



First Nations Health Authority
Health through wellness

QUESTIONS & ANSWERS

Possession of small amounts of drugs are decriminalized – but not legalized – in BC

What is happening with the decriminalization of drugs in BC?

As of January 31, 2023, adults found in possession of small amounts of certain illegal drugs for personal use will not have their drugs seized, face fines or criminal charges. Instead, if desired, they will be offered information on local support services. This is a result of BC's successful decriminalization "exemption request" to Health Canada, under the Controlled Drugs and Substances Act. This exemption is initially in place for three years, until January 31, 2026.

While BC has a long way to go in addressing the toxic drug crisis – which remains a public health emergency – decriminalization marks an important turning point in treating substance use as a health rather than a criminal matter. The shift toward a public health response to the crisis will reduce stigma and provide greater opportunities for people who use substances to connect with a growing range of harm reduction and treatment options.

Who is affected? How much can a person possess without it being a crime?

As of Jan. 31, 2023, all adults 18 and older in BC are able to possess up to 2.5 grams of certain illicit substances without being subject to fines, arrest or drug seizures. The 2.5 gram calculation is "cumulative" – the weight of all drugs combined.

What substances will no longer be criminal to possess?

The drugs being decriminalized are:

- opioids (e.g., heroin and fentanyl)
- cocaine (powder or crack)
- methamphetamines (meth)
- MDMA (ecstasy)

For the most part, these particular drugs are being decriminalized because they are the substances that are poisoned in BC's toxic drug supply.

Will drugs be legal?

No. **Decriminalization is not legalization.** The selling or trafficking of drugs of any weight will remain illegal once decriminalization goes into effect in 2023. There will not be government-approved systems for the manufacturing or sale of these substances, as is the case for cannabis. Possession of drugs above the cumulative weight threshold will also remain criminal and people may be charged for having them. This change will also not erase previous criminal records related to the possession of small amounts of illicit substances for personal use.

What will this look like in First Nations communities?

First Nations will decide how decriminalization will be implemented in their own communities. These changes will not replace community and cultural protocols. Decriminalization is simply one more way communities can address the toxic drug crisis, in addition to existing supports and services. If desired, the FNHA is able to support this important work through community education and dialogue sessions. First Nations Chiefs, Leaders and Health Leads also have the opportunity to meet directly with BC's Ministry of Mental Health and Addictions (MMHA) to discuss what decriminalization could look like in their communities.

What are the likely impacts of decriminalization on people who use illegal substances?

The decriminalization of people who use drugs is one important step in responding to BC's toxic drug poisoning emergency, which has had a tremendous impact on First Nations people in BC. Over 1,000 First Nations people's lives have been lost in the province since the public health emergency was declared in 2016.

Decriminalization recognizes those who use substances and is intended to reduce the stigma and shame around substance use. This will mean that many people are likely to be more open about their substance use, talk about it with friends, families and care providers, and feel like they do not have to hide their use – and use alone, where no one is available to provide naloxone or call for help.

The FNHA also anticipates a longer-term reduction in the many harmful impacts that criminalization has on the determinants of health and wellness. This includes the consequences of a criminal record on employment, housing and child custody, and the health effects of incarceration such as mental health impacts, higher transmission rates of blood-borne infections and greater risk of overdose upon release.

How has the government engaged with First Nations communities and organizations so far, and what will this look like going forward?

The FNHA actively participated on BC's Decriminalization Core Planning Table (CPT), which drafted BC's proposal to Health Canada. The BC First Nations Justice Council, Métis Nation BC, and the BC Association of Aboriginal Friendship Centres also contributed to the CPT, as did representatives of several organizations that represent people who use drugs. The FNHA agreed to work with the province on the exemption request because decriminalization is likely to be an important step to addressing the toxic drug crisis. The FNHA also recognizes that the criminalization of people who use drugs contributes to the massive over-incarceration of First Nations people in BC.

As part of Health Canada's exemption, the federal government instructed BC to "uphold the spirit and principles of reconciliation under the BC *Declaration on the Rights of Indigenous Peoples Act*, and continue to consult with Indigenous governments, communities, partners and experts when working towards the implementation of the exemption. As the plan indicates, it is essential that BC MMHA engage with individual Indigenous communities through town hall discussions and one-on-one meetings as needed and provide Health Canada with updates following these sessions, and prior to coming into effect of the exemption."

During 2022, the MMHA held a series of engagements and consultation with First Nations communities on decriminalization to share information and hear different perspectives on decriminalization from First Nations communities.

Who else has the government consulted prior to this change?

Before submitting the application to Health Canada, the government worked with advocates, medical experts, police and people with lived experience. As decriminalization is implemented, the government is continuing to work with Health Canada, health authorities, local governments, Indigenous partners, police, people with lived experience and community service providers.

How is the government working with the Police on decriminalization?

The government has worked with police to develop training resources and practical guidance, which is now available to more than 9,000 frontline police officers. We have heard from some people that use drugs that they do not want police to become care or support providers. Instead, police will have resource cards that they can give an individual, if desired, that provides information about local services, including First Nations-specific services.

Where else has decriminalization been implemented?

In 2000, decriminalization was implemented in Portugal and, over the next decade, there was a significant reduction in death rates from drug use. Some of the key differences with BC's approach are that, in Portugal, individuals can possess up to a 10-day supply of drugs and the Portuguese government made significant investment into treatment options. In 2020, the US state of Oregon also implemented decriminalization. In Oregon, possession of small amounts of drugs is still a violation, and could carry a \$100 fine, but this can be waived if an individual calls a hotline for a health assessment, which could lead to accessing treatment services.

What happens next?

The FNHA will work with provincial partners to monitor and evaluate BC's approach to decriminalization, which may lead to further policy changes based on emerging evidence. As part of this, BC is considering a range of indicators related to criminal justice, health and stigma.

An important question for both First Nations engagement and the evaluation phase will be the appropriateness of the 2.5 gram cumulative threshold – especially in rural and remote areas. We understand that the amount of drugs bought and possessed by individuals varies across the province, with higher amounts of substances often being bought in rural and remote areas.

Where can I find out more about this exemption?

Health Canada's exemption is explained in more detail [here](#).

What other work is happening to address the impact of the toxic drug crisis on First Nations people?

Working closely with First Nations communities and regional teams, the FNHA has developed a broad range of programs and initiatives to respond to the toxic drug poisoning crisis. This holistic response – ranging from prevention to harm reduction supports to treatment services to aftercare – is trauma-informed and grounded in culture, ceremony and community. Specific initiatives include the expansion of treatment and healing centres, distribution of naloxone and training people to use it, provision of harm reduction supplies, development of Indigenous-focused overdose prevention sites, hiring of regional staff focused on harm reduction education and peer support, prescription of opioid agonist therapy (OAT), distribution of harm reduction-related grants, and support for families and friends who have lost a loved one to the toxic drug supply.

**More information on FNHA's work to address the crisis can be found [here](#).
FNHA's [Policy on Harm Reduction](#) includes decriminalization as an emerging direction**