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<p>YOUTH CRIMINAL JUSTICE ACT MANUAL The Honourable Miriam H. Bloomenfeld Release No. 1, May 2026</p>
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What's New in this Update:

This release features updates to the commentary and case law in Chapters 5 (Judicial Measures), 6 (Sentencing), and 12 (Sentencing Under the YCJA).

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Highlights:

- ***R. v. T.M.*, 2025 MBPC 78, 2025 CarswellMan 410 (Man. Prov. Ct.)**—The young person was sentenced to a six-month deferred custody and supervision order followed by eighteen months’ probation for possessing a loaded, restricted weapon, contrary to *Criminal Code* s. 95(1). The sentencing judge determined that firearms possession virtually always met the criteria for consideration of custody as an exceptional case pursuant to YCJA s. 39(1)(d). In the instant case, the circumstances of the offence, which included the young person’s use of the gun in a gang fight where another person was murdered, constituted the clearest of cases and necessitated a custodial sentence.
- ***R. v. T.M.*, 2025 ONCA 862, 2025 CarswellOnt 20482 (Ont. C.A.)**—The limitations of the availability of a DCSO sentence to six months in length and non-serious violent offences do not violate s. 7 or s. 15(1) of the Charter. Accordingly, the illegal sentence of 24-month DCSO imposed by the sentencing judge was varied to a fit disposition of 18 months’ probation with conditions and a community service order of 100 hours. In upholding the constitutionality of YCJA s. 42(5) and s. 42(2)(p), the Court of Appeal conducted a contextualized analysis of the YCJA’s policy foundations and objectives, including recognizing young persons’ reduced moral culpability, holding them accountable for offending conduct and reducing the historical overincarceration of youth. The Court drew heavily on the Supreme Court of Canada’s analysis of YCJA principles in *R. v. I.M.*, 2025 SCC 23. The Court of Appeal emphasized that it is an error in principle to treat proportionality or retribution as the dominant or isolated focus of youth sentencing. Rather, as clarified in *R. v. I.M.*, youth accountability requires a holistic approach. The Court of Appeal also cited the robust conditions of youth probation as an important complement DCSOs and the YCJA sentencing regime as a whole in explaining why a DCSO does not and should not be interpreted as a parallel to an adult conditional sentence. Youth probation, in contrast with adult probation, can include conditions that are not restricted to rehabilitative objectives, thereby supplying accountability via proportionate sentences and meaningful consequences.
- ***R. v. X.C.*, 2025 ONCJ 366, 2025 CarswellOnt 10954 (Ont. C.J.)**—A young person is considered to be “at trial” for the purpose of appointment of counsel pursuant to YCJA s. 25(4) if they have rejected or been rejected for extrajudicial sanctions and the youth justice court is satisfied that they wish to contest the charges and will not be accepting a resolution with which duty counsel can assist them. Youth justice courts should develop procedures that minimize the need for young

persons to spend inordinate and unnecessary amounts of time attending court. One example of an alternative to in court application hearings would be a protocol for youth court judges to consider such applications in chambers in writing. This kind of alternative process is more responsive to the objectives of the YCJA and does not waste judicial resources. **(Editor's Note:** This decision rejects the reasoning in prior cases requiring that a young person actually be arraigned before a s. 25(4) application can be entertained.)

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