LIBRARY OF PARLIAMENT
BIBLIOTHÈQUE DU PARLEMENT

PRELIMINARY VERSION

UNEDITED

The preliminary, unedited version of this legislative summary is provided to parliamentarians, parliamentary staff and the public to ensure timely access to the information, research and analysis needed to study the bill in question. If the bill receives Royal Assent, this version will be replaced on the Parliament of Canada website by a final version, which may differ from this document.

Legislative Summary

BILL C-16: AN ACT TO AMEND CERTAIN ACTS IN RELATION TO CRIMINAL AND CORRECTIONAL MATTERS (CHILD PROTECTION, GENDER-BASED VIOLENCE, DELAYS AND OTHER MEASURES)

45-1-C16-E

28 January 2026

Isabelle Chénier, Alexsandra Ferland, Michaela Keenan-Pelletier and Dana Phillips

Research and Education

PRELIMINARY VERSION
UNEDITED

AUTHORSHIP

28 January 2026 Isabelle Chénier
Alexsandra Ferland
Michaela Keenan-Pelletier
Dana Phillips

ABOUT THIS PUBLICATION

Library of Parliament legislative summaries summarize bills currently before Parliament and provide background information about them in an objective and impartial manner. They are prepared by Research and Education, which carries out research for and provides information and analysis to parliamentarians, Senate and House of Commons committees and parliamentary associations. Legislative summaries are revised as needed to reflect amendments made to bills as they move through the legislative process.

For clarity of exposition, the legislative proposals set out in the bill described in this legislative summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the Senate and House of Commons and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent and come into force.

Any substantive changes to this Library of Parliament legislative summary that have been made since the preceding issue are indicated in **bold print**.

© Library of Parliament, Ottawa, Canada, 2026

Legislative Summary of Bill C-16
(Preliminary version)

45-1-C16-E

Ce document est également publié en français.

PRELIMINARY VERSION
UNEDITED

CONTENTS

1 BACKGROUND 1

2 DESCRIPTION AND ANALYSIS 2

2.1 *Criminal Code* (Clauses 2 to 119) 2
2.1.1 Definition and Interpretation (Clauses 2 and 6) 2
2.1.2 Offences Against Children or Other Vulnerable Persons 3
2.1.2.1 Child Sex Tourism (Clause 3) 3
2.1.2.2 Child Trafficking and “Mistaken Belief of Age” Defence (Clause 7) 3
2.1.2.3 Invitation to Sexual Touching and Sexual Exploitation (Clauses 9, 10(2) and 11) 4
2.1.2.4 Prohibition Orders for Certain Offences Against Young Persons (Clause 13) 4
2.1.2.5 Threat of Distributing Child Sexual Abuse and Exploitation Material (Clause 17) 5
2.1.2.6 Recruitment of Youth to Commit Offences (Clause 20 and 62) 5
2.1.2.7 Luring – Sextortion (Clause 22) 5
2.1.2.8 Exposure (Clause 23) 6
2.1.2.9 Obtaining Sexual Services of a Person Under 18 (Clause 36) 6
2.1.3 Other Sexual Offences 6
2.1.3.1 Bestiality (Clauses 12, 16, 18, 21(3) and 45) 6
2.1.3.2 Voyeurism (Clause 14(2)) 7
2.1.3.3 Distributing Intimate Images Without Consent (Clauses 15, 16 and 45(1)) 7
2.1.3.4 Sexual Assault (Clause 29) 8
2.1.3.5 Sextortion (Clause 37) 8
2.1.4 Rape Shield and Records Provisions (Clauses 31, 32 and 34) 9
2.1.4.1 Admissibility of Sexual Activity Evidence (Clauses 31 and 32) 10
2.1.4.2 Production of Records (Clause 34) 12
2.1.4.3 Admissibility of Records (Clause 34) 13

PRELIMINARY VERSION
UNEDITED

2.1.4.4 Scope of Records Regime (Clause 34) 15
2.1.5 Criminal Harassment (Clauses 27 and 48) 15
2.1.6 Exploitation (Clause 35) 16
2.1.7 Coercive or Controlling Conduct Towards an Intimate Partner (Clauses 28, 42 and 45(2)) 17
2.1.7.1 Mandatory Weapons Prohibition Order (Clause 4) 18
2.1.7.2 Orders authorizing the taking of bodily substance samples for forensic DNA analysis (Clause 42) 19
2.1.7.3 Sex Offender Information Registration (Clause 45(2)) 19
2.1.7.4 Coming into Force (Clause 206) 19
2.1.8 Femicide 20
2.1.8.1 First Degree Murder (Clause 25) 20
2.1.8.2 Manslaughter (Clauses 26, 56, 57, and 72 to 75) 21
2.1.8.3 Fear of Domestic Violence Recognizance Orders (Clauses 5, 47 and 81) 22
2.1.8.4 Endorsement of Intimate Partner Violence on the Information or Indictment (Clause 68) 22
2.1.8.5 Restitution to Victims of Intimate Partner Violence (Clause 70) 23
2.1.9 Order Prohibiting Contact at Sentencing (Clause 69) 23
2.1.10 Dangerous Offenders and Long-Term Offenders (Clauses 76, 77, 78 and 144) 24
2.1.11 Interception of Communications (Clause 24) 25
2.1.12 Testimonial Aids and Other Protections for Victims and Witnesses (Clauses 38 to 41) 25
2.1.12.1 Support Person or Animal (Clause 38) 26
2.1.12.2 Testimony Outside Courtroom (Clause 39) 26
2.1.12.3 Cross-Examination by the Accused (Clause 40) 27
2.1.12.4 Multiple Orders (Clause 41) 27
2.1.13 Publication Bans in Cases of Mental Disorder (Clause 53) 28
2.1.14 Victim and Community Impact Statements (Clauses 66 and 67) 28
2.1.15 Unreasonable Delay (Clause 46) 29
2.1.16 Disposition of Seized Property (Clauses 43 and 44) 30

PRELIMINARY VERSION
UNEDITED

2.1.17 Alternative Measures and Restorative Justice (Clause 59) 31
2.1.18 Affidavit Evidence – Identity Theft and Identity Fraud (Clause 52) 33
2.1.19 Mandatory Minimum Penalties (Clauses 63 and 87) 34

2.2 *Youth Criminal Justice Act* (Clauses 120 to 134) 35
2.2.1 Victims (Clauses 120, 121, 129, 131, and 132) 35
2.2.2 Alternative Measures and Restorative Justice (Clauses 121, 122, and 127) 36

2.3 *Canadian Victims Bill of Rights* (Clauses 135 to 143) 37

2.4 *National Defence Act* (Clauses 144 to 178) 38
2.4.1 Serious Personal Injury (Clause 144) 38
2.4.2 Victims' Rights (Clauses 145 to 152 and 162) 38
2.4.3 Rape Shield and Records Provisions (Clauses 155 and 170) 39
2.4.4 Unreasonable Delay (Clause 161) 39
2.4.5 Impact Statements (Clauses 163 to 164) 40

2.5 *An Act respecting the mandatory reporting of Internet child sexual abuse and exploitation material by persons who provide an Internet service* (Clauses 179 to 184) 40
2.5.1 Definition of "Internet Service" (Clause 180) 41
2.5.2 Duties of Persons Providing Internet Service 41
2.5.2.1 Notifying the Designated Law Enforcement Body and Providing Transmission Data (Clause 181) 41
2.5.2.2 Preserving Computer Data (Clause 181) 42
2.5.3 Limitation Period (Clause 183) 42
2.5.4 Regulations (Clause 184) 42

2.6 *Firearms Act* (Clauses 91, 185 and 186) 42

2.7 *Corrections and Conditional Release Act* (Clauses 187 to 197) 43
2.7.1 Victim Impact Statements (Clauses 188 and 189) 43

PRELIMINARY VERSION
UNEDITED

2.7.2 Disclosure
(Clauses 190 to 196).....43

2.8 *Mutual Legal Assistance in Criminal Matters Act*
(Clauses 198 to 201).....44

PRELIMINARY VERSION
UNEDITED

LEGISLATIVE SUMMARY OF AN ACT TO AMEND CERTAIN ACTS IN RELATION TO CRIMINAL AND CORRECTIONAL MATTERS (CHILD PROTECTION, GENDER-BASED VIOLENCE, DELAYS AND OTHER MEASURES)

1 BACKGROUND

On 9 December 2025, the Honourable Sean Fraser, Minister of Justice, tabled Bill C-16, An Act to amend certain Acts in relation to criminal and correctional matters (child protection, gender-based violence, delays and other measures), (short title: Protecting Victims Act).[1] It received its first reading the same day.

Bill C-16 introduces changes to several aspects of the criminal justice system with a focus on strengthening protections for victims, particularly women, children and youth. According to the Department of Justice, the bill aims "to protect victims and survivors of sexual violence, gender-based violence,[2] and intimate partner violence, and to keep [children] safe from predators" as well as to address concerns about court delays under the *Jordan* framework.[3]

The achieve these objectives, the bill amends several federal statutes, including:

- the *Criminal Code* (the Code)[4];
- the *Canadian Victims Bill of Rights* (CVBR)[5];
- the *National Defence Act* (NDA)[6];
- the *Firearms Act*[7];
- the *Corrections and Conditional Release Act* (CCRA)[8];
- *An Act respecting the mandatory reporting of Internet child sexual abuse and exploitation material by persons who provide an Internet service* (Mandatory Reporting Act)[9]; and
- the *Mutual Legal Assistance in Criminal Matters Act* (MLAA).[10]

The bill introduces several new offences, making it a crime to engage in coercive or controlling conduct towards an intimate partner, distribute depictions of bestiality, threaten to distribute child sexual abuse and exploitation material[11] or intimate images, and recruit youth to commit offences. In addition, it broadens or refines certain offences, for example by adding a new element of inciting self-exposure to certain sexual offences, expanding the scope of luring to address sextortion, ensuring that deepfakes are included in the offence of distributing an intimate image without

PRELIMINARY VERSION
UNEDITED

consent, and changing the test for criminal harassment to focus on the accused's conduct instead of the complainant's mental state. The bill also expands the duties of Internet service providers to report child sexual abuse and exploitation online.

A number of amendments enhance the testimonial aids and procedural protections available to victims throughout criminal proceedings, including their right to receive information and to participate in proceedings by presenting impact statements. The bill also overhauls the legislative schemes governing the production and admissibility of evidence about the complainant in sexual offence proceedings.

With respect to the *Jordan* framework, Bill C-16 provides guidance to courts[12] on how to address unreasonable delays and limits the use of stays of proceedings as a remedy. The bill also introduces a principled framework for the use of alternative measures and restorative justice processes. Amendments to the *Youth Criminal Justice Act* (YCJA)[13] expand the list of identify factors that must be considered when dealing with young offenders, and bring increased attention to the needs of Black young offenders.

Finally, the bill introduces tougher penalties by reclassifying certain murders involving hate, intimate partner violence, sexual violence or human trafficking as first degree, strengthening the maximum penalties for several sexual offences, and reviving mandatory minimum penalties (MMPs) through the introduction of an exemption to avoid unconstitutional sentences, amongst other changes.

Bill C-16 comes less than two months after the introduction of Bill C-14, An Act to amend the Criminal Code, the Youth Criminal Justice Act and the National Defence Act (bail and sentencing), which proposed tougher bail and sentencing laws to address violent and repeat offending, and organized crime.[14]

2 DESCRIPTION AND ANALYSIS

2.1 *CRIMINAL CODE* (CLAUSES 2 TO 119)

2.1.1 Definition and Interpretation (Clauses 2 and 6)

Clause 2 of Bill C-16 introduces new sections 3.01(1) and 3.01(2) of the Code. New section 3.01(2) lists new and existing provisions of the Code dealing with mandatory weapons prohibition orders, protections for victims and witnesses, bail, sentencing principles and peace bonds, each of which include references to "an offence in the commission of which violence in used, threatened or attempted against any person or

PRELIMINARY VERSION
UNEDITED

class of person." New section 3.01(1) specifies that for the purpose of interpreting the listed provisions, a violent offence includes:

- an offence that is of a sexual nature or that is committed for a sexual purpose;
- criminal harassment (section 264 of the Code);
- coercion or control of an intimate partner (new section 264.01 of the Code);
- trafficking in persons (section 279.01 of the Code);
- trafficking of a minor (section 279.011 of the Code).

Clause 6 amends section 150 to add the definition of "sexual organs," which "include breasts that are or appear to be female breasts and the anal region." The French version of Bill C-16, clause 6, only refers to breasts ("les seins") and does not specify that they "are or appear to be female." While this definition does not explicitly mention genital organs, the use of the word "include" suggests that it could extend to them. The term "sexual organs" now replaces previous wording such as "his or her genital organs or anal region or her breasts," "a person's genital organs or anal region or, if the person is female, her breasts," or "his or her genitals," which appeared in provisions related to voyeurism, non-consensual distribution – or the threat of distribution – of an intimate image, making, distributing, possessing or accessing child sexual abuse and exploitation material, making sexually explicit material available to a child, and exposure to a minor for sexual purpose.[15]

2.1.2 Offences Against Children or Other Vulnerable Persons

2.1.2.1 Child Sex Tourism (Clause 3)

Section 7(4.1) of the Code establishes that certain sexual offences against children committed abroad by a Canadian citizen or a permanent resident[16] are deemed to have been committed in Canada.[17] Clause 3 adds the following offences when committed against a person under 18: sexual assault (section 271), sexual assault with a weapon, threats to a third party or causing bodily harm (section 272), and aggravated sexual assault (section 273).

2.1.2.2 Child Trafficking and "Mistaken Belief of Age" Defence (Clause 7)

Section 150.1(5) of the Code provides that a person charged with a listed sexual offence involving a minor cannot rely, as a defence, on their belief that the victim was at least 18 years old, unless they took all reasonable steps to ascertain the victim's age. Clause 7 of Bill C-16 expands the list of offences subject to this

PRELIMINARY VERSION
UNEDITED

standard to include trafficking a minor (section 279.011), receiving a material benefit from the trafficking of a minor (section 279.02(2)), and withholding or destroying travel documents to facilitate the trafficking of a minor (section 279.03(2)).

2.1.2.3 Invitation to Sexual Touching and Sexual Exploitation (Clauses 9, 10(2) and 11)

Clauses 9, 10(2) and 11 amend sections 152, 153(1) and 153.1(1) of the Code, which set out offences for inviting a person younger than 16 to engage in sexual touching, sexually exploiting a young person, and sexually exploiting a person with a disability. A new element of inciting a person to expose their own sexual organs is added to each of these offences.

Clauses 9 and 10(2) also clarify that the first two offences include inciting a person to touch their own body. This element is already part of the offence of sexual exploitation of a person with a disability.

2.1.2.4 Prohibition Orders for Certain Offences Against Young Persons (Clause 13)

Under section 161 of the Code, courts must consider imposing specific prohibition orders on individuals convicted of designated offences against a person younger than 16 years old. These orders may restrict a person from:

- attending certain public places where individuals under 16 may be present;
- being within two kilometres, or any other distance specified in the order, of the victim's residence;
- working or volunteering in a position of trust or authority towards persons under 16 years of age;
- having unsupervised contact with persons under 16 years of age; and
- using the Internet.

Clauses 13(1) and 13(2) raise the age threshold from 16 to 18 years and broaden the potential scope of these prohibition orders. Additionally, clause 13(3) adds sexual exploitation (section 153) to the list of offences that triggers the court's obligation to consider making a prohibition order.

PRELIMINARY VERSION
UNEDITED

2.1.2.5 Threat of Distributing Child Sexual Abuse and Exploitation Material (Clause 17)

Clause 17(2) introduces new section 163.1(4.21) of the Code, which makes it an offence for a person to knowingly threaten to distribute any child sexual abuse and exploitation material, with the intent to intimidate or to be taken seriously.

This offence is punishable on summary conviction by a term of imprisonment of up to two years less a day, with a minimum sentence of six months; or, if prosecuted by indictment, by a term of imprisonment of up to 10 years, with a minimum sentence of one year.

Making, distributing, possessing and accessing child sexual abuse and exploitation material are already offences under the Code (section 163.1).

2.1.2.6 Recruitment of Youth to Commit Offences (Clause 20 and 62)

Clause 20 creates a new hybrid offence of recruiting a person under 18 to participate in an offence under either the Code or the *Controlled Drugs and Substances Act* (new section 169.1 of the Code). The offence requires the accused to be "in a position of trust, power or authority" towards the young person, which is presumed to be the case where the accused is over 18. The offence carries a maximum penalty of five years' imprisonment if prosecuted by indictment.

Recruiting someone to join a criminal organization for the purpose of facilitating an indictable offence is already an offence under section 467.111 of the Code, with a harsher penalty if the recruited person is under 18. While involving a person under 18 in the commission of an offence is an aggravating factor in sentencing under section 718.2(1)(ii.2) of the Code, it does not constitute a stand-alone offence. In addition to the new offence created by clause 20, clause 62 strengthens the wording of the aggravating factor so that it applies where an offender *counselled or otherwise involved* a person under 18 in committing an offence.

2.1.2.7 Luring – Sextortion (Clause 22)

Section 172.1(1)(a) of the Code makes it an offence to communicate with a person under 18 via telecommunication for the purpose of facilitating certain offences, such as sexual exploitation and trafficking. Clause 22 amends this section to include extortion (section 346) "of a sexual nature or for a sexual purpose" – i.e., sextortion – in the list of applicable offences.

PRELIMINARY VERSION
UNEDITED

2.1.2.8 Exposure (Clause 23)

Clause 23 amends sections 173(2) and 173(3) of the Code to increase the penalties for a person found guilty of exposing their sexual organs to a person under the age of 16. Under Bill C-16, where the prosecution proceeds by summary conviction, the accused faces a maximum sentence of imprisonment of up to two years less a day, instead of the previous maximum of six months. For offences prosecuted by indictment, the maximum punishment increases from two years to 10 years.

2.1.2.9 Obtaining Sexual Services of a Person Under 18 (Clause 36)

Clause 36 amends section 286.1(2) of the Code to increase the maximum penalty for obtaining the sexual services of a person under 18 from 10 to 14 years' imprisonment.

This increase comes with certain consequences under the Code. Where an offence has a maximum sentence of 14 years, the accused or the prosecutor may request a preliminary inquiry under section 536(2). On the other hand, conditional or absolute discharges are not available for offences with maximum sentences of 14 years or life (section 730).

2.1.3 Other Sexual Offences

2.1.3.1 Bestiality (Clauses 12, 16, 18, 21(3) and 45)

Section 160 of the Code criminalizes bestiality, defined as "any contact, for a sexual purpose, with an animal."[18] It sets out separate offences for bestiality (section 160(1)), compelling another person to commit bestiality (section 160(2)), and committing bestiality in the presence of a child (section 160(3)).

Clause 12(1) of the bill adds section 160(3.1) to the Code, creating a new hybrid offence of knowingly distributing a visual representation of a person committing bestiality, including deepfakes.[19] The offence is punishable by a maximum of five years' imprisonment on indictment (new section 160(3.4)). Offenders are subject to the same prohibition and restitution orders as for the other bestiality offences under section 160, and may also be prohibited from using the Internet under section 162.2 (clause 16). In addition, the new offence is included as a primary offence under the Code's sex offender regime (clause 45).[20] The offence is subject to a defence of public good,[21] similar to the defence for distributing obscene materials found under section 163 of the Code.

PRELIMINARY VERSION
UNEDITED

As noted by the Department of Justice, representations of bestiality may already be captured as a form of obscenity under section 163.[22] However, the bill creates a specific, stand-alone offence with a higher maximum penalty (five years' imprisonment compared to two years for obscenity).

Clause 18 amends section 164 of the Code to allow a court to issue a warrant of seizure for visual representations of bestiality that are kept for sale or distribution. Once the warrant has been obtained and executed, the consent of the Attorney General is required to institute or continue proceedings related to the seized material. The same provisions already apply to obscene publications and certain other illicit materials.

Clause 21(3) clarifies that, for the offence of making sexually explicit material available to a child (section 171.1 of the Code), "sexually explicit material" includes representations of bestiality.

2.1.3.2 Voyeurism (Clause 14(2))

Section 162(5)(a) of the Code stipulates that the maximum penalty for the offence of voyeurism prosecuted by way of indictment is 5 years of imprisonment. Clause 14(2) of the bill increases the maximum to 10 years.

2.1.3.3 Distributing Intimate Images Without Consent (Clauses 15, 16 and 45(1))

Section 162.1(1) of the Code criminalizes the non-consensual distribution of intimate images, which are defined, under amended section 162.1(2)(a)(i), as "a visual recording of a person made by any means including a photographic, film or video recording … in which the person is nude, is exposing their sexual organs or is engaged in explicit sexual activity."[23] This definition appears to be focused on real intimate images and is unclear regarding whether it applies to synthetic images, such as sexual deepfakes.[24]

In 2024, the Uniform Law Conference of Canada (ULCC) recommended that the Code be amended to criminalize the non-consensual distribution of deepfake sexual images.[25]

Clause 15(2) of the bill addresses this recommendation by adding a second category to the definition of "intimate image" under section 162.1(2)(b). The definition now also encompasses:

> a visual representation that is *made by any electronic or mechanical means* and that shows an identifiable person who is depicted as nude, as exposing their sexual organs or as engaged in explicit sexual activity, if the depiction is likely to be mistaken for a visual recording of that person. [Authors' emphasis]

PRELIMINARY VERSION
UNEDITED

With this broader definition in place, Bill C-16 introduces a new offence of threatening to distribute an intimate image under new section 162.1(1.1) of the Code. The offence includes the following elements:

- The accused knew or was reckless as to whether the person depicted would give their consent.
- The accused, with intent to intimidate or to be taken seriously, knowingly threatened the person depicted in the image.

The maximum penalties for this hybrid offence mirror the amended penalties for the offence of distributing an intimate image without consent (clause 15(1)):

- a fine of up to $5,000 or a term of imprisonment of no more than two years less a day or both, if prosecuted by summary conviction;[26] or
- a term of imprisonment of up to 10 years (increased from up to five years) on indictment.

A person convicted of the new offence of threatening to distribute an intimate image may now also be prohibited from using the Internet, except as permitted by conditions set by the court (section 162.2(1) of the Code as amended by clause 16).

Both offences – the threat or actual non-consensual distribution of an intimate image – are included as a "primary offence" under the Code's sex offender regime as provided in amended section 490.011(1)(a) of the Code (clause 45(1)).

2.1.3.4 Sexual Assault (Clause 29)

Section 271(b) of the Code provides that the maximum penalty for sexual assault on summary conviction is 18 months. Clause 29 of Bill C-16 increases it to two years less a day.

2.1.3.5 Sextortion (Clause 37)

Under new section 346(1.4) of the Code, introduced by clause 37 of Bill C-16, a court is now required to consider as an aggravating factor the fact that an extortion offence was of a sexual nature or was committed for a sexual purpose. The offence of extortion occurs when a person, "without reasonable justification or excuse and with intent to obtain anything, by threats, accusations, menaces or violence induces or attempts to induce any person … to do anything or cause anything to be done," (section 346).

PRELIMINARY VERSION
UNEDITED

The Supreme Court of Canada (SCC) has given a broad interpretation to the word "anything," specifying that it is not restricted to money or property, and includes sexual favours.[27] Accordingly, section 346 includes "sextortion," a form of coercion where an individual who holds – or claims to hold – sexually explicit content threatens to distribute it to compel a victim to comply with behavioral or financial demands.[28] Sextortion may be perpetrated in a various contexts, including intimate partner violence, organized crime, sex trafficking, and grooming of minors.[29]

2.1.4 Rape Shield and Records Provisions (Clauses 31, 32 and 34)

Bill C-16 overhauls several sections of the Code that deal with the production and admissibility of evidence about the complainant in sexual offence proceedings, commonly known as "rape shield" and records provisions. These provisions were enacted (and later revised) as part of a broader set of reforms to the law of sexual offences aimed at countering gendered myths and stereotypes and safeguarding the privacy, security, and equality rights of complainants. Underlying these reforms is a persistent tension between the rights of the accused and the rights of the complainant in sexual offence proceedings.

The rape shield and records provisions have been subject to repeated court challenges, and have been revised several times, most recently in 2018 via Bill C-51, An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act.[30] This part of the Code now includes legislative schemes governing:

1. the admissibility of sexual activity evidence (the "rape shield");
2. the production of personal records, such as therapy or medical records, to the accused; and
3. the admissibility of personal records already possessed by the accused.

Bill C-16 revises each of these schemes. It also incorporates parallel provisions into the NDA.

Some of the changes introduced by the bill accord with recommendations made by the ULCC's record regime working group.[31] According to the working group's final report, published in 2025, "the general view remains that these provisions are complicated, confusing, and a source of delay in the justice system."[32]

PRELIMINARY VERSION
UNEDITED

2.1.4.1 Admissibility of Sexual Activity Evidence (Clauses 31 and 32)

Restrictions on the admissibility of evidence about the sexual activity of the complainant in sexual offence proceedings were first introduced in 1982.[33] However, these provisions were struck down by the SCC in *R. v. Seaboyer; R. v. Gayme* (1991) for violating the constitutional rights of the accused.[34] In 1992, they were replaced by a revised scheme, similar to current section 276 of the Code, which was upheld as constitutional in *R. v. Darrach* (2000).[35]

Current section 276(1) of the Code prohibits the use of sexual activity[36] evidence to show that the complainant is (1) more likely to have consented to the sexual activity in question, or (2) less worthy of belief – i.e., "the twin myths." Under current section 276(2), an accused seeking to introduce evidence about the complainant's sexual activity, other than the sexual activity that forms the subject matter of the charge, must follow the two-stage process set out in sections 278.93 and 278.[37] At the first stage, the accused makes an application for a hearing to determine whether the evidence is admissible. If the application is granted, the process moves to the second stage, and a hearing is held to determine the admissibility of the evidence.[38] Section 276(3) sets out a list of factors that the court must consider in making this determination.

Currently, the section 276 scheme applies to proceedings involving the sexual offences listed in section 276(1). Clause 31(1) of Bill C-16 adds a basket clause to the list, extending the scheme's application to any other offence "of a sexual nature or that is committed for a sexual purpose."

Together, clauses 31(2), 32 and 34 of the bill replace the test and procedures for determining the admissibility of sexual activity evidence set out in sections 276(2) and sections 278.93 to 278.97 of the Code respectively with a new legislative scheme. The new scheme establishes distinct procedures for applications brought by the defence (new sections 278.01 to 276.05), the prosecutor (new sections 276.06 to 276.09) and for joint applications (new sections 276.1 to 276.13). This means that prosecutors who wish to introduce sexual activity evidence are now also governed by the Code provisions. However, the test to meet and the procedures to be followed are less onerous for prosecutors. The procedure is further streamlined for joint applications.

Under current section 276(2), sexual activity evidence is admissible only where the court is satisfied that the evidence:

- is not being used to support the twin myths;
- is relevant to an issue at trial;

PRELIMINARY VERSION
UNEDITED

- is of specific instances of sexual activity; and
- has "significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice."

Clause 31(2) of the bill amends the last prong of the test to create a lower threshold for admissibility where the application is brought by the prosecutor. In that case, the adjectives "significant" and "substantially" are removed, and the evidence must only have "probative value that is not outweighed by the danger of prejudice to the proper administration of justice." The test remains unchanged when the application is brought by the defence.[39] The new scheme does not specify which test applies in case of a joint application.

Clause 32 of the bill sets out new procedures for defence applications, prosecutor-initiated applications and joint applications. Certain procedural requirements are strengthened under this clause. For example, under current section 278.93(4) of the Code, a copy of the application must be given to the prosecutor and to the clerk of the court at least seven days prior to the hearing.[40] Bill C-16 extends this notice period to 60 days for all types of applications (new sections 276.01(4), 276.06(4) and 276.1(3)).[41] For defence applications, the new scheme also requires a copy of the application to be given to the complainant (new sections 276.01(2) and 276.01(4)). New section 276.01(5) ensures that direct delivery from the accused to the complainant is not permitted. In addition, defence applications must now be supported by an affidavit (new section 276.01(2)). No affidavit is required for prosecutor or joint applications.

The new procedures for prosecutor and joint applications, on the other hand, are simplified. Currently, at the first stage of the process, section 278.93(4) of the Code requires a court to determine that proper notice has been given and that the evidence is capable of being admissible before granting an application to hold a hearing. While this remains unchanged for defence applications, the new scheme for prosecutor-initiated applications appears to presume that a hearing will be held without the need for this preliminary determination. As a result, the two stages of the process effectively collapse into one. The provisions governing prosecutor-initiated applications also differ in that they do not specify that the complainant may appear and make submissions at the hearing.

Under new section 276.1, the prosecutor, the accused and the complainant may jointly apply for a determination regarding the admissibility of sexual activity evidence, without holding a hearing. The application must explain how the criteria for admissibility under section 276(2) are met. If satisfied that the evidence is admissible, the court may grant the application without holding a hearing. Otherwise, a hearing must be held to determine whether the evidence is admissible under new section 276.02.

PRELIMINARY VERSION
UNEDITED

2.1.4.2 Production of Records (Clause 34)

In the 1995 case of *R. v. O'Connor,* the SCC set out the procedures to be followed when an accused in sexual offence proceedings seeks the production of personal records, such as medical or therapy records, held by third parties.[42] Justice L'Heureux-Dubé wrote a dissenting opinion, arguing that the process set out by the majority gave insufficient weight to the equality and privacy rights of the complainant. In 1997, Parliament enacted a legislative scheme governing the production of third-party records that substantially adopted the approach advocated by Justice L'Heureux-Dubé (current sections 278.1 to 278.91 of the Code).[43] The constitutionality of this scheme was upheld by the SCC in *R. v. Mills* (1999).[44]

Under current section 278.2 of the Code, an accused who seeks the production of a record concerning the complainant or another witness must follow the two-stage process set out in sections 278.3 to 278.92. At the first stage, the accused makes an application, and a hearing is held to determine if the record should be produced to the court for review. At the second stage, the court reviews the record and decides whether it should be produced to the accused. This scheme applies to records held by the prosecutor (unless the complainant or witness waives its application) as well as by third parties (section 278.2(2)).

Clause 34 of Bill C-16 replaces sections 278.1 to 278.97 of the Code with a revised legislative scheme for the production of records. The new scheme establishes a heightened test for therapeutic records as compared to other types of records. It also establishes distinct procedures for the production of records held by third parties and those held by the prosecutor.

Under current section 278.1, a "record" is defined as any record containing personal information for which there is a reasonable expectation of privacy. This includes medical, psychiatric, therapeutic, counselling, education, employment, child welfare, adoption, and social services records, as well as personal journals and diaries, but does not include records made by those investigating or prosecuting the offence. New section 278.1 removes the references to psychiatric, therapeutic, and counselling records from this general definition, and incorporates them within a new, separate definition of "therapeutic record."

Currently, at the first stage of the process, section 278.5(1) of the Code allows a court to order the production of a record for review by the court if satisfied that:

- the correct procedures have been followed;
- the record is likely relevant to an issue at trial or to the competence of a witness to testify; and
- producing the record is necessary in the interests of justice.

PRELIMINARY VERSION
UNEDITED

Under new section 278.14, the test remains essentially unchanged for a general record. For a therapeutic record, however, the second prong requires a court to find that the record could raise a reasonable doubt regarding the accused's guilt – a higher threshold.

The test at the second stage mirrors the test at the first stage, except that the first prong (regarding correct procedures) is removed (current section 278.7(1)). Once again, under the new scheme, this test remains essentially unchanged for a general record. However, for a therapeutic record, the court must be satisfied that the record "contains evidence that is likely to raise a reasonable doubt as to the accused's guilt and that is not available from any other source" prior to ordering its production to the accused.

The bill also makes some procedural changes to the scheme governing the production of records. For instance, the required content of the application now reflects the distinct tests set out above. Furthermore, under new sections 278.12(7) and 278.21(7), the accused is no longer allowed to personally serve the application on the complainant.

For records held by the prosecutor, current section 278.2(3) requires the prosecutor to notify the accused of the record but not to disclose its contents. This constitutes an exception to the Crown's duty to disclose all relevant information to the defence, as articulated in *R. v. Stinchcombe* (1991).[45] According to the ULCC records regime working group, the current provision causes delays in sexual offence proceedings by preventing prosecutors from disclosing relevant material at the outset.[46] In response, the working group has recommended exempting certain types of documents from the scheme, including electronic communications to which the accused is a party and materials that constitute or capture the offence itself.

Bill C-16 addresses the issue raised by the records regime working group in a different way, through the addition of new section 278.2(2). This new section explicitly allows the prosecutor to disclose records to the accused in certain circumstances, namely if the prosecutor intends to introduce the record as evidence, if the record directly relates to the activity underlying the charge, or if the complainant or witness to whom the record relates agrees. The prosecutor may also disclose any communication between the accused and the complainant.[47] As advised by the records regime working group,[48] new section 278.21 clarifies that disclosed records are still subject to the special procedures governing the admissibility of records held by the accused, discussed in the next section.

2.1.4.3 Admissibility of Records (Clause 34)

In the 2002 case of *R v. Shearing,* the SCC held that the scheme for the production of records under the Code did not apply to the admissibility of records already in the accused's possession.[49] As the SCC noted, the question of whether to compel the

production of a record differs significantly from the question of whether certain evidence already possessed by the accused is admissible. The SCC in *Shearing* affirmed that a complainant may be cross-examined on evidence relating to consent and credibility "when the probative value of that evidence is not substantially outweighed by the danger of unfair prejudice that might flow from it."[50]

Consequently, prior to 2018, the admissibility of records held by the accused was not subject to a special procedure under the Code unless the record constituted sexual activity evidence. In 2018, however, Bill C-51 added section 278.92 to the Code, which requires an accused seeking to introduce complainant records as evidence to follow the procedures set out in sections 278.93 and 278.94. These are the same procedures that apply to the admissibility of sexual activity evidence. However, an additional factor must be considered when determining the admissibility of a complainant record under section 278.92(3)(c) of the Code: society's interest in encouraging the obtaining of treatment by complainants of sexual offences.

While the introduction of section 278.92 enhanced protections for complainants, critics contended that it infringed the accused's constitutional rights by forcing the defence to disclose parts of its case to the Crown before trial.[51] However, in the 2022 case of *R. v. J.J.*, the SCC upheld the scheme as constitutional.[52]

Clause 34 of Bill C-16 creates distinct procedures for determining the admissibility of complainant records, separate from the procedures that apply to sexual activity evidence. Under current section 278.92(2), a complainant record held by the accused is inadmissible as evidence unless a court finds it to be relevant to an issue at trial and of "significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice." If the record constitutes sexual activity evidence, it must also meet the additional criteria set out under section 276(2). Under new section 278.29(2), the test for admissibility remains essentially unchanged for a general record,[53] as well as for all records that constitute sexual activity evidence. However, a therapeutic record that does not constitute sexual activity evidence is subject to a heightened test; it must be likely to raise a reasonable doubt about the accused's guilt, and there must be no other evidence capable of raising such a doubt.

The new procedures for determining the admissibility of complainant records reflect the heightened test for therapeutic records. They also mirror some of the procedural changes introduced by the bill to the scheme governing sexual activity evidence. For instance, a defence application to determine the admissibility of a complainant record must now be supported by an affidavit (new section 278.3(2)) and be given to the complainant (albeit not directly by the accused), in addition to the prosecutor and the clerk of the court (new sections 278.3(3)). The notice period for delivering the application is once again extended from seven to 60 days before the hearing (new

sections 278.3(3) and 278.3(5)). The latter change reflects the recommendation of the records regime working group, according to whom "the notice period of seven days is simply not enough for complainant's counsel and the Crown to arrange a response logistically."[54]

In addition to defence applications, the new scheme creates a streamlined joint application process for determining the admissibility of complainant records, similar to the new joint application process for determining the admissibility of sexual activity evidence (new section 278.35).[55] A joint application may only be brought with respect to a general record, and not a therapeutic record (new section 278.35(7)).

2.1.4.4 Scope of Records Regime (Clause 34)

Currently, the schemes governing the production and admissibility of records apply to proceedings involving the sexual offences listed in sections 278.2(1) and 278.92(1) respectively.[56] New sections 278.11(1)(a), 278.2(1)(a), and 278.29(1)(a) add basket clauses to the lists, extending the application of the schemes to any other offence "of a sexual nature or that is committed for a sexual purpose." This mirrors the extension of the scheme governing sexual activity evidence.

In its final report, the records regime working group discussed whether the scope of the records regime should be expanded to include offences such as the distribution of intimate images without consent, voyeurism, and offences related to child sexual abuse and exploitation materials. While some members viewed these offences as raising similar privacy concerns to those governed by the regime, others worried that including them could complicate the disclosure process.[57]

2.1.5 Criminal Harassment (Clauses 27 and 48)

Section 264(1) establishes the offence of criminal harassment. It currently requires proving, in light of all the circumstances, that the accused engaged in certain conduct knowing or being reckless as to whether the complainant was harassed, and that the complainant reasonably feared for their safety or the safety of anyone known to them. Clause 27(1) of Bill C-16 amends this provision, shifting the focus from the complainant's mental state to the accused's conduct. To prove harassment, the prosecution must now establish that the accused's behaviour "could reasonably be expected to cause" the victim to believe their safety or the safety of someone they know is threatened. Furthermore, it must also prove that the accused acted with intent to harass the complainant or was being reckless as to whether they could be harassing them.

PRELIMINARY VERSION
UNEDITED

Clause 27(2) amends section 264(2) to specify that harassment committed in person or through modern technology (such as electronic monitoring) is prohibited. Building on this, clause 27(3) adds "monitoring the location, movements, actions or social interactions" of another person as a form of conduct that could constitute criminal harassment if the above test is met.

Courts have interpreted the concept of a person's safety to include psychological safety.[58] Clause 27(7) of the bill codifies this interpretation in new section 264(6) of the Code.

Current section 515(4.1)(b) of the Code requires a court to impose a weapons prohibition when granting bail for individuals charged with criminal harassment, unless doing so is deemed unnecessary for safety purposes. Clause 48 repeals this provision. Section 515(4.2) requires a court to consider imposing certain additional bail conditions, such as no-contact orders, geographic restrictions, or electronic monitoring device, for offences listed under section 515(4.3), including criminal harassment.[59] Clause 48 removes "criminal harassment" from this provision.[60] As a result, it would fall on the prosecution to justify the imposition of these bail conditions under section 515(4) of the Code in cases of criminal harassment.

2.1.6 Exploitation (Clause 35)

Under section 279.04(1) of the Code, "exploitation" is defined for the purposes of human trafficking offences (sections 279.01 to 279.03) as causing a person to provide labour or a service through:

> conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labour or service.[61]

In 2021, Bill S-224, An Act to amend the Criminal Code (trafficking in persons) sought to remove the requirement to prove the victim's reasonable fear for their safety, but it died on the *Order Paper*.[62] Critics argued that this criterion was placing the burden on victims of human trafficking to provide "compelling testimony to prove the validity of their experience."[63] Others noted that this amendment would "address some of the challenges around getting victims to testify."[64] A similar approach is taken in Bill C-16, which removes the need to prove the victim's reasonable fear for their safety for the offence of criminal harassment (clause 27).

Clause 35 of the bill creates new section 279.04(4), which incorporates the element of reasonable fear in the exploitation offence, but clarifies that the term "safety"

PRELIMINARY VERSION
UNEDITED

includes being safe from psychological harm. This interpretation has been previously recognized by the courts.[65]

In addition, the bill amends section 279.04(2) to shift from a non-exhaustive, discretionary list of factors in determining whether exploitation has occurred – such as the use of force or other form of coercion, deception, or abuse of a position of trust, power or authority – to a mandatory consideration of "all the circumstances." Courts are now directed to assess the nature of the relationship between the accused and the complainant as well as the following additional facts, where supported by evidence:

- The accused is engaged in controlling, directive behaviour.
- The complainant is subjected to degrading or humiliating behaviour.
- The accused exposes the complainant to vicarious coercion.
- The accused receives an undue benefit by exploiting the complainant.
- The complainant is vulnerable, including because of age, mental or physical disability or personal circumstances such as the use of intoxicating substances, isolation, social or economic disadvantage, immigration status or any circumstances that has resulted or may result in victimization.
- The accused manipulates the complainant by targeting their vulnerabilities..

In *R. v. Sinclair*, the Court of Appeal for Ontario outlined a list of circumstances that might be relevant when assessing whether a person exploited another person, most of which appear in the amended section 279.04(2) of the Code.[66]

2.1.7 Coercive or Controlling Conduct Towards an Intimate Partner (Clauses 28, 42 and 45(2))

Clause 28 of Bill C-16 introduces the offence of coercion or control of an intimate partner under new section 264.01 of the Code. A person engages in a pattern of coercing or controlling conduct if they do so with intent, knowledge, or recklessness as to whether their conduct would cause their intimate partner to believe their physical or psychological safety is threatened.[67]

This offence targets a combination or repetition of the following acts indicating a pattern of abuse in intimate partner relationships:

- threats or use of violence against an intimate partner (e.g., current or former spouse, common-law partner, and dating partner),[68] their children, any other person known to them, or their animal;[69]
- coercing their intimate partner to engage in sexual activity;

- other behaviours that "could reasonably be expected to cause" the intimate partner to believe that their safety or the safety of anyone known to them is threatened, such as:
  - controlling or monitoring the intimate partner's location, movements, actions or social interactions, including by means of telecommunication;
  - controlling the manner in which the intimate partner cares for their children or pets;
  - controlling the intimate partner's employment, education, finances, appearance, or health care;
  - controlling the intimate partner's expression of thoughts, opinions, beliefs, religion, culture or language; or
  - threatening to die by suicide or to self-harm.

To determine if the conduct of an accused person fits the offence, a court must consider the nature of the relationship between the accused and their intimate partner. This contextual analysis requires assessing whether one partner is in a position of vulnerability and whether "the accused manipulated the intimate partner by targeting their vulnerabilities."

Coercive control is a hybrid offence, carrying a maximum sentence of imprisonment for 10 years if prosecuted as an indictable offence. On summary conviction, a person faces a fine of up to $5,000 or a prison term up to two years less a day, or both.[70]

This legislative development proposed under clause 28 of Bill C-16 addresses a documented concern that the justice system's traditional "incident-based approach" may not fully capture the ongoing dynamics of intimate partner violence.[71] During parliamentary committee hearings, certain witnesses testified that without a specific offence, legal actors often prioritize isolated physical acts over non-physical patterns of behaviour.[72]

In 2020, Bill C-247, An Act to amend the Criminal Code (controlling or coercive conduct) was introduced to criminalize "controlling or coercive conduct" but died on the *Order Paper*.[73] In 2024, Bill C-332, An Act to amend the Criminal Code (coercive control of intimate partner) re-introduced the offence of "exercising coercive control of an intimate partner" which bears many similarities to the offence proposed by Bill C-16.[74]

2.1.7.1 Mandatory Weapons Prohibition Order (Clause 4)

Section 109(1) of the Code requires a court to make a weapons prohibition order when an offender is convicted of certain offences,[75] in addition to any other punishment the

court imposes on the individual. Clause 4 amends this section to require a weapons prohibition order upon conviction of the new offence of coercion or control of an intimate partner. This mirrors amendments previously proposed in Bill C-332, An Act to amend the Criminal Code (coercive control of intimate partner).[76]

This prohibition order may be lifted if the convicted individual needs a weapon for sustenance hunting or employment under section 113(4) of the Code.

2.1.7.2 Orders authorizing the taking of bodily substance samples for forensic DNA analysis (Clause 42)

Clause 42 of the bill classifies the offence of "coercion or control of intimate partner" as a "secondary designated offence," under amended section 487.04(c) of the Code. Consequently, a DNA order upon conviction of this offence is discretionary and requires an application by the prosecution.

2.1.7.3 Sex Offender Information Registration (Clause 45(2))

Clause 45(2) amends the definition of "secondary offence" under section 490.011(1)(a) of the Code to include the new offence of coercion or control of an intimate partner.

2.1.7.4 Coming into Force (Clause 206)

Under clause 206 of Bill C-16, the implementation of amendments related to the new offence of coercion or control of an intimate partner will be delayed. While the Governor in Council may authorize an earlier date (no sooner than 30 days after Royal Assent), these provisions are set to take effect two years after the bill receives Royal Assent.

In its 2025 study entitled "Coercive Control in Canada," the House of Commons Standing Committee on the Status of Women (FEWO) heard from witnesses who emphasized the need for a comprehensive framework beyond criminal legislation to ensure that criminalizing coercive control has a positive effect.[77] Prevention, public education, specific training for police and professionals in the criminal justice system, and a re-examination of family law were among the measures outlined by witnesses to support the process of criminalization.[78] Australia was cited as an example of a jurisdiction where the enforcement of "coercive control" laws were delayed to provide stakeholders and the front line sector sufficient time to implement support measures.[79]

PRELIMINARY VERSION
UNEDITED

2.1.8 Femicide

In its 2025 report *Gender-Based Violence and Femicides in Canada*, FEWO recommended creating separate offences for femicide and the killing of an intimate partner in the Code and to classify them as first-degree murder, "except in circumstances involving self-defence, coercive control and other mitigating factors relating to a history of violence or abuse." It also suggested that the definition of femicide "should include murder-suicide, the murder of transgender women and girls, as well as deaths related to domestic or sexual violence."[80] Currently, there is no consistent definition of femicide,[81] nor is the term mentioned in the Code.

Various witnesses heard by FEWO identified several risk factors for femicide in Canada, such as belonging to a marginalized group, being exposed to physical violence, firearms, coercive control, criminal harassment, and sexual violence.[82]

2.1.8.1 First Degree Murder (Clause 25)

Murder (first- or second-degree) is the crime of purposely causing the death of a person.[83] First-degree murders may be broken down into these forms of homicide:

- murders that are planned and deliberate;
- murders of police or custodial officers killed in the line of duty; or
- murders committed during specified criminal acts (e.g., criminal harassment and sexual assault).[84]

As for second-degree murders, they constitute all other murders that are not fitting in these categories.[85]

Clause 25 of Bill C-16 introduces the language of femicide under new section 231(5.1) of the Code. Under this section, murder is reclassified as first degree murder, regardless of whether the killing was planned or deliberate, when the death is caused by a person:

- while engaging in, or after having engaged in, a pattern of coercive or controlling conduct with intent to cause their intimate partner to believe that their physical or psychological safety is threatened;
- while exercising certain forms of exploitation in the context of human trafficking;[86]
- while committing or attempting to commit an offence of sexual nature or an offence for a sexual purpose; or

PRELIMINARY VERSION
UNEDITED

- motivation by hate based on colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability.[87]

Bill C-16 does not clarify what constitutes "hate." The SCC has described "hatred" as "an emotion of an intense and extreme nature that is clearly associated with vilification and detestation."[88]

Bill C-9, An Act to amend the Criminal Code (hate propaganda, hate crime and access to religious or cultural places), was introduced in the House of Commons on 19 September 2025.[89] Bill C-9 creates new criminal offences to address hate crimes and, if adopted, it would amend section 319(7) of the Code to define "hatred" as "the emotion that involves detestation or vilification and that is stronger than disdain or dislike."[90]

Clause 25 also amends section 231(6) of the Code regarding the death of a person caused while committing criminal harassment. In accordance with case law, it specifies that a victim's fear for their safety extends not only to their physical safety but also to their psychological safety.[91]

The sentence for the indictable offence of first-degree murder is life incarceration without eligibility for parole until the person has served 25 years of the sentence.[92]

2.1.8.2 Manslaughter
(Clauses 26, 56, 57, and 72 to 75)

Manslaughter includes murder committed by a person in the heat of passion caused by sudden provocation and all culpable homicide, except murder or infanticide.[93]

Clause 26 amends section 236 of the Code to require a court to consider imposing a life sentence when a person is convicted of manslaughter committed in the context of a pattern of coercive or controlling conduct, exploitation, sexual violence, or motivated by hate. Conviction under these circumstances would carry a parole ineligibility period of at least 10 years and up to 25 years (amended section 745; clause 72). An offender who was 16 or 17 years old at the time of the offence would face a parole ineligibility period of seven years (amended section 745.1(c); clause 73). Offenders younger than 16 years old would face a parole ineligibility period of between five to seven years (new section 745.52(1)(b); clause 74). Any time a minor or an adult spends in custody awaiting trial and sentencing is deducted from time they must serve before becoming eligible for parole (amended section 746; clause 75).

Clause 56 updates sections 675(2) and 675(2.2) of the Code to clarify appeal rights related to parole ineligibility for life imprisonment. Adults sentenced to life without

PRELIMINARY VERSION
UNEDITED

parole for at least 10 years may appeal the portion beyond 10 years. Offenders younger than 18 at the time of the offence may appeal any period exceeding the minimum required for their case. Concurrently, clause 57 amends section 676(4) of the Code to confirm the Attorney General's right to appeal the parole ineligibility period in respect of a conviction for manslaughter in the aggravated circumstances noted above if the court sets it at less than 25 years.

2.1.8.3 Fear of Domestic Violence Recognizance Orders (Clauses 5, 47 and 81)

Section 810.03 of the Code enables any individual to seek a recognizance order based on a reasonable fear that another person may cause personal injury to their intimate partner, their child, or a child of the intimate partner.[94] This is a preventative measure that can be initiated before a criminal charge is laid.

Clause 81 extends the authority to issue these orders to any "justice," meaning both provincial court judges and justices of the peace.[95] By replacing "provincial court judge" with the broader term "justice," the bill aligns section 810.03 with general peace order terminology under section 810. This change suggests an effort to streamline access to justice for victims of intimate partner violence.[96] In the same vein, section 507.1(9) is amended by clause 47 to exempt domestic violence recognizance orders from the private prosecutions screening process.[97]

Clause 81 also expands the circumstances where a recognizance period may be extended by including cases where a person who is the subject of the order has a prior conviction for an offence involving threatened or attempted violence.

Section 810.03(7) of the Code allows the court to impose a weapons prohibition for a defined period if necessary for the safety of an intimate partner or any other person. However, clause 5 of the bill amends section 113(4) to enable a court to lift a weapons prohibition for sustenance hunting and trapping, or where it would prevent the individual from working in their only available vocation. This order can be made during proceedings for an order under section 810.03 if the person is convicted on summary convictions.

2.1.8.4 Endorsement of Intimate Partner Violence on the Information or Indictment (Clause 68)

Clause 68 of Bill C-16 creates new section 726.21, requiring courts to note on the information or indictment when a person is found guilty of an offence involving violence – used, threatened, or attempted – against an intimate partner. This endorsement is proof of guilt unless evidence to the contrary is presented.

PRELIMINARY VERSION
UNEDITED

Since intimate partner violence is already recognized as an aggravating factor[98] under the Code, requiring this endorsement likely aims to facilitate data collection for the development of policies on intimate partner violence, rather than to influence the court's sentencing decisions.[99]

2.1.8.5 Restitution to Victims of Intimate Partner Violence (Clause 70)

Section 738(1)(c) of the Code allows an individual's intimate partner, child, or any other member of their household to seek restitution for bodily harm resulting from that individual's commission of an offence, or their arrest or attempted arrest. Clause 70 amends this section to include restitution for psychological harm, or the threat of psychological harm. Under this amendment, victims of coercive control, "a crime that is often perpetrated by emotional and psychological tactics," can benefit from a restitution order by the court to cover their financial losses related to reasonable expenses for temporary housing, moving, food, childcare and transportation.[100] The amount must be "readily ascertainable."

2.1.9 Order Prohibiting Contact at Sentencing (Clause 69)

Bill C-16 adds new section 729.2 of the Code, introducing a no-contact order that may be issued at the time of sentencing. This order is available when an offender is convicted of:

- any offence that is of a sexual nature or committed for a sexual purpose;
- criminal harassment or human trafficking; and
- any offence committed with the use, threat or attempt of violence against an intimate partner.

The no-contact order prohibits the offender from communicating "by any means" with victims, witnesses, or any other person identified in the order, except under the specified conditions deemed necessary by the court. The prohibition order can last for any period the court considers appropriate, including for life. Either the person protected by the no-contact order or the prosecution can apply to modify the conditions of the order, if relevant circumstances have changed.

Breaching a no-contact order is a hybrid offence. The maximum penalties are:

- two years of imprisonment, if prosecuted by way of indictment; or
- a fine of up to $5,000 and/or a term of imprisonment of not more than two years less a day, if prosecuted as a summary conviction.[101]

PRELIMINARY VERSION
UNEDITED

2.1.10 Dangerous Offenders and Long-Term Offenders (Clauses 76, 77, 78 and 144)

Under Part XXIV of the Code, a person who commits a "serious personal injury offence," as defined in section 752, may be designated as a dangerous offender and receive an indeterminate sentence if the criteria outlined in section 753 are met. There are two categories of serious personal injury offences for the purpose of dangerous offender applications: non-sexual offences (section 752(a)) and sexual offences (section 752(b)).

The first category consists of any indictable offence punishable by at least 10 years of imprisonment (excluding high treason, treason, and first- or second-degree murder). The offence must involve the use or attempted use of violence against another person, or conduct endangering or likely to endanger the life or safety of another person or likely to inflict serve psychological damage on another person. Clause 76 of the bill modifies this definition to clarify that the person targeted by this violence or conduct may be the offender's intimate partner, their family member, or the offender's family member.

A person may also be designated a dangerous offender if they have been convicted of certain sexual offences (the second category of serious personal injury offences) and have demonstrated a failure to control their sexual impulses and a likelihood of causing harm to others. Clause 76 adds the following sexual offences to the list:

- sexual interference (section 151);
- invitation to sexual touching or exposure (section 152);
- sexual exploitation of person with disability (section 153.1);
- making sexually explicit material available to a child (section 171.1);
- child luring (section 172.1); and
- agreeing or arranging with another person to commit a sexual offence against a child (section 172.2).

Clause 144 makes similar amendments to the definition of a serious personal injury offence under the NDA. The NDA does not include a dangerous offender or long-term offender designation.

The long-term offender designation mainly targets sexual offenders but can include non-sexual offences. It applies to certain offenders who are not captured by the dangerous offender provisions but need specific attention.[102] Where a court applies the designation, it must impose a sentence of at least two years of imprisonment and up to 10 years of community supervision. Clause 78 amends section 753.1 of

PRELIMINARY VERSION
UNEDITED

the Code to add the offence of sexually exploiting of a person with a disability (section 153.1) to the list of sexual offences that can lead to this designation.

The prosecution must notify the court before sentencing if it plans to seek a dangerous offender or long-term offender designation. This involves requesting an expert assessment for evidence. Under section 752.01, the prosecution must inform the court when:

- The offence is a serious personal injury offence and is one of the designated offences under section 752 of the Code.
- It is the offender's third qualifying offence, each resulting in sentences of at least two years.

Clause 77 extends this to cases where:

- The offence is a serious personal injury offence committed against the offender's intimate partner, a family member, or their intimate partner's family.
- The offence is the third conviction involving such individuals.
- Each previous conviction qualifies as either a designated offence or a serious personal injury offence.

2.1.11 Interception of Communications (Clause 24)

Clause 24 broadens the range of offences for which police may intercept communications under section 183(a) of the Code. The expanded list now includes:

- distributing visual representations of bestiality (new section 160(3.1));
- the threat to publish, distribute, transmit, sell, make available or advertise an intimate image of a person without their consent (new section 162.1(1.1));
- recruiting a person under 18 to commit an offence (new section 169.1); and
- coercive control of an intimate partner (new section 264.01).

2.1.12 Testimonial Aids and Other Protections for Victims and Witnesses (Clauses 38 to 41)

Sections 486 to 486.7 allow victims and witnesses to use various testimonial aids and procedural protections during court proceedings. Bill C-16 strengthens these provisions by expanding the types of supports available, the categories of victims and witnesses for whom they must be ordered, and the accountability of courts and prosecutors to ensure their effective implementation. These amendments build upon

PRELIMINARY VERSION
UNEDITED

previous Code amendments that extended the availability of testimonial aids and procedural protections in order to encourage victims and witnesses to participate in the criminal justice process.[103]

2.1.12.1 Support Person or Animal (Clause 38)

Current section 486.1 of the Code allows a witness to have a support person present while giving testimony where certain criteria are met. The prosecutor or the witness must apply for a court order to this effect. If the witness is under 18 or has a disability, the court *must* make the order unless it would interfere with the proper administration of justice (section 486.1(1)). In other cases, the court has discretion to make the order if it would help the witness to give "a full and candid account" or would otherwise support the proper administration of justice (section 486.1(2)).

Clause 38(1) of Bill C-16 strengthens section 486.1 in several ways. First, it allows a witness to be accompanied by a support person *or* a support animal. Second, it adds new section 486(1.1), which requires the court to make the requested order for victims of sexual offences, criminal harassment, trafficking, and intimate partner violence, unless doing so would interfere with the proper administration of justice. This extends the presumption in favour of making the order that currently applies to witnesses who are under 18 or who have a disability to these victims. Clause 38(1) also adds new section 486.1(1.2), which requires the court to ask whether the prosecutor has taken "reasonable steps" to inform victims and witnesses to whom the presumption applies that they may apply for the order.

Clause 38(3) adds new section 486.1(7), requiring a court that declines to make an order for a support person or animal to include reasons for that decision in writing on the record.

Clause 157 makes similar amendments relating to a support person or animal for victims in military court proceedings.

2.1.12.2 Testimony Outside Courtroom (Clause 39)

Current section 486.2 of the Code allows a witness, in certain circumstances, to testify outside of the courtroom or behind a screen or other device that allows the witness not to see the accused. The prosecutor or the witness must apply for a court order to this effect.

Like the provision allowing for a support person (section 486.1), this provision applies a different standard to different categories of witnesses. If the witness is under 18 or may have difficulty communicating evidence due to a disability, the court

PRELIMINARY VERSION
UNEDITED

must make the order unless it would interfere with the proper administration of justice (section 486.2(1)). In other cases, the court has discretion to make the order if it would help the witness to give "a full and candid account" or would otherwise support the proper administration of justice (section 486.2(2)).

Clause 39(1) extends the first category of witnesses, for whom there is a presumption in favour of making the order, to include victims of sexual offences, criminal harassment, trafficking, and intimate partner violence (new section 486.2(1.1)). It also adds new section 486.2(1.2), which requires the court to ask whether the prosecutor has taken "reasonable steps" to inform victims and witnesses to whom the presumption applies that they may apply for the order. Clause 39(3) adds new section 486.2(7), requiring a court that declines to make the order to include reasons for the decision in writing on the record. These changes mirror the changes to the support person regime under section 486.1.

In addition, clause 39(1) amends the language in sections 486.2(1) and 486.2(2) to clarify that it is up to the witness to decide whether they wish to testify outside the courtroom or behind a screen.

2.1.12.3 Cross-Examination by the Accused (Clause 40)

Under current section 486.3 of the Code, a court may preclude a self-represented accused from personally cross-examining a witness in certain cases, on application of the prosecutor or the witness. If the order is made, the court must appoint counsel to conduct the cross-examination.

Currently, there is a presumption in favour of making the order for witnesses younger than 18 (section 486.3(1)), and for those who are victims of criminal harassment or sexual assault (section 486.3(2)).[104] Clause 40 amends the latter subsection to include victims of all sexual offences, as well as victims of trafficking and intimate partner violence. It also adds new section 486.3(2.1), requiring a court to ask whether the prosecution has taken "reasonable steps" to inform eligible victims and witnesses that they may apply for the order. Clause 40(2) adds new section 486.3(6), requiring a court that declines to make the order to include reasons for the decision in writing on the record. These revisions mirror the changes to the provisions allowing for a support person, and for testimony to be given outside the courtroom or behind a screen.

2.1.12.4 Multiple Orders (Clause 41)

In addition to the provisions discussed above, the Code provides for other procedural protections for victims and witnesses, including orders to exclude the public from

PRELIMINARY VERSION
UNEDITED

proceedings (section 486), protect the identity of victims and witnesses (sections 486.31 to 486.5) and protect the security of witnesses (section 486.7).

Clause 41 adds new section 486.71, which clarifies that a court may make more than one order providing procedural protection for the same witness.

2.1.13 Publication Bans in Cases of Mental Disorder (Clause 53)

Current section 672.501 of the Code deals with publication bans at disposition hearings for accused persons who are declared not criminally responsible on account of mental disorder or unfit to stand trial. It allows (and in some cases requires) the Review Board conducting the hearing to ban the publication or transmission of any information that could identify a victim or witness. This section is analogous to sections 486.4 and 486.5, which deal with publication bans in the context of other proceedings.

Clause 53 adds new section 672.5011 to the Code, which allows a person who is the subject of a publication ban – or someone acting on their behalf – to apply to have the ban varied or revoked.[105] Under new section 672.5011(1), the Review Board must grant the application unless it could affect the privacy interests of another person who is protected by a publication ban. In that case, the Review Board, must hold a hearing (new section 672.5011(3)), and must consider whether there is a way to safeguard the other person's privacy in determining whether to vary or revoke the ban (new section 672.5011(4)).[106]

The new provisions mirror those that already apply to other court proceedings (not involving mental disorder) under section 486.51, which was added to the Code in 2023 by Bill S-12, An Act to amend the Criminal Code, the Sex Offender Information Registration Act and the International Transfer of Offenders Act.[107]

2.1.14 Victim and Community Impact Statements (Clauses 66 and 67)

When sentencing an offender, a court must consider any victim or community impact statements prepared in accordance with sections 722 to 722.2 of the Code. The court must also allow victims and community representatives to present their statements at the sentencing hearing upon request.

Sections 722(5)(b) and 722.2(3)(b) of the Code allow both victims and community representatives to have a support person present when presenting their statements. Clauses 66(1) and 67(2) of Bill C-16 amend these sections to permit the presence of a

PRELIMINARY VERSION
UNEDITED

support person *or* a support animal. This change parallels the change made by clause 38 to testimonial aids under section 486.1.

Currently, the provisions governing victim impact statements (section 722) are more extensive than those governing community impact statements (section 722.2). For example, under section 722(2), a court must ask whether the prosecutor has taken reasonable steps to provide an opportunity for the victim to prepare a victim impact statement. Under section 722(3), the court may adjourn the proceedings to allow the victim to prepare such a statement, if it would not interfere with the proper administration of justice. However, analogous provisions do not exist for community impact statements under section 722.2.

Clause 67 adds these and certain other analogous provisions to section 722.2 so that the scheme governing community impact statements more closely matches the one governing victim impact statements.

Clause 163 makes similar amendments related to impact statements in military proceedings under the NDA.

2.1.15 Unreasonable Delay (Clause 46)

Section 11(b) of the *Canadian Charter of Rights and Freedoms* (the Charter) guarantees the right of an accused to be tried within a reasonable time.[108] In 2016, the SCC in *R. v. Jordan* specified that a trial delay is presumptively unreasonable if it exceeds 18 months for a summary offence, and 30 months for an indictable offence, absent exceptional circumstances.[109] Exceptional circumstances include where the delay is due to the case's complexity, but the severity of the offence is not a factor to be considered. Delays attributable to the defence are not included in the calculation. The current remedy for an unreasonable delay is a stay of proceedings.[110]

Clause 46 creates new Part XV.1, which provides courts with direction on how to address unreasonable delays, and limits stays of proceedings as a remedy.

New section 492.25 requires a prosecutor to take reasonable steps to advise any victims if an application for a stay of proceedings based on unreasonable delay has been filed, and to provide them with the court's eventual decision.

New section 492.26 lists factors for a court to consider when determining whether a case is complex. These include the number of applications or motions, any related adjournments or trial continuation dates, scheduling requirements, the cumulative court time required for applications and motions, and any other factors relevant in assessing the complexity of the applications or motions.

PRELIMINARY VERSION
UNEDITED

Clause 46 excludes certain proceedings from the total time calculation for delays. These include:

- voir dires/applications related to the admissibility of evidence in sexual offence proceedings, and any related delays if the application is brought less than 60 days before the hearing[111] (new section 492.27);
- applications to object to the disclosure of evidence on specified public interest grounds[112] (new section 492.28); and
- applications relating to the disclosure of information that could identify a human source for the Canadian Security Intelligence Service[113] (new section 492.29).

Delays due to the prosecution's "frivolous or dilatory action," or action not made in good faith, as part of the applications above are not excluded from the time calculation (new section 492.3).

Where there has been a finding of unreasonable delay, new section 492.31 requires a court to order a stay of proceedings only if no other remedy would be appropriate in the circumstances.[114] In considering alternative remedies, courts must consider the following factors:

- the stage in the proceedings at which the delay is deemed unreasonable;
- the potential impact of a stay of proceedings on the victim;
- the prejudice faced by the accused due to the delay;
- the public's confidence in the justice system; and
- society's interest in having a final decision on the merits.

When considering whether to adjourn a preliminary inquiry or trial, a court must consider the interests of justice, including the interests of the victim where that information is available (amended sections 537, 571 and 645).

Clause 161 of the bill adds new Division 6.01 to the NDA to include identical amendments related to unreasonable delays and alternative remedies for court martials.

2.1.16 Disposition of Seized Property (Clauses 43 and 44)

Bill C-16 makes two amendments to the regime for the disposition of seized property set out under sections 489.1 and 490 of the Code. These amendments reflect recommendations made by the ULCC's section 490 working group in its final report, published in July 2024.[115]

PRELIMINARY VERSION
UNEDITED

Under section 489.1 of the Code, a peace officer must report to a justice regarding the seizure of "anything" that is not returned to its lawful owner. The thing must then be dealt with under section 490, which sets out a comprehensive scheme for the judicially supervised detention and disposition of seized property.

Clause 43 of the bill adds new section 489.1(4), which makes the reporting requirement under section 489.1 inapplicable to computer data, other than virtual currency or other digital assets. This reflects a recommendation made by the section 490 working group to consider exempting computer data from the disposition of property regime.[116] In its final report, the working group notes that there is conflicting jurisprudence regarding whether the regime currently applies to copied data.[117] The report recommends that computers, data and digital assets be addressed via a new specific procedure as described in the final report of another working group dealing with section 487 of the Code.[118]

Once seized property is reported to a justice under section 489.1 of the Code, section 490(1) requires the justice to order the return of the property to its lawful owner unless satisfied that its detention is required for an investigation or court proceeding. Section 490(2) limits the initial period of detention to three months after the date of seizure, unless a further period of detention is deemed warranted and ordered on application, or proceedings in which the property may be required are commenced.[119]

In its final report, the section 490 working group notes that the three-month time period currently set out in the Code "does not reflect present-day realities of police investigations and criminal prosecutions."[120] The report recommends that the initial detention period be "more flexible as warranted by the circumstances of the case, if a different period of detention is made out in specific and objectively justifiable evidence."[121] Prior to this recommendation, a period of 180 days is suggested as a possible option.[122]

In accordance with this suggestion, clause 44 amends section 490(2) to extend the initial period of detention from three months to 180 days.

2.1.17 Alternative Measures and Restorative Justice (Clause 59)

Clause 59 adds new Part XXII.2, which deals with alternative measures and restorative justice processes. New section 715.44 defines alternative measures as measures other than judicial proceedings that can be considered for individuals accused of an offence. Restorative justice is defined as an approach to justice that attempts to repair the harm to individuals and their relationships resulting from an offence. A restorative justice process is defined as a process where an accused, an

PRELIMINARY VERSION
UNEDITED

offender, victims, and/or community members, discuss the causes and impacts of an offence in order to try to repair the harm caused.

Existing provisions in the Code which deal with alternative measures are largely incorporated into this new Part.[123] New provisions relating to the purposes and principles of alternative measures, and related processes, are also added.

The purpose of this Part is to hold an accused or offender accountable by promoting a sense of responsibility for the offence, and to acknowledge and repair the harm caused to the victim and the community. It is also intended to promote the rehabilitation and reintegration of the accused or offender, and to prevent their involvement in the criminal justice system in future (new section 715.45).

The principles of this Part, set out in new section 715.46, include:

- Judicial resources are better used to address offences that pose a risk to public safety.
- Alternative measures allow for effective and efficient intervention that addresses the circumstances that caused the offence.
- Crime harms victims and society, and alternative measures should take their interests into consideration.
- Alternative measures take into account the personal circumstances and characteristics of the accused or offender and of the victim, especially Aboriginal and Black persons.

New sections 715.47 and 715.48 specify that police and prosecutors must consider taking no further action, issuing a warning, or referring a consenting accused to either a program or community agency that may assist them, or to an alternative measure. In doing so, they must consider whether these options would be appropriate in the circumstances and do not risk public safety, and the interests of the victim, society, and the accused. Failure to consider these options does not invalidate any subsequent charges or proceedings against the accused. These options are largely already available to police and prosecution; Bill C-16 clarifies that they should be the first options considered, where appropriate.

New section 715.53 sets out the principles that apply to the use of restorative justice processes. These processes:

- prioritize the accused's acknowledgement and acceptance of responsibility for the harm caused to the victims and communities, and the repair of that harm by the accused or offender;

PRELIMINARY VERSION
UNEDITED

- are voluntary; participants must freely consent and can withdraw at any time;
- take into consideration the safety and security of all participants and seek to prevent further harm;
- foster meaningful participation by victims, accused or offenders, and their communities;
- enable participants to communicate openly and honestly and to have an active role in determining how to address their needs; and
- contribute to the restoration and recovery of victims and the rehabilitation and reintegration of accused or offenders.

Restorative justice processes can be used at any stage of criminal proceedings, including as an alternative measure. They can be in the form of a mediation or dialogue between the victim and the accused or offender, a restorative conference, or a sentencing circle[124] (new section 715.54). A court may convene a restorative conference between the prosecution, the accused or offender, and any other relevant person. The purpose of a restorative conference is to facilitate the use of alternative measures and to make recommendations on resolution options, treatment plans, counselling and health and social services, if appropriate (new section 715.55).

New sections 715.56 to 715.6 reproduce existing Code provisions relating to police and government records of an offence that was dealt with through alternative measures, and disclosure of those records. Police are required to keep a record of warnings or referrals made, including the name of the person warned or referred (new section 715.57). This information is not to be used as evidence of an accused's history of criminal behaviour in future court proceedings. Records relating to the use of alternative measures, except for individual names, may be disclosed to a government department or agency for the purpose of studying the use and effectiveness of alternative measures.

2.1.18 Affidavit Evidence – Identity Theft and Identity Fraud (Clause 52)

An affidavit is a sworn statement of facts, presented for the truth of its contents, that can serve as an alternative to live testimony. Clause 52 creates new section 657.4, which allows the affidavit of a victim of identity theft or identity fraud to be submitted as evidence at trial.

For the purposes of this section, an affidavit must state that the affiant is the victim, the type of identity information[125] that was used for fraudulent purposes, that the affiant did not permit the accused to use their identity or information, and any other supporting facts. Prior to trial, the prosecution must give the accused a copy of the

PRELIMINARY VERSION
UNEDITED

affidavit, and reasonable notice of the intention to rely on it as evidence. The victim may still be required to attend the trial to testify and/or be cross-examined on the contents of the affidavit.

2.1.19 Mandatory Minimum Penalties (Clauses 63 and 87)

MMPs are set by Parliament to limit judicial discretion when it comes to imposing punishment. A court cannot impose a sentence that is less than the MMP provided for the offence. Bill C-16 introduces a statutory exemption that would allow courts not to apply mandatory MMPs in exceptional circumstances.

There were six offences with MMPs when the first *Criminal Code* was enacted in 1892; these included committing fraud upon the government and corruption in municipal affairs.[126] Since then, MMPs have evolved in response to changing perceptions of what is considered a serious crime, rather than in a systematic fashion. Over the years, there has been an increase in the number of offences with MMPs. Currently there are around 60 MMPs in the Code for various criminal offences, including murder, firearms-related offences, and sexual offences.[127]

However, many MMPs have been struck down by the SCC, provincial courts of appeal and trial courts for violation of section 12 of the Charter which protects against cruel and unusual punishment.[128] For instance, in 2025, in *Quebec (Attorney General)*. v. *Senneville*, the SCC struck down the one-year MMP for possessing and accessing child sexual abuse and exploitation material.[129] The court found that although the mandatory minimum might not be disproportionate for Mr. Senneville himself, it could produce a grossly disproportionate sentence in reasonably foreseeable situations for offenders with a much lower moral blameworthiness.[130] The court provided the example of an eighteen-year-old who keeps an explicit image of a seventeen-year-old acquaintance, conduct that is an offence according to the provision but doesn't merit a year sentence.[131]

In 2016, in *R*. v. *Lloyd*, the SCC suggested that Parliament could adopt a general statutory exemption to avoid unconstitutional sentences, in the form of a "safety valve that would allow judges to exempt outliers for whom the mandatory minimum will constitute cruel and unusual punishment." This was again discussed in *R*. v. *Marchand* in 2023.[132]

In 2023, the ULCC Criminal section created a statutory exemption working group to revisit the idea of a statutory exemption ("safety valve") that would allow judges to avoid imposing MMPs in exceptional cases.[133] The working group's mandate includes reviewing the 2013 ULCC report on exemptions, assessing whether an exemption mechanism remains appropriate given major legal and legislative changes

PRELIMINARY VERSION
UNEDITED

and considering whether the Code should include such a mechanism and how it should be structured.[134] In 2025, the working group published a status report indicating that a general statutory exemption to MMPs using the threshold of "exceptional circumstances" is viable and potentially beneficial as it could help reconcile sentencing objectives while reducing constitutional vulnerability.[135] According to the status report, the statutory exemption requires a careful balance between judicial discretion, public safety, sentencing consistency and constitutional compliance.[136]

Clause 63 introduces section 718.4 permitting a court to impose a shorter sentence of imprisonment in rare circumstances where applying the MMP provided by the offence would result in a punishment that is "cruel and unusual" for that offender. The shorter term of imprisonment imposed by courts remains an MMP.

New section 718.4(2) of the Code provides that this discretion would not apply in cases where the minimum punishment is imprisonment for life, notably for murder or high treason.

Pursuant to new section 718.4(4) of the Code, courts must state in the record their reasons for providing an alternative MMP.

MMPs that were previously deemed unconstitutional by the courts are restored by Bill C-16. For instance, the one-year MMP for possessing and accessing child sexual abuse and exploitation material that was struck down by the SCC becomes operative again.[137]

Clause 87 clarifies that upon the enactment of section 718.4 of the Code, MMPs provided in the Code and other Acts of Parliament are affirmed.

2.2 *YOUTH CRIMINAL JUSTICE ACT* (CLAUSES 120 TO 134)

Bill C-16 amends the YCJA to reflect similar amendments made to the Code and the CVBR related to alternative measures, restorative justice processes, and victims' rights, amongst others.

2.2.1 Victims (Clauses 120, 121, 129, 131, and 132)

Clause 120 amends the preamble to the YCJA to state that the youth criminal justice system should respect victims' rights as set out in the CVBR.

Clause 121 expands the information that should be provided to victims to include information about their role in the youth criminal justice system, and the services and

PRELIMINARY VERSION
UNEDITED

programs available to them (amended section 3(1)). This mirrors similar amendments under the CVBR.

Clause 129 amends section 48 to require that a copy of a youth sentence and the reasons for the sentence be provided to the victim of the offence, if they wish to receive the information. New section 48.1 requires the prosecutor to take reasonable steps to determine the victim's wishes and to enter them into the court record.

Section 83 sets out some of the principles that should guide custody and supervision orders for young people, including that the least restrictive measures should be imposed, while ensuring the safety of staff, young people themselves, and the public. Clause 131 amends this section to add that the safety of victims must also be considered.

Section 111(1) prohibits the publication of information that could identify an underage victim or witness of an offence that was committed by a young person. Clause 132 amends this section to specify that the prohibition continues even where the victim or witness has died.

2.2.2 Alternative Measures and Restorative Justice (Clauses 121, 122, and 127)

Section 3 of the YCJA currently requires that sentences or other measures taken against young offenders should respect gender, ethnic, cultural and linguistic differences and respond to the needs of Aboriginal young persons and those with special requirements. Clause 121 of the bill expands this list of considerations to include race, national origin, colour, religion, sex, age, mental or physical disability, sexual orientation or gender identity or expression, and particular attention for the needs and circumstances of Black young people.

The YCJA already requires police officers to consider issuing a warning, a caution, or a referral to a young person instead of opting for criminal proceedings. Clause 122 expands this requirement to also apply to prosecutors. These provisions mirror similar amendments to the Code.[138]

Section 42 of the YCJA lists the types of offences for which a youth court can impose a recognizance order on a young person. Clause 127 adds a recognizance order based on the fear that a young person will commit a child sexual offence to the list.

PRELIMINARY VERSION
UNEDITED

2.3 *CANADIAN VICTIMS BILL OF RIGHTS* (CLAUSES 135 TO 143)

The CVBR came into force on 23 July 2015 to provide certain rights to victims of crime at the federal level, including the right to information, protection, participation and to seek restitution.[139] Currently, the CVBR does not establish a distinct right to be treated with respect or to receive timely access to justice.

Clause 135 of Bill C-16 updates the preamble of the CVBR to affirm that victims of crime must be treated in a way that acknowledges the effects of their trauma. It emphasizes the need for a victim-centered criminal justice system that responds to victims' needs and concerns and seeks to prevent retraumatization. It also underscores that undue delays in the justice process harm victims and weaken public confidence in the system. Finally, it recognizes that victims have a legitimate interest in the timely conduct of trials and the prompt resolution of matters arising from offences.

Clause 136 of Bill C-16 adds sections 5.1 and 5.2 to the CVBR, providing respectively that victims shall be treated with respect, courtesy, compassion and fairness by authorities within the criminal justice system, and that their interests shall be considered in the conduct of timely trials and the prompt resolution of matters.

Under the CVBR, victims have a right, upon request, to general information about the criminal justice system (section 6), and about the progress of their case, including the investigation and prosecution (section 7) and sentencing (section 8).[140] Victims do not automatically receive this information; they must first register as a victim of crime.[141] Clause 137, 138 and 140 ensures that victims have the right to receive this information without being required to make a request. Clause 139 adds new sections 7.1 and 7.2 to provide that victims also have the right to receive information about protective measures, and restorative justice processes, available to them.

Clause 141 of Bill C-16 adds new section 8.1 to the CVBR, specifying that victims have the right to receive information from certain agencies and bodies, notably the Royal Canadian Mounted Police, the Office of the Director of Public Prosecutions, and the Miscarriage of Justice Review Commission. New section 8.2 of the CVBR states that these agencies and bodies, and others involved in the criminal justice system, must ensure that information about the rights of victims is made readily available.

Section 12 of the CVBR states that victims have the right to request that their identity be protected in criminal proceedings. Clause 142 of Bill C-16 broadens the rights under this section, notably giving victims the right to be asked if they want to have their identity protected, to request that their identity be protected, to be informed if

PRELIMINARY VERSION
UNEDITED

such an order is made on their behalf, and to be informed of their right to apply to revoke or vary an order.[142]

Section 15 gives victims the right to make a victim impact statement to "the appropriate authorities in the criminal justice system." Clause 143 amends this section to clarify that this includes Correctional Service Canada (CSC) and the Parole Board of Canada, in addition to a sentencing court.

2.4 *NATIONAL DEFENCE ACT* (CLAUSES 144 TO 178)

Bill C-16 makes a number of amendments to the NDA, largely to mirror amendments to the Code and the CVBR also contained in the bill. These provisions amend the military justice system in tandem with the civilian system.[143]

2.4.1 Serious Personal Injury (Clause 144)

Clause 144 amends the definition of "serious personal injury offence" under section 2(1) of the NDA to clarify that included offences may include where the victim is the accused's family, intimate partner, or family of the intimate partner, and various sexual offences. These provisions mirror amendments to the Code under amended section 752.

2.4.2 Victims' Rights (Clauses 145 to 152 and 162)

As discussed in Part 2.3 of this legislative summary, Bill C-16 amends the CVBR to clarify and broaden victims' rights to information, protection, and participation. The bill makes similar changes to the NDA, with a few minor differences.

The military criminal system does not include a restorative justice process; consequently, there are no requirements to inform victims about these options, unlike in the CVBR (new section 7.2).

Clause 150 provides that victims in the military justice system have the right to receive certain information from the Director of Military Prosecutions, the Provost Marshal, and a commanding officer. These replace the various federal departments and agencies listed in amendments to the Code, for victims in the civil system (clause 141).

Clause 165 adds new section 203.73 to establish a no-contact order for victims and witnesses of certain offences following a finding of guilt, including intimate partner violence. Clause 152 adds new section 119.01 to establish the offence of breaching an

PRELIMINARY VERSION
UNEDITED

order prohibiting contact. These mirror the amendments to the Code in new section 729.2, with minor procedural differences to reflect the military context.

2.4.3 Rape Shield and Records Provisions (Clauses 155 and 170)

Bill C-16 overhauls several sections of the Code that deal with the production and admissibility of evidence about the complainant in sexual offence proceedings, commonly known as "rape shield" and records provisions. The bill makes similar changes to the NDA.

First, Bill C-16 revises the legislative scheme governing the production of personal records in martial sexual offence proceedings, currently found under sections 180.01 to 180.08 of the NDA.

The military justice scheme is similar but not identical to the scheme under the Code. One notable difference is that, under section 180.03(4) of the NDA, the defence's application for the production of a record need only be served on interested parties 14 days in advance of the hearing, whereas the service period under the Code is 60 days (section 278.3(5) of the Code). The Code provision also requires the accused to serve a subpoena on the record holder, which is not the case under the NDA. The new scheme introduced by clause 155 aligns the NDA with the Code in both respects.

Bill C-16 also adds new provisions to the NDA governing the admissibility of sexual activity evidence (the "rape shield") and complainant records in martial sexual offence proceedings. The NDA is currently silent on these issues. The new NDA provisions largely mirror the revised Code provisions introduced by the bill, with minor differences in procedure and terminology reflecting differences between the civilian and military justice systems.

2.4.4 Unreasonable Delay (Clause 161)

As discussed in Part 2.1.15 of this legislative summary, Bill C-16 amends the Code to limit the use of stays of proceedings in cases of unreasonable delay. The bill makes almost identical changes to the NDA. One difference in the amendments to the NDA is that a military court, when considering the factors relevant to whether a remedy other than a stay is appropriate, must also consider the maintenance of discipline, efficiency and morale of the Canadian Forces.

PRELIMINARY VERSION
UNEDITED

2.4.5 Impact Statements (Clauses 163 to 164)

Clauses 163 and 164 amend the NDA to require a military court, after making a finding of guilt, to inquire whether reasonable opportunities have been given to allow for a military impact statement and a community impact statement.[144] Sentencing proceedings may be adjourned to allow time for impact statements to be prepared, or for the court to hear related evidence. These provisions mirror amendments to the provisions governing community impact statements under the Code (new section 722.2).

2.5 *AN ACT RESPECTING THE MANDATORY REPORTING OF INTERNET CHILD SEXUAL ABUSE AND EXPLOITATION MATERIAL BY PERSONS WHO PROVIDE AN INTERNET SERVICE* (CLAUSES 179 TO 184)

The Mandatory Reporting Act requires Internet service providers to report websites with child sexual abuse and exploitation material to the Canadian Centre for Child Protection, and to notify police when their service is used to commit a child sexual abuse and exploitation offence.[145]

According to Public Safety Canada:

> Since the Mandatory Reporting Act came into force in 2011, the way that the Internet is used and how crimes are committed online has evolved. The RCMP has been actively working with its federal partners to identify ways in which the Act could be updated to address gaps and increase its effectiveness in protecting children from victimization. This includes examining: the scope of the Act and what entities are subject to the obligations under the Act; powers for better monitoring compliance with the Act; the information that must be reported to police when companies have grounds to believe that their Internet service is being used to commit a child pornography offence; and how to address issues around loss of evidence due to short retention periods of service providers.[146]

Bill C-16 amends or replaces several sections of the Mandatory Reporting Act, to make it easier to manage flagging, investigations and criminal prosecutions involving child sexual abuse and exploitation material. These amendments come into force on a day to be fixed by the Governor in Council (clause 206(4)).

Bill C-16's amendments to the Mandatory Reporting Act are similar to those proposed in Part 4 of Bill C-63, An Act to enact the Online Harms Act, to amend the Criminal Code, the Canadian Human Rights Act and An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service and to make consequential and related amendments to other Acts.[147]

PRELIMINARY VERSION
UNEDITED

Bill C-63 was introduced in the House of Commons on 26 February 2024 but died on the Order Paper upon the dissolution of the 44th Parliament.

2.5.1 Definition of "Internet Service" (Clause 180)

Clause 180 amends the definition of "Internet service" in section 1(1) of the Mandatory Reporting Act so that it is no longer restricted to "a service providing Internet access, Internet content hosting or electronic mail." This list is now preceded by the word "includes," indicating that it is a non-exhaustive list that may change over time.[148]

Clause 180 also clarifies the scope of the second and third types of Internet services mentioned. It specifies that "Internet service" includes providing Internet content hosting, "regardless of the originator of the content or the manner by which the content is made accessible." Furthermore, the third type of service is no longer restricted to electronic mail services – it includes, more broadly, "facilitating interpersonal communication over the Internet."

2.5.2 Duties of Persons Providing Internet Service

2.5.2.1 Notifying the Designated Law Enforcement Body and Providing Transmission Data (Clause 181)

Currently, a person who provides an "Internet service" to the public who has reasonable grounds to believe[149] that their Internet service is being used to commit a child sexual abuse and exploitation material offence has a duty to notify a police *officer* or *constable*. Clause 181 amends section 3 of the Mandatory Reporting Act to require instead that the notification be made to a law enforcement body designated by regulation.

In 2021, the House of Commons Standing Committee on Access to Information, Privacy and Ethics made several recommendations for amending the Mandatory Reporting Act, including making the National Child Exploitation Coordination Centre, housed within the RCMP, the designated law enforcement agency for the purposes of reporting under section 3 of the Act to "concentrate reports to one organization and assist in addressing duplication or conflict."[150]

Under clause 181, if the Internet service provider believes that the content in question is *manifestly* child sexual abuse and exploitation material, the notification must include any related "transmission data"[151] that could assist in the investigation. No such requirement is currently set out in the Mandatory Reporting Act or regulations.

Clause 181 also adds section 3(3), which clarifies that the duty to notify and to provide transmission data applies to those who provide Internet services to the public and who have a "connection to Canada," defined as having a computer system

PRELIMINARY VERSION
UNEDITED

located in Canada, being incorporated in Canada or having a head office in Canada. This clarification was not included in Bill C-63.

2.5.2.2 Preserving Computer Data (Clause 181)

Currently, an Internet service provider who submits a report to the police must preserve all related "computer data."[152] for 21 days, after which the data must be destroyed. Under clause 181, this time frame is increased to one year from the day on which the notification is made to the designated law enforcement agency (amended section 4).

2.5.3 Limitation Period (Clause 183)

Clause 183 increases the limitation period for prosecution under the Mandatory Reporting Act from two years to five years (amended section 11).

2.5.4 Regulations (Clause 184)

Clause 184 grants new regulatory powers to the Governor in Council, including the power to: specify the services included in the definition of "Internet service"; designate the law enforcement body to whom notifications of child sexual abuse and exploitation material offences should be addressed; and require the designated law enforcement body to submit annual reports.

2.6 *FIREARMS ACT* (CLAUSES 91, 185 AND 186)

Clause 91 of the bill introduces a new factor to be considered when determining whether a person is eligible to hold a licence to possess a firearm or other specified weapons. As part of the eligibility assessment, amended section 5(2)(a)(iii) of the *Firearms Act* requires the chief firearms officer (CFO) or a court to consider whether the applicant has been convicted of, or discharged for, the offence of criminal harassment (section 264 of the Code) as well as the newly created criminal offence of coercion or control of an intimate partner (new section 264.01).

Clause 185 introduces a third eligibility restriction under amended section 6.1 of the *Fireams Act* for obtaining a firearms licence. The CFO may refuse to issue a firearms licence if there are reasonable grounds to suspect that the applicant has engaged in an act of domestic violence[153] or stalking. However, this restriction is still subject to an exception: in prescribed circumstances, the CFO may issue a conditional licence if they are satisfied that the applicant requires a firearm to hunt or trap to sustain themselves or their family.[154]

PRELIMINARY VERSION
UNEDITED

Clause 186 amends sections 72(4) and 72(5) of the *Firearms Act* by replacing the previous option to surrender firearms with a mandatory obligation when a licence or registration certificate is refused or revoked. Upon refusal or revocation, the notice given to the applicant or the holder of the licence must require the individual to surrender the firearm(s) to a peace officer, a firearms officer or the CFO within 24 hours or, if that is not possible, within the extended period set by the CFO.

2.7 *CORRECTIONS AND CONDITIONAL RELEASE ACT* (CLAUSES 187 TO 197)

Bill C-16 amends the CCRA to enhance the disclosure of information to victims, and provide for the use of victim impact statements in certain instances. These changes correspond to related amendments to the CVBR and to the Code.

2.7.1 Victim Impact Statements (Clauses 188 and 189)

Clause 189 adds new section 23.1 to require CSC to take reasonable steps to enable a victim to submit a victim impact statement, including concerns they may have about the location of the penitentiary, when an offender begins serving their prison sentence, and again if an offender requests a prison transfer. Currently, CSC may obtain victim impact statements delivered during sentencing proceedings.

The Parole Board of Canada can impose any condition it considers reasonable and necessary when an offender serving a minimum sentence of life in prison and eligible for day parole is released on an escorted temporary absence.[155] Clause 188 adds new section 17.1(4.1) to specify that where a victim has provided a victim impact statement, the Parole Board must impose any reasonable conditions necessary to protect the victim, including that the offender have no contact or communication with the victim, or that the offender be prohibited from going to a designated place.

2.7.2 Disclosure (Clauses 190 to 196)

Clause 190 adds new sections 25.1 to 25.3 to authorize CSC to disclose information about an offender to another component of the criminal justice system (e.g., to enable prosecutors to apply for a dangerous offender designation), to provincial correctional authorities (e.g., where there are safety concerns related to an offender who is or will be in provincial custody, such as gang affiliations), and to police (e.g., where there are safety concerns related to an offender or victim, or evidence that an offence has been committed), under certain circumstances. New section 25.4 outlines the principles guiding disclosure, including that disclosure should be reasonable,

PRELIMINARY VERSION
UNEDITED

proportionate, relevant, accurate, and used to protect society and promote offender accountability.

New section 25.5 states that CSC may provide this disclosure through access to an online portal administered by CSC. This system must be secure, with only authorized users able to access the information for the intended purposes, and must include measures to identify a privacy breach. This provision comes into force 181 days after other provisions in clause 190 come into force, likely to give CSC time to develop a suitable digital disclosure system.

Victims are currently entitled to request and receive certain information about the offender, including the name and location of the penitentiary in which they are held.[156] Clause 191 amends section 26 to add that a victim is also entitled to be informed of:

- the security classification of the penitentiary, or the area of the penitentiary in which the offender is held;
- whether an offender has requested a transfer to another penitentiary;
- a summary of the reasons for an approved transfer, and the location and name of the new penitentiary (this information must be disclosed before the offender is transferred, where possible); and
- the offender's security classification.

Clause 192 amends section 28 to require CSC to consider a victim's concerns about the location of the penitentiary when determining where an offender should serve their sentence. Section 28 already lists other factors to be considered, including the safety of the public, the offender, and others in the penitentiary.[157]

Section 142 currently lists the information a victim is entitled to receive, on request, related to an offender's release. These include the eligibility dates, review dates, conditions, destination, and reasons for any unescorted temporary absences or parole. Clauses 195 and 196 amend this section to add that a victim is also entitled to information related to escorted temporary absences, and an explanation of how the dates for eligibility, review, and authorization of temporary absences are determined.

2.8 *MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ACT* (CLAUSES 198 TO 201)

The MLAA provides for the implementation of treaties for mutual legal assistance in criminal matters and provides Canada with the legal authority to obtain court orders on behalf of countries that are party to these agreements.

PRELIMINARY VERSION
UNEDITED

Clause 198 of Bill C-16 amends section 2(1) of the MLAA to expand the definition of "state or entity" to include any supranational body having jurisdiction to investigate or prosecute criminal matters, that is either specified in the schedule or is a party to an agreement with Canada. Clause 199, in coordination, amends section 4 of the MLAA to provide that "supranational bodies" listed in the schedule are designated as "states or entities."

Clause 201 adds the European Public Prosecutor's Office, which has the power to investigate and prosecute crimes against the European Union budget, notably money laundering and fraud, as a designated "state or entity" in the schedule of the MLAA.[158]

NOTES

1. Bill C-16, An Act to amend certain Acts in relation to criminal and correctional matters (child protection, gender-based violence, delays and other measures), 45th Parliament, 1st Session.
2. Gender-based violence refers to all forms of violence perpetrated based on an individual's gender, gender expression, gender identity or perceived gender. See House of Commons, Standing Committee on the Status of Women (FEWO), *Evidence*, 6 November 2024 (Sunder Singh, Executive Director, Elspeth Heyworth Centre for Women); Tara Graham, Intimate Partner Violence, Brief submitted to FEWO, November 2024. While anyone can be a target of such violence, Indigenous, Black and racialized women, women with disabilities, members of the 2SLGBTQI+ communities, and immigrant and refugee women are disproportionately impacted. House of Commons Standing Committee on Justice and Human Rights (JUST), *Gender-Based Violence and Femicides in Canada*, Second report, December 2025, pp. 10–13. Gender-based violence can take many forms, including criminal harassment, coercion or control of an intimate partner and femicide.
3. In the 2016 case of *R. v. Jordan*, 2016 SCC 27, the Supreme Court of Canada (SCC) established maximum timeframes for trials, beyond which there would be presumed constitutional violation. See Part 2.1.15, "Unreasonable delays." Department of Justice Canada, *Canada overhauls* Criminal Code *to protect victims and keep kids safe from predators*, News release, 9 December 2025.
4. *Criminal Code* (the Code), R.S.C. 1985, c. C-46.
5. *Canadian Victims Bill of Rights*, S.C. 2015, c. 13, s. 2.
6. *National Defence Act*, R.S.C. 1985, c. N-5.
7. *Firearms Act*, S.C. 1995, c. 39.
8. *Corrections and Conditional Release Act*, S.C. 1992, c. 20.
9. *An Act respecting the mandatory reporting of Internet child sexual abuse and exploitation material by persons who provide an Internet service*, S.C. 2011, c. 4.
10. *Mutual Legal Assistance in Criminal Matters Act*, R.S.C. 1985, c. 30 (4th Supp.).
11. Child sexual abuse and exploitation material, formerly referred to as child pornography, is defined in section 163.1 of the Code.
12. The term "court" is used throughout this Legislative Summary as a shorthand to refer to courts, judges, provincial court judges and justices, depending on the context.
13. *Youth Criminal Justice Act*, S.C. 2002, c. 1.

14. Bill C-14, An Act to amend the Criminal Code, the Youth Criminal Justice Act and the National Defence Act (bail and sentencing), 45th Parliament, 1st Session. See Dana Phillips and Iryna Zazulya, *Legislative Summary of Bill C-14, An Act to amend the Criminal Code, the Youth Criminal Justice Act and the National Defence Act (bail and sentencing),* Preliminary version (unedited), Library of Parliament, 10 November 2025.

15. *Criminal Code*, R.S.C. 1985, c. C-46, ss. 162(1)(a), 162(1)(b), 162.1(1)(a), 163.1(1)(a)(ii), 171.1(5)(a)(ii) and 173(2). The modifications of terminology in these provisions were made through clauses 14(1), 15(2), 17(1), 21(1) and 23(1) in Bill C-16, An Act to amend certain Acts in relation to criminal and correctional matters (child protection, gender-based violence, delays and other measures), 45th Parliament, 1st Session.

16. "Permanent resident" means "a person who has acquired permanent resident status and has not subsequently lost that status under section 46," as defined in section 2(1) of the *Immigration and Refugee Protection Act*.

17. Section 7(4.1) of the Code was introduced by Bill C-27, An Act to amend the Criminal Code (child prostitution, child sex tourism, criminal harassment and female genital mutilation), 35th Parliament, 2nd Session, 27 April 1997 to deter Canadian citizens and permanent residents from engaging in exploitive sexual activity of children while abroad. For an example of its application, see: *R. v. A.V.*, 2024 ONCA 339 (CanLII).

18. The definition of bestiality in section 160(7) of the Code was added in 2019 by Bill C-84, An Act to amend the Criminal Code (bestiality and animal fighting).

19. In its 2018 report on bestiality in Canadian law, the Canadian Centre for Child Protection discusses the role that visual depictions of bestiality can play in grooming children for sexual abuse. Canadian Centre for Child Protection, *"Bestiality" as reflected in Canadian case law: Considerations for protecting children and animals after R v DLW*, December 2018.

20. This designation is relevant to whether a person will be required to register as a sex offender and for how long. See sections 490.012 and 490.013 of the Code.

21. In *R. v. Sharpe*, 2001 SCC 2 at para 70, the SCC interpreted the defence of "public good" in the context of child pornography as "necessary or advantageous to religion or morality, to the administration of justice, the pursuit of science, literature, or art, or other objects of general interest." The Court gave the example of possession of child pornography by justice system actors for the purposes of prosecution, or by researchers studying the effects of child pornography.

22. Justice Canada, *Protecting Victims Act: Proposed legislation to protect victims and keep kids safe from predators*, Backgrounder. See also Janine Benedet, "The Paper Tigress: Canadian Obscenity Law 20 Years After *R v Butler*," *Canadian Bar Review*, Vol. 93, No. 1, 2015.

23. Clause 15(2) of the Bill C-16 reorganizes and amends section 162.1(2)(a) of the Code to replace "his or her genital organs or anal region or her breasts" by "their sexual organs."

24. "Synthetic intimate images" can be defined as images or videos digitally manipulated or created through technology to represent something that does not actually exist. For information on synthetic intimate images, see: Suzie Dunn, "Legal Definitions of Intimate Images in the Age of Sexual Deepfakes and Generative AI," *McGill Law Journal*, Vol. 69, 1 October 2024. In *R. v. R.K.1*, R.K.1 sent a digitally altered photo of R.K.'s head on a nude body to another individual. The Ontario Court of Justice concluded that it did not meet the definition of "intimate image" under section 162.1(1) of the Code because it did not depict R.K.'s actual nude body and breasts. The court found that the current legislation does not capture fake or digitally manipulated images. The other two documented Canadian cases involving creating non-consensual sexual deepfakes were prosecuted under section 163.1 of the Code relating to child sexual abuse and exploitation material. In *R. c. Larouche* [IN FRENCH], the accused created sexual deepfakes of children. In *R. v. Legault*, a youth pastor had "nudified" a teenage girl using an app and had digitally altered an image of another girl's face to appear on the body of a nude child.

25. Uniform Law Conference of Canada (ULCC), "ON2024-01," *Criminal Section Resolutions*, August 2024.

26. *Criminal Code*, R.S.C. 1985, c. C-46, s. 787(1).

27. *R. v. Davis*, [1999] 3 S.C.R. 759.

28. Cybertip.ca, *Online Harms: Sextortion*; and Alana Ray and Nicola Henry, "Sextortion: A Scoping Review," *Trauma Violence, & Abuse*, Vol. 26, No. 1, January 2025.

PRELIMINARY VERSION
UNEDITED

29. Alana Ray and Nicola Henry, "Sextortion: A Scoping Review," *Trauma Violence, & Abuse*, Vol. 26, No. 1, January 2025.

30. Bill C-51, An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act, 42nd Parliament, 1st Session (S.C. 2018, c. 29).

31. ULCC, *Working Group on Sections 278.1–278.94 of the* Criminal Code *(the "Records Regime")*, Final report, August 2025.

32. Ibid., para. 2.

33. *An Act to Amend the Criminal Code in Relation to Sexual Offences and Other Offences Against the Person*, S.C. 1980-81-82-83, c. 125.

34. *R. v. Seaboyer; R. v. Gayme*, [1991] 2 S.C.R. 577.

35. *R. v. Darrach*, 2000 SCC 46.

36. In 2018, Bill C-51 added section 276(4) to the Code, specifying that "sexual activity" includes "any communication made for a sexual purpose or whose content is of a sexual nature."

37. Former sections 276.1 and 276.2 of the Code were repealed and replaced by sections 278.93 and 278.94 in 2018 via Bill C-51, An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act, 42nd Parliament, 1st Session (S.C. 2018, c. 29). The process for introducing sexual activity evidence is also governed by sections 278.5 to 287.7 of the Code.

38. In 2018, Bill C-51 amended the procedures in sections 278.93 and 278.94 of the Code to give complainants the explicit right to appear, make submissions, and be represented by counsel at the hearing.

39 The test remains unchanged in English. However, the wording of the test in French is amended to better accord with the English. It now reads : "que cette preuve a une valeur probante importante et que le risque d'effet préjudiciable à la bonne administration de la justice qu'elle présente ne l'emporte pas sensiblement sur cette valeur probante."

40. The court may allow for a shorter notice period "in the interests of justice."

41. This matches the notice period under the production of records regime (section 278.3(5)), which was previously extended to 60 days in 2018 via Bill C-51.

42. *R. v. O'Connor*, [1995] 4 S.C.R. 411.

43. *An Act to amend the Criminal Code (production of records in sexual offence proceedings*), S.C. 1997, c. 30, s. 1. For an overview of *R. v. O'Connor* [1995] 4 S.C.R. 411 and the jurisprudential and legislative history of these provisions, see Senate, Standing Committee on Legal and Constitutional Affairs (LCJC), *Statutory Review on the Provisions and Operation of the* Act to amend the Criminal Code (production of records in sexual offence proceedings*): Final Report*, December 2012; and Lyne Casavant, Christine Morris and Julia Nicol, *Legislative Summary of Bill C-32: An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts*, Publication no. 41-2-C32-E, Library of Parliament, 18 December 2014. See section 2.2.3.1, "The Disclosure of Third Party Records to the Accused in Sexual Offence Cases" (clauses 5–10).

44. *R. v. Mills*, [1999] 3 S.C.R. 668. The Standing Senate Committee on Legal and Constitutional Affairs completed a statutory review of the scheme in 2012. Senate, LCJC, *Statutory Review on the Provisions and Operation of the* Act to amend the Criminal Code (production of records in sexual offence proceedings*): Final Report*, December 2012.

45. *R. v. Stinchcombe*, [1991] 3 S.C.R. 326; and *R. v. McNeil*, 2009 SCC 3, para. 21.

46. ULCC, *Working Group on Sections 278.1–278.94 of the* Criminal Code *(the "Records Regime")*, Final report, August 2025, paras. 21 and 32.

47. It is currently unclear whether communications with the accused constitute a "record" for which there is a "reasonable expectation of privacy" under section 278.1, since the accused has already seen the communications: ULCC, *Working Group on Sections 278.1–278.94 of the* Criminal Code *(the "Records Regime")*, Final report, August 2025, paras. 40–41.

48. Ibid., para. 49.

49. *R v. Shearing*, 2002 SCC 58, paras. 94–106.

PRELIMINARY VERSION
UNEDITED

50. Ibid., para 108.

51. See for example: JUST, *Evidence*, 30 October 2017 (Ms. Cara Zwibel, Acting General Counsel, Canadian Civil Liberties Association); and JUST, *Evidence*, 23 October 2017 (Michael Spratt, Lawyer, Abergel Goldstein and Partners, as an individual).

52. *R. v. J.J.*, 2022 SCC 28.

53 The test remains essentially unchanged in English. However, the wording of the test in French is amended to better accord with the English. It now reads : "qu'il [le dossier] a une valeur probante importante et que le risque d'effet préjudiciable à la bonne administration de la justice qu'il présente ne l'emporte pas sensiblement sur cette valeur probante."

54. ULCC, *Working Group on Sections 278.1–278.94 of the* Criminal Code *(the "Records Regime")*, Final report, August 2025, para. 109. See the recommendation at para. 118.

55. This accords with the Records Regime Working Group recommendation to permit applications for the production or admissibility of records to be heard in writing where the parties agree. ULCC, *Working Group on Sections 278.1–278.94 of the* Criminal Code *(the "Records Regime")*, Final report, August 2025, para. 67.

56. These sections include some additional offences to which the scheme governing sexual activity evidence does not apply.

57. ULCC, *Working Group on Sections 278.1–278.94 of the* Criminal Code *(the "Records Regime")*, Final report, August 2025, paras. 143–162.

58. See for example: *R. v. Sheppard*, 2022 ABCA 89, para. 16 (CanLII); and *R. c. Rancourt*, 2020 QCCA 933 (CanLII), paras. 33–35[IN FRENCH].

59. *Criminal Code*, R.S.C. 1985, c. C-46, s. 515(4.3)(b).

60. Unlike Bill C-16, Bill C-14, An Act to Amend the Criminal Code, the Youth Criminal Justice Act and the National Defence Act (bail and sentencing), 45th Parliament, 1st session, expands the list of applicable offences under sections 515(4.1) and 515(4.3) of the Code.

61. Introduced in the Senate on 24 November 2021, Bill S-224, An Act to amend the Criminal Code (trafficking in persons), 44th Parliament, 1st session, would have removed the criterion of a reasonable apprehension of fear from section 279.04(1).

62. Bill S-224, An Act to amend the Criminal Code (trafficking in persons), 44th Parliament, 1st Session.

63. Senate, Standing Committee on Human Rights (RIDR), *Evidence*, 6 June 2022 (Hon. Salma Ataullahjan, sponsor of the bill).

64. RIDR, *Evidence*, 6 June 2022 (Janine Benedet, Professor of Law, University of British Columbia, as an individual; Julia Drydyk, Executive Director, The Canadian Centre to End Human Trafficking).

65. For example, see: *R. v. Dempster*, 2025 ONSC 6599 (CanLII); and *R. v. A.A.*, 2015 ONCA 558, paras. 71–73 (CanLII).

66. In *R. v. Sinclair*, 2020 ONCA 61, para. 15 (CanLII).

67. For information on what constitutes coercive and controlling behaviour in the context of domestic violence, see JUST, "Defining Coercive and Controlling Behaviour in the Context of Domestic Violence," in *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, Ninth report, April 2021, pp. 6–9.

68. *Criminal Code*, R.S.C. 1985, c. C-46, s. 2 ("intimate partner").

69. In 2021, JUST studied controlling or coercive conduct within intimate relationships. The most consistent witness recommendation regarding the text of Bill C-247, An Act to amend the Criminal Code (controlling or coercive conduct), 43rd Parliament, 2nd Session, was "to expand the application of the bill to include ex-partners, and possibly other family members, who may not be members of the same household as their abuser." See JUST, *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, Ninth report, April 2021, p. 29. Moreover, in its 2025 report *Coercive Control in Canada*, FEWO recommended that the Government of Canada recognize "animal mistreatment as a form of coercive behavior." See: FEWO, *Coercive Control in Canada*, First report, November 2025.

PRELIMINARY VERSION
UNEDITED

70. *Criminal Code*, R.S.C. 1985, c. C-46, s. 787(1).

71. JUST, *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, Ninth report, April 2021 pp. 23–25.

72. JUST, *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, Ninth report, April 2021 pp. 23–25; and FEWO, *Coercive Control in Canada*, First report, November 2025, pp. 11–14.

73. Bill C-247, An Act to amend the Criminal Code (controlling or coercive conduct), 43rd Parliament, 2nd session.

74. Bill C-332, An Act to amend the Criminal Code (coercive control of an intimate partner), 44th Parliament, 1st Session. While this bill passed third reading in the House of Commons in 2024, it died on the *Order Paper* upon the dissolution of the 44th Parliament.

75. Section 109(1)(b) of the Code lists the following offences for which a court must make a mandatory prohibition order:

> an offence under subsection 85(1) (using firearm in commission of offence), 85(2) (using imitation firearm in commission of offence), 95(1) (possession of prohibited or restricted firearm with ammunition), 99(1) (weapons trafficking), 100(1) (possession for purpose of weapons trafficking), 102(1) (making automatic firearm), 102.1(1) (possession of computer data), 102.1(2) (distribution of computer data), 103(1) (importing or exporting knowing it is unauthorized) or 104.1(1) (altering cartridge magazine) or section 264 (criminal harassment).

76. Bill C-332, An Act to amend the Criminal Code (coercive control of intimate partner), 44th Parliament, 1st Session, cl. 01.

77. FEWO, *Coercive Control*, First report, November 2025. See for example: FEWO, *Evidence*, 18 September 2024 (Carla Neto, Executive Director, Women's Habitat of Etobicoke); Ontario Native Women's Association, *Brief on the Criminalization of Coercive Behaviour*, Brief submitted to FEWO, June 2024; and Krystal Lowe, Transition House Association of Nova Scotia, *Written Brief on Coercive Control Legislation – A Nova Scotia Perspective*, Brief submitted to FEWO, 2024; and FEWO, *Evidence*, 23 May 2024 (Karine Barrette, Lawyer and Project Manager, Regroupement des maisons pour femmes victimes de violence conjugale).

78. Ending Violence Association of Canada, *Brief on the Criminalization of Coercive Control in Canada Through a Sexualized Violence Lens*, Brief submitted to FEWO, 12 June 2024. Regarding the re-examination of family law, see: FEWO, *Evidence*, 9 May 2024 (Barbara Ridley, Executive Director, Governing Council, Sudbury Cedar Place, Salvation Army); FEWO, *Evidence*, 2 October 2024 (Heidi Illingworth, Executive Director, Ottawa Victim Services); and FEWO, *Evidence*, 9 May 2024 (Taylor Briscoe, Assistant Director, Public Affairs, Salvation Army). JUST also recommended that the federal government promote "training of judicial system actors, such as police, lawyers, and judges, about the dynamics" of coercive and controlling behaviour. See: JUST, "Recommendation 5," *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, Ninth report, April 2021, pp. 12 and 46.

79. FEWO, *Evidence*, 23 October 2024 (Lisa Heslop, Associate, Centre for Research & Education on Violence Against Women & Children, Western University); and Australia, New South Wales, *Crimes Legislation Amendment (Coercive Control) Act 2022 No 65*.

80. FEWO, Gender-Based Violence and Femicides in Canada, Second report, December 2025.

81. According to the Canadian Femicide Observatory for Justice and Accountability (CFOJA), three broad categories of femicide emerge from the range of contexts in which femicide can take place: intimate femicide (the killing of women by current or former partners), familial femicide (the killing of women and girls by family members or other kin), and non-intimate femicide (the killing of women by someone with whom they did not share an intimate relationship). For more information, see: CFOJA, *Subtypes of Femicide*; CFOJA, *History of the Term Femicide*; Centre for Research & Education on Violence Against Women & Children, "What is Femicide?," *Domestic Homicide, Gender-Related Homicide, and Femicide: Making Sense of the Terms*.

82. FEWO, *Gender-Based Violence and Femicides in Canada*, Second report, December 2025.

83. *Criminal Code*, R.S.C. 1985, c. C-46, s. 229.

84. Ibid., ss. 231(2)–231(6.2).

PRELIMINARY VERSION
UNEDITED

85. Ibid., s. 231(7).

86. Section 279.04 of the Code clarifies the meaning of "exploitation" for offences related to human trafficking (sections 279.01–279.03 of the Code).

87. This approach aligns with relatively recent policy proposals from the ULCC. See: ULCC, "UON2023-04," *Criminal Section Resolutions*, August 2023.

88. *R. v. Keegstra*, [1990] 3 S.C.R. 697.

89. Bill C-9, An Act to amend the Criminal Code (hate propaganda, hate crime and access to religious or cultural places), 45th Parliament, 1st Session. See also: Robert Mason, *Legislative Summary of Bill C-9: An Act to amend the Criminal Code (hate propaganda, hate crime and access to religious or cultural places)*, Preliminary version (unedited), Library of Parliament, Publication no. 45-1-C9-E, 3 October 2025.

90. Bill C-9, An Act to amend the Criminal Code (hate propaganda, hate crime and access to religious or cultural places), 45th Parliament, 1st Session, cl. 4.

91. *R. v. Sheppard*, 2022 ABCA 89, para. 16 (CanLII); and *R. c. Rancourt*, 2020 QCCA 933 (CanLII), paras. 33–35 [IN FRENCH].

92. *Criminal Code*, R.S.C. 1985, c. C-46, ss. 235 and 745(a).

93. Ibid., ss. 232 and 234.

94. A recognizance order is a formal promise to abide by certain conditions. The purpose of the order is to reduce the risk of offending; it is imposed when there are reasonable grounds to suspect a person will commit certain serious offences. A recognizance is intended to be preventative and is not a sentence or a conviction.

95. Section 2 of the Code describes "justice" as "a justice of the peace or a provincial court judge, and includes two or more justices where two or more justices are, by law, required to act or, by law, act or have jurisdiction."

96. Section 810.03 of the Code was introduced by 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), 44th Parliament, 1st Session (S.C. 2024, c. 22), to provide a solution to the increased reliance on peace bonds (section 810) in domestic violence cases. See: Senate, *Debates*, 7 March 2023, 2100 (Hon. Pierre-Hugues Boisvenu). For an analysis on Bill S-205, see: Michaela Keenan-Pelletier, Alexia Lagacé-Roy and Julian Walker, *Legislative Summary of 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)*, Preliminary version (unedited), Publication no. 44-1-S205-E, Library of Parliament, 30 January 2025.

97. Section 507.1(1) of the Code preserves the right of a private citizen (the informant) to request that a court legally compel a person named as prospective accused in information laid by a private informant under section 504. Once the court agrees to issue a summons or warrant based on this private information, the private prosecution officially begins. *R. v. McHale*, 2010 ONCA 361 (CanLII).

98. Under sections 718.2(a)(ii) and 718.201 of the Code, "evidence that the offender, in committing the offence, abused the offender's intimate partner or a member of the victim or the offender's family" must be taken into consideration as an aggravating factor for sentencing purposes, as well as the "increased vulnerability" of female persons, in particular the circumstances of Aboriginal female victims.

99. Recommendation 18 of FEWO's report *Gender-Based Violence and Femicides in Canada*, provides that the Government of Canada "strengthen the collection and analysis of data on femicides, gender-based violence, and intimate partner homicides … in order to guide public policies toward solutions grounded in local and intersectional realities."

100. FEWO, *Written Brief on Study on Coercive Behaviour Legislation*, June 2024 (Canadian Centre to End Human Trafficking).

101. *Criminal Code*, R.S.C. 1985, c. C-46, s. 787(1).

102. John Howard Society of Ontario, *Fact Sheet: The Law and High-Risk Offenders*, January 2005.

PRELIMINARY VERSION
UNEDITED

103. Prior to Bill C-16, these sections were revised in 2015 by Bill C-32, An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts, 41st Parliament, 2nd Session (S.C. 2015, c. 13). See: Lyne Casavant, Christine Morris and Julia Nicol, *Legislative Summary of Bill C-32: An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts*, Publication no. 41-2-C32-E, Library of Parliament, 18 December 2014.

104. Bill C-332, An Act to amend the Criminal Code (coercive control of an intimate partner), 44th Parliament, 1st Session, proposed to add the offence of coercive control of an intimate partner to this list (cl. 2).

105. Under new section 672.5011(2), the prosecution must make an application on behalf of the person who is the subject of the order at their request.

106. The accused is not entitled to notice of the application or to make submissions, but must be notified if the order is ultimately varied or revoked (new sections 672.5011(5) to 672.5011(7)).

107. Bill S-12, An Act to amend the Criminal Code, the Sex Offender Information Registration Act and the International Transfer of Offenders Act, 44th Parliament, 1st Session (S.C. 2023, c. 28). For more information, see Michaela Keenan-Pelletier and Julian Walker, *Legislative Summary of Bill S-12, An Act to amend the Criminal Code, the Sex Offender Information Registration Act and the International Transfer of Offenders Act*, Publication no. 44-1-S12-E, Library of Parliament, 23 June 2023, s. 1.1.

108. *Charter of Rights and Freedoms* (the Charter), Part 1 of the *Constitution Act, 1982*, s. 7.

109. *R. v. Jordan*, 2016 SCC 27.

110. Ibid., para. 76.

111. Clause 46 increases the notice period for an application on the admissibility of evidence in sexual offence proceedings from the existing seven days (section 278.93(4)) to 60 days.

112. *Canada Evidence Act*, R.S.C. 1985, c. C-5, ss. 37 and 38. Specified public interests include preventing disclosure that could harm international relations, national security or national defence. A federal minister may apply to a court to object to the disclosure of this information; the Attorney General of Canada may apply to the federal court for an order with respect to the disclosure of this information. The total excluded days include the time period between the day the application or objection is made and the day it is determined.

113. *Canadian Security Intelligence Service Act*, R.S.C. 1985, c. C-23, s. 18(1).

114. Alternative remedies could include sentence reduction, enhanced credit for pre-sentence custody, damages, or the exclusion of evidence. See Colin Wood, "The Inflexible Stay of Proceedings: Alternative Remedies for *Charter* section 11(b) Breaches," *Windsor Review of Legal and Social Studies*, Vol. 2, Winter 2016.

115. ULCC, *Final Report of the Working Group on Section 490 of the* Criminal Code, July 2024.

116. Ibid., Recommendation 1.1.

117. Ibid., para. 53.

118. Ibid., Recommendations 1.1 and 1.2; and ULCC, *Final Report of the Working Group on Section 487 of the* Criminal Code, August 2023, Recommendations 5.1 and 5.2.

119. Once charges are laid, no further detention order is needed: *R. v. Alekseev*, 1990 CanLII 10992 (BC PC).

120. ULCC, *Final Report of the Working Group on Section 490 of the* Criminal Code, July 2024, para. 114.

121. Ibid., Recommendation 2.1.

122. Ibid., para. 117.

123. Clause 61 repeals sections 717 to 717.4 of the Code, which deal with alternative measures. The Code does not currently include references to restorative justice.

124. Sentencing circles are used in criminal justice proceedings after a conviction and as an alternative to a formal sentencing hearing. They are not referenced in the Code, and operate under a court's authority over sentencing hearings. Participants including the offender, victims, community representatives, and elders collectively discuss and provide a suggested sentence for the court to consider. The court is not bound by the sentencing circle's recommendation.

PRELIMINARY VERSION
UNEDITED

125. *Criminal Code*, R.S.C. 1985, c. C-46, s. 402.1. Identify information can include a fingerprint, voice print, signature, user name or password, credit card number or banking information, passport number, Social Insurance number, health insurance number, or driver's licence number.

126. Government of Canada, "1.2 A Brief History of MMPs in Canada," *Mandatory Minimum Penalties in Canada: Analysis and Annotated Bibliography*.

127. Government of Canada, *Mandatory minimum penalties of imprisonment and Bill C-16*.

128. Once a mandatory minimum penalty (MMP) is deemed unconstitutional, other courts are bound by this decision and cannot impose it, even if the MMP is still technically included in legislation.

129. *Quebec (Attorney General)* v. *Senneville*, 2025 SCC 33.

130. Ibid., par. 82–87.

131. Ibid., par. 87.

132. *R.* v. *Lloyd*, 2016 SCC 13, para. 36; and *R.* v. *Bertrand Marchand*, 2023 SCC 26, para. 108.

133. ULCC, *Working Group on Statutory Exemption to Mandatory Minimum Penalties of Imprisonment*, Status report, August 2025.

134. Ibid.

135. Ibid.

136. Ibid.

137. Government of Canada, *Mandatory minimum penalties of imprisonment and Bill C-16*.

138. See similar amendments at clause 59 of the bill, which creates new section 715.48 of the Code.

139. Office of the Federal Ombudsman for Victims of Crime, "The Canadian Victims Bill of Rights."

140. Registered victims may, among other things, receive information about the offender, including transfers, unescorted temporary absences and parole hearings: Government of Canada, *Registering as a victim of crime*.

141. Ibid.

142. The bill also includes amendments to the Code regarding the variation or revocation of publication bans.

143. Bill C-11, An Act to amend the National Defence Act and other Acts (Military Justice System Modernization Act), 45th Parliament, 1st Session, was introduced in the House of Commons on 26 September 2026. The bill removes the jurisdiction of the Canadian Armed Forces to investigate and prosecute sexual offences under the Code, among other changes. At the time of this publication, Bill C-11 is being studied by the House of Commons Standing Committee on National Defence. See Sabrina Charland and Anne-Marie Therrien Tremblay, *Legislative Summary of C-11: An Act to Amend the National Defence Act and other Acts*, Preliminary version (unedited), Library of Parliament, 17 October 2025.

144. A military impact statement is made on behalf of the Canadian Forces, and describes the impact or harm done to discipline, efficiency or morale as a result of the offence committed. A community impact statement is made by an individual on a community's behalf, describing the harm or loss suffered by the community as a result of the offence committed.

145. *An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service*, S.C. 2011, c. 4.

146. Public Safety Canada, *Parliamentary Committee Notes: Mandatory Reporting Act and Jurisdiction Challenges*, 30 March 2021.

147. Bill C-63, An Act to enact the Online Harms Act, to amend the Criminal Code, the Canadian Human Rights Act and An Act respecting the mandatory reporting of Internet child pornography by persons who provide an Internet service and to make consequential and related amendments to other Acts, 44th Parliament, 1st Session. See section 2.4 of Mahdi Benmoussa et al., *Legislative Summary of Bill C-63: An Act to enact the Online Harms Act, to amend the Criminal Code, the Canadian Human Rights Act, and an Act Respecting the Mandatory Reporting of Internet Child Pornography by Persons who Provide an Internet Service and to make consequential and related amendments to other Acts,* Preliminary (unedited) version, Library of Parliament, 20 March 2024.

PRELIMINARY VERSION
UNEDITED

148. Clause 49 provides that the Governor in Council may specify the services included in the definition of "Internet service."

149. Reasonable grounds to *believe* involve believing in the *probability* that certain facts or a certain situation exists. It is a higher standard of proof than that of reasonable grounds to *suspect*, which engages simply *possibility* rather than probability. See *R. v. Chehil*, 2013 SCC 49, paras. 27 and 28. This belief may be supported by their own conclusions or by a notice sent by a member of the public or an organization.

150. House of Commons, Standing Committee on Access to Information, Privacy and Ethics, *Ensuring the Protection of Privacy and Reputation on Platforms such as Pornhub*, Third report, June 2021, p. 30.

151. Transmission data is defined in section 487.011 of the Code as relating to the telecommunication functions of routing and addressing, as well as date and time. Transmission data does not reveal the contents of the communication. The SCC's decision in *R. v. Bykovets* (2024 SCC 6) could affect the application of this bill, as it restricts the police's power to investigate by extending a reasonable expectation of privacy to Internet Protocol (IP) addresses. In the United States, Internet service providers may include in their reports many additional types of information (see *United States Code*, "Sexual Exploitation and Other Abuse of Children," 18 USC, c. 110, s. 2258A(b)).

152. Section 1(1) of the Mandatory Reporting Act defines what constitutes "computer data." The same definition is provided in section 342.1(2) of the Code.

153. Section 70.1(2) of *Firearms Act* defines "domestic violence" as

> conduct, whether or not it constitutes a criminal offence, by a family member towards another family member, including conduct by or towards an intimate partner, that is violent or threatening or that is part of a pattern of coercive and controlling behaviour or that causes that other family member or intimate partner to fear for their safety or the safety of another person.

Domestic violence includes physical violence, sexual, psychological and financial abuse, threats to kill or cause or bodily harm to any person, the threat to kill or harm, or the actual killing or harming of an animal, the threat to damage or the actual damaging of property, harassment, failure to provide the necessities of life.

154. *Firearms Act*, S.C. 1995, c. 39, s. 70.3.

155. *Corrections and Conditional Release Act*, s. 17.1.

156. Ibid, s. 26.

157. Other factors to consider include accessibility to the offender's community, family, and linguistic environment, and availability of appropriate programs and services.

158. European Council, Council of the European Union, *European Public Prosecutor's Office*.