

A BILL

ENTITLED

AN ACT to Amend the Criminal Justice
(Administration) Act.

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BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Criminal Justice (Administration) (Amendment) Act, 2016, and shall be read and construed as one with the Criminal Justice (Administration) Act (hereinafter referred to as the “principal Act”) and all amendments thereto.

Short title and
construction.

Insertion of
new section
15A into
principal
Act.

2. The principal Act is amended by inserting next after section 15 the following section—

Punishment
for certain
offences
committed
against a
person
under the
age of
eighteen
years.

15A.—(1) Subject to subsections (3) and (5), where a person (in this section called the “convicted person”) is convicted in a Court of an offence specified in Column A of the Eighth Schedule, committed against a person who was under the age of eighteen years at the time of commission of the offence, the convicted person shall be liable, in addition to the term of imprisonment (in this section called the “original penalty”) which may be imposed on the convicted person in respect of the offence, to imprisonment for an additional term not exceeding that specified in Column B of the Eighth Schedule in respect of the offence.

Eighth
Schedule.

(2) Subsection (1) shall have effect notwithstanding that the total of the original penalty and the additional term of imprisonment exceeds the maximum that could otherwise be imposed on the convicted person.

(3) Subject to subsection (5), where a sentence of imprisonment for life is imposed on a convicted person in respect of an offence specified in the Eighth Schedule in circumstances where the victim of the offence was under the age of eighteen years at the time of the commission of the offence—

- (a) no additional term of imprisonment shall be imposed under subsection (1); and
- (b) the minimum period which the person shall serve before becoming eligible for parole shall be increased by ten years.

(4) In subsection (1), “Court” means, the Supreme Court and the Circuit Court Division and the High Court Division of the Gun Court.

(5) This section shall not apply where the convicted person was under the age of eighteen years at the time of commission of the offence.”.

3. The principal Act is amended by inserting next after the Seventh Schedule the following—

Insertion of Eighth Schedule into principal Act.

“ EIGHTH SCHEDULE (Section 15A)

Additional penalty where person against whom offence is committed is under the age of eighteen years

<u>Column A</u>	<u>Column B</u>
<u>Offence</u>	<u>Additional Penalty Limit</u>
1. Murder (section 2 of the <i>Offences Against the Person Act</i>) where a sentence of imprisonment for life has not been imposed.	Ten years.
2. Conspiring or soliciting to commit murder (section 8 of the <i>Offences Against the Person Act</i>).	Ten years.
3. Administering poison, or wounding with intent to murder (section 13 of the <i>Offences Against the Person Act</i>) where a sentence of imprisonment for life has not been imposed.	Ten years.
4. By other means attempting to commit murder (section 17 of the <i>Offences Against the Person Act</i>) where a sentence of imprisonment for life has not been imposed.	Ten years.
5. Shooting or attempting to shoot or wounding with intent to do grievous bodily harm (section 20 of the <i>Offences Against the Person Act</i>) where a sentence of imprisonment for life has not been imposed.	Ten years.

Column A	Column B
<i>Offence</i>	<i>Additional Penalty Limit</i>
6. Attempting to choke, <i>etc.</i> , in order to commit indictable offence (section 23 of the <i>Offences Against the Person Act</i>) where a sentence of imprisonment for life has not been imposed.	Ten years.
7. Administering drug with intent to commit indictable offence (section 24 of the <i>Offences Against the Person Act</i>) where a sentence of imprisonment for life has not been imposed.	Ten years.
8. Administering poison so as to endanger life or inflict grievous bodily harm (section 25 of the <i>Offences Against the Person Act</i>).	Ten years.
9. Kidnapping with certain intents (section 70 of the <i>Offences Against the Person Act</i>) where a sentence of imprisonment for life has not been imposed.	Ten years.
10. Unnatural crime (section 76 of the <i>Offences Against the Person Act</i>).	Ten years.
11. Attempt to commit unnatural crime (section 77 of the <i>Offences Against the Person Act</i>).	Ten years.
12. Rape (section 3 of the <i>Sexual Offences Act</i>) where a sentence of imprisonment for life has not been imposed.	Ten years.

Column A	Column B
<i>Offence</i>	<i>Additional Penalty Limit</i>
13. Grievous sexual assault (section 4 of the <i>Sexual Offences Act</i>) where a sentence of imprisonment for life has not been imposed.	Ten years.
14. Incest (section 7 of the <i>Sexual Offences Act</i>) where a sentence of imprisonment for life has not been imposed.	Ten years.
15. Indecent assault (section 13 of the <i>Sexual Offences Act</i>).	Ten years.
16. Violation of person suffering from mental disorder or physical disability (section 16 of the <i>Sexual Offences Act</i>).	Ten years.
17. Forcible abduction (section 17 of the <i>Sexual Offences Act</i>).	Ten years.
18. Procurement (section 18 of the <i>Sexual Offences Act</i>).	Ten years.
19. Procuring violation of person by threats or fraud or administering drugs (section 19 of the <i>Sexual Offences Act</i>).	Ten years.
20. Unlawful detention with intent to have sexual intercourse, <i>etc.</i> , (section 21(1) of the <i>Sexual Offences Act</i>).	Ten years.
21. Counselling, procuring or commanding any other person to commit any of the offences specified in Items 1–20 of this Column where a sentence of imprisonment for life has not been imposed.	Ten years.”.

Amendment of
Parole Act.

4. Section 7(6) of the *Parole Act* is amended—

- (a) in paragraph (c), by deleting the word “and”;
- (b) by deleting the full stop appearing at the end of paragraph (d) and substituting therefor the word “; and”; and
- (c) by inserting next after paragraph (d) the following—

“(e) whether an additional term of imprisonment has been imposed under—

- (i) section 15(A)(1) of the *Criminal Justice Administration Act*;
- (ii) section 4A of the *Trafficking in Persons Act*; or
- (iii) any other enactment that makes provision for the imposition of an additional term of imprisonment in circumstances specified in that enactment.”.

MEMORANDUM OF OBJECTS AND REASONS

The Criminal Justice (Administration) Act makes special provision in relation to the mode of trial and punishment of certain offences.

A decision has been taken to enact legislation to provide for stronger penalties for serious violent offences against children. This Bill seeks to amend the Act in order to give effect to that decision.

This Bill is a companion measure to the Bill shortly entitled the *Child Care and Protection (Amendment) Act, 2016*.

PORTIA SIMPSON MILLER
Prime Minister

ABILL

ENTITLED

AN ACT to Amend the Criminal Justice
(Administration) Act.

As introduced by the Honourable Prime Minister.

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SECTION 15 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

15.—(1) If, on the trial of any person charged with any felony or misdemeanour, it shall appear to the jury, upon the evidence, that the defendant did not complete the offence charged, but that he was guilty only of an attempt to commit the same such person shall not, by reason thereof, be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanour charged, but is guilty of an attempt to commit the same; and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or misdemeanour charged in the said indictment; and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanour for which he was so tried.

(2) If, upon the trial of any person for any misdemeanour, it shall appear that the facts given in evidence amount in law to a felony, such person shall not, by reason thereof, be entitled to be acquitted of such misdemeanour; and no person tried for such misdemeanour shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which such trial may be had shall think fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony; in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanour.

(3) If, upon the trial of any indictment for any felony, except murder or manslaughter, where the indictment shall allege that the defendant did cut, stab, or wound any person, the jury shall be satisfied that the defendant is guilty of the cutting, stabbing, or wounding charged in such indictment, but are not satisfied that the defendant is guilty of the felony charged in such indictment, then, and in every such case, the jury may acquit the defendant of such felony, and find him guilty of unlawfully cutting, stabbing, or wounding, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for the misdemeanour of cutting, stabbing, or wounding.

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SECTION 40 OF THE OFFENCES AGAINST THE PERSON ACT
WHICH IT IS PROPOSED TO AMEND

40. When any person shall be charged before a court of summary jurisdiction with an assault or battery upon any male child whose age shall not, in the opinion of such court, exceed fourteen years, or upon any female either

upon the complaint of the party aggrieved or otherwise, the said court, if the assault or battery is of such an aggravated nature that it cannot, in their opinion, be sufficiently punished under the provisions hereinbefore contained as to common assaults and batteries, may proceed to hear and determine the same in a summary way, and if the same be proved, may convict the prisoner accused; and every such offender shall be liable to imprisonment with or without hard labour for a term not exceeding six months, or to pay a fine not exceeding (together with costs) the sum of two thousand dollars, and, if the court shall so think fit, in any of the said cases, shall be bound to keep the peace, and be of good behaviour for a period not exceeding six months from the expiration of such sentence.