

FEDERAL/PROVINCIAL/TERRITORIAL (FPT) MEETING OF DEPUTY MINISTERS RESPONSIBLE FOR JUSTICE

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AGENDA TOPIC: Private Members' Business (PMB) - s.13,s.16 s.13
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BACKGROUND:

In the past few years, there has been a notable increase in the ^{s.13,s.}16 volume and complexity of Private Members' Business s.16

The PMB process allows Members of Parliament, who are not part of Cabinet, to introduce a Bill or a Motion to highlight a policy or legislative proposal and express their views on a number of issues. Members can be Government members or Opposition members. The process enables individual Members to develop their role as initiators of policy and as legislators. It also provides a useful check on the executive and offers a valuable way to ensure Parliament can address emerging issues, demonstrating its responsiveness to evolving matters of public concern.

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early and
consistent consultation informs effective decision-making, thus benefiting the criminal
justice system as a whole.

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lack of consultation does not foster the
development of fully considered recommendations for criminal law reform, including
considerations ranging from policy, research, administration of programs to enforcement
of laws and regulations.

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IMPLICATIONS FOR BC:

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FPT Working Group on Private Members Business (PMBs)

List of PMBs since 2006

(* passed between 2006 and Dissolution, remainder were before Parliament upon dissolution in 2015)

1. C-208 *An Act to Amend the Supreme Court Act* (understanding the official languages) (NDP)

Bill C-208 proposed to amend the *Supreme Court Act* and introduced a new requirement for judges appointed to the Supreme Court to understand English and French without the assistance of an interpreter.

Position: The Government opposed the Bill. The Bill did not proceed beyond Second Reading.

Coming into Force (CIF): No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6253359>

2. C-217 *An Act to Amend the Criminal Code* (mischief related to war memorials)* (CPC)

Bill C-217 proposed to amend the *Criminal Code* to provide for the offence of committing mischief in relation to a war memorial or cenotaph.

Position: The Government supported the Bill.

CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6251803>

3. C-268, *An Act to Amend the Criminal Code* (minimum sentence for offences involving trafficking of persons under eighteen years) * (CPC)

Bill C-268 proposed to amend the *Criminal Code* (minimum sentence for offences involving trafficking of persons under the age of eighteen years).

Position: The Government supported the Bill.

CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=4328299>

4. C-277, *An Act to Amend the Criminal Code (luring a child)* (CPC)*

Bill C-277 proposed to amend the *Criminal Code* to increase from five years to ten years the maximum punishment for an offence under section 172.1 (luring a child). It also specified that, in the case of a summary conviction for this offence, the maximum punishment is eighteen months.

Position: The Government supported the Bill.

CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=2182343>

5. C-279 *An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity) (NDP)*

Bill C-279 proposed to amend the *Canadian Human Rights Act* to include gender identity as a prohibited ground of discrimination and to amend the *Criminal Code* to include gender identity as a distinguishing characteristic protected under section 318 (advocating genocide) and as an aggravating circumstance to be taken into consideration under section 718.2 at the time of sentencing.

Position: The Government opposed the Bill. This Bill was not passed by the Senate and a number of Conservative members voted in favour of it in order to pass it in the House of Commons.

CIF: 30 days after Royal Assent.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6251806>

6. C-290, *An Act to amend the Criminal Code (sports betting) (NDP)*

Bill C-290 proposed to repeal paragraph 207(4)(b) of the *Criminal Code* to make it lawful for the government of a province, or a person or entity licensed by the Lieutenant Governor in Council of that province, to conduct and manage a lottery scheme in the province that involves betting on a race or fight or on a single sport event or athletic contest by telephone, by Internet or at land-based locations. The decision about whether, and by what means, to offer single sport event betting would be left to each province and territory.

Position: The Government supported the Bill. The Bill was not passed in the Senate.

CIF: on a day to be fixed by the Governor in Council (GIC).

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6251809>

7. C-299, *An Act to Amend the Criminal Code (mandatory minimum penalties for child kidnapping) (CPC)**

The Bill proposed to amend the *Criminal Code* to prescribe a minimum punishment of five years when a kidnap victim is under sixteen years of age, unless the person who commits the offence is a parent, guardian or person having the lawful care or charge of the victim.

Position: The Government supported the Bill.
CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5134262>

8. C-309, *An Act to Amend the Criminal Code (concealment of identity) (CPC)**

The Bill proposed to amend the *Criminal Code* to make it an offence to wear a mask or other disguise to conceal one's identity while taking part in a riot or an unlawful assembly.

Position: The Government supported the Bill.
CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5136691>

9. C-310, *An Act to Amend the Criminal Code (human trafficking) (CPC)**

The bill proposed to amend the *Criminal Code* to add the offence of trafficking in persons to the offences committed outside Canada for which Canadian citizens or permanent residents may be prosecuted in Canada. It also proposed to add factors that the Court may consider when determining whether an accused exploits another person.

Position: The Government supported the Bill.
CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5137989>

10. C-394, *An Act to Amend the Criminal Code and the National Defence Act (criminal organization recruitment) (CPC)**

The Bill proposed to amend the *Criminal Code* to make it an offence to recruit, solicit, encourage, coerce or invite a person to join a criminal organization. It proposed to establish a penalty for that offence and a more severe penalty for the recruitment of persons who are under 18 years of age. This Bill also made a related amendment to the *National Defence Act*.

Position: The Government supported the Bill.

CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6251821>

11. C-444 *An Act to Amend the Criminal Code (personating a peace officer or public officer) * (CPC)*

The Bill proposed to amend the *Criminal Code* to establish that personating a police officer or a public officer for the purpose of committing another offence must be considered by a court to be an aggravating circumstance for sentencing purposes.

Position: The Government supported the Bill.

CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6254379>

12. C-452, *An Act to amend the Criminal Code (exploitation and trafficking in persons)* (IND)*

Bill C-452 proposed to amend the *Criminal Code* in order to provide consecutive sentences for offences related to trafficking in persons and created a presumption regarding the exploitation of one person by another and to add the offence of trafficking in persons to the list of offences to which the forfeiture of proceeds of crime apply.

Position: The Government supported the Bill with amendments.

CIF: on a day to be fixed by the GIC.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6254142>

13. C-461, *An Act to Amend the Access to Information Act and the Privacy Act (disclosure of information) (IND)*

The Bill proposed to amend the *Access to Information Act* to provide that the Canadian Broadcasting Corporation may refuse to disclose any information requested under that Act if the information is under the control of the Corporation and the disclosure would reveal the identity of any journalistic source or if the disclosure could reasonably be expected to prejudice the Corporation's journalistic, creative or programming independence. It also proposed to amend the *Privacy Act* to specify that certain information is not personal information for the purposes of that Act.

Position: The Government supported the Bill. – The Bill was withdrawn by the member following amendments made at committee.

CIF: 90 days after Royal Assent

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6254383>

14. C-464, *An Act to Amend the Criminal Code (justification for detention in custody)* (IND)*

The Bill proposed to amend the *Criminal Code* to provide that the detention of an accused in custody may be justified where it is necessary for the protection or safety of the public, including any person under the age of 18 years.

Position: The Government supported the Bill.
CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=4328831>

15. C-475, *An Act to Amend the Criminal Code (methamphetamine and ecstasy)* (CPC)*

The Bill proposed to amend the *Controlled Drugs and Substances Act* to prohibit a person from possessing, producing, selling or importing anything knowing it will be used to produce or traffic in methamphetamine or ecstasy.

Position: The Government supported the Bill.
CIF: 90 days after Royal Assent.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=4328389>

16. C-481, *An Act to Amend the Federal Sustainable Development Act (duty to examine – EC lead – Justice co-sign) (NDP)*

The Bill proposed to amend the *Federal Sustainable Development Act* to provide for an examination of bills and proposed regulations to ensure that their provisions are not inconsistent with the purposes and provisions of that Act.

Position: The Government opposed the Bill. The Bill was defeated at Second Reading
CIF: No Clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6251860>

17. C-489, *An Act to Amend the Criminal Code and the Corrections and Conditional Release Act (restrictions on offenders) * (CPC)*

The Bill proposed amending section 161 of the *Criminal Code* to require a court to consider making an order prohibiting certain offenders from being within two kilometres, or any other distance specified in the order, of any dwelling-house where the victim identified in the order resides or of any other place specified in the order. It also proposed to amend subsection 732.1(2) (probation) to ensure that the offender abstains from communicating with any victim, witness or other person identified in a probation order, or refrains from going to any place specified in the order, except in accordance

with certain conditions. It made similar amendments to section 742.3 (conditional sentence orders) and subsection 810.1(3.02) (conditions of recognizance).

The Bill also proposed to amend section 133 of the *Corrections and Conditional Release Act* to provide that the releasing authority may impose any conditions on the parole, statutory release or unescorted temporary absence of an offender that it considers reasonable and necessary in order to protect the victim or the person, including a condition that the offender abstain from having any contact, including communication by any means, with the victim or the person or from going to any specified place.

Position: The Government supported the Bill.
CIF: 3 months after Royal Assent

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6251827>

18. C-560, *An Act to Amend the Divorce Act* (equal parenting) (CPC)

The Bill proposed to amend the *Divorce Act* to replace the concept of “custody orders” with that of “parenting orders”. It instructs judges, when making a parenting order, to apply the principle of equal parenting unless it is established that the best interests of the child would be substantially enhanced by allocating parental responsibility other than equally.

Position: The Government opposed the Bill. It was defeated at Second Reading.
CIF: No clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6353819>

19. C-567 *An Act to amend the Access to Information Act* (transparency and duty to document) (NDP)

The bill proposed to amend the *Access to Information Act* to, among other things,

- (a) give the Information Commissioner of Canada the power to order government institutions to release documents;
- (b) require government institutions to create records to document their decisions, recommendations and actions;
- (c) establish an explicit duty to comply with orders of the Information Commissioner; and
- (d) provide that those orders may be filed with the Federal Court and enforced as if they were judgments of that Court.

Position: The Government opposed the Bill. It was defeated at Second Reading.
CIF: No clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6390004>

20. C-570, *An Act to amend the Criminal Code (mandatory minimum sentences for rape)* (CPC)

Bill C-570 proposed to amend sections 271, 272, and 273 of the *Criminal Code* to establish mandatory minimum sentences for sexual assaults that fall within the definition of “rape,” as defined for the purpose of those sections. It also established that sentences for such offences must be served consecutively to any other punishment arising out of the same event or series of events.

Position: Government position was not announced.

CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6390975>

21. C-583 *An Act to amend the Criminal Code (fetal alcohol spectrum disorder)* (CPC)

C-583 proposed to amend the *Criminal Code* to add a definition of “fetal alcohol spectrum disorder” (FASD) and to establish a procedure for assessing individuals who are involved in the criminal justice system and who it is suspected suffer from FASD. It required the court to consider, as a mitigating factor in sentencing, a determination that the accused suffers from FASD and manifests certain symptoms.

Position: During the vote at Second Reading, the sponsor withdrew the Bill. The subject-matter was then referred to Committee for a study of its subject-matter.

CIF: No Clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6487744>

22. C-587, *An Act to amend the Criminal Code (increasing parole ineligibility) – the Respecting Families of Murdered and Brutalized Persons Act* (CPC)

Bill C-587 proposed to amend the *Criminal Code* to provide that a person convicted of the abduction, sexual assault and murder of one victim is to be sentenced to imprisonment for life without eligibility for parole until the person has served a sentence of between twenty-five and forty years as determined by the presiding judge after considering the recommendation, if any, of the jury.

Position: The Government supported the Bill.

CIF: No Clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6496356>

23. C-590, *An Act to amend the Criminal Code (blood alcohol content) (CPC)*

Bill C-590 proposed to amend section 255 of the *Criminal Code* to establish more severe penalties for offences committed under section 253 in circumstances where the offender has a blood alcohol content that exceeds one hundred and sixty milligrams of alcohol in one hundred millilitres of blood, and to raise the minimum penalties that apply to convictions for impaired driving causing bodily harm or death.

Position: The Government supported the Bill with amendments
CIF: No Clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6519131>

24. C-592, *An Act to amend the Criminal Code (cruelty to animals) (NDP)*

Bill C-592 proposed to significantly amend the *Criminal Code*'s animal cruelty provisions including by creating a new Part of the *Criminal Code*, to create new offences that would exclude specified activities (e.g., pest control, rodeo, hunting/fishing, agricultural activities), to create an aggravating factor where the act is committed against a law enforcement animal, and include an Aboriginal non-derogation clause.

Position: The Government did not announce its position
CIF: No Clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6510753>

25. C-639, *An Act to amend the Criminal Code (protection of critical infrastructures)*

Bill C-639 proposed to create a new *Criminal Code* offence of interfering with critical infrastructures: hybrid offence punishable by a maximum of 10 years imprisonment on indictment and 6 months on summary conviction with mandatory minimum fines for each (\$3000 and \$500 respectively), and an indictable offence where the conduct causes actual danger to life, punishable by life imprisonment. Sentences imposed for the new offence would be required to be served consecutively to any other sentence imposed for an offence arising out of the same event/series of events.

Position: The Government did not announce its position
CIF: No clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6793161>

26. S-201 *An Act to Prohibit and Prevent Discrimination* (Labour lead-Justice co-sign) (LIB)

The Bill proposed to prohibit any person from requiring an individual to undergo a genetic test or disclose the results of a genetic test as a condition of providing goods or services to, entering into or continuing a contract with, or offering specific conditions in a contract with the individual. Exceptions are provided for medical practitioners and researchers, as well as for insurance providers in respect of high-value insurance contracts if provincial laws expressly permit a requirement that existing genetic test results be disclosed. It also proposed to amend the *Canada Labour Code* to protect employees from being required to undergo or to disclose the results of a genetic test, and provides employees with other protections related to genetic testing and test results. It also amended the *Canadian Human Rights Act* to prohibit discrimination on the ground of genetic characteristics.

Position: The Bill did not proceed to the House of Commons, though Conservative Senators indicated some concerns with it.

Position: The Government opposed the Bill
CIF: No clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6257110>

27. S-203 (39th Parliament, Second session) *An Act to Amend the Criminal Code (cruelty to animals) (LIB)**

The Bill proposed to amend the *Criminal Code* to increase the maximum penalties for animal cruelty offences.

Position: The Government supported the Bill
CIF: No clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=3144131>

28. S-203, *An Act to amend the Controlled Drugs and Substances Act and the Criminal Code (mental health treatment)* (LIB)

Bill S-203 proposed to amend the *Controlled Drugs and Substances Act* and the *Criminal Code* to allow a sentencing court to delay sentencing to enable an offender to participate in a mental health treatment program or to receive mental health treatment under the court's supervision. Where the treatment is successfully completed, the court would not be required to impose a mandatory minimum penalty.

Position: The Government opposed the Bill
CIF: No clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6262309>

29. S-206, *An Act to amend the Criminal Code (protection of children)* (LIB)

Bill S-206 proposes to repeal the *Criminal Code* section 43's justification for parents, schoolteachers, and persons standing in the place of parents to use reasonable force as a means of correction toward a pupil or child under their care. If enacted, it would come into force one year after Royal Assent to enable the Government to undertake public education and to coordinate with the provinces.

Position: The Government opposed the Bill

CIF: 1 year after Royal Assent OR on a date fixed by the GIC

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6273086>

30. S-208 *An Act to Establish the Canadian Commission on Mental Health and Justice* (LIB)

The Bill established the Canadian Commission on Mental Health and Justice. The purpose of the Commission was to facilitate the development, sharing and application of knowledge, statistical data and expertise on matters related to mental health and criminal justice. Its role included providing recommendations for improving laws, policies and practices that address the needs of individuals who live with mental health problems or illnesses and are involved — or at risk of becoming involved — with the criminal justice system, in order to contribute to the health, safety and well-being of Canadians. The Bill also established the Mental Health and Justice Advisory Council to advise the Commission on the Commission's program of studies and other matters.

Position: The Government Opposed the Bill. The Bill did not proceed past the Senate. The Senate Committee recommended that the Bill not be proceeded with.

CIF: On a day fixed by the GIC

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6288122>

31. S-209, *An Act to Amend the Criminal Code (prize fights) (CPC)**

The Bill amended the *Criminal Code* by expanding the list of permitted sports under the prize fighting provisions.

Position: The Government supported the Bill.

CIF: No clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5462885>

32. S-210, *An Act to amend the Criminal Code (criminal interest rate)* (LIB)

Bill S-210 proposed to amend the *Criminal Code* to reduce the criminal rate of interest from sixty per cent to the Bank of Canada's overnight rate plus twenty per cent on credit

advanced for certain purposes, which would include personal, family and household purposes. It maintained the criminal rate at sixty per cent on credit advanced for business or commercial purposes. However, business or commercial agreements under which the credit advanced equals or exceeds one million dollars are exempt from the offence of charging a criminal rate of interest.

Position: The Government opposed the Bill
CIF: 60 days following Royal Assent

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6310008>

33. Bill S-214, *An Act to amend the Criminal Code (exception to mandatory minimum sentences for manslaughter and criminal negligence causing death)* (LIB)

Bill S-214 proposed to amend the *Criminal Code* to provide for an exception to the mandatory minimum sentences for manslaughter using a firearm and criminal negligence causing death with a firearm if the sentencing court is satisfied that the victim engaged in a pattern of conduct that constituted physical, sexual or psychological abuse of the offender.

Position: The Government opposed the Bill
CIF: No clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6410456>

34. S-215, *An Act to Amend the Criminal Code (suicide bombing) (CPC)**

The Bill proposed to amend the *Criminal Code* to clarify that suicide bombings fall within the definition “terrorist activity”.

Position: The Government supported the Bill
CIF: On a day fixed by the GIC

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=4518631>

35. S-221, *An Act to Amend the Criminal Code (assaults against public transit operators) (CPC)**

The Bill proposed to amend the *Criminal Code* to require a court to consider the fact that the victim of an assault is a public transit operator to be an aggravating circumstance for the purposes of sentencing.

Position: The Government supported the Bill
CIF: No clause

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6580267>

**36. S-225, *An Act to amend the Criminal Code (physician-assisted death)*
(CPC)**

Bill S-225 proposed to amend the *Criminal Code* to allow a physician, at a person's request and subject to certain conditions, to assist that person to end his or her life if he or she is enduring intolerable suffering or is in a state of weakening capacities due to illness, disease or disability.

Position: The Government opposed the Bill.

CIF: No clause.

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6811233>

PRIVATE MEMBERS BILLS BACKGROUND

PMBs, are draft legislation introduced by Members of Parliament other than the Speaker, Deputy Speaker, Ministers and Parliamentary Secretaries.

Parliamentary counsel (Legislation) in the Office of the Law Clerk and Parliamentary Counsel review PMBs to ensure the appropriateness of the proposed legislation, including drafting conventions and constitutional and formal requirements. In drafting each legislative proposal, parliamentary counsel act on the Member's instructions about the purposes and objectives of the proposed legislation. While Members may draft their own bills or retain outside counsel for that purpose, before these bills are introduced in the House, they are reviewed by parliamentary counsel and certified as to their correctness in form.¹

Rules relating to the conduct of PMBs arose from the 1985 recommendations of the Special Committee on the Reform of the House of Commons. These recommendations led to Standing Order amendments including the establishment of the Order of Precedence, the process for determining which items should be made votable (discussed below), and the manner in which items would be debated. The rules governing PMBs in the House of Commons and the Senate are governed by the Standing Orders and precedent and the Rules of the Senate of Canada and precedent, respectively.

A number of adjustments have been made to the rules allowing for the increased prominence in PMBs, including drawing Members' names rather than individual items, meaning that Members with one motion or bill would have the same chances as those with several motions or bills. There has also been a decrease in the time for debate on votable items, an increase in the number of days per week that private members' business would be considered (now one hour each day that Parliament is sitting), and an increase in items on the Order of Precedence.

In June of 2002, the Standing Committee on Procedure and House Affairs proposed a major reform of PMBs, reflecting concerns and suggestions of Members.² Its report recommended that every Member eligible to participate in PMBs should have at least one opportunity per Parliament to have an item debated in the House of Commons. Further, unless procedurally inadmissible or the sponsor opted to make it non-votable, each item in the Order of Precedence would be votable. A list of all eligible Members was to be established at the beginning of a new Parliament, from which after 20 sitting days, an Order of Precedence of 30 items would be created. All items in the Order of Precedence would be debated for up to two hours, at the end of which they would come to a vote. These proposals were considered by a Special Committee on

¹ *Ibid*, Private Members' Bills, <http://www.parl.gc.ca/procedure-book-livre/Document.aspx?sbdid=DFC709E5-ED90-48E5-B7EC-02E6D98BF07B&sbpid=95CC0D60-C400-4B42-BA5B-8789C97FDD57&Language=E&Mode=1>

² *Ibid*, Historical Perspective, http://www.parl.gc.ca/procedure-book-livre/Document.aspx?Language=E&Mode=1&sbdid=DFC709E5-ED90-48E5-B7EC-02E6D98BF07B&sbpid=F7CE0F1E-47A4-49DA-A711-E6B437883AF3#_ftnref33

the Modernization and Improvement of the Procedures of the House of Commons and provisionally adopted in 2004.

In November of 2006, a point of order was raised about the similarity of two items of private members' business in the Order of Precedence which led to changes in the criteria used to designate items non-votable and to further refinements of the proposals adopted in 2004. Bills and motions must not:

- a) concern questions that are outside federal jurisdiction;
- b) clearly violate the *Constitution Acts, 1867 to 1982*, including the *Canadian Charter of Rights and Freedoms* ("Charter");
- c) concern questions that are substantially the same as ones already voted on by the House of Commons in the current session of Parliament, or as ones preceding them in the order of precedence; or
- d) concern questions that are currently on the *Order Paper* or *Notice Paper* as items of government business.³

PMBs are public bills that can originate in either House of Parliament. Most originate in the House of Commons.⁴ Bills originating in the Senate are referred to as Senate Public Bills (SPBs).

At the beginning of a Parliament the names of all Members are placed in a random draw to establish a List for the Consideration (the List) of private members' business. After the transfer of the first 30 names, the Order of Precedence is replenished when necessary by adding the names of the next 15 Members on the List who have an eligible item.

Each PMB must be reviewed by the House Subcommittee on Private Members' Business to confirm votability before it can be debated in the House. If the sponsor of the item disagrees with the Subcommittee's decision, they have an opportunity to appear before the Standing Committee on Procedure and House Affairs to present arguments.

If a Member submits notice of a bill that is judged to be substantially the same as another item of private members' business already submitted, the Speaker has the discretionary power to refuse the most recent notice and the item is returned to the Member.

After a bill is determined to be votable, a Bill Review Meeting is held to confirm the Government's position and the parliamentary strategy. The Government's position is normally approved via a Memorandum to Cabinet which usually contains information respecting legal

³*Ibid*, Historical Perspective; http://www.parl.gc.ca/procedure-book-livre/Document.aspx?Language=E&Mode=1&sbdid=DFC709E5-ED90-48E5-B7EC-02E6D98BF07B&sbspid=F7CE0F1E-47A4-49DA-A711-E6B437883AF3#_ftnref39

⁴*House of Commons Procedure and Practice, Second Edition*, 2009, Chapter 21, Private Members' Business, Introduction: http://www.parl.gc.ca/procedure-book-livre/Document.aspx?sbdid=DFC709E5-ED90-48E5-B7EC-02E6D98BF07B&sbspid=A45D7F9E-D4D8-4772-8AAC-FEB24E564778&Language=E&Mode=1#_ftnref6

risk, including risk under the *Charter*. It also includes risks and impacts on Provinces and Territories as well as stakeholders where known. If the Government is inclined to support the PMB, this may be done with or without amendment and within strict timelines.

PMBs follow a similar parliamentary process as government bills but according to different rules, including first reading, second reading (maximum 2 hours of debate), and committee review (the committee must report the PMB within 60 days of hearing, with a possibility of a 30-day extension). The committee may adopt the PMB without amendment, with amendments or recommend that the House not continue the study of the bill. The combined Report Stage and Third Reading debate is also limited to two hours after which the House will proceed to vote on the bill (possible extension up to 5 hours). A similar process follows in the Senate although the Senate does not have specific rules with respect to the length of debates. If a PMB is amended by the Senate, it must return to the House for consideration. Once approved, the PMB awaits Royal Assent.

Unlike items of government business, PMBs continue from session to session and are automatically reinstated at the stage they had completed at the time of prorogation (though rules differ slightly if the Bill is in the Senate). This means that the List for the Consideration of Private Members' Business and the Order of Precedence continue from session to session. However, as with other types of business, PMBs cease to exist with the dissolution of Parliament and must be resubmitted for consideration once a new Parliament commences sitting.

Private Members Motions typically propose that the House declare its opinion on some topic or that the House order a certain course of action to be taken, either by the House itself, or by one of its committees.

It is important to note the sheer volume of PMBs in recent Parliaments. During the:

- 37th Parliament (January 2001- May 2004), 11 PMBs passed;
- 38th Parliament (October 2004 – November 2005), 6 PMBs passed;
- 39th Parliament (April 2006 – September 2008), 14 PMBs passed;
- 40th Parliament (November 2008 – March 2011), 6 PMBs passed.
- first session of the 41st Parliament (June 2011- September 2013) 19 passed; and
- second session of the 41st Parliament (October 2013 – August 2015), 24 passed.⁵

⁵ Parliament of Canada, *Parlinfo*, Private Members' public bills passed by Parliament, 1910 to date: <http://www.parl.gc.ca/Parlinfo/Compilations/HouseOfCommons/legislation/privatememberspublicbills.aspx>

Sentencing reforms over past 20 years

