



***Safer Municipalities Act, 2024 —  
Restricting Public Consumption of Illegal Substances Act, 2024  
Submission of the HIV Legal Network, January 2025***

Ontario is experiencing a deadly drug toxicity crisis, with more than 10 Ontarians losing their life everyday from the tainted drug supply. Evidence confirms that people experiencing homelessness are disproportionately impacted by the current drug toxicity crisis, and account for an increasing proportion of fatal opioid-related overdoses in Ontario — reaching nearly one in six such deaths in 2021 (R. Booth et al, “Opioid-related overdose deaths among people experiencing homelessness, 2017 to 2021: A population-based analysis using coroner and health administrative data from Ontario, Canada,” *Addiction*. 2023; Oct 17). Researchers have further confirmed that substance use among people accessing Ontario’s shelter system are situated within an interplay of social-economic and housing instability, complex health needs, trauma, mental health, stigma, and various barriers to harm reduction and treatment (ODPRN and Public Health Ontario, *Opioid-Related Toxicity Deaths Within Ontario Shelters: Circumstances of Death and Prior Medication & Healthcare Use*, June 2024). The rise in deaths among people experiencing housing precarity underscores the urgent need to invest in expanded access to culturally appropriate, low-barrier harm reduction services, health care, social services, treatment programs, and sustainable housing. Rather, the *Restricting Public Consumption of Illegal Substances Act, 2024* (“the Act”) seeks to further police and criminalize people who have few — if any — options for care or housing. This is of extreme concern at a time where Ontario is at a tipping point in its homelessness crisis with more than 80,000 Ontarians experiencing homelessness in 2024 — a number that has grown by more than 25% since 2022. The worsening crisis has a disproportionate impact on some communities including Indigenous people in northern Ontario (J. Donaldson et al, *Municipalities under pressure: The human and financial cost of Ontario’s homelessness crisis*, HelpSeeker, 2025).

Section 2 of the *Act* prohibits drug consumption in a “public place,” including a dwelling in a public place such as a tent in a park. Yet, research confirms that the prospect of interacting with police officers promotes isolated or hidden drug use, which is in turn linked to fatal overdose (S. Fernando et al, “The Overdose Crisis and Using Alone: Perspectives of People Who Use Drugs in Rural and Semi-Urban Areas of British Columbia,” *Subst Use Misuse* 2022; 57(12):1864-1872). In particular, recent research from the U.S. shows that repeated displacement correlates to an increase in toxic drug mortality, hospitalizations, and reduced access to medication for opioid use disorder, and that “[c]ontinual involuntary displacement may contribute to between 15.6% and 24.4% of additional deaths among unsheltered people experiencing homelessness who inject drugs over a 10-year period.” (J. Barocas et al, “Population-Level Health Effects of Involuntary Displacement of People Experiencing Unsheltered Homelessness Who Inject Drugs in US Cities,” *JAMA*, 2023 May 2;329(17):1478-1486). The need for people who use drugs to hide drug use from police is also linked to increased risk of HIV, hepatitis C, and other blood-borne infections. Research has shown that fear of police can hinder people’s access to sterile syringes, increase needle sharing, and

increase rates of HIV and drug-related mortality — with disproportionate impacts on people who are targeted by police such as youth, Indigenous people, and people of colour (OHTN Rapid Response Service, *Engaging law enforcement in harm reduction programs for people who inject drugs*, 2016).

Further, section 6 of the *Act* authorizes police officers to confiscate or “seize” and “destroy” people’s substances. Yet, a 2023 study reports that more than 2/3 of people who use drugs who had their drugs seized by police immediately obtained new drugs afterwards. The authors noted that consequently, the practice of drug seizures by police “can lead to more frequent interactions with the unregulated market, sometimes with direct impacts on their health and safety, including but not limited to fatal overdose.” (K. Hayashi et al., “Police seizure of drugs without arrest among people who use drugs in Vancouver, Canada, before provincial decriminalization’ of simple possession: a cohort study,” *Harm Reduction Journal*, August 30, 2023).

While a supervised consumption site is excluded under section 2(2) of the *Act*’s definition of a “public place,” the recently passed *Community Care and Recovery Act* will lead to the shutdown of at least 10 of 23 supervised consumption services (SCS) in the province, including the only SCS in Northern Ontario. At the same time, the remaining SCS will not necessarily be accessible or appropriate for all people who use drugs. Notably, almost all SCS in Ontario do not permit people to consume substances through smoking or inhalation, despite smoking being among the most common methods of consumption among unregulated drug deaths in Ontario (Public Health Ontario, *Harm Reduction Services for Anyone who Smokes or Inhales Drugs*, July 2023). SCS also do not operate 24/7, meaning there are many hours of the day when services are not available. Numerous expert reports and evaluations have urged the Ontario government to expand SCS, which would reduce the risk of overdose and other harms, as well as public drug consumption. Instead, the *Community Care and Recovery Act* will shut these critical services down — exposing the most marginalized people who use drugs to further surveillance, policing, and criminalization.

The *Act* begs the question: where are people who use drugs who reside in “dwellings” in public places — some of whom may be living with a substance use disability, and are disproportionately members of Indigenous, racialized, and 2SLGBTQ+ communities — meant to go? As described by a recent report commissioned by the Association of Municipalities of Ontario (AMO), the 375 housing beds announced by the government alongside the closure of SCS represents only 6% of the additional capacity needed to end encampments in the province (AMO, *Municipalities Under Pressure: The Growing Human and Financial Cost of Ontario’s Homelessness Crisis, Background*, 2025). A massive housing crisis coupled with a toxic death crisis means they have but two options: to move to even more isolated locations to avoid police, where they are subject to greater risk of death and other harm, or to remain in their dwelling and risk arrest, criminalization, and incarceration.

Finally, the offences are an unnecessary and unconstitutional encroachment on the exclusive jurisdiction of the federal government over criminal law. Personal drug possession is already prohibited under s. 4 of the *Controlled Drugs and Substances Act*.

While we strongly denounce this provision, the “Good Samaritan” exemption under section 2(3) is a necessary one: “No person who seeks emergency services shall be charged with or convicted of an offence under this Act if the evidence in support of that offence was obtained or discovered as a result of that person having sought emergency services or having remained at the scene.” However, some prosecutors have claimed, based on similar text in the federal *Good Samaritan Drug Overdose Act*, that law enforcement still have the ability to *arrest* in the context of an emergency

call (see *R v Wilson*, [2023 SKCA 106](#)); as such, we recommend inserting the following text in that section: “No person who seeks emergency services shall be **arrested**, charged with or convicted of an offence under this Act if the evidence in support of that offence was obtained or discovered as a result of that person having sought emergency services or having remained at the scene.”

In summary, the HIV Legal Network urges the Ontario government to withdraw this Bill, which will do nothing to address the crisis of homelessness and drug toxicity deaths in the province, and only further harm people who use drugs, particularly those who are unhoused. Already, courts in Ontario have pronounced on the unconstitutional nature of forcibly evicting unhoused people from public spaces, without offering truly accessible alternatives. The government must urgently and massively invest in and scale up access to culturally appropriate, low-barrier harm reduction services, including supervised consumption sites, health care, social services, treatment programs, and sustainable housing (HIV Legal Network, *Scaling up supervised consumption services: what has changed in Canada*, 2024; J. Donaldson et al, *Municipalities under pressure: The human and financial cost of Ontario’s homelessness crisis*, HelpSeeker, 2025).