



Province of Alberta

YOUTH JUSTICE ACT

Revised Statutes of Alberta 2000
Chapter Y-1

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Alberta Queen's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Youth Justice Act* that are filed as Alberta Regulations under the Regulations Act

| | Alta. Reg. | <i>Amendments</i> |
|---|-------------------|-------------------------|
| Youth Justice Act | | |
| Rules of Youth Court | 297/88 | |
| Rules of Youth Court (Provincial Offences) | 298/88 | |
| Youth Justice Designation..... | 322/2009 | 170/2012, 49/2017 |

YOUTH JUSTICE ACT

Chapter Y-1

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Interpretation

1(1) In this Act,

- (a) “adult” means a person who is neither a young person nor a child;
- (b) “child” means a person who is or, in the absence of evidence to the contrary, appears to be less than 12 years old;
- (c) “disposition” means a disposition made under this Act before April 1, 2003 and includes a confirmation or a variation of a disposition;
- (d) “federal Act” means the *Youth Criminal Justice Act* (Canada);
- (e) “justice” means a justice of the peace;
- (f) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (g) “offence” means an offence created by an enactment or a municipal or Metis settlement bylaw;
- (h) “ordinary court” means the court that would, but for this Act, have jurisdiction in respect of an offence alleged to have been committed;
- (i) “parent” includes, in respect of a young person, any person who is under a legal duty to provide for that young person or any person who has, in law or in fact, the custody or control of that young person, but does not include a person who has the custody or control of that young person by reason only of proceedings under this Act;

- (j) “place of custody” means a place designated pursuant to the federal Act as a place of open custody;
- (k) “provincial director” means the provincial director for Alberta appointed or designated under the federal Act and includes the provincial director’s delegate;
- (l) “reciprocating province or territory” means a province or territory declared under section 34 to be a reciprocating province or territory;
- (m) “young person” means a person who is or, in the absence of evidence to the contrary, appears to be 12 years old or older, but less than 18 years old and, if the context requires, includes any person who is charged under this Act with having committed an offence while the person was a young person or who is found guilty of an offence under this Act;
- (n) “youth justice court” means the Provincial Court and includes a youth justice court judge and a justice;
- (o) “youth justice court judge” means a person appointed as a judge of the Provincial Court;
- (o.1) “youth sentence” means a sentence imposed under this Act and includes a confirmation or a variation of a youth sentence;
- (p) “youth worker” means a youth worker as defined in the federal Act.

(2) Unless otherwise provided, words and expressions used in this Act have the same meaning as in the *Provincial Offences Procedure Act*.

(3) On and after April 1, 2003, a disposition is deemed to be a youth sentence.

RSA 2000 cY-1 s1;RSA 2000 c16(Supp) s32;2003 c41 s4(3)

Application of Act

2(1) If proceedings are commenced against a young person by issuing an offence notice under Part 3 of the *Provincial Offences Procedure Act*, that Act applies to those proceedings.

(2) If proceedings are commenced against a young person other than by issuing an offence notice under Part 3 of the *Provincial Offences Procedure Act*, the *Provincial Offences Procedure Act* applies except to the extent that it is inconsistent with this Act.

(3) Section 809 of the *Criminal Code* (Canada) does not apply in respect of proceedings under this Act.

1984 cY-1 s2;1987 c41 s3;1988 cP-21.5 ss51,52;1991 c21 s42

Extra-judicial sanctions

3(1) Extra-judicial sanctions may be used to deal with a young person alleged to have committed an offence instead of judicial proceedings under this Act only if

- (a) the sanctions are part of a program of extra-judicial sanctions authorized by the Minister and the alleged offence is an offence designated by the Minister as an offence with respect to which extra-judicial sanctions may be used,
- (b) the person who is considering whether to use extra-judicial sanctions is satisfied that they would be appropriate, having regard to the needs of the young person and the interests of society,
- (c) the young person, having been informed of the extra-judicial sanctions, fully and freely consents to participate in them,
- (d) the young person has, before consenting to participate in the extra-judicial sanctions, been advised of the young person's right to be represented by counsel and been given a reasonable opportunity to consult with counsel,
- (e) the young person accepts responsibility for the act or omission that forms the basis of the offence that the young person is alleged to have committed,
- (f) there is, in the opinion of the Minister or the Minister's agent, sufficient evidence to proceed with the prosecution of the offence, and
- (g) the prosecution of the offence is not in any way barred at law.

(2) Extra-judicial sanctions shall not be used to deal with a young person alleged to have committed an offence if the young person

- (a) denies the young person's participation or involvement in the commission of the offence, or
- (b) expresses the young person's wish to have any charge against the young person dealt with by the youth justice court.

(3) No admission, confession or statement accepting responsibility for a given act or omission made by a young person alleged to have committed an offence as a condition of the young person being dealt with by extra-judicial sanctions shall be admissible in evidence against the young person in any civil proceedings or in a prosecution under an Act of the Legislature.

(4) The use of extra-judicial sanctions in respect of a young person alleged to have committed an offence is not a bar to proceedings against the young person under this Act, but

- (a) where the youth justice court is satisfied on a balance of probabilities that the young person has totally complied with the terms and conditions of the extra-judicial sanctions, the youth justice court shall dismiss any charge against the young person, and
- (b) where the youth justice court is satisfied on a balance of probabilities that the young person has partially complied with the terms and conditions of the extra-judicial sanctions, the youth justice court may dismiss any charge against the young person if, in the opinion of the court, the prosecution of the charge would, having regard to the circumstances, be unfair, and the youth justice court may consider the young person's performance with respect to the extra-judicial sanctions before imposing a youth sentence under this Act.

(5) Subject to subsection (4), nothing in this section is to be construed to prevent any person from laying an information, obtaining the issue or confirmation of any process or proceeding with the prosecution of any offence in accordance with law.

RSA 2000 cY-1 s3;2003 c41 s4(4)

Jurisdiction

4(1) Subject to subsection (2) and section 15(8), the youth justice court has exclusive jurisdiction in respect of any offence alleged to have been committed by a person while the person was a young person and that person shall be dealt with as provided in this Act.

(2) Proceedings commenced under this Act against a young person, including a review under section 18, may be continued in all respects after the young person becomes an adult as if the young person remained a young person.

RSA 2000 cY-1 s4;2003 c41 s4(22)

No conviction of child

5 No person shall be found guilty of an offence in respect of an act or omission on the person's part while the person was a child.

1984 cY-1 s5

Arrest and detention

6(1) A young person who is arrested and detained must be detained

- (a) in a place of temporary detention, or
- (b) in a place or a place within a class of places of temporary detention

designated by the Lieutenant Governor in Council or a person authorized by the Lieutenant Governor in Council.

(2) A young person who is detained in a place of temporary detention pursuant to subsection (1) may, in the course of being transferred from that place to youth justice court or from youth justice court to that place, be held under the supervision and control of a peace officer.

(3) A young person who is detained in custody in accordance with this section may, during the period of detention, be transferred by the provincial director from one place of temporary detention or designated place described in subsection (1) to another designated place or place of temporary detention.

(4) Subsection (1) does not apply in respect of any temporary restraint of a young person under the supervision and control of a peace officer after arrest, but a young person who is so restrained shall be transferred to a place of temporary detention referred to in subsection (1) as soon as reasonably practicable, and in no case later than the first reasonable opportunity after the appearance of the young person before a youth justice court judge or a justice pursuant to section 503 of the *Criminal Code* (Canada).

(5) A young person who has been arrested shall be detained separate and apart from any adult who has been charged with or convicted of an offence against any law of Canada or a province or territory unless a youth justice court judge, or if a youth justice court judge is not reasonably available, a justice, authorizes the detention, being satisfied that

- (a) the young person cannot, having regard to the young person's own safety or the safety of others, be detained in a place referred to in subsection (1), or
- (b) no place referred to in subsection (1) is available within a reasonable distance.

(6) A person who contravenes subsection (1) or (5) is guilty of an offence.

RSA 2000 cY-1 s6;2003 c41 s4(22)

Placement, care and control

7(1) If a youth justice court judge or a justice is satisfied that

- (a) a young person who has been arrested would, but for this section, be detained in custody,
- (b) a responsible person is willing and able to take care of and to exercise control over the young person, and
- (c) the young person is willing to be placed in the care of that person,

the young person may be placed in the care of that person instead of being detained in custody.

(2) A young person shall not be placed in the care of a person under subsection (1) unless

- (a) that person undertakes in writing to take care of and to be responsible for the attendance of the young person in court when required and to comply with any other conditions that the youth justice court judge or justice may specify, and
- (b) the young person undertakes in writing to comply with the arrangement and to comply with any other conditions that the youth justice court judge or justice may specify.

(3) If a young person has been placed in the care of a person under subsection (1) and

- (a) that person is no longer willing or able to take care of or to exercise control over the young person, or
- (b) it is, for any other reason, no longer appropriate that the young person remain in the care of that person,

the young person, the person in whose care the young person has been placed or any other person may, by application in writing to a youth justice court judge or a justice, apply for an order under subsection (4).

(4) If a youth justice court judge or a justice is satisfied that a young person should not remain in the custody of the person in whose care the young person was placed under subsection (1), the youth justice court judge or justice shall

- (a) make an order relieving the person and the young person of the obligations undertaken pursuant to subsection (2), and

- (b) if the young person is not present at the hearing, issue a warrant for the arrest of the young person,

and the young person shall subsequently be dealt with under section 515 of the *Criminal Code* (Canada).

RSA 2000 cY-1 s7;2003 c41 s4(22)

Offence

8 Any person who wilfully fails to comply with section 6 or with an undertaking entered into pursuant to section 7(2) is guilty of an offence.

1987 c41 s5

Orders of detention or release

9 Section 33 of the federal Act applies to proceedings under this Act.

RSA 2000 cY-1 s9;2003 c41 s4(5)

Notice to parents

10(1) Subject to subsections (4) and (5), if a young person is arrested and detained pending the young person's appearance in court, the officer in charge at the time the young person is detained shall, as soon as practicable, give or cause to be given, orally or in writing, to a parent of the young person notice of the arrest including the place of detention and the reason for the arrest.

(2) Subject to subsections (4) and (5),

- (a) where a summons or an appearance notice is issued in respect of a young person, the person who issued the summons or appearance notice, or
- (b) if a young person is released on giving the young person's promise to appear, giving an undertaking or entering into a recognizance, the officer in charge,

shall, as soon as practicable, give or cause to be given in writing to a parent of the young person notice of the summons, appearance notice, promise to appear, undertaking or recognizance.

(3) Subject to subsections (4) and (5), if a young person is alleged to have committed an offence under the *Gaming, Liquor and Cannabis Act* and the peace officer issues a summons referred to in Part 2 of the *Provincial Offences Procedure Act* to the young person, the peace officer shall, as soon as practicable, give or cause to be given to a parent of the young person written notice of the summons.

(4) If the whereabouts of the parents of a young person,

- (a) who is arrested and detained,

- (b) in respect of whom a summons or an appearance notice is issued, or
- (c) who is released on giving the young person's promise to appear, giving an undertaking or entering into a recognizance,

are not known or it appears that no parent is available, a notice under this section may be given to an adult relative of the young person who is known to the young person and is likely to assist the young person or, if no such adult relative is available, to another adult who is known to the young person and is likely to assist the young person, as the person giving the notice considers appropriate.

(5) If a young person described in subsection (4) is married or is an adult interdependent partner, a notice under this section may be given to the spouse or the adult interdependent partner of the young person instead of a parent.

(6) If doubt exists as to the person to whom a notice under this section should be given, a youth justice court judge or justice may give directions as to the person to whom the notice should be given, and a notice given in accordance with those directions is sufficient notice for the purposes of this section.

(7) A notice under this section shall, in addition to any other requirements, include

- (a) the name of the young person in respect of whom it is given,
- (b) the charge against the young person, and
- (c) the time and place of appearance.

(8) A notice under this section may be given by mail.

(9) If there has been a failure to give a notice in accordance with this section and none of the persons to whom a notice may be given attends court with the young person, a youth justice court judge or justice before whom proceedings are held against the young person may

- (a) adjourn the proceedings and order that the notice be given in the manner and to the person the youth justice court judge or justice directs, or
- (b) dispense with the notice if, in the youth justice court judge's or justice's opinion, having regard to the circumstances, notice should be dispensed with.

(10) Subject to subsection (11), failure to give notice in accordance with this section does not affect the validity of proceedings under this Act.

(11) Subject to subsection (12), failure to give notice in accordance with subsection (2) or (3) renders invalid any subsequent proceedings under this Act relating to the case unless

- (a) a person to whom a notice may be given under this section attends court with the young person against whom proceedings are held,
- (b) notice is given in accordance with subsection (9)(a), or
- (c) notice is dispensed with pursuant to subsection (9)(b).

(12) Subject to subsection (3), subsections (1) to (11) do not apply if a young person makes a voluntary payment in accordance with the *Provincial Offences Procedure Act*.

RSA 2000 cY-1 s10;2002 cA-4.5 s82;2003 c41 s4(22);
2017 c21 s29

Failure to reply to summons

11(1) If proceedings have been commenced against a young person under Part 2 of the *Provincial Offences Procedure Act* and the young person fails to enter a plea or fails to make a voluntary payment in the manner provided for on the summons on or before the initial appearance date, a youth justice court judge or justice may

- (a) enter a plea of not guilty on behalf of the young person and set a time for a trial,
- (b) issue a warrant for the arrest of the young person, or
- (c) direct that a new summons be issued requiring the attendance of the young person before a youth justice court judge or justice and set a time at which the attendance is required.

(2) If a warrant is issued pursuant to subsection (1) for the arrest of the young person, notice to the parent shall be given in accordance with section 10 on the arrest of the young person.

(3) When a time is set for a trial pursuant to subsection (1)(a), the youth justice court judge or justice shall direct that the young person be notified by ordinary mail at the young person's address for service of the time fixed for the trial.

(4) If a young person fails to appear in youth justice court in person or by an agent at the time fixed for the trial, a youth justice court judge or justice, on proof of service of the summons,

- (a) shall proceed to conduct the trial ex parte, or
- (b) on application by a prosecutor, shall adjourn the proceedings, set a new trial date, and direct that the young person be notified of the new trial date by ordinary mail at the young person's address for service.

(5) If the proceedings are adjourned under subsection (4) and the young person fails to appear at the new trial date, a youth justice court judge or justice shall proceed to conduct the trial ex parte and if the young person is convicted the clerk shall give the young person notice by ordinary mail at the young person's address for service of the conviction and of the time allowed for payment of the fine.

RSA 2000 cY-1 s11;2003 c41 s4(22)

Summons of parent

12(1) If a parent does not attend proceedings before the youth justice court in respect of a young person, the court may, if it considers the presence of the parent necessary or in the best interest of the young person, by written order require the parent to attend at any stage of the proceedings and to remain as required.

(2) A copy of an order made under subsection (1) shall be served by any peace officer, youth worker or other person designated by the youth justice court by delivering it personally to the parent to whom it is directed, unless the youth justice court authorizes service by registered mail.

RSA 2000 cY-1 s12;2003 c41 s4(22)

Offence

13 A parent who is ordered to attend the youth justice court pursuant to section 12(1) and who fails, without reasonable excuse the proof of which lies on that parent, to attend or to remain in attendance as required is guilty of an offence.

RSA 2000 cY-1 s13;2003 c41 s4(22)

Pre-disposition report

14(1) If the youth justice court considers it necessary for the imposition of a youth sentence under section 15 in respect of a young person who is found guilty of an offence, it may require the provincial director to prepare a pre-youth-sentence report in respect of the young person and to submit the report to the court.

(2) Subject to subsection (3), a pre-youth-sentence report shall be in writing and may include only

- (a) the results of an interview between a youth worker and the young person and, where reasonably possible, the results of an interview between a youth worker and the parents of the young person and, if the young person is married or is

an adult interdependent partner, the young person's spouse or adult interdependent partner, and

- (b) where applicable, information as to
 - (i) the age, maturity, character and attitude of the young person and the young person's willingness to make amends,
 - (ii) any plans put forward by the young person to change the young person's conduct or to participate in activities or undertake measures to improve the young person,
 - (iii) the history of previous findings of guilt in accordance with the federal Act, this Act or under any other Act, the history of community or other services rendered to the young person with respect to those findings and the response of the young person to previous youth sentences, sentences or dispositions and to services rendered to the young person,
 - (iv) the availability of community services and facilities for young persons and the willingness of the young person to avail himself or herself of those services or facilities,
 - (v) the relationship between the young person and the young person's parents and the degree of control and influence of the parents over the young person, and
 - (vi) the school attendance and performance record and the employment record of the young person.

(3) If a pre-youth-sentence report cannot reasonably be committed to writing, it may, with the permission of the youth justice court, be submitted orally in youth justice court.

(4) A pre-youth-sentence report shall form part of the record of the proceedings in respect of which it was requested.

(5) If a pre-youth-sentence report is submitted to the youth justice court in writing, the court

- (a) shall, subject to subsection (7), cause a copy of the report to be given to
 - (i) the young person,

- (ii) a parent of the young person, if the parent is in attendance at the proceedings against the young person,
- (iii) counsel, if any, representing the young person, and
- (iv) the Minister or the Minister's agent,

and

- (b) may cause a copy of the report to be given to a parent of the young person not in attendance at the proceedings against the young person if the parent is, in the opinion of the youth justice court, taking an active interest in the proceedings.

(6) If a pre-youth-sentence report is submitted to the youth justice court, the young person, subject to subsection (7), or the young person's counsel, if any, and the Minister or the Minister's agent shall on application to the youth justice court be given the opportunity to cross-examine the youth worker who made the report.

(7) If a pre-youth-sentence report is submitted to the youth justice court, the court may, if disclosure of part of the report to the young person would, in the opinion of the court, be seriously injurious to the young person,

- (a) withhold that part of the report from the young person, and
- (b) exclude the young person from court during the consideration of that part of the report.

(8) If a pre-youth-sentence report is submitted to the youth justice court, the court, subject to subsection (7),

- (a) shall, on receipt of an application, cause a copy or a transcript of the report to be supplied to
 - (i) any person referred to in subsection (5),
 - (ii) any court that is dealing with matters relating to the young person, and
 - (iii) any youth worker to whom the young person's case has been assigned,

and

- (b) may, on receipt of an application, cause a copy or a transcript of the report, or a part of it, to be supplied to

any person not otherwise authorized under this section to receive a copy if, in the opinion of the court, the person has a valid interest in the proceedings.

(9) The provincial director may make a copy or a transcript of the pre-youth-sentence report, or any part of it, available to any person in whose custody or under whose supervision the young person is placed or to any other person who is assisting in any way in the care or treatment of the young person.

(10) No statement made by a young person in the course of the preparation of a pre-youth-sentence report in respect of the young person is admissible in evidence against the young person in any civil proceedings or in a prosecution under an Act of the Legislature, except in proceedings under section 15, 18 or 22.

RSA 2000 cY-1 s14;2002 cA-4.5 s82;2003 c41 s4(6);
2014 c13 s48

Youth sentences

15(1) If the youth justice court finds a young person guilty of an offence, it shall consider

- (a) any representations made by the Minister or the Minister's agent, the young person or the young person's counsel, if any, and the parents of the young person or, if the young person is married or is an adult interdependent partner, the young person's spouse or adult interdependent partner, and
- (b) any other relevant information before the court,

and the court shall then, subject to subsections (2) to (6), impose a youth sentence that is a sentence that an ordinary court would impose.

(2) Subject to section 20, a young person who was under 16 years of age when the young person committed an offence is not liable to be committed into custody in respect of that offence.

(3) If a young person is committed into custody it must be served in a place of custody, continuously or intermittently, for a period not exceeding 6 months.

(4) If the youth justice court imposes a fine on a young person, the fine shall not exceed the least of

- (a) the maximum fine that may be imposed on an adult in ordinary court with respect to the same offence as that of which the young person has been found guilty,

- (b) notwithstanding section 2(1) and (2), in the case of an offence for which a voluntary payment may be made under the *Provincial Offences Procedure Act*, an amount equal to the specified penalty payable in respect of the offence, and
- (c) \$1000,

to be paid at the times and on the terms that the youth justice court fixes.

(5) If the youth justice court considers it appropriate, the youth justice court may, instead of or in addition to imposing a fine under subsection (4), order

- (a) the young person to perform community service in accordance with section 16, and at the time and places the youth justice court fixes, and in determining the amount of community service to be performed, the youth justice court shall have regard to the fine it would have imposed and to the minimum wage in effect,
- (b) that the young person be placed on probation in accordance with section 17 for a period not exceeding 6 months, or
- (c) both the performance of community service described in clause (a) and probation described in clause (b).

(6) If more than one youth sentence is imposed under this section in respect of the same offence, the combined duration of the youth sentences shall not exceed 6 months.

(7) A youth sentence imposed under this section continues in effect, in accordance with the terms of the youth sentence, after the young person against whom it is made becomes an adult.

(8) If a young person is found guilty of an offence, nothing in this section precludes, in addition to any youth sentence imposed under this section, any rights, benefits, licences, permits or privileges held by the young person being cancelled, revoked, suspended or otherwise dealt with in accordance with the enactment under which the offence was committed.

RSA 2000 cY-1 s15;2002 cA-4.5 s82;2003 c41 s4(7)

Fine or community service

16(1) The youth justice court may, in imposing a fine on a young person under section 15, have regard to the present and future means of the young person to pay.

(2) No youth sentence may be imposed under section 15 to perform community service unless the youth justice court is satisfied

- (a) that the young person against whom the youth sentence is imposed is a suitable candidate for such a youth sentence,
- (b) that the youth sentence will not interfere with the normal hours of work, education or training of the young person, and
- (c) that the person or organization for whom the community service is to be performed
 - (i) is part of a program approved by the provincial director, or
 - (ii) has agreed to its performance.

(3) No youth sentence may be imposed under section 15 to perform community service unless the service can be completed in 100 hours or less and within 6 months of the date of the youth sentence.

(4) A youth justice court may, on application by or on behalf of the young person in respect of whom a youth sentence has been imposed under section 15(4) or (5), allow further time for the completion of the youth sentence.

RSA 2000 cY-1 s16;2003 c41 s4(8)

Conditions in probation orders

17(1) Where the youth sentence imposed under section 15 is a probation order, the following conditions shall be included in the order:

- (a) that the young person bound by the probation order shall keep the peace and be of good behaviour, and
- (b) that the young person shall appear before the youth justice court when required by the youth justice court to do so.

(2) A probation order made under section 15 may include any one or more of the following conditions that the youth justice court considers appropriate:

- (a) that the young person bound by the probation order report to and be under the supervision of the provincial director or a person designated by the provincial director or by the youth justice court;
- (b) that the young person remain in Alberta;

- (c) that the young person shall notify the clerk of the youth justice court, the provincial director or the youth worker assigned to the young person's case of any change in the young person's place of employment, education or training;
 - (d) that the young person make reasonable efforts to obtain and maintain suitable employment;
 - (e) that the young person attend school or any other place of education, training or recreation that is appropriate;
 - (f) that the young person reside with a parent, or any other adult whom the court considers appropriate, who is willing to provide for the care and maintenance of the young person;
 - (g) that the young person reside in a place that the provincial director specifies;
 - (h) that the young person comply with any other conditions set out in the order that the court considers desirable, including conditions for securing the young person's good conduct and for preventing the young person from repeating the offence or committing other offences.
- (3)** Where the youth justice court makes a probation order, it shall
- (a) cause the order to be read by or to the young person,
 - (b) explain or cause to be explained to the young person the purpose and effect of the order and confirm that the young person understands it, and
 - (c) cause a copy of the order to be given to the young person and to a parent of the young person, if the parent is in attendance at the proceedings against the young person.
- (4)** If the youth justice court makes a probation order, it may give a copy of the order to a parent of the young person not in attendance at the proceedings against the young person if the parent is, in the opinion of the court, taking an active interest in the proceedings.
- (5)** After a probation order has been read by or to a young person and explained to the young person pursuant to subsection (3), the young person shall endorse the order acknowledging that the young person has received a copy of the order and acknowledging the fact that it has been explained to the young person.

- (6) The failure of a young person to endorse a probation order pursuant to subsection (5) or of a parent to receive a copy of the order does not affect the validity of the order.
- (7) A probation order comes into force
- (a) on the date on which the order is made, or
 - (b) if a young person receives a youth sentence that includes a period of custody, at the end of the period of custody.
- (8) A young person may be given notice to appear before the youth justice court pursuant to subsection (1)(b) orally or in writing.
- (9) If a young person to whom a notice to appear before the youth justice court pursuant to subsection (1)(b) is given in writing does not appear at the time and place named in the notice and it is proved that a copy of the notice was given to the young person, a youth justice court may issue a warrant to compel the appearance of the young person.

RSA 2000 cY-1 s17;2003 c41 s4(9)

Review of youth sentences

- 18(1)** If the youth justice court has imposed a youth sentence under section 15, the youth justice court shall, on the application of the young person, the young person's parent, the young person's spouse or adult interdependent partner, if the young person is married or is an adult interdependent partner, the Minister or the Minister's agent or the provincial director, made at any time prior to the expiration of the youth sentence, review the youth sentence if the court is satisfied that there are grounds for a review under subsection (2).
- (2) A review of a youth sentence may be made under this section
- (a) on the ground that the circumstances that led to the youth sentence have changed materially,
 - (b) on the ground that the young person in respect of whom the review is to be made is unable to comply with or is experiencing serious difficulty in complying with the terms of the youth sentence,
 - (c) on the ground that the terms of the youth sentence are adversely affecting the opportunities available to the young person to obtain services, education, employment or training, or
 - (d) on any other grounds that the youth justice court considers appropriate.

- (3)** The youth justice court may require the provincial director to prepare a progress report on the performance of the young person since the youth sentence took effect.
- (4)** A progress report may include information relating to the personal and family history and present environment of the young person as the provincial director considers advisable, and section 14(4) to (9) apply to a progress report.
- (4.1)** A progress report may be submitted to the youth justice court orally or in writing.
- (5)** No review of a youth sentence may be commenced until the time for an appeal against the youth sentence or the finding on which the youth sentence was based has expired and until all proceedings in respect of the appeal, if taken, have been completed or the appeal has been abandoned.
- (6)** Where a review of a youth sentence is applied for under subsection (1), the person who applies for the review shall cause a written notice, as directed by rules of court applicable to the youth justice court, or, in the absence of rules on notice, at least 5 days' written notice of the review, to be given to the young person, the young person's parents, the young person's spouse or adult interdependent partner, if the young person is married or is an adult interdependent partner, the provincial director and the Minister or the Minister's agent.
- (7)** A notice under subsection (6) may be served personally or may be sent by double registered mail.
- (8)** A person entitled to notice under subsection (6) may waive the right to the notice.
- (9)** If notice under subsection (6) is not given in accordance with this section, the youth justice court may
- (a)** adjourn the proceedings and order that the notice be given in the manner and to any persons that it directs, or
 - (b)** dispense with the notice where, in the opinion of the court, having regard to the circumstances, notice may be dispensed with.
- (10)** The youth justice court may, by summons or warrant, compel a young person in respect of whom a review is to be made under this section to appear before the youth justice court for the purposes of the review.
- (11)** Subject to subsection (12), if a youth justice court reviews a youth sentence under this section, it may, after granting the young

person, the young person's counsel, if any, the young person's parents, the young person's spouse or adult interdependent partner, if the young person is married or is an adult interdependent partner, the Minister or the Minister's agent and the provincial director an opportunity to be heard,

- (a) confirm the youth sentence,
- (b) terminate the youth sentence and discharge the young person from any further obligation of the youth sentence, or
- (c) vary the youth sentence or make a new youth sentence set out in section 15, for a period of time not exceeding the remainder of the period of the earlier youth sentence, that the court considers appropriate in the circumstances.

(12) If, when the young person was found guilty of an offence in respect of which the review is being made, the young person was not liable to be committed into custody, the youth justice court may not, on review, commit the young person into custody.

(13) Subject to subsection (14), no youth sentence made under subsection (11) may be more onerous than the remaining portion of the youth sentence reviewed.

(14) If the court is satisfied that the young person requires more time to comply with an order to perform community service, the youth justice court may under this section extend the time within which the order to perform community service is to be complied with by a young person, but in no case shall the extension be for a period of time that expires more than 6 months after the date that the youth sentence was imposed under section 15.

(15) Subject to this section, sections 15(2) and (3), 16 and 17 apply in respect of a youth sentence imposed under this section.

RSA 2000 cY-1 s18;2002 cA-4.5 s82;2003 c41 s4(10)

Voluntary payment - NSF cheque

19(1) If proceedings have been commenced against a young person under Part 2 of the *Provincial Offences Procedure Act* and the young person makes a voluntary payment by cheque and the cheque is dishonoured on the grounds that no funds or insufficient funds were on deposit to the credit of the account in the institution on which the cheque was drawn, the conviction under section 26(2) of the *Provincial Offences Procedure Act* continues and is deemed to be a finding of guilt and the fine remains outstanding and is deemed to be a youth sentence under this Act.

(2) The clerk shall give notice to the young person by ordinary mail at the young person's address for service that the cheque has

been dishonoured, the conviction continues and the fine remains outstanding, and if the fine remains outstanding 15 days after the notice has been sent, the youth justice court may, by summons or warrant, compel the young person to appear before the youth justice court to show cause why a review of the fine pursuant to section 18 of this Act should not be made.

RSA 2000 cY-1 s19;2003 c41 s4(11)

Refusal to comply with youth sentence

20(1) A person who wilfully fails or refuses to comply with a youth sentence or any term or condition of it is guilty of an offence.

(2) Subject to subsection (3), a young person who is convicted of an offence under subsection (1) is liable to a youth sentence under section 15 or to be committed into custody for a period not exceeding 6 months or both.

(3) A young person who was under 16 years of age when the young person committed an offence under subsection (1) is liable to a youth sentence under section 15 or to be committed into a place of custody for a period not exceeding 14 days, or both, in respect of that offence, but if the offence arises from the failure or refusal to comply with a youth sentence that was imposed pursuant to a conviction for a breach of the *Education Act*, the young person is not liable to be committed into custody.

RSA 2000 cY-1 s20;2003 c41 s4(12);2012 cE-0.3 s288

Temporary release

21(1) The provincial director may, subject to any terms or conditions that the provincial director considers appropriate, authorize a young person committed into custody pursuant to a youth sentence made under this Act

- (a) to be temporarily released for a period not exceeding 30 days where, in the provincial director's opinion, it is necessary or desirable that the young person be absent, with or without escort,
 - (i) for medical, compassionate or humanitarian reasons, or
 - (ii) for the purpose of rehabilitation or re-integration into the community, or
- (b) to be released from custody on the days and during the hours the provincial director specifies in order that the young person may
 - (i) attend school or any other educational or training institution,

- (ii) obtain or continue employment or perform domestic or other duties required by the young person's family, or
- (iii) participate in a program specified by the provincial director that, in the provincial director's opinion, will enable the young person to better carry out the young person's employment or improve the young person's education or training.

(2) A young person who is released from custody pursuant to subsection (1) shall be released only for the periods of time that are necessary to attain the purpose for which the young person is released.

(3) The provincial director may, at any time, revoke an authorization made under subsection (1).

(4) Where the provincial director revokes an authorization for a young person to be released from custody under subsection (3) or where a young person fails to comply with any term or condition of the young person's release from custody under this section, the young person may be arrested without warrant and returned to custody.

(5) A young person who has been committed into custody under this Act shall not be released from custody before the expiration of the period of the young person's custody except in accordance with subsection (1) unless the release is ordered under section 18 or otherwise according to law by a court of competent jurisdiction.

RSA 2000 cY-1 s21;2003 c41 s4(13)

Transfer of youth sentence

22(1) If a youth sentence has been imposed in respect of a young person and the young person or a parent with whom the young person resides is or becomes a resident of a reciprocating province or territory, a youth justice court judge in Alberta may, on the application of the Minister or the Minister's agent or on the application of the young person or the young person's parent or, if the young person is married or is an adult interdependent partner, the young person's spouse or adult interdependent partner, with the consent of the Minister or the Minister's agent, transfer the youth sentence and the appropriate portion of the record to the appropriate Minister in the reciprocating province or territory.

(2) No youth sentence may be transferred from Alberta to a reciprocating province or territory under this section until the time for an appeal against the youth sentence or the finding on which the youth sentence was based has expired or until all proceedings in respect of an appeal, if taken, have been completed or the appeal has been abandoned.

(3) When a youth sentence has been imposed against a young person by a youth justice court in a reciprocating province or territory and a certified copy of the youth sentence has been transmitted by the proper officer of the reciprocating province or territory to the Minister, the Minister shall send the certified copy of the youth sentence for registration to the proper officer of the youth justice court in Alberta and on its receipt the order shall be registered.

(4) A youth sentence registered under subsection (3) has, from the date of its registration, the same force and effect as, and, subject to this Act, all proceedings may be taken on it as if it had been, a youth sentence originally obtained in the youth justice court in which it is so registered, and the youth justice court has power to enforce, review and vary the order accordingly.

RSA 2000 cY-1 s22;2002 cA-4.5 s82;2003 c41 s4(14)

Appeals

23 An appeal lies under this Act from a finding of guilt, an order dismissing an information or a youth sentence imposed under section 15 or 18 in the same manner as if the finding of guilt were a conviction, the order dismissing the information were an order dismissing the information or the youth sentence were a sentence, in proceedings in ordinary court pursuant to the *Provincial Offences Procedure Act*.

RSA 2000 cY-1 s23;2003 c41 s4(15)

Publication restrictions

24(1) Subject to section 33, no person shall publish by any means any report

- (a) of an offence committed or alleged to have been committed by a young person, or
- (b) of a hearing, adjudication, youth sentence or appeal concerning a young person who committed or is alleged to have committed an offence

in which the name of the young person, a child or a young person who is a victim of the offence or a child or a young person who appeared as a witness in connection with the offence, or in which any information serving to identify the young person or child, is disclosed.

(2) Subsection (1) does not apply in respect of the disclosure of information in the course of the administration of justice where it is not the purpose of the disclosure to make the information known in the community.

(3) A youth justice court judge may, on the application of any young person or child referred to in subsection (1), make an order

permitting any person to publish a report in which the name of that young person or child, or information serving to identify that young person or child, would be disclosed, if the youth justice court judge is satisfied that the publication of the report would not be contrary to the best interests of that young person or child.

(4) A person who contravenes subsection (1) is guilty of an offence.

RSA 2000 cY-1 s24;2003 c41 s4(16)

Exclusion from hearing

25(1) Subject to subsection (2), if the youth justice court is of the opinion that

- (a) evidence or information presented to the youth justice court may be seriously injurious or seriously prejudicial to
 - (i) the young person who is being dealt with in the proceedings,
 - (ii) a child or young person who is a witness in the proceedings, or
 - (iii) a child or young person who is aggrieved by or the victim of the offence charged in the proceedings,

or

- (b) it is in the interest of the maintenance of order or the proper administration of justice to exclude any or all members of the public from the courtroom,

the youth justice court may exclude any person from all or part of the proceedings if the youth justice court considers that person's presence to be unnecessary to the conduct of the proceedings.

(2) The youth justice court may not, pursuant to subsection (1), exclude from proceedings under this Act

- (a) the Minister or the Minister's agent,
- (b) subject to section 14(7), the young person who is being dealt with in the proceedings, the young person's parent, the young person's spouse or adult interdependent partner, if any, or the young person's counsel, if any,
- (c) the provincial director, or
- (d) the youth worker to whom the young person's case has been assigned.

(3) The youth justice court, after it has found a young person guilty of an offence or during a review of a youth sentence under section 18 may, in its discretion, exclude from the youth justice court any person other than

- (a) subject to section 650 of the *Criminal Code* (Canada) and section 14(7) of this Act, the young person,
- (b) the young person's counsel, if any,
- (c) the provincial director,
- (d) the youth worker to whom the young person's case is assigned, or
- (e) the Minister or the Minister's agent,

when any information is being presented to the youth justice court the knowledge of which may, in the opinion of the youth justice court, be seriously injurious or seriously prejudicial to the young person.

RSA 2000 cY-1 s25;2002 cA-4.5 s82;2003 c41 s4(17)

Contempt of youth justice court

26(1) The youth justice court has the same power, jurisdiction and authority to deal with and impose punishment for contempt against the court as may be exercised by the Provincial Court.

(2) The youth justice court has jurisdiction in respect of every contempt of court committed by an adult against the youth justice court in the face of the youth justice court including proceedings under section 708 of the *Criminal Code* (Canada).

(3) Where the youth justice court or any other court finds a young person guilty of contempt of court, it may impose any one or more of the youth sentences set out in section 15, but no other youth sentence or sentence.

(4) A finding of guilt under this section for contempt of court or a youth sentence made in respect of it may be appealed in accordance with section 23.

RSA 2000 cY-1 s26;2003 c41 s4(18)

Application for forfeiture of recognizance

27 An application for the forfeiture of the recognizance of a young person is to be made to the youth justice court.

RSA 2000 cY-1 s27;2003 c41 s4(22)

Proceedings in case of default

28(1) If a recognizance binding a young person has been endorsed with a certificate pursuant to subsection 770(1) of the *Criminal Code* (Canada), the youth justice court shall,

- (a) on the application of the Minister or the Minister's agent, fix a time and place for the hearing of an application for the forfeiture of the recognizance, and
- (b) after fixing a time and place for the hearing, cause to be sent by registered mail, not less than 10 days before the time so fixed, to each principal and surety named in the recognizance, directed to the principal or surety at the principal's or surety's last known address, a notice requiring the principal or surety to appear at the time and place fixed by the youth justice court to show cause why the recognizance should not be forfeited.

(2) When subsection (1) is complied with, the youth justice court may, after giving the parties an opportunity to be heard, grant or refuse the application and make any order with respect to the forfeiture of the recognizance that it considers proper.

(3) If, pursuant to subsection (2), the youth justice court orders forfeiture of a recognizance, the principal and the principal's sureties become judgment debtors of the Crown, each in the amount that the youth justice court orders him or her to pay.

(4) An order made under subsection (2) may be filed with the clerk of the Court of Queen's Bench and, when an order is filed, the clerk shall issue a writ of fieri facias in the form set out in the *Criminal Code* (Canada) and deliver it to a civil enforcement agency.

(5) If a deposit has been made by a person against whom an order for forfeiture of a recognizance has been made, no writ of fieri facias shall issue, and the amount of the deposit shall be transferred by the person who has custody of it to the person who is entitled by law to receive it.

(6) Subsections 770(2) and (4) of the *Criminal Code* (Canada) do not apply in respect of proceedings under this Act.

(7) Sections 772 and 773 of the *Criminal Code* (Canada) apply in respect of writs of fieri facias issued pursuant to this section as if they were issued pursuant to section 771 of the *Criminal Code* (Canada).

(8) A civil enforcement bailiff has the powers of a sheriff under section 772 of the *Criminal Code* (Canada).

RSA 2000 cY-1 s28;2003 c41 s4(22)

Proof of age

29(1) In any proceedings under this Act, the following is admissible as evidence of the age of a person:

- (a) the testimony of a parent as to the age of a person of whom he or she is a parent;
- (b) the person's birth or baptismal certificate or a copy purporting to be certified by the person who has custody of those records;
- (c) an entry or record of an incorporated society that has had the control or care of a person at or about the time that person entered Canada, if the entry or record was made before that person is alleged to have committed an offence.

(2) In the absence of any certificate, copy, entry or record mentioned in subsection (1) or in corroboration of a certificate, copy, entry or record, the youth justice court may receive and act on other information relating to age that it considers reliable.

(3) In any proceedings under this Act, the youth justice court may draw inferences as to the age of a person from the person's appearance or from statements made by the person in direct examination or cross-examination.

RSA 2000 cY-1 s29;2003 c41 s4(22)

Admissions

30(1) A party to any proceedings under this Act may admit any relevant fact or matter for the purpose of dispensing with its proof, including any fact or matter the admissibility of which depends on a ruling of law or of mixed law and fact.

(2) Nothing in this section precludes a party to a proceeding from adducing evidence to prove a fact or matter admitted by another party.

1984 cY-1 s26

Evidence of a child or young person

31 In proceedings under this Act where the evidence of a child or a young person is taken, it shall be taken only after the youth justice court has

- (a) in all cases, if the witness is a child, and
- (b) where it considers it necessary, if the witness is a young person,

instructed the child or young person as to the duty of a witness to speak the truth and the consequences of failing to do so.

RSA 2000 cY-1 s31;2003 c41 s4(22)

Evidence of a young person

32(1) Subject to this section, the law relating to the admissibility of statements made by persons accused of committing offences applies in respect of young persons.

(2) No oral or written statement given by a young person to a peace officer or other person who is, in law, a person in authority is admissible against the young person unless

- (a) the statement was voluntary,
- (b) the person to whom the statement was given has, before the statement was made, clearly explained to the young person, in language appropriate to the young person's age and understanding, that
 - (i) the young person is under no obligation to give a statement,
 - (ii) any statement given by the young person may be used as evidence in proceedings against the young person,
 - (iii) the young person has the right to consult another person in accordance with clause (c), and
 - (iv) any statement made by the young person is required to be made in the presence of the person consulted, unless the young person desires otherwise,
- (c) the young person has, before the statement was made, been given a reasonable opportunity to consult with counsel and a parent, or in the absence of a parent, an adult relative, or in the absence of a parent and an adult relative, any other appropriate adult chosen by the young person, and
- (d) where the young person consults any person pursuant to clause (c), the young person has been given a reasonable opportunity to make the statement in the presence of that person.

(3) The requirements set out in subsection (2)(b), (c) and (d) do not apply in respect of oral statements if they are made spontaneously by the young person to a peace officer or other person in authority before that peace officer or other person has had a reasonable opportunity to comply with those requirements.

(4) A young person may waive the young person's rights under subsection (2)(c) or (d) but the waiver shall be made in writing and shall contain a statement signed by the young person that the young person has been apprised of the right that the young person is waiving.

(4.1) When a waiver of rights under subsection (2)(c) or (d) is not made in accordance with subsection (4) because of an irregularity, the youth justice court may determine that the waiver is valid if it is satisfied that the young person was informed of his or her rights and voluntarily waived them.

(4.2) When there has been an irregularity in complying with subsection (2)(b) to (d), the youth justice court may admit into evidence a statement referred to in subsection (2) if it is satisfied that the admission of the statement would not bring into disrepute the principle that young persons are entitled to enhanced procedural protection to ensure that they are treated fairly and their rights are protected.

(4.3) A youth justice court judge in any proceedings under this Act may rule admissible any statement or waiver by a young person if, at the time of making the statement or waiver,

- (a) the young person held himself or herself out as being 18 years old or over,
- (b) the person to whom the statement or waiver was made conducted reasonable inquiries as to the age of the young person and had reasonable grounds for believing that the young person was 18 years old or older, and
- (c) in all other circumstances the statement or waiver would otherwise be admissible.

(5) A youth justice court judge may rule inadmissible in any proceedings under this Act a statement given by the young person in respect of whom the proceedings are taken if the young person satisfies the judge that the statement was given under duress imposed by any person who is not, in law, a person in authority.

(6) For the purposes of this section, an adult consulted pursuant to subsection (2)(c) is, in the absence of evidence to the contrary, deemed not to be a person in authority.

RSA 2000 cY-1 s32;2003 c41 s4(19)

Records

33(1) Every clerk of the youth justice court may keep records of every proceeding arising under this Act that comes before the youth justice court.

- (2) Any record kept pursuant to subsection (1) shall be kept separate from records of cases in ordinary court.
- (3) A record kept pursuant to subsection (1) shall, during the course of proceedings and during the term of any youth sentence imposed, be made available on request for inspection to
- (a) counsel, if any, for, or a parent of, the young person to whom it relates;
 - (b) the provincial director;
 - (c) a judge who hears an appeal on the proceeding;
 - (d) the Minister or the Minister's agent, or any person authorized in writing by the Minister.
- (4) Subject to section 22, at any time after proceedings are completed, the record kept pursuant to subsection (1) shall, on application, be made available for inspection to the Minister or any person authorized in writing by the Minister, but no other person.
- (5) If an enactment provides that any right, benefit, licence, permit or privilege held may be cancelled, revoked, suspended or otherwise dealt with on the finding of guilt of an offence under the enactment, nothing in this section precludes the providing of any information in accordance with the enactment for those purposes.
- (6) Nothing in this section precludes the furnishing of information and an abstract of a driving record under the *Traffic Safety Act*.

RSA 2000 cY-1 s33;RSA 2000 cT-6 s213;2003 c41 s4(20)

Reciprocating province or territory

34 When the Lieutenant Governor in Council is satisfied that reciprocal provisions are made or will be made by a province or territory for the enforcement of youth sentences imposed in Alberta, the Lieutenant Governor in Council may by order declare it to be a reciprocating province or territory for the purposes of this Act.

RSA 2000 cY-1 s34;2003 c41 s4(21)

Regulations

35 The Lieutenant Governor in Council may make regulations

- (a) respecting forms for the purposes of this Act;
- (b) establishing rules regulating the practice and procedure to be followed by youth justice courts;
- (c) designating places of temporary detention.

RSA 2000 cY-1 s35;2003 c41 s4(23)

Forms

36 In any case for which forms are not enacted under section 35, the forms prescribed under the *Provincial Offences Procedure Act*, set out in Part XXV of the *Criminal Code* (Canada) or prescribed by the *Young Offenders Act* (Canada), with modifications as the circumstances require, or other appropriate forms, may be used.

1984 cY-1 s33;1988 cP-21.5 s52



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