

Community Legal
Education Association



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Court orders

If a young person does not appear in court on the date and time that they were instructed to, it is a breach of a court order. Not following a court order is a criminal offence.

It is also a criminal offence not to appear for identification and fingerprinting at the police station on the date set.

Court orders include conditions that the court imposes upon a young person for pre-trial release and sentencing. Sentencing includes probation orders, custodial orders, and intensive support and supervision orders.

If a young person does not follow a court order, the young person might spend more time in custody. The “breach” might lengthen a youth record, and increase the severity of a future sentence.

BEFORE TRIAL

At the first court appearance, the judge may set a later date for a young person to return. It is a criminal offence not to appear in court on the next date and all future court dates that are set.

A young person may also be given conditions that must be followed until a court hearing. These conditions form a court order and they must be followed. If the conditions are not followed, the young person is in “breach” of a court order.

SENTENCING

A sentence is also a court order, whether it is a period of custody, or a number of conditions that the young person must follow. The young person must make sure that he or she understands the conditions. If the young person cannot follow the conditions, the young person should inform the court or their lawyer right away and try to arrange other conditions. The young person should also tell the court if their circumstances change and they are no longer able to follow the conditions.

Reporting to a probation officer or a youth court worker may form part of the sentence and is a court order that must be followed.

BREACHING A COURT ORDER

A youth record is usually closed three years after the end of a sentence for less serious offences and usually five years after the end of a sentence for a more serious offence.

If a young person commits an offence before the access period for the record ends, then the young person's record will remain open until the record for the later offence is closed. The young person's record will show both offences and indicate that the young person is a repeat offender.

REVIEW PROCESS

When a young person does not follow the conditions in the community supervision portion of a custody and supervision order, it is not considered a new offence. If the provincial director reasonably believes that a young person has breached, or is about to breach the conditions, the director can:

- permit the order to remain the same,
- change the conditions in the order,
- order that the young person be taken into custody until a review is conducted.

A warrant may be issued to arrest the young person and the young person is not considered to be serving their sentence until they are in custody.

When the court reviews the community or conditional supervision order, the court may change the conditions or impose new conditions. When the court is considering how to deal with the non-compliance of the court order they must look at:

- how long the young person has been subject to the order,
- whether the young person has previously disobeyed the order,
- the type of previous breach of the order.

In other situations, if a young person does not comply with a sentence or a disposition they are considered to be committing a new offence.

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