



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/.

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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 juveniles. A juvenile is an individual under 18 years of age. A juvenile is brought into juvenile court when the State alleges that the juvenile has done something that would be considered a crime if an adult had done the same thing.

This guide will give readers an overview of how juveniles may come to be involved in a juvenile case. It will provide information on the process of a case, the roles 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 young people who may be involved in a case and also, just as importantly, for parents, guardians, family members, 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 this section.

I. IMPORTANT INFORMATION FOR PARENTS & GUARDIANS

Parents and guardians:

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

It is very important for parents to help their child:

- Follow any *Juvenile Conditions of Release (JV-006)* that the court may set with all the requirements of an **informal adjustment**; and/or
- 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

1. If my child 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 juvenile is and the name and telephone number of the JCCO who has been contacted. If the juvenile 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 that the parent, guardian, or legal custodian must be notified of the time and place of the hearing. See Part IV. What Happens in a Juvenile Case for more information.

2. If my child is arrested, can I see or be with my child 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 child injures someone or causes property damage?

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

4. Am I financially responsible for my child's actions if my child 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 child'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. When can I request a court-appointed lawyer if our family cannot afford one?

If you cannot afford a lawyer, you will have a chance to fill out paperwork asking the court to appoint a lawyer at the juvenile's first court date. However, if a juvenile is detained before going to court, a lawyer will be appointed before the detention hearing. Even if the juvenile is not detained, you can ask that the court appoint a lawyer before the first court date. See "Detention Hearing" and "First Court Appearance" in Part IV. What Happens in a Juvenile Case.

7. Who is permitted to attend my child's court proceedings?

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

8. What are the consequences if my child is adjudicated of a juvenile crime?

This is an important question, but the answer depends on many factors. Ask the juvenile's lawyer. The juvenile's lawyer can explain what the "collateral consequences" might or will be if the juvenile 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 juvenile's immigration status, if the juvenile is not a U.S. citizen.

9. Can I participate in or be present at meetings between my child and the defense lawyer?

The "client" of any attorney-representing a juvenile is that juvenile, not the juvenile's parents or guardians. The juvenile decides whether a parent is allowed to be

in the room with the juvenile and the lawyer when there is a meeting. If a parent is in the room, the conversations between the juvenile 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 juveniles 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 juvenile 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 juvenile tried as an adult.

After the motion is filed, the **judge** will hold a **bind-over hearing** to determine if the juvenile 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 juvenile. If a juvenile is bound over, all remaining court matters are held in adult criminal court and the juvenile is subject to adult penalties. 15 M.R.S. § 3101(4).

Right to appeal a bind-over decision

If the juvenile disagrees with the court's bind-over decision, the juvenile 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 juvenile may:

- Speak with the juvenile and decide not to take any action;
- Give the juvenile a *Juvenile Summons (JV-002)* if the officer thinks the juvenile has committed a juvenile crime; or
- Arrest and summons the juvenile.

If a juvenile 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 juvenile will be detained until the first court appearance or will be allowed to stay with the juvenile's parent, guardian, or legal custodian. See Role of the Juvenile Community Corrections Officer.

Summons

A summons has information about the charges against the juvenile. The summons includes a notice of when the juvenile must go to court. The summons also has the address of the courthouse. Offenses 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 juvenile's parent, guardian, or legal custodian also gets a copy of the summons. The juvenile's parent, guardian, or legal custodian must go to court with the juvenile unless excused for a good reason. If the juvenile's parent, guardian, or legal custodian is unable to attend court, the parent, guardian, or legal custodian must notify the court ahead of time and get permission not to attend.

Notice of informal adjustment

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

Constitutional rights

The summons lists the juvenile's rights, including:

- The right to remain silent; however, if the juvenile says anything after being told of this right, what the juvenile says may be used against the juvenile in court.

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- 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 juvenile if the juvenile or the parent, guardian, or legal custodian cannot afford to hire one.
- The right to confront and cross-examine witnesses at the hearing.
- The right to testify, or to choose not to testify. The juvenile's silence may not be used against the juvenile at the hearing.

15 M.R.S. § 3304.

Arrest

If police believe that a juvenile is not safe to be in the community, the officer may arrest the juvenile. In many cases, the juvenile 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 juvenile's parent, guardian, or legal custodian must be notified without unnecessary delay that the juvenile has been arrested. In addition, the juvenile's parent, guardian, or legal custodian must:

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

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

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

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.

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 each juvenile charged with a juvenile crime. Once a juvenile'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 juvenile 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 juvenile's case in other ways, including:

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

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

Informal adjustment

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

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

- Doing community service;

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- 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 juvenile agrees to do in the informal adjustment are worked out between the juvenile, the juvenile’s parent, guardian, or legal custodian, and the JCCO. If the juvenile 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 juvenile does not have to agree to an informal adjustment.

Informal adjustments can last up to six months.

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

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

Detention

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

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

Detention Hearing

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

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

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

Right to a lawyer

If a juvenile is detained before going to court, a lawyer will be appointed before the detention hearing. Even if a juvenile is not detained, the juvenile or the prosecuting attorney may ask that the court appoint a lawyer for the juvenile before the juvenile's first court appearance. Otherwise, the court will let the juvenile know of the right to talk to a lawyer at the juvenile's first court appearance and every stage of the case. If the juvenile's parent, guardian, or legal custodian cannot afford a lawyer, the juvenile will have a lawyer appointed and the State will pay for the lawyer. See *Motion and Affidavit for Assignment of Counsel (CR-JV-032)*.

If the juvenile was not detained before the first court appearance and does not have a lawyer, the juvenile is encouraged to speak with the **lawyer of the day** at the first court appearance. If, after adjudication, the juvenile is committed to a juvenile detention facility or the custody of the Department of Health and Human Services, a post-adjudication lawyer will be appointed to the juvenile until the juvenile is discharged from the disposition.

15 M.R.S. § 3306 (Right to a Lawyer).

Right of appeal

If the juvenile disagrees with the court's decision about detention, the juvenile, or the juvenile's parent, guardian, or legal custodian may file an appeal. The juvenile can be represented by a lawyer at State expense for the appeal if the juvenile's parent, guardian, or legal custodian cannot afford one.

First Court Appearance

Unless the juvenile has already had a detention hearing, the first time the juvenile 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 juvenile's constitutional rights. The juvenile will "answer," that is, tell the court if the juvenile:

- 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);
- Asserts that the juvenile is not responsible because of insanity or lack of competency; or
- Asserts that the juvenile is not responsible due to lack of criminal responsibility.

See "Competency hearing in a juvenile case."

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

Competency Hearing in a Juvenile Case

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

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

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 juvenile is competent, the court may order a competency evaluation by the State Forensic Service. The evaluation must take place within 21 days from when the court orders it.

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

The issue of competency can be raised by the juvenile, 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 juvenile is competent. The evaluation and other evidence can be considered by the court when deciding if the juvenile is competent.

- If the court decides that the juvenile is competent, the case goes forward as any other case would.
- If the court decides that the juvenile is not competent, the court then needs to determine if the juvenile may be competent in the near future. The court may delay proceedings and reevaluate the juvenile in the next couple of months to see if the juvenile is competent.
- If the court decides that the juvenile will not be competent in the near future, then the court considers whether the juvenile needs services from or needs to be placed in the custody of the Department of Health and Human Services. The court may order the juvenile 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.

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

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

Options for Resolving a Juvenile Case

Deferred disposition

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

A deferred disposition is a written agreement between the juvenile and the State. It lists the things the juvenile 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.

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 juvenile must sign the deferred disposition agreement.

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

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

If the juvenile violates the agreement or does not do everything, the prosecuting attorney 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 juvenile admitted to in the deferred disposition.

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

Adjudicatory hearing

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

Juveniles have the same trial rights as adults, except juveniles 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 juvenile (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 juvenile has not committed the crime. The juvenile 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 juvenile, the juvenile is adjudicated of having committed a juvenile crime.

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

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

Disposition

Instead of being “sentenced,” an adjudicated juvenile 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 prosecutor will make a recommendation as well. 15 M.R.S. § 3311 (Social study).

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

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

- Probation. During this time the juvenile must do and not do certain things in order to successfully complete the period of probation. If the juvenile violates the probation, the juvenile may be committed to a detention facility. Probation can include a **suspended disposition**.
- Participation in treatment or case management services by the juvenile and/or the juvenile's family.
- A supervised work or service program where the juvenile can earn money to pay for damage the juvenile caused.
- Payment of money (restitution) to the victim for harm or damage the juvenile caused.
- Commitment to the custody of the Department of Health and Human Services or custody to a third party (foster care, group home, or similar living arrangement).
- Confinement up to 30 days.
- Commitment to a juvenile detention facility. A commitment to a juvenile detention facility is always for an indeterminate period. The commitment may not go longer than a juvenile's 21st birthday. If a juvenile is committed to a juvenile detention facility, a post-adjudication lawyer will be appointed to the juvenile until the juvenile is discharged from the disposition.
- Payment of a fine.

The juvenile 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 juvenile'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. *Notice of Suspension (CR-JV-126)*.

The juvenile may be required to give up any firearms.

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

Right to appeal

If the juvenile disagrees with the court's disposition, the juvenile may file an appeal.

Appeals

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

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

The juvenile has 21 days from the entry of the court's order to file a notice of appeal. If a juvenile or the parent, guardian, or legal custodian want to pursue an appeal, they should talk with the juvenile's lawyer about the process. If the juvenile is not able to afford a lawyer, the court will appoint one for the juvenile in order to file the appeal. See *Motion and Affidavit for Assignment of Counsel (CR-JV-032)*; *Motion for Transcript at State Expense (CV-CR-JV-166)*; *Transcript and Audio Order Form (CV-CR-JV-165)*.

All appeals are heard by the Maine Supreme Judicial Court. The Maine Supreme Judicial Court does not decide the case again. Instead, the Court reviews the case that happened in the Juvenile Court to determine 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)*.

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

V. CONFIDENTIALITY & CASE 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.

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 juvenile's records are open to public inspection depends upon several factors, including:

- The level of the charge;
- The age of the juvenile;
- Whether the Juvenile Court has determined that there is probable cause to believe that the juvenile committed the alleged juvenile crime; and
- Whether there is a competency proceeding pending before 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 juvenile committed the alleged juvenile crime:

- A juvenile petition for murder, felony murder, or manslaughter when the juvenile is 13 years or older at the time of the alleged offense; and
- A juvenile petition for a Class A juvenile crime when the juvenile is 13 years or older at the time of the alleged offense (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:

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- A juvenile petition for murder, felony murder, or manslaughter when the juvenile is under the age of 13 at the time of the alleged offense (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 juvenile is under the age of 13 at the time of the alleged offense (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 juvenile 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 juvenile 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 to 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 juvenile's court file:

- The juvenile;
- The juvenile's parent, guardian, or legal custodian;
- The juvenile's attorney;
- The prosecuting attorney;
- Any agency that has custody of the juvenile as a result of the juvenile 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 the 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 the juvenile's case records as long as the juvenile'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.

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 juvenile has completed all requirements of the case's disposition. Other juvenile records can be sealed only if the juvenile files a request (also known as a "petition") with the Juvenile Court to seal the records.

Automatic sealing

If a juvenile has completed all of the 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 juvenile's disposition involved commitment to a juvenile correctional facility, a period of confinement at a 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 juvenile or the juvenile's attorney.

Petition to seal a juvenile case record

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

- Three years have passed since the juvenile completed all juvenile court obligations;
- The juvenile 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 juvenile for a juvenile or adult crime.

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

How does the court decide?

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

What does "sealing" mean?

When a juvenile's case records are sealed, it means that the public will not be able to see the juvenile's court file and the juvenile may respond to most questions about the case as if it never happened. However, the juvenile 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 juvenile, and anyone the juvenile designates, will be able to see the juvenile record.

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

The juvenile or the juvenile’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 juvenile in the case or another lawyer. Court-appointed lawyers paid for by the State are 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. JUVENILES IN THE CUSTODY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES OR IN INTERIM CARE

DHHS Custody

If a juvenile is adjudicated as having committed a juvenile crime, the court can order the juvenile 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 juvenile’s safety will be at risk where the juvenile is currently living.

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

- Where the juvenile will live;
- With whom the juvenile will live;
- What school the juvenile will attend;
- What general rules will be in place for the juvenile; and
- What contact the juvenile will have with the juvenile’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 juvenile in the custody of DHHS:

- Notice to the juvenile’s parent, guardian, or legal custodian at least ten days before the court date to determine if the juvenile 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.

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 child 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 juvenile. The GAL may also talk to others such as staff at the juvenile’s school, doctors, or relatives. After speaking with the juvenile and others, the GAL then writes a report for the court recommending what next steps are in the best interest of the juvenile.

Reunification services

DHHS must provide reunification services to the juvenile’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 juvenile. Sometimes the judge will require as part of a juvenile’s disposition that the juvenile take part in the reunification services. Other times, the juvenile’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 juvenile is living and how the parents or guardians are doing with reunification services. A juvenile who is 20 years of age or younger will be appointed a lawyer to be represented at the judicial reviews.

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

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

Interim Care

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

- Is lost or has been abandoned;
- Could be in a dangerous situation; and/or
- Has left the juvenile'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 juvenile's fingerprints or send the juvenile's name, address, photograph, or other information to any agency except to help return the juvenile home.
- The police will not hold the juvenile involuntarily for more than six hours.

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

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

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

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

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

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

Defense lawyer: Lawyer who represents a juvenile accused of a juvenile crime.

Deferred disposition: A possible resolution to a case where the parties agree to the juvenile temporarily admitting to a juvenile crime. Once the juvenile admits to the juvenile crime, the court date is set for a later time to give the juvenile time to complete the services and activities that the juvenile and the prosecuting attorney 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 juvenile does everything that is required, with the approval of the prosecuting attorney, the court may dismiss the charges or allow the juvenile to enter an admission of guilt to a lesser charge.

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

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

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

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

Informal adjustment: A voluntary agreement between a juvenile and a Juvenile Community Corrections Officer (JCCO). The juvenile agrees to certain items and, if done, the JCCO recommends to the prosecuting attorney that a petition charging the juvenile with a juvenile crime 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 juvenile 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 case file. Access to these records depends on the type of crime as well as who is trying to see the records. A juvenile case record does not include administrative or operational records of the Judicial Branch.

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

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.

Lawyer of the day: A licensed Maine lawyer, appointed by the court, who is present in court and available to provide free legal advice to all juveniles at the first court appearance.

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

Social study: A study, required by the court, that looks at a juvenile'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 juvenile by a law enforcement officer stating the alleged crime that the juvenile is accused of committing as well as the date and location of the initial court appearance.

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

SELECTED RESOURCES

Getting Legal Help

Juvenile 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 | (800) 860-1460 \$25 administrative fee to help individuals find a private attorney; includes a 30-minute consultation.

Pine Tree Legal Assistance | ptla.org

Kids Legal | kidslegal.org

Additional legal aid resources are listed on the Judicial Branch website

www.courts.maine.gov/help/legal/

Domestic Violence Help

Maine Coalition to End Domestic Violence | www.mcedv.org | (866) 83-4HELP

Sexual Assault Prevention Help

Maine Coalition Against Sexual Assault | www.mecasa.org | 1-800-871-7741

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.

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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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