

OBJECTS AND REASONS

This Bill would provide for a *Criminal Justice (Miscellaneous Provisions) Act, 2020* to amend

- (a) the *Criminal Procedure Act*, Cap. 127 in order to delete sections 6A and 7A of the Act;
- (b) the *Evidence Act*, Cap. 121 in order to abolish the right of the accused to make an unsworn statement on trial by indictment;
- (c) the *Juries Act*, Cap. 115B in order to provide for majority verdicts in certain cases of murder;
- (d) the *Mental Health Act*, Cap. 45 in order to provide for detention in a mental hospital;
- (e) the *Offences Against the Person Act*, Cap. 141 in order to provide for the punishment for murder and for diminished responsibility; and
- (f) the *Treason Act*, Cap. 155A in order to provide for the punishment for high treason.

Arrangement of Sections

1. Short title
2. Amendment to enactments set out in the *Schedule*

SCHEDULE

BARBADOS

A Bill entitled

An Act to amend certain enactments relating to criminal law and criminal procedure.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Criminal Justice (Miscellaneous Provisions) Act, 2020*.

Amendment to enactments set out in the Schedule

2. *The enactments set out in column 1 of the Schedule are amended to the extent set out opposite thereto in column 2.*

SCHEDULE

(Section 2)

CONSEQUENTIAL AMENDMENTS

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
1. <i>Criminal Procedure Act</i> , Cap. 127	Delete sections 6A and 7A.
2. <i>Evidence Act</i> , Cap. 121	Delete sections 22 and 23. Delete section 24(2) and insert the following: <div style="padding-left: 40px;">"(2) In criminal proceedings, before an accused gives evidence, the court shall inform the accused, if there is a jury, in the presence of the jury, that he has a choice of swearing an oath or making an affirmation before giving evidence."</div>
3. <i>Juries Act</i> , Cap. 115B	Delete section 38 and substitute the following: <div style="padding-left: 40px;">"Unanimous verdict for high treason and murder</div> <div style="padding-left: 40px;">38. (1) In a trial on indictment for high treason, the verdict of the jury, whether of conviction or of acquittal in respect of that offence, shall be unanimous.</div> <div style="padding-left: 40px;">(2) In a trial on indictment for murder to which any paragraph of section 2(2) of the <i>Offences Against the Person Act</i>, Cap. 141 applies, the verdict of the jury, whether of conviction or of acquittal in respect of that offence, shall be unanimous.</div> <div style="padding-left: 40px;">(3) In a trial on indictment for murder to which no paragraph of section 2(2) of the <i>Offences Against the Person Act</i>, Cap. 141 applies, the verdict of the jury, whether of conviction or of acquittal, need not be unanimous, if not less than 9 of the jury are agreed thereon.</div>

*Schedule - (Cont'd)*CONSEQUENTIAL AMENDMENTS - *(Cont'd)*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
3. <i>Juries Act</i> , Cap. 115B - (Concl'd)	<p>In section 39,</p> <p>(a) delete the word "9" appearing in paragraph (a) and substitute the word "8"; and</p> <p>(b) delete the word "treason" appearing in paragraph (b) and substituting the words "high treason".</p>
4. <i>Mental Health Act</i> , Cap. 45	<p>Delete section 13 and substitute the following:</p> <p>"Detention in mental Hospital</p> <p>13. (1) Notwithstanding section 7(1), where a person on trial before the High Court</p> <p>(a) is found unfit to plead;</p> <p>(b) is found not guilty by reason of insanity; or</p> <p>(c) is found guilty but is suffering from diminished responsibility,</p> <p>that Court shall order him to be detained in a mental hospital during the Court's pleasure and thereupon the Court may give such directions for the safe keeping of the appellant during the detention as the Court thinks fit.</p> <p>(2) Where the Court has ordered a person to be detained pursuant to subsection (1) and the period of detention served by that person as a result of the Order is in excess of 4 years, the Court</p> <p>(a) shall as soon as possible after 4 years of the period of detention has been served, review that sentence and issue further directions; and</p>

*Schedule - (Cont'd)*CONSEQUENTIAL AMENDMENTS - *(Cont'd)*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
4. <i>Mental Health Act</i> , Cap. 45 - (Concl'd)	<p>(b) where the period of detention is ordered by the Court to continue under paragraph (a), shall review the sentence every 4 years thereafter.</p> <p>(3) The Court may by warrant either absolutely or conditionally discharge any person detained under subsection (1)."</p>
5. <i>Offences Against the Person Act</i> , Cap. 141	<p>Delete section 2(1) and substitute the following:</p> <p>"(1) Any person convicted of murder may be sentenced to, and may suffer, death where</p> <p>(a) the murder was committed with a high level of brutality, cruelty, depravity, or callousness;</p> <p>(b) the murder involved calculated or lengthy planning;</p> <p>(c) the deceased was a Judge, a Magistrate, the Director of Public Prosecutions or a legal officer in the Department of Public Prosecutions and the office of the deceased was a factor in the commission of the offence;</p> <p>(d) the deceased was a member of the Royal Barbados Police Force, a member of the Barbados Defence Force, a member of the Special Constabulary or a prison officer and the office of the deceased was a factor in the commission of the offence;</p> <p>(e) the deceased was a member of a group of persons who have a common characteristic such as race, nationality, ethnicity or religion and this was a factor in the commission of the offence;</p>

Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - *(Cont'd)*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
<p>5. <i>Offences Against the Person Act</i>, Cap. 141 - (Cont'd)</p>	<p>(f) the deceased was a witness or a juror in a pending or concluded trial and this was a factor in the commission of the offence;</p> <p>(g) the deceased was particularly vulnerable because of his age, health or disability or because of any other factor;</p> <p>(h) the person convicted was convicted of 2 or more offences of murder, whether or not arising from the same circumstances; or</p> <p>(i) in the opinion of the Court, there are any other exceptional circumstances which must be taken into account and which justify the imposition of a sentence of death.</p> <p>(2) Any person convicted of murder, otherwise than as provided in subsection (1), may be sentenced to imprisonment for life."</p>

Delete section 4 and substitute the following:

"Diminished responsibility

4. (1) Where a person kills or is party to the killing of another, he shall not be convicted of murder if he was suffering from such abnormality of mind, whether arising from a condition of arrested or retarded development of mind or any inherent cause or induced by disease or injury, as substantially impaired his mental responsibility for his acts and omissions in doing or being a party to the killing.

(2) On a charge of murder, it shall be for the defence to prove that the person is by virtue of this section not liable to be convicted of murder.

Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - *(Cont'd)*

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
<p>5. <i>Offences Against the Person Act, Cap. 141 - (Cont'd)</i></p>	<p>(3) A person who but for this section would be liable, whether as principal or as accessory, to be convicted of murder shall be liable instead to be convicted of manslaughter.</p> <p>(4) The fact that one party to a killing is by virtue of this section not liable to be convicted of murder shall not affect the question whether the killing amounted to murder in the case of any other party to it.</p> <p>(5) Where on a trial for murder the accused contends</p> <p style="margin-left: 40px;">(a) that at the time of the alleged offence he was insane so as not to be responsible according to law for his actions; or</p> <p style="margin-left: 40px;">(b) that at the time he was suffering from such abnormality of mind as is specified in subsection (1),</p> <p>the court shall allow the prosecution to adduce or elicit evidence tending to prove the other of those contentions and may give directions as to the stage of the proceedings at which the prosecution may adduce such evidence.</p> <p>(6) Where on a trial for murder</p> <p style="margin-left: 40px;">(a) evidence is given that the accused was at the time of the alleged offence suffering from such abnormality of mind as is specified in subsection (1); and</p>

Schedule - (Concl'd)

CONSEQUENTIAL AMENDMENTS - *(Cont'd)*

Column 1

Column 2

Enactments

Amendments

5. *Offences Against the Person Act, Cap. 141 - (Concl'd)*

(b) the accused is convicted of manslaughter,

the court shall require the jury to declare whether the accused was so convicted by them on the ground of such abnormality of mind, and, if the jury declare that the conviction was on that ground, the court may instead of passing such sentence as is provided by law for that offence, order the person so convicted to be detained in custody, in such place as the court appoints, until the Court's pleasure is known, and thereupon the court may give such order for the safe custody of the person during the Court's pleasure as the court thinks fit.

(7) The court acting in his discretion may by instrument in writing order the discharge, either absolutely or on such conditions as to the duration of the discharge or otherwise as he thinks fit, of a person ordered to be detained under subsection (6)."

6. *Treason Act, Cap. 155A*

Delete section 7 and substitute the following:

"Punishment for high treason

7. Everyone who commits high treason is guilty of an offence triable on indictment and on conviction may be sentenced to, and may suffer, death."

Read three times and passed the House of Assembly this
day of _____, 2020.

Speaker

Read three times and passed the Senate this _____ day of
, 2020.

President