

Hoskins, Jeannie SG:EX

From: Labh, Janet AG:EX
Sent: Thursday, November 3, 2011 4:16 PM
To: Hoskins, Jeannie SG:EX
Cc: Philippides, Edna M AG:EX; Nelson, Jacquelyn M AG:EX
Subject: RUSH BN - Federal Bill C-10 Costs - 388372
Attachments: 388372 - Bill C-10 Costs.docx

Importance: High

Here is the amended BN which includes Lori's signature block for her review and consideration. I will send this version to David.

Thanks

*Apparently Blent
has approved.*

*I would like to see
electronic
please Lori
11/3/11*

*SG Cliff #
473384*

**MINISTRY OF ATTORNEY GENERAL and
MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL**
Justice Services Branch
BRIEFING NOTE

TOPIC: Costs of the Federal Omnibus Bill - *The Safe Streets and Communities Act* (Bill C-10)

PURPOSE OF NOTE:

- ONLY FOR INFORMATION OF: ATTORNEY GENERAL
- MEETING REQUIRED: Yes (at Minister's request)

ISSUE:

How significant will the cost impacts of C-10 be on British Columbia's justice system?

EXECUTIVE SUMMARY:

On September 20, 2011 the federal government introduced Bill C-10, a lengthy and complicated piece of legislation that reintroduces nine Bills from the last session of Parliament, with minor changes.

Predicted Costs:

s. 13, s. 16

Branches are attempting to analyze some of these costs, as are other provinces and territories.

Implementation Dates:

The federal government has indicated that they wish to pass C-10 within 100 sitting days of Parliament, and will set implementation dates almost immediately after Royal Assent.

s. 13, s. 16

BACKGROUND

The Safe Streets and Communities Act (C-10) introduces a wide variety of legislative proposals including:

- increased or imposed mandatory minimum penalties for sex offences against children;
- mandatory minimum penalties for drug crimes;
- amendments to the *Youth Criminal Justice Act*;
- further restrictions on the use of conditional sentences for serious offences;
- allowing victims of terrorism to sue perpetrators of terrorism;
- establishing the right of a victim to make a statement at parole hearings and providing victims with information about offender transfers and participation in correctional programming;
- creating "record suspensions" to replace "pardons," which have longer ineligibility periods and make some offenders ineligible;
- modifying the list of factors that the federal Minister of Public Safety may consider in deciding whether to consent to the transfer of a Canadian offender convicted abroad; and
- allowing Immigration Officers to refuse to authorize foreign nationals to work in Canada in cases where they may be at risk of exploitation.

While provinces and territories were anticipating the Omnibus Bill, they were not involved in developing it, nor were they given the details of what would be included in advance of tabling the bill.

Costs:

s. 13, s. 16

With the minor exception of
the adult-to-adult procuring provision, none of the legislative proposals in Bill C-10 were developed in consultation with the provinces and territories.

s. 13, s. 16

s. 13, s. 16

British Columbia Costs

S. 13; S. 16

Branches are developing plans for further analysis of these costs.

Page 5 redacted for the following reason:

S. 13; S. 16

Implementation Dates

The federal government has indicated that they wish to pass C-10 within 100 sitting days of Parliament, and will set implementation dates almost immediately after Royal Assent. (Most of the provisions will come into force on a day or days to be fixed by order of the Governor in Council; other provisions will become law upon Royal Assent.) It is the usual federal practice to ask provinces and territories how much time they require for implementation of major federal crime bills. However, the federal government has indicated that they prefer no delay in the legislation coming into force.

When legislation is introduced, branches require time for developing new operational policies and forms, hiring new staff, training personnel, and in some cases making the necessary adjustments to facilities. Policies, forms and training must be based on the legislation as it received Royal Assent, not as it was introduced, due to changes that can occur over the course of hearings and debates. Therefore, the time at which officials can begin to instruct staff or develop new policies is at the point of Royal Assent.

PREPARED BY:

Jacquelyn Nelson
Director, FPT Criminal Justice
250 387-5004

In consultation with:

Criminal Justice Branch, Court Services Branch,
Ministry of Children and Family Development
PSSG: BC Corrections Northwest Territories, Alberta, Saskatchewan,
Manitoba, Ontario, New Brunswick, Nova Scotia

Approved by:

Jay Chalke, QC
Assistant Deputy Minister

Date: November 3, 2011

Approved by:

David Loukidelis QC
Deputy Attorney General

Lori Wanamaker CA
Deputy Solicitor General



Hoskins, Jeannie SG:EX

From: Sitter, Donna GCPE:EX
Sent: Tuesday, September 20, 2011 10:20 AM
To: Hoskins, Jeannie SG:EX; Louie, Toby I SG:EX
Subject: Just FYI - Omnibus federal crime bill introduced today

GOVERNMENT OF CANADA INTRODUCES THE SAFE STREETS AND COMMUNITIES ACT

Toronto, September 20, 2011 – Today, the Honourable Rob Nicholson, P.C., Q.C., M.P. for Niagara Falls, Minister of Justice and Attorney General of Canada introduced the *Safe Streets and Communities Act*, comprehensive legislation that will target crime and terrorism and provide support and protection to victims of crime.

"I am proud today to announce that our Government has fulfilled its commitment to Canadians to bring forward legislation to make our streets, families and communities safer," said Minister Nicholson. "We campaigned on a promise to get tough on child sexual offenders, crack down on illegal drug trafficking, and improve the overall efficiency of our judicial system. Canadians gave us a strong mandate to bring forward these reforms."

"Canadians want an immigration system that treats people fairly. We will not allow our immigration system to be misused by those who prey on the vulnerable," added the Honourable Jason Kenney, M.P. for Calgary Southeast and Minister of Citizenship, Immigration and Multiculturalism. "With this bill, officers will be able to stop situations of abuse and exploitation before they happen."

The *Safe Streets and Communities Act* re-introduces the following reforms which were debated by Parliament during the previous session but never became law:

- The *Protecting Children from Sexual Predators Act* (former Bill C-54), which proposes increased penalties for sexual offences against children, as well as creates two new offences aimed at conduct that could facilitate or enable the commission of a sexual offence against a child;
- The *Penalties for Organized Drug Crime Act* (former Bill S-10), which would target organized crime by imposing tougher sentences for the production and possession of illicit drugs for the purposes of trafficking;
- *Sébastien's Law (Protecting the Public from Violent Young Offenders)* (former Bill C-4), which would ensure that violent and repeat young offenders are held accountable for their actions and the protection of society is a paramount consideration in the treatment of young offenders by the justice system;
- The *Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Act* (former Bill C-16), which would eliminate the use of conditional sentences, or house arrest, for serious and violent crimes;
- The *Increasing Offender Accountability Act* (former Bill C-39), which would enshrine a victim's right to participate in parole hearings and address inmate accountability, responsibility, and management under the *Corrections and Conditional Release Act*;
- The *Eliminating Pardons for Serious Crimes Act* (former Bill C-23B), which would extend the ineligibility periods for applications for a record suspension (currently called a "pardon") from three to five years for summary conviction offences and from five to ten years for indictable offences;
- The *Keeping Canadians Safe (International Transfer of Offenders) Act* (former Bill C-5), which would add additional criteria that the Minister of Public Safety could consider when deciding whether or not to allow the transfer of a Canadian offender back to Canada to serve their sentence;
- The *Justice for Victims of Terrorism Act* and related amendments to the State Immunity Act (former Bill S-7), which would allow victims of terrorism to sue perpetrators and supporters of terrorism, including listed foreign states, for

loss or damage that occurred as a result of an act of terrorism committed anywhere in the world; and

- The *Preventing the Trafficking, Abuse and Exploitation of Vulnerable Immigrants Act* (former Bill C-56), which would authorize immigration officers to refuse work permits to vulnerable foreign nationals when it is determined that they are at risk of humiliating or degrading treatment, including sexual exploitation or human trafficking.

By bringing forward this legislation, the Government is demonstrating its commitment to ensuring criminals are held fully accountable for their actions and that the safety and security of law-abiding Canadians and victims comes first in Canada's justice system.

-30-

BILL C-10
CHANGES TO CONDITIONAL SENTENCE
TRIALS SCHEDULED

Data Source: JUSTIN

Date Created: November 16, 2011

		Total Persons			
		Conditional Sentence Eliminated under C-10			
	Total	Trial was scheduled	% Trial was Scheduled	No Trial was scheduled	% No Trial Scheduled
2008	Total All Pleas	39	45%	47	55%
	Plead Guilty	29	41%	41	59%
	Plead Not Guilty	10	63%	6	38%
2009	Total All Pleas	27	43%	36	57%
	Plead Guilty	23	47%	26	53%
	Plead Not Guilty	4	29%	10	71%
2010	Total All Pleas	24	32%	50	68%
	Plead Guilty	23	32%	49	68%
	Plead Not Guilty	1	50%	1	50%
2011 YTD	Total All Pleas	18	26%	51	74%
	Plead Guilty	17	37%	29	63%
	Plead Not Guilty	1	4%	22	96%

Analysis of Costs Associated with Implementation of C-10

On September 20, the federal government introduced a crime omnibus bill, *The Safe Streets and Communities Act* (Bill C- 10). The major components of C-10 are:

- increased or imposed mandatory minimum penalties for sex offences against children;
- mandatory minimum penalties for drug crimes;
- amendments to the *Youth Criminal Justice Act*;
- further restrictions on the use of conditional sentences for serious offences;
- allowing victims of terrorism to sue perpetrators of terrorism;
- establishing the right of a victim to make a statement at parole hearings and providing victims with information about offender transfers and participation in correctional programming;
- creating “record suspensions” to replace “pardons”, which have longer ineligibility periods and make some offenders ineligible;
- modifying the list of factors that the federal Minister of Public Safety may consider in deciding whether to consent to the transfer of a Canadian offender convicted abroad; and
- allowing Immigration Officers to refuse to authorize foreign nationals to work in Canada in cases where they may be at risk of exploitation.

S. 13; S. 16

Implementation Dates:

The federal government has indicated that they wish to pass C-10 within 100 sitting days of Parliament, and will set implementation dates almost immediately after Royal Assent. S. 13; S. 16

Page 12 redacted for the following reason:

S. 13; S. 16

Bill C-10

An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts

Short Title:

Safe Streets and Communities Act

Current Status:

Second Reading Completed and Referred to Committee in the House of Commons (2011-09-28) (Standing Committee on Justice and Human Rights)

Press Release:

20 Sept 2011 – “The *Safe Streets and Communities Act* re-introduces the following reforms which were debated by Parliament during the previous session but never became law:

- The *Protecting Children from Sexual Predators Act* (former Bill C-54), which proposes increased penalties for sexual offences against children, as well as creates two new offences aimed at conduct that could facilitate or enable the commission of a sexual offence against a child;
- The *Penalties for Organized Drug Crime Act* (former Bill S-10), which would target organized crime by imposing tougher sentences for the production and possession of illicit drugs for the purposes of trafficking;
- *Sébastien's Law (Protecting the Public from Violent Young Offenders)* (former Bill C-4), which would ensure that violent and repeat young offenders are held accountable for their actions and the protection of society is a paramount consideration in the treatment of young offenders by the justice system;
- The *Ending House Arrest for Property and Other Serious Crimes by Serious and Violent Offenders Act* (former Bill C-16), which would eliminate the use of conditional sentences, or house arrest, for serious and violent crimes;
- The *Increasing Offender Accountability Act* (former Bill C-39), which would enshrine a victim's right to participate in parole hearings and address inmate accountability, responsibility, and management under the *Corrections and Conditional Release Act*;
- The *Eliminating Pardons for Serious Crimes Act* (former Bill C-23B), which would extend the ineligibility periods for applications for a record suspension (currently called a "pardon") to five years for summary conviction offences and to ten years for indictable offences;
- The *Keeping Canadians Safe (International Transfer of Offenders) Act* (former Bill C-5), which would add additional criteria that the Minister of Public Safety could consider when deciding whether or not to allow the transfer of a Canadian offender back to Canada to serve their sentence;
- The *Justice for Victims of Terrorism Act* and related amendments to the State Immunity Act (former Bill S-7), which would allow victims of terrorism to sue

perpetrators and supporters of terrorism, including listed foreign states, for loss or damage that occurred as a result of an act of terrorism committed anywhere in the world; and

- The *Preventing the Trafficking, Abuse and Exploitation of Vulnerable Immigrants Act* (former Bill C-56), which would authorize immigration officers to refuse work permits to vulnerable foreign nationals when it is determined that they are at risk of humiliating or degrading treatment, including sexual exploitation or human trafficking.”

Department of Justice Backgrounder (Sept 2011):

“The proposed amendments in this legislation would make communities safer by:

- extending greater protection to the most vulnerable members of society, as well as victims of terrorism;
- further enhancing the ability of our justice system to hold criminals accountable for their actions; and
- helping improve the safety and security of all Canadians.

“The *Safe Streets and Communities Act* would:

- better protect children and youth from sexual predators;
- increase penalties for organized drug crime;
- end house arrest for serious crimes;
- protect the public from violent young offenders;
- eliminate pardons for serious crimes;
- enshrine in law a number of additional key factors in deciding whether an offender would be granted a transfer back to Canada;
- increase offender accountability and support victims of crime;
- support victims of terrorism; and
- protect vulnerable foreign nationals against abuse and exploitation.

“**Better Protecting Children and Youth from Sexual Predators** (former Bill C-54)
The Safe Streets and Communities Act proposes amendments to the *Criminal Code* that would:

- establish new mandatory minimum penalties for seven existing offences related to child exploitation. The addition of mandatory minimum penalties to these offences would also have the effect of eliminating the use of conditional sentences or house arrest for any of these cases;
- increase the mandatory minimum penalties for nine existing offences to better reflect the serious nature of these offences, as well as to bring greater consistency in sentencing in these cases;
- increase the maximum prison sentences for four existing child sexual exploitation offences to better reflect the particularly heinous nature of these offences;
- create two new offences to prohibit anyone from providing sexually explicit material to a child for the purpose of facilitating the commission of a sexual offence against that child, and to prohibit anyone from using any means of

telecommunications, including the Internet, to agree or make arrangements with another person for the purpose of committing a sexual offence against a child; and

- require 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 having any unsupervised use of the Internet or other digital network.

“Increasing Penalties for Serious Drug Crime (former Bill S-10)

The Safe Streets and Communities Act proposes amendments to the *Controlled Drugs and Substances Act* that would:

- provide mandatory minimum penalties for serious drug offences, when such offences are carried out for organized crime purposes or if they involve targeting youth. Generally, the minimum penalty would apply where there is an aggravating factor, including where the production of the drug constituted a potential security, health or safety hazard.

These serious drug offences would include:

- production;
- trafficking;
- possession for the purpose of trafficking;
- importing and exporting; and
- possession for the purpose of exporting.

- increase the maximum penalty for the production of drugs listed in Schedule II of the *Controlled Drugs and Substances Act*, e.g. marijuana, from 7 to 14 years.

The aggravating factors involve offences committed:

- for the benefit of organized crime;
- involving use or threat of violence;
- involving use or threat of use of weapons;
- by someone who has been previously convicted (in the past 10 years) of a serious drug offence;
- in a prison;
- by abusing a position of authority or access to restricted areas;
- in or near a school, in or near an area normally frequented by youth or in the presence of youth;
- through involving a youth in the commission of the offence; and
- in relation to a youth (e.g. selling to a youth).

The security, health and safety factors are:

- the accused used real property that belongs to a third party to commit the offence;
- the production constituted a potential security, health or safety hazard to children who were in the location where the offence was committed or in the immediate area;

- the production constituted a potential public safety hazard in a residential area; and
- the accused placed or set a trap.
- move GHB and flunitrazepam, most commonly known as date-rape drugs, and amphetamine drugs from Schedule III to Schedule I, which would result in higher maximum penalties for illegal activities involving these drugs.
- make exemptions for drug treatment programs by allowing a court to suspend a sentence while the addicted offender takes a treatment program approved by the province under the supervision of the court as outlined in section 720(2) of the *Criminal Code* or a Drug Treatment Court approved program. If the offender successfully completes the treatment program, the court could impose a suspended or reduced sentence.

“Protecting Society from Violent and Repeat Young Offenders (former Bill C-4)
The Safe Streets and Communities Act proposes amendments to the *Youth Criminal Justice Act* that would:

- highlight the protection of society as a fundamental principle of the *Youth Criminal Justice Act*;
- simplify pre-trial detention rules to help ensure that, when necessary, violent and repeat young offenders are kept off the streets while awaiting trial;
- strengthen sentencing provisions and reduce barriers to custody where appropriate for violent and repeat young offenders. Specifically, the legislation would be amended to:
 - add “specific deterrence and denunciation” to the principles of sentencing to discourage a particular offender from committing further offences;
 - expand the definition of “violent offence” to include behaviour that endangers the life or safety of others; and
 - allow custodial sentences to be imposed, where appropriate, on youth who have a pattern of findings of guilt or extrajudicial sanctions.
- require the Crown to consider seeking adult sentences for youth convicted of the most serious violent crimes (murder, attempted murder, manslaughter and aggravated sexual assault). Provinces and territories would maintain the discretion to set the age at which this requirement would apply;
- require the courts to consider lifting the publication ban on the names of young offenders convicted of “violent offences,” when youth sentences are given;
- require police to keep records when informal measures are used in order to make it easier to identify patterns of re-offending; and
- ensure that all young offenders under 18 who are given a custodial sentence will serve it in a youth facility.

“Ending House Arrest for Property and Other Serious Crimes (former Bill C-16)
The Safe Streets and Communities Act proposes amendments to the *Criminal Code* that would restrict the use of conditional sentences. A conditional sentence is a

sentence of imprisonment of less than two years that may be served in the community – for example, under house arrest – provided certain conditions are met.

Currently, in order for the courts to impose a conditional sentence:

- the offence must not be punishable by a mandatory minimum penalty;
- the court must impose a sentence of imprisonment of less than two years;
- the court must be satisfied that service of the sentence in the community will not endanger the safety of the community;
- the court must be satisfied that a conditional sentence would be consistent with the fundamental purpose and principles of sentencing; and
- the offence must not be one that is:
 - a serious personal injury offence (as defined in section 752),
 - a terrorism offence, or
 - a criminal organization offence,

punishable by a maximum of 10 years imprisonment or more and prosecuted by indictment.

The amendments would maintain these conditions, but would also provide an expanded and clear list of offences for which conditional sentences are not available.

List of Offences for which Conditional Sentences Would Not Be Available

- All offences for which the law prescribes a maximum sentence of 14 years or life including: manslaughter, aggravated assault, arson and fraud over \$5,000.
- Offences prosecuted by indictment and for which the law prescribes a maximum sentence of imprisonment of 10 years that:
 - result in bodily harm
 - involve the import/export, trafficking and production of drugs
 - involve the use of weapons.
- The following offences for which the law prescribes a maximum penalty of 10 years when prosecuted by indictment:
 - prison breach
 - motor vehicle theft
 - criminal harassment
 - sexual assault
 - kidnapping, forcible confinement
 - trafficking in persons – material benefit
 - abduction of a person under 14 (i.e., by a stranger)
 - theft over \$5,000
 - breaking and entering with intent
 - being unlawfully in a dwelling-house
 - arson for fraudulent purpose.

“Increasing Offender Accountability(former Bill C-39)
The Safe Streets and Communities Act proposes amendments to the *Corrections and Conditional Release Act* that would:

- enshrine victim participation in conditional release board hearings, and keep victims better informed about the behaviour and handling of offenders;
- increase offender accountability by modernizing disciplinary sanctions and adding a requirement in law to complete a correctional plan for each offender that sets out behavioral expectations, objectives for program participation, and the meeting of court-ordered obligations such as victim restitution or child support;
- authorize police to arrest an offender who appears to be breaking their release conditions, without the need for a warrant; and
- emphasize the importance of considering the seriousness of an offence in Parole Board of Canada decision-making.

“Eliminating Pardons for Serious Crimes(former Bill C-23B)

The Safe Streets and Communities Act proposes amendments to the *Criminal Records Act* that would:

- replace the term “pardon” with the term “record suspension”;
- require the Parole Board of Canada to submit an annual report that includes statistics on the number of applications for record suspensions and the number of those ordered;
- extend the ineligibility periods for applications for a record suspension to five years for summary conviction offences and to ten years for indictable offences; and
- make certain people ineligible to apply for a record suspension, including those convicted of a sexual offence in relation to a minor, or those convicted of more than three offences – each of which was prosecuted by indictment or is a service offence that is subject to a maximum punishment of imprisonment for life, and for each of which the person was sentenced to imprisonment for two years or more.

“Adding Criteria for the International Transfer of Canadian Offenders Back to Canada(former Bill C-5)

The Safe Streets and Communities Act proposes amendments to the *International Transfer of Offenders Act* that would enshrine in law a number of additional key factors in deciding whether an offender would be granted a transfer back to Canada. These factors would include whether, in the opinion of the Minister, an offender would upon return to Canada:

- endanger public safety;
- continue to engage in criminal activities following his or her transfer; and
- endanger the safety of any child, particularly in cases of offenders who have been convicted of sexual abuse.

“Supporting Victims of Terrorism(former Bill S-7)

The Safe Streets and Communities Act proposes enactment of the *Justice for Victims of Terrorism Act* and amendments to the *State Immunity Act*. These changes would:

- support the Government of Canada’s fight against terrorism and hold perpetrators and supporters of terrorism accountable for their actions;
- deter terrorism and demonstrate Canada’s leadership against supporters of terrorism around the world; and

- permit victims to seek redress for loss and damage that occurred as a result of a terrorist act. Victims would be able to launch a lawsuit in a Canadian court against an individual or organization that carried out a terrorist attack, or against supporters of terrorism, including a foreign state that the Government has listed as providing support to terrorist entities listed pursuant to the Criminal Code.

“Protecting Vulnerable Foreign Nationals against Trafficking, Abuse and Exploitation (former Bill C-56)

The Safe Streets and Communities Act proposes reforms to the *Immigration and Refugee Protection Act* that would:

- make it possible to deny work permits to applicants who are vulnerable to abuse or exploitation; and,
- ensure any decision by an immigration officer to refuse a work permit in Canada would require approval by a second officer.

Some of those who could be vulnerable to humiliating and degrading treatment or sexual exploitation include:

- exotic dancers;
- low-skilled labourers; and
- potential victims of human trafficking.”

*Summary Analysis of
The Safe Streets and Communities Act (Bill C-10)
(includes recommended BC positions)*

November 14, 2011

A. BACKGROUND

- Bill C-10 received first reading in the House of Commons on September 20, 2011 and second reading on September 28, 2011.
- It is an omnibus Bill—it incorporates a number of Bills that had been introduced in the years before the last federal election.
- Significant changes to the components of the Bill have been made since the original Bills were tabled.
- The federal government has announced that it will secure passage of the Bill within 100 days.
- The Bill's reforms fall into nine main areas:
 - amendments to the *Youth Criminal Justice Act*;
 - further restrictions on the use of conditional sentences for serious offences;
 - increased or newly imposed mandatory minimum penalties for sex offences against children;
 - mandatory minimum penalties for drug crimes;
 - measures to prevent vulnerable foreign nationals from being exploited.
 - allowing victims of terrorism to sue perpetrators of terrorism;
 - establishing the right of a victim to make a statement at parole hearings and providing victims with information about offender transfers and participation in correctional programming;
 - creating “record suspensions” to replace “pardons”, which have longer ineligibility periods and make some offenders ineligible; and
 - modifying the list of factors that the federal Minister of Public Safety may consider in deciding whether to consent to the transfer of a Canadian offender convicted abroad.
- **s. 16, s. 13**

B. KEY POINTS

1. GENERAL OBSERVATIONS ABOUT COST IMPLICATIONS OF C-10

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2. YOUTH CRIMINAL JUSTICE REFORM

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- Current C-10 reforms to the *Youth Criminal Justice Act* include:
- The protection of society as a fundamental principle of the Act.
 - More power for judges to detain youths before trial if they are charged with a serious offence (any indictable offence for which an adult could be sentenced to 5 years or more) and if they show a pattern of outstanding charges or findings of guilt. Pre-trial detention is also available if the youth is unlikely to appear in court or detention is necessary to address public safety.

- Judges must consider adult sentences for serious violent offences: murder, manslaughter, attempt murder and aggravated sexual assault.
- A new test for an adult sentence. The court can impose an adult sentence if satisfied that the YCJA's presumption of diminished moral culpability is rebutted and that a youth sentence would not be sufficient to hold the youth accountable. (The previous test in C-4 would have made it virtually impossible to obtain an adult sentence.)
- Judges must consider in *all* cases of violent offences whether the usual ban on publication of the identity of the youth should be lifted. (Violent offences include those in which a young person threatens or causes or attempts to cause bodily harm, as well as offences that endanger life or safety by creating a risk of bodily harm.)
- The objective of this measure is to ensure that the community is aware of youth who pose these risks. However, the YCJA already provides measures for letting specified persons know about the youth's offence (for example, to prevent a young sex offender having contact with children). BC is not aware of any evidence that these measures have been ineffective.
- **S. 13; S. 16**

Recommended position on YCJA amendments:

S. 13; S. 16

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S. 13; S. 16

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s. *RESTRICTIONS ON CONDITIONAL SENTENCE ORDERS (CSOs)*

- A CSO is a sentence to custody served outside a correctional facility, known as 'house arrest'. A CSO can only be given when the offence would justify a custodial sentence of less than two years. **S. 13; S. 16**

S. 13; S. 16

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- S. 13; S. 16

- C-10 further restricts the use of CSOs by specifying new offences for which they are not available. Examples include s. 349 (being unlawfully in a dwelling house), s. 334(a), theft over \$5000, s. 333.1 (motor vehicle theft), and s. 264 (criminal harassment).

Recommended position on restriction of CSOs:

- S. 13; S. 16

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3. SEXUAL OFFENCES AGAINST CHILDREN

- While most sexual offences against children already carry a mandatory minimum sentence, C-10 increases these minimums. It also adds new mandatory minimums for some offences, such as luring a child.
- Invitation to sexual touching and sexual exploitation will go from 14 days (summary conviction proceedings) and 45 days (indictment), to 90 days (summary) and one year (indictment).

Recommended position on sexual offences against children amendments:

- BC has long supported a mandatory minimum sentence for internet luring, as frequently offenders who are found guilty have been given very low penalties, such as a conditional
- S. 13; S. 16
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4. DRUG OFFENCES

- C-10 amends the *Controlled Drugs and Substances Act* to create new mandatory minimum sentences for criminal activities involving trafficking of drugs.
- Whether a mandatory minimum sentence applies will depend on whether, as examples:
 - A youth is involved (e.g., the offence is done in concert with a youth, in relation to a youth such as selling to a youth, or in or near a school or where youth normally are present);
 - The activity was for the benefit of a criminal organization;
 - Violence was used or threatened in the commission of the act or weapons were used or threatened;
 - The activity posed a safety hazard to a residential community or to children in the location where the offence occurred;
 - The activity used real property that belongs to a third party.
- Examples: minimum penalties for Schedule I drugs (such as heroin, cocaine and amphetamines):
 - Production: 2 years to 3 years, depending on factors present;
 - Importing or exporting for purpose of trafficking: less than a kg: 1 year; more than 1 kg: 2 years.
- Examples of minimum penalties for Schedule II drugs (cannabis, both marijuana and resin):
 - Possession for purpose of trafficking: 1 or 2 years, depending on factors present and if more than 3 kg marijuana or resin
 - Import or export for purpose of trafficking: 1 year
 - Production of 6 to 20 plants for purpose of trafficking: 6 months to 9 months if health/safety factors apply
 - Production of oil or resin for purpose of trafficking: 1 year to 18 months if health and safety factors apply.
- 'Trafficking' does not require evidence of selling; it can include sharing for free with a small number of friends.
- Drug crimes are prosecuted by federal prosecutors. **s. 13**
s. 13
years, which means provincial incarceration, not federal.)

Recommended position on drug offence amendments:

S. 13; S. 16

- S. 13; S. 16

5. PROTECTION OF VULNERABLE FOREIGN NATIONALS

- C-10 will authorize the federal minister of Citizenship, Immigration, and Multiculturalism, who has discretionary authority to permit foreign nationals to enter Canada, to issue rules to immigration officers allowing them to deny work permits based on public policy considerations.
- The rules must “prescribe public policy considerations that aim to protect foreign nationals from humiliating or degrading treatment, including sexual exploitation.”
- The potential impact of this is not known, S. 13; S. 16

Recommended position on vulnerable foreign nationals:

- S. 13; S. 16

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6. ELIMINATING PARDONS FOR SERIOUS CRIMES

- C-10 amends the *Criminal Records Act* by creating “record suspensions” to replace “pardons”. Record suspensions are more restrictive in that they generally have longer eligibility periods between conviction and suspension and are not available to certain offenders.
- For an offence that is prosecuted by indictment, the Parole Board of Canada may order a record suspension after a waiting period of ten years (the previous waiting period for a pardon was 5 or 10 years depending on the offence).
- For a summary conviction offence, the Parole Board may order a record suspension after a
- S. 13; S. 16

Recommended position on pardon changes:

- This is consistent with other sections of C-10, S. 13; S. 16

s. 13

s. 13

7. **INCREASING OFFENDER ACCOUNTABILITY**

- C-10 establishes the right of a victim to make a statement at parole hearings
- C-10 expands the information about incarcerated offenders that may be disclosed to victims, such as reasons for offender transfers and information about the offender's participation in correctional programming.

Recommended position on victims' rights changes:

• S. 13; S. 16

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8. **TRANSFER OF CANADIAN OFFENDERS BACK TO CANADA**

- C-10 modifies the list of factors that the federal Minister of Public Safety may consider in deciding whether to consent to the transfer of a Canadian offender convicted abroad back to Canada, to serve the sentence here.
- It amends the purpose of the *International Transfer of Offenders Act* to require consideration of whether the transfer back to Canada would, among other factors, "enhance public safety".

Recommended position on transfer of offenders:

• S. 13; S. 16

• S. 13; S. 16

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9. **SUPPORTING VICTIMS OF TERRORISM**

- This part of C-10, which amends the *Justice for Victims of Terrorism Act*, is intended to impair the functioning of terrorist groups and deter terrorism.
- It establishes a cause of action that allows victims of terrorism to sue perpetrators of terrorism and their supporters.
- It removes immunity for foreign states in Canadian courts in respect of such actions.

Recommended position on terrorism changes:

Page 27 redacted for the following reason:

S. 13; S. 16

SUMMARY OF BILL C-10 (FROM THE BILL ITSELF)

SUMMARY

Part 1 of this enactment creates, in order to deter terrorism, a cause of action that allows victims of terrorism to sue perpetrators of terrorism and their supporters. It also amends the *State Immunity Act* to prevent a listed foreign state from claiming immunity from the jurisdiction of Canadian courts in respect of actions that relate to its support of terrorism.

Part 2 amends the *Criminal Code* to:

- (a) increase or impose mandatory minimum penalties, and increase maximum penalties, for certain sexual offences with respect to children;
- (b) create offences of making sexually explicit material available to a child and of agreeing or arranging to commit a sexual offence against a child;
- (c) expand the list of specified conditions that may be added to prohibition and recognizance orders to include prohibitions concerning contact with a person under the age of 16 and use of the Internet or any other digital network;
- (d) expand the list of enumerated offences that may give rise to such orders and prohibitions; and

(e) eliminate the reference, in section 742.1, to serious personal injury offences and to restrict the availability of conditional sentences for all offences for which the maximum term of imprisonment is 14 years or life and for specified offences, prosecuted by way of indictment, for which the maximum term of imprisonment is 10 years.

It also amends the *Controlled Drugs and Substances Act* to provide for minimum penalties for serious drug offences, to increase the maximum penalty for cannabis (marijuana) production and to reschedule certain substances from Schedule III to that Act to Schedule I.

Part 3 amends the *Corrections and Conditional Release Act* to:

- (a) clarify that the protection of society is the paramount consideration for the Correctional Service of Canada in the corrections process and for the National Parole Board and the provincial parole boards in the determination of all cases;
- (b) establish the right of a victim to make a statement at parole hearings and permit the disclosure to a victim of certain information about the offender;
- (c) provide for the automatic suspension of the parole or statutory release of offenders who receive a new custodial sentence and require the National Parole Board to review their case within a prescribed period; and
- (d) rename the National Parole Board as the Parole Board of Canada.

It also amends the *Criminal Records Act* to substitute the term "record suspension" for the term "pardon". It extends the ineligibility periods for applications for a record suspension and makes certain offences ineligible for a record suspension. It also requires the National Parole Board to submit an annual report that includes the number of applications for record suspensions and the number of record suspensions ordered.

Lastly, it amends the *International Transfer of Offenders Act* to provide that one of the purposes of that Act is to enhance public safety and to modify the list of factors that the Minister of Public Safety and Emergency Preparedness may consider in deciding whether to consent to the transfer of a Canadian offender.

Part 4 amends the sentencing and general principles of the *Youth Criminal Justice Act*, as well as its provisions relating to judicial interim release, adult and youth sentences, publication

bans, and placement in youth custody facilities. It defines the terms “violent offence” and “serious offence”, amends the definition “serious violent offence” and repeals the definition “presumptive offence”. It also requires police forces to keep records of extrajudicial measures used to deal with young persons.

Part 5 amends the *Immigration and Refugee Protection Act* to allow officers to refuse to authorize foreign nationals to work in Canada in cases where to give authorization would be contrary to public policy considerations that are specified in instructions given by the Minister of Citizenship and Immigration.

The enactment also makes related and consequential amendments to other Acts.

Pages 30 through 35 redacted for the following reasons:

s. 12

Province of British Columbia

BRIEFING NOTE (For Information Only)

Federal Government Crime Legislation, Bill C-10

This paper outlines the current federal justice legislative initiatives, the associated challenges to the Province, and the estimated costs. The federal omnibus Bill C-10 was tabled in Parliament September 20, 2011. The cost impact of Bill C-10 could have been lessened if the federal government had consulted BC and other provinces in the development of the bill. It is crucial that BC continue to advocate for a collaborative approach to criminal law development in order to reduce avoidable cost impacts in the future.

COMPONENTS OF BILL C-10

Part 1 – Justice for Victims of Terrorism

Terrorism and State Immunity Act

- **Supporting Victims of Terrorism in Canada**
 - The new legislation allows for civil action by victims of terrorism against perpetrators and their supporters.

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Part 2 - Sentencing

Criminal Code of Canada

- **Sex Offences Against Children – mandatory minimum penalties**
 - BC supports the new federal provisions.
- **Conditional Sentences for Serious Offences – new restrictions**
S. 13; S. 16

Controlled Drugs and Substances Act

- **Drug Offences - mandatory minimum penalties**
 - S. 13; S. 16

Part 3 – Post Sentencing

Corrections and Conditional Release Act

- **Victims’ Rights at Parole Hearings**
 - The new legislation expands the rights and involvement of victims at parole hearings.
 - s. 13

Criminal Records Act

- **Creation of Record Suspensions**
 - The new legislation replaces pardons, but is more restrictive.
 - S. 13; S. 16

International Transfer of Offenders Act

- **Transfer of a Canadian Offender from Abroad - adding criteria**
 - S. 13; S. 16

Part 4 - Youth Criminal Justice

Youth Criminal Justice Act

- The new legislation under-scores the protection-of-society principle.
- Contains entirely new provisions regarding pre-trial detention of youths.
- S. 13; S. 16
-

Part 5 - Immigration and Refugee Protection Act

- **Protection of Vulnerable Foreign Nationals**
 - The new legislation allows immigration officers to deny work permits to persons considered at risk of exploitation.
 - S. 13; S. 16
 -

RESOURCING CHALLENGES

S. 13; S. 16

Pages 39 through 40 redacted for the following reasons:

S. 13; S. 16

Ministry of Attorney General and
Ministry of Public Safety and Solicitor General

Federal Government Crime Legislation, Bill C-10
Estimate of Costs to British Columbia

November 28, 2011

This paper outlines the current federal justice legislative initiatives, the associated challenges to the Province, and the estimated costs. The federal omnibus Bill C-10 was tabled in Parliament September 20, 2011. BC was not consulted in the development of the Bill.

COMPONENTS OF BILL C-10

Part 1 – Justice for Victims of Terrorism

Terrorism and State Immunity Act

- **Supporting Victims of Terrorism in Canada**
 - The new legislation allows for civil action by victims of terrorism against perpetrators and their supporters.

Part 2 - Sentencing

Criminal Code of Canada

- **Sex Offenses Against Children – mandatory minimum penalties**
 - BC supports the new federal provisions.
- **Conditional Sentences for Serious Offences – new restrictions**
 - S. 13; S. 16

Controlled Drugs and Substances Act

- **Drug Offences - mandatory minimum penalties**
 - S. 13; S. 16

Part 3 – Post Sentencing

Corrections and Conditional Release Act

- **Victims’ Rights at Parole Hearings**
 - The new legislation expands the rights and involvement of victims at parole hearings.
 - **s. 13**

Criminal Records Act

- **Creation of Record Suspensions**
 - The new legislation replaces pardons, but is more restrictive.
 - **S. 13; S. 16**
 -

International Transfer of Offenders Act

- **Transfer of a Canadian Offender from Abroad - adding criteria**
 - **S. 13; S. 16**

Part 4 - Youth Criminal Justice

Youth Criminal Justice Act

- The new legislation under-scores the protection-of-society principle.
-
- **S. 13; S. 16**
-

Part 5 - Immigration and Refugee Protection Act

- **Protection of Vulnerable Foreign Nationals**
 - The new legislation allows immigration officers to deny work permits to persons considered at risk of exploitation.
 - **S. 13; S. 16**
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RESOURCING CHALLENGES

S. 13; S. 16

Pages 44 through 45 redacted for the following reasons:

S. 13; S. 16

New Federal Government Legislation

Justice Impacts and Resourcing Challenges

This paper outlines the current federal justice legislative initiatives, the associate challenges to the Province, and the estimate costs. The federal omnibus Bill C-10 was tabled in Parliament September 20, 2011. The provinces and territories had little involvement developing the policy components of the legislation.

The Components of Bill C-10

- **Sex Off**
 - S. 13; S. 16
- **Conditional Sentences for Serious Offences – new restrictions**
 - BC is anticipating more vigorous litigation and significantly more custodial responsibilities for offenders.
- **Drug Offences - mandatory minimum penalties**
 - S. 13; S. 16
- **Youth Criminal Justice Act - amendments**
 - The new legislation under-scores the protection-of-society principle.
 - Contains entirely new provisions regarding pre-trial detention of youths.
 - S. 13; S. 16
- **Protection of Vulnerable Foreign Nationals**
 - The new legislation allows immigration officers to deny work permits to persons considered at risk of exploitation.
 - S. 13; S. 16
-
- **Victims' Rights at Parole Hearings**
 - The new legislation expands the rights and involvement of victims at parole
 - S. 13; S. 16
- **Creational Offences**
 - The new legislation replaces pardons, but are more restrictive.
 - S. 13; S. 16

S. 13; S. 16

S. 13; S. 16

S. 13

- **Transfer of a Canadian Offender from Abroad - adding criteria**
 - S. 13; S. 16
- **Supporting Victims of Terrorism in Canada**
 - The new legislation allows for civil action by victims of terrorism against perpetrators and their supporters.
 - S. 13; S. 16

S. 13; S. 16



Pages 48 through 49 redacted for the following reasons:

S. 13; S. 16

New Federal Government Legislation

Justice Impacts and Resourcing Challenges

This paper outlines the current federal justice legislative initiatives and the associate challenges to the Province. The federal omnibus Bill C-10 was tabled in Parliament September 20, 2011. The provinces and territories had little involvement developing the policy components of the legislation.

The Components of Bill C-10

- **Mandatory minimum penalties – for drug crimes**
 - S. 13; S. 16
- **Mandatory minimum penalties – for sex offenses against children**
 - S. 13; S. 16
- **Youth Criminal Justice Act amendments**
 - Under-scores the protection-of-society principle
 - Grants Permission of pre-trial detention of youths
 - Strengthens sanctions for violent and repeat offenders
 - S. 13; S. 16
- **New restrictions on conditional sentences for serious offences**
 - S. 13; S. 16
- **Protection of vulnerable foreign nationals**
 - Allows immigration officers to deny work permits to persons considered at risk of exploitation
 - S. 13; S. 16
-
- **Victims' rights at parole hearings**
 - Expands the rights and involvement of victims at parole hearings
 - S. 13; S. 16
- **Creation of Record Suspensions**
 - Replaces pardons, but are more restrictive
 - S. 13; S. 16

- **Adding criteria for the transfer of a Canadian offender from abroad to serve time in Canada**
 - S. 13; S. 16
- **Supporting victims of terrorism in Canada**
 - Allows for civil action by victims of terrorism against perpetrators and their supporters
 - S. 13; S. 16

S. 13; S. 16

Pages 52 through 53 redacted for the following reasons:

S. 13; S. 16

		<i>Criminal Code Section</i>	Current Maximum		New proposal
	Offence		On Summary Conviction	On Indictment	On Summary Conviction
1	Incest, against a person under 16 years of age (indictable offence)	155	n/a	14 years	n/a
2	Bestiality	160 (3)	6 months	10 years	6 months
3	New: Providing sexually explicit material to a child (hybrid offence)	171.1	n/a	n/a	30 days
4	Internet luring (hybrid offence)	172.1	18 months	10 years	90 days
5	New: Agreeing/making arrangements with another person, via telecommunication, to commit sexual offence against a child (hybrid offence)	172.2	n/a	n/a	90 days
6	Exposure	173(2)	6 months	n/a	30 days
7	Sexual assault, against a young person under 16 years of age	271	18 months	10 years	90 days
8	<u>Sexual assault with a weapon,¹ against a young person under 16 years of age</u> (indictable offence)	272	n/a	14 years	n/a
9	<u>Aggravated sexual assault,² against a young person under 16 years of age</u> (indictable offence)	273	n/a	life imprisonment	n/a

Table B

		Criminal Code Section	On summary conviction		On indictment
	Offence		Current Penalty	Proposed Increased Mandatory Minimum Penalty	Current Penalty
1	Sexual interference (hybrid offence)	151	MMP 14 days and max. 18	90 days	MMP 45 days and max. 10 years

2	Sexual touching (hybrid offence)	152		MMP 14 days and max. 18 months	90 days	MMP 45 days and max. 10 years
3	Sexual exploitation (hybrid offence)	153		MMP 14 days and max. 18 months	90 days	MMP 45 days and max. 10 years
4	Bestiality in the presence of or by a child	160(3)		No MMP and max. 6 months	6 months	No MMP and max. 10 years
5	Making child pornography	163.1(2)		MMP 90 days and max. 18 months	6 months	MMP 1 year and max. 10 years
6	Distributing child pornography	163.1(3)		MMP 90 days and max. 18 months	6 months	MMP 1 year and max. 10 years
7	Possession of child pornography (hybrid offence)	163.1(4)		MMP 14 days and max. 18 months	90 days	MMP 45 days and max. 5 years
8	Accessing child pornography (hybrid offence)	163.1(4.1)	)	MMP 14 days and max. 18 months	90 days	MMP 45 days and max. 5 years
9	Parent/guardian procuring sexual activity where victim is under 16 (indictable offence)	170(a)		n/a		MMP 6 months and max. 5 years
	Parent/guardian procuring sexual activity where victim is 16-17 (indictable offence)	170(b)		n/a		MMP 45 days and max. 2 years
	Householder permitting sexual activity where victim is 16-17 (indictable offence)	171(b)		n/a		MMP 45 days and max. 2 years

ed mandatory	
On Indictment	
5 years	
1 year	
90 days	
1 year	
1 year	
90 days	
1 year	
5 years	
5 years	
ictment	
Proposed Increased Mandatory Minimum Penalty	
1 year	

propose d max	100% IF IND		100% IF SUM for community		25%	50%
	COUNTS	ALCULATION	COUNTS	ALCULATION		
5 years	6	700.5	16		5.5	11
1 year	0		0		0	
90 days	0		0		0	
1 year	1	8.8	1		17.8	17.8
1 year						
90 days	1	2.9	19		59.9	59.9
1 year	294	6360.8	1664		5334.2	10668.4
5 years	45		31		19	38
5 years	14		8		5.5	11
					0	
					0	
					0	
	152	3648.8	595		1373.325	2746.65

	15	392.5	63	146.95	293.9
1 year	33	777.6	130	295.15	590.3
1 year	0	0	0	0	0
(No change)	0	0	13	0	0
(No change)	0	0	16	0	0
6 months	67	880.2	183	361.875	723.75
6 months	10	127.7	23	49.75	99.5
1 year	0		0	0	0
6 months	0		0	0	0
90 days	0		0	0	0

sentenced Probation Only

100%	100% Counts	25%	50%
	186.6	10	2.5
		0	5
		0	
17.8		8	18
			17.8
0			0
59.9		15	11.25
			59.9
		1069	2405.25
			4810.5
	924.1		0
	122.6		0
		0	
		0	
		0	
5493.3		340	765
			0

587.8	43	96.75	0
1180.6	67	150.75	0
0		0	0
0	2	18.25	0
0	12	109.5	0
1447.5	115	129.375	0
199	16	18	0
0		0	0
0		0	0
0		0	0
0	1,233	0	0
		3,725	7,449
		6.802968	13.60594

Pages 60 through 72 redacted for the following reasons:

S. 12

S. 13; S. 16