



Bill C-225 Is Almost the Same as Previous Bill C-484

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A new private member's bill, Bill C-225, was introduced on February 23 by Conservative MP Cathay Wagantall (Yorkton-Melville). The bill would create a new Criminal Code offence – injuring or causing the death of a “preborn child” while committing a criminal offence against a pregnant woman.

Bill C-225 is a slightly revised version of a previous bill introduced in late 2007 by then-Conservative MP Ken Epp. That bill, C-484, passed second reading but died on the Order Paper when an election was called in September 2008. The purpose of Bill C-484 was to create the same offence – injuring or causing the death of an “unborn child” while committing a criminal offence against a pregnant woman. (Note: Even that bill was not the first. Bill C-291 from 2006 also tried to create the same separate offence for a fetus injured or killed in an attack on a pregnant woman, but that bill failed. A similar Motion M-560 in 2004 also failed. [Here](#) is a complete list of anti-choice bills and motions.)

A careful comparison with the wording of the new [Bill C-225](#) with [Bill C-484](#) reveals that the two bills are nearly identical. There's **three key differences** in Bill C-225: A Preamble, an aggravating circumstance clause, and a lack of exclusions for legal abortion and acts/omissions by pregnant women or those acting in good faith.

The following table gives a clause-by-clause comparison of the two bills, with our interpretation on what the differences mean, or could mean. Minor differences are highlighted in bold. A more detailed critique of the bill can be found in our article, [ARCC Cannot Support Bill C-225](#).

Section	Bill C-225	Bill C-484	Interpretation
Long Title	An Act to amend the Criminal Code (injuring or causing the death of a preborn child while committing an offence)	An Act to amend the Criminal Code (injuring or causing the death of an unborn child while committing an offence)	C-225's short title cloaks its main purpose, more blatantly stated by C-484. Pregnant women are mentioned before “preborn children” even though the bill's main focus is creating a separate offence for fetuses.
Short Title	Protection of Pregnant Women and Their Preborn Children Act (Cassie and Molly's Law)	Unborn Victims of Crime Act	The short title in common use is “Cassie and Molly's Law”, which could evoke more sympathy and less opposition than C-484's title. The latter bill was also in response to a pregnant woman's murder (Olivia Talbot) but her case was not put front and centre to the same degree. C-225 is being primarily driven by the victim's family, although strongly supported by the anti-choice movement.

<p>Preamble</p>	<p>“Whereas Cassie Kaake was seven months pregnant and eagerly anticipating the birth of her daughter Molly when she was brutally murdered in Windsor, Ontario, in 2014;</p> <p>“Whereas no charges could be laid for Molly’s death because existing criminal law does not recognize the injury or death caused to a preborn child as a separate offence when a pregnant woman is the victim of a crime, even if the sole purpose of her attacker is to kill her child;</p> <p>“Whereas not being considered a human being under the Criminal Code does not mean that a preborn child does not deserve protection under the law;</p> <p>“Whereas a majority of Canadians support the adoption of legislation that would make it a separate offence to cause injury or death to a preborn child during the commission of an offence against the child’s mother;</p> <p>“Whereas Parliament wishes to address this gap in the law and allow for two charges to be laid in such circumstances;</p> <p>“And whereas Parliament wishes to more strongly denounce violence against pregnant women by explicitly including pregnancy as an aggravating circumstance in sentencing;”</p>	<p>No preamble</p>	<p>A preamble sets out a bill’s purposes and the reasons for introducing it. Section 13 of the <i>Interpretation Act</i> of Canada says: "The preamble of an enactment shall be read as a part of the enactment intended to assist in explaining its purport and object." This means it essentially becomes part of the law when it’s enacted.</p> <p>Of special note is the phrase about a “preborn child” deserving protection under the law even if not considered a human being (under the Criminal Code). This clause exposes the bill’s fundamental contradiction, because it acknowledges that the fetus is not a human being under the law, but pretends it doesn’t have to be, yet treats it as a human being.</p> <p>(Further discussion in ARCC Cannot Support Bill C-225)</p>
<p>Definition</p>	<p>“...preborn child means a child at any state of development that has not yet become a human being within the meaning of section 223.”</p>	<p>No separate definition, but partly defined in another clause (s.4): “...causes injury to a child during birth or at any stage of development before birth...”.</p> <p>Another clause (s.5), which is NOT in C-225, says: “It is not a defence to a charge under this section that the child is not a human being.”</p>	<p>Both bills cover the fetus throughout pregnancy.</p> <p>It appears that C-225 is trying to make it even more upfront and clear that a “preborn child” is not a human being (also via that Preamble clause, above).</p> <p>C-225’s assurance that the fetus is not a human being seems designed to distract from the bill’s attempt to establish fetuses as human beings and create legal confusion. It is disingenuous to agree the fetus is not a human being while attempting to make it so.</p>

			The anti-choice term “preborn child” is unprecedented in the Criminal Code, and so are the new protections for zygotes and embryos as well as fetuses. Currently, the Criminal Code has anti-homicide protections for a “child” or “unborn child” only immediately prior to and during birth. (More info on page 4 of ARCC’s 2008 rebuttal to the MP who promoted C-484, under “Epp’s bill establishes fetal personhood” .)
Offences (death/injury)	Summarized: For injuring or causing the death, directly or indirectly, of a “preborn child while committing or attempting to commit an offence ... against a female person that the person knows is pregnant.”	Summarized: For directly or indirectly causing the injury or “death of a child during birth or at any stage of development before birth while committing or attempting to commit an offence against the mother of the child , who the person knows or ought to know is pregnant.”	There’s a minor difference in sentencing between the bills, either 10 years (C-484) or 14 years (C-225) maximum imprisonment in some cases. C-225 says the offender must know the woman was pregnant, while C-484 says “knows or ought to have known”. This is an improvement, as the “ought to know” principle is subjective and problematic. Otherwise, the wording in the two Offence sections, the most extensive in the bills, are virtually identical.
Reduced punishment / offence	If the offender commits the offence “in the heat of passion caused by sudden provocation,” they can be punished with life in prison, instead of life in prison with a minimum term of 10 years.	The same	
Separate Offence	“An offence referred to in this section is not included in any offence committed against the mother of the preborn child.”	“An offence referred to in this section committed against a child is not included in any offence committed against the mother of the child.”	This clause clearly establishes a separate offence for the fetus. In C-225, it’s been softened a bit to distract from the objective to make the fetus a human being. However, by making clear that harming or injuring a fetus is <i>not included in any offence</i> committed against the pregnant woman, the bill opens the possibility that she herself (or a support person) could be arrested for that separate offence against her fetus. (Further discussion in ARCC Cannot Support Bill C-225)
Exclusions	None	“Termination of pregnancy and acts in good faith excluded. “(7) For greater certainty, this section does not apply in respect of	Wagantall’s Backgrounder claims that the bill “excludes any possibility that a pregnant woman can be penalized...for any harm done to her preborn child” on the basis that “the new offences can only apply when the woman is the victim of a crime – they are not stand-

		<p>“(a) conduct relating to the lawful termination of the pregnancy of the mother of the child to which the mother has consented;</p> <p>“(b) an act or omission that a person acting in good faith considers necessary to preserve the life of the mother of the child or the life of the child; or</p> <p>“(c) any act or omission by the mother of the child.”</p>	<p>alone offences”. She also mentions in her Q&A that the bill is aimed at third parties.</p> <p>But the fact that C-484’s exclusions have been omitted from C-225 is cause for concern. There’s no mention of third parties, so it’s not obvious that pregnant women or those who help her might not be subject to arrest as an “offender” if either commit a criminal offence. Regardless, even if the exclusions were added to the bill, it still creates legal recognition for fetuses as separate victims.</p> <p>(Further explanation in ARCC Cannot Support Bill C-225)</p>
<p>Aggravating circumstance (for sentencing purposes)</p>	<p>“Paragraph 718.2(a) of the Act is amended by adding the following after subparagraph (ii.1):</p> <p>“(ii.2) evidence that the offender, in committing the offence, abused a person who they knew was pregnant,”</p>	None	<p>Section 718.2 of the Criminal Code, sets out sentencing principles and requires judges to take into account certain aggravating circumstances, if present in the crime. C-225 would add pregnancy to the list.</p> <p>Although judges already have the discretion to take extenuating factors like pregnancy into account, this clause would require them to. This would pertain <i>only</i> to a crime against a pregnant woman, not her fetus, so does not carry any risk of granting fetal personhood.</p> <p>This C-225 clause is exactly the same as the text of Bill C-543 from 2008, introduced by Liberal MP Brent St. Denis as a better alternative to C-484, except it deletes the “or ought to have known” clause, which is a good thing, as that is too subjective.</p> <p>For important context, please read ARCC’s piece on Bill C-543. There’s also further discussion in ARCC Cannot Support Bill C-225.</p>
<p>Power of court to delay parole</p>	The same	The same	