

## **Maine Juvenile Justice Legislative Update 2021**

The following is a summary of legislation on youth justice and related reforms enacted or vetoed during the first regular session of the 130th Legislature, which adjourned on July 19, 2021. Unless otherwise provided for in the legislation, regular session bills and resolves are effective on October 18, 2021. Emergency measures are effective when signed by the Governor. The second regular session of the 130th Legislature will convene in January 2022.

### **Enacted Legislation**

#### **LD 2, An Act To Require the Inclusion of Racial Impact Statements in the Legislative Process.**

*Sponsored by Representative Rachel Talbot Ross*

- Establishes a process to pilot and study the use of Racial Impact Statements as a tool to address racial disparities through law-making. This will give policymakers information and data they need to consider the impacts of future laws on racial, indigenous, and tribal populations.

***Signed into law by Governor Mills on March 17, 2021.***

#### **LD 27, An Act to Provide an Immediate Opportunity to Appeal for a Juvenile Bound Over into Criminal Court.** *Sponsored by Senator Donna Bailey*

- Provides a juvenile who is being prosecuted as an adult the opportunity to appeal a bind-over decision immediately following the decision, or following conviction in adult court, but not both.

***Signed into law by Governor Mills on March 17, 2021.***

#### **LD 81, An Act To Ensure the Safety of Children Experiencing Homelessness by Extending Shelter Placement Periods and Amending Licensing Requirements for Emergency Shelters.**

*Sponsored by Representative Michele Meyer*

- Increases the duration of placement in an emergency children's shelter and shelter for homeless children under 21 years old from 30 to 90 consecutive overnights.
- Requires the Maine Department of Health and Human Services (DHHS) to amend its rules to allow a child to be admitted into care at a shelter for homeless children up to 3 hours without first notifying their parent/guardian and at an emergency shelter for up to 48 hours without the permission of their parent/guardian.

***Signed into law by Governor Mills on June 8, 2021.***

**LD 118. An Act To Address Maine's Shortage of Behavioral Health Services for Minors.**

*Sponsored by Representative Joyce "Jay" McCreight*

- Requires the DHHS to work with hospitals to develop a data collection and reporting system to document the number of children with behavioral needs who remain in hospital emergency rooms after they no longer need a medical hospital level of care.
- Requires the DHHS to report on the number of children served by crisis providers and the number of children who waited for the appropriate level of behavioral health treatment in a hospital emergency room for the preceding year and removes the requirement for the department to provide monthly reports on the status of children's crisis services.

***Signed into law by Governor Mills on June 18, 2021.***

**LD 320. An Act To Provide the Right to Counsel for Juveniles and Improve Due Process for Juveniles.** *Sponsored by Representative Victoria Morales*

- Prohibits detaining a child under the age of 12 in a secure detention facility for more than seven days, except by agreement of the parties.
- Establishes age 12 as the minimum age a child may be committed to a juvenile correctional facility.
- Repeals the requirement that an indeterminate commitment to a juvenile correctional facility be for at least one year.
- Improves due process and strengthens the right to counsel for juveniles, including allowing the juvenile to petition for review of their disposition every 180 days. Requires that legal counsel be provided throughout the process, including when a petition for review of detention is filed; when the juvenile is committed to the DOC or DHHS; or when a juvenile petitions for a judicial review of their disposition. Any party may request an attorney be appointed for a juvenile prior to the petition being filed with the court.
- Includes additional criteria for the court to consider when deciding whether to commit a youth, including whether the youth was under the age of 14 at the time of the alleged conduct or that the conduct of the youth, if committed by an adult, would be considered a class D or E crime.

***Signed into law by Governor Mills on June 22, 2021.***

**LD 474. An Act Regarding School Discipline for Maine's Youngest Children.** *Sponsored by Representative Victoria Morales*

- Prohibits the expulsion of a child in grade 5 or below.
- Prohibits the out-of-school suspension of a child in grade 5 or below unless there is imminent danger of serious injury to the student or others and a less restrictive intervention would be ineffective. Under such exceptions, the student may not be suspended out of school for more than 3 days.
- Requires that a student subject to a school expulsion proceeding be provided with a list of free and low-cost legal services available to the student.
- Prohibits withholding of recess for students in grade 5 or below. But if no alternative time is available, recess may be used for a restorative intervention.

***Signed into law by Governor Mills on June 21, 2021.***

**LD 546. An Act To Implement the Recommendations of the Maine Juvenile Justice System Assessment and Reinvestment Task Force.** *Sponsored by Representative Michael Brennan*

This bill was incorporated into [LD 221: An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2021, June 30, 2022 and June 30, 2023.](#) **Relevant sections can be found on p. 37 and pp. 249-252 (Section KKKK).**

- Removes as a purpose for pre-adjudication detention by a juvenile community corrections officer the provision of 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.
- Requires the Maine Department of Corrections (DOC) to report annually on benchmarks for diversion, detention and commitment; on plans to implement recommendations of the [2020 Maine Juvenile Justice System Assessment](#); on the use of DOC funds diverted from Long Creek Youth Development Center; on staffing levels at Long Creek and related challenges; and on efforts to improve housing options and stability for youth transitioning out of the system.
- Requires that by February 1, 2022, the DOC identify options for 2-4 small, secure, therapeutic residences for detained or committed youth, not to exceed a total occupancy of 20 youth statewide. Calls for the state [Juvenile Justice Advisory Group \(JJAG\)](#) to oversee and maintain the collaborative work of the [2019 Maine Juvenile Justice System Assessment & Reinvestment Task Force](#) to study and implement recommendations of the System Assessment.
- Eliminates approximately 20 staff positions at Long Creek Youth Development Center, transferring those funds to support new community-based housing and programming in the Juvenile Community Corrections program.

***Signed into law by Governor Mills on July 1, 2021. Emergency measure became effective upon signing.***

**LD 963. An Act To Ensure Culturally Informed Programs and Services for Adjudicated Juveniles in the Custody of the Department of Corrections.** *Sponsored by Representative Heidi Brooks*

*Brooks*

- Requires that the DOC Commissioner ensure that treatment, recovery, prevention, diversion and restorative justice programs for youth under the jurisdiction of the juvenile justice system are culturally informed and provide language services for that youth and their family.

***Signed into law by Governor Mills on June 23, 2021.***

**LD 1040. An Act To Require Diversity, Equity and Inclusion Training or Implicit Bias Training for School Resource Officers.** *Sponsored by Senator Mattie Daughtry*

- Requires that school resource officers complete diversity, equity and inclusion training or implicit bias training at least once during that officer's first year of employment as a school resource officer.

***Signed into law by Governor Mills on June 10, 2021.***

**LD 1373. An Act To Keep All Maine Students Safe by Restricting the Use of Seclusion and Restraint in Schools.** *Sponsored by Senator Rebecca Millett*

- Provides definitions for seclusion, restraint and covered entities.
  - Limits the use of physical restraints and seclusion to instances where there student's behavior poses imminent danger to themselves or others and there is no less restrictive, effective intervention available. Physical restraint is limited to the least amount of force necessary to protect the student or other person and must end immediately on cessation of the dangerous behavior.
  - Prohibits use of restraints that restrict breathing or blood flow to the brain, including prone restraint; and also prohibits the use of seclusion or restraint that is contraindicated based on a student's disability or medical condition.
  - Requires the Maine Department of Education to provide technical assistance to schools to support efforts to reduce the use of restraint and seclusion.
  - Requires schools and other covered entities report data on use of seclusion and restraint.
- Became law without Governor Mill's signature on July 13, 2021.***

**LD 1451. An Act To Align the Expulsion Process with School Disciplinary Policies.** *Sponsored by Representative Scott Cuddy*

- Provides due process standards for expulsion proceedings in accordance with districtwide disciplinary policies adopted by school boards pursuant to state law.
  - Provides school boards with increased flexibility to allow superintendents and principals to consider alternatives to expulsion of a student and provides that these alternatives must be in writing.
  - Adds restorative interventions as an option to the requirement to develop an individualized response plan to address dangerous student behavior.
- Became law without Governor Mill's signature on June 22, 2021.***

**LD 1617. An Act To Amend the Victim Services Laws To Define "Restorative Justice".**

*Sponsored by Representative Rachel Talbot Ross*

- Defines "Restorative justice" as a practice in which offenders take responsibility for causing harm and engage in a facilitated process with victims, family members, community members, advocates and others impacted by the harm that focuses on repairing the harm, addressing needs and preventing future harm.
- Signed into law by Governor Mills on June 23, 2021.***

**LD 1676. An Act To Limit Access to Juvenile Case Records and Protect the Confidentiality of Juvenile History Record Information.** *Sponsored by Representative Rachel Talbot Ross*

- Establishes a clear presumption of confidentiality with respect to juvenile case records and prohibits the on-line dissemination of all juvenile case records including those that are open to public inspection. Juvenile case records that are open to public inspection may be inspected only at the courthouse.
- Defines "juvenile history record information" and provides statutory authority governing the dissemination of this information by a Maine criminal justice agency to create

consistency between which juvenile case records may be open to public inspection at the courts and information that may be shared publicly by a criminal justice agency.

- Establishes a protocol for the handling of juvenile case records in court proceedings that generally allows for public access in cases involving serious violent offenses and presumes confidentiality in cases involving lower level offenses, but includes a mechanism to allow the court to determine exceptions to either confidentiality or public access.
- Makes juvenile case records and Juvenile Court proceedings confidential when competency of the young person is in question. Ensures that highly sensitive juvenile and family information is protected from dissemination while also permitting public access the court's final decision in open cases. The victim may inspect the order even if the public may not.
- Allows for the automatic post-adjudication sealing of a juvenile record for low-level offenses (Class D, E and civil adjudications) after the juvenile has completed the court ordered disposition.
- Establishes a civil penalty for improperly sharing juvenile records.
- The Act is effective January 1, 2022.

***Signed into law by Governor Mills on June 24, 2021.***

## Vetoed Legislation

**[LD 847. An Act To Divert Young Adults from the Adult Criminal Justice System.](#)** *Sponsored by Representative Victoria Morales*

- Require diversion for young adults ages 18-25 for a first-time Class E crime.
- Require law enforcement, prosecutors, and the court consider diversion to programs and services for young adults ages 18-25 for Class C, Class D, or Class E crimes.

***Vetoed by Governor Mills on June 23, 2021.*** Read the Governor's veto letter [here](#).  
***Legislature sustained the veto on June 30, 2021.***

**[LD 1668. Resolve. To Develop a Plan To Close the Long Creek Youth Development Center and Redirect Funding to Community Integration Services for Adjudicated Youth.](#)** *Sponsored by Representative Grayson Lookner*

- Directs the Department of Corrections to create a plan to close the Long Creek Youth Development Center by June 30, 2023 and redirect funds for community-based integration services for youth that are not administered by the department. The plan must include individual transition plans for remaining committed youth committed; a workforce development plan for Long Creek Youth Development Center staff; a process for establishing a community reinvestment fund; and options for moving juvenile services out of the DOC and to another agency serving youth.

***Vetoed by Governor Mills on June 21, 2021.*** Read the Governor's veto letter [here](#).  
***Legislature sustained the veto on June 30, 2021.***