

Maine Juvenile Justice Legislative Update (2020)

The following is a summary of juvenile justice legislation that was pending when the second session of the 129th Legislature adjourned due to the Covid-19 pandemic. These bills have been carried over to a possible emergency session before the November election, but it remains unclear whether this will happen.

Pending Legislation

LD 1684: An Act to Clarify the Right to Counsel for Juveniles and Improve Due Process for Juveniles. Sponsored by Representative Victoria Morales

The Committee on Judiciary had a work session and issued a divided report on March 2, 2020. On March 17, 2020, it was approved to be carried over due to Covid-19.

- Effective October 1, 2021, sets the minimum age of juvenile court jurisdiction at age 12. Children aged 11 and under would be ineligible for prosecution and prohibited from Department of Corrections custody.
- Adds factors for children who have not yet attained the age of 14 for the court to consider when deciding on sentencing a secure confinement, like if the charge was Class D or Class E.
- Eliminates the mandatory one-year minimum sentence for committed youth. Sentences of a year or more remain permissible based on individual circumstances.
- Automatically provides counsel for detained and incarcerated youth.
- Provides an option for youth-initiated, annual judicial review of treatment and alternative placement for youth in Long Creek Youth Development Center.
- Extends judicial power to reduce juvenile sentences since law currently provides the authority to extend sentences beyond the sentence in the original adjudication.

LD 1964: An Act to Limit Access to Juvenile Case Records and Protect the Confidentiality of Juvenile History Record Information. Sponsored by Representative Rachel Talbot Ross

The Committee on Judiciary had a work session and issued a divided report on March 3, 2020. On March 17, 2020, it was approved to be carried over due to Covid-19.

- Establishes a presumption of confidentiality of juvenile court records, generally, and provides for certain exceptions when juvenile court records are automatically open to the public or dissemination by a court or criminal justice agency as follows:
 - Establishes exception to juvenile court record confidentiality when the juvenile has attained 13 years of age at the time of offense and if the juvenile petition alleges

crimes that constitute murder or Class A, B or C after the juvenile's first appearance and if probable cause is found, unless the petition is made confidential by court order. In addition, any person may request that such a petition be made confidential.

- Any person may request access to inspect a juvenile petition that alleges murder or a Class A crime committed by a juvenile under age 13, or a Class B or C crime committed by a juvenile of any age. If a request to allow such inspection is filed, a hearing on the request must be held, and notice of the hearing must be given to the juvenile, the juvenile's parents or guardians, the attorney representing the juvenile, the office of the prosecuting attorney, and the person requesting access to the petition.
- Clarifies that juvenile case records that are maintained by the court and open to public inspection must be inspected at a courthouse and may not be disseminated by the court in any manner, including by paper or by any electronic means
- Provides that when a juvenile is adjudicated of a Class D or E crime, except OUI, sealing of all court records and its disposition would occur automatically when a juvenile completes the disposition ordered by the court.
- For those records not automatically sealed, current law applies and the youth may petition the court to seal their record three years after their discharge from the disposition for that juvenile crime assuming they have committed no other offense during that period.

Parts of LD 1670: An Act to Limit Dissemination of Certain Juvenile Records, which was carried over from the first session of the 129th Legislature were incorporated into LD 1964.

LD 2151: An Act to Implement the Recommendations of the Juvenile Justice System

Advisory Assessment and Reinvestment Task Force. *Sponsored by Representative Michael Brennan This was an emergency bill originally introduced as L.R. 3255 and referred to the Committee on Criminal Justice and Public Safety. It had a [public hearing on March 4, 2020](#), before it was carried over on March 17, 2020 due to Covid-19.*

- Repeals § 3203-A (4)(C)(2) of the Maine Juvenile Code that allows for pre-adjudication detention to provide physical care for a child who cannot return home because there is no parent or other suitable person willing and able to care for the child.
- Establishes benchmarks to reduce use of incarceration over time and annual reporting from the Department Corrections to measure progress and inform on-going efforts and investments.
- Requires the Departments of Corrections and Health and Human Services to develop a strategic plan to reduce incarceration, including identifying options for providing secure care for no more than 30 youth statewide that is small, therapeutic and evidence-informed.
- Maintains the advisory role of the Maine Juvenile Justice System Assessment & Reinvestment Task Force and establishes an advisory council of system-impacted youth.

- Appropriates \$2,500,000 to the Department of Corrections and \$1,000,000 to the Department of Health and Human Services to provide ongoing funding for community-based, therapeutic services or programs for that either support youth in the community or divert youth from involvement in the justice system.

Maine Juvenile Justice Task Force

- In May, 2019, the Maine Juvenile Justice System Assessment & Reinvestment Task Force was formed to guide an evaluation of Maine’s juvenile justice system and services, and that more reduces reliance on incarceration and invests in a continuum of community-based alternatives that improves youth outcomes and strengthens families. The Task Force is chaired by Rep. Michael Brennan (D-Portland), Department of Corrections Commissioner Randall Liberty, and Jill Ward of the Maine Center for Juvenile Policy and Law.
- The Center for Children’s Law and Policy’s *Maine Juvenile Justice System Assessment Final Report* was released on February 25, 2020. The Task Force will work with other stakeholders to implement report recommendations to improve the juvenile justice system and to invest in a continuum of community-based alternatives to incarceration for Maine youth.