



# What Should Parents Think About Bill 89?

*A spate of media articles has caused Ontario parents real concern. Here's what happened and where parents should—and should not—be concerned.*

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## EXECUTIVE SUMMARY

Bill 89 makes changes—some positive, many negative—to the child protection system in Ontario, Canada. Many of the same problems remain.

- Bill 89, now law, is a child protection bill. It focuses on the regulation of Children’s Aid Societies (CAS), foster care, adoption, and children who are crown wards.<sup>1</sup>
- Children’s Aid Societies function with a certain amount of autonomy, resulting in an uneven application of child welfare across the province.
- The impetus for Bill 89 was the coroner’s inquest into the death of Katelynn Sampson, a little girl killed by her CAS-chosen guardians, who had criminal records. Yet few of the recommendations from that inquest are implemented in the bill.<sup>2</sup>
- The bill “incorporates the list of protected personal characteristics from the *Ontario Human Rights Code*, but it divorces this list from its statutory context, which limits its application to housing, employment, and service provision, and includes protections for freedom of conscience and religion.”<sup>3</sup>
- Bill 89 *does not* single out Christians or Christian families, but should disquiet *anyone of any faith* who is concerned that commitments to gender ideology trump the best interests of children.
- Ultimately, Bill 89 does a disservice to vulnerable families in Ontario because it tinkers at the edges of a broken system without making the necessary systemic changes for genuine improvement.

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1 Bill 89 changes the language used. For example, “crown wards,” would be “children who are in interim society care or extended society care.”

2 John Sikkema, “Time for the Opposition to Do Its Job on Bill 89,” Association for Reformed Political Action, March 7, 2017, <https://arpacanada.ca/news/2017/03/07/time-opposition-job-bill-89/>: “The Coroner’s Jury Verdict contains dozens of recommendations that have not been implemented.”

3 John Sikkema, “Is Bill 89 About Human Rights? Don’t Buy It,” Association for Reformed Political Action, March 9, 2017, <https://arpacanada.ca/news/2017/03/09/bill-89-human-rights-dont-buy/>.



## INTRODUCTION

In early June, many media outlets published sensational reports about Bill 89. Some of the headlines described in bold capital letters Ontario's situation as totalitarian or fascistic, while others were more "subtle," like these: "New Ontario law enables gov't to seize children from parents opposing gender transition,"<sup>4</sup> and "Canadian bill serves as a 'bludgeon to kill the Christian in the child.'"<sup>5</sup>

To be clear, Bill 89, now law, is a bad piece of legislation and it should be repealed and replaced, for the sake of vulnerable children whose parents can't or won't care for them. It does not make meaningful improvement to child welfare and, in some instances, makes the situation worse. It's important to note that for better or worse, since the inception of child welfare laws in the late 1800s, the state has always had the power to remove children from families. This is typically done in cases of abuse and neglect, conflict between parents that affects the child, domestic abuse, drug and substance abuse, mental health problems, and/or limited resources and supports for the child. This is a power that *has existed for quite some time*, and which ought to be regarded critically and taken very seriously.

This piece aims to explain the basics of what Bill 89 are, how it came to be, why it is problematic, and what the real threats are.<sup>6</sup>

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4 Thomas D. Williams, "New Ontario Law Enables Gov't to Seize Children from Parents Opposing Gender Transition," *Breitbart*, June 6, 2017, <http://www.breitbart.com/big-government/2017/06/06/new-ontario-law-enables-govt-to-seize-children-from-parents-opposing-gender-transition/>.

5 Scott Masson, "Canadian Bill Serves as a 'Bludgeon to Kill the Christian in the Child,'" *LifeSiteNews*, June 8, 2017, <https://www.lifesitenews.com/opinion/canadian-bill-serves-as-a-bludgeon-to-kill-the-christian-in-the-child>

6 John Sikkema at the Association for Reformed Political Action has done an admirable job of sifting through the near three hundred pages of Bill 89. I am indebted to his work. ARPA's Bill 89 resources are found at this link: <https://arpacanada.ca/bill89/>.

## WHAT IS BILL 89?

Bill 89, “An Act to enact the Child, Youth and Family Services Act, 2017, to amend and repeal the Child and Family Services Act and to make related amendments to other Acts” is a child welfare bill. As such, it aims to regulate the laws that govern foster care, adoption, children who are wards of the state, and Children’s Aid Societies.

## HOW DID BILL 89 BECOME LAW?

Ontario’s child welfare system is broken. Egregious cases of abuse are on record as well as cases of inappropriate judgment applied to child welfare cases.<sup>7</sup> Some children who ought to remain where they are are removed. This was the case with a boy known as “Daniel,” whose removal from loving foster parents caused his case worker, Lyndsay King, to resign in protest.<sup>8</sup> Others who ought to be removed, or better yet, not placed with known child abusers in the first place, are left and forgotten until their tragic deaths, as with Jeffrey Baldwin, who died in 2002, and Katelynn Sampson, in 2008.

Katelynn Sampson’s case became the impetus for change.

The inquest following Katelynn’s death was released in April 2016.<sup>9</sup> It contains 173 recommendations, of which only four involve changes to the Child and Family Services Act, the Act that Bill 89 purports to update. Those recommendations involved raising financial penalties for professionals and non-professionals who fail to report child abuse, as well as asking that the Child and Family Services Act include the United Nations Convention on the Rights of the Child (UNCRC). A final recommendation that would have affected the act asked that access to the Child Abuse Register be broadened.<sup>10</sup>

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7 Barbara Kay, “Children’s Aid Societies Gone Rogue,” *National Post*, April 16, 2014, <http://news.nationalpost.com/full-comment/barbara-kay-childrens-aid-societies-gone-rogue>; Kevin Libin, “Children’s Aid Society Workers Should Be Reined In, Critics Say,” *National Post*, June 12, 2009, <http://www.nationalpost.com/news/story.html?id=1690967>.

8 Lyndsay King tells her story in the 2011 documentary *Powerful as God: The Children’s Aid Societies of Ontario*, Vimeo, uploaded by Esther Buckareff, September 14, 2011, <https://vimeo.com/29051387>.

9 Verdict of Coroner’s Jury, Office of the Chief Coroner, “Inquest into the Death of Katelynn Angel Sampson,” Ministry of Community Safety and Correctional Services website, April 29, 2016, [https://www.mcscs.jus.gov.on.ca/sites/default/files/content/mcscs/docs/Sampson\\_2016.pdf](https://www.mcscs.jus.gov.on.ca/sites/default/files/content/mcscs/docs/Sampson_2016.pdf).

10 Ibid. Recommendations 5, 7, 9, and 54 in the inquest pertain to the Child and Family Services Act.

## WHY IS BILL 89 PROBLEMATIC?

First of all, none of the four Sampson inquest recommendations that affect Child and Family Services Act are implemented in Bill 89. Indeed, “the Coroner’s Jury Verdict contains dozens of recommendations that have not been implemented.”<sup>11</sup>

What was implemented in Bill 89 is something that is called “Katelynn’s Principle.”

Katelynn’s Principle demands that children be recognized as individuals with rights, to be consulted on matters pertaining to their own care as their level of maturity allows.

Of course, children are indeed people with rights, and listening to them in keeping with their level of maturity is a good idea. The whole point of CAS is advocacy for the child. However, the devil is in the details of application. Some are concerned that putting children at the centre instead of together with their families creates problems.

Two examples illustrate why. In a 2011 documentary called *Powerful as God—The Children’s Aid Societies of Ontario*, Callie Langfeld from Ajax, Ontario, describes how she was pulled out of school one day and met by four adults, all of whom insisted her home wasn’t safe. By the end of the meeting, she ended up agreeing with them, something she today both disagrees with and regrets. By the end of that very same day, she was placed in foster care, not having even said goodbye to her own mother, who subsequently had to fight to get her back.<sup>12</sup>

A second example: Dave Addison, director with Families for Addiction Recovery, testified before committee about Bill 89 on March 30, 2017. When his son got into drugs at age fourteen he was unable to secure help for him. He ended up telling the committee: “Mental health and addiction impedes [a youth’s] ability to make the best choice for themselves. Sometimes they need a loving, caring parent or a person in the system to take care of that child and have the right to force that care.”<sup>13</sup>

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11 Sikkema, “Time for the Opposition.”

12 *Powerful as God*.

13 Dave Addison, director with Families for Addiction Recovery testifying before the Standing Committee on Justice Policy about Bill 89, March 30, 2017, Legislative Assembly of Toronto, [http://www.ontla.on.ca/web/committee-proceedings/committee\\_transcripts\\_details.do?locale=en&Date=2017-03-30&ParlCommID=9000&DocumentID=31851](http://www.ontla.on.ca/web/committee-proceedings/committee_transcripts_details.do?locale=en&Date=2017-03-30&ParlCommID=9000&DocumentID=31851).

## CHILDREN’S RIGHTS ARE PARAMOUNT, BUT WHAT RIGHTS WILL BE APPLIED?

The part of Bill 89 that has been in the media spotlight is the insertion of the Ontario Human Rights Code into the Child, Youth and Family Services Act. Bill 89 essentially expands the list of factors for consideration in child welfare cases by including this list, among other factors like “physical, emotional, spiritual, mental and developmental needs and differences among children and young persons”:

The additional purposes of the Act are expanded to include the following: . . .

A child’s or young person’s race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex, sexual orientation, gender identity and gender expression.<sup>14</sup>

These Human Rights Code anti-discrimination provisions were intended to apply to employers or service providers. Here, the code is being applied to the family, which is definitive overreach.<sup>15</sup> Furthermore, there has been much discussion by Toronto professor Dr. Jordan Peterson and others on why “gender identity” and “gender expression” are poorly defined terms that mean different things to different people and which cannot be uniformly interpreted by a court.

John Sikkema of the Association for Reformed Political Action points out that you cannot introduce the Human Rights Code into family matters divorced from statutory context. Sikkema said as part of his committee testimony, “The Human Rights Code permits religious institutions, for example, to deviate from the state’s equality doctrines for good faith reasons. The code also allows a person to discriminate, for example, when leasing one’s own shared living space. Such provisions in the code honour freedom of belief, religion, expression and association. Bill 89 does not.”<sup>16</sup>

While Bill 89 expands the list of “rights” that must be considered in child welfare cases, it removes one formerly critical factor, that of consideration for religion. This was formerly “a primary focus for workers to help preserve,” says one Ottawa-area expert who prefers to remain anonymous, who has engaged with CAS on a regular basis over many years. Religion is now included under the term “creed,” and it remains to be seen how that will be applied.

Even as Bill 89 attempts to make the case for strengthening children and youth rights, it’s doubtful this will occur in practice. Consider the words of Arisha Khan, a former crown ward,

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14 Bill 89, Supporting Children, Youth and Families Act, Legislative Assembly of Toronto, [http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&BillID=4479&isCurrent=&BillStagePrintId=8137&btnSubmit=go](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=4479&isCurrent=&BillStagePrintId=8137&btnSubmit=go) (accessed June 13, 2017).

15 Sikkema, “Is Bill 89 About Human Rights?”

16 John Sikkema, lawyer with the Association for Reformed Political Action testifying before the Standing Committee on Justice Policy about Bill 89, April 6, 2017, [http://www.ontla.on.ca/web/committee-proceedings/committee\\_transcripts\\_details.do?locale=en&Date=2017-04-06&ParlCommID=9000&DocumentID=31968#P840\\_210022](http://www.ontla.on.ca/web/committee-proceedings/committee_transcripts_details.do?locale=en&Date=2017-04-06&ParlCommID=9000&DocumentID=31968#P840_210022).

who testified before the Justice Committee about Bill 89 on April 6, 2017. She says, “It’s kind of a Catch-22, because youth aren’t able to access supports, and when they find out that they can’t access supports, they can’t access their information, or they just don’t have the resources to [be] able to fight for their rights. If we’re not going to allow youth to exercise their rights, why highlight them?”<sup>17</sup>

This gets at the idea of a kind of “rights window dressing” in Bill 89.

The lack of accountability and possible overreach is something Theresa Stevens, executive director of the Association of Native Child and Family Services Agencies of Ontario, noticed as well, in a different way. Testifying before the Justice Committee about Bill 89, she asked a number of good questions:

Holding the child welfare system more accountable on the surface looks like a good thing, but from our point of view, it is not balanced. It gives too much power to the minister. We ask: Who is going to provide oversight and guidance to the minister? How will we ensure that the appointments to our agencies and boards are non-partisan and not just political appointments who support the party line? Who is going to ensure the ministry is being fair in their application of the legislation, and whether we fit their criteria or not? What if we are being asked to provide culturally unsafe services to our children and we cannot in good conscience do that?<sup>18</sup>

There is special consideration in Bill 89 for native children and a very strict stipulation that those children be placed with families who share their same heritage and culture. The result will likely be more native children aging out of the system, with all the hardship that implies, denying them loving families who happen not to be from their community. In general, the tone of the bill will limit the number of loving families who are willing to engage the foster and adoption system, which is a net loss for vulnerable children.

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17 Arisha Khan, vice president of Youth in Care Canada and former crown ward, testifying before the Standing Committee on Justice Policy about Bill 89, April 6, 2017, [http://www.ontla.on.ca/web/committee-proceedings/committee\\_transcripts\\_details.do?locale=en&Date=2017-04-06&ParlCommID=9000&DocumentID=31968#P232\\_31054](http://www.ontla.on.ca/web/committee-proceedings/committee_transcripts_details.do?locale=en&Date=2017-04-06&ParlCommID=9000&DocumentID=31968#P232_31054).

18 Theresa Stevens, executive director, Association of Native Child and Family Services Agencies of Ontario, testifying before the Standing Committee on Justice Policy about Bill 89, April 6, 2017, [http://www.ontla.on.ca/web/committee-proceedings/committee\\_transcripts\\_details.do?locale=en&Date=2017-04-06&ParlCommID=9000&DocumentID=31968#P163\\_14979](http://www.ontla.on.ca/web/committee-proceedings/committee_transcripts_details.do?locale=en&Date=2017-04-06&ParlCommID=9000&DocumentID=31968#P163_14979).

## SEPARATING FACT FROM FEARMONGERING

Over the past five years, different laws have instilled flawed principles on gender identity. Bill 89 is not the first, nor is it likely to be the last.<sup>19</sup>

Many of the recent news articles have caused genuine alarm among parents, particularly Christian parents. A major implied threat is that any child could be removed from any home at virtually any time. This is overstated. In the opinion of the Ottawa expert who has worked with CAS for many years: “There are too few workers, with extraordinary caseloads.”

It is important to note that Bill 89 *does not single out Christians*. Making this a battle of Christians vs. non-Christians is first of all not accurate, but secondly, it significantly narrows the coalition of opposition by excluding non-Christian parents who nonetheless have not accepted new gender ideologies.

At a basic level, many parents are unaware that this is actually a bill about child protection, engaging some of the most troubled and vulnerable sectors of our society. If parents regardless of religion are not engaging with the CAS, there is little chance of facing down the authorities because of personal convictions on gender or sexuality.

Here it's worth mentioning there is little, but *not* no chance. The perfect storm of a troubled family or child, where the parents don't condone, for example, a gender change, combined with an ideological teacher, principle, or guidance counsellor could result in heightened conflict and a report and subsequent obligatory investigation by CAS.

The biggest, most imminent concern via Bill 89 is that parents who reject modern ideologies on gender and sex will be screened out as possible foster or adoptive parents. This is a problem. However, it already was prior to the passing of Bill 89, as we saw in the case of the Baars family, whose foster children were removed because they would not teach that the Easter Bunny is real.<sup>20</sup>

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19 John Sikkema, “Five Bills in Five Years: Gender Ideology in Ontario,” Association for Reformed Political Action, March 21, 2017, <https://arpacanada.ca/news/2017/03/21/five-bills-five-years-gender-ideology-ontario/>.

20 Rick Zamperin, “Hamilton Couple Refuse to Tell Foster Kids Easter Bunny Is Real,” *Global News*, April 12, 2017, <http://globalnews.ca/news/3374701/hamilton-couple-refuse-to-tell-foster-kids-easter-bunny-is-real-cas-shuts-down-home-court-docs/>.



## CONCLUSION

Media reports about Bill 89 were misleading, implying that the state would now be reaching into private homes and removing children at a whim. Sad to say, but this has always been possible and has already happened, given existing examples of CAS abuse of authority over the years. Bill 89 is indeed a step in the wrong direction; however, there is no need to panic. All parents need to remain vigilant about these concerns.

Another expert from the Toronto area who also chose to remain anonymous, and who works within the system, describes how she sees child welfare playing out both before and after Bill 89:

A more seasoned social worker who has raised kids of their own and dealt with hundreds of cases is less likely to apprehend a child too early, whereas young social workers fresh out of school, full of ideologies and no understanding of what it is like to be a parent, tend to judge parents more quickly and remove children more arbitrarily (I'm making generalizations, of course). So, for something like Bill 89, my guess is that you'll get certain social workers with a real mission to "get" those people who don't embrace the latest culturally acceptable views on gender identity and they could go after parents for that. Whereas another social worker would never bother because they don't think it matters or he or she wants to focus time on helping kids in really difficult situations. Two things to sum it up: 1) It's arbitrary, and 2) personnel is policy.

Bill 89 does not have the capacity to change the arbitrary nature of child welfare, and this fundamental problem of the uneven application of justice is why this law will not succeed where the one before it failed.



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