

PART 3

JUDICIAL MEASURES

Consent to Prosecute

Pre-charge screening

23. (1) The Attorney General may establish a program of pre-charge screening that sets out the circumstances in which the consent of the Attorney General must be obtained before a young person is charged with an offence.

Pre-charge screening program

(2) Any program of pre-charge screening of young persons that is established under an Act of the legislature of a province or by a directive of a provincial government, and that is in place before the coming into force of this section, is deemed to be a program of pre-charge screening for the purposes of subsection (1).

Private prosecutions

24. No prosecutions may be conducted by a prosecutor other than the Attorney General without the consent of the Attorney General.

Right to Counsel

Right to counsel

25. (1) A young person has the right to retain and instruct counsel without delay, and to exercise that right personally, at any stage of proceedings against the young person and before and during any consideration of whether, instead of starting or continuing judicial proceedings against the young person under this Act, to use an extrajudicial sanction to deal with the young person.

Arresting officer to advise young person of right to counsel

(2) Every young person who is arrested or detained shall, on being arrested or detained, be advised without delay by the arresting officer or the officer in charge, as the case may be, of the right to retain and instruct counsel, and be given an opportunity to obtain counsel.

Justice, youth justice court or review board to advise young person of right to counsel

(3) When a young person is not represented by counsel

(a) at a hearing at which it will be determined whether to release the young person or detain the young person in custody prior to sentencing,

(b) at a hearing held under section 71 (hearing - adult sentences),

(c) at trial,

(d) at any proceedings held under subsection 98(3) (continuation of custody), 103(1) (review by youth justice court), 104(1) (continuation of custody), 105(1) (conditional supervision) or 109(1) (review of decision),

(e) at a review of a youth sentence held before a youth justice court under this Act, or

(f) at a review of the level of custody under section 87,

the justice or youth justice court before which the hearing, trial or review is held, or the review board before which the review is held, shall advise the young person of the right to retain and instruct counsel and shall give the young person a reasonable opportunity to obtain counsel.

Trial, hearing or review before youth justice court or review board	<p>(4) When a young person at trial or at a hearing or review referred to in subsection (3) wishes to obtain counsel but is unable to do so, the youth justice court before which the hearing, trial or review is held or the review board before which the review is held</p> <p>(a) shall, if there is a legal aid program or an assistance program available in the province where the hearing, trial or review is held, refer the young person to that program for the appointment of counsel; or</p> <p>(b) if no legal aid program or assistance program is available or the young person is unable to obtain counsel through the program, may, and on the request of the young person shall, direct that the young person be represented by counsel.</p>
Appointment of counsel	<p>(5) When a direction is made under paragraph (4)(b) in respect of a young person, the Attorney General shall appoint counsel, or cause counsel to be appointed, to represent the young person.</p>
Release hearing before justice	<p>(6) When a young person, at a hearing referred to in paragraph (3)(a) that is held before a justice who is not a youth justice court judge, wishes to obtain counsel but is unable to do so, the justice shall</p> <p>(a) if there is a legal aid program or an assistance program available in the province where the hearing is held,</p> <p>(i) refer the young person to that program for the appointment of counsel, or</p> <p>(ii) refer the matter to a youth justice court to be dealt with in accordance with paragraph (4)(a) or (b); or</p> <p>(b) if no legal aid program or assistance program is available or the young person is unable to obtain counsel through the program, refer the matter without delay to a youth justice court to be dealt with in accordance with paragraph (4)(b).</p>
Young person may be assisted by adult	<p>(7) When a young person is not represented by counsel at trial or at a hearing or review referred to in subsection (3), the justice before whom or the youth justice court or review board before which the proceedings are held may, on the request of the young person, allow the young person to be assisted by an adult whom the justice, court or review board considers to be suitable.</p>
Counsel independent of parents	<p>(8) If it appears to a youth justice court judge or a justice that the interests of a young person and the interests of a parent are in conflict or that it would be in the best interests of the young person to be represented by his or her own counsel, the judge or justice shall ensure that the young person is represented by counsel independent of the parent.</p>
Statement of right to counsel	<p>(9) A statement that a young person has the right to be represented by counsel shall be included in</p> <p>(a) any appearance notice or summons issued to the young person;</p> <p>(b) any warrant to arrest the young person;</p> <p>(c) any promise to appear given by the young person;</p> <p>(d) any undertaking or recognizance entered into before an officer in charge by the young person;</p>

(e) any notice given to the young person in relation to any proceedings held under subsection 98(3) (continuation of custody), 103(1) (review by youth justice court), 104(1) (continuation of custody), 105(1) (conditional supervision) or 109(1) (review of decision); or

(f) any notice of a review of a youth sentence given to the young person.

Recovery of costs of counsel

(10) Nothing in this Act prevents the lieutenant governor in council of a province or his or her delegate from establishing a program to authorize the recovery of the costs of a young person's counsel from the young person or the parents of the young person. The costs may be recovered only after the proceedings are completed and the time allowed for the taking of an appeal has expired or, if an appeal is taken, all proceedings in respect of the appeal have been completed.

Exception for persons over the age of twenty

(11) Subsections (4) to (9) do not apply to a person who is alleged to have committed an offence while a young person, if the person has attained the age of twenty years at the time of his or her first appearance before a youth justice court in respect of the offence; however, this does not restrict any rights that a person has under the law applicable to adults.

Notice to Parents

Notice in case of arrest or detention

26. (1) Subject to subsection (4), if a young person is arrested and detained in custody pending his or her appearance in court, the officer in charge at the time the young person is detained shall, as soon as possible, give or cause to be given to a parent of the young person, orally or in writing, notice of the arrest stating the place of detention and the reason for the arrest.

Notice in other cases

(2) Subject to subsection (4), if a summons or an appearance notice is issued in respect of a young person, the person who issued the summons or appearance notice, or, if a young person is released on giving a promise to appear or entering into an undertaking or recognizance, the officer in charge, shall, as soon as possible, give or cause to be given to a parent of the young person notice in writing of the summons, appearance notice, promise to appear, undertaking or recognizance.

Notice to parent in case of ticket

(3) Subject to subsection (4), a person who serves a ticket under the Contraventions Act on a young person, other than a ticket served for a contravention relating to parking a vehicle, shall, as soon as possible, give or cause to be given notice in writing of the ticket to a parent of the young person.

Notice to relative or other adult

(4) If the whereabouts of the parents of a young person 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 any other adult who is known to the young person and is likely to assist the young person and who the person giving the notice considers appropriate.

Notice on direction of youth justice court judge or justice

(5) If doubt exists as to the person to whom a notice under this section should be given, a youth justice court judge or, if a youth justice court judge is, having regard to the circumstances, not reasonably available, a 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.

Contents of notice	<p>(6) Any notice under this section shall, in addition to any other requirements under this section, include</p> <ul style="list-style-type: none"> (a) the name of the young person in respect of whom it is given; (b) the charge against the young person and, except in the case of a notice of a ticket served under the Contraventions Act, the time and place of appearance; and (c) a statement that the young person has the right to be represented by counsel.
Notice of ticket under Contraventions Act Service of notice	<p>(7) A notice under subsection (3) shall include a copy of the ticket.</p> <p>(8) Subject to subsections (10) and (11), a notice under this section that is given in writing may be served personally or be sent by confirmed delivery service.</p>
Proceedings not invalid	<p>(9) Subject to subsections (10) and (11), failure to give a notice in accordance with this section does not affect the validity of proceedings under this Act.</p>
Exception	<p>(10) Failure to give a notice under subsection (2) in accordance with this section in any case renders invalid any subsequent proceedings under this Act relating to the case unless</p> <ul style="list-style-type: none"> (a) a parent of the young person attends court with the young person; or (b) a youth justice court judge or a justice before whom proceedings are held against the young person <ul style="list-style-type: none"> (i) adjourns the proceedings and orders that the notice be given in the manner and to the persons that the judge or justice directs, or (ii) dispenses with the notice if the judge or justice is of the opinion that, having regard to the circumstances, the notice may be dispensed with.
Where notice is not served	<p>(11) Where there has been a failure to give a notice under subsection (1) or (3) in accordance with this section and none of the persons to whom the notice may be given attends court with the young person, a youth justice court judge or a justice before whom proceedings are held against the young person may</p> <ul style="list-style-type: none"> (a) adjourn the proceedings and order that the notice be given in the manner and to the persons that the judge or justice directs; or (b) dispense with the notice if the judge or justice is of the opinion that, having regard to the circumstances, the notice may be dispensed with.
Exception for persons over the age of twenty	<p>(12) This section does not apply to a person who is alleged to have committed an offence while a young person, if the person has attained the age of twenty years at the time of his or her first appearance before a youth justice court in respect of the offence.</p>
Order requiring attendance of parent	<p>27. (1) If a parent does not attend proceedings held before a youth justice court in respect of a young person, the court may, if in its opinion the presence of the parent is necessary or in the best interests of the young person, by order in writing require the parent to attend at any stage of the proceedings.</p>
No order in ticket proceedings	<p>(2) Subsection (1) does not apply in proceedings commenced by filing a ticket under the <i>Contraventions Act</i>.</p>

Service of order	(3) A copy of the order shall be served by a peace officer or by a person designated by a youth justice court by delivering it personally to the parent to whom it is directed, unless the youth justice court authorizes service by confirmed delivery service.
Failure to attend	(4) parent who is ordered to attend a youth justice court under subsection (1) and who fails without reasonable excuse, the proof of which lies on the parent, to comply with the order <ul style="list-style-type: none"> (a) is guilty of contempt of court; (b) may be dealt with summarily by the court; and (c) is liable to the punishment provided for in the <i>Criminal Code</i> for a summary conviction offence.
Warrant to arrest parent	(5) If a parent who is ordered to attend a youth justice court under subsection (1) does not attend when required by the order or fails to remain in attendance as required and it is proved that a copy of the order was served on the parent, a youth justice court may issue a warrant to compel the attendance of the parent.

Detention Before Sentencing

Application of Part XVI of <i>Criminal Code</i>	28. Except to the extent that they are inconsistent with or excluded by this Act, the provisions of Part XVI (compelling appearance of an accused and interim release) of the <i>Criminal Code</i> apply to the detention and release of young persons under this Act.
Detention as social measure prohibited	29. (1) A youth justice court judge or a justice shall not detain a young person in custody prior to being sentenced as a substitute for appropriate child protection, mental health or other social measures.
Detention presumed unnecessary	(2) In considering whether the detention of a young person is necessary for the protection or safety of the public under paragraph 515(10)(b) (substantial likelihood — commit an offence or interfere with the administration of justice) of the <i>Criminal Code</i> , a youth justice court or a justice shall presume that detention is not necessary under that paragraph if the young person could not, on being found guilty, be committed to custody on the grounds set out in subsection 39(1)(a) to (c) (restrictions on committal to custody).
Designated place of temporary detention	30. (1) Subject to subsection (7), a young person who is arrested and detained prior to being sentenced, or who is detained in accordance with a warrant issued under subsection 59(6) (compelling appearance for review of sentence), shall be detained in any place of temporary detention that may be designated by the lieutenant governor in council of the province or his or her delegate or in a place within a class of places so designated.
Exception	(2) A young person who is detained in a place of temporary detention under subsection (1) may, in the course of being transferred from that place to the court or from the court to that place, be held under the supervision and control of a peace officer.
Detention separate from adults	(3) A young person referred to in subsection (1) shall be held separate and apart from any adult who is detained or held in custody unless a youth justice court judge or a justice is satisfied that, having regard to the best interests of the young person, <ul style="list-style-type: none"> (a) the young person cannot, having regard to his or her own safety or the

	<p>safety of others, be detained in a place of detention for young persons; or</p> <p>(b) no place of detention for young persons is available within a reasonable distance.</p>
Transfer to adult facility	<p>(4) When a young person is detained under subsection (1), the youth justice court may, on application of the provincial director made at any time after the young person attains the age of eighteen years, after giving the young person an opportunity to be heard, authorize the provincial director to direct, despite subsection (3), that the young person be temporarily detained in a provincial correctional facility for adults, if the court considers it to be in the best interests of the young person or in the public interest.</p>
When young person is twenty years old or older	<p>(5) When a young person is twenty years old or older at the time his or her temporary detention under subsection (1) begins, the young person shall, despite subsection (3), be temporarily detained in a provincial correctional facility for adults.</p>
Transfer by provincial director	<p>(6) A young person who is detained in custody under subsection (1) may, during the period of detention, be transferred by the provincial director from one place of temporary detention to another.</p>
Exception relating to temporary detention	<p>(7) Subsections (1) and (3) do 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 is 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 under section 503 of the <i>Criminal Code</i>.</p>
Authorization of provincial authority for detention	<p>(8) In any province for which the lieutenant governor in council has designated a person or a group of persons whose authorization is required, either in all circumstances or in circumstances specified by the lieutenant governor in council, before a young person who has been arrested may be detained in accordance with this section, no young person shall be so detained unless the authorization is obtained.</p>
Determination by provincial authority of place of detention	<p>(9) any province for which the lieutenant governor in council has designated a person or a group of persons who may determine the place where a young person who has been arrested may be detained in accordance with this section, no young person may be so detained in a place other than the one so determined.</p>
Placement of young person in care of responsible person	<p>31. (1) A young person who has been arrested may be placed in the care of a responsible person, instead of being detained in custody if a youth justice court or a justice is satisfied that</p> <p>(a) the young person would, but for this subsection, be detained in custody under section 515 (judicial interim release) of the <i>Criminal Code</i>;</p> <p>(b) the person is willing and able to take care of and exercise control over the young person; and</p> <p>(c) the young person is willing to be placed in the care of that person.</p>
Inquiry as to availability of a responsible person	<p>(2) If a young person would, in the absence of a responsible person, be detained in custody, the youth justice court or the justice shall inquire as to the availability of a responsible person and whether the young person is willing to be placed in that person's care.</p>

- Condition of placement (3) 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 the 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 the justice may specify.
- Removing young person from care (4) A young person, a person in whose care a 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 (5) if
- (a) the person in whose care the young person has been placed is no longer willing or able to take care of or 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 the person with whom he or she has been placed.
- Order (5) When 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 he or she was placed under subsection (1), the judge or justice shall
- (a) make an order relieving the person and the young person of the obligations undertaken under subsection (3); and
 - (b) issue a warrant for the arrest of the young person.
- Effect of arrest (6) If a young person is arrested in accordance with a warrant issued under paragraph (5)(b), the young person shall be taken before a youth justice court judge or a justice without delay and dealt with under this section and sections 28 to 30.

Appearance

- Appearance before judge or justice **32.** (1) A young person against whom an information or indictment is laid must first appear before a youth justice court judge or a justice, and the judge or justice shall
- (a) cause the information or indictment to be read to the young person;
 - (b) if the young person is not represented by counsel, inform the young person of the right to retain and instruct counsel;
 - (c) if notified under subsection 64(2) (intention to seek adult sentence) or if section 16 (status of accused uncertain) applies, inform the young person that the youth justice court might, if the young person is found guilty, order that an adult sentence be imposed; and
 - (d) if the young person is charged with having committed an offence set out in paragraph (a) of the definition "presumptive offence" in subsection 2(1), inform the young person in the following words of the consequences of being charged with such an offence:
- An adult sentence will be imposed if you are found guilty unless the court orders that you are not liable to an adult sentence and that a youth sentence

must be imposed.

Waiver

(2) A young person may waive the requirements of subsection (1) if the young person is represented by counsel and counsel advises the court that the young person has been informed of that provision.

Young person not represented by counsel

(3) When a young person is not represented by counsel, the youth justice court, before accepting a plea, shall

(a) satisfy itself that the young person understands the charge;

(b) if the young person is liable to an adult sentence, explain to the young person the consequences of being liable to an adult sentence and the procedure by which the young person may apply for an order that a youth sentence be imposed; and

(c) explain that the young person may plead guilty or not guilty to the charge or, if subsection 67(1) (election of court for trial--adult sentence) or (3) (election of court for trial in Nunavut--adult sentence) applies, explain that the young person may elect to be tried by a youth justice court judge without a jury and without having a preliminary inquiry, or to have a preliminary inquiry and be tried by a judge without a jury, or to have a preliminary inquiry and be tried by a court composed of a judge and jury.

If youth justice court not satisfied

(4) If the youth justice court is not satisfied that a young person understands the charge, the court shall, unless the young person must be put to his or her election under subsection 67(1) (election of court for trial--adult sentence) or, with respect to Nunavut, subsection 67(3) (election of court for trial in Nunavut--adult sentence), enter a plea of not guilty on behalf of the young person and proceed with the trial in accordance with subsection 36(2) (young person pleads not guilty).

If youth justice court not satisfied

(5) If the youth justice court is not satisfied that a young person understands the matters set out in subsection (3), the court shall direct that the young person be represented by counsel.

Release from or Detention in Custody

Application for release from or detention in custody

33. (1) If an order is made under section 515 (judicial interim release) of the *Criminal Code* in respect of a young person by a justice who is not a youth justice court judge, an application may, at any time after the order is made, be made to a youth justice court for the release from or detention in custody of the young person, as the case may be, and the youth justice court shall hear the matter as an original application.

Notice to prosecutor

(2) An application under subsection (1) for release from custody shall not be heard unless the young person has given the prosecutor at least two clear days notice in writing of the application.

Notice to young person

(3) An application under subsection (1) for detention in custody shall not be heard unless the prosecutor has given the young person at least two clear days notice in writing of the application.

Waiver of notice

(4) The requirement for notice under subsection (2) or (3) may be waived by the prosecutor or by the young person or his or her counsel, as the case may be.

Application for review under section 520 or 521

(5) An application under section 520 or 521 of the *Criminal Code* for a review of an order made in respect of a young person by a youth justice court

of *Criminal Code* judge who is a judge of a superior court shall be made to a judge of the court of appeal.

Nunavut (6) Despite subsection (5), an application under section 520 or 521 of the *Criminal Code* for a review of an order made in respect of a young person by a youth justice court judge who is a judge of the Nunavut Court of Justice shall be made to a judge of that court.

No review (7) No application may be made under section 520 or 521 of the *Criminal Code* for a review of an order made in respect of a young person by a justice who is not a youth justice court judge.

Interim release by youth justice court judge only (8) If a young person against whom proceedings have been taken under this Act is charged with an offence referred to in section 522 of the *Criminal Code*, a youth justice court judge, but no other court, judge or justice, may release the young person from custody under that section.

Review by court of appeal (9) A decision made by a youth justice court judge under subsection (8) may be reviewed in accordance with section 680 of the *Criminal Code* and that section applies, with any modifications that the circumstances require, to any decision so made.

Medical and Psychological Reports

Medical or psychological assessment **34.** (1) A youth justice court may, at any stage of proceedings against a young person, by order require that the young person be assessed by a qualified person who is required to report the results in writing to the court,

(a) with the consent of the young person and the prosecutor; or

(b) on its own motion or on application of the young person or the prosecutor, if the court believes a medical, psychological or psychiatric report in respect of the young person is necessary for a purpose mentioned in paragraphs (2)(a) to (g) and

(i) the court has reasonable grounds to believe that the young person may be suffering from a physical or mental illness or disorder, a psychological disorder, an emotional disturbance, a learning disability or a mental disability,

(ii) the young person's history indicates a pattern of repeated findings of guilt under this Act or the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or

(iii) the young person is alleged to have committed a serious violent offence.

Purpose of assessment (2) A youth justice court may make an order under subsection (1) in respect of a young person for the purpose of

(a) considering an application under section 33 (release from or detention in custody);

(b) making its decision on an application heard under section 71 (hearing - adult sentences);

(c) making or reviewing a youth sentence;

(d) considering an application under subsection 104(1) (continuation of

	<p>custody);</p> <p>(e) setting conditions under subsection 105(1) (conditional supervision);</p> <p>(f) making an order under subsection 109(2) (conditional supervision); or</p> <p>(g) authorizing disclosure under subsection 127(1) (information about a young person).</p>
Custody for assessment	(3) Subject to subsections (4) and (6), for the purpose of an assessment under this section, a youth justice court may remand a young person to any custody that it directs for a period not exceeding thirty days.
Presumption against custodial remand	<p>(4) A young person shall not be remanded in custody in accordance with an order made under subsection (1) unless</p> <p>(a) the youth justice court is satisfied that</p> <p>(i) on the evidence custody is necessary to conduct an assessment of the young person, or</p> <p>(ii) on the evidence of a qualified person detention of the young person in custody is desirable to conduct the assessment of the young person, and the young person consents to custody; or</p> <p>(b) the young person is required to be detained in custody in respect of any other matter or by virtue of any provision of the <i>Criminal Code</i>.</p>
Report of qualified person in writing	(5) For the purposes of paragraph (4)(a), if the prosecutor and the young person agree, evidence of a qualified person may be received in the form of a report in writing.
Application to vary assessment order if circumstances change	(6) A youth justice court may, at any time while an order made under subsection (1) is in force, on cause being shown, vary the terms and conditions specified in the order in any manner that the court considers appropriate in the circumstances.
Disclosure of report	<p>(7) When a youth justice court receives a report made in respect of a young person under subsection (1),</p> <p>(a) the court shall, subject to subsection (9), cause a copy of the report to be given to</p> <p>(i) the young person,</p> <p>(ii) any parent of the young person who is in attendance at the proceedings against the young person,</p> <p>(iii) any counsel representing the young person, and</p> <p>(iv) the prosecutor; and</p> <p>(b) the court may cause a copy of the report to be given to</p> <p>(i) a parent of the young person who is not in attendance at the proceedings if the parent is, in the opinion of the court, taking an active interest in the proceedings, or</p> <p>(ii) despite subsection 119(6) (restrictions respecting access to certain records), the provincial director, or the director of the provincial correctional facility for adults or the penitentiary at which the young person is serving a youth sentence, if, in the opinion of the court,</p>

withholding the report would jeopardize the safety of any person.

Cross-examination

(8) When a report is made in respect of a young person under subsection (1), the young person, his or her counsel or the adult assisting the young person under subsection 25(7) and the prosecutor shall, subject to subsection (9), on application to the youth justice court, be given an opportunity to cross-examine the person who made the report.

Non-disclosure in certain cases

(9) A youth justice court shall withhold all or part of a report made in respect of a young person under subsection (1) from a private prosecutor, if disclosure of the report or part, in the opinion of the court, is not necessary for the prosecution of the case and might be prejudicial to the young person.

Non-disclosure in certain cases

(10) A youth justice court shall withhold all or part of a report made in respect of a young person under subsection (1) from the young person, the young person's parents or a private prosecutor if the court is satisfied, on the basis of the report or evidence given in the absence of the young person, parents or private prosecutor by the person who made the report, that disclosure of the report or part would seriously impair the treatment or recovery of the young person, or would be likely to endanger the life or safety of, or result in serious psychological harm to, another person.

Exception - interests of justice

(11) Despite subsection (10), the youth justice court may release all or part of the report to the young person, the young person's parents or the private prosecutor if the court is of the opinion that the interests of justice make disclosure essential.

Report to be part of record

(12) A report made under subsection (1) forms part of the record of the case in respect of which it was requested.

Disclosure by qualified person

(13) Despite any other provision of this Act, a qualified person who is of the opinion that a young person held in detention or committed to custody is likely to endanger his or her own life or safety or to endanger the life of, or cause bodily harm to, another person may immediately so advise any person who has the care and custody of the young person whether or not the same information is contained in a report made under subsection (1).

Definition of "qualified person"

(14) In this section, "qualified person" means a person duly qualified by provincial law to practice medicine or psychiatry or to carry out psychological examinations or assessments, as the circumstances require, or, if no such law exists, a person who is, in the opinion of the youth justice court, so qualified, and includes a person or a member of a class of persons designated by the lieutenant governor in council of a province or his or her delegate.

Referral to Child Welfare Agency

Referral to child welfare agency

35. In addition to any order that it is authorized to make, a youth justice court may, at any stage of proceedings against a young person, refer the young person to a child welfare agency for assessment to determine whether the young person is in need of child welfare services.

Adjudication

When young person pleads guilty

36. (1) If a young person pleads guilty to an offence charged against the young person and the youth justice court is satisfied that the facts support the

charge, the court shall find the young person guilty of the offence.

When young person pleads not guilty

(2) If a young person charged with an offence pleads not guilty to the offence or pleads guilty but the youth justice court is not satisfied that the facts support the charge, the court shall proceed with the trial and shall, after considering the matter, find the young person guilty or not guilty or make an order dismissing the charge, as the case may be.

Appeals

Appeals

37. (1) An appeal in respect of an indictable offence or an offence that the Attorney General elects to proceed with as an indictable offence lies under this Act in accordance with Part XXI (appeals - indictable offences) of the *Criminal Code*, which Part applies with any modifications that the circumstances require.

Appeals for contempt of court

(2) A finding of guilt under section 15 for contempt of court or a sentence imposed in respect of the finding may be appealed as if the finding were a conviction or the sentence were a sentence in a prosecution by indictment.

Appeal

(3) Section 10 of the *Criminal Code* applies if a person is convicted of contempt of court under subsection 27(4) (failure of parent to attend court).

Appeals to be heard together

(4) A judicial determination under subsection 42(9) (judicial determination of serious violent offence), or an order under subsection 72(1) (court order - adult or youth sentence), 75(3) (ban on publication) or 76(1) (placement when subject to adult sentence), may be appealed as part of the sentence and, unless the court to which the appeal is taken otherwise orders, if more than one of these is appealed they must be part of the same appeal proceeding.

Appeals for summary conviction offences

(5) An appeal in respect of an offence punishable on summary conviction or an offence that the Attorney General elects to proceed with as an offence punishable on summary conviction lies under this Act in accordance with Part XXVII (summary conviction offences) of the *Criminal Code*, which Part applies with any modifications that the circumstances require.

Appeals where offences are tried jointly

(6) An appeal in respect of one or more indictable offences and one or more summary conviction offences that are tried jointly or in respect of which youth sentences are jointly imposed lies under this Act in accordance with Part XXI (appeals - indictable offences) of the *Criminal Code*, which Part applies with any modifications that the circumstances require.

Deemed election

(7) For the purpose of appeals under this Act, if no election is made in respect of an offence that may be prosecuted by indictment or proceeded with by way of summary conviction, the Attorney General is deemed to have elected to proceed with the offence as an offence punishable on summary conviction.

If the youth justice court is a superior court

(8) In any province where the youth justice court is a superior court, an appeal under subsection (5) shall be made to the court of appeal of the province.

Nunavut

(9) Despite subsection (8), if the Nunavut Court of Justice is acting as a youth justice court, an appeal under subsection (5) shall be made to a judge of the Nunavut Court of Appeal, and an appeal of that judge's decision shall be made to the Nunavut Court of Appeal in accordance with section 839 of the *Criminal Code*.

Appeal to the Supreme Court of Canada

(10) No appeal lies under subsection (1) from a judgment of the court of appeal in respect of a finding of guilt or an order dismissing an information or

indictment to the Supreme Court of Canada unless leave to appeal is granted by the Supreme Court of Canada.

No appeal from youth sentence on review

(11) No appeal lies from a youth sentence under section 59 or any of sections 94 to 96.