

# Criminal Code Judges Act

## Bill to Amend—Third Reading

On the Order:

Resuming debate on the motion of the Honourable Senator Dalphond, seconded by the Honourable Senator Bernard, for the third reading of Bill C-233, An Act to amend the Criminal Code and the Judges Act (violence against an intimate partner).

**Hon. Fabian Manning:** Honourable senators, I rise today to speak at third reading of Bill C-233, An Act to amend the Criminal Code and the Judges Act regarding violence against an intimate partner. While I am speaking as the official critic, as I said at second reading, I support the bill and I believe it has the potential to make a significant impact in the adjudication of intimate partner violence cases and custody arrangements.

I want to also add my comments to welcome many people who have joined us here tonight who have been working on this piece of legislation for years. I offer my sincere thanks for your efforts, your resolve and your determination to seeing that this day finally comes to reality.

Intimate partner violence is an issue I have been working on since 2017. I have spoken with many victims and survivors and have heard harrowing stories, some of which I have shared with you in this chamber. As my honourable colleagues know, as a result of my consultations, I tabled Bill S-249, An Act respecting the development of a national strategy for the prevention of intimate partner violence.

The statistics speak for themselves, and they paint a grim picture of the lack of seriousness with which intimate partner violence has been treated historically by all governments. It may be difficult to believe, but currently, Canada has no national plan or strategy to deal with violence against women. Announcements have been made, sympathies continue to be tweeted out on the anniversaries of tragedies like the Polytechnique shooting and consultations have reportedly begun for a new plan, but advocates for change have grown tiresome of the promises. The time is now.

Bill C-233 is one important tool in the toolbox, but I truly hope to see Bill S-249 advance expeditiously so we can begin implementing a comprehensive national strategy to tackle this complex societal problem.

To remind my honourable colleagues, Bill C-233 has two key provisions that seek to mitigate the prevalence and harm associated with intimate partner violence. First, it requires a justice, before making a release order for an accused who is charged with an offence against their intimate partner, to consider whether it is desirable, in the interests of the safety and security of any person, to include as a condition of the order that the accused wear an electronic monitoring device.

There has been some criticism of the electronic monitoring device provisions and the possibility of creating a false sense of security for victims. I had the opportunity to

participate in the Legal and Constitutional Affairs Committee's first meeting on this bill, and I asked the sponsors about this. They responded that, in their work with victims and women's shelters, they have found that the monitoring option, while not perfect, does help ease the stress that a complainant will feel, and it can instill a sense of peace of mind in the victim.

While I believe the technology is likely not perfect, I also believe there is value in giving victims the opportunity to assess whether their abuser is in the vicinity. That way, they can take matters into their own hands and alert the police and find a safe place to protect themselves and their family. We know that regaining a sense of control for victims can serve as a powerful instrument in the rebuilding of their lives.

The second major provision is the amendment to the Judges Act. Bill C-233 adds the topics "intimate partner violence" and "coercive control" to the list of continued educational seminars for judges. This part of the bill is called "Keira's Law," named in the honour of Keira Kagan, a four-year-old girl from Ontario who is believed to have been killed by her father in a revenge-driven murder-suicide.

Keira's father had been abusive toward her mother, yet the courts would not acknowledge that there was any increased risk for Keira's safety. The evidence demonstrates that despite an overlap in risk factors for domestic violence and child abuse, judges often overlook this link when considering custody cases. Two weeks prior to Keira's death, her mother, Jennifer Kagan-Viater, brought a motion to suspend or supervise Keira's father's access to their daughter because she worried that Keira was at risk. The judge dismissed the motion. Two weeks later, Keira and her father were found deceased at the bottom of a cliff in Milton, Ontario.

On February 9, 2023, the three-year anniversary of Keira's death, a report was released by the Domestic Violence Death Review Committee following the conclusion of their review. The report confirms that Keira's death was likely a murder-suicide at the hands of her father. The report further showed that despite repeated warnings, risk factors and multiple court hearings, the system failed to protect Keira. On the same day, the Office of the Chief Coroner for Ontario announced that an inquest will be held into Keira's death. The inquest will examine the circumstances surrounding the death, and a jury will make recommendations aimed at preventing further deaths.

I have no doubt that these developments are the result of the tenacity of Jennifer and Philip Viater. The work they have done, in the face of tragedy, to advance this cause and bring public awareness to this dangerous lack of understanding is truly commendable and inspiring. They have spent three years pushing forward on legislative proposals and a public awareness campaign with the goal of ensuring no other family will have to endure such a senseless and preventable tragedy.

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**Jennifer and Philip testified on this bill at the Legal and Constitutional Affairs Committee alongside Jo-Anne Dusel, the Executive Director of the Provincial Association of Transition Houses and Services of Saskatchewan. Ms. Dusel has worked on the front lines with thousands of victims and survivors of intimate partner violence. In her testimony, she highlighted the problem, stating:**

**To this day, it appears that too many judges do not recognize the harms to children when one parent has abused the other. Yet, when victims of**

intimate partner violence raise this issue in family court, it can result in less parenting time for the protective parent. Even when judges accept the occurrence of abuse, they often see it as incident-based, as in a one-off that won't happen again, as having been in the past, or they mutualize it as a high-conflict relationship.

Colleagues, while it may seem common sense to many of us that an abuser is an abuser, this is clearly not universally recognized. When I asked about this gap in understanding and why these critical risk factors have been traditionally ignored, Ms. Dusel pointed out that judges do not have an ongoing mechanism to receive information on new research or risk factors as they are being identified. Therefore, the risk factors are likely not being ignored as much as judges may not be aware of them.

Philip Viater, a family lawyer himself, added:

Judges don't seem to be aware of the risk factors, and risk assessments are virtually non-existent. When I raise risk factors in court, I can tell you that I'm often met with pushback, saying, "Well, who is to say that we agree with these risk factors?" There seems to be a lack of training there.

Colleagues, this is why the continuing education portion of this bill is so imperative. The stakes could not be higher. We are talking about children being in the unsupervised care of a known abuser. I am looking forward to the swift passage of this bill, and appreciate the cooperation among the caucuses in both houses in order to move this private member's bill through Parliament as quickly as we have. I believe it speaks to the urgency of these proposals.

When Ms. Kagan was at committee, I asked her if she could tell us a little more about her daughter Keira. To honour Keira and her family, I think it is important to share her words with you tonight:

Keira was a lovely child. In many ways, she was a normal four-year-old. She loved to play, loved to be with her friends and was very spunky and fierce. She had an opinion, and people were going to know it. She often said she wanted to change the world; she wanted to make an impact. We raised her with the values of helping those more vulnerable and really trying to make a difference in the world, as crazy as this world is right now.

She was a brilliant little girl, and I have no doubt that had she been given the opportunity, she would have reached her potential and done great things.

The spirit of Bill C-233 belongs to Keira, in my opinion. While it is sad and unfortunate that she is no longer with us, let us all come together and pass this bill so the impact and changes that Keira wanted to make in this world will be realized.

Thinking of Kiera tonight, I am reminded of a quote from another very special person, Mother Teresa, who once said, "I alone cannot change the world, but I can cast a stone across the waters to create many ripples."

In Kiera's memory, colleagues, I am pleased to support Bill C-233, and I hope you will do the same.

**Some Hon. Senators:** Hear, hear.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

(Motion agreed to and bill read third time and passed.)