



CAPIC's Submission Regarding Bill C-3: An Act to amend the Citizenship Act

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The Canadian Association of Professional Immigration Consultants (CAPIC) has reviewed the text of Bill C-3: An Act to amend the Citizenship Act (Bill C-3) and relevant references, including the Hansard debates¹ on Bill C-3, *Bjorkquist et al. v. Attorney General of Canada*, 2023 ONSC 7152 (CanLII) ([Bjorkquist](#)), etc. Input concerning Bill C-3 was gathered from CAPIC members, who are authorized to provide Canadian citizenship advice and representation by the *Citizenship Act*, RSC 1985, c. C-29 (Citizenship Act).²

CAPIC supports the principle of equal treatment for all Canadians, brought forth by Bill C-3 regarding citizenship by descent or adoption. Nonetheless, CAPIC's primary concern is that the "connection test" proposed by Bill C-3 may not sufficiently balance the protection of mobility³ and equality⁴ rights established by the *Canadian Charter of Rights and Freedoms* ("the Charter") and measures to discourage instances of "Canadians of convenience," whereby people obtain Canadian citizenship to safeguard their ability to return to Canada and obtain privileges in the future.

Below is CAPIC's submission for recommendations to address the concern.

Introduction

Bill C-3 is the carbon copy of Bill C-71: An Act to amend the Citizenship Act (2024) ("Bill C-71") introduced to the 44th Parliament, 1st session on May 23, 2024.⁵ Bill C-71 was a government bill sponsored by the Minister of Immigration, Refugees and Citizenship after the declaration of unconstitutionality of s. 3(3) of the Citizenship Act in *Bjorkquist*, a decision made by the Ontario Superior Court that was not appealed by the Government of Canada.

The provision declared unconstitutional is commonly known as the first-generation limit and was referred to as the "second-generation cut-off" in

¹ House of Commons, "45th Parliament, 1st session Edited Hansard No. 019," published June 19, 2025, [online](#). House of Commons, "45th Parliament, 1st session Edited Hansard No. 021," published September 15, 2025, [online](#).

² Citizenship Act s. [21.1](#)(2)(c).

³ The [Charter](#) s. 6.

⁴ The Charter s. 15.

⁵ House of Commons, "C-71: An Act to amend the Citizenship Act (2024)," accessed September 16, 2025, [online](#).



Bjorkquist. It prevents Canadians who were born abroad from passing on their Canadian citizenship to their children born abroad, unless the exemptions prescribed in ss. 3(4) to (5.1) of the Citizenship Act apply.

The issue addressed in *Bjorkquist* is “the ability of Canadian citizens who were born abroad, and who have a substantial connection to Canada, to pass on their citizenship to their children if those children are also born abroad.”⁶

The substantial connection test proposed in Bill C-3 requires that the Canadian parent must have acquired at least 1,095 days of physical presence in Canada 1,095 days before the birth of the child born outside Canada.

According to the Parliamentary Budget Officer (PBO), the estimated cost of Bill C-71 is \$20.8 million over five years, beginning in 2025-2026. The number of persons that would be affected is estimated to be around 115,000 over the same period.⁷ Bill C-71 dissolved because of the dissolution of the 44th Parliament. There are no legislative costing notes available for Bill C-3 at the time of this submission production.⁸

Analysis and Recommendations

CAPIC analyzed the background of the first-generation legislation, the maintained citizenship by birth in Canada for foreign nationals, the residency requirements for permanent residents and for the acquisition of citizenship by naturalization. Based on the analysis, CAPIC suggests that the 1,095-day test may not be adequate and thus proposes recommendations to address potential unintended consequences.

Analysis

1. The trigger of the first-generation legislation

In 2006, a military conflict broke out between Lebanon and Israel, caused by a raid into Israel, conducted by Hezbollah militants in Lebanon. Before the raid, around 11,000 Canadians registered with the embassy in Beirut. Five days after the raid, the number grew to 22,000 and then peaked at 39,000.⁹ The Canadian

⁶ *Bjorkquist* at para. 1.

⁷ Office of the Parliamentary Budget Officer, “Bill C-71 (44-1) Amending the Citizenship Act (2024),” published December 19, 2024, [online](#).

⁸ Office of the Parliamentary Budget Office, the “Legislative Costing Notes” web page, accessed September 16, 2025, [online](#).

⁹ The Standing Senate Committee on Foreign Affairs and International Trade, “The Evacuation of Canadians from Lebanon in July 2006: Implications for the Government of Canada,” published May 2007, [online](#), p.1.



government spent \$94 million to bring 14,370 Lebanese Canadians to Canada.¹⁰ Afterwards, reportedly, a large number of the evacuees returned to Lebanon.¹¹ That event led to the introduction of Bill C-37,¹² which created the first-generation limit.

2. The inadequacy of the proposed test

By definition, citizenship is a covenant between an individual and his/her nation.¹³ Under the Citizenship Act, Canadian citizenship may be acquired through birth in Canada, descent, granting, naturalization, or adoption.¹⁴ CAPIC believes that the bond between Canadians and Canada should be more significant than that of permanent residents, as citizens constitute the primary members of the nation. The fact that Canadian citizens possess broader rights than permanent residents supports this perspective. We suggest that this is why *Bjorkquist* introduced a substantial connection test instead of unconditional citizenship by descent for children born outside Canada.

The present state of Canadian immigration and citizenship indicates that the proposed test may not effectively facilitate the establishment of a substantial connection. Rather, it has the potential to inadvertently result in a group of Canadians whose ties to Canada are limited or absent, or whose affiliation is less substantial than that of permanent residents. Furthermore, it may unintentionally encourage citizenship of convenience. The concerns are based on the analysis of the factors below.

Citizenship by birth in Canada has led to an increase in individuals born in the country to non-resident parents, a situation commonly referred to as “birth tourism” or “passport babies.”¹⁵ Some encourage foreign nationals to do so.¹⁶ Some companies openly advertise their services as “birth hotels.”¹⁷ This group of Canadians may have limited or no connection to Canada if they reside in the country for 1,095 days or more before reaching the age of majority. For example, what connection to Canada might be for a three-year-old or five-year-old residing

¹⁰ *Ibid*, pp. 10 and 1.

¹¹ *Ibid*, p. 20.

¹² Parliament of Canada, “Bill C-37,” accessed September 16, 2025, [online](#).

¹³ Center for the Study of Citizenship, “What is citizenship,” Wayne State University, accessed September 18, [online](#).

¹⁴ Citizenship Act [s. 3](#)(1).

¹⁵ Andrew Griffith, “Birth tourism has doubled since the pandemic lull,” Policy Options, posted January 29, 2025, [online](#). See also Liza Agrba, “Canadian doctors say birth tourism is on the rise. It could hurt the health care system,” Maclean’s, posted May 24, 2023, [online](#).

¹⁶ Jane Katkova & Associates, “Childbirth in Canada Canadian Citizenship by Birthright,” accessed September 17, 2025, [online](#).

¹⁷ Tristin Hopper, “First reading: Canada’s massive (and easily fixed birth tourism problem,” National Post, updated June 1, 2023, [online](#).



in the country for those years? What connection to Canada may be established by a minor over 1,095 days? Those obtaining their Canadian citizenship through this avenue can easily meet the proposed test, but still without a substantial connection with Canada.

Second, Canadian permanent residents are required to comply with residency obligations, which are assessed over a five-year period. To maintain their status, they must be physically present in Canada for at least 730 days within the examined five-year span or fulfill other requirements in order to meet such residency obligation.¹⁸ The rule is more stringent compared to the proposed substantial connection test. However, the permanent resident retention rate is still problematic.¹⁹ This raises a question: In what ways might the proposed 1,095 days establish a substantial connection between the Canadian parent and Canada, given that stricter residency obligation rules have not demonstrated significant effectiveness?

Third, adult permanent residents must be physically present in Canada for 1,095 days within the five years before applying for citizenship. They also need to file income tax returns for three taxation years during that period.²⁰ This is also a stronger test than the proposed test.

Lastly, data shows that in 2016, about 4 million Canadians lived abroad.²¹ Of these individuals, approximately 1.3 million were born in Canada.²² Canadians residing abroad for extended periods retain the same rights of citizenship as those living in Canada, yet their contributions to the country may be limited or absent. Their rights are supported by the efforts of Canadians residing in Canada. It is important to consider both the motivations behind long-term residency abroad and the potential effects of Bill C-3 on Canadians who actively contribute to nation-building. Otherwise, two tiers of citizenship still exist, with one group,²³ more responsibilities, and another, having fewer or none. Would this impact the equality rights of Canadians residing in Canada, given that their position relative to another group and their interests regarding citizenship could

¹⁸ *Immigration and Refugee Protection Act*, SC 2001, c. 27 (IRPA) [s. 28](#).

¹⁹ The Conference Board of Canada, “The Leaky Bucket 2024,” accessed September 17, [online](#).

²⁰ Citizenship Act [s. 5\(1\)\(c\)](#).

²¹ Statistics Canada, “Study: The Canadian diaspora: Estimating the number of Canadian citizens who live abroad,” released April 13, 2022, [online](#).

²² *Ibid.*

Ibid.

Cranatstein, “As war looms in Lebanon, will Canada be forced once again to evacuate “citizens of convenience?” J.L. Granatstein for Inside Policy, posted August 20, 2024, [online](#).



be affected factors that may be relevant in the application of s. 15(1) of the Charter?²⁴

CAPIC also notes that there is a common misunderstanding regarding the first-generation rule: some believe that Canadians in military service or public service employment outside Canada are subject to this rule. In fact, such individuals are exempt from the rule.²⁵ It is also important to note that the physical presence requirements for naturalization differ significantly between permanent residents serving in the military²⁶ and those who are civilian permanent residents.²⁷

Recommendations

Based on the factors and analysis above, CAPIC recommends:

- Further examine the substantial connection test to avoid potential unintended consequences and negative impact on Canadians residing in Canada. For example, requiring 1,095 days within the 10 years before the birth of the child.
- Imposing the requirement to file income tax returns during the 1,095 days of physical presence in Canada and as a tax resident of Canada.
- Establishing that the applicant is domiciled in Canada during the 1,095 days.

Conclusion

Citizenship comes with rights and responsibilities.²⁸ While the Charter protects mobility and equality rights, Canadians who live outside Canada permanently or spend most of their adult life abroad should not be exempt from their responsibilities to the nation. It is also important to remain aware of the implications of citizenship of convenience applications to preserve the integrity of Canadian citizenship. Therefore, CAPIC suggests the recommendations as indicated above.

²⁴ *R. v. Kapp*, 2008 SCC 41 at para. 19.

²⁵ Citizenship Act, [ss. 3\(5\)](#) and [5.1\(5\)](#).

²⁶ Citizenship Act, [s. 5\(1.2\)](#).

²⁷ Citizenship Act, s. 5(1)(c).

²⁸ IRCC, "Discover Canada – Rights and Responsibilities of Citizenship," modified October 16, 2016, [online](#).



About CAPIC

The Canadian Association of Professional Immigration Consultants (CAPIC) is a non-profit professional organization representing the interests of Canadian Immigration Consultants.

The organization advocates for competency, ethical conduct, and consumer protection in the immigration consulting industry. CAPIC's mission is to lead, connect, protect, and develop the profession, serving the best interests of its 4,400 members. It is the only association recognized by the Government of Canada as the voice of Canadian immigration and citizenship consultants. CAPIC is a major stakeholder consulting with federal and provincial governments and their respective departments on legislation, policy, and program improvements and changes.

All CAPIC submissions are publicly available on the CAPIC [Advocacy](#) web page to facilitate communication between CAPIC and our 4,400-strong membership and the general public.

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