



THE CANADIAN CENTRE FOR  
**GENDER+SEXUAL  
DIVERSITY**



LE CENTRE CANADIEN DE LA  
**DIVERSITÉ DES GENRES  
+ DE LA SEXUALITÉ**

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**La journée rose** (13 avril, 2016) | **The Day of Pink** (April 13, 2016)

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## **Recommendation to fix Bill C-66: Let's make the LGBTQ2+ Apology count**

### **The Canadian Centre for Gender and Sexual Diversity:**

The Canadian Centre for Gender and Sexual Diversity (CCGSD) intersectionally promotes diversity in gender identity, gender expression, and romantic and/or sexual orientation in all its forms on a national level through services in the areas of arts, heritage, history, education, health, and advocacy. Our resources and programming can be used to uplift gender and sexual minorities, as well as give the tools to wider populations in building allyship.

As a leader in anti-discrimination work, CCGSD runs programming all over Canada and the United States. Because of our hundreds of volunteers, we are able to reach over 250,000 people annually. We are also a proud leader in the International Day of Pink (DayOfPink.org), engaging millions of people in wearing pink and to run programs that stand up to bullying. We encourage you to find out more about CCGSD & the International Day of Pink and get involved in making your community a safer and more diverse place.

### **Standing in solidarity:**

The Canadian Centre for Gender and Sexual Diversity stands behind the submissions made by Gay & Lesbian Historians (Feb 5<sup>th</sup>, 2018); AIDS Action Now!, Queer Ontario & Queers Crash the Beat (Feb 13<sup>th</sup>, 2018), and Canadian Lesbian & Gay Archive March 13, 2018.

### **What changes we would like to see from Bill C-66 & Why:**

Following the Prime Minister's apology to LGBTQ2+ communities on November 28<sup>th</sup>, 2017, there was a commitment to fundamentally offer justice to those who have been hurt by the state. It seems that Bill C-66 was rushed through the House of Commons with no discussion with LGBTQ2+ communities and limited input from the Standing Committee on Public Safety and National Security.

The CCGSD seeks to highlight specific challenges with Bill C-66, and we hope the honourable Senators will make these changes to make this piece of legislation the most successful it can be.



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**Recommendation 1: Broaden the list of historically unjust convictions (or leave it open-ended) to include all those that would have been used to criminalize LGBTQ2+ people.**

Not all those who were criminalized for 'being LGBTQ2+' were charged under the current list of 'historically unjust convictions' in the current iteration Bill C-66.

In many cases police used other charges to attack and criminalize LGBTQ2+ behaviours including: public indecency, operating, nudity, obscenity, disorderly conduct, vagrancy, sex work (prostitution), the bawdy house laws, and a myriad of other offences or by-law infractions.

While we recognize that once passed, it would be at the discretion of the Governor in Council to evaluate each case individually, we believe it would best to make it clear that these other criminal and non-criminal charges will be expunged.

**Note 1:** The CCGSD believes that there needs to be a full repeal of the bawdy house law, and any laws that continue to criminalize the practices and lives of sex workers. These laws disproportionately negatively affect LGBTQ2+ communities.

**Note 2:** This would also like Bill C-66 to explicitly note that the expungement process include charges brought because of police surveillance in washrooms, parks or other public places. And that the process include those who received a discharge so that local police agencies and courthouses would be informed.

**Note 3:** Currently Bill C-39 seeks to repeal outdated zombie laws, and we would like to see this legislation passed as soon as possible.

**Recommendation 2: Amend section 25 (c) of C-66 so that the age of consent is consistent with analogous historical acts of heterosexual sex.**

The current age of consent for vaginal intercourse is 16, and the age of consent for anal intercourse is 18. This difference inappropriately discriminates against men who have sex with men.

It has only been since 2008, that these age of consent have existed.

We ask that Bill C-66 ensure that there be a consistent and clear age that recognizes the historical standards and that is be analogous historical acts of heterosexual sex at the time.



**Recommendation 3: Protect the historical records. Amend section 17 and 19 of Bill-66 to prevent the destruction of expunged documents and establish a process that protects confidentiality and protects historical material.**

As an education and arts institution, the Canadian Centre for Gender & Sexual Diversity strongly objects to any destruction of historical documents relating to the history of LGBTQ2+ people.

We ask that Bill C-66 be amended to ensure documents are protected with the Library and Archives Canada and the Canadian Gay and Lesbian Archives.

We also request that a clear process be established that protects confidentiality of individuals, but also protects historical material relating to the experiences of LGBTQ2+ Canadians.

**Note 1:** This should include the creation of a process for the access and retrieval of all documents related to an applicant's expungement.