

Find out about the legal implications of operating an Overdose Prevention Site in Ontario and protections for operators and patrons.

It is not a crime to save a life



Overdose Prevention Sites can and must be provided

Supervised Consumption Sites (SCS) and Overdose Prevention Sites (OPS) are proven to save lives. In Ontario, 6-7 people die each day from toxic, unregulated drugs. Yet, as of 2025, Ontario has closed various kinds of consumption services through a mix of defunding and new legislative restrictions. In response, communities and volunteers are mobilizing to provide these supports themselves.



Canadian Drug
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NOTE: This primer consists of legal information, not legal advice. If you require legal advice, please consult a lawyer. This primer describes the status of overdose prevention sites (OPS) in Ontario only. Different provinces have different laws and policies governing OPS, and this primer should not be relied upon in other geographic contexts. Information is current as of June 2025.

What are the models of supervised consumption services?

SCS (Supervised Consumption Sites)

SCS are legally sanctioned services exempted from the federal criminal law prohibiting drug possession and, in some cases, trafficking. Due to the legal requirements of that exemption, SCS tend to be more formalized, with stricter rules and reporting obligations to governments. In Ontario, there are various kinds of SCS, including:

CTS (Consumption and Treatment Services)

Ontario established a new “Consumption and Treatment Services” (CTS) model in 2018 to replace existing sanctioned consumption sites. A CTS is a federally exempted SCS that is funded by the Province of Ontario. A CTS designation requires additional data to be collected and reported to the Government of Ontario and limits the types of services provided, such as inhalation services.

UPHNS (Urgent Public Health Needs Sites)

Urgent Public Health Needs Sites (UPHNS) are temporary supervised consumption services that operate under a federal exemption granted to respond to an urgent public health need. UPHNS are subject to a range of requirements, both federally and provincially imposed.

OPS (Overdose Prevention Sites)

OPS are grassroots sites operated by volunteers, people who use drugs, and other community members, and provide overdose prevention and other response services. OPS operate outside the formal health care system, federal drug laws, and government bureaucracy, and are equipped with sterile consumption equipment and people trained in overdose response. OPS are proven to reduce the risk of overdose, traumatic brain injury, infection, and death, and reduce strains on emergency services and hospitals.

*While some SCS that operate with a federal exemption describe themselves as OPS, for the purpose of this primer, **we refer to all unsanctioned sites (e.g. those operating without a federal exemption) as OPS.***

The unsanctioned nature of OPS is key to understanding the risks and realities of providing these types of services.

What is a federal exemption, when is it needed, and will it protect OPS?

In Canada, unauthorized possession of a controlled (illegal) substance for personal use (sometimes referred to as “simple drug possession”) is a crime under section 4 of the *Controlled Drugs and Substances Act* (CDSA).¹ Section 5 of the CDSA also makes it a crime to “traffic” in illegal substances or to possess illegal substances for the *purpose* of trafficking – this includes not only selling illegal substances, but also assisting someone with injection, drug checking, and splitting or sharing drugs.

To provide consumption services without risk of drug possession charges, a site must obtain a federal exemption pursuant to either section 56(1) or 56.1 of the CDSA, which allow the federal Minister of Health to exempt any person or group of people from any provision under the CDSA. (See “resources” section for more information about applying.)

Because SCS have received this exemption, staff and patrons are protected against possession charges and, in some cases, trafficking charges for activities such as assisted injection. While it is technically possible for an individual or grassroots group to seek an exemption, the requirements put in place by Health Canada make this difficult.

Unlike SCS, OPS operators and patrons do not have legal protections because OPS do not have an exemption from the federal government.

NB: The federal government is empowered to *proactively* grant exemptions to OPS, relieving site operators of the cost- and resource-intensive application process. To date, the federal government has not stepped up to protect sites in this way.

Provincial legal barriers to SCS and/or OPS

Community Care and Recovery Act, 2024

In December 2024, Ontario adopted the *Community Care and Recovery Act* (CCRA), which:

1. Prohibits any SCS (defined in the CCRA as a federally exempted site and therefore includes both CTS and UPHNS) from operating within 200 metres of a designated premises such as a school or childcare centre; and
2. Requires municipalities and local boards to get provincial approval to make or support a request for a federal exemption to establish, or a renewal to maintain, SCS.²

All SCS currently operating within 200 metres of an existing designated premises are required to close down – and would be required to shut down within 30 days if a private school or childcare centre begins operating within 200 metres in future.

[1] *Controlled Drugs and Substances Act* (S.C. 1996, c. 19) (CDSA).

[2] *Community Care and Recovery Act, 2024*, S.O. 2024, c. 27, Sched. 4 (CCRA).

Because the CCRA only applies to federally exempted SCS, it could be argued that this is not relevant to OPS operators. It might, however, increase risks of closure and/or disruption by provincial authorities. It is also a consideration for OPS operators who are thinking of seeking a federal exemption in future.

At this time, Health Canada is advising SCS operators within 200 metres of a school or childcare centre that they will be denied a federal exemption – even if they do not rely on provincial funding. Additionally, section 3 of the CCRA prohibits municipalities or local boards from operating, funding, providing buildings, or otherwise supporting SCS without provincial approval. Government of Ontario spokespeople have stated that the province will not approve any such request from a municipality or local board.

In response, an SCS provider in Toronto and two individuals launched a *Charter* challenge against the Ontario government, arguing that the CCRA violates the *Charter* rights to life, liberty, and security of the person (section 7) as well as equality (section 15). In addition, they challenged the constitutionality of the law on the basis that the province had exceeded its power by preventing federally - exempted SCS from operating.

The CCRA, meant to enter into force on April 1, 2025, was partially suspended by an injunction issued by the Ontario Superior Court on March 30, 2025. The Court injunction currently only provides partial relief, by **temporarily allowing SCS to operate even when located within 200 metres of a school or childcare centre pending the final decision of the Court.**

However, the injunction:

- Does not require the province to fund SCS; and
- Does not allow municipalities or local boards to operate or support SCS without Ontario's prior approval.

To date, the Court has yet to release its decision on the constitutionality of the CCRA. Notably, Health Canada retains the ability to authorize and renew federal exemptions for SCS located within 200 metres of a school or childcare centre but has yet to use this desperately needed power.

Safer Municipalities Act, 2025

In June 2025, Ontario passed legislation prohibiting the consumption of any illegal substance in public spaces, including streets, parks, and public buildings. The *Safer Municipalities Act* (SMA) grants law enforcement additional powers, in addition to Canada's criminal law, to intervene in cases where individuals are suspected of using illegal substances in public areas.³

[3] *Safer Municipalities Act, 2025*, S.O. 2025, c. 5 (SMA).

Under the SMA, officers can seize and destroy substances and order individuals to stop using drugs and/or vacate the area. If someone does not comply with an officer's order, they risk fines of up to \$10,000, imprisonment for up to six months, or both. Notably, under the criminal law, a person convicted for simple possession would not be fined such an amount and Canada's prosecution policy advises that criminal prosecution for simple possession (including possible imprisonment) should only be pursued in the "most serious" of circumstances (see below).

In addition to people using illegal substances in tents or other public spaces, the SMA applies to people who use drugs at an OPS operating in a public space, such as a park.

The law also establishes aggravating factors in case of trespassing that may affect OPS operating without formal authorization from a landlord or city on private and city property. Under Ontario's *Trespass to Property Act*, anybody who enters private property without the "express permission of the occupier," or does not leave after they are directed to do so, is guilty of a provincial offence which can result in a fine of up to \$10,000.⁴ The presence of aggravating factors under the SMA can result in a more severe penalty if someone refuses to leave the premises or returns there – even if they left at some point, or if they are "likely to trespass at any time in the future."

Simply put, if your OPS is on private property and you are not lawfully a tenant or occupant of that space, you and the patrons of an OPS could face charges of trespassing – even if local authorities or police support you. The landlord could also personally sue you for trespass in a civil (i.e. non-criminal) action.

NB: "Private" property is not limited to things such as private homes or inside businesses. It includes entering onto "lands and structures" without express permission of the legal occupier (e.g. owner, landlord, or municipality) or conducting activities that are prohibited on those lands or in those structures. For example, while the public is generally invited to be in municipally owned parks, a municipality can put up trespass notices indicating hours, activities, or specific areas within a park that are prohibited under the Trespass to Property Act.

Municipal legal barriers to OPS

Tickets or fines for bylaw violations

Municipal bylaws may prevent activities such as congregating in a public space without a permit, erecting a tent or other structure, and overnight camping. There is also at least one example of a municipal bylaw in Ontario prohibiting the possession of harm reduction supplies in parks.⁵ Both OPS operators and patrons risk tickets or fines for violating these bylaws.

Injunction orders

An injunction is something that a city (or landowner) can apply for in court to have your OPS cease operations quickly. If you are served with court documents seeking an injunction against your OPS, you must act fast to defend it. Get legal advice immediately.

[4] *Trespass to Property Act*, R.S.O. 1990, c. T.21

[5] *Community Standards By-Law*, City of Kingston, 2023, 2023-214. Online: www.cityofkingston.ca/media/3vsnz05g/bylaw_communitystandards.pdf.

Existing protections for OPS operators and patrons

Despite new provincial barriers in Ontario regarding SCS and public drug use, there have been some federal legal and policy developments over the past five years that offer some protection for people operating or accessing OPS.

1. CDSA section 10.7: Exception for service providers (2022)

The CDSA exempts any “social worker, medical professional or other service provider in the community” who is in simple possession of drugs if they possess it “in the course of their duties” and “they intend to, within a reasonable period, lawfully dispose of it.”⁶ It could be argued that this section protects those volunteering at OPS against prosecution for drug possession because they fall under the exempted category of “service provider in the community,” taking on duties to provide overdose prevention services, just as other workers do. To date, this exemption has not been tested in court to determine the extent to which it might protect operators of OPS. In any event, it would not protect OPS patrons from prosecutions.

Of further note, if you are a healthcare professional volunteering at an OPS, you are subject to your profession’s standards of conduct and care, and the standard of care expected of you will be higher than that of someone without a healthcare background. As a healthcare professional, you may wish to consult with your college to determine the scope of your responsibilities and whether your professional insurance provides coverage.

If you are volunteering at an OPS, workers’ compensation insurance will not likely compensate you in case of injury. OPS operators should inform all volunteers of this fact before they start working.

2. CDSA “Evidence-based Diversion Measures” (2022)

Instead of charging someone for simple possession, the CDSA now requires police and prosecutors to consider “tak[ing] no further action,” “warn[ing]” them, or “refer[ring]” them to a program, agency, or other service provider in the community.” These changes are based on a set of principles that acknowledge that “criminal sanctions imposed in respect of the possession of drugs for personal use can increase the stigma associated with drug use and are not consistent with established public health evidence,” and “judicial resources are more appropriately used in relation to offences that pose a risk to public safety.”⁷



[6] CDSA, s 10.7.

[7] CDSA, s 10.1.

3. PPSC Guideline 5.13: Prosecution of Possession of Controlled Substances Contrary to s. 4(1) of the CDSA (2020)

Public Prosecution Service of Canada (PPSC) [Guidelines](#) direct prosecutors to focus on the “most serious cases” of simple drug possession and to “otherwise pursue suitable alternative measures and diversion.”⁸ Among other factors, the Guidelines define “serious” cases warranting charges to include those: in the vicinity of places frequented by children or young persons; that pose “a heightened risk” to a community’s efforts to address drug use (e.g. in isolated or remote communities); and that involve another drug offence.

The 2022 CDSA amendments and 2020 PPSC Guidelines apply in Ontario and should theoretically provide some protection against prosecutions in relation to OPS operators and patrons from federal criminal charges related to simple possession.

They do not, however, necessarily protect people from being investigated or arrested and they do not offer protection to patrons of unsanctioned OPS operating in public space contrary to the SMA (noted above). ***This is especially important to note given police forces across the Province of Ontario have signaled their intention to heavily enforce drug laws.***

Given the layers of legislation impacting OPS, decisions about where to establish an OPS should be carefully considered. For example, OPS operating in a city park may be characterized as being in an area frequented by children and may therefore face heavier enforcement and sanction.

4. Canada’s Good Samaritan Drug Overdose Act (2017)

Canada’s *Good Samaritan Drug Overdose Act* encourages people to call 911 in the event of an overdose without fear of conviction for drug possession, recognizing that protecting health and saving lives is more important than prosecuting people.⁹ Under the law, if an overdose occurs (including at an OPS), and emergency services are called for assistance, no charges can be laid for simple possession of drugs (or for breaches of bail, parole, or probation conditions where the underlying offence is drug possession). Protections extend to the person who called 911, the person who overdosed or “any person...who is at the scene upon the arrival of the emergency medical or law enforcement assistance.” This would include OPS operators and patrons.



[8] Public Prosecution Service of Canada Deskbook, 5.13 *Prosecution of Possession of Controlled Substances Contrary to s. 4(1) of the Controlled Drugs and Substances Act, Guideline of the Director Issued under Section 3(3)(c) of the Director of Public Prosecutions Act*, August 17, 2020. Online: www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p5/ch13.html.

[9] *Good Samaritan Drug Overdose Act* (S.C. 2017, c. 4).

5. Protections against civil liability: Ontario's *Good Samaritan Act* (2001)

Ontario's *Good Samaritan Act* protects emergency first aid providers ("Good Samaritans") against damages that result from the Good Samaritan's actions in the course of aid (e.g. responding to an overdose).¹⁰ In other words, except where the Good Samaritan is "grossly negligent" and in other rare circumstances, they will be protected against civil lawsuits related to any harm resulting from their action or inaction (e.g. "botching" an overdose response or failing to respond in time). These protections apply to Good Samaritans who render first aid "voluntarily and without reasonable expectation of compensation or reward," including health care professionals outside of "a hospital or other place having appropriate healthcare facilities and equipment for that purpose."

Charter protection

While an OPS that is operating without a federal exemption may be violating one or more laws, there may be a viable constitutional challenge if your OPS faces threats of being shut down or anyone volunteering at or accessing it faces criminal charges for drug possession or some forms of trafficking (e.g. handling someone's drugs for the purpose of drug checking) at the OPS.

OPS provide life-saving health services for people who use drugs. Forcing an OPS to close or charging a person in relation to OPS activities could infringe on OPS users' right to life, liberty, and security of the person, and/or an OPS volunteer's right to liberty under section 7 of the *Canadian Charter of Rights and Freedoms*. **For this reason, it is important to track information about your site, its use, its health and safety benefits, etc., for potential evidence down the road.**

Evidence can include:

- Keeping reliable data of the number of times the site is used each day, the number of overdoses attended to, first aid provided, and/or harm reduction supplies handed out;
- Documenting all communications with police, firefighters, and city staff, including any efforts to work together;
- Having a documented protocol for garbage collection, site maintenance, and storage of biohazardous materials; and
- Working with media and other allies to provide positive coverage of the services your provided by your OPS.

[10] *Good Samaritan Act*, 2001, S.O. 2001, c. 2.

Other Resources

BC Centre for Disease Control, BC Overdose Prevention Services Guide. 2019, last updated 2023:

http://www.bccdc.ca/Documents/BC%20Overdose%20Prevention%20Services%20Guide_2019.pdf

Canadian Association of People Who Use Drugs, *This Tent Saves Lives: How to open an overdose prevention site*. 2017:

https://www.catie.ca/sites/default/files/2025-06/This-tent-saves-lives_CAPUD_20170831.pdf

Canadian Research Initiative in Substance Misuse, *National Operational Guidance for the Implementation of Supervised Consumption Services*. 2023:

<https://www.substanceuse.ca/national-operational-guidance-implementation-supervised-consumption-services>

Health Canada, *Apply to run a supervised consumption site: Overview*. 2018:

<https://www.canada.ca/en/health-canada/services/substance-use/supervised-consumption-sites/apply.html>

HIV Legal Network, *Scaling up Supervised Consumption Services: What has changed in Canada?* April 26, 2024:

<https://www.hivlegalnetwork.ca/site/scaling-up-supervised-consumption-services-what-has-changed-in-canada/?lang=en>

HIV Legal Network, *An overview of the Community Care and Recovery Act, 2024*, March 18, 2025:

<https://www.hivlegalnetwork.ca/site/an-overview-of-the-community-care-and-recovery-act-2024/?lang=en>

Public Prosecution Service of Canada Deskbook, 5.13 *Prosecution of Possession of Controlled Substances Contrary to s. 4(1) of the Controlled Drugs and Substances Act, Guideline of the Director Issued under Section 3(3)(c) of the Director of Public Prosecutions Act*, August 17, 2020:

www.ppsc-sppc.gc.ca/eng/pub/fpsd-sfpg/fps-sfp/tpd/p5/ch13.html