

DOMESTIC VIOLENCE LEGISLATION IN CANADA

In Canada, the federal government has the authority to make laws that affect all Canadians - and this includes the criminal law. The provinces, however, are responsible for prosecuting most [Criminal Code](#) offences. The federal government also prosecutes *Criminal Code* offences in the territories as well as other federal offences across the country.

What federal legislation addresses family violence in Canada?

Family violence is against the law in Canada. Although the *Criminal Code* does not have a specific "family violence offence", an abuser can be charged with an applicable offence. Criminal charges could include:

- assault
- assault causing bodily harm
- sexual assault
- sexual assault causing bodily harm
- sexual assault with a weapon
- criminal harassment (sometimes called "stalking")
- uttering threats
- mischief
- intimidation
- forcible confinement
- attempted murder, and
- murder.

Violation of a protective court order, such as a peace bond or a prohibition order could also result in charges.

Legislative Reforms

In recent years, a number of key *Criminal Code* amendments have been put in place to improve the criminal justice legal framework for addressing family violence:

- Bill C-15 re-introduced on March 14, 2001 (previously Bill C-36) proposes to amend the *Criminal Code* to increase the maximum penalty for criminal harassment from 5 to 10 years. The Bill also proposes legislation to protect children from sexual exploitation by criminalizing a number of specific actions including luring children on the Internet; transmitting, making available, or exporting child pornography on the Internet; or intentionally accessing child pornography on the Internet. Sentencing provisions are also to be strengthened. Bill C-15 also proposes measures to make it easier to prosecute people involved in child sex tourism.
- Bill C-79 (proclaimed into force on December 1, 1999) amended the *Criminal Code* to facilitate the participation of victims and witnesses in the criminal justice process.

Measures were put in place to prevent victims from being re-victimized by the system. For example, bail decisions must take the safety of victims into account, and publication bans are now permitted to protect the identity of any victim or witness.

- Bill C-27 (proclaimed into force on May 26, 1997) amended the *Criminal Code* to strengthen the criminal harassment (stalking) provisions. This included making murder, committed while stalking a victim, a first-degree murder, where the murderer intended to instill fear for the victim's safety. The Bill also requires the courts to take the breach of a protective court order into account as an aggravating factor in sentencing an offender for criminal harassment. Bill C-27 also amended the *Criminal Code* provisions on child sex tourism, and clarified that female genital mutilation is prohibited in Canada.
- Bill C-41 (Sentencing) (proclaimed into force on September 3, 1996) amended the *Criminal Code* to require the courts to take into account the abuse of a spouse or a child as an aggravating factor in sentencing an offender for an offense. Spouses and children can also seek restitution from the offender for the expenses they incurred because they had to leave their home to avoid being harmed.
- Bill C-42 (Omnibus)(proclaimed into force on February 1, 1995) amended the *Criminal Code* to make it easier to obtain peace bonds (protective orders). Police and others can now apply for a peace bond on behalf of a person at risk of harm. The maximum penalty for violation of a peace bond was increased from 6 months to two years.
- Bill C-126 (proclaimed into force on August 1, 1993) created the new anti-stalking offence of criminal harassment.

Provincial Legislation

Provincial governments make laws in areas of provincial jurisdiction including the provision of victims' services. To date, four provinces (Alberta, Saskatchewan, Manitoba and Prince Edward Island) and one territory (Yukon) have proclaimed specific legislation on family violence:

- Alberta: *Protection Against Family Violence Act* (June 1, 1999)
- Saskatchewan: *Victims of Domestic Violence Act* (February 1, 1995)
- Manitoba: *Domestic Violence Stalking, Prevention, Protection and Compensation Act* (June 29, 1998)
- Prince Edward Island's *Victims of Family Violence Act* (December 16, 1996)
- Yukon Territory's *Family Violence Prevention Act* (December 11, 1997)

Ontario's *Domestic Violence Protection Act* is not yet proclaimed.

These pieces of legislation complement Canada's *Criminal Code* by offering further protection to victims of family violence.

Copies of all legislation can be downloaded directly from the department of justice website:
<http://canada.justice.gc.ca/en/ps/fm/legis.html>