



CRIMINAL CODE AND CONTROLLED DRUGS AND SUBSTANCES ACT PROVISIONS RELEVANT TO WELLNESS COURT

s. 320.23 of the *Criminal Code*:

DELAY OF SENTENCING / Exception to minimum punishment.

320.23 (1) The court may, with the consent of the prosecutor and the offender, and after considering the interests of justice, delay sentencing of an offender who has been found guilty of an offence under subsection 320.14(1) or 320.15(1) to allow the offender to attend a treatment program approved by the province in which the offender resides. If the court delays sentencing, it shall make an order prohibiting the offender from operating, before sentencing, the type of conveyance in question, in which case subsections 320.24(6) to (9) apply.

(2) If the offender successfully completes the treatment program, the court is not required to impose the minimum punishment under 320.19 or to make a prohibition order under section 320.24, but it shall not direct a discharge under section 730.

s. 720 of the *Criminal Code*:

SENTENCING PROCEEDINGS / Court-supervised programs.

720 (1) A court shall, as soon as practicable after an offender has been found guilty, conduct proceedings to determine the appropriate sentence to be imposed.

(2) The court may, with the consent of the Attorney General and the offender and after considering the interests of justice and of any victim of the offence, delay sentencing to enable the offender to attend a treatment program approved by the province under the supervision of the court, such as an addiction treatment program or a domestic violence counselling program.

s. 10 of the *Controlled Drugs and Substances Act*:

PURPOSE OF SENTENCING / Factors to take into consideration / Reasons of court / Drug treatment court program

10 (1) Without restricting the generality of the *Criminal Code*, the fundamental purpose of any sentence for an offence under this Part is to contribute to the respect for the law and the maintenance of a just, peaceful and safe society while encouraging rehabilitation, and treatment in appropriate circumstances, of offenders and acknowledging the harm done to victims and to the community.

(2) If a person is convicted of a designated substance offence, the court imposing sentence on the person shall consider any relevant aggravating factors including that the person

- a) in relation to the commission of the offence,
 - i) carried, used or threatened to use a weapon,
 - ii) used or threatened to use violence,
 - iii) trafficked in a substance included in Schedule I, II, III or IV or possessed such a substance for the purpose of trafficking, in or near a school, on or near school grounds or in or near any other public place usually frequented by persons under the age of 18 years, or
 - iv) trafficked in a substance included in Schedule I, II, III or IV, or possessed such a substance for the purpose of trafficking, to a person under the age of 18 years;
- b) was previously convicted of a “designated substance offence”, as defined in subsection 2(1) of this Act, or a “designated offence” as defined in subsection 2(1) of the *Cannabis Act*.
- c) used the services of a person under the age of eighteen years to commit, or involved such a person in the commission of, the offence.

(3) If, under subsection (1), the court is satisfied of the existence of one or more of the aggravating factors enumerated in paragraphs (2)(a) to (c), but decides not to sentence the person to imprisonment, the court shall give reasons for that decision.

(4) A court sentencing a person who is convicted of an offence under this Part may delay sentencing to enable the offender

- a) to participate in a drug treatment court program approved by the Attorney General; or
- b) to attend a treatment program under subsection 720(2) of the *Criminal Code*.