

will not apply to those charged with offences against provincial laws (which cover such offences as traffic and liquor violations), or municipal bylaws. The catch-all offence of "delinquency", which the 1908 Juvenile Delinquents Act created to include all juvenile offences including the status offences of "sexual immorality" and "any similar form of vice", will be abolished.

Under the new Act the age of criminal responsibility will be raised from seven to 12 years. Children below the age of 12 are not considered criminally responsible, which means accountable under criminal law, for any offence they might commit, if a younger child did perform a harmful act, he or she could be dealt with pursuant to provincial law. The Juvenile Delinquents Act, in conjunction with the Criminal Code, specifies seven as the minimum age for juvenile delinquency proceedings, but it is universally agreed that a child of seven is too young to be considered criminally responsible.

Unfortunately there has been no such agreement on a maximum age. The current Act sets the maximum age for juvenile delinquency at under 16, but allows the federal government to establish a different maximum at the request of a province. Quebec and Manitoba have under 18 years as their maximum; British Columbia (and Newfoundland which has its own statute to deal with young people) opted for under 17; the remaining six provinces and two territories have a maximum age of under 16. The choice of different maximum ages reflects not only different opinions on when an individual is considered sufficiently mature to be held fully responsible and dealt with as an adult, but also the valuable variety of programs and resources which the provinces have developed to meet young offenders' needs.

While the federal government would prefer the establishment of a standard maximum age it is reluctant to impose a maximum age on the provinces, given the variety of services and attitudes they offer.

Therefore, under the new Act the maximum age will be under 18 years but at the request of a province the federal government may set under 16 or under 17 as a maximum in that particular province.

...One of the underlying principles of the new Act is that, for less serious offences, alternative measures to the formal

court process might be used. It has been recognized for some time that many young people are brought to court unnecessarily, when other effective ways to deal with them already exist in some provinces. These programs called diversion programs may entail community service, involvement in special education programs, counselling or restitution agreements; their common characteristic is that they are all voluntary.

The Act contains built-in safeguards for the protection of young people who are diverted into these programs. If a young person prefers to make an appearance in court to establish his or her innocence of the charge, he or she can of course do so.

### Court proceedings

The new Act establishes strict guidelines on procedures. For the first time the young person's rights from the moment he or she has been arrested or summoned are made explicit. In particular:

- The young person's parents must be notified of all proceedings, encouraged and if necessary ordered to attend. They would be allowed to make known their views on the court's sentence if and when their child has been found guilty.
- The young person has a right to legal representation at all stages of the proceedings, including when diversion rather than a court appearance is being considered.
- The youth court judge is obliged to remind any young people appearing before the court of their rights under the new Act.
- Before he makes any decision, the judge may ask for a predisposition report. This is an assessment of the young person's circumstances and an appraisal of the programs and facilities available to the court to meet the young person's needs. The judge must ask for such a report if he is considering transferring the young person to an adult court, or sentencing an offender to custody.
- If the judge considers that the young person is suffering from a physical or mental illness or disorder, an emotional disturbance, a learning disability or mental retardation, he can ask for a medical, psychological or psychiatric assessment.

The Act defines a precise procedure which police and court authorities must follow when they are considering the detention of a young person. In particular

- Young offenders have the same entitlement to bail as adult offenders. The youth court will deal with bail applications for young people, using the rules and criteria that are set out in the Criminal Code.
- The young person's parents must be notified.
- Young people must as a general rule be detained separately from adult offenders.
- The youth court will have the power to release a young person into the care of a responsible adult when it appears that the adult can exercise control and guarantee the young person's subsequent attendance in court.

### Sentencing

The range of dispositions (as youth court sentences are called) provided under the new Act is both wide and flexible. Moreover, none of the dispositions are open-ended, in contrast to those contained in the 1908 Act which allowed for indefinite dispositions. Under the current Act, a young person can be put in custody for an indeterminate period.

The dispositions are designed to meet the special needs of young people, to protect society and where possible to take into consideration the rights of the victims of crime.

The dispositions available are:

- an absolute discharge;
- a fine of up to \$1,000;
- a restitution or compensation order for loss of or damage to property, loss of income, or special damages which arose because of personal injury to the victim of the offence. A judge who is considering such an order will take into account the young offender's ability to pay or earn;
- an order of compensation in kind or by way of personal service to the victim of the offence;
- a community service order, which would require the young offender to perform a specified amount of work for the community;
- probation for up to two years;
- committal to intermittent or continuous custody for up to two years;
- additional conditions which the judge considers in the best interests of the young offender or society, such as the surrender of illegal goods, or a prohibition against the possession of firearms; and
- any combination of these dispositions, as long as the combination does not exceed two years in duration for any one

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