

## PART 2

### ORGANIZATION OF YOUTH CRIMINAL JUSTICE SYSTEM

#### *Youth Justice Court*

Designation of youth justice court	<b>13.</b> (1) A youth justice court is any court that may be established or designated by or under an Act of the legislature of a province, or designated by the Governor in Council or the lieutenant governor in council of a province, as a youth justice court for the purposes of this Act, and a youth justice court judge is a person who may be appointed or designated as a judge of the youth justice court or a judge sitting in a court established or designated as a youth justice court.
Deemed youth justice court	(2) When a young person elects to be tried by a judge without a jury, the judge shall be a judge as defined in section 552 of the <i>Criminal Code</i> , or if it is an offence set out in section 469 of that Act, the judge shall be a judge of the superior court of criminal jurisdiction in the province in which the election is made. In either case, the judge is deemed to be a youth justice court judge and the court is deemed to be a youth justice court for the purpose of the proceeding.
Deemed youth justice court	(3) When a young person elects or is deemed to have elected to be tried by a court composed of a judge and jury, the superior court of criminal jurisdiction in the province in which the election is made or deemed to have been made is deemed to be a youth justice court for the purpose of the proceeding, and the superior court judge is deemed to be a youth justice court judge.
Court of record	(4) A youth justice court is a court of record.
Exclusive jurisdiction of youth justice court	<b>14.</b> (1) Despite any other Act of Parliament but subject to the <i>Contraventions Act</i> and the <i>National Defence Act</i> , a youth justice court has exclusive jurisdiction in respect of any offence alleged to have been committed by a person while he or she was a young person, and that person shall be dealt with as provided in this Act.
Orders	(2) A youth justice court has jurisdiction to make orders against a young person under sections 810 (recognizance - fear of injury or damage), 810.01 (recognizance - fear of criminal organization offence) and 810.2 (recognizance - fear of serious personal injury offence) of the <i>Criminal Code</i> . If the young person fails or refuses to enter into a recognizance referred to in any of those sections, the court may impose any one of the sanctions set out in subsection 42(2) (youth sentences) except that, in the case of an order under paragraph 42(2)(n) (custody and supervision order), it shall not exceed thirty days.
Prosecution prohibited	(3) Unless the Attorney General and the young person agree, no extrajudicial measures shall be taken or judicial proceedings commenced under this Act in respect of an offence after the end of the time limit set out in any other Act of Parliament or any regulation made under it for the institution of proceedings in respect of that offence.
Continuation of proceedings	(4) Extrajudicial measures taken or judicial proceedings commenced under this Act against a young person may be continued under this Act after the person attains the age of eighteen years.

Young persons over the age of eighteen years	(5) This Act applies to persons eighteen years old or older who are alleged to have committed an offence while a young person.
Powers of youth justice court judge	(6) For the purpose of carrying out the provisions of this Act, a youth justice court judge is a justice and a provincial court judge and has the jurisdiction and powers of a summary conviction court under the <i>Criminal Code</i> .
Powers of a judge of a superior court	(7) A judge of a superior court of criminal jurisdiction, when deemed to be a youth justice court judge for the purpose of a proceeding, retains the jurisdiction and powers of a superior court of criminal jurisdiction.
Contempt against youth justice court	<b>15.</b> (1) Every 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 superior court of criminal jurisdiction of the province in which the court is situated.
Jurisdiction of youth justice court	(2) A youth justice court has jurisdiction in respect of every contempt of court committed by a young person against the youth justice court whether or not committed in the face of the court, and every contempt of court committed by a young person against any other court otherwise than in the face of that court.
Concurrent jurisdiction of youth justice court	(3) A youth justice court has jurisdiction in respect of every contempt of court committed by a young person against any other court in the face of that court and every contempt of court committed by an adult against the youth justice court in the face of the youth justice court, but nothing in this subsection affects the power, jurisdiction or authority of any other court to deal with or impose punishment for contempt of court.
Youth sentence - contempt	(4) When a youth justice court or any other court finds a young person guilty of contempt of court, it may impose as a youth sentence any one of the sanctions set out in subsection 42(2) (youth sentences), or any number of them that are not inconsistent with each other, but no other sentence.
Section 708 of <i>Criminal Code</i> applies in respect of adults	(5) Section 708 (contempt) of the <i>Criminal Code</i> applies in respect of proceedings under this section in youth justice court against adults, with any modifications that the circumstances require.
Status of offender uncertain	<b>16.</b> When a person is alleged to have committed an offence during a period that includes the date on which the person attains the age of eighteen years, the youth justice court has jurisdiction in respect of the offence and shall, after putting the person to their election under section 67 (adult sentence) if applicable, and on finding the person guilty of the offence, <p data-bbox="496 1514 1396 1577">(a) if it has been proven that the offence was committed before the person attained the age of eighteen years, impose a sentence under this Act;</p> <p data-bbox="496 1598 1396 1724">(b) if it has been proven that the offence was committed after the person attained the age of eighteen years, impose any sentence that could be imposed under the <i>Criminal Code</i> or any other Act of Parliament on an adult who has been convicted of the same offence; and</p> <p data-bbox="496 1745 1396 1808">(c) if it has not been proven that the offence was committed after the person attained the age of eighteen years, impose a sentence under this Act.</p>
Youth justice court may make rules	<b>17.</b> (1) The youth justice court for a province may, subject to the approval of the lieutenant governor in council of the province, establish rules of court not

inconsistent with this Act or any other Act of Parliament or with any regulations made under section 155 regulating proceedings within the jurisdiction of the youth justice court.

- Rules of court (2) Rules under subsection (1) may be made
- (a) generally to regulate the duties of the officers of the youth justice court and any other matter considered expedient to attain the ends of justice and carry into effect the provisions of this Act;
  - (b) subject to any regulations made under paragraph 155(b), to regulate the practice and procedure in the youth justice court; and
  - (c) to prescribe forms to be used in the youth justice court if they are not otherwise provided for by or under this Act.
- Publication of rules (3) Rules of court that are made under the authority of this section shall be published in the appropriate provincial gazette.

#### *Youth Justice Committees*

- Youth justice committees **18.** (1) The Attorney General of Canada or a province or any other minister that the lieutenant governor in council of the province may designate may establish one or more committees of citizens, to be known as youth justice committees, to assist in any aspect of the administration of this Act or in any programs or services for young persons.
- Role of committee (2) The functions of a youth justice committee may include the following:
- (a) in the case of a young person alleged to have committed an offence,
    - (i) giving advice on the appropriate extrajudicial measure to be used in respect of the young person
    - (ii) supporting any victim of the alleged offence by soliciting his or her concerns and facilitating the reconciliation of the victim and the young person,
    - (iii) ensuring that community support is available to the young person by arranging for the use of services from within the community, and enlisting members of the community to provide short-term mentoring and supervision, and
    - (iv) when the young person is also being dealt with by a child protection agency or a community group, helping to coordinate the interaction of the agency or group with the youth criminal justice system;
  - (b) advising the federal and provincial governments on whether the provisions of this Act that grant rights to young persons, or provide for the protection of young persons, are being complied with;
  - (c) advising the federal and provincial governments on policies and procedures related to the youth criminal justice system;
  - (d) providing information to the public in respect of this Act and the youth criminal justice system;
  - (e) acting as a conference; and

(f) any other functions assigned by the person who establishes the committee.

### *Conferences*

Conferences may be convened

**19.** (1) A youth justice court judge, the provincial director, a police officer, a justice of the peace, a prosecutor or a youth worker may convene or cause to be convened a conference for the purpose of making a decision required to be made under this Act.

Mandate of a conference

(2) The mandate of a conference may be, among other things, to give advice on appropriate extrajudicial measures, conditions for judicial interim release, sentences, including the review of sentences, and reintegration plans.

Rules for conferences

(3) The Attorney General or any other minister designated by the lieutenant governor in council of a province may establish rules for the convening and conducting of conferences other than conferences convened or caused to be convened by a youth justice court judge or a justice of the peace.

Rules to apply

(4) In provinces where rules are established under subsection (3), the conferences to which those rules apply must be convened and conducted in accordance with those rules.

### *Justices of the Peace*

Certain proceedings may be taken before justices

**20.** (1) Any proceeding that may be carried out before a justice under the *Criminal Code*, other than a plea, a trial or an adjudication, may be carried out before a justice in respect of an offence alleged to have been committed by a young person, and any process that may be issued by a justice under the *Criminal Code* may be issued by a justice in respect of an offence alleged to have been committed by a young person.

Orders under s. 810 of *Criminal Code*

(2) A justice has jurisdiction to make an order under section 810 (recognizance - fear of injury or damage) of the *Criminal Code* in respect of a young person. If the young person fails or refuses to enter into a recognizance referred to in that section, the justice shall refer the matter to a youth justice court.

### *Clerks of the Court*

Powers of clerks

**21.** In addition to any powers conferred on a clerk of a court by the *Criminal Code*, a clerk of the youth justice court may exercise the powers ordinarily exercised by a clerk of a court, and, in particular, may

(a) administer oaths or solemn affirmations in all matters relating to the business of the youth justice court; and

(b) in the absence of a youth justice court judge, exercise all the powers of a youth justice court judge relating to adjournment.

*Provincial Directors*

Powers, duties and functions of provincial directors

**22.** The provincial director may authorize any person to exercise the powers or perform the duties or functions of the provincial director under this Act, in which case the powers, duties or functions are deemed to have been exercised or performed by the provincial director.