PLEASE NOTE

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This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*.**

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CHAPTER Y-3

YOUTH JUSTICE ACT

1. In this Act — Definitions

(a) "adult" means a person who is neither a young person nor a child; — adult

(b) "child" means a person who is or, in the absence of evidence to the contrary, appears to be less than twelve years old; — child

(c) "Federal Act" means, unless the context indicates otherwise, the *Youth Criminal Justice Act* (Canada); — Federal Act

(d) "offence" means an offence against an enactment including municipal bylaws; — offence

(e) "parent" includes, in respect of a young person, any person who is under a legal duty to provide for the young person or any person who has, in law or in fact, the custody or control of the young person, and includes an adult with whom the young person ordinarily resides, but does not include a person who has the custody or control of the young person by reason only of the proceedings under this Act; — parent

(f) "pre-sentence report" means a report prepared under section 8; — pre-sentence report

(g) "Provincial Director" means the person appointed under section 8.1; — Provincial Director

(h) "record" includes any thing containing information, regardless of its physical form or characteristics, including microfilm, sound recording, videotape, machine-readable record, and any copy of any of those things, that is created or kept for the purposes of this Act or for the investigation of an offence that is or could be prosecuted under an enactment; — record

(i) "young person" means a person who is or, in the absence of evidence to the contrary, appears to be twelve years old or older, but less than eighteen years old and, if the context requires, includes any person who — young person

(i) is charged with having committed an offence, or

(ii) is found guilty of an offence that was committed

while he or she was a young person;

(j) "youth custody facility" means a facility designated under subsection 85(2) of the Federal Act for the placement of young — youth custody facility

persons and, if so designated, includes a facility for the secure restraint of young persons, a community residential centre, a group home, a child care institution and a forest or wilderness camp;

youth justice court

(k) "youth justice court" means a youth justice court referred to in section 13 of the Federal Act;

youth justice court judge

(l) "youth justice court judge" means a youth justice court judge referred to in section 13 of the Federal Act;

youth sentence

(m) "youth sentence" means a sentence imposed under section 9;

youth worker

(n) "youth worker" means a person who is designated, whether by the title of youth worker, probation officer or by any other title, by the Minister of Justice and Public Safety and Attorney General to perform any of the duties or functions of a youth worker under the Federal Act or under this Act. 1985,c.47,s.1; 2002,c.28,s.1,2; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3.

Application

2. (1) This Act applies in respect of offences committed by young persons.

Idem

(2) The *Summary Proceedings Act* R.S.P.E.I. 1988, Cap. S-9 applies to offences and proceedings under this Act.

Powers of justice of the peace

(3) Without prejudice to subsection (2), a justice of the peace, in relation to proceedings against a young person for offences under any Act of the province or any bylaw made under the authority of an Act, has jurisdiction and authority to hear and accept guilty pleas and may impose fines, suspend the passing of sentence and direct that the young person comply with the conditions prescribed in a probation order. 1985,c.47,s.2; 1988,c.70,s.1.

Youth justice court

3. (1) Proceedings under this Act shall be commenced in a youth justice court which shall have the powers of a court of summary jurisdiction and shall be a court of record.

Powers

(2) A judge of a youth justice court has all the powers of a provincial court judge under the *Provincial Court Act* R.S.P.E.I. 1988, Cap. P-25, including the power to punish for contempt.

Continuation of proceedings

(3) Proceedings commenced in a youth justice court against a young person under this Act may be continued after he becomes an adult in all respects as if he had remained a young person. 1985,c.47,s.3; 2002,c.28,s.3.

No proceedings against a child

4. (1) Notwithstanding any other enactment, no proceedings shall be commenced against a person in respect of an offence which he is alleged to have committed when he was a child.

(2) Where a child engages in conduct that would, if he were a young person or adult, contravene the Criminal Code, a Federal Act or an enactment, a peace officer may Action respecting offences by children

(a) take charge of the child and return him to his parents; or

(b) take him or refer him to the Director of Child Protection where there are grounds to believe that the child is in need of protection.

(3) For the purposes of this section only, "Federal Act" means any enactment passed by Parliament or the Governor in Council. 1985,c.47,s.4; 2002,c.28,s.4; 2010,c.28,s.45. Exception

5. An information in respect of an offence alleged to be committed by a young person shall be invalid unless it is laid within six months after the offence was committed. 1985,c.47,s.5. Limitation period

6. (1) Where a young person is charged with an offence, the person who issued the process shall, as soon as possible, give to a parent of the young person notice in writing indicating Notice to parents

(a) the name of the young person;

(b) the charge against the young person;

(c) the time and place of the court appearance; and

(d) if the young person is being detained, the name of the place in which he is detained.

(2) Where a young person is married, a notice under this section may be given to the spouse of the young person instead of a parent. Notice to spouse

(3) A notice under this section may be given by mail. Mail

(4) Failure to give the notice required in subsection (1) does not affect the validity of the proceedings against the young person. 1985,c.47,s.6. Failure to notify

7. (1) If a parent does not attend proceedings before the youth justice court in respect of a young person, the court may, if it considers the presence of the parent necessary, by written order require the parent to attend at any stage of the proceedings and to remain as required, and the order shall be served in such manner as the court may direct. Summons of parent

(2) A parent who is ordered to attend the youth justice court pursuant to subsection (1), and who fails to attend or to remain as required is guilty of an offence and liable on summary conviction to a fine not exceeding $200. 1985,c.47,s.7; 2002,c.28,s.5. Offence

8. (1) If the youth justice court considers it necessary for making a youth sentence under this Act in respect of a young person who is found guilty of an offence, it may require the Provincial Director to prepare a pre- Pre-sentence report

sentence report respecting the personal and family history and present circumstances of the young person and to submit the report to the court.

Content of report

(2) A pre-sentence report ordered by a youth justice court judge shall be in writing and shall include such matters as the judge may direct.

Copy of report

(3) Where a pre-sentence report made in respect of a young person is submitted to a youth justice court in writing the court

(a) shall cause a copy of the report to be given to

(i) the young person,

(ii) a parent of a young person, if the parent is in attendance at the proceedings against the young person,

(iii) counsel, if any, representing the young person, and

(iv) the prosecutor; and

(b) may cause a copy of the report to be given to a parent of the young person not in attendance at the proceedings against the young person if the parent is, in the opinion of the court, taking an active interest in the proceedings. 1985,c.47,s.8; 2002,c.28,s.6.

Provincial Director

8.1 (1) The Minister of Justice and Public Safety and Attorney General may designate a member of the civil service of the province to be the Provincial Director to exercise the powers and perform the duties and functions conferred or imposed on the Provincial Director under the Federal Act, this Act or any other enactment.

Absence

(2) The Minister of Justice and Public Safety and Attorney General may designate a member of the civil service of the province to act on behalf of the Provincial Director in the Provincial Director's absence or inability to act.

Youth workers

(3) The Minister of Justice and Public Safety and Attorney General may designate persons as youth workers. 2002,c.28,s.7; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3.

Representations considered before disposition

9. (1) Where a youth justice court finds a young person guilty of an offence, it shall consider any report required by the court, any representations made by the parents of the young person and any other relevant information before the court.

Youth sentences

(2) The youth justice court shall make one or more of the following youth sentences:

(a) discharge the young person absolutely;

(b) conditionally discharge the young person and direct that he comply with the conditions prescribed in a probation order;

(b.1) reprimand the young person;

(c) order the young person to pay a fine;

(d) order the young person to make restitution;

(e) suspend the passing of sentence and direct that the young person comply with the conditions prescribed in a probation order.

Effective date

(3) A youth sentence made under this section comes into force on the date on which it is made or on such later date as the youth justice court specifies.

Punishment

(4) No youth sentence shall be made in respect of a young person that results in a punishment that is greater than the maximum punishment that would be applicable to an adult who has committed the same offence. 1985,c.47,s.9; 2002,c.28,s.8.

Fines, means to pay

10. (1) A youth justice court shall, in imposing a fine on a young person or in making an order against the young person for the payment of money or restitution, have regard to the present and future means of the young person to pay.

Community service in lieu

(2) A young person upon whom a fine is imposed may, if the youth justice court so directs, discharge the fine in whole or in part by performing work or community service in a program established for that purpose under the Federal Act. 1985,c.47,s.10; 2002,c.28,s.9.

Probation order, duration

11. (1) A probation order shall not remain in effect for more than two years.

Conditions that must appear in probation orders

(2) The youth justice court shall prescribe, as conditions of a probation order made under this Act, that the young person

(a) keep the peace and be of good behaviour; and

(b) appear before the youth justice court when required by the court to do so.

Idem

(3) A youth justice court may prescribe, as conditions of a probation order made under this Act, that the young person do one or more of the following that the youth justice court considers appropriate in the circumstances:

(a) report to and be supervised by the Provincial Director;

(b) notify the Provincial Director or the youth worker assigned to the case of any change of address or any change in the young person's place of employment, education or training;

(c) remain within the territorial jurisdiction of one or more courts named in the order;

(d) make reasonable efforts to obtain and maintain suitable employment;

(e) attend school or any other place of learning, training or recreation that is appropriate, if the youth justice court is satisfied that a suitable program for the young person is available at that place;

(f) reside with a parent, or any other adult that the youth justice court considers appropriate, who is willing to provide for the care and maintenance of the young person;

(g) reside at a place that the Provincial Director may specify;

(h) comply with any other conditions set out in the order that the youth justice court considers appropriate, including conditions for securing the good conduct of the young person and for preventing the young person from repeating the offence or committing other offences;

(i) not own, possess or have the control of any weapon, ammunition, prohibited device or explosive substance, except as authorized by the order.

Explanation of order

(4) Where the youth justice court makes a probation order under this Act, it shall

(a) cause the order to be read by or to the young person bound by the probation order;

(b) explain or cause to be explained to the young person the purpose and effect of the order and ascertain that the young person understands it; and

(c) cause a copy of the order to be given to the young person and to a parent of the young person, if the parent is in attendance at the proceedings against the young person.

Copy to parent

(5) Where the youth justice court makes a probation order under this Act, it may cause a copy of the order to be given to a parent of the young person not in attendance at the proceedings against the young person if the parent is, in the opinion of the court, taking an active interest in the proceedings.

Acknowledgement

(6) After a probation order has been read by or to and explained to a young person, the young person shall endorse the order acknowledging receipt of a copy of the order and acknowledging the fact that it has been explained to him.

Idem

(7) The failure of the young person to endorse a probation order pursuant to subsection (6) does not affect the validity of the order.

Commencement

(8) A probation order made pursuant to this Act comes into force on the date on which the order is made.

Notice to appear

(9) A young person may be given notice orally or in writing to appear before the youth justice court pursuant to the probation order.

Warrant

(10) If a young person to whom notice is given in writing to appear before the youth justice court does not appear at the time and place named in the notice and it is proved that a copy of the notice was served

on the young person, a youth justice court may issue a warrant to compel the appearance of the young person. 1985,c.47,s.11; 2002,c.28,s.10.

Inability to comply

12. (1) Where a young person is unable to comply with a youth sentence made under this Act, the youth justice court may at any time cause the young person to be brought before the court and the court may confirm, vary or cancel the youth sentence and make a new youth sentence consistent with this Act.

Refusal to comply

(2) A young person who wilfully fails or refuses to comply with a youth sentence or any term or condition of a youth sentence is guilty of an offence and is liable to a new youth sentence under section 9 or to be committed to a place of custody for a specified period not exceeding 30 days or both.

Custody

(3) If a young person is committed to a place of custody under subsection (2), the period of custody shall be served continuously or intermittently as directed by the youth justice court.

Consideration of pre-sentence report

(4) The youth justice court shall not commit a young person to custody unless it has received and considered a pre-sentence report. 1985,c.47,s.12; 2002,c.28,s.11.

Separate youth detention

13. A young person who is charged with an offence and detained prior to trial or committed to a place of custody under this Act shall be held separate and apart from any adult who is charged with or convicted of an offence under an Act of the Parliament of Canada or an enactment. 1985,c.47,s.13.

Release

14. (1) The Provincial Director may authorize a young person committed to a youth custody facility in the province under a youth sentence imposed under this Act

(a) to be released for a period not exceeding thirty days if, in the opinion of the Provincial Director, it is necessary or desirable that the young person be absent, with or without escort, for medical, compassionate or humanitarian reasons or for the purpose of rehabilitating the young person or reintegrating the young person into the community; or

(b) to be released on the days and during the hours that the Provincial Director specifies in order that the young person may

(i) attend school or any other educational or training institution,

(ii) obtain or continue employment or perform domestic or other duties required by the family of the young person,

(iii) participate in a program specified by the Provincial Director that, in the Provincial Director's opinion, will enable the young

person to better carry out employment or improve his or her education or training, or

(iv) attend an out-patient treatment program or other program that provides services that are suitable to addressing the needs of the young person.

Revocation of authorization

(2) The Provincial Director may, at any time, revoke an authorization made under subsection (1).

Arrest and return to custody

(3) If the Provincial Director revokes an authorization under subsection (2) or if a young person fails to comply with any term or condition of a reintegration leave or a release from custody under this section, the Provincial Director may authorize a peace officer to arrest the young person and return him or her to custody. 2002,c.28,s.12.

Transfer of youth sentence

15. (1) Where

(a) a youth sentence has been made in respect of a young person; and

(b) the young person or a parent with whom he resides is or becomes a resident of a reciprocating province,

on the application of the Minister of Justice and Public Safety and Attorney General, the young person or his parent, the youth justice court may transfer the youth sentence to the Attorney General in the reciprocating province.

Time for transfer

(2) No youth sentence may be transferred to a reciprocating province under this section until

(a) the time for an appeal against

(i) the youth sentence, or

(ii) the finding on which the youth sentence was based

has expired;

(b) all proceedings in respect of an appeal, if taken, have been completed; or

(c) the appeal has been abandoned.

Transfer from other reciprocating province

(3) Where

(a) a youth sentence has been made in respect of a young person by a court in a reciprocating province; and

(b) a certified copy of the youth sentence has been transmitted by the proper officer of the reciprocating province to the Minister of Justice and Public Safety and Attorney General,

the Minister of Justice and Public Safety and Attorney General shall send the certified copy of the youth sentence for filing to the proper officer of the youth justice court.

(4) A youth sentence filed under subsection (3) has the same force and effect as, and subject to this Act all proceedings may be taken on it as if it had been, a youth sentence originally obtained in the youth justice court, and the court has the power to enforce, review and vary the order accordingly.

Effect on filing

(5) The Minister of Justice and Public Safety and Attorney General may, by order, declare a province to be a reciprocating province for purposes of this section. 1985,c.47,s.15; 2002,c.28,s.13; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3.

Declaration

16. (1) No person shall publish by any means a report of

(a) an offence committed or alleged to have been committed by a young person;

(b) a hearing, adjudication, youth sentence or appeal concerning a young person who committed or is alleged to have committed an offence,

in which the name of the young person, a young person who appeared as a witness in connection with the offence, or in which any information serving to identify such a person, is disclosed.

Restrictions on publication of names

(2) Any person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding $1,000.

Offence

(3) Nothing in this section precludes the furnishing of information concerning or a certified abstract of the operating record of a young person under the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5. 1985,c.47,s.16; 2002,c.28,s.14; 2004,c.24,s.1.

Exception

17. Where a youth justice court is of the opinion that

(a) any evidence or information presented to the court would be seriously injurious or seriously prejudicial to

(i) the young person who is being dealt with in the proceedings, or

(ii) a young person who is a witness in the proceedings;

(b) for the purpose of maintenance of order or the proper administration of justice it is necessary to exclude members of the public from the court room,

the court may exclude any person from all or part of the proceedings. 1985,c.47,s.17; 2002,c.28,s.15.

Person excluded from hearing

18. Every clerk of a youth justice court shall keep, separate from records of cases in the provincial court, a complete record of every proceeding arising under this Act that comes before the youth justice court. 2002,c.28,s.16.

Records

Appeals

19. An appeal lies from a finding of guilt, an order dismissing an information or a youth sentence under section 9 as if the finding of guilt were a conviction, the order dismissing the information were an order dismissing the information or the youth sentence were a sentence in proceedings to which the *Summary Proceeding Act* applies. 1985,c.47,s.19; 2002,c.28,s.17.

Proof of age

20. In any proceedings under this Act the youth justice court may receive and act on any information relating to age that it considers reliable. 1985,c.47,s.20; 2002,c.28,s.18.

Rules

21. For the purposes of this Act the chief judge of the provincial court may make rules

(a) respecting forms;

(b) regulating the practice and procedure to be followed by youth justice courts;

(c) respecting records and the disclosure of records. 1985,c.47,s.21; 2002,c.28,s19.

Use of place of custody

22. (1) The Minister of Justice and Public Safety and Attorney General may authorize any part of a youth custody facility to be used to provide programs and services to young persons, but the use of the facility by young persons in less restrictive custody shall not be contemporaneous with use by other young persons.

Use of facility

(2) Repealed by 2002,c.28,s.20.

Persons outside custody facility

(3) All places outside a custody facility in which a young person in custody may be at any time with the consent of the Provincial Director shall be deemed to be a part of the custody facility.

Manager

(4) There shall be a manager of each custody facility who is responsible to the Provincial Director for the administration of the facility and the custody and supervision of young persons detained therein.

Regulations

(5) The Lieutenant Governor in Council may make regulations with respect to the administration of custody facilities and the custody, treatment, training and employment of young persons and the control of their behaviour and, in particular, in respect of

(a) the inspection, management, security and operation of custody facilities;

(b) the control, conduct, search, escort and transportation of young persons in custody;

(c) the control of contraband;

(d) the examination, detention and control of parcels and written communications received for or sent out by a resident;

(e) the control and conduct of visitors or other persons within a custody facility. 1987,c.72,s.1; 1993,c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3; 2002,c.28,s.20; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3.

Regulations

23. The Lieutenant Governor in Council may make regulations. 1985,c.47,s.22.

Transitional provisions

24. On the date this section comes into force,

(a) any court established or designated as a youth court for the purposes of this Act before the coming into force of this section is deemed to have been established or designated as a youth justice court for the purposes of this Act;

(b) any person appointed as a youth court judge for the purposes of this Act before the coming into force of this section is deemed to have been appointed as a youth justice court judge for the purposes of this Act;

(c) any reference to a disposition in proceedings or reports before a youth court or in orders of a youth court judge before the coming into force of this section shall be deemed to be a reference to a youth sentence for the purposes of this Act;

(d) any reference to a predisposition report in proceedings or reports before a youth court or in orders of a youth court before the coming into force of this section shall be deemed to be a reference to a pre-sentence report for the purposes of this Act;

(e) any person designated, prior to the coming into force of this section, as the Provincial Director under this Act is deemed, as of the coming into force of this section, to have been so designated under section 8.1 of this Act;

(f) any person designated, prior to the coming into force of this section as a youth worker under this Act is deemed, as of the coming into force of this section, to have been so designated by the Minister of Justice and Public Safety and Attorney General under this Act. 2002,c.28,s.21; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3.