



If Your Child is in Trouble with the Law

Information for Parents and Guardians

This fact sheet contains general information for parents and guardians of children who are in trouble with the law. It is not intended as a substitute for professional legal advice. If your child is in trouble with the law, it is best to seek professional legal advice as soon as possible.

Having a child involved in the youth criminal justice system is stressful and confusing for both you and your child.

You can **help** by:

- giving your child support and encouragement through the process;
- making sure that he or she gets legal advice;
- finding out how certain decisions can affect your child, both in the short term and in the long term;
- learning how the youth justice system works and what role you can play at various stages; and
- staying informed about what is happening with your child.

The *Youth Criminal Justice Act* recognizes the important role that a parent or guardian's support and guidance play in a young person's life. That is why the Act says that parents and guardians should be kept informed of their child's involvement in the youth justice system. The Act also provides opportunities at different stages of the process for parents and guardians to get involved.





Your Child Needs Professional Legal Advice

Your child has a right to a lawyer. The *Charter of Rights and Freedoms* gives this right to anyone who is detained. The *Youth Criminal Justice Act* confirms and reinforces this right. It also says that the right to a lawyer applies at any stage of the youth justice process. This means that your child has a right to a lawyer whether or not he or she has been charged, arrested or detained. **One of the most important things you can do to help your child is to make sure he or she has the assistance of a knowledgeable criminal lawyer as soon as possible.**

Your child should have a lawyer:

- whether or not you think he or she is guilty;
- regardless of how serious you think the offence is;
- who is experienced in criminal law; and
- as soon as possible.

Getting a Lawyer

Your child has a right to a lawyer. The police must tell your child about this right upon arrest. If your child has to go to court, then he or she has a guaranteed right to a lawyer. This means that even if your child cannot afford to pay for a lawyer, the law says that he or she can get a lawyer anyway. The government will pay for the lawyer in such a case. However, in certain cases, the provincial government may seek reimbursement for the costs of the lawyer after all the court proceedings are done.

Your Child is the Client

It is important to remember that **your child's lawyer works for your child, not for you**, even if you are paying for the lawyer's services.

Your child is the client. This means that the lawyer cannot reveal any information about the case to you without your child's consent. The lawyer's duty to maintain confidentiality about a case applies to all their clients - in this case, your child. Decisions about how to handle the case will be made by the lawyer and your child, working together.

At the Police Station

Your son or daughter has the right to consult a lawyer and to have a parent or other adult with them when being questioned by police.

Parents often – understandably – respond emotionally when they are called down to the police station to meet their child. You may intuitively want your child to “confess” right away. **This is usually not the best way to help your child.**

If your child is being questioned at the police station, you **should**:

- **not** try to “fix” the problem yourself;
- **not** try to address all of the issues immediately;
- **not** make statements to the police;
- **not** force your child to make statements to the police; and
- **not** encourage your child to waive his or her right to consult with a lawyer.

You **should**:

- recognize that your child needs professional legal advice;
- help your child obtain legal assistance as quickly as possible;



- take your child home as soon as you can;
- allow yourself some time to collect your thoughts and to calm down before taking action or making decisions; and
- provide moral and emotional support for your child, even though it may be difficult to do so.

Understanding the Possible Consequences

Your child may have to live with some long-term negative consequences as a result of his or her involvement in the youth criminal justice system.

Custody and Detention

Any amount of time spent in custody or detention can have negative effects on your son or daughter's life. Whether your child is being held while waiting to appear in court for a bail hearing or trial, or is already sentenced to custody after having been found guilty of an offence, he or she is deprived of freedom in a most serious way. Moreover, young people in custody and detention often learn negative lessons from other young or adult offenders who may have more experience with the criminal justice system.

Custody and detention do not necessarily provide a “good lesson” for youth who have committed offences.

Youth Records

Many people are misinformed about the consequences of having a youth record. A common belief is that a youth record automatically disappears when a young person reaches the age of 18. **This is not necessarily true.** A youth record may stay open longer or may be closed sooner, depending on such factors as the

type of offence, the type of sentence, and whether the youth commits another offence while the record is still open.

Having a youth record can affect your child's ability to apply to college or university, to get certain jobs and to travel to other countries, whether for work, school or pleasure.

Being Well-Informed

The youth justice system sometimes involves long and complicated processes. Your child needs to know this, and to understand the different parts of the youth justice system as well as the possible consequences he or she may face. Being well-informed will help your child make better decisions about his or her situation.

You should make sure that your child gets all the information he or she needs from the lawyer. A good idea is to help your child prepare some questions before he or she meets with their lawyer.

How to Know What's Going On

The *Youth Criminal Justice Act* says that “parents should be informed of measures or proceedings involving their children and encouraged to support them in addressing their behaviour.”

Specifically, the law says that:

- parents will be notified if an **extrajudicial sanction** (see below) is used with their child;
- the police will notify a parent as soon as possible if their child has been arrested or detained or is required to appear in court;



- the youth court has the power to order a parent to attend court with their child, and failure to do so can result in criminal sanctions against the parent;
- before a youth court decides to detain a young person in custody while waiting for trial, the court must find out if there is a “responsible person” (see below) available to care for and supervise the child instead of placing the child in detention; and
- a youth has the right both to consult a lawyer and to have a parent or other adult present when they are being questioned by police

Maintaining an open and honest dialogue with your child during this time will go a long way toward making sure everyone is kept informed about what is happening.

How You Can Take Part in the Process

The *Youth Criminal Justice Act* says that measures taken against young people who commit offences should:

“be meaningful for the individual young person given his or her needs and level of development and, where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person’s rehabilitation and reintegration.”

Extrajudicial Measures

In order to hold young people accountable for their actions in a fair and meaningful way, the *Youth Criminal Justice Act* encourages the use of measures outside of the formal court system when appropriate. These out-of-court options are called **extrajudicial measures**. They include:

- the police taking no further action;
- the police giving a warning;
- the police or the Crown attorney giving a formal caution;
- the police referring the young person to an agency that can help them to make better choices; and
- extrajudicial sanctions.

Extrajudicial sanctions are the most formal type of out-of-court or extrajudicial measure. Although extrajudicial sanctions programs may differ from region to region, they usually involve a process that results in an agreement that the young person will perform specific tasks to make up for the harm caused by the offence. Your child should know that he or she must consent to participate in an extrajudicial sanctions program and that such participation results in a record that lasts for two years.

If your child is going to participate in an extrajudicial sanctions program, the people who run the program may contact you and invite you to attend too. Participating in such a program as a support person for your child is a good way for you to help.

Conferences

Whether or not your child is charged or is going to court, the *Youth Criminal Justice Act* allows for the use of **conferences** to help key people in the justice system make decisions about your child. Conferences can be called by judges, police officers, justices of the peace, Crown attorneys, youth workers and other decision makers under the Act.



Usually, conferences pull together people who know the young person and who can advise the decision maker on things like what extrajudicial measure should be used, what bail conditions should be imposed, what kind of sentence would be best, and what kind of rehabilitation plan should be set up for the youth.

If you are asked to participate in a conference, you should know that this is a good opportunity for you to be heard.

Court-based (or Judicial) Measures

If your child has been charged and is facing a court process, there are still ways that you can participate in the process.

Responsible Person

If it is possible for you to do so, one of the most effective ways you can help your child is by making sure the court knows that you are available as a **“responsible person”** at your child’s bail hearing. Before a youth court decides to detain a young person in custody while waiting for his or her trial, the court must find out if there is a responsible person available to care for and supervise the child instead of placing the child in detention.

Pre-sentence Report

If your child is found guilty in court, the judge will often look at a **pre-sentence report** before deciding on the sentence. The person who prepares this pre-sentence report (usually a youth worker) may interview a number of people who know your son or daughter to get as complete a picture as possible of your child’s situation. The judge then reads and considers this report before deciding on a sentence.

If you are interviewed by the person who is preparing the pre-sentence report, keep in mind that offering a supportive environment can go a long way toward obtaining a better result for your child.

Sentence

If your child is found guilty in court, the judge will impose a sentence. A wide range of sentences is available to the judge, from a discharge or a reprimand to a custody and supervision order. It is important that your child fully understand what is expected of him or her. For example, if your child is given a probation order, there will be conditions to follow and people to report to at certain times. It is critical that your child understand these obligations and that he or she could be charged with another offence if the conditions are violated. You should make sure that the lawyer explains all of this to your child. You can also help your child schedule and remember appointments, such as weekly meetings with the probation officer.

If your child receives a custody and supervision sentence, you should know that the *Youth Criminal Justice Act* says that the youth custody and supervision system should encourage the involvement of the young person’s family. Maintaining links with family members is important to your child’s rehabilitation and reintegration. Even though this can sometimes be difficult for everyone involved, you should encourage family members to visit your child while he or she is in custody.

When your child comes out of custody, he or she will be under supervision in the community for a certain length of time. There will be conditions to meet, and your child will need your encouragement and your support to meet these obligations.



The period following custody is often a crucial time during which a youth learns how to stay on track and to avoid earlier patterns. It is very important that your child be well supported during this critical time.

How You Can Help Your Child

- Even though it may be difficult, give your child emotional support and encouragement
- Make sure your child has access to legal advice from an experienced criminal lawyer.
- Try to stay informed about what is happening with your child.
- Make sure your child is aware of the possible consequences of being involved in the youth criminal justice system.
- Make sure your child is informed about the different stages of the process.
- Encourage your child to ask questions.
- Learn how the process works and get actively involved

For more information, please visit the Youth Justice Renewal page on the Department of Justice Canada

Web site at the following address:

<http://canada.justice.gc.ca/en/ps/yj/index.html>

or e-mail youth-jeunes@justice.gc.ca