



## LEGISLATIVE SUMMARY

# BILL C-8: AN ACT TO AMEND THE CRIMINAL CODE (CONVERSION THERAPY)

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Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

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*Legislative Summary of Bill C-8*  
(Legislative Summary)

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# LEGISLATIVE SUMMARY OF BILL C-8: AN ACT TO AMEND THE CRIMINAL CODE (CONVERSION THERAPY)

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## 1 BACKGROUND

### 1.1 SUMMARY OF BILL C-8

Bill C-8, An Act to amend the Criminal Code (conversion therapy)<sup>1</sup> was introduced in the House of Commons on 9 March 2020 by the Minister of Justice and Attorney General of Canada, the Honourable David Lametti.

The definition of “conversion therapy” included in the bill, as paraphrased by the Department of Justice, is “a practice that seeks to change an individual’s sexual orientation to heterosexual, to repress or reduce non-heterosexual attraction or sexual behaviours, or to change an individual’s gender identity to match the sex they were assigned at birth.”<sup>2</sup>

The preamble of Bill C-8 states that conversion therapy causes harm to persons who are subjected to it, particularly children. It harms society more broadly by promoting myths and stereotypes about sexual orientation and gender identity, such as the notion that these personal characteristics can and should be changed. Consequently, the bill aims to discourage and denounce conversion therapy by criminalizing certain activities related to it, with the further intention of protecting “the human dignity and equality of all Canadians.” It amends the *Criminal Code* (the Code)<sup>3</sup> in order, among other things, to prohibit anyone from

- advertising services related to conversion therapy;
- forcing persons or causing a child to undergo conversion therapy;
- removing a minor from Canada to undergo conversion therapy abroad; and
- receiving a material benefit from the provision of conversion therapy.

The bill does not criminalize the provision of conversion therapy to a consenting adult if no money or other material benefit is received for providing such therapy. Furthermore, it does not make it a criminal offence for a consenting adult to seek or receive conversion therapy.

Bill C-8 also adds provisions to authorize courts to make certain orders related to the promotion of conversion therapy, such as requiring the removal of advertisements for conversion therapy services from computer systems and the Internet.

## 1.2 CONVERSION THERAPY

### 1.2.1 Defining Conversion Therapy

Various definitions exist, both in Canada and globally, regarding conversion therapy and its various forms that have evolved over time. According to the Canadian Psychological Association, conversion therapy refers to “any formal therapeutic attempt to change the sexual orientation of bisexual, gay and lesbian individuals to heterosexual.”<sup>4</sup> Sexual orientation is a term used to describe an individual’s pattern of emotional, romantic or sexual attraction.<sup>5</sup> It may include attraction to the same sex (homosexuality), a different sex (heterosexuality), to both the male and female sexes (bisexuality), or to neither sex (asexuality).<sup>6</sup> Sexual orientation is distinct from an individual’s gender identity, which will be discussed in greater detail below. The American Psychological Association uses the term sexual orientation change efforts (SOCE) to describe methods that aim to change a person’s same-sex sexual orientation to an other-sex sexual orientation.<sup>7</sup> These methods can include behavioural techniques, psychoanalytic techniques, medical approaches, and religious and spiritual approaches. SOCE has been conducted by both mental health professionals and lay individuals, with the latter including religious professionals, religious leaders, social groups and other lay networks, such as self-help groups.<sup>8</sup>

The term SOCE has also been expanded to include sexual orientation and gender identity change efforts (SOGICE), which refer to methods that aim to change the gender identity or gender expression of an individual.<sup>9</sup> Gender identity refers to an individual’s deeply felt internal and individual experience of gender, which may be male or female or lie outside of the male/female binary.<sup>10</sup> An individual’s gender identity may differ from the sex they were assigned at birth, which refers to the characterization of an individual’s sex based on their primary physiological and biological sexual characteristics at birth.<sup>11</sup> Meanwhile, gender expression refers to the ways individuals express their gender identity.<sup>12</sup> Gender identity and gender expression change efforts involve similar approaches to those aimed at changing an individual’s sexual orientation. However, the goal of these efforts is for individuals to become cisgender, meaning that their gender identity aligns with the biological sex assigned to them at birth.<sup>13</sup>

### 1.2.2 Historical Origins of Conversion Therapy

Conversion therapy was first developed in the 19<sup>th</sup> century. At the time, same-sex sexual activity between consenting adults was considered a crime punishable by imprisonment in Canada.<sup>14</sup> Within the mental health profession, homosexuality was predominantly viewed as a pathology or mental illness.<sup>15</sup> Psychiatrists viewed homosexuality as having its origins in delayed maturity or in pathology such as genetic defects, hormone exposure in the womb, parental abuse or molestation.<sup>16</sup> Consequently, they began offering treatments to correct or repair homosexuality as



a pathology. Such treatments focused on addressing family dynamics, aversion techniques (electric shock treatments and induced nausea and vomiting), behavioural interventions (dating skills, assertiveness and affection towards the opposite sex) and cognitive interventions (reframing of thoughts and desires).<sup>17</sup>

However, research conducted in the 1950s and 1960s examining human sexual behaviour found homosexuality to be a normal variation of human sexual behaviour.<sup>18</sup> In the 1960s, there were also significant shifts in societal views regarding homosexuality, which resulted in the Parliament of Canada passing legislation that decriminalized private same-sex sexual acts between two people over the age of 21.<sup>19</sup> In the United States, in response to both scientific and broader societal changes and advances in the rights of lesbian, gay, bisexual, trans, queer, and two-spirit plus (LGBTQ2+) individuals, the American Psychological Association and the American Psychiatric Association also undertook reviews of the scientific literature in the early 1970s. The reviews concluded that homosexuality could not be considered a psychological disorder, and it was removed from the *American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders* (DSM) in 1973.<sup>20</sup> In 1990, the World Health Organization removed homosexuality from the 10<sup>th</sup> edition of the International Classification of Diseases (ICD-10).<sup>21</sup> Thus, in the years that followed, conversion therapy was gradually removed from mainstream mental health practice.<sup>22</sup> However, some mental health professionals continued to provide a form of conversion therapy, referred to as “reparative therapy,” and founded the National Association of Research and Therapy of Homosexuality.<sup>23</sup>

Beginning in the 1970s, some faith-based organizations created “ex-gay groups,” which offered individuals engaging in homosexual behaviour the opportunity to obtain spiritual healing through a process of repentance and forgiveness.<sup>24</sup> Those faith-based organizations, referred to as “ex-gay ministries,” drew on psychoanalytic conversion theories and practices that were now rejected by the mainstream mental health community, as well as traditional religious practices such as prayer and scripture reading.<sup>25</sup> Those services were generally targeted at individuals belonging to conservative Protestant communities, who were seeking to reconcile their same-sex attractions and behaviours with their religious beliefs.<sup>26</sup>

It is important to note that the approach of faith-based organizations that were part of the “ex-gay movement” differs from the pastoral counselling currently provided by many Christian and other religious denominations, which aims to provide support to LGBTQ2+ individuals but not to change their sexual orientation or gender identity.<sup>27</sup>

### 1.2.3 Scientific Evidence Regarding Conversion Therapy

Controversies surrounding the provision of conversion therapy resulted in the American Psychological Association undertaking a systematic review of the scientific

evidence regarding its effectiveness and possible harms in 2009.<sup>28</sup> Having considered peer-reviewed research literature from 1960 to 2006, it found that individuals did not experience long-lasting change in their sexual orientation after being exposed to SOCE, and any changes that occurred were uncommon or rare.<sup>29</sup> Outside a laboratory setting, most participants did not stop engaging in sexual behaviours or having feelings of attraction to individuals of the same sex, and exposure to SOCE did not increase their sexual behaviour or their feelings of attraction to individuals of the other sex. Studies examining the impacts of aversion techniques used in conversion therapy found that participants experienced significant harms, including loss of sexual feeling, depression, suicidal ideation, anxiety, impotence and relationship dysfunction.<sup>30</sup>

According to the American Psychological Association review, more recent studies examining the efficacy of non-aversion techniques and religious approaches to changing a person's sexual orientation were not scientifically rigorous.<sup>31</sup> Rather, those studies were based on self-reporting of perceived benefits, harms and changes to sexual orientation or identity. Some of them documented harms that individuals were reported to have experienced as a result of their exposure to SOCE, which included negative social and emotional consequences, deteriorated relationships with family, loss of social support, loss of faith, sexual dysfunction, suicidal ideation, and self-hatred.<sup>32</sup> Those self-reports of perceived harms were countered by several other studies, conducted by Dr. Joseph Nicolosi and others, that included self-reports from individuals who said they experienced benefits from exposure to SOCE. The benefits cited included relief, happiness, an improved relationship with God and perceived improvements in mental health status.<sup>33</sup> However, it is noteworthy that the subjects in those studies were predominantly men who indicated that religion was of central importance in their lives.<sup>34</sup>

As a result of the limited scientific evidence supporting its efficacy and the significant risk of harms that it may pose to individuals, many health professional organizations, including the Canadian Psychological Association, the Canadian Psychiatric Association,<sup>35</sup> the American Psychiatric Association, the American Psychological Association and other health professional bodies, have denounced conversion therapy.<sup>36</sup> According to the Canadian Psychological Association, scientific research does not support the efficacy of conversion therapy.<sup>37</sup> Furthermore, conversion therapy "can result in negative outcomes such as distress, anxiety, depression, negative self-image, a feeling of personal failure, difficulty sustaining relationships, and sexual dysfunction."<sup>38</sup> The Canadian Paediatric Society has particularly recommended against providing conversion therapy to minors. The concern is that it reinforces the anxiety and guilt that adolescents experience in coming to terms with their sexual orientation and/or gender identity, leading to poor mental health outcomes.<sup>39</sup> Internationally, 12 United Nations entities issued a joint statement in 2015, calling on states to end violence towards LGBTQ2+ individuals.

According to the statement, such violence includes “abuse in medical settings, including unethical and harmful so-called ‘therapies’ to change sexual orientation.”<sup>40</sup>

#### 1.2.4 Current Prevalence of Exposure to Conversion Therapy in Canada

Recent data suggests that exposure to some form of conversion therapy in Canada remains a significant but under-reported issue. According to the 2011–2012 *Sex Now Survey*, approximately 3.5% of the 8,388 sexual minority<sup>41</sup> men surveyed had been exposed to conversion therapy in Canada.<sup>42</sup> The study found that for 7.9% of those who had been exposed, the exposure had occurred in the previous 12 months, while 78.3% had been exposed more than 12 months prior to the study, which suggests that conversion therapy remains an ongoing practice in the country. The survey also found that exposure to conversion therapy was associated with significant harms, including loneliness, regular illicit drug use, suicidal ideation and suicide attempts. It is important to note that this data is limited because it does not include the experiences of sexual minority women in Canada.<sup>43</sup>

#### 1.2.5 The Canadian Legal Context

##### 1.2.5.1 Division of Powers and Provincial Laws

In introducing Bill C-8, the federal government is relying on Parliament’s authority to pass criminal laws, as per section 91(27) of the *Constitution Act, 1867*.<sup>44</sup> The Supreme Court of Canada has determined that to be within the authority of Parliament’s powers relating to criminal law, a law must be a prohibition with a penal sanction and be directed towards a public purpose (such as peace, security, health or morality).<sup>45</sup> Furthermore, as health care is largely a provincial responsibility, criminal laws related to the protection of health must address a “legitimate public health evil.”<sup>46</sup>

Some provincial legislatures and municipalities have already responded to the harms posed by conversion therapy by prohibiting or restricting it, or certain activities associated with it, in accordance with their jurisdiction. While those measures may restrict or discourage the provision of conversion therapy, they do not criminalize the practice, as this would fall under federal jurisdiction.

Under their powers over “property and civil rights in the province” in section 92(13) of the *Constitution Act, 1867*, provinces may regulate health care professionals and the provision of health insurance.<sup>47</sup> To date, Ontario,<sup>48</sup> Nova Scotia,<sup>49</sup> and Prince Edward Island<sup>50</sup> have therefore enacted legislation prohibiting regulated health professionals from providing treatment or services that aim to change the sexual orientation or gender identity of a person under 18 or 19 years of age, depending upon the jurisdiction.<sup>51</sup> Those laws also prohibit conversion therapy from being considered an insured health service under the provinces’ respective public health care plans.<sup>52</sup>



Nova Scotia's *Sexual Orientation and Gender Identity Protection Act* prohibits a "person in a position of trust or authority towards a young person" from providing conversion therapy (referred to as "change effort" in the law).<sup>53</sup> However, it allows conversion therapy to be provided to mature minors aged 16 and older, provided they consent to treatment.<sup>54</sup> Ontario's legislation does not prohibit conversion therapy for adults, or for individuals under 18 years of age who have the capacity to consent to treatment and who consent to it.<sup>55</sup> In both Ontario and Nova Scotia, parents, guardians, and other substitute decision-makers may not give consent for conversion therapy on another person's behalf.<sup>56</sup> In Prince Edward Island, the legislation prohibits a substitute decision-maker from consenting to conversion therapy on behalf of an incapable patient.<sup>57</sup>

While the laws vary in terms of the definitions and terms used for conversion therapy, they all specify in their own language that conversion therapy does not include the following:

- (a) services that provide acceptance, support or understanding of a person or the facilitation of a person's coping, social support or identity exploration or development; and
- (b) sex-reassignment surgery or any services related to sex-reassignment surgery.<sup>58</sup>

While Manitoba has not passed legislation, it has adopted a policy that "conversion therapy can have no place in the province's public health care system."<sup>59</sup> In other provinces and territories where there is currently no legislation in place, some municipalities (whose powers are delegated to them by the province) have introduced bylaws prohibiting businesses from offering, advertising and/or receiving remuneration for providing conversion therapy. For example, Vancouver, British Columbia, has passed By-Law No. 12147, entitled *A By-law to Amend Business Prohibition By-law No. 5156 Regarding Conversion therapy*, which prohibits businesses in the city from "[c]harging a fee for any services that seek to change the sexual orientation or gender identity of any person."<sup>60</sup> Other municipalities have enacted broader bylaws. For example, Edmonton's Bylaw 19061 prohibits businesses from providing conversion therapy, whether or not they receive remuneration from providing such therapy.<sup>61</sup> That bylaw also defines businesses broadly to include associations of persons, as well as for-profit and not-for-profit organizations.<sup>62</sup>

#### 1.2.5.2 Previous Federal Bills

Bill S-260, An Act to amend the Criminal Code (conversion therapy) was introduced in the Senate by Senator Serge Joyal and passed first reading on 9 April 2019.<sup>63</sup>

Bill S-260 died on the *Order Paper* with the dissolution of the 42<sup>nd</sup> Parliament on 11 September 2019 and the calling of the 2019 general election.

Bill S-260 would have amended the Code to “protect” Canadians, particularly young people, from “the damage caused by practices and treatments designed to change an individual’s sexual orientation or gender identity.”<sup>64</sup> The bill would have added new section 172.01(2) to make advertising conversion therapy a hybrid offence. In addition, new section 172.01(3) of the bill would have made it a hybrid offence to receive a financial or other material benefit either directly or indirectly from providing conversion therapy to a person under 18 years of age. A person found guilty of either of those hybrid offences could have been liable to imprisonment for a term of not more than five years on indictment, or punishable for up to two years less a day on summary conviction.

## **2 DESCRIPTION AND ANALYSIS**

### **2.1 PREAMBLE**

As noted above, the preamble of Bill C-8 sets out its basic premise and purpose.<sup>65</sup> The preamble states that conversion therapy is harmful to those who are subjected to it, particularly children. It adds that the practice has broader social harms, including how it is “based on and propagates myths and stereotypes about sexual orientation and gender identity, including the myth that a person’s sexual orientation and gender identity can and ought to be changed.” The bill aims to address these harms and to “discourage and denounce the provision of conversion therapy in order to protect the human dignity and equality of all Canadians.” In the clauses that follow the preamble, the bill seeks to achieve its purpose by criminalizing certain aspects of the provision of conversion therapy.

### **2.2 NEW OFFENCES (CLAUSE 5)**

Clause 5 of Bill C-8 adds five new sections to the Code that prohibit core practices and activities related to the provision of conversion therapy. The new offences established by those sections are

- forcing a person to undergo conversion therapy (new section 320.102);
- causing a child to undergo conversion therapy (new section 320.103);
- advertising conversion therapy (new section 320.104); and
- receiving a financial or material benefit from the provision of conversion therapy (new section 320.105).

The new sections are placed at the end of Part VIII of the Code, which addresses “Offences Against the Person and Reputation.” Other offences in this part include criminal negligence, homicide, kidnapping and trafficking in persons, and hate propaganda.

The first new section of the Code is 320.101, which defines “conversion therapy” as including any practice, treatment or service that is “designed to change a person’s sexual orientation to heterosexual or gender identity to cisgender, or to repress or reduce non-heterosexual attraction or sexual behaviour.” This provision adds, “for greater certainty,” that practices, treatments or services that relate to a person’s gender transition, to the exploration of a person’s identity or to its development are not included in the definition. New section 320.101 also introduces the term “cisgender” to Canadian law, though it is not defined in the bill. As discussed above, the term cisgender refers to when an individual’s gender identity aligns with the biological sex assigned to that individual at birth.<sup>66</sup>

New section 320.102 of the Code makes it an offence to knowingly cause a person to undergo conversion therapy against that person’s will.<sup>67</sup> Individuals convicted under this section may be sentenced on summary conviction for up to two years less a day,<sup>68</sup> or on indictment to up to five years’ imprisonment.

New section 320.102 of the Code does not mention or define the role consent might play as a defence to charges under this provision. Rather, it simply states that the offence is committed when a person knowingly causes another person to undergo conversion therapy against that person’s will. Were charges to be brought under this section, the prosecutor would need to prove beyond a reasonable doubt that the alleged victim had undergone conversion therapy as provided by the accused, and that the victim had not freely consented to it.

Various other provisions in the Code require that there be an absence of consent in order for the offence to have been committed, with some sections adding more detailed criteria concerning what constitutes consent.<sup>69</sup> This is in keeping with common law principles that no assault is committed when a victim freely consents, having understood the nature of the act performed.<sup>70</sup> In other words, if an accused person can show that the alleged victim consented, then this may be put forward as a defence to certain charges. Jurisprudence has provided additional guidance on how to determine whether valid consent was given.<sup>71</sup>

New section 320.103 of the Code makes it an offence to cause a person who is under the age of 18 years to undergo conversion therapy. In other words, under this Act, a child cannot consent to receiving conversion therapy, nor can a parent or guardian consent on their behalf. The section explicitly states that unless the accused “took reasonable steps to ascertain the person’s age,” mistaking that child’s age for 18 or older is not a defence for this crime. Persons convicted under this section may be

sentenced on summary conviction for up to two years less a day or on indictment to up to five years' imprisonment.

New section 320.104 of the Code makes it an offence to knowingly advertise to provide conversion therapy. Persons convicted under this section may be sentenced on summary conviction for up to two years less a day or on indictment to up to two years' imprisonment.

New section 320.105 of the Code makes it an offence for someone to receive a financial or other material benefit<sup>72</sup> when they know that benefit is being obtained, directly or indirectly, through the provision of conversion therapy. Persons convicted under this section may be sentenced on summary conviction for up to two years less a day or on indictment to up to two years' imprisonment.

New sections 320.104 and 320.105 use the same language as the offences included in sections 286.2 and 286.4 of the Code, which respectively prohibit the provision of sexual services for material benefit and the advertising of sexual services.<sup>73</sup> Those provisions form part of Canada's approach to prostitution: certain activities are criminalized to deter and denounce the practice, but other elements are not prohibited in order to achieve other goals, such as the protection of sex workers.

As explained above, the new offences do not criminalize the provision of conversion therapy to a consenting adult when there is no exchange of money or other material benefit. Furthermore, the receipt of conversion therapy services is not criminalized, whether for adults or minors. Minister Lametti and the Department of Justice have commented on the type of conduct that is and is not intended to be criminalized by the bill. The Department of Justice indicates that:

These new offences would not criminalise 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 support to persons struggling with their sexual orientation, sexual feelings, or gender identity.<sup>74</sup>

Those points were repeated by the minister when he commented in a press conference that “supportive” persons “need not fear engaging in conversations about someone’s identity – discussions that are often critical to personal development.”<sup>75</sup>

## 2.3 SEIZURE OF ADVERTISEMENTS FOR CONVERSION THERAPY (CLAUSES 1 AND 2)

Bill C-8 introduces several provisions pertaining to warrants and to the seizure, disposal and/or deletion of materials related to the advertising of conversion therapy. These are added to Part V of the Code, which is titled “Sexual Offences, Public

Morals and Disorderly Conduct,” and under the subheading “Offences Tending to Corrupt Morals.”

Section 164(1) of the Code currently permits a judge to issue a warrant authorizing the seizure of copies of a recording, a publication, a representation or any written material if the judge is satisfied there are reasonable grounds to believe that such material is a voyeuristic recording, an intimate image, obscene, child pornography or an advertisement of sexual services.<sup>76</sup>

The remaining subsections of section 164 pertain to procedures that permit the forfeiture to the Crown of any materials that are seized as a result of any warrant. The occupier of a premises where the materials were seized, or the owner or maker of the materials, is provided an opportunity to oppose this forfeiture. If the court is not satisfied that the materials meet the criteria in section 164(1), it may order that they be returned to the person from whom they were seized.

Bill C-8 adds advertisements for conversion therapy to the types of materials for which a warrant may be issued and that may be seized under section 164.

Certain terms used in relation to the materials referenced in section 164(1) of the Code are listed and defined in section 164(8). Clause 1 of Bill C-8 adds the following definition of an advertisement for conversion therapy:

advertisement for conversion therapy means any material – including a photographic, film, video, audio or other recording, made by any means, a visual representation or any written material – that is used to advertise an offer to provide conversion therapy contrary to section 320.104.

Clause 2 of the bill adds advertisements for conversion therapy to section 164.1 of the Code, which provides for warrants of seizure and other procedures when the same types of prohibited materials referenced in section 164 are stored on and made available through a computer system that is within the jurisdiction of the court.

Section 164.1(1) of the Code permits a judge to make an order when there are reasonable grounds to believe that prohibited materials are stored on and made available through a computer system. This order may be for the custodian of the system to give an electronic copy to the court, ensure that the material is no longer stored on the computer system or made available from it, and/or provide information that helps find the person who posted the material. Additional subsections allow for the deletion of the material, for the person who posted the material to oppose the deletion, for the proceedings to be held in the absence of that person and for the return of the material if it is not determined to be prohibited.



## 2.4 REMOVAL OF A CHILD FROM CANADA (CLAUSE 4)

Section 273.3 of the Code prohibits anyone from taking a person under the age of 16 or 18 (depending on the offence) outside the country to commit acts that would constitute one of several listed offences, most of which are sexual offences. This is a hybrid offence that may be prosecuted by way of indictment with a maximum term of imprisonment of five years, or by summary conviction for up to two years less a day.

Clause 4 of Bill C-8 adds new section 320.103 to the list of offences in section 273.3(1)(c) of the Code,<sup>77</sup> making it an offence to take a person who is both ordinarily resident in Canada and under the age of 18 outside of Canada with the intention of causing them to undergo conversion therapy.

## 2.5 ELECTRONIC SURVEILLANCE (CLAUSE 3)

Part VI of the Code includes provisions to permit designated peace officers and agents to obtain judicial authorization to conduct electronic surveillance for the purpose of criminal investigations into offences listed in section 183 of the Code (e.g., facilitating terrorist activity, weapons trafficking, child pornography, child abductions, drug trafficking, and organized crime offences). Bill C-8 amends section 183 of the Code by adding three offences to the existing list:

- section 273.3 – removal of child from Canada;
- new section 320.102 – forced conversion therapy; and
- new section 320.103 – causing child to undergo conversion therapy.

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## NOTES

1. [Bill C-8, An Act to amend the Criminal Code \(conversion therapy\)](#), 1<sup>st</sup> Session, 43<sup>rd</sup> Parliament.
2. Department of Justice, [Proposed changes to Canada's Criminal Code relating to conversion therapy](#).
3. [Criminal Code](#), R.S.C. 1985, c. C-46 [the Code].
4. Canadian Psychological Association [CPA], [CPA Policy Statement on Conversion/Reparative Therapy for Sexual Orientation](#), 2015.
5. Clare Annett, [Gender Equality Week: Understanding Gender and Sexual Diversity Terminology](#), HillNotes, Library of Parliament, 24 September 2018.
6. Ibid.
7. American Psychological Association [APA], [Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation](#), 2015, p. 12.
8. Ibid.
9. Travis Salway et al., [Protecting Canadian sexual and gender minorities from harmful sexual orientation and gender identity change efforts](#), Brief submitted to the House of Commons Standing Committee on Health [HESA] for the committee's study of LGBTQ2 health in Canada, 2019.

10. For further details, see Annett (2018).
11. Translation Bureau, [Gender and sexual diversity glossary](#).
12. Ibid.
13. Travis Salway et al., "[Prevalence of Exposure to Sexual Orientation Change Efforts and Associated Sociodemographic Characteristics and Psychosocial Health Outcomes among Canadian Sexual Minority Men](#)," *Canadian Journal of Psychiatry*, 26 January 2020.
14. Government of Canada, [Rights of LGBTI persons](#).
15. APA (2015), pp. 22–24.
16. Ibid.
17. Ibid.
18. Jack Drescher et al., "[The Growing Regulation of Conversion Therapy](#)," *Journal of Medical Regulation*, Vol. 102, No. 2, 2016, pp. 7–12.
19. For further details, see, for example, Government of Canada, *Rights of LGBTI persons*; Julia Nicol, [Legislative Summary of Bill C-32: An Act related to the repeal of section 159 of the Criminal Code](#), Publication no. 42-1-C32-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 11 January 2017; and Chloé Forget, [Legislative Summary of Bill C-66: An Act to establish a procedure for expunging certain historically unjust convictions and to make related amendments to other Acts](#), Publication no. 42-1-C66-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 28 September 2018.
20. Drescher et al. (2016), pp. 7–12.
21. Ibid.
22. APA (2015), p. 24.
23. Ibid., p. 25.
24. Ibid., pp. 22–24; and Timothy W. Jones et al., [Preventing Harm, Promoting Justice – Responding to LGBT conversion therapy in Australia](#), 2018, p. 13.
25. Drescher et al. (2016), pp. 7–12; and Jones et al. (2018), p. 13.
26. Jones et al. (2018), p. 13.
27. Ibid.
28. APA (2015), p. 24.
29. Ibid., pp. 2–3.
30. Ibid.
31. Ibid., p. 34.
32. Ibid., p. 42.
33. Ibid., p. 49.
34. Ibid., p. 45.
35. Canadian Psychiatric Association, "[Mental Health Care for People Who Identify as Lesbian, Gay, Bisexual, Transgender, and \(or\) Queer](#)," Position paper, 22 April 2014.
36. Some other health professional organizations, such as the Canadian Medical Association, have not yet released a policy statement on conversion therapy. See Salway et al. (2019).
37. CPA (2015).
38. Ibid.
39. M. Kaufman, Canadian Paediatric Society, Adolescent Health Committee, "[Adolescent sexual orientation](#)," *Paediatrics & Child Health*, Vol. 13, No. 7, September 2008, pp. 619–623.
40. United Nations, [Ending violence and discrimination against lesbian, gay, bisexual, transgender and intersex people](#), Joint statement, September 2015.

41. The term “sexual minority” refers to individuals who identify as having a different sexual orientation from the general population. See HESA, [The Health of LGBTQIA2 Communities in Canada](#), 28<sup>th</sup> Report, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, June 2019, p. 10.
42. Salway et al. (2020).
43. Ibid.
44. [Constitution Act, 1867](#), 30 & 31 Victoria, c. 3 (U.K.).
45. [Reference re Validity of Section 5 \(a\) Dairy Industry Act](#), [1949] SCR 1 (also known as the Margarine Reference).
46. [RJR-MacDonald Inc. v. Canada \(Attorney General\)](#), [1995] 3 SCR 199, para. 32 (CanLII).
47. Peter Hogg, *Constitutional Law of Canada*, 5<sup>th</sup> ed., Vol. 1, p. 32–2.
48. [Affirming Sexual Orientation and Gender Identity Act, 2015](#), S.O. 2015, c. 18 – Bill 77.
49. [Sexual Orientation and Gender Identity Protection Act](#), SNS 2018, c. 28.
50. [Bill No. 24, Sexual Orientation and Gender Identity Protection in Health Care Act](#), 1<sup>st</sup> Session, 66<sup>th</sup> General Assembly of the Province of Prince Edward Island, 2019.
51. In Ontario and Prince Edward Island, the age is 18, whereas in Nova Scotia the age is 19. See *Affirming Sexual Orientation and Gender Identity Act* (2015), s. 2; Bill No. 24, s. 4; and *Sexual Orientation and Gender Identity Protection Act* (2018), s. 6(1).
52. *Affirming Sexual Orientation and Gender Identity Act* (2015), s. 1 (which amended section 11.2 of the [Health Insurance Act](#) (R.S.O. 1990, c. H.6); *Sexual Orientation and Gender Identity Protection Act* (2018), s. 4; and Bill No. 24, cls. 2–3.
53. *Sexual Orientation and Gender Identity Protection Act* (2018), s. 7(1).
54. Ibid., s. 6(2).
55. *Affirming Sexual Orientation and Gender Identity Act* (2015), s. 29.1(3).
56. Ibid., s. 29.1(4); and *Sexual Orientation and Gender Identity Protection Act* (2018), s. 6(3).
57. Bill No. 24, s. 5(2).
58. *Affirming Sexual Orientation and Gender Identity Act* (2015), s. 1; Bill No. 24, subclause 2(b.1)(ii); and *Sexual Orientation and Gender Identity Protection Act* (2018), s. 8(a) and 8(b).
59. Government of Manitoba, [Position on Conversion Therapy](#).
60. City of Vancouver, British Columbia, [By-law No. 12147, A By-law to Amend Business Prohibition By-law No. 5156 Regarding Conversion therapy](#), 19 June 2018, amending [Business Prohibition By-Law No. 5156](#), Schedule A, s. 15.
61. City of Edmonton, Alberta, [The City of Edmonton Bylaw 19061 Prohibited Businesses Bylaw](#), Schedule A.
62. Ibid., s. 2(2)(a).
63. [Bill S-260, An Act to amend the Criminal Code \(conversion therapy\)](#), 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament (first reading version, 9 April 2019).
64. Ibid.
65. Section 13 of the [Interpretation Act](#), R.S.C. 1985, c. I-21, states that preambles are to be read as part of an enactment that is intended to assist in explaining its “purport and object.”
66. Translation Bureau, *Gender and sexual diversity glossary*.
67. The marginal note heading for this section states it prohibits “forced conversion therapy.” Section 14 of the *Interpretation Act* states that marginal notes form no part of the enactment, but are inserted for convenience of reference only.
68. As per section 787 of the Code.
69. Examples include the provisions pertaining to assault, including sexual assault. See sections 153.1, 265, 271–273.1 of the Code.
70. Thomson Reuters Canada Limited, “Criminal Law – Defences,” *Canadian Encyclopedic Digest*.

71. For instance, there are many Supreme Court of Canada decisions pertaining to consent in sexual assault cases: [R. v. Seaboyer](#); [R. v. Gayme](#), [1991] 2 SCR 577; [R. v. Esau](#), [1997] 2 SCR 777 (CanLII); [R. v. Ewanchuk](#), [1999] 1 SCR 330 (CanLII); [R. v. Mills](#), [1999] 3 SCR 668; [R. v. Darrach](#), 2000 SCC 46; [R. v. Shearing](#), 2002 SCC 58 (CanLII); and [R. v. J.A.](#), 2011 SCC 28 (CanLII).
72. In other words, this could be money in a form of currency or some other thing of value to the recipient that motivates the recipient to perform a particular action.
73. Lyne Casavant and Dominique Valiquet, [Legislative Summary of Bill C-36: An Act to amend the Criminal Code in response to the Supreme Court of Canada decision in Attorney General of Canada v. Bedford and to make consequential amendments to other Acts](#), Publication no. 41-2-C36-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 18 July 2014.
74. Department of Justice, Proposed changes to Canada's *Criminal Code* relating to conversion therapy.
75. CPAC [Cable Public Affairs Channel], "[Ministers discuss bill to ban conversion therapy](#)," *YouTube*, 9 March 2020, 10:35.
76. For all these types of materials, related prohibitions are set out elsewhere in the Code (sections 162, 162.1, 163, 163.1 and 286.4), and further definitions are provided in section 164(8).
77. Other offences included in 273.3(1)(c) are those found in sections 155, 160(2), 170, 171, 267, 268, 269, 271, 272 and 273 of the Code.