

Laws Relevant to Youth, Sexual Exploitation and Child Pornography etc.

International Legislation

The United Nations' Convention on the Rights of the Child requires states to take appropriate measures to:

- ★ Protect children from all forms of abuse (including sexual exploitation, economic exploitation & abduction), and to establish social programs to provide necessary support for prevention, treatment and follow-up of abused children and their families (Articles 19, 32, 34, 35 & 39);
- ★ Protect children's rights to freedom of expression, privacy and to be free from exposure to pornography (Articles 13, 16 & 36);
- ★ Ensure the mass media disseminates information and material of social and cultural benefit to children (Article 17);

The Optional Protocol to the Convention on the Rights of the Child requires states to:

- ★ Specifically criminalize the sale of children, child prostitution and pornography;
- ★ Encourages international co-operation in prosecuting perpetrators;
- ★ And advocates states to create enhanced protection for victims of such acts.

Canada's Criminal laws

Offences relating to the sexual exploitation of youth and online bullying in Canada

Legal age of consent:

If youth are under 16, they cannot legally consent to sexual activity with adults. Youth between the ages of 16 and 18 cannot legally consent to sexual activity if their sexual partner is in a position of trust or otherwise in an exploitative role in the youth's life (s.150).

Sexual abuse:

- ★ Sexual interference (touching for a sexual purpose, directly or indirectly, the body of a youth (s. 151)).
- ★ Invitation to sexual touching (inviting, counseling or directing a youth to touch anyone, directly or indirectly, for a sexual purpose (s.152)).
- ★ Sexual exploitation (being in a position of trust a relationship of dependency or an exploitative relationship and inviting sexual touching (s.153)).
- ★ Voyeurism (without consent, observing or recording a person who has an expectation of privacy (s. 162(1)). Remember that there is no legal consent under 16!
- ★ Distributing, publishing, printing voyeuristic recordings (s.162(4)).

Child Pornography:

- ★ The representation (pictures, video or other including written materials and audio recordings) of someone under the age of 18, depicted in explicit sexual activity or a visual representation of a youth's sexual organs or anal regions, for a sexual purpose. (s.163.1)
- ★ Creating, publishing or possessing child pornography for the purpose of publication (s.163.1(2));
- ★ Transmitting, or sending, of child pornography from one person to another including posting child pornography on a Web site, or linking to child pornography on a Web site or otherwise exporting child pornography (s.163.1(3));
- ★ Possessing child pornography for the purpose of exporting, making available or transmitting (s. 163.1 (4));
- ★ Using the Internet to communicate with a child for the purpose of committing a sexual act or creating child pornography (luring) (s.172.1);
- ★ Accessing child pornography (s.163.1 (4.1));
- ★ Making a profit off any activity associated with child pornography is considered an aggravating factor (s.163.1 (4.3)).

Criminal Harassment (s.264):

- ★ Causing another person to fear for their safety or the safety of others by following (stalking), repetitively communicating, directly or indirectly, or engaging in any other form of threatening behaviour.

Impersonation/ Identity theft (s.403):

- ★ Pretending to be another person to cause the other disadvantage or to gain advantage for him/herself. Includes using lies, misrepresentations, "mischief to data" (changing information, hacking computer accounts), creating false messages or engaging in scams or hoaxes.

Who can be charged with any of the aforementioned offences?

- ★ Anyone (over the age of 11) can create child pornography and be charged with any of the offences relating to child pornography. If a youth takes sexual pictures of a friend, and then posts them on a website, that youth can be charged with creating, publishing and transmitting child pornography.
- ★ Anyone (over the age of 11) can also be charged with accessing child pornography.
- ★ Youth can be charged with sexual interference of another youth if the relationship is characterized as one of dependency, trust or any form of exploitation.
- ★ Youth aged 12 or 13 cannot consent to sexual activity with anyone more than two years older.
- ★ Youth aged 14 or 15 cannot consent to sexual activity with anyone more than 5 years older.

To report online sexual exploitation of youth go to www.cybertip.ca