

**UNIFORM LAW CONFERENCE OF CANADA
CRIMINAL SECTION RESOLUTIONS
August 2024**

Results of votes are listed as (Votes in Favour) – (Votes Opposed) – (Abstentions)

Alberta

AB2024-01

That Justice Canada, in consultation with the provinces and territories, examine sections 515(6) and 524 of the *Criminal Code* and consider law reform to clarify the meaning of “indictable offence” in the context of judicial interim release.

Carried: 29-0-0

AB2024-02

Sections 561 and/or 565 of the *Criminal Code* should be amended to clearly establish a time-limit on re-elections without the prosecutor’s written consent after a direct indictment has been preferred pursuant to s 577 of the *Criminal Code*.

Carried: 25-0-3

AB2024-03

That Justice Canada, in consultation with the provinces and territories, examine the *Criminal Code* with a view to determining whether it is advisable to introduce provisions related to the protection of Crown disclosure materials. This may include amending the *Criminal Code* to clarify legal responsibilities and court powers related to the protection of Crown disclosure materials, and/or to add an offence for improper use of disclosure materials by any person.

Carried: 24-0-4

British Columbia

BC2024-01

That Justice Canada, in consultation with the provinces and territories, review the *Criminal Code*, with a view to possible amendments to limit the availability of preliminary inquiries for sexual offences against children.

Carried as amended: 17-6-5

BC2024-02

That Justice Canada consider re-consolidating the *Criminal Code*.

Carried: 21-0-8

Canada

Canada – Canadian Bar Association

Can-CBA2024-01 / Can-ABC2024-01

That Justice Canada review, with a view of possible amendments, Part 6 of the *Youth Criminal Justice Act*, to clarify whether or not a court may, upon application, order access to records pertaining to a youth where no access period is specified under subsection 119(2).

Carried as amended: 22-0-7

Can-CBA2024-02 / Can-ABC2024-02

That Justice Canada review Part XXIII of the *Criminal Code*, with a view of possible amendments to incorporate a requirement for a *Gladue* or Impact of Race and Culture Assessment report when so ordered.

Defeated as amended: 8-15-6

Canada – Public Prosecution Service of Canada

Can-PPSC2024-01 / Can-SPPC2024-01

That the *Criminal Code* be amended to allow for a justice to amend the conditions of a police undertaking without requiring the accused be placed on a s. 515 release order.

Carried as amended: 29-0-0

Can-PPSC2024-02 / Can-SPPC2024-02

That Justice Canada review, in collaboration with provinces and territories, subsection 686(4) of the *Criminal Code* so that it better aligns with section 676 of the *Criminal Code* by (a) including reference to an order of a trial court for a stay of proceedings or the quashing of an indictment, and (b) providing for all necessary and reasonable remedies in those situations for an efficient and effective criminal justice system.

Carried as amended: 25-0-4

Can-PPSC2024-03 / Can-SPPC2024-03

That Justice Canada, in consultation with the Provinces and Territories, study the need to create new investigative measures in the *Criminal Code*, such as an investigative warrant, to expand the ability of law enforcement to investigate crime involving cryptocurrency and other digital assets.

Carried as amended: 25-1-0

Can-PPSC2024-04 / Can-SPPC2024-04

A. That Justice Canada study, in consultation with Indigenous partners, amend sections 493.2(a), 515(13), 718.04, 718.2(e), and 718.201 of the *Criminal Code* to replace “Aboriginal” with “Indigenous” in the English text, and sections 3 and 38 of the *Youth Criminal Justice Act* to replace “aboriginal young persons” with “Indigenous young persons” in the English text.

Withdrawn after discussion

B. That section 718.2 of the *Criminal Code* and section 38 of the *Youth Criminal Justice Act* be amended to require sentencing courts to consider the circumstances of, in addition to Indigenous offenders, Black offenders, and other populations who are overrepresented or disadvantaged in the criminal justice system.

Withdrawn after discussion

Nova Scotia

NS2024-01

That the *Criminal Code* be amended to permit a justice to endorse a witness warrant for the possible release from custody of the witness, in a manner analogous to section 499 of the *Criminal Code*.

Carried: 25-0-0

NS2024-02

That Justice Canada, in consultation with the provinces and territories, study the impaired driving certificate provisions in the *Criminal Code*, in particular to determine if the current criminal law disclosure regime adequately addresses the requirements for notice.

Carried as amended: 23-3-3

Ontario

ON2024-01

It is recommended that the *Criminal Code* be amended to criminalize the non-consensual distribution of deepfake sexual images (still and moving visual images that falsely depict in a reasonably convincing manner a person as being nude or exposing their sexual organs or anal region or engaged in explicit sexual activity).

Carried as amended: 28-0-1

ON2024-02

It is recommended that Justice Canada, in consultation with the provinces and territories, study amending the *Criminal Code* to more easily allow for the forfeiture and destruction of things, specifically electronic devices, believed to contain child sexual abuse material, where there are no charges and/or conviction in the matter. This will ensure that such material is not returned to the person from whom the device was seized, irrespective of whether that person is criminally charged or convicted.

Carried as amended: 20-5-3

ON2024-03

It is recommended that the *Criminal Code* be amended to provide for a review of a judicial interim release order made by a judge on a s. 525 review.

Carried as amended: 19-1-8

ON2024-04

It is recommended that the *Criminal Code* be amended to provide that a judge shall note on the indictment where the offence included violence used, threatened or attempted against an intimate partner.

Carried: 17-8-3

ON-CLA2024-01

That a ULCC working group be formed to make recommendations concerning the restriction of the publication of the name or other identifying information of an accused person, given the need to protect the privacy interests, dignity, security of the person and the presumption of innocence relating to that person, while recognizing public safety and other interests of justice.

Carried as amended: 24-4-1

Saskatchewan

SK2024-01

It is recommended that Parliament amends the parenthetical descriptions in ss 183 ‘offence’ (a) (xli), 487.04 ‘primary designated offence’ (a)(ix), 752 ‘primary designated offence’ (a)(vii) to include the offence of choking.

Withdrawn after discussion

SK2024-02

That Justice Canada review the relevant provisions of the *Youth Criminal Justice Act* (YCJA) to consider whether the youth bail provisions, in whole or in part, ought to apply to breaches of the supervision component of a custody and supervision order or deferred custody and supervision order.

Carried as Amended: 22-0-6

SK2024-03

- A. It is recommended that s. 276 of the Criminal Code be amended to include s. 162.1 in the list of enumerated offences.

Carried as Amended: 25-2-1

- B. It is recommended that the s. 278 working group also consider whether other offences, including s. 162.1, should be enumerated in ss 278.2 and 278.92

Carried as Amended: 27-1-0

Quebec

QC2024-01

We recommend adding the following to the list of circumstances considered aggravating in paragraph 718.2 a) of the *Criminal Code*: "evidence that the offence was committed in the presence of a person under the age of eighteen years".

Withdrawn after Discussion

QC2024-02

Under the *Tremblay* decision (2021 QCCA 1683), it is currently impossible to suspend a return order of property which is the proceeds of crime following an acquittal or a stay of proceedings, even though these may be necessary for the application of articles 462.37 and 462.38 *Criminal Code* at the end of an appeal.

At the invitation of the Court of Appeal of Quebec, it is suggested to modify the *Criminal Code*

in order to fill the legal gap surrounding the suspension of a return order in the context of an appeal of an acquittal or stay of proceeding.

Carried as amended: 28-0-1

QC2024-03

It is recommended to add a summary conviction mode of offence to section 423.1 of the *Criminal Code*

Carried as Amended: 31-1-4¹

QC2024-04

It is recommended that subsection 462.37(2.02) of the *Criminal Code* (C.C) be amended to add the following offences:

- Theft of a motor vehicle, section 333.1 C.C.
- Taking a motor vehicle or boat without consent, section 335 C.C.
- Robbery, when the property is a motor vehicle, section 343 C.C.
- Possession of property obtained by crime, when the property in question is a motor vehicle, section 354 C.C.
- Possession of property obtained by crime-trafficking, when the property in question is a motor vehicle, section 355.4 C.C.
- Bringing property obtained by crime into Canada, where the property is a motor vehicle, section 357 C.C.

Withdrawn after discussion

QC2024-05

That Justice Canada examines, in cooperation with the provinces and territories, the possibility of allowing more warrants or judicial authorizations to be obtained by way of telecommunications, including, in particular the search and arrest warrant provided for in subsection 199(1) of the *Criminal Code* and the arrest warrant for failure to appear – genetic analysis – provided for in subsection 487.0551(1) of the *Criminal Code*.

Carried as amended: 26-0-2

QC2024-06

It is recommended that Justice Canada, in collaboration with the provinces and territories, study the possibility of modernizing section 172 of the *Criminal Code*, notably regarding the place where the offence may be committed.

¹ This resolution was voted on as a jurisdictional vote

Carried as amended: 26-0-3

QC2024-07

It is recommended that subsection 7(4.1) of the *Criminal Code* be amended to clarify that its application is limited to situations where the enumerated offences are committed against a person under the age of 18. It is also recommended that sections 271 (sexual assault), 272 (sexual assault with a weapon, threats to a third party or causing bodily harm) and 273 (aggravated sexual assault) be added to the list of enumerated offences in this subsection.

Carried as amended: 29-0-0

REPORTS

Criminal Section Working Group Reports

Working Group on Section 490 of the Criminal Code

Be it resolved that:

1. The final report of the Working Group on Section 490 of the *Criminal Code* be accepted;

Carried: 25-0-0

2. The recommendations in the final report of the Working Group on Section 490 of the *Criminal Code* be approved.

Carried: 18-0-7

Working Group on Section 672.26 and Related Sections of the Criminal Code (juries and fitness hearings)

Be it resolved that:

1. The Status Report of the Working Group on section 672.26 and related sections of the *Criminal Code* be accepted; and,
2. The Working Group provide its next report to the Criminal Section at the 2025 annual meeting.

Carried: 23-0-0

Working Group on the Treatment of Animals in the Criminal Code

Be it resolved that:

1. The Status Report of the Working Group on the Treatment of Animals in the *Criminal Code* be accepted;
2. The Working Group will continue its review of the *Criminal Code*;
3. The Working Group will continue its work with the Joint Working Group on the Treatment of Animals in Canadian Law; and
4. The Working Group will endeavor to provide a final report at the 2025 annual meeting.

Carried: 26-0-0

Working Group on Statutory Exemptions to Mandatory Minimum Penalties of Imprisonment

Be it resolved that:

1. The Status Report of the Working Group on Statutory Exemptions to Mandatory Minimum Penalties of Imprisonment be accepted;
2. The Working Group will continue its work; and
3. The Working Group will endeavor to provide a Final Report at the 2025 annual meeting.

Carried: 27-0-0

Working Group on Sections 278.1-278.94 of the Criminal Code (“Records Regime” Provisions)

Be it resolved that:

1. The Status Report of the Working Group on Sections 278.1-278.94 of the *Criminal Code* be accepted;
2. The Working Group will continue its review of the 278.1-278.94 *Criminal Code* provisions; and
3. The Working Group will endeavour to provide a Final Report at the 2025 annual meeting.

Carried: 26-0-0