

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

**Criminal Section**  
**August 2014**

**ALBERTA**

**Alberta - 01**

Recent appellate authority has questioned the ability of counsel designated pursuant to section 650.01 (Designation of counsel of record) of the *Criminal Code* to appear by alternate counsel instructed by them for that purpose. The section should be amended so as to clarify that designated counsel may appear by counsel acting on their behalf and with their instruction.

**Carried: 18-0-8**

**Alberta - 02**

Subsection 536(2) (Election before justice in certain cases) of the *Criminal Code* should be amended to expressly provide for a reserved election and to make the necessary consequential changes to the reference to a deemed election contained in that section.

**Defeated: 4-14-9**

**Alberta - 03**

Subsection 486.3(4.1) (Application) of the *Criminal Code* should be amended so as to allow any judge of the Court with jurisdiction over the offence to hear an application under section 486.3 (Accused not to cross-examine witness under 18) of the *Criminal Code* prohibiting the personal cross-examination of witnesses in specified circumstances.

**Carried: 16-0-12**

**Alberta - 04**

Justice Canada should review the infanticide provisions of the *Criminal Code* (section 233 (Infanticide) and subsection 672.11(c) (Assessment order)) in light of the criticism of these provisions by the Law Reform Commission of Canada, similar Commissions in other countries, and academics. A full range of options from repeal to modernization should be considered.

**Carried as amended: 17-5-5****Alberta - 05**

That the concluding clause in section 278.1 (Definition of “record”) of the *Criminal Code* be amended to read: “...but does not include records made by police or prosecutors in relation to the offence being prosecuted.”

**Withdrawn****MANITOBA****Manitoba – 01**

- a) That the *Criminal Code* be amended to allow the interjurisdictional transfer and enforcement of orders under sections 810, 810.01, 810.1, and 810.2 (sureties to keep the peace).

**Carried: 25-0-2**

- b) That the *Criminal Code* be amended to provide greater latitude to vary, add or delete conditions of section 810, 810.01, 810.1 and 810.2 (sureties to keep the peace) orders as required by a change of circumstances.

**Carried: 23-0-5**

- c) That the *Criminal Code* be amended to add a residence condition to the optional conditions under sections 810.01, 810.1 and 810.2 (sureties to keep the peace) orders to require an individual to reside at a residence as approved by a supervisor or the court.

**Carried as amended: 19-6-3****Manitoba - 02**

That sections 99 (weapons trafficking), 100 (possession for purpose of weapons trafficking) and 101 (transfer without authority) of the *Criminal Code* be amended to include explosives in the list of items which are capable of being trafficked and possessed for the purpose of trafficking.

**Withdrawn following discussion****Manitoba – 03**

That Part XXII (Procuring attendance) of the *Criminal Code* be examined by Justice Canada to provide a

mechanism to secure the attendance of a child under 12 years of age in court to provide evidence, other than a subpoena for the child themselves.

**Carried as amended: 24-0-2**

## **NEW BRUNSWICK**

### **New Brunswick – 01**

Amend paragraph 172.1 (Luring a child) (1) (a) of the *Criminal Code* to include section 171.1 (Making sexually explicit material available to child).

**Withdrawn**

### **New Brunswick - 02**

Amend the French version of section 718.01 (Objectives - offences against children) of the *Criminal Code* to provide for a true translation of the term “abuse”.

**Withdrawn following discussion**

### **New Brunswick – 03**

Amend section 515 (order of release) of the *Criminal Code* to codify the powers of a judge or justice on post-conviction detention prior to sentencing.

**Withdrawn following discussion**

## **ONTARIO**

### **Ontario - 01**

Criminal Harassment (s. 264) should be added to the list of offences in s. 486.4(1)(a) of the *Criminal Code* for which a ban on information that could identify the complainant or a witness will be made on request of the complainant or prosecutor.

**Withdrawn following discussion**

### **Ontario - 02**

The *Criminal Code* should be amended to enable the prosecution, in establishing under s. 719(3.1) that the

justice detained an accused person in custody primarily because of a previous conviction of the accused, to do so by any appropriate means and without the need for that decision of the justice to have been made “in writing” in the record.

**Carried: 17-1-9**

### **Ontario - 03**

Amend the *Criminal Code* to provide an express mechanism by which errors in the making of DNA orders (sections 487.04 – 487.0911) and orders to comply with the *Sex Offender Information Registration Act* (sections 490.012 – 490.029), can be corrected by a judge of the court that made them.

**Carried: 24-0-2**

### **Ontario - 04**

Section 487.091 (Collection of additional bodily substances) of the *Criminal Code* should be amended to enable an application to be made for authorization to re-fingerprint an offender in relation to whom a DNA Data Bank order under section 487.051 (Orders) or an authorization under section 487.055 (Offenders serving sentences) has been made where the original fingerprints, taken pursuant to subsection 487.06(3) (fingerprints), are not satisfactory or were lost.

**Withdrawn following discussion**

### **Ontario - 05**

That the federal government, in consultation with the provinces and territories, study:

- a) amending the *Criminal Code* and the *DNA Identification Act* to make the sampling of adult offenders convicted of DNA designated offences automatic by operation of law rather than the need for a court order.
- b) amending the *Criminal Code*, the *DNA Identification Act* and the *Youth Criminal Justice Act* to consider whether it is necessary to have a separate scheme for the sampling of young persons convicted of DNA designated offences.

**Carried as amended: 19-5-2**

### **Ontario – 06**

That the definition of “offence” in s.183 of the *Criminal Code* be amended to include the offence of insider trading (s.382.1). This will allow the authorization of a wiretap for investigations into the commission of

insider trading offences.

**Carried: 26-0-0**

## **QUEBEC**

### **Quebec - 01**

Amend paragraphs 732.1(3)(f) (Optional conditions of probation order) and 742.3(2)(d) (Optional conditions of conditional sentence order) of the *Criminal Code* in order to allow the court, with the parties' consent, to extend the period for the performance of hours of community service to the term of the probation order or the conditional sentence order, as the case may be.

**Carried: 14-5-5**

### **Quebec - 02**

Include in the number of offences giving rise to the reversal of the burden of proof in a release hearing pursuant to subsection 515(6) (Order of detention) of the *Criminal Code* the human trafficking offences referred to in sections 279.01 (Trafficking in persons) and 279.011 (Trafficking of a person under the age of eighteen years) of the *Criminal Code*.

**Withdrawn**

### **Quebec - 03**

That Justice Canada examine the possibility of amending section 163.1 (Definition of "child pornography") of the *Criminal Code* in order to replace the term "child pornography" with another term that adequately represents the objective seriousness of the crime and its impact on victims.

**Defeated: 7-17-3**

### **Quebec - 04**

Harmonize Form 54 of the *Criminal Code* concerning the *Sex Offender Information Registration Act* so that the French version refers to "articles 490.02901 à 490.02903" of the *Criminal Code* in its heading. Furthermore, amend the French version so that it reads: "Sentence imposed" instead of "Convicted" at the end of the form, in the section entitled "For administrative use only".

**Carried as amended: 26-0-0**

**Quebec - 05**

That the *Criminal Code* be amended to make it mandatory, upon the request of the prosecutor or the accused, to hold a hearing before a preliminary inquiry provided for in section 536.4 (Order for hearing) of the *Criminal Code*.

**Withdrawn**

**SASKATCHEWAN****Saskatchewan - 01**

Amend sections 673 (Appeals - indictable offences - definition) and 785 (Summary convictions – definitions) of the *Criminal Code* to define “sentence” as including orders made under s. 737 (victim surcharge) of the *Criminal Code*.

**Carried: 19-0-8**

**Saskatchewan - 02**

Amend s. 67 (Election — adult sentence) of the *Youth Criminal Justice Act* so that all young people facing the possibility of a sentence of 5 years or more must be put to an election by the youth justice court. This may be accomplished by amending paragraphs 67(1)(c) and 67(3)(c) to delete the words “ before the young person has attained the age of fourteen years”.

**Carried as amended: 26-0-0**

**CANADA****Public Prosecution Service of Canada****PPSC – 01**

That a working group co-lead by Justice Canada and the Public Prosecution Service of Canada study the development of a legislative framework for the litigation of informer privilege issues that arise in the course of a criminal trial and that the working group report back to the Conference at the 2015 meeting.

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

## REPORTS RESOLUTIONS

### CRIMINAL SECTION REPORTS AND PRESENTATIONS

#### **Endorsement of Part VI and Part XV *Criminal Code* Warrants, Orders and Authorizations – Options for Reform**

That the Uniform Law Conference of Canada – Criminal Law Section establish a working group to develop options on how to address the endorsement of warrants, authorizations and orders; and that the working group report back to the Conference at the 2015 meeting.

**Carried as amended : 26-0-0**

#### **Modernization of Notice Provisions Working Group Status Report**

That the Uniform Law Conference of Canada – Criminal Law Section suspend the work of the Modernization of Notice Provisions Working Group and that the Public Prosecution Service of Canada is not precluded from bringing this matter forward next year.

**Carried: 23-0-3**

### JOINT REPORTS (with the Civil Law Section)

#### **Missing Persons Act**

**RESOLVED: THAT** the final report of the Working Group be accepted; and  
**THAT** the *Uniform Missing Persons Act* and commentaries be approved and recommended to the jurisdictions for enactment.

**Carried**

#### **Enforcement of Extra-Provincial Search Warrants Progress**

**RESOLVED: THAT** the Report of the Working Group be accepted; and  
**THAT** the Working Group:

- a) continue its work in accordance with the recommendations contained in the Report and the directions of the Conference; and
- b) report back to the Conference at the 2015 meeting.

**Carried**