



**Law Society**  
of Ontario

**Barreau**  
de l'Ontario

**TAB 9**

# **THE SIX-MINUTE CRIMINAL COURT JUDGE 2022**

Sentencing Under the YCJA

**The Honourable Justice Andrea Tuck-Jackson**  
*Ontario Court of Justice*

January 22, 2022



## Sentencing under the YCJA<sup>1</sup>

### Relationship between YCJA and Cr.C. Sentencing Provisions:

Except to the extent that it is inconsistent with or excluded by this Act, the provisions of the *Criminal Code* apply, with any modifications that the circumstances require, in respect of offences alleged to have been committed by young persons. See: [s. 140 YCJA](#).

Subject to section 74 (application of *Criminal Code* to adult sentences), Part XXIII (sentencing) of the *Criminal Code* does not apply in respect of proceedings under this Act except for paragraph 718.2(e) (sentencing principle for aboriginal offenders), sections 722 (victim impact statements), 722.1 (copy of statement) and 722.2 (community impact statements), subsection 730(2) (court process continues in force) and sections 748 (pardons and remissions), 748.1 (remission by the Governor in Council) and 749 (royal prerogative) of that Act, which provisions apply with any modifications that the circumstances require. See: [s. 50\(1\) YCJA](#).

Section 787 (general penalty) of the *Criminal Code* does not apply in respect of proceedings under this Act. See: [s. 50\(2\) YCJA](#).

*N.B.:* Under s. 72(1) YCJA, a court<sup>2</sup> can impose an adult sentence on a young person. Where an adult sentence is imposed, Parts XXIII (sentencing) and XXIV (dangerous and long-term offender) of the *Criminal Code* apply. See: [s. 74 YCJA](#).

	Youth Regime	Adult Regime
<b>Sentencing Purpose</b>		
<b>Purpose</b>	- to hold a young person accountable for an offence through the imposition of just sanctions that have meaningful consequences for the young person and that promote his or her rehabilitation and reintegration into society, thereby contributing	- fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one

<sup>1</sup> Prepared by Justice A. Tuck-Jackson, OCJ.

<sup>2</sup> Herein, “court” under the category of “youth regime” refers to a “youth justice court”, as defined by s. 13 YCJA.

	Youth Regime	Adult Regime
	to the long-term protection of the public. See: <b>s. 38(1) YCJA</b> .	or more of the objectives identified in s. 718(a) – (f) <i>Cr.C.</i> . See: <b>s. 718 Cr.C.</b> .
<b>Sentencing Objectives</b>		
<b>Denunciation</b>	- subject to the principle of proportionality, the sentence <b>may</b> have the objective of denouncing unlawful conduct. See: <b>s. 38(2)(f)(i) YCJA</b> .	- to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct. See: <b>s. 718(a) Cr.C.</b> .
<b>Deterrence – General</b>	No equivalent statutory objective.	- to deter other persons from committing offences. See: <b>s. 718(b) Cr.C.</b> .
<b>Deterrence – Specific</b>	- subject to the principle of proportionality, the sentence <b>may</b> have the objective of deterring the young person from committing offences. See: <b>s. 38(2)(f)(ii) YCJA</b> .	- to deter the offender from committing offences. See: <b>s. 718(b) Cr.C.</b> .
<b>Separation</b>	No equivalent statutory objective.	- to separate offenders from society, where necessary. See: <b>s. 718(c) Cr.C.</b> .
<b>Rehabilitation</b>	- subject to the principle of proportionality, the sentence <b>must</b> be the one that is most likely to rehabilitate the young person and reintegrate him or her into society. See: <b>s. 38(2)(e)(ii) YCJA</b> .  - the youth criminal justice system is intended to protect the public by promoting the rehabilitation and reintegration of young persons who have committed offences. See: <b>s. 3(1)(a)(ii) YCJA</b> .	- to assist in rehabilitating offenders. See: <b>s. 718(d) Cr.C.</b> .

	Youth Regime	Adult Regime
	- the criminal justice system for young persons must emphasize rehabilitation and reintegration. See: <a href="#">s. 3(1)(b)(i) YCJA</a> .	
Reparations	- within the limits of fair and proportionate accountability, the measures taken against young persons who commit offences should encourage the repair of harm done to victims and the community. See: <a href="#">s. 3(1)(c)(ii) YCJA</a> .	- to provide reparations for harm done to victims or to the community. See: <a href="#">s. 718(e) Cr.C.</a> .
Promotion of a Sense of Responsibility and an Acknowledgement of Harm Done	- subject to the principle of proportionality, the sentence <b>must</b> promote a sense of responsibility in the young person, and an acknowledgement of the harm done to victims and the community. See: <a href="#">s. 38(2)(e)(iii) YCJA</a> .	- to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims or to the community. See: <a href="#">s. 718(f) Cr.C.</a> .
<b>Sentencing Principles</b>		
Proportionality	<p>- sentence must be proportionate to the seriousness of the offence and the degree of responsibility of the young person for that offence. See: <a href="#">s. 38(2)(c) YCJA</a>.</p> <p>- the youth criminal justice system is intended to protect the public by holding young persons accountable through measures that are proportionate to the seriousness of the offence and the degree of responsibility of the young person. See: <a href="#">s. 3(1)(a)(i) YCJA</a>.</p> <p>- the criminal justice system for young persons must emphasize fair and proportionate</p>	- sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. See: <a href="#">s. 718.1 Cr.C.</a> .

	Youth Regime	Adult Regime
	accountability that is consistent with the greater dependency of young persons and their reduced level of maturity. See: s. 3(1)(b)(ii) YCJA.	
Parity	- sentence must be similar to the sentences imposed in the <i>region</i> on similar young persons found guilty of the same offence committed in similar circumstances. See: s. 38(2)(b) YCJA.	- sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances. See: s. 718.2(b) Cr.C..
Totality	No equivalent statutory principle.  <i>N.B.:</i> Consecutive youth sentences are expressly capped – with the exception of sentences for murder – at 3 years. See: s. 42(15) and (16) YCJA.	- where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh. See: s. 718.2(c) Cr.C..
Restraint	- subject to the principle of proportionality, the sentence must be the least restrictive one capable of achieving the purpose of sentencing. See: s. 38(2)(e)(i) YCJA.  - subject to the principle of proportionality, all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons, with particular attention to the circumstances of aboriginal young persons. See: s. 38(2)(d) YCJA.	- an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances. See: s. 718.2(d) Cr.C..  - all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders. See: s. 718.2(e) Cr.C..
	- manifestations of the principle of restraint:  - a young person shall not be committed to custody unless a gateway to custody identified in s. 39(1)(a) – (d) YCJA is open.	No equivalent statutory provision.

	Youth Regime	Adult Regime
	<ul style="list-style-type: none"> <li>- where a gateway to custody is open under s. 39(1)(a) – (c) YCJA, a custodial sentence shall not be imposed unless all alternatives to custody raised at the sentencing hearing that are reasonable in the circumstances, together with the factors/principles set out in s. 39(3)(a) – (c), (4), and (5) YCJA, have been considered, and the court has determined that there is not a reasonable alternative, or combination of alternatives, that is in accordance with the purpose and principles set out in s. 38 YCJA. See: s. 39(2) YCJA.</li> <li>- sentence must not result in a punishment that is greater than the punishment that would be appropriate for an adult who has been convicted of the same offence committed in similar circumstances. See: s. 38(2)(a) YCJA.</li> <li>- where conditions may be imposed as part of the sentence, a condition may be imposed only if               <ul style="list-style-type: none"> <li>- the imposition of the condition is necessary to achieve the purpose of sentencing</li> <li>- the young person will reasonably be able to comply with the condition; and</li> <li>- the condition is not used as a substitute for appropriate child protection, mental health or other social measures. See: s. 38(2)(e.1) YCJA.</li> </ul> </li> </ul>	No equivalent statutory provision.

	Youth Regime	Adult Regime
Individualization	<p>- within the limits of fair and proportionate accountability, the measures taken against young persons who commit offences should 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. See: s. 3(1)(c)(iii) YCJA.</p> <p>- within the limits of fair and proportionate accountability, the measures taken against young persons who commit offences should respect gender, ethnic, cultural and linguistic differences and respond to the needs of aboriginal young persons and of young persons with special requirements. See: s. 3(1)(c)(iv) YCJA.</p>	No equivalent statutory principle.
<b>Sentencing Options</b>		
<b>Non-Custodial Sanctions</b>		
Reprimand	See: s. 42(2)(a) YCJA.	No equivalent sanction.
Absolute Discharge	<p>See: s. 42(2)(b) YCJA.</p> <p>- excluded offences: none</p>	<p>See: s. 730 Cr.C..</p> <p>- excluded offences: those with a minimum punishment or those punishable by imprisonment for 14 years or life. See: s. 730(1) Cr.C..</p>

	Youth Regime	Adult Regime
	<ul style="list-style-type: none"> <li>- pre-requisites: best interests of the young person and not contrary to the public interest. See: <a href="#">s. 42(2)(b) YCJA</a>.</li> </ul>	<ul style="list-style-type: none"> <li>- pre-requisites: best interests of the offender and not contrary to the public interest. See: <a href="#">s. 730(1) Cr.C.</a>.</li> </ul>
Conditional Discharge	<p>See: <a href="#">s. 42(2)(c) YCJA</a>.</p> <ul style="list-style-type: none"> <li>- excluded offences: none</li> <li>- pre-requisites: none</li> <li>- must be combined with conditions. See: <a href="#">s. 42(2)(c) YCJA</a>.</li> <li>- cannot be combined with a probation order. See: <a href="#">s. 42(11) YCJA</a>.</li> <li>- cannot be combined with an Intensive Support and Supervision Program Order or and Attendance Centre Order. See: <a href="#">s. 42(11) YCJA</a>.</li> <li>- min. duration: none.</li> <li>- max. duration of conditions: 2 years. See: <a href="#">s. 42(14) YCJA</a>.</li> <li>- mandatory conditions of supervision: none</li> <li>- optional conditions of supervision: See: <a href="#">s. 42(2)(c) and s. 38(2)(e.1) YCJA</a>.</li> </ul>	<p>See: <a href="#">s. 730, 731(2) Cr.C.</a>.</p> <ul style="list-style-type: none"> <li>- excluded offences: those with a minimum punishment or those punishable by imprisonment for 14 years or life. See: <a href="#">s. 730(1) Cr.C.</a>.</li> <li>- pre-requisites: best interests of the offender and not contrary to the public interest. See: <a href="#">s. 730(1) Cr.C.</a>.</li> <li>- may be combined with probation. See: <a href="#">s. 731(2) Cr.C.</a>.</li> <li>- min. duration: none.</li> <li>- max. duration of probation: 3 years. See: <a href="#">s. 732.2(2)(b) Cr.C.</a>.</li> <li>- mandatory conditions of probation: See: <a href="#">s. 732.1(2) Cr.C.</a>.</li> <li>- optional conditions of probation: See: <a href="#">s. 732.1(3) and (3.1) Cr.C.</a>.</li> </ul>
Suspended Sentence	<ul style="list-style-type: none"> <li>- no equivalent sanction.</li> </ul>	<ul style="list-style-type: none"> <li>- See: <a href="#">s. 731(1)(a) Cr.C.</a>.</li> </ul>



	Youth Regime	Adult Regime
		<ul style="list-style-type: none"> <li>- excluded offences: those with a minimum punishment. See: <a href="#">s. 731(1)(a) Cr.C.</a>.</li> <li>- pre-requisites: none.</li> <li>- must be combined with a probation order: See: <a href="#">s. 731(1)(a) Cr.C.</a>.</li> <li>- cannot be combined with a fine or imprisonment. See: <a href="#">s. 731(1) Cr.C.</a>.</li> <li>- min. duration: none.</li> <li>- max. duration of probation: 3 years. See: <a href="#">s. 732.2(2)(b) Cr.C.</a>.</li> <li>- mandatory conditions of probation: See: <a href="#">s. 732.1(2) Cr.C.</a>.</li> <li>- optional conditions of probation: See: <a href="#">s. 732.1(3) and (3.1) Cr.C.</a>.</li> </ul>
Probation	<p>See: <a href="#">s. 42(2)(k) YCJA.</a></p> <ul style="list-style-type: none"> <li>- excluded offences: none.</li> <li>- pre-requisites: none.</li> <li>- need not be combined with any other sanction</li> <li>- cannot be combined with a conditional discharge. See: <a href="#">s. 42(11) YCJA.</a></li> </ul>	<p>See: <a href="#">s. 731 Cr.C.</a>.</p> <ul style="list-style-type: none"> <li>- excluded offences: none.</li> <li>- pre-requisites: none.</li> <li>- must be combined with a suspended sentence, fine, <i>or</i> imprisonment: See: <a href="#">s. 731(1) Cr.C.</a>.</li> <li>- cannot be combined with a fine <i>and</i> imprisonment. See: <a href="#">s. 731(1) Cr.C.</a>.</li> </ul>

	Youth Regime	Adult Regime
	<ul style="list-style-type: none"> <li>- min. duration: none.</li> <li>- max. duration: 2 years. See: <a href="#">s. 42(14) YCJA</a>.</li> <li>- mandatory conditions: See: <a href="#">s. 55(1) YCJA</a>.</li> <li>- optional conditions: See: <a href="#">s. 55(2)</a> and <a href="#">s. 38(2)(e.1) YCJA</a>.</li> </ul>	<ul style="list-style-type: none"> <li>- cannot be combined with imprisonment over 2 years. See: <a href="#">s. 731(1)(b) Cr.C.</a>.</li> <li>- min. duration: none.</li> <li>- max. duration: 3 years. See: <a href="#">s. 732.2(2)(b) Cr.C.</a>.</li> <li>- mandatory conditions: See: <a href="#">s. 732.1(2) Cr.C.</a>.</li> <li>- optional conditions: See: <a href="#">s. 732.1(3)</a> and <a href="#">(3.1) Cr.C.</a>.</li> </ul>
<b>Fine</b>	<p>See: <a href="#">s. 42(2)(d) YCJA</a>.</p> <ul style="list-style-type: none"> <li>- excluded offences: none.</li> <li>- pre-requisites: none</li> </ul> <p><i>N.B.:</i> In imposing a fine, the court must have regard to the present and future means of the young person to pay. See: <a href="#">s. 54(1) YCJA</a>.</p> <ul style="list-style-type: none"> <li>- min. amount: none</li> <li>- max. amount: \$1,000. See: <a href="#">s. 42((2)(d) YCJA</a>.</li> </ul>	<p>See: <a href="#">s. 734 Cr.C.</a>.</p> <ul style="list-style-type: none"> <li>- excluded offences: none.</li> <li>- prerequisites: the offender is able to pay the fine or discharge it through the fine option program under <a href="#">s. 736 Cr.C.</a> (except in the case of a minimum fine or where the fine is imposed in lieu of a forfeiture order). See: <a href="#">s. 734(2) Cr.C.</a>.</li> <li>- min. amount: offence-specific</li> <li>- max. amount: \$5,000 (unless otherwise specified) in the case of summary conviction offence. See: <a href="#">s. 787(1) Cr.C.</a>.</li> </ul> <p><i>N.B.:</i> There is no maximum amount in the case of an indictable offence.</p>
<b>Community Service</b>	<p>See: <a href="#">s. 42(2)(i) YCJA</a>.</p> <p><i>N.B.:</i> Community service may also comprise a:</p>	<p>No equivalent (as a stand-alone order).</p> <p><i>N.B.:</i> Community service may comprise a condition of a:</p>

	Youth Regime	Adult Regime
	<p>(a) conditional discharge condition;</p> <p>(b) a probation condition; or</p> <p>(c) a conditional supervision condition (under a Deferred Custody and (Conditional) Supervision Order, Custody and Conditional Supervision Order, or Intensive Rehabilitative Custody and Conditional Supervision Order).</p> <p>- excluded offences: none.</p> <p>- pre-requisites:</p> <p style="padding-left: 40px;">(a) young person is suitable candidate. See: <b>s. 54(7) YCJA</b>; and</p> <p style="padding-left: 40px;">b order does not interfere with young person's normal hours or work or education. See: <b>s. 54(7) YCJA</b>.</p> <p>See also: <b>s. 54(9) YCJA</b>.</p> <p>- max. # hrs: 240. See: <b>s. 54(8) YCJA</b>.</p> <p>- max. timeframe for completion: 12 months. See: <b>s. 54(8) YCJA</b>.</p>	<p>(a) probation order. See: <b>s. 732.1(3)(f) Cr.C.</b>; or</p> <p>(b) conditional sentence order. See: <b>s. 742.3(2)(d) Cr.C.</b>.</p> <p>- excluded offences: none.</p> <p>- prerequisites: none</p> <p>- max. # hrs: 240. See: <b>s. 732.1(3)(f) / 742.3(2)(d) Cr.C.</b>.</p> <p>- max. timeframe for completion: 18 months. See: <b>s. 732.1(3)(f) / 742.3(2)(d) Cr.C.</b>.</p>
Intensive Support and Supervision Program Order	<p>See: <b>s. 42(2)(l) YCJA</b>.</p> <p>- excluded offences: none.</p> <p>- pre-requisites: none</p>	No equivalent sanction.

	Youth Regime	Adult Regime
	<p><i>N.B.</i>: An ISSP Order cannot be made unless the youth worker/probation officer has determined that a program to enforce the order is available. See: <b>s. 42(3) YCJA</b>. In practice, the program is generally deemed unavailable unless the offence is one that is eligible for a custodial sanction under s. 39(1)(a) – (c) <i>YCJA</i> and the young person has a dual diagnosis.</p> <ul style="list-style-type: none"> <li>- cannot be combined with a conditional discharge. See: <b>s. 42(11) YCJA</b>.</li> </ul> <p><i>N.B.</i>: An ISSP Order is generally implemented as a condition to a probation order.</p> <ul style="list-style-type: none"> <li>- min. duration: none.</li> <li>- max. duration: 2 years. See: <b>s. 42(14) YCJA</b>.</li> <li>- mandatory conditions: See: <b>s. 55(1) YCJA</b>.</li> <li>- optional conditions: See: <b>s. 55(2) and s. 38(2)(e.1) YCJA</b>.</li> </ul>	
Attendance Centre Order	<p>See: <b>s. 42(2)(m) YCJA</b>.</p> <ul style="list-style-type: none"> <li>- excluded offences: none.</li> <li>- pre-requisites: <ul style="list-style-type: none"> <li>(a) young person is suitable candidate. See: <b>s. 54(7) YCJA</b>; and</li> </ul> </li> </ul>	No equivalent sanction.

	Youth Regime	Adult Regime
	<p>(b) order does not interfere with young person's normal hours or work or education. See: s. 54(7) YCJA.</p> <p><i>N.B.:</i> An Attendance Centre Order cannot be made unless the youth worker/probation officer has determined that a program to enforce the order is available. See: s. 42(3) YCJA.</p> <p>- cannot be combined with a conditional discharge. See: s. 42(11) YCJA.</p> <p><i>N.B.:</i> An Attendance Centre Order is generally implemented as a condition to a probation order.</p> <p>- max. # hours: 240 hours. See: s. 42(2)(m) YCJA.</p> <p>- max. timeframe for completion: 6 months. See: s. 42(2)(m) YCJA.</p>	
<b>Custodial Sanctions</b>		
<b>Custody</b>	<p><b>Custody and (Community) Supervision Order.</b> See: s. 42(2)(n) YCJA.</p> <p>- excluded offences: those in relation to which the gateways to custody under s. 39(1) YCJA are closed.</p> <p>- pre-requisites: there is no reasonable alternative, or combination of alternatives to custody, that is in accordance with the purpose and principles set out in s. 38 YCJA (in relation to offences that are eligible for custody</p>	<p>- excluded offences: none</p> <p>- pre-requisites: none</p>

	Youth Regime	Adult Regime
	<p>under s. 39(1)(a) – (c) YCJA. See: <a href="#">s. 39(2) YCJA</a>.</p> <p><i>N.B.:</i> There are no pre-requisites in relation to offences that are eligible for custody under s. 39(1)(d) YCJA.</p> <ul style="list-style-type: none"> <li>- min. duration: none.</li> <li>- max. duration: 3 years where the offence is one for which the punishment under the <i>Cr.C.</i> (or any other Federal Act) is life imprisonment. In all other cases: 2 years. See: <a href="#">s. 42(2)(n) YCJA</a>.</li> <li>- first 2/3 of the sanction is served in custody and the final 1/3 is served in the community, subject to conditions of community supervision. See: <a href="#">s. 42(2)(n) YCJA</a>.</li> <li>- mandatory conditions of community supervision: See: <a href="#">s. 97(1) YCJA</a>.</li> <li>- optional conditions of community supervision: See: <a href="#">s. 97(2) YCJA</a>. They are set by the youth worker/probation officer.</li> <li>- level of custody is fixed by the court and is either open (group home environment) or secure, or a combination of both See: <a href="#">s. 88 and 85(1) YCJA</a>.</li> </ul> <p><b>Custody and (Conditional) Supervision Order.</b> See: <a href="#">s. 42(2)(o) and (q) YCJA</a>.</p>	<ul style="list-style-type: none"> <li>- min. duration: offence-specific.</li> <li>- max. duration: 2 years less one day (unless otherwise specified) in the case of summary conviction offences. See: <a href="#">s. 787(1) Cr.C.</a>. In the case of indictable offences, the maximum duration is offence-specific (2, 5, 10, 14 years, or life imprisonment).</li> <li>- the provisions of the <i>Ministry of Correctional Services Act</i> (in the case of reformatory sentences) and the <i>Corrections and Conditional Release Act</i> (in the case of penitentiary sentences) govern when and under what conditions (as stipulated by the relevant parole board), the offender can return to the community. Generally speaking, the offender is eligible to apply for full parole once 1/3 of the sentence has been served and will be released to the community after 2/3 of the sentence has been served.</li> <li>- level of custody is assigned during the classification process at the initial custodial facility and is either minimum, medium or maximum security.</li> </ul> <p>No equivalent sanction.</p>
	- eligible offences: first and second degree	

	Youth Regime	Adult Regime
	<p>murder, attempt murder, manslaughter, aggravated sexual assault. See: s. 42(2)(o) and (q) YCJA.</p> <ul style="list-style-type: none"> <li>- pre-requisites: there is no reasonable alternative, or combination of alternatives to custody, that is in accordance with the purpose and principles set out in s. 38 YCJA. See: s. 39(2) YCJA.</li> <li>- min. duration: none</li> <li>- max. duration: 10 years (in the case of first degree murder). See: s. 42(2)(q)(i) YCJA. 7 years (in the case of second degree murder). See: s. 42(2)(q)(ii) YCJA. 3 years (in the case of attempt murder, manslaughter and aggravated sexual assault). See: s. 42(2)(o) YCJA.</li> <li>- in relation to first degree murder, committal to custody cannot exceed 6 years. See: s. 42(2)(q)(i)(A) YCJA.</li> <li>- in relation to second degree murder, committal to custody cannot exceed 4 years. See: s. 42(2)(q)(ii)(A) YCJA.</li> <li>- in relation to attempt murder, manslaughter and aggravated sexual assault, the court determines what portion of the sentence is to be served in custody. See: s. 42(2)(o) YCJA.</li> </ul> <p>(N.B.: Under s. 104 YCJA, the Crown can, within a reasonable time prior to the expiry of the custodial portion of the sentence, apply to have the young person remain in custody for the</p>	

	Youth Regime	Adult Regime
	<p>balance of the sentence.)</p> <ul style="list-style-type: none"> <li>- the remaining portion is to be served in the community, subject to conditions of conditional supervision. See: s. 42(2)(o), 42(2)(q)(i)(B) and (ii)(B) YCJA.</li> <li>- mandatory conditions of conditional supervision: See: s. 105(2) YCJA.</li> <li>- optional conditions of conditional supervision: See: s. 105(3) and s. 38(2)(e.1) YCJA. They are set by the court at least one month prior to the expiry of the custodial portion of the sentence. See: s. 105(1) YCJA.</li> <li>- level of custody is fixed by the court and is either open (group home environment) or secure, or a combination of both See: s. 88 and 85(1) YCJA.</li> </ul> <p><b>Intensive Rehabilitative Custody and (Conditional) Supervision Order.</b> See: s. 42(2)(r) YCJA.</p>	
	<p>- eligible offences:</p> <p>(a) “serious violent offence” (defined in s. 2 YCJA to be first and second degree murder, attempt murder, manslaughter, and aggravated sexual assault); or</p> <p>(b) an offence in the commission of which the young person caused or attempted to cause serious bodily harm and for which an adult is liable to imprisonment for a term of more than</p>	No equivalent sanction.



	Youth Regime	Adult Regime
	<p>two years.</p> <p>See: <a href="#">s. 42(7)(a) YCJA</a>.</p> <p>- pre-requisites:</p> <p>(a) there is no reasonable alternative, or combination of alternatives to custody, that is in accordance with the purpose and principles set out in s. 38 YCJA. See: <a href="#">s. 39(2) YCJA</a>;</p> <p>(b) where the predicate offence is an offence in the commission of which the young person caused or attempted to cause serious bodily harm and for which an adult is liable to imprisonment for a term of more than two years, the young person had previously been found guilty at least twice of an offence in the commission of which the young person caused or attempted to cause serious bodily harm and for which an adult is liable to imprisonment for a term of more than two years. See: <a href="#">s. 42(7)(a)(ii) YCJA</a>;</p> <p>(c) the young person is suffering from a mental illness or disorder, a psychological disorder or an emotional disturbance. See: <a href="#">s. 42(7)(b) YCJA</a>;</p> <p>(d) a plan of treatment and intensive supervision has been developed for the young person, and there are reasonable grounds to believe that the plan might reduce the risk of the young person repeating the offence or committing a serious violent offence. See: <a href="#">s. 42(7)(c)</a></p>	

	Youth Regime	Adult Regime
	<p><b>YCJA</b>; and</p> <p>(e) the youth worker/probation officer has determined that an intensive rehabilitative custody and supervision program is available and that the young person's participation in the program is appropriate. See: <b>s. 42(7)(d) YCJA</b>.</p>	
	<p>- min. duration: none.</p> <p>- max. duration: 10 years (in the case of first degree murder). See: <b>s. 42(2)(r)(ii) YCJA</b>. 7 years (in the case of second degree murder). See: <b>s. 42(2)(r)(iii) YCJA</b>. 3 years where the offence is one for which the punishment under the <i>Cr.C.</i> (or any other Federal Act) is life imprisonment. In all other cases: 2 years. See: <b>s. 42(2)(r)(i) YCJA</b>.</p> <p>- in relation to first degree murder, committal to custody cannot exceed 6 years. See: <b>s. 42(2)(r)(ii)(A) YCJA</b>.</p> <p>- in relation to second degree murder, committal to custody cannot exceed 4 years. See: <b>s. 42(2)(r)(iii)(A) YCJA</b>.</p> <p>- in relation to all other offences, the court determines what portion of the sentence is to be served in custody. See: <b>s. 42(2)(r)(i) YCJA</b>.</p> <p>(N.B.: Under s. 104 YCJA, the Crown can, within a reasonable time prior to the expiry of the custodial portion of the sentence, apply to have the young person remain in custody for the</p>	

	Youth Regime	Adult Regime
	<p>balance of the sentence.)</p> <ul style="list-style-type: none"> <li>- the remaining portion is to be served in the community, subject to conditions of conditional supervision. See: s. 42(2)(r)(i), 42(2)(r)(ii)(B) and (iii)(B) YCJA.</li> <li>- mandatory conditions of conditional supervision: See: s. 105(2) YCJA.</li> <li>- optional conditions of conditional supervision: See: s. 105(3) and s. 38(2)(e.1) YCJA. They are set by the court at least one month prior to the expiry of the custodial portion of the sentence. See: s. 105(1) YCJA.</li> <li>- level of custody is fixed by the court and is either open (group home environment) or secure, or a combination of both See: s. 88 and 85(1) YCJA.</li> </ul>	
Intermittent Custody	<p>See: s. 47(2) YCJA.</p> <ul style="list-style-type: none"> <li>- pre-requisites: an intermittent sentence is consistent with purpose and principles set out in s. 38 YCJA. See: s. 47(2) YCJA.</li> <li>- need not be combined with a probation order in effect when the young person is not in confinement.</li> <li>- min. duration: none.</li> <li>- max. duration: 90 days. See: s. 47(2) YCJA.</li> </ul>	<p>See: s. 732 Cr.C..</p> <ul style="list-style-type: none"> <li>- pre-requisites: none.</li> <li>- must be combined with a probation order in effect when the offender is not in confinement. See: s. 732(1)(b) Cr.C..</li> <li>- min. duration: offence-specific.</li> <li>- max. duration: 90 days. See: s. 732(1) Cr.C..</li> </ul>

	Youth Regime	Adult Regime
Imprisonment in the Community	<p>Deferred Custody and (Conditional) Supervision Order. See: s. 42(2)(p) YCJA.</p> <ul style="list-style-type: none"> <li>- excluded offences: those in the commission of which a young person causes or attempts to cause serious bodily harm. See: s. 42(5)(a) YCJA.</li> <li>- prerequisites: the sanction is consistent with the purpose and principles set out in s. 38 and the restrictions on custody in s. 39. See: s. 42(5)(b) YCJA.</li> <li>- min. duration: none.</li> <li>- max. duration: 6 months. See: s. 42(2)(p) YCJA.</li> <li>- mandatory conditions: See: s. 105(2) YCJA.</li> <li>- optional conditions: See: s. 105(3) and s. 38(2)(e.1) YCJA.</li> </ul>	<p>Conditional Sentence Order. See: s. 742.1 Cr.C..</p> <ul style="list-style-type: none"> <li>- excluded offences: See: s. 742.1(b) - (f) Cr.C..</li> <li>- prerequisites: the service of the sentence in the community would not endanger the community and would be consistent with the fundamental purpose and principles of sentencing set out in s. 718 – 718.2 Cr.C. See: s. 742.1(a) Cr.C..</li> <li>- min. duration: none.</li> <li>- max. duration: 2 yr, less one day. See: s. 742.1 Cr.C..</li> <li>- mandatory conditions: See: s. 742.3(1) Cr.C..</li> <li>- optional conditions: See: s. 742.3(2) Cr.C..</li> </ul>
<b>Ancillary Orders</b>		
Compensation / Restitution to Victim	See: s. 42(2)(e) and (f) YCJA.	See: s. 738(1) Cr.C..
Restitution to Person Acting in Good Faith	See: s. 42(2)(g) YCJA.	See: s. 739 Cr.C..
Compensation by way of Personal Service	See: s. 42(2)(h) YCJA.	No equivalent sanction.

	Youth Regime	Adult Regime
	<ul style="list-style-type: none"> <li>- pre-requisites: <ul style="list-style-type: none"> <li>(a) person to be compensated has consented. See: s. 54(6) YCJA; and</li> <li>(b) young person is suitable candidate. See: s. 54(7) YCJA; and</li> <li>(c) order does not interfere with young person's normal hours or work or education. See: s. 54(7) YCJA.</li> </ul> </li> <li>- max. # hrs: 240. See: s. 54(8) YCJA.</li> <li>- max. timeframe for completion: 12 months. See: s. 54(8) YCJA.</li> </ul>	
Prohibition (re weapons)	<p>See: s. 51(1) YCJA.</p> <ul style="list-style-type: none"> <li>- eligible offences: incorporates by reference s. 109(1) Cr.C.. See: s. 51(1) YCJA.</li> <li>- min. duration: 2 years. See: s. 51(2) YCJA.</li> <li>- max. duration: none.</li> </ul> <p>See: s. 51(3) YCJA.</p>	<p>See: s. 109 Cr.C..</p> <ul style="list-style-type: none"> <li>- eligible offences: See: s. 109(1) Cr.C..</li> <li>- min. duration (first conviction): 10 years / life (depending on the item). See: s. 109(2) Cr.C..</li> <li>- min. duration (subsequent conviction): life. See: s. 109(3) Cr.C..</li> <li>- max. duration (first conviction): none.</li> <li>- max. duration (subsequent conviction): none.</li> </ul> <p>See: s. 110 Cr.C..</p>

	Youth Regime	Adult Regime
	<ul style="list-style-type: none"> <li>- eligible offences: incorporates by reference s. 110(1) <i>Cr.C.</i> See: s. 51(3) <i>YCJA</i>.</li> <li>- min. duration: none.</li> <li>- max. duration: 2 years. See: s. 51(4) <i>YCJA</i>.</li> </ul>	<ul style="list-style-type: none"> <li>- eligible offences: See: s. 110(1) <i>Cr.C.</i>.</li> <li>- min. duration: none.</li> <li>- max. duration: 10 years / life (depending on nature of the victim). See: s. 110(2) and (2.1) <i>Cr.C.</i>.</li> </ul>
Prohibition (other than re weapons)	<p>See: s. 42(2)(j) <i>YCJA</i>.</p> <ul style="list-style-type: none"> <li>- <i>YCJA</i> incorporates by reference the prohibition order provisions under any Federal Act or regulation made thereunder <u>except</u> for s. 161 <i>Cr.C.</i>. See: s. 42(2)(j) <i>YCJA</i>.</li> <li>- min. duration: history/offence/order-specific.</li> <li>- max. duration: history/offence/order-specific. See: s. 42(14) <i>YCJA</i>.</li> </ul>	<p>See: e.g., s. 320.24 (driving); s. 447.1 (animals), s. 162.2 (internet use); 743.21 (non-communication while in custody) <i>Cr.C.</i></p> <ul style="list-style-type: none"> <li>- min. duration: history/offence/order-specific.</li> <li>- max. duration: history/offence/order-specific.</li> </ul>
Forfeiture / Seizure	<p>See: s. 42(2)(j) <i>YCJA</i>.</p> <ul style="list-style-type: none"> <li>- <i>YCJA</i> incorporates by reference the forfeiture / seizure order provisions under any Federal Act or regulation made thereunder.</li> <li>- eligible offences: offence/fact- specific.</li> <li>- pre-requisites: order-specific.</li> </ul>	<p>See: e.g., 490.1 (offence-related property); 491 (weapons) <i>Cr.C.</i></p> <ul style="list-style-type: none"> <li>- eligible offences: offence/fact- specific.</li> <li>- pre-requisites: order-specific.</li> </ul>
SOIRA	<ul style="list-style-type: none"> <li>- the SOIRA provisions do not apply to young persons. See: s. 490.011(2) <i>Cr.C.</i>.</li> </ul>	<p>See: s. 490.012 <i>Cr.C.</i>.</p>

	Youth Regime	Adult Regime
		<ul style="list-style-type: none"> <li>- eligible offences: offence-specific. See: s. 490.011(1), 490.012(1) – (2) Cr.C..</li> <li>- pre-requisites: offence designation-specific. See: s. 490.011, 490.012(1) – (2) Cr.C..</li> <li>- min./max. duration: offence(s)-specific. See: s. 490.013(2) and (2.1) Cr.C..</li> </ul>
DNA	<p>See: s. 487.051 Cr.C..</p> <ul style="list-style-type: none"> <li>- eligible offences: offence-specific. See: s. 487.04, 487.051(1) – (3) Cr.C..</li> <li>- pre-requisites: offence designation-specific. See: s. 487.04, 487.051(1) – (3) Cr.C..</li> </ul>	<p>See: s. 487.051 Cr.C..</p> <ul style="list-style-type: none"> <li>- eligible offences: offence-specific. See: s. 487.04, 487.051(1) – (3) Cr.C..</li> <li>- pre-requisites: offence designation-specific. See: s. 487.04, 487.051(1) – (3) Cr.C..</li> </ul>
Victim (Fine) Surcharge	<p>See: s. 53(2) YCJA.</p> <ul style="list-style-type: none"> <li>- excluded predicate sentences: all but a fine order. See: s. 53(2) YCJA.</li> <li>- standard amount: none</li> <li>- min. amount: none</li> <li>- max. amount: 15% of the fine order. See: s. 53(2) YCJA.</li> </ul>	<p>See: s. 737 Cr.C..</p> <ul style="list-style-type: none"> <li>- excluded predicate sentences: none. Subject to an order of waiver under s. 737(2.1) Cr.C. (undue hardship / disproportionate sentence) of some or all of the amount, the victim surcharge is to be imposed in addition to all sentences. See: s. 737(1) Cr.C..</li> <li>- standard amount: 30% of fine order; if no fine is imposed, \$100 (summary conviction offence) and \$200 (indictable offence). See: s. 737(2) Cr.C..</li> <li>- min. amount: none</li> <li>- max. amount: none. While “standard” amounts are set out in s. 737(2) Cr.C., the court may, where it considers it</li> </ul>

	Youth Regime	Adult Regime
		appropriate in the circumstances and is satisfied that the offender is able to pay it, order a higher amount. See: <b>s. 737(3) Cr.C.</b>