

Subject: FW: Correspondence from the Minister of Justice and Attorney General of Canada

From: Ministerial Correspondence Unit - Mailout <Ministerial.CorrespondenceUnit-Mailout@justice.gc.ca>

Sent: Tuesday, July 25, 2023 4:35 PM

To: Monica Hawkins <monica.hawkins@eastferris.ca>; Municipality of East Ferris <municipality@eastferris.ca>

Subject: Correspondence from the Minister of Justice and Attorney General of Canada

Dear Ms. Hawkins:

Thank you for your correspondence, sent on behalf of Municipality of East Ferris, concerning Canada's bail system. The Office of the Prime Minister has also forwarded to me a copy of your correspondence.

As Minister of Justice and Attorney General of Canada, I understand the importance of ensuring that criminal laws keep our communities safe.

I wish to assure you that the federal, provincial, and territorial governments continue to work together to examine ways to improve the criminal justice system, including with respect to the bail regime and its implementation. On March 10, 2023, I convened an urgent meeting with the provincial and territorial ministers responsible for Justice and Public Safety to discuss our shared responsibility for the bail system, as well as proposals to address particular challenges related to repeat violent offenders and to serious offences committed with firearms and other dangerous weapons such as knives and bear spray.

At the meeting, with the support of my provincial and territorial counterparts, I committed to introducing legislation on bail reform during the current legislative session. In fulfillment of this promise, on May 16, 2023, I introduced in the House of Commons Bill C-48, *An Act to amend the Criminal Code (bail reform)*. The Bill would amend the *Criminal Code*'s bail regime to address serious repeat violent offending with firearms, knives, bear spray, and other weapons. Bill C-48 would also make changes at the bail stage to address the enhanced risks posed by intimate partner violence. The proposed changes were developed in close collaboration with the provinces and territories, and are informed by engagement with other stakeholders including law enforcement, community organizations, and Indigenous partners.

The Bill would make the following changes to the bail provisions of the *Criminal Code*:

- create a new "reverse onus"—in other words, where the accused must demonstrate that they should be released—to target serious repeat violent offending involving weapons
- expand the list of firearms offences that trigger a reverse onus
- broaden the reverse onus targeting repeat offenders of intimate partner violence
- clarify the meaning of the terms "prohibition order" in an existing reverse onus for offences involving weapons
- require courts to consider an accused person's history of convictions for violence, and community safety and security concerns, when making a bail decision.

The reforms proposed in Bill C-48 are only one part of a broader solution to ensure the objectives of the bail system are being met. Law reform is an important part of maintaining and enhancing public safety, but programs, policies, and investments are also critical to fostering safer communities. This includes investments to enhance bail enforcement, as well as improving access to housing and to mental health and addictions supports. All levels of government agree that improved data collection is necessary to fully understand how the criminal justice system operates.

Canada's bail system is the joint responsibility of federal, provincial, and territorial governments. The federal government establishes the criminal law within the bounds set by the *Canadian Charter of Rights and Freedoms*. Provincial and territorial governments are responsible for the administration of justice, including most bail hearings and enforcement of bail conditions, as well as for most facilities where people awaiting trial are held. The Honourable Doug Downey, Attorney General of Ontario, is responsible for the administration of justice in your province. Should you wish to share your concerns with Minister Downey, he can be reached at attorneygeneral@ontario.ca.

The Charter gives accused persons the right not to be denied reasonable bail without just cause, the right to be presumed innocent until proven guilty, and the right not to be deprived of liberty except in accordance with the principles of fundamental justice.

However, the right to bail is not absolute. Under Canada's bail system, a person charged with a criminal offence can be detained while awaiting trial if necessary to protect the public (including victims), ensure the accused's attendance in court, or maintain confidence in the administration of justice. The onus is on the prosecutor to show cause for detention on one of these three grounds. In cases where an accused person is granted bail, they may be subject to conditions limiting their freedom while on release; judges determine such conditions based on the nature of the alleged offence and other factors.

The law is clear that police officers and judges must not release accused persons if they believe that doing so would endanger members of the public. The *Criminal Code* prohibits a police officer from releasing an accused where the officer believes, on reasonable grounds, that there is a need to ensure the safety and security of any victim of or witness to an offence. Similarly, when accused are brought before a judge or justice of the peace for bail, the decision maker must detain the accused where it is necessary for the protection or safety and security of victims and witnesses.

Please be assured that, as Minister of Justice and Attorney General of Canada, I am committed to making the criminal justice system fairer, more equitable, and safer for all Canadians.

Thank you again for writing.

Sincerely,

The Honourable David Lametti, P.C., K.C., M.P.
(he/him)
Minister of Justice and Attorney General of Canada