

Interventions with young offenders

The Government has approved a Government Bill proposing a number of changes in provisions relating to interventions and treatment for young offenders. The purpose of the amendments is to further develop and improve the system of penalties for young people between the ages of 15 and 21 who have committed crimes. The amendments also aim to improve possibilities for early intervention to prevent children under 15 developing a criminal lifestyle. The Riksdag adopted the Government's proposals on 30 May 2006. The amendments will therefore enter into force on 1 January 2007, with the exception of the amendment on mandatory victim-offender mediation for municipalities, which will enter into force on 1 January 2008.

Penalties for young offenders

Placement in social services care is a common penalty for young people aged 15-17. For this penalty to be an option, the young person must be under 21 and must qualify for a care order or other social services measure under a care plan drawn up by the social services committee. Placement in social services care can be combined with 'day' fines (a fine proportionate to daily income) or a young offender community service order. The Bill contains certain amendments to the penalty of placement in social services care. Further, the penalty is being redesignated *youth care*.

Community service for young offenders will also be introduced as a new and independent penalty. In addition to these, a number of other penalties may also be considered for young offenders.

Young offenders can be sentenced to *finer* and custodial measures such as *imprisonment* and *institutional youth care*. The aims of the reform include a reduction in the use of these penalties. Fines are the most common penalty for young people who have committed a crime. Exceptional grounds are required before a person under the age of 18 can be sentenced to imprisonment and special grounds are required for offenders aged 18-20. If the court finds that a person

under 18 should be sentenced to imprisonment, it will, as a general rule, impose instead the institutional youth care penalty for a fixed term of a minimum of fourteen days and a maximum of four years. Other penalties such as a *conditional sentence* or *probation* may also be considered for young offenders.

In certain respects, special provisions also apply to young offenders regarding how the police, prosecutors and courts deal with cases and criminal matters in which the suspect is under 21.

Youth care

Children and young people who have committed crimes will, as now, in the first instance be the subject of social services care orders. The penalty of placement in social services care is however being redefined in that a precondition for being placed in care is that the young person must be in special need of care or other measures under the Social Services Act (2001:453) or the Care of Young Persons (Special Provisions) Act (1990:52). Further, it must be possible to provide the young person with the care or measures, and the purpose of the care or measures must be to prevent him or her developing in an undesirable direction. In this way, the penalty will be more clearly directed towards young people in need of care. The legislation also states that the purpose of measures taken must be to prevent crime. The penalty is being redesignated *youth care*.

In most cases, a youth contract is drawn up stating the measures that have been planned by the social services committee in consultation with the young person. If the court imposes a sentence of youth care, it must order that the young person must adhere to the youth contract, unless care is ordered under the Care of Young Persons (Special Provisions) Act, in which case a care plan must be appended the judgment instead.

Should the young person not abide by the terms of the youth contract or if there are other grounds, the court will be able to set aside the penalty and impose a new penalty. In this case, a new penalty may mean youth care and a youth contract but with different terms.

Community service for young offenders – a new and independent penalty

Community service for young offenders is being introduced as a new and independent penalty for young offenders under 21.

It will be mandatory for municipalities to administer this community service. Accordingly, municipalities will be responsible for arranging a community service place for the offender. A place does not already need to have been arranged when the court rules in the case, however.

The penalty comprises unpaid work and other specially arranged activity for a minimum of 20 and a maximum of 150 hours. The penalty must be enforced as quickly as possible. The social services committee must set out the details of a community service order in a work programme and appoint a supervisor for the young person. The committee must also check that the work programme is followed.

For a community service order to be issued, the young person must be in agreement and the penalty must be appropriate to his or her person and other relevant circumstances.

The court may issue a community service order if the penalty can be considered sufficiently severe, bearing in mind the penal value of the crime and the young person's previous criminal activity, and if there are no grounds for imposing a youth care sentence. In the choice between community service and fines, community service should be chosen if the penalty is not too severe.

A person over 18 may be sentenced to community service only if there are special grounds for doing so.

Community service can replace larger fines, short custodial sentences and, if the young person has only minor care needs, youth care.

The youth care penalty can be combined with community service of a minimum of 20 and a maximum of 150 hours in the case of a repeat offence, crime of certain nature or crime with high penal value.

It is of vital importance that strict criteria are set for the terms of the penalty if community service is to be a suitable punishment for young offenders and serve as a credible alternative to fines, youth care and short custodial sentences. It is important to organise community service in such a way that young people understand that society is making it quite clear that crime is not acceptable. For this reason, the purpose of community service should be to set limits, but it should also provide a certain element of guidance. In addition to the unpaid work aspect, community service should also include some kind of specially arranged activity. The detailed content of this activity

is decided by the municipality. In the Government's view, it would however be appropriate for the activity to contain elements which involve the social services explaining the terms of community service to the young person and giving him or her time to reflect on their situation and discuss the crimes he or she has committed. In addition, community service may include a concluding discussion between the social services representative and the young person and, if possible, the young person's custodian and someone from the workplace. At this stage the young person can be provided with feedback on how the community service has been carried out. These elements should, however, take up only a limited number of the community service hours imposed by the court.

The ambition should continue to be for community service to comprise meaningful tasks. It is important that the work is not regarded solely as punishment. The issue of the workplaces that can be used for community service depends to a large extent, of course, on local conditions. Up to now, local authorities and various non-profit organisations, religious communities and other similar organisations that do not have commercial interests have been involved. The central government sector is also an option. Should it prove difficult to find suitable workplaces, the municipality itself may be willing to arrange appropriate work.

As with youth care, the court can set aside the penalty and impose a new penalty for the crime in the case of misconduct or on other grounds.

Caution

If the young person fails to a substantial extent to fulfil his or her obligations under a youth care order to comply with a youth contract, or under a community service order, instead of taking legal action to set aside the sentence the prosecutor will have the authority to decide to issue a caution to the young person, if this is considered sufficient.

The caution must be given to the young person as soon as possible, usually at a personal meeting. At the meeting, the prosecutor will explain the implications of the decision and make clear what the consequences could be in the event of continued misconduct.

Specially trained liaison officers

The social services' *liaison officer scheme* will be further developed to reinforce support to young people in the risk zone, including those under 15. A *specially trained liaison officer* can be appointed if the

young person is in need of special support or special guidance to counter the risk of addictive substance abuse, criminal activity or some other form of anti-social behaviour. This can either be voluntary or form an integral part of compulsory care. The social services committee makes the decision and appoints the liaison officer. The measure can also be an element in a youth contract, thus forming part of the youth care penalty.

Victim-offender mediation

The Mediation Act (2002:445) has been in existence since 2002. The Act is designed as framework legislation and is applicable if victim-offender mediation is organised at central government or municipal level. The Act defines mediation as the offender and victim coming together before an impartial mediator to talk about the offence. Mediation may be an option for offenders of all ages. For offenders under the age of 12, however, mediation may take place only if there are exceptional grounds. The purpose of mediation is primarily to give the offender greater insight into the consequences of the crime and to give the victim the opportunity to describe how he or she has been affected by the crime. It is also possible to allow the meeting to lead to some form of agreement between the parties. Mediation must be voluntary for both parties. Mediation is not a penalty in itself, but can to a certain degree be considered part of the penal system framework.

At the request of the Government, the National Council for Crime Prevention has been working since 2003 to support development of the country's mediation activities by allocating grants to mediation projects and by being responsible for training and methods development.

In order to make mediation available nationwide, as from 1 January 2008 municipalities will be responsible for ensuring that victim-offender mediation regulated under the Mediation Act is available when a crime has been committed by someone under the age of 21. The Government's assignment to the National Council for Crime Prevention should continue until this time.

In order to strengthen the status of victim-offender mediation in the penal system, the prosecutor, when considering whether to grant a waiver of prosecution, will take special account of the young person's willingness to help ensure that mediation takes place and, in cases where mediation is an option, the time limit for the decision on whether or not to prosecute may be exceeded.

Criminal procedure issues etc.

Shorter processing times in the police and prosecution services

Preliminary investigations of young people under 18 must be dealt with as a matter of urgency. In order to reduce processing times in the police and prosecution services in cases concerning young offenders, the requirement for urgent processing, which generally means that preliminary investigations should have been concluded and a decision on whether or not to prosecute should be made as soon as possible and at the latest six weeks from the day of notice of suspicion of crime, has been extended to apply to all crimes punishable by imprisonment.

Legal counsel for suspects under the age of criminal responsibility

For the sake of greater legal security, the court, following an application by the prosecutor or custodian, will be able to appoint legal counsel for the young person in a criminal investigation where the suspect is under 15 years of age and therefore under the age of criminal responsibility. There must, however, be exceptional grounds for this measure to be taken. In most cases of petty crime, there will probably be no need for legal counsel for suspects under 15. In investigations into very serious crimes such as manslaughter or other acts of gross violence, or when the investigation could lead to large claims for damages being made against the young person, he or she could however end up in a very vulnerable situation and be unable to take in the consequences of the investigation. In such cases, there may sometimes be reason to appoint legal counsel for the young person.

Photographs and fingerprints of suspects under the age of criminal responsibility

Not infrequently, young offenders commit crime as a group. In these cases, the police and prosecutors often have difficulty in identifying the perpetrators. A restricted possibility to take photographs and fingerprints even of suspects under 15 years of age in the investigation of crimes punishable by imprisonment will be introduced. It will only be possible to use the information in the current investigation. Fingerprint and identification registers must not, therefore, contain this information.

Judicial procedure

Finally, certain provisions on judicial procedure in cases involving young people will be amended. When a person under the age of 18 has been charged with a crime, the obligation to inform the custodian or other

person responsible for the young person's care and upbringing, as well as other persons involved in bringing up the young person at the time of the main hearing, will expressly apply at all levels of the court system.

Additional information on the new provisions

Further information on the new provisions can be found in the Government Bill *Ingripanden mot unga lagöverträdare* (Interventions with young offenders) 2005/06:165. The Bill is available (in Swedish only) on the Government website www.regeringen.se.



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Additional copies of the fact sheet can be ordered from the Swedish Ministry of Justice, tel +46 8 405 10 00. Fax +46 8 20 27 34.
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