



CPC's Response to the Child Safeguarding Bill (Misc. Amendments) 2019

This is a vital leap forward for Child Rights and child protection in Bermuda. Firstly, we want to commend the government for making these historical, and necessary changes for child safeguarding. This Bill demonstrates that the welfare of our youth is of great importance, and we look forward to working together, to continue improving the lives of our young people. Certainly, there are further measures that are needed to ensure our children are raised in a safe, healthy and nurturing environment. We are on the right track with these amendments that sweep over several different Acts, but we must take care not to continue failing our youth in practice. Consultation, collaboration, and the improved coordination of services through a specified framework inclusive of policy changes, will support key elements of progress. Until everything possible is being done to protect and support these future generations, we cannot report true success as a society. Still, this is a moment when we need to acknowledge how far we've come, ask the relevant questions, and seek recommendations that continue moving in the right direction towards improved child safeguarding.

We are encouraged that during the sentencing process, additional aggravating factors will be considered for an increase in the correctional time given to those who offend against children. There is enough anecdotal evidence to suggest that reporting abuse in Bermuda is severely impeded by a lack of faith in the system. 95% of all cases of child abuse on the island are ignored or not reported (reference: www.police.bm). A lengthier sentence would further encourage victims and offended families to come forward and speak up against perpetrators with less fear. It is promising that the Courts understand that offences may be of such severity, that penalties of up to 20 years may be appropriate.

Although, in the amendment to Section 185A (1) of The Criminal Code, we note that the sentencing for the 'pimping' of children is between 2-4years. This seems remarkably low for the coordination of child prostitution. The victimization of children (up to 18yrs) needs to be judged as an extremely damaging offence that is worthy of an increased penalty. All harmful variables must be carefully taken into consideration if people are going to actively pursue the prosecution of pedophiles and other child abusers. The proposed amendments make the penalty 50% higher for specified crimes against children vs when committed against an adult. Perhaps an increase converse to age should additionally determine the gravity of a sentence. Shouldn't 0-5 be regarded as the most vulnerable age bracket noteworthy of a heavier penalty for abuse? These first few years are the most critical in the psychosocial development of a child. Therefore, intentional, consistent neglect, or forced starvation and/or physical abuse of a victim from birth to preschool age should be highlighted as particularly heinous crimes, worthy of extended

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sentencing guidelines. We hope that review of the sentencing structure for crimes against children, is a continued effort throughout our judiciary system.

We are encouraged that *'no person whose name is entered in the Sex Offender Registry shall be employed in any of the professions listed under section 20(2) of the Children Act'*. However, this list should not be limited to principles or teachers since all school staff have equal access to children. Sadly, it must be considered that everyone working around children has an increased opportunity to victimize them. A Certificate clarifying that they are not on the Register should be required of all employees and volunteers of a school, camp, charity, club, or any business directly or indirectly involved with youth activities. Private companies, churches and organizations should not wait for this to be mandated in law, rather lead by example with this position. Codes of Conduct, Vulnerable Person's Policies, and official police reports that identify previous convictions of assault or abuse against a minor, should become the standard norm for everyone entrusted in roles or positions around young people in our community. Minimizing opportunity must be our continued focus if we are going to successfully reduce child sexual abuse and further prevent the exploitation of our young people.

The effect that technology has on both the perpetuation of crimes against children, as well as the method by which we can further protect our young people, will be an evolving aspect of legislation, law enforcement and parental controls. These inclusions are recognized as crucial developments in the protection of child witnesses as a start. It is encouraging to hear government's official acknowledgment that Bermuda has been operating with child witnesses in an archaic manner. Major improvements during Court proceedings that utilize technology to protect child witnesses are indeed long overdue.

We are particularly pleased to note that the video submission of evidence will be a standard Right for child victims. Pre-recorded evidence is another long over-due measure that is welcomed by all. Hopefully, this means that we will no longer be asking children to tell their story over multiple interviews. Ideally, one recorded interview is all a child victim should endure. At last, children under the age of 14 will be protected from giving evidence in an open Court with the amendment to Sections 42 of The Evidence Act. The heavy cross examination, humiliation, and intimidation of particularly young people who are forced to testify against their perpetrators, in front of numerous strangers, must end as a practice today. These 'Special Measures' will assist in preventing the re-traumatization of our children and can no longer be denied to our young victims in Court proceedings.

The problem of explicit imagery containing children is devastatingly pervasive. The battle against this issue is ongoing, so every measure that can be utilized to stop this form of child victimization must be implemented. Adults generating these images for the purposes of exploitation must be penalized to the full extent of the law. Education that teaches all school aged children about the responsible use of technology will assist in combating self-generated images and the distribution of revenge porn amongst adolescents. Awareness campaigns identifying the harm caused by child pornography as well as the legal consequences of creating, disseminating or soliciting these images, must be constant.

Submitting the DNA profile of an offender can be utilized for both investigation and prosecution, while the monies forfeited from convicted pedophiles can be used for preventative education and treatment programs.

Requiring all Bermudians convicted of sexual offences overseas to be placed on the Sex Offender Registry, is a necessary requirement that seeks to prevent further opportunities to offend against children.

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Offering our children an app for the reporting of abuse or suicidality, is a gap in the service provision for young people. Formally known as a 'hotline', nothing exists in terms of 24/7 support for abuse or personal crisis. Bermuda must evolve to meet the need for online child abuse crisis intervention.

The important role of modern technology in the prevention of child abuse, must further include data collection from multiple agencies, improved software for law enforcement, as well as online child safety control support for caregivers and learning institutions.

Amending Section 9(1) of the Children's Act supports the delivery of counsel to victims of child sexual abuse. Here in Bermuda, there is a dismally low number of the judiciary who are specifically trained in child law. Currently, a lawyer without any experience or training in child law can represent parties in child law matters, despite the area of law requiring specialized knowledge and skill. Clause 38 seeks to amend Section 10 of the Children Act to introduce a section regarding "*Training of professionals involved in child sex abuse proceedings*". It should be wider than that, to include training of professionals involved all Children Act proceedings.

This Bill acknowledges that child abuse is non-discriminatory and removes gender as a defining reference. Victims of any gender, up to the age of 18, must all be considered vulnerable persons. Age is of far greater importance in the law than any other identifying factor relating to a child's description. By changing the terminology to gender neutral, the law recognizes the unilateral effect that these crimes have on any young person.

By removing the only remaining statute of limitations, this Bill reinforces the victim's Right to prosecute and omits all barriers preventing accountability by the perpetrator. This is a welcomed measure.

Increasing the age of a child offender from 16 to 18 in Section 2 of the Young Offenders Act, promotes the opportunity for developmentally appropriate interventions and more restorative practices. This corrected definition of a minor is regarded as an important step for the Rights of children who are involved in offences against the law, prior to becoming an adult.

It is noted that there are provisions for a multi-service approach to children's issues in this Bill. The development of a National Plan of Action is an exciting prospect for children in Bermuda. Improving the coordination of services that allows for the responsible and protected sharing of information, used solely for the implementation and efficacy of child safety measures, will be foundational for advancement. It should be required that all allegations of child abuse reported to DCFS be equally shared with police. Currently, this is not the general practice. For too long, government departments, law enforcement and helping agencies have all sat in their silos duplicating efforts or passing the buck. This has resulted in children falling through the cracks and not receiving the critical support they deserve. This must change if we are going to do better with child safeguarding.

Child Protection is not owned by a single entity and is best assured through collaboration. An objective, bi-partisan, Joint Select (Child Safeguarding) Committee that is focused solely on the protection of children should be appointed. However, the Committee outlined in this Bill does not promote accountability, or the independent review of those charged with protecting children. Not to mention, we are seeking clarification on how this will differ from the Child Placement Committee, who is currently charged with a similar remit. Direct service providers who regularly engage in child services, should not only be utilized for data collection, but serve as an objective and important advocate for families. Helping agencies should

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have a seat at the table and be consulted as a voice that is on the ground working directly with the vulnerable who most benefit from these oversight groups.

Overall, The CPC is pleased to highlight several aspects of this Bill that are worthy of celebration. In theory, most of these amendments are a welcomed change, and almost all include a significant progression forward. Our hope is that these measures will have follow-through in practice. While there are many pieces of this bill worth appreciating, we must continue to recognize the distance that is still needed to overcome the presenting challenges. To provide children with a stronger safety net for the prevention, intervention and treatment of crimes against young people, we must work better together. Furthermore, Bermuda will not qualify as part of the Lanzarote Convention without effective collaboration. It is pivotally important that we keep up the momentum and use this as a clarion call to put these and other child beneficiary methods into swift motion, not just in legislation, but in our everyday actions. Our future will depend on these decisions we make now.