

only if the province has a program in place. Extrajudicial sanctions would only be used where appropriate based on the offence and how serious the offence was. To participate in extrajudicial sanctions, the young person must accept responsibility for the alleged offence.

Youth Justice Committees or community justice forums can be used in extrajudicial measures or sanctions. These forums allow people who are not part of the court system, such as the victim, the young person's family, and concerned community members to take part and help decision-makers decide what type of consequences the young person should face.

Cases not referred to Community Justice Programs include: weak cases, and serious offences that can put the community at risk such as driving offences, murder, sexual offences and gang member activity.

Judicial Measures: Safe, Fair and Humane

For more serious offences, young persons aged 12 through 17 may face **Judicial Measures**.

The YCJA provides that each province may set up a pre-charge screening program to see if the young person may take part in extrajudicial measures or if they must face judicial measures.

Once the young person is screened and it is found that extrajudicial measures would not be appropriate, young persons must be informed of their right to counsel, notice must be sent to parents or guardians, and the Youth Justice Court process begins. Young persons must also be advised of their right to counsel.

Types of Sentences: Non-Custodial

Possible non-custodial youth sentences include:

- reprimand,
- absolute discharge,
- conditional discharge,
- fines up to \$1,000,
- compensation for loss or damage,
- compensation by way of personal services,
- community service,
- probation (maximum two years),
- attendance at non-residential programs.

Types of Sentences: Custodial

Young persons can face custodial sentences for violent offences, for not obeying conditions on non-custodial sentences, or in some cases, for serious (indictable) offences. The court can consider extrajudicial sanctions as well as findings of guilt to decide whether the young person should face a custodial sentence because of a pattern of criminal activity. Depending on the seriousness of the crime, the Crown may ask the court to impose an adult sentence on the young person.

Length of Youth Sentences:

- Personal and community service orders: max 240 hours in 12 months;
- Combined custody and community supervision orders: 2/3 in custody, 1/3 supervised in community, generally;
- Probation: max 2 years;
- Most custody sentences: max 2 years, but 3 years for attempt murder, manslaughter, and aggravated sexual assault;
- 1st degree murder: 10 years – custody up to 6 years, the rest supervised in community;
- 2nd degree murder: 7 years – custody up to 4 years, the rest supervised in community.

Online Contacts and Resources

Justice Canada Youth Justice Site:
www.canada.justice.gc.ca/youth

Manitoba Justice Victim's Rights:
www.gov.mb.ca/justice/victims

Centre on Juvenile and Criminal Justice: www.cjcg.org

Balanced and restorative justice: www.realjustice.org

Centre for Restorative Justice: www.sfu.ca/crj

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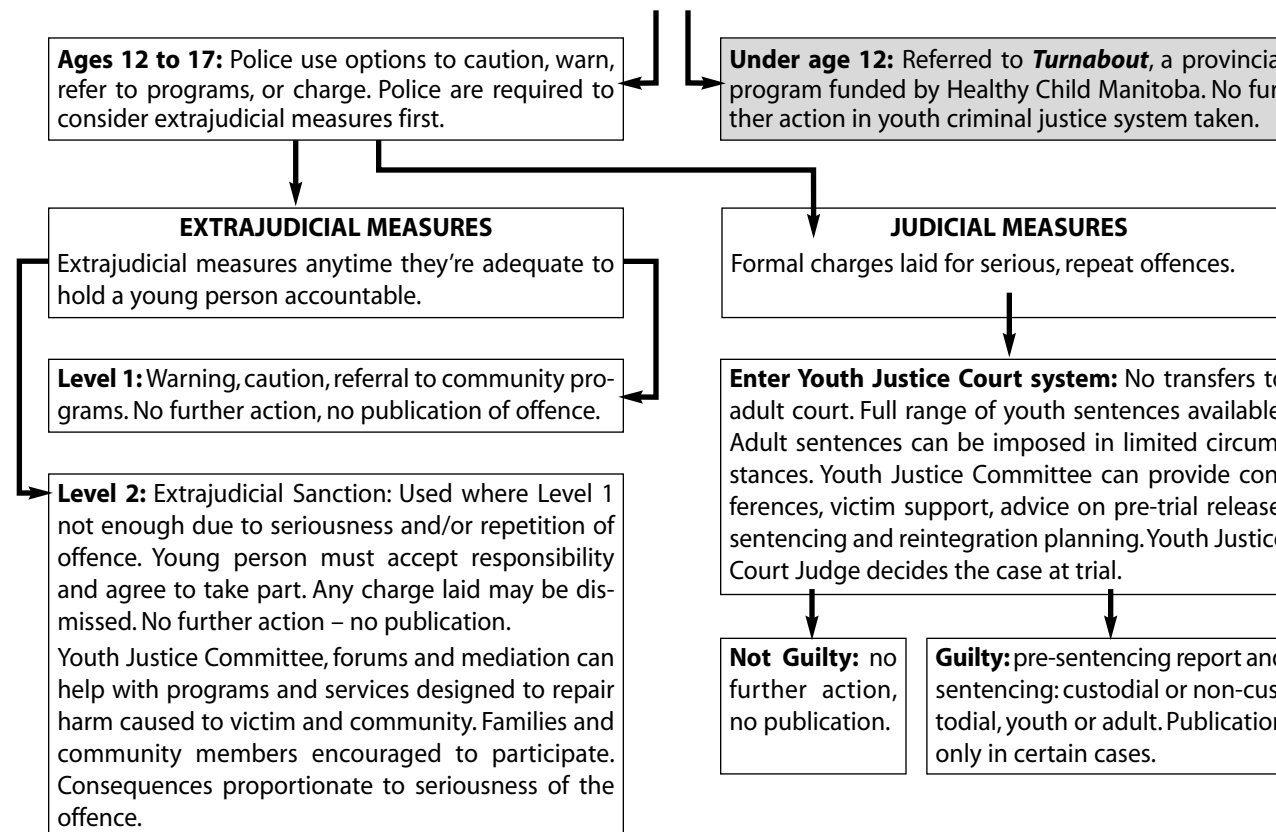
Website: www.communitylegal.mb.ca

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What Happens When A Young Person is Caught Offending?



Manitoba Perspective

Historically, Manitoba had the highest rate in Canada of bringing young persons to court. Manitoba was second only to Saskatchewan in youth custody rates. Young persons were typically charged with: theft under \$5,000, break and enter, fail to appear and minor assault. Since the YCJA became law, both charges and custody rates have dropped in all provinces.

Manitoba Justice: Will continue to use diversion programs and reorganize probation services to accommodate mandatory supervision that follows each custody sentence. Has established the Youth Justice Court according to the YCJA with access to adult sentences without transfer hearings.

Local Youth Justice Committee: Made up of people from all areas of the community. Deal with youth, victims, families, police, court-related workers and schools. Give advice to police and crown about best extra-judicial measures to take.

Victims: Manitoba's Victim's Bill of Rights was the 1st in Canada. Many provincial programs are available to help.

Communities: Concerned residents can get involved as Youth Justice Committee members and take part in extrajudicial and judicial conferences.

Youth Criminal Justice Act: Understanding your rights under the law



Community Legal Education Association

The Youth Criminal Justice Act (YCJA)

became law April 1st 2003 and was amended in 2012. It replaced the *Young Offenders Act* (YOA). The YCJA focuses on preventing youth crime, rehabilitating and reintegrating young people into society and providing meaningful consequences for youth who offend.

Main Principles of YCJA:

A) GET TO THE SOURCE: Reduce youth crime by addressing reasons behind a young person's offending behaviour. Rehabilitate, reintegrate, and make consequences meaningful;

B) RECOGNISE THAT YOUNG PERSONS ARE NOT ADULTS: Proportionate consequences and fair treatment taking into account young persons' maturity levels. Quick intervention reinforces the link between offence and consequence;

C) RESPECT: Show respect for gender, ethnic, cultural and linguistic differences. Recognize needs of aboriginal young persons and those with special needs. Involve families and the community;

D) PARTICIPATION: Young persons must have a chance to take part and be heard. Victims should be treated with compassion and respect, be kept informed, and have the opportunity to take part. Parents should be informed and encouraged to support young persons in overcoming offending behaviour.

The Youth Criminal Justice Act system is intended to protect the public.

YOA v. YCJA

Language: The term *young offender* from the YOA has become *young person*. There are no *punishments* that include *jail* for *crimes* committed by *young offenders*. Instead, young persons now face *consequences* for *offending behaviour* that may involve *custodial periods of rehabilitation*.

No more Transfer Proceedings: Hearings to decide whether or not adult sentences will be imposed are now held in youth court, after conviction. Young persons must be 14 or older when the offence is committed in order for an adult sentence to be considered. The Crown must consider an adult sentence for young persons 14 or older

charged with murder, attempted murder, manslaughter, or aggravated sexual assault. The Crown must advise the court if not considering applying for an adult sentence. The onus is on the Crown to satisfy the court that an adult sentence is appropriate.

Less Custody: The YCJA focuses on rehabilitating and reintegrating the young person into the community by using less custodial sentences.

Fast Reaction: Enforcers of the YCJA must act with promptness and speed given a young person's perception of time.

Victim Recognised: The YCJA recognizes the victim's place in the proceedings, that they should be treated with respect and compassion, and allows them to be informed and to take part.

Parents Involved: Parents are to be kept informed and encouraged to support their children in addressing offending behaviour..

Cultural and special needs recognised: The YCJA commits to responding to the needs of aboriginal and special needs young persons.

Bail Principles: No more detentions as a substitute for appropriate child protection, mental health or other social services. A young person can be detained if charged with a serious offence (where an adult could receive 5 or more years in jail, if convicted) or has a history that indicates a pattern of outstanding charges or findings of guilt and if one of the following applies:

- 1) there is a substantial likelihood the young person will not appear in court
- 2) the young person will likely reoffend, so detention is necessary for the protection of the public, or
- 3) there are exceptional circumstances that justify detention to maintain confidence in the administration of justice, when charged with a serious offence and release on conditions would not be enough to satisfy the court's concerns.

Sentences:

- a) Reprimands;
- b) Orders involving combined custody and supervision;
- c) Intensive support and supervision program (not available in Manitoba as a sentence by itself. It will only be

used as a probation condition and to provide supervision after custody).

The 2012 amendments to the YCJA allow the court to consider specific deterrence and denunciation when sentencing a young person.

Custody and Supervision: Each province must have at least two levels of custody. Manitoba will continue with its two levels of open and secure custody.

Each young person facing custodial consequences will be assigned a youth worker who will work with the young person to develop and put into effect a reintegration plan.

If a young person does not comply with conditions of the supervised non-custodial part of a custody and supervision sentence, the sentence will be reviewed.

The review may result in the young person being detained in custody for the rest of the order or it may result in a change in the conditions.

Publication, Records and Information Sharing: Young persons' names can be published only when they receive an adult sentence, and in limited situations when they receive a youth sentence for a violent offence if the judge decides that the young person is at risk of committing another violent offence and publication is needed to protect the public.

Records Allowed to be Kept: Generally, information about a young person being dealt with under the YCJA may not be released. Records include microforms, sound and video recordings, machine-readable records and copies or any other thing containing information. Organizations allowed to keep such records are the youth justice court, the police, and investigating government departments and agencies. Pre-sentence, medical and other reports form part of records.

Who Can Access Records?

- the young person,
- the young person's lawyer,
- the victim,
- the young person's parents and
- any adult assisting the young person.

Others who may have access to the young person's records include professionals directly involved in the court process:

- police,
- judge
- court
- directors of correctional facilities,
- conference participants.

Also agents or members of relevant government departments or agencies have access, and persons doing criminal records checks may have access.

How Long Can Records Be Accessed?

- Extrajudicial Sanctions: 2 years;
 - Acquittal: 2 months after time to appeal or 3 months after appeal proceedings;
 - Dismissal, withdrawal, or reprimand: 2 months after;
 - Stay of charge: 1 year;
 - Absolute discharge: 1 year;
 - Conditional discharge: 3 years;
- After sentence completed:
- Summary conviction: 3 years;
 - Indictable conviction: 5 years;

Any convictions during an access period will extend the time for access.

Extrajudicial Measures: Turning Towards Restorative Justice

The YCJA provides for **Extrajudicial Measures** as an effective way of dealing with most youth offences. This three-level approach provides a way for the police and crown attorneys to deal with young persons outside the formal youth court system for relatively minor charges.

Police: Before laying a charge, police must consider whether it would be sufficient to take no further action, give a warning, give a police caution, or refer the young person to a community program.

Crown: If the young person is charged, the Crown may give a formal caution to the young person. ("Crown Caution") instead of continuing court proceedings. The Crown may also refer the young person to an Extrajudicial Sanction Program.

Extrajudicial Sanctions: These are the most formal type of extrajudicial measures. They are only to be used as a last resort, if warnings and cautions are not enough and

Agencies Contact Information

Community Services:	
Mediation Services	204-925-3410
Toll Free in Manitoba	1-866-925-3410
Corrections:	
Manitoba Youth Centre	204-475-2010
Court Assistance:	
Aboriginal Court Work Program	
Manitoba Youth Centre	204-475-2017/204-475-2012
Crown Attorneys	204-945-2852
Court House: Youth Court	204-945-3454
Elizabeth Fry Society	204-589-7335
Toll Free	1-800-582-5655
Legal Aid Admin. Office/Application Centre ..	204-985-8500
Toll Free in Manitoba	1-800-261-2960
Victim Services:	
Police Victim Services	204-986-6350
Compensation for Victims of Crime	204-945-0899
Toll Free	1-800-262-9344
Victim/Witness Assistance	204-945-3594
Toll Free	1-866-635-1111
Youth Services:	
Children's Advocate	204-988-7440
Toll Free	1-800-263-7146
Healthy Child Manitoba	204-945-2266
Toll Free in Manitoba	1-888-848-0140
Inner City Youth Alive	204-582-8779
Kids Help Phone	1-800-668-6868
Macdonald Youth Services	204-477-1722
Macdonald YS Youth Resource Centre	204-477-1804
Manitoba House Drop-in and Resource Centre (for children 5 – 12)	204-582-5830
Operation Go Home	204-783-5617
Rossbrook House	204-949-4090
Teen Stop Jeunesse	204-254-1618
Turnabout Winnipeg	204-945-5609
Toll free	1-866-673-0924
Turnabout Thompson	204-677-0686
Toll free in Manitoba	1-866-276-5081
West Broadway Youth Outreach (children 4 – 12)	204-774-0451
Youth in Crisis:	
Klinik Crisis Line	204-786-8686
Toll free	1-888-322-3019
Youth Emergency Crisis Stabilization System	204-949-4777
Toll free (suicide risk)	1-888-383-2776