



**BILL C-78: An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act**

**Brief Submitted by Women's Shelters Canada  
November 16, 2018**

**Introduction and Context**

[Women's Shelters Canada](#) is a national organization created by the provincial/territorial violence against women shelter organizations who identified the need for a unified voice on the issue of violence against women at the national level. In addition to providing a unified voice, Women's Shelters Canada is a connector, facilitating exchanges between P/T shelter organizations, between shelters across the country and between the federal government, and P/T shelter associations and individual shelters. Our members include P/T VAW shelter organizations<sup>1</sup>. Although there are over 500 violence against women (VAW) shelters across the country, the reality is that a significant percentage of these are having to turn women away on a daily basis due to lack of space.

Shelters know far too well that the most dangerous time for a woman affected by domestic violence is when she makes the decision to leave her partner. The capacity to provide a secure environment for women fleeing domestic violence is at the core of Canada's VAW shelters. Shelter workers also provide much needed systems navigations support including accessing legal supports.

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<sup>1</sup> Alberta Council of Women's Shelters; L'Alliance des maisons d'hébergement de 2e étape pour femmes et enfants victimes de violence conjugale (Quebec); BC Society of Transition Houses; Fédération des maisons d'hébergement pour femmes (Quebec); Manitoba Association of Women's Shelters; New Brunswick South Central Transition House and Second Stage Coalition; Ontario Association of Interval and Transition Houses; PEI Family Violence Prevention Services Inc.; Provincial Association of Transition Houses and Services of Saskatchewan; Regroupement des maisons pour femmes victimes de violence conjugale (Quebec); Transition House Association of Newfoundland and Labrador; Transition House Association of Nova Scotia; The Yukon Women's Transition Home Society; and YWCA Northwest Territories.

We congratulate the government on moving forward to make amendments to the Divorce Act. For many years, hundreds of organizations advocating for victims of domestic violence have called for such changes.

We also feel strongly that gender neutral language is to be avoided. In Canada, it is women who are overwhelmingly victims of domestic violence and for the most part, it is men who are the instigators of this violence.

**Women’s Shelters Canada fully endorses the recommendations provided in the Brief jointly submitted by Luke’s Place Support and Resource Centre and the National Association of Women and the Law. We feel these recommendations will go a long way in protecting women and their children leaving an abusive partner.**

As noted in the joint Brief, the evidence is clear that violence by husbands often intensifies in the months following a separation, making them the most lethal for many abused women. Consequently, requiring that mothers continue to communicate and cooperate with an abusive spouse is not only inappropriate, it is dangerous, and potentially lethal. Nonetheless, mothers who are legitimately incapable of or unwilling to cooperate with an abusive spouse are frowned upon by the courts and may even lose custody of the children to the abusive spouse. Therefore, cooperation and communication provisions need to be flexible and clearly indicate that they may not be appropriate and should not be required in cases where there has been any history of family violence.

We would like to bring to your attention the following recommendations:

**Include a preamble in Bill C-78**

WHEREAS in Canada, women are more likely than men to be victims of gender-based violence, including sexual assault and intimate partner violence;

WHEREAS Indigenous women, be they First Nation, Métis or Inuit, are disproportionately affected by gender-based violence and intimate partner violence;

WHEREAS family violence has profound negative consequences on families, children and Canadian society;

WHEREAS men continue to be the main perpetrators of family violence and women continue to be the victims/survivors of family violence;

WHEREAS violence against women is a form of gender-based discrimination rooted in systemic inequalities between women and men;

WHEREAS family violence is experienced by women in multiple ways shaped by other forms of discrimination and disadvantage, which intersect with race, Indigenous identity, ethnicity, religion, gender identity or gender expression, sexual orientation, citizenship immigration and refugee status, geographic location, social condition, age, and disability;

WHEREAS transgender, queer, and gender non-conforming people are also disproportionately victims of family violence;

WHEREAS divorce proceedings and the family law system should protect women from violence and not ignore or exacerbate family violence;

WHEREAS it is in the best interest of children to protect them and their mothers from family violence;

Whereas the Government of Canada is encouraged to continue to monitor the progress, across departments and agencies, of the status of women in Canada;

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

**Include a definition of Violence against Women and explicitly recognizes within C-78 that family violence is a form of violence against women**

***Violence against women:***

is a form of gender-based discrimination, a manifestation of historical and systemic inequality between men and women;

includes any act, intention or threat of physical, sexual or psychological violence that results in the harm or suffering of women in all their diversity, including restrictions on their freedom, safety and full participation in society;

is inflicted by intimate partners, caregivers, family members, guardians, strangers, co-workers, employers, healthcare and other service providers;

occurs in the home, at work, online, in institutions and in our communities; and

is experienced by women in multiple ways shaped by other forms of discrimination and disadvantage, which intersect with race, Indigenous identity, ethnicity, religion, gender identity or gender expression, sexual orientation, citizenship immigration and refugee status, geographic location, social condition, age, and disability.

As noted in the Brief submitted by Luke's Place and NAWL we also support:

- having children and their well-being remain at the centre of the *Divorce Act*;
- maintaining rather than changing the terms of “custody” and “access”; and
- the need for education on family violence, violence against women and gender equality and the need to include within the Bill education requirements for all actors in the family law system.