



BACKGROUND

Bill C-2 - Amendments to Protect Children and Other Vulnerable Persons

Bill C-2, an Act to amend the Criminal Code and the Canada Evidence Act realizes the commitment made by the Government of Canada in the October 2004 Speech from the Throne commitment to “crackdown on child pornography.” It also supports the Government’s ongoing commitment to better protect children and other vulnerable persons against exploitation and abuse.

It should be noted that *Bill C-2* is not yet in force.

Bill C-2 makes the following amendments to the Criminal Code and the Canada Evidence Act:

Child Pornography Provisions:

Broader Definition of Child Pornography

- broadened to include audio formats as well as written material that describe prohibited sexual activity with children where that description is the predominant characteristic of the work and it is provided for a sexual purpose

Prohibition on Advertising

- creates a new prohibition against advertising child pornography punishable by a maximum penalty of 10 years imprisonment

Increased penalties

- maximum penalty for all child pornography offences is increased **from six to 18 months** on summary conviction and the commission of a child pornography offence with intent to profit must be considered as an aggravating factor for sentencing purposes
- child pornography offences are now subject to a mandatory minimum sentence imprisonment and no longer eligible for a conditional or “house arrest” sentence

New Sexual Exploitation Offences:

- a new offence of sexual exploitation is created that will better protect young persons between 14 and 18 against those who prey on their vulnerabilities
- this new offence concentrates on the wrongful conduct of the exploiter rather than the consent of the young person

Increased penalties

- maximum sentences have been increased for other child-related offences including sexual offences against children, failure to provide the necessities of life, and abandonment of a child

Facilitating Testimony Child Victims and Witnesses:

- testimony by child victims and witnesses will be facilitated by providing a clearer and consistent test to enable the use of testimonial aids
- under this new test, testimonial aids will be available for all child victims and witnesses under the age of 18, on application, unless it would interfere with the proper administration of justice

Evidence Act:

- children under the age of 14 will now be able to give their evidence if are able to understand and respond to questions and promise to tell the truth
- this eliminates the previous mandatory competency hearing and the distinction between sworn and unsworn testimony for children

New Voyeurism Offences:

- new offences have been created
- the main voyeurism offence prohibits the secret observation (by any means) or recording of any person, in circumstances where there is a reasonable expectation of privacy, in one of three situations:
 - o person is observed or recorded in a place where a person is expected to be in a state of nudity or engaged in sexual activity (i.e. bedroom, bathroom or change room)
 - o person is in a state of nudity or engaged in sexual activity and the purpose is to observe or record the person in such a state or activity
 - o when the observation or recording is done for a sexual purpose
- the intentional distribution of voyeuristic material is also prohibited
- a defence of public good is provided for the voyeurism offences

For more information, please visit www.parl.gc.ca/common/Bills_ls.asp?Parl=38&Ses=1&ls=C2

NOVEMBER 1, 2005