



THANK YOU!

Your 1000's of signatures help advance Canada's Child
Protection Laws

Bill C-54 has been PASSED

March 11, 2011

parliament passes

CHILD

PROTECTION LAW

“We are encouraged that the government listened to Canadians by passing Bill C54,” says Brian Rushfeldt, President of Canada Family Action (CFA). “We wanted tougher measures in the bill. It’s not everything we need, but it’s much better than what we had.”

In 2010, Canadians Addressing Sexual Exploitation collected over 18,000 signatures on petitions that were added to the 70,000 signatures collected with Canada Family Action Coalition. This massive amount of signatures added to the 50,000 signatures collected in 2009 were enough to bring attention to our cause of strengthening the Child Protection Laws of Canada.

The following is taken from the Government of Canada website on the changes that Bill C-54 affects:

2.4 New Conditions (Clauses 8 and 26)

Section 161 of the *Criminal Code* permits the court to make an order prohibiting, among other things, an offender from using a computer system for the purpose of communicating with a person under 16 years of age. The order may be made where the offender is found guilty of a specified sexual offence and the complainant was under 16 years of age. Clause 8 of Bill C-54 will amend this part of section 161 so that the court sentencing the offender shall consider making and may make an order prohibiting the offender from having any unsupervised contact with a person under the age of 16 years or from having unsupervised use of the Internet or other digital network. Clause 8 also adds to the list of offences for which a conviction is a prerequisite for an order of prohibition. This list of offences includes the two new offences created by Bill C-54 (see section 2.3 above).

Section 810.1 of the *Criminal Code* allows anyone to lay an information before a provincial court judge for the purpose of having the defendant enter into a recognizance, including conditions that the person not engage in activity that involves contact with persons under 16 years of age and prohibiting the defendant from attending certain places where persons under 16 years of age are likely to be present. The judge will grant such an order where there are reasonable grounds to fear that the defendant will commit one of the specified sexual offences in respect of a person under 16 years of age. Subsection 810.1(3.02) provides a non-exhaustive list of conditions that may be imposed to secure the good conduct of the defendant.

Clause 26 will expand the list of sexual offences that may be addressed by a section 810.1 order, including the two new offences created by Bill C-54 (see section 2.3 above). It will also amend this section to allow judges to consider prohibiting suspected or convicted child sex offenders from having any unsupervised contact with a young person under the age of 16 years or from having any unsupervised use of the Internet.

2.5 Adding New Offences To Existing Provisions (Clauses 2, 8, 10, 14, 20, 21, 22, 23, 24, 25 and 26)

Bill C-54 will add the two new offences created by the bill (see section 2.3 above) and, in some cases, existing *Criminal Code* offences to certain Code provisions in the following manner:

- Clause 2 will add the two new offences created by Bill C-54, along with luring a child (section 172.1), to the list of offences that, if committed outside Canada, are deemed to be committed in Canada if the person committing the offence is a Canadian citizen or permanent resident (subsection 7(4.1)).
- Clause 8 will add new offences to the list of those following conviction for which an order prohibiting an offender from attending public places where young people can be found may be granted (section 161).
- Clause 10 will add the new offence of agreeing or making an arrangement with a person, by means of telecommunication, to commit a sexual offence against a young person (section 172.2) to those for which an order of forfeiture may be made of any thing, other than real property, used in the commission of the offence (section 164.2).
- Clause 14 will add offences such as parent or guardian procuring sexual activity and householder permitting sexual activity to those that can be facilitated by luring a young person over the Internet (section 172.1).
- Clause 20 will add, among other things, the two new offences created by Bill C-54 to the section that allows for the exclusion of the public from court proceedings. If an accused is charged with one of the new offences and the prosecutor or the accused applies for an exclusion order, the judge shall, if no such order is made, state the reason for not making an order (section 486).
- Clause 21 will add, among other things, the two new offences created by Bill C-54 to the section which provides that, when an accused is charged with certain offences, the court may make an order directing that the identity of, or information that would identify, the complainant or another witness not be published, broadcasted or transmitted in any way (section 486.4).
- Clause 22 will add the two new offences created by Bill C-54 to the list of designated offences under the forensic DNA analysis section of the *Criminal Code* (sections 487.04 to 487.0911). Specifically, the section 172.2 offence (agreement or arrangement – sexual offence against child) will be added to the definition of “primary designated offence,” meaning that the taking of a bodily substance for forensic DNA analysis is obligatory (with certain exceptions), while the section 171.1 offence (making sexually explicit material available to child) will be added to the definition of “secondary designated offence,” meaning that the taking of a bodily substance for forensic DNA analysis is possible, but not mandatory (section 487.04).
- Clause 23 will add the two new offences created by Bill C-54 to the list of designated offences under the sex offender information section of the *Criminal Code* (sections 490.011 to 490.032). Upon application of the prosecutor, the court sentencing an offender for a designated offence shall make an order requiring the person to comply with the *Sex Offender Information Registration Act*¹¹ (section 490.011).
- Clause 24 will add the new offence of agreement or arrangement – sexual offence against child (section 172.2) as well as procuring (subsection 212(1)) and living on the avails of prostitution of person under 18 (subsection 212(2)) to the list of designated offences in the dangerous and long-term offenders section of the *Criminal Code* (sections 752 to 761). Conviction for a designated offence can lead to a designation as a dangerous or long-term offender (section 752).

- Clause 25 adds the new offences created by Bill C-54 and many other sexual offences in relation to young persons to the list of those that may indicate the offender will reoffend and, therefore, may be designated a long-term offender (section 753.1).
- Clause 26 will add the new offences, along with other offences committed against young persons, to those which can give rise to an order that the defendant enter into a recognizance to not engage in activity that involves contact with persons under 16 years of age or attending certain places where persons under 16 years of age are likely to be present (section 810.1).

2.6 Coordinating Amendments (Clauses 28 and 29)

Bill S-2, [12](#) in part, amends the definition of “primary designated offence” in section 487.04 of the *Criminal Code*. That bill will add many of the sexual offences dealt within Bill C-54 to the list of offences for which a forensic DNA analysis is mandatory. The coordinating amendments set out in clause 28 will ensure that the two new offences created by Bill C-54 will, following the entry into force of Bill S-2, be in the list of “primary designated offences” for which a forensic DNA analysis will be mandatory.

Bill C-16 [13](#) will restrict the availability of conditional sentences for all offences for which the maximum term of imprisonment is 14 years or life and for certain specified offences, prosecuted by way of indictment, for which the maximum term of imprisonment is 10 years. One of those specified offences is the section 172.1 offence of luring a child, because the maximum punishment for this offence is 10 years’ imprisonment. If it was not specifically singled out in Bill C-16, a conditional sentence would be available upon conviction for that offence. Since Bill C-54 will impose a mandatory sentence for a section 172.1 offence, a conditional sentence will no longer be available and, therefore, the special mention of this offence in Bill C-16 can be eliminated.

For more information go to:

http://www.parl.gc.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?source=library_prb&ls=C54&Parl=40&Ses=3&Language=E&Mode=1



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