

Excerpts from the *Youth Criminal Justice Act*, Statutes of Canada, 2002, c-1.

Preamble:

WHEREAS members of society share a responsibility to address the developmental challenges and the needs of young persons and to guide them into adulthood;

WHEREAS communities, families, parents and others concerned with the development of young persons should, through multi-disciplinary approaches, take reasonable steps to prevent youth crime by addressing its underlying causes, to respond to the needs of young persons, and to provide guidance and support to those at risk of committing crimes;

WHEREAS information about youth justice, youth crime and the effectiveness of measures taken to address youth crime should be publicly available;

WHEREAS Canada is a party to the United Nations Convention on the Rights of the Child and recognizes that young persons have rights and freedoms, including those stated in the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights*, and have special guarantees of their rights and freedoms;

AND WHEREAS Canadian society should have a youth criminal justice system that commands respect, takes into account the interests of victims, fosters responsibility and ensures accountability through meaningful consequences and effective rehabilitation and reintegration, and that reserves its most serious intervention for the most serious crimes and reduces the over-reliance on incarceration for non-violent young persons;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Section Three

DECLARATION OF PRINCIPLE

Policy for Canada with respect to young persons

3. (1) The following principles apply in this Act:

(a) the youth criminal justice system is intended to

(i) prevent crime by addressing the circumstances underlying a young person's offending behaviour,

(ii) rehabilitate young persons who commit offences and reintegrate them into society, and

(iii) ensure that a young person is subject to meaningful consequences for his or her offence

in order to promote the long-term protection of the public;

(b) the criminal justice system for young persons must be separate from that of adults and emphasize the following:

(i) rehabilitation and reintegration,

(ii) fair and proportionate accountability that is consistent with the greater dependency of young persons and their reduced level of maturity,

(iii) enhanced procedural protection to ensure that young persons are treated fairly and that their rights, including their right to privacy, are protected,

(iv) timely intervention that reinforces the link between the offending behaviour and its consequences, and

(v) the promptness and speed with which persons responsible for enforcing this Act must act, given young persons' perception of time;

(c) within the limits of fair and proportionate accountability, the measures taken against young persons who commit offences should

(i) reinforce respect for societal values,

(ii) encourage the repair of harm done to victims and the community,

(iii) be meaningful for the individual young person given his or her needs and level of development and, where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person's rehabilitation and reintegration, and

(iv) respect gender, ethnic, cultural and linguistic differences and respond to the needs of aboriginal young persons and of young persons with special requirements; and

(d) special considerations apply in respect of proceedings against young persons and, in particular,

(i) young persons have rights and freedoms in their own right, such as a right to be heard in the course of and to participate in the processes, other than the decision to prosecute, that lead to decisions that affect them, and young persons have special guarantees of their rights and freedoms,

(ii) victims should be treated with courtesy, compassion and respect for their dignity and privacy and should suffer the minimum degree of inconvenience as a result of their involvement with the youth criminal justice system,

(iii) victims should be provided with information about the proceedings and given an opportunity to participate and be heard, and

(iv) parents should be informed of measures or proceedings involving their children and encouraged to support them in addressing their offending behaviour.

Act to be liberally construed

(2) This Act shall be liberally construed so as to ensure that young persons are dealt with in accordance with the principles set out in subsection (1).

Section 25(4)

(4) When a young person at trial or at a hearing or review referred to in subsection (3) wishes to obtain counsel but is unable to do so, the youth justice court before which the hearing, trial or review is held or the review board before which the review is held

(a) shall, if there is a legal aid program or an assistance program available in the province where the hearing, trial or review is held, refer the young person to that program for the appointment of counsel; or

(b) if no legal aid program or assistance program is available or the young person is unable to obtain counsel through the program, may, and on the request of the young person shall, direct that the young person be represented by counsel.

Section 25 (8)

(8) If it appears to a youth justice court judge or a justice that the interests of a young person and the interests of a parent are in conflict or that it would be in the best interests of the young person to be represented by his or her own counsel, the judge or justice shall ensure that the young person is represented by counsel independent of the parent.

Section 25 (9)

Statement of right to counsel

(9) A statement that a young person has the right to be represented by counsel shall be included in

(a) any appearance notice or summons issued to the young person;

(b) any warrant to arrest the young person;

(c) any promise to appear given by the young person;

(d) any undertaking or recognizance entered into before an officer in charge by the young person;

(e) any notice given to the young person in relation to any proceedings held under subsection 98(3) (continuation of custody), 103(1) (review by youth justice court), 104(1) (continuation of custody), 105(1) (conditional supervision) or 109(1) (review of decision); or

(f) any notice of a review of a youth sentence given to the young person.

Section 146 (2)

(2) No oral or written statement made by a young person who is less than eighteen years old, to a peace officer or to any other person who is, in law, a person in authority, on the arrest or detention of the young person or in circumstances where the peace officer or other person has reasonable grounds for believing that the young person has committed an offence is admissible against the young person unless

(a) the statement was voluntary;

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

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

(ii) any statement made by the young person may be used as evidence in proceedings against him or her,

(iii) the young person has the right to consult counsel and a parent or other person in accordance with paragraph (c), and

(iv) any statement made by the young person is required to be made in the presence of counsel and any other person consulted in accordance with paragraph (c), if any, unless the young person desires otherwise;

(c) the young person has, before the statement was made, been given a reasonable opportunity to consult

(i) with counsel, and

(ii) with 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, as long as that person is not a co-accused, or under investigation, in respect of the same offence; and

(d) if the young person consults a person in accordance with paragraph (c), the young person has been given a reasonable opportunity to make the statement in the presence of that person.