

## **REFERENCE SUMMARY**

**Police Services Act**, R.S.O. 1990, c. P.15 Current as of April 14, 2020

Declaration of principles:

1 Police services shall be provided throughout Ontario in accordance with the following principles:

1. The need to ensure the safety and security of all persons and property in Ontario.
2. **The importance of safeguarding the fundamental rights guaranteed by the Canadian Charter of Rights and Freedoms and the Human Rights Code.**

### **Duties of a Police Officer:**

42 (1) The duties of a police officer include,

- (a) preserving the peace;
- (b) preventing crimes and other offences and providing assistance and encouragement to other persons in their prevention;
- (c) assisting victims of crime;
- (d) apprehending criminals & other offenders & others who may lawfully be taken into custody;
- (e) laying charges and participating in prosecutions;

(2) A police officer has authority to act as such throughout Ontario.

(3) A police officer has the powers and duties ascribed to a constable at common law.

### **Misconduct**

80 (1) A police officer is guilty of misconduct if he or she,

- (a) commits an offence described in a prescribed code of conduct;
- (b) contravenes section 46 (political activity);
- (c) engages in an activity that contravenes subsection 49 (1) (secondary activities) without the permission of his or her chief of police or, in the case of a municipal chief of police, without the permission of the board, being aware that the activity may contravene that subsection;
- (d) contravenes subsection 55 (5) (resignation during emergency);
- (e) commits an offence described in subsection 79 (1) or (2) (offences, complaints);
- (f) contravenes section 81 (inducing misconduct, withholding services);
- (g) contravenes section 117 (trade union membership);
- (h) deals with personal property, other than money or a firearm, in a manner that is not consistent with section 132;
- (i) deals with money in a manner that is not consistent with section 133;
- (j) deals with a firearm in a manner that is not consistent with section 134;
- (k) contravenes a regulation made under paragraph 15 (equipment), 16 (use of force), 17 (standards of dress, police uniforms), 20 (police pursuits) or 21 (records) of subsection 135 (1). 2007, c. 5, s. 10.

Off-duty conduct

(2) A police officer shall not be found guilty of misconduct under subsection (1) if there is no connection between the conduct and either the occupational requirements for a police officer or the reputation of the police force. 2007, c. 5, s. 10.

### **Inducing misconduct and withholding services**

#### **Inducing misconduct**

81 (1) No person shall,

- (a) induce or attempt to induce a member of a police force to withhold his or her services; or
- (b) induce or attempt to induce a police officer to commit misconduct. 2007, c. 5, s. 10.

## **Withholding services**

(2) No member of a police force shall withhold his or her services. 2007, c. 5, s. 10.

## **Offence**

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. 2007, c. 5, s. 10.

## **O. Reg. 268/10: GENERAL** - under *Police Services Act, R.S.O. 1990, c. P.15*

### SCHEDULE

### CODE OF CONDUCT

1. In this code of conduct,

“record” means any record of information, however recorded, whether in printed form, on film, by electronic means or otherwise, and includes correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy of the record. (“document”)

2. (1) Any chief of police or other police officer commits misconduct if he or she engages in,

(a) **Discreditable Conduct**, in that he or she,

(i) fails to treat or protect persons equally without discrimination with respect to police services because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability,

(ii) uses profane, abusive or insulting language that relates to a person’s race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability,

(iii) is guilty of oppressive or tyrannical conduct towards an inferior in rank,

(iv) uses profane, abusive or insulting language to any other member of a police force,

(v) uses profane, abusive or insulting language or is otherwise uncivil to a member of the public,

(vi) wilfully or negligently makes any false complaint or statement against any member of a police force,

(vii) assaults any other member of a police force,

(viii) withholds or suppresses a complaint or report against a member of a police force or about the policies of or services provided by the police force of which the officer is a member,

(ix) is guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction,

(x) contravenes any provision of the Act or the regulations, or

(xi) acts in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force of which the officer is a member;

(b) **Insubordination**, in that he or she,

(i) is insubordinate by word, act or demeanour, or

(ii) without lawful excuse, disobeys, omits or neglects to carry out any lawful order;

(c) **Neglect of Duty**, in that he or she,

(i) without lawful excuse, neglects or omits promptly and diligently to perform a duty as,

(A) a member of the police force of which the officer is a member, if the officer is a member of an Ontario police force as defined in the Interprovincial Policing Act, 2009, or

(B) a police officer appointed under the Interprovincial Policing Act, 2009,

(ii) fails to comply with any provision of the Special Investigations Unit Act, 2019,

(ii.1) failed to comply with any provision of Ontario Regulation 267/10 (Conduct and Duties of Police Officers Respecting Investigations by the Special Investigations Unit) before the revocation of that regulation,  
(iii) fails to work in accordance with orders, or leaves an area, detachment, detail or other place of duty, without due permission or sufficient cause,  
(iv) by carelessness or neglect permits a prisoner to escape,  
(v) fails, when knowing where an offender is to be found, to report him or her or to make due exertions for bringing the offender to justice,  
(vi) fails to report a matter that it is his or her duty to report,  
(vii) fails to report anything that he or she knows concerning a criminal or other charge, or fails to disclose any evidence that he or she, or any person within his or her knowledge, can give for or against any prisoner or defendant,  
(viii) omits to make any necessary entry in a record,  
(ix) feigns or exaggerates sickness or injury to evade duty,  
(x) is absent without leave from or late for any duty, without reasonable excuse, or  
(xi) is improperly dressed, dirty or untidy in person, clothing or equipment while on duty;

(d) **Deceit**, in that he or she,

(i) knowingly makes or signs a false statement in a record,  
(ii) wilfully or negligently makes a false, misleading or inaccurate statement pertaining to official duties, or  
(iii) without lawful excuse, destroys or mutilates a record or alters or erases an entry in a record;

(e) **Breach of Confidence**, in that he or she,

(i) divulges any matter which it is his or her duty to keep secret,  
(ii) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of the warrant or service of the summons,  
(iii) without proper authority, communicates to the media or to any unauthorized person any matter connected with,  
(A) the police force of which the officer is a member, if the officer is a member of an Ontario police force as defined in the Interprovincial Policing Act, 2009, or  
(B) the police force with which the officer is working on a joint forces operation or investigation, if the officer is appointed as a police officer under the Interprovincial Policing Act, 2009, or  
(iv) without proper authority, shows to any person not a member of the police force described in sub-subclause (iii) (A) or (B), as the case may be, or to any unauthorized member of that police force any record that is the property of that police force;

(f) **Corrupt Practice**, in that he or she,

(i) offers or takes a bribe,  
(ii) fails to account for or to make a prompt, true return of money or property received in an official capacity,  
(iii) directly or indirectly solicits or receives a gratuity or present without the consent of,  
(A) the chief of police, if the officer is a member of an Ontario police force as defined in the Interprovincial Policing Act, 2009, or  
(B) the person who appointed the police officer under Part II or III of the Interprovincial Policing Act, 2009,  
(iv) places himself or herself under a pecuniary or other obligation to a licensee if a member of the following police force may have to report or give evidence concerning the granting or refusing of a licence to the licensee:

(A) the police force of which the officer is a member, if the officer is a member of an Ontario police force as defined in the Interprovincial Policing Act, 2009, or  
(B) the police force with which the officer is working on a joint forces operation or investigation, if the officer is appointed as a police officer under the Interprovincial Policing Act, 2009, or  
(v) improperly uses his or her character and position as a member of a police force for private advantage;

(g) **Unlawful or Unnecessary Exercise of Authority**, in that he or she,  
(i) without good and sufficient cause makes an unlawful or unnecessary arrest,  
(i.1) without good and sufficient cause makes an unlawful or unnecessary physical or psychological detention,  
(ii) uses any unnecessary force against a prisoner or other person contacted in the execution of duty, or  
(iii) collects or attempts to collect identifying information about an individual from the individual in the circumstances to which Ontario Regulation 58/16 (Collection of Identifying Information in Certain Circumstances – Prohibition and Duties) made under the Act applies, other than as permitted by that regulation;

(h) **Damage to Clothing or Equipment**, in that he or she,  
(i) wilfully or carelessly causes loss or damage to any article of clothing or equipment, or to any record or other property of,  
(A) the police force of which the officer is a member, if the officer is a member of an Ontario police force as defined in the Interprovincial Policing Act, 2009, or  
(B) the police force with which the officer is working on a joint forces operation or investigation, if the officer is appointed as a police officer under the Interprovincial Policing Act, 2009, or  
(ii) fails to report loss or damage, however caused, as soon as practicable; or  
(i) Consuming Drugs or Alcohol in a Manner Prejudicial to Duty, in that he or she,  
(i) is unfit for duty, while on duty, through consumption of drugs or alcohol,  
(ii) is unfit for duty when he or she reports for duty, through consumption of drugs or alcohol,  
(iii) except with the consent of a superior officer or in the discharge of duty, consumes or receives alcohol from any other person while on duty, or  
(iv) except in the discharge of duty, demands, persuades or attempts to persuade another person to give or purchase or obtain for a member of a police force any alcohol or illegal drugs while on duty.

(2) A police officer does not commit misconduct under subclause (1) (e) (iii) if he or she engages in the described activity in his or her capacity as an authorized representative of an association, as defined in section 2 of the Act.

(3) A police officer does not commit misconduct under subclause (1) (f) (iii) if he or she engages in the described activity in his or her capacity as an authorized representative of an association, as defined in section 2 of the Act, or of a work-related professional organization.

3. Any chief of police or other police officer also commits misconduct if he or she conspires in, abets or is knowingly an accessory to any misconduct described in section 2.

## **DUE PROCESS**

DUE PROCESS has been essentially annihilated by the Lieutenant Governor ELIZABETH DOWDESWELL and Premier DOUG FORD.

Due process refers to the requirement that when the government acts in such a way that denies a citizen of a life, liberty, or property interest, the person must be given notice, the opportunity to be heard, and a decision by a neutral decision maker long before a right is to be violated.

Due process must be guaranteed when someone is denied "life, liberty, or property."

### **List of required procedures that due process requires.**

1. An unbiased tribunal.
2. Notice of the proposed action and the grounds asserted for it.
3. Opportunity to present reasons why the proposed action should not be taken.
4. The right to present evidence, including the right to call witnesses.
5. The right to know opposing evidence.
6. The right to cross-examine adverse witnesses.
7. A decision based exclusively on the evidence presented.
8. Opportunity to be represented by counsel.
9. Requirement that the tribunal prepare a record of the evidence presented.
10. Requirement that the tribunal prepare written findings of fact and reasons for its decision.

**Disorderly conduct** is any behavior that is likely to cause other people alarm, anger, annoyance, or an increased likelihood to engage in unlawful activity.

### **MENTAL HEALTH ACT - Action by police officer**

17 Where a police officer has reasonable and probable grounds to believe that a person is acting or has acted in a disorderly manner and has reasonable cause to believe that the person, (b) has caused or is causing another person to fear bodily harm from him or her; and in addition the police officer is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in, (e) serious bodily harm to another person; and that it would be dangerous to proceed under section 16, the police officer may take the person in custody to an appropriate place for examination by a physician.

## **Constitution Act 1867**

### **II. UNION**

Marginal note: Declaration of Union

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the Name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly. (4)

### **III. EXECUTIVE POWER**

Marginal note:Declaration of Executive Power in the Queen

**9. The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.**

Command of Armed Forces to continue to be vested in the Queen

**15. The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.**

Marginal note:Seat of Government of Canada

16. Until the Queen otherwise directs, the Seat of Government of Canada shall be Ottawa.

Constitution of Parliament of Canada

17 There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

#### **Electoral districts of the four Provinces**

40 Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows:

1. Ontario
2. Quebec
3. Nova Scotia
4. New Brunswick

#### **Appointment of Lieutenant Governors of Provinces**

58 For each Province there shall be an Officer, styled the Lieutenant Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.

Legislative Power

1. Ontario

Marginal note:**Legislature for Ontario**

69 There shall be a Legislature for Ontario consisting of the Lieutenant Governor and of One House, styled the Legislative Assembly of Ontario.

Marginal note:**Electoral districts**

70 The Legislative Assembly of Ontario shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth in the First Schedule to this Act.

#### **Summoning of Legislative Assemblies**

82 The Lieutenant Governor of Ontario and of Quebec shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

#### **Exclusive Powers of Provincial Legislatures**

Marginal note:Subjects of exclusive Provincial Legislation

92 In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
8. Municipal Institutions in the Province.
13. Property and Civil Rights in the Province.

14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.

16. Generally all Matters of a merely local or private Nature in the Province.

### **Authority of Parliament**

92A (3) Nothing in subsection (2) derogates from the authority of Parliament to enact laws in relation to the matters referred to in that subsection and, where such a law of Parliament and a law of a province conflict, the law of Parliament prevails to the extent of the conflict.

### **Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick**

Marginal note: Legislation for Uniformity of Laws in Three Provinces

94 Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick,

### **THE FIRST SCHEDULE** End note(78)

Electoral Districts of Ontario

A. Existing Electoral Divisions.

Counties

Ridings of Counties

Cities, Parts of Cities, and Towns

### **THE FIFTH SCHEDULE**

Oath of Allegiance

I A.B. do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria

Note. — The Name of the King or Queen of the United Kingdom of Great Britain and Ireland for the Time being is to be substituted from Time to Time, with proper Terms of Reference thereto.

## **Canadian Constitution Act 1982**

### **Rights and freedoms in Canada**

1. The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be **demonstrably justified** in a free and democratic society.

### **Fundamental freedoms**

2. Everyone has the following fundamental freedoms:

(a) freedom of conscience and religion;

(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;

(c) freedom of peaceful assembly; and

(d) freedom of association.

### **Mobility of citizens**

6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.

Rights to move and gain livelihood

(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right

(a) to move to and take up residence in any province; and

(b) **to pursue the gaining of a livelihood in any province.**

## **Legal Rights**

- 7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
- 8. Everyone has the right to be secure against unreasonable search or seizure.
- 9. Everyone has the right not to be arbitrarily detained or imprisoned.
- 12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

## **Equality Rights**

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

## **Other rights and freedoms not affected by Charter**

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada

## **Legislative powers not extended**

31. Nothing in this Charter extends the legislative powers of any body or authority.

## **Primacy of Constitution of Canada**

52. (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

Constitution of Canada

(2) The Constitution of Canada includes

- (a) the Canada Act 1982, including this Act;
- (b) the Acts and orders referred to in the schedule; and
- (c) any amendment to any Act or order referred to in paragraph (a) or (b).

Amendments to Constitution of Canada

(3) Amendments to the Constitution of Canada shall be made only in accordance with the authority contained in the Constitution of Canada.

## **The Oakes Test:**

First, the objective to be served by the measures limiting a Charter right must be sufficiently important to warrant overriding a constitutionally protected right or freedom.

Second, **the party invoking s. 1 must show the means to be reasonable and demonstrably justified.** This involves a form of proportionality test involving three important components.

To begin, the measures must be fair and not arbitrary, carefully designed to achieve the objective in question and rationally connected to that objective.

In addition, the means should impair the right in question as little as possible.

Lastly, there must be a proportionality between the effects of the limiting measure and the objective -- the more severe the deleterious effects of a measure, the more important the objective must be.

## **Canadian Bill of Rights, S.C. 1960, c. 44, Assented to 1960-08-10**

An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms

### **Preamble**

The Parliament of Canada, affirming that the Canadian Nation is founded upon principles that acknowledge the supremacy of God, the dignity and worth of the human person and the position of the family in a society of free men and free institutions;

Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;

And being desirous of enshrining these principles and the human rights and fundamental freedoms derived from them, in a Bill of Rights which shall reflect the respect of Parliament for its constitutional authority and which **shall ensure the protection of these rights and freedoms in**

### **Canada:**

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

### **PART I Bill of Rights**

#### **Marginal note: Recognition and declaration of rights and freedoms**

**1** It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and
- (f) freedom of the press.

#### **Marginal note: Construction of law**

**2** Every law of Canada shall, unless it is expressly declared by an Act of the Parliament of Canada that it shall operate notwithstanding the [\*Canadian Bill of Rights\*](#), be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared, and in particular, no law of Canada shall be construed or applied so as to

- (a) authorize or effect the arbitrary detention, imprisonment or exile of any person;
- (b) impose or authorize the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained
  - (i) of the right to be informed promptly of the reason for his arrest or detention,
  - (ii) of the right to retain and instruct counsel without delay, or
  - (iii) of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;
- (d) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence if he is denied counsel, protection against self incrimination or other constitutional safeguards;
- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right to be presumed innocent until proved guilty according to law in a fair and public hearing by an independent and impartial tribunal, or of the right to reasonable bail without just cause; or
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission,

board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.

**Emergency Management and Civil Protection Act**, R.S.O. 1990, c. E.9

“**emergency**” means a situation or an impending situation **that constitutes a danger of major proportions** that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise; (“situation d’urgence”)

“**necessary goods, services and resources**” includes food, water, electricity, fossil fuels, clothing, equipment, transportation and medical services and supplies.

7.0.2 (1) The purpose of making orders under this section is to promote the public good by protecting the health, safety and welfare of the people of Ontario in times of declared emergencies **in a manner that is subject to the Canadian Charter of Rights and Freedoms**. 2006, c. 13, s. 1 (4).

(3) Orders made under this section are subject to the following limitations:

1. The actions authorized by an order shall be exercised in a manner which, consistent with the objectives of the order, **limits their intrusiveness**.
2. An order shall only apply to the areas of the Province where it is necessary.
3. Subject to section 7.0.8, an order shall be effective only for **as long as is necessary**.

**Criteria for declaration**

7.0.1 (3) An order declaring that an emergency exists throughout Ontario or any part of it may be made under this section if, in the opinion of the Lieutenant Governor in Council or the Premier, as the case may be, the following criteria are satisfied:

1. There is an emergency that requires immediate action to prevent, reduce or mitigate a danger of major proportions that could result in serious harm to persons or substantial damage to property.
2. One of the following circumstances exists:
  - i. **The resources normally available** to a ministry of the Government of Ontario or an agency, board or commission or other branch of the government, including existing legislation, **cannot be relied upon without the risk of serious delay**.
  - ii. **The resources** referred to in subparagraph i **may be insufficiently effective to address the emergency**.
  - iii. **It is not possible, without the risk of serious delay, to ascertain whether the resources** referred to in subparagraph i **can be relied upon**. 2006, c. 13, s. 1 (4).

## **Reopening Ontario (A Flexible Response to COVID-19) Act, 2020**

“continued section 7.0.2 order” means an order continued under section 2 that was made under section 7.0.2 of the *Emergency Management and Civil Protection Act*,

“COVID-19 declared emergency” means the emergency declared pursuant to Order in Council 518/2020 (Ontario Regulation 50/20) on March 17, 2020 pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act*.

### **Time limit on application of orders**

**3** (1) An order continued under section 2 ceases to apply 30 days after it is continued under section 2, subject to extension under subsection (2).

### **Extension of orders**

(2) The Lieutenant Governor in Council may by order, before it ceases to apply, extend the effective period of an order for periods of no more than 30 days.

### **Power to amend orders**

**4** (1) The Lieutenant Governor in Council may, by order,

### **Power to revoke orders**

**5** The Lieutenant Governor in Council may by order revoke an order continued under section 2.

### **Reports to public**

**11** The Premier, or a Minister to whom the Premier delegates the responsibility, shall regularly report to the public with respect to the orders continued under section 2 that continue to apply.

## **Criminal Code of Canada**

### **Ignorance of the law**

**19** Ignorance of the law by a person who commits an offence is not an excuse for committing that offence.

### **Parties to offence**

**21** (1) Every one is a party to an offence who

- (a) actually commits it;
- (b) does or omits to do anything for the purpose of aiding any person to commit it; or
- (c) abets any person in committing it.

### **Accessory after the fact**

**23** (1) An accessory after the fact to an offence is one who, knowing that a person has been a party to the offence, receives, comforts or assists that person for the purpose of enabling that person to escape.

**Force: Power, violence, compulsion, or constraint exerted upon or against a person or thing.**

(from Bill C-26)

**"The second assurance is located in proposed subsection 34(3), which deals with the most common claims of self-defence against lawful conduct, namely against police action such as arrest. The new law would make it clear that in the case of police action, self-defence is only available if the defender reasonably believes the police are acting unlawfully, such as by using excessive force."**

### **Defence of Person**

Marginal note: Defence — use or threat of force

34 (1) A person is not guilty of an offence if

- (a) they believe on reasonable grounds that force is being used against them or another person or that a threat of force is being made against them or another person;
- (b) the act that constitutes the offence is committed for the purpose of defending or protecting themselves or the other person from that use or threat of force; and
- (c) the act committed is reasonable in the circumstances.

#### **Marginal note: Factors**

(2) In determining whether the act committed is reasonable in the circumstances, the court shall consider the relevant circumstances of the person, the other parties and the act, including, but not limited to, the following factors:

- (a) the nature of the force or threat;
- (b) the extent to which the use of force was imminent and whether there were other means available to respond to the potential use of force;
- (c) the person's role in the incident;
- (d) whether any party to the incident used or threatened to use a weapon;
- (e) the size, age, gender and physical capabilities of the parties to the incident;
- (f) the nature, duration and history of any relationship between the parties to the incident, including any prior use or threat of force and the nature of that force or threat;
  - (f.1) any history of interaction or communication between the parties to the incident;
- (g) the nature and proportionality of the person's response to the use or threat of force; and
- (h) whether the act committed was in response to a use or threat of force that the person knew was lawful.

#### **Marginal note: No defence**

(3) Subsection (1) does not apply if the force is used or threatened by another person for the purpose of doing something that they are required or authorized by law to do in the administration or enforcement of the law, unless the person who commits the act that constitutes the offence believes on reasonable grounds that the other person is acting unlawfully.

## **FORCE --- Power, compulsion, or constraint exerted upon or against a person**

### **Defence — property**

35 (1) A person is not guilty of an offence if

- (a) they either believe on reasonable grounds that they are in peaceable possession of property or are acting under the authority of, or lawfully assisting, a person whom they believe on reasonable grounds is in peaceable possession of property;
- (b) they believe on reasonable grounds that another person
  - (i) is about to enter, is entering or has entered the property without being entitled by law to do so, (ii) is about to take the property, is doing so or has just done so, or
  - (iii) is about to damage or destroy the property, or make it inoperative, or is doing so;
- (c) the act that constitutes the offence is committed for the purpose of

- (i) preventing the other person from entering the property, or removing that person from the property, or
  - (ii) preventing the other person from taking, damaging or destroying the property or from making it inoperative, or retaking the property from that person; and
- (d) the act committed is reasonable in the circumstances.

### **Unlawful assembly**

63 (1) An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they

- (a) will disturb the peace tumultuously; or
- (b) will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously

### **Lawful assembly becoming unlawful**

(2) Persons who are lawfully assembled may become an unlawful assembly if they conduct themselves with a common purpose in a manner that would have made the assembly unlawful if they had assembled in that manner for that purpose.

### **Riot**

64 A riot is an unlawful assembly that has begun to disturb the peace tumultuously. confused, or disorderly

### **Punishment of rioter**

65 (1) Every person who takes part in a riot is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than two years; or
- (b) an offence punishable on summary conviction.

Marginal note: **Concealment of identity**

(2) Every person who commits an offence under subsection (1) while wearing a mask or other disguise to conceal their identity without lawful excuse is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than 10 years; or
- (b) an offence punishable on summary conviction.

### **terrorist activity means**

83.01 (1) (b) an act or omission, in or outside Canada,

(i) that is committed

- (A) in whole or in part for a political, religious or ideological purpose, objective or cause, and
- B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada, and

(ii) that intentionally

- (A) causes death or serious bodily harm to a person by the use of violence,
- (B) endangers a person's life,
- (C) causes a serious risk to the health or safety of the public or any segment of the public,
- (D) causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm referred to in any of clauses (A) to (C), or
- (E) causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, other than as a result of advocacy, protest, dissent or

stoppage of work that is not intended to result in the conduct or harm referred to in any of clauses (A) to (C),

and includes a conspiracy, attempt or threat to commit any such act or omission, or being an accessory after the fact or counselling in relation to any such act or omission, but, for greater certainty, does not include an act or omission that is committed during an armed conflict and that, at the time and in the place of its commission, is in accordance with customary international law or conventional international law applicable to the conflict, or the activities undertaken by military forces of a state in the exercise of their official duties, to the extent that those activities are governed by other rules of international law.

### **Hoax Regarding Terrorist Activity**

Marginal note: Hoax — terrorist activity

83.231 (1) Every one commits an offence who, without lawful excuse and with intent to cause any person to fear death, bodily harm, substantial damage to property or serious interference with the lawful use or operation of property,

(a) conveys or causes or procures to be conveyed information that, in all the circumstances, is likely to cause a reasonable apprehension that terrorist activity is occurring or will occur, without believing the information to be true; or

(b) commits an act that, in all the circumstances, is likely to cause a reasonable apprehension that terrorist activity is occurring or will occur, without believing that such activity is occurring or will occur.

### **Marginal note: Causing death**

(4) Every one who commits an offence under subsection (1) and thereby causes the death of any other person is guilty of an indictable offence and liable to imprisonment for life.

## **PART IV - Offences Against the Administration of Law and Justice**

### **Interpretation**

#### **Marginal note: Definitions**

118 In this Part,

evidence or statement means an assertion of fact, opinion, belief or knowledge, whether material or not and whether admissible or not; (témoignage, déposition ou déclaration)

### **government means**

(a) the Government of Canada,

(b) the government of a province, or

(c) Her Majesty in right of Canada or a province; (gouvernement)

### **judicial proceeding means a proceeding**

(a) in or under the authority of a court of justice,

(b) before the Senate or House of Commons or a committee of the Senate or House of Commons, or before a legislative council, legislative assembly or house of assembly or a committee thereof that is authorized by law to administer an oath,

(c) before a court, judge, justice, provincial court judge or coroner,

(d) before an arbitrator or umpire, or a person or body of persons authorized by law to make an inquiry and take evidence therein under oath, or

(e) before a tribunal by which a legal right or legal liability may be established,

whether or not the proceeding is invalid for want of jurisdiction or for any other reason; (procédure judiciaire)

**office includes**

- (a) an office or appointment under the government,
- (b) a civil or military commission, and
- (c) a position or an employment in a public department;(charge ou emploi)

**official** means a person who

- (a) holds an office, or
- (b) is appointed or elected to discharge a public duty;(fonctionnaire)

**witness** means a person who gives evidence orally under oath or by affidavit in a judicial proceeding, whether or not he is competent to be a witness, and includes a child of tender years who gives evidence but does not give it under oath, because, in the opinion of the person presiding, the child does not understand the nature of an oath.

**Offences Against the Administration of Law and Justice - Corruption and Disobedience**

Marginal note:**Bribery of judicial officers, etc.**

119 (1) Every one is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years who

- (a) being the holder of a judicial office, or being a member of Parliament or of the legislature of a province, directly or indirectly, corruptly accepts, obtains, agrees to accept or attempts to obtain, for themselves or another person, any money, valuable consideration, office, place or employment in respect of anything done or omitted or to be done or omitted by them in their official capacity, or
- (b) directly or indirectly, corruptly gives or offers to a person mentioned in paragraph (a), or to anyone for the benefit of that person, any money, valuable consideration, office, place or employment in respect of anything done or omitted or to be done or omitted by that person in their official capacity

**Bribery of officers**

120 Every one is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years who

(a) being a justice, police commissioner, peace officer, public officer or officer of a juvenile court, or being employed in the administration of criminal law, directly or indirectly, corruptly accepts, obtains, agrees to accept or attempts to obtain, for themselves or another person, any money, valuable consideration, office, place or employment with intent

- (i) to interfere with the administration of justice,
- (ii) to procure or facilitate the commission of an offence, or
- (iii) to protect from detection or punishment a person who has committed or who intends to commit an offence; or

(b) directly or indirectly, corruptly gives or offers to a person mentioned in paragraph (a), or to anyone for the benefit of that person, any money, valuable consideration, office, place or employment with intent that the person should do anything mentioned in subparagraph (a)(i), (ii) or (iii).

**Frauds on the government**

121 (1) Every one commits an offence who

(a) directly or indirectly

- (i) gives, offers or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official, or
- (ii) being an official, demands, accepts or offers or agrees to accept from any person for

himself or another person,  
a loan, reward, advantage or benefit of any kind as consideration for cooperation, assistance,  
exercise of influence or an act or omission in connection with  
(iii) the transaction of business with or any matter of business relating to the government,  
or  
(iv) a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled  
to bestow,  
whether or not, in fact, the official is able to cooperate, render assistance, exercise  
influence or do or omit to do what is proposed, as the case may be;  
(b) having dealings of any kind with the government, directly or indirectly pays a commission or  
reward to or confers an advantage or benefit of any kind on an employee or official of the  
government with which the dealings take place, or to any member of the employee's or  
official's family, or to anyone for the benefit of the employee or official, with respect to those  
dealings, unless the person has the consent in writing of the head of the branch of government  
with which the dealings take place;  
(c) being an official or employee of the government, directly or indirectly demands, accepts or  
offers or agrees to accept from a person who has dealings with the government a commission,  
reward, advantage or benefit of any kind for themselves or another person, unless they have  
the consent in writing of the head of the branch of government that employs them or of which  
they are an official;  
(d) having or pretending to have influence with the government or with a minister of the  
government or an official, directly or indirectly demands, accepts or offers or agrees to accept,  
for themselves or another person, a reward, advantage or benefit of any kind as consideration  
for cooperation, assistance, exercise of influence or an act or omission in connection with  
(i) anything mentioned in subparagraph (a)(iii) or (iv), or  
(ii) the appointment of any person, including themselves, to an office;  
(e) directly or indirectly gives or offers, or agrees to give or offer, to a minister of the  
government or an official, or to anyone for the benefit of a minister or an official, a reward,  
advantage or benefit of any kind as consideration for cooperation, assistance, exercise of  
influence, or an act or omission, by that minister or official, in connection with  
(i) anything mentioned in subparagraph (a)(iii) or (iv), or  
(ii) the appointment of any person, including themselves, to an office; or  
(f) having made a tender to obtain a contract with the government,  
(i) directly or indirectly gives or offers, or agrees to give or offer, to another person who has  
made a tender, to a member of that person's family or to another person for the benefit of  
that  
person, a reward, advantage or benefit of any kind as consideration for the withdrawal of the  
tender of that person, or  
(ii) directly or indirectly demands, accepts or offers or agrees to accept from another person  
who has made a tender a reward, advantage or benefit of any kind for themselves or  
another  
person as consideration for the withdrawal of their own tender.

### **Contractor subscribing to election fund**

(2) Every one commits an offence who, in order to obtain or retain a contract with the  
government, or as a term of any such contract, whether express or implied, directly or  
indirectly subscribes or gives, or agrees to subscribe or give, to any person any valuable  
consideration

(a) for the purpose of promoting the election of a candidate or a class or party of candidates to  
Parliament or the legislature of a province; or

(b) with intent to influence or affect in any way the result of an election conducted for the  
purpose of electing persons to serve in Parliament or the legislature of a province.

## **Punishment**

(3) Every person who commits an offence under this section is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b) an offence punishable on summary conviction.

### **Breach of trust by public officer**

122 Every official who, in connection with the duties of their office, commits fraud or a breach of trust, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person, is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b) an offence punishable on summary conviction.

**Breach of trust involves abusing a position of authority for self-benefit and against the interests of the person to whom you owe the duty of trust. Breach of trust upon conviction can attract some of the most severe sentences of imprisonment for first offenders of any offences.**

### **Disobeying a statute**

126 (1) Every person who, without lawful excuse, contravenes an Act of Parliament by intentionally doing anything that it forbids **or by intentionally omitting to do anything that it requires to be done** is, unless a punishment is expressly provided by law, guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than two years; or
- (b) an offence punishable on summary conviction.

### **Misconduct of officers executing process**

128 Every peace officer or **coroner** is guilty of an indictable offence and liable to imprisonment for a term of not more than two years or is guilty of an offence punishable on summary conviction who, being entrusted with the execution of a process, intentionally

- (a) misconducts himself in the execution of the process, or
- (b) makes a false return to the process.

### **Offences relating to public or peace officer**

129 Every one who

- (a) resists or wilfully obstructs a public officer or peace officer in the execution of his duty or any person lawfully acting in aid of such an officer,
- (b) omits, without reasonable excuse, to assist a public officer or peace officer in the execution of his duty in arresting a person or in preserving the peace, after having reasonable notice that he is required to do so, or
- (c) resists or wilfully obstructs any person in the lawful execution of a process against lands or goods or in making a lawful distress or seizure,

**is guilty of**

- (d) an indictable offence and is liable to imprisonment for a term not exceeding two years, or
- (e) an offence punishable on summary conviction.

### **Personating peace officer**

130 (1) Everyone commits an offence who

- (a) falsely represents himself to be a peace officer or a public officer; or
- (b) not being a peace officer or public officer, uses a badge or article of uniform or equipment in a manner that is likely to cause persons to believe that he is a peace officer or a public officer, as the case may be.

Punishment

- (2) Everyone who commits an offence under subsection (1)
- (a) is guilty of an indictable offence and liable to imprisonment for a term of not more than five years; or
  - (b) is guilty of an offence punishable on summary conviction.

### **Obstructing justice**

139 (2) Every person who intentionally attempts in any manner other than a manner described in subsection (1) to obstruct, pervert or defeat the course of justice is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than 10 years; or
- b) an offence punishable on summary conviction.

### **Obstructing or violence to or arrest of officiating clergyman**

176 (1) Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than two years or is guilty of an offence punishable on summary conviction who

- (a) by threats or force, unlawfully obstructs or prevents or endeavours to obstruct or prevent an officiant from celebrating a religious or spiritual service or performing any other function in connection with their calling, or
- (b) knowing that an officiant is about to perform, is on their way to perform or is returning from the performance of any of the duties or functions mentioned in paragraph (a)
  - (i) assaults or offers any violence to them, or
  - (ii) arrests them on a civil process, or under the pretence of executing a civil process.

### **Disturbing religious worship or certain meetings**

(2) **Every one who wilfully disturbs or interrupts an assemblage of persons met for religious worship or for a moral, social or benevolent purpose is guilty of an offence** punishable on summary conviction.

Idem

(3) Every one who, at or near a meeting referred to in subsection (2), wilfully does anything that disturbs the order or solemnity of the meeting is guilty of an offence punishable on summary conviction.

### **Public mischief**

140 (1) Every one commits public mischief who, with intent to mislead, causes a peace officer to enter on or continue an investigation by

- (a) making a false statement that accuses some other person of having committed an offence;
- (b) doing anything intended to cause some other person to be suspected of having committed an offence that the other person has not committed, or to divert suspicion from himself;
- (c) reporting that an offence has been committed when it has not been committed; or
- (d) reporting or in any other way making it known or causing it to be made known that he or some other person has died when he or that other person has not died.

### **Marginal note: Punishment**

(2) Every one who commits public mischief

- (a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years; or
- (b) is guilty of an offence punishable on summary conviction.

### **Common nuisance**

180 (1) Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than two years or is guilty of an offence punishable on summary conviction who commits a common nuisance and by doing so

- (a) **endangers the lives, safety or health of the public**, or

(b) **causes physical injury to any person.**

**Definition**

(2) For the purposes of this section, **every one commits a common nuisance who does an unlawful act or fails to discharge a legal duty and thereby**

**(a) endangers the lives, safety, health, property or comfort of the public; or**

**(b) obstructs the public in the exercise or enjoyment of any right that is common to all the subjects of Her Majesty in Canada.**

**Dead body**

**182** Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than five years or is guilty of an offence punishable on summary conviction who

(a) neglects, without lawful excuse, to perform any duty that is imposed on him by law or that he undertakes with reference to the burial of a dead human body or human remains, or

(b) improperly or indecently interferes with or offers any indignity to a dead human body or human remains, whether buried or not.

**Duties Tending to Preservation of Life**

**Marginal note:Duty of persons to provide necessities**

**215 (1)** Every one is under a legal duty

(a) as a parent, foster parent, guardian or head of a family, to provide necessities of life for a child under the age of sixteen years;

(b) to provide necessities of life to their spouse or common-law partner; and

(c) to provide necessities of life to a person under his charge if that person

(i) is unable, by reason of detention, age, illness, mental disorder or other cause, to withdraw himself from that charge, and

(ii) is unable to provide himself with necessities of life.

**Marginal note:Offence**

(2) Every person commits an offence who, being under a legal duty within the meaning of subsection (1), fails without lawful excuse to perform that duty, if

(a) with respect to a duty imposed by paragraph (1)(a) or (b),

(i) the person to whom the duty is owed is in destitute or necessitous circumstances, or

(ii) the failure to perform the duty endangers the life of the person to whom the duty is owed, or causes or is likely to cause the health of that person to be endangered permanently; or

(b) with respect to a duty imposed by paragraph (1)(c), the failure to perform the duty endangers the life of the person to whom the duty is owed or causes or is likely to cause the health of that person to be injured permanently.

**Marginal note:Punishment**

(3) Every one who commits an offence under subsection (2)

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years; or

(b) is guilty of an offence punishable on summary conviction.

**Marginal note:Presumptions**

(4) For the purpose of proceedings under this section,

(b) evidence that a person has in any way recognized a child as being his child is, in the absence of any evidence to the contrary, proof that the child is his child;

(c) evidence that a person has failed for a period of one month to make provision for the maintenance of any child of theirs under the age of sixteen years is, in the absence of any evidence to the contrary, proof that the person has failed without lawful excuse to provide necessities of life for the child; and

(d) the fact that a spouse or common-law partner or child is receiving or has received necessities of life from another person who is not under a legal duty to provide them is not a defence.

**Marginal note:Duty of persons undertaking acts dangerous to life**

**216** Every one who undertakes to administer surgical or medical treatment to another person or to do any other lawful act that may endanger the life of another person is, except in cases of necessity, under a legal duty to have and to use reasonable knowledge, skill and care in so doing.

**Marginal note:Duty of persons undertaking acts**

**217** Every one who undertakes to do an act is under a legal duty to do it if an omission to do the act is or may be dangerous to life.

**Marginal note:Duty of persons directing work**

**217.1** Every one who undertakes, or has the authority, to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task.

**Reckless Endangerment:**

**218** Every one who unlawfully abandons or **exposes a child who is under the age of ten years, so that its life is or is likely to be endangered or its health is or is likely to be permanently injured,**

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years; or

(b) is guilty of an offence punishable on summary conviction.

**Criminal negligence**

**219 (1)** Every one is criminally negligent who

(a) in doing anything, or

(b) in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

**Definition of duty**

(2) For the purposes of this section, duty means a duty imposed by law.

**229** Culpable homicide is murder

(c) if a person, for an unlawful object, does anything that they know is likely to cause death, and by doing so causes the death of a human being, even if they desire to effect their object without causing death or bodily harm to any human being.

**Murder — terrorist activity**

**231 (6.01)** Irrespective of whether a murder is planned and deliberate on the part of a person, murder is first degree murder when the death is caused by that person while committing or attempting to commit an indictable offence under this or any other Act of Parliament if the act or omission constituting the offence also constitutes a terrorist activity.

**Administering noxious thing**

**245 (1)** Every person who administers or causes to be administered to any other person or **causes any other person to take poison or any other destructive or noxious thing is guilty**

(a) of an indictable offence and liable to imprisonment for a term of not more than 14 years, if they did so with intent to endanger the life of or to cause bodily harm to that person; or

(b) of an indictable offence and liable to imprisonment for a term of not more than two years or of an offence punishable on summary conviction, if they did so with intent to aggrieve or annoy that person.

**Exemption**

(2) Subsection (1) does not apply to

(a) a medical practitioner or nurse practitioner who provides medical assistance in dying in accordance with section 241.2; and

(b) a person who does anything for the purpose of aiding a medical practitioner or nurse practitioner to provide medical assistance in dying in accordance with section 241.2.

#### **Definitions**

(3) In subsection (2), medical assistance in dying, medical practitioner and nurse practitioner have the same meanings as in section 241.1.

#### **Unlawfully causing bodily harm**

269 Every one who unlawfully causes bodily harm to any person is guilty of

- (a) an indictable offence and liable to imprisonment for a term not exceeding ten years; or
- (b) an offence punishable on summary conviction.

#### **Torture**

269.1 (1) Every official, or every person acting at the instigation of or with the consent or acquiescence of an official, who inflicts torture on any other person is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

Marginal note:**Definitions**

(2) For the purposes of this section, official means

- (a) a peace officer,
- (b) a public officer,
- (c) a member of the Canadian Forces, or
- (d) any person who may exercise powers, pursuant to a law in force in a foreign state, that would, in Canada, be exercised by a person referred to in paragraph (a), (b), or (c), whether the person exercises powers in Canada or outside Canada;(fonctionnaire)

**torture means any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person**

- (a) for a purpose including
    - (i) obtaining from the person or from a third person information or a statement,
    - (ii) punishing the person for an act that the person or a third person has committed or is suspected of having committed, and
    - (iii) intimidating or coercing the person or a third person, or
  - (b) for any reason based on discrimination of any kind,
- but does not include any act or omission arising only from, inherent in or incidental to lawful sanctions.(torture)

Marginal note:**No defence**

(3) It is no defence to a charge under this section that the accused was ordered by a superior or a public authority to perform the act or omission that forms the subject-matter of the charge or that the act or omission is alleged to have been justified by exceptional circumstances, including a state of war, a threat of war, internal political instability or any other public emergency.

#### **Kidnapping, Trafficking in Persons, Hostage Taking and Abduction**

Marginal note:**Kidnapping**

279 (1) Every person commits an offence who kidnaps a person with intent

- (a) to cause the person to be confined or imprisoned against the person's will;
- (b) to cause the person to be unlawfully sent or transported out of Canada against the person's will; or
- (c) to hold the person for ransom or to service against the person's will.

Marginal note:**Punishment**

(1.1) Every person who commits an offence under subsection (1) is guilty of an indictable offence and liable

(a) if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with, a criminal organization, to imprisonment for life and to a minimum punishment of imprisonment for a term of

(i) in the case of a first offence, five years, and

(ii) in the case of a second or subsequent offence, seven years;

(a.1) in any other case where a firearm is used in the commission of the offence, to imprisonment for life and to a minimum punishment of imprisonment for a term of four years;

(a.2) if the person referred to in paragraph (1)(a), (b) or (c) is under 16 years of age, to imprisonment for life and, unless the person who commits the offence is a parent, guardian or person having the lawful care or charge of the person referred to in that paragraph, to a minimum punishment of imprisonment for a term of five years; and

(b) **in any other case, to imprisonment for life.**

**Marginal note:Subsequent offences**

(1.2) In determining, for the purpose of paragraph (1.1)(a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:

(a) an offence under subsection (1);

(b) an offence under subsection 85(1) or (2) or section 244 or 244.2; or

(c) an offence under section 220, 236, 239, 272, 273, 279.1, 344 or 346 if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

**Marginal note:Factors to consider**

(1.21) In imposing a sentence under paragraph (1.1)(a.2), the court shall take into account the age and vulnerability of the victim.

**Marginal note:Sequence of convictions only**

(1.3) For the purposes of subsection (1.2), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

**Marginal note:Forcible confinement**

(2) Every one who, without lawful authority, confines, imprisons or forcibly seizes another person is guilty of

(a) an indictable offence and liable to imprisonment for a term not exceeding ten years; or

(b) an offence punishable on summary conviction.

**Trafficking in persons**

279.01 (1) Every person who recruits, transports, transfers, receives, holds, conceals or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable

(a) to imprisonment for life and to a minimum punishment of imprisonment for a term of five years if they kidnap, commit an aggravated assault or aggravated sexual assault against, or cause death to, the victim during the commission of the offence; or

(b) to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of four years in any other case.

**Marginal note:Consent**

(2) No consent to the activity that forms the subject-matter of a charge under subsection (1) is valid.

**Marginal note:Presumption**

(3) For the purposes of subsections (1) and 279.011(1), evidence that a person who is not exploited lives with or is habitually in the company of a person who is exploited is, in the absence of evidence to the contrary, proof that the person exercises control, direction or influence over the movements of that person for the purpose of exploiting them or facilitating their exploitation.

**Marginal note:Trafficking of a person under the age of eighteen years**

279.011 (1) Every person who recruits, transports, transfers, receives, holds, conceals or harbours a person under the age of eighteen years, or exercises control, direction or influence over the movements of a person under the age of eighteen years, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable

(a) to imprisonment for life and to a minimum punishment of imprisonment for a term of six years if they kidnap, commit an aggravated assault or aggravated sexual assault against, or cause death to, the victim during the commission of the offence; or

(b) to imprisonment for a term of not more than fourteen years and to a minimum punishment of imprisonment for a term of five years, in any other case.

**Marginal note:Consent**

(2) No consent to the activity that forms the subject-matter of a charge under subsection (1) is valid.

**Marginal note:Material benefit — trafficking**

279.02 (1) Every person who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under subsection 279.01(1), is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than 10 years; or

(b) an offence punishable on summary conviction.

**Marginal note:Material benefit — trafficking of person under 18 years**

(2) Everyone who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence under subsection 279.011(1), is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of two years.

**Marginal note:Withholding or destroying documents — trafficking**

279.03 (1) Every person who, for the purpose of committing or facilitating an offence under subsection 279.01(1), conceals, removes, withholds or destroys any travel document that belongs to another person or any document that establishes or purports to establish another person's identity or immigration status — whether or not the document is of Canadian origin or is authentic — is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction.

**Marginal note:Withholding or destroying documents — trafficking of person under 18 years**

(2) Everyone who, for the purpose of committing or facilitating an offence under subsection 279.011(1), conceals, removes, withholds or destroys any travel document that belongs to another person or any document that establishes or purports to establish another person's identity or immigration status — whether or not the document is of Canadian origin or is authentic — is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years and to a minimum punishment of imprisonment for a term of one year.

**Marginal note:Exploitation**

279.04 (1) For the purposes of sections 279.01 to 279.03, a person exploits another person if they cause them to provide, or offer to provide, labour or a service by engaging in 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.

Marginal note:**Factors**

(2) In determining whether an accused exploits another person under subsection (1), the Court may consider, among other factors, whether the accused

- (a) used or threatened to use force or another form of coercion;
- (b) used deception; or
- (c) abused a position of trust, power or authority.

### **Hate Propaganda**

Marginal note:**Advocating genocide**

318 (1) Every person who advocates or promotes genocide is guilty of an indictable offence and liable to imprisonment for a term of not more than five years.

Marginal note:**Definition of genocide**

(2) In this section, genocide means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely,

- (a) killing members of the group; or
- (b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

Marginal note:**Consent**

(3) No proceeding for an offence under this section shall be instituted without the consent of the Attorney General.

Marginal note:**Definition of identifiable group**

(4) In this section, identifiable group means any section of the public distinguished by colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability.

Marginal note:**Public incitement of hatred**

319 (1) Every one who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace is guilty of

- (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
- (b) an offence punishable on summary conviction.

Marginal note:**Wilful promotion of hatred**

(2) Every one who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group is guilty of

- (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
- (b) an offence punishable on summary conviction.

Marginal note:**Defences**

(3) No person shall be convicted of an offence under subsection (2)

- (a) if he establishes that the statements communicated were true;
- (b) if, in good faith, the person expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text;
- (c) if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true; or
- (d) if, in good faith, he intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada.

Marginal note:**Forfeiture**

(4) Where a person is convicted of an offence under section 318 or subsection (1) or (2) of this section, anything by means of or in relation to which the offence was committed, on such conviction, may, in addition to any other punishment imposed, be ordered by the presiding provincial court judge or judge to be forfeited to Her Majesty in right of the province in which that person is convicted, for disposal as the Attorney General may direct.

Marginal note:**Exemption from seizure of communication facilities**

(5) Subsections 199(6) and (7) apply with such modifications as the circumstances require to section 318 or subsection (1) or (2) of this section.

Marginal note:**Consent**

(6) No proceeding for an offence under subsection (2) shall be instituted without the consent of the Attorney General.

Marginal note:**Definitions**

(7) In this section,  
communicating includes communicating by telephone, broadcasting or other audible or visible means;(communiquer)

**identifiable group** has the same meaning as in section 318;(groupe identifiable)

**public place** includes any place to which the public have access as of right or by invitation, express or implied;(endroit public)

**statements** includes words spoken or written or recorded electronically or electro-magnetically or otherwise, and gestures, signs or other visible representations.

**Criminal breach of trust**

**336** Every one who, being a trustee of anything for the use or benefit, whether in whole or in part, of another person, or for a public or charitable purpose, converts, with intent to defraud and in contravention of his trust, that thing or any part of it to a use that is not authorized by the trust is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

**Public servant refusing to deliver property**

**337** Every one who, being or having been employed in the service of Her Majesty in right of Canada or a province, or in the service of a municipality, and entrusted by virtue of that employment with the receipt, custody, management or control of anything, refuses or fails to deliver it to a person who is authorized to demand it and does demand it is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

**Fraudulent concealment**

**341** Every person who, for a fraudulent purpose, takes, obtains, removes or conceals anything is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than two years; or
- (b) an offence punishable on summary conviction.

**Extortion**

**346 (1)** Every one commits extortion who, without reasonable justification or excuse and with intent to obtain anything, by threats, accusations, menaces or violence induces or attempts to induce any person, whether or not he is the person threatened, accused or menaced or to whom violence is shown, to do anything or cause anything to be done.

(1.1) Every person who commits extortion is guilty of an indictable offence and liable

(a) if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with, a criminal organization, to imprisonment for life and to a minimum punishment of imprisonment for a term of

- (i) in the case of a first offence, five years, and
- (ii) in the case of a second or subsequent offence, seven years;

(a.1) in any other case where a firearm is used in the commission of the offence, to imprisonment for life and to a minimum punishment of imprisonment for a term of four years; and

(b) in any other case, to imprisonment for life.

### **Subsequent offences**

(1.2) In determining, for the purpose of paragraph (1.1)(a), whether a convicted person has committed a second or subsequent offence, if the person was earlier convicted of any of the following offences, that offence is to be considered as an earlier offence:

(a) an offence under this section;

(b) an offence under subsection 85(1) or (2) or section 244 or 244.2; or

(c) an offence under section 220, 236, 239, 272 or 273, subsection 279(1) or section 279.1 or 344 if a firearm was used in the commission of the offence.

However, an earlier offence shall not be taken into account if 10 years have elapsed between the day on which the person was convicted of the earlier offence and the day on which the person was convicted of the offence for which sentence is being imposed, not taking into account any time in custody.

### **Sequence of convictions only**

(1.3) For the purposes of subsection (1.2), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

### **Saving**

(2) A threat to institute civil proceedings is not a threat for the purposes of this section.

### **False pretence**

**361 (1)** A false pretence is a representation of a matter of fact either present or past, made by words or otherwise, that is known by the person who makes it to be false and that is made with a fraudulent intent to induce the person to whom it is made to act on it.

### **Exaggeration**

(2) Exaggerated commendation or depreciation of the quality of anything is not a false pretence unless it is carried to such an extent that it amounts to a fraudulent misrepresentation of fact.

### **Question of fact**

(3) For the purposes of subsection (2), it is a question of fact whether commendation or depreciation amounts to a fraudulent misrepresentation of fact.

### **Forgery and Offences Resembling Forgery**

#### **Marginal note:Forgery**

**366 (1)** Every one commits forgery who makes a false document, knowing it to be false, with intent

(a) that it should in any way be used or acted on as genuine, to the prejudice of any one whether within Canada or not; or

(b) that a person should be induced, by the belief that it is genuine, to do or to refrain from doing anything, whether within Canada or not.

#### **Marginal note:Making false document**

(2) Making a false document includes

(a) altering a genuine document in any material part;

(b) making a material addition to a genuine document or adding to it a false date, attestation, seal or other thing that is material; or

(c) making a material alteration in a genuine document by erasure, obliteration, removal or in any other way.

#### **Marginal note:When forgery complete**

(3) Forgery is complete as soon as a document is made with the knowledge and intent referred to in subsection (1), notwithstanding that the person who makes it does not intend that any particular

person should use or act on it as genuine or be induced, by the belief that it is genuine, to do or refrain from doing anything.

**Marginal note:Forgery complete though document incomplete**

(4) Forgery is complete notwithstanding that the false document is incomplete or does not purport to be a document that is binding in law, if it is such as to indicate that it was intended to be acted on as genuine.

**Marginal note:Exception**

(5) No person commits forgery by reason only that the person, in good faith, makes a false document at the request of a police force, the Canadian Forces or a department or agency of the federal government or of a provincial government.

**Marginal note:Punishment for forgery**

**367** Every one who commits forgery

- (a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years; or
- (b) is guilty of an offence punishable on summary conviction.

**Fraud**

**380 (1)** Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, defrauds the public or any person, whether ascertained or not, of any property, money or valuable security or any service,

(a) is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years, where the subject-matter of the offence is a testamentary instrument or the value of the subject-matter of the offence exceeds five thousand dollars; or

(b) is guilty

(i) of an indictable offence and is liable to imprisonment for a term not exceeding two years, or

(ii) of an offence punishable on summary conviction,

where the value of the subject-matter of the offence does not exceed five thousand dollars.

**Minimum punishment**

(1.1) When a person is prosecuted on indictment and convicted of one or more offences referred to in subsection (1), the court that imposes the sentence shall impose a minimum punishment of imprisonment for a term of two years if the total value of the subject-matter of the offences exceeds one million dollars.

**Affecting public market**

(2) Every one who, by deceit, falsehood or other fraudulent means, whether or not it is a false pretence within the meaning of this Act, with intent to defraud, affects the public market price of stocks, shares, merchandise or anything that is offered for sale to the public is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

**Intimidation**

**423 (1)** Every one is guilty of an indictable offence and liable to imprisonment for a term of not more than five years or is guilty of an offence punishable on summary conviction who, wrongfully and without lawful authority, for the purpose of **compelling another person to abstain from doing anything that he or she has a lawful right to do, or to do anything that he or she has a lawful right to abstain from doing,**

(a) uses violence or threats of violence to that person or their intimate partner or children, or injures the person's property;

(b) intimidates or attempts to intimidate that person or a relative of that person by threats that, in Canada or elsewhere, violence or other injury will be done to or punishment inflicted on him or her or a relative of his or hers, or that the property of any of them will be damaged;

(c) persistently follows that person;

- (d) hides any tools, clothes or other property owned or used by that person, or deprives him or her of them or hinders him or her in the use of them;
- (e) with one or more other persons, follows that person, in a disorderly manner, on a highway;
- (f) besets or watches the place where that person resides, works, carries on business or happens to be; or
- (g) blocks or obstructs a highway.

### **Exception**

(2) A person who attends at or near or approaches a dwelling-house or place, for the purpose only of obtaining or communicating information, does not watch or beset within the meaning of this section.

### **Wilfully causing event to occur**

**429 (1)** Every one who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed, for the purposes of this Part, wilfully to have caused the occurrence of the event.

### **Mischief**

**430 (1)** Every one commits mischief who wilfully

- (a) destroys or damages property;
- (b) renders property dangerous, useless, inoperative or ineffective;
- (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property; or
- (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.

### **Attempts, accessories**

**463** Except where otherwise expressly provided by law, the following provisions apply in respect of persons who attempt to commit or are accessories after the fact to the commission of offences: (a) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, on conviction, an accused is liable to be sentenced to imprisonment for life is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years;

(b) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, on conviction, an accused is liable to imprisonment for fourteen years or less is guilty of an indictable offence and liable to imprisonment for a term that is one-half of the longest term to which a person who is guilty of that offence is liable;

(c) every one who attempts to commit or is an accessory after the fact to the commission of an offence punishable on summary conviction is guilty of an offence punishable on summary conviction; and

(d) every one who attempts to commit or is an accessory after the fact to the commission of an offence for which the offender may be prosecuted by indictment or for which he is punishable on summary conviction

- (i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding a term that is one-half of the longest term to which a person who is guilty of that offence is liable, or
- (ii) is guilty of an offence punishable on summary conviction.

## **PART XIII**

### **Attempts — Conspiracies — Accessories**

Marginal note: **Attempts, accessories**

463 Except where otherwise expressly provided by law, the following provisions apply in respect of persons who attempt to commit or are accessories after the fact to the commission of offences:

- (a) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, on conviction, an accused is liable to be sentenced to imprisonment for life is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years;
- (b) every one who attempts to commit or is an accessory after the fact to the commission of an indictable offence for which, on conviction, an accused is liable to imprisonment for fourteen years or less is guilty of an indictable offence and liable to imprisonment for a term that is one-half of the longest term to which a person who is guilty of that offence is liable;
- (c) every one who attempts to commit or is an accessory after the fact to the commission of an offence punishable on summary conviction is guilty of an offence punishable on summary conviction; and
- (d) every one who attempts to commit or is an accessory after the fact to the commission of an offence for which the offender may be prosecuted by indictment or for which he is punishable on summary conviction
  - (i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding a term that is one-half of the longest term to which a person who is guilty of that offence is liable, or
  - (ii) is guilty of an offence punishable on summary conviction.

**Marginal note:Counselling offence that is not committed**

464 Except where otherwise expressly provided by law, the following provisions apply in respect of persons who counsel other persons to commit offences, namely,

- (a) every one who counsels another person to commit an indictable offence is, if the offence is not committed, guilty of an indictable offence and liable to the same punishment to which a person who attempts to commit that offence is liable; and
- (b) every one who counsels another person to commit an offence punishable on summary conviction is, if the offence is not committed, guilty of an offence punishable on summary conviction.

**Marginal note:Conspiracy**

465 (1) Except where otherwise expressly provided by law, the following provisions apply in respect of conspiracy:

- (a) every one who conspires with any one to commit murder or to cause another person to be murdered, whether in Canada or not, is guilty of an indictable offence and liable to a maximum term of imprisonment for life;
- (b) every one who conspires with any one to prosecute a person for an alleged offence, knowing that they did not commit that offence, is guilty of
  - (i) an indictable offence and liable to imprisonment for a term of not more than 10 years or an offence punishable on summary conviction, if the alleged offence is one for which, on conviction, that person would be liable to be sentenced to imprisonment for life or for a term of not more than 14 years, or
  - (ii) an indictable offence and liable to imprisonment for a term of not more than five years or an offence punishable on summary conviction, if the alleged offence is one for which, on conviction, that person would be liable to imprisonment for less than 14 years;
- (c) every one who conspires with any one to commit an indictable offence not provided for in paragraph (a) or (b) is guilty of an indictable offence and liable to the same punishment as that to which an accused who is guilty of that offence would, on conviction, be liable; and

(d) every one who conspires with any one to commit an offence punishable on summary conviction is guilty of an offence punishable on summary conviction.

## **Definitions**

**467.1 (1)** The following definitions apply in this Act.

**criminal organization** means a group, however organized, that

(a) is composed of three or more persons in or outside Canada; and

(b) has as one of its main purposes or main activities the facilitation or commission of one or more serious offences that, if committed, would likely result in the direct or indirect receipt of a material benefit, including a financial benefit, by the group or by any of the persons who constitute the group.

It does not include a group of persons that forms randomly for the immediate commission of a single offence.

**serious offence** means an indictable offence under this or any other Act of Parliament for which the maximum punishment is imprisonment for five years or more, or another offence that is prescribed by regulation.

### **Marginal note:Facilitation**

(2) For the purposes of this section, section 467.11 and 467.111, facilitation of an offence does not require knowledge of a particular offence the commission of which is facilitated, or that an offence actually be committed.

### **Marginal note:Commission of offence**

(3) In this section and in sections 467.11 to 467.13, committing an offence means being a party to it or counselling any person to be a party to it.

## **Participation in activities of criminal organization**

**467.11 (1)** Every person who, for the purpose of enhancing the ability of a criminal organization to facilitate or commit an indictable offence under this or any other Act of Parliament, knowingly, by act or omission, participates in or contributes to any activity of the criminal organization is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction.

### **Marginal note:Prosecution**

(2) In a prosecution for an offence under subsection (1), it is not necessary for the prosecutor to prove that

(a) the criminal organization actually facilitated or committed an indictable offence;

(b) the participation or contribution of the accused actually enhanced the ability of the criminal organization to facilitate or commit an indictable offence;

(c) the accused knew the specific nature of any indictable offence that may have been facilitated or committed by the criminal organization; or

(d) the accused knew the identity of any of the persons who constitute the criminal organization.

### **Marginal note:Factors**

(3) In determining whether an accused participates in or contributes to any activity of a criminal organization, the Court may consider, among other factors, whether the accused

(a) uses a name, word, symbol or other representation that identifies, or is associated with, the criminal organization;

(b) frequently associates with any of the persons who constitute the criminal organization;

(c) receives any benefit from the criminal organization; or

(d) repeatedly engages in activities at the instruction of any of the persons who constitute the criminal organization.

### **Commission of offence for criminal organization**

**467.12 (1)** Every person who commits an indictable offence under this or any other Act of Parliament for the benefit of, at the direction of, or in association with, a criminal organization is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

#### **Marginal note: Prosecution**

**(2)** In a prosecution for an offence under subsection (1), it is not necessary for the prosecutor to prove that the accused knew the identity of any of the persons who constitute the criminal organization.

#### **Marginal note: Instructing commission of offence for criminal organization**

**467.13 (1)** Every person who is one of the persons who constitute a criminal organization and who knowingly instructs, directly or indirectly, any person to commit an offence under this or any other Act of Parliament for the benefit of, at the direction of, or in association with, the criminal organization is guilty of an indictable offence and liable to imprisonment for life.

#### **Marginal note: Prosecution**

**(2)** In a prosecution for an offence under subsection (1), it is not necessary for the prosecutor to prove that

- (a)** an offence other than the offence under subsection (1) was actually committed;
- (b)** the accused instructed a particular person to commit an offence; or
- (c)** the accused knew the identity of all of the persons who constitute the criminal organization.

#### **Marginal note: Sentences to be served consecutively**

**467.14** A sentence imposed on a person for an offence under section 467.11, 467.111, 467.12 or 467.13 shall be served consecutively to any other punishment imposed on the person for an offence arising out of the same event or series of events and to any other sentence to which the person is subject at the time the sentence is imposed on the person for an offence under any of those sections.

### **Arrest without warrant by any person**

**494 (1)** Any one may arrest without warrant

- (a)** a person whom he finds committing an indictable offence; or
- (b)** a person who, on reasonable grounds, he believes
  - (i)** has committed a criminal offence, and
  - (ii)** is escaping from and freshly pursued by persons who have lawful authority to arrest that person.

#### **Marginal note: Arrest by owner, etc., of property**

**(2)** The owner or a person in lawful possession of property, or a person authorized by the owner or by a person in lawful possession of property, may arrest a person without a warrant if they find them committing a criminal offence on or in relation to that property and

- (a)** they make the arrest at that time; or
- (b)** they make the arrest within a reasonable time after the offence is committed and they believe on reasonable grounds that it is not feasible in the circumstances for a peace officer to make the arrest.

#### **Marginal note: Delivery to peace officer**

**(3)** Any one other than a peace officer who arrests a person without warrant shall forthwith deliver the person to a peace officer.

#### **Marginal note: For greater certainty**

**(4)** For greater certainty, a person who is authorized to make an arrest under this section is a person who is authorized by law to do so for the purposes of section 25.

**495 (1)** A peace officer may arrest without warrant

- (a) a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence;
- (b) a person whom he finds committing a criminal offence; or
- (c) a person in respect of whom he has reasonable grounds to believe that a warrant of arrest or committal, in any form set out in Part XXVIII in relation thereto, is in force within the territorial jurisdiction in which the person is found.

**Marginal note:Limitation**

(2) A peace officer shall not arrest a person without warrant for

- (a) an indictable offence mentioned in section 553,
- (b) an offence for which the person may be prosecuted by indictment or for which he is punishable on summary conviction, or
- (c) an offence punishable on summary conviction,

in any case where

- (d) he believes on reasonable grounds that the public interest, having regard to all the circumstances including the need to
  - (i) establish the identity of the person,
  - (ii) secure or preserve evidence of or relating to the offence, or
  - (iii) prevent the continuation or repetition of the offence or the commission of another offence,

may be satisfied without so arresting the person, and

- (e) he has no reasonable grounds to believe that, if he does not so arrest the person, the person will fail to attend court in order to be dealt with according to law.

**Marginal note:Consequences of arrest without warrant**

(3) Notwithstanding subsection (2), a peace officer acting under subsection (1) is deemed to be acting lawfully and in the execution of his duty for the purposes of

- (a) any proceedings under this or any other Act of Parliament; and
- (b) any other proceedings, unless in any such proceedings it is alleged and established by the person making the allegation that the peace officer did not comply with the requirements of subsection (2).

**Marginal note:Arrest without warrant – application of section 524**

495.1 Despite any other provision in this Act, if a peace officer has reasonable grounds to believe that an accused has contravened or is about to contravene a summons, appearance notice, undertaking or release order that was issued or given to the accused or entered into by the accused, or has committed an indictable offence while being subject to a summons, appearance notice, undertaking or release order, the peace officer may arrest the accused without a warrant for the purpose of taking them before a judge or justice to be dealt with under section 524.

**Release from custody — arrest without warrant**

498 (1) Subject to subsection (1.1), if a person has been arrested without warrant for an offence, other than one listed in section 469, and has not been taken before a justice or released from custody under any other provision of this Part, a peace officer shall, as soon as practicable, release the person, if

- (a) the peace officer intends to compel the person's appearance by way of summons;
- (b) the peace officer issues an appearance notice to the person; or
- (c) the person gives an undertaking to the peace officer.

**RCMP Act:**

**Duties**

Marginal note:**Duties**

18 It is the duty of members who are peace officers, subject to the orders of the Commissioner, (a) to perform all duties that are assigned to peace officers in relation to **the preservation of the peace, the prevention of crime and of offences against the laws of Canada and the laws in force in any province** in which they may be employed, and the apprehension of criminals and offenders and others who may be lawfully taken into custody; (b) to execute all warrants, and perform all duties and services in relation thereto, that may, under this Act or the laws of Canada or the laws in force in any province, be lawfully executed and performed by peace officers; (c) to perform all duties that may be lawfully performed by peace officers in relation to the escort and conveyance of convicts and other persons in custody to or from any courts, places of punishment or confinement, asylums or other places; and (d) to perform such other duties and functions as are prescribed by the Governor in Council or the Commissioner.

**Canadian Environmental Protection Act, 1999, S.C. 1999, c. 33**

**SCHEDULE 1**

**List of Toxic Substances**

**40 Inorganic fluorides**

**74 Carbon dioxide, which has the molecular formula CO<sub>2</sub>**

**GPMB - GLOBAL PREPAREDNESS MONITORING BOARD**

**Progress indicator(s) by September 2020**

**The United Nations (including WHO) conducts at least two system-wide training and simulation exercises, including one for covering the deliberate release of a lethal respiratory pathogen.**

**Hamilton mask requirement bylaw 20-155 Laws** broken

1.1

**“Establishment”** means any municipal bus or transit shelter and any enclosed space where members of the public are ordinarily invited or permitted access, either expressly or by implication, and whether or not a fee is charged for entry and shall include without limitation:

- (a) premises or any portion thereof which are used as a place of business for the sale or offering for sale of goods or services and includes a mall or similar structure which contains multiple places of business;
- (b) churches, mosques, synagogues, temples, or other places of worship;
- (c) community centres including indoor recreational facilities;
- (d) libraries, art galleries, museums, aquariums, zoos, and other similar facilities;
- (e) facilities operated by community service agencies which are attended by members of the public;
- (f) banquet halls, convention centres, arenas, stadiums, and other enclosed event spaces;
- (g) premises utilized as an open house, presentation centre, or other facility for real estate purposes;
- (h) common areas of hotels, motels, and other multi-unit short term rentals, such as lobbies, elevators, meeting rooms, or other common use facilities;
- (i) concert venues, theatres, cinemas, casinos, and other entertainment facilities;

- (j) homeless shelters; and
- (k) municipal public transportation facilities including, for clarity, all vehicles owned or operated by Hamilton Street Railway and DARTS Transit;

**For clarity “Establishment” shall not include:**

- (a) airports or other facilities under the jurisdiction of the federal government;
- (b) provincial public transportation facilities;
- (c) schools or post-secondary institutions;
- (d) child care facilities;
- (e) portions of an Establishment that are not open to members of the public;
- (f) hospitals, independent health facilities, or offices of regulated health professionals; and
- (g) any portion of a property used primarily as a private dwelling;

“Operator” means a person or organization who/which is responsible for or otherwise has custody, or control over the operation, of an Establishment and shall include without limitation a supervisor, manager, or owner of an Establishment;

“Face Covering” means a medical or non-medical mask or other face covering such as a balaclava, bandana, scarf, cloth, or other similar item that covers the nose, mouth, and chin without gapping.

2.4 Every Operator shall take reasonable steps to ensure that no member of the public is permitted entry to, or otherwise remains within, the Establishment unless the member of the public is wearing a Face Covering in a manner which covers their mouth, nose, and chin.

**This requirement shall not apply to members of the public that state that they fall within an exemption of this by-law or appear to fall within one of the exemptions.**

2.5 Every Operator shall ensure that any person who refuses to comply with the requirements of this by-law is promptly asked to leave their Establishment and is reported to Authorized Staff upon failure to comply with this direction.

2.9 For the purposes of this by-law, no Operator shall require any employee or member of the public to provide proof that any exemption set out in section 4.1 applies to that employee or member of the public or request any Personal Health Information from any individual.

**PART 4 - EXEMPTIONS**

4.1 The requirements of sections 3.1 and 3.2 shall not apply to a person who:

- (a) is a child under the age of two;
- (b) is a child at least two years of age but under the age of 5 years who refuses to wear a Face Covering and cannot be persuaded to do so by their caregiver;
- (c) has an underlying medical condition which inhibits their ability to wear a Face Covering;
- (d) is unable to place or remove a Face Covering without assistance;
- (e) is an employee or agent of the Operator and is within an area designated for them and not for public access, or is within or behind a physical barrier;
- (f) is reasonably accommodated by not wearing a Face Covering in accordance with the Human Rights Code including a person with a disability that makes it difficult to wear, or communicate while wearing, a Face Covering;
- (g) is in a swimming pool;
- (h) is actively engaged in an athletic or fitness activity;
- (i) who removes the Face Covering for the period necessary to provide, or receive, services or treatment;
- (j) who is sleeping or in bed at a homeless shelter; or
- (k) states that one of the exemptions of this by-law applies to them.

**4.2 The requirements of sections 2.4 and 2.5 shall not apply to an Operator with respect to a person who is exempt from wearing a Face Covering in accordance with this by-law.**

**Crimes Against Humanity and War Crimes Act** (S.C. 2000, c. 24)

**crime against humanity** means murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution **or any other inhumane act or omission that is committed against any civilian population** or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (crime contre l'humanité)

**genocide** means an act or omission committed with intent to destroy, in whole or in part, an identifiable group of persons, as such, that, at the time and in the place of its commission, constitutes genocide according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission.

**Health Care Consent Act, 1996**, S.O. 1996, c. 2, Sched. A

**Consent to Treatment**

**No treatment without consent**

10 (1) A health practitioner who proposes a treatment for a person shall not administer the treatment, and shall take reasonable steps to ensure that it is not administered, unless,

(a) he or she is of the opinion that the person is capable with respect to the treatment, and the person has given consent; or

(b) he or she is of the opinion that the person is incapable with respect to the treatment, and the person's substitute decision-maker has given consent on the person's behalf in accordance with this Act. 1996, c. 2, Sched. A, s. 10 (1).

**Opinion of Board or court governs**

(2) If the health practitioner is of the opinion that the person is incapable with respect to the treatment, but the person is found to be capable with respect to the treatment by the Board on an application for review of the health practitioner's finding, or by a court on an appeal of the Board's decision, the health practitioner shall not administer the treatment, and shall take reasonable steps to ensure that it is not administered, unless the person has given consent. 1996, c. 2, Sched. A, s. 10 (2).

**Elements of consent**

11 (1) The following are the elements required for consent to treatment:

1. The consent must relate to the treatment.

2. The consent must be informed.

3. The consent must be given voluntarily.

4. The consent must not be obtained through misrepresentation or fraud. 1996, c. 2, Sched. A, s. 11 (1).

**Informed consent**

(2) A consent to treatment is informed if, before giving it,

(a) the person received the information about the matters set out in subsection (3) that a reasonable person in the same circumstances would require in order to make a decision about the treatment; and

(b) the person received responses to his or her requests for additional information about those matters. 1996, c. 2, Sched. A, s. 11 (2).

Same

(3) The matters referred to in subsection (2) are:

1. The nature of the treatment.
2. The expected benefits of the treatment.
3. The material risks of the treatment.
4. The material side effects of the treatment.
5. Alternative courses of action.
6. The likely consequences of not having the treatment. 1996, c. 2, Sched. A, s. 11 (3).

Express or implied

(4) Consent to treatment may be express or implied. 1996, c. 2, Sched. A, s. 11 (4).

### **Roncarelli v Duplessis - Supreme Court precedence:**

Roncarelli v. Duplessis, [1959] S.C.R. 121, was a landmark constitutional decision of the Supreme Court of Canada where the Court held that Maurice Duplessis, the premier of Quebec, had overstepped his authority by revoking the liquor licence of a Jehovah's Witness. **Justice Ivan Rand wrote in his often-quoted reasons that the unwritten constitutional principle of the "rule of law" meant no public official was above the law and so could neither suspend nor dispense it.**

Although Duplessis had authority under the relevant legislation, his decision was not based on any factors related to the operation of the licence but was made for unrelated reasons and so was held to be exercised arbitrarily and without good faith.[1]

**Decision** In a 6-3 decision, the Supreme Court of Canada reinstated the trial decision, holding that Duplessis wrongfully caused the revocation of Roncarelli's liquor licence. The six judges who sided with Roncarelli used different legal reasoning to reach their decision. Three judges wrote that Duplessis had ordered the cancellation outside his authority as premier; two judges stated that although Duplessis had the power to order the cancellation, he had done so in bad faith; and the sixth **judge concluded the premier was not entitled to immunity as a public official.**

Roncarelli was awarded \$33,123.53 in damages as well as costs in the Court of Queen's Bench and the Supreme Court of Canada. Roncarelli's son, however, maintained that it was a significant moral victory in his father's struggle against the system.

A Supreme Court of Canada decision - Roncarelli vs. Duplessis, [1959], it was a landmark constitutional decision of **the Supreme Court of Canada where the Court held that Maurice Duplessis, the actual Premier of Quebec, had overstepped his authority by revoking the liquor license of a Jehovah's Witness. Current officials are stepping outside of statutory authority, big time, and are privately liable.** The Premier of Quebec, while he was in office, was held privately liable for acts done outside of his lawful authority. The act of Quebec Premier Maurice Duplessis through the instrumentality of the Commission brought about a breach of an implied public statutory duty toward Frank Roncarelli (a citizen); it was a gross abuse of legal power expressly intended to punish him for an act wholly irrelevant to the statute, a punishment which inflicted on him, as it was intended to do, the destruction of his economic life as a restaurant keeper within the province.

### **Human Rights Code, R.S.O. 1990, c. H.19**

#### **Preamble**

Whereas recognition of the **inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace** in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

And Whereas it is public policy in Ontario to recognize **the dignity and worth of every person and to provide for equal rights and opportunities** without discrimination that is contrary to law, **and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being** of the community and the Province;

## **HUMAN RIGHTS CODE ONTARIO - con't**

### **Employment**

5 (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, **creed**, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

### **13. Duty to accommodate**

Under the *Code*, employers and unions, housing providers and service providers have a duty to accommodate the needs of people with psychosocial disabilities to make sure they have equal opportunities, equal access and can enjoy equal benefits. Employment, housing, services and facilities must be designed inclusively or adapted to accommodate people with psychosocial disabilities in a way that promotes integration and full participation.

The OHRC's [\*Policy and guidelines on disability and the duty to accommodate\*](#), [\*Human Rights at Work\*](#) and the [\*Policy on human rights and rental housing\*](#)<sup>[164]</sup> provide in-depth guidance on accommodating the needs of people with disabilities and other *Code*-protected groups in employment, housing and other areas. The purpose of this policy is to apply these principles specifically to people with mental health and/or addiction disabilities.

The duty to accommodate has both a substantive and a procedural component. The procedure to assess an accommodation is as important as the substantive content of the accommodation.<sup>[165]</sup> In a case involving the accommodation of a mental health disability in the workplace, the Court said: "a failure to give any thought or consideration to the issue of accommodation, including what, if any, steps could be taken constitutes a failure to satisfy the 'procedural' duty to accommodate."<sup>[166]</sup>

The duty to accommodate mental health disabilities is no less rigorous than the duty to accommodate physical disabilities.

**Example:** In one case, a tribunal found that an organization had discriminated when it failed to provide a stress leave to an employee with anxiety and depression, and instead required him to either retire or transfer to another province (despite the negative impact that the transfer would have had on his family situation and possibly on his mental health). In its decision, the tribunal pointed to the organization's generous sick leave policy for people with physical disabilities, such as cancer, and contrasted this with how differently the organization treated stress leaves.<sup>[167]</sup> Human rights law establishes that there cannot be a "double standard" for how mental health disabilities are treated versus how physical disabilities are treated.<sup>[168]</sup>

### **13.1 Principles of accommodation**

The duty to accommodate is informed by three principles: respect for dignity, individualization, and integration and full participation.

#### **13.1.1. Respect for dignity**

The duty to accommodate people with disabilities means accommodation must be provided in a way that most respects the dignity of the person, if doing so does not cause undue hardship. Human dignity encompasses individual self-respect, self-worth and inherent worth as a human being. It is concerned with physical and psychological integrity and empowerment. It is harmed when people are marginalized, stigmatized, ignored or devalued. Privacy, confidentiality, comfort, individuality and self-esteem are all important factors.

Autonomy is also an important aspect of dignity. It reflects a person's right to self-determination, and means subjecting people to minimal interference in their choices. Dignity will include considering how accommodation is provided and the person's own participation in the process. Respect for dignity includes being considered as a whole person, not merely in relation to one's disability or the psychiatric system. It includes respecting and valuing the perspectives of consumer/survivors and people with addictions, particularly when people speak about their own experiences.

Housing providers, service providers and employers should consider different ways of accommodating people with mental health or addiction disabilities along a continuum, ranging from ways that most respect dignity and other human rights values, to those that least respect those values.

**Example:** A woman asks for flexible work hours on Thursdays so she can attend a therapy appointment related to a mental health issue. Instead of taking her request in good faith and working with her confidentially to understand how best she can be successful at work, the employer tells the woman's colleagues about her request and asks them whether, based on their own impressions, they believe that the woman has a mental health issue. This approach is inappropriate and does not respect the employee's dignity or her privacy.

### **13.1.2. Individualization**

There is no set formula for accommodating people identified by *Code* grounds. Each person's needs are unique and must be considered afresh when an accommodation request is made. What might work for one person may not work for others. A solution may meet one person's requirements, but not another's.

**Example:** In employment, a policy that mandates a set return to work plan for people with disabilities may be discriminatory if the particular circumstances of a person making an accommodation request are not considered. [\[169\]](#)

Accommodations may need to be re-visited over time to make sure that they continue to meet a person's needs appropriately.

### **13.1.3. Integration and full participation**

Accommodations should be developed and implemented with a view to maximizing a person's integration and full participation. Achieving integration and full participation requires barrier-free and inclusive design and removing existing barriers. Where barriers continue to exist because it is impossible to remove them at a given point in time, then accommodations should be provided, unless this causes undue hardship.

It is well-established in human rights law that equality may sometimes require different treatment that does not offend the person's dignity. In some circumstances, the best way to ensure the equality of people with disabilities may be to provide separate or specialized services. However, employment, housing, services and facilities must be built or adapted to accommodate people with disabilities in a way that promotes their integration and full participation. [\[170\]](#)

**Example:** A co-op housing provider ensures that several of its one-bedroom units throughout the co-op are available to people who, due to a mental health disability, need to live in quiet, private spaces on their own.

Segregated treatment in services, employment or housing for people with disabilities is less dignified and is unacceptable, unless it can be shown that integrated treatment would pose undue hardship or that segregation is the only way to achieve equality.[\[171\]](#)

### **13.2 Inclusive design**

Ensuring integration and full participation means designing society and structures for inclusiveness. Inclusive or “universal” design emphasizes barrier-free environments and equal participation of persons with psychosocial disabilities with varying levels of ability. It is a preferred approach to removing barriers or making “one-off” accommodations, which assume that existing structures may only need slight modifications to make them acceptable.

Effective inclusive design will minimize the need for people to ask for individualized accommodation. As the Law Commission of Ontario has said:

The concept of universal design, which requires those who develop or provide laws, policies, programs or services to take into account diversity from the outset, is connected to the principle of autonomy and independence in that, when properly implemented, universal design removes from persons with disabilities the burden of navigating onerous accommodation processes and negotiating the accommodations and supports that they need in order to live autonomously and independently. In this way, the principle of autonomy and independence is closely linked to that of participation and inclusion.[\[172\]](#)

The Supreme Court has noted the need to “fine-tune” society so that structures and assumptions do not exclude persons with disabilities from taking part in society.[\[173\]](#) It has affirmed that standards should be designed to reflect all members of society, to the extent that this is reasonably possible.[\[174\]](#) Housing providers, service providers, employers and others have an obligation to be aware of differences between individuals and groups and must build in conceptions of equality to standards or requirements.[\[175\]](#) This proactive approach is more effective because it emphasizes accessibility and inclusion from the start.

Organizations, including government, should use the principles of inclusive design when they are developing and building policies, programs, procedures, standards, requirements and facilities. New barriers should never be created when designing new structures or revising old ones. Instead, design plans should incorporate current accessibility standards such as the Principles of Universal Design.[\[176\]](#) This type of planning decreases the need to remove barriers and provide accommodations at a later date.

**Example:** A municipality passes a bylaw that requires 10% of the units offered through all new rental housing developments to be affordable housing. It does this because it recognizes that many groups protected by the *Code*, including people with psychosocial disabilities, need affordable housing.

The *Accessibility for Ontarians with Disabilities Act*[\[177\]](#) provides a mechanism for developing, implementing and enforcing accessibility standards with the goal of a fully accessible province by 2025. Standards have already been passed into regulation for customer service, employment, information and communication, transportation and public spaces. Changes have also been made to the accessibility provisions of the *Building Code Regulation*. Under the AODA, government public and private sector employers, service providers and landlords are required to comply with accessibility standards in varying degrees over time relative to an organization’s size and sector. If accessibility standards under the AODA fall short of requirements under the *Code* in a given situation, the requirements of the *Code* will prevail.

Along with the expectation to prevent barriers at the design stage through inclusive design, organizations should be aware of systemic barriers in systems and structures that already exist. They should actively identify and seek to remove these existing barriers.

**Example:** A workplace designs a performance management procedure. It builds in flexible processes to make sure it adequately responds to people who may be experiencing difficulty performing their work due to factors related to a *Code* ground, including a mental health or

addiction issue, by offering accommodation, short of undue hardship. In its approach to assessing and accommodating employees who are experiencing difficulty doing their work, it focuses on the employee's behaviours at work, and asks "What can I do to make sure you are successful at work?" It also identifies that accommodation is available, if needed. This approach allows employees to focus on their needs, decide if they want to disclose that they have a disability or other *Code*-related issue (for example, family status obligations) that is affecting their work, and allows them to begin a conversation about accommodation, if necessary.<sup>[178]</sup> Organizations will likely find that inclusive design choices and removing barriers, as well as individual accommodations, will benefit large numbers of people.

### **13.3 Appropriate accommodation**

In addition to designing inclusively and removing barriers, organizations must also respond to individual requests for accommodation. In some situations involving people with psychosocial disabilities, organizations may also have to respond to situations where they perceive that there may be a need for accommodation, even if a specific request has not been made.<sup>[179]</sup>

The duty to accommodate requires that the most appropriate accommodation be determined and provided, unless this causes undue hardship. Accommodation is considered appropriate if it results in equal opportunity to enjoy the same level of benefits and privileges experienced by others or if it is proposed or adopted for the purpose of achieving equal opportunity, and meets the individual's disability-related needs. The most appropriate accommodation is one that most:

- respects dignity (including autonomy, comfort and confidentiality)

- responds to a person's individualized needs

- allows for integration and full participation.

Accommodation is a process and is a matter of degree, rather than an all-or-nothing proposition, and can be seen as a continuum. The highest point in the continuum of accommodation must be achieved, short of undue hardship.<sup>[180]</sup> At one end of this continuum is full accommodation that most respects the person's dignity and promotes confidentiality. Alternative accommodation (that which would be less than "ideal") might be next on the continuum when the most appropriate accommodation is not feasible. An alternative (or "next-best") accommodation may be implemented in the interim while the most appropriate accommodation is being phased in or put in place at a later date when resources have been put aside.

Determining the "most appropriate" accommodation is a separate analysis from determining whether the accommodation would result in undue hardship. If a particular accommodation measure would cause undue hardship, the next-best accommodation must be sought.

If there is a choice between two accommodations that equally respond to the person's needs in a dignified way, then the accommodation provider is entitled to select the one that is less expensive or less disruptive to the organization.

### **14. Undue hardship**

Organizations covered by the *Code* have a duty to accommodate to the point of undue hardship. Accommodation need not be provided if it causes undue or excessive hardship. However, some degree of hardship is acceptable.

The *Code* prescribes only three considerations when assessing whether an accommodation would cause undue hardship:

- cost, outside sources of funding, if any, health and safety requirements, if any.

No other considerations can be properly considered. For example, business inconvenience, employee morale, third-party preferences, *etc.* are not valid considerations in assessing whether an accommodation causes undue hardship.

## **HUMAN RIGHTS ACT**

### **Purpose**

2 The purpose of this Act is to extend the laws in Canada to give effect, within the purview of matters coming within the legislative authority of Parliament, to the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

### **Denial of good, service, facility or accommodation**

5 It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public

- (a) to deny, or to deny access to, any such good, service, facility or accommodation to any individual, or
- (b) to differentiate adversely in relation to any individual, on a prohibited ground of discrimination.

### **Employment**

7 It is a discriminatory practice, directly or indirectly,

- (a) to refuse to employ or continue to employ any individual, or
- (b) in the course of employment, to **differentiate adversely** in relation to an employee, on a prohibited ground of discrimination.

### **Discriminatory policy or practice**

10 It is a discriminatory practice for an employer, employee organization or employer organization

- (a) to establish or pursue a policy or practice, or
- (b) to enter into an agreement affecting recruitment, referral, hiring, promotion, training, apprenticeship, transfer or any other matter relating to employment or prospective employment,

that deprives or tends to **deprive an individual or class of individuals of any employment opportunities** on a prohibited ground of discrimination.

### **Harassment**

14 (1) It is a discriminatory practice,

- (a) in the provision of goods, services, facilities or accommodation customarily available to the general public,
  - (b) in the provision of commercial premises or residential accommodation, or
  - (c) in matters related to employment,
- to harass an individual on a prohibited ground of discrimination.

### **Accommodation of needs**

15 (2) For any practice mentioned in paragraph (1)(a) to be considered to be based on a bona fide occupational requirement and for any practice mentioned in paragraph (1)(g) to be considered to have a bona fide justification, it must be established that accommodation of the needs of an individual or a class of individuals affected would impose undue hardship on the person who would have to accommodate those needs, considering health, safety and cost.

**GENOCIDE** means an act or omission committed with intent to destroy, in whole or in part, an identifiable group of persons

### **O. Reg. 58/16: COLLECTION OF IDENTIFYING INFORMATION IN CERTAIN CIRCUMSTANCES**

#### **Limitations on collection of certain information**

5. (1) A police officer shall not attempt to collect identifying information about an individual from the individual if,
- (b) the attempted collection is done in an arbitrary way.
- (4) For the purpose of clause (1) (b), an attempted collection by a police officer from an individual is done in an arbitrary way unless the officer has a reason that the officer can articulate that complies with all of the following:
1. The reason includes details about the individual that cause the officer to reasonably suspect that identifying the individual may contribute to or assist in an inquiry described in clause 1 (1) (a) or (b) or the gathering of information described in clause 1 (1) (c).
  2. The reason does not include either of the following:
    - i. that the individual has declined to answer a question from the officer which the individual is not legally required to answer, or
    - ii. that the individual has attempted or is attempting to discontinue interaction with the officer in circumstances in which the individual has the legal right to do so.
  3. The reason is not only that the individual is present in a high crime location.

#### **Duties to inform before attempting to collect information**

6. (1) A police officer shall not attempt to collect identifying information about an individual from the individual unless the police officer, in accordance with the procedures developed under section 13,
- (a) has informed the individual that he or she is not required to provide identifying information to the officer; and
- (b) has informed the individual why the police officer is attempting to collect identifying information about the individual.
- (2) A police officer is not required to inform the individual under clause (1) (a) or (b) if the officer has a reason to believe that informing the individual under that clause might compromise the safety of an individual.
- (3) A police officer is not required to inform the individual under clause (1) (b) if the officer has a reason to believe that informing the individual under that clause,
- (a) would likely compromise an ongoing police investigation;
- (b) might allow a confidential informant to be identified; or
- (c) might disclose the identity of a person contrary to the law, including disclose the identity of a young person contrary to the Youth Criminal Justice Act (Canada).
- (4) A reason required under subsection (2) or (3) must be a reason the police officer can articulate and must include details relating to the particular circumstances.

#### **Document for individual**

7. (1) A police officer who attempts to collect identifying information about an individual from the individual shall,
- (a) offer to give the individual a document that provides a record of the attempt; and
- (b) give the individual such a document if the individual indicates that he or she wants it.
- (2) A police officer is not required to comply with subsection (1) if the officer has a reason to believe that continuing to interact with the individual,
- (a) might compromise the safety of an individual; or

(b) might delay the officer from responding to another matter that should be responded to immediately.

(3) A reason required under subsection (2) must be a reason the police officer can articulate and must include details relating to the particular circumstances.

(4) The document required under subsection (1) shall contain at least the following information:

1. The officer's name and officer identification number and the date, time and location of the attempted collection.
2. Information about how to contact the Independent Police Review Director.
3. An explanation that the individual can request access to information about himself or herself that is in the custody or under the control of a police force, under the Municipal Freedom of Information and Protection of Privacy Act in the case of a municipal police force, or under the Freedom of Information and Protection of Privacy Act in the case of the Ontario Provincial Police, and information about how to contact persons to whom such a request may be given.

#### **Police officer must record reason and other information**

8. A police officer who attempts to collect identifying information about an individual from the individual shall record the following:

1. The officer's reason for the attempted collection, including the details referred to in paragraph 1 of subsection 5 (4).
2. Whether the individual was informed as required under clauses 6 (1) (a) and (b) or, if informing the individual under one of those clauses was not required under subsection 6 (2) or (3), the reason why that was not required.
3. Whether the individual was offered the document as required under clause 7 (1) (a) or, if offering the document was not required under subsection 7 (2), the reason why that was not required.
4. Whether the individual was given the document offered under clause 7 (1) (a) or, if giving the document was not required under clause 7 (1) (b) or subsection 7 (2), the reason why that was not required.
5. Such other information as the chief of police requires the officer to record.

#### **Chiefs of police must ensure training**

11. (1) A chief of police shall ensure that every police officer on his or her police force who attempts to collect identifying information about an individual from the individual, or who acts as the designate of the chief of police under section 9, has successfully completed the training required under this section within the previous 36 months.

(2) The training referred to in subsection (1) shall include training on the following topics:

1. The right of an individual not to provide information to a police officer, the limitations on this right and how to ensure that this right is respected.
2. The right of an individual to discontinue an interaction with a police officer, the limitations on this right and how to avoid unlawfully psychologically detaining an individual.
3. Bias awareness, discrimination and racism and how to avoid bias, discrimination and racism when providing police services.
4. The rights that individuals have to access information about themselves that is in the custody, or under the control, of a police force.
5. The initiation of interactions with members of the public.
6. This Regulation and its application.

(3) The training referred to in subsection (1) shall be provided at the Ontario Police College or by a trainer who has been trained, at the Ontario Police College, to provide the training referred to in subsection (1).

(4) The training referred to in subsection (1) shall be based on a curriculum approved by the Director of the Ontario Police College.

## **Child and Family Services Act, R.S.O. 1990, c. C.11**

### **Duty to Report**

#### **Duty to report child in need of protection**

72 (1) Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall forthwith report the suspicion and the information on which it is based to a society:

1. The child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person's,
  - i. failure to adequately care for, provide for, supervise or protect the child, or
  - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
2. There is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,
  - i. failure to adequately care for, provide for, supervise or protect the child, or
  - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
3. The child has been sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child.

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 3 is repealed by the Statutes of Ontario, 2008, chapter 21, subsection 3 (1) and the following substituted:

3. The child has been sexually molested or sexually exploited, including by child pornography, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child.
4. There is a risk that the child is likely to be sexually molested or sexually exploited as described in paragraph 3.
5. The child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment.
6. The child has suffered emotional harm, demonstrated by serious,
  - i. anxiety,
  - ii. depression,
  - iii. withdrawal,
  - iv. self-destructive or aggressive behaviour, or
  - v. delayed development,

and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.

7. The child has suffered emotional harm of the kind described in subparagraph i, ii, iii, iv or v of paragraph 6 and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.

8. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph i, ii, iii, iv or v of paragraph 6 resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.

9. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph i, ii, iii, iv or v of paragraph 6 and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm.

10. The child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.

11. The child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.

12. The child is less than 12 years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment.

13. The child is less than 12 years old and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 72 is amended by the Statutes of Ontario, 2008, chapter 21, subsection 3 (2) by adding the following subsections:

#### **Reporting child pornography**

(1.1) In addition to the duty to report under subsection (1), any person who reasonably believes that a representation or material is, or might be, child pornography shall promptly report the information to an organization, agency or person designated by a regulation made under clause 216 (c.3).

Seeking out child pornography not required or authorized

(1.2) Nothing in this section requires or authorizes a person to seek out child pornography.

#### **Protection of informant**

(1.3) No action lies against a person for providing information in good faith in compliance with subsection (1.1).

#### **Identity of informant**

(1.4) Except as required or permitted in the course of a judicial proceeding, in the context of the provision of child welfare services, otherwise by law or with the written consent of an informant, no person shall disclose,

(a) the identity of an informant under subsection (1) or (1.1),

(i) to the family of the child reported to be in need of protection, or

(ii) to the person who is believed to have caused the child to be in need of protection; or

(b) the identity of an informant under subsection (1.1) to the person who possessed or accessed the representation or material that is or might be child pornography.

#### **Retaliation against informant prohibited**

(1.5) No person shall dismiss, suspend, demote, discipline, harass, interfere with or otherwise disadvantage an informant under this section.

#### **Ongoing duty to report**

(2) A person who has additional reasonable grounds to suspect one of the matters set out in subsection (1) shall make a further report under subsection (1) even if he or she has made previous reports with respect to the same child.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (2) is repealed by the Statutes of Ontario, 2008, chapter 21, subsection 3 (3) and the following substituted:

**Ongoing duty to report**

(2) A person who has additional reasonable grounds to suspect one of the matters set out in subsection (1) or to believe that a representation or material is, or might be, child pornography under subsection (1.1) shall make a further report under subsection (1) or (1.1) even if he or she has made previous reports with respect to the same child.

**Person must report directly**

(3) A person who has a duty to report a matter under subsection (1) or (2) shall make the report directly to the society and shall not rely on any other person to report on his or her behalf.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed by the Statutes of Ontario, 2008, chapter 21, subsection 3 (3) and the following substituted:

**Person to report directly**

(3) A person who has a duty to report under subsection (1) or (2) shall make the report directly to the society, a person who has a duty to report under subsection (1.1) shall make the report directly to any organization, agency or person designated by regulation to receive such reports, and such persons shall not rely on any other person to report on their behalf.

Duty to report does not apply to older children

(3.1) Subsections (1) and (2) do not apply in respect of a child who is 16 or 17 years old, but a person may make a report under subsection (1) or (2) in respect of a child who is 16 or 17 years old if either a circumstance or condition described in paragraphs 1 to 11 of subsection (1) or a prescribed circumstance or condition exists. 2017, c. 14, Sched. 2, s. 13.

**Offence**

(4) A person referred to in subsection (5) is guilty of an offence if,

(a) he or she contravenes subsection (1) or (2) by not reporting a suspicion; and

(b) the information on which it was based was obtained in the course of his or her professional or official duties.

Note: On a day to be named by proclamation of the Lieutenant Governor, section 72 is amended by the Statutes of Ontario, 2008, chapter 21, subsection 3 (4) by adding the following subsections:

**Same**

(4.1) A person is guilty of an offence if the person fails to report information as required under subsection (1.1).

**Same**

(4.2) A person is guilty of an offence if the person,

(a) discloses the identity of an informant in contravention of subsection (1.4); or

(b) dismisses, suspends, demotes, disciplines, harasses, interferes with or otherwise disadvantages an informant in contravention of subsection (1.5).

**Same**

(5) Subsection (4) applies to every person who performs professional or official duties with respect to children including,

(a) a health care professional, including a physician, nurse, dentist, pharmacist and psychologist;

(b) a teacher, person appointed to a position designated by a board of education as requiring an early childhood educator, school principal, social worker, family counsellor, youth and recreation worker, and operator or employee of a child care centre or home child care agency or provider of licensed child care within the meaning of the Child Care and Early Years Act, 2014;

(b.1) a religious official, including a priest, a rabbi and a member of the clergy;

(b.2) a mediator and an arbitrator;

(c) a peace officer and a coroner;

(d) a solicitor; and

(e) a service provider and an employee of a service provider.

**Same**

(6) In clause (5) (b),

“youth and recreation worker” does not include a volunteer.

### **Same**

(6.1) A director, officer or employee of a corporation who authorizes, permits or concurs in a contravention of an offence under subsection (4) by an employee of the corporation is guilty of an offence.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (6.1) is repealed by the Statutes of Ontario, 2008, chapter 21, subsection 3 (5) and the following substituted:

### **Same**

(6.1) A director, officer or employee of a corporation who authorizes, permits or concurs in a contravention of an offence under subsection (4) or (4.1) by an employee of the corporation is guilty of an offence.

### **Same**

(6.2) A person convicted of an offence under subsection (4) or (6.1) is liable to a fine of not more than \$1,000.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (6.2) is repealed by the Statutes of Ontario, 2008, chapter 21, subsection 3 (6) and the following substituted:

### **Penalty**

(6.2) A person convicted of an offence under subsection (4), (4.1), (4.2) or (6.1) is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than two years, or to both.

Section overrides privilege

(7) This section applies although the information reported may be confidential or privileged, and no action for making the report shall be instituted against a person who acts in accordance with this section unless the person acts maliciously or without reasonable grounds for the suspicion.

Exception: solicitor client privilege

(8) Nothing in this section abrogates any privilege that may exist between a solicitor and his or her client.

### **Conflict**

(9) This section prevails despite anything in the Personal Health Information Protection Act, 2004.

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by the Statutes of Ontario, 2008, chapter 21, section 4 by adding the following section:

Action by organization receiving report of child pornography

72.0.1 (1) An organization, agency or person that obtains information on child pornography under subsection 72 (1.1) shall review the report and, if it reasonably believes that the representation or material is or might be child pornography, it shall report the matter to a society or a law enforcement agency, or to both as necessary.

### **Annual report**

(2) The organization, agency or person shall prepare and submit to the Minister an annual report with respect to its activities and actions relating to information it obtains on child pornography, and the Minister shall submit the report to the Lieutenant Governor in Council and then table the report in the Assembly if it is in session or, if not, at the next session.

Duty of society

72.1 (1) A society that obtains information that a child in its care and custody is or may be suffering or may have suffered abuse shall forthwith report the information to a Director.

Definition

(2) In this section and sections 73 and 75,

“to suffer abuse”, when used in reference to a child, means to be in need of protection within the meaning of clause 37 (2) (a), (c), (e), (f), (f.1) or (h).

### **Duty to report child's death**

72.2 A person or society that obtains information that a child has died shall report the information to a coroner if,

(a) a court made an order under this Act denying access to the child by a parent of the child or making the access subject to supervision;

(b) on the application of a society, a court varied the order to grant the access or to make it no longer subject to supervision; and

(c) the child subsequently died as a result of a criminal act committed by a parent or family member who had custody or charge of the child at the time of the act.

**Police Services Act** - sections 1.2, 42 (1) (b) & (d) & (e), 42 (2) & (3), 80, 81;

**Constitution Act, 1867** - sections 3, 9, 15, 16, 17;

**Constitution Act, 1982** - sections 52 (1), 1, 2, 6 (2) (b), 7, 8, 9, 12, 15, 26, 31;

**Emergency Management and Civil Protection Act** - sections 7.0.2 (1) & (3);

**Criminal Codes** - sections 19, 21, 121, 122, 126, 128, 130, 176, 180, 218, 219, 245, 269, 269.1 (1) (2) (3), 336, 346, 361 (1), 380, 423 (1), 430;

**The RCMP Act** - section 18;

Schedule 1 showing item #74 (CO2) of Canadian Environmental Protection Act 1999;

**The GPMB** - about training & simulation exercise of lethal respiratory pathogen deliberate release;

**Hamilton bylaw** sections 2.4, 2.5, 2.9, 4.2;

Definition of "**crime against humanity**" from the "Crimes Against Humanity & War Crimes Act";

**Health Care Consent Act** - section 10.

**Roncarelli v Duplessis - Supreme Court precedence:**

**Human Rights Code, R.S.O. 1990, c. H.19**