



Legislative Summary

BILL S-245: AN ACT TO AMEND THE CITIZENSHIP ACT (GRANTING CITIZENSHIP TO CERTAIN CANADIANS)

Publication No. 44-1-S245-E

17 October 2022

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17 October 2022

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For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

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(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL S-245: AN ACT TO AMEND THE CITIZENSHIP ACT (GRANTING CITIZENSHIP TO CERTAIN CANADIANS)

1 BACKGROUND

Bill S-245, An Act to amend the Citizenship Act (granting citizenship to certain Canadians),¹ was introduced in the Senate on 12 May 2022 by the Honourable Senator Yonah Martin.

Bill S-245 grants citizenship to a group of “Lost Canadians,” persons born abroad to a Canadian parent between 15 February 1977 and 16 April 1981. These individuals would have been Canadian citizens by descent, but they may have been unaware of the requirement to apply to retain their citizenship before they reached 28 years of age. Amendments to the *Citizenship Act*² that came into force 17 April 2009 eliminated the retention rules and grandfathered in anyone born abroad to a Canadian parent who had not yet reached the age of 28.³

An identical bill to grant citizenship to individuals left without Canadian citizenship due to this retention rule was introduced by Senator Martin in the 2nd Session of the 43rd Parliament. Bill S-230, An Act to amend the Citizenship Act (granting citizenship to certain Canadians), was introduced in March 2021.⁴ Bill S-230 was adopted by the Senate after review by the Standing Senate Committee on Social Affairs, Science and Technology. The bill died on the *Order Paper* when Parliament was dissolved in August 2021.

1.1 LOST CANADIANS

The *Citizenship Act* has evolved over time; more recently, it has been the subject of various legislative initiatives to address the issue of Lost Canadians – persons who thought they were Canadian citizens, but who either lost their citizenship or were never citizens in the first place. For example, Canada had a rule regarding the gender of the parent who could pass on their citizenship. In another frequent scenario, some babies born across the border in the United States grew up in Canada and lived here their entire life, yet they were never registered in Canada. The emphasis on obtaining a passport after 11 September 2001 brought to light the existence of many Lost Canadians. Bill S-245 grants citizenship to a group of persons born abroad to a Canadian parent between 15 February 1977 and 16 April 1981.

Bill C-37, An Act to amend the Citizenship Act, which came into force in 2009, was the first bill to restore citizenship to many Lost Canadians.⁵ It also introduced the first generation cut-off rule for citizenship by descent whereby a person born abroad of a Canadian parent who was also born abroad is not a Canadian citizen. Bill C-24, known as the *Strengthening Canadian Citizenship Act*,⁶ reinforced the first generation cut-off rule for those who had obtained citizenship through the provisions in Bill C-37 by adding provisions to the effect that children born abroad of those who received citizenship through Bill C-37 did not have the right to citizenship. The *Strengthening Canadian Citizenship Act* also provided citizenship to new classes of Lost Canadians, including to those whose parents would have been granted citizenship through these provisions but were deceased. This *Strengthening Canadian Citizenship Act* came into force on 11 June 2015.

According to Alec Attfield, Director General, Citizenship Branch, Strategic and Program Policy, at Immigration, Refugees and Citizenship Canada, following the amendments made to the *Citizenship Act* in 2009, approximately 17,500 individuals applied to become citizens or regain their citizenship; another 600 individuals were identified and became Canadians as a result of further changes made to the law in 2015. He also explained that 109 individuals had received citizenship under discretionary grants, based on the special and unusual hardship associated with losing their citizenship under the retention requirement of the former *Citizenship Act* of 1977.⁷

2 DESCRIPTION AND ANALYSIS

Bill S-245 contains two clauses to comprehensively address the goal of retroactively granting citizenship by descent to those who may have lost it due to the requirement to apply for citizenship retention before the age of 28.

Clause 1 modifies the right to citizenship set out in section 3 of the *Citizenship Act* in three ways. Amended section 3(1)(f)(iii) provides that individuals who applied to retain their citizenship during the relevant timeframe, but whose applications were not approved, are not citizens. New section 3(1)(g.1) creates a new category of persons who have a right to Canadian citizenship; it covers people born outside of Canada to a Canadian parent after 14 February 1977, who would have been a citizen had they made an application to retain their citizenship, as required, before 17 April 2009. Amended section 3(4) allows individuals who were citizens before the full coming into force of Bill C-24 on 11 June 2015 to pass on their Canadian citizenship to their children born abroad.

Clause 2 gives the Governor in Council the authority to create regulations allowing individuals who obtained their citizenship under amended section 3(1)(g.1) of the *Citizenship Act* to renounce their citizenship.

NOTES

1. [Bill S-245, An Act to amend the Citizenship Act \(granting citizenship to certain Canadians\)](#), 44th Parliament, 1st Session.
2. [Citizenship Act](#), R.S.C. 1985, c. C-29.
3. [An Act to amend the Citizenship Act](#), S.C. 2008, c. 14; and Penny Becklumb, "D. Second- and Subsequent Generation Canadians Born Abroad Since the Current *Citizenship Act* Came Into Effect on 15 February 1977," [Legislative Summary of Bill C-37: An Act to amend the Citizenship Act](#), Publication no. 39-2-LS-591-E, Library of Parliament, 20 February 2014.
4. [Bill S-230, An Act to amend the Citizenship Act \(granting citizenship to certain Canadians\)](#), 43rd Parliament, 2nd Session.
5. [An Act to amend the Citizenship Act](#), S.C. 2008, c. 14; and Penny Becklumb, [Legislative Summary of Bill C-37: An Act to amend the Citizenship Act, Publication no. 39-2-LS-591-E](#), Library of Parliament, 20 February 2014.
6. [An Act to amend the Citizenship Act and to make consequential amendments to other Acts \(Strengthening Canadian Citizenship Act\)](#), S.C. 2014, c. 22; and Julie Béchar, Penny Becklumb and Sandra Elgersma, [Legislative Summary of Bill C-24: An Act to amend the Citizenship Act and to make consequential amendments to other Acts](#), Publication no. 41-2-C24-E, Library of Parliament, 8 July 2014.
7. Senate, Standing Committee on Social Affairs, Science and Technology, [Evidence](#), 16 June 2021 (Alec Attfield, Director General, Citizenship Branch, Strategic and Program Policy, Immigration, Refugees and Citizenship Canada).