

Kamloops Pride Association

# Knowing Your Rights

A Toolkit for 2SLGBTQIA+ Folks in Navigating Criminal Justice,  
Health Care, and Youth Issues

# Knowing Your Rights: A Toolkit for 2SLGBTQIA+ Folks in Navigating Criminal Justice, Health Care and Youth Issues

Knowing Your Rights is a collaborative project between the Kamloops Pride Association and Pro Bono Students Canada, Thompson Rivers University Law School chapter. Knowing Your Rights would like to thank Grace McDonell, the supervising lawyer for the project. The project was completed by Thompson Rivers University Law students, their names, pronouns, and graduation years are as follows: Alexandra Comber (she/her - 2021), Sydney Snape (she/her - 2022), Abbey Fortin (she/her - 2023), Erin Pillipow (she/her - 2023), Katelyn Chaudhary (she/her - 2023), and William Clark (he/him - 2023).

The Kamloops Pride Association and Thompson Rivers University are both situated on the traditional and unceded Secwepemc territory, also known as Secwepemcúl'ecw. We acknowledge and give honour to the Secwepemc — the ancestral peoples who have lived and cared for the Secwepemcúl'ecw since time immemorial.

If you would like to contact Kamloops Pride, you can contact them at: [info@kamloopspride.com](mailto:info@kamloopspride.com)

For free access to Canadian legal cases and legislation, visit the Canadian Legal Information Institute (CanLII): <https://www.canlii.org/en/>

## DISCLAIMER:

Knowing Your Rights does not constitute legal or medical advice. Please consult a lawyer for legal advice or a doctor to for medical advice. The information contained herein was up to date as of 20, 2021. This is a fast-evolving area of law and policy; therefore, some content, forms, or appendices may be out of date. Links and resources have been provided to ensure that readers can still access the most up to date content.

## CONTENT WARNING:

Some of the content contained in this document may be triggering as it discusses instances of negative interactions by 2SLGBTQIA+ folks with institutions and close, familial relationships.



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# CRIMINAL JUSTICE

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## WHAT ARE MY RIGHTS IF AN OFFICER APPROACHES ME ON THE STREET?

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Section 9 of the *Charter of Rights and Freedoms*<sup>1</sup> protects citizens from certain arbitrary state actions. If you are stopped by a police officer on the street, you have the right to ask the officer if you are being arrested or detained. If you are not being detained or arrested, you are free to leave.

## WHAT ARE MY RIGHTS IF I AM APPROACHED WHILE SLEEPING IN MY CAR?

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If you are in an area with a bylaw restriction against sleeping in your car, you may have to show the police your ID, and you may be issued a ticket. Police may ask you to leave the premises or area.<sup>2</sup> If you are experiencing homelessness, the City of Kamloops provides shelter resources. Here are [Shelter Resources](#) from the City of Kamloops.<sup>3</sup>

In addition to traditional shelters, Kamloops also has supportive housing locations. Supportive housing projects provide residents self-contained units with kitchenettes and private bathrooms. There is also a range of on-site resources, life skills training, connections to health care, mental health or substance-use services. Supportive housing is available for folks who are low-income adults, are homeless or at risk of homelessness, require supports to live independently, or need support to maintain a successful tenancy.<sup>4</sup>

To be considered for supportive housing, you must complete the Vulnerability Assessment Tool (VAT). The agencies that can administer the VAT in Kamloops are:

- ASK Wellness
- John Howard Society
- Lii Michif Otipemisiwak Family and Community Services
- Interior Health
- The Mustard Seed Kamloops

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<sup>1</sup> *Canadian Charter of Rights and Freedoms*, s 9, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

<sup>2</sup> Trans Rights BC, “Police & Prison System” online: *Provincial Health Services Authority* <<http://www.transrightsbc.ca/know-your-rights/police-prison-system/>> [Police & Prison System].

<sup>3</sup> Shelter Resources, online: *City of Kamloops* <[https://www.kamloops.ca/sites/default/files/docs/our-community/scd\\_shelterresourceflatsheet\\_8-5x11\\_nov2019\\_final.pdf](https://www.kamloops.ca/sites/default/files/docs/our-community/scd_shelterresourceflatsheet_8-5x11_nov2019_final.pdf)> [Shelter Resources].

<sup>4</sup> BC Housing “Supportive Housing” online: *BC Housing* <<https://www.bchousing.org/housing-assistance/housing-with-support/supportive-housing>>.

- Elizabeth Fry Society
- Canadian Mental Health Association – Kamloops and Safe Spaces.<sup>5</sup>

For the COVID-19 pandemic, the City of Kamloops has outlined rules for temporary overnight shelters. As explained on their website, shelters may only cover an area of less than 10 m<sup>2</sup> and must be free of garbage and excessive clutter. There can be no fires or smoking, and the shelters must be detached from other structures. Regardless, in British Columbia, people cannot be restricted from sleeping in parks at night and people who are experiencing homelessness can create structures to sleep under, as long as they are taken down by morning.<sup>6</sup>

There are also day storage lockers that are free to use to store a single persons' belongings at 48 Victoria Street West (Across from City Hall), from Monday to Sunday, between the hours of 11:00 AM – 5:00 PM. Further details can be found via this [link](#).<sup>7</sup>

The areas the Temporary Overnight Shelter Locations can be located are outlined on the map [here](#).<sup>8</sup>

Additional resources may be found [here](#).<sup>9</sup>

## WHAT ARE MY RIGHTS IF I AM PULLED OVER WHILE DRIVING?

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If you are pulled over by the police, you must show the officer a valid driver's license. You may also be required to show your vehicle registration. If an officer suspects you have been drinking and driving, you may be asked for a breath sample. If you refuse to provide a breath sample, you may be arrested.<sup>10</sup>

*\* Note: Generally, you can ask for an officer's name, badge number, and information*

*\* Note: If your license does not correspond with your gender identity, you may be required to explain this to the officer*

*\* Note: You may call 911 if you are being pulled over by an unmarked police car to ensure that you are being pulled over by an officer*

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<sup>5</sup> Shelter Resources, *supra* note 3.

<sup>6</sup> *Victoria (City) v Adams*, 2009 BCCA 563 at para 195; *Abbotsford (City) v Shantz*, 2015 BCSC 1909 at paras 124, 203, 276.

<sup>7</sup> Temporary Overnight Shelters, online: *City of Kamloops* <<https://www.kamloops.ca/our-community/building-strong-communities/housing-and-homelessness/temporary-overnight-shelters>>.

<sup>8</sup> Temporary Overnight Shelter Locations, online (pdf): *City of Kamloops* <[https://www.kamloops.ca/sites/default/files/docs/our-community/bl\\_temporaryovernightshelters\\_11x8-5\\_may2018\\_map.pdf](https://www.kamloops.ca/sites/default/files/docs/our-community/bl_temporaryovernightshelters_11x8-5_may2018_map.pdf)>.

<sup>9</sup> Resources List, online: *City of Kamloops* <[https://www.kamloops.ca/sites/default/files/docs/our-community/scd\\_resourceflatsheet\\_8-5x11\\_nov2019\\_final.pdf](https://www.kamloops.ca/sites/default/files/docs/our-community/scd_resourceflatsheet_8-5x11_nov2019_final.pdf)>.

<sup>10</sup> Police & Prison System, *supra* note 2.

## WHAT CAN I DO IF AN OFFICER, JUDGE, LAWYER, OR OTHER STATE-ACTOR DEADNAMES OR MISGENDERS ME?

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A state actor is someone acting on behalf of the government, such as a police officer, judge, social worker, or lawyer working for the government.<sup>11</sup> If a state actor does not use your correct pronouns or name, you should make them aware of the proper way to refer to you. If the state actor still *refuses* to call you by your correct pronouns or name, it may be deemed contrary to the *BC Human Rights Code*.<sup>12</sup> You may submit a complaint through the RCMP website (as illustrated in the next question, “How can I file a complaint against the police?”). You may also submit a complaint through the Human Rights Tribunal:<sup>13</sup> <http://www.bchrt.bc.ca/complaint-process/index.htm>.

*Note: There is a 1-year limitation period to file your human rights complaint and it is free to file.*

## HOW CAN I FILE A COMPLAINT AGAINST THE POLICE?

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You can file a complaint about an officer, civilian member, or a special constable through the RCMP website. You can submit your complaint through an online form: <https://www.crcc-ccetp.gc.ca/en/make-complaint-form>

By Telephone:

1-800-665-6878

TTY: 1-866-432-5837

By Fax:

Print and complete this form: <https://www.crcc-ccetp.gc.ca/pdf/complaintplainte-en.pdf>  
613-960-6147

By Mail:

Print and complete this form: <https://www.crcc-ccetp.gc.ca/pdf/complaintplainte-en.pdf>  
Civilian Review and Complaints Commission for the RCMP National Intake Office  
P.O. Box 1722, Station B  
Ottawa, ON K1P 0B3.<sup>14</sup>

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<sup>11</sup> Definitions Dictionary, online: *Definitions Dictionary* <<https://www.definitions.net/definition/state+actor>> *sub verbo* “state actor”.

<sup>12</sup> *Human Rights Code*, RSBC 1996, c 210, s 44(2).

<sup>13</sup> BC Human Rights Tribunal, “Human Rights Complaint Process” online: *BC Human Rights Tribunal* <<http://www.bchrt.bc.ca/complaint-process/index.htm>>.

<sup>14</sup> Royal Canadian Mounted Police, “Making a public complaint against an RCMP member” online: *Royal Canadian Mounted Police*, <<https://www.rcmp-grc.gc.ca/cont/faq-comp-plainte-eng.htm>>.

## WHAT ID DO I HAVE TO SHOW THE POLICE?

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When required, you have to show police a document with your name, age, and address on it, typically a driver's license, passport, permanent residency card, or birth certificate are all sufficient. If your ID does not match your gender identity, you may have to explain to the officer why that is.<sup>15</sup> This is discussed further in the next question, "what if my id does not represent my gender identity and I am stopped by the police?".

There are many reasons in which a photo ID may not fully match up with a driver, such as changes over time, age, haircuts, etc. Although the police may ask a few questions to ensure it is you driving the vehicle, they are trained to ask these questions respectfully and in a way that acknowledges who you are. For example, the police may ask for your "legal name", and if your name has not yet been legally changed, you may disclose your legal name as well as your correct name. The officer should then use your correct name when they speak to you.

It is important to note that officers are duty-bound to ensure the person is who they say they are. To accomplish this, officers may ask questions to ensure you are the same person as your identification, or for properly detailed information that is necessary for identification.

## WHAT IF MY ID DOES NOT REPRESENT MY GENDER IDENTITY AND I AM STOPPED BY THE POLICE?

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If your ID does not represent your gender identity and you are stopped by the police, you can explain this to the officer(s). Let the officer know both your legal name and correct name for the purposes of identification.

For example, you may tell an officer "I am transgender/non-binary/etc. and I go by the name \_\_\_\_\_", but my legal name on my drivers' license is \_\_\_\_\_".

You should also advise the officer if you are in the process of getting your name changed or in the process of transitioning. Officers will use your legal name for the court-process but refer to you with your correct name. Officers will write on documents such as a report to the Crown both your legal name as well as your correct name. In all levels of BC Court, all participants, counsel, judge or justice, and witnesses will be required to share their correct pronouns.<sup>16</sup> Counsel

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<sup>15</sup> Police & Prison System, *supra* note 2.

<sup>16</sup> The Supreme Court of British Columbia, "Forms of Address for Parties and Counsel in Proceedings PD-59" (16 December 2020) online (pdf): *BC Courts* <[https://www.bccourts.ca/supreme\\_court/practice\\_and\\_procedure/practice\\_directions/civil/PD-59\\_Forms\\_of\\_Address\\_for\\_Parties\\_and\\_Counsel\\_in\\_Proceedings.pdf](https://www.bccourts.ca/supreme_court/practice_and_procedure/practice_directions/civil/PD-59_Forms_of_Address_for_Parties_and_Counsel_in_Proceedings.pdf)>.

addressing Court will state your legal name first for the record, before your correct name. The court will then use your correct name.<sup>17</sup>

Most officers will use your correct name when referring to you, but there may be a few officers who will either make a mistake or purposefully refuse to respect your wishes. If a police officer refuses to respect your identity, you may submit a complaint to the RCMP (<https://www.crcc-cctp.gc.ca/en/make-complaint-form>), or submit a complaint through the Human Rights Tribunal (<http://www.bchrt.bc.ca/complaint-process/index.htm>).

*Note: There is a 1-year limitation period to file your human rights complaint and it is free to file.*

## **WHAT IF MY TRANSGENDER IDENTITY IS A SECRET TO THE PEOPLE IN MY LIFE?**

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When interacting with a police officer, unless they are required to by law, they will not share your personal information without your permission.<sup>18</sup>

## **WHEN DO I HAVE TO ANSWER MY DOOR TO A POLICE OFFICER?**

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You must open your door to the police under certain circumstances. If the police have a warrant you must open the door. Be sure to check if the name, date, and address on the warrant are correct. If anything is wrong on the warrant, they do not have a right to enter your home. You must open the door if they have a condition for bail or a probation order.

Additionally, if they are chasing someone who has entered your building, if they believe the evidence of a crime is being destroyed, or if they are trying to help someone they believe is in immediate danger, then they may enter your home. If none of these circumstances are taking place you are not legally obligated to open the door to the police or answer their questions.<sup>19</sup>

## **HOW DO I KNOW IF I AM BEING DETAINED?**

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If you are in a situation where a police officer is not allowing you to leave, or you feel that you aren't able to leave, you may be detained. Detainment is different from arrest. If you are being detained, you are being officially held by the police, usually for questioning concerning a crime. If

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<sup>17</sup> The Provincial Court of British Columbia, *Notice to the Profession and Public: Form of Address for Parties and Lawyers*, NP 24 (16 December 2020) online: <<https://www.provincialcourt.bc.ca/downloads/Practice%20Directions/NP%2024%20Form%20of%20Address%20for%20Parties%20and%20Lawyers.pdf>>.

<sup>18</sup> Police & Prison System, *supra* note 2.

<sup>19</sup> Police & Prison System, *supra* note 2.

you are unsure what is taking place, ask the police “am I being detained?” They are required to tell you if you are being detained and why you are being detained. When you are detained, you are not free to go. If you are detained, the police are required under Section 10 of the *Canadian Charter of Rights and Freedoms* to make you aware of your rights, which include speaking to legal counsel.<sup>20</sup>

## WHAT ARE MY RIGHTS IF I AM DETAINED?

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Section 9 of the *Canadian Charter of Rights and Freedoms* protects all citizens from arbitrary detention. If you are being detained, you do not have to answer any questions besides identification questions.

You have the right to speak with legal counsel, and the police can pat you down for a safety search.<sup>21</sup> If you do not have the resources to hire a lawyer, the police must provide you with the resources to contact a legal aid lawyer, who will represent you free of charge.

## HOW DO I KNOW IF I AM BEING ARRESTED?

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If you are being arrested the police are required to tell you that you are being arrested, why you are being arrested, and to read you your rights. You may be put into handcuffs or restrained in another way.<sup>22</sup>

## WHAT ARE MY RIGHTS IF I AM BEING ARRESTED?

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When being arrested, you have a right to know the reason for arrest. You must be “read your rights,” in most cases, officers will not explicitly read your rights to you, but tell you in a verbal format. You must be told that you have a right to remain silent and the right to a lawyer. If you are not told these things, you must tell your lawyer when you contact them.

You also have the right to be given the number of a legal aid lawyer, and the opportunity to speak with them privately. Police officers do have the right to search your person incident to arrest. This means they can search you and your immediate surroundings for weapons or evidence related to the arrest. They must not conduct the search in an abusive fashion, and if you feel the search was abusive you must share this with your lawyer.<sup>23</sup>

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<sup>20</sup> *R v Grant*, 2009 SCC 32, at para 22, 58; *R v Suberu*, 2009 SCC 33 at para 2.

<sup>21</sup> See *R v Mann*, 2004 SCC 52 at para 45.

<sup>22</sup> See *R v Grant*, 2009 SCC 32, at para 22, 58; *R v Suberu*, 2009 SCC 33 at para 2.

<sup>23</sup> See *Cloutier v Langlois*, [1990] 1 SCR 158, at paras 21, 22, 59-64, 1990 CanLII 122.

## HOW CAN I REPORT A HATE CRIME?

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A hate crime is any crime that is motivated by hostility to the victim as a member of an identifiable group, such as one based on sexual orientation, race, colour, creed or gender. Examples of hate crimes can include assault, or defamation of property.<sup>24</sup> You are entitled to protection from hate crimes under sections 318 and 319 of the *Criminal Code*. If you believe that a hate crime has been committed against you, you may report it and file a Human Rights complaint.

*Note: To report a hate crime, you may file a complaint to the Human Rights Tribunal within one year of the incident.*<sup>25</sup> There are no fees attached to filing a Human Rights complaint.<sup>26</sup>

You may also go to your local police detachment, phone 1-855-462-5733, or email [BC\\_HATE\\_CRIMES@rcmp-grc.ca](mailto:BC_HATE_CRIMES@rcmp-grc.ca). If the hate crime is in progress, call 911.

When you report a hate crime, any of the information you provide is confidential, and may not be shared or admitted into evidence unless you give consent.<sup>27</sup>

## HOW CAN I GO ABOUT CHANGING MY DOCUMENTATION?

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Transgender, Non-Binary, and Gender diverse people are not legally required to change their documentation; however, if you choose to do so, the processes and some resources are outlined below.<sup>28</sup>

Trans Care BC has a free and helpful tool that helps you navigate the processes and requirements for changing Provincial and Federal Identification for name changes, and/or gender markers. It can be found here: <http://live-transcarebc.button.build/updating-id/>

### Provincial Documentation

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<sup>24</sup> *Merriam-Webster Dictionary*, online: <<https://www.merriam-webster.com/dictionary/hate%20crime>> *sub verbo* “hate-crime”.

<sup>25</sup> *Human Rights Code*, RSBC 1996, c 210, s 22.

<sup>26</sup> Trans Rights BC “Human Rights Complaints” online: *Provincial Health Services Authority* <<http://www.transrightsbc.ca/take-action/human-rights-complaints/>> [Human Rights Complaints].

<sup>27</sup> *Human Rights Code*, RSBC 1996, c 210, s 40.

<sup>28</sup> Trans Care BC “Updating ID Guide” online: *Provincial Health Services Authority* <<http://live-transcarebc.button.build/updating-id/>>.

*\*Note: This information is constantly being updated and adapted. Please see <https://www2.gov.bc.ca/gov/content/life-events/legal-changes-of-name> for any up-to-date changes.*

*\*Note: Most people change their provincial documents before their federal documents.<sup>29</sup>*

### Provincial documents include:

- BC Birth Certificate
- BC Driver's license
- BC Identification Card
- BC Services Card (can be separate from or joined with BC Driver's License, and may or may not include a photo)
- Enhanced Driver's License and Enhanced Identification Card.<sup>30</sup>

To change your name and gender marker, you can complete both applications at the same time, but the processes are separate.

### Change of Name:

For someone who is over the age of 19 and born in Canada, you must complete an application for a change of name.<sup>31</sup>

In conjunction with the application, you must send in your:

- original Birth Certificate,
- a photocopy of a receipt for fingerprinting completed in the last 30 days,
- any marriage certificates,
- a photocopy of government-issued picture ID,
- any previous Change of Name documents,
- and any fees that are required.<sup>32</sup>

The fee required to send the application is \$137.00. If you earn less than \$20,000 per year, you may qualify for a **fee waiver**. To do so, you must include a copy of your last tax return, as well as a letter requesting the change of name fee is waived.<sup>33</sup>

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<sup>29</sup> *Ibid.*

<sup>30</sup> Human Rights Complaints, *supra* note 25.

<sup>31</sup> Vital Statistics Agency "Application for Change of Name" online (pdf): *BC Vital Statistics* <<https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa529.pdf>>.

<sup>32</sup> Trans Care BC "Legal Change of Name (born in Canada)" online: *Provincial Health Services Authority* <<http://live-transcarebc.button.build/tid-result-a/>> [Legal Change of Name].

<sup>33</sup> *Ibid.*

To have your fingerprints taken electronically, you may visit an RCMP detachment. There is a fee of \$80.00 for this service, but you can apply to have it reduced to \$25.00 through a waiver provided by Catherine White Holman Wellness Center, only if your fingerprinting is taking place in Vancouver.

A lawyer or notary must sign your name change application for it to be complete. This may require additional fees; however, Service BC may be able to do this for free. In Kamloops, they are located at 455 Columbia Street, Room 250, and are open Monday to Friday from 9 AM-4:30 PM, with a lunch break from 12:30 PM-1 PM.<sup>34</sup>

If your change of name application is approved, you will receive a confirmation letter from Vital Statistics BC. Your certificate of Name Change will arrive separately.<sup>35</sup> If you plan on changing your gender marker as well, it is advised you do not order a new ID or birth certificate until after that has been approved as well.<sup>36</sup>

The next steps for you to take include ordering a new birth certificate, sending a copy of that birth certificate to Health Insurance BC, wait for your new service card to arrive, and take your new documentation to an ICBC location to receive an updated Driver's License or BCID.<sup>37</sup>

Here is an updated websites you can use for more information about the websites necessary to change information and documentation, such as your name, gender marker, birth certificates, and much more: <http://www.phsa.ca/transcarebc/care-support/transitioning/id-name-change> or <http://live-transcarebc.button.build/updating-id/>. The government websites also denote the costs and fees associated with the change for processing purposes along with a variety of other information and resources.<sup>38</sup>

### Change of Gender Marker:

If you were born in BC, you can update your BC birth certificate to include a gender marking of M, F, or X. The Application for Change of Gender Designation for adults can be found [here](#)<sup>39</sup>, and for children and youth [here](#).<sup>40</sup>

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<sup>34</sup> "Service BC Location: Kamloops" online: *Government of British Columbia* <<https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/citizens-services/servicebc/service-bc-location-kamloops>>.

<sup>35</sup> Legal Change of Name, *supra* note 31.

<sup>36</sup> Legal Change of Name, *supra* note 31.

<sup>37</sup> Legal Change of Name, *supra* note 31.

<sup>38</sup> Trans Care BC, "ID & Name Change" online: *Provincial Health Services Authority* <<http://www.phsa.ca/transcarebc/care-support/transitioning/id-name-change>>.

<sup>39</sup> "Instructions for the Application for Change of Gender Designation (Adult)" online (pdf): *Government of British Columbia* <[https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa509a\\_fill.pdf](https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa509a_fill.pdf)>.

<sup>40</sup> "Instructions for the Application for Change of Gender Designation (Minor)" online (pdf): *Government of British Columbia* <[https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa509c\\_fill.pdf](https://www2.gov.bc.ca/assets/gov/health/forms/vital-statistics/vsa509c_fill.pdf)>.

To change your gender, you must have a physician or psychologist confirm a change of gender designation form. A non-binary marker of X is available to individuals who do not identify as male or female.<sup>41</sup>

You are required to send your application to Vital Statistics in Kelowna. Please note that this is a different office and address from where the Change of Name Application must be sent. With your completed application, you must send the original copy of a physician's or psychologists' confirmation of the change of gender designation, the required fees, and any previously issued birth certificates.<sup>42</sup>

The fee included is \$27.00. If you make less than \$20,000 per year you may apply for a fee waiver. You may do so by including a copy of your most recent tax return as well as a letter requesting the fee be waived.<sup>43</sup>

Additional information and resources can be found here:

<https://www2.gov.bc.ca/gov/content/life-events/legal-changes-of-name>

<http://www.phsa.ca/transcarebc/care-support/transitioning/id-name-change>

## **Federal Documentation**

### **Federal Documents Include:**

Canadian Passport, Citizenship Card, Permanent Resident Card, Temporary Resident Documents, Certificate of Indian Status, Social Insurance Number, Income Tax Records, and Voting Records.

To change your federal documents, you must have an updated birth certificate.

For federal documents, you must have a confirmation of the SIN letter. You are required to provide a birth certificate or permanent residency or Canadian citizenship card, and certificate of change of name. You can do this at the same time as you change your gender on your SIN.

**To change your passport**, you must have your birth certificate or Canadian citizenship certificate with your updated name. You can apply by mail or in person at a Passport Canada Office.<sup>44</sup> The application can be found here:

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<sup>41</sup> "Change of Gender Designation on Birthday Certificates" online: *Government of British Columbia* <<https://www2.gov.bc.ca/gov/content/life-events/birth-adoption/births/birth-certificates/change-of-gender-designation-on-birth-certificates#:~:text=Once%20the%20gender%20on%20a,and%20the%20Enhanced%20Identification%20Card>>.

<sup>42</sup> Trans Care BC, "Change Gender Marker" online: *Provincial Health Services Authority* <<http://live-transcarebc.button.build/change-gender-marker/>> [Change Gender Marker].

<sup>43</sup> *Ibid.*

<sup>44</sup> Trans Care BC, "Canadian Passport" online: *Provincial Health Services Authority* <<http://live-transcarebc.button.build/tid-federal-documents/>>.

<https://www.canada.ca/content/dam/ircc/migration/ircc/english/passport/forms/pdf/pptc153.pdf>

**To change your permanent residency card**, you must have a certificate of change of name, and follow up with Canadian immigration services. The Application for Permanent Residency card can be found here: <https://its-site.ams3.digitaloceanspaces.com/Application-for-a-Permanent-Resident-Card.pdf>. You may do this at the same time as changing your gender on the permanent residency card. The application for Change of Gender Designation can be found here: <https://irp-cdn.multiscreensite.com/be3b7c5d/files/uploaded/Statutory-Declaration-%E2%80%93-Request-for-a-Change-of-Sex-Designation-1.pdf>

**To change your citizenship certificate**, you need the certificate of change of name, and you can do so at the same time as changing the gender on your citizenship certificate. The application can be found here: <https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/kits/citizen/cit0001e-2.pdf> and the Request for Change of Gender Designation can be found here: <https://irp-cdn.multiscreensite.com/be3b7c5d/files/uploaded/Statutory-Declaration-%E2%80%93-Request-for-a-Change-of-Sex-Designation-1.pdf>

**To change your temporary Resident Documents**, the instructions guide can be found here: <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/guide-5218-request-amend-record-landing-confirmation-permanent-residence-valid-temporary-resident-documents.html>. And the application to amend here: <https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/kits/forms/imm1436e.pdf>

**To change your Certificate of Indian Status**, you must complete the Application for Already Registered Persons and choose “replacement—changes to personal information”. You must also submit in person or by mail: two identical and unaltered Canadian passport-style photos taken within the last 12 months, proof of ID in the form of signature, more than one document that when combined include name, date of birth, photo, and signature, and either a Secure Certificate of Indian Status and a Guarantor Declaration form, or a Certificate of Indian Status and one identity document, or one identity document and a Guarantor Declaration form.<sup>45</sup> Gender markers may be changed as well, but only M and F are currently available.

**To change your social insurance number record**, gender, and name, you must have a primary ID document and a change of name certificate.

You can update by mail:

Service Canada  
Social insurance Registration Office

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<sup>45</sup> Trans Care BC, “Certificate of Indian Status” online: *Provincial Health Services Authority* <<http://live-transcarebc.button.build/tid-federal-documents/#c=2699>>.

Post Office Box 7000  
Bathurst NB, E2A 4T1

Or in person at a Service Canada Office. Locations can be found on their website:

<http://www.servicecanada.gc.ca/tbsc-fsco/sc-hme.jsp>

Once your documentation has been updated, you may notify the Canada Revenue Agency through telephone: 1-800-959-8281<sup>46</sup>

You may also notify Elections Canada through telephone: 1-800-463-6868, or online here:

<https://csep-pesc.elections.ca/en-CA/intake/intake-mop/><sup>47</sup>

*\*Note: If you have the gender marking X on a passport or travel document, Passport Canada has stated they cannot guarantee other countries will accept that gender marking. They suggest checking with the Canadian Embassy in whichever country or countries you are travelling to.*<sup>48</sup>

## **WHO CAN I APPROACH ABOUT CHANGING MY DOCUMENTATION?**

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To change British Columbia provincial documents, you can reach out to BC Vital Statistics at 1-888-876-1633.

Within Vancouver, there are multiple agencies that will provide aid in the document change process.

QMUNITY hosts a Transgender ID Change Clinic that provides notary services for low-income transgender individuals applying for a change of name or gender on ID. Their contact info is [TransID@qmunity.ca](mailto:TransID@qmunity.ca).

The PACE society provides support to transgender individuals in filling out the paperwork required to change one's name/gender on their ID. They also provide aid in paying the associated fees. Their contact information is: 604-872-7651 or [info@pace-society.org](mailto:info@pace-society.org)

The Broadway Youth Resource Centre supports youth between the ages of 13-24 with paperwork for a legal change of name and gender markers. They also may help with the associated fees. Their contact information is: 604-709-5720 or [byrc@pcrs.ca](mailto:byrc@pcrs.ca)

The Catherine White Holman Wellness Center provides legal advice, counselling, and a variety of other services. Their contact information is: [contactus@cwhwc.com](mailto:contactus@cwhwc.com). You may also request services through their website: <https://cwhwc.com/contact/>

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<sup>46</sup> Trans Care BC, "Other Federal Documents" online: *Provincial Health Services Authority* <<http://live-transcarebc.button.build/tid-federal-documents/#c=3001>>.

<sup>47</sup> *Ibid.*

<sup>48</sup> Trans Care BC, "Canadian Passport" online: *Provincial Health Services Authority* <<http://live-transcarebc.button.build/tid-federal-documents/>>.

## WHAT WILL HAPPEN IF I AM HOMELESS AND STOPPED/APPROACHED BY THE POLICE?

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Everyone has the right not to be arbitrarily detained or imprisoned.<sup>49</sup> A police officer may walk up to you and ask for information, but if you are not detained or under arrest then you may refuse to cooperate. If you are detained or under arrest, the officer will need to notify you and tell you why. There can be certain situations where cooperation is a legal requirement, such as if you are being pulled over while driving under the *BC Motor Vehicles Act*. If a police officer has a warrant, they have the authority to arrest you, but they must read you your rights and allow you to call a lawyer as soon as possible.

If an officer does not have a warrant, the authority to do so is s. 495 of the *Criminal Code*.

### 495 (1) A peace officer may arrest without a warrant

- a) a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence;
- b) a person whom he finds committing a criminal offence; or
- c) a person in respect of whom he has reasonable grounds to believe that a warrant of arrest or committal, in any form set out in Part XXVIII in relation thereto, is in force within the territorial jurisdiction in which the person is found.<sup>50</sup>

This means that an officer may arrest you without a warrant only if the officer has **reasonable** grounds to assume that either you have committed an indictable offence or will be committing one, or if the officer finds you committing an offence.

Because people experiencing homelessness will be deemed a vulnerable group, officers must take great care with treatment. If police behaviour is deemed excessive, or if the police forces you or intimidates you to incriminate yourself, the evidence used against you in court after the fact may be inadmissible.

## WHAT CAN I DO IF I FEEL UNSAFE IN A SITUATION WITH THE POLICE?

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<sup>49</sup> *Canadian Charter of Rights and Freedoms*, s 9, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

<sup>50</sup> *Criminal Code*, RSC 1985, c C-46, s 495.

A police officer is considered a **person of authority**. An officer may ask you questions and be persistent, and this can be intimidating. Anything you say to an officer when you are not explicitly detained or under arrest may not be admissible in court. There may be other remedies for such behaviour, depending on the severity.<sup>51</sup>

## WHAT ARE MY RIGHTS DURING A TRAFFIC STOP?

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Section 94(3) of the *BC Motor Vehicles Act* illustrates the duties of a police officer during a traffic stop:

### 94.3 If a peace officer serves a notice of driving prohibition on a person under section 94.1,

- a) the peace officer must promptly forward to the superintendent
  - i. the person's licence or permit to operate a motor vehicle, if the peace officer took the licence or permit into possession,
  - ii. a copy of the notice of driving prohibition, and
  - iii. a certificate of service, in the form established by the superintendent, showing that the notice of driving prohibition was personally served on the person subject to the driving prohibition, and
- b) the peace officer, or another peace officer, must promptly forward to the superintendent
  - i. a report, in the form established by the superintendent, sworn or solemnly affirmed by the peace officer whose opinion resulted in the notice of driving prohibition being served on the person,
  - ii. a copy of any certificate of analysis under Part VIII.1 of the *Criminal Code* with respect to the person, and
  - iii. any prescribed documents or information.<sup>52</sup>

During a traffic stop the officer may ask for your valid driver's license, registration, insurance papers, and other documentation necessary for their duties. If your license does not correspond with your gender identity you may be required to explain this to the officer. The police may also ask for a breath sample for a roadside breathalyzer test. The police, however, must abide by the *Charter*. The police cannot arrest or detain arbitrarily, or act in any way contrary to the *Charter*.<sup>53</sup>

If you feel intimidated by the police, or feel as though you have been detained, ensure you discuss this with legal aid or your lawyer<sup>54</sup>

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<sup>51</sup> *R v Oickle*, 2000 SCC 38 at para 15.

<sup>52</sup> *BC Motor Vehicle Act*, RSBC 1996, c 318, s 94.

<sup>53</sup> *Canadian Charter of Rights and Freedoms*, s 7, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

<sup>54</sup> *Canadian Charter of Rights and Freedoms*, s 12, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

## **WHAT INFORMATION DO I HAVE TO GIVE TO THE POLICE IF I AM NOT DETAINED?**

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If you are simply questioned by police, and not detained, you do not have to answer questions or state your name, unless required by law.<sup>55</sup> An example of “required by law” includes traffic stops, in which you must comply with a police officer’s questions under the *BC Motor Vehicle Act*.<sup>56</sup>

## **IF ARRESTED AND HELD IN CUSTODY, ARE YOU DETAINED IN THE APPROPRIATE GENDERED CELL? ARE YOU ALLOWED TO KEEP THE GENDER-AFFIRMING PROSTHESIS WORN SUCH AS BINDERS, PACKERS, BREASTPLATES, GAFFS, ETC?**

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### **Federal:**

Correctional Services Canada (CSC) holds a policy that permits individualized protocols for frisk as well as strip searches of transgender inmates. It is important to the CSC to allow inmates to have input into the search process. The CSC notes they are aware that some transgender inmates may be using personal items such as breast or penile prosthetics to support their gender identity and they may voice their concerns on how these items are handled during a search.<sup>57</sup>

### **Provincial:**

If you are held in a provincial facility you can keep any gender-affirming prosthesis such as binders, packers, breastplates, or gaffs. BC Corrections has a policy outlining the proper search of these items in the safest and most appropriate way possible.<sup>58</sup> You may choose the gender of the officer searching you, and you may also elect to be “split searched” which means you may have different parts of your body searched by different genders.<sup>59</sup> If you feel unsafe or uncomfortable during a search of your gender-affirming prosthetics, let the staff member know.

If you begin to require gender-affirming prosthesis while held in a BC correctional facility, you may be able to receive them as long as there are no safety concerns to staff, yourself, or other inmates.<sup>60</sup>

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<sup>55</sup> *R v Mann*, *supra* note 20.

<sup>56</sup> *BC Motor Vehicle Act*, RSBC 1996, c 318, s 73, s 74.

<sup>57</sup> Office of the Correctional Investigator, “Annual Report 2018-2019” (25 June 2019), online: *The Correctional Investigator Canada* <<https://oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20182019-eng.pdf>> [*Office of the Correctional Investigator*].

<sup>58</sup> “BC Corrections Policy Transgender/Gender Diverse Inmates: Guiding Principles for Working with Transgender/ Gender Diverse inmates in B.C.” [BC Corrections Policy].

<sup>59</sup> BC Corrections Policy, *supra* note 45 at 20.

<sup>60</sup> BC Corrections Policy, *supra* note 45 at 20.

*Note: This information has been obtained from the BC Corrections policies, “Transgender/Gender Diverse Inmates: Guiding Principles for Working with Transgender/ Gender Diverse inmates in B.C.,” along with the “B.C. Corrections Branch Adult Custody Policy”, both of which are attached to **Appendix E**.*

## **IF I AM HELD IN FEDERAL PRISON, WHAT ARE MY RIGHTS?**

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If you are held in federal prison you will be put in a sex-segregated facility based on your gender identity, and you are able to wear clothing that suits your gender identity. The corrections officers can search you, but you have the right to choose which gender officer searches what part of your body.

Additionally, you have the right to receive hormone therapy in prison as you are entitled to the same quality healthcare you would receive within the community. If you have lived as your gender identity for 12 months and have been diagnosed with gender dysphoria by a specialist physician, CSC will pay for your gender-affirming surgery. If you choose to gender-affirming surgery there should be no delays caused by the CSC, and the surgery timeline must be created with your release date in mind. You must retain the same specialist throughout the process unless you and the CSC decide together on a different choice.<sup>61</sup>

## **IF I AM HELD IN A PROVINCIAL PRISON, WHAT ARE MY RIGHTS?**

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If held in a provincial prison, you have the right to self-identify your gender to the staff, and to be placed in a correctional center according to your gender identity, unless there are health and safety concerns that cannot be resolved. When doing your intake when you first arrive at the prison, the staff should ask you for your correct name and pronouns and refer to you as such. You have the right to choose what gender officer searches what part of your body, as well as the right to the use of private washroom facilities. If you are placed in a facility according to your birth sex, you are not required to share a cell.<sup>62</sup>

It is noted that whenever it is possible, transgender inmates are integrated into the inmate population.<sup>63</sup> If there are health and safety concerns that cannot be resolved and there is no other appropriate placement, the inmate can be separately confined for as short of a time as possible. This is pursuant to sections 17, 18, and 19 of the *Correction Act Regulation*.<sup>64</sup> The

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<sup>61</sup> *Office of the Correctional Investigator, supra* note 44; *Trans Rights BC, supra* note 2.

<sup>62</sup> BC Corrections Policy, *supra* note 45 at 23.

<sup>63</sup> BC Corrections Policy, *supra* note 45 at 21.

<sup>64</sup> BC Reg 58/2005, s 17, 18, 19.

inmate will be given as many social and programming opportunities as possible while in confinement.<sup>65</sup>

Transgender inmates are given preference for single cell living spaces. If you wish, you may request to share a cell with someone you trust, and this will be reviewed depending on the risk to both parties, and the overall living unit.<sup>66</sup> Transgender inmates are also offered individual and private access to showers and toilets for safety and privacy purposes.<sup>67</sup>

If you feel unsafe or that someone is disrespecting you or your pronouns, you may address your concerns to the Deputy Warden. The Deputy Warden addresses several issues within the living units. You may file an official complaint form through the Warden. You will be able to do so in a private setting, and the Warden should do what they can to offer an immediate solution such as moving you to a separate living unit, or the person(s) you are complaining about to a different living unit.<sup>68</sup>

Currently, there is no system in place for transgender inmates in provincial corrections facilities to receive gender-affirmation surgery. However, other health care services are offered on a case-by-case basis relating to medical necessity.

*Note: This information has been obtained from the BC Corrections policies, "Transgender/Gender Diverse Inmates: Guiding Principles for Working with Transgender/ Gender Diverse inmates in B.C.," along with the "B.C. Corrections Branch Adult Custody Policy", both of which are attached to **Appendix E**.*

## **IF I AM BEING DISRESPECTED BY THE PRISON STAFF, WHAT CAN I DO?**

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### **Federal Prison**<sup>69</sup>

If you are being harassed or disrespected by staff in a federal prison you can file a complaint or have a family member or friend file on your behalf. You can make the complaint via mail, telephone, or in person.

By Mail:

Office of the Correctional Investigator  
P.O. Box 3421, Station "D"  
Ottawa ON K1P 6L4

By Telephone:

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<sup>65</sup> BC Corrections Policy, *supra* note 45 at 21.

<sup>66</sup> BC Corrections Policy, *supra* note 45 at 23.

<sup>67</sup> BC Corrections Policy, *supra* note 45 at 23.

<sup>68</sup> BC Corrections Policy, *supra* note 45 at 23.

<sup>69</sup> "Commissioner's Directive 081 Offender Complaints and Grievances" (28 June 2019) online: *Correctional Service Canada* <<https://www.oci-bec.gc.ca/cnt/complaint-plainte-eng.aspx>>

1-877-885-8848 (Toll-Free)  
Monday-Friday: 8:30 - 16:30 EST

In Person:

During scheduled institutional visits by OCI (Office of the Correctional Investigator) staff.

### **Provincial Prison**

If held in a provincial prison, it is encouraged that you speak with the correctional officer in your unit or the Deputy Warden.<sup>70</sup> If the issue cannot be resolved through that person, you may ask any staff member for a complaint form. When completed you may take this form to any staff member who will deliver it to the right person. If you do not receive a response within seven days or you are not satisfied with the response you receive, there are phone, fax, and mailing options to file a complaint. The contact information is as follows:

Phone: 250-387-5948

Fax: 250-356-9875

Mail: PO Box 9279, STN PROV GOVT, Victoria, B.C. V8W 9J7

### **IF I FEEL UNSAFE IN PRISON, WHAT CAN I DO?**

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You may speak with your corrections officer or other staff member and explain your concerns. The same procedures apply as above if you wish to file a complaint.

You may also call mental health support lines in Kamloops to receive the mental and emotional help you may need: Kamloops Mental Health Support Line: Call 310-6789 (do not add 604, 778, or 250 before the number).

### **HOW CAN I ACCESS THE HEALTHCARE NEEDS THAT I HAVE WHEN IN PRISON?**

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You are entitled to the same quality health care that you would receive in the community. In a Provincial facility, you can be provided with health care services relating to gender dysphoria if it is deemed necessary.<sup>71</sup>

### **WHAT ARE MY RIGHTS WHEN IT COMES TO BEING STRIP-SEARCHED?**

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<sup>70</sup> BC Corrections Policy, *supra* note 45 at 20.

<sup>71</sup> BC Corrections Policy, *supra* note 45 at 9.

When it comes to being strip-searched or frisked, you may choose the gender of the officer you wish to search your private person.<sup>72</sup> You also have the right to be strip-searched in private.<sup>73</sup> If you are wearing any sort of gender-affirming prosthesis, the officer must take special care and precaution while searching you.<sup>74</sup>

## WHAT IF I CANNOT AFFORD A LAWYER?

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If you are being charged criminally you have the right under the *Canadian Charter of Rights and Freedoms* to counsel, and if you cannot afford one you will be given a court-appointed lawyer. If you are looking to file a civil action or a human rights complaint you are not entitled to legal aid, but there are resources within BC that provide help with the processes, and even provide you legal counsel.

The Elizabeth Fry Legal Clinic provides answers to questions regarding human rights issues, can help fill out complaint forms, gives summary advice and referrals, as well as free public legal education to groups and organizations.

### Elizabeth Fry Legal Clinic:

Legal Services Office Location: 702-235 1st Avenue Kamloops, BC V2C 3J4.

Phone: 250-374-2119 (main office)

Phone: 250-374-2119 (legal services)

Email: [admin@kamloopsfry.com](mailto:admin@kamloopsfry.com)

Website: [www.kamloopsefry.com/ #community-justice](http://www.kamloopsefry.com/#community-justice)

Thompson Rivers University also provides services through a Community Legal Clinic. They can answer questions about human rights issues, can help fill out complaint forms, and will represent clients through the entire process of filing a complaint with the Human Rights Tribunal.

### Community Legal Clinic:

Office Location: 204-246 2nd Avenue Kamloops, BC V2C 2C9

Phone: 778-471-8490

Website: [tru.ca/law/legalclinic](http://tru.ca/law/legalclinic)

*Note: There is a 1-year limitation period to file your human rights complaint with the Tribunal and it is free to file.*

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<sup>72</sup> See *R v Golden*, 2001 SCC 83 is the leading case on strip searches. It mentions that it should be done at a police station (unless there are exigent circumstances) with an officer of the same gender. The officer requires reasonable and probable grounds for the purposes of safety and/or preventing the destruction of evidence.

<sup>73</sup> *Office of the Correctional Investigator*, *supra* note 44.

<sup>74</sup> BC Corrections Policy, *supra* note 45 at 20-21.

Access Pro Bono is another great resource to receive free legal help from lawyer volunteers that act to help decrease barriers to justice by increasing access to those who need it:

<https://accessprobono.ca>

## WHAT HAPPENS IF I AM ARRESTED?

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If you are arrested lawfully, the police have the authority to carry out a limited search incident to arrest. For this, the police have only a limited power to briefly pat you down and a search of immediate areas such as bags without additional grounds.<sup>75</sup> This is done to ensure you are not carrying anything unsafe that can be used to harm another person or yourself.

After an arrest, everyone must be read their section 10 rights under the *Charter* by the police. This informs you that:

### 10. Everyone has the right on arrest or detention

- a) to be informed promptly of the reasons therefore;
- b) to retain and instruct counsel without delay and to be informed of that right<sup>76</sup>

This means that you must be informed of why you are being arrested and you must be told of your right to a lawyer without reasonable delay.

## WHAT HAPPENS IF I AM CONVICTED OF A CRIME?

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If you are convicted of a crime, the next steps depend on your sentence. If you are sentenced to a prison term you may be placed in federal or provincial prison depending on the crime. If you have any questions about your sentence you should confer with your legal representative. If you are sentenced to parole, you will be assigned a parole officer and you will have to comply with the terms of your parole.

## HOW TO EXPUNGE A CRIMINAL RECORD?

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There are limited circumstances where you can expunge a criminal record. Expunging your record means that the person who has been convicted of an offence would be deemed never to have been convicted in the first place. Expungement is applicable for “unjust convictions, which includes eligible offences involving consensual sexual activity with a same-sex partner that would

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<sup>75</sup> *Cloutier v. Langlois*, [1990] 1 SCR 158, at paras 58-59, 1990 CanLII 122 (SCC).

<sup>76</sup> *Canadian Charter of Rights and Freedoms*, s 10, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

be lawful today.”<sup>77</sup> This information could be found at the Government of Canada website [here](#).<sup>78</sup>

**The following convictions are eligible for an expungement:**

- Gross indecency or attempt to commit gross indecency;
- Buggery or attempt to commit buggery;
- Anal intercourse or attempt to commit anal intercourse; and
- Any offence under the *National Defence Act* or any previous version of the Act for an act or omission that constitutes an offence listed in the schedule to the *Expungement Act*.

There is no fee to apply for an expungement order. Applicants should, however, be aware that costs may be incurred in terms of providing the documentation needed for the application.

**Applicants need to provide evidence that the conviction meets the following three criteria:**

1. the activity for which the person was convicted was between persons of the same sex;
2. the person(s), other than the person convicted, had given their consent to participate in the activity; and
3. the person(s) who participated in the activity were 16 years of age or older at the time of the activity or subject to a ‘close in age’ defence under the *Criminal Code*.

\* Section 273.1 of the *Criminal Code* defines consent as the voluntary agreement of a person to engage in the sexual activity in question.<sup>79</sup>

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<sup>77</sup> “What is expungement?” (19 May 2020), online: *Government of Canada* <<https://www.canada.ca/en/parole-board/services/expungements/expungement.html>>.

<sup>78</sup> “What is expungement?” online: *Government of Canada* <<https://www.canada.ca/en/parole-board/services/expungements/expungement.html>>.

<sup>79</sup> *Criminal Code*, RSC, 1985 c C-46, s 237.1.

# HEALTHCARE

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## HOW CAN I FIND A TRANS-COMPETENT DOCTOR?

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Finding a trans-competent doctor is an important aspect of receiving quality health care. To find a trans-competent doctor near you, contact the PHSA care coordination Team.

### Care Coordination Team Contact Information:

Phone: Toll-free (BC): 1-866-999-1514

Outside of BC or unable to call a toll-free number: 604-675-3647

Email: [transcareteam@phsa.ca](mailto:transcareteam@phsa.ca)

You can also go to their website and fill out the contact form:

<http://www.phsa.ca/transcarebc/about/contact>

## WHAT IS HORMONE THERAPY? WHAT ARE THE CRITERIA FOR HORMONE THERAPY ELIGIBILITY?

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Hormone therapy is a medically necessary form of treatment for a wide range of people for variety of reasons, and you do not have to identify as transgender to be eligible or receive hormone therapy. Access to hormone therapy is a personal medical choice, and many individuals access hormone therapy including cis-gender, transgender, and non-binary people as well as people who are genderqueer or gender diverse.

There are several different routes in BC to accessing hormone therapy including through the provincial health insurance program, or through private means.

The four criteria for hormone therapy for adults are:

- persistent, well-documented gender dysphoria
- capacity to make a fully informed decision and to consent to treatment
- being of the age of majority (in BC, the age of majority is 18).
- significant medical or mental health concerns, if present, must be reasonably well-controlled<sup>80</sup>

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<sup>80</sup> Trans Care BC, "Hormone Therapy" online: *Provincial Health Services Authority* <<http://www.phsa.ca/transcarebc/hormones/hormone-therapy>>.

## ARE THE COSTS OF HORMONE REPLACEMENT THERAPY (HRT) COVERED BY HEALTHCARE PLANS?

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Healthcare plans can be public or private. In British Columbia, residents are covered by a public program called Medical Services Plan (MSP). The costs of HRT are not covered by MSP. HRT is sometimes covered by private health insurance plans provided through employers, parents, institutions, or other means. You should contact your private healthcare plan provider to learn more about what is and is not covered under your plan.

If you are a British Columbia resident and you do not have coverage for HRT under a private health insurance plan, you should register for the government's Fair PharmaCare Program. The Fair PharmaCare Program available to families (defined as a single person, married or common-law couple, single person with dependent children, or couple with dependent children) that are covered by MSP. Your coverage amount under Fair PharmaCare will depend on your income; the less a family earns, the more help they get.<sup>81</sup> Under this program, many hormones therapies are covered as well as other prescription needs. To learn more about the Fair PharmaCare program, click [here](#).

If the medication your doctor prescribes is not covered by the Fair PharmaCare Program, you can apply to have it covered by Special Authority. For a breakdown on specific gender-affirming treatments covered by MSP and PharmaCare, and how to get additional treatments covered, click [here](#) or see appendix E.

If you are not covered under a private health insurance plan which covers HRT, or if Fair PharmaCare does not cover your prescription, then you will have to pay for your own hormone therapy.

## HOW DO I GET ACCESS TO BINDERS, PACKERS, AND PROSTHETICS?

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This link gives an overview of the different options: <http://www.phsa.ca/transcarebc/care-support/transitioning/bind-pack-tuck-pad>. It gives instructions and links to different resources about each option for non-surgical gender expression.

If you are a youth aged 12-26 in the Kamloops area, Safe Spaces is now providing free binders (one per person). To contact Safe Spaces, call or text 250-371-3086 to speak to the Program Coordinator for dates and location. You could also send an email to [sspaces@interiorcommunityservices.bc.ca](mailto:sspaces@interiorcommunityservices.bc.ca).

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<sup>81</sup> "Fair PharmaCare Plan" online: *Government of British Columbia* <<https://www2.gov.bc.ca/gov/content/health/health-drug-coverage/pharmacare-for-bc-residents/who-we-cover/fair-pharmacare-plan>>.

## **ARE GENDER-AFFIRMING PROCEDURES COVERED UNDER MSP? HOW DO I START THE PROCESS OF GETTING GENDER-AFFIRMING SURGERY?**

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Not all transgender folks undergo gender-affirming surgeries, but for some they are necessary, life-saving procedures. You need to make a personal decision with your health care provider about the best and safest route to achieving your healthcare needs and goals.

If you have decided that you would like to proceed with permanent, gender-affirming procedures, you need to decide which procedures you would like to have, which surgery you want, and learn about the steps you will need to go through to access these procedures. TransCare BC has a surgery readiness guide as well as resources and support that you can access throughout your healthcare journey.

**The first mandated step is learning if you are eligible for surgery.**

### **Determining Eligibility:**

It is important to remember that you do not have to be trans to be eligible for gender-affirming surgery. All genders, so long as they meet the criteria, are eligible for gender-affirming surgery. These eligibility requirements are outlined on Trans Care BC and are summarized below.

The criteria for all gender-affirming surgeries are:

- Persistent gender dysphoria
- Capacity to consent to the procedure (you understand the procedure and associated risks and have an aftercare plan)
- Medical and mental health conditions are reasonably well-controlled
- Being of the age of majority (in BC, the age of majority is 19). Note: Upper surgery is sometimes possible before the age of 19. In some cases, surgeons may recommend an additional readiness assessment for those under 19.

It is important to note that there are separate requirements for each type of surgery including Feminizing surgeries such as breast augmentation, orchiectomy, vaginoplasty and vulvoplasty, and masculinizing surgeries such as chest reconstruction, hysterectomy or BSO, clitoral release, metoidioplasty and phalloplasty. Please refer to Trans Care BC eligibility requirements [here](#).

**The second mandated step is getting a surgical readiness assessment by a qualified assessor.**

### **Step 2(a) – Get referred to an assessor:**

Once you have determined your eligibility for gender-affirming surgeries, you must get referred to an assessor. You can be referred to an assessor by your primary care provider.

TransCare BC states that your primary care provider:

1. Will send a referral for a surgical readiness assessment directly to a qualified assessor,  
OR;

2. Will send a request to Trans Care BC who can refer you to a qualified assessor available in your community, OR;
3. May be a qualified assessor and carry out the assessment themselves.<sup>82</sup>

Surgical readiness assessments are funded if done with qualified assessors in the publicly funded healthcare system. There are also private qualified assessors such as psychologists and clinical counsellors. Should you need support in finding a qualified assessor in your community you can contact TransCare BC to assist you.

**TransCare BC contact information:**

Phone: Toll-free (BC) 1-866-999-1514

Phone: 604-675-3647

Email: [transcareteam@phsa.ca](mailto:transcareteam@phsa.ca)

It is important to note that depending on the type of gender-affirming surgeries you are interested in; one or two separate assessments may be required. If two assessments are required, they must be carried out by different assessors.

**Step 2(b) – Getting assessed:**

The second step is preparing a surgical assessment which ensures that you are prepared for surgery and understand the best possible post-surgical outcomes. TransCare BC sets out the surgery assessment information [here](#).<sup>83</sup>

An assessment typically lasts between one and two hours and consists of a variety of personal and complex questions. You may need to return for a second visit if you don't have an after-care plan post-surgery.<sup>84</sup>

During the assessment you will be asked about:<sup>85</sup>

- Your gender identity and feelings about your body
- Your expectations of the surgery and how it will impact you socially, emotionally and financially
- Your health history
- Your understanding of the surgical procedure, risks, and post-operative healing process

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<sup>82</sup> Trans Care BC, "Surgery Assessment" online: *Provincial Health Services Authority* <<http://www.phsa.ca/transcarebc/surgery/how-to-get-surgery/surgery-assessment#Surgery--Assessment>> [Surgery Assessment].

<sup>83</sup> *Ibid.*

<sup>84</sup> Surgery Assessment, *supra* note 81.

<sup>85</sup> Surgery Assessment, *supra* note 81.

- Your support network and strategies for thriving in your changing gender expression with family and friends, at work and at school
- Your surgical aftercare plans.

### **Step 3 – Getting your recommendation:**

After your assessment, the qualified assessor will make one of three recommendations:

1. Surgery is recommended
2. Surgery is not recommended at this time
3. Return for further assessment

If surgery is not recommended, the assessor should provide you with next steps, suggestions and recommendations. Once your primary care provider receives a copy of your surgical recommendation from your assessor, they can refer you for surgery.

#### **Different Procedures:**

See [Appendix A Definitions](#) for a comprehensive list of available procedures in Canada.

## **CAN I ACCESS TO GENDER-AFFIRMING PROCEDURES IN CANADA?**

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The [Gender Surgery Clinic](#) opened at Vancouver General Hospital (VGH) recently by the Gender Surgery Program BC. This program has greatly benefited transgender individuals living in western Canada as before this program, the only available clinic was located in Montreal. VGH is now the only hospital in western Canada that performs lower gender-affirming surgeries. This program offers both feminizing and masculinizing procedures consistent with the guidelines established by the World Professional Association of Transgender Health (WPATH).

There is a gender-affirming clinic in Montreal, [GrS Montreal](#). This clinic has pioneered transgender healthcare for the last two decades. Prior to the Gender Surgery Clinic in Vancouver, accessing certain gender-affirming procedures and surgeries was limited across Canada to this one clinic in Montreal. The [Women’s College Hospital](#) in Toronto also offers gender-affirming procedures.

Now, patients have the option of staying in-province for their surgery or flying to Montreal or Toronto. Travel costs are not covered by MSP, but there are sometimes communities grants and resources to assist in the cost, such as [Hope Air](#) or British Columbia’s [Travel Assistance Program](#).

## WHAT ARE MY RIGHTS IF I TRAVEL OUT OF COUNTRY FOR GENDER-AFFIRMING PROCEDURES?

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In order to have gender affirming surgery covered by your provincial health care program, the surgery needs to be performed in Canada. Receiving gender-affirming surgery in another country will mean that MSP will not cover the procedure(s). However, for some folks the increased cost is incurred to have a reduced wait time.

It is important to note that there are health risks and financial risks of receiving surgery outside of Canada and there are many considerations that you need to reflect upon before deciding if this option is best for you.<sup>86</sup> If you develop complications or unplanned aftercare while abroad, your provincial health plan may not cover these expenses, and most travel insurance policies will not cover planned medical procedures abroad.<sup>87</sup> Once you return to Canada, if you develop complications or need greater after care, while your provincial coverage as a resident of BC may cover certain unexpected and life-threatening costs, it can also lead to potential protracted litigation.

## IF MY DOCTOR CANNOT PROVIDE TRANS-COMPETENT CARE, DO THEY HAVE TO REFER ME TO ANOTHER DOCTOR?

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If your health care provider lacks training or knowledge about a treatment, they are legally allowed to refuse to provide that treatment. For example, a health care provider may tell you that they do not have enough training to prescribe or monitor HRT. If they are open to learning, you can refer them to PHSA's Trans Care BC [Health Professionals](#) section, which includes resources such as the WPATH Standards of Care, a Primary Care Toolkit, and the RACE (Rapid Access to Consultative Expertise) phone line.

If your doctor has identified that they cannot provide care that is respecting your needs, then they should refer you to another doctor in the area who is more knowledgeable (including referrals to other family doctors). Alternatively, you can contact the PHSA care coordination Team who can recommend a trans competent doctor near you.

### Care Coordination Team Contact Information:

Phone: Toll-free (BC): 1-866-999-1514

Outside of BC or unable to call a toll-free number: 604-675-3647

Email: [transcareteam@phsa.ca](mailto:transcareteam@phsa.ca)

You can also go to their website and fill out the contact form:

<http://www.phsa.ca/transcarebc/about/contact>

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<sup>86</sup> "Receiving Medical Care outside Canada guide" online: *Government of Canada* <<https://travel.gc.ca/travelling/health-safety/medical-care-outside-canada>>.

<sup>87</sup> *Ibid.*

## WHAT IF MY DOCTOR REFUSES TO TREAT ME (BASED ON MY TRANSGENDER IDENTITY)?

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Discrimination in the provision of medical services is prohibited in British Columbia under the *BC Human Rights Code*, which ensures protection for individuals who are actual or perceived members of certain protected groups. Such groups are classified by characteristics or protected grounds and include race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, and age.<sup>88</sup>

The Canadian Medical Association (CMA) is a national organization that works to drive positive change in the medical system for both physicians and patients. The CMA's *Code of Ethics and Professionalism* provides a similar prohibition against discrimination of patients on the grounds of age, gender, marital status, medical condition, national or ethnic origin, physical or mental disability, political affiliation, race, religion, sexual orientation, or socioeconomic status.<sup>89</sup>

Neither the *BC Human Rights Code* nor the *CMA Code of Ethics and Professionalism* removes the registrant's right to refuse to accept a patient for legitimate reasons, as determined in law. For example, a walk-in clinic that has reached capacity for the day can refuse to see further non-emergent patients. However, if the doctor is simply refusing to provide treatment on the basis of your trans identity, it may be a case of discrimination.

The Practice Standards for doctors in British Columbia are provided by the College of Physicians and Surgeons of British Columbia (CPSBC), the regulatory body of all physicians in British Columbia. The *Practice Standards on Access to Medical Care* allow doctors to have a conscientious objection for providing certain treatments that go against their personal conscientious beliefs.<sup>90</sup> A common example of this is religious objections to providing abortions or physician-assisted suicide. While doctors may make a personal choice not to provide a treatment or procedure based on their values and beliefs, they are expected to provide patients with enough information and assistance to allow them to make informed choices for themselves. This includes advising patients that other doctors or surgeons may be available to see them or suggesting that the patient visit a different health care provider. Doctors must not abandon a patient with unaddressed medical needs.<sup>91</sup>

Despite conscientious objections, CPSBC does not tolerate discrimination and carefully investigates allegations of discrimination. If you believe you are being discriminated against, you

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<sup>88</sup> College of Physicians and Surgeons of British Columbia, "Practice Standard: Access to Medical Care" (22 February 2021), online: *College of Physicians and Surgeons of British Columbia* <<https://cpsbc.ca/files/pdf/PSG-Access-to-Medical-Care.pdf>> at 2 [Practice Standard: Access to Medical Care].

<sup>89</sup> *Ibid.*

<sup>90</sup> Practice Standard: Access to Medical Care, *supra* note 87.

<sup>91</sup> Practice Standard: Access to Medical Care, *supra* note 87.

can file a complaint with CPSBC or file a human rights complaint. In some cases, you may need to file both.

For detailed information on filing a complaint with the College of Physicians and Surgeons of British Columbia, visit their website: <https://www.cpsbc.ca/for-public/file-complaint>.

For detailed information on filing a human rights complaint or to receive support in the process, visit Trans Rights BC: <http://www.transrightsbc.ca/take-action/human-rights-complaints/>.

## **WHAT IF MY HEALTH CARE PROVIDER IS NOT PROVIDING QUALITY CARE OR FOLLOWING THE BEST STANDARDS OF PRACTICE?**

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Trans Rights BC provides the following steps that can be taken if your health care provider is not providing quality care or following the best standards of practice:

If you feel your doctor is not providing quality care or following the best standards of practice, you can:

1. Talk to the healthcare provider about the problem and how you would like to see it resolved. You may wish to bring a support person or have a friend or advocate speak on your behalf. Keep notes about the problem and how you tried to resolve it.
2. If you cannot resolve the problem with the healthcare provider directly, check to see if they have a manager you can speak with. Explain the problem, what steps you took to resolve it, and what you feel would solve the problem. The manager may be able to help you find a solution.
3. If this does not solve the problem, you can file a complaint with the healthcare provider's professional body. See the tab below titled, "**How do you complain about a healthcare provider to their licensing body?**"
4. If the healthcare service was provided in a clinic operated by one of the provincial health authorities, you can file a [complaint with a Patient Quality Care Office](#).
5. If you are not satisfied with the Patient Quality Care Office's response, you can [request a review of the matter](#).

In any of these situations, you can try to find another healthcare provider willing to accept you as a patient. It can be difficult to find a healthcare provider who is trans-friendly and knowledgeable about trans health. Contact the [Transgender Health Information Program](#) for the names of doctors in your area who are known to provide health care to trans people.<sup>92</sup>

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<sup>92</sup> "Healthcare" Trans Rights BC, online: *Trans Rights BC* <<http://www.transrightsbc.ca/know-your-rights/healthcare/>>.

## HOW DO I START A COMPLAINT AGAINST A HEALTHCARE PROVIDER?

Patient Care Quality Review Boards: Make a Complaint: PCQO	
PCQO Address:	<p>505 Doyle Avenue Kelowna BC V1Y 0C5</p> <p>Telephone: 1-877-IHA-2001 (1-877-442-2001) (toll-free) Fax: 250-870-4670 Email: <a href="mailto:patient.concerns@interiorhealth.ca">patient.concerns@interiorhealth.ca</a> Website: <a href="http://www.interiorhealth.ca">www.interiorhealth.ca</a></p>
<p>Provincial Health Services Authority (includes provincial agencies and services such as: BC Ambulance Service, BC Cancer Agency, BC Centre for Disease Control, BC Children's Hospital and Sunny Hill Health Centre for Children, BC Mental Health and Addiction Services, BC Provincial Renal Agency, BC Transplant Society, BC Women's Hospital &amp; Health Centre, and Cardiac Services BC)</p>	<p>PCQO Address:</p> <p>Suite 200, 1333 West Broadway St Vancouver BC V6H 4C1</p> <p>Telephone: 1-888-875-3256 (toll-free) Fax: 604-708-2762 Email: <a href="mailto:pcqo@phsa.ca">pcqo@phsa.ca</a> Website: <a href="http://www.phsa.ca">www.phsa.ca</a></p>

Filing a Human Rights Complaint	
<p><i>Note: There is a 1-year limitation period to file your human rights complaint and it is free to file.</i></p>	
Human Rights Complaints Summary on Trans Rights BC	<a href="http://www.transrightsbc.ca/take-action/human-rights-complaints/">http://www.transrightsbc.ca/take-action/human-rights-complaints/</a>
For detailed information on filing a human rights complaint in BC, see The Human Rights Complaint Process for Transgender People in BC by barbara findlay, QC	Appendix C

## Summary of Transgender Rights BC Human Rights Complaints:<sup>93</sup>

1. It is free to **file the forms for a Human Rights Complaint**. You can handle the process yourself, or you can find an advocate to assist you and to represent you at the Tribunal. Some advocates charge a fee to represent you. Make your complaint as soon as possible. If you do not make your human rights complaint within 6 months of an incident, you will probably lose your opportunity to bring a complaint. It will not be enough to say that the incident happened because you are transgender. You will need to include information in your complaint that shows the link between what happened to you and the fact that you are transgender (for example, someone called you a ‘tranny’).
2. If your complaint is accepted, the Tribunal will send a copy to the person or organization you complained about. They will be given a chance to **respond**.
3. You will be given an opportunity to attend a **settlement conference** with the other side. The purpose of the conference is to see if you can work things out with a mediator from the Tribunal. Many human rights complaints are settled at this stage.
4. If you and the other side cannot agree on a settlement, a **hearing** is scheduled. The hearing takes several days or more. You will need to attend in person. The person hearing the complaint will usually issue a decision weeks or months later. The entire process can take years.
5. The Tribunal has a wide range of powers to **remedy** any discrimination. For example, the Tribunal can order that the discrimination stop, tell the other side to take steps to resolve the effects of the discrimination, tell the other side to make policies to prevent discrimination from happening again, and award you money for injury to your dignity, feelings and self-respect.
6. If you are not satisfied with the result, you may be able to apply to the BC Supreme Court for a **review** of the decision. *\*Note there is a 60 day time limit to do this after a final decision.*

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<sup>93</sup> “Human Rights Complaints” online: *Trans Rights BC* <<http://www.transrightsbc.ca/take-action/human-rights-complaints/>>.

# YOUTH HEALTHCARE

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## AS A YOUTH, AM I ALLOWED ACCESS TO HRT AND WHAT DOES THIS PROCESS LOOK LIKE?

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If you are a youth and would like to learn about if you can access HRT, you should discuss this with your medical provider. There are two stages of hormone therapy for youth.<sup>94</sup>

1. When your body begins puberty, you can start taking a medication called a puberty blocker. This delays the changes that happen during puberty. Using puberty blockers does not mean that you have to start hormone therapy later on.
2. When you're around age 16, you can decide if you want to start hormone therapy. Hormone therapy is used to make your secondary sex characteristics more masculine, feminine, or androgynous. Medications used by youth are generally the same ones used by adults.<sup>95</sup>

### PUBERTY BLOCKERS:<sup>96</sup>

Puberty blockers are medications that suppress the sex hormones that are produced by the body. These medications may be started soon after puberty begins. They put puberty on pause and can prevent changes such as voice lowering, breast growth and periods. Effects will vary, depending on how far puberty has progressed before starting the blockers. There are no known irreversible effects of puberty blockers, so if your child were to stop taking them their body would continue through puberty, picking up where it left off. These medications have been safely used for decades to treat children with precocious puberty, and were first used with transgender youth in the 1990's.

There are three main reasons that youth use puberty blockers.

1. The onset of puberty and the idea or reality of developing secondary sex characteristics that do not fit with their gender identity can be very distressing. Puberty blockers can help alleviate this distress.

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<sup>94</sup> Trans Care BC, "Hormone Therapy" online: *Provincial Health Services Authority* <<http://www.phsa.ca/transcarebc/hormones/hormone-therapy>>.

<sup>95</sup> *Ibid.*

<sup>96</sup> Trans Care BC, "Medical Affirmation & Transition" online: *Provincial Health Services Authority* <<http://www.phsa.ca/transcarebc/child-youth/affirmation-transition/medical-affirmation-transition#Puberty--Blockers--&--Hormones>>.

2. If a child is still exploring their gender, puberty blockers allow additional time to explore without worrying about unwanted physical changes.
3. Preventing unwanted physical changes can eliminate the need for some surgeries and procedures later on, such as male chest contouring and electrolysis.

Puberty blockers are often prescribed by a pediatric endocrinologist. However, pediatricians and family physicians who are knowledgeable about transgender care may provide this care as well. For more detailed information, see our [Puberty Blockers](#) page.

## **IN REGARD TO HORMONE BLOCKERS, CAN A TRANSGENDER YOUTH'S PARENTS PREVENT THEM FROM RECEIVING THIS TREATMENT?**

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In British Columbia, there is no stipulated age of consent for treatment. A parent or guardian can instruct the health care provider and give or refuse consent on the child's or teenager's behalf. But the child can give his or her own instructions if they are determined to be capable of making their own health decisions.<sup>97</sup>

There is no set age that a youth is considered capable of making their own medical decisions, it is instead determined on a case-by-case basis. The British Columbia *Infants Act* applies to all individuals under the age of 19, also referred to as the age of majority. This *Act* states that infants can consent to a treatment if:

- The health care provider has explained to the infant and they understand the nature, consequences, and the reasonably foreseeable benefits and risks of the treatment, and
- The health care provider has made reasonable efforts to determine and has concluded that the health care is in the infant's best interests.<sup>98</sup>

In a decision from the British Columbia Court of Appeal, the court relied on the *Infants Act* to determine that a 14-year-old transgender boy had the exclusive right to consent to receiving gender-affirming treatment. His parents did not have the right to stop his treatment as he was found to be capable of making his own medical decisions.<sup>99</sup>

For hormone blockers and hormone and hormone replacement therapy, the doctor will ensure the youth has a hormone readiness assessment. The hormone readiness assessment of a youth is typically conducted by a qualified mental health professional, such as a therapist or psychologist. Then you will be referred to a pediatric endocrinologist who prescribes and

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<sup>97</sup> Health Information Privacy in British Columbia "Children and Teenagers" online: <<http://healthinfoprivacybc.ca/confidentiality/children-and-teenagers>> [Children and Teenagers]; *AC v. Manitoba (Director of Child and Family Services)*, 2009 SCC 30.

<sup>98</sup> *Infants Act*, RSBC 1996 c 223, s 17.

<sup>99</sup> *AB v CD*, 2020 BCCA 11.

monitors the treatment. In some cases, a primary care provider such as a pediatrician may be involved in your assessment and treatment.

For youth, when you visit your mental health professional to talk about starting puberty blockers or hormones, they will likely want to discuss:

- how you understand your gender identity
- the way you express your gender identity
- how you feel about your body
- how you are doing emotionally
- your relationships with peers and family
- your experiences at school and in the community
- what to expect from puberty blockers and hormone treatments
- what puberty blockers and hormone treatments will not do<sup>100</sup>

For recommendations of mental health professionals who work with transgender youth, contact Trans Care BC.

Phone: Toll-free (BC): 1-866-999-1514

Outside of BC or unable to call a toll-free number: 604-675-3647

Email: [transcareteam@phsa.ca](mailto:transcareteam@phsa.ca)

## **WHAT INFORMATION CAN A DOCTOR DIVULGE TO A YOUTH'S PARENTS, DESPITE DOCTOR-PATIENT CONFIDENTIALITY?**

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If you are considered to be capable of making your own medical decisions, you have a right to doctor-patient confidentiality. This means that a doctor cannot not divulge information to a youth's parent or guardian without permission.<sup>101</sup>

There is no set age that a youth is considered capable of making their own medical decisions, it is instead determined on a case-by-case basis. A youth is considered capable of making their own medical decisions if they understand:

1. The need for a medical treatment
2. What the treatment involves

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<sup>100</sup> Trans Care BC, "Hormone Readiness" online: *Provincial Health Services Authority* <<http://www.phsa.ca/transcarebc/hormones/readiness>>.

<sup>101</sup> "Medical Rights: Consent and Confidentiality" online: *Legal Rights for Youth in British Columbia* <<https://www.legalrightsfor youth.ca/medical-rights/consent-and-confidentiality#:~:text=If%20you%20are%20considered%20capable,to%20anyone%2C%20including%20your%20parents>>.

### 3. The benefits and risks if you get or do not get the treatment<sup>102</sup>

In most situations, a child or teenager can talk to their doctor about things they may not want to talk to their parents or guardian about. There are a few important exceptions to doctor-patient confidentiality. If a doctor believes you are being abused or that you might harm yourself or others, they have a legal duty to take steps to protect you by reporting this to the child protection authorities or following mental health laws.<sup>103</sup>

Some doctors may also insist on informing a youth's parent or guardian if they treat them. You should discuss your desire for confidentiality up front with your doctor at the beginning of your appointment to ensure it will not be an issue.

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<sup>102</sup> "Do you need your parents' permission to get medical care?" online: *Legal Aid BC* <<https://familylaw.lss.bc.ca/children/information-children-teens/do-you-need-your-parents-permission-get-medical-care>>.

<sup>103</sup> *Children and Teenagers*, *supra* note 96.

# YOUTH

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## IF I AM STRUGGLING OR FEEL UNSAFE, WHO CAN I CALL OR REACH OUT TO?

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If you need to talk to someone immediately, the BC Kids Help Phone is there for you. There is 24-hour service to talk to a professional counsellor right away at **1-800-668-6868**.

The Kids Help Phone is a counselling, referral and support service for children and youth under the age of 20 years old. Professional counsellors provide immediate and caring support to young people who are dealing with a problem, making a hard decision, or concerned with feelings or mood. The service is free, confidential, anonymous and available 24 hours a day<sup>104</sup>

**BC Kids Help Phone: 1-800-668-6868**

<https://www.healthlinkbc.ca/mental-health-substance-use/resources/kids-help-phone>

Other potential resources:

Trans Care BC is a province-wide program to enhance and co-ordinate transgender health services and support across the province. This organization provides free services on information to transgender health, wellness, and help with accessing health care for youth and adults. Trans Care BC does not provide direct clinical care or counselling services, but they will happily provide referrals to someone who does.<sup>105</sup>

<http://www.phsa.ca/transcarebc/child-youth>

QMUNITY is a non-profit organization based in Vancouver, B.C., dedicated to improving queer, trans, and Two-Spirit lives. Various services are provided, including youth drop-ins, the “Bra, Binder, and Breast” exchange program to provide free new and used gender-affirming chest-wear for youth who cannot attain these garments otherwise, information and referrals for 2SLGBTQAI+ and allied youth, and support for parents.<sup>106</sup>

<https://qmunity.ca/get-support/youth/>

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<sup>104</sup> HealthLink BC, “Kids Help Phone” online: *Government of British Columbia* <<https://www.healthlinkbc.ca/mental-health-substance-use/resources/kids-help-phone>> [Kids Help Phone].

<sup>105</sup> Trans Care BC, “Who We Are” online: *Provincial Health Services Authority* <<http://www.phsa.ca/transcarebc/about/who-we-are>>.

<sup>106</sup> “Youth Services” online: *QMUNITY* <<https://qmunity.ca/get-support/youth/>>.

## WHAT ARE SOME LOCAL YOUTH CENTRES AND SAFE SPACES?

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Interior Community Services (ICS) is a non-profit multi-service agency which provides support to youth, and all other ages. Whether for emergency services, providing an educational or support role, or for a safe space, please do not hesitate to contact ICS for their many different services<sup>107</sup>: <https://www.interiorcommunityservices.bc.ca/contact-us>

## WHAT ARE YOUR OPTIONS IF A PARENT/GUARDIAN REFUSES TO USE GENDER-AFFIRMING PRONOUNS AND ACKNOWLEDGE TRANSITION NEEDS?

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It is only the guardian that may hold parental responsibilities, such as daily decisions for the child, important decisions like medical treatment or education, receiving information about the child from others, and protecting the child's financial and legal interests. A parent is usually a guardian of their child, except when they have never lived with their child. A parent can be removed as guardian, and a non-parent can become a guardian.<sup>108</sup>

In *AB v CD* 2020, an important case in British Columbia, the judge affirmed a number of rights and protections for transgender youth, including:<sup>109</sup>

- For transitioning youth, this case affirmed that children can consent to medical transition under section 17 of the *Infant Act*.<sup>110</sup>
- A parent/guardian misgendering their child constitutes 'family violence' under section 1 of the *Family Law Act*.<sup>111</sup>

AB is a transgender teenager, assigned female at birth but identifies as male. At school he went by his correct name and pronouns. In 2018 he sought medical assistance to address his gender dysphoria and pursue a physical transition. AB's mother, EF, has been supportive of his efforts to pursue a physical transition; his father, CD, has not. AB's medical team determined he was sufficiently mature to make treatment decisions and developed a medical plan they felt was in his best interest. EF consented, but CD did not. The medical team sought to arrange a meeting with CD, but after several months of unsuccessfully trying to do so, informed CD that, as AB had

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<sup>107</sup> "About Us" online: *Interior Community Services* <<https://www.interiorcommunityservices.bc.ca/about-us>> [About Us].

<sup>108</sup> British Columbia, "What does it mean to be a guardian?" online: *Government of British Columbia* <<https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/family-law/parenting-apart/what-does-it-mean-to-be-a-guardian>>.

<sup>109</sup> *AB v CD*, 2020 BCCA 11.

<sup>110</sup> *Infant Act*, RSBC 1996, c 223, s 17.

<sup>111</sup> *Family Law Act*, SBC 2011, c 25, s 1 [Family Law Act].

the right to consent himself, the treatment would proceed, which the court upheld. This was confirmed as settled law in a similar case, *AM v Dr. F*, 2021.<sup>112</sup>

Section 37 of the *Family Law Act* states that parents must consider the best interests of their child. Best interests include the child's health and emotional well-being, and the child's views. In *AB v CD* it was ruled that under section 37 of the *Family Law Act* that AB, who transitioned to male, be "acknowledged and referred to as male... now or in the future" and to use only male pronouns when making any references to him.<sup>113</sup>

If a parent refuses, this is a violation of section 37 under the *Family Law Act*.<sup>114</sup> There are professionals and community spaces to assist you in the next steps you may want to take. Please contact someone at Safe Spaces Kamloops.

Safe Spaces Kamloops is a publicly funded program for youths aged 12-26 who may identify as Two-Spirit, Lesbian, Gay, Bisexual, transgender, Queer, or Questioning and their allies. Youth-driven, group-in groups meet weekly with one-to-one support services offered as needed. Workshops and presentations on Gender and Sexual orientation are also provided in Kamloops and surrounding communities.<sup>115</sup>

## **ARE THERE PROTECTIONS FOR THE CHILD IF THE TIME SPENT IS COURT ORDERED?**

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Section 37 of the *Family Law Act* states that parents, respecting guardianship, parenting arrangements, or contact with a child, the parties must consider the best interest of the child only. This includes the child's health and emotional well-being, and the child's views. Section 37(3) states that "an agreement or order is not in the best interests of a child unless it protects, to the greatest extent possible, the child's physical, psychological and emotional safety, security and well-being."<sup>116</sup>

## **WHAT PROTECTIONS DO TRANSGENDER STUDENTS HAVE AGAINST DISCRIMINATION BASED ON THEIR GENDER IDENTITY OR EXPRESSION IN SCHOOLS?**

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If you would like to file a complaint against a teacher, you may do so by filing a complaint with the Commissioner for Teacher Regulation. The Commissioner for Teacher Regulation is an

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<sup>112</sup> See *AM v Dr. F*, 2021 BCSC 32.

<sup>113</sup> *AB v CD*, *supra* note 95 at para 122.

<sup>114</sup> *Family Law Act*, *supra* note 110 at s 37.

<sup>115</sup> Interior Community Services, "Safe Spaces Annual Report 2019" (2019), online (pdf): *Interior Community Services* <[https://www.interiorcommunityservices.bc.ca/application/files/8615/9777/5013/Safe\\_Spaces\\_2019.pdf](https://www.interiorcommunityservices.bc.ca/application/files/8615/9777/5013/Safe_Spaces_2019.pdf)>.

<sup>116</sup> *Family Law Act*, *supra* note 110 at s 37.

independent decision maker who oversees the discipline process for certified educators in British Columbia.<sup>117</sup>

The Commissioner for Teacher Regulation states that most concerns can be best dealt with at the school, and that before submitting a complaint, your concerns should be discussed with the educator or their supervisor. Boards of education, and other independent school authorities, each have their own policy and process with complaints. Complainants are told to go through their local school board complaint process before submitting one to the Commissioner.

Complaints can be filed with The Commissioner for Teacher Regulation here:<sup>118</sup>

<https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/boards-commissions-tribunals/commissioner-for-teacher-regulation/complaint>

Alternatively, one can also file a complaint through the *BC Human Rights Code*. The *BC Human Rights Code* is a law in B.C. with the purposes to:

- Foster a society in B.C. where there are no barriers to full and free participation in the economic, social, political and cultural life of B.C.
- Promote a climate of understanding and mutual respect where all are equal in dignity and share equal rights
- Prevent discrimination
- Identify and eliminate common patterns of inequality associated with discrimination
- Provide a means of correction and reform for those persons who are discriminated against contrary to the Code

The *BC Human Rights Code* prohibits any type of discrimination in certain areas of activity (for example, the workplace or school). The *Code* also creates the tribunal and a process for making and resolving complaints of discrimination.<sup>119</sup>

Section 8 of the *BC Human Rights Code* protects students from bullying, harassment, and discrimination.<sup>120</sup> These protections specifically protect mistreatment based on gender identity and expression. As transgender youth, you have the right to accommodations, which include, but are not limited to:

- You have the right to be called your correct name and pronouns, even if they are not your legal name or sex;

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<sup>117</sup> “Commissioner for Teacher Regulation” online: *Government of British Columbia* <<https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/boards-commissions-tribunals/commissioner-for-teacher-regulation>>.

<sup>118</sup> “Commissioner for Teacher Regulation” online: *Government of British Columbia* <<https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/boards-commissions-tribunals/commissioner-for-teacher-regulation>>.

<sup>119</sup> *Human Rights Code*, RSBC 1996, c 210, s 3.

<sup>120</sup> *Human Rights Code*, RSBC 1996, c 210, s 8.

- You have the right to use the bathroom and locker room that corresponds to your gender identity or to have accommodations made for you that make you feel the safest;
- You have the right to play on the sports team that corresponds with your gender identity;
- You have the right to wear the clothing that corresponds with your gender expression; and
- These rights apply to students in both public and independent schools in Kamloops.<sup>121</sup>

*\*Note: official complaints must be made within one year of the violation.<sup>122</sup>*

## OTHER RESOURCES

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Interior Community Services (ICS) is a non-profit multi-service agency which provides support to youth, and all other ages. Whether for emergency services, providing an educational or support role, or for a safe space, please do not hesitate to contact ICS for their many different services<sup>123</sup>: <https://www.interiorcommunityservices.bc.ca/contact-us>

If you need to talk to someone immediately, the BC Kids Help Phone is there for you. There is 24-hour service to talk to a professional counsellor right away.

The Kids Help Phone is a counselling, referral and support service for children and youth under the age of 20 years old. Professional counsellors provide immediate and caring support to young people who are dealing with a problem, making a hard decision, or concerned with feelings or mood. The service is free, confidential, anonymous and available 24 hours a day.<sup>124</sup>

**BC Kids Help Phone: 1-800-668-6868**

<https://www.healthlinkbc.ca/mental-health-substance-use/resources/kids-help-phone>

Trans Care BC is a province-wide program to enhance and co-ordinate transgender health services and support across the province. This organization provides free services on information to transgender health, wellness, and help with accessing health care for youth and adults. Trans Care BC does not provide direct clinical care or counselling services, but they will happily provide referrals to someone who does.<sup>125</sup>

Phone toll-free: 1-866-999-1514

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<sup>121</sup> Trans Rights BC “Knowing Your Rights: Education” online: Trans Rights BC <<http://www.transrightsbc.ca/known-your-rights/education/>>.

<sup>122</sup> *Human Rights Code*, RSBC 1996, c 210, s 22

<sup>123</sup> About Us, *supra* note 106.

<sup>124</sup> Kids Help Phone, *supra* note 103.

<sup>125</sup> Trans Care BC, “Who We Are” online: *Provincial Health Services Authority* <<http://www.phsa.ca/transcarebc/about/who-we-are>>.

<http://www.phsa.ca/transcarebc/child-youth>

QMUNITY is a non-profit organization based in Vancouver, BC, dedicated to improving queer, trans\*, and Two-Spirit lives. Various services are provided, including youth drop-ins, the “Bra, Binder, and Breast” exchange program to provide free new and used gender-affirming chest-wear for youth who cannot attain these garments otherwise, information and referrals for 2SLGBTQAI+ and allied youth, and support for parents.<sup>126</sup>

<https://qmunity.ca/get-support/youth/>

Rainbow Refugee is a community group based in Vancouver that offers support to people seeking refugee protection in Canada because of persecution based on their sexual orientation, gender identity or expression, or HIV status.<sup>127</sup>

<https://www.rainbowrefugee.com/>

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<sup>126</sup> “Youth Services” online: *QMUNITY* <<https://qmunity.ca/get-support/youth/>>.

<sup>127</sup> “About Us” online: *Rainbow Refugee* <<https://www.rainbowrefugee.com/vision-mission-and-core-values>>.