



CONSULTATION PAPER

Proposed amendments to the Criminal Code Act 1907

This Consultation Paper contains proposals to update the Criminal Code Act 1907 to meet the evolving needs of trials by jury in Bermuda

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1. INTRODUCTION

This Consultation Paper (“CP”) outlines the Bermuda Government’s Law Reform project to amend the Criminal Code Act 1907 (“**Criminal Code**”). The proposals contained in this CP have been brought forward by The Hon. Ms. Kim Wilkerson, Attorney-General & Minister of Justice.

The primary objective of these proposals is to update Bermuda’s approach to high profile criminal trials that are heard before a jury. Updating laws in this regard will address jury tampering and small community bias by juries in criminal trials.

The proposals address the following areas:

1. Amendments to allow for criminal trials to be conducted without a jury; and
2. Introducing policies for the implementation of Artificial Intelligence (“AI”) assisted juror vetting.

Attached to this CP is an illustrative draft of the proposed amendments to the Criminal Code.

The Bermuda Government invites feedback from stakeholders on the proposed amendments. Comments should be sent to lawreform@gov.bm no later than 31 December 2025.

2. CRIMINAL TRIALS CONDUCTED WITHOUT A JURY

PROPOSAL 1

Proposal 1 is to allow for criminal trials to be heard before judge where:

- a) there is evidence of a real and present danger that jury tampering would take place; or
- b) there is evidence of a real and present danger that the jury may be susceptible to small community bias.

Small community bias refers to the potential for partiality or undue influence in jury decision-making that arises in jurisdictions with small or tightly-knit populations. In such settings, jurors are more likely to have personal, social, or professional connections to the accused, victims, witnesses, law enforcement, or legal counsel—whether directly or through mutual acquaintances. This interconnectedness can inadvertently affect a juror’s ability to remain impartial, either through conscious loyalty, fear of social consequences, or unconscious bias.

In criminal trials, especially those involving high-profile or controversial cases, the risk of such bias can undermine public confidence in the fairness of the judicial process. Small community bias is particularly relevant in island jurisdictions like Bermuda, where anonymity and detachment from the parties involved is difficult to achieve.

Part 7 of the UK Criminal Justice Act 2003 permits trials to be conducted without a jury where there is danger of jury tampering but is silent on small community bias. It is Government’s intention to amend the Criminal Code by inserting provisions similar to Part 7 of the Criminal Justice Act 2003 which allow for criminal trials to be conducted without a jury in situations where there is danger of jury tampering or small community bias.

3. AI ASSISTED JUROR VETTING

PROPOSAL 2

This proposal is for the implementation of AI assisted jury vetting to flag any apparent conflicts of interest for potential jurors. Bermuda, as a small jurisdiction, faces unique

challenges in jury selection due to close community ties and the risk of implicit bias. Leveraging Artificial Intelligence (AI) for enhanced juror vetting offers a proactive solution to uphold the integrity of the judicial process while maintaining fairness and transparency.

AI can assist in identifying potential conflicts of interest, biases, or relationships between victims, jurors, defendants, legal teams, and witnesses. By analysing complex data sets that are impractical to review manually, AI supports more informed decision-making during voir dire and juror selection.

For Bermuda, AI-assisted juror vetting could be a transformative tool to ensure fairness in a small community where social and familial ties are inevitable. Successful implementation would require:

- Clear legal and ethical frameworks;
- Transparent oversight; and
- A phased approach, beginning with pilot projects in high-profile cases.

By adopting AI-driven tools for juror vetting, Bermuda can strengthen the integrity of its jury system while respecting privacy and due process principles.

4. CONCLUSION AND NEXT STEPS

In conclusion, the proposed amendments to the Criminal Code represent a significant step forward in maintaining the integrity of Bermuda's jury system. Addressing jury tampering and small community bias is essential to ensuring fair and impartial criminal trials in Bermuda, where close-knit social ties and the potential for undue influence can compromise the integrity of Bermuda's justice system.

The Bermuda Government welcomes feedback on the proposals set out in this Consultation Paper. Please submit comments by 31 December 2025 to lawreform@gov.bm.