



British Columbia's Decriminalization Framework

Overview

Ministry of Mental Health and Addictions

On November 1, 2021, British Columbia applied to Health Canada for an exemption¹ under the *Controlled Drugs and Substances Act* to decriminalize people who use drugs. On May 31, 2022, Health Canada announced approval of BC's request, with decriminalization coming into effect on January 31, 2023². The approval is effective for three years, with renewal dependent on the results of robust monitoring and evaluation.

Decriminalization is not legalization. As of January 31, 2023, criminal penalties will no longer apply for possession of small quantities of drugs for personal use, while the sale of illegal drugs (trafficking) will remain prohibited. This document provides an overview of decriminalization for local governments in BC.

Decriminalization as part of the Provincial Response to the Toxic Drug Poisoning Crisis

People in British Columbia are losing their lives and their loved ones due to an illicit drug supply that is highly toxic.

Since 2017, the BC government has accelerated its response to the toxic drug poisoning crisis by adding hundreds of new publicly funded treatment beds, new supervised consumption sites, prescribed treatment and safe supply medications, naloxone, drug testing, and more. This includes an approach to harm reduction that is deeply embedded in culture, public health, and human rights, while seeking to minimize harms associated with substance use.

We know that shame and criminalization still prevent many people from accessing lifesaving services, and drives them to use alone in dangerous situations. To ensure that we treat drug use as a health and social issue and not a criminal or moral one, and to better support people who use drugs on their healing journeys, decriminalization is critical.

What is Decriminalization?

Decriminalization is not legalization. Decriminalization means that people with a small amount of drugs will not have their drugs taken by police, be arrested or face charges and convictions for possession. The production and selling of all illicit substances will remain illegal. Decriminalization aims to take a compassionate and trauma-informed public health approach to addressing substance use. There are approximately thirty countries around the world that have implemented some form of decriminalization of

¹ The full submission to Health Canada is public and can be found at <https://news.gov.bc.ca/files/DecrimSubmission.pdf>

² News release and links to the full exemption can be found at <https://news.gov.bc.ca/releases/2022MMHA0029-000850>



personal possession. Dr. Bonnie Henry has called for decriminalization because it will save lives and [The Canadian Association of Chiefs of Police endorses decriminalization](#) as an effective way to reduce public health and public safety harms³.

Information on decriminalization will be updated regularly on the BC Government's [decriminalization website](#).

Why Decriminalization? The Harms of Criminalization

The Province is decriminalizing people who use drugs as part of the response to the toxic drug crisis and to prevent the harms of substance use, which are worsened by criminalization. The harms of criminalization, some of which are not always obvious or visible, include:

- Stigma, which keeps people from accessing life-saving services and makes people hide their drug use from loved ones and use alone, greatly increasing the risk of drug toxicity death;
- Drug seizures by police, which may increase safety risks when people resort to unfamiliar sources, or turn to theft, survival drug trafficking or sex work to replace confiscated drugs;
- Criminal records, which create a barrier to employment and housing;
- Social, emotional, spiritual, and financial impacts on the families of people who use drugs;
- Mistrust of police, including unwillingness to call police when in unsafe situations, or to call emergency services for an overdose ;
- Disproportionate negative police interactions for Indigenous people and people of colour;
- Significant costs for policing and the broader justice system, for enforcement; and
- Significant economic harms, including billions in costs to the health system and economy.

In addition to the harms caused by criminalization, there is also evidence that enforcement does little to prevent people from using illicit substances. According to a study of injection drug users in Vancouver, most individuals whose drugs were taken by police purchased a replacement supply within 10 minutes.⁵

British Columbia's Decriminalization Framework

Under BC's approved decriminalization framework, adults 18 years and older will be able to possess a small amount of drugs for personal use without drugs being taken away by police or being arrested. Health Canada set a 2.5 gram threshold. When people are found to have drugs below this amount, police cannot arrest nor seize their drugs. Starting January 31, a person cannot be arrested for possession for personal use if the total combined weight of drugs in possession, including opioids, cocaine, methamphetamines, and MDMA

³ Canadian Association of Chiefs of Police. (July 2020.) "Decriminalization for Simple Possession of Illicit Drugs: Exploring Impacts on Public Safety and Policing." Retrieved from: https://www.cacp.ca/index.html?asst_id=2189



(ecstasy) is 2.5 grams or less. If the total amount of drugs possessed is above the threshold, police will be able to exercise discretion. Selling drugs will remain illegal and subject to criminal penalties, including for quantities under the threshold.

The Province is working with health and law enforcement partners to be ready for implementation, including training and education so police can provide information on local treatment services and supports to people at risk, and help with referrals to services upon request. This approach to decriminalization aims to address the shame and stigma caused by the criminalization of substance use that prevent people from accessing health and social services. The Province will continue to encourage voluntary, trauma-informed, and culturally safe pathways to substance use treatment, prevention, and harm reduction services.

Section 56 Exemptions and the *Controlled Drugs and Substances Act*

The federal *Controlled Drugs and Substances Act* (CDSA) lists the drugs that are illegal in Canada, and specifies criminal penalties for their possession, production, and distribution. Section 56 of the CDSA allows the federal Minister of Health to exempt the application of parts of the Act for medical or scientific purposes, or in the public interest. Section 56 exemptions have previously been granted for a range of reasons, including the operation of safe consumption sites. However, BC is the first province to be approved for an exemption for the purpose of decriminalization.

Decriminalization applies to people aged 18 years and up. Substance possession by youth aged 12 to 17 is governed by the *Youth Criminal Justice Act*, which allows for extrajudicial measures for youth as an alternative to criminal penalties.

As a condition of approval, Health Canada required that BC monitor and evaluate implementation, including outcomes and unintended consequences. To this end, the Province will analyze the experiences of people who use drugs, and changes in law enforcement practices (eg recorded offences, seizures and charges). The BC Center for Disease Control will conduct studies and surveys to examine policy design efficacy, as well as the experiences of people who use drugs. Additionally, the federal government has funded a third-party, independent research study of the impacts of decriminalization.

³ <https://www.fnha.ca/Documents/FNHA-Harm-Reduction-First-Nations-and-the-Toxic-Drug-Crisis-in-BC-Jan-Dec-2021.pdf>

⁴ Ministry of Public Safety and Solicitor General, Profile of BC Corrections 2021. <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/corrections/reports-publications/bc-corrections-profile.pdf>.

⁵ Werb, D., Wood, E., Small, W., Strathdee, S., Li, K., Montaner, J., and Kerr, T. (2008). "Effects of police confiscation of illicit drugs and syringes among injection drug users in Vancouver." *International Journal of Drug Policy*, 19(4), p. 332-338



Applies to adults (18+)



Inclusive of opioids, crack/powder cocaine, methamphetamine, and MDMA



A 2.5g cumulative (total) binding threshold floor



No seizures or arrests below the threshold



Police will provide non-coercive information regarding pathways to treatment and supports



Robust monitoring and evaluation framework, and considerations for implementation