
SEX SELECTION ACT

Model Legislation & Policy Guide



We *Need* a Law

*because all human beings
have human rights*

INTRODUCTION

The Canadian Charter of Rights and Freedoms guarantees equal treatment and benefit under the law regardless of sex. In order to be effective, this nationwide commitment to gender equality needs to start at the earliest stages of life. Sex selective abortions strike a blow to the foundation of this commitment.

We cannot as a country claim to strive for gender equality while ignoring discrimination that occurs at the earliest stages of life. Just as our law prohibits this type of discrimination in areas like employment and services, and as equality between the sexes is enshrined in the *Canadian Charter of Rights and Freedoms*, so our law should prohibit the discriminatory practice of sex selective abortion.

Regardless of our views on abortion, all who treat equality seriously should unite in calling for a ban on sex selective abortion.

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The Sex Selective Abortion Act¹

Preamble

Whereas the Government of Canada is firmly committed to protecting and advancing human rights, both in Canada and abroad;

Whereas ending discrimination against any person on the basis of sex is a crucial part of Canada's efforts to promote and protect human rights, as reflected in its laws and international commitments;

Whereas the practice of terminating a pregnancy solely on the grounds of the genetic sex of the child values one sex over the other and is therefore a form of sex-based discrimination;

And whereas the Government of Canada believes that abortion performed on the basis of genetic sex is inconsistent with its commitment to the protection of equality rights and that the issue must be addressed by legislation;

Criminal Code

2 The heading after section 286.5 of the Criminal Code is replaced by the following:

Abortion — Sex Selection

Definitions

287 (1) The following definitions apply in this section.

genetic sex means the sex that is capable of being determined at the time of conception by the presence or absence of the Y chromosome.

means includes

- (a) the prescription or administration of a drug;
- (b) the use of an instrument; and
- (c) manipulation of any kind.

¹ The Sex Selective Act was introduced as Bill C-233 by Cathay Wagantall (MP for Yorkton-Melville) in the 43rd Parliament

medical practitioner means a person who is entitled to practise medicine under the laws of a province.

Performing an abortion — sex selection

(2) A medical practitioner who uses any means to perform an abortion knowing that the abortion is sought solely on the grounds of the child's genetic sex is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b) an offence punishable on summary conviction and liable to imprisonment for a term of not more than 18 months.

Guidelines

(3) The Minister of Health, after consultation with representatives of the provincial governments responsible for health, shall establish guidelines on information provided by a medical practitioner, in relation to a request for an abortion, respecting the offence under subsection (2), as well as the form, manner and time in which the information may be provided.