

# YOUTH JUSTICE INFORMATION BRIEF

## *Roles & Practice Standards of Youth-Serving Systems in Maine*

### OVERVIEW

All children and youth deserve community support and guidance to reach their full potential. Maine’s child and youth-serving systems share the common goal of improving outcomes for young people and their families. The purpose of the Youth Justice system and Maine’s Juvenile Code is to support youth who come in contact with the law by providing the **“necessary treatment, care, guidance and discipline to assist that juvenile in becoming a responsible and productive member of society.”**<sup>i</sup>

Most youth who become involved with the legal system have had prior contact with other public systems, including child protection or children’s behavioral health, and the needs identified by those systems remain. State data has shown that more than 80% of incarcerated youth have multiple mental health diagnoses, which is consistent with national research.<sup>2</sup> A 2020 statewide system assessment found that more than two-thirds of incarcerated youth had received behavioral health services through MaineCare in the year prior to being committed, and 65% had a history of child protection involvement.<sup>3</sup>

This brief looks at three of Maine’s youth-serving systems that can, and often do, serve the same children, youth, and families. Each system has a unique role and mandate while working toward the **shared goal of realizing the best possible outcomes for all Maine children and youth**. The brief outlines each system’s role and responsibility in responding to children, youth, and families in a continuum of care, and compares the shared [best] practice standards across systems.

- The **Juvenile or Youth Justice system** responds to children and youth who engage in behavior that brings them into contact with the law.
- The **Children’s Behavioral Health system** is responsible for diagnosing, treating, and preventing conditions and disorders that impair the mental and behavioral health of children and youth.
- The **Child Protection system** is responsible for protecting and supporting children and youth who experience abuse or neglect.

### DEFINITIONS<sup>i</sup>

**Public Safety** is present when individuals and communities have their essential needs met and are free from harm to person or property.<sup>ii</sup>

**Youth Safety** is present when youth have their essential needs met, and are free from physical, mental, and emotional injury or impairment.<sup>iii</sup>

**Mental Health** is a state of emotional and behavioral well-being that includes developmentally appropriate self-care and self-control, the ability to learn, and the capacity to establish relationships and cope with the stresses of life.<sup>iv</sup>

**Care** means treatment and services for mental health needs. In child protection, the term “care” is also used to describe custodial guardianship.<sup>v</sup>

**Developmentally Appropriate** activities are consistent with a youth’s physical, emotional, social, cultural, and cognitive development, and are based on age, individual history, and pattern and timing of growth.<sup>vi</sup>

**Detention** is when a youth awaiting trial is held in a facility that is physically restrictive or has intensive staff supervision and prevents them from departing at will.<sup>vii</sup>

**Commitment** is when a youth under Department of Corrections custody is incarcerated in a juvenile correctional facility based on a court decision.<sup>viii</sup>

## SYSTEM ROLES & RESPONSIBILITIES

The **JUVENILE** or **YOUTH JUSTICE SYSTEM** responds to children and youth who engage in behavior that brings them into contact with the law. The system primarily serves youth up to age 18, but Maine law allows some young people to remain in the juvenile system up to age 21. Recognizing that children and youth are fundamentally different from adults, the first separate juvenile court in the U.S. was established in 1899 with the primary purpose of rehabilitation. Today, all states have a separate legal system for children and youth that is dedicated to public safety, positive youth development, rehabilitation and treatment, and successful community reintegration.

Maine's Juvenile Code emphasizes rehabilitation and care by seeking to **preserve and strengthen family ties and provide services in the youth's own home whenever possible**.<sup>4</sup> Youth who come in contact with the youth justice system are under the jurisdiction of the Court and the Maine Department of Corrections (DOC). The DOC operates Maine's only youth prison, the Long Creek Youth Development Center, which houses detained and committed youth. A youth can be detained for brief periods of time in order to ensure their presence in court or when there is a risk of harm to themselves or others. A committed youth is incarcerated at Long Creek pursuant to a decision by the court. The DOC also oversees youth in the community who are on conditions of release, probation, or community reintegration. During a young person's time in DOC custody, the agency is responsible for providing juvenile services consistent with Maine's Juvenile Code.

*The Maine DOC Juvenile Services Division's stated purpose is to "ensure that all justice involved youth experience a **fair, equitable and responsive juvenile justice** system that provides them with **positive outcomes**."*<sup>5</sup>

*In pursuit of this goal, the Division seeks to **reduce the use of incarceration** by connecting youth to **community-based, developmentally appropriate care, treatment, and support**."*<sup>6</sup>

The **CHILDREN'S BEHAVIORAL HEALTH SYSTEM** is responsible for diagnosing, treating, and preventing conditions and disorders that impair the mental and behavioral health of children and youth.<sup>7</sup> Qualifying conditions for these services include mental health diagnoses, developmental or intellectual disabilities, autism spectrum disorders, and substance use disorders. These **home- and community-based services** treat and support children and youth ages 0-21 to improve their functioning at home, school, or in the community.

Services include outpatient treatment, crisis services, rehabilitative and community services, intensive home-based treatment, case management, medication management, children's residential care, and inpatient psychiatric hospitals. Children's Behavioral Health Services are administered by the Maine Department of Health and Human Services (DHHS), Office of Child and Family Services (OCFS), and are delivered by contracted community-based organizations.

*Children's Behavioral Health Services' (CBHS) mission is to **oversee and provide access to a broad range of services** for children up to their 21st birthday and their families, including services focused on mental health, intellectual disability, pervasive developmental disorders, and developmental disability."*<sup>8</sup>

The **CHILD PROTECTION SYSTEM** is the part of the child welfare system that is responsible for protecting and supporting children and youth who experience abuse or neglect. This includes enhancing the well-being of young peoples' families and preserving family life whenever possible.<sup>9</sup> The majority of youth who come into contact with the youth justice system in Maine have had child protection involvement.<sup>10</sup> The court may order youth under DOC jurisdiction to be placed in the custody of the Child Protection system, which is administered by DHHS/OCFS. Research has shown that youth who are involved with both Child Protection and Youth Justice systems tend to face a greater number of risk factors, such as houselessness, poverty, abuse, and exposure to violence, and experience fewer protective factors like access to educational opportunities and resources, supportive adults and role models, and healthy and safe activities with peers that would support positive outcomes.<sup>11</sup>

## SYSTEM PRACTICE STANDARDS

*Although each of these youth-serving systems has its own role and responsibilities, there are many shared practice standards.*

Practice standards are a collection of ideas, principles, and strategies that guide the delivery of services that research and experience have shown to be effective. Sometimes referred to as "best practice," these standards help providers align service delivery with quality practice to promote positive outcomes for individual clients and families. The following practice standards are shared across Youth Justice, Children's Behavioral Health, and Child Protection, and are represented in statute, policies, and practice models.

**1. LEAST RESTRICTIVE ENVIRONMENT** refers to providing youth with the least institutional and most home-like response possible to address their behavioral and care needs.

- Maine's **Juvenile Code** prioritizes providing care and guidance "in the juvenile's own home."<sup>12</sup> Research shows that formal justice system processing and subsequent confinement has significant negative impacts on youth, including increased risk of abuse and violence, educational disruption, poor health outcomes as adults, and harmful family and community separation.<sup>13</sup>
- **Children's Behavioral Health Services** is required by statute to provide care "in the least restrictive, most normative environment."<sup>14</sup> Unjustified placement of youth with behavioral health needs in institutional settings violates protections under the Americans with Disabilities Act.<sup>15</sup>
- Maine's **Child Protection** Practice Model prioritizes "support[ing] caregivers in protecting children in their own homes whenever possible."<sup>16</sup>

**2. FAMILY-FOCUSED** practices recognize and prioritize the relationships between youth and their families. These practices reflect the understanding that children and families are the experts in their own lives and emphasize the importance of healthy family relationships for youth development and well-being. This often means supporting the entire family environment. Significant research shows youth are most successful when they grow up in families, surrounded by those who care about them.<sup>17</sup> A family home,

### YOUTH SYSTEM OF CARE PRACTICE STANDARDS

1. Least Restrictive Environment
2. Family-Focused
3. Coordinated & Community-Based
4. Strengths-Based, Individualized & Youth Centered
5. Equitable

which may be with someone other than a parent, such as another relative, is the least restrictive environment for youth.

- A primary purpose of the **Juvenile Code** is to “preserve and strengthen family ties whenever possible, including improvement of home environment.”<sup>18</sup> This means only removing a youth from their family home “when [their] welfare and safety or the protection of the public would otherwise be endangered.”<sup>19</sup>
- **Children’s Behavioral Health Services** promotes family driven practices as one of its core principles, in alignment with the Federal Substance Abuse and Mental Health Services Administration (SAMHSA) System of Care Model.<sup>20</sup> These practices include ensuring families are fully informed, are considered the experts on their own family, and have shared responsibility for decisions and outcomes.
- The **Child Protection** statute gives preference to family caregivers,<sup>21</sup> and “life-long family connections” are listed as a priority outcome in the system’s practice model.<sup>22</sup>

**3. COORDINATED, COMMUNITY-BASED** practices ensure that youth and families can access services and supports in their home community. These practices respond to the needs of youth and families in ways that improve outcomes and strengthen communities. Overreliance on costly interventions, like emergency rooms, residential placements, and correctional facilities, removes youth from their communities, diverts resources from community-based solutions, and is likely to cost more in the long run.<sup>23</sup>

- The **Juvenile Code’s** purposes include ensuring youth receive care, guidance, and treatment services. This requires coordinating with the community-based youth-serving systems that can provide these services<sup>24</sup> and the continuity of care when youth are no longer involved with the justice system.
- **Children’s Behavioral Health Services** is required by statute to develop a “system of providing care” through a network of community services.<sup>25</sup> These services include case management programs that coordinate community-based care for youth by linking multiple service providers and supports.
- The **Child Protection** statute requires caseworkers to receive information from other service providers to “coordinate adequate access to resources for a family and child.”<sup>26</sup> The Child Protection practice model prioritizes “community connections” in both care and permanency for youth.<sup>27</sup>

**4. STRENGTHS-BASED, INDIVIDUALIZED, and YOUTH-CENTERED** practices focus on individual attributes that promote healthy development. These practices recognize that children and youth are different from adults and have different developmental needs. Meeting these needs requires understanding and applying the latest research on adolescent development and designing services based on youth input.



Figure 1. Place Matters: Community-Based Continuum of Care

- The purposes of the **Juvenile Code** recognize that youth are still learning and growing and should be held accountable differently from adults in the justice system. The main goal of state action is to support and rehabilitate children and youth in their homes and communities.<sup>28</sup> Best practice standards build on young people’s strengths and prioritize interventions that are tied to well-being and long-term positive outcomes.
- The **Children’s Behavioral Health Services** statute mandates “focusing on the strengths and needs of the child and the child’s family,”<sup>29</sup> and requires ensuring an individualized treatment process.<sup>30</sup> The System of Care model used by CBHS encourages a strengths-based approach as the best way to provide individualized services and achieve positive outcomes.<sup>31</sup>
- The **Child Protection** system is statutorily required to develop individualized plans for all family members at critical points during a child protection case, including rehabilitation and reunification plans for parents, and permanency plans for youth.<sup>32</sup> The practice model directs caseworkers to “help families use their strengths to meet safety needs of children” and youth.<sup>33</sup>

**5. EQUITABLE** practices ensure all people served by these systems have a fair and just opportunity to achieve positive outcomes. To ensure equity, systems must collect and regularly review data to determine how outcomes vary by individual characteristics such as race, ethnicity, gender identity and expression, sexual orientation, immigration status, and disability, and take steps to address disparities.

- The **Juvenile Code** requires that the state “ensure that the parties receive fair hearings at which their rights as citizens are recognized and protected.”<sup>34</sup> Research shows that the harms associated with incarceration fall disproportionately on youth of color, girls, LGBTQ/Gender Non-Conforming youth, and youth with disabilities.<sup>35</sup>
- **Children’s Behavioral Health Services** is statutorily required to “protect the rights of children to receive care without regard to race, religion, ancestry or national origin, gender, physical or mental disability, sexual orientation or gender identity.”<sup>36</sup>
- Maine’s **Child Protection** practice model emphasizes the caseworker’s “responsibility to understand children and families within the context of their own family rules, traditions, history, and culture.”<sup>37</sup>

## SUMMARY

The Juvenile or Youth Justice, Children’s Behavioral Health, and Child Protection systems each serve a separate and distinct purpose: responding to public safety concerns, providing youth with treatment and support for behavioral health needs, or ensuring youth safety. However, these systems frequently serve the same youth and families and share many of the same practice standards. While each system functions within its separate role and mandate, all three share an obligation to provide appropriate supports and services in the least restrictive settings to meet the needs of Maine children, youth and families.

Many youth and families also receive support from schools, homelessness and basic needs service providers, faith organizations, youth development service providers, civic groups, and many others. Each of these systems and sectors has an essential role to play, and ensuring that they are present, accessible, and appropriately resourced in our communities can help prevent or limit involvement in the systems discussed here. Equitable access to a continuum of community-based services that are individualized, youth and family centered, and strengths-based will result in the best possible outcomes for all Maine children and youth.

## REFERENCES

- <sup>i</sup> **Definitions** in this brief were developed using references from Maine and national statutes, Vera Institute of Justice, the World Health Organization, and the American Psychological Association.
- <sup>ii</sup> This definition of **public safety** was developed in partnership with Vera Institute. Vera Institute (2021). What Public Safety Really Means. Forbes EQ. December 1, 2021. <https://www.forbes.com/sites/forbeseq/2021/12/01/what-public-safety-really-means/?sh=19771542f02f>.
- <sup>iii</sup> This definition of **youth safety** is based on Maine's statutory definition of child abuse and neglect. Maine Title 22 Chapter 1071 Child and Family Services and Protection Act §4002. <https://legislature.maine.gov/statutes/22/title22sec4002.html>
- <sup>iv</sup> This definition of **mental health** is based on Maine statute Title 34-B Chapter 15 §15001. Definitions 3.D. (ME Title 34-B Chapter 15 §15001) <https://legislature.maine.gov/statutes/34-B/title34-Bsec15001.html> and definitions by the American Psychological Association <https://dictionary.apa.org/mental-health> and World Health Organization <https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response>.
- <sup>v</sup> This definition of **care** is based on Maine statute Title 34-B Chapter 15 §15001 <https://legislature.maine.gov/statutes/34-B/title34-Bsec15001.html> and Title 22 Chapter 1071 Child and Family Services and Protection Act §4002. <https://legislature.maine.gov/statutes/22/title22sec4002.html>.
- <sup>vi</sup> This definition of **developmentally appropriate** is based on Maine statute Title 34-B Chapter 15 §15002 <https://legislature.maine.gov/statutes/34-B/title34-Bsec15002.html> and a review of national statute <https://www.lawinsider.com/dictionary/developmentally-appropriate>.
- <sup>vii</sup> This definition of **detention** is in Maine statute Title 15- Maine Juvenile Code §3003. Definitions 4-B. <https://legislature.maine.gov/statutes/15/title15sec3003.html>.
- <sup>viii</sup> This definition of **commitment** is reflected in Maine statute Title 15 - Maine Juvenile Code §3003. Definitions 4 and §3314 Disposition F. <https://legislature.maine.gov/statutes/15/title15sec3003.html>.

<sup>1</sup> ME Juvenile Code Title 15 § 3002. <https://legislature.maine.gov/statutes/15/title15sec3002.html>.

<sup>2</sup> ME. Dep't of Corrections, Profile of Youth Committed at Long Creek Youth Development Center as of July 1, 2016 4 (Jan. 2017). <https://www.documentcloud.org/documents/3475813-Long-Creek-Profile-FINAL-Jan-19-2017-Copy.html> ; see also Office of Juvenile Justice and Delinquency Prevention (July 2017). Literature Review: Intersection between Mental Health and the Juvenile Justice System which finds "as many as 70 percent of youths have a diagnosable mental health problem." Accessed July 2023. [https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/intsection\\_between\\_mental\\_health\\_and\\_the\\_juvenile\\_justice\\_system.pdf](https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/intsection_between_mental_health_and_the_juvenile_justice_system.pdf)

<sup>3</sup> Center for Children's Law and Policy, et al. 9 (2020). *Maine Juvenile Justice System Assessment* (CCLP System Assessment). [https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inline-files/Maine%20Juvenile%20Justice%20System%20Assessment%20FINAL%20REPORT%202-25-20\\_2.pdf](https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inline-files/Maine%20Juvenile%20Justice%20System%20Assessment%20FINAL%20REPORT%202-25-20_2.pdf)

<sup>4</sup> ME Juvenile Code Title 15 § 3002, *supra* n.1.

<sup>5</sup> State of Maine, Department of Corrections, Juvenile Corrections website (ME DOC -JC Website). Accessed March 2023. <https://www.maine.gov/corrections/jcc>

<sup>6</sup> State of Maine, Department of Corrections, Juvenile Corrections website, Juvenile Reports & Statistical Data (ME DOC - Juvenile Reports). Accessed March 2023. <https://www.maine.gov/corrections/juvenileservices/reports>

<sup>7</sup> Maine Title 34-B Chapter 15 § 15002. Behavioral and Developmental Services. Chapter 15: Children's Mental Health Services. (ME Title 34-B Chapter 15 § 15002). <https://legislature.maine.gov/statutes/34-B/title34-Bsec15002.html>

<sup>8</sup> Maine Department of Health and Human Services, Office of Child and Family Services, Children's Behavioral Health Programs and Services. Accessed March 2023. <https://maine.gov/dhhs/ocfs/support-for-families/childrens-behavioral-health/services>.

<sup>9</sup> Maine Title 22 Chapter 1071 Child and Family Services and Child Protection Act § 4003. <https://legislature.maine.gov/statutes/22/title22sec4003.html>

<sup>10</sup> CCLP System Assessment, *supra* n.3 at 106.

<sup>11</sup> Development Services Group, Inc. (2021). Intersection of Juvenile Justice and Child Welfare Systems. Literature review. Washington, DC: Office of Juvenile Justice and Delinquency Prevention. <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/Intersection-Juvenile-Justice-Child-Welfare-Systems>

<sup>12</sup> ME Juvenile Code Title 15 § 3002, *supra* n.1.

<sup>13</sup> Mendel, R. (Dec. 2022), *Why Youth Incarceration Fails: An Updated Review of the Evidence*, The Sentencing Project, <https://www.sentencingproject.org/app/uploads/2023/03/Why-Youth-Incarceration-Fails.pdf>.

<sup>14</sup> ME Title 34-B Chapter 15 § 15002, *supra* n.7.

<sup>15</sup> U.S. Department of Justice (2022). United States' Investigation of Maine's Behavioral Health System for Children Under Title II of the Americans with Disabilities Act. Letter of Findings. June 22, 2022. (U.S. DOJ Letter of Findings). <https://www.justice.gov/crt/case-document/letter-findings-state-maine>

<sup>16</sup> Maine Department of Health and Human Services, Office of Child and Family Services, Child Welfare Practice Model (DHHS-OCFS Child Welfare Practice Model). Accessed March 2023. <https://www.maine.gov/dhhs/ocfs/support-for-families/child-welfare/practice-model>

<sup>17</sup> Annie E. Casey Foundation, Every Kid Needs a Family: Giving Children in the Child Welfare system the Best Chance for Success. (May 19, 2015). <https://www.aecf.org/resources/every-kid-needs-a-family>.

<sup>18</sup> ME Juvenile Code Title 15 § 3002, *supra* n.1.

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- <sup>19</sup> *Id.*
- <sup>20</sup> Maine Department of Health and Human Services, Office of Child and Family Services, Children’s Behavioral Health Services. Systems of Care (CBHS Systems of Care). Accessed March 2023. <https://www.maine.gov/dhhs/ocfs/support-for-families/childrens-behavioral-health/services/system-of-care>
- <sup>21</sup> Maine Title 22 Chapter 1071 Child and Family Services and Child Protection Act § 4005-G. Department responsibilities regarding kinship and sibling placement. <https://legislature.maine.gov/statutes/22/title22sec4005-G.html>
- <sup>22</sup> DHHS-OCFS Child Welfare Practice Model, *supra* n.16.
- <sup>23</sup> Sanchez, M., King, E., & Ward, J. (March 2019), *Place Matters: Aligning Investments in a Community-based Continuum of Care for Maine Youth Transitioning to Adulthood*, University of Southern Maine and Maine Center for Juvenile Policy and Law.
- <sup>24</sup> ME Juvenile Code Title 15 § 3002, *supra* n.1.
- <sup>25</sup> ME Title 34-B Chapter 15 § 15002, *supra* n.7.
- <sup>26</sup> Maine Title 22 Chapter 1071 Child and Family Services and Child Protection Act §4004. 2.B-1. <https://legislature.maine.gov/statutes/22/title22sec4004.html>
- <sup>27</sup> DHHS-OCFS Child Welfare Practice Model *supra* n.16.
- <sup>28</sup> ME Juvenile Code Title 15 § 3002, *supra* n.1.
- <sup>29</sup> ME Title 34-B Chapter 15 § 15002, *supra* n.7.
- <sup>30</sup> *Id.*
- <sup>31</sup> *Id.*
- <sup>32</sup> Maine Title 22 Chapter 1071 Child and Family Services and Child Protection Act §4041. Departmental Responsibilities. <https://legislature.maine.gov/statutes/22/title22sec4041.html>
- <sup>33</sup> DHHS-OCFS Child Welfare Practice Model *supra* n.16.
- <sup>34</sup> ME Juvenile Code Title 15 § 3002, *supra* n.1.
- <sup>35</sup> See McCarthy, P., Schiarldi, V. and Shark, M. (2016), *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*, New Thinking in Community Corrections Bulletin, Washington, D.C.: U.S. Department of Justice, National Institute of Justice. <https://www.ojp.gov/pdffiles1/nij/250142.pdf> ; Snyderman, J. (2022), *Unlocking Futures: Youth with Learning Disabilities & the Juvenile Justice System*, Washington, DC: National Center for Learning Disabilities, <https://www.nclad.org/wp-content/uploads/2022/12/NCLD-Unlocking-Futures-Final-7th-Dec-Updated-.pdf>.
- <sup>36</sup> ME Title 34-B Chapter 15 § 15002, *supra* n.7.
- <sup>37</sup> DHHS-OCFS Child Welfare Practice Model, *supra* n.16.

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