

## PART 9

### CONSEQUENTIAL AMENDMENTS, REPEAL AND COMING INTO FORCE

#### *Consequential Amendments*

R.S., c. C-5

#### Canada Evidence Act

R.S., c. 19, (3rd Supp.), s.  
17

**166. Subsection 4(2) of the *Canada Evidence Act* is replaced by the following:**

Accused and spouse

(2) The wife or husband of a person charged with an offence under subsection 136(1) of the *Youth Criminal Justice Act* or with an offence under any of sections 151, 152, 153, 155 or 159, subsection 160(2) or (3), or sections 170 to 173, 179, 212, 215, 218, 271 to 273, 280 to 283, 291 to 294 or 329 of the *Criminal Code*, or an attempt to commit any such offence, is a competent and compellable witness for the prosecution without the consent of the person charged.

1992, c. 47

#### Contraventions Act

**167. (1) The definition "youth court" in section 2 of the English version of the *Contraventions Act* is repealed.**

**(2) The definition "tribunal pour adolescents" in section 2 of the French version of the Act is replaced by the following:**

« tribunal pour  
adolescents »  
"youth justice court"

« tribunal pour adolescents » À l'égard d'une contravention qui aurait été commise par un adolescent sur le territoire, ou dans le ressort des tribunaux, d'une province, le tribunal établi ou désigné sous le régime d'une loi provinciale, ou encore désigné par le gouverneur en conseil ou par le lieutenant-gouverneur en conseil, afin d'exercer les attributions du tribunal pour adolescents dans le cadre de la *Loi sur le système de justice pénale pour les adolescents*.

**(3) Section 2 of the English version of the Act is amended by adding the following in alphabetical order:**

"youth justice court"  
« tribunal pour adoles-  
cents »

"youth justice court" means, in respect of a contravention alleged to have been committed by a young person in, or otherwise within the territorial jurisdiction of the courts of, a province, the court established or designated by or under an Act of the legislature of the province, or designated by the Governor in Council or lieutenant governor in council of the province, as the youth justice court for the purposes of the *Youth Criminal Justice Act*.

1996, c. 7, s. 2

**168. Section 5 of the Act is replaced by the following:**

Relationship with  
*Criminal Code* and *Youth  
Criminal Justice Act*

**5.** The provisions of the *Criminal Code* relating to summary conviction offences and the provisions of the *Youth Criminal Justice Act* apply to proceedings in respect of contraventions that are commenced under this Act, except to the extent that this Act, the regulations or the rules of court provide otherwise.

**169. Subsection 17(2) of the Act is replaced by the following:**

Jurisdiction of adult courts over young persons

(2) Notwithstanding the *Youth Criminal Justice Act*, a contraventions court or a justice of the peace has jurisdiction, to the exclusion of that of the youth justice court, in respect of any contravention alleged to have been committed by a young person in, or otherwise within the territorial jurisdiction of the courts of, a province the lieutenant governor in council of which has ordered that any such contravention be dealt with in ordinary court.

**170. Paragraph 62(2)(a) of the Act is replaced by the following:**

(a) for the committal of the offender to custody under the *Youth Criminal Justice Act*, for one day, if the offender is a young person; or

1992, c. 20

Corrections and Conditional Release Act

1995, c. 42, s. 1(2)

**171. The definition "sentence" in subsection 2(1) of the *Corrections and Conditional Release Act* is replaced by the following:**

"sentence"  
« *peinet* » ou « *peine d'emprisonnement* »

"sentence" means a sentence of imprisonment and includes a youth sentence imposed under the *Youth Criminal Justice Act* and a sentence imposed by a court of a foreign state on a Canadian offender who has been transferred to Canada pursuant to the *Transfer of Offenders Act*;

**172. Subsection 15(1) of the Act is replaced by the following:**

Newfoundland

**15.** Notwithstanding any requirement in the *Criminal Code* or under the *Youth Criminal Justice Act* that a person be sentenced, committed or transferred to penitentiary, such a person in the Province of Newfoundland shall not be received in a penitentiary without the approval of an officer designated by the Lieutenant Governor of Newfoundland.

1995, c. 22, s. 13 (Sch. II, item 4), c. 42, par.

69(a)(E)

"offender"

« *délinquant* »

**173. The definition "offender" in subsection 99(1) of the Act is replaced by the following:**

"offender" means

(a) a person, other than a young person within the meaning of the *Youth Criminal Justice Act*, who is under a sentence imposed before or after the coming into force of this section

(i) pursuant to an Act of Parliament or, to the extent that this Part applies, pursuant to a provincial Act, or

(ii) on conviction for criminal or civil contempt of court if the sentence does not include a requirement that the offender return to that court, or

(b) a young person within the meaning of the *Youth Criminal Justice Act* with respect to whom an order, committal or direction under section 76, 89, 92 or 93 of that Act has been made,

but does not include a person whose only sentence is a sentence being served intermittently pursuant to section 732 of the *Criminal Code*;

**174. The Act is amended by adding the following after section 99.1:**

Young persons

**99.2** In this Part, a young person within the meaning of the *Youth Criminal Justice Act* with respect to whom a committal or direction under section 89, 92 or 93 of that Act has been made begins to serve his or her sentence on the day on which the sentence comes into force in accordance with subsection 42(12) of

that Act.

R.S., c. C-46

Criminal Code

1995, c. 27, s. 1

**175. The definitions "adult", "provincial court judge" and "young person" in section 487.04 of the *Criminal Code* are replaced by the following:**

"adult"  
« *adulte* »

"adult" has the meaning assigned by subsection 2(1) of the *Youth Criminal Justice Act*;

"provincial court judge"  
« *juge de la cour provinciale* »

"provincial court judge", in relation to a young person, includes a youth justice court judge within the meaning of subsection 2(1) of the *Youth Criminal Justice Act* ;

"young person"  
« *adolescent* »

"young person" has the meaning assigned by subsection 2(1) of the *Youth Criminal Justice Act*.

1998, c. 37, s. 17

**176. The portion of subsection 487.051(1) of the Act before paragraph (a), as enacted by section 17 of the *DNA Identification Act*, is replaced by the following:**

Order

**487.051** (1) Subject to section 487.053, if a person is convicted, discharged under section 730 or, in the case of a young person, found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of a designated offence, the court

1998, c. 37, s. 17

**177. Subsection 487.052(1) of the Act, as enacted by section 17 of the *DNA Identification Act*, is replaced by the following:**

Offences committed  
before *DNA*  
*Identification Act* in force

**487.052** (1) Subject to section 487.053, if a person is convicted, discharged under section 730 or, in the case of a young person, found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act*, of a designated offence committed before the coming into force of subsection 5(1) of the *DNA Identification Act*, the court may, on application by the prosecutor, make an order in Form 5.04 authorizing the taking, from that person or young person, for the purpose of forensic DNA analysis, of any number of samples of one or more bodily substances that is reasonably required for that purpose, by means of the investigative procedures described in subsection 487.06(1), if the court is satisfied that it is in the best interests of the administration of justice to do so.

1998, c. 37, s. 17

**178. Paragraph 487.053(b) of the English version of the Act, as enacted by section 17 of the *DNA Identification Act*, is replaced by the following:**

(b) by the person or young person, that they consent to the entry, in the convicted offenders index of the national DNA data bank established under that Act, of the results of DNA analysis of bodily substances that were provided voluntarily in the course of the investigation of, or taken from them in execution of a warrant that was issued under section 487.05 in respect of, the designated offence of which the person has been convicted, discharged under section 730 or, in the case of a young person, found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act*, or another designated offence in respect of the same transaction.

1998, c. 37, c. 17

**179. by the person or young person, that they consent to the entry, in the**

**convicted offenders index of the national DNA data bank established under that Act, of the results of DNA analysis of bodily substances that were provided voluntarily in the course of the investigation of, or taken from them in execution of a warrant that was issued under section 487.05 in respect of, the designated offence of which the person has been convicted, discharged under section 730 or, in the case of a young person, found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* , or another designated offence in respect of the same transaction.**

When collection to take place

**487.056** (1) Samples of bodily substances referred to in sections 487.051 and 487.052 shall be taken at the time the person is convicted, discharged under section 730 or, in the case of a young person, found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* , or as soon as is feasible afterwards, even though an appeal may have been taken.

1998, c. 37, s. 20

**180. Paragraphs 487.071(1)(a) and (b) of the Act, as enacted by section 20 of the *DNA Identification Act*, are replaced by the following:**

(a) provided voluntarily in the course of an investigation of a designated offence by any person who is later convicted, discharged under section 730 or, in the case of a young person, found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of the designated offence or another designated offence in respect of the same transaction and who, having been so convicted, discharged or found guilty, consents to having the results entered in the convicted offenders index;

(b) taken in execution of a warrant under section 487.05 from a person who is later convicted, discharged under section 730 or, in the case of a young person, found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of the designated offence in respect of which the warrant was issued or another designated offence in respect of the same transaction and who, having been so convicted, discharged or found guilty, consents to having the results entered in the convicted offenders index;

**181. The portion of subsection 667(1) of the Act before paragraph (b) is replaced by the following:**

Proof of previous conviction

**667.** (1) In any proceedings,

(a) a certificate setting out with reasonable particularity the conviction or discharge under section 730, the finding of guilt under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, the finding of guilt under the *Youth Criminal Justice Act*, or the judicial determination under subsection 42(9) of that Act , or the conviction and sentence or finding of guilt and sentence in Canada of an offender, signed by

(i) the person who made the conviction, order for the discharge, finding of guilt or judicial determination,

(ii) the clerk of the court in which the conviction, order for the discharge, finding of guilt or judicial determination was made, or

(iii) a fingerprint examiner,

is, on proof that the accused or defendant is the offender referred to in the certificate, evidence that the accused or defendant was so convicted, so discharged or so convicted and sentenced or found guilty and sentenced, or that a judicial determination was made against the accused or defendant, without proof of the signature or the official character of the person appearing to have signed the certificate;

1997, c. 18, par. 141(c)

Cumulative punishments

**182. Subsection 718.3(4) of the Act is replaced by the following:**

(4) The court or youth justice court that sentences an accused may direct that the terms of imprisonment that are imposed by the court or the youth justice court or that result from the operation of subsection 734(4) or 743.5(1) or (2) shall be served consecutively, when

(a) the accused is sentenced while under sentence for an offence, and a term of imprisonment, whether in default of payment of a fine or otherwise, is imposed;

(b) the accused is found guilty or convicted of an offence punishable with both a fine and imprisonment and both are imposed;

(c) the accused is found guilty or convicted of more than one offence, and

(i) more than one fine is imposed,

(ii) terms of imprisonment for the respective offences are imposed, or

(iii) a term of imprisonment is imposed in respect of one offence and a fine is imposed in respect of another offence; or

(d) subsection 743.5(1) or (2) applies.

1995, c. 22, s. 6

**183. Paragraph 721(3)(b) of the Act is replaced by the following:**

(b) subject to subsection 119(2) of the *Youth Criminal Justice Act*, the history of previous dispositions under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, the history of previous sentences under the *Youth Criminal Justice Act*, and of previous findings of guilt under this Act and any other Act of Parliament;

1995, c. 22, s. 6, paras. 19(b), 20(b)

Transfer of jurisdiction when person already sentenced under *Youth Criminal Justice Act*

**184. Sections 743.4 and 743.5 of the Act are replaced by the following:**

**743.5** (1) If a young person or an adult is or has been sentenced to a term of imprisonment for an offence while subject to a disposition made under paragraph 20(1)(k) or (k.1) of the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or a youth sentence imposed under paragraph 42(2)(n), (o), (q) or (r) of the *Youth Criminal Justice Act*, the disposition or youth sentence shall be dealt with, for all purposes under this Act or any other Act of Parliament, as if it had been a sentence imposed under this Act.

Transfer of jurisdiction when person already sentenced under *Youth Criminal Justice Act*

(2) If a disposition is made under paragraph 20(1)(k) or (k.1) of the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, with respect to a person or a youth sentence is imposed on a person under paragraph 42(2)(n), (o), (q) or (r) of the *Youth Criminal Justice Act* while the young person or adult is under sentence of imprisonment imposed under an Act of Parliament other than the *Youth Criminal Justice Act*, the disposition or youth sentence shall

be dealt with, for all purposes under this Act or any other Act of Parliament, as if it had been a sentence imposed under this Act.

Sentences deemed to constitute one sentence – section 743.1

(3) For greater certainty, the dispositions and sentences referred to in subsections (1) and (2) are, for the purpose of section 139 of the *Corrections and Conditional Release Act*, deemed to constitute one sentence of imprisonment.

1998, c. 37, s. 24

**185. The first paragraph of Form 5.03 of the Act, as enacted by section 24 of the *DNA Identification Act*, is replaced by the following:**

Whereas (*name of offender*) has been convicted, discharged under section 730 of the *Criminal Code* or, in the case of a young person, found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of (*offence*), an offence that is a primary designated offence within the meaning of section 487.04 of the *Criminal Code*;

1998, c. 37, s. 24

**186. The portion of the first paragraph of Form 5.04 of the Act before paragraph (a), as enacted by section 24 of the *DNA Identification Act*, is replaced by the following:**

Whereas (*name of offender*), in this order called the "offender", has been convicted, discharged under section 730 of the *Criminal Code* or, in the case of a young person, found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of (*offence*), an offence that is

1998, c. 37

#### DNA Identification Act

**187. The definition "young person" in section 2 of the *DNA Identification Act* is replaced by the following:**

"young person"  
« adolescent »

"young person" has the meaning assigned by subsection 2(1) of the *Youth Criminal Justice Act*.

**188. (1) The portion of paragraph 9(2)(c) of the Act before subparagraph (i) is replaced by the following:**

(c) in the case of information in relation to a young person who has been found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of any of the following offences, the expiry of ten years after the sentence or all dispositions made in respect of the offence have been completed, namely,

**(2) Paragraphs 9(2)(d) and (e) of the Act are replaced by the following:**

(d) in the case of information in relation to a young person who has been found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of a designated offence, other than an offence referred to in any of subparagraphs (c)(i) to (iii) and sections 235 (first degree murder or second degree murder), 236 (manslaughter), 239 (attempt to commit murder) and 273 (aggravated sexual assault) of the *Criminal Code*, the expiry of five years after the sentence or all dispositions made in respect of the offence have been completed; and

(e) in the case of information in relation to a young person who has been found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised

Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of a designated offence that is a summary conviction offence, the expiry of three years after the sentence or all dispositions made in respect of the offence have been completed.

**189. (1) The portion of paragraph 10(7)(c) of the Act before subparagraph (i) is replaced by the following:**

(c) if the person is a young person who has been found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of any of the following offences, after the expiry of ten years after the sentence or all dispositions made in respect of the offence have been completed, namely,

**(2) Paragraphs 10(7)(d) and (e) of the Act are replaced by the following:**

(d) if the person is a young person who has been found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of a designated offence, other than an offence referred to in any of subparagraphs (c)(i) to (iii) and sections 235 (first degree murder or second degree murder), 236 (manslaughter), 239 (attempt to commit murder) and 273 (aggravated sexual assault) of the *Criminal Code*, after the expiry of five years after the sentence or all dispositions made in respect of the offence have been completed; and

(e) if the person is a young person who has been found guilty under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985, or the *Youth Criminal Justice Act* of a designated offence that is a summary conviction offence, after the expiry of three years after the sentence or all dispositions made in respect of the offence have been completed.

1999, c. 18

Extradition Act

**190. (1) Paragraph 47(c) of the *Extradition Act* is replaced by the following:**

(c) the person was less than eighteen years old at the time of the offence and the law that applies to them in the territory over which the extradition partner has jurisdiction is not consistent with the fundamental principles governing the *Youth Criminal Justice Act*;

**191. Paragraphs 77(a) and (b) of the Act are replaced by the following:**

(a) in respect of a prosecution or imposition of a sentence - or of a disposition under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985 - the Attorney General, or the Attorney General of a province who is responsible for the prosecution of the case; and

(b) in respect of the enforcement of a sentence or a disposition under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985 ,

(i) the Solicitor General of Canada, if the person would serve the sentence in a penitentiary, or

(ii) the appropriate provincial minister responsible for corrections, in any other case.

**192. Subsection 78(1) of the Act is replaced by the following:**

Request by Canada for extradition

**78.** (1) The Minister, at the request of a competent authority, may make a request to a State or entity for the extradition of a person for the purpose of prosecuting the person for - or imposing or enforcing a sentence, or making or enforcing a disposition under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985 , in respect of - an offence over which Canada has jurisdiction.

**193. The portion of paragraph 80(a) of the Act before subparagraph (i) is replaced by the following:**

(a) be detained or prosecuted, or have a sentence imposed or executed, or a disposition made or executed under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985 , in Canada in respect of an offence that is alleged to have been committed, or was committed, before surrender other than

**194. (1) Subsection 83(1) of the Act is replaced by the following:**

Commencement of sentence

**83.** (1) Subject to subsection (3), the sentence or disposition of a person who has been temporarily surrendered and who has been convicted and sentenced, or found guilty and sentenced , in Canada, or in respect of whom a disposition has been made under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985 , does not commence until their final extradition to Canada.

(2) Subsection 83(3) of the Act is replaced by the following:

If concurrent sentences ordered

(3) The sentencing judge may order that the person's sentence, or the disposition under the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985 , be executed concurrently with the sentence they are serving in the requested State or entity, in which case the warrant of committal or order of disposition shall state that the person is to be committed to custody under subsection (2) only for any portion of the sentence or disposition remaining at the time of their final extradition to Canada.

R.S., c. 30 (4th Supp.)

Mutual Legal Assistance in Criminal Matters Act

**195. Section 29 of the *Mutual Legal Assistance in Criminal Matters Act* is replaced by the following:**

Exception for young persons

**29.** Sections 24 to 28 do not apply in respect of a person who, at the time the request mentioned in subsection 24(1) is presented, is a young person within the meaning of the *Youth Criminal Justice Act*.

R.S., c. P-20

Prisons and Reformatories Act

**196. (1) Paragraph (b) of the definition "prisoner" in subsection 2(1) of the *Prisons and Reformatories Act* is replaced by the following:**

(b) a young person within the meaning of the *Youth Criminal Justice Act* with respect to whom no order, committal or direction has been made under paragraph 76(1)(a) or section 89, 92 or 93 of that Act,

**(2) Subsection 2(1) of the Act is amended by adding the following in alphabetical order:**

"sentence"

"sentence" includes a youth sentence imposed under the *Youth Criminal Justice*



« *peine* »

*Act*;

**197. Section 6 of the Act is amended by adding the following after subsection (7):**

Transfer or committal to prison

(7.1) When a prisoner is transferred from a youth custody facility to a prison under section 89, 92 or 93 of the *Youth Criminal Justice Act* or as the result of the application of section 743.5 of the *Criminal Code*, the prisoner is credited with full remission under this section for the portion of the sentence that the offender served in the youth custody facility as if that portion of the sentence had been served in a prison.

Exceptional date of release

(7.2) When a prisoner who was sentenced to custody under paragraph 42(2)(o), (q) or (r) of the *Youth Criminal Justice Act* is transferred from a youth custody facility to a prison under section 92 or 93 of that Act, or is committed to imprisonment in a prison under section 89 of that Act, the prisoner is entitled to be released on the earlier of

(a) the date on which the prisoner is entitled to be released from imprisonment in accordance with subsection (5) of this section, and

(b) the date on which the custody portion of his or her youth sentence under paragraph 42(2)(o), (q) or (r) of the *Youth Criminal Justice Act* expires.

Effect of release

(7.3) When a prisoner is committed or transferred in accordance with section 89, 92 or 93 of the *Youth Criminal Justice Act* and, in accordance with subsection (7.1) or (7.2) of this section, is entitled to be released,

(a) if the sentence was imposed under paragraph 42(2)(n) of that Act, sections 97 to 103 of that Act apply, with any modifications that the circumstances require, with respect to the remainder of his or her sentence; and

(b) if the sentence was imposed under paragraph 42(2)(o), (q) or (r) of that Act, sections 104 to 109 of that Act apply, with any modifications that the circumstances require, with respect to the remainder of his or her sentence.

R.S., c. T-15

Transfer of Offenders Act

1993, c. 34, s. 122

**198. The portion of section 17 of the *Transfer of Offenders Act* after paragraph (a) is replaced by the following:**

(b) was, at the time of the commission of the offence of which he or she was convicted, a young person within the meaning of the *Youth Criminal Justice Act*,

an official designated for the purpose by the lieutenant governor in council of the province where the offender is detained may transfer the offender to a youth custody facility within the meaning of subsection 2(1) of the *Youth Criminal Justice Act*, but no person so transferred shall be detained by reason only of the sentence imposed by the foreign court beyond the date on which that sentence would terminate.

*Repeal*

Repeal of R.S., c. Y-1

**199. The *Young Offenders Act* is repealed.**

*Coming into Force*

Coming into force

**200. The provisions of this Act come into force on a day or days to be fixed by order of the Governor in Council.**