

**CRIMINAL SECTION**  
**RESOLUTIONS**

**1 – ALBERTA**

**ITEM 1**

**Business Records – Deletion of “not possible or reasonably practicable”**

Amend s. 30(3) of the *Canada Evidence Act* to delete the requirement that it is “not possible or reasonably practicable” to produce the original business record.

**(Withdrawn – See Canada Item 1)**

**ITEM 2**

**Reverse Onus Bail for Breach of Conditional Sentence (as amended)**

To amend the *Criminal Code* of Canada to incorporate the provisions of s. 742.6(2) into s. 515(6) of the *Criminal Code*.

**(Carried: 14-4-15)**

**ITEM 3**

**Disposition of Seized Property – Not Found to Have Been Obtained by Commission of Offence**

Amend the *Criminal Code* to include where all trial proceedings requiring evidence have been concluded and the seized property is not found to have been obtained by the commission of an offence that there may be a disposition of the property.

**(Carried: 17-5-13)**

**ITEM 4**

**Bank Records – Search Warrant to Authorize Production of Documents**

Amend s. 29(7) of the *Canada Evidence Act* to permit a search warrant for the production of the documents not just a search of the premises and copies of the documents.

**(Withdrawn: To be Brought Back Next Year)**

**ITEM 5**

**Intermittent Sentence – For Combined Sentence of Fine, Imprisonment and/or Probation**

It is recommended that section 731(1)(b) be amended to allow an intermittent sentence (which includes probation) and a fine.

**(Carried: 21-2-10)**

**ITEM 6**

**Production Warrant to Authorize Orders for Production of Documents or Exhibits (as amended)**

Enact a new provision in the *Criminal Code* allowing the court to judicially authorize a person to locate and produce to a peace officer documents or other exhibits. The application would be made on essentially the same grounds and in the same way as a warrant under section 487.

**(Defeated: 10-11-13)**

**ITEM 7**

**Publication Ban – “newspaper or broadcast” to Include Internet**

Where there is a provision in the *Criminal Code* that the information shall not be ‘published in any newspaper or broadcast’ that this include the Internet.

**(Carried: 32-0-6)**

**ITEM 8**

**Failure to Appear (as amended)**

1. Amend the *Criminal Code* to make failure to appear for trial or preliminary inquiry an aggravating factor for an offence contrary to s. 145(2) of the *Criminal Code*.

**(Defeated: 3-27-6)**

2. Amend the *Criminal Code* to include the wording “whether or not he is charged jointly” to s.803 of the *Criminal Code*.

**(Carried: 10-8-20)**

3. Amend the *Criminal Code* to require the court, upon application by the prosecutor or the accused to receive the evidence of any witness who has attended a preliminary inquiry or trial which cannot proceed because the accused has failed, without reasonable excuse, apparent at the time, to appear. Evidence received in this fashion should be made admissible in evidence at the trial or preliminary inquiry, as the case may be. The court may require the witness whose evidence has been received to re-attend for the purpose of further examination.

**(Defeated: 4-22-13)**

## **2 – BRITISH COLUMBIA**

### **ITEM 1**

#### **Re-election on Retrial Ordered by Supreme Court of Canada**

That ss. 686(5.1) and (5.2) be amended by adding the words “or Supreme Court of Canada” after the reference to Court of Appeal.

**(Carried: 35-0-1)**

### **ITEM 2**

#### **DNA Databank – Retention of Samples from Persons Found Not Criminally Responsible on Account of Mental Disorder**

That the words “or found not criminally responsible on account of mental disorder” be added to subparagraphs 487.051(1) and 487.052(1) after the words “convicted”.

**(Withdrawn: See Ontario Resolutions)**

### **ITEM 3**

#### **Arrest of Accused on Interim Release on Allegation of Commission of an Indictable Offence (as amended)**

That paragraph 524(1)(b) be amended by adding the words “or summary conviction offence” after the words “has committed an indictable offence”.

**(Carried: 23-0-10)**

**ITEM 4**

**30 and 90 Day Bail Reviews**

That section 525 be amended to change the time periods for mandatory review of detention where trial is delayed to 180 days and that a new parallel section be created permitting accused individuals to apply for a review of detention where trial is delayed for 30 days on summary conviction matters or 90 days on indictable matters.

**(Carried: 22-2-13)**

**ITEM 5**

**Conditional Sentences for Impaired Driving Causing Bodily Harm or Death (as amended)**

That section 255 be clarified to provide that minimum sentences on second and subsequent offences apply to all impaired driving offences, including impaired driving causing bodily harm and impaired driving causing death, so that conditional sentences are not available for these offences.

**(Carried: 17-8-13)**

**ITEM 6**

**Fingerprint Powers (as amended)**

That the *Identification of Criminals Act* be expanded to permit fingerprinting for summary conviction offences under the *Criminal Code*.

**(Carried: 25-8-5)**

**3 – MANITOBA**

**ITEM 1**

**Credit Card Offences – Proceeds of Crime – Definition of Enterprise Crime Offence**

That s. 462.3 be amended to include section 342 in the definition of “Enterprise crime offence”.

**(Withdrawn)**

**ITEM 2**

**DNA – Robbery as “primary designated offence”**

That section 487.04 be amended to re-classify robbery as a primary designated offence.

**(Withdrawn: See Ontario Resolutions)**

**ITEM 3**

**Impaired Driving Causing Bodily Harm or Death – Mandatory Prohibitions (as amended)**

That the *Criminal Code* be amended to require a driving prohibition for impaired driving causing bodily harm and impaired driving causing death in accordance with s. 259(1) rather than being discretionary under s. 259(2).

**(Carried: 24-0-11)**

**ITEM 4**

**Break & Enter as Dual Procedure Offence**

That s. 348 of the *Criminal Code* be amended to make Break and Enter a dual procedure offence and that the maximum penalty for a conviction on summary conviction be 18 months.

**(Carried: 20-9-13)**

**ITEM 5**

**Robbery With Firearm or Imitation – Minimum Sentence**

That section 344(a) be amended to provide that the minimum sentence is required whenever a firearm or imitation is used in the commission of a robbery.

**(Defeated: 8-19-14)**

**ITEM 6**

**Forfeiture of Vehicles Used in Drive-By Shootings**

That the *Criminal Code* be amended to give the court discretion to order the forfeiture of a vehicle in any situation where a person is convicted of an offence and the court is satisfied that during the commission of that offence a firearm was discharged from a motor vehicle.

**(Withdrawn: After Discussion)**

**4 – NEW BRUNSWICK**

**ITEM 1**

**False Alarm of Explosive Device**

That the federal government amend s. 437 of the *Criminal Code* to include reference to an “alarm by explosive device” or legislate a section similar to s. 437 relating to threats by bomb or explosive devices.

**(Carried: 29-0-11)**

**5 – NOVA SCOTIA**

**ITEM 1**

**Sentencing – Aggravating Factor – Assault on Pregnant Woman**

Amend s. 718.2 to include as a deemed aggravating circumstance a case where there is evidence that the offender, in committing the offence, knowingly abused a pregnant woman.

**(Defeated: 4-22-15)**

**ITEM 2**

**Prohibition on Unsupervised Contact with any Person Under 14**

Amend s. 161(1) to include a discretionary order prohibiting an offender from having any unsupervised contact with a person under the age of 14.

**(Carried: 16-8-18)**

**ITEM 3**

**Computer and Internet Prohibition Orders – Regarding Offences of Pornography (as amended)**

Add a new section to the *Criminal Code* providing for a discretionary order prohibiting an offender found guilty of an offence under s. 163.1 from accessing an Internet service, except for purposes of education or employment, where the offence was committed through the use of this technology. In the case of a first offence, such an order would have a duration of 2 years; in the case of a subsequent conviction the order would provide for a 5 year prohibition.

**(Carried: 14-9-15)**

**ITEM 4**

**Authorization for Bodily Samples for DNA Analysis from Persons Found Dangerously Mentally Disordered**

Amend s. 487.055 to provide for an authorization for the taking of bodily substances for DNA analysis from a person found by a Court to be a dangerously mentally disordered accused.

**(Withdrawn: See Ontario Resolutions)**

**ITEM 5**

**Authorization for Bodily Samples for DNA Analysis for Person Found Not Criminally Responsible on Account of Mental Disorder**

Amend ss. 487.051 and 487.052 to provide for an order authorizing the taking of bodily samples for DNA analysis in respect of a person found not criminally responsible in relation to a designated offence on account of mental disorder under s. 672.34.

**(Withdrawn: See Ontario Resolutions)**

**ITEM 6**

**Securing Attendance of Offender to Provide Bodily Substance for DNA Analysis**

Amend s. 487.051 to provide that a Court making an order under that section may issue a summons requiring a person to report at a place, date and time set out in the summons in order to submit to the taking of samples of bodily substances for the purpose of DNA analysis.

**(Withdrawn: See Ontario Resolutions)**

**ITEM 7**

**Blood Samples – Extension of Applicability of Presumption to 4 Hours (as amended)**

In circumstances where an accused has been involved in a motor vehicle accident and it is not reasonably practicable to obtain blood samples within 2 hours of driving, amend s. 258(1)(d)(ii) to extend the time frame for the benefit of the presumption from two hours to four.

**(Carried: 12-9-21)**

**6 – ONTARIO**

**ITEM 1**

**DNA – Foreign Murder Convictions**

That the *Criminal Code* be amended to allow for the retroactive sampling of an offender who has committed one murder in Canada and another murder in another country.

**(Withdrawn)**

**ITEM 2**

**DNA – Warrants to Arrest Retroactive Offenders – Without Summons (as amended)**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to the *Criminal Code* to allow for the granting of a warrant in the first instance for the arrest of a retroactive offender where the police can show a justice that there are reasonable grounds to believe that the offender may flee the jurisdiction or otherwise not comply with a summons. Also to consider amending the *Criminal Code* to allow for a warrant for the arrest of an offender who is evading service of the summons.

**(Carried: 22-4-13)**

**ITEM 3**

**DNA – Sexual Offences Definition to Include Historical Offences**

That section 487.055(3) be amended so as to include all sexual assaults (regardless of section number) and all offences of indecent assault male, indecent assault female and gross indecency in the definition of sexual offences.

**(Withdrawn)**

**ITEM 4**

**DNA – Foreign Sexual Assault Convictions (Retroactive Sampling)**

Amend section 487.055(3) to allow for the consideration of foreign convictions for the designated offences and amend section 487.055(2) to allow for proof of the record by means other than a fingerprint identification form or certificate of a Canadian court.

**(Withdrawn)**

**ITEM 5**

**DNA – Categories of Retroactive Offenders**

- A) That the section be amended so that those convicted of one murder be eligible for retroactive applications for DNA sampling.
- B) That all dangerous offenders and dangerous sexual offenders be eligible for retroactive applications for DNA sampling.
- C) That the definition of sexual offences be amended so as to explicitly include all break and enters where a “sexual offence” has been committed.
- D) That all multiple sex offenders currently serving a sentence be eligible for retroactive applications for DNA sampling.

**(Withdrawn)**



## ITEM 6

### **DNA – Sexual Offences Definition (Current Offences)**

That section 487.055(3) be amended to include all of these\* offences and their historical antecedents. Also the term “sexual offence” should be replaced with the term “designated retroactive offence.”

\* The offences referred to are as follows:

- Sexual exploitation of a person with a disability (s. 153.1)
- Child pornography (s. 163.1)
- Parent or guardian procuring sexual activity (s. 170)
- All pimping provisions (s. 212)
- Bestiality (s. 160)
- Breach of probation order (s. 161)
- Exposure to persons under 14 (s. 173(2))
- Breach of sexual offence peace bond (s. 810.11, 811)
- Criminal harassment (s. 264)
- Conspiracy to commit murder (s. 465(1)(a))
- Accessory after the fact to murder (s. 240)
- Attempted murder (s. 239)

**(Withdrawn)**

## ITEM 7

### **DNA – Serious Sexual Offences Should Be Included In Retroactive Category (as amended)**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to the *Criminal Code* to section 487.04 to include the offences of indecent assault female, indecent assault male, and gross indecency **on a priority basis.**

**(Carried: 30-4-8)**

**ITEM 8**

**DNA – Additional Offences As Designated Primary Offences (as amended)**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to the *Criminal Code* that section 487.04 be amended to include certain offences as designated offences, and to consider an amendment to section 487.04 to change some currently secondary offences to primary. Amendments to the DNA warrant provisions may be required.

**(Carried: 23-2-13)**

**ITEM 9**

**DNA – Person Not Criminally Responsible by Reason of Mental Disorder Should Be Subject To DNA Sampling/Data Bank – Retrospectively, Prospectively And Retroactively (as amended)**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to the *Criminal Code* to subsections 487.051(1), and 487.052(1), and paragraphs 487.055 (1)(b) and (1)(c) to include those individuals found not criminally responsible by reason of mental disorder **on a priority basis**.

**(Carried: 32-4-5)**

**ITEM 10**

**DNA – Compelling Appearance – ‘Subsequent Orders’ (as amended)**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to the *Criminal Code* to sections 487.04 to 487.091 to clarify the method of compelling appearance for the purpose of the retrospective and prospective DNA Data Bank hearings.

AND to clarify and expand the jurisdiction to make a subsequent DNA Data Bank order **on a priority basis**.

**(Carried: 29-3-6)**

**ITEM 11**

**DNA – Enforcement With Conditions Of Order (as amended)**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to the *Criminal Code* to provide mechanisms to require the offender to appear for the purposes of sections 487.051 and 487.052 **on a priority basis**.

**(Carried: 33-0-5)**

**ITEM 12**

**DNA – Data Bank – Clarification of Appeal Routes and Powers of Appeal Courts**

Section 487.054 should be amended to clarify appellate routes and powers.

**(Withdrawn)**

**ITEM 13**

**DNA – Results of Appeal Not to Preclude Order for Other Offences**

Section 487.053 be amended to ensure that if an appeal is successful, an order on other eligible changes will be available.

**(Withdrawn)**

**ITEM 14**

**DNA – Sealing Orders And Assistance Orders To Apply To DNA Orders (as amended)**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to the *Criminal Code* to section 487.3 and section 487.02 to apply to DNA Data Bank orders.

**(Carried: 25-0-13)**

**ITEM 15**

**DNA – Sentence Calculation in Retroactive Cases – Consecutive/Concurrent**

The *Criminal Code* should be amended to clarify that offenders who are serving concurrent and consecutive sentences for Data Bank and non-Data Bank offences are covered under the retroactive legislation.

**(Withdrawn)**

**ITEM 16**

**DNA – Young offenders**

Amend section 487.053 of the *Criminal Code* and sections 40 – 46 of the *Young Offenders Act* to ensure that young offenders are effectively captured in the DNA Data Bank.

**(Withdrawn)**

**ITEM 17**

**Maximum Fines for Summary Conviction Offences**

Amend section 787(1) of the *Criminal Code* to increase the maximum punishment available for a summary conviction offence to \$10,000.

**(Carried: 18-11-10)**

**ITEM 18**

**Sentences for Impaired Driving Causing Bodily Harm or Death**

Amend subsections 255(2) and (3) to make it clear that mandatory punishments set out in section 255(1) apply to sentences imposed for those offences.

**(Withdrawn – see Manitoba item 3)**

**ITEM 19**

**DNA - Expanding the Categories of Offences Captured under Section 487.055**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to the *Criminal Code* to expand the categories of offences captured under section 487.055 of the *Criminal Code*, to include Dangerous Offenders who have not been so declared under Part XXIV, of the *Criminal Code*, and those offenders convicted of Break and Enter and commit a sexual offence, **on a priority basis**.

**(Carried: 25-3-9)**

**ITEM 20**

**DNA - Expanding the Definition of “Sexual Offence” In Section 487.055**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to the *Criminal Code* to clarify that “sexual offence” in section 487.055(3) includes the predecessors of the same offences.

AND Also, to consider an amendment to section 487.055(3) to include historical sex offences : namely indecent assault male, indecent assault female and gross indecency **on a priority basis.**

**(Carried: 29-3-5)**

**ITEM 21**

**DNA - Section 487.053 Concerns**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to the *Criminal Code* to address the problem of an offender who has been convicted of a second designated offence while an appeal of an earlier conviction and DNA Data Bank order is pending or possible.

**(Carried: 31-2-5)**

**ITEM 22**

**DNA - Clarification of Retention Periods Regarding Young Offenders**

That the Federal Government, in consultation with the provinces and territories and with other interested stakeholders, consider an amendment to relevant Federal legislation to ensure that the DNA profile of a Y.O. presently in the DNA Bank who commits a subsequent offence as an adult but within the general period for the retention of all Y.O. records be retained in the Data Bank.

**(Carried: 27-2-9)**

**ONTARIO - CRIMINAL LAWYERS' ASSOCIATION**

**ITEM 1**

**Judicial Interim Release Hearings within a Reasonable Period of Time**

That a new subsection be added to s. 515 of the *Criminal Code* in the following terms:  
A hearing at which either the prosecutor or accused is required to show cause pursuant to this section shall be completed as soon as practicable and, in any event, within five days of the accused's initial appearance before a justice, unless the accused consents to a further delay.

**(Defeated: 5-24-14)**

**ITEM 2**

**Order Denying Access to Information Used to Obtain a Search Warrant (as amended)**

That s. 487.3 of the *Criminal Code* be reviewed by Justice Canada with a view to simplifying the procedure with respect to the sealing or unsealing of documents.

**(Carried: 31-3-6)**

**ITEM 3**

**Pre-trial Conferences by Telephone**

That s. 625.1 of the *Criminal Code* be amended to provide specifically that pretrial conferences may be conducted by telephone conference.

**(Withdrawn)**

**7 – QUEBEC**

**ITEM 1**

**DNA – Amend Definition of Designated Offence**

Amend s. 487.04 of the *Criminal Code* to:

- 1) include the offence referred to in s. 344 of the *Criminal Code* (robbery) in the primary offences category;
- 2) include the offence referred to in s. 244 of the *Criminal Code* (criminal harassment) and that referred to in s. 264.1 (uttering death threats) in the secondary offences category.

**(Withdrawn: See Ontario Resolutions)**

**ITEM 2**

**Special Warrants/Restraint Orders – Right of Appeal**

That the *Criminal Code* be amended to provide for an immediate right of appeal to the Court of Appeal of the decision referred to in s. 462.34 revoking the restraint order or the special search warrant and ordering the return of the property.

**(Withdrawn After Discussion)**

**ITEM 3**

**Bail – Variation of Undertaking (as amended)**

1. That ss. 499(2) and 503(2.1) of the *Criminal Code* be amended so that, where a person is arrested in connection with an offence referred to in s. 161 of the *Criminal Code*, this person can be released if they undertake to abide by the conditions set down in paragraph (a) of this section.

**(Carried: 21-6-12)**

2. That paragraphs 499(2)(h) and 503(2.1)(h) of the *Criminal Code* be amended so that the conditions that may be established also protect any other designated person.

**(Carried: 29-0-8)**

**ITEM 4**

**Breach of Probation Order**

That paragraph 732.1(3)(a) of the *Criminal Code* be amended to specify that the person on probation must report to the probation officer or the person designated by the probation officer.

**(Defeated: 7-25-8)**

**ITEM 5**

**Prohibition on Communication – to be Referred to in s. 145(3) (as amended)**

That s. 145(3) of the *Criminal Code* be amended to include in it ss. 516(2) of the *Criminal Code*.

**(Carried: 30-0-7)**

**ITEM 6**

**Bail – Variation of Undertaking**

That the procedure that consists in varying the conditions of release by mutual consent of the parties, provided for in s. 515.1 of the *Criminal Code*, be reviewed having regard to s. 515 of the *Criminal Code*.

**(Carried: 34-1-4)**

**8 – SASKATCHEWAN**

**ITEM 1**

**Assessment Orders – Dangerous/Long Term Offenders**

To amend s. 752.1 to provide that a judge may order the assessment and may remand the offender for the assessment if satisfied the assessment will provide relevant evidence in an application under s. 753 or 753.1.

**(Defeated: 7-12-19)**

**ITEM 2**

**Territorial Jurisdiction of Courts (as amended)**

That the *Criminal Code* be amended to state that where the offence/s was committed in Canada but the precise territorial jurisdiction cannot be ascertained that the matter may be tried in the jurisdiction where the offender is. And that the jurisdiction can hear and try the matter/s as if they occurred within that jurisdiction.

**(Carried: 17-6-18)**

**ITEM 3**

**Property Offences – Elimination of Value of Loss as Essential Element**

Amend ss. 334, 355, 362, 380 and 430 to eliminate the value of loss as an essential element of the offence to be proven, and to make those offences Crown option or hybrid offences with the maximum imprisonment period of 18 months on a summary conviction proceeding.

**(Withdrawn)**



**9 – CANADA**

**ITEM 1**

**Admissibility of Business Records (as amended)**

That s. 30 of the *Canada Evidence Act* be reviewed and amended to clarify and simplify the procedure required to ensure the admissibility of business records in Canadian proceedings.

**(Carried: 35-0-4)**

**ITEM 2**

**Restitution of Property Seized by a Public Officer**

That s. 489.1 of the *Criminal Code* be amended so that it applies to public officers as well as peace officers.

**(Withdrawn)**

**ITEM 3**

**Fingerprinting Upon Arrest**

That consideration be given to amending s. 2 of the *Identification of Criminals Act* to ensure that suspects who have been arrested but not yet been charged with an indictable offence can be fingerprinted and photographed, etc. where the police intend to lay charges or to seek charge approval.

**(Carried: 24-5-9)**

**CANADIAN BAR ASSOCIATION – CRIMINAL JUSTICE SECTION**

**ITEM 1**

**Non-Publication Ban Order re: Fitness to Stand Report**

That s. 672.2 of the *Criminal Code* be modified to allow a judge to order that the contents of a fitness to stand trial assessment be subject to a non-publication ban on request of either the accused or the crown. The order should allow a non-publication ban for both the contents of the written report and/or *viva voce* testimony in court.

**(Carried: 32-0-8)**