

1984

# c 19 Young Offenders Implementation Act, 1984

Ontario

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## Bibliographic Citation

*Young Offenders Implementation Act, 1984*, SO 1984, c 19

## Repository Citation

Ontario (1984) "c 19 Young Offenders Implementation Act, 1984," *Ontario: Annual Statutes*: Vol. 1984, Article 21.

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## CHAPTER 19

**An Act to provide for the  
Implementation of the  
Young Offenders Act (Canada)**

*Assented to June 13th, 1984*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Interpretation

- (a) “child” means a person who is or, in the absence of evidence to the contrary, appears to be under the age of twelve years;
- (b) “Minister” means the Minister of Community and Social Services;
- (c) “place of open custody” means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act (Canada)*;
- (d) “place of secure custody” means a place or facility designated for the secure containment or restraint of young persons under subsection 24 (1) of the *Young Offenders Act (Canada)*;
- (e) “place of temporary detention” means a place or facility designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act (Canada)*;
- (f) “prescribed” means prescribed by the regulations;
- (g) “regulations” means the regulations made under this Act;
- (h) “services and programs” means,
  - (i) prevention programs,

29-30-31,  
Eliz. II,  
c. 110 (Can.)

- (ii) pre-trial detention and supervision programs,
- (iii) open and secure custody programs,
- (iv) probation services,
- (v) programs for the administration and supervision of dispositions, and
- (vi) other related services and programs;
- (i) “young person” means a person who is, or, in the absence of evidence to the contrary, appears to be,
  - (i) twelve years of age, or more, but
  - (ii) under sixteen years of age,

and includes a person sixteen years of age or more charged with having committed an offence while he or she was twelve years of age or more but under sixteen years of age.

Appointments  
by Minister

**2.—(1)** The Minister may appoint any person as,

- (a) a provincial director, to perform any or all of the duties and functions of a provincial director,
  - (i) under the *Young Offenders Act* (Canada), and
  - (ii) under the regulations;
- (b) a probation officer, to perform any or all of the duties and functions,
  - (i) of a youth worker under the *Young Offenders Act* (Canada),
  - (ii) of a probation officer for the purposes of the *Provincial Offences Act*, and
  - (iii) of a probation officer under the regulations; and
- (c) a program supervisor, to supervise services and programs provided under subsection 3 (1) and perform any or all of the prescribed duties and functions.

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c. 400

(2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject. Limitations, etc., on appointments

(3) While performing his or her duties and functions, a probation officer appointed under clause (1) (b) has the powers of a peace officer. Probation officer has powers of peace officer

(4) The remuneration and expenses of a person appointed under subsection (1) who is not a public servant under the *Public Service Act* shall be fixed by the Minister and shall be paid out of legislative appropriations. Remuneration and expenses  
R.S.O. 1980, c. 418

3.—(1) The Minister may,

- (a) establish, operate and maintain services and programs; and
- (b) make agreements with persons for the provision of services and programs,

Services and programs

for or on behalf of young persons for the purposes of the *Young Offenders Act* (Canada) and the *Provincial Offences Act*, and may fund those services and programs out of legislative appropriations. 29-30-31, Eliz. II, c. 110 (Can.)  
R.S.O. 1980, c. 400

(2) An observation and detention home under the *Provincial Courts Act* that is in existence on the 2nd day of April, 1984 and a training school under the *Training Schools Act* that is in existence on that day shall be deemed to be operated under subsection (1), and the Minister may continue to fund those observation and detention homes and training schools out of legislative appropriations. Observation and detention homes and training schools continued  
R.S.O. 1980, cc. 398, 508

4.—(1) A program supervisor may, at all reasonable times, upon producing proper identification, enter premises where services or programs are provided under subsection 3 (1), inspect the facilities, the services or programs provided, the books of account and the records relating to the services or programs, and make copies of those books and records. Powers of program supervisor

(2) No person shall hinder, obstruct or attempt to hinder or obstruct a program supervisor in the performance of the program supervisor's duties or give false information about services or programs provided under subsection 3 (1) to a program supervisor. Offence

(3) No person in charge of a service or program provided under subsection 3 (1) or in charge of premises where a service or program is provided under subsection 3 (1) shall refuse Idem

to give a program supervisor access to the books and records referred to in subsection (1).

Idem

(4) A person who knowingly contravenes subsection (2) or (3), and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and is liable upon conviction to a fine of not more than \$2,000.

Reports  
and  
information

5. A person in charge of a service or program provided under subsection 3 (1), a person in charge of a place of temporary detention, open custody or secure custody, and a probation officer,

- (a) shall make the prescribed reports and furnish the prescribed information to the Minister, in the prescribed form and at the prescribed intervals; and
- (b) shall make a report to the Minister whenever the Minister requests it.

Young  
persons in  
open custody  
R.S.O. 1980,  
c. 400

6. Where a young person is sentenced to a term of imprisonment for breach of probation under clause 75 (d) of the *Provincial Offences Act*, to be served in open custody as set out in section 91k of that Act,

- (a) the young person shall be held in a place of open custody specified by a provincial director; and
- (b) the provisions of section 35 (temporary release) of the *Young Offenders Act* (Canada) apply with necessary modifications.

29-30-31,  
Eliz. II,  
c. 110 (Can.)

Apprehension  
of young  
person absent  
from place of  
temporary  
detention  
R.S.O. 1980,  
c. 400

7.—(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the *Young Offenders Act* (Canada) or the *Provincial Offences Act* in a place of temporary detention,

- (a) has left the place without the consent of the person in charge; and
- (b) fails or refuses to return there,

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;

- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of temporary detention.

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 6,

Idem:  
place of  
open custody

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 6 (b),

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;
- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of open custody.

(3) A young person who is detained in a place of temporary detention under this section shall be returned to the place from which he or she is absent, as soon as possible, but in any event within forty-eight hours after being detained.

Young  
person to  
be returned  
within forty-  
eight hours

(4) A justice of the peace who is satisfied on the basis of a sworn information that there are reasonable and probable grounds to believe that a young person held in a place of temporary detention or open custody,

Warrant to  
apprehend  
young  
person

- (a) has left the place without the consent of the person in charge, and fails or refuses to return there; or
- (b) fails or refuses to return to a place of open custody upon completion of a period of temporary release under clause 6 (b),

may issue a warrant authorizing a peace officer, the person in charge of the place of temporary detention or open custody or that person's delegate to apprehend the young person.

Authority  
to enter,  
etc.

(5) A warrant issued under subsection (4) authorizes a person to whom it is directed to enter any premises where he or she reasonably believes the young person to be, by force if necessary, and to search for and remove the young person.

Regulations

**8.** The Lieutenant Governor in Council may make regulations,

- (a) governing the establishment, operation, maintenance, management and use of places of temporary detention, open custody and secure custody and other services and programs provided under subsection 3 (1);
- (b) governing the establishment and operation of and the accommodation, equipment and services to be provided in any premises or class of premises established, operated, maintained or designated for the purposes of the *Young Offenders Act* (Canada) or for providing services or programs under subsection 3 (1);
- (c) prescribing additional duties and functions of,
  - (i) probation officers,
  - (ii) program supervisors, and
  - (iii) provincial directors;
- (d) prescribing the qualifications of probation officers;
- (e) prescribing additional duties and functions of persons in charge of places of temporary detention, open custody and secure custody;
- (f) prescribing reports to be made and information to be furnished under section 5, their form and the intervals at which they are to be made or furnished;
- (g) governing the conduct, discipline, rights and privileges of young persons in places of temporary detention, open custody or secure custody or any class of them or in a service or program provided under subsection 3 (1);

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- (h) prescribing procedures for the admission of young persons to and their discharge from places of temporary detention, open custody or secure custody or any class of them or premises in which a service or program is provided under subsection 3 (1);
- (i) prescribing classes of payment by way of provincial aid for the establishment, operation or maintenance of places of temporary detention, open custody or secure custody, the methods of determining the payments, the manner and time of making them, the terms and conditions of such payments and the circumstances under which such payments may be suspended or withheld or deductions may be made from them; and
- (j) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act.

**9.—(1) Clause 19 (1) (f) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

- (f) “place of safety” means a receiving home, foster home, hospital and such other place or class of places designated in writing by a Director, but does not include a place or facility designated as a place of secure custody under section 24 of the *Young Offenders Act* (Canada).

29-30-31,  
Eliz. II,  
c. 110 (Can.)

**(2) Subsection 21 (3) of the said Act is repealed and the following substituted therefor:**

(3) A police officer who has reasonable and probable grounds to believe that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and shall, on doing so,

Apprehension  
of child  
under twelve

- (a) as soon as practicable, return the child to the child’s parent or other person having charge of the child; or
- (b) where it is not possible to return the child to the parent or other person within a reasonable time, take the child to a place of safety to be detained there until the child can be returned to the parent or other person.



Notice to  
parent, etc.

(3a) The person in charge of a place of safety in which a child is detained under subsection (3) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child  
not returned  
to parent,  
etc., within  
twelve hours

(3b) Where a child detained in a place of safety under subsection (3) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be deemed to have been apprehended under clause (1) (a) as being apparently in need of protection.

Apprehension  
of child  
absent from  
place of  
temporary  
detention  
29-30-31,  
Eliz. II,  
c. 110 (Can.)

(3c) Where a child is detained under this Act in a place of safety that has been designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada) and leaves the place without the consent of,

(a) the society having care, custody and control of the child; or

(b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant and,

(c) take the child to a place of safety to be detained until he or she can be returned;

(d) arrange for the child to be returned; or

(e) return the child,

to the first-mentioned place of safety.

Right of  
entry

(3d) Where a person authorized under subsection (1), (2), (3) or (3c) has reasonable and probable grounds to believe that a child referred to in the relevant subsection is on any premises, the person may without a warrant enter the premises, if need be by force, and without a warrant search for and remove the child from the premises.

(3) Subsection 28 (12) of the said Act is amended by striking out "except an order placing the child in a training school established under the *Training Schools Act*, or placing the child in an observation and detention home established or designated under the *Provincial Courts Act* that has not been designated under this Act as a place of safety" in the 25th, 26th, 27th, 28th, 29th and 30th lines and inserting in lieu thereof "except

an order placing a child in a place or facility designated as a place of secure custody or as a place of open custody under section 24 of the *Young Offenders Act* (Canada), or in a place or facility that is designated under subsection 7 (1) of that Act as a place of temporary detention but is not a place of safety”.

(4) Subsections 30 (2) and (3) of the said Act are repealed.

(5) Despite subsection (4), subsection 30 (2) continues to apply to a child who was committed to a society under paragraph 20 (1) (h) of the *Juvenile Delinquents Act* (Canada) before the 2nd day of April, 1984. Transition  
R.S.C. 1970,  
c. J-3

**10.** The *Children's Probation Act*, being chapter 70 of the Revised Statutes of Ontario, 1980, is repealed.

**11.**—(1) Sections 27, 28, as amended by the Statutes of Ontario, 1982, chapter 22, section 2, sections 29, 30 and 31 and clauses 34 (1) (g), (h), (i), (j) and (k) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsections 204 (1), (2) and (3) of the *Courts of Justice Act, 1984*, being chapter 11, are repealed and the following substituted therefor:

(1) The *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed.

(3) Despite subsection (1), sections 28 and 29 of the said Act continue to apply to a child who has been admitted to an observation and detention home and has not been discharged on the 2nd day of April, 1984, until the child is discharged from the observation and detention home. Transition

**12.**—(1) The *Training Schools Act*, being chapter 508 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Despite subsection (1), the said Act continues to apply to a child who is a ward of the Crown under the said Act on the 2nd day of April, 1984, until the wardship expires or is terminated. Transition

**13.** Section 19 of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-  
ment

**14.** This Act shall be deemed to have come into force on the 2nd day of April, 1984.

Short title

**15.** The short title of this Act is the *Young Offenders Implementation Act, 1984*.