

## Bill C-235 – What does it mean?

June 1, 2016

*FASD presents a wide range of complex challenges to the justice system, which is often not equipped to best serve those living with the disability. Effective supports can be key to keeping individuals anchored in their communities, but in the absence of such supports, individuals can find themselves embroiled in the justice system.<sup>1</sup>*



### New Bill Tabled:

MP Larry Bagnell (Yukon) recently tabled a Private Member's **Bill C-235** to amend the Criminal Code. The Bill is seen by many to be a much-needed intervention into the over-incarceration of individuals with FASD. **Bill C-235** proposes to amend the Criminal Code to address FASD, and modify the Corrections and Conditional Release Act to add, "persons suffering from a fetal alcohol disorder or other disabilities" to the list of special considerations requiring accommodation and limitations. The following Criminal Code changes are proposed:

- **Judges could more readily order assessments.**
- **FASD could be considered a mitigating factor in sentencing.**
- **Courts could create external support plans to better facilitate reintegration into society following custody.**

It is anticipated that Bill C-235 will come up for discussion and debate in Parliament in the coming months.

### Previous Attempts to Amend the Code:

There have been several bills in the past 18 months that seek to amend the Criminal Code of Canada to account for FASD:

1. Bill C-583 (MP Ryan Leef)
2. Bill C-656 (MP Sean Casey)

Although these bills were unsuccessful, each informed subsequent legislation.



## What the Research Tells Us:

- ➔ 10% of individuals in Canadian correctional institutes are diagnosed with FASD. An additional 18% are suspected of having FASD<sup>2</sup>
- ➔ The cognitive impairments often experienced by individuals with FASD may increase their risk of legal involvement as offenders, victims, or witnesses<sup>3</sup>
- ➔ Once involved in the system, individuals with FASD may struggle to comprehend legal concepts, give statements, communicate or receive instructions from legal professionals, and understand implications of proceedings and/or entering a plea<sup>4</sup>

## Role of the Canada FASD Research Network:

The Canada Fetal Alcohol Spectrum Disorder Research Network (CanFASD) supports the country's leadership in addressing the extraordinary complexities of FASD with a primary focus on supporting the research and knowledge exchange activities that are needed to support evidence-based decision-making in policy and practice.

While Bill C-235 is discussed in Parliament, CanFASD is positioned and prepared to provide expert guidance relative to this Bill backed by evidence-based research and practices.

## More Information:

- To read Bill C-235, visit: <https://openparliament.ca/bills/42-1/C-235/>
- For more information about Canada FASD Research Network, including policy documents about FASD in the justice system, please visit: [www.canfasd.ca](http://www.canfasd.ca)

## References:

1. Green CR, Cook JL, Stewart M, Salmon A. (2014). FASD and the criminal justice system. Regina, SK: Canada Fetal Alcohol Spectrum Disorder Research Network.
2. Fast DK, Conry J. (2004). The challenge of fetal alcohol syndrome in the criminal legal system. *Addiction Biology*, 2, 161-166; discussion 167-168.
3. Pei J, Flannigan K. (2015). Cognitive diversity and Fetal Alcohol Spectrum Disorder: A brief. <http://www.canfasd.ca/wp-content/uploads/2015/03/Cognitive-Diversity-and-FASD-A-Brief.pdf>
4. Fast DK, Conry J. (2009). Fetal alcohol spectrum disorders and the criminal justice system. *Developmental Disabilities Research Reviews*, 15, 250-257.