

## YOUTH CRIMINAL JUSTICE ACT

STATUTES OF CANADA 2002

### CHAPTER 1

An Act in respect of criminal justice for young persons and to amend and repeal other Acts

#### Preamble

WHEREAS members of society share a responsibility to address the developmental challenges and the needs of young persons and to guide them into adulthood;

WHEREAS communities, families, parents and others concerned with the development of young persons should, through multi-disciplinary approaches, take reasonable steps to prevent youth crime by addressing its underlying causes, to respond to the needs of young persons, and to provide guidance and support to those at risk of committing crimes;

WHEREAS information about youth justice, youth crime and the effectiveness of measures taken to address youth crime should be publicly available;

WHEREAS Canada is a party to the United Nations Convention on the Rights of the Child and recognizes that young persons have rights and freedoms, including those stated in the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights*, and have special guarantees of their rights and freedoms;

AND WHEREAS Canadian society should have a youth criminal justice system that commands respect, takes into account the interests of victims, fosters responsibility and ensures accountability through meaningful consequences and effective rehabilitation and reintegration, and that reserves its most serious intervention for the most serious crimes and reduces the over-reliance on incarceration for non-violent young persons;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

#### SHORT TITLE

#### Short title

1. This Act may be cited as the *Youth Criminal Justice Act*.

#### INTERPRETATION

#### Definitions

2. (1) The definitions in this subsection apply in this Act,

"adult"

"adult" means a person who is neither a young person nor a child.

« *adulte* »

"adult sentence"

"adult sentence", in the case of a young person who is found guilty of an offence, means any sentence that could be imposed on an adult who has been convicted of the same offence.

« *peine applicable aux adulte* »

"Attorney General"

"Attorney General" means the Attorney General as defined in section 2 of the *Criminal Code*, read as if the reference in that definition to "proceedings" were a reference to "proceedings or extrajudicial measures", and includes an

« *procureur général* »

	agent or delegate of the Attorney General.
"child" « <i>enfant</i> »	"child" means a person who is or, in the absence of evidence to the contrary, appears to be less than twelve years old.
"conference" « <i>groupe consultatif</i> »	"conference" a group of persons who are convened to give advice in accordance with section 19.
"confirmed delivery service" « <i>service de messagerie</i> »	"confirmed delivery service" means certified or registered mail or any other method of service that provides proof of delivery.
"custodial portion" « <i>période de garde</i> »	"custodial portion" with respect to a youth sentence imposed on a young person under paragraph 42(2)(n), (o), (q) or (r), means the period of time, or the portion of the young person's youth sentence, that must be served in custody before he or she begins to serve the remainder under supervision in the community subject to conditions under paragraph 42(2)(n) or under conditional supervision under paragraph 42(2)(o), (q) or (r).
"disclosure" « <i>communication</i> »	"disclosure" means the communication of information other than by way of publication.
"extrajudicial measures" « <i>mesures extrajudiciaires</i> »	"extrajudicial measures" means measures other than judicial proceedings under this Act used to deal with a young person alleged to have committed an offence and includes extrajudicial sanctions.
"extrajudicial sanction" « <i>sanction extrajudiciaire</i> »	"extrajudicial sanction" means a sanction that is part of a program referred to in section 10.
"offence" « <i>infraction</i> »	"offence" means an offence created by an Act of Parliament or by any regulation, rule, order, by-law or ordinance made under an Act of Parliament other than an ordinance of the Yukon Territory or the Northwest Territory or a law of the Legislature for Nunavut.
"parent" « <i>père ou mère</i> » ou « <i>père et mère</i> »	"parent" includes, in respect of a young person, any person who is under a legal duty to provide for the young person or any person who has, in law or in fact, the custody or control of the young person, but does not include a person who has the custody or control of the young person by reason only of proceedings under this Act.
"pre-sentence report" « <i>rapport pré-décisionnel</i> »	"pre-sentence report" means a report on the personal and family history and present environment of a young person made in accordance with section 40.
"presumptive offence" « <i>infraction désignée</i> »	"presumptive offence" means <ul style="list-style-type: none"> <li>(a) an offence committed, or alleged to have been committed, by a young person who has attained the age of fourteen years, or, in a province where the lieutenant governor in council has fixed an age greater than fourteen years under section 61, the age so fixed, under one of the following provisions of the <i>Criminal Code</i>:             <ul style="list-style-type: none"> <li>(i) section 231 or 235 (first degree murder or second degree murder within the meaning of section 231),</li> <li>(ii) section 239 (attempt to commit murder),</li> <li>(iii) section 232, 234 or 236 (manslaughter), or</li> <li>(iv) section 273 (aggravated sexual assault); or</li> </ul> </li> </ul>

	(b) a serious violent offence for which an adult is liable to imprisonment for a term of more than two years committed, or alleged to have been committed, by a young person after the coming into force of section 62 (adult sentence) and after the young person has attained the age of fourteen years, or, in a province where the lieutenant governor in council has fixed an age greater than fourteen years under section 61, the age so fixed, if at the time of the commission or alleged commission of the offence at least two judicial determinations have been made under subsection 42(9), at different proceedings, that the young person has committed a serious violent offence.
"provincial director" « <i>directeur provincial</i> » ou « <i>directeur</i> »	"provincial director" means a person, a group or class of persons or a body appointed or designated by or under an Act of the legislature of a province or by the lieutenant governor in council of a province or his or her delegate to perform in that province, either generally or in a specific case, any of the duties or functions of a provincial director under this Act.
"publication" « <i>publication</i> »	"publication" means the communication of information by making it known or accessible to the general public through any means, including print, radio or television broadcast, telecommunication or electronic means.
"record" « <i>dossier</i> »	"record" includes any thing containing information, regardless of its physical form or characteristics, including microform, sound recording, videotape, machine-readable record, and any copy of any of those things, that is created or kept for the purposes of this Act or for the investigation of an offence that is or could be prosecuted under this Act.
"review board" « <i>commission d'examen</i> »	"review board" means a review board referred to in subsection 87(2).
"serious violent offence" « <i>infraction grave avec violence</i> »	"serious violent offence" means an offence in the commission of which a young person causes or attempts to cause serious bodily harm.
"young person" « <i>adolescent</i> »	"young person" means a person who is or, in the absence of evidence to the contrary, appears to be twelve years old or older, but less than eighteen years old and, if the context requires, includes any person who is charged under this Act with having committed an offence while he or she was a young person or who is found guilty of an offence under this Act.
"youth custody facility" « <i>lieu de garde</i> »	"youth custody facility" means a facility designated under subsection 85(2) for the placement of young persons and, if so designated, includes a facility for the secure restraint of young persons, a community residential centre, a group home, a child care institution and a forest or wilderness camp.
"youth justice court" « <i>tribunal pour adolescents</i> »	"youth justice court" means a youth justice court referred to in section 13.
"youth justice court judge" « <i>juge du tribunal pour adolescents</i> »	"youth justice court judge" means a youth justice court judge referred to in section 13.
"youth sentence" « <i>peine spécifique</i> »	"youth sentence" means a sentence imposed under section 42, 51 or 59 or any of sections 94 to 96 and includes a confirmation or a variation of that sentence.
"youth worker" « <i>délégué à la jeunesse</i> »	"youth worker" means any person appointed or designated, whether by title of youth worker or probation officer or by any other title, by or under an Act of the legislature of a province or by the lieutenant governor in council of a

province or his or her delegate to perform in that province, either generally or in a specific case, any of the duties or functions of a youth worker under this Act.

Words and expressions

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

Descriptive cross-references

(3) If, any provision of this Act, a reference to another provision of this Act or a provision of any other Act is followed by words in parentheses that are or purport to be descriptive of the subject-matter of the provision referred to, those words form no part of the provision in which they occur but are inserted for convenience of reference only.

#### DECLARATION OF PRINCIPLE

Policy for Canada with respect to young persons

**3.** (1) The following principles apply in this Act:

(a) the youth criminal justice system is intended to

- (i) prevent crime by addressing the circumstances underlying a young person's offending behaviour,
- (ii) rehabilitate young persons who commit offences and reintegrate them into society, and
- (iii) ensure that a young person is subject to meaningful consequences for his or her offence

in order to promote the long-term protection of the public;

(b) the criminal justice system for young persons must be separate from that of adults and emphasize the following:

- (i) rehabilitation and reintegration,
- (ii) fair and proportionate accountability that is consistent with the greater dependency of young persons and their reduced level of maturity,
- (iii) enhanced procedural protection to ensure that young persons are treated fairly and that their rights, including their right to privacy, are protected,
- (iv) timely intervention that reinforces the link between the offending behaviour and its consequences, and
- (v) the promptness and speed with which persons responsible for enforcing this Act must act, given young persons' perception of time;

(c) within the limits of fair and proportionate accountability, the measures taken against young persons who commit offences should

- (i) reinforce respect for societal values,
- (ii) encourage the repair of harm done to victims and the community,
- (iii) 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, and

(iv) respect gender, ethnic, cultural and linguistic differences and respond to the needs of aboriginal young persons and of young persons with special requirements; and

(d) special considerations apply in respect of proceedings against young persons and, in particular,

(i) young persons have rights and freedoms in their own right, such as a right to be heard in the course of and to participate in the processes, other than the decision to prosecute, that lead to decisions that affect them, and young persons have special guarantees of their rights and freedoms,

(ii) victims should be treated with courtesy, compassion and respect for their dignity and privacy and should suffer the minimum degree of inconvenience as a result of their involvement with the youth criminal justice system,

(iii) victims should be provided with information about the proceedings and given an opportunity to participate and be heard, and

(iv) parents should be informed of measures or proceedings involving their children and encouraged to support them in addressing their offending behaviour.

Act to be liberally construed

(2) This Act shall be liberally construed so as to ensure that young persons are dealt with in accordance with the principles set out in subsection (1).