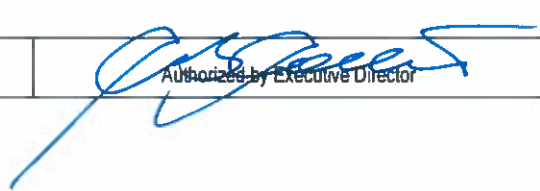


Chapter:	<b>Probation Orders</b>	Classification:	<b>Public Document</b>
Subject:	<b>Review of Non-Custodial Sentences</b>		
For:	<b>Community Corrections</b>	 <small>Authorized by Executive Director</small>	

**1. Policy**

1.1 It is the policy of Correctional Services to initiate reviews of non-custodial sentences in situations where the designated Provincial Director believes it is necessary to provide for the effective supervision of the court order in accordance with Section 59 of the *Youth Criminal Justice Act* (YCJA).

**2. Provincial Director**

2.1 All probation officers are designated as a Provincial Director for the purpose of reviews of non-custodial sentences.

**3. Application**

3.1 An application for a review may be made to the youth justice court by the Provincial Director, the Crown Attorney, the young person (YP), or the parents/guardians of the YP, at any time after six months after the date of sentence or, with leave of a youth justice court judge, at any earlier time.

3.2 Reviews of non-custodial sentences are not permitted while proceedings with respect to an appeal are ongoing in accordance with Section 94(7) of the YCJA.


**4. Possible New Sentences**

4.1 The youth justice court may

- 4.1.1 leave the original sentence in place
- 4.1.2 discharge the youth, or
- 4.1.3 impose a new non-custodial sentence which may
  - 4.1.3.1 only be for a period of time equal to or less than the remainder of the period of the earlier sentence
  - 4.1.3.2 provide the YP with up to twelve (12) additional months to pay a fine, or comply with the conditions associated with compensation, restitution, or a community service order pursuant to sections 42(2)(d) to (i) of the YCJA

4.2 No sentence which is reviewed will, without the consent of the YP be more onerous than the remaining portion of the sentence which is under review.

Page 1 of 3	Dated Issued: October 13, 2010 Date of Last Revision: Current Revision Date: September 15, 2021	Subject No. 18.11.00
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Chapter:	Probation Orders	Classification:	Public Document
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**5. Grounds for Review**

- 5.1 Probation officers will only initiate of reviews non-custodial sentences where the
  - 5.1.1 circumstances that led to the sentence have changed materially
  - 5.1.2 YP is unable to comply with, or is experiencing serious difficulty in complying with, the terms of the sentence
  - 5.1.3 YP has contravened a condition of an order made under paragraph 42(2)(k) or (l) YCJA without reasonable excuse
  - 5.1.4 terms of the sentence are adversely affecting the opportunities available to the YP to obtain services, education, or employment

**6. Responsibilities of Probation Officer**

- 6.1 Where a review is initiated by the probation officer at any point after six months from the date of the sentence, the probation officer will obtain a date for the review from the clerk of the court. The date should be no earlier than three weeks from the date that the notice is issued in the matter; (see form: Court Youth - A Notice of Application).
- 6.2 The probation officer will prepare and direct the notice of review of sentence to the YP, the parents/guardians of the YP and the Crown Attorney. This notice will be served personally by a probation officer or by registered mail and will be distributed at least seven working days prior to the review date.
- 6.3 The probation officer will submit a progress report to the clerk of the court no later than three clear working days prior to the date of the review.
- 6.4 The progress report will be in letter form, addressed to the presiding judge, and will include information as follows
  - 6.4.1 grounds for review
  - 6.4.2 additional updated information pertaining to the personal and family history and present environment of the YP as considered appropriate by the probation officer
  - 6.4.3 a specific recommendation, including rationale, for either
    - 6.4.3.1 termination of the sentence
    - 6.4.3.2 variation of the sentence
    - 6.4.3.3 the imposition of a new non-custodial sentence

Page 2 of 3	Dated Issued: October 13, 2010 Date of Last Revision: Current Revision Date: September 15, 2021	Subject No. 18.11.00
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Chapter:	Probation Orders	Classification:	Public Document
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- 6.5 The probation officer will provide the youth justice court with a copy of the previous presentence report, if one was prepared.
- 6.6 It is the responsibility of the clerk of the court to distribute copies of the progress report to the judge, the Crown Attorney and the YP or counsel.

**7. Early Reviews**

- 7.1 Where a review is requested prior to six months from the date of the sentence, the probation officer will forward a letter to the Crown Attorney asking that an application be made to the youth justice court for review. The probation officer will attend court at the time when the Crown Attorney makes a formal application for an early review.
- 7.2 If the youth justice court judge does not grant leave for the early review, the request for review process will discontinue.
- 7.3 If leave has been granted by the youth justice court judge, the clerk of the court will establish a date for the review when the leave is granted.

**8. Application by Young Person or Parent**

- 8.1 In circumstances where a review of a non-custodial sentence is initiated by the YP or the YP's parent(s)/guardian(s), it is the responsibility of the YP or the parent(s)/guardian(s) to initiate review proceedings and to undertake the preparation and distribution of all required notices.
- 8.2 In such circumstances, the responsibilities of the probation officer are restricted to preparation of a progress report prepared in the manner outlined above.