

Review of Bill C-4

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A. Introduction

Federal legislation banning “conversion therapy” in Canada was passed by Parliament and received [Royal Assent](#) on December 8, 2021. It took effect on January 7, 2022.

The legislative objective of banning coercive and abusive practices is an important one, and we have consistently expressed our support for it. We have stated clearly throughout the legislative process that there is no place in Canada for abusive or coercive practices of any kind.

At the same time, our organizations and others have raised concerns that the definition of “conversion therapy” in the legislation is too broad and may capture legitimate, sincere religious expressions and activities. We were also concerned with the preamble of the bill, which describes certain beliefs about sexuality and gender as a “myth.” Canadians can and do hold differing beliefs about sexuality and gender, and the preamble appears to privilege certain beliefs and disparage others.

We proposed amendments to make the bill’s intended scope clearer and more precise. We are disappointed that, despite our efforts, submissions, and constructive discussions with Parliamentarians and government officials, these proposals were not adopted.

However, throughout the course of debate and committee hearings on Bill C-6 (Bill C-4’s predecessor), government departments, Cabinet Ministers, and Members of Parliament

provided repeated assurances that the bill was not intended to capture certain activities, including conversations about sexuality or the expression of personal views.

For example, the former [Minister of Diversity, Inclusion and Youth](#) explained that Bill C-6's intent was to prohibit "coercive and systematic" efforts and "forced and coordinated" efforts to change a person's sexual orientation, gender identity or gender expression, and not to "criminalize a person's faith". The [Minister of Justice](#) also noted that practices, treatments and services designed to achieve objectives such as abstinence from all sexual activity or to address sexual addictions are clearly not captured by the definition (for more information regarding these assurances, see below).

We remain of the view that these assurances and clarifications should have been explicitly included in the legislation itself. Without such language, many are unclear about what the law prohibits. There should never be uncertainty in the law, especially the *Criminal Code*, and we appreciate these concerns.

Because the law is new, no court has interpreted its scope or examined its constitutionality. Nevertheless, the law must always be applied in accordance with the *Canadian Charter of Rights and Freedoms* (discussed below). We intend to continue our advocacy efforts for clarity in the law, for these various government assurances to be upheld, and for constitutional rights and freedoms to be respected.

In the meantime, it is important for Canadians to be aware of what Bill C-4 says, and what government officials have emphasized about its intended application and interpretation (as well as that of its predecessor, Bill C-6).

B. Overview of the Legislation

Bill C-4, [An Act to amend the Criminal Code \(conversion therapy\)](#) was introduced in the House of Commons on November 29, 2021. On December 1, 2021, MPs passed the bill through all remaining stages [in one vote](#). On December 7, 2021, Senators followed the House of Commons and agreed to pass the bill through all remaining stages [at once](#).

This legislation adds four new offences to the *Criminal Code*:

1. Causing another person to undergo conversion therapy – maximum 5 years imprisonment (s 320.102)
2. Removing a child from Canada with the intention that the child undergo conversion therapy outside Canada (s 273.3(1)(c)) – maximum 5 years imprisonment (s 273.3(2));
3. Promoting or advertising conversion therapy – maximum 2 years imprisonment (s 320.103); and
4. Receiving a financial or other material benefit from the provision of conversion therapy – maximum 2 years imprisonment (s 320.104).

This legislation also amends the *Criminal Code* so that courts can order that conversion therapy advertisements be disposed of or deleted.

C. What is new in Bill C-4?

Before Bill C-4, similar conversion therapy bans were proposed in [Bill C-6](#) (October 2020) and [Bill C-8](#) (March 2020), but these bills were not passed into law. Bill C-6 was passed by the House of Commons but died in the Senate when the federal election was called. Bill C-4 is largely similar to the previous bills but does differ in some important ways.

We'll look at the key differences between C-4 and C-6 below.

Definition

First, Bill C-4 included some changes to the definition of “conversion therapy” compared to Bill C-6. The additions are underlined, and deletions are struck through. In Bill C-4 “conversion therapy” means:

“a practice, treatment or service designed to

- (a) change a person’s sexual orientation to heterosexual, ~~to~~;
- (b) change a person’s gender identity ~~or~~ to cisgender;
- (c) change a person’s gender expression to cisgender so that it conforms to the sex assigned to the person at birth;
- (d) repress or reduce non-heterosexual attraction or sexual behaviour ~~or~~;
- (e) repress a person’s non-cisgender gender identity; or
- (f) repress or reduce a person’s gender expression that does not conform to the sex assigned to the person at birth

For greater certainty, this definition does not include a practice, treatment or service that relates to the exploration ~~and~~ or development of an integrated personal identity ~~without favouring any~~ — such as a practice, treatment or service that relates to a person’s gender transition — and that is not based on an assumption that a particular sexual orientation, gender identity or gender expression is to be preferred over another.”

Clarifying Statement

As indicated above, the clarifying “for greater certainty” statement has been amended. Bill C-4 qualifies the definition of “conversion therapy” to exclude “a practice, treatment or service that relates to the exploration or development of an integrated personal identity — such as a practice, treatment or service that relates to a person’s gender transition — and that is not based on an assumption that a particular sexual orientation, gender identity or gender expression is to be preferred over another.”

By contrast, Bill C-6 qualified the definition by excluding “a practice, treatment or service that relates to the exploration or development of an integrated personal identity without favouring any particular sexual orientation, gender identity or gender expression” (change underlined).

Unlike Bill C-4, Bill C-6 did not object to underlying “assumptions”, so long as the practice, treatment or service did not favour any particular orientation, identity or expression.

Broader Scope

Finally, the scope of Bill C-4 is broader. Bill C-4 prohibits the provision of conversion therapy to all people of all ages. Consent to “conversion therapy” is not recognized as legally possible. Adults cannot consent to a “practice, treatment or service” that is designed, for example, to reduce non-heterosexual sexual behaviour (subject to the “for greater certainty” clarifying statement).

Bill C-6, in contrast, prohibited the practice only for persons under 18 and adults who had not consented.¹

D. What have government officials said about the scope of the bill?

In response to concerns raised by our organizations and many others, Cabinet Ministers and others gave numerous assurances as to what the ban was intended to capture and what it was not meant to prohibit.

It should be noted that a number of these statements were made in reference to the previous Bill C-6. Bill C-4 contains very similar language, but it was passed quickly, without any debate or study. This was presumably based on the fact that its predecessor Bill C-6 had already been studied and passed by the House of Commons.²

These statements about the scope and application of Bill C-4 and Bill C-6 indicate that the legislation is intended to target formal interventions and is not intended to prohibit conversations or the expression of opinion.³ We encourage readers to review these comments in their entirety, which are hyperlinked below.

¹ This expansion was somewhat unexpected given Justice Minister Lametti’s [testimony before the House Justice Committee](#) on Bill C-6, when he acknowledged the likelihood that expanding the ban to include adults could be unconstitutional: “For an adult capable of consenting and who is not susceptible to duress and is not being subjected to duress, it would a difficult thing to defend in court. The best minds in my department tried to wrap their heads around it and couldn’t.”

² See Government of Canada, [“Proposed Changes to Canada’s Criminal Code relating to conversion therapy”](#) (29 Nov 2021): “This bill is similar to former Bill C-6, which was adopted by the House of Commons in the previous Parliament, but with one important difference. It expands on the previous proposed legislation to protect all Canadians—regardless of their age—from the harms of conversion therapy practices”.

³ See also Government of Canada, [“Proposed Changes to Canada’s Criminal Code relating to conversion therapy”](#) (29 Nov 2021) noting that Bill C-4’s offences “would not criminalize activities that do not amount to practices, treatments or services, such as expressions of personal views on sexual orientation, gender identity or gender expression.”

Department of Justice [Charter Statement on Bill C-4:](#)

- Bill C-4's new *Criminal Code* offences are "limited to 'practices, treatments or services', all of which imply an established or formalized intervention."
- Bill C-4's new *Criminal Code* offences will not criminalize "conversations in which a person expresses an opinion on sexual orientation, gender identity or gender expression, unless that conversation forms part of an intervention designed to make a person heterosexual or cisgender. Interventions that support an individual's exploration and development of their own identity would not be prohibited, provided that they are not based on an assumption that a particular sexual orientation, gender identity or gender expression is to be preferred over another."

The Hon. David Lametti (Minister of Justice and Attorney General of Canada), at a [press conference for Bill C-4](#) [translation from French]:

"We've heard some people worry that the changes to the *Criminal Code* would ban conversations about sexual orientation, gender identity or gender expression. Let's be very clear on this. Supporting a person who's exploring very complex issues, personal issues, this is not a criminal offence. If the conversation is open and honest, it's essential to growth and understanding."

The Hon. Randy Boissonnault (Minister of Tourism), at a [press conference for Bill C-4:](#)

"They will say this bill harms religious freedoms. It does not. They will say this bill harms freedom of expression. It does not. They will say this bill interferes with doctors treating their patients. It does not. [...] Our bill does not criminalize a personal value or belief. It also does not criminalize conversations that explore identity. Nor does it criminalize teachers speaking to students about important issues. Our bill would protect Canadians from exposure to a cruel and deeply harmful practice."

[The Hon. Bardish Chagger](#) (then Minister of Diversity, Inclusion and Youth), before the House Justice Committee on Bill C-6:

- "I want to be absolutely clear. This bill does not criminalize a person's faith or individual values. This bill does not criminalize exploratory conversations with your kids, students or mentees."
- The bill "targets forced and coordinated efforts to change someone into something or someone they are not."
- The bill criminalizes "coercive and systematic efforts to change a person into something or someone they are not."

[Justice Minister Lametti](#), before the House Justice Committee on Bill C-6:

- The terms 'practice', 'treatment' or 'service' "imply an established or formalized intervention, one that is generally offered to the public or a segment of the public"

- The term “treatment” means “a therapy or procedure used to treat a medical condition”, “service” means “labor that does not produce a tangible commodity”, similar to the meaning of commercial activity related to cannabis-related offences, and the term “practice” means a “repeated or customary action” similar to how it is used in the *Criminal Code* in relation to illegal betting.
- The terms would not apply to efforts “designed to achieve other objectives, such as abstinence from all sexual activity, combatting sexual dependency”
- A “mere conversation cannot, therefore, be considered a practice, service or treatment, unless it forms part of a formalized intervention, such as a talk therapy session”
- “Legitimate medical or therapeutic practices cannot enter into the definition either, such as interventions designed to support a person’s gender transition, careful observation of young people whose gender identity does not match the sex assigned at birth, or detransition for those who choose.”

Department of Justice Statement on Bill C-6 (as excerpted in the [Library of Parliament Legislative Summary on Bill C-6](#)):

“These new offences would not criminalize private conversations in which personal views on sexual orientation, sexual feelings or gender identity are expressed such as where teachers, school counsellors, pastoral counsellors, faith leaders, doctors, mental health professionals, friends or family members provide affirming support to persons struggling with their sexual orientation, sexual feelings, or gender identity.”

[Briefing Materials for the Minister, House Justice Committee – Bill C-6, An Act to Amend the Criminal Code \(conversion therapy\), Questions and Answers:](#)

“Would Bill C-6 criminalize conversations about sexual orientation or gender identity?”

- Bill C-6 also contains a ‘for greater certainty’ clause to clarify that its conversion therapy definition does not include a practice, treatment or service that relates to a person’s gender transition or exploration or development of a person’s identity.
- The terms ‘practice’, ‘treatment’ and ‘service’ in Bill C-6’s definition all imply an established or formalized intervention, generally offered to the public or a segment of the public. Therefore, they do not capture a mere conversation, unless the conversation forms part of a formalized intervention, such as a talk therapy session.”

E. What does this mean for churches and ministries?

Many questions have been raised about what Bill C-4 could capture. Similarly, many are concerned about how the law could challenge our ability to live in accordance with our faith, religious identity and conscience. As always, we encourage churches and ministries to speak with legal counsel for legal advice specific to their concerns and situations.

Until the new offences are interpreted and applied by a court, there is no authoritative direction on their exact scope. For now, we can only look at the text of the Bill, and what government officials have publicly stated about its intended scope.

To summarize what government officials have stated about Bill C-6 and Bill C-4, the legislation was presented as applying to “established or formalized interventions” designed to change someone’s identity or orientation. The Department of Justice affirmed that Bill C-4 does not criminalize “conversations in which a person expresses an opinion on sexual orientation, gender identity or gender expression, unless that conversation forms part of an intervention designed to make a person heterosexual or cisgender.”

These are important clarifications. However, we appreciate the concern that, because they are not set out in the legislation itself, they could potentially be sidelined in the interpretation and application of the law.

We intend to continue our work to see that assurances provided by Ministers and others are upheld – not just because they were presumably relied upon by Parliamentarians who passed the bill, but because of constitutional considerations.

It is important that Bill C-4, like all legislation, is subject to the *Canadian Charter of Rights and Freedoms*, which guarantees freedom of conscience and religion, freedom of thought, belief, opinion and expression, freedom of association, and the right to equality based on religion, among others.

These constitutional rights are subject only to reasonable limits that can be demonstrably justified. To the extent that concerns remain that Bill C-4 may be used to prosecute good-faith religious expression, the *Charter* will require the government to demonstrate that the law does not violate these constitutional standards.

We previously expressed concerns to Parliament about the constitutionality of this legislation, given its potential overbreadth in the absence of clarifying language. These constitutional concerns remain, even with these various government assurances, and we will closely monitor any application of the law in this regard. We welcome our members’ feedback on this matter.

F. Things to Consider

We recognize that conversations around Bill C-4 largely focus on legal questions, and that many are concerned about how the law might impact ministry. We appreciate and share those concerns. At the same time, we recognize that we must not lose sight of our public witness, and our spiritual calling to love others and affirm the inherent dignity of every person, made in the image of God – not because the law requires it, but because Christ calls us to do so.

We think it is important to continue to affirm the principles we listed in our previous letter to churches on this subject, specifically:

- That all people are created in God’s image and are loved by God, having equal dignity and worth
- That coercive or abusive practices to “change” sexual orientation have no place within our communities
- That as followers of Jesus Christ, we are called to first love God and then to love all our neighbours as ourselves
- God’s design for sexuality, as taught in the Bible; recognizing to our sorrow that the church has not always responded with grace when dealing with matters of sexuality

In addition, here are some further questions for consideration, which church leaders may find helpful as they work through these issues:

- What can we learn from the conversations and stories that have emerged from the discussion around Bill C-4 and previous versions of the bill?
- Are we listening to those who have been impacted by coercive and abusive practices?
- Even apart from concern about what this ban could capture, what thoughtful, prayerful work can we do within our communities to understand and respond well to these stories and experiences?
- How can we walk lovingly and wisely alongside those with questions about their sexual orientation or gender identity, while still remaining faithful to biblical teaching?
- What is the focus of our teaching on biblical ethics, marriage, and sexuality? Does it recognize that all believers are called to obedience in all areas of life? Does it point to the goodness of God’s design for all?

Our goal, as always, is to seek the well-being of our communities (Jeremiah 29:7) and to live out the gospel call to love our God and our neighbours (Matthew 22:39). Our prayer is that we will continue to do so, speaking and acting in a manner full of truth and grace, as Jesus did (John 1:14). Let us continue to pray for wisdom, grace, and for the love of Christ to be known in our communities.