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# Juvenile Adjudications and Collateral Consequences



## What is a juvenile adjudication?

Juveniles in Maine are people under 18 years old. If someone is accused of committing a criminal act when they were a juvenile, the case is heard in juvenile court. If the juvenile admits the charge or if, after a hearing, the Court finds the juvenile committed the act, the juvenile is "adjudicated." Maine law is clear that a juvenile "adjudication" is not a conviction. This means that if you have a juvenile "adjudication" and are asked if you have ever been convicted of a crime, the answer is **no**. This is true even if you have served time at Mountain View or Long Creek Youth Development centers.

## What is a conviction?

A conviction in Maine applies to adults (persons 18 and older) charged in Court with criminal activity and found to be guilty. A conviction can happen by either pleading guilty, or after a hearing in which a judge or jury found the Defendant guilty.

## What is the difference between a felony and misdemeanor?

Both felonies and misdemeanors are crimes. In Maine, depending upon the age of the person charged, both felonies and misdemeanors can result in a conviction (for adults) or adjudication (for juveniles). The difference between a felony and misdemeanor is the seriousness of the possible punishment. Maine uses letters to classify the seriousness of a crime. In Maine, Classes A, B and C charges are felonies. For these classes of crimes, the length of a possible jail/prison sentence for an adult is one year or more:

- Class A (up to 30 years)
- Class B (up to 10 years), and

- Class C (up to 5 years)

In Maine, Classes D and E charges are misdemeanors. That is because the length of the possible jail sentence is less than 1 year:

- Class D (up to 364 days), and
- Class E (up to 180 days)

It does not matter what your actual sentence is. The deciding factor is if it is possible under the law to be sentenced for one year or more. The class of crime you are charged with depends how serious the actions are that you are accused of.

The maximum jail sentences listed above only apply if the charges against you were for actions you committed as an adult. If you are charged as a juvenile, the adjudication results in a disposition (sentence). That disposition may include a commitment to Mountain View or Long Creek Youth Development centers. A juvenile may receive an indeterminate sentence to one of the Youth Development Centers for any class of crime he or she is adjudicated of (Classes A – E). An indeterminate sentence means it is not for a set number of months or years. Instead, it is until a juvenile reaches a certain birthday, such as 18. Read more about [Juvenile Offenses in Maine](#).

### **Where am I charged?**

It is possible to be charged in one of three different court systems in Maine. This depends upon what you are accused of doing, where you are accused of doing it, and if you are Native American, whether your tribe has a tribal court system. If there is a tribal court system, and you are accused of breaking a law (state or tribal law) on tribal land, you can be charged in tribal court. But, if you are a juvenile charged with a felony (even if the act happened on tribal land), you will be charged in the Maine District Court.

If you are accused of breaking a federal law, you can be charged in the U.S. District Court, which is known as federal court. There are two federal court locations in Maine:

- Bangor: it covers Aroostook, Washington, Penobscot, Piscataquis, Hancock, Waldo, Franklin, Somerset and Kennebec counties, and
- Portland: it covers York, Cumberland, Sagadahoc, Oxford, Androscoggin, Lincoln and Knox counties

### **Is my juvenile record public?**

Each state has its own law about juvenile records and whether they are private or public. If you have a juvenile record from another state, you should contact the attorney who helped you in that state to find out if your juvenile record is public or not.

In Maine, whether your juvenile record is public depends on the type of charge. Court petitions charging a juvenile with a Class A, B or C crime (felonies) are always open to the public. Court petitions charging juveniles with Class E crimes (misdemeanors) are always closed to the public. A court petition charging a juvenile with his or her first Class D crime (misdemeanor) is closed to the

public. If a juvenile is charged in court with a second, third or more Class D crime, those court records are public if the incident that resulted in the new charge is from a different time than the juvenile's first Class D charge.

Even if the court record is closed to the public, under Maine law, the victim can see the court petition, record of hearing and order of adjudication. The victim does not get to take a copy of any documents. Instead, the victim can review the documents at the Court.

### **Can I ask that my juvenile record be sealed?**

If you have a juvenile record that is public, Maine law allows for you to ask that your juvenile record be sealed. This means kept private. To request that your juvenile record be sealed, you must petition the Court. You have to show in your petition to the Court that:

- At least 3 years have passed since you finished the disposition for that adjudication,
- Since the date of your disposition, you have not had any new adjudications or convictions (if you are 18 or older when you petition the Court), and
- You do not have any criminal actions pending against you.

In making its decision, the Court will balance the public's right to know about your juvenile record and your interest in keeping your privacy. If the Court does seal your record, court and criminal justice agencies can still access your sealed records. But, other agencies (like housing authorities, possible employers, etc) cannot access your juvenile record. You can answer any questions about your juvenile history as if your juvenile adjudication never happened.

## **Collateral Consequences**

If you are adjudicated as a juvenile or convicted as an adult of a crime, there may be long-term negative consequences for you. This is true even after you have served your full disposition as a juvenile or sentence as an adult. This is because there are many federal and state laws that allow your criminal history to be considered. You need to remember that every state is different. If you have a criminal record from outside Maine, you need to understand if a juvenile adjudication is public and/or considered a conviction in the state where your case was decided. If you have a Maine criminal record and you move out of Maine, you need to know what the state law is where you are moving to when it comes to what a criminal background can and cannot consider.

### **Student Loans**

If you are planning to go to college, you may need financial aid, like a student loan. When you apply for a federal student loan, you complete a "Free Application for Federal Student Aid" (FAFSA). This program is run by the U.S. Department of Education. Federal law says that if you have been convicted for the possession or sale of illegal drugs, you may not be eligible for financial aid. Right now, juvenile adjudications are not convictions, so you do not have to disclose on your FAFSA a juvenile adjudication from Maine.

### **Subsidized Housing**

Federally assisted housing, such as “public housing” and “Section 8,” follow federal regulations. Federal regulations for these housing programs allow the housing agency to deny admission to an entire household or a specific member of a household if that member has a criminal past. The criminal past must have happened a “reasonable time” before the household applies for admission to the housing program. The federal regulations do not define “reasonable time,” but the housing agency may have its own definition in its policies.

The types of criminal activity that can be a reason to deny housing assistance are:

- Drug-related criminal activity,
- Violent criminal activity, or
- Other criminal activity that would:
  - threaten the health, safety or right to peaceful enjoyment of the premises by other tenants, or
  - threaten the health or safety of the housing authority, owner or employees

A housing agency will ask adult members of the household applying for admission to disclose any criminal history. It will also require each adult applicant to sign a release of information that the housing agency can send to law enforcement agencies. The law enforcement agencies that will be contacted are those in the state where the housing is located as well as any state in which a household applicant has lived. What the law enforcement agency will disclose to the housing authority depends upon state law about whether a juvenile record is public and whether the release you sign allows the law enforcement agency to release juvenile records.

If the housing agency receives a copy of a criminal conviction, and the housing agency intends to deny admission to either the entire household or just the person with the criminal history, it must notify the applicant and the person with the conviction. The housing agency must also send a copy of the record it received to the applicant and the person with the conviction. The applicant has a chance to challenge the accuracy and relevance of the information. Any criminal records received by the housing agency must be kept confidential and must be destroyed by the housing authority.

If you or a household member is denied admission because of past criminal activity, you can submit proof of rehabilitation. Rehabilitation will depend on what the criminal activity was. If it is a drug charge, then successfully completing a drug rehabilitation program will be important. If it is a violent crime, then anger management, no further criminal activity, and a successful probation may all go to prove you are rehabilitated.

If a member of your household is required to be a lifetime registrant under any state’s sex offender registry, that person will be denied admission to federally assisted housing.

### **Sex Offender Registry:**

Right now in Maine, juveniles adjudicated of a sex offense do not have to register on Maine’s Sex Offender Registry. However, the law is constantly changing on this issue. In addition, every state has different requirements for who has to register. It is possible that you are adjudicated here in Maine and do not have to register on Maine’s Sex Offender Registry, but if you go on vacation to Florida for more than five days, you would have to register on the Florida Sex Offender Registry. If you have been adjudicated of a sex crime and you plan to leave Maine (even if only for a short

time), you should find out if the state you are going to will require you to register on its sex offender registry.

## Employment

Maine is an “employ at will” state. This means that without a contract you do not have a right to a job or to keep your job. It is not illegal for an employer to ask about your criminal history. It is up to your employer to decide if he or she will hire someone with a criminal history.

Some jobs require a professional license or permit or require you to register with a state licensing board or agency. That agency can look for certain kinds of convictions, such as:

- Misdemeanor convictions that are directly related to the trade you are applying for a license in,
- Misdemeanor convictions for dishonest or false statements, and
- All felony convictions

Remember, juvenile adjudications in Maine are not convictions. An adult conviction will not automatically keep you from getting your license, permit or registration, but it can be considered. An applicant can prove that he or she has been rehabilitated. The licensing agency is also limited to how far back it can look:

- 3 years, or
- 10 years if the profession involves health care or law enforcement

## Welfare

There are many different types of welfare programs in Maine and the U.S. Cash assistance for poor families with minor children is known as Temporary Assistance to Needy Families (TANF). There are no federal regulations for TANF. Instead, each state has its own regulations for TANF.

However, federal law allows states to place a lifetime ban on welfare benefits (TANF and Food Stamps) to a person who has been convicted of a drug-related felony. Maine currently does not have such a ban, but other states do. In Maine, the Department of Health and Human Services (DHHS) can ask TANF recipients who have a drug-related felony conviction between 1996 and present to take a drug test. If you refuse, you can be denied TANF. If your drug test comes back positive, DHHS can require you to be in a drug treatment program if you want to keep getting TANF. If you refuse drug treatment services, your entire family can be cut off of TANF. It is important to know that DHHS cannot require you to take a drug test if you do not have a felony-related drug conviction from 1996 to present.

## Voting

Some states do not allow convicted felons to vote in elections. Maine is not one of those states. You can still vote in Maine if you have a felony conviction. But, if you move to another state, you may not be able to vote if you have a felony conviction. Remember, a juvenile adjudication in Maine is not a conviction.

## Military

If you are considering joining the military, you should disclose everything, even if your juvenile record is sealed. The military is able to access all information regarding criminal activity, including accessing information kept at local police departments. The military can reject your enlistment if it has any evidence that you may be a discipline problem. However, the military can also work with you if they decide they want to accept you. They can help you ask to seal, expunge, and/or reopen your past criminal cases.

## Firearms

There is a federal law called the Federal Gun Control Act of 1968. It includes automatic prohibitions from possessing a firearm and ammunition. Two provisions that automatically prohibit you from possessing a firearm and/or ammunition for life are:

- An indictment or conviction of a felony, or
- A conviction for a misdemeanor crime of domestic violence

A “misdemeanor crime of domestic violence” must include in the state’s definition of the crime the use of or attempted use of physical force or threatened use of a deadly weapon. The facts of your case must show the victim is your spouse, ex-spouse, person you lived with as if you were a spouse, person you have a child with, or your child. The name of the crime you are convicted of does not have to have “domestic violence” in its title.

Remember, a juvenile adjudication is not a conviction.

## Considerations by the Court if you are charged as an adult

When a Court orders a sentence, it can look at your past criminal history. If you have a juvenile record in Maine and you are charged with a crime as an adult, the Court can look at Class A, B and C juvenile adjudications against you. All juvenile adjudications for misdemeanors (Class D and E crimes) cannot be considered by the Court.

## Talk to your former attorney

This article only addresses some of the problems you may face if you have a juvenile or adult criminal background. To learn more about a particular situation you may be facing, you should contact the criminal attorney who represented you.

April 2013  
PTLA #415

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