

**UNIFORM LAW CONFERENCE OF CANADA**  
**RESOLUTIONS**

**Criminal Section**  
**August 2013**

**ALBERTA**

**Alberta - 01**

Harassing, indecent and other forms of prohibited communication in section 372 (2) and (3) of the *Criminal Code* occur in many forms, and often have tragic results, especially when the victims are young or otherwise vulnerable. These sections should be updated to address all forms of modern telecommunication. Measures to modernize these provisions should proceed urgently.

**Carried: 28-0-0**

**Alberta - 02**

The definition of "justice system participant" in section 2 of the *Criminal Code* is explicitly restricted to persons who play a role in the administration of criminal justice in (b) of that definition. This restriction excludes those involved in the administration of other aspects of the justice system, such as family and civil law, who are frequently the subject of threats and intimidation. The restriction in this part of the definition to only those involved in the criminal justice system should be removed.

**Carried: 18-1-5**

**Alberta - 03**

Section 148 of the *Youth Criminal Justice Act* should be amended to place the same restriction on birth certificates and other documentation in paragraph 148(2)(a) that applies to the documentation referenced in paragraph 148(2)(b) – namely that the record in question must be made prior to the alleged offence. Further, the section should specify that in any proceedings under this Act, any certificate issued by Citizenship and Immigration Canada or a copy of it purporting to be certified under the hand of the proper officer or person in whose custody the certificate is placed, is evidence of the young person's age.

**Carried: 25-0-0**

**Alberta - 04**

- A) That section 183 of the *Criminal Code* of Canada be amended to include the following offences punishable by a maximum penalty of 10 years, 14 years or life imprisonment: manslaughter (section 236), leaving the scene of an accident where death or bodily harm occurs, (subsection 252 (1.3)), criminal negligence causing death (section 220), impaired driving causing death (subsection 255(3)),

dangerous operation causing death (subsection 249(4), refusing a breath sample where death results (subsection 255(3.2)), and refusing a breath sample where bodily harm results (subsection 255(2.2)).

**Carried as amended: 20-3-2**

- B) That Justice Canada, in consultation with Provinces and Territories, examine section 183 of the *Criminal Code* to determine if there is a more accurate, efficient, and consistent way of describing designated offences rather than by enumeration of individual offences.

**Carried as amended: 27-0-0**

**Alberta - 05**

Subsection 490.8(2) of the *Criminal Code* provides an *ex parte* procedure for applications to restrain alleged offence related property. Section 490.81 should be amended to provide that an application for the appointment of an administrator in relation to that property may be made on an *ex parte* basis. This would foster certainty and efficiency by permitting these applications to be made at the same time in appropriate circumstances.

**Carried: 19-0-7**

**Alberta – 06**

- A) That the *Criminal Code* be amended to specify that production orders (sections 487.012 to 487.017) are effective throughout Canada without the need for endorsement or other order if they are to be executed in a jurisdiction other than that in which they were issued, and that the provisions of 487.015 (variation applications) be consequentially amended to provide for a fair and efficient mechanism to apply for variation where the order has been issued in a jurisdiction other than the one in which it is executed.

**Carried as amended: 22-0-5**

- B) That the *Criminal Code* or other applicable federal legislation be amended to provide explicit legislative authority recognizing electronic service of production orders (sections 487.012 to 487.017).

**Carried as amended: 25-0-2**

## **BRITISH COLUMBIA**

### **British Columbia - 01**

That Justice Canada consider revising the conditional sentence breach procedure contained in section 742.6 of the *Criminal Code* to ensure a process which, while continuing to be fair, is also both effective and efficient.

**Withdrawn following discussion**

### **British Columbia - 02**

That the *Criminal Code* be amended to provide specific authority for an accused charged with an offence to enter into an 810 recognizance without the necessity of having a new information generated and sworn.

**Carried as amended: 28-0-0**

### **British Columbia - 03**

That Justice Canada consider creating a separate definition that would cover those devices that do not fall under the section 2 *Criminal Code* definition of “firearm”, are not considered “replicas” as defined in section 84 of the *Criminal Code*, but which closely resemble a firearm, for the purpose of including those devices as part of an order prohibiting the possession of prohibited items.

**Carried as amended: 22-0-1**

## **MANITOBA**

### **Manitoba - 01**

That subsection 76(4) of the *Youth Criminal Justice Act* be amended to allow the court to waive the preparation of a placement report if agreed to by all parties.

**Carried: 20-1-5**

### **Manitoba - 02**

That the *Criminal Code* be amended to impose a reverse onus on accused seeking judicial interim release who have been charged with committing an offence while subject to a long-term supervision order.

**Withdrawn**

## **NEW BRUNSWICK**

### **New Brunswick – 01**

Amend paragraph 503(1)(a) of the *Criminal Code* to add “or, where the person is not so taken, that person shall be entitled to a hearing under section 515 within 72 hours of arrest”.

**Defeated: 1-18-4**

### **New Brunswick - 02**

That the *Criminal Code* be amended to permit subsection 173(1), when committed for a sexual purpose, to be considered for a SOIRA (*Sexual Offender Information Registration Act*) order.

**Carried as amended: 15-0-7**

### **New Brunswick – 03**

That section 536.3 (Statement of Issues and Witnesses – Request for Preliminary Inquiry) of the *Criminal Code* be examined to determine the powers available to a judge or justice in the event there is failure to comply with the section.

**Carried as amended: 19-0-3**

### **New Brunswick - 04**

Amend section 650.01 (Designation of Counsel of Record) of the *Criminal Code* to reflect that it cannot supersede the Order of a Court requiring the attendance of an accused.

**Withdrawn**

## **ONTARIO**

### **Ontario - 01**

- A) Amend Schedule 1 of the *Corrections and Conditional Release Act* to add the offences established by sections 279.01 (Trafficking in Persons) and 279.011 (Trafficking of a Person under 18) of the *Criminal Code*.

**Carried as amended: 24-0-4**

- B) That the Federal Government in consultation with the Provinces and Territories conduct a comprehensive review of Schedule 1 of the *Corrections and Conditional Release Act*.

**Carried as amended: 24-0-4**

## Ontario - 02

- A) Amend paragraph 161(1.1)(a) of the *Criminal Code* by adding sections 279.01 (Trafficking in Persons) and 279.011 (Trafficking of a Person Under 18) to the list of offences for which an order of prohibition can be made.

**Carried as amended: 13-4-7**

- B) Amend subsection 810.1(1) (recognizance – fear of sexual offence against person under 16) of the *Criminal Code* by adding section 279.011 (Trafficking of a Person Under 18) to the list of offences in respect of which a person may lay an information.

**Carried as amended: 16-2-6**

## Ontario - 03

That subsection 115(1) of the *Criminal Code* be amended to provide that items covered by a prohibition order but in the possession of the police when the order commences are also to be forfeited to the Crown.

**Carried: 24-0-4**

## Ontario - 04

Amend the *Youth Criminal Justice Act* to permit young persons who elect to be tried by judge and jury to be tried with adults in murder cases.

**Withdrawn following discussion**

## QUEBEC

### Quebec - 01

Amend subsection 732.2(3) of the *Criminal Code* to permit a court, with the consent of the parties, to extend the period for which a probation order is to remain in force, without exceeding the maximum period of three years.

**Carried as amended: 24-1-3**

## **SASKATCHEWAN**

### **Saskatchewan - 01**

Amend the definition of “serious personal injury offence” in section 752 (Definitions Applicable to Part XXIV – Dangerous Offenders and Long-Term Offenders) of the *Criminal Code* by inserting the words “or threatened use” between the words “attempted use” and “of violence” in subparagraph 752(a)(i).

**Carried: 14-9-5**

### **Saskatchewan - 02**

Amend section 218 of the *Criminal Code* so that the fault requirement as it pertains to the consequences of abandoning or exposing a child is one of penal negligence.

**Carried: 14-8-6**

## **CANADA**

### **Public Prosecution Service of Canada**

#### **PPSC – 01**

It is recommended that section 683 (Powers of the Court of Appeal) of the *Criminal Code* be clarified to expressly permit the Court of Appeal to stay, pending appeal, a ruling declaring a section of the *Code*, or other federal statute, unconstitutional, of no force and effect or otherwise a nullity.

**Carried: 17-0-7**

#### **PPSC – 02**

It is recommended that the maximum punishment for an offence under section 122 (Breach of Trust by a Public Officer) of the *Criminal Code* be increased from five to fourteen years imprisonment and that the issue of the hybridization of offences in Part IV of the *Criminal Code* be reviewed by Justice Canada.

**Carried as amended: 19-2-3**

## **DISCUSSION PAPER RESOLUTIONS**

### **Report from the Working Group on Contradictory Evidence – Recanted K.G.B. Statements**

That the Uniform Law Conference of Canada Criminal Section accept the report of the Working Group on Recanted KGB Statements.

**Carried: 23-0-0**

### **Report from the Working Group on Enforcement of Extra - Provincial Search Warrants**

That the Uniform Law Conference of Canada Criminal Section accept the report of the Working Group on Enforcement of Extra-Provincial Search Warrants and endorse the Working Group's recommendation to discuss with the ULCC Civil Section the continuation of this work through the creation of a joint working group that would use the Nova Scotia initiative as a reference point for future work.

**Carried: 28-0-0**

### **Canadian Victims Bill of Rights Information Session**

The Uniform Law Conference of Canada (ULCC), Criminal Section, acknowledges the presentation of the "Canadian Victims Bill of Rights" Information Session. The ULCC acknowledges the important role of victims of crime in the Canadian legal system and supports the need to ensure that all victims are treated with dignity and respect and are provided all information appropriate to their role in timely manner. To ensure that the Canadian Criminal Justice system is fair and effective for all Canadians, and is consistent with the fundamental principles of our legal system and our Constitution, it is imperative that any legislation intended to support victims of crime does not harm, or further delay, the criminal process or undermine the independent role of prosecutors as they strive to protect the legitimate interests of victims, the rights of all Canadians and the rule of law. Therefore, the Criminal Section of ULCC urges the Federal Government take the time required to work with the Provinces and Territories, to meaningfully consult with legal professional organizations and scholars, to ensure that valid goals of the government do not undermine effective provincial initiatives or existing legislation or give rise to unintended adverse consequences.

**Carried: 20-0-2**

### **Report from the Working Group on Statutory Exemptions to Mandatory Minimum Penalties**

- 1) That the Criminal Section of the ULCC acknowledge, with appreciation, and receive the Report of the Working Group on Exemption Provisions in the hope that it will contribute to further consideration of this important issue.

**Carried: 26-0-1**

2) Presented by Canadian Bar Association:

- A) That Justice Canada, in consultation with the Provinces and Territories study the Report of the Working Group on Exemption Provisions;

**Carried: 26-0-1**

- B) That Justice Canada, in consultation with the Provinces and Territories consider whether a statutory exemption should be included in the *Criminal Code*.

**Carried: 25-0-2**