

The youth worker may also ask for the involvement of workers from alternative justice organizations (AJOs) who are mandated to monitor certain sentences. Because of their connections with community organizations in the youth's environment, AJOs are responsible for planning and supervising any volunteer work that the youth may be ordered to perform. AJOs also see that other programs appropriate to the youth's situation, which may correspond to particular conditions specified in the order, are carried out. The youth worker stays in contact with AJO workers and ensures that these conditions are fulfilled.

Young offender's responsibilities

A young offender is obliged to respect all the conditions ordered by the Court of Québec–Youth Division from the moment that the judge pronounces sentence. He is also obliged to attend all appointments given to him by the youth worker and to cooperate with the youth worker and with AJO staff.

If the youth refuses to cooperate or to respect the conditions imposed, this may lead to the laying of information or an examination that will result in his having to appear in court once again.

THE YOUNG OFFENDER'S PARENTS HAVE THE RIGHT:

- to be informed of proceedings brought against their son or daughter;
- to participate actively in measures taken to foster the youth's reintegration into society.

Possible judicial sanctions

The following sentences may be imposed on a young offender:

- absolute discharge, the effect of which is that the youth is considered as not having been found guilty of the offence;
- conditional discharge, where conditions are imposed on the youth in order to support his parents in the exercise of parental authority;
- a fine;
- volunteer work;
- participation in a nonresidential program (without custody), where the young offender is obliged to take part in the activities of a program approved by the provincial director;
- probation, where conditions are imposed on the young offender to control his behaviour and oblige him to participate in certain activities;
- an intensive assistance and supervision program, where the youth must be supervised continuously over a period of time by the provincial director and must receive support to help him resolve his difficulties;
- deferred custody and supervision, where the youth is obliged to serve his custody sentence in the community;
- custody and supervision.

A judge may impose only one of these sentences or a combination of several of them in order to attain the objectives of holding the young offender accountable and protecting the public.

In exceptional circumstances, the Court of Québec–Youth Division may impose an adult sentence on the young offender. The youth is then considered as an adult in the meaning of the YCJA (section 72) and is subject to the adult criminal justice system.

Period of access to the young offender's file

Barring exceptional circumstances, the YCJA prohibits disclosure or publication of a young offender's name or information that would allow his identity to be established. Access to the young offender's court file is restricted to the following persons:

- the young offender;
- the young offender's parents;
- the young offender's attorney;
- the victim of the offence committed by the youth;
- the police;
- the CPPA;
- the youth worker responsible for the file;
- the persons or organizations clearly designated by the YCJA.

In some cases, the YCJA allows information to be passed on to partners associated with the enforcement of sentences in order to ensure that the young offender meets the conditions set. The file held by the integrated centre protection and rehabilitation services for youths in trouble of adaptation is accessible only to the young offender and his parents.

The period of access to files kept by the Court of Québec–Youth Division varies from one to five years. If a youth reoffends after reaching the age of 18 before the file access period has expired, the offences he committed before the age of 18 will be considered as his judicial record at the time of imposing an adult sentence.

Offences of which the youth has been found guilty, together with sentences imposed on him, are recorded in a provincial register, which is accessible during the access period to all police forces in Québec.

Glossary

Court of Québec–Youth Division

In Québec, the Youth Division acts as a court for youths.

Director of Criminal and Penal Prosecutions (DCPP)

The DCPP appoints specialized lawyers, known as *criminal and penal prosecuting attorneys* (CPPA), who act as public prosecutors in criminal matters, under the overall authority of the Minister of Justice and the Attorney-General. The prosecutions are for offences under the Criminal Code, the YCJA and any other federal law.

Provincial director

In Québec, the role of provincial director is assumed by the Director of Youth Protection who, together with the police, CPPAs and the Court of Québec–Youth Division, sees to the application of the YCJA.

Youth worker

Youth workers are specialists in delinquency who work at the integrated centre child and youth protection services, they are mandated by the provincial director.

Alternative justice organization (AJO)

An AJO has the mandate of intervening with young offenders under the responsibility of the provincial director. AJO workers handle mediation meetings. They are also responsible for the planning and supervision of extrajudicial sanctions and of certain sentences imposed by the court.

In this brochure, masculine personal pronouns are used in order to lighten the text. They are to be read as designating both males and females.

For more information on extrajudicial sanctions, see the following information leaflet:

- *Youth Criminal Justice Act – Extrajudicial Sanctions.*

For more information on the orientations of the YCJA, see the following information brochure:

- *Youth Criminal Justice Act – Young Offenders.*

You can view both leaflets and the brochure on the website of the ministère de la Santé et des Services sociaux in the Publications section.

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THE YOUTH CRIMINAL JUSTICE ACT
**Judicial
sanctions**



Youth Criminal Justice Act

The Youth Criminal Justice Act (YCJA) came into force in April 2003 and was amended in October 2012. This federal law defines the extrajudicial and judicial intervention framework to follow for youths aged between 12 and 17 who commit an offence under the Criminal Code or other federal laws.

The YCJA is designed to hold young offenders accountable, particularly by making them face up to the consequences of their offence, and by repairing harm caused to the victim or to the community. The YCJA encourages the involvement of parents and the community in order to ensure the rehabilitation and reintegration of young offenders, with the objective of protecting the public.

The YCJA provides for three types of measures for young offenders:

- extrajudicial measures taken by police officers (termination of proceedings, warning, referral to a community organization);
- extrajudicial sanctions under the responsibility of the provincial director (in Québec, this is the Director of Youth Protection);
- judicial sanctions under the authority of the Court of Québec–Youth Division.

Judicial sanctions

Judicial sanctions are sentences ordered by the Court of Québec–Youth Division judge. These sanctions are imposed on the young offender when he is **found guilty** of an offence. In **determining the sentence**, the judge takes into consideration a number of factors, which are explained in the section “Determining the sentence appropriate to the situation” in this leaflet.

Being found guilty

A young offender is found guilty when the Court of Québec–Youth Division judge considers that the evidence presented during the trial establishes guilt beyond all reasonable doubt. The judge must then **determine a suitable sentence**. He can do so immediately or postpone his decision until later by requiring the production of a **presentence report**.

A YOUTH HAS THE RIGHT:

- to request the assistance of an attorney following his arrest, and as soon as a prosecution is brought against him;
- to consult an attorney and his parents before making a statement to a person in authority;
- to be heard and to take part in the proceedings brought against him.

Presentence report

The presentence report is a report on the young offender’s situation. It is written by the **youth worker**, who is a delinquency specialist from the integrated centre* child and youth protection services and is mandated by the provincial director. The presentence report helps the judge to make an informed decision in **determining the most suitable sentence** for the youth.

Information gathering

To produce his report, the youth worker first meets with the youth. He interviews him and his parents. Subsequently, he may communicate with other adults who know him. He will also gather the point of view of the victim of the offence regarding the harm caused to him and the consequences he has suffered. The youth worker’s objective is to obtain as much information as possible in order to draw up an accurate portrait of the youth with regard to his family and social situation and his delinquency. When needed, he may employ tests to better assess the youth’s personality.

The presentence report may contain information on:

- the seriousness of the offence committed by the youth, his reactions and his desire to repair the harm caused to the victim and to the community;
- the youth’s previous history of delinquency;
- the services that have already been provided to the youth and their repercussions;
- the expectations of the victim of the offence committed by the youth;
- the youth’s social functioning at home, at school or at work;
- the youth’s relationship with his parents and their capacity to assume their responsibilities as to his custody and supervision;

* The term integrated centre includes both integrated health and social services centre (CISSS) and integrated university health and social services centre (CIUSSS).

- the company the youth keeps, his leisure activities and lifestyle;
- the youth’s level of development and maturity, and his abilities;
- the resources available in the youth’s family and social environments.

Decision of Court of Québec – Youth Division judge

When all the information has been gathered, the youth worker must make a recommendation to the judge. He must suggest measures to protect the public in addition to meeting the youth’s needs to prevent him from reoffending and to foster his reintegration.

However, the last word lies with the judge. After reading the presentence report and hearing the representations of the criminal and penal prosecuting attorney (CPPA), often called the Crown prosecutor, and the youth’s attorney, he decides on the sentence to be imposed.

THE VICTIM OF THE OFFENCE HAS THE RIGHT:

- to know the identity of the youth responsible for the offence (last name, first name, date of birth, and the last names and first names of his parents);
- to be informed of proceedings brought against the youth and to participate in them, if they wish;
- to bring a prosecution against the youth;
- to demand that they are treated with courtesy and compassion and that their privacy is respected.

Determining the sentence appropriate to the situation

In determining the sentence, the judge must take the following factors into account:

- the youth’s degree of responsibility for the offence;
- the harm caused to the victim of the offence and any action the youth may have taken to repair this harm;
- the time the youth has spent in detention following to the offence;
- any guilty pleas made by the youth prior to the current case;
- the circumstances of the offence or the youth’s situation.

The sentence imposed by the judge:

- must be fair and proportionate to the seriousness of the offence and the degree of the youth’s responsibility for the offence;
- must not be more severe than the punishment that would be imposed on an adult for the same offence;
- must be as suitable as possible for the youth’s particular situation.

Youth worker’s role

The youth worker has the responsibility of preparing the youth’s reintegration and ensuring that he fulfils the conditions of the order. Working with the youth and his parents, the youth worker sets intervention objectives aimed at meeting the youth’s needs in order to reduce his risk of reoffending. He will also propose means of attaining these objectives. His role is to support and advise the youth.

In the case of a custody and supervision order, the youth worker will work with staff at the integrated centre rehabilitation services for youths in trouble of adaptation. Together, they will set intervention objectives that will favour the youth’s reintegration.