

CED: An Overview of the Law

Youth Criminal Justice

Notes for VII.1-2: Adult Sentences

VII.1: Adult Sentence and Election

FN1. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 64(1) [rep. & sub. 2012, c. 1, s. 176(1)], (3).

FN2. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 64(2) [rep. & sub. 2012, c. 1, s. 176(1)].

FN3. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 64(1.2) [en. 2012, c. 1, s. 176(1)].

FN4. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 64(1.1) [en. 2012, c. 1, s. 176(1)].

FN5. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 2(1) "serious violent offence" [rep. & sub. 2012, c. 1, s. 167(2)].

FN6. *Youth Criminal Justice Act*, S.C. 2002, c. 1, ss. 16, 67(1) [am. 2012, c. 1, s. 178].

FN7. *Youth Criminal Justice Act*, S.C. 2002, c. 1, ss. 16, 67(2) [re-en. 2003, c. 13, s. 91(1)(b)].

FN8. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 67(2) [re-en. 2003, c. 13, s. 91(1)(b)].

FN9. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 67(3) [am. 2012, c. 1, s. 178], (4) [re-en. 2003, c. 13, s. 91(1)(c)].

FN10. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 67(5) [am. 2002, c. 13, s. 91(1)(d)].

FN11. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 67(6).

FN12. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 67(7) [re-en. 2002, c. 13, s. 91(1)(e)].

FN13. *Criminal Code*, R.S.C. 1985, c. C-46, Pt. XVIII (ss. 535-551).

FN14. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 67(8).

FN15. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 67(7.1) [en. 2002, c. 13, s. 91(1)(e)].

FN16. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 67(9).

FN17. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 67(9)(a).

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FN18. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 67(9)(b).

FN19. Criminal Code, R.S.C. 1985, c. C-46, s. 650(2) [am. 1991, c. 43, Sched., s. 4].

VII.2: Adult Sentencing Hearing

FN1. *Youth Criminal Justice Act*, S.C. 2002, c. 1, ss. 64(1) [rep. & sub. 2012, c. 1, s. 176(1)], 71 [rep. & sub. 2012, c. 1, s. 182].

FN2. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 71 [rep. & sub. 2012, c. 1, s. 182].

FN3. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 72(2) [rep. & sub. 2012, c. 1, s. 183(1)]; *R. v. B. (D.)* (2008), 2008 CarswellOnt 2708 (S.C.C.) (pre-amendment reverse onus on young person to displace presumption of adult sentence and establish sufficiency of youth sentence violating s. 7 of *Charter*; Act now reflects disposition of this decision).

FN4. *Youth Criminal Justice Act*, S.C. 2002, c. 1, ss. 3(1)(b) [am. 2012, c. 1, s. 168(2)], 38 [am. 2012, c. 1, s. 172], 72(1) [rep. & sub. 2012, c. 1, s. 183(1)]; *R. v. L. (B.)* (2013), 2013 CarswellMan 194 (Man. Q.B.) (presumption of reduced moral blameworthiness rebutted; accused was leader who planned home invasion, armed offenders and directed them on what to steal and to threaten inhabitants of home; accused consciously chose to engage in criminal lifestyle and thought critically during robbery; offence not impulsive; despite limited intellectual capacity accused had moral capacity of adult at time of offence); *R. v. Lucassie* (2013), 2013 CarswellNun 10 (Nun. Youth Ct.) (accused entered victim's home and sexually assaulted her at knife point; accused was below average in social and emotional maturity but knew and was able to appreciate serious nature and possible consequences of his actions; sentenced as adult); *R. v. S. (Z.T.)* (2012), 2012 CarswellMan 548 (Man. C.A.) (accused acted as lookout during vehicle theft; stolen vehicle collided with other vehicle causing death of driver while accused was passenger; adult sentence imposed); *R. v. P. (C.J.)* (2011), 2011 CarswellMan 526 (Man. Prov. Ct.) (youth spontaneously stabbed friend to death; Prozac caused explosive and impulsive behavior; youth sentence imposed); *R. v. F. (B.C.)* (2009), 2009 CarswellSask 793 (Sask. C.A.) (accused shot ex-girlfriend in face; adult sentence imposed); *R. v. O. (A.)* (2007), 2007 CarswellOnt 1181 (Ont. C.A.) (accountability achieved through sentence which reflects moral culpability of offender; having regard to the intentional risk-taking, consequential harm caused by offender, and normative character of offender's conduct).

FN5. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 72(3) [rep. & sub. 2012, c. 1, s. 183(1)].

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FN6. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 72(1.1) [en. 2012, c. 1, s. 183(1)]; *R. v. M. (J.)* (2013), 2013 CarswellMan 342 (Man. Prov. Ct.) (accused with low IQ committed assault on disabled youth worker after youth worker sexually assaulted him; not liable to adult sentence; case stands in contrast to cases where young persons' crimes more closely resembled those of adults in terms of planning, purposefulness, risk-taking, harm caused and egregious violation of normative behavior); *R. v. T. (D.D.)* (2010), 2010 CarswellAlta 2350 (Alta. C.A.); leave to appeal refused (2011), 2011 CarswellAlta 829 (S.C.C.) (victim was lured to golf course, sexually assaulted, beaten and killed by group of youths; accused participated in sexual assault and beating but was not part of planning; convicted of sexual assault and second degree murder; court imposed maximum youth sentence with no credit for pre-sentence detention; sentence upheld; immaturity, youth, lack of participation in planning and fact accused was party to offences and not key perpetrator contributed to fitness of youth sentence).

FN7. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 72(4).

FN8. *Youth Criminal Justice Act*, S.C. 2002, c. 1, ss. 37 [am. 2012, c. 1, s. 171], 72(5) [rep. & sub. 2012, c. 1, s. 183(2)]; **see also** Pt. XI.

FN9. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 74(2).

FN10. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 74(3); *Criminal Code*, R.S.C. 1985, c. C-46, s. 719(1) [en. 1995, c. 22, s. 6].

FN11. *Criminal Code*, R.S.C. 1985, c. C-46, Pt. XXIII (ss. 716-751.1) [re-en. 1995, c. 22, s. 6] (sentencing).

FN12. *Criminal Code*, R.S.C. 1985, c. C-46, Pt. XXIV (ss. 752-761) (dangerous and long-term offenders).

FN13. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 74.

FN14. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 75(1) [rep. & sub. 2012, c. 1, s. 185].

FN15. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 75(2) [rep. & sub. 2012, c. 1, s. 185].

FN16. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 75(3) [rep. & sub. 2012, c. 1, s. 185].

FN17. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 75(4) [rep. & sub. 2012, c. 1, s. 185].

FN18. *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 76(1).

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FN19. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 76(4).

FN20. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 76(2) [rep. & sub. 2012, c. 1, s. 186].

FN21. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 76(9).

FN22. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 76(3).

FN23. Youth Criminal Justice Act, S.C. 2002, c. 1, ss. 37 [am. 2012, c. 1, s. 171], 76(5).

FN24. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 76(7).

FN25. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 76(7).

FN26. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 76(8).

FN27. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 76(6).

FN28. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 77(3) [am. 2012, c. 1, s. 160(l)(i)].

FN29. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 77(1); **see also** Youth Criminal Justice Act, S.C. 2002, c. 1, s. 77(2); Corrections and Conditional Release Act, S.C. 1992, c. 20, Pt. II (ss. 99-156).

FN30. *Corrections and Conditional Release Act*, S.C. 1992, c. 20, s. 127 [am. 1995, c. 42, s. 41; 1999, c. 31, s. 66; 2012, c. 1, s. 81]; *Prisons and Reformatories Act*, R.S.C. 1985, c. P-20, s. 6 [am. R.S.C. 1985, c. 35 (2nd Supp.), s. 32; 1992, c. 20, s. 206; 1995, c. 42, s. 82; 2002, c. 1, s. 197; 2012, c. 1, ss. 160(i), 199].

FN31. *Prisons and Reformatories Act*, R.S.C. 1985, c. P-20, ss. 6(5) [re-en. 1995, c. 42, s. 82(2)], 7.2 [en. 1997, c. 2, s. 2].

FN32. P.(J.) v. Canada (Attorney General) (2010), 2010 CarswellNat 3089 (F.C.A.).

FN33. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 80.

FN34. Youth Criminal Justice Act, S.C. 2002, c. 1, s. 82 [am. 2012, c. 1, ss. 156, 160(l)(ii), 188].

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