

# REPORT OF THE FEDERAL JURISDICTIONAL REPRESENTATIVE

## Uniform Law Conference of Canada Criminal Section Edmonton, Alberta August 15-19, 2022

### 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 104<sup>th</sup> meeting, which was held in-person in Edmonton, Alberta, August 15-19, 2022.

Part I highlights federal-provincial-territorial (FPT) developments of interest to ULCC. While Part III examines legislative initiatives with respect to the Criminal Law, since ULCC's virtual meeting in August 2021, Part II provides a status update on ULCC resolutions over the past five years, in keeping with Rule 8 of the Criminal Section [\*Rules of Procedure\*](#).

As we met in person for the first time since 2019, it is hoped that this Annual Report will illustrate that the work of the ULCC Criminal Section has continued to influence the reform of the criminal law despite the challenges of the COVID-19 pandemic in Canada.

### Part I - FPT DEVELOPMENTS OF INTEREST TO ULCC 2021-2022

#### *FPT Ministers Responsible for Justice and Public Safety*

The annual meeting of FPT Ministers responsible for Justice and Public Safety took place virtually on February 23-24, 2022. Although Ministers discussed a broad range of matters, below is a highlight of a few key points that would be of interest to the delegates of the ULCC:

1. Firearms: There was a discussion on efforts to help keep cities and communities safe from gun violence. As well, Ministers discussed [Bill C-21](#), *An Act to amend certain Acts and to make certain consequential amendments (firearms)* and the federal government's commitments to implement a mandatory buyback of banned assault-style firearms.
2. Delays: Ministers discussed experiences, efforts, initiatives and best practices to reduce delays and make better use of technology. In addition, Ministers discussed the introduction of [Bill S-4](#), *An Act to amend the Criminal Code and the Identification of Criminals Act and to make related amendments to other Acts (COVID-19 response and other measures)*.
3. Data: The urgent need for improved justice sector data collection was discussed.
4. IRCAs: Some discussion occurred on the implementation of Impact of Race and Culture Assessments (IRCAs), which help judges to better understand the effects of poverty, marginalization, racism and social exclusion on Black offenders and their life experience.
5. Human Trafficking: Ministers discussed the importance of continued collaboration to address this crime and efforts taken to raise awareness, protect victims and hold offenders accountable.
6. Hate Crime: Ministers discussed strategies to address the unprecedented rise in hate and hate motivated crimes.

7. Sexual Offences: Ministers discussed ways to collaborate to support the transfer of sexual offence matters from the military to civilian system.

Finally, on February 22, 2022, FPT Ministers held meetings with Indigenous leaders, including representatives from the Assembly of First Nations, Inuit Tapiriit Kanatami, and the Métis National Council. Discussions allowed participants to share their perspectives on several key issues, including policing and community safety in Indigenous communities, the co-development of federal-First Nations police services legislation and collaboration towards a federal Indigenous Justice Strategy addressing systemic racism and overrepresentation of Indigenous peoples in the justice system.

### ***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 is found on the ULCC website ([ULCC – Summary of Resolutions since 1983](#)).

During the past five years (2016-2021), the Criminal Section considered 117 resolutions. However, as illustrated in Table 1 below, (Status of ULCC Resolutions 2016-2021), 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. In addition, Resolution ON2016-03 has three parts a), b) and c). No action has been taken on any aspect of this resolution. Thus, in total there are 120 resolutions under consideration during this period.

Table 1 Status of ULCC Resolutions 2016-2021

<b>Status</b>	<b>Resolutions</b>	<b>Total</b>
CCSO-FPT	MB2021-01; QC2018-06; AB2017-03; NB2017-02; Can-CAPCJ2017-03 and QC2016-01.	6
Firearms classification review	ON2018-03; ON2018-04; ON2017-02 and BC2016-05.	4
Legislative Action	ON2021-02; Can-CAPCJ2021-01 <sup>1</sup> ; Can-CAPCJ2021-02; Can-CBA2021-03; AB-CAPCJ2019-01; QC2019-01; AB2018-05; ON2018-01; ON2018-05; MB2017-01; NB2017-01; Can-CBA2017-01; Can-CBA2017-03; BC2016-01; BC2016-02; BC2016-04; ON2016-02; ON2016-04; QC2016-03; SK2016-01; SK2016-02; Can-CBA2016-03 and Can-PPSC2016-01.	23
No action	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; Can-CAPCJ2017-04; AB2016-02; AB2016-03; MB2016-02; ON2016-01; ON2016-03 a); ON2016-03 b); ON2016-03 c); QC2016-02; Can-CBA2016-02; Can-CCCDL2016-01; Can-CCCDL2016-02 and Can-PPSC2016-02.	33
No change	AB2021-02; BC2019-02; NB2018-01; QC2018-02; ON2017-04; QC2017-01; MB2016-01 and ON2016-05.	8
Not yet done	ON2019-03; ON2019-05; QC2019-02 <sup>2</sup> ; Can-CBA2019-02; Can-PPSC2019-01; Can-PPSC2019-02; QC2018-04; Can-CBA2018-03; Can-PPSC2018-02; and CAPCJ2017-02.	10
Resolution under consideration by Justice Canada	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 Can-CAPCJ2017-01.	13
Resolution under active consideration by Justice Canada	QC2021-01; QC2021-02; Can-CAPCJ2021-01 <sup>3</sup> ; Can-PPSC2021-02; AB2018-02; AB2018-03; AB2018-04; ON2018-02; QC2018-01; AB2017-01; AB2017-02; BC2016-03 and NB2016-01.	13

<sup>1</sup> 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.

<sup>2</sup> Not yet done, but no identified gap – section 127 applies in the absence of an amendment.

<sup>3</sup> Op. cit. FN 1.

Working Groups	ON2021-03; Can-CCCDL2021-01; Can-CBA2018-05; BC2017-02; ON2017-03; Can-CBA2016-04; ULCC; ULCC <sup>4</sup> ; ULCC <sup>5</sup> ; and ULCC <sup>6</sup>	10
<b>Total</b>		120

Some key points to note about these numbers are that in total 26 of the resolutions are currently being considered by Justice Canada, 13 of which are under active consideration. An additional 23 resolutions have informed or been addressed through different legislative initiatives and half a dozen are the subject of CCSO-FPT study.

### ***Resolutions addressed in legislative initiatives in 2021-2022***

The 23 resolutions that were taken into account in legislative initiatives are as follows:

1. 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.
2. Can-CAPCJ2021-01: Resolution partially addressed in Bill S-4. Justice Canada is continuing to review and examine how remote proceedings are working.
3. Can-CAPCJ2021-02: Resolution addressed in subsequent legislative initiatives. It should 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.
4. 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*.
5. 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.
6. QC2019-01: Introduction of Bill S-4.
7. AB2018-05: Resolution addressed in legislative initiatives. With the passage of

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

<sup>5</sup> Done: In 2016, the Working Group submitted: The Law of Informer Privilege - Final Report of the Working Group.

<sup>6</sup> 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*.

[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.

8. ON2018-01: Resolution addressed in legislative initiatives. With the passage of Bill C-59, the YCJA (section 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.
9. ON2018-05: Introduction of [Bill C-5](#), *An Act to amend the Criminal Code and the Controlled Drugs and Substances Act*, currently before Senate.<sup>7</sup>
10. MB2017-01: [Bill C-388](#) – *An Act to amend the Criminal Code (bestiality)*; Latest activity: Introduction and first reading on December 13, 2017 (House of Commons).
11. 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 on June 21, 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).
12. CAN-CBA2017-01: Bill C-5.
13. CAN-CBA2017-03: Bill C-75, 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.
14. BC2016-01: Section 95 – no plans to repeal at this time/was looked at a few times over

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<sup>7</sup> UPDATE: [Bill C-5](#) received Royal Assent on November 17, 2022.

the years for repeal (CJS review, MMP review, section 95 response to [R. v. NUR](#), 2015 SCC 15).

- Subsection 95(2) was repealed in Bill C-5.
15. BC2016-02: Resolution addressed in legislative initiatives. With the passage of Bill C-75, subsection 64(1.1) has been repealed.
  16. BC2016-04: Resolution addressed in Former Bill C-75.
  17. ON2016-02: This subsection was amended under the former Bill C-75 to remove the list of offences now repealed. The amendments sought by this resolution have not been made to the *Criminal Code*.
  18. ON2016-04: [Bill S-223](#)– *An Act to amend the Firearms Act and the Criminal Code and to make consequential changes to the other Acts*. Latest activity: Dropped from the Senate Order Paper on November 3, 2016 (Senate).
  19. QC2016-03: The French and English text of the targeted provision have the same meaning. There was no need to amend this provision, as there was no error in the French text. There was only a difference in drafting style, something that was permissible under drafting rules. The French text has since been updated to reflect the recommendations (use of “contrevenant” instead of “accusé”).
  20. SK2016-01: Resolution partially addressed in Former Bill C-75:
    - Bill C-75 amended section 525 to increase the time period for a section 525 review of summary conviction offences from 30 to 90 days, and to allow for a written waiver of a section 525 review by an accused.
    - The bill made other amendments to section 525 to clarify it and streamline it. These amendments were consistent with the March 28, 2019 decision of the Supreme Court of Canada in [R. v. Myers](#), 2019 SCC18, which clarified that detention reviews under section 525 of the *Criminal Code*, must be held automatically after the specified period, regardless of whether unreasonable delay has occurred.
  21. SK2016-02: this was considered as part of C-75 but no change (still \$100 fine).
  22. CAN-CBA2016-03: In [R. v. Boudreault](#), 2018 SCC 58, the Supreme Court of Canada struck down section 737 of the *Criminal Code* in its entirety and ruled that the mandatory nature of the regime was unconstitutional. In 2019, the former Bill C-75 re-enacted section 737 and restructured the federal victim surcharge (FVS) framework to address the Supreme Court of Canada’s decision.
    - The amended framework now provides for judicial discretion to not impose the FVS, or to impose it in a reduced amount, where it would cause undue hardship to the offender, or where it would otherwise be disproportionate to the gravity of the offence.
    - Undue hardship is defined as the offender’s inability to pay the surcharge because of their precarious financial circumstances, including unemployment, homelessness, and lack of assets or significant financial obligations towards their dependants. However, imprisonment of the offender alone does not constitute undue hardship (subsection 737(2.2)).
    - Subject to the judicial discretion as described above, where a fine is imposed on

the offender for an offence, the amount of the FVS will be 30% of that fine. Where a fine is not imposed, the FVS will be \$100 in the case of an offence punishable by summary conviction and \$200 in the case of an offence punishable by indictment (subsection 737(2)).

- Additionally, sentencing courts also have the judicial discretion to increase the FVS where the court, having considered all circumstances, deems the increased amount appropriate and is satisfied that the offender has the ability to pay the higher amount (subsection 737(3)); and

23. CAN-PPSC2016-01: These amendments were proposed most recently in Bill S-4, which completed third reading in the Senate on June 21, 2022.

- Referred to the House of Commons in S-4 for consideration in fall 2022. The issue was the subject of previous Bill C-21 that died on the Order Paper. Bill S-4 is the Criminal law COVID response bill and included other amendments to the *Criminal Code* and other statutes.

### ***Resolutions under active consideration by Justice Canada***

As Table 1 also indicates, 13 resolutions are under active consideration and an equal number are under consideration by Justice Canada. This distinction signifies that CLPS, or the Youth Criminal Law Section of Justice Canada has 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, 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 priorities of the government of the day inform it.

## **Part III - LEGISLATIVE INITIATIVES 2021-2022**

Part III of this Annual Report focuses on federal criminal law reform and the bills introduced in Parliament since last year.

Between August 2021 and the ULCC annual meeting in Edmonton, there were seven (7) Government bills introduced on various criminal law topics. Of these seven bills, four (4) have received Royal Assent.

There were also 18 Private Members' Bills (PMBs) and 15 Senate Public Bills introduced during the same period but none of these has received Royal Assent.

Further details of these legislative initiatives are provided below.

### ***Government Bills (7)***

The four (4) Government Bills that received Royal Assent and that are now in force are:



1) **Bill C-3**, *An Act to amend the Criminal Code and the Canada Labour Code*

This Bill amended the *Criminal Code* to create new offences and sentencing provisions to address intimidating and obstructing conduct in the health context. Specifically, it:

- (a) created an offence of intimidating a person in order to impede them from obtaining health services, intimidating a health professional in order to impede them in the performance of their duties or intimidating a person who assists a health professional in order to impede the person in providing that assistance;
- (b) created an offence of obstructing or interfering with a person's lawful access to a place at which health services are provided, subject to a defence of attending at the place for the purpose only of obtaining or communicating information; and
- (c) added the commission of an offence against a person who was providing health services and the commission of an offence that had the effect of impeding another person from obtaining health services as aggravating sentencing factors for any offence.

Bill C-3 received Royal Assent on December 17, 2021 (S.C. 2021, c. 27).

2) **Bill C-4**, *An Act to amend the Criminal Code (conversion therapy)*

This Bill amended the *Criminal Code* to create the following offences:

- a) causing a person to undergo conversion therapy;
- b) doing anything for the purpose of removing a child from Canada with the intention that the child undergo conversion therapy outside Canada;
- c) advertising an offer to provide conversion therapy; and
- d) receiving a financial or other material benefit from the provision of conversion therapy.

It also amends the *Criminal Code* to authorize courts to order that advertisements for conversion therapy be disposed of or deleted.

Bill C-4 received Royal Assent on December 8, 2021 (S.C. 2021, c. 24).

3) **Bill C-19**, *An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures*

Bill C-19, or the *Budget Implementation Act No. 1* amended the *Criminal Code* in the following ways:

- (1) to authorize wiretaps for offences under the *Excise Tax Act* concerning unlawful production of tobacco, alcohol, cannabis and vaping products, as well as unlawful possession of unstamped vaping products;
- (2) to update provisions relating to proceeds of crime in relation to the *Excise Tax Act*;
- (3) to create a new offence of willfully promoting antisemitism; and
- (4) to provide jurisdiction to prosecute in Canada offences committed in connection with the



Lunar Gateway Space Station.

Bill C-19 received Royal Assent on June 23, 2022 (S.C. 2022, c. 10).

**4) Bill C-28, *An Act to amend the Criminal Code (self-induced extreme intoxication)***

Bill C-28 responded to the Supreme Court of Canada decisions in *Sullivan*, *Brown* and *Chan* and amended the *Criminal Code* to provide criminal liability for individuals who commit violent crimes of general intent while in a state of negligent self-induced extreme intoxication.

Bill C-28 received Royal Assent on June 23, 2022 (S.C. 2022, c. 11).

The other three (3) Government Bills that remain before Parliament are:

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

Bill C-5 proposes amendments in three broad areas:

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

Bill C-5 was amended by the House of Commons to provide that records for simple drug possession convictions that occur before the Bill comes into force must be kept separate and apart within two years of the Bill's enactment. It was also amended to provide that convictions for these offences that occur after the Bill comes into force must be kept separate and apart and deems these offences never to have been committed two years after the conviction or two years after the expiration of the sentence imposed.

Bill C-5 was referred to the Standing Senate Committee on Legal and Constitutional Affairs.

**2) 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 was referred to the Standing Committee on Public Safety and National Security.

**3) [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 would address challenges and propose measures 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 was amended by the Senate to include requirements to review the effectiveness of the Bill's reforms. It has been referred by the Senate to the House of Commons.

***Private Members' Bills (18)***

None of the Private Members' Bills listed below has received Royal Assent. However, at the outset, it is important to draw attention to Bill C-233, which has advanced in the Bill making process, as discussed further below:

**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 completed First Reading on November 25, 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-230, *An Act to amend the Criminal Code (intimidation of health care professionals)***

This bill would 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.

The Bill is currently at Second Reading in the House of Commons.

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

This bill would amend the *Criminal Code* by amending the bail provisions to require consideration of the wearing of an electronic monitoring device for offences of violence committed against an intimate partner. It would also amend 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.

The Bill was passed by the House of Commons and referred to the Senate on June 1, 2022.

8) **Bill C-250, *An Act to amend the Criminal Code* (prohibition- promotion of antisemitism)**

This bill would create a new offence of wilfully promoting antisemitism by condoning, denying or downplaying the Holocaust.

The Bill was introduced on February 9, 2022. The Bill's proposed amendments were subsumed within Bill C-19, discussed above, and which received Royal Assent.

9) **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.

10) **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.

11) **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.

12) **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.

**13) [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.

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

This bill would 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.

The Bill was introduced on June 14, 2022 and awaits Second Reading.

**15) [Bill C-289](#), *An Act to amend the Criminal Code* (identity verification)**

This bill would 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*.

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

**16) [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.

**17) [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.

**18) [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.

### ***Senate Public Bills (15)***

None of the 15 Senate Public Bills has received Royal Assent. However, as discussed further below, Bill S-223 has advanced in the Bill making process.

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.

The Bill is currently before the Standing Senate Committee on Legal and Constitutional Affairs.

2) **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.

The Bill, which was at Third Reading in the Senate, died on the Order Paper on August 15, 2021.

3) **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.

The Bill is at Third Reading in the House of Commons after having passed the Senate.

4) **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.

The Bill was introduced on November 24, 2021 and is at Report Stage in the Senate.

5) **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.

The Bill was introduced on November 24, 2021 and awaits Second Reading.

6) **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.

The Bill is before the Senate Standing Committee on Legal and Constitutional Affairs.

7) **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.

The Bill is before the House of Commons Standing Committee on Foreign Affairs and International Development after having passed the Senate. The Bill completed Second Reading on May 18, 2022.

8) **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.

The Bill is at Third Reading in the Senate.

**9) [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*.

The Bill is at Second Reading in the Senate.

**10) [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.

The Bill is at Second Reading in the Senate.

**11) [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%.

The Bill is at Second Reading in the Senate.

**12) [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” who would have standing in court proceedings 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.

The Bill is at Second Reading in the Senate.

**13) [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*.

The Bill is at Second Reading in the Senate.

**14) [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.

The Bill was introduced on June 14, 2022 and awaits Second Reading.

**15) [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.

The Bill was introduced on June 16, 2022 and awaits Second Reading.

## **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](#).

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November 29, 2022