

1983 BILL 113

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 113

YOUNG OFFENDERS ACT

MR. HIEBERT

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 113
Mr. Hiebert

BILL 113

1983

YOUNG OFFENDERS ACT

(Assented to , 1983)

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1(1) In this Act,

- (a) “adult” means a person who is neither a young person nor a child;
- (b) “child” means a person who is or, in the absence of evidence to the contrary, appears to be under the age of 12 years;
- (c) “disposition” means a disposition made under this Act and includes a confirmation or a variation of a disposition;
- (d) “federal Act” means the *Young Offenders Act* (Canada);
- (e) “offence” means an offence created by an enactment or a municipal by-law;
- (f) “ordinary court” means a division of the Provincial Court other than the youth court;
- (g) “parent” includes, in respect of a young person, any person who is under a legal duty to provide for that young person or any person who has, in law or in fact, the custody or control of that young person;
- (h) “place of custody” means a place designated pursuant to the federal Act as a place of open custody;
- (i) “provincial director” means the provincial director for Alberta appointed or designated under the federal Act and includes his delegate;
- (j) “reciprocating province” means a province declared under section 30 to be a reciprocating province;
- (k) “young person” means a person who is or, in the absence of evidence to the contrary, appears to be 12 years of age or more but under 16 years of age, unless the age is varied by regulation;
- (l) “youth court” means the Provincial Court;
- (m) “youth court judge” means a person appointed under the *Provincial Court Judges Act* as a judge of the Provincial Court;
- (n) “youth worker” means a youth worker as defined in the federal Act.

(2) Unless otherwise provided, words and expressions used in this Act have the same meaning as in the *Summary Convictions Act*.

Application of Act

2(1) Except to the extent that it is inconsistent with this Act, the *Summary Convictions Act*, except for sections 5 and 6 of that Act, applies to proceedings under this Act.

(2) Procedures under sections 5 and 6 of the *Summary Convictions Act* do not apply with respect to an offence alleged to have been committed by a young person unless

- (a) the young person was 16 or 17 years of age when the alleged offence was committed, and

	<p>(b) the alleged offence is not an offence under the <i>Liquor Control Act</i>.</p> <p>(3) Subject to section 20, section 577 of the <i>Criminal Code</i> (Canada) applies in respect of proceedings under this Act.</p> <p>(4) Section 744 of the <i>Criminal Code</i> (Canada) does not apply in respect of proceedings under this Act.</p>
Jurisdiction	<p>3(1) Subject to subsection (2), section 9 and section 11(8), the youth court has exclusive jurisdiction in respect of any offence alleged to have been committed by a person while he was a young person and that person shall be dealt with as provided in this Act.</p> <p>(2) Proceedings commenced under this Act against a young person, including a review under section 14, may be continued in all respects after he becomes an adult as if he remained a young person.</p>
No conviction of child	<p>4 No person shall be found guilty of an offence in respect of an act or omission on his part while he was a child.</p>
Arrest and detention	<p>5(1) A young person who is arrested and detained shall be detained</p> <p style="padding-left: 40px;">(a) in a place of temporary detention, or</p> <p style="padding-left: 40px;">(b) in a place or a place within a class of places designated by the Lieutenant Governor in Council.</p> <p>(2) A young person who is detained in custody in accordance with this section may, during the period of detention, be transferred by the provincial director from one place of temporary detention or designated place described in subsection (1) to another designated place or place of temporary detention.</p> <p>(3) Subsection (1) does not apply in respect of any temporary restraint of a young person in the hands of a peace officer after the arrest of the young person.</p> <p>(4) No young person who has been arrested shall be detained in any part of a place where an adult who has been charged with or convicted of an offence against any law of Canada or a province is detained unless a youth court judge authorizes the detention, being satisfied that</p> <p style="padding-left: 40px;">(a) the young person cannot, having regard to his own safety or the safety of others, be detained in a place referred to in subsection (1), or</p> <p style="padding-left: 40px;">(b) no place referred to in subsection (1) is available within a reasonable distance.</p> <p>(5) A person who contravenes subsection (1) or (4) is guilty of an offence.</p> <p>(6) If a youth court judge, or if a youth court judge is not reasonably available, a justice as defined in the <i>Summary Convictions Act</i>, is satisfied that</p> <p style="padding-left: 40px;">(a) a responsible person is willing and able to take care of and exercise control over a young person who has been arrested, and</p>

(b) the young person is willing to be placed in the care of that person,

and if that person undertakes in writing to take care of and to be responsible for the attendance of the young person in court when required, the young person may be placed in the care of that person instead of being detained.

Orders of
detention or
release

6 Subsections 8(1) to (7) of the federal Act apply to proceedings under this Act.

Notice to parents

7(1) Subject to subsections (3) and (4), if a young person is arrested and detained pending his appearance in court, the officer in charge at the time the young person is detained shall, as soon as practicable, give, orally or in writing, to a parent of the young person notice of the arrest including the place of detention and the reason for the arrest.

(2) Subject to subsections (3) and (4),

(a) where a summons or an appearance notice is issued in respect of a young person, the person who issued the summons or appearance notice, or

(b) if a young person is released on giving his promise to appear, giving an undertaking or entering into a recognizance, the officer in charge,

shall, as soon as practicable, give in writing to a parent of the young person notice of the summons, appearance notice, promise to appear, undertaking or recognizance.

(3) If the whereabouts of the parents of a young person,

(a) who is arrested and detained,

(b) in respect of whom a summons or an appearance notice is issued, or

(c) who is released on giving his promise to appear, giving an undertaking or entering into a recognizance,

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 him or, if no such adult relative is available, to another adult who is known to the young person and is likely to assist him, as the person giving the notice considers appropriate.

(4) If a young person described in subsection (3) is married, a notice under this section may be given to the spouse of the young person instead of a parent.

(5) If doubt exists as to the person to whom a notice under this section should be given, a youth court judge 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.

(6) A notice under this section shall, in addition to any other requirements, include

- (a) the name of the young person in respect of whom it is given,
- (b) the charge against the young person, and
- (c) the time and place of appearance.

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

(8) If there has been a failure to give a notice in accordance with this section and none of the persons to whom a notice may be given attends court with the young person, a youth court judge before whom proceedings are held against the young person may

- (a) adjourn the proceedings and order that the notice be given in the manner and to the person he directs, or
- (b) dispense with the notice if, in his opinion, having regard to the circumstances, notice should be dispensed with.

(9) Subject to subsection (10), failure to give notice in accordance with this section does not affect the validity of proceedings under this Act.

(10) Failure to give notice in accordance with subsection (2) renders invalid any subsequent proceedings under this Act relating to the case unless

- (a) a person to whom a notice may be given under this section attends court with the young person against whom proceedings are held, or
- (b) notice is dispensed with pursuant to subsection (8)(b).

(11) Subsections (1) to (10) do not apply if proceedings are commenced under section 5 or 6 of the *Summary Convictions Act*.

Summons of parent

8(1) If a parent does not attend proceedings before the youth court in respect of a young person, the court may, if it considers the presence of the parent necessary or in the best interest of the young person, by written order require the parent to attend at any stage of the proceedings and to remain as required.

(2) A copy of an order made under subsection (1) shall be served by any peace officer, youth worker or other person designated by the youth court by delivering it personally to the parent to whom it is directed, unless the youth court authorizes service by registered mail.

Offence

9 A parent who is ordered to attend the youth court pursuant to section 8(1) and who fails, without reasonable excuse the proof of which lies on that parent, to attend or to remain in attendance as required is guilty of an offence.

Pre-disposition report

10(1) If the youth court considers it necessary for making a disposition under section 11 in respect of a young person who is found guilty of an offence, it may require the provincial director to prepare a pre-disposition report in respect of the young person and to submit the report to the court.

(2) A pre-disposition report shall be in writing and may include only

- (a) the results of an interview between a youth court worker and the young person and, where reasonably possible, the results of an interview between a youth court worker and the parents of the young person and, if the young person is married, his spouse, and
- (b) where applicable, information as to
 - (i) the age, maturity, character and attitude of the young person and his willingness to make amends,
 - (ii) any plans put forward by the young person to change his conduct or to participate in activities or undertake measures to improve himself,
 - (iii) the history of previous findings of delinquency under the *Juvenile Delinquents Act* (Canada) or previous findings of guilt in accordance with the federal Act, this Act or under any other Act, the history of community or other services rendered to the young person with respect to those findings and the response of the young person to previous sentences or dispositions and to services rendered to him,
 - (iv) the availability of community services and facilities for young persons and the willingness of the young person to avail himself of those services or facilities,
 - (v) the relationship between the young person and his parents and the degree of control and influence of the parents over the young person, and
 - (vi) the school attendance and performance record and the employment record of the young person.
- (3) A pre-disposition report shall form part of the record of the proceedings in respect of which it was requested.
- (4) If a pre-disposition report is submitted to the youth court, the youth court
 - (a) shall, subject to subsection (6), cause a copy of the report to be given to
 - (i) the young person,
 - (ii) a parent of the 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 Attorney General or his agent,
 - 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 youth court, taking an active interest in the proceedings.
- (5) If a pre-disposition report is submitted to the youth court, the young person, subject to subsection (6), or his counsel, if any, and the Attorney General or his agent shall on application to the youth

court be given the opportunity to cross-examine the youth court worker who made the report.

(6) If a pre-disposition report is submitted to a youth court, the court may, if disclosure of the report or any part of it to the young person would, in the opinion of the court, be seriously injurious to the young person,

- (a) withhold the report or part of it from the young person, and
- (b) exclude the young person from court during the consideration of the report or part of it.

(7) If a pre-disposition report is submitted to the youth court, the court

- (a) shall, on receipt of an application, cause a copy of the report to be supplied to
 - (i) any court that is dealing with matters relating to the young person, and
 - (ii) any youth worker to whom the young person's case has been assigned,

and

(b) may, on receipt of an application, cause a copy of the report, or a part of it, to be supplied to any person not otherwise authorized under this section to receive a copy if, in the opinion of the court, the person has a valid interest in the proceedings.

(8) The provincial director may make the pre-disposition report, or any part of it, available to any person in whose custody or under whose supervision the young person is placed or to any other person who is assisting in any way in the care or treatment of the young person.

(9) No statement made by a young person in the course of the preparation of a pre-disposition report in respect of the young person is admissible in evidence against him in any civil or criminal proceedings except in proceedings under section 11, 14 or 17.

Dispositions

11(1) If the youth court finds a young person guilty of an offence, it shall consider

- (a) any representations made by the Attorney General or his agent, the young person or his counsel, if any, and the parents of the young person or, if the young person is married, his spouse, and
- (b) any other relevant information before the court,

and the court shall then, subject to subsections (2) to (6), make a disposition that is a sentence that an ordinary court would impose on an adult found guilty of the same offence.

(2) In no case shall a young person who was under 16 years of age when he committed an offence be liable to be committed into custody in respect of that offence.

(3) If a young person is committed into custody it shall be served in a place of custody, continuously or intermittently, for a period not exceeding 6 months.

(4) If the youth court imposes a fine on a young person, the fine shall not exceed the least of

(a) the maximum fine that may be imposed on an adult in ordinary court with respect to the same offence as that of which the young person has been found guilty,

(b) notwithstanding section 2(1), in the case of an offence prescribed under section 5 or 6 of the *Summary Convictions Act*, an amount equal to the specified penalty payable in respect of the offence, and

(c) \$500,

to be paid at the times and on the terms that the youth court fixes.

(5) If the youth court considers it appropriate the youth court may, instead of imposing a fine under subsection (4), order

(a) the young person to perform community service in accordance with section 12, and at the time and places the youth court fixes, and in determining the amount of community service to be performed, the youth court shall have regard to the fine it would have imposed and to the minimum wage in effect, or

(b) that the young person be placed on probation in accordance with section 13 for a period not exceeding 6 months.

(6) If more than 1 disposition is made under this section in respect of the same offence, the combined duration of the dispositions shall not exceed 6 months.

(7) A disposition made under this section continues in effect, in accordance with the terms of the disposition, after the young person against whom it is made becomes an adult.

(8) If a young person is found guilty of an offence nothing in this section precludes, in addition to any disposition imposed under this section, any rights, benefits, licences, permits or privileges held by the young person being cancelled, revoked, suspended or otherwise dealt with in accordance with the enactment under which the offence was committed.

Fine or
community
service

12(1) The youth court shall, in imposing a fine on a young person under section 11, have regard to the present and future means of the young person to pay.

(2) No disposition may be made under section 11 to perform community service unless the youth court is satisfied

(a) that the young person against whom the disposition is made is a suitable candidate for such a disposition,

(b) that the disposition will not interfere with the normal hours of work, education or training of the young person, and

(c) that the person for whom the community service is to be performed has agreed to its performance.

(3) No disposition may be made under section 11 to perform community service unless the service can be completed in 100 hours or less and within 6 months of the date of the disposition.

13(1) Where the disposition given under section 11 is a probation order, the following conditions shall be included in the order:

- (a) that the young person bound by the probation order shall keep the peace and be of good behaviour,
- (b) that the young person shall appear before the youth court when required by the youth court to do so, and
- (c) that the young person shall notify the provincial director or the youth worker assigned to his case of any change of address or any change in his place of employment, education or training.

(2) A probation order made under section 11 may include any one or more of the following conditions that the youth court considers appropriate:

- (a) that the young person bound by the probation order report to and be under the supervision of the provincial director or a person designated by him or by the youth court;
- (b) that the young person remain in Alberta;
- (c) that the young person make reasonable efforts to obtain and maintain suitable employment;
- (d) that the young person attend school or any other place of education, training or recreation that is appropriate;
- (e) that the young person reside with a parent, or any other adult whom the court considers appropriate, who is willing to provide for the care and maintenance of the young person;
- (f) that the young person reside in a place that the provincial director specifies;
- (g) that the young person comply with any other conditions set out in the order that the court considers desirable, including conditions for securing the good conduct of the young person and for preventing the commission by the young person of other offences.

(3) Where the youth court makes a probation order, it shall

- (a) cause the order to be read by or to the young person,
- (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.

(4) If the youth court makes a probation order, it may give a copy of the order 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.

(5) After a probation order has been read by or to a young person and explained to him pursuant to subsection (3), the young person shall endorse the order acknowledging that he has received a copy of

the order and acknowledging the fact that it has been explained to him.

(6) The failure of a young person to endorse a probation order pursuant to subsection (5) does not affect the validity of the order.

(7) A probation order comes into force on the date on which the order is made.

(8) A young person may be given notice to appear before the youth court pursuant to subsection (1)(b) orally or in writing.

(9) If a young person to whom a notice to appear before the youth court pursuant to subsection (1)(b) is given in writing does not appear at the time and place named in the notice and it is proved that a copy of the notice was given to him, a youth court may issue a warrant to compel the appearance of the young person.

Review of
dispositions

14(1) If the youth court has made a disposition under section 11, the youth court shall, on the application of the young person, his parent, his spouse, if he is married, the Attorney General or his agent or the provincial director, made at any time prior to the expiration of the disposition, review the disposition if the court is satisfied that there are grounds for a review under subsection (2).

(2) A review of a disposition may be made under this section

(a) on the ground that the circumstances that led to the disposition have changed materially,

(b) on the ground that the young person in respect of whom the review is to be made is unable to comply with or is experiencing serious difficulty in complying with the terms of the disposition,

(c) on the ground that the terms of the disposition are adversely affecting the opportunities available to the young person to obtain services, education, employment or training, or

(d) on any other grounds that the youth court considers appropriate.

(3) The youth court may require the provincial director to prepare a progress report on the performance of the young person since the disposition took effect.

(4) A progress report may include information relating to the personal and family history and present environment of the young person as the provincial director considers advisable, and section 10(4) to (9) apply to a progress report.

(5) No review of a disposition shall be commenced until the time for an appeal against the disposition or the finding on which the disposition was based has expired and until all proceedings in respect of the appeal, if taken, have been completed or the appeal has been abandoned.

(6) Where a review of a disposition is applied for under subsection (1), the person who applies for the review shall cause a written notice, as directed by rules of court applicable to the youth court, or, in the absence of rules on notice, at least 5 days' written notice of the

review, to be given to the young person, his parents, his spouse, if he is married, the provincial director and the Attorney General or his agent.

(7) A notice under subsection (6) may be served personally or may be sent by double registered mail.

(8) A person entitled to notice under subsection (6) may waive the right to the notice.

(9) If notice under subsection (6) is not given in accordance with this section, the youth court may

(a) adjourn the proceedings and order that the notice be given in the manner and to any persons that it directs, or

(b) dispense with the notice where, in the opinion of the court, having regard to the circumstances, notice may be dispensed with.

(10) The youth court may, by summons or warrant, compel a young person in respect of whom a review is to be made under this section to appear before the youth court for the purposes of the review.

(11) Subject to subsection (12), if a youth court reviews a disposition under this section, it may, after granting the young person, his counsel, if any, his parents, his spouse, if he is married, the Attorney General or his agent and the provincial director an opportunity to be heard,

(a) confirm the disposition,

(b) terminate the disposition and discharge the young person from any further obligation of the disposition, or

(c) vary the disposition or make a new disposition set out in section 11, for a period of time not exceeding the remainder of the period of the earlier disposition, that the court considers appropriate in the circumstances.

(12) If, when the young person was found guilty of an offence in respect of which the review is being made, he was not liable to be committed into custody, the youth court may not, on review, commit him into custody.

(13) Subject to subsection (14), no disposition made under subsection (11) may be more onerous than the remaining portion of the disposition reviewed.

(14) If the court is satisfied that the young person requires more time to comply with an order to perform community service, the youth court may under this section extend the time within which the order to perform community service is to be complied with by a young person, but in no case shall the extension be for a period of time that expires more than 6 months after the date that the disposition was made under section 11.

(15) Subject to this section, sections 11(2) and (3), 12 and 13 apply in respect of a disposition made under this section.

Refusal to
comply with
disposition

15 A young person who wilfully fails or refuses to comply with a disposition or any term or condition of it is guilty of an offence and liable to a disposition under section 11 or, if he was 16 years of age or more when he committed the offence, to be committed into custody for a specified period not exceeding 6 months, or both.

Temporary
release

16(1) The provincial director may, subject to any terms or conditions that he considers appropriate, authorize a young person committed to custody pursuant to a disposition made under this Act

(a) to be temporarily released for a period not exceeding 15 days where, in his opinion, it is necessary or desirable that the young person be absent, with or without escort,

(i) for medical, compassionate or humanitarian reasons, or

(ii) for the purpose of rehabilitation or re-integration into the community, or

(b) to be released from custody on the days and during the hours he 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 young person's family, or

(iii) participate in a program specified by the provincial director that, in his opinion, will enable the young person to better carry out his employment or improve his education or training.

(2) A young person who is released from custody pursuant to subsection (1) shall be released only for the periods of time that are necessary to attain the purpose for which the young person is released.

(3) The provincial director may, at any time, revoke an authorization made under subsection (1).

(4) Where the provincial director revokes an authorization for a young person to be released from custody under subsection (3) or where a young person fails to comply with any term or condition of his release from custody under this section, the young person may be arrested without warrant and returned to custody.

(5) A young person who has been committed to custody under this Act shall not be released from custody before the expiration of the period of his custody except in accordance with subsection (1) unless the release is ordered under section 14 or otherwise according to law by a court of competent jurisdiction.

Transfer of
disposition

17(1) If a disposition has been made in respect of a young person and the young person or a parent with whom he resides is or becomes a resident of a reciprocating province, a youth court judge in Alberta may, on the application of the Attorney General or his agent or on the application of the young person or his parent or, if he is married, his spouse, with the consent of the Attorney General or his agent,

transfer the disposition and the appropriate portion of the record to the Attorney General in the reciprocating province.

(2) No disposition may be transferred from Alberta to a reciprocating province under this section until the time for an appeal against the disposition or the finding on which the disposition was based has expired or until all proceedings in respect of an appeal, if taken, have been completed or the appeal has been abandoned.

(3) When a disposition has been made against a young person by a youth court in a reciprocating province and a certified copy of the disposition has been transmitted by the proper officer of the reciprocating province to the Attorney General, the Attorney General shall send the certified copy of the disposition for registration to the proper officer of the youth court in Alberta and on its receipt the order shall be registered.

(4) A disposition registered under subsection (3) has, from the date of its registration, the same force and effect as, and, subject to this Act, all proceedings may be taken on it as if it had been, a disposition originally obtained in the youth court in which it is so registered, and the youth court has power to enforce, review and vary the order accordingly.

Appeals

18 An appeal lies under this Act from a finding of guilt, an order dismissing an information or a disposition made under section 11 or 14 in the same manner as if the finding of guilt were a conviction, the order dismissing the information were an order dismissing the information or the disposition were a sentence, in proceedings by way of summary conviction in ordinary court.

Publication restrictions

19(1) Subject to section 29, no person shall publish by any means any report

(a) of an offence committed or alleged to have been committed by a young person, unless an order has been made under section 9 with respect to it, or

(b) of a hearing, adjudication, disposition 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 child or a young person aggrieved by the offence or a child or a young person who appeared as a witness in connection with the offence, or in which any information serving to identify the young person or child, is disclosed.

(2) A person who contravenes subsection (1) is guilty of an offence.

Exclusion from hearing

20(1) Subject to subsection (2), if the youth court is of the opinion that

(a) evidence or information presented to the youth court may be seriously injurious or seriously prejudicial to

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

(ii) a child or young person who is a witness in the proceedings, or

(iii) a child or young person who is aggrieved by or the victim of the offence charged in the proceedings,

or

(b) it is in the interest of public morals, the maintenance of order or the proper administration of justice to exclude any or all members of the public from the court room,

the youth court may exclude any person from all or part of the proceedings if the youth court considers that person's presence to be unnecessary to the conduct of the proceedings.

(2) The youth court may not, pursuant to subsection (1), exclude from proceedings under this Act

(a) the Attorney General or his agent,

(b) the young person who is being dealt with in the proceedings, his parent, his spouse, if any, or his counsel, if any,

(c) the provincial director, or

(d) the youth worker to whom the young person's case has been assigned.

(3) The youth court, after it has found a young person guilty of an offence or during a review of a disposition under section 14 may, in its discretion, exclude from the youth court any person other than

(a) the young person or his counsel, if any,

(b) the provincial director,

(c) the youth worker to whom the young person's case is assigned, or

(d) the Attorney General or his agent,

when any information is being presented to the youth court the knowledge of which may, in the opinion of the youth court, be seriously injurious or seriously prejudicial to the young person.

Contempt of
youth court

21(1) The youth court has the same power, jurisdiction and authority to deal with and impose punishment for contempt against the court as may be exercised by the Provincial Court.

(2) The youth court has jurisdiction in respect of every contempt of court committed by an adult against the youth court in the face of the youth court including proceedings under section 636 of the *Criminal Code* (Canada).

(3) Where the youth court or any other court finds a young person guilty of contempt of court, it may make any one or more of the dispositions set out in section 11, but no other disposition or sentence.

(4) A finding of guilt under this section for contempt of court or a disposition made in respect thereof may be appealed in accordance with section 18.

Application for
forfeiture of
recognizance

22 An application for the forfeiture of the recognizance of a young person shall be made to the youth court.

Proceedings in
case of default

23(1) If a recognizance binding a young person has been endorsed with a certificate pursuant to subsection 704(1) of the *Criminal Code* (Canada), the youth court shall,

(a) on the application of the Attorney General or his agent, fix a time and place for the hearing of an application for the forfeiture of the recognizance, and

(b) after fixing a time and place for the hearing, cause to be sent by registered mail, not less than 10 days before the time so fixed, to each principal and surety named in the recognizance, directed to him at his last known address, a notice requiring him to appear at the time and place fixed by the youth court to show cause why the recognizance should not be forfeited.

(2) When subsection (1) is complied with, the youth court may, after giving the parties an opportunity to be heard, grant or refuse the application and make any order with respect to the forfeiture of the recognizance that it considers proper.

(3) If, pursuant to subsection (2), the youth court orders forfeiture of a recognizance, the principal and his sureties become judgment debtors of the Crown, each in the amount that the youth court orders him to pay.

(4) An order made under subsection (2) may be filed with the clerk of the Court of Queen's Bench and, when an order is filed, the clerk shall issue a writ of fieri facias in the form set out in the *Criminal Code* (Canada) and deliver it to the sheriff of each of the judicial districts where the principal or any of his sureties resides, carries on business or has property.

(5) If a deposit has been made by a person against whom an order for forfeiture of a recognizance has been made, no writ of fieri facias shall issue, and the amount of the deposit shall be transferred by the person who has custody of it to the person who is entitled by law to receive it.

(6) Subsections 704(2) and (4) of the *Criminal Code* (Canada) do not apply in respect of proceedings under this Act.

(7) Sections 706 and 707 of the *Criminal Code* (Canada) apply in respect of writs of fieri facias issued pursuant to this section as if they were issued pursuant to section 705 of the *Criminal Code* (Canada).

Proof of age

24(1) In any proceedings under this Act the following is admissible as evidence of the age of a person:

(a) the testimony of a parent as to the age of a person of whom he is a parent;

(b) his birth or baptismal certificate or a copy purporting to be certified by the person who has custody of those records;

(c) an entry or record of an incorporated society that has had the control or care of a person at or about the time that person

entered Canada, if the entry or record was made before that person is alleged to have committed an offence.

(2) In the absence of any certificate, copy, entry or record mentioned in subsection (1) or in corroboration of a certificate, copy, entry or record, the youth court may receive and act on other information relating to age that it considers reliable.

(3) In any proceedings under this Act, the youth court may draw inferences as to the age of a person from the person's appearance or from statements made by the person in direct examination or cross-examination.

Admissions **25(1)** A party to any proceedings under this Act may admit any relevant fact or matter for the purpose of dispensing with its proof, including any fact or matter the admissibility of which depends on a ruling of law or of mixed law and fact.

(2) Nothing in this section precludes a party to a proceeding from adducing evidence to prove a fact or matter admitted by another party.

Evidence of a child or young person **26(1)** In proceedings under this Act where the evidence of a child or a young person is taken, it shall be taken only after the youth court has

(a) in all cases, if the witness is a child, and

(b) where it considers it necessary, if the witness is a young person,

instructed the child or young person as to the duty of a witness to speak the truth and the consequences of failing to do so.

(2) The evidence of a child or a young person shall be taken under solemn affirmation as follows:

I solemnly affirm that the evidence to be given by me shall be the truth, the whole truth and nothing but the truth.

(3) Evidence of a child or a young person taken under solemn affirmation shall have the same effect as if taken under oath.

Evidence of a child **27(1)** The evidence of a child may not be received in any proceedings under this Act unless, in the opinion of the youth court, the child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

(2) No adjudication shall be made on the evidence of a child alone, unless it is corroborated by some other material evidence.

Evidence of a young person **28(1)** Subject to this section, the law relating to the admissibility of statements made by persons accused of committing offences applies in respect of young persons.

(2) No oral or written statement given by a young person to a peace officer or other person who is, in law, a person in authority is admissible against the young person unless

(a) the statement was voluntary,

(b) the person to whom the statement was given has, before the statement was made, clearly explained to the young person, in language appropriate to his age and understanding, that

(i) the young person is under no obligation to give a statement,

(ii) any statement given by him may be used as evidence in proceedings against him,

(iii) the young person has the right to consult another person in accordance with clause (c), and

(iv) any statement made by the young person is required to be made in the presence of the person consulted, unless the young person desires otherwise,

(c) the young person has, before the statement was made, been given a reasonable opportunity to consult with counsel or a parent, or in the absence of a parent, an adult relative, or in the absence of a parent and an adult relative, any other appropriate adult chosen by the young person, and

(d) where the young person consults any person pursuant to clause (c), the young person has been given a reasonable opportunity to make the statement in the presence of that person.

(3) The requirements set out in subsection (2)(b), (c) and (d) do not apply in respect of oral statements if they are made spontaneously by the young person to a peace officer or other person in authority before that peace officer or other person has had a reasonable opportunity to comply with those requirements.

(4) A young person may waive his rights under subsection (2)(c) or (d) but the waiver shall be made in writing and shall contain a statement signed by the young person that he has been apprised of the right that he is waiving.

(5) A youth court judge may rule inadmissible in any proceedings under this Act a statement given by the young person in respect of whom the proceedings are taken if the young person satisfies the judge that the statement was given under duress imposed by any person who is not, in law, a person in authority.

Records

29(1) Every clerk of the youth court shall keep, separate from records of cases in ordinary court, a complete record of every proceeding arising under this Act that comes before the youth court.

(2) A record kept pursuant to subsection (1) shall, during the course of proceedings and during the term of any disposition made, be made available on request for inspection to

(a) counsel, if any, for, or a parent of, the young person to whom it relates;

(b) the provincial director;

(c) a judge who hears an appeal on the proceeding;

(d) the Attorney General or his agent, or any person authorized in writing by the Attorney General.

(3) Subject to section 17, at any time after proceedings are completed, the record kept pursuant to subsection (1) shall, on application, be made available for inspection to the Attorney General or any person authorized in writing by the Attorney General, but no other person.

(4) If an enactment provides that any right, benefit, licence, permit or privilege held may be cancelled, revoked, suspended or otherwise dealt with on the finding of guilt of an offence under the enactment, nothing in this section precludes the providing of any information in accordance with the enactment for those purposes.

(5) Nothing in this section precludes the furnishing of information and an abstract of a driving record in accordance with section 66 of the *Motor Vehicle Administration Act*.

Reciprocating
province

30 When the Lieutenant Governor in Council is satisfied that reciprocal provisions are made or will be made by a province for the enforcement of dispositions made in Alberta, the Lieutenant Governor in Council may by order declare it to be a reciprocating province for the purposes of this Act.

Regulations

31 The Lieutenant Governor in Council may make regulations

- (a) respecting forms for the purposes of this Act;
- (b) establishing rules regulating the practice and procedure to be followed by youth courts;
- (c) designating places of temporary detention;
- (d) defining young person for the purposes of this Act.

Transitional

32(1) *Where, before the coming into force of this Act, proceedings were commenced under the Juvenile Delinquents Act (Canada) in respect of an offence alleged to have been committed by a young person, the proceedings and all matters consequent thereon may be dealt with as if this Act had not come into force, except that where an adjudication of delinquency is made under the Juvenile Delinquents Act (Canada), all subsequent proceedings shall be taken under this Act as if the adjudication were a finding of guilt under this Act.*

(2) Any person who, before the coming into force of this Act, is alleged to have committed an offence while he was a young person in respect of which no proceedings were commenced before the coming into force of this Act shall be dealt with under this Act as if the alleged offence occurred after the coming into force of this Act.

(3) When a variation in the definition of a young person changes the status of a person from an adult to a young person, then with respect to an offence alleged to have been committed by the person before the variation came into force

- (a) if proceedings had not been commenced with respect to the alleged offence before the variation came into force, proceedings shall be taken under this Act as if the alleged offence occurred after the coming into force of the variation, or*
- (b) if proceedings had been commenced with respect to the alleged offence before the variation came into force, proceedings may be dealt with as if the variation had not come into force.*

(4) For the purposes of this section, proceedings are commenced by the laying of an information.

- Consequential **33** *The Child Welfare Act is amended*
- (a) by repealing Part 4;
 - (b) in section 78(1) by striking out “or under paragraph 20(1)(h) or (i) of the *Juvenile Delinquents Act (Canada)*”;
 - (c) by repealing section 99;
 - (d) by repealing section 100(a)(iii) and (f).
- Consequential **34** *The Corrections Act is amended in section 1(d)*
- (a) by striking out “juvenile delinquent” and substituting “young offender under the *Young Offenders Act* or a young offender under the *Young Offenders Act (Canada)*”;
 - (b) by striking out “section 9 of the *Juvenile Delinquents Act (Canada)*” and substituting “section 16 of the *Young Offenders Act (Canada)*”.
- Consequential **35** *The Motor Vehicle Administration Act is amended*
- (a) in section 65(1)
 - (i) by striking out “Part 2 of the *Provincial Court Act*” and substituting “the *Young Offenders Act*”;
 - (ii) in clauses (c) and (d) by striking out “a delinquency in respect of”;
 - (iii) by striking out “or finding of juvenile delinquency”;
 - (b) by repealing section 106(1)(f);
 - (c) in section 113 by striking out “or” at the end of clause (a) and by repealing clause (b).
- Consequential **36** *The Provincial Court Act is amended*
- (a) in section 2(2)(b) by striking out “Juvenile” wherever it occurs and substituting “Youth Court”;
 - (b) by repealing the heading preceding section 22 and substituting the following:

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YOUNG PERSONS MATTERS

- (c) in section 22
 - (i) by repealing clause (b);
 - (ii) by adding the following after clause (c):
 - (d) “young person” has the same meaning as in the *Young Offenders Act* or the *Young Offenders Act (Canada)*, as the case may be;

(d) by repealing section 23 and substituting the following:

23 The Court is a youth court within the meaning of and for the purposes of the *Young Offenders Act* and the *Young Offenders Act* (Canada), and has all the powers vested in a youth court under those Acts.

(e) in section 24 by striking out “Juvenile Delinquents Act (Canada)” and substituting “Young Offenders Act and Young Offenders Act (Canada)”;

(f) by repealing sections 26 and 28.

Consequential **37** *The Summary Convictions Act, RSA 1980 cS-26.1, is amended by adding the following after section 52:*

52.1 *The Young Offenders Act is amended in sections 2(1) and (2), 7(11) and 11(4)(b) by striking out “sections 5 and 6” and substituting “Part 2”.*

Coming into force **38** *This Act comes into force on Proclamation.*