

Possible extrajudicial sanctions

An extrajudicial sanction is a way of repairing the harm caused to the victim of the offence.

It may consist in:

- meeting the victim in the presence of a mediator;
- doing work for the victim;
- giving stolen items back to the victim;
- repaying a sum of money to the victim;
- apologizing to the victim.

In the case of a meeting between the young offender and the victim of the offence, the persons concerned must agree on the nature of the harm caused by the young offender and the means of repairing it. Then, an agreement between the youth and the victim must be drawn up.

If the youth is not able to meet the victim of his offence and directly repair the harm he has caused to the victim, he can repair the harm by working in the community. In this case, the extrajudicial sanction may consist in:

- doing community work, up to a maximum of 120 hours;
- making a donation to a community organization, in keeping with the youth's financial capacity.

The extrajudicial sanction may also be aimed at developing the young offender's social skills.

For example, the youth could take part in individual or group activities that meet certain needs related to his delinquent behaviour.

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.

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.

However, if an extrajudicial sanction is applied to the young offender and the victim asks to know his identity, the following information will be revealed to the victim:

- the youth's first name, last name and date of birth;
- the first names and last names of the youth's parents;
- the nature of the extrajudicial sanction.

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

All the information concerning the extrajudicial sanction imposed on the youth is stored in a provincial register for a period of two years from the time he begins to participate in the activities specified in the extrajudicial sanction. If during this time the young person is found guilty of an offence at the Youth Division or in the Criminal and Penal Division, his consent to the application of the extrajudicial sanction may be mentioned and considered at the time of determining a custody sentence.

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 judicial sanctions, see the following information leaflet:

- *Youth Criminal Justice Act – Judicial 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
**Extrajudicial
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.

Extrajudicial sanctions

Extrajudicial sanctions are measures taken by the provincial director. They are aimed at holding the young offender accountable by making him face up to the consequences of his offence, without having recourse to legal proceedings. The extrajudicial sanction imposed on the youth must take his situation and his needs into consideration.

A young offender has the right to agree or refuse to agree to the extrajudicial sanction.

Imposing an extrajudicial sanction on a young offender

After a youth has been arrested, police officers go to the scene of the offence and gather evidence. Depending on the nature and seriousness of the offence the youth has committed and on his judicial record, the police may make an application to bring proceedings, which they will pass on to the criminal and penal prosecuting attorney (CPPA). The CPPA assesses the evidence supplied by the police, and then decides whether or not to pass the file on to the provincial director so that the youth can benefit from an extrajudicial sanction. Depending on the seriousness of the offence, the CPPA can also decide to lay formal charges with the Youth Division for which the youth will have to appear and be tried in court.

A YOUTH HAS THE RIGHT:

- to request the assistance of an attorney following his arrest, before the signature of an extrajudicial sanction, 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;
- to agree or refuse to agree to an extrajudicial sanction.

Youth worker's role

The youth worker first meets with the youth and his parents to make an **assessment of his situation** and to determine his eligibility for an extrajudicial sanction. Then, if necessary, he will communicate with other adults who know the youth in order to obtain as much information as possible about the situation.

In addition, a worker with an alternative justice organization (AJO) will contact the victim of the offence to find out their opinion of the situation, with particular regard for the consequences they have suffered and their desire to participate in mediation. The worker will then transmit the information gathered to the youth worker.

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.

Assessment of the young offender's situation

The youth worker's assessment of the young offender's situation will focus mainly on:

- the youth's recognition of his responsibility for the offence;
- the youth's reactions and his desire to repair the harm caused to the victim and the community;
- the youth's social difficulties;
- the youth's level of development and maturity, and his abilities;
- the youth's social functioning at home, at school or at work;
- the youth's risk of reoffending;
- the resources available in the youth's family and social environment;
- the expectations of the victim of the offence committed by the youth.

Possible decisions by the youth worker

After making his assessment, the youth worker may take one of the three following decisions:

- take no further action and close the youth's file, if sufficient appropriate actions have already been taken concerning him by his parents or other adults;
- apply an extrajudicial sanction;
- submit the youth's file to the CPPA so that he will appear before a Court of Québec–Youth Division judge.

Whichever decision is taken, the aim is to make the youth accountable for his delinquent behaviour, and to enable him to repair the harm his offence has caused.

However, the youth worker cannot choose to take no further action or to apply an extrajudicial sanction unless the youth has acknowledged his responsibility for the offence committed.

If the youth worker decides to apply an extrajudicial sanction, he must explain the sanction to the young offender and his parents and impress upon them the importance of the youth's commitment. The involvement of the youth's parents is desirable, so that they can support him in his process of reintegration. If the youth agrees to an extrajudicial sanction, an agreement must be signed between him and the youth worker. This agreement sets out the nature of the sanction and its conditions of application. The maximum duration of measures provided for in the agreement is six months. Subsequently, a worker from an AJO will plan and supervise the application of the extrajudicial sanction.

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.

Compliance with the agreement

The young offender is obliged to comply with all the conditions imposed upon him. If he fails to fulfil his undertakings, either through refusal or negligence, the youth worker may submit his file to the CPPA so that the latter can initiate legal proceedings. In this case, the evidence gathered by the police officer during his investigation will be presented during the youth's trial at the Court of Québec–Youth Division.