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Federal bail and sentencing reform: Real-world impact in B.C.

By **Simran Sandhu**

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Law360 Canada (November 14, 2025, 11:42 AM EST) -- On Oct. 23, 2025, the federal government introduced the *Bail and Sentencing Reform Act* (Bill C-14), signalling a significant shift in bail and sentencing policy across Canada. The legislation aims to make bail harder to obtain in certain higher-risk cases and to impose tougher sentencing regimes for repeat and violent offenders. The message is clear: more detention upfront and longer sentences at the back end.

For defence counsel practising in British Columbia, several practical questions immediately arise:

- How will expanded reverse-onus rules change release strategy?
- What Charter rights risks are engaged by a broader detention net and tougher sentencing regime?
- Will B.C.'s already-strained remand system absorb the additional pressure — and at what human cost?

Below is an overview of what has changed, what remains the law and what to watch in B.C. courts.

What's in the new legislation

The Act broadens the categories of offences for which a reverse onus applies — meaning the accused must demonstrate why they should be released. These changes primarily target violent and repeat offenders, particularly in cases involving organized crime, auto theft and human trafficking.

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The Act also tightens release controls, expands powers to cancel release documents, and increases expectations for structured supervision and release planning.

On sentencing, the legislation introduces new aggravating factors. Courts will now be required to treat prior violent convictions and assaults on first responders as aggravating factors when sentencing. The Act also facilitates the imposition of consecutive sentences in defined circumstances, introduces new sentencing provisions for repeat and violent offenders (including organized retail theft), and restricts eligibility for conditional sentences in sexual assault cases.

In practical terms, the government intends for these reforms to have tangible effects in British Columbia courtrooms, where concern over violent repeat offending has been particularly acute.

What has not changed: The governing bail principles

Even with these new measures, the constitutional framework remains intact:

- The right not to be denied reasonable bail without just cause continues to govern. A shift toward routine detention could trigger serious constitutional challenges.
- Courts must still consider the "ladder" of release and impose the least restrictive conditions that are necessary and proportionate to the circumstances.
- The tertiary-ground for detention (undermining confidence in the administration of justice) remains available only in limited, fact-specific circumstances.
- Conditions of release must still be necessary, proportionate and tailored, rather than stacked in a way that sets the accused up to fail.

In other words, while Parliament may expand reverse-onus categories, courts will continue to evaluate each detention decision under the Charter and established case law.

Defence strategy in the new landscape

1) Reverse-onus preparation becomes standard

When reverse-onus applies, the defence must come ready to lead evidence — not just cross-examine the Crown's risk theory. At first appearance, counsel should present a verified supervision plan, letters of support, treatment arrangements, and documentation of routine, transportation, curfew

and monitoring arrangements.

2) Charter litigation will be front and centre

Expect constitutional challenges: is detention becoming the norm rather than the exception? Defence counsel must build the record early, documenting clients' supports, housing, mental health, addictions, Indigenous identity and structural disadvantages.

3) Sentencing posture: Narrow the aggravation, humanize the person

At sentencing, the defence must engage critically with each new aggravating factor. For example, consider whether the facts truly are those of "organized retail theft"? Is recent violent recidivism adequately proven? Defence must also emphasize the client's narrative — *Gladue* factors, therapeutic progress, community connection and guard the core principle of proportionality even when consecutive sentences are being promoted.

What it means for B.C. remand

British Columbia's remand population is already managing complex needs: mental-health issues, addictions, Indigenous over-representation and systemic capacity stress in the correctional system. Any expansion of the remand net will exacerbate these pressures.

Tighter bail regimes without a parallel investment in supervision supports, housing and health services will likely raise detention counts, create delays at first appearances and complicate effective release planning.

In short, harder bail may mean more people waiting in custody often for reasons related to need, not risk, unless the system adapts quickly. Delays and access issues then create a loop where detention effectively becomes the default.

Fairness, safety and evidence

Public safety is both proper and urgent. But in B.C., the overall crime rate has not surged in the way media headlines suggest, even while high-profile incidents fuel public anxiety. Reforms must remain evidence-based and Charter compliant. A broader detention net that captures low-risk, high-need individuals will not enhance safety; it will produce churn in the system and harm to vulnerable populations.

What to watch next

The first provincial and federal appellate decisions interpreting the new reverse-onus categories — these will guide first-instance courts in B.C.

Whether B.C. expands and funds bail supervision, community supports, mental-health and addiction services — the missing half of the release equation.

Monthly metrics of remand admissions and total custody counts in B.C., disaggregated by Indigenous identity and other structural markers. These numbers will reveal the true human impact of the reforms.

Bottom line for defence in B.C.

In practice, the defence playbook is now:

1. Front-load release planning — arrive at first appearance with documents, a supervisor ready to testify and treatment slots confirmed.

2. Hold the line on the ladder of release — resist excessive surety demands, cash conditions and overly restrictive monitoring that function as detention in all but name.

3. Build the Charter record early — document the client's supports, barriers and individual

circumstances

4. Monitor the human impact — use B.C.'s remand statistics to ground your submissions in real-world impacts on over-incarcerated populations and systemic disadvantage.

The federal legislation signals a shift toward more detention upfront and longer sentences in identified cases. For defence counsel in B.C., protecting individual rights becomes even more critical. By insisting on individualized, evidence-based release decisions and proportional sentencing, the defence ensures that the scales of justice remain balanced, even as the trend moves toward greater detention.

Simran Sandhu grew up in Chilliwack, British Columbia. She completed her bachelor of arts at the University of British Columbia Okanagan, before earning her Juris Doctor from Thompson Rivers University. Sandhu articled at Stern Shapray Criminal Lawyers before joining the firm. Her work focuses on Criminal Code offences and Motor Vehicle Act charges. Sandhu frequently assists clients who are not Canadian citizens and understands the serious immigration consequences a criminal conviction can carry.

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