



May 29, 2023

Via email: minister-ministre@wage-fegc.gc.ca

The Honourable Marci Ien, P.C., M.P.
Minister for Women and Gender Equality and Youth
P.O. Box 8097, Station T CSC
Ottawa ON K1G 3H6

Dear Minister Ien:

Re: Bill C-311, *An Act to amend the Criminal Code (violence against pregnant women)*

I am writing on behalf of the Canadian Bar Association's Women Lawyers Forum (CBA Section) to ask you and your Government to oppose private member's Bill C-311. Bill C-311 proposes to amend the *Criminal Code* to specify that knowingly abusing a pregnant person, and causing physical or emotional harm to a pregnant victim, would be considered aggravating circumstances for sentencing purposes.

The CBA is a national association of over 37,000 lawyers, law students, notaries, and academics, and our mandate includes seeking improvements in the law and the administration of justice. The CBA Section has a mandate to promote women's stature and influence in the legal profession in Canada, and to create and offer programs and networking opportunities to support women lawyers.

The CBA Section opposes Bill C-311

On its face, this Bill would make it an aggravating factor on sentencing if the offender harmed a pregnant person. However, the CBA Section believes it is a misguided attempt to interfere with abortion access and destabilize abortion rights, by effectively giving separate legal status to a fetus.¹ This is why we are adding our voice to the chorus of opposition to Bill C-311.

The CBA Section fully supports, and wishes to amplify, the position paper on Bill C-311 prepared by the Abortion Rights Coalition of Canada (ARCC), a copy of which is attached.

¹ In Canadian law, a fetus has no independent legal status and is not considered a legal person until it is born alive. See e.g. *Winnipeg Child and Family Services (Northwest Area) v G (DF)*, [1997] 3 SCR 925; *Dobson (Litigation Guardian of) v Dobson*, [1999] 2 SCR 753; *R v Levkovic*, 2013 SCC 25.

We make three additional points.

1. While access is imperfect, abortion is robustly protected in Canadian law — as it should be. Abortion was completely decriminalized in 1988, in the Supreme Court of Canada’s decision in *R v Morgentaler*. The Court found that remaining *Criminal Code* restrictions on abortion access infringed the right to liberty and security of the person, as protected under section 7 of the *Canadian Charter of Rights and Freedoms*. Today, abortion in Canada is fully legal, and generally treated as an insured health service. Robust [protections](#) for abortion access, including surgical (procedural) and medication abortion, are baked into our health care system.
2. Criminal law, including the sentencing provisions of the *Criminal Code*, is a blunt and insufficient tool for addressing gender-based violence. The Mass Casualty Commission recently made a similar point in its final report, *Turning the Tide Together*, stating that prioritizing women’s safety “necessitates decentring the criminal justice system” and moving away from carceral responses.²
3. Efforts like Bill C-311 are an unwelcome and unproductive distraction from the ongoing, and necessary, work to expand access to procedural and medication abortion across Canada.³ We respect the parliamentary process but remind our elected officials that abortion access is well-protected in Canadian law, and these legal protections should not be up for debate.

On this basis, we urge the Government and MPs copied on this letter to oppose Bill C-311, and we congratulate those who have already done so.

We hope these observations are helpful and would be pleased to discuss further.

Yours sincerely,

(original letter signed by Véronique Morissette for Jennifer L. Taylor)

Jennifer L. Taylor (she/her), Chair, CBA Women Lawyers Forum

Attachment: ARCC, “Six reasons to oppose Bill C-311” (March 26, 2023).

- cc. The Honourable David Lametti, P.C., M.P., Minister of Justice and Attorney General of Canada (email: mcu@justice.gc.ca)
 Cathay Wagantall, M.P. (email: cathay.wagantall@parl.gc.ca)
 Gary Anandasangaree, M.P., Parliamentary Secretary to the Minister of Justice and Attorney General of Canada (email: Gary.Anand@parl.gc.ca)
 The Honourable Rob Moore, P.C., M.P., Shadow Minister for Justice and Attorney General of Canada (email: Rob.Moore@parl.gc.ca)
 Randall Garrison, M.P., NDP Critic for Justice and 2SLGBTQI+ Rights (email: randall.garrison@parl.gc.ca)
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 Jenna Sudds, M.P., Parliamentary Secretary to the Minister for Women and Gender Equality

² *Turning the Tide Together: Final Report of the Mass Casualty Commission* (March 2023), [Volume 3: Violence](#) at 443-449.

³ See e.g. Health Canada, [“Government of Canada Strengthens Access to Abortion Services”](#) (May 9, 2023) and [“Improving Access to Abortion Services and Information under the Sexual and Reproductive Health Fund”](#) (May 9, 2023).

and Youth (email: jenna.sudds@parl.gc.ca)

Andréanne Larouche, M.P., BQ Critic for Status of Women and Gender Equality

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