

## Bail Hearings for Youth in care or with Children's Aid Society involvement

### Preamble YCJA

- Recognizes that society shares responsibility to address developmental challenges and the needs of young persons and help guide them into adulthood.
- Communities, parents, families, and others concerned with development of the youth person should take multi-disciplinary approaches. They should take reasonable steps to prevent youth crimes by addressing its underlying causes.
- Confirms that Canada is a party to the UN convention on rights of the child, and young persons have rights and freedoms, including those rights stated in the Canadian Charter of Rights and Freedoms AND have special guarantees of rights and freedoms.
- Canadian Criminal Justice System should command respect, take into account interests of victims, foster responsibility, and ensure accountability through Meaningful Consequences and effective rehabilitation and re-integration, and reserve it's most serious intervention for the most serious crimes and reduces over-reliance on incarceration for non-violent young persons.

1. Young person must be brought to court within 24 hours or ASAP to have a court decide whether or not to release the Youth.

2. Youth can be detained if a court believes that it is necessary for the protection of the public or to ensure that the Youth will attend at court.

3. The YCJA has a presumption that Youth are not to be held in custody unless certain conditions are met.

4. First offence/arrest- generally the crown bears the burden of proof to establish reasons why a Youth should be detained pending trial.

5. Consent Release/Bail Terms/Conditions:

The crown may propose a Bail/Release with certain conditions for the Youth to abide by - which, if accepted by the court - will have the effect of a court order and if the Youth breaches any of the conditions - this will result in a new charge - "fail to comply with recognizance". Therefore it is very important that any bail conditions are reasonable.

6. Typical Bail conditions can include - curfew, no contact with the complainant, no weapons, no non-prescription drugs, reside at an address approved of by the Children's Aid Society and abide by the rules, routine and discipline of your residential placement, no contact with co-accused, attend school etc...

7. Breach of Bail term(s) - can result in additional criminal charge(s). Although the crown always bears the burden of proving that a youth ought to be held in detention at a bail hearing - the more charges that are laid - whether for breach of bail or new criminal charges - this makes it more difficult to advocate for the release of a young person on bail and/or often results in more restrictive bail conditions being imposed.

**BAIL HEARING - Conditions**

- It is very important to secure release of a young person at the earliest possible time.
- If a parent does not attend or refuses to attend for a bail hearing, sometimes CAS is called to apprehend the child in order to secure releases from Court.
- If the child is in care, ensure that a worker attends at Court.
- A young person is dealt with better if the Court sees that there is a parent figure in attendance.