



Proposed New Regulation under the Restricting Public Consumption of Illegal Substances Act, 2025 (RPCISA) to Extend Authorities to Transit Special Constables
Submission of the HIV Legal Network and HIV & AIDS Legal Clinic Ontario (HALCO)
February 2026

HIV Legal Network and HALCO

The HIV Legal Network promotes the human rights of people living with HIV or AIDS and other populations disproportionately affected by HIV, punitive laws and policies, and criminalization, in Canada and internationally. For more than three decades, we have worked to advance laws and policies that uphold the human rights of people who use drugs, including through access to lifesaving health and harm reduction services. HALCO is a community-based legal clinic serving low-income people living with HIV. As the only such legal clinic in the country, HALCO has extensive experience addressing the day-to-day legal issues faced by people living and affected by HIV, including human rights, health law, and related issues.

Background

Ontario continues to experience a deadly drug toxicity crisis, with more than five Ontarians losing their life everyday from the tainted drug supply.¹ 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 2021.² 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.³ At a time people experiencing housing precarity face unprecedented risks of toxic drug injury and death, the **HIV Legal Network and HALCO continue to strongly oppose the *Restricting Public Consumption of Illegal Substances Act, 2024* (“RPCISA”) as well as the proposed regulations expanding the coercive powers of the RPCISA to “public transit special constables.”**

¹ Office of the Chief Coroner, *Monthly Update: Suspect drug opioid related deaths January 2026*.

² 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.

³ ODPRN and Public Health Ontario, *Opioid-Related Toxicity Deaths Within Ontario Shelters: Circumstances of Death and Prior Medication & Healthcare Use*, June 2024.

Analysis

The RPCISA seeks to further police and criminalize people who have few — if any — options for care or housing, and the proposed regulations would significantly expand the scope of this punishment by conferring “public transit special constables” with the same enforcement powers as police officers under the RPCISA. This is of extreme concern at a time when Ontario is at a tipping point in its homelessness crisis with more than 85,000 Ontarians experiencing homelessness in 2025 — up 8% from 2024 when the RPCISA was passed, and a 50% increase since 2021. In 2025, Ontario was also home to 2,000 encampments, an increase from 1,400 reported in 2023. Moreover, the worsening crisis has a disproportionate impact on some communities, including Indigenous people in northern Ontario.⁴

Section 2 of the RPCISA prohibits drug consumption in a “public place,” including a dwelling in a public place such as a tent in a park and on public transit. This is troubling in light of research that confirms the risk of interacting with police promotes isolated or hidden drug use, which is in turn linked to fatal overdose.⁵ 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.”⁶ As the Supreme Court of British Columbia also concluded in *Harm Reduction Nurses Association v British Columbia (Attorney General)*, **prohibiting public consumption in public spaces, including public transit, would displace people who use drugs into more concealed and isolated areas, increasing the likelihood of lone use and fatal overdose.**⁷ The Court also recognized that related enforcement mechanisms would have disproportionate impacts on Indigenous people.

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.⁸

U.S. research examining drug use on public transit concluded that transit agencies are “increasingly taking on complex responsibilities that traditionally fall within the realm of public health and outreach, which they were not designed or intended to handle. This shift adds layers of complexity, increases operational burdens, and incurs additional costs.” Moreover, the researchers noted that **banning illicit substance use in transit environments may disproportionately impact people experiencing homelessness, high rates of substance use issues, and serious mental health conditions, many of whom rely on transit systems as *de facto* shelters.**⁹ Canadian cities,

⁴ Association of Municipalities of Ontario, *Municipalities Under Pressure: One Year Later*, January 2026.

⁵ 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.

⁶ 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.

⁷ 2023 BCSC 2290.

⁸ OHTN Rapid Response Service, *Engaging law enforcement in harm reduction programs for people who inject drugs*, 2016.

⁹ National Academies of Sciences, Engineering, and Medicine, *The Impacts of and Response to Drug Use on Transit*, The National Academies Press, 2025.

including Calgary and Toronto, have reported comparable trends of unhoused individuals seeking refuge in transit systems due to insufficient shelter capacity.¹⁰ Undoubtedly, expanding the scope of the RPCISA to transit settings will disproportionately burden people experiencing homelessness and increase overdose risk.

Further, section 6 of the RPCISA 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 the health and safety of people who use drugs, including but not limited to fatal overdose.¹¹

While a supervised consumption site is excluded under section 2(2) of the RPCISA’s definition of a “public place,” the majority of supervised consumption services (SCS) in Ontario have shut down as a result of the 2024 *Community Care and Recovery Act*, 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 prohibit smoking or inhalation, despite smoking being among the most common methods of consumption among unregulated drug deaths in Ontario.¹² SCS also do not operate 24/7, meaning there are many hours of the day when services are not available. Further, as described in a 2025 report, the 375 housing beds announced by the Ontario government alongside the closure of SCS represents only 6% of the additional capacity needed to end encampments in the province.¹³

Without access to SCS or housing, the RPCISA and the proposed regulations beg the question: where are people who use drugs — some of whom may be living with a substance use disability, and are disproportionately members of Indigenous, Black, racialized, and 2SLGBTQ+ communities — meant to go? 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 risk arrest, criminalization, and incarceration.

Conclusion

In summary, the **HIV Legal Network and HALCO urge the Ontario government to repeal the RPCISA and reject the proposed regulations**, 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. These measures entrench people in poverty by imposing fines they cannot pay and/or incarcerating them, and push individuals to use drugs in

¹⁰ L. Heintz, “Homeless Calgarians flocking to public transit due to lack of safe shelter spaces: report,” *CityNews Calgary*, May 28, 2024: <https://calgary.citynews.ca/2024/05/28/vibrant-communities-calgary-report-transit-homelessness> and J. Catalan, “TTC’s ‘move along’ policy to address rising homeless presence,” *Seneca Journalism*, 28 December 28, 2023: <https://www.senecajournalism.ca/ttcs-move-along-policy-to-address-rising-homeless-presence>.

¹¹ 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).

¹² Public Health Ontario, *Harm Reduction Services for Anyone who Smokes or Inhales Drugs*, July 2023.

¹³ AMO, *Municipalities Under Pressure: The Growing Human and Financial Cost of Ontario’s Homelessness Crisis, Backgrounder*, 2025.

concealed areas, increasing the risk that overdoses go unnoticed. Already, courts in Ontario have pronounced on the unconstitutional nature of forcibly evicting unhoused people from public spaces, without offering truly accessible alternatives. With its foreseeable impacts on overdose injury and death, especially for the most marginalized people who use drugs, the RPCISA and the proposed regulations similarly risk breaching rights under the *Canadian Charter of Rights and Freedoms*, including the rights to security of the person, life, liberty, and equality and non-discrimination.

Already, community partners over the past year have confirmed the negative impacts of the RPCISA in displacing people who use drugs from access to health and social services. Expanding arrest and enforcement authority to transit constables will only deepen the known risks of displacement and isolation. Rather, the government must invest in what works: urgently and massively invest in and scale up meaningful access to culturally appropriate, low-barrier harm reduction services, including supervised consumption services, health care, social services, treatment programs, and sustainable housing.¹⁴

¹⁴ 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.