

REPORT OF THE FEDERAL JURISDICTIONAL REPRESENTATIVE

Uniform Law Conference of Canada Criminal Section Charlottetown, Prince Edward Island, August 21- 25, 2023

Introduction

It is an honour to present the Annual Report of the Federal Jurisdictional Representative to the Criminal Section of the Uniform Law Conference of Canada (ULCC), at its 105th meeting, which was held in Charlottetown, Prince Edward Island, August 21-25, 2023.

Part I highlights federal-provincial-territorial (FPT) developments of interest to ULCC. While Part III examines Parliament's criminal law reforms since ULCC's last meeting in August 2022, Part II provides a status update of ULCC resolutions over the past five years, in keeping with Rule 8 of the Criminal Section [Rules of Procedure](#).

Part I - FPT DEVELOPMENTS OF INTEREST TO ULCC 2022-2023

FPT Ministers Responsible for Justice and Public Safety

The annual meeting of FPT Ministers responsible for Justice and Public Safety took place from October 12-14, 2022 in Dartmouth, Nova Scotia. No public documents were made available during that meeting and so no update on the deliberations can be provided.

A special meeting of FPT Ministers responsible for Justice and Public Safety took place on March 10, 2023 in Ottawa, Ontario. The purpose of the meeting was to discuss Canada's bail system. During that meeting, Ministers agreed that the bail system functions appropriately in most cases but that legislative and non-legislative action was needed to ensure that the objectives of the bail system are being met. The federal government committed to legislative reform to target repeat violent offending. This commitment was subsequently implemented when the Minister of Justice introduced Bill C-48 (discussed below) on May 16, 2023.

FPT Coordinating Committee of Senior Officials - Criminal Justice (CCSO)

Through its broad network of working groups, CCSO has responsibility for analysis and recommendations on criminal justice policy issues that are of joint concern to the FPT governments. While its work remains confidential, CCSO takes particular interest in the resolutions adopted by the ULCC Criminal Section. Like Justice Canada, CCSO respects and monitors resolutions, as well as Working Group Reports from the ULCC Criminal Section, which is lauded for its unique composition, bringing together as it does criminal law experts from the defence bar and the Crown, as well as legal scholars and members of the judiciary. Moreover, its delegates includes representatives of a number of reputable legal organizations, including the Barreau du Québec; the Canadian Association of Provincial Court Judges (CAPCJ); the Canadian Bar Association (CBA); the Canadian Council of Chief Judges (CCCJ); the Canadian Council of Criminal Defence Lawyers (CCCDL); the Court of Quebec; the Criminal Defence Advocacy Society (CDAS); the Criminal Defense Lawyers Association of

Manitoba (CDLAM); the Criminal Lawyers Association (CLA); the Public Prosecution Service of Canada (PPSC) and the Quebec Defense Lawyers Association (QDLA)

Part II - STATUS OF ULCC RESOLUTIONS

As required by Rule 8, the federal jurisdictional representative shall report on the status of the resolutions carried in prior years. ULCC resolutions are adopted by majority vote by a show of hands. Resolutions may also be amended, withdrawn and on rare occasions defeated. A chart containing all the resolutions adopted by the Criminal Section since 1983 can be found on the Uniform Law Conference of Canada website (<https://www.ulcc-chlc.ca/>).

During the past five years (2017-2022), the Criminal Section considered 114 resolutions. However, as illustrated in Table 1 below, Status of ULCC Resolutions 2017-2022, one resolution (Can-CAPCJ2021-01) was only partially addressed in Bill S-4 and Justice Canada is continuing to review and examine how remote proceedings are working. As a result, this resolution is considered in two categories, namely legislative action and resolutions under active consideration by Justice Canada. Thus, in total there are 114 resolutions under consideration during this period.

Table 1 Status of ULCC Resolutions 2017-2022

Status	Resolutions	Total
CCSO-FPT	MB2021-01; QC2018-06; AB2017-03; NB2017-02; and Can-CAPCJ2017-03.	5
Firearms classification review	ON2018-03; ON2018-04; ON2017-02; and BC2016-05.	4
Legislative Action	MB2022-03; ON2021-02; Can-CAPCJ2021-01 ^[1] ; Can-CAPCJ2021-02; Can-CBA2021-03; AB-CAPCJ2019-01; QC2019-01; AB2018-05; ON2018-01; ON2018-05; MB2017-01; NB2017-01; CAN-CBA2017-01; and CAN-CBA2017-03.	14
No action	AB2022-01; MB2022-02; NB2022-01; ON2022-01; ON2022-04; QC2022-02; QC2022-06; CAN-CAPCJ2022-01; CAN-CAPCJ2022-02; Can-PPSC2022-02; AB2021-03; AB2021-04; BC2021-01; QC2021-03; Can-CBA2021-01; Can-PPSC2021-01; BC2019-03; ON2019-04; QC2019-03; SK2019-01; SK2019-02; BC2018-01; BC2018-02; BC2018-03; BC2018-05; Can-CBA2018-02; BC2017-01; ON2017-01; NT2017-01; CAN-CCCDL2017-02; and CAPCJ2017-04.	31
No change	AB2021-02; BC2019-02; NB2018-01; QC2018-02; ON2017-04; and QC2017-01.	6
Not yet done	Can-PPSC2022-01(a); ON2019-03; ON2019-05; QC2019-02 ^[2] ; Can-CBA2019-02; Can-PPSC2019-01; Can-	10.5

^[1] Resolution partially addressed in Bill S-4. Justice Canada is continuing to review and examine how remote proceedings are working. Thus, it appears also in Resolutions under active consideration by Justice Canada as well.

^[2] Not yet done, but no identified gap – section 127 applies in the absence of an amendment.

	PPSC2019-02; QC2018-04; Can-CBA2018-03; Can-PPSC2018-02; and CAPCJ2017-02.	
Resolution under consideration by Justice Canada	AB2022-02; BC2022-01; MB2022-01; ON2022-02; ON2022-05; QC2022-05; AB2021-01; MB2021-02; ON2021-01; MB2019-02; ON2019-02; Can-PPSC2019-03; BC2018-04; QC2018-05; Can-CBA2018-01; Can-PPSC2018-01; AB2017-04; BC2017-05; and CAPCJ2017-01.	19
Resolution under active consideration by Justice Canada	Can-PPSC2022-01(b); QC2021-01; QC2021-02; Can-CAPCJ2021-01 ^[3] ; Can-PPSC2021-02; AB2018-02; AB2018-03; AB2018-04; ON2018-02; QC2018-01; AB2017-01; and AB2017-02.	11.5
Working Groups	BC2022-02; ON2022-03; QC2022-04; ON2021-03; Can-CCCDL2021-01; Can-CBA2018-05; BC2017-02; ON2017-03; CAN-CBA2016-04; ULCC/CHLC. ULCC/CHLC; ^[4] ULCC/CHLC ^[5] ; and ULCC/CHLC. ^[6]	13
Total		114

A couple of key points to note about these numbers are that in total 31 of the resolutions are currently being considered by Justice Canada, 11.5 of which are under active consideration. An additional 14 resolutions have informed or been addressed through different legislative initiatives and 5 are the subject of CCSO-FPT study.

The 14 resolutions that were taken into account in legislative initiatives are as follows:

1. MB2022-03: Clause 1 of Bill S-12, introduced on April 26, 2023 proposes to amend section 153.1(1)(a) of the *Criminal Code* to increase the maximum term of imprisonment for an indictable offence of the sexual exploitation of a person(s) with (a) disability(ies) to 10 years. Bill S-12 has completed its third reading at the Senate and is now awaiting first reading in the House of Commons.
2. ON2021-02: Clause 13 of Bill C-21 (Firearms), introduced on May 30, 2022 proposes to amend section 183 of the *Criminal Code* to include in the definition of “offence” sections 92, 95 and the new offence of altering a cartridge magazine in proposed section 104.1. Bill S-21 is currently at the Standing Senate Committee on National Security, Defence and Veterans Affairs.
3. Can-CAPCJ2021-01: Resolution partially addressed in Bill S-4. Justice Canada is continuing to review and examine how remote proceedings are working. Bill S-4 received royal assent on December 15, 2022, and came into force 30 days later.
4. Can-CAPCJ2021-02: Resolution addressed in subsequent legislative initiatives. It should

^[3] Op. cit. fn 1.

^[4] Done : Report of the Working Group on private recordings and public risk: the balance after [R. v. Barabash](#), 2015 SCC 29.

^[5] Done : In 2016, the Working Group submitted: The Law of Informer Privilege - Final Report of the Working Group

^[6] Done: Enacted – in C-75 (2018): Report of the Working Group on endorsement of search warrants, orders and authorizations in the *Criminal Code* and the *Controlled Drugs and Substances Act*

be noted that this is not a resolution that requires a single, specific or concrete action or amendment. Rather, it requires Criminal Law Policy Section (CLPS) consideration and Ministerial decision on each legislative initiative. CLPS is actively considering inclusion of temporal application clauses in its legislative advisory work, while the decision-making in this regard continues to be a matter of Ministerial/Government decision-making, which implements the recommendation to the degree possible.

5. Can-CBA2021-03: Introduction of [Bill S-231](#), *An Act to amend the Criminal Code, the Criminal Records Act, the National Defence Act and the DNA Identification Act*. Bill S-231 is currently at the Standing Senate Committee on Legal and Constitutional Affairs.
6. AB-CAPCJ2019-01: Resolution addressed in subsequent legislative initiatives
This is not a resolution that requires a single, specific or concrete action or amendment. Rather, it requires the CLPS consideration and Ministerial decision on each legislative initiative. CLPS is actively considering inclusion of temporal application clauses in its legislative advisory work, while the decision-making in this regard continues to be a matter of Ministerial/Government decision-making, which implements the recommendation to the degree possible
7. QC2019-01: Bill S-4 received royal assent on December 15th, 2022 and came into force 30 days later.
8. AB2018-05: Resolution addressed in legislative initiatives. With the passage of [Bill C-59](#), *An Act respecting national security matters* Short title: *National Security Act, 2017*, the *Youth Criminal Justice Act* (YCJA) (paragraph 119(2)(d.1)) now provides a records access period for recognizances. Bill C-59 received royal assent on June 21st, 2019.
9. ON2018-01: Resolution addressed in legislative initiatives. With the passage of Bill C-59, the YCJA (s. 67) provides all young persons charged with murder with an election as to mode of trial regardless of whether the Attorney General has given notice of the intention to seek an adult sentence against the young person. Bill C-59 received royal assent on June 21st, 2019.
10. ON2018-05: Introduction of [Bill C-5](#), *An Act to amend the Criminal Code and the Controlled Drugs and Substances Act*. Bill C-5 received royal assent on November 17th, 2022.
11. MB2017-01: Former [Bill C-84](#) – *An Act to amend the Criminal Code (bestiality and animal fighting)*; received royal assent on June 21, 2019.
12. NB2017-01: Former [Bill C-75](#), *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts*, which came into force in 2019, contained measures to expand remote appearances by allowing for all those involved in criminal cases to appear through the use of technology, where it is satisfactory to the court or the court considers it appropriate in the circumstances, including by:
 - Allowing the accused to appear remotely at any stage where it would be appropriate in the circumstances, based on a consideration of a non-exhaustive list of factors, or to appear remotely at a first appearance (e.g., bail).
 - Permitting participants (defined as any person other than the accused, a witness, a

juror, or a judge or justice) to appear remotely if the court considers it satisfactory or appropriate in the circumstances, based on a consideration of a non-exhaustive list of factors. For example, sureties would be permitted to appear remotely for the purposes of judicial interim release if it is satisfactory to the justice.

- Allowing judges or justices to preside remotely if they consider it necessary in the circumstances, based on a consideration of a non-exhaustive list of factors, and where reasons are provided.
- These optional measures governed by provincial/territorial rules of court and available where the infrastructure exists, sought to increase access to justice, particularly in remote communities, streamline processes and reduce system costs (e.g., accused transport, witness attendance).

13. CAN-CBA2017-01: Bill C-5 introduced and received royal assent on November 17th, 2022.

14. CAN-CBA2017-03: Bill C-75 – which received royal assent on June 21st, 2019 and which resulted in every provision coming into force 180 days afterwards at the latest (some commenced 30 days or 90 days after) – includes *Criminal Code* amendments that would:

- modernize and streamline the bail regime;
- increase the types of conditions police can impose;
- enact a “principle of restraint” for police and courts, ensuring that the conditions imposed are reasonable, relevant and necessary in the circumstances; and,
- ensure that circumstances of Indigenous accused and of accused from vulnerable populations are considered at bail.

Resolutions under active consideration by Justice Canada

As Table 1 indicates, 11.5 resolutions are under active consideration and 19 are under consideration by Justice Canada. This distinction signifies that CLPS, or the Youth Criminal Law Section of Justice Canada have begun the policy work and study required to implement the proposed reforms to the *Criminal Code*, the *YCJA*, as the case may be and other criminal law statutes, such as the *Controlled Drugs and Substances Act* (CDSA) and the *Canada Evidence Act* in support of the Minister of Justice and the Attorney General of Canada. It is enough to say that these matters may more likely than not be advanced when the opportunity arises to move the matter forward through the legislative process. This often includes consultations with Provinces and Territories. As well, such work is informed by decisions of the Supreme Court of Canada, as well as the political/philosophical direction of the Minister of Justice and Attorney General of Canada and indeed the government of the day.

Turning to federal criminal law reform and the bills introduced in Parliament since last year, there were seven Government justice-related bills on various criminal law topics. Of these, four have received Royal Assent.

There were also 26 Private Members' Bills (PMBs) and 21 Senate Public Bills introduced during the same period – four of these bills (4) have received Royal Assent.

Further details of these legislative initiatives are provided below.

Government Bills (7)

Four Government Bills received Royal Assent and are now in force:

Bill C-5, *An Act to amend the Criminal Code and the Controlled Drugs and Substances Act*

Bill C-5 amended the *Criminal Code* and the *Controlled Drugs and Substances Act* by:

- (a) Repealing a number of mandatory minimum penalties of imprisonment (MMPs) in the *Criminal Code* and all MMPs in the *Controlled Drugs and Substances Act*;
- (b) Allowing for the greater use of conditional sentence orders, in appropriate cases, by removing statutory restrictions;
- (c) Requiring police officers and prosecutors to consider alternatives to charging or prosecuting individuals charged with simple possession of drugs.

Bill C-5 received Royal Assent on November 17, 2022 (S.C. 2022, c. 15).

Bill C-39, *An Act to amend the Criminal Code (medical assistance in dying)*

Bill C-39 amended the law to extend the exclusion from medical assistance in dying where a person's sole medical condition is a mental illness until March 17, 2024.

Bill C-39 received Royal Assent on March 9, 2023 (S.C. 2023, c. 1)

Bill C-47, *An Act to implement certain provisions of the budget tabled in Parliament on March 28, 2023*

Bill C-47 amended the *Criminal Code* to do the following:

- (a) create a new warrant authorizing the search of digital assets and to expand the list of offences for which information obtained by the Minister of National Revenue may be examined by law enforcement.
- (b) lower the criminal rate of interest to 35% and to create regulation making authorities to enable the Governor in Council to (1) set the total cost of borrowing permitted for payday loans;

and (2) to exempt certain agreements or arrangements from the operation of the criminal interest rate provision.

Bill C-47 received Royal Assent on June 22, 2023 (S.C. 2023, c. 26)

Bill S-4, *An Act to amend the Criminal Code and the Identification of Criminals Act and to make related consequential amendments to other Acts (COVID-19 response and other measures)*

Bill S-4 made amendments to modernize the criminal justice system, including by:

- (a) Clarifying the law to allow accused persons to appear remotely by video or audioconference in most criminal proceedings, on consent, at the discretion of the court and with other appropriate safeguards;
- (b) Allowing remote participation and the use of technology in jury selection;
- (c) Allowing judicial case management for unrepresented accused;
- (d) Updating the existing telewarrant process to broaden its availability; and,
- (e) Allowing fingerprinting to occur at a later date.

Bill S-4 received Royal Assent on December 15, 2022 (S.C. 2022, c. 17)

Three Government Bills remain before Parliament:

1) **Bill C-21, *An Act to amend certain Acts and to make certain consequential amendments (firearms)***

This Bill would propose significant amendments to the *Firearms Act*, the *Criminal Code* and other statutes with the goal of addressing firearms violence and improving public safety.

Amendments include:

- (a) the creation of “red flag” and “yellow flag” laws to permit individuals to seek court orders for the immediate removal of firearms or the suspension of firearms licences where public safety risks have been identified;
- (b) increased maximum penalties for a number of *Criminal Code* firearms offences, including weapons smuggling and trafficking;
- (c) the creation of a new offence of altering a magazine cartridge; and,
- (d) adding sections 92 and 95 to the definition of offence in section 183 of the *Criminal Code*;

Bill C-21 is before the Standing Senate Committee on National Security, Defence and Veterans Affairs.

2) **Bill C-48, *An Act to amend the Criminal Code (bail reform)***

This enactment amends the *Criminal Code* to, among other things,

- (a) create a reverse onus provision for any person charged with a serious offence involving violence and the use of a weapon who has been convicted, within the last five years, of a serious offence involving violence and the use of a weapon;
- (b) add certain firearms offences to the existing reverse onus provisions;
- (c) expand the reverse onus provision for offences involving intimate partner violence to ensure that it applies to an accused person who has been previously discharged for such an offence; and
- (d) require the court to consider if an accused person has any previous convictions involving violence and to include in the record a statement that the safety and security of the community was considered.

This enactment also makes further clarifications and provides for a parliamentary review of the provisions it enacts or amends to commence on the fifth anniversary of the day on which it receives royal assent, or as soon as feasible after that anniversary.

Bill C-48 is at the Second Reading in the House of Commons.

3) Bill S-12, *An Act to amend the Criminal Code, the Sex Offender Information Registration Act and the International Transfer of Offenders Act*

Bill S-12 proposed to amend the *Criminal Code*, the *Sex Offender Information Registration Act* and the *International Transfer of Offenders Act* to, among other things,

- (a) require compliance with the *Sex Offender Information Registration Act* for persons who are convicted of an offence of a sexual nature against a child and for persons who have been convicted on separate occasions of two or more offences of a sexual nature;
- (b) require other persons who are convicted of, or receive a verdict of not criminally responsible on account of mental disorder for, an offence of a sexual nature to comply with that Act unless a court is satisfied that doing so would have no connection to the purposes of that Act or that the impact on the person of doing so would be grossly disproportionate to those purposes;
- (c) provide that an order to comply with that Act as a result of convictions, or verdicts of not criminally responsible on account of mental disorder, for two or more offences of a sexual nature that are dealt with in the same proceeding — or an obligation to comply with that Act as a result of convictions, or such verdicts, for two or more offences of a sexual nature — does not apply for life if a court is satisfied that the offences do not demonstrate a pattern of behaviour showing that the person presents an increased risk of reoffending by committing such an offence;

The Bill would also amend the *Criminal Code* to, among other things, codify the process for modifying and revoking publication bans, and add a requirement for sentencing courts to inquire into whether the victim of an offence would like to receive information about the administration of the offender's sentence and, in the affirmative, provide the Correctional Service of Canada with the victim's contact information.

Bill S-12 passed Third Reading in the Senate on June 22, 2023.

Private Members' Bills (26)

One Private Member's Bill received Royal Assent and is now in force:

- 1) **Bill C-233, *An Act to amend the Criminal Code and the Judges Act (violence against an intimate partner)***

This bill amended the *Criminal Code* to require consideration of the wearing of an electronic monitoring device for offences of violence committed against an intimate partner. It also amended the *Judges Act* in relation to continuing legal education for judges on intimate partner violence and coercive control in the context of intimate partner and family relationships.

Bill C-233 received Royal Assent on April 27, 2023 (S.C. 2023, c. 7)

Four Private Members' Bill were defeated over the past year:

- 1) **Bill C-230, *An Act to amend the Criminal Code (intimidation of health care professionals)***

This bill sought to amend the *Criminal Code* to create two hybrid offences to protect the conscientious objection of medical practitioners, nurse practitioners, pharmacists, and any other healthcare professional: (1) an "intimidation" offence prohibiting the use of violence or threats of violence, coercion or any other form of intimidation to compel a healthcare professional to participate in the provision of medical assistance in dying (MAID); and, (2) an "employment sanctions" offence prohibiting employers from refusing to employ, or dismissing from employment, healthcare professionals because they refuse to participate, directly or indirectly, in the provision of MAID.

Bill C-230 was defeated at Second Reading in the House of Commons on October 5, 2022.

- 2) **Bill C-283, *An Act to amend the Criminal Code and the Corrections and Conditional Release Act (addiction treatment in penitentiaries)***

This bill sought to allow offenders to serve their sentences in federal institutions with addiction treatment facilities if certain conditions are met, including that the offence is not punishable by 14 years or life or punishable by 10 years or more and involved weapons, drug trafficking or bodily harm.

Bill C-283 was defeated at Second Reading in the House of Commons on March 22, 2023.

3) **Bill C-289, *An Act to amend the Criminal Code (identity verification)***

This bill sought to create a new offence of making false or misleading statements or providing false or misleading information to banks and other entities listed in section 5 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

Bill C-289 was defeated at Second Reading in the House of Commons on March 22, 2023.

4) **Bill C-311, *An Act to amend the Criminal Code (violence against pregnant women)***

This bill sought to amend the *Criminal Code* to specify that knowingly assaulting a pregnant woman and that causing physical or emotional harm to a pregnant woman are to be considered aggravating circumstances for sentencing purposes.

Bill C-311 was defeated at Second Reading in the House of Commons on June 14, 2023.

Twenty-one Private Members' Bills proposing changes to the *Criminal Code* remain before Parliament:

1) **Bill C-202, *An Act to amend the Criminal Code (controlling or coercive control)***

This bill proposes a new *Criminal Code* offence that would prohibit engaging in controlling or coercive conduct towards an intimate partner that has a "significant impact" on them, including a decline in their physical or mental health, or a "substantial adverse effect" on their daily activities.

The Bill was introduced on November 22, 2021 and awaits Second Reading debate.

2) **Bill C-209, *An Act to amend the Criminal Code and the Controlled Drugs and Substances Act***

This Bill would repeal mandatory minimum penalties in the *Criminal Code* and the *Controlled Drugs and Substances Act*.

The Bill was introduced on December 9, 2021 and awaits Second Reading debate.

3) **Bill C-213, *An Act to amend the Criminal Code (criminal interest rate)***

This bill would amend the *Criminal Code* to lower the criminal rate of interest to an amount that exceeds the Bank of Canada's overnight rate by 30%. It would also amend the definition of interest to include the charges paid to obtain insurance. Finally, it would repeal the provision of the *Criminal Code* exempting payday loans from the criminal interest rate provisions.

The Bill was introduced on December 14, 2021 and awaits Second Reading debate.

4) **Bill C-220, *An Act to amend the Criminal Code (assault against a health care worker)***

This Bill would amend the *Criminal Code* to require sentencing courts to treat assaults (or uttering threats) committed against health care workers engaged in the performance of their duties as an aggravating factor at sentencing.

Bill C-220 was introduced on December 16, 2021 and awaits Second Reading debate.

5) **Bill C-229, *An Act to amend the Criminal Code (banning symbols of hate)***

This Bill would create a new *Criminal Code* hybrid offence that prohibits the public display, sale or offer for sale of symbols, emblems, flags or uniforms that are associated with persons or organizations that promote or incite hatred against an identifiable group.

Bill C-229 was introduced on February 3, 2022 and awaits Second Reading debate.

6) **Bill C-261, *An Act to amend the Criminal Code and the Canadian Human Rights Act and to make related amendments to another Act (hate propaganda, hate crimes and hate speech)***

Bill C-261 seeks to address hate propaganda, hate crime and hate speech and would amend the *Criminal Code* to create a new peace bond directed at preventing the commission of hate propaganda offences or hate crimes in the *Criminal Code*. It would also include a definition of “hatred” in the *Criminal Code* based on Supreme Court of Canada jurisprudence.

Bill C-261 also proposes amendments to the *Canadian Human Rights Act* to define a new discriminatory practice of communicating hate speech online and to provide individuals with additional remedies to address hate speech.

Bill C-261 duplicates the amendments proposed in the Government’s former Bill C-36. The Bill was introduced on March 28, 2022 and awaits Second Reading.

7) **Bill C-270, *An Act to amend the Criminal Code (pornographic material)***

This bill would prohibit a person from making pornographic material for commercial purposes without having first ascertained that each person whose image is depicted in the material is 18 years of age or older and has given their express consent to their image being depicted. It also prohibits a person from distributing or advertising pornographic material for commercial purposes without having first ascertained that each person whose image is depicted in the material was 18 years of age or older at the time the material was made and gave their express consent to their image being depicted.

The Bill was introduced on April 28, 2022 and is awaiting Second Reading.

8) **Bill C-273, *An Act to amend the Criminal Code (Corinne’s Quest and the protection of children)***

This bill would repeal section 43 of the *Criminal Code*, the provision that provides a limited defence for parents/caregivers who use minor corrective force that is reasonable in the circumstances.

The Bill was introduced on May 19, 2022 and awaits Second Reading.

9) **Bill C-274, *An Act to amend the Criminal Code (detention in custody)***

This Bill would mandate pre-trial detention for accused who have been charged more than twice with an indictable offence punishable by five years imprisonment or more, unless exceptional circumstances warrant their release.

The Bill was introduced on May 19, 2022 and awaits Second Reading.

10) **Bill C-279, *An Act to amend the Criminal Code (criminal organizations)***

This bill would authorize the Governor in Council to list criminal organizations.

The Bill was introduced on June 2, 2022 and awaits Second Reading.

11) **Bill C-291, *An Act to amend the Criminal Code and to make consequential amendments to other acts (child sexual abuse material)***

This bill would replace references to “child pornography” with “child sexual abuse material” in federal law.

The Bill was introduced on June 17, 2022 and awaits Second Reading.

12) **Bill C-295, *An Act to amend the Criminal Code (neglect of vulnerable adults)***

This bill would, among other things, create a new offence of failing to provide the necessities of life to residents of long-term care facilities that would apply to owners and managers of such facilities.

The Bill was introduced on June 20, 2022 and awaits Second Reading.

13) **Bill C-296, *An Act to amend the Criminal Code (increasing parole ineligibility)***

This bill would amend the *Criminal Code* to increase the period of parole ineligibility for persons convicted of certain enumerated kidnapping/abduction offences, as well as certain enumerated sexual offences and the offence of murder in respect of the same victim and the same event or series of events.

The Bill was introduced on June 20, 2022 and awaits Second Reading.

14) **Bill C-299, *An Act to amend the Criminal Code (life imprisonment)***

This bill would amend the *Criminal Code* to increase the maximum penalty to life imprisonment for certain indictable offences.

Bill C-299 was introduced on October 4, 2022 and awaits Second Reading.

15) [Bill C-313](#), *An Act to amend the Criminal Code (justification for detention in custody)*

This enactment amends the Criminal Code to increase the burden that an accused must satisfy, in certain exceptional circumstances, to establish that their detention in custody is not justified.

Bill C-313 was introduced on February 9, 2023 and awaits Second Reading.

16) [Bill C-314](#), *An Act to amend the Criminal Code (medical assistance in dying)*

This enactment amends the Criminal Code to provide that a mental disorder is not a grievous and irremediable medical condition for which a person could receive medical assistance in dying.

Bill C-314 is at Second Reading in the House of Commons.

17) [Bill C-321](#), *An Act to amend the Criminal Code (assaults against health care professionals and first responders)*

This enactment amends the Criminal Code to require a court to consider the fact that the victim of an assault is a health care professional or a first responder to be an aggravating circumstance for the purposes of sentencing.

Bill C-321 is before the Standing Committee on Justice and Human Rights.

18) [Bill C-325](#), *An Act to amend the Criminal Code and the Corrections and Conditional Release Act (conditions of release and conditional sentences)*

This enactment amends the *Criminal Code* and the *Corrections and Conditional Release Act* to create a new offence for the breach of conditions of conditional release imposed in relation to certain serious offences and to require the reporting of those breaches to the appropriate authorities.

Bill C-325 is at Second Reading in the House of Commons.

19) [Bill C-332](#), *An Act to amend the Criminal Code (controlling or coercive conduct)*

This enactment amends the *Criminal Code* to create an offence of engaging in controlling or coercive conduct that has a significant impact on the person towards whom the conduct is directed, including a fear of violence, a decline in their physical or mental health or a substantial adverse effect on their day-to-day activities.

Bill C-332 was introduced on May 18, 2023 and awaits Second Reading.

20) [Bill C-334](#), *An Act to amend the Criminal Code, the Judges Act and the Director of Public Prosecutions Act (orders prohibiting publication of identifying information)*

This enactment amends the Criminal Code to improve communications with a victim before and after a court makes an order to protect the victim's identity, to prohibit the order from being made without the victim's consent in a case where the victim is consulted before the prosecutor applies for such an order, and to establish a procedure for revoking or varying such an order. In

the case of an adult victim of certain offences, including sexual offences, it also provides that a court may revoke or vary the order when prompted to do so by the victim's impact statement. Finally, this enactment amends the *Judges Act* and the *Director of Public Prosecutions Act* to provide for training relating to such orders and their impact on victims of sexual offences for federally appointed judges and prosecutors.

Bill C-334 was introduced on May 31, 2023 and awaits Second Reading.

21) Bill C-336, *An Act to amend the Criminal Code and the Sex Offender Information Registration Act*

This enactment amends the *Criminal Code* to allow a court to order that a sex offender who is likely to reoffend must comply with the reporting obligations under the *Sex Offender Information Registration Act* for 30 years. It also provides that a sex offender must complete a sex offender treatment program before applying for termination of the order.

The enactment also amends the *Sex Offender Information Registration Act* to increase the frequency with which a sex offender must report to a registration centre and to require an offender to report to a registration centre before moving to a new address. Finally, the enactment makes it an offence to fail to report to a registration centre as required.

Bill C-336 was introduced on June 5, 2023 and awaits Second Reading.

Senate Public Bills (21)

Three (3) Senate Public Bill received Royal Assent and are now in force:

1) Bill S-203, *An Act to restrict young persons' online access to sexually explicit material*

This bill would create a new Act designed to prevent children from being exposed to pornography on the internet. Among other things, it would create a new offence of making sexually explicit material available to a young person for a commercial purpose. It would provide a mechanism for establishing an enforcement authority responsible for enforcing the Act.

Bill S-206 received Royal Assent on March 30, 2023 (S.C. 2023, c. 2).

2) Bill S-206, *An Act to amend the Criminal Code (disclosure of information by jurors)*

This bill would amend the *Criminal Code* to provide that the prohibition against the disclosure of information relating to jury proceedings does not, in certain circumstances apply in respect of disclosure by jurors to health care professionals.

Bill S-206 received Royal Assent on October 18, 2022 (S.C. 2022, c. 12).

3) Bill S-223, *An Act to amend the Criminal Code and the Immigration and Refugee Protection Act (trafficking in human organs)*

This bill would amend the *Criminal Code* to create new offences in relation to trafficking in human organs. It also amends the *Immigration and Refugee Protection Act* to provide that a permanent resident or foreign national is inadmissible to Canada if the Minister of Public Safety is of the opinion that they have engaged in any activities relating to trafficking in human organs.

Bill S-223 received Royal Assent on December 15, 2022 (S.C. 2022, c. 18).

Eighteen (18) Senate Public Bills remain before Parliament are:

1) **Bill S-205, *An Act to amend the Criminal Code and to make consequential amendments to another Act (interim release and domestic violence recognizance orders)***

This bill would amend the *Criminal Code* to address the issue of domestic violence including by: (a) amending the bail provisions to allow for the imposition of a condition requiring the wearing of an electronic monitoring device or to attend an addiction treatment program of domestic violence counselling program; and, (b) to create a new peace bond seeking to prevent the commission of offences involving personal injury against an intimate partner or the child of an intimate partner.

Bill S-205 is at Second Reading in the House of Commons.

2) **Bill S-210, *An Act to restrict young persons' online access to sexually explicit material***

This Bill would enact a new Act that would, among other things, make it an offence for organizations to make sexually explicit material available to young persons on the Internet.

Bill S-210 is at Second Reading in the House of Commons.

3) **Bill S-212, *An Act to amend the Criminal Records Act, to make consequential amendments to other Acts and to repeal a regulation***

This Bill would allow for the automatic expiration of criminal records for certain offences.

Bill S-212 is before the Standing Senate Committee on Legal and Constitutional Affairs.

4) **Bill S-213, *An Act to amend the Criminal Code (independence of the judiciary)***

This bill would amend the *Criminal Code* to give a court the discretion to vary the punishment to be imposed in respect of an offence for which the punishment or different degrees or kinds of punishment is prescribed in an enactment.

It allows a court to decide to not make a mandatory prohibition order provided for under a provision of that Act, or to add conditions or vary any of the conditions set out in that provision, if the court considers it just and reasonable to do so. It requires the court to provide its reasons for making such a decision.

It requires a court to consider all available options prior to imposing a minimum punishment of imprisonment or period of parole ineligibility under a provision of that Act, and to provide

written reasons for imposing a minimum punishment of imprisonment or period of parole ineligibility.

It gives a court discretion in the treatment or counselling program that a person who has been found guilty of an offence may attend and removes the requirement for the Attorney General to give his or her consent in order to delay sentencing under subsection 720(2) of that Act.

It provides that a judge is to take into consideration the recommendation of the jury in setting the period of parole ineligibility of a person who has been found guilty of first or Second-degree murder.

Bill S-213 is before the Senate Standing Committee on Legal and Constitutional Affairs.

5) **Bill S-224, *An Act to amend the Criminal Code (trafficking in persons)***

This bill would amend the *Criminal Code* by amending the definition of exploitation that is used in the trafficking in persons offences.

Bill S-224 is before the Standing Committee on Justice and Human Rights.

6) **Bill S-231, *An Act to amend the Criminal Code, the Criminal Records Act, the National Defence Act and the DNA Identification Act***

This bill would amend various federal statutes to facilitate the collection and use of DNA in the investigation of crimes, including by broadening the definition of “primary designated offence” in section 487.04 of the *Criminal Code*.

Bill S-231 is before the Standing Senate Committee on Legal and Constitutional Affairs.

7) **Bill S-232, *An Act respecting the development of a national strategy for the decriminalization of illegal substances, to amend the Controlled Drugs and Substances Act and to make consequential amendments to other Acts***

The bill provides for the development of a national strategy to decriminalize simple possession of illegal substances, amends the *Controlled Drugs and Substances Act* to repeal provisions that make it an offence to possess certain substances and makes consequential amendments to other Acts.

Bill S-232 is at Second Reading in the Senate.

8) **Bill S-237, *An Act to establish the Foreign Influence Registry and to amend the Criminal Code***

The bill enacts the *Foreign Influence Registry and Accountability Act*, which imposes an obligation on individuals acting on behalf of a foreign principal to file a return when they undertake specific actions with respect to public office holders. It also provides for the establishment of a public registry in which all returns must be kept.

It also amends the *Criminal Code* to increase the sentence for intimidation if the offender acted on behalf of the government of a foreign state, and it specifies that anyone who has filed a return under the *Foreign Influence Registry and Accountability Act* is presumed to be acting on behalf of the government of a foreign state unless the contrary is proved on a balance of probabilities.

Bill S-237 is at Second Reading in the Senate.

9) **Bill S-238, *An Act to amend the Criminal Code and the Canadian Victims Bill of Rights (information about the victim)***

This bill would amend the *Criminal Code* to authorize the imposition of a condition relating to various orders that prohibits the accused/offender/defendant from publishing, distributing, transmitting or making accessible information about a victim

It would also amend the *Canadian Victims Bill of Rights* to enumerate a new right to have reasonable and appropriate measures taken by criminal justice system authorities to prohibit the posting of information about victims by offenders.

Bill S-238 is before the Standing Senate Committee on Legal and Constitutional Affairs.

10) **Bill S-239, *An Act to amend the Criminal Code (criminal interest rate)***

This bill would amend the *Criminal Code* to lower the criminal rate of interest from 60% to the Bank of Canada's overnight rate plus 20%.

Bill S-239 is at Second Reading in the Senate.

11) **Bill S-241, *An Act to amend the Criminal Code and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (great apes, elephants and certain other animals)***

This bill would amend the *Criminal Code* to create offences respecting great apes, elephants and certain other non-domesticated animals in captivity, including respecting captive breeding. It would authorize the creation of "animal advocates" and create a regime for designating animals, which would trigger protections under the proposed provisions.

It also amends the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* to require a permit for the import, export or interprovincial transportation and captive breeding of great apes, elephants and certain other non-domesticated animals.

Bill S-241 is before the Standing Senate Committee on Legal and Constitutional Affairs.

12) **Bill S-248, *An Act to amend the Criminal Code (medical assistance in dying)***

This bill would amend the *Criminal Code* to

- (a) permit an individual whose death is not reasonably foreseeable to enter into a written

arrangement to receive medical assistance in dying on a specified day if they lose the capacity to consent to receiving medical assistance in dying prior to that day; and

- (b) permit an individual who has been diagnosed with a serious and incurable illness, disease or disability to make a written declaration to waive the requirement for final consent when receiving medical assistance in dying if they lose the capacity to consent to receive medical assistance in dying, are suffering from symptoms outlined in the written declaration and have met all other relevant safeguards outlined in the *Criminal Code*.

Bill S-248 is before the Standing Senate Committee on Legal and Constitutional Affairs.

13) [Bill S-250](#), *An Act to amend the Criminal Code (sterilization procedures)*

This bill would make it an offence to perform a sterilization procedure without the consent of person on whom it was performed. It would also create an offence of coerced sterilization.

Bill S-250 is before the Standing Senate Committee on Legal and Constitutional Affairs.

14) [Bill S-251](#), *An Act to repeal section 43 of the Criminal Code (Truth and Reconciliation Commission of Canada's call to action number 6)*

This bill would repeal section 43 of the *Criminal Code*, the provision that provides a limited defence for parents/caregivers who use minor corrective force that is reasonable in the circumstances.

Bill S-251 is before the Standing Senate Committee on Legal and Constitutional Affairs.

15) [Bill S-255](#), *An Act to amend the Criminal Code (murder of an intimate partner, one's own child or an intimate partner's child)*

The bill amends the *Criminal Code* to classify the murder of an intimate partner, one's own child or an intimate partner's child as first degree murder.

Bill S-255 is at Second Reading in the Senate.

16) [Bill S-256](#), *An Act to amend the Canada Post Corporation Act (Seizure) and to make related amendments to other Acts*

This bill would amend the *Canada Post Corporation Act* to designate certain statutes under which items in the course of the post may be seized, detained or retained. It makes related amendments to the *Criminal Code*, the *Controlled Drugs and Substances Act* and the *Cannabis Act*.

Bill S-256 is before the Standing Senate Committee on Legal and Constitutional Affairs.

17) [Bill S-266](#), *An Act to amend the Criminal Code and the Sex Offender Information Registration Act*

This enactment amends the *Criminal Code* to allow a court to order that a sex offender who is likely to reoffend must comply with the reporting requirements under the *Sex Offender Information Registration Act* for 30 years. It also provides that a sex offender must complete a sexual behaviour treatment program before applying for termination of the order.

The enactment also amends the *Sex Offender Information Registration Act* to increase the frequency with which a sex offender must report to a registration centre and to require an offender to report to a registration centre before moving to a new address. Finally, the enactment makes it an offence to fail to report to a registration centre as required.

Bill S-266 is at Second Reading in the Senate.

18) [Bill S-267](#), *An Act to amend the Criminal Code (aggravating circumstances – evacuation order or emergency)*

This enactment amends the Criminal Code to provide that taking advantage of the fact that a place is under an evacuation order or is experiencing a natural disaster or emergency is to be considered an aggravating circumstance for sentencing purposes.

Bill S-267 is at Second Reading in the Senate.

Conclusion

Justice Canada will maintain its close working relationship with ULCC. Delegates are encouraged to follow the progress of these and other criminal law reforms by consulting the Parliament of Canada website, [LEGISinfo](#).

August 22, 2023