

**BILL C-22: AN ACT TO AMEND THE CRIMINAL CODE  
(AGE OF PROTECTION) AND TO MAKE CONSEQUENTIAL  
AMENDMENTS TO THE CRIMINAL RECORDS ACT**

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## LEGISLATIVE HISTORY OF BILL C-22

### HOUSE OF COMMONS

Bill Stage	Date
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First Reading:	22 June 2006
Second Reading:	30 October 2006
Committee Report:	23 April 2007
Report Stage:	3 May 2007
Third Reading:	4 May 2007

### SENATE

Bill Stage	Date
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Royal Assent:

Statutes of Canada

N.B. Any substantive changes in this Legislative Summary which have been made since the preceding issue are indicated in **bold print**.

Legislative history by Michel Bédard

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BILL C-22: AN ACT TO AMEND THE CRIMINAL CODE  
(AGE OF PROTECTION) AND TO MAKE CONSEQUENTIAL  
AMENDMENTS TO THE CRIMINAL RECORDS ACT\*

Bill C-22, An Act to amend the Criminal Code (age of protection) and to make consequential amendments to the Criminal Records Act, was given first reading in the House of Commons on 22 June 2006 **and was passed by the House on 4 May 2007**. The bill amends the *Criminal Code*<sup>(1)</sup> to raise the age, from 14 to 16 years, at which a person can consent to non-exploitative sexual activity. The existing age of consent of 18 years for exploitative sexual activity will be maintained. This applies to sexual activity involving prostitution, pornography, or where there is a relationship of trust, authority, dependency or any other situation that is otherwise exploitative of a young person.

Bill C-22 creates an exception with respect to an accused who engages in sexual activity with a 14- or 15-year-old youth and who is less than five years older than the youth. It also creates an exception for transitional purposes for an accused who is married to a youth, or who is the common-law partner of a youth and is expecting a child with the youth and the sexual activity was not otherwise prohibited before the day the Act comes into force. **As amended by the House of Commons Standing Committee on Justice and Human Rights, the bill now makes the transitional marriage exemption permanent. This means that someone who is more than five years older than a 14- or 15-year-old may marry that young person where such a marriage is permitted under provincial or territorial solemnization of marriage laws. The exemption for certain common-law relationships, however, will remain transitional and not be made permanent.** The bill maintains an existing “close in age” exception that exists for 12- or 13-year-olds who engage in sexual activity with a peer who is less than two years older, provided the relationship is not exploitative.

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

(1) R.S.C. 1985, c. C-46.

The stated reason behind the introduction of Bill C-22 is to better protect youth against sexual exploitation by adult predators. The former Minister of Justice has said that adults who prey upon young people are the targets of the bill, not consenting teenagers.

## BACKGROUND

### A. General

The age of consent refers to the age at which the criminal law recognizes the legal capacity of a young person to consent to sexual activity. Below this age, all sexual activity with a young person, ranging from sexual touching to sexual intercourse, is prohibited. Only girls under 12 were legally unable to consent to sexual intercourse until 1890, when the age limit was raised to 14, where it has remained ever since.<sup>(2)</sup> When the *Criminal Code* was consolidated in 1892, the strict prohibition against sexual intercourse was retained for girls under 14 who were not married to the accused. At that time, the law was also strengthened to make an accused's belief about the young woman's age irrelevant. The age limit of 14 remains in place today, with a narrow exception for consensual sexual activity between young persons who are less than two years apart in age.

Canadian criminal law has also provided qualified protection from sexual exploitation for females over the age of 14. Thus, seduction of a girl over 12 and under 16 who was of "previously chaste character" was made an offence in 1886. This offence was retained in the 1892 *Criminal Code*, in respect of girls between 14 and 16. It remained in force until 1920, when the offence was changed to prohibit "sexual intercourse." After 1920, the issue became one of who was more to "blame" for sexual intercourse having occurred but the offence remained in force until 1988.

In addition to the offences outlined above, the "seduction" of a female under 18 "under promise of marriage" was made an offence in Canada in 1886 and amended in 1887 to apply to females under 21. In 1920, the offence of "seduction," without reference to a promise of marriage, was made applicable to girls "of previously chaste character" between 16 and 18. This makes clear that a complete ban on sexual intercourse with females over the age of 14 never did apply.

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(2) See Marilyn Pilon, *Canada's Legal Age of Consent to Sexual Activity*, PRB 99-3E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, rev. 12 April 2001.

The Report of the Committee on Sexual Offences Against Children and Youths (the Badgley Report) was released in 1984. It contained many recommendations concerning the treatment of sexual offences against children and appears to have been the origin of many of the offences now found in Part V of the *Criminal Code*. For example, Recommendation 9 of the report suggested a definition of a person in a position of trust, which was later adopted in a number of offences, including that of sexual exploitation.

Following the release of the Badgley Report, Bill C-15 in 1988 amended the *Criminal Code* to repeal the unlawful intercourse and seduction offences. In their stead, new offences were created, which were called “sexual interference” and “invitation to sexual touching.” These offences prohibit adults from engaging in virtually any kind of sexual contact with either boys or girls under the age of 14, irrespective of consent. The offence of “sexual exploitation” was also introduced at this time. This makes it an offence for an adult to have any sexual contact with boys and girls over 14 but under 18, where a relationship of trust or authority exists between the adult and child.

A number of rationales have been offered for the 1988 amendments to the *Criminal Code*. One is that there was perceived unequal treatment of boys and girls, since the earlier offences related strictly to female victims. In addition, the offence of unlawful sexual intercourse did nothing to protect young women from other forms of sexual contact short of intercourse. Furthermore, the lack of protection for girls between 14 and 16 who were not of chaste character or who were found to blame for an offence was seen as a serious limitation on the law’s ability to protect young women from pregnancy. The kind of scrutiny that a complainant might face in testing the proof of her chaste character may also have contributed to the fact that few charges were being laid under that provision prior to its repeal.

Except for the offences of buggery and gross indecency, therefore, the age of consent for sexual activity in Canada has at no time been set higher than 14, although prior laws did allow for men to be prosecuted for sexual intercourse with a woman under the age of 21 in certain circumstances. The differing age of consent concerning homosexual sex may be found in today’s *Criminal Code* in section 159. This section makes 18 the age of consent to anal intercourse, unless it is an act engaged in, in private, between husband and wife.

Aside from the law on the issue, studies of Canadian youth have found that young persons do engage in sexual activity. The 2003 report of the Council of Ministers of Education, Canada, the *Canadian Youth, Sexual Health and HIV/AIDS Study*,<sup>(3)</sup> found that the average age

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(3) *Canadian Youth, Sexual Health and HIV/AIDS Study: Factors influencing knowledge, attitudes and behaviours*, Toronto, 2003, <http://www.cmec.ca/publications/aids/>.

of first sexual intercourse for its sample (students in Grades 7, 9, and 11) was 14.1 years among boys and 14.5 years among girls. Furthermore, the reasons cited by youth for not having sexual intercourse are most commonly that they are “not ready” or “have not had the opportunity.” Negative family and peer opinions do not play major roles in the decision not to have sex. It is open to question, therefore, what, if any, impact a change in the age of consent in the *Criminal Code* will have upon the sexual activity of Canadian youth.

The age of consent to sexual activity varies widely around the world. The age often varies within countries, as it does in Canada, depending upon the region or circumstances. At the lower end of the scale is Mexico with an age of consent of 12.<sup>(4)</sup> In Mexico, however, the federal law varies according to the age gap between partners and may be overruled by regional laws. The age of sexual consent in Japan is 13, although prefecture law can override the federal law to raise the age to 18. The age of consent is also 13 in Argentina, Nigeria, South Korea, Spain, and Syria. Fourteen is the age of consent in many countries, including Bulgaria, Chile, China, Colombia, Croatia, Germany, Hungary, Iceland, Italy, Peru, and Portugal.

Although the age of consent in the states of the United States ranges from 14 to 18, the most common age of consent seems to be either 16 or 18. In some states a lower age applies when the age gap between partners is small, or when the older partner is below a certain age (usually 18 or 21). The states in Australia mostly have 16 as their age of consent, as do Belgium, Hong Kong, Finland (although a “close in age” provision applies), the Netherlands, New Zealand, Norway, Russia, Singapore, Ukraine, and the United Kingdom. Countries having 18 as their age of consent include the Dominican Republic, Egypt, Haiti, Malta, and Vietnam. The ages given here may vary between the genders and may also depend upon whether the sexual partners are married. A lower age may also apply when partners are of a similar age. Finally, it should be kept in mind that all of the ages of consent listed above apply only to male-female sex. In many countries, homosexual sex is either illegal or subject to different (often higher) ages of consent.

## B. The Current Law

The *Criminal Code* does not criminalize non-exploitative, consensual sexual activity with or between persons who are 14 years of age or older, unless it takes place in a relationship of trust or dependency, in which case sexual activity with persons over 14 but under 18 can constitute an offence, notwithstanding their consent. Even consensual activity with those

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(4) For a complete table of worldwide ages of consent, see the AVERT website, <http://www.avert.org/aofconsent.htm>.

under 14 but over 12 may not be an offence if the accused is under 16 and less than two years older than the complainant. The exception to this is anal intercourse, to which unmarried persons under the age of 18 cannot legally consent, although both the Ontario Court of Appeal<sup>(5)</sup> and the Quebec Court of Appeal<sup>(6)</sup> have struck down the relevant section of the *Criminal Code*.

Sections 151 and 152 of the *Criminal Code* prohibit virtually all kinds of sexual contact with children under 14, and the defence of consent is unavailable for those offences as well as for any sexual assault offences in respect of both male and female victims under 14. The maximum available penalty for “sexual interference” or “invitation to sexual touching” is ten years’ imprisonment for those prosecuted by way of indictment. Both offences are punishable by minimum terms of imprisonment, making a conditional sentence unavailable.

Section 153 of the *Criminal Code* prohibits the “sexual exploitation” of a “young person,” which is defined as a person between the ages of 14 and 18. Sexual exploitation takes place when the accused is in a relationship of trust or authority with the complainant, the complainant is in a relationship of dependency with the accused, or the relationship is exploitative of the young person. Guidance for the judiciary in determining whether a relationship is exploitative is provided by directing a judge to consider the age of the young person, the age difference between the accused and the young person, the evolution of the relationship, and the degree of control or influence by the accused over the young person. Consent is not relevant when this type of relationship exists. The maximum available penalty is ten years’ imprisonment for those prosecuted by way of indictment. Minimum terms of imprisonment apply to the offence of sexual exploitation and, therefore, a conditional sentence cannot be imposed.

The age of 14 is the relevant age for a number of other sexual offences in the *Criminal Code*, including bestiality (section 160(3)), parent or guardian procuring sexual activity (section 170(a)), householder permitting sexual activity (section 171(a)), luring a child (section 172.1(1)(c)), indecent act (section 173(2)), and removal of child from Canada

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(5) *R. v. M.(C.)* (1995), 98 C.C.C. (3d) 481 (Ont. C.A.). Two judges found that section 159 of the *Criminal Code* infringed section 15 of the Charter by discriminating on the basis of age, while a third judge found that there was discrimination on the basis of sexual orientation. All three agreed that the law could not be saved as a “reasonable limit” under section 1 of the Charter.

(6) *R. v. Roy* (1998), 125 C.C.C. (3d) 442 (Que. C.A.). It was held that this section infringes section 15 of the Charter as it discriminates on the basis of age, sexual orientation and marital status and is therefore of no force and effect.



(section 273.3(1)(a)). Fourteen is also the relevant age for obtaining an order of prohibition under section 161(1) and a recognizance under section 810.1(1) where there is a fear that a sexual offence will be committed against a person under the age of 14.

A separate category of sexual offences may be termed “exploitative,” and the relevant age for these is 18. The offence of “sexual exploitation” in section 153 of the *Criminal Code* is discussed above. The consent of a person under the age of 18 is no defence to a charge of sexual exploitation. Another form of exploitative sexual activity is that concerning child pornography. Section 163.1 of the *Criminal Code* defines child pornography, in part, as a visual representation that shows a person who is or is depicted as being under the age of 18 and is engaged in or is depicted as engaged in explicit sexual activity. Simple possession of child pornography is an offence, as is making, printing, publishing, or transmitting it. A third category of exploitative sexual activity is that related to prostitution. Specific offences are listed in section 212 of the *Criminal Code* concerning living off the avails of a prostitute under the age of 18 and forcing someone under that age to engage in prostitution.

## DESCRIPTION AND ANALYSIS

Bill C-22 consists of four clauses.

### A. Clause 1: Amendments to Section 150.1 (Consent No Defence) of the *Criminal Code*

Section 150.1 of the *Criminal Code* provides a series of rules which apply to enumerated sections of the Code to prevent an accused from relying on the consent of a complainant under a specified age. It also makes clear when a mistake by the accused may be a defence. It provides that the consent of a complainant who is less than 14 years old is no defence to the sexual assault offences (sections 271 to 273) and no defence at all, no matter what the age of the complainant, to the other enumerated offences, such as sexual exploitation (section 153). There is an exception to this general rule, however. The defence of consent is permitted to be raised to the offences of sexual interference (section 151), invitation to sexual touching (section 152), indecent exposure to a person under 14 (section 173(2)), or sexual assault (section 271) if the complainant is at least 12 but less than 14 years old and certain additional requirements are met. These requirements are that the accused be at least 12 but less than 16, the

accused be less than two years older than the complainant, the accused not be in a position of trust nor the complainant in a relationship of dependency with the accused, and the accused not be in a relationship with the complainant that is exploitative of the complainant.

Section 150.1 also limits the circumstances under which a mistake of fact regarding the complainant's age will be an excuse. There is a list of offences for which the excuse of mistake of fact will be permitted if the accused believed that the complainant was 14 years of age or older. Another list of offences is provided for which a mistake of fact will be permitted if the accused believed that the complainant was 18 years of age or older. To rely on any mistake of fact, however, the accused must have taken all reasonable steps to ascertain the age of the complainant. The accused must show what steps he or she took and that those steps were all that could be reasonably required of him or her in the circumstances.

Bill C-22 amends subsection 150.1(1) to provide that the consent of a complainant who is less than 16 years old (rather than 14 years old) is no defence to the sexual assault offences (sections 271 to 273). For certain offences where the complainant is 12 years of age or more but under the age of 14 years, the bill amends subsection 150.1(2) by removing the requirement that the accused be 12 years of age or more but under the age of 16 years. In its place, the bill simply states that the accused must be less than two years older than the complainant.

New subsection 150.1(2.1) sets out new rules for the offences of sexual interference (section 151), invitation to sexual touching (section 152), indecent exposure to a person under 14 (section 173(2)), and sexual assault (section 271), where the complainant is 14 years of age or more but under the age of 16 years. In these circumstances, it will be a defence that the complainant consented to the activity that forms the subject-matter of the charge, provided certain conditions are met; these conditions are that the accused must be less than five years older than the complainant (the so-called "close in age" exception) and must not be in a position of trust or authority towards the complainant, not be a person with whom the complainant is in a relationship of dependency, and not be in a relationship with the complainant that is exploitative of the complainant. **As mentioned above, the amendment to the bill provides the additional defence that the accused is married to the complainant. This defence will be permanent, rather than only transitional, in nature.**

New subsection 150.1(2.2) makes transitional provisions for an accused referred to in subsection 150.1(2.1) who is five or more years older than the complainant. In such a circumstance, it will be a defence that the complainant consented to the activity that forms the subject-matter of the charge if, on the day this provision comes into force, one of a number of conditions are satisfied. The defence of consent may be used successfully if the accused is married to the complainant. If there is no marriage, the accused may be the common-law partner of the complainant, or have been cohabiting with the complainant in a conjugal relationship for a period of less than one year and have had or be expecting to have a child as a result of the relationship. In addition, the accused must not be in a position of trust or authority towards the complainant, not be a person with whom the complainant is in a relationship of dependency, and not be in a relationship with the complainant that is exploitative of the complainant.

New subsection 150.1(6) makes it clear that an accused cannot raise a mistaken belief in the age of the complainant as a defence under the new and amended subsections unless the accused took all reasonable steps to ascertain the age of the complainant. Existing subsections 150.1(4) and 150.1(5) already use this language for existing offences where the relevant age is either 14 or 18.

B. Clause 2: Amendments to Section 172.1  
(Luring a Child) of the *Criminal Code*

Section 172.1 of the *Criminal Code* creates the offence of using a computer system to lure children for the purpose of committing certain sexual offences. The section lists various sexual offences, which depend upon the age of the child. The offence is committed if the child was under the particular age specified or if the accused believed the child to be under that age. Subsection (3) sets up a rebuttable presumption that the accused believed the child was under the relevant age if there is evidence that the child was represented to the accused as being under that age. It is no defence that the accused believed that the child was over the relevant age unless the accused took reasonable steps to ascertain the age of the child.

New subsection 172.1(1)(b) will make 16 the relevant age for the offence of facilitating the commission of an offence under section 151 (sexual interference), section 152 (invitation to sexual touching), subsection 160(3) (bestiality in presence of young person), or subsection 173(2) (exposure to young person). These offences are being added to a list that previously consisted only of section 280 (abduction of person under 16). The relevant age for all four of the added offences is raised from 14 to 16 (see below); thus, the use of a computer system to facilitate the commission of these offences when the complainant is less than 16 is being made an offence.

Since 16 will now be the relevant age, subsection 172.1(1)(c) is amended to remove reference to the age of 14 for offences under sections 151 and 152, and subsections 160(3) and 173(2). Henceforth, luring someone under the age of 14 by means of a computer system will be an offence only if it is done to facilitate the commission of an offence under section 281 (abduction of person under 14).

C. Clause 3: Replacement of “fourteen years” With “sixteen years”

Clause 3 is the main provision of Bill C-22 as it has the effect of raising the age of consent from 14 years of age to 16. It does so by replacing the words “fourteen years” with the words “sixteen years” wherever they occur in the following provisions:

- subsection 150.1(4) (no defence to a charge under section 151 or 152, subsection 160(3) or 173(2), or section 271, 272 or 273 that the accused believed the complainant was 14 years of age or more at the time the offence is alleged to have been committed);
- sections 151 (sexual interference) and 152 (invitation to sexual touching);
- subsection 153(2) (definition of “young person” for purposes of sexual exploitation);
- subsection 160(3) (bestiality in presence of person under the age of 14 years);
- subsection 161(1) (order of prohibition in respect of a person who is under the age of 14 years);
- paragraphs 170(a) and (b) (parent or guardian procuring sexual activity of a person under 14 years or between 14 and 18 years of age);
- paragraphs 171(a) and (b) (householder permitting sexual activity of a person under 14 years or between 14 and 18 years of age);
- subsection 173(2) (exposing genital organs for a sexual purpose to a person under the age of 14 years);
- paragraphs 273.3(1)(a) and (b) (removal from Canada of a person ordinarily resident in Canada who is under the age of 14 years or between 14 and 18 years of age); and
- subsection 810.1(1) and paragraphs 810.1(3)(a) and (b) (recognizances based on the fear of a sexual offence being committed against person under the age of 14 years).

D. Clause 4: Consequential Amendments

Under the *Criminal Records Act*,<sup>(7)</sup> the effect of a pardon is that the judicial record of a person's conviction is to be kept separate and apart from other criminal records. No such record shall be disclosed to any person, nor shall the existence of the record or the fact of the conviction be disclosed to any person, without the prior approval of the Minister of Public Safety and Emergency Preparedness. An exception to the non-disclosure of a criminal record for which a pardon has been granted is made if a person applies for a paid or volunteer position if the position is one of authority or trust relative to children or vulnerable persons. Should the applicant consent to the verification, the information that the applicant has been convicted of certain specified offences may be disclosed, so long as this information is used only in relation to the assessment of the application.

Clause 4 of Bill C-22 amends the schedule to the *Criminal Records Act*, which is the list of sexual offences, the conviction for which may be disclosed in the circumstances set out above. Thus, section 151 will now be the offence of sexual interference with a person under 16 (rather than under 14) years of age. Similarly, section 152 will now be the offence of invitation to a person under 16 to sexual touching, and section 153 will be the offence of sexual exploitation of a person between the ages of 16 and 18. Other changes to the schedule will raise the age from 14 to 16 for the offences in subsection 160(3) (bestiality), and the removal of a child under 16, or between 16 and 18 years of age, from Canada for the purpose of committing one of the listed offences. The effect of these amendments will be that anyone convicted of the newly defined offences may have the fact of their conviction disclosed to a potential employer or volunteer supervisor if they apply to work with children or other vulnerable persons.

COMMENTARY

Several national organizations have said that there is no solid reason to alter a legal age that has been in place since 1890. The groups Justice for Children and Youth, the Canadian Federation for Sexual Health, the Canadian AIDS Society, and Equality for Gays and Lesbians Everywhere (Egale) have raised concerns that young people, who will fear they are

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(7) R.S.C. 1985, c. C-47.

breaking the law, will not seek out programs dealing with sexuality.<sup>(8)</sup> There is a concern that teenagers will not seek information and support should they get pregnant.<sup>(9)</sup> The goal of these groups is to promote safer sex and education for young people. Spokespersons for the groups emphasized the negative consequences of creating an atmosphere in which they cannot talk about what they do, for fear of prosecution.<sup>(10)</sup>

Critics also note that there are already protections for young people because it is currently illegal for people in positions of authority or trust to have sex with a person under age 18. In addition, opponents of Bill C-22 contend that changing the age of consent would remove discretion for judges to consider the circumstances of each case. A further criticism of Bill C-22 is that it comes from a government that wants young people to be charged as adults in court, but does not want them to be treated as adults when it comes to sexual matters.<sup>(11)</sup> Paul Gillespie, the former head of the Toronto Police child exploitation section, has been quoted as saying that at a young tender age children should not make these important decisions in sexual matters that will determine their future.<sup>(12)</sup> Yet if that same child decides to commit a criminal act, he or she may be treated as an adult when the punishment is determined. In other words, a 10-year-old will be held criminally liable for theft because it is generally believed that he or she can appreciate the consequences of his or her actions; but a 15-year-old cannot decide to have sex with his or her partner because it is believed that the youth cannot appreciate the consequences of his or her actions.<sup>(13)</sup>

Gay and lesbian groups have objected to the fact that the age of consent for anal intercourse remains 18 and will not be changed by Bill C-22. A lawyer for Egale Canada has called this a leftover from the criminalization of homosexuality in Canada. Its only effect is said to be to stigmatize gay and bisexual men and gay and bisexual male sex.<sup>(14)</sup> Egale has called on

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(8) Janice Tibbetts, "Groups upset by Tory plan to raise age of consent," *Ottawa Citizen*, 21 June 2006, p. A4.

(9) Debra Black, "Age of consent uproar; Will law protect vulnerable kids ... Or 'criminalize' teenage sex? Police welcome protection against child exploitation. Youth workers see 'criminalization of teen sex,'" *Toronto Star*, 19 June 2006, p. A1.

(10) Tibbetts (2006).

(11) Black (2006).

(12) *Ibid.*

(13) Editorial, "What's the Age of Innocence?," *Toronto Sun*, 17 August 2006, p. 20.

(14) Terry Weber, "Ottawa tables bill to raise age of sexual consent to 16," *Globe and Mail* [Toronto], 23 June 2006, p. A2.

the government to amend the age of consent bill and equalize the age of consent for sexual activity.<sup>(15)</sup> The bill provides an opportunity to eliminate this form of discrimination, which has already been declared unconstitutional by the Courts of Appeal in both Ontario and Quebec.<sup>(16)</sup>

Another criticism of Bill C-22 is that it is misguided in its effort to combat the sexual exploitation of children. An age of consent of 18 for the purposes of prostitution has not stopped the majority of prostitutes from beginning work before that age. Rather than changing the law to raise the age of consent, some argue it would be more beneficial to concentrate upon sexual predators. To fight the exploitation wrought by the prostitution of young persons, the cause of that exploitation, namely prostitution itself, should be attacked. The reasons why young people are sexually exploited should be addressed before measures are taken to raise the age of consent.<sup>(17)</sup>

Another problematic aspect of Bill C-22 is that it makes no distinction between those persons who are much older than the sexual partners they seek and young people who are simply immature and engage in sexual activity with those who are younger than they are. If the age difference is more than five years, the older person will be forced to register as a sex offender. This will have unknown consequences which may last for the rest of that person's life. Should the sex offender register be made public, as some have called for, the consequences could include violence. One of the men murdered by Stephen Marshall in April 2006 in Maine was on the sex offender register because he had sexual relations with a girl of 14 when he was 20.<sup>(18)</sup>

There have been suggestions that on-line predators deliberately target Canadian teens, because while they could be charged with luring on-line or taking children away from home without their parents' permission, they would face no sex-related charges.<sup>(19)</sup> Some supporters of the bill, such as Beyond Borders, do not believe that current laws are tough enough to deal with Internet luring and sexual exploitation of teens by adults, as too much is left

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(15) Paul Samyn, "Tories move to raise age of consent to 16: Bill takes aim at cyber predators," *Windsor Star*, 23 June 2006, p. A7.

(16) Joël-Denis Bellavance, "L'âge du consentement sexuel en voie d'être modifié," *La Presse* [Montréal], 23 June 2006, p. A9.

(17) Richard Poulin, "Consentement sexuel et exploitation des enfants," *Le Droit* [Ottawa], 26 June 2006, p. 19.

(18) Héléne Buzzetti, "Fichés à vie pour amour interdit : Le nom d'un jeune homme ayant eu des rapports sexuels avec une jeune fille de six ans sa cadette figurera dans le registre des délinquants sexuels," *Le Devoir* [Montréal], 23 June 2006, p. A1.

(19) Shannon Proudfoot, "Taking back MySpace: Teenagers may be web-savvy, but they are still vulnerable to perils and predators on social networking websites. Parents, police and educators are trying to create safeguards," *Ottawa Citizen*, 11 May 2006, p. E1.

to interpretation.<sup>(20)</sup> Furthermore, once in court, teens now suffer at the hands of defence lawyers who engage in brutal cross-examinations, often leaving them emotionally exploited and vulnerable. One of the ways in which 14- and 15-year-olds will be protected is that they will no longer be put in a position where they will be cross-examined during sexual assault trials about whether they had consented to the sexual acts with adults.<sup>(21)</sup>

Staff Sergeant Larry Shewchuk of Edmonton's sexual assault squad welcomes Bill C-22 purely for the message it sends. He has said that he sees a fair number of people between the ages of 14 and 16 being manipulated by older predators. Any new tools the police can use to stop predators would be welcome.<sup>(22)</sup> The bill will change the way police investigate child pornography, underage prostitution and Internet luring, according to Detective Janet Hall of the Toronto Police child exploitation section. She has said that there will be a new group of kids being looked after and a new group of paedophiles being charged. Retired Toronto Police officer Paul Gillespie once called Canada "a haven for paedophiles" because of the age of consent law. He is hopeful that Bill C-22 will stop paedophiles from coming to Canada as sex tourists.<sup>(23)</sup> RCMP Superintendent Earla-Kim McColl, the officer in charge of Canada's National Child Exploitation Co-ordination Centre, has praised the step taken to raise the age of consent as another step towards protecting children on-line. She points out that a large number of predators in the United States are aware that, if they can contact a 15-year-old on-line and arrange to meet in Canada, then they can do so without fear of consequences.<sup>(24)</sup>

The Salvation Army has written in support of Bill C-22. It says that raising the age of consent will help prevent the commercial sexual exploitation of children, protect children aged 13 to 15, who are most vulnerable to being manipulated or lured into sexual relationships, and help prevent Canada from being a destination for sex tourism and sexual trafficking. It also says that those who work in the field of child abuse have no doubt that the benefits of raising the age of consent far outweigh the issues raised by those who oppose the bill.<sup>(25)</sup>

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(20) Black (2006).

(21) Paul Samyn, "Raising consent age won't outlaw teen love, Toews says: However, proposed law will target sex predators who exploit kids, justice minister says," *Vancouver Sun*, 23 June 2006, p. A4.

(22) Doug Beazley, "Loophole or noose? Harper government looks to raise age of consent for sex to 16," *Edmonton Sun*, 24 June 2006, p. 13.

(23) Kim Bradley, "Cheers for consent bill. Only those 'who want to use children' will be opposed says grateful child-protection advocate," *Toronto Sun*, 23 June 2006, p. 4.

(24) James Gordon, "Predator monitoring never sleeps: International task force watches web," *Calgary Herald*, 14 July 2006, p. A13.

(25) The Salvation Army of Canada, "Salvation Army applauds federal bill to raise age of consent," *Stoney Creek News* [Hamilton], 28 July 2006, p. 9.



One criticism of the bill that has been raised by those who generally support it is that the five-year age exemption is too large. Rather than allowing a five-year age gap, three years should be more than enough.<sup>(26)</sup> Some other supporters of the bill have proposed that the age of consent be set at 18.<sup>(27)</sup> This would eliminate the anomaly of 16-year-olds who can legally consent to have sex yet be unable to vote, serve in the military, smoke, or drink. Many have argued that most teenagers do not have the maturity to handle the responsibilities that come with sex, such as practising safe sex and using reliable birth control. A more appropriate age of consent would be 18, when one legally becomes an adult.<sup>(28)</sup>

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(26) Lydia Lovric, “5-Year ‘Sex Gap’ Should Be Lower,” *Winnipeg Sun*, 26 June 2006, p. 11.

(27) Editorial, “Consent move a good start; We say: Raising the age of consent to 16 for adults having sexual relations with youths is a positive step,” *Times & Transcript* [Moncton], 24 June 2006, p. D10.

(28) Editorial, “Age of consent should be raised to 18,” *Belleville Intelligencer*, 17 June 2006, p. A6.