision, the youth or the youth's parent, guardian, or legal custodian (if the youth is not **emancipated**) may file an appeal. See Appeals in Part IV. What Happens in a Juvenile Case for more information.

IV. WHAT HAPPENS IN A JUVENILE COURT CASE?

Contact with law enforcement

A law enforcement officer investigating possible criminal activity by a youth may:

- Speak with the youth and decide not to take any action;

- Give the youth a *Juvenile Summons (JV-002)* if the officer thinks the youth has committed a juvenile offense; or
- Arrest and summons the youth.

If a youth gets a summons or is arrested and given a summons, law enforcement notifies the Juvenile Community Corrections Officer (JCCO) at the Department of Corrections. The JCCO decides if the youth will be detained until the first court appearance or will be allowed to stay with the youth's parent, guardian, or legal custodian. See Role of the Juvenile Community Corrections Officer.

Summons

A summons has information about the charges against the youth. The summons includes a notice of when the youth must go to court. The summons also has the address of the courthouse. Charges listed in the summons are only accusations — a judge will later decide if they can be proven.

Copy of summons to parent, guardian, or legal custodian

The youth's parent, guardian, or legal custodian also gets a copy of the summons. The youth's parent, guardian, or legal custodian must go to court with the youth unless excused for a good reason. If the youth's parent, guardian, or legal custodian are unable to attend court, they must notify the court ahead of time and get permission to not attend.

Notice of informal adjustment

The summons may contain a notice that the youth may not need to go to court if the youth and a representative from the Department of Corrections, like the JCCO, are able to meet before court and agree to what is called an informal adjustment.

Constitutional rights

The summons lists the youth's rights, including:

- The right to remain silent; however, if the youth says anything after being told of this right, what the youth says may be used against the youth in court.
- The right to a hearing (trial) before a judge, where the prosecuting attorney is required to prove the charge(s) beyond a reasonable doubt.

- The right to be represented by a lawyer. A lawyer will be appointed for the youth.
- The right to confront and cross-examine witnesses at the hearing.
- The right to testify, or to choose not to testify. The youth's silence may not be used against the youth at the hearing.

See 15 M.R.S. § 3304.

Arrest

If police believe that a youth is not safe to be in the community, the officer may arrest the youth. In many cases, the youth is held in police custody for a short period of time and then released to the custody of a parent, guardian, or legal custodian.

Notice of arrest to parent, guardian, or legal custodian

The youth's parent, guardian, or legal custodian must be notified that the youth has been arrested without unnecessary delay. In addition, the youth's parent, guardian, or legal custodian must:

- Be told where the youth is;
- Be allowed to see the youth; and
- Be present during all questioning unless law enforcement officers have made a reasonable effort to contact the youth's parent, guardian, or legal custodian, cannot make such contact, and seek to question the youth about ongoing or about-to-happen criminal activity.

See 15 M.R.S. § 3203-A (Arrested juveniles; release; detention; notification).

In addition, police may ask the youth questions after the youth's parent, guardian, or legal custodian has been notified of the arrest and right to be present for the questions and has given the police permission to ask the youth questions without being present.

See 15 M.R.S. § 3203-A(2-A).

School safety concern

If police have believable information that there is immediate danger to the safety of students or school employees on school grounds, or at a school function, police may notify the school principal or superintendent of the school.

See 15 M.R.S. § 3301-A(1) and 20-A M.R.S. § 1055 (11) (School Safety).

Role of the Juvenile Community Corrections Officer (JCCO)

Preliminary investigation

A JCCO is assigned to a youth charged with a juvenile crime. Once a youth's case is given to a JCCO, the JCCO investigates the facts and may:

- Decide that no further action is needed;
- Offer to enter into an informal adjustment with the youth to end the case; or
- Recommend to the prosecuting attorney that a juvenile petition be filed with the court to open a court case.

A JCCO may also be involved in a youth's case in other ways, including:

- Working out *Juvenile Conditions of Release (JV-006)* or recommending detention if the youth is arrested; and
- Acting as the youth's probation officer.

See 15 M.R.S. § 3301 (Preliminary investigation, informal adjustment and petition initiation).

Informal adjustment

An informal adjustment is a voluntary agreement between a youth and a Juvenile Community Corrections Officer (JCCO). The youth agrees to certain terms and, if the juvenile successfully completes those requirements, the JCCO recommends to the prosecuting attorney that no petition charging the youth with a juvenile crime be filed with the court. The prosecuting attorney then makes the decision as to whether the petition will be filed.

If a youth agrees to enter into an informal adjustment, the youth must admit to having committed the juvenile crime and agree to do certain things. These may include:

- Doing community service;
- Paying money to the victim (also called "restitution");
- Going to school or work;
- Obeying a curfew or an order not to be around certain people;
- Writing a letter of apology;

- Participating in a restorative justice process; and/or
- Getting counseling or other therapeutic services.

The specific things the youth agrees to do in the informal adjustment are worked out among the youth, the youth's parent, guardian, or legal custodian, and the JCCO. If the youth has a privately-hired lawyer, the lawyer may also be involved. The prosecuting attorney must agree to have the case settled through an informal adjustment.

An informal adjustment is voluntary. A youth does not have to agree to an informal adjustment.

Informal adjustments can last up to six months.

If a youth enters into an informal adjustment and successfully completes the terms, the youth will not have to go to court and will not have a juvenile case record. See "Juvenile court records" in Part V. Confidentiality & Court Records for more information.

See 15 M.R.S. § 3301 (Preliminary investigation, informal adjustment, and petition initiation).

Detention

If a youth is arrested and police believe the youth should not be released before going to court, the police will request that the youth be moved to a Department of Corrections juvenile correctional facility. In this case, a JCCO must be contacted immediately. The JCCO may order the youth detained only if certain conditions are met. The JCCO may release the youth with or without conditions while waiting for the first court appearance.

See 15 M.R.S. § 3203-A (Arrested juveniles; release; detention; notification).

Detention hearing

A youth who is detained after an arrest must have a hearing before a judge within 24 or 48 hours, depending where the youth is being held.

To determine if a youth should be detained or released, the court considers many things, including:

- The seriousness of the charge and whether there is probable cause to believe that the youth committed the offense;

- Whether the youth will have appropriate supervision, care, and be safe if released to the custody of the youth's parent, guardian, or legal custodian;
- The safety of the community; and
- Whether the youth refused to participate voluntarily in a conditional release placement or has a prior record of not appearing at court.

See 15 M.R.S. § 3203-A(5) (Detention hearings).

Right to a lawyer

If a youth is detained before going to court, a lawyer will be appointed before the detention hearing. If a youth is not detained, a lawyer will be appointed for the youth at the time the juvenile petition is filed with the court. All youth are presumed indigent and therefore are automatically assigned a lawyer to represent them at court proceedings.

If, after adjudication, the youth is committed to a Department of Corrections juvenile correctional facility or to the custody of the Department of Health and Human Services, a post-adjudication lawyer will be appointed to the youth until the youth is discharged from the disposition.

See 15 M.R.S. § 3306 (Right to a Lawyer)

Right of appeal

If the youth or the youth's parent, guardian, or legal custodian disagrees with the court's decision about detention, the youth, the youth's parent, guardian, or legal custodian may file an appeal. The youth will be represented by a lawyer at State expense for the appeal.

First court appearance

Unless the youth has already had a detention hearing, the first time the youth will come to court will be to answer the charges. This hearing is often called a "first appearance" or "initial appearance."

Answer

The judge will read the charges and explain the youth's constitutional rights. The youth will "answer," that is, tell the court if the youth:

- Denies the charges (Denial);
- Admits to the charges (Admit);
- Is "not contesting" the charges (admitting that the prosecuting attorney can prove the charges but not admitting guilt); or
- Asserts that the youth is not responsible because of insanity or lack of competency; or
- Asserts that the youth is not responsible due to lack of criminal responsibility. See, "Competency hearing in a juvenile case."

If the youth does not answer, the court will enter a denial. See 15 M.R.S. § 3305 (Answer).

Competency hearing in a juvenile case

A youth is considered competent or able to participate in the case if the youth can:

- Understand the charges;
- Understand the different ways a case can be resolved; and
- Help the **defense lawyer** prepare and present the case.

See 15 M.R.S. § 3318-A(2) (Competency to proceed in a juvenile proceeding).

How the court decides

If there is a question about whether the youth is competent, the court may order a competency evaluation by the State Forensic Service. The evaluation must take place no later than 21 days after the court orders it.

See 15 M.R.S. § 3318-A(3) (Determination of competency).

The issue of competency can be raised by the youth, the defense lawyer, the prosecuting attorney, or the judge hearing the case.

What happens after the evaluation?

When all the parties have a copy of the evaluation, the court holds a hearing to determine if the youth is competent. The evaluation and other evidence can be considered by the court when deciding if the youth is competent.

- If the court decides that the youth is competent, the case goes forward as any other case would.
- If the court decides that the youth is not competent, the court then needs to determine if the youth may be competent in the near future. The court may delay proceedings and reevaluate the youth in the next couple of months to see if the youth is competent.
- If the court decides that the youth is not competent and will not be competent in the near future, then the court considers whether the youth needs services from or needs to be placed in the custody of the Department of Health and Human Services. The court *may* order the youth to receive services or treatment. If the court chooses this action, it must dismiss the petition that was filed.
- If an adjudication was already made, the court may "vacate" (undo) the order.

See 15 M.R.S. § 3318-A (Determination of competency of a juvenile to proceed in a juvenile proceeding).

See 15 M.R.S. § 3318-B (Disposition of a juvenile found incompetent to proceed).

Options for Resolving a Juvenile Case

Deferred disposition

If the youth and the youth's lawyer can reach an agreement with the prosecuting attorney, the youth may be able to get a **deferred disposition** for the case.

A deferred disposition is a written agreement between the youth and the State. It lists the things the youth must do or must not do including, but not limited to:

- Going to court when notified to appear;
- Committing no new juvenile crime or civil offense;
- Agreeing to the conditions of the deferred disposition agreement; and
- Following all of the items listed in the conditions of release order.

See *Agreement of Juvenile and Order Deferring Disposition* (JV-021).

A deferred disposition agreement can last for whatever length of time the court decides is reasonable and appropriate. The length of a deferred disposition is

written in the deferred disposition agreement. The youth must sign the deferred disposition agreement.

When the time period in the deferred disposition is over, the court will send the youth a notification of a date and time the youth must return to court. The youth must return to court with proof of having done everything the youth agreed to do.

If the court agrees that the youth has successfully completed the agreement, the judge dismisses the case or adjudicates the youth of the lesser charge as agreed to in the deferred disposition.

If the youth violates the agreement or does not do everything, the State may ask the court to:

- Change or make the agreement last longer;
- Order rehabilitative services; or
- End the agreement.

If the court ends the agreement, it will schedule a **dispositional hearing** to decide what the consequences should be for the offense the youth admitted to in the deferred disposition.

See 15 M.R.S. § 3311-B (Deferred disposition).

Adjudicatory hearing

The youth has the right to an **adjudicatory hearing**. An adjudicatory hearing is when a judge hears evidence from the prosecuting attorney and the youth, and decides if the youth has committed the juvenile crime charged. It is similar to a trial.

Youth have the same trial rights as adults, except youth do not have a right to a jury trial. At the hearing, the prosecuting attorney has the responsibility to prove the elements of the alleged crime beyond a reasonable doubt. The hearing is held before a judge and decided by the judge. At the hearing, the youth (through the defense lawyer) has the right to:

- See and ask questions of witnesses for the State;
- Give the court evidence and call witnesses; and
- Choose to testify or decide not to testify.

If the court finds that the prosecuting attorney has not proven the case beyond a reasonable doubt, it will find the youth has not committed the offense. The youth will be released from any detention, and any previously ordered restriction will be removed.

If the court finds that the prosecuting attorney has proven the case against the youth, the youth is adjudicated of having committed a juvenile crime.

If the youth is adjudicated, the next step in the youth's case is a dispositional hearing.

See 15 M.R.S. § 3310 (Adjudicatory hearing, findings, adjudication).

Disposition

Instead of being "sentenced," an adjudicated youth receives a disposition. Often the court will ask for written reports to help decide what should be the appropriate disposition, including a **social study** prepared by the JCCO. The prosecuting attorney will make a recommendation as well. See 15 M.R.S. § 3311 (Social study).

The youth and the youth's lawyer will also have an opportunity to give information and recommend a disposition. The youth may present any relevant information about the youth's background, personal history, physical or mental health issues, or substance use disorders, to the court.

After reviewing all the information, the court may order one or more of the following as the disposition:

- Probation. During this time the youth must do and not do certain things in order to successfully complete the period of probation. If the youth violates the probation, the youth may be committed to a Department of Corrections juvenile correctional facility. Probation may include:
- A **suspended disposition**.
- Participation in treatment or case management services by the youth and/or the youth's family.
- A supervised work or service program where the youth can earn money to pay for damage the youth caused.
- Payment of money (restitution) to the victim for harm or damage the youth caused.

- Commitment to the custody of the Department of Health and Human Services or custody to a third party (foster care, group home, extended family, or similar living arrangement).
- Confinement up to 30 days.
- Commitment to a Department of Corrections juvenile correctional facility. A commitment to a juvenile correctional facility is always for an indeterminate period. The commitment may not extend beyond a youth's 21st birthday. If a youth is committed to a juvenile correctional facility, a post-adjudication lawyer will be appointed to the youth until the youth is discharged from the disposition.

The youth may also have a driver's license suspended for up to six months for drug offenses, and up to twelve months for drug trafficking. Suspension of a youth's right to operate a motor vehicle, or to apply for a driver's license or permit in certain motor vehicle offenses, may also be imposed. See *Notice of Suspension (CR-JV-126)*.

The youth may be required to give up any firearms.

See 15 M.R.S. § 3312 (Dispositional Hearing); 15 M.R.S. § 3314 (Disposition).

Right to appeal

If the youth or the youth's parent, guardian, or legal custodian disagrees with the court's disposition, the youth or the youth's parent, guardian, or legal custodian (if the youth is not emancipated) may file an appeal. The youth will be represented by a lawyer at State expense for the appeal.

Appeals

If the youth or the youth's parent, guardian, or legal custodian (if the youth is not emancipated), does not agree with the court's decision at the adjudicatory hearing, the youth (usually through the youth's defense attorney) may be able to file an appeal. The youth or the youth's parent, guardian, or legal custodian (if the youth is not emancipated) may appeal:

- An adjudication, as long as the appeal is made after the court's order of disposition.
- An order of disposition (if the youth does not agree with the specific things the court ordered).

- A detention order.
- A bind-over order.
- A judicial review order pursuant to §3317.

The youth or the youth's parent, guardian, or legal custodian (if the youth is not emancipated) has 21 days from the entry of the court's order to file a notice of appeal. If a youth or the parent, guardian, or legal custodian want to pursue an appeal, they should talk with the youth's lawyer about the process.

All appeals are heard by the Maine Supreme Judicial Court. The Maine Supreme Judicial Court does not hear the case again. Instead, the Court reviews the case that happened in the Juvenile Court and decides if an error was made.

See *Notice to Juvenile of Right to Appeal to the Law Court (JV-010)*; *Notice to Parent, Guardian, or Legal Custodian of Right to Appeal to Law Court (JV-011)*; and *Notice to Appeal to the Law Court (JV-012)*.

See 15 M.R.S. § 3401 and 15 M.R.S. § 3402 (Appeals).

V. CONFIDENTIALITY & COURT RECORDS

Court hearings and records

Juvenile court hearings are closed to the public unless the petition (the document filed to start a juvenile case) is open to public inspection.

See 15 M.R.S. § 3308-D (Confidentiality of Juvenile Court Proceedings).

Juvenile case records

There are many factors that determine if **juvenile case records** are open to public inspection. Ask your attorney if you have questions about accessibility of records. Generally, whether a youth's records are open to public inspection depends upon several factors, including:

- The level of the charge;
- The age of the youth at the time of the offense;
- Whether the Juvenile Court has determined whether there is probable cause to believe that the youth committed the alleged juvenile crime; and
- Whether there is a competency hearing pending between the Juvenile Court.

Juvenile petitions open to public inspection

The following petitions are usually open to public inspection after the court determines that there is probable cause to believe the youth committed the alleged juvenile crime:

- A juvenile petition for murder, felony murder, or manslaughter when the youth is 13 years or older at the time of the alleged crime; and
- A juvenile petition for a Class A juvenile crime when the youth is 13 years or older at the time of the alleged crime (but please note, this type of case can be made confidential by court order).

Juvenile petitions closed to public inspection

The following petitions are usually confidential and closed to public inspection:

- A juvenile petition for murder, felony murder, or manslaughter when the youth is under the age of 13 at the time of the alleged crime (but please note that this type of case can be made open to public inspection by court order);
- A juvenile petition for a Class A juvenile crime when the youth is under the age of 13 at the time of the alleged crime (but please note that this type of case can be made open to public inspection by court order);
- A juvenile petition for Class B and C juvenile crimes for a youth of any age (but please note that this type of case can be made open to public inspection by court order);
- A juvenile petition for Class D and E juvenile crimes for a youth of any age; and
- Any civil violation.

Orders of adjudication

Orders of adjudication for any juvenile crime that is murder, or a Class A, B, or C crime are open for public inspection.

Access to all juvenile case records

The following people or agencies may inspect, and after asking the court, can get copies of a youth's court file:

- The youth;
- The youth's parent, guardian, or legal custodian;
- The youth's attorney;
- The prosecuting attorney;
- Any agency that has custody of the youth as a result of the youth being adjudicated of a juvenile crime; and
- The Department of Health and Human Services (DHHS) if custody to DHHS is being considered.

Victim's access to case records

The juvenile petition and order of adjudication may be inspected by the victim.

Victim means:

- The victim;
- If the victim is a minor, the victim's parent or parents, guardian, or legal custodian; or
- If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder, intellectual disability, autism, or other reason, an immediate family member, guardian, or legal custodian of the victim.

Access to juvenile case records by others

There are times when the court may allow other individuals to inspect juvenile case records as long as the youth's name is removed from the file. This can happen only after the person wanting access makes a written request to the court and the court approves the request.

See 15 M.R.S. § 3308 (Juvenile case records; inspection and sealing).

Sealing a Juvenile Case Record

Some juvenile case records are automatically sealed when the juvenile court is notified that a youth has completed all requirements of the case's disposition. Other juvenile records can be sealed only if the youth files a request (also known as a "petition") with the Juvenile Court to seal the records.

Automatic sealing

If a youth has completed all court obligations that were imposed after being adjudicated of a Class D or Class E juvenile crime or a juvenile crime that would be considered a civil offense if committed by an adult, the court will automatically seal the juvenile court record within five business days after a *Notice of Discharge (JV-040)* is filed with the juvenile court. The *Notice of Discharge* must be filed by:

- The Department of Corrections if the youth's disposition involved commitment to a Department of Corrections juvenile correctional facility, a period of confinement at a Department of Corrections juvenile correctional facility that was not longer than 30 days, or a suspended disposition; or
- The office of the prosecuting attorney if the disposition included restitution, community service, or a restorative justice process and the court ordered that proof of completion be provided to the office of the prosecuting attorney; or
- The youth or the youth's attorney.

Petition to seal a juvenile case record

If a youth was adjudicated of murder or a Class A, B, or C crime or operating under the influence, the youth may petition the court to seal the juvenile records if the youth meets certain conditions:

- Three years have passed since the youth completed all juvenile court obligations;
- The youth has not been adjudicated of another juvenile crime or convicted of committing a crime as an adult since the disposition of the juvenile crime; and
- There are no current proceedings or charges pending against the youth for a juvenile or adult crime.

See 15 M.R.S. §3308-C(10)(A)(Juvenile case records sealed).

How does the court decide?

If the everything listed above is met, the court may seal a juvenile case record unless it finds the public's right to information substantially outweighs the youth's interest in privacy. The court's decision cannot be appealed.

What does "sealing" mean?

When a youth's case records are sealed, it means that the public will not be able to see the youth's court file and the youth may respond to most questions about the case as if it never happened. However, the youth must always report the juvenile crime when answering questions from the court or a criminal justice agency.

Sealing a juvenile case record does not erase the record of the case. Maine does not have "expungement."

If the juvenile case record is sealed, it means that members of the public, such as employers or landlords, who search the State Bureau of Identification database will not see the record.

However, Maine courts, criminal justice agencies, the youth, and anyone the youth designates, will be able to see the juvenile record.

Who can help file a petition to seal a juvenile case record?

The youth or the youth's parent, guardian, or legal custodian can make a request to seal a record. The person asking for the record sealing may contact the defense lawyer who originally represented the youth in the case or another lawyer. Court-appointed lawyers paid for by the State not available for this process. The *Petition to Seal Juvenile Case Records (JV-043)* court form is available on the Judicial Branch website Forms page.

VI. YOUTH IN THE CUSTODY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES OR IN INTERIM CARE

DHHS custody

If a youth is adjudicated as having committed a juvenile crime, the court can order the youth to be placed in the custody of the Department of Health and Human Services (DHHS). The court may order this as part of the disposition of the case if the youth's safety will be at risk where the youth is currently living.

If the court places a youth in the custody of DHHS, DHHS is considered to be the youth's guardian with both physical and legal custody. DHHS will decide:

- Where the youth will live;
- Who the youth will live with;
- What school the youth will attend;
- What general rules will be in place for the youth; and
- What contact the youth will have with the youth's parent, guardian, or legal custodian.

Rights of parents, guardians, and legal custodians

Parents, guardians, and legal custodians have the following rights when the court is considering placing a youth in the custody of DHHS:

- Notice to the youth's parent, guardian, or legal custodian at least 10 days before the court date to determine if the youth will be placed in DHHS custody;
- The opportunity to be heard at the hearing; and
- Help from a court-appointed lawyer at no cost if the parent, guardian, or legal custodian cannot afford a lawyer.

See 15 M.R.S. § 3314(1)(C-1) (Disposition). See *Hearing Notice to Parents/Legal Custodian for Consideration of DHHS Custody (JV-016)*.

Appointment of a Guardian ad litem

If the court is considering placing a youth in the custody of DHHS, the court may appoint a **Guardian ad litem** (GAL) to help make that decision.

The GAL will talk to all the individuals involved in the case, including the youth. The GAL may also talk to others such as staff at the youth's school, doctors, or other relatives. After speaking with the youth and others, the GAL writes a report for the court recommending what next steps are in the best interest of the youth.

Reunification services

DHHS must provide reunification services to the youth's parents, guardians, or legal custodians. These services are designed to help the parents, guardians, or legal custodians do the work needed to get custody back of the youth. Sometimes the judge will require as part of a youth's disposition that the youth take part in the reunification services. Other times, the youth's participation will be optional. Services may include counseling.

The judge will review the case at least every six months. This review is called a "judicial review." There are certain things that need to be reviewed at each of these court dates, including where the youth is living and how the parents or guardians are doing with reunification services. Any youth who is 20 years of age or younger will be appointed a lawyer to be represented at the judicial reviews.

See 22 M.R.S. § 4041 (Departmental responsibilities).

See 22 M.R.S. § 4038 (Mandated review; review on motion).

Interim Care

A police officer may take a youth into **interim care** for a short period of time. This may happen if the police officer believes that a youth:

- Is lost or has been abandoned;
- Could be in a dangerous situation; and/or
- Has left the youth's parents, guardians, or legal custodian's care without permission.

Interim care is not an arrest

- Interim care is not an arrest.
- The interim care will not be in police records.
- The police will not take the youth's fingerprints or send the youth's name, address, photograph, or other information to any agency except to help return the youth home.
- The police will not hold the youth involuntarily for more than six hours.

When an officer takes a youth into interim care, the officer will contact DHHS as soon as possible. DHHS will choose a place where the youth will stay, which is not a jail or a secure detention facility.

The officer or DHHS will notify the youth's parent, guardian, or legal custodian of the youth's whereabouts as soon as possible. DHHS will offer voluntary social services to the youth and their family and encourage the youth and family members to voluntarily accept services.

See 15 M.R.S. §3501 (Interim care).

DEFINITION OF KEY TERMS

Definitions of some of the terms used in juvenile cases are below. See also 15 M.R.S. § 3003.

Adjudicated: A youth is considered to have been “adjudicated” when the court decides that the State has proven beyond a reasonable doubt that the youth has committed a juvenile offense. A youth may also be “adjudicated” when the youth enters a plea of guilty to the juvenile offense that was charged.

Adjudicatory hearing: When a judge hears evidence from the State and the youth, and decides if the youth has committed the juvenile offense charged. It is similar to a trial.

Arrest: When a law enforcement officer detains a youth based on probable cause that a youth has committed a juvenile offense.

Bind-over hearing: A court hearing to determine if the State can go forward with the case against the youth as if the youth were an adult. The prosecuting attorney decides if this is an issue that the court should hear.

Defense lawyer: Lawyer who represents a youth accused of a juvenile offense.

Deferred disposition: A possible resolution to a case where the parties agree to the youth temporarily admitting to a juvenile offense. Once the youth admits to the juvenile offense, the court date is set for a later time to give the youth time to complete the services and activities that the youth and the prosecuting agree to. The court needs to approve this agreement. The services and activities may include:

- Counseling;
- Attending school or a job;
- Living with a specific person; and
- Community service.

If the youth does everything that is required, with the approval of the prosecuting attorney, the court may dismiss the charges or allow the youth to enter an admission of guilt to a lesser charge.

Detention/Detained: When a youth is placed in a facility and not able to leave.

Disposition: Consequences ordered by the court for a youth who has been adjudicated.

Dispositional Hearing: A hearing after a youth has been adjudicated where evidence is given to the court to help the court decide what the consequences for the adjudicated youth will be.

Emancipated: When a youth is no longer under the legal control of the youth's parents, guardians, or legal custodians.

Guardian ad Litem: A person appointed by the court to inform the court about, and to represent, the needs and best interests of a youth.

Informal adjustment: A voluntary agreement between a youth and a Juvenile Community Corrections Officer (JCCO). The youth agrees to certain items and, if done, the JCCO recommends to the prosecuting attorney that a petition charging the youth with a juvenile offense not be filed with the court. The prosecuting attorney then makes the decision as to whether the petition will be filed.

Interim care: Temporary physical control of a youth by a police officer or other person authorized by 15 M.R.S. § 3501.

Judge: Judicial officer who oversees cases and proceedings in the Maine juvenile court and other courts.

Juvenile case records: All records that make up a juvenile court file. Access to these records depends on the type of crime as well as who is trying to see the court records. A juvenile case record does not include administrative or operational records of the Judicial Branch.

Juvenile Community Corrections Officer or JCCO: Staff of the Maine Department of Corrections who, among other things, conduct investigations and serve as juvenile probation officers in juvenile cases. JCCOs are involved in many parts of a juvenile case, including contact before the juvenile's first court appearance and the dispositional phase of the case. See 34-A M.R.S. § 5602 and 15 M.R.S. § 3203-A.

Juvenile Court: Judges of the Maine District Court when presiding over juvenile proceedings.

Prosecuting attorney: A licensed Maine lawyer who represents the State of Maine in a juvenile case. The prosecuting attorney may be either an Assistant District Attorney (ADA) or an Assistant Attorney General (AAG).

Social study: A study, required by the court, that looks at a youth's social situation including housing, family, school, and/or employment. The court may consider recommendations in the social study in its disposition.

Summons: A document given to the youth by a law enforcement officer stating the alleged crime that the youth is accused of committing as well as the date and location of the initial court appearance.

Suspended disposition: After a youth has been adjudicated of a juvenile offense, the court may delay the disposition/consequences while the youth participates in services determined by the court. For example, if a youth is ordered to pay money as a result of being adjudicated, the court may allow the youth to not pay the money right away as long as they do a certain number of community service hours. Unlike a deferred disposition, with a suspended disposition, what the youth has been adjudicated of doing will not change after the activities are completed.

SELECTED RESOURCES

Getting legal help

Youth Justice Clinic at the Cumberland Legal Aid Clinic, University of Maine School of Law

www.mainelaw.maine.edu/academics/clinics-and-centers/clac/juvenile-justice
(207) 780-4370

Maine State Bar Association Lawyer Referral Service

<https://mainebar.community.lawyer> | (800) 860-1460

\$25 administrative fee to help individuals find a private attorney; includes a 30-minute consultation

Pine Tree Legal Assistance

ptla.org

Online legal guides on many topics; contact information for local offices can be found on website.

Kids Legal

kidslegal.org

Project within Pine Tree Legal providing free legal aid to Maine's children and their caregivers.

Immigrant Legal Advocacy Project

www.ilapmaine.org | (800) 497-8505

Volunteer Lawyers Project Walk-In Family Law Clinics

www.vlp.org/about/#family

Courthouse Assistance Project (CHAP) schedule of walk-in clinics

Domestic violence/sexual assault prevention organizations

Maine Coalition to End Domestic Violence

www.mcedv.org | (866) 83-4HELP

Maine Coalition Against Sexual Assault (MECASA)

www.mecasa.org | Help line: (800) 871-7741

Additional Resources

Division of Juvenile Services — Maine Department of Corrections

www.maine.gov/corrections/juvenileservices

Juvenile Justice Advisory Group (JJAG) — Division of Juvenile Services, Maine Department of Corrections

www.maine.gov/corrections/juvenileservices/jjag

DISABILITY ACCOMMODATION



The Maine Judicial Branch makes every reasonable effort to provide accommodations and auxiliary aids and services to people with disabilities at no cost to them so that they may access the court and its services. You may talk to your lawyer about arranging for accommodations, or contact the Court Access Coordinator at (207) 822-0718, TTY: Maine Relay 711, or accessibility@courts.maine.gov with requests. You may also contact the clerk's office in the court where your case is being heard. A link to the Disability Accommodation Request Form is available on the Judicial Branch website.

LANGUAGE ACCESS



The Maine Judicial Branch provides interpreters to people who have Limited English Proficiency (LEP) or who are deaf or hard of hearing at no cost to them so that they may access the court and its services. The Judicial Branch must also provide an ASL interpreter to court observers who are deaf or hard of hearing upon request. Please talk to your lawyer about arranging for an interpreter, or contact the Communications Access Specialist directly at (207) 822-0703, TTY: Maine Relay 711, or interpreters@courts.maine.gov with requests. You may also contact the clerk's office where your case is being heard. More information on interpreter assistance can be found on the Judicial Branch website.

MORE FAMILY MATTERS PUBLICATIONS FROM THE MAINE JUDICIAL BRANCH

The Maine Judicial Branch provides many publications that contain helpful information about the court process and available resources.

A Guide for Families in Child Protection Cases

This guide explains the court process and what to expect when you go to court for a child protection case.

Scheduling Planner for Families in Child Protection Cases

This resource includes a calendar to help keep track of dates and important information in a child protection case. The scheduling planner also includes information about the court process for a child protection case.

A Guide to Family Separation in Maine: Divorce & Parental Rights & Responsibilities Cases

This guide explains how to start a divorce and parental rights & responsibilities case and what to expect in court. The guide also includes information about how to change or enforce an existing court order.

A Guide to Protection from Abuse & Harassment Cases

This guide explains how to ask the court for a protection order. The guide also explains the court process for a protection from abuse and protection from harassment case.

Copies of these guides can be found on the Maine Judicial Branch website at www.courts.maine.gov/help/guides

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