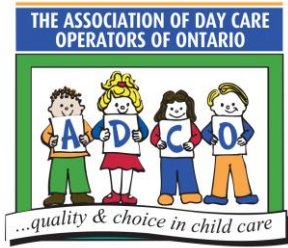


**Bill C-35: An Act Respecting
Early Learning and Child Care in Canada**

**Brief For The Senate Committee on
Social Development, Science and Technology**

October 2023



Contents

About ADCO	3
ADCO supports a national child care program	3
Background on the early learning and child care sector in Ontario	4
CWELCC Challenges and Solutions.....	4
Recommendations	8



About ADCO

The Association of Day Care Operators of Ontario is the industry association for licensed child care programs in Ontario, both commercial and not-for-profit.

ADCO members include licensed child care centres, home child care agencies, Montessori schools, nursery schools, preschools, private schools and school-age programs.

ADCO provides a forum for the owners, managers and boards of these organizations to work together to maintain and improve child care quality, and expand the range of licensed child care choices available to Ontario families.

ADCO envisions a strong, independent licensed child care sector that offers Ontario families choice in selecting high quality educational care.

ADCO supports a national child care program

ADCO envisions a national child care program that allows parents to make the choices they feel are the best fit for their family, encourages the growth of regulated child care spaces and centres, supports viable career paths and entrepreneurship for women, and offers taxpayers a high level of transparency and accountability for their financial investment.

While the current Canada-Wide Early Learning and Child Care (CWELCC) Agreements are a positive step toward federal funding to help young families with the costs of securing high quality educational care for their children, they do not necessarily offer an optimal model for future rounds of federal funding. Generally speaking, these Agreements have proven to be overly prescriptive in nature, resulting in the CWELCC program being unlikely to “ensure that all families have access to high-quality, affordable, and flexible early learning and child care no matter where they live...” or “bring fees for regulated child care down to \$10 per day on average within the next five years,” as was promised in the 2021 budget.

Similarly, some aspects of Bill C-35 are also overly prescriptive in nature, making it difficult or impossible to address many of the challenges the program faces. Yet, other elements of Bill C-35 are so vague as to leave the program vulnerable to unacceptable levels of waste and inefficiency and potentially, the appearance of corruption.

ADCO’s goal is to help government address these issues now, so they don’t become permanent features of the program. We are therefore proposing that the Senate consider amending Bill C-35—the Canada Early Learning and Child Care Act—as outlined on page eight of this document. The rationale for these proposed amendments is presented in the CWELCC Challenges and Solutions portion of this document.



Background on the early learning and child care sector in Ontario

Almost all of the taxpayer funding Ontario allocates for child care is provided to its 47 municipal governments. This includes funding obtained through the Canada-Wide Early Learning and Child Care program (CWELCC). The one exception to this is the CARE tax credit, introduced in 2019. Depending on a family's income, the CARE credit covers up to 75% of receipted child care expenses up to \$6,000 per child under age seven.

The Ontario Ministry of Education is responsible for the funding, licensing and regulation of child care. Under the Child Care and Early Years Act, the Ministry of Education ensures that all licensed child care centres adhere to the same basic standards regarding safety, cleanliness, group sizes, staff/child ratios, nutrition, etc. Licensed child care centres may be run as small or large businesses, as not-for-profits, or be owned and operated by municipal governments.

Ontario's child care sector has been afflicted by a severe staffing shortage since the roll-out of the Provincial government's "full-day kindergarten" program (FDK) over a decade ago. Its introduction caused a mass migration of Early Childhood Educators (ECEs) from licensed child care centres to the public school system. Over 1,000 licensed centres closed in the first five years of the FDK roll-out. These staffing shortages have never been addressed. Successive governments have typically only considered wages and working conditions as potential solutions. While these are important, there are additional policy options that could make a meaningful and rapid difference to the current staffing crisis. As it stands, Ontario does not have enough ECEs to keep all of its existing licensed child care programs running at full capacity, let alone to staff an expanded number of spaces.

CWELCC Challenges and Solutions

Challenge: Even with generous taxpayer funding, not enough spaces are being created.

In March of 2023, Ontario's Financial Accountability Office reported that whether or not the CWELCC actually achieves the goal of significantly increasing women's labour market participation depends on there being an adequate number of new spaces, an adequate number of qualified personnel to staff them, and sufficient program funding. This finding came on the heels of its November 2022 report, which indicated that Ontario is likely to be short roughly 220,000 licensed child care spaces by 2026.

Solutions:

Be more inclusive of child care entrepreneurs, most of whom are women.

The current CWELCC Agreement for Ontario limits the expansion of licensed spaces run by private sector entrepreneurs to a maximum of 30% of the total. This leaves the expansion of licensed care largely reliant on taxpayer funding. Unless the discrimination against entrepreneurs ends, even the combined efforts of the three levels of government involved in child care in Ontario—federal, provincial and municipal—will not be enough to create the number of licensed spaces Ontario families need. Currently, Canada needs all of the licensed child care it can get. Instead of focusing on growing any particular



element of the child care sector—for instance, public or institutional not-for-profit care—Bill C-35 needs to focus on growing the child care sector more generally.

Make it easier for internationally trained professionals and those already working in child care to be recognized as Early Childhood Educators (ECEs).

Existing centres can't expand and new centres can't open if there aren't enough skilled personnel to staff them. By focusing solely on ECEs, the current CWELCC Agreement for Ontario misses key opportunities to rapidly increase the number of qualified staff working in the sector. One way to quickly ease the staffing shortage in child care would be to recognize certified Montessori Teachers as being equivalent to ECEs for the purposes of the CWELCC Agreement. Another relatively rapid way would be to allow provinces to use CWELCC funding to create a clear path forward for those with international credentials in early education to have these credentials credited toward certification as ECEs. Currently, there is no official outreach strategy to attract more such internationally trained professionals to work in Ontario, nor is there a way to get them certified as ECEs if there was. This situation sits in stark contrast to the success Ontario has had in managing similar staffing shortages in its health care sector.

Challenge: Most families are excluded from the program and will be for at least a decade.

The Child Care Providers Resource Network reports that more than 70% of Ontario families are excluded from support under the CWELCC. In some cases, this is because there aren't enough licensed spaces in their communities to meet demand. In others, it is because their child care choices are not those approved by the framers of the CWELCC program. If the CWELCC is to be universal in nature, it needs to be more flexible and be supportive of the wide range of child care options families actually use.

Even if licensed options aren't available where a family lives, the current CWELCC Agreement doesn't allow Ontario to fund that family directly, so they can choose a child care option that makes sense for their needs—including care with a neighbour or relative. This creates disparities based on geography.

There are other disparities as well. Many of the current beneficiaries of the CWELCC program are families who could readily afford to pay the full fee and therefore already had access to the licensed spaces they needed when the program was first introduced. They're now paying discounted rates, while less fortunate families who desperately need care are more likely to see their children age out of the system than they are to get a \$10-per-day space.

It should also be acknowledged that some families are excluded from the system because the licensed child care programs they're most comfortable using have opted out of the CWELCC. There is a segment of licensed centres that have not joined the CWELCC system because of conscientious objections to collecting data about the race, gender identity and other personal characteristics of the families they serve. Often these centres serve specific cultural or faith communities and see such data collection as antithetical to their beliefs. This leaves the families who rely on these centres effectively barred from gaining any assistance under the CWELCC based on culture or faith.



Solutions:

Fund some families directly—at least for a time.

The simplest way to make the CWELCC more equitable for families would be to fund families directly and let them make their own child care choices. This could be done in a variety of ways including direct payments to families, a voucher system or tax credits, with adjustments made to provide lower income families with higher levels of support. This doesn't have to be a permanent decision, but certainly could be considered as one element of a well-planned, multi-phase federal roll-out strategy.

Making Bill C-35 more flexible could also ensure that the CWELCC delivers the kind of care that truly supports each child's development and well-being. Parents know their children best and a child care arrangement that works well for one child may not work well for another, despite that space being in a regulated setting, with well-qualified, genuinely devoted staff. Given that children's well-being is involved, it may be unwise for the federal government to attempt to substitute its judgement for that of parents.

Reduce the restrictions on how Provinces can use the CWELCC transfers.

Allowing for direct payments to parents doesn't have to be an all-or-nothing proposition. Simply leaving the door open for Provinces to do this, even in a limited way, may help ease the current shortage of spaces, promote greater parental choice, and help the CWELCC program live up to its promise of being "universal." This could be a particularly important measure for assisting families in rural areas that lack the critical mass required to sustain licensed services on an ongoing basis.

Challenge—Lack of transparency for the taxpayer dollars invested in the program.

The current CWELCC Agreements were undertaken very quickly, to address issues emerging as a result of the pandemic. They do not necessarily represent the most practical approaches to Canada's child care challenges. To echo the comments of Senator Moodie on September 19, there remains a lack of accurate data about the status of child care in Canada. If this lack of accurate data existed before the CWELCC program was rolled out, it would certainly explain why six Provinces so far have had to amend their federal CWELCC Agreements.

There is also a lack of transparency for families. In Ontario, three layers of government bureaucracy—federal, provincial and municipal—are involved in administering the program. Just before the start of the school year, there was a case where some 300 families were suddenly left scrambling because they were cut from the program. These parents are still waiting for answers. Like all Canadian taxpayers, they have a right to know how much of the money invested in the program is actually being used to deliver child care, how much is being consumed by the various levels of government administering it, and to expect a reasonable level of administrative efficiency.

Solutions:

Mandatory annual federal reporting on specific, practical outcomes and efficiency measures.

To demonstrate the effectiveness of the CWELCC program, the federal government needs to annually report at least the following:



- The total amount of federal funding allocated to the CWELCC program
- The percentages of this total allocated to each province and territory, as well as any percentage accounted for by federal administration costs.
- The percentages of the total accounted for by the following: debt service costs, total administrative costs by the federal, provincial and municipal governments involved, the total amount allocated to child care service providers, and the total amount allocated directly to parents (if applicable).

The federal government should also be required to publicly report the following figures, province-by-province and territory-by-territory

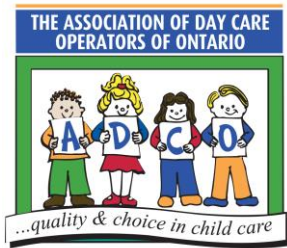
- how many spaces (by age) and centres/programs it provided operating funding for each year,
- what percentage of the total eligible population of children accessed these spaces
- how many spaces (by age) and how many centres/programs were created with federal expansion funds
- how many spaces and centres were opened each year
- how many spaces and centres were closed each year
- how many children received services each year
- the average cost-saving per family
- the three largest recipients of operational funding by company or organization name
- the three largest recipients of expansion funding by company or organization name

Do not normalize discrimination against any particular group or segment of the industry.

Education is an area of provincial jurisdiction. Provincial regulatory processes are sufficient to ensure child care quality. By seeking to limit the expansion of licensed child care services delivered by the private sector, Bill C-35 in its current form communicates an arbitrary value judgement about the individuals involved in these enterprises: *they are not to be trusted*. This leaves the door open to all manner of discrimination against these individuals being easily justified by public officials working in the other levels of government responsible for administering the program. It is prudent to prevent such circumstances, so as to avoid service disruptions for families, legal issues and other unnecessary costs to the program.

Require full public disclosure of all business interests of National Advisory Council members.

Members of the National Advisory Council are in a unique position to shape the development of Canada's child care sector. This sector represents billions of dollars of both public and private investment annually, thousands of employers and tens of thousands of employees. Council members may have access to information that could easily influence the decisions of public officials at other levels of government, including contract decisions. Full, annual public disclosure of any and all business interests of National Advisory Council members is necessary for members of the public to have confidence in the CWELCC program. Council members should never be, or appear to be, the beneficiaries, directly or indirectly, of any CWELCC funding beyond their compensation packages for participating on the Council.



Recommendations

- 1) Make the bill more inclusive by deleting the reference to “public and not-for-profit child care providers” in section 7) 1) a) of the Guiding Principles articulated in the Funding section. Amend Section 7) 1) a) of the Guiding Principles articulated in the Funding section of Bill C-35 to read:

(a) facilitate access to early learning and child care programs and services that meet standards set by provincial governments or Indigenous governing bodies and respond to the varying needs of children and families;

- 2) Recognize and honour the vital role female entrepreneurs have played as founders, innovators and champions of the nation’s licensed child care sector and invite future generations of female entrepreneurs to invest their skills and talents in contributing to this proud legacy. Making the suggested amendment above is one way of doing this, but some additional text could also be added to the Purpose and Declaration section. Specifically, section 6) d) could be amended to read:

(d) it is important for the Government of Canada to cooperate, collaborate and work in partnership with the provinces, Indigenous peoples, and female entrepreneurs to support them in their efforts to provide those programs and services;

- 3) Do not assume that the current iteration of this new federal program provides the optimal framework, in perpetuity, for helping families access child care. Consider amending Section 8 as follows.

8. The Government of Canada commits to maintaining long-term funding for early learning and child care programs and services, including early learning and child care programs and services for Indigenous peoples. The funding may include agreements with the provincial governments, Indigenous governing bodies and other Indigenous entities that represent the interests of an Indigenous group and its members, as well as direct supports for families with young children.

- 4) Consider an addition to the Bill that provides some guidance to Advisory Council members about avoiding potential conflicts of interest or the appearance of impropriety arising from their involvement on the Council. Specifically, it may be wise to restrict Council members from consulting work related to provincial or community child care plans, or expansions of specific child care enterprises that would be funded through the CWELCC. Advisory Council members may also require guidance about avoiding any paid consulting or volunteer work related to political parties or candidates during their term on the Council.
- 5) It may be appropriate for the Bill to be more specific about the composition of the Advisory Council with respect to regional representation, as well as representation by female entrepreneurs and those involved in the direct delivery of licensed child care services.
- 6) Section 16 of the Bill regarding the content of the Annual Report could be strengthened to specify the types of information noted in the bullet points on page 6 and 7 of this brief.