



Legislative Summary

BILL C-48: AN ACT TO AMEND THE CRIMINAL CODE (BAIL REFORM)

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LEGISLATIVE SUMMARY OF BILL C-48: AN ACT TO AMEND THE CRIMINAL CODE (BAIL REFORM)

1 BACKGROUND

Bill C-48, An Act to amend the Criminal Code (bail reform)¹ was introduced in the House of Commons on 16 May 2023 by the Honourable David Lametti, then Minister of Justice and Attorney General of Canada. **By way of a motion introduced by his successor as Minister of Justice, the Honourable Arif Virani, the bill received second reading, was given consideration by the Committee of the Whole and received third reading, all on 18 September 2023. The bill passed by unanimous consent.² It received first reading the following day in the Senate. It was studied by the Standing Senate Committee on Legal and Constitutional Affairs which made several amendments,³ two of which were passed by both houses of Parliament. The bill received Royal Assent on 5 December 2023.**

Bill C-48 makes changes to Canada's *Criminal Code*⁴ (the Code) provisions concerning judicial interim release, also known as bail. It adds to existing "reverse onus" provisions that shift the prosecutor's burden of demonstrating why an accused person should be held in detention pending trial onto the accused, who instead must demonstrate to the judge or justice of the peace that there is no reason warranting their detention. These amendments are in response to concerns raised by various stakeholders about crimes being committed by repeat violent offenders, in particular those who use firearms. These reverse onus amendments apply to accused persons who were previously convicted of a violent offence and are subsequently charged with violent offences or offences involving firearms, knives, bear spray or other weapons. The bill also proposes changes to address the risks posed by intimate partner violence, particularly when committed by repeat offenders.⁵ It adds considerations a justice⁶ must take into account during bail decisions regarding community safety and security concerns.

1.1 JUDICIAL INTERIM RELEASE

1.1.1 Overview

Section 11(e) of the *Canadian Charter of Rights and Freedoms* (Charter) guarantees that any person charged with an offence has the right "not to be denied reasonable bail without just cause."⁷ Such individuals also have the right to be presumed innocent until proven guilty in a fair and public hearing, which the Supreme Court of Canada has held is a principle of fundamental justice and applies at all stages of the criminal process, including bail hearings.⁸ Section 7 guarantees, among other things, that a person has the right to not be deprived of their liberty unless this is done in accordance with the principles of fundamental justice.

In accordance with these rights, after a person has been charged with committing an offence, they must be brought before a justice to determine how the charges against them will proceed. They are to be released from custody on bail unless the justice finds a reason to warrant remanding them into custody until the final disposition of the charges against them.⁹

Section 91(27) of the *Constitution Act, 1867* grants Parliament exclusive authority over criminal law and procedure, while the provinces have the power to make laws in relation to the administration of justice under section 92(14). Accordingly, the Code, a federal law, sets out the rules, procedures and considerations that the justice must follow when deciding whether to make an order for judicial interim release. Bill C-48 amends section 515 of the Code, which sets out the key bail provisions.

Many of the practical procedures and policies for bail hearings are set by the provinces, such as whether a judge or justice of the peace may preside over the bail hearing and the directives that are given to Crown prosecutors regarding information to be presented to the court concerning the accused and information to be provided to any victims.¹⁰

The justice will consider various factors as required under the Code and hear submissions from the Crown prosecutor and the accused or their counsel to determine whether to grant bail or order that the accused be remanded to custody. For most criminal offences, the prosecutor must demonstrate why the accused should be denied bail. However, for certain offences, the onus shifts to the accused to demonstrate why bail should be granted.

1.1.2 Grounds for Detention

The Supreme Court of Canada has interpreted section 11(e) of the Charter to mean, among other things, that bail may be denied only “in a narrow set of circumstances” and not “for any purpose extraneous to the bail system.”¹¹ It has articulated the grounds on which detention may be justified and influenced the current wording of section 515(10) of the Code.¹² These grounds are, in brief:

- if the accused is unlikely to appear for their trial dates;
- if the accused poses a risk to public safety, including to a victim or witness (i.e., they may commit another offence if released); or
- to maintain confidence in the administration of justice.

In *R. v. Morales*, the Supreme Court underscored that the right to bail is not meant to be denied for all individuals who pose a risk of committing an offence or interfering with the administration of justice while on bail. Rather, denial is only “for those who

pose a ‘substantial likelihood’ of committing an offence or interfering with the administration of justice, and only where this ‘substantial likelihood’ endangers ‘the protection or safety of the public.’”¹³

A justice will also consider several factors, including the nature of the offence, the severity of the penalty, the evidence against the accused and the character of the accused, such as whether the person has a criminal record.¹⁴

1.1.3 Conditions

A judicial release order may set out conditions that the accused must abide by, such as requirements to:

- appear in court as required;
- report to a peace officer at stated times;
- remain in a specified area, or abstain from entering one;
- notify a peace officer of any change in address or employment;
- abstain from communicating with any victim, witness or other person identified in the order;¹⁵ or
- comply with other conditions that the justice deems appropriate or desirable, such as to abide by a curfew or to abstain from alcohol and non-prescription drugs.¹⁶

The Supreme Court has confirmed that any conditions imposed on an accused being granted bail must be reasonable. For instance, in *R. v. Antic*, it held that terms should only be imposed to the extent that they are necessary to address concerns related to the statutory criteria for detention and to ensure that the accused is released.¹⁷ The Court reflected on this issue again in *R. v. Zora*, where it held that bail conditions must be tailored to the individual risks posed by the accused.¹⁸ Restraint is necessary because the terms of release are limitations on the liberty of an accused person who has the right to be presumed innocent.¹⁹

When the accused is charged with an offence involving violence against a person or with certain other offences, including terrorism or criminal harassment, to ensure the safety of the victim or another person, bail conditions must include a prohibition from possessing firearms or other regulated weapons.²⁰

A person who breaches their bail conditions may be charged with an administration of justice offence and may be brought before a judge for a judicial referral hearing, a simplified court procedure for handling administration of justice offences.²¹

1.1.4 Reverse Onus

As discussed above, for certain offences only, the onus is placed on the accused person to provide justification on a balance of probabilities that they should be released.

Offences for which a reverse onus exists are listed in sections 515(6) and 515(11) of the Code and include the following:

- an indictable offence that is alleged to have been committed while the accused was at large awaiting trial for another offence;
- drug trafficking, importing or exporting;
- organized crime;
- violence against an intimate partner if the accused has a previous conviction involving violence against an intimate partner;
- certain offences involving firearms;
- terrorism; and
- murder.²²

The Supreme Court has reviewed some reverse onus provisions and determined that, despite their impact on the accused's Charter rights, they can be constitutional when used in a narrow set of circumstances and when they are carefully tailored to achieve a properly functioning bail system. For instance, in *R. v. Pearson*, the Court explained that, because drug trafficking is part of a highly lucrative and sophisticated business and way of life, there are "huge incentives for an offender to continue criminal behaviour even after arrest and release on bail." Accordingly, "the normal process of arrest and bail will normally not be effective in bringing an end to criminal behaviour," and the reverse onus in section 515(6)(d) was therefore held to be justified.²³

In *R. v. Morales*, the Court upheld the reverse onus in section 515(6)(a) for cases involving charges for committing another indictable offence while on bail. Among its reasons, it added that

[t]he special bail rules in s. 515(6)(a) do not have any purpose extraneous to the bail system, but rather merely establish an effective bail system in circumstances where there are reasonable grounds to believe that the normal bail system is permitting continuing criminal behaviour. ... The scope of these special rules is thus carefully tailored to achieve a properly functioning bail system.²⁴

1.2 BAIL REFORM

In recent years, the topic of bail reform has been active among stakeholders in the criminal justice system. A full review of frequently raised concerns is beyond the scope of this legislative summary; however, a review of some key issues is relevant to the introduction of Bill C-48.

First, many commentators have pointed to the size of the population remanded to custody in Canada as an issue. For 2018–2019, Statistics Canada reports that on an average day, there were 14,778 adults in remand in the provinces and territories and 8,708 adults in sentenced custody. This means 70% more adults were in remand than in sentenced custody.²⁵ Measures implemented to deal with the COVID-19 pandemic decreased the custodial population in Canada, and so more recent numbers for 2020–2021, which indicate a 30% drop in the remand population,²⁶ do not reflect the usual rates seen in recent years that had drawn concern.

Some commentators have noted how a large remand population brings challenges, such as more presumptively innocent people spending time in detention;²⁷ increased costs (borne mostly by the provinces) and resources required to manage the remand population;²⁸ and increased inefficiencies that can contribute to delays in criminal proceedings.²⁹ Others have pointed out that unlike sentenced offenders, persons in remand are unlikely to have access to rehabilitation programs, and some face greater potential for exposure to criminality.³⁰

Another key issue pertains to how certain marginalized and racialized groups within the Canadian population are overrepresented in the criminal justice system, including in remand.³¹ As noted by Statistics Canada, in 2020–2021,

Indigenous adults accounted for about one-third of all adult admissions to provincial and territorial (31%) and federal (33%) custody, while representing approximately 5% of the Canadian adult population in 2020.³²

Furthermore, of the approximately 90,300 adult admissions to custody in 2020–2021 in Nova Scotia, Ontario, Alberta and British Columbia, 17% involved population groups designated as “visible minorities,” and just over six in 10 (61%) of these involved Black individuals.³³

Some observers have noted how challenging various costs associated with the bail process can be for many accused persons who are low-income, unemployed or homeless. These costs include securing legal representation, providing a cash deposit to a court or complying with conditions attached to their release.³⁴ Additionally, other commentators have been concerned that a disproportionate number of accused persons in remand have mental health or addiction challenges.³⁵

There have also been calls to ensure that the bail system functions effectively to keep violent offenders in detention to reduce risks to public safety. Calls to reform the bail process and to make it harder for accused persons charged with violent offences, or who otherwise present a risk to public safety, often increase when incidents are reported that involve a person out on bail who commits a violent crime.³⁶ Recent incidents have generated discussion and concerns that violence at the hands of persons released on bail may be increasing.³⁷ Citing a “growing number of calls” for changes to the bail system to prevent accused persons from committing further criminal acts, the premiers of all 13 provinces and territories wrote a letter in January 2023 urging the prime minister to take action to strengthen the bail system. The letter notes that an October 2022 meeting of federal-provincial-territorial ministers of justice and public safety “led to a clear and unified call to action for the federal government to reform Canada’s bail system.”³⁸ The premiers called for a reverse onus to be applied specifically for section 95 offences (possession of loaded prohibited or restricted firearms) and a review of other related offences involving firearms for the applicability of a reverse onus.

According to the Government of Canada, Bill C-48 responds “directly to calls for reform from provincial Premiers and the policing community.” The government also stated that it has introduced the amendments in Bill C-48 after “close collaboration with all provinces and territories” and “engagement with other partners and stakeholders, including law enforcement, community organizations and Indigenous partners.”³⁹

In 2023, the House of Commons Standing Committee on Justice and Human Rights examined many of these issues over seven meetings with 30 witnesses representing various stakeholders in the criminal justice system.⁴⁰

1.3 BILL C-75, AN ACT TO AMEND THE CRIMINAL CODE, THE YOUTH CRIMINAL JUSTICE ACT AND OTHER ACTS AND TO MAKE CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

To address some of the past concerns pertaining to bail reform, including the size of the remand population, Parliament passed a bill in 2019 that amended bail practices and procedures: Bill C-75, An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts.⁴¹ Among various amendments to modernize the criminal justice system and make it more efficient, the bill established a requirement that any bail decision must prioritize releasing the accused at the earliest reasonable opportunity and must impose the least onerous conditions possible (known as the “principle of restraint” under section 493.1 of the Code). The bill also introduced an amendment requiring judges and justices of the peace to give special consideration to the circumstances of accused persons who are Indigenous or members of vulnerable populations when making decisions about bail (section 493.2). The bill granted the police more powers to find alternatives to detention and simplified review mechanisms for situations where persons are in custody for extended periods.⁴²

Bill C-75 added the offence of violence against an intimate partner to the list of reverse onuses for bail if the accused has been previously convicted of a violent offence against an intimate partner.⁴³ It also added section 523.1 to the Code to establish judicial referral hearings, which are alternative procedures that apply when an individual has failed to comply with a release order, among other changes.

2 DESCRIPTION AND ANALYSIS

Bill C-48 contains five clauses and a preamble. Clause 1 of the bill makes amendments to section 515 of the Code, which sets out the key procedures and rules for bail proceedings. Other clauses do not amend any laws but rather pertain to various aspects of the coming into force of the bill. Only the key elements of Bill C-48 are discussed below.

2.1 CHANGES TO BAIL PROCEDURES

2.1.1 Preamble

The preamble of Bill C-48 sets out the premise and purpose of the bill, along with key principles pertaining to bail proceedings in Canada.⁴⁴ The preamble lists eight points to introduce the bill. These explain, among other matters, the importance of a properly functioning bail system in maintaining public safety and public confidence in the administration of justice. In brief, the preamble also recognizes the following:

- the importance of respecting the implicated Charter rights of accused persons;
- that the detention of accused persons may be justified for public safety;
- the shared responsibility of federal, provincial and territorial governments for the bail system;
- the harmful impact of violent offences, including those involving firearms or other weapons;
- the need for bail decisions to be informed by the circumstances of the accused, particularly for those from populations “that face disadvantages at the bail stage and are overrepresented in the criminal justice system”; and
- that public confidence in the system is impacted when persons are detained when they should be released and released when they should be detained.

2.1.2 Factors to Consider
(Clause 1(1))

Section 515(3) of the Code currently sets out two specific factors that a justice must consider when making an order for judicial interim release:

- (a) whether the accused is charged with an offence in the commission of which violence was used, threatened or attempted against their intimate partner; or
- (b) whether the accused has been previously convicted of a criminal offence.

Clause 1(1) of the bill amends section 515(3)(b) to add that such past convictions include “any offence in the commission of which violence was used, threatened or attempted against any person.” As a justice considering a particular judicial interim release order is already required to consider past convictions, this addition appears to be intended to draw attention to or emphasize the need for the justice to consider past violent offences.

2.1.3 Reverse Onus for Firearm- and Weapon-Related Offences
(Clauses 1(2) and 1(3))

As noted in section 1.1.4 of this legislative summary, a reverse onus is placed on the accused to obtain judicial interim release for some offences. Clauses 1(2) and 1(3) of the bill amend section 515(6) of the Code by adding to the existing list of these offences.

Section 515(6)(a)(vi) currently lists sections 99, 100 and 103, which create offences for weapons trafficking, possession of certain firearms for the purpose of weapons trafficking, and importing or exporting a firearm knowing that it is unauthorized.

Clause 1(2) amends section 515(6)(a)(vi) to add the following firearm-related offences in the Code:

- section 95 – Possession of prohibited or restricted firearm with ammunition;
- section 98 – Breaking and entering to steal firearm;
- section 98.1 – Robbery to steal firearm; and
- section 102 – Making automatic firearm.

Currently, section 515(6)(a)(viii) more broadly refers to any indictable offence that is alleged to involve a firearm, crossbow, prohibited or restricted weapon, ammunition, etc. if, at the relevant time, the accused was under a prohibition order within the meaning of section 84(1) of the Code. Under that section, “prohibition order” means

an order made under this Act or any other Act of Parliament prohibiting a person from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things.

These prohibited items are all further defined in section 84(1) and are relevant to Part III of the Code that pertains to firearm offences and to some other offences.

Clause 1(3) amends section 515(6)(a)(viii) to add that the prohibition orders referred to include “a release order made under this section, that prohibited the accused from possessing any of those things.” In other words, an accused who is charged with an offence that involves one of these firearms or other prohibited weapons offences, and who was already subject to a judicial interim release order that prohibited the possession of such a weapon, faces a reverse onus to demonstrate why bail should be granted.

2.1.4 Reverse Onus for Violence Against an Intimate Partner
(Clause 1(4))

Section 515(6)(b.1) of the Code currently establishes a reverse onus for offences where it is alleged that violence was used, threatened or attempted against the accused’s intimate partner and where the accused was previously convicted for a violent offence against any intimate partner.

Clause 1(4) of the bill amends section 515(6)(b.1) to add that the reverse onus also applies where an accused has been discharged under section 730 of the Code for a past violent offence against an intimate partner. Section 730 permits the court to grant a guilty person a conditional or absolute discharge provided, among other factors, that it is in the public interest. A conditional discharge requires that the person abide by a probation order for a period of time before the absolute discharge takes effect. Otherwise, an absolute discharge takes immediate effect and the person is deemed to not have been convicted and does not have a criminal record for the charges.

2.1.5 Reverse Onus for Violent Offence
(Clause 1(4))

Clause 1(4) of the bill also adds section 515(6)(b.2) to the Code to create a reverse onus for anyone charged with an offence in the commission of which violence was allegedly used, threatened or attempted against a person with the use of any weapon.

The accused must also have been convicted within the previous five years of another violent offence involving a weapon.⁴⁵ Additionally, the maximum term of imprisonment for each of these offences must be 10 or more years.

2.1.6 Judicial Interim Release Orders and Safety Considerations
(Clause 1(5))

Section 515(13) of the Code currently requires a justice making a judicial interim release order to include in the record of the proceedings a statement that the justice “considered the safety and security of every victim of the offence when making the order.”

Clause 1(5) of the bill amends section 515(13) to require a justice making a judicial interim release order to also include in the record of the proceedings a statement that the justice considered “the safety and security of the community” when making the order.

Clause 1(5) also adds section 515(13.1), which is an amendment introduced by the Standing Senate Committee on Legal and Constitutional Affairs. It requires that the justice also include in the record of the proceedings statements as to whether they determined that the accused person meets the criteria in section 493.2 of the Code or not and as to how they made that determination. As noted in the “Background” section of this paper, section 493.2 requires judges and justices of the peace to give “particular attention to the circumstances” of accused persons who are Indigenous or members of vulnerable populations. If the justice has determined that the accused meets these criteria, they must also include a statement explaining how they “considered [the] particular circumstances” of the person accused in making their decision.⁴⁶

2.1.7 Coming into Force Provisions and Parliamentary Review
(Clauses 2 to 5)

Clause 5 of the bill states that the bill comes into force 30 days after it receives Royal Assent, presumably to allow time for stakeholders to prepare to implement the amendments. Clause 3 confirms that the amendments apply to criminal proceedings that are ongoing when the bill comes into force. Clause 4 explains coordinating amendments if Bill S-205, An Act to amend the Criminal Code and to make consequential amendments to another Act (interim release and domestic violence recognizance orders) receives Royal Assent.⁴⁷ That bill was introduced as a Senate public bill on 24 November 2021 by Senator Pierre-Hugues Boisvenu. Among other things, it amends sections pertaining to interim release and recognizance orders in the Code to provide additional protections for victims of intimate partner or domestic violence.

Clause 2 requires that on the fifth anniversary after Bill C-48 receives Royal Assent, or as soon as possible thereafter, the legislation is referred to the standing **committees of the Senate and the House of Commons that normally consider matters** relating to justice for review (currently, the House of Commons Standing Committee on Justice and Human Rights **and the Standing Senate Committee on Legal and Constitutional Affairs**).⁴⁸

NOTES

1. [Bill C-48, An Act to amend the Criminal Code \(bail reform\)](#), 44th Parliament, 1st Session (S.C. 2023, c. 30).
2. House of Commons, [Journals](#), 18 September 2023.
3. Senate, Standing Committee on Legal and Constitutional Affairs, [Bill C-48, An Act to amend the Criminal Code \(bail reform\), with amendment and observations](#), Seventeenth report, 24 October 2023.
4. [Criminal Code](#), R.S.C. 1985, c. C-46.
5. “Intimate partner” is defined in section 2 of the *Criminal Code* as: “with respect to a person, includes their current or former spouse, common-law partner and dating partner.” “Common-law partner” is defined as: “in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year.”
6. In section 515 of the *Criminal Code*, which sets out key bail procedures, the term “justice” is used. This term is defined in section 2 as: “a justice of the peace or a provincial court judge, and includes two or more justices where two or more justices are, by law, required to act or, by law, act or have jurisdiction.” Depending on the province, justices of the peace or judges may perform bail hearings.
7. [Canadian Charter of Rights and Freedoms](#), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.).
8. [R. v. Pearson](#), [1992] 3 S.C.R. 665.
9. [Criminal Code](#), R.S.C. 1985, c. C-46, s. 515(1). When a person is not released on bail, and so detained in custody, the expression used in the *Criminal Code* is “remand to custody,” usually in a facility called a remand centre.
10. See, for example, Quebec, Directeur des poursuites criminelles et pénales, [Mise en liberté provisoire par voie judiciaire](#), 22 June 2022 [IN FRENCH]; Alberta, Crown Prosecution Service, [Code of Conduct for Crown Prosecutors: Guideline – Crown Prosecution Service](#), 4 May 2022; Ontario, Ministry of the Attorney General, [Crown Prosecution Manual](#); and Ontario, Ministry of the Attorney General, “[D. 24: Judicial Interim Release \(Bail\)](#),” *Crown Prosecution Manual*, 14 November 2017.
11. [R. v. Pearson](#), [1992] 3 S.C.R. 665; and [R. v. Morales](#), [1992] 3 S.C.R. 711.
12. A list of principles was set out in [R. v. Antic](#), 2017 SCC 27, para. 67. See also [R. v. St-Cloud](#), 2015 SCC 27. For an example from the legislative history of section 515(10) of the *Criminal Code*, see Laura Barnett et al., [Legislative Summary of Bill C-2: An Act to amend the Criminal Code and to Make Consequential Amendments to Other Acts](#), Publication no. LS-565E, Library of Parliament, 29 October 2007. For more information, see P. W. Hogg, *Constitutional Law of Canada*, 5th ed. (annually supplemented), s. 51.18.
13. [R. v. Morales](#), [1992] 3 S.C.R. 711.
14. See *R. v. Gottfriedson*, [1906] 10 C.C.C. 239 (B.C. Co. Ct.); and *N.* (1945), 87 C.C.C. 377 (P.E.I.S.C.), as quoted by the Supreme Court of Canada in [R. v. Hall](#), 2002 SCC 64, para. 14.
15. See [Criminal Code](#), R.S.C. 1985, c. C-46, s. 515(4).
16. Other conditions that may be specified in the release order are listed in sections 515(4) to 515(4.3) of the *Criminal Code*. See *Ibid.*, ss. 515(4)–515(4.3). For examples involving a condition to abstain from alcohol, see [R. v. Griffin](#), 2020 ABCA 319 (CanLII); and [R. v. McRae](#), 2020 ONCA 498 (CanLII).

17. [R. v. Antic](#), 2017 SCC 27, paras. 4, 29 and 67. See also [R. v. Pearson](#), [1992] 3 S.C.R. 665.
18. [R. v. Zora](#), 2020 SCC 14, paras. 25 and 89.
19. *Ibid.*, para. 90.
20. [Criminal Code](#), R.S.C. 1985, c. C-46, s. 515(4.1).
21. The *Criminal Code* sets out the offence of breaching bail conditions under section 145 and the procedures for judicial referral hearings in section 523.1. For more information, see Laura Barnett et al., “2.1.5.2 Judicial Referral Hearings,” [Legislative Summary of Bill C-75: An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts](#), Publication no. 42-1-C75-E, Library of Parliament, 25 July 2019.
22. See [Criminal Code](#), R.S.C. 1985, c. C-46, ss. 515(6), 515(11) and 522.
23. [R. v. Pearson](#), [1992] 3 S.C.R. 665. The Supreme Court added, “Another specific feature of the offences subject to s. 515(6)(d) is that there is a marked danger that an accused charged with these offences will abscond rather than appear for trial.”
24. [R. v. Morales](#), [1992] 3 S.C.R. 711. Some offences, such as terrorism, organized crime, firearm offences and intimate partner violence, were added to the list after the *Morales* decision.
25. Jamil Malakieh, Canadian Centre for Justice and Community Safety Statistics, “[Adult and youth correctional statistics in Canada, 2018/2019](#),” *Juristat*, Statistics Canada, 21 December 2020.
26. According to Statistics Canada,

In 2020/2021, provincial and territorial admissions to custody fell 37%, while community admissions were down 29%. Provincial and territorial admissions to sentenced custody, which represented about one-quarter of all admissions to custody, declined by 45% in 2020/2021, while admissions to remand to await trial or sentencing fell by 30%.

At the federal level, adult admissions to custody decreased by 21% and admissions to community supervision were down 7% in 2020/2021.

Statistics Canada, “[Adult and youth correctional statistics, 2020/2021](#),” *The Daily*, 20 April 2022. See also Statistics Canada, “[After three months of unprecedented declines, monthly decreases in the adult custodial population in Canada slowed in June](#),” *The Daily*, 27 October 2020; and Statistics Canada, “[Table 35-10-0175-01: Monthly average counts of adults in federal and provincial/territorial custody during the COVID-19 pandemic](#),” Database, accessed 12 May 2023.
27. See, for example, Office of the Federal Ombudsman for Victims of Crime, [Bail reform: Getting fair outcomes for victims in Canada’s criminal justice system](#), November 2017, p. 3.
28. An Ontario study from 2012 indicated that the cost of detaining an adult prior to trial was about \$183 per day, as opposed to \$5 per day for community supervision. See Ontario, Commission on the Reform of Ontario’s Public Services, [Public Services for Ontarians: A Path to Sustainability and Excellence](#), 2012, p. 353. The commission further advised the Ministry of Community Safety and Correctional Services to work alongside the Ministry of the Attorney General “to address the growing challenge of increased custody remand.” *Ibid.*, p. 354.
29. For more information on this topic, see Cheryl Marie Webster, Research and Statistics Division, “[Broken Bail in Canada: How We Might Go About Fixing It](#),” Department of Justice Canada, June 2015; Nicole M. Myers, “Who Said Anything About Justice? Bail Court and the Culture of Adjournment,” *Canadian Journal of Law and Society*, Vol. 31, No. 1, 2015; Senate, Standing Committee on Legal and Constitutional Affairs, [Delaying Justice Is Denying Justice: An Urgent Need to Address Lengthy Court Delays in Canada](#), Final report, June 2017, pp. 133–138; Office of the Federal Ombudsman for Victims of Crime, [Bail reform: Getting fair outcomes for victims in Canada’s criminal justice system](#), November 2017, p. 3; Kyle Coady, Research and Statistics Division, “[Assessments and Analyses of Canada’s Bail System](#),” *Research in Brief*, Department of Justice Canada, 2018; Abby Deshman, Canadian Civil Liberties Association, “[This Time We Really Mean It! Won’t Cut It for Bail Reform](#),” 29 October 2018; and Kevin Tilley, B.C. Civil Liberties Association, [Justice Denied: The Causes of BC’s Criminal Justice System Crisis](#), 2012, p. 19. See also Holly Pelvin, “Remand as a Cross-Institutional System: Examining the Process of Punishment before Conviction,” *Canadian Journal of Criminology and Criminal Justice*, Vol. 61, No. 2, 2019.
30. For further reading, see Office of the Federal Ombudsman for Victims of Crime, [Bail reform: Getting fair outcomes for victims in Canada’s criminal justice system](#), November 2017, p. 3; Cheryl Marie Webster, Research and Statistics Division, “[Broken Bail in Canada: How We Might Go About Fixing It](#),” Department of Justice Canada, June 2015, p. 2; and Legal Aid Ontario, [A legal aid strategy for bail](#), 18 July 2019.

31. For more information, see Greg Ioannou, *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System: A Community Summary*, The Commission, 1995, quoted in Legal Aid Ontario, [A legal aid strategy for bail](#), 18 July 2019; Akwasi Owusu-Bempah and Scot Wortley, "[Race, Crime, and Criminal Justice in Canada](#)," in Sandra M. Bucerius and Michael Tonry, eds., *The Oxford Handbook of Ethnicity, Crime, and Immigration*, 1 October 2013, p. 292; and Abby Deshman and Nicole Myers, Canadian Civil Liberties Association and Education Trust, [Set Up to Fail: Bail and the Revolving Door of Pre-trial Detention](#), July 2014.
32. Statistics Canada, "[Adult and youth correctional statistics, 2020/2021](#)," *The Daily*, 20 April 2022.
33. Ibid.
34. For further reading, see Legal Aid Ontario, [A legal aid strategy for bail](#), 18 July 2019; and John Howard Society of Ontario, The Centre of Research, Policy and Program Development, [Reasonable Bail?](#), September 2013, p. 5.
35. For further reading, see Richard D. Schneider, [The Mentally Ill: How They Became Enmeshed in the Criminal Justice System and How We Might Get Them Out](#), Report prepared at the request of the Government of Canada, Department of Justice, Research and Statistics Division, March 2015; and "[Prisoners in B.C. struggling with mental health and substance use issues up significantly, study finds](#)," *CBC News*, 5 December 2021.
36. For examples, see Cara Nickerson, "[OPP commissioner says Pierzchala killing was 'preventable,' as procession brings officer home](#)," *CBC News*, 30 December 2022; Susan Clairmont, "[Killing of Haldimand OPP officer prompts report calling for changes to bail system](#)," *The Hamilton Spectator*, 22 March 2023; Scott Bauer, Bernard Condon and Mike Householder, The Associated Press, "[Christmas parade crash suspect's bail raises questions in Wisconsin](#)," *CTV News*, 23 November 2021; The Canadian Press, "[Doug Ford bashes justice system after man accused of killing Toronto police officer granted bail](#)," *National Post*, 22 September 2021; Betsy Powell, "[Observers 'flabbergasted' by decision to grant bail to Toronto rapper now wanted for first-degree murder](#)," *Toronto Star*, 21 May 2021; Meghan Grant, "[Calgary police chief under fire for tweet criticizing judge's decision to grant accused killer bail](#)," *CBC News*, 14 May 2020; Mark Gollom and Lorenda Reddekopp, "[Utter nonsense' that lenient bail system is a cause of Toronto shootings: lawyer](#)," *CBC News*, 10 August 2019; "[Saskatoon woman asks prime minister about bail reform bill](#)," *CBC News*, 26 January 2017; and "[Libération sous caution : l'Alberta revoit ses procédures, après la mort d'un membre de la GRC](#)," *Radio-Canada*, 16 June 2015.
37. For examples, see Jason Viau, "[Windsor sees increase in alleged assaults by people out on bail, peace bonds](#)," *CBC News*, 2 May 2023; Daniel Otis, "[Are Canadian bail rules tough enough? Experts weigh in after officer killed](#)," *CTV News*, 6 January 2023; "[Les provinces exhortent le fédéral à repenser les mises en liberté sous caution](#)," *Radio-Canada*, 14 January 2023; and Nicole Brockbank, "[Violent crime on bail up in Ontario, stakeholders agree system is broken, but not on how to fix it](#)," *CBC News*, 11 May 2023.
38. Council of the Federation, Letter to Prime Minister Justin Trudeau demanding bail reform dated 13 January 2023, attachment to Council of the Federation, [Premiers to meet virtually with Canadian Association of Chiefs of Police](#), News release, 18 April 2023.
39. Government of Canada, [Bill C-48: Proposed changes to strengthen Canada's bail system](#). The Government of Canada also noted the Federal-Provincial-Territorial Meeting of Ministers Responsible for Justice and Public Safety, which took place on 10 March 2023. See Canadian Intergovernmental Conference Secretariat, [Federal-Provincial-Territorial Meeting of Ministers Responsible for Justice and Public Safety: Progress made to strengthen Canada's bail system during Justice and Public Safety Ministers meeting](#), News release, 10 March 2023; and Government of Canada, [Bill C-48: An Act to amend the Criminal Code \(bail reform\) – Charter Statement](#), 2 June 2023.
40. House of Commons, Standing Committee on Justice and Human Rights, [Canada's Bail System](#), 44th Parliament, 1st Session.
41. [Bill C-75, An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts](#), 42nd Parliament, 1st Session (S.C. 2019, c. 25).
42. [Criminal Code](#), R.S.C. 1985, c. C-46, ss. 496, 498 and 499.
43. See Laura Barnett et al., "[2.1.3 Intimate Partner Offences](#)," *Legislative Summary of Bill C-75: An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts*, Publication no. 42-1-C75-E, Library of Parliament, 25 July 2019.
44. Section 13 of the *Interpretation Act* states that preambles are to be read as part of an enactment that is intended to assist in explaining its "purport and object." [Interpretation Act](#), R.S.C. 1985, c. I-21, s. 13.

45. Section 2 of the *Criminal Code* defines “weapon” as
any thing used, designed to be used or intended for use
(a) in causing death or injury to any person, or
(b) for the purpose of threatening or intimidating any person
and, without restricting the generality of the foregoing, includes a firearm and, for the purposes of sections 88, 267 and 272, any thing used, designed to be used or intended for use in binding or tying up a person against their will.
46. **Note that section 493.2 of the *Criminal Code* requires that the justice “give particular attention to the circumstances” of the accused, while new section 515(13.1) requires a justice to show how they “considered their particular circumstances, as required under” section 493.2.**
47. [Bill S-205, An Act to amend the Criminal Code and to make consequential amendments to another Act \(interim release and domestic violence recognizance orders\)](#), 44th Parliament, 1st Session.
48. House of Commons, [Standing Orders of the House of Commons – Consolidated version as of March 30, 2023](#), Standing Order 104(2); and Senate of Canada, [Rules of the Senate, s. 12-7.\(9\)](#).