

Bill C-279: Gender Identity Bill

What is Bill C-279?

Bill C-279, the Gender Identity Bill, is a Private Member's Bill currently before the Senate. If passed, it will add gender identity to the Canadian Human Rights Act and the Canadian Criminal Code.

It will help to:

- End hate propaganda based on gender identity by amending Sections 318 and 319 of the Criminal Code;
- End hate crimes based on gender identity by amending Section 718 of the Criminal Code; and
- End discrimination based on gender identity by including "gender identity" as grounds for discrimination in Section 3(1) of the Canadian Human Rights Act.

Why is it important?

The Canadian Human Rights Act recognizes discrimination based on sex and sexual orientation but not gender identity.¹ This leaves the trans/transgender/transsexual/gender variant (trans) community without the same rights and protections that other Canadians enjoy.

Explicit inclusion of gender identity as grounds for discrimination enshrines the rights of trans people and puts in place important human rights protections.

In practical terms, it means that after the Bill passes, if someone is assaulted because of their gender identity, for example, this would be considered a hate crime.

Where is it in the political process?

Bill C-279 is the fourth attempt to pass legislation on gender identity. NDP Member of Parliament Bill Siksay tried three times. The first two attempts did not get off the ground. His third attempt passed Third Reading in the House but died in the Senate when an election was called. Bill Siksay has since retired and NDP MP Randall Garrison took over that portfolio.

¹ Canadian Human Rights Act, Section 3 (1), states that "For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered."

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MP Randall Garrison introduced Bill C-279 as a Private Member's Bill in September 2011. It passed First and Second Reading and was sent to the Justice Committee. At this point, the Bill sought to include the phrase "gender expression" in addition to "gender identity," neither of which was accompanied by a definition. Attempts were made in Committee to amend the Bill by removing "gender expression" and adding a definition of "gender identity."² These changes were necessary to maintain the Conservative support that would pass the Bill at Third Reading. Due to a Filibuster by three Conservative MPs at the Justice Committee, the amendments were not completed, and the Bill went back to Third Reading in its original form. MP Randall Garrison was able to convince the Speaker that the entire House should vote on the amendments since the Committee had run out of time. The Speaker agreed and the amendments were passed at Report Stage. The Bill then passed Third Reading in March 2013 with 18 Conservative votes in favour. When the Bill passed the entire opposition stood, faced activists in the Gallery, and gave a standing ovation.

The Bill moved to First Reading in the Senate in March 2013, moved on to Second Reading in May 2013, to the Standing Senate Committee on Human Rights in June 2013, and to Third Reading in June 2013. During Third Reading, Senator Nancy Ruth moved an amendment to the Bill that would add "sex" to Sections 318 and 319 of the Criminal Code, arguing that both sex and gender should be included as criteria for hate propaganda to ensure specific protections for cisgender women. If passed with the amendment, the Bill would have gone back to the House of Commons to be voted on again before becoming law.

Prorogation of Parliament in mid-2013 sent the Bill back to First Reading in the Senate and removed Senator Ruth's amendment.

The Bill was reinstated when Parliament reconvened in October. It passed First Reading in the Senate in October. Second Reading debate on the Bill began on February 4, 2014 when Senator Grant Mitchell, the Senate sponsor of the Bill, reintroduced it. The Bill is currently at Second Reading in the Senate.

From Second Reading, the Bill may go back to the Senate Standing Committee on Human Rights, or it may go directly to Third Reading, and then to the Governor General for Royal Assent. At any point in the process, Senator Ruth could re-introduce her amendment, which would send the Bill back to the House of Commons, where its future is uncertain.

² According to Egale, "The removal of 'gender expression' could have some impact on legal protections for those who cross-dress but do not identify with the gender they are expressing. In situations where cross-dressers do identify with the gender they are expressing, even if this identification is not constant, it is likely that they would be protected under 'gender identity.'" <http://trans.egale.ca/gender-expression/>

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What is the political landscape?

At the moment, 93 Senators hold the future of this Bill in their hands. These are the people we need to influence to pass the Bill. Former Liberal Senators voted in favor of the Bill. Conservative Senators are split. Undecided Conservative Senators are the priority to target in the coming weeks, to ensure that the Bill continues to move swiftly toward passage.

Why is your action needed and why now?

Bill C-279 is facing significant opposition in the Senate. We need to influence Senators now, while the Bill is in Second Reading, and then again at Committee.

Broad support both from within and outside the LGBTI community is needed to show that this is a fundamental human rights issue that we, representing a broad cross-section of Canadian society, all support without reservation. That's why your signature is needed on a joint statement to Senators in support of Bill C-279.

Resources

- Bill C-279 text: http://www.parl.gc.ca/content/hoc/Bills/412/Private/C-279/C-279_3/C-279_3.PDF
- Status of Bill C-279 in this Parliamentary Session: <http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6251806>
- Egale: <http://trans.egale.ca/>

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