

Community Legal  
Education Association



L'Association d'éducation  
juridique communautaire

205 – 414 Graham Avenue, Winnipeg, Manitoba R3C 0L8

Phone: (204) 943-2382 Fax: (204) 943-3600

E-mail: [info@communitylegal.mb.ca](mailto:info@communitylegal.mb.ca) Web: [www.communitylegal.mb.ca](http://www.communitylegal.mb.ca)

# COURT PROCESSES

The **Youth Criminal Justice Act** replaced the *Young Offenders Act* and came into effect on April 1, 2003. Under the *Young Offenders Act*, when a case went to trial, the young person was either dealt with in youth court or transferred to adult court. Under the **Youth Criminal Justice Act**, the youth justice court is the only court that can deal with an offence committed by someone who was a young person at the time of the offence.

A young person is defined in the **Youth Criminal Justice Act** as a person 12 years old or older and less than 18 years old.

The criminal justice system for young persons is separate from the adult justice system. The youth criminal justice system must emphasize:

- rehabilitation,
- reintegration,
- fair and proportionate accountability,
- protection of the young person's rights,
- timely and effective intervention,
- prompt procedure.

## ARREST

When arrested, a young person has the right to a lawyer. The police officer in charge must also notify the young person's parent or guardian of the arrest, reasons for the arrest, and place where the young person is being held.

A young person may receive a summons or an appearance notice when released after being accused of a crime. In either case, the young person must appear in court on the specific date and at the time stated in the summons or appearance notice.

## TRIAL

A young person has the same rights and protection as an adult and is presumed innocent until proven guilty. The crown attorney must prove the case beyond a reasonable doubt. If a young person pleads guilty there will not be a trial. The matter will proceed to sentencing.

## SENTENCING

Under the *Young Offenders Act*, a young person 14 years old or older could be transferred to adult court in some circumstances. If the young person was tried in adult court and found guilty, they would receive an adult sentence.

Under the **Youth Criminal Justice Act**, the transfer process is eliminated. The youth justice court will first decide whether the young person is guilty or not. If the young person is found guilty, the court may impose either a youth sentence or, under exceptional circumstances, an adult sentence.

## **YOUTH SENTENCES**

### **Non-Custodial Sentences**

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 (maximum 240 hours in one year),
- probation (maximum two years),
- attendance at non-residential programs.

### **Custodial Sentences**

Young persons can face custodial sentences for violent offences, for not abiding by conditions on non-custodial sentences, or, in some cases, for serious (indictable) offences where the young person has a history indicating a pattern of either extrajudicial sanctions or of findings of guilt, or both.

**Note:** A violent offence is an offence in which the young person causes, attempts or threatens to cause bodily harm or endangers the life or safety of a person by creating a substantial likelihood of bodily harm (for example a high speed car chase).

## **ADULT SENTENCES**

The crown attorney **must** consider applying for an adult sentence for a young person 14 years or older who has been charged with:

- murder,
- manslaughter,
- attempted murder,
- aggravated sexual assault.

The crown attorney must advise the court if not applying for an adult sentence in such cases.

The onus is always on the crown attorney to satisfy the court that an adult sentence would be appropriate.

The youth justice court can only impose an adult sentence if:

- the crown has rebutted the presumption that the young person has diminished moral blameworthiness or culpability; and
- the youth sentence would not be long enough to hold the young person accountable.

---

*Community Legal Education Association gratefully acknowledges Youth Justice Policy, Department of Justice Canada for funding this project.*

*Written by: Jennifer Dunik, Community Legal Education Association*

*Reviewed by Tony Cellitti, Phillips, Aiello*

© 2014