## CRIMINAL CODE OF CANADA

Source: http://www.sace.ab.ca/Code.htm

## **Relating to Sexual Assault**

The definition of consent is found in section 153(2) and (3):

- 273.1(1) **Meaning of "consent"** Subject to subsection (2) and subsection 265(3), "consent" means, for the purposes of sections 271, 272 and 273, the voluntary agreement of the complainant to engage in the sexual activity in question.
- (2) Where no consent obtained No consent is obtained, for the purposes of sections 271, 272 and 273, where
- (a) the agreement is expressed by the words or conduct of a person other than the complainant;
- (b) the complainant is incapable of consenting to the activity;
- (c) the accused counsels or incites the complainant to engage in the activity by abusing a position of trust, power or authority;
- (d) the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
- (e) the complainant having consented to engage in the sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

This is a very broad definition that illustrates what would constitute non-consensual sexual activity. It recognizes that people cannot always speak up and say no. They may be disabled or frozen in some way from speaking up, they may be intimidated or coerced into saying yes when they don't want to, they may be too afraid to say no. According to the Criminal Code of Canada there is no consent in any of these scenarios. The Criminal Code of Canada views sexual assault as an assault that is sexual in nature. The sexual assault offences include: sexual assault; sexual assault with a weapon, threats to a third party or causing bodily harm; and aggravated sexual assault.

- 272(1) Sexual assault with a weapon, threats to a third party or causing bodily harm Every person commits an offence who, in committing a sexual assault,
- (a) carries, uses or threatens to use a weapon or an imitation of a weapon;
- (b) threatens to cause bodily harm to a person other than the complainant;
- (c) causes bodily harm to the complainant; or (d) is a party to the offence with any other person.
- 273(1) **Aggravated sexual assault** Every one commits an aggravated sexual assault who, in committing a sexual assault, wounds, maims, disfigures or endangers the life of the complainant.

## **Relating to Dating/Domestic Violence**

The sections below outline the exact offences that an offender can be charged with:

- 264.1(1) **Uttering Threats** Every one commits an offence who, in any manner, knowingly utters, conveys or causes any person to receive a threat
- (a) to cause death or bodily harm to any person;
- (b) to burn, destroy or damage real or personal property; or
- (c) to kill, poison or injure an animal or bird that is the property of any person.
- 265(1) **Assault** A person commits an assault when
- (a) without the consent of the other person, he applies force intentionally to that other person, directly or indirectly;
- (b) he attempts or threatens, by an act or gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or
- (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.
- 267 Assault with a weapon or causing bodily harm Every one who, in committing an assault,
- (a) carries, uses or threatens to use a weapon or an imitation thereof, or
- (b) causes bodily harm to the complainant.
- 268(1) **Aggravated assault** Every one commits and aggravated assault who wounds, maims, disfigures or endangers the life of the complainant.

These Criminal Code sections refer to physical violence. However, there are other types of abuse that can be present in relationships. Besides physical abuse there can be emotional, psychological, sexual, financial and/or spiritual abuse present in violent relationships. Just because you are not being hit, does not mean that you are not in an abusive relationship. Other types of abuse may not result in criminal charges being laid, but they are abusive just the same. All types of abusive relationships are harmful, wrong, may escalate to physical violence and therefore, you may want to consider leaving to keep yourself safe.

## **Relating to Child Sexual Abuse**

- 151 **Sexual Interference** Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of fourteen years is guilty of an indictable offence and is liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.
- 152 Invitation to Sexual Touching Every person who, for a sexual purpose, invites, counsels or incites a person under the age of fourteen years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person under the age of fourteen years, is guilty of an indictable offence and is liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.
- 153(1) **Sexual Exploitation** Every person who is in a position of trust or authority towards a young person or is a person with whom the young person is in a relationship of dependency and who
- (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person, or
- (b) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years or is guilty of an offence punishable on summary conviction.

153(2) **Definition of "young person"** - In this section, "young person" means a person fourteen years of age or more but under the age of eighteen years.

Incest is another form of child sexual abuse. Incest is sexual abuse of a child by an adult that is closely related to the child.

- 155(1) **Incest** Every one commits incest who, knowing that another person is by blood relationship his or her parent, child, brother, sister, grandparent or grandchild, as the case may be, has sexual intercourse with that person.
- 155(2) **Punishment** Every one who commits incest is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.
- 155(4) "brother", "sister" In this section, "brother" and "sister", respectively, include half-brother and half-sister.

Offenders who commit incest with a child can also be charged with the general child abuse sections in the Criminal Code of Canada.