

**UNIFORM LAW CONFERENCE OF CANADA  
CRIMINAL SECTION RESOLUTIONS  
August 2021**

**ALBERTA**

**AB2021-01**

That the endorsed warrant regime set out in the *Criminal Code* be examined with a view to expanding it to allow the endorsement of a wider range of warrants.

**Carried: 34-0-0**

**AB2021-02**

- a) That sections 486.4 and 486.5 of the *Criminal Code*, and any other section dealing with orders restricting publication which refer to the concept of publication in any document or broadcast or transmission in any way, be amended to clarify that the prohibition applies to information that continues to be available or accessible after the imposition of a publication ban.

**Carried as amended: 29-0-0**

- b) That Justice Canada consider whether the *Criminal Code* needs to be amended to allow pre-trial conditions to be placed on corporate accused to prevent the commission of further offences.

**Withdrawn following discussion**

**AB2021-03**

That Justice Canada, in consultation with provinces and the territories, consider whether the *Criminal Records Act* should be amended to allow the record of a discharge to be disclosed in subsequent sentencing hearings.

**Carried as amended: 19-7-2**

**AB2021-04**

That the *Criminal Code* be amended to allow the admission into evidence of a written report of a probation officer alleging a breach of an order made under sections 731 or 732 of the *Criminal Code*, with similar safeguards as those found in subsections 742.6(4), (5) and (8) of the *Criminal*



*Code*, specifically notice to the accused of the prosecutor's intent to use the report, and the ability, with leave of the court, for the accused to require the attendance of the probation officer for cross examination purposes. For further certainty, the only admissible evidence in the report would be evidence within the personal knowledge of the probation officer.

**Carried as amended: 22-2-3**

**British Columbia**

**BC2021-01**

It is recommended that the definition of "serious personal injury offence" in paragraph 752(b) of the *Criminal Code* be amended to include sexual interference (section 151), invitation to sexual touching (section 152), and sexual exploitation (section 153).

**Carried as amended: 30-0-1**

**Canada – Canadian Association of Provincial Court Judges**

**Can- CAPCJ2021-01**

The provisions of the *Criminal Code* relating to alternatives to physical appearance by an accused are complex and found in many different Parts of the *Code*. The *Code* should be amended to gather all of these provisions in one Part. Further, the ability of a trial judge to order a particular mode or form of appearance, with or without consent, should be clarified.

**Carried: 30-0-0**

**Can- CAPCJ2021-02**

While there are constitutional and common law principles, statutory provisions and principles of statutory interpretation relating to when and how new legislation operates, applying these tools in practice generates voluminous case law, uncertainty and delay. To alleviate these difficulties the Criminal Section of the Uniform Law Conference of Canada recommends that legislation reforming criminal law include express provisions regarding prospective or retrospective



application and transition provisions relating to repeal and replacement of provisions in force at the time of the new enactment.

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

**Canada – Canadian Bar Association**

**Can-CBA2021-01**

That a mechanism, similar to section 6.1 of the *Criminal Records Act*, be introduced in the *Criminal Code* and/or *Criminal Records Act* to limit the disclosure and retention of records related to stays of proceedings once they can no longer be legally revived.

**Carried: 27-4-0**

**Can-CBA2021-02**

That subsection 507(6) of the *Criminal Code* be amended to include witness warrants under section 705 as warrants that can be endorsed for release by police officer.

**Withdrawn without discussion because similar to AB2021-01**

**Can-CBA2021-03**

That Justice Canada, in consultation with the provinces and territories, study the possibility of amending the *Criminal Code* to include a judicial authorization for the seizure of DNA belonging to someone other than the suspect, in circumstances where the power to search incident to an arrest is not applicable.

**Carried as amended: 18-7-3**

**Canada – Canadian Council of Criminal Defence Lawyers**

**Can-CCCDL2021-01**

Appreciating that Can-CAPCJ2021-01 has passed (“Alternative Modes of Appearance for the Accused”), the ULCC Criminal Section establish a working group for the purposes of making recommendations in relation to possible *Criminal Code* amendments pertaining to the use of



technology in criminal matters, bearing in mind the impact of the pandemic on the criminal justice system.

**Carried as amended: 18-0-9**

**Can-CCCDL2021-02**

It is recommended that the *Criminal Code* be amended to create a national temporary moratorium on law enforcement use of facial recognition technologies. It is recommended that this be accomplished by expressly banning law enforcement use of these technologies, similar to the ban on unauthorized wiretap interception, but without the possibility of prior judicial authorization, for 18 months, renewable or amendable by Governor-in-Council.

**Withdrawn following discussion**

**Can-CCCDL2021-03**

The offence of refusing to provide a mandatory breath sample for alcohol screening, pursuant to subsection 320.27(2) of the *Criminal Code*, be amended. Added to subsection 320.27(2) shall be the following: “A refusal to provide a sample pursuant to subsection 320.27(2) shall not be an offence, but shall be grounds for a demand to be made pursuant to section 320.28.”

**Withdrawn as amended following discussion**

**Canada – Public Prosecution Service of Canada**

**Can-PPSC2021-01**

That subsection 193(2) of the *Criminal Code* be amended to explicitly exempt the Crown from criminal liability any time a private communication is disclosed to an accused person during the investigation or prosecution of an offence.

**Carried as amended: 30-0-1**



**Can-PPSC2019-02**

That subsection 508.1(1) of the *Criminal Code* be amended to include “or public officer” as defined in section 2 of the *Criminal Code*.

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

**Manitoba**

**MB2021-01**

**Part I, as amended:**

Subsection 161(1) of the *Criminal Code* should be amended to change the reference to persons under the age of 16 years to persons under the age of 18 years, both in reference to the age of the victim and the age of the persons referred to in the protective conditions.

**Carried as amended: 27-0-5**

**Part II, unamended:**

Subsection 161(1.1) of the *Criminal Code* should be amended to include sexual exploitation (section 153 of the *Criminal Code*) as a listed offence.

**Carried: 28-0-4**

**MB2021-02**

Paragraph 2(1)(a) of the *Identification of Criminals Act (ICA)* should be amended to read “any person who is in lawful custody after being arrested for or charged with or convicted of...”.

Also, references to the *Cannabis Act* should be added, where required, to subsection 2(1) of the ICA.

**Carried as amended: 20-0-10**

**Ontario**

**ON2021-01**



It is recommended that paragraph 508(1)(b) of the *Criminal Code* be amended so that the justice can cancel only the mandatory condition in an undertaking compelling appearance, should there be a defect only in it, and confirm the rest of the undertaking.

**Carried: 31-0-0**

**ON2021-02**

**Part I, as amended**

- a) It is recommended that the following offences be added to the definition of “offence” in section 183 of the *Criminal Code*:
1. Manslaughter (section 236)
  2. Attempted Murder (section 239)
  3. Criminal Negligence Causing Death (section 220)
  4. Criminal Negligence Causing Bodily Harm (section 221)
  5. Dangerous Operation Causing Death (subsection 320.13(3))
  6. Operation While Impaired Causing Death (subsection 320.14(3))
  7. Fail to Stop After Accident where Death ensues (subsection 320.16(3))
  8. Fail to Stop After Accident where Bodily Harm ensues (subsection 320.16(2))
  9. Possession of a Prohibited or Restricted Firearm with Ammunition (section 95)
  10. Possession of Firearm Knowing its Possession is Unauthorized (section 92)
  11. Prohibited Insider Trading (section 382.1)
  12. Wilful Promotion of Hatred (subsection 319(2))

**Carried as amended: 19-1-10**

**Part II, as amended**

- b) It is recommended that Justice Canada, in consultation with provinces and territories, review section 183 of the *Criminal Code* to determine how to address the designation of offences in a more effective and comprehensive way than solely by enumerating individual offences, and that that review include consideration of the use of a generic category of offences with a maximum penalty of 10 years imprisonment or more.

**Carried as amended: 26-0-1**



**ON2021-03**

It is recommended that the Criminal Section of the ULCC strike a working group to review section 672.26 (and related sections) of the *Criminal Code* for possible legislative reform as to how the issue of fitness should be tried when an accused person has elected trial by judge and jury.

**Carried as amended: 29-0-0**

**Quebec**

**QC2021-01**

We recommend that the *Criminal Code* be amended, to allow the duration of an order issued pursuant to subsection 490.012(1) to be corrected by the tribunal that issued the order, such that the duration be as prescribed by law (section 490.013 of the *Criminal Code*).

**Carried: 30-0-1**

**QC2021-02**

That Justice Canada, in consultation with provinces and territories, consider amending subsection 34(7) of the *Youth Criminal Justice Act* to permit that a report made under subsection 34(1) be given to the provincial director responsible for drafting a pre-sentence report, in accordance with the conditions that a possible working group may deem appropriate.

**Carried as amended: 29-1-2**

**QC2021-03**

That Justice Canada, in consultation with provinces and territories, consider increasing the maximum sentences enacted by sections 318 and 319 of the *Criminal Code* in a manner that reflects the seriousness of those offences.

**Carried as amended: 27-0-3**



**Saskatchewan**

**SK2021-01**

That Justice Canada, in consultation with the Provinces and Territories, consider amending section 467.1 and/or Part XIII of the *Criminal Code* to allow for the designation of organisations as Criminal Organisations within the meaning of section 467.1, and that Justice Canada, in consultation with the Provinces and Territories, consider whether this designation power may be appropriately delegated to the Provinces and Territories.

**Defeated: 14-14-3**

**REPORTS**

**Criminal Section Working Group Reports**

***Working Group Examining the Scope of the Mandate of the Criminal Section***

Be it resolved that:

1. the Final Report of the Working Group Examining the Scope of the Mandate of the Criminal Section be accepted; and
2. the recommendations in the Final Report of the Working Group Examining the Scope of the Mandate of the Criminal Section be approved.

**Carried: 31-0-0**

***Working Group on Section 490 of the Criminal Code***

Be it resolved that:

1. the Status Report of the Working Group on Section 490 of the *Criminal Code* be accepted; and
2. the Working Group continue its work and report back to the Criminal Section at the 2022 annual meeting.

**Carried: 29-0-0**



***Working Group on the review of section 487 of the Criminal Code***

Be it resolved that:

1. the Status Report of the ULCC Criminal Section Working Group on the review of section 487 of the *Criminal Code* be accepted; and
2. the Working Group continue its work and report back to the ULCC Criminal Section at the 2022 annual meeting.

**Carried: 29-0-0**

Votes reported: In Favour – Opposed – Abstentions