

**UNIFORM LAW CONFERENCE OF CANADA
CRIMINAL SECTION RESOLUTIONS
August 2018**

ALBERTA

Alberta – 01

That Justice Canada examine whether height and weight should be included as “other measurements” approved by order of the Governor in Council, pursuant to section 2 of the *Identification of Criminals Act*.

Carried: 19-0-10

Alberta – 02

That section 57 of the *Youth Criminal Justice Act* be amended to include conditional discharges as sentences that may be transferred between territorial divisions.

Carried: 25-0-3

Alberta – 03

That the *Youth Criminal Justice Act* be amended to prevent a young person from receiving credit toward a custodial sentence for any period of time during which they are unlawfully at large.

Carried: 27-0-2

Alberta – 04

That the *Youth Criminal Justice Act* be amended to allow for a youth justice court judge to review a release order made by a justice who is not a youth justice court judge for the purpose of varying the release order.

Carried as amended: 29-0-0

Alberta – 05

The Criminal Section of the Uniform Law Conference of Canada expresses support for clause 167(2) of Bill C-59, tabled in the first session of the 42nd Parliament, creating a records access period in the *Youth Criminal Justice Act* for recognizances entered into under sections 83.3, 810, 810.01, 810.011, 810.02 and 810.2 of the *Criminal Code*.

Carried as amended: 27-0-0

BRITISH COLUMBIA

British Columbia – 01

That the Department of Justice, in consultation with the provinces and territories, review section 672.11 of the *Criminal Code* with a view to amending the provision to include a ban similar to the ban contained in section 517 of the *Criminal Code* (i.e. a publication ban on the evidence taken, the information given, or the representations made during an application for an assessment order under section 672.11 of the *Criminal Code* as well as the reasons, if any, given or to be given by the justice).

Carried as amended: 27-0-1

British Columbia – 02

That Justice Canada review section 4.1 of the *Controlled Drugs and Substances Act* (CDSA) and section 8.1 of the *Cannabis Act* to clarify the circumstances in which people who are present at the time of a 911 response to an overdose, are to be exempt from liability for breaches other than breaches of a pretrial release, probation order, conditional sentence or parole stemming from a subsection 4(1) CDSA or 8(1) *Cannabis Act* offence.

Carried as amended: 29-0-0

British Columbia – 03

That section 488.01 of the *Criminal Code* be amended to exempt from the special process described in that section, applications where the information which formed the basis of the application was provided by a journalist and where there is no journalistic source to protect.

Carried as amended: 27-0-1

British Columbia – 04

That subsection 753.3(1) of the *Criminal Code* be added to subsection 515(6) in order to place the onus on the accused to show cause as to why their detention in custody is not justified.

Carried: 10-7-12

British Columbia – 05

That section 487.051 of the *Criminal Code* be amended to provide that: where an order made under subsection (4) remains unexecuted, the judge who made the order, or another judge of the same or equivalent court, may issue a summons to appear to allow samples of bodily substances to be taken.

Carried as amended: 19-0-9

MANITOBA

Manitoba – 01

To amend Part XXIII of the *Criminal Code* to allow for the court to make stand-alone restitution orders when offences are dealt with by way of Alternative Measures under section 717.

Withdrawn following discussion

NEW BRUNSWICK

New Brunswick – 01

Amend section 531 of the *Criminal Code* to remove the reference to the Province of New Brunswick.

Carried: 25-0-0

ONTARIO

Ontario – 01

That the Criminal Section of the Uniform Law Conference of Canada express support for clause 166 of Bill C-59, tabled in the 1st session of the 42nd Parliament, amending paragraphs 67(1)(c) and 67(3)(c) of the *Youth Criminal Justice Act* so as to provide a young person charged with murder, who was between the ages of 14 and 17 at the time of the offence, with an election as to mode of trial regardless of whether the Attorney General is seeking an adult sentence against the young person.

Carried as amended: 28-0-0

Ontario – 02

That Justice Canada, in consultation with the provinces and territories, examine options for amending the *Youth Criminal Justice Act* to reform the procedure applicable in situations where two or more young persons are jointly charged and the Attorney General is seeking an adult sentence against at least one but not all of them. The examination should consider, amongst other things, the negative consequences of a multiplicity of proceedings and the interests of the young persons.

Carried as amended: 26-0-1

Ontario – 03

That Justice Canada and Public Safety Canada, in consultation with the provinces and territories, review the definition of “antique firearm” in subsection 84(1) of the *Criminal Code*, as well as the *Regulations Prescribing Antique Firearms* (SOR 98-464), in the context of a broader review of the regulation of firearms exempted from the firearms offence regime in Part III of the *Criminal Code*, with a view to improving public safety.

Carried as amended: 27-0-1

Ontario – 04

That section 110 [Discretionary Prohibition Order] of the *Criminal Code* be amended to enable a court to make a firearms prohibition order in respect of a person who has been found guilty of an offence in the commission of which violence against an animal or bird was used, threatened or attempted.

Carried: 23-0-6

Ontario – 05

The Criminal Section of the ULCC strongly recommends that in the broader context of sentencing reform, priority be given to the review of mandatory minimum penalties to promote greater judicial discretion in sentencing. This is particularly important in the context of Aboriginal offenders.

Carried as amended: 25-3-1

QUEBEC

Quebec – 01

Repeal section 151 of the *Youth Criminal Justice Act* [Evidence of a child or young person] to eliminate the disparity of treatment of youth witnesses that results from the dual regime of section 16.1 of the *Canada Evidence Act* and section 151 of the *Youth Criminal Justice Act*.

Carried: 20-1-8

Quebec – 02

Amend the French version of subsection 486.2(2) of the *Criminal Code* [Other witnesses] to spell out the procedure for conducting the hearing under subsection 486.2(4) to ensure that the witness can testify

outside the court room or behind a screen or other device that would allow the witness not to see the accused, in accordance with the English version.

Carried as amended: 27-0-0

Quebec – 03

Amend section 487.11 [Where warrant not necessary] of the *Criminal Code* to add a reference to subsection 492.1(2) of the *Criminal Code*.

Withdrawn because of similar resolution Can-PPSC2018-02

Quebec – 04

Amend paragraph 518(1)(d.1) [Inquiries to be made by justice and evidence] of the *Criminal Code* such that the justice may receive evidence obtained by the use of a video camera or other similar electronic device, without requiring the notice in subsection 189(5) [Notice of intention to produce evidence], in the same manner as an intercepted private communication under Part VI.

Carried as amended: 23-0-5

Quebec – 05

Amend section 669.2 of the *Criminal Code* [continuation of proceedings] so that a judge, provincial court judge, justice or other person who is a summary conviction court and who recommences a trial under subsection 669(3) of the *Criminal Code* [continuation of proceedings – if no adjudication made] may admit into evidence a transcript and/or audio recording of any testimony already given unless a party (the accused or the prosecutor) demonstrates that it would be contrary to the interest of justice.

Carried as amended: 20-1-6

Quebec – 06

Amend subsection 732(2) of the *Criminal Code* [Application to vary intermittent sentence] so that a court that has imposed an intermittent sentence can change the times when the sentence must be served by adding a mechanism similar to that provided for in paragraph 732.2(3)(a) of the *Criminal Code* [Changes to probation order].

Carried: 29-0-0

CANADA

Canadian Bar Association (CBA)

CBA – 01

That the *Criminal Code* be amended to allow an accused to elect or re-elect as the case may be, to have a judge-alone trial for section 469 offences and that section 568 of the *Criminal Code* be amended to apply to elections and re-elections of judge-alone trials for section 469 offences.

Carried as amended: 17-4-6

CBA – 02

That Public Safety Canada review the *Corrections and Conditional Release Regulations* and its related directives to determine whether the vulnerability arising from the mental illness of offenders is being appropriately assessed in classifying inmates.

Carried as amended: 26-0-1

CBA – 03

That paragraph 487(1)(a) of the *Criminal Code* be reworded to clearly reflect the “reasonable grounds to believe” standard.

Carried: 24-2-2

CBA – 04

That Part XXIII of the *Criminal Code* be amended to introduce a principle of restraint in sentencing that recognizes the overrepresentation of vulnerable populations in addition to Indigenous people in the criminal justice system.

Withdrawn after discussion

CBA – 05 (Floor resolution)

A working group should be formed to review section 487 of the *Criminal Code* (information for search warrant) and examine how this investigative power should be modernized, taking into account new technologies, the *Canadian Charter of Rights and Freedoms* and relevant national and international developments. At the direction of the working group, it will report back to the Section with either an interim or final report at the next conference.

Carried: 28-0-1

Public Prosecution Service of Canada (PPSC)

PPSC – 01

That the *Criminal Code* be amended to allow a peace officer to remove a person serving a sentence of imprisonment or detained in pre-trial custody for the purpose of executing an arrest and carrying out the powers found in Part XVI of the *Criminal Code*.

Carried as amended: 19-4-4

PPSC – 02

That section 487.11 of the *Criminal Code* be amended to include subsection 492.1(2) (warrant for tracking device – individuals) and section 492.2 (transmission data recorder warrant), allowing the exercise of the powers described therein without a warrant under exigent circumstances.

Carried as amended: 24-0-4

REPORTS

Criminal Section Working Group Reports

Working Group on Telewarrants

BE IT RESOLVED THAT:

1. the status report of the telewarrant working group be accepted; and
2. the working group continue its work and report back to the Criminal Section at the 2019 meeting.

Carried: 29-0-0

Working Group on Section 490 of the Criminal Code

BE IT RESOLVED THAT:

1. the status report of the working group on section 490 of the *Criminal Code* be accepted; and
2. the working group continue its work and report back to the Criminal Section at the 2019 meeting.

Carried: 27-0-0

Working Group on Witness Confrontation and Section 9 of the Canada Evidence Act

THAT the report of the Working Group be accepted;

THAT the recommendations in the Report be approved;

THAT the Report be shared with the Civil Section of the Conference.

Carried: 27-0-1

Joint Working Group Reports

Working Group on Criminal Record Checks

THAT the report of the working group be accepted; and

THAT the Uniform Police Records Checks Act and commentaries be adopted and recommended to the jurisdictions for enactment, subject to the direction of the Conference.

Carried: 6 abstentions