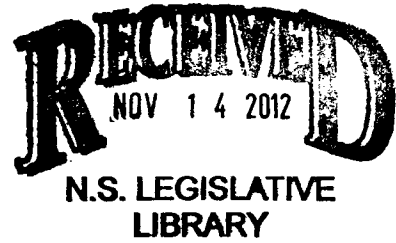


LAW AMENDMENTS COMMITTEE

Red Room, Province House

Tuesday, November 13, 2012

4:00 p.m.



Bill #107 - Collection Agencies Act (amended)

4:00 p.m.

1. Vince Calderhead
2. Claire McNeil, Lawyer
Dalhousie Legal Aid Service

Bill #97 - Fairer Power Rates Act [amendments to the *Public Utilities Act*]
(no representation)

Bill #102 - Education Act (amended)
(no representation)

Bill #105 - Agriculture and Marketing Act (amended)
(no representation)

Bill #109 - Bee Industry Act (amended)
(no representation)

Bill #112 - Municipal Government Act and Halifax Regional Municipality Charter
(no representation)

Bill #114 - Interjurisdictional Support Orders Act (amended)
(no representation)

Bill #115 - Interprovincial Investigative Authority Act [amendments to the *Summary Proceedings Act*]
(no representation)

Bill #102
Education Act (amended)

CHANGES RECOMMENDED TO THE
LAW AMENDMENTS COMMITTEE

PAGE 1 - add the following Clause:

1 The Preamble to Chapter 1 of the Acts of 1995-96, the *Education Act*, as amended by Chapter 14 of the Acts of 2012, is further amended by striking out “—including bullying and cyberbullying—” in the sixth and seventh lines of the fifth paragraph and substituting “, bullying and cyberbullying”.

PAGE 1 - add the following after Clause 3:

4 Clause 141(ja) of Chapter 1 is repealed and the following clause substituted:

(ja) establish a Provincial school code of conduct policy with respect to promoting school and student safety that includes

(i) a Provincial school code of conduct that includes provisions requiring support for enforcement by school board members of the school board’s code of conduct and by school administrators of the school’s code of conduct,

(ii) provisions requiring that school code of conduct policies and school codes of conduct identify inappropriate behaviour, including bullying and cyberbullying,

(iii) provisions requiring that school code of conduct policies and school codes of conduct identify consequences for inappropriate behaviour, including bullying and cyberbullying, and

(iv) provisions requiring, where a school board is satisfied there has been an instance of cyberbullying by a person, that the school board immediately notify the person’s Internet or cellular telephone service provider that one of the service provider’s accounts has been used inappropriately;

PAGE 1 - add the following after Clause 4:

5 The Governor in Council shall direct the Minister of Education, the Minister of Justice and any other members of the Executive Council that the Governor in Council considers appropriate to enter into negotiations with the Government of Canada with the purpose of making changes to the *Criminal Code* (Canada) with regard to addressing inappropriate behaviour and bullying by electronic means, including Internet and cellular telephone use.

RENUMBER CLAUSES ACCORDINGLY

Bill #102
Education Act (amended)

CHANGES RECOMMENDED TO THE
LAW AMENDMENTS COMMITTEE

PAGE 1 - add the following after Clause 3:

4 Chapter 1 of the Acts of 1995-96 is further amended by adding immediately after Section 70 the following headings and Sections:

BULLYING

- 70A (1) In this Section,
- (a) “bullying” means any direct or indirect behaviour, comment, act or gesture, including those made through the use of social media, intended to injure, hurt, oppress, intimidate or ostracize, and includes cyberbullying,
 - (i) by a student against a student, teacher, support staff or volunteer, or
 - (ii) by a student, teacher, support staff or volunteer against a student;
 - (b) “inappropriate student behaviour” includes bullying, gender-based violence and incidents based on homophobia.
- (2) The Minister shall establish policies and guidelines with respect to bullying prevention and intervention in schools, including
- (a) training to be provided for all teachers and support staff;
 - (b) procedures that allow students to report incidents of bullying safely and in a way that minimizes the possibility of reprisal;
 - (c) procedures for responding appropriately and in a timely manner to bullying;
 - (d) the use of disciplinary measures in response to bullying;
 - (e) resources to be provided to support students who are impacted by bullying; and
 - (f) resources to be provided to students who have been suspended for bullying.
- (3) The Minister may establish policies and guidelines respecting
- (a) the use of a disciplinary framework that
 - (i) identifies inappropriate student behaviour,
 - (ii) provides for appropriate consequences for a student who engages in inappropriate behaviour, a mechanism to inform the student’s parents of the reason for disciplinary action and the action that will be taken in the event of any further inappropriate behaviour,

(iii) provides for progressively more serious consequences for repeated or more serious inappropriate behaviour,

(iv) provides support for students and their parents who are impacted by inappropriate behaviour and for students who engage in inappropriate behaviour to assist them in developing healthy relationships, making good choices and continuing their learning and achieving success,

(v) provides for prevention strategies to be included in the curriculum, and

(vi) provides for early and ongoing intervention strategies to be included in the curriculum;

(b) opportunities for all students and their parents, teachers and support staff to increase their understanding and awareness of inappropriate student behaviour;

(c) training for all teachers and support staff to increase their ability to respond to inappropriate student behaviour; and

(d) procedures for responding appropriately and in a timely manner to inappropriate student behaviour.

(4) Every school board shall establish policies and guidelines with respect to

(a) disciplining students who bully or engage in inappropriate student behaviour consistent with those established pursuant to subsections 3 and 4; and

(b) address any other matter and include any other requirement that the Minister may specify.

(5) Every school board shall prepare an annual report that states

(a) the incidence and nature of bullying and inappropriate student behaviour for each school within its jurisdiction; and

(b) the measures taken to improve each school's results with respect to preventing and intervening in bullying and inappropriate student behaviour and enhancing the quality of its learning environment,

and file it with the Minister and publish it on the school board's website no later than July 1st of each year.

(6) Principals shall support any group of students within their individual schools who wishes to conduct activities the principal of that school considers conducive to reducing and preventing bullying and inappropriate student behaviour.

(7) The school board shall support a group of students who wishes to conduct activities conducive to reducing and preventing bullying and inappropriate student behaviour and that have been endorsed by a principal in its district pursuant to subsection (6).

CYBERBULLYING

70B (1) In this Section,

(a) “cyberbully” means to use the Internet or any other form of electronic communication, including social media, emails and text messages, deliberately or recklessly, to cause, directly or indirectly, harm to another person;

(b) “harm” means physical or emotional harm to a person that would also harm a reasonable person in those circumstances;

(c) “reasonable notice” means, unless a court orders otherwise,

(i) where an application is made within an existing legal proceeding, one day; or

(ii) where an application is made outside of an existing proceeding, five days;

(d) “recklessly” includes by sending electronically or posting online, including in any form of social media, any comment, picture, video or audio if there is a reasonable probability of causing harm to a person;

(e) “youth” means a person under the age of eighteen years;

(f) “youth justice court” has the same meaning as in the *Youth Justice Act*.

(2) Any person who cyberbullies a youth is guilty of an offence.

(3) Any person who fails to comply with an order made under this Act is guilty of an offence.

(4) Where a youth uses an electronic device to commit an offence under this Act, the youth’s parent or guardian

(a) commits an offence under this Act; and

(b) is jointly and severally liable for any injury or loss suffered by any other person for which the youth is held civilly liable,

if

(c) the parent or guardian had been warned that the youth was suspected of cyberbullying; or

(d) the parent or guardian knew or ought to have known the youth was cyberbullying.

(5) In a prosecution for an offence under subsection (4), it is a defence for the person charged to prove that the person has exercised due diligence to prevent the youth from committing an offence.

(6) Section 4 of the *Summary Proceedings Act* does not apply to this Act.

(7) Upon application made in writing served with reasonable notice upon a person, whether within the context of a legal proceeding at any stage or otherwise, a judge of the Provincial Court or of the youth justice court may order that the use by the person of any electronic device or devices be restricted or prohibited for any period of time to prevent cyberbullying if it is in the public interest to make such an order.

(8) An order made pursuant to subsection (7) may include

(a) a provision confiscating temporarily or forfeiting permanently any electronic device, even if owned by a parent or guardian of the person, upon such terms as the court determines; and

(b) a requirement to complete alternative measures pursuant to subsection (10).

(9) Reasonable notice of an application made pursuant to subsection (7) must, where possible, be served upon a parent or guardian of any youth about whom such an application is made.

(10) At any stage in a proceeding prior to the entry of a plea, the informant or a member of the public prosecution service may, by agreement with a youth about whom an information has been sworn or would otherwise be sworn, refer that youth to complete such alternative measures as are prescribed by the regulations.

(11) At any stage in a proceeding, including an application made pursuant to subsection (7), a court may order a youth charged with an offence to complete such alternative measures as the court considers appropriate, but no such referral may be made without the consent of the accused prior to a finding of guilt.

(12) Alternative measures may be ordered instead of or in addition to a sentence, but successful completion of alternative measures must be taken into account in determining the rest of a sentence and sentencing may be adjourned after the making of an order for alternative measures in order to determine the outcome thereof.

(13) Alternative measures must, where reasonably possible, focus on

(a) causing a youth to understand the gravity of what the youth has done and to change the youth's behaviour;

(b) atonement;

(c) restoring the victim of cyberbullying, including restitution for any costs the victim or the victim's family has incurred;

(d) educating members of the community on the perils of cyberbullying, recognizing that the community may be a geographic area or online or both; and

(e) restoring the community to which the youth and the victim belong.

(14) Any passage of time between the time a youth is offered alternative measures and the time the public prosecution service or the investigating police officer is notified that alternative measures have not been successfully completed are not counted in determining an applicable limitation period.

(15) Any person eighteen years of age or older convicted of an offence under this Act is liable

(a) for a first offence, to a fine not exceeding one thousand dollars; or

(b) for a second or subsequent offence, to a fine not exceeding two thousand five hundred dollars.

(16) Any person under the age of eighteen years convicted of an offence under this Act is liable

(a) for a first offence, to a fine not exceeding three hundred dollars; or

(b) for a second or subsequent offence, to a fine not exceeding one thousand dollars.

(17) In addition to an penalty imposed for a conviction under this Act, the judge shall consider and may make an order pursuant to subsection (7).

(18) The Governor in Council may make regulations prescribing alternative measures for the purpose of subsection (10).

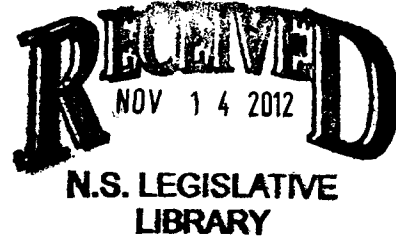
(19) The exercise by the Governor in Council of the authority contained in subsection (18) is a regulation within the meaning of the *Regulations Act*.

RENUMBER CLAUSES ACCORDINGLY

LAW AMENDMENTS COMMITTEE

Red Room, Province House

November 14, 2012



Bill #102 - Education Act (amended)

4:30 p.m. 1. Leana Todd

Bill #97 - Fairer Power Rates Act [amendments to Public Utilities Act]

No representation

Bill #107 - Debt collection and Management Reform (2012) Act [amendments to the Collection Agencies Act and the Consumer Creditors' Conduct Act]

No representation

Bill #125 - War Amps Key Tag Act [amendments to the Motor Vehicle Act]

No representation

Leema Todd

Imagine as you sit here that you are receiving texts from a colleague threatening to beat you up immediately following this session. Not only are you receiving texts but the people on either side of you are as well and you can tell by their reaction that the texts are in reference to you. You realize that this one colleague is gathering a dozen people to confront you after the session is over.

You leave the building. You are swarmed by men and women. The taunting begins and a few urge the first colleague to 'go ahead and punch you already'. He does, you go down and at least three other people climb on top of you and begin punching you. They only stop when they are sure you are not getting up. When you are able to recover enough to get up, you go back inside and report it. You are told it is of no concern as it did not happen inside Province House but outside on public property and it is not the staff's responsibility.

Imagine taking public transit to work every day. You sit in the middle of the bus. As the House resumes, the bus fills up daily with members of the other parties. They are behind you, beside you, in front of you. There is no other bus downtown at this particular time of day so you are forced to travel back and forth to work every day with people with whom you disagree. One day, they decide they are going to target you. Every day. This goes on for weeks. You have no escape. There is name-calling. They spit things at you and tell you to quit your job. One day they are eerily quiet. And they are texting furiously. Just as you get off the bus, someone shows you what they have been texting - a plan to attack you later that day as you are getting on the bus. There is a written threat to 'slit your throat'. You report them when you arrive and you get laughed at. It's just a little government banter. It's all talk. You are waved away and dismissed.

These scenarios are not merely figments of my imagination. I am drawing parallels to incidents happening in our schools. Both scenarios happened here in NS within the past four weeks. They are not isolated incidents. And they are certainly not bullying. These scenarios consist of harassment, physical and verbal assault, as well as threats and acts of violence. We as adults do not tolerate this behavior in our workplaces, and yet we expect our children to tolerate it in their places of learning and call it bullying.

Harrassment

Behavior intended to disturb or upset and is characteristically repetitive. In the legal sense it is intentional behavior which is found threatening or disturbing.

Abuse

Any action that intentionally harms or injures another person.

Physical Abuse

-Infliction of injury by another person

-Includes punching, kicking, biting, burning, beating or use of a weapon

Psychological Abuse

-Threatening the victim with violence, harassing them while at school, isolating the victim

Assault

A physical attack. The touching of another person with an intent to harm.

Stalking

A form of harassment generally comprised of repeated persistent following with no legitimate reason and with the intention of harming, or so as to arouse anxiety or fear of harm in the person being followed. Stalking may also take the form of harassing telephone calls, computer communications, letter-writing.

Children in our schools are being harassed, stalked, assaulted and abused. It is no longer 'school yard rough-housing' or kids being kids. It is abuse and needs to be treated as such.

EXAMPLES (on which parallel scenarios are based)

Boy beaten up outside Amherst school and teachers response was 'not our responsibility as not on school property'

Kennetcook Vice-Principal's response to a texting plot to beat up another student and threats to 'slit his throat' was "It's just kids and it's all just talk"

"I see it, every day and every hour and I ignore it, I don't want to but everyone seems to do it. I think as it happens what if that was my son would I ignore it then, and I know I wouldn't but I just turn around anyways and walk back into the classroom because it isn't my son and every night I tell myself that someone else will step up and deal with it, but every day it happens and no one ever does..."

This is a quote from one of the letters Todd White received from a Teachers' assistant in the Truro area.

SUGGESTIONS

'severely disruptive behaviour' is expanded upon so that it separately addresses harrassment, assault, threats or acts of violence whether they be physical, verbal or through text or social media

principals not only investigate and report but notify authorities in cases of harrassment, assault, abuse and threats/acts of violence - this could be the law enforcement liaison already within the school or a separate entity

all reported incidents be documented

anti-bullying representative in all schools and/or objective organization similar to Dept of Labour/Child Welfare whose sole purpose within the school is to address incidents of bullying/cyber-bullying and creating safe spaces for our children

that the legislation requires staff to report even if it is not on school property/school hours - so perhaps if it were written as 'students who are familiar to them' or is this already a blanket statement?

ie: are staff to support any and all suspected cases just as with child abuse?

AMANDA'S STORY

began with name-calling

she had no friends at her school

she moved schools twice due to bullying

she received texts threatening her and demanding she get out of her own school

15 kids confronted her in front of the rest of the school

someone said 'punch her already'

a girl threw her to the ground and punched her several times

other kids filmed it

she was left alone on the ground

she ran away alone and hid in a ditch

quotes from facebook immediately following her first suicide attempt:

"I hope she's dead"

"She deserved it"

"Did you wash the mud out of your hair?"

quotes from facebook six months later:

"She should try a different bleach this time"

"I hope she dies this time and isn't so stupid"

"I hope she sees this and kills herself"

They were also posting photos of bleach and ditches and tagging her in them.

Children don't begin their abusive behavior this way. It begins with words and 'playground rough-housing' and 'kids talking'

**Bill #102
Education Act (amended)**

**CHANGES RECOMMENDED TO THE
LAW AMENDMENTS COMMITTEE**

PAGE 1 - add the following Clause:

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(i) a Provincial school code of conduct that includes provisions requiring support for enforcement by school board members of the school board’s code of conduct and by school administrators of the school’s code of conduct,

(ii) provisions requiring that school code of conduct policies and school codes of conduct identify inappropriate behaviour, including bullying and cyberbullying,

(iii) provisions requiring that school code of conduct policies and school codes of conduct identify consequences for inappropriate behaviour, including bullying and cyberbullying, and

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RENUMBER CLAUSES ACCORDINGLY

Bill #102
Education Act (amended)

CHANGES RECOMMENDED TO THE
LAW AMENDMENTS COMMITTEE

PAGE 1 - add the following after Clause 3:

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BULLYING

70A (1) In this Section,

(a) “bullying” means any direct or indirect behaviour, comment, act or gesture, including those made through the use of social media, intended to injure, hurt, oppress, intimidate or ostracize, and includes cyberbullying as defined in clause 70B(1)(c),

(i) by a student against a student, teacher, support staff or volunteer, or

(ii) by a student, teacher, support staff or volunteer against a student;

(b) “inappropriate student behaviour” includes bullying, gender-based violence and incidents based on homophobia.

(2) The Minister shall establish policies and guidelines with respect to bullying prevention and intervention in schools, including

(a) training to be provided for all teachers and support staff;

(b) procedures that allow students to report incidents of bullying safely and in a way that minimizes the possibility of reprisal;

(c) procedures for responding appropriately and in a timely manner to bullying;

(d) the use of disciplinary measures in response to bullying;

(e) resources to be provided to support students who are impacted by bullying; and

(f) resources to be provided to students who have been suspended for bullying.

(3) The Minister may establish policies and guidelines respecting

(a) the use of a disciplinary framework that

(i) identifies inappropriate student behaviour,

(ii) provides for appropriate consequences for a student who engages in inappropriate behaviour, a mechanism to inform the student's parents of the reason for disciplinary action and the action that will be taken in the event of any further inappropriate behaviour,

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(c) training for all teachers and support staff to increase their ability to respond to inappropriate student behaviour; and

(d) procedures for responding appropriately and in a timely manner to inappropriate student behaviour.

(4) Every school board shall establish policies and guidelines with respect to

(a) disciplining students who bully or engage in inappropriate student behaviour consistent with those established pursuant to subsections (2) and (3); and

(b) address any other matter and include any other requirement that the Minister may specify.

(5) Every school board shall prepare an annual report that states

(a) the incidence and nature of bullying and inappropriate student behaviour for each school within its jurisdiction; and

(b) the measures taken to improve each school's results with respect to preventing and intervening in bullying and inappropriate student behaviour and enhancing the quality of its learning environment,

and file it with the Minister and publish it on the school board's website no later than July 1st of each year.

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CYBERBULLYING

70B (1) In this Section,

(a) “cyberbully” means to use the Internet or any other form of electronic communication, including social media, emails and text messages, deliberately or recklessly, to cause, directly or indirectly, harm to another person;

(b) “harm” means physical or emotional harm to a person that would also harm a reasonable person in those circumstances;

(c) “reasonable notice” means, unless a court orders otherwise,

(i) where an application is made within an existing legal proceeding, one day; or

(ii) where an application is made outside of an existing proceeding, five days;

(d) “recklessly” includes by sending electronically or posting online, including in any form of social media, any comment, picture, video or audio if there is a reasonable probability of causing harm to a person;

(e) “youth” means a person under the age of eighteen years;

(f) “youth justice court” has the same meaning as in the *Youth Justice Act*.

(2) Any person who cyberbullies a youth is guilty of an offence.

(3) Any person who fails to comply with an order made under this Act is guilty of an offence.

(4) Where a youth uses an electronic device to commit an offence under this Act, the youth’s parent or guardian

(a) commits an offence under this Act; and

(b) is jointly and severally liable for any injury or loss suffered by any other person for which the youth is held civilly liable,

if

(c) the parent or guardian had been warned that the youth was suspected of cyberbullying; or

(d) the parent or guardian knew or ought to have known the youth was cyberbullying.

(5) In a prosecution for an offence under subsection (4), it is a defence for the person charged to prove that the person has exercised due diligence to prevent the youth from committing an offence.

(6) Section 4 of the *Summary Proceedings Act* does not apply to this Act.

(7) Upon application made in writing served with reasonable notice upon a person, whether within the context of a legal proceeding at any stage or otherwise, a judge of the Provincial Court or of the youth justice court may order that the use by the person of any electronic device or devices be restricted or prohibited for any period of time to prevent cyberbullying if it is in the public interest to make such an order.

(8) An order made pursuant to subsection (7) may include

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(12) Alternative measures may be ordered instead of or in addition to a sentence, but successful completion of alternative measures must be taken into account in determining the rest of a sentence and sentencing may be adjourned after the making of an order for alternative measures in order to determine the outcome thereof.

(13) Alternative measures must, where reasonably possible, focus on

(a) causing a youth to understand the gravity of what the youth has done and to change the youth's behaviour;

(b) atonement;

(c) restoring the victim of cyberbullying, including restitution for any costs the victim or the victim's family has incurred;

(d) educating members of the community on the perils of cyberbullying, recognizing that the community may be a geographic area or online or both; and

(e) restoring the community to which the youth and the victim belong.

(14) Any passage of time between the time a youth is offered alternative measures and the time the public prosecution service or the investigating police officer is notified that alternative measures have not been successfully completed are not counted in determining an applicable limitation period.

(15) Any person eighteen years of age or older convicted of an offence under this Act is liable

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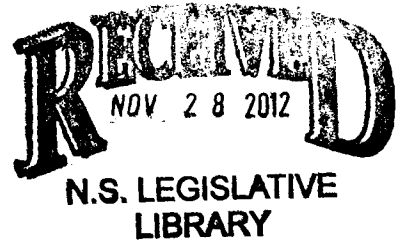
(19) The exercise by the Governor in Council of the authority contained in subsection (18) is a regulation within the meaning of the *Regulations Act*.

RENUMBER CLAUSES ACCORDINGLY

LAW AMENDMENTS COMMITTEE

Red Room, Province House

Tuesday, November 20, 2012



Bill #111 - Fur Industry Act (amended)

- 2:00 p.m.
1. Simeon Roberts, Managing Director
Nova Scotia Mink Breeders Association
 2. Dan Mullen
 3. Henry Vissers, Executive Director
Beth Densmore, President
Nova Scotia Federation of Agriculture
 4. Matt Moses

Bill #119 - Cosmetology Act

- 3:00 p.m.
1. Dana Sharkey, Executive Director
Paula Minnikin, Consultant
Cosmetology Association of Nova Scotia

Bill #94 - House of Assembly Act (amended)

- 3:00 p.m.
1. Steve Sampson, Warden
Richmond County
 2. Glen Myra, Past President
Tom Giovannetti, Deputy Chair Legislative Liaison
Nova Scotia Land Surveyors

Bill #131 - Education Act (amended)

- 3:30 p.m.
1. Dr. Paul Bennett, Director, *Schoolhouse Consulting*
Adjunct Professor of Education, *St. Mary's University*
 2. Anne Totten
Students First Nova Scotia

3. David Cameron

Bill #102 - Education Act (amended)

(deferred from previous meeting)

Bill #107 - Debt Collection and Management Reform (2012) Act

(deferred from previous meeting)

Bill #127 - Art Gallery of Nova Scotia Act (amended)

No representation