



# KNOW YOUR RIGHTS

A GUIDE FOR AFRICAN, CARIBBEAN,  
AND BLACK WOMEN LIVING WITH  
HIV AND AFFECTED BY INTIMATE  
PARTNER VIOLENCE

HIV  
LEGAL  
NETWORK



RÉSEAU  
JURIDIQUE  
VIH

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**Land Acknowledgement:** The HIV Legal Network works on the land now called Canada, which is located on treaty lands, stolen lands, and unceded territories of Indigenous groups and communities who have respected and cared for this land since time immemorial. We work to address the ongoing injustices and resulting health inequities faced by Indigenous Peoples. They contribute to the disproportionate impact of HIV on Indigenous communities and the epidemic of violence against Indigenous women, girls and 2SLGBTQ+ people. We are committed to learning to work in solidarity and to dismantling and decolonizing practices and institutions to respect Indigenous Peoples and Indigenous ways of knowing and being.

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# KNOW YOUR RIGHTS

## A Guide for African, Caribbean, and Black Women Living with HIV and Affected by Intimate Partner Violence

**This guide is for women living with HIV who are experiencing – or are at risk of – intimate partner violence (IPV).** IPV includes physical, emotional, psychological, sexual, or financial abuse by a current or former partner. It is not only harmful: it is also against the law. IPV can affect anyone – relevant here are women, including trans women, Two-Spirit, and non-binary people living with HIV. This guide has been developed with a particular focus on the African, Caribbean, and Black (ACB) community, recognizing the unique forms of anti-Black stigma, discrimination, and racism that shape their experiences of IPV and HIV.

**The law does not address all challenges related to IPV and HIV, and in some cases what is written in law does not reflect what happens in practice.** For some, turning to the police, lawyers, or the courts may feel like the right step. For others, it may not. For ACB women, these decisions are shaped by systemic and intersecting forms of oppression which are further complicated for those who are trans, newcomers, or who use(d) drugs or engage(d) in sex work. These realities can make it harder to access supports, be believed, or assert their rights.

*While this guide contains legal information, it is not the same as legal advice. If you need legal advice for your personal situation, please contact a lawyer. You may also wish to speak to an AIDS service organization, ACB community organization, shelter, or survivor support centre. These organizations may be able to offer support and help you navigate your options.*

# FAHAMU HAKI ZAKO

Mwongozo kwa wanawake wa afrika, karibiani, na weusi wanaoishi na vvu na wanaoathirika na ukatili wa mwenzi wa karibu

**Mwongozo huu ni kwa ajili ya wanawake wanaoishi na VVU ambao wanakumbana na – au wako katika hatari ya – ukatili wa mwenzi wa karibu (IPV).** IPV inajumuisha unyanyasaji wa kimwili, kihisia, kisaikolojia, kingono, au kifedha kutoka kwa mwenzi wa sasa au wa zamani. Sio ni hatari tu: pia ni kinyume cha sheria. IPV inaweza kuathiri mtu yeyote – wanaohusika hapa ni wanawake, ikiwa ni pamoja na wanaume waliojibadili kuwa wanawake, wenye Roho-Mbili ya kike na kiume, na watu wasio na jinsia wanaoishi na VVU. Mwongozo huu umeandaliwa ukiwa na msisitizo maalum kwa jamii ya Afrika, Karibiani, na Weusi (ACB), ukitambua aina maalum za unyanyapaa dhidi ya watu weusi, ubaguzi, na ubaguzi wa rangi ambao unatengeneza uzoefu wao wa IPV na VVU.

**Sheria haitatui changamoto zote zinazohusiana na IPV na VVU, na katika baadhi ya matukio, kile kilichoandikwa katika sheria hakihakisi kile kinachotokea katika utendaji.** Kwa baadhi, kwenda polisi, kwa wanasheria, au mahakamani kunaweza kuonekana kama hatua sahihi. Kwa wengine, huenda isiwe hivyo. Kwa wanawake wa ACB, maamuzi haya yanatengenezwa na aina za kimfumo na zinazoingiliana za ukandamizaji ambazo zinakuwa ngumu zaidi kwa wale ambao walikuwa wanaume wakajibadili kuwa wanawake, wageni, au wanaotumia (waliotumia) madawa au wanaoshiriki (walioshiriki) katika biashara ya ngono. Hali hizi zinaweza kufanya iwe vigumu kupata misaada, kuaminiwa, au kudai haki zao.

***Ingawa mwongozo huu una taarifa za kisheria, si sawa na ushauri wa kisheria. Ikiwa unahitaji ushauri wa kisheria kwa ajili ya hali yako binafsi, tafadhali wasiliana na mwanasheria. Pia unaweza kutaka kuzungumza na shirika la huduma ya UKIMWI, shirika la jamii la ACB, makazi, au kituo cha msaada kwa waathirika. Mashirika haya yanaweza kuwa na uwezo wa kutoa msaada na kukusaidia kuelewa chaguzi zako.***

# اعرفي حقوقك

## دليل للنساء الأفريقيات والكاريبيات والسود اللواتي يعشن مع فيروس نقص المناعة البشرية ويتعرضن للعنف من قبل شركائهن الحميمين

هذا الدليل مخصص للنساء المصابات بفيروس نقص المناعة البشرية اللواتي يتعرضن - أو معرضات لخطر التعرض - للعنف من قبل الشريك الحميم (IPV). يشتمل العنف من قبل الشريك الحميم (IPV) على الإيذاء الجسدي أو العاطفي أو النفسي أو الجنسي أو المالي من قبل الشريك الحالي أو السابق. إنه ليس مؤدياً فحسب، بل إنه مخالف للقانون أيضاً. يمكن أن يؤثر العنف من قبل الشريك الحميم (IPV) على أي شخص، والمقصود في هذا السياق هم النساء، بما في ذلك النساء المتحولات جنسياً، وذوو الروحين والأشخاص غير الثنائيين المصابين بفيروس نقص المناعة البشرية. تم إعداد هذا الدليل مع التركيز بشكل خاص على مجتمعات الأفارقة والكاريبين والسود (ACB)، حيث يقرّ بمظاهر الوصم والتمييز والعنصرية الفريدة التي يتعرض لها السود والتي تشكل تجاربهم مع العنف من قبل الشريك الحميم (IPV) وفيروس نقص المناعة البشرية.

لا يتناول القانون جميع التحديات المتعلقة بالعنف من قبل الشريك الحميم (IPV) وفيروس نقص المناعة البشرية، وفي بعض الحالات لا يتطابق ما هو منصوص عليه في القانون مع ما يحدث في الواقع. بالنسبة للبعض، قد يبدو اللجوء إلى الشرطة أو المحامين أو المحاكم هو الخطوة الصحيحة. وبالنسبة لآخرين، قد لا يكون كذلك. فبالنسبة للنساء من مجتمعات الأفارقة والكاريبين والسود (ACB)، فإن هذه القرارات تُعد متأثرة بأشكال القمع الممنهجة والتقاطعية، والتي تزداد تعقيداً بالنسبة للمتحولات جنسياً أو الوافدات الجدد أو اللواتي يتعاطين (أو تعاطين) المخدرات أو يمارسن (أو مارسن) العمل في مجال الجنس. يمكن لهذه الحقائق أن تجعل من الصعب حصولهن على الدعم أو أن يتم تصديقهن أو أن يطالبن بحقوقهن.

على الرغم من أن هذا الدليل يحتوي على معلومات قانونية، إلا أنه لا يعتبر بمثابة مشورة قانونية. إذا كنت بحاجة إلى مشورة قانونية بشأن وضعك الشخصي، فيرجى الاتصال بمحامٍ. قد ترغبين أيضاً في التحدث إلى منظمة خدمات الإيدز أو المنظمة الخاصة بمجتمعات الأفارقة والكاريبين والسود (ACB) أو ملجأً أو مركز دعم الناجين. قد تتمكن هذه المنظمات من تقديم الدعم ومساعدتك في استكشاف الخيارات المتاحة لك.

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## What is intimate partner violence (IPV)?

**IPV refers to a form of gender-based violence,** which can include physical, sexual, emotional, psychological, or financial abuse by a current or former partner or spouse. IPV can happen to anyone and is not always visible. It can include controlling behaviours, intimidation, isolation, surveillance, or restrictions on access to money, healthcare, or community support.

**Women who face many kinds of discrimination are more likely to experience IPV because systems of power and inequality make them more vulnerable.** In Canada, ACB women are disproportionately affected by IPV due to the ongoing impacts of colonialism, systemic racism, and state violence. A 2018 survey found that at least 44% of Black women had experienced IPV since age 15.<sup>1</sup> Government studies show two-thirds of sexual assault survivors had little or no confidence in the police, courts, or criminal system.<sup>2</sup> For ACB survivors, this mistrust is compounded by legacies of racist policing and overrepresentation in family policing systems (often referred to as “child protection services” or “CPS”).<sup>3</sup>

**IPV and HIV are deeply interconnected.** Intimate partners may exploit HIV stigma to control women by threatening to disclose her status; escalating emotional or physical abuse; and/or making disclosure, treatment, or care unsafe. Stigma, poverty, racism, insecure immigration status, and criminalization all increase vulnerability and limit access to support.

**Women living with HIV face disproportionately high rates of IPV,** including abuse linked directly to their status such as forced disclosure.<sup>4</sup> IPV also raises the risk of acquiring HIV by reducing autonomy in sexual relationships or drug use.<sup>5</sup> Predictably, IPV is linked to poorer HIV outcomes: women experiencing violence are less likely to start or stay on treatment, or to achieve viral suppression. Legal challenges also arise, including risks tied to privacy, criminalization, child custody, and discrimination.

# 1. Is intimate partner violence (IPV) a crime in Canada?

**Yes. While the *Criminal Code* does not have a specific IPV offence, many abusive behaviours are considered crimes.** These include (but are not limited to):

- Physical force or harm or threat of harm, even if there is no injury (e.g. assault or uttering threats);
- Forced or unwanted sexual activity (e.g. sexual assault);
- Harassing or stalking (e.g. criminal harassment); and
- Using force to take or keep a person in place (e.g. forcible confinement).

**If you choose to report IPV to the police, they may lay charges against the abuser.**

Sometimes reports come from others – such as neighbours or friends – without your knowledge or consent. Police and prosecutors then decide whether there is enough evidence to bring criminal charges. In every province and territory, there are “mandatory charging” or “pro-charging” policies for IPV, meaning that charges must be laid if there is enough evidence even if you do not want to proceed with the charges. In situations where both parties appear injured and the main aggressor cannot be identified, both may be charged – even if one acted in self-defence.

Understandably, some may hesitate to involve the criminal system for fear of retaliation, privacy breaches, criminal or immigration consequences, or impacts on children or relationships. If possible, it may help to seek legal support before reporting violence to police, though in urgent situations immediate police protection may be necessary.

For some, restorative or alternative justice approaches may be more appropriate. These emphasize safety, accountability, and healing outside the courts and may involve mediation, community-based processes, or culturally specific practices.<sup>6</sup> Local women’s shelters, community legal clinics, or victim services can provide more information on what is available in your area.

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For more information about what to expect when you report a crime, see Community Legal Education Ontario’s (CLEO) *Do You Know a Woman Who Is Being Abused? A Legal Rights Handbook* at [www.cleo.on.ca/en/publications/handbook](http://www.cleo.on.ca/en/publications/handbook) [↗](#) (Ontario-specific).

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## 2. Will people know I am HIV positive if I report IPV to the police?

**You do not have to share your HIV status when reporting IPV.** However, the police may learn about it during their investigation through, for example, medical records or interviews. Police, lawyers, judges, doctors, and other professionals involved in a case are required by law to keep your health information – including your HIV status – confidential unless it is legally relevant to the case.

**In most IPV cases, HIV status is not relevant and may never be mentioned.**

However, if it does become part of the evidence, your abuser (the accused) may be given access to that information to help them prepare their defence. In rare cases, HIV status may also appear in court decisions, which are usually public.

**Courts can take steps to protect your privacy.** In cases involving sexual violence or sensitive health information, a judge may order a “publication ban” preventing your name and other identifying details from being made public. These bans are common, and you can request one.

If possible, consider speaking to a lawyer about privacy protections before reporting abuse. Free or low-cost legal help is available across Canada. You can:

- Contact a community legal clinic or legal aid office;
- Call 211 – a free, confidential service available 24/7 across Canada – for local referrals to legal and support services;
- Reach out to an AIDS service organization, ACB community organization, shelter, or support worker; or
- Contact victim services in your province or territory.

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For lawyer referrals, see the **Canadian Bar Association**: [www.cba.org/public/legal-resources/legal-links/law-societies](http://www.cba.org/public/legal-resources/legal-links/law-societies) 

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### 3. Can my HIV status be used against me by an abusive partner?

**In Canada, people living with HIV have a legal obligation to disclose their HIV status to their sexual partners before having sex that poses a “realistic possibility of transmission.”**

Not disclosing in those circumstances can lead to criminal charges, usually aggravated sexual assault. This is what we call “HIV criminalization.”

HIV criminalization can increase risks for women experiencing violence. Some women living with HIV cannot leave abusive relationships because they fear criminalization, and/or because their partners threaten to report them for HIV non-disclosure if they leave or contact the police.

If you are concerned about HIV criminalization, a legal clinic or lawyer can help you understand your rights and prepare for possible risks. AIDS service organizations can also connect you with legal assistance. This is especially important if your HIV status might come up in a case against your abuser, or if your partner has threatened to use your HIV status against you.

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The HIV Legal Network offers resources on HIV criminalization, including steps to reduce your risk: *HIV and the Criminal Law*, at [www.hivlegalnetwork.ca/site/black-communities/?lang=en](http://www.hivlegalnetwork.ca/site/black-communities/?lang=en) 

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## HIV criminalization in Canada

ACB communities are disproportionately affected by both HIV and HIV criminalization in Canada. Although Black people make up only 4.3% of the population, they represent at least 22% of people charged in alleged HIV non-disclosure cases.<sup>7</sup> This reflects broader systemic racism in the criminal legal system, as well as the ongoing effects of colonialism and inequality on health and justice outcomes.

The duty to disclose applies only where there is a “realistic possibility of transmission.” How police, prosecutors, and judges interpret “realistic possibility” can vary by province and territory, and depends on the type of sexual activity, condom use, and viral load.

**Unfortunately, courts have been inconsistent, and law has not always kept up with science. In general, courts have found there is no duty to disclose if:**

- The activity carries no risk of transmission (e.g. kissing); or
- A condom was used AND viral load was low (under 1500 copies/mL), suppressed (under 200 copies/mL), or undetectable (under 50 copies/mL).

In other situations, the law is less clear. While prosecutions for people with suppressed viral load (even without condom use) are now less common, charges remain possible.

Because systemic racism can lead to harsher penalties, ACB people facing charges may benefit from an Impact of Race and Culture Assessment (IRCA). These reports help judges understand how racism, poverty, or other social factors shape someone’s circumstances, and may support alternatives to jail or culturally appropriate sentencing. If you are accused of a crime, ask your lawyer about obtaining an IRCA.

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## 4. What if I can't disclose my HIV status to my partner because I fear violence?

**Canadian law requires people living with HIV to disclose their status before sex that poses a “realistic possibility of transmission.”** However, disclosure may be extremely difficult – especially in abusive or unsafe relationships. You may fear your partner could hurt you, control you, or reveal your status without consent. These fears are valid and grounded in many women's experiences.

It's unclear whether these fears would be accepted as a legal defence in an HIV non-disclosure case as no Canadian court has definitively confirmed it. **Even so, your safety is what matters most.** AIDS service organizations and ACB community organizations can help you navigate this complex situation. Local women's shelters or support services can also work with you on safety planning.

## 5. Can I be charged for not disclosing my HIV status if I was sexually assaulted?

**Some people living with HIV worry about reporting sexual assault because their assailant did not know their status.** In rare but troubling cases, women living with HIV have been charged for non-disclosure in the context of abusive relationships – a clear injustice in a system that often fails survivors.

**To date, no Canadian court has clearly ruled whether people living with HIV have a duty to disclose to an assailant.** However, a defence lawyer may argue that a survivor of sexual assault cannot be held responsible for non-disclosure when she did not consent to the sexual activity. Ultimately, judges decide whether a sexual assault occurred and whether disclosure was required.

If you are in this situation, seek legal advice as soon as possible. A lawyer, legal clinic, or AIDS service organization can help you defend your rights, limit risks of criminalization, and protect your safety.

## 6. My partner is threatening to tell other people about my HIV status. What can I do?

When someone threatens to tell others about your HIV status without consent, it is a form of violence targeting you because you are living with HIV.

**Your HIV status is private, personal health information – and you have the right to keep it confidential.** In most situations, disclosure is your choice. You may choose not to disclose because you are unsure how, or because of stigma, discrimination, or fear of harm. These are valid concerns.

**Privacy laws protect your HIV status in healthcare, education, and workplace settings.** Doctors and other health care providers, support workers, teachers, and employers must keep this information confidential. However, these protections do not apply to friends, family, or partners, which makes it harder to control who knows your status.

**If your partner threatens to disclose your HIV status, this may be against the law.** Depending on the situation, different legal protection may be available:

- **Criminal law** – You can report the threat to the police. Repeated threats or intimidation may be considered criminal harassment or uttering threats. You can also apply for a peace bond through criminal court, requiring your partner to stay away from you.<sup>8</sup>
- **Family law** – If you are separating or share children with your partner, you may be able to apply for a family court protection order or restraining order.<sup>9</sup> This does not require police involvement and helps keep your partner away from you or your home.
- **Civil law** – You may be able to sue in civil court for emotional harm, breach of privacy, or other damages.<sup>10</sup> Civil cases are separate from criminal ones and focus on financial compensation.

**If your partner is threatening to disclose your HIV status,** begin by documenting the threats – save texts, emails, voicemails, or keep a record of what was said. Contact a lawyer or legal clinic that understands HIV, privacy rights, and IPV. They can help you weigh your options – such as applying for a

peace bond or restraining order – and support you in creating a safety plan. Even if you choose not to involve the police, legal clinics or other organizations – including organizations working to support women facing gender-based violence – can offer confidential guidance and connect you to other resources.

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### **Why exploring different options is important:**

While legal tools like restraining orders or peace bonds can offer protection, they do not work for everyone. Involving police or courts can sometimes increase risk, especially if you are racialized, without immigration status, trans or gender-diverse, or have had negative experiences with the legal system. For some, taking legal action may escalate abuse, draw unwanted attention, or create immigration, criminal, and/or CPS consequences. Speaking with a trusted community organizations can help you identify non-legal options, weigh your choices, and plan for your safety in ways that reflect your needs and circumstances.

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## 7. How can I protect myself from online harassment from my partner?

**Online harassment from a partner is a form of abuse.** It can include threats, stalking, repeated unwanted messages, or sharing (or threatening to share) personal information, such as your HIV status.

**If your partner is harassing you online, they may be violating the law.**<sup>11</sup> Depending on the behaviour, options in the criminal law may include reporting them for:

- Criminal harassment (e.g. repeated unwanted contact that causes fear);
- Uttering threats;
- Harassing communications; or
- Non-consensual distribution of intimate or private images or information.

You may also be protected under civil law, allowing you to sue your abuser for causing you emotional harm or invading your privacy.

**If you are being harassed online, try to keep records.** Save screenshots, messages, emails, or posts, and note the dates and details of threats. Strengthen your digital safety by updating passwords, enabling two-factor authentication, and reviewing social media privacy settings.

Most importantly, reach out for support. A lawyer, legal clinic, AIDS service organization, or ACB community group can help you understand your options. Legal clinics and other legal professionals can help you explore your legal options, while service organizations and community groups can work with you on a safety plan and get other forms of support such as mental health.

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For more information, see the HIV Legal Network's *Know Your Rights – Indigenous Communities: HIV, Privacy, and Confidentiality*: [www.hivlegalnetwork.ca/site/know-your-rights-indigenous-communities-hiv-privacy-and-confidentiality](http://www.hivlegalnetwork.ca/site/know-your-rights-indigenous-communities-hiv-privacy-and-confidentiality) [↗](#). While developed for Indigenous communities, the general legal information is useful for everyone.

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## 8. Can I access housing or financial support if I leave an abusive partner?

**Yes. If you leave an abusive partner, housing and financial supports are available to help you stay safe. Access does not depend on your health status or your partner's cooperation.**

**For immediate safety, many communities have emergency and Violence Against Women (VAW) shelters that provide temporary housing, meals, and other supports such as legal advocacy and safety planning.** Some shelters are geared to women fleeing violence, including trans women and those with children and pets, and can often help connect you with long-term resources. Local women's centres, ACB community organizations, or AIDS service organizations may also offer resources. For example, YWCA's [National Emergency Survivor Support Fund](#)  provides short-term funding to help women leave unsafe housing situations.

**Across Canada, people fleeing IPV often have priority access to housing** such as placement at the front of the line for shelters or transition houses; access to rent-geared-to-income housing; and/or monthly rent benefits. However, these programs are often insufficient, inadequate, or inaccessible to meet survivors' needs.<sup>12</sup>

**Some national programs offer additional support.** For example, you may qualify for the Canada Revenue Service's (CRA) Canada Child Benefit (CCB), a monthly, tax-free payment that can provide support to families with children under 18 years old.<sup>13</sup> You can apply for the CCB on your own, even without your partner's cooperation – CRA has guidance for people leaving abusive relationships to ensure they are not denied benefits because of their partner's actions.<sup>14</sup>

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**Navigating housing, finances, and legal issues while fleeing abuse can be overwhelming, but you are not alone.** You can call 211 – a free, confidential service available 24/7 across Canada – to be connected with local services including emergency housing, financial support, and other supports.

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## 9. Will my HIV status prevent me from accessing shelter?

**No. If you are living with HIV and experiencing IPV, you have the right to access shelters and support services without discrimination.** Human rights laws across Canada protect people from being denied services – including shelter – based on HIV status (which is legally recognized as a disability). Shelters are also expected to respect your privacy and support your health and safety.

**That said, many shelters still have policies that can create barriers, especially for people who use drugs, do sex work, or are trans or gender diverse.** For example:

- Some shelters prohibit drug use on-site, which can lead to the exclusion of people who use drugs;
- Strict curfews can prevent people who sell or trade sex from entering; and
- Transphobic policies like only recognizing cis women can make shelters unsafe for trans people.

Such restrictions likely violate human rights protections, yet they persist. Too often, zero-tolerance rules, moral judgment, and a lack of training prevent the most at risk of violence and marginalization from accessing help.

**There have been positive changes.**

British Columbia, Manitoba, the Northwest Territories, and Ontario have adopted shelter standards promoting low-barrier, harm reduction approaches. While these standards are inconsistently applied, some shelters in these jurisdictions are moving towards inclusive, trauma-informed practices that focus on helping – not excluding – people who face stigma, homelessness, or HIV.

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If you are seeking a safer or more inclusive space, organizations like the HIV Legal Network, Women’s Shelters Canada, AIDS service organizations, women’s health centres, and ACB-led agencies can help connect you with affirming, low-barrier shelters. **While barriers remain, supportive and inclusive services do exist.**

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## 10. If I report my partner, will CPS get involved?

**Not necessarily.** CPS is governed by provincial and territorial laws, and across Canada these laws generally recognize exposure to domestic or family violence as a possible form of emotional harm to children. This does not mean that reporting IPV will trigger CPS involvement.

Instead, CPS may become involved if police, healthcare providers, shelter workers, teachers, or other professionals – all of whom are legally required to report suspected risks to children – believe that your child may be “in need of protection.” The legal standard varies by province or territory, but the main question is whether IPV places your child at risk of physical or emotional harm.

**If CPS is contacted, that does not mean your children will be removed.**

CPS workers are expected to support your and your children’s safety and keep families together whenever possible.

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Across Canada, ACB families are overrepresented in CPS, largely due to systemic racism. In 2015, CPS Toronto reported that African Canadians made up 40.8% of children in care, despite representing only 8.5% of the city’s population.<sup>15</sup> A 2022 report found that Black families in Ontario are more than twice as likely as white families to be referred to and investigated by CPS.<sup>16</sup> Systemic anti-Black racism shapes how families are reported, investigated, and supported, leading to higher rates of child apprehension and fewer culturally responsive services. These disparities reflect broader inequities in housing, income, education, policing, and within CPS itself. For many ACB families, this history undermines trust in CPS. Addressing the legacy requires systemic change and culturally specific supports that keep families safely together.

**Because experiences with CPS can vary, it is important to get legal advice early.** You can contact a community legal clinic, legal aid office, or your Law Society. You can also call 211 for local referrals, or connect with an AIDS service organization, shelter, or support worker who can help connect you to legal help that is attentive to your cultural, racial, and linguistic realities.

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## 11. Can my child be taken from me because of my HIV status?

**No. Your HIV status should never be used to remove your child.** HIV cannot be transmitted through everyday caregiving, and your diagnosis does not affect your legal rights or ability to parent. Human rights laws across Canada protect against discrimination in services, including based on your gender, HIV status, and drug use.

**If you feel your parenting is being unfairly questioned, you can contact a community legal clinic, legal aid office, or Law Society for legal advice or referrals to lawyers.** You can also call 211 for local referrals to legal services, or reach out to an AIDS service organization, shelter, or support worker who can help connect you to HIV- and IPV-informed legal help.

## 12. Do I have to tell CPS workers my HIV status – or my child’s?

**In most cases, no. You are generally not legally required to disclose your or your child’s HIV status to CPS.** Disclosure is a personal decision in most cases (see question 3).

**If a CPS worker becomes aware of your HIV status, they must keep that information confidential and use it only as part of their official duties.** CPS workers should be trained to work with families facing IPV and living with HIV, though this is not always the case in practice. ACB women and children in particular have been disproportionately targeted by CPS in Canada.

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**If you are concerned that your HIV status or other factors may be used against you, seek legal advice as soon as possible.** You can contact a community legal clinic, legal aid office, or lawyer. **Community or advocacy organizations can also support you in asserting your rights.** If CPS is not supporting you fairly, consider reaching out to a legal support service for advice.

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# 13. Could my HIV status affect custody or parenting time?

**No. Your HIV status alone should not affect custody or parenting decisions.** Across Canada, courts must base these decisions on the best interests of the child. Fear, stigma, or discrimination about HIV should not be relevant.

When deciding what is in the child's best interests, courts typically consider:

- The child's views and wishes (depending on their age and maturity);
- The child's emotional, physical, and developmental needs;
- The child's emotional ties to their parents; and/or
- The child's race, ethnicity, citizenship, and culture.

**If your HIV status is being used against you, seek legal advice to ensure decisions focus on your parenting capacities – not your diagnosis.** Community legal clinics, legal aid offices, AIDS service organizations, and local shelters or support services can support you in navigating family court.

## 14. What if CPS or police find out I use drugs or do sex work?

**If CPS or police find out that you use drugs or do sex work, this may affect how CPS or police respond, but it should not automatically affect your rights as a parent.** Parents who use drugs or do sex work can and do provide stable, loving care for their children. Unfortunately, these parents are often misunderstood or unfairly judged – sometimes by the very systems that are meant to support families.

**How CPS responds depends on where you live.** Because family policing laws are provincial and territorial, approaches to drug use or sex work vary across Canada. In some jurisdictions, they may be treated as a basis for reporting or investigation, while in others they may not.

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If your drug use or sex work is being used against you unfairly – or if you are not being offered support and understanding – seek legal help. Harm reduction or sex work organizations can also support you advocating for parenting rights. **You have the right to be a parent – and to be supported, not punished, for doing so.**

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## Building a Circle of Support: A Safety Mapping Tool

If you are worried that CPS might become involved in your life, “safety mapping” can help prepare. A safety map shows the people, programs, and support that keep you and your children safe and cared for.

**What is a safety map?** Picture yourself at the centre of a circle. Around you are the connections that support you, such as:

- A harm reduction worker you meet with regularly;
- A family support or caseworker at a shelter;
- A nurse at a supervised consumption site;
- A housing worker or peer support person;
- A community kitchen, parenting group, or drop-in program; and
- A lawyer or cultural support person.

**Why does this matter?** CPS may act out of fear, pressure, or legal liability. This can lead to overly cautious or judgmental decisions that ignore your strengths. Creating a “circle of support” shows that you are not alone and that you have community-based systems of care.

**How to use it?** Sketch your circle with a support worker, advocate, or friend. Keep notes or documents that show your efforts, such as appointments attended, services accessed, supports in place. This is not about proving yourself: it is about protecting yourself from unfair judgment.

**Together, your circle of support helps ensure you are not judged or isolated. If challenges arise, others in your network can speak to your care, parenting, and the steps you take to protect your family.**

# 15. Will I lose my immigration status in Canada if I report my abusive partner?

**Not necessarily.** It depends on your status and your situation. Your partner may threaten you with deportation – but they do not have that power. Only federal immigration authorities can make decisions about your status under immigration law.

- **If you are a permanent resident or citizen:** Reporting abuse will not cause you to lose your status, even if your partner sponsored you. However, abusive partners sometimes make false claims (e.g. saying your relationship was “fake” or that you lied in your application), and these accusations can put your immigration status at risk. It is important to get legal advice right away.
- **If you are being sponsored by your spouse or common-law partner:** These sponsorships require you to live with your partner. If you leave, your application will be cancelled. If your sponsor withdraws the application or makes false claims, you could face an investigation or possible removal. Seek legal advice as soon as possible if you are in this situation.

### Other options:

- You may qualify for a **Temporary Resident Permit (TRP) for victims of family violence**, which allows you to stay in Canada for at least 12 months and may be extended.<sup>17</sup> TRPs can provide:
  - Healthcare through the Interim Federal Health Program (IFHP);
  - A work or study permit (if you apply); and
  - TRPs for your children in some cases.
- You may also be able to apply for **permanent residence on Humanitarian and Compassionate (H&C) grounds**, especially if you have strong ties to Canada or children whose best interests are at stake.<sup>18</sup>
- Other possible options include refugee protection or extensions of temporary status, depending on your circumstances.

You can call the police, go to a shelter, or access community supports regardless of your status and without losing your status. However, note that if you already have an immigration warrant, police contact could result in Canada Border Services Agency being notified.

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If you are criminally charged – for example, because your partner falsely accuses you – immigration authorities may be informed. **Always seek advice from a lawyer or legal clinic to understand your options and protect your status.**

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## 16. Will I lose my immigration status if authorities find out about my HIV status?

**No. Being HIV positive is not a reason to lose your status or be removed from Canada.**

HIV status can be considered during immigration applications, as many applicants must complete an Immigration Medical Exam (IME) which includes an HIV test. Therefore, if you have already applied for permanent residence, a work permit, or other status requiring an IME, immigration authorities already know your status.

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For more information, see the HIV Legal Network's *Immigration and Travel to Canada for People Living with HIV – Questions and Answers*: [www.hivlegalnetwork.ca/site/immigration-and-travel-to-canada-for-people-living-with-hiv-questions-and-answers/?lang=en](http://www.hivlegalnetwork.ca/site/immigration-and-travel-to-canada-for-people-living-with-hiv-questions-and-answers/?lang=en) 

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## RESOURCES AND SUPPORT

If you are facing violence, discrimination, or legal concerns, the following legal organizations and services can help. Many are free and confidential.

### Lawyer Referral Services:

#### Alberta

##### Law Society of Alberta

[www.lawsociety.ab.ca](http://www.lawsociety.ab.ca) • 1-800-661-9003

##### Legal Aid Alberta

[www.legalaid.ab.ca](http://www.legalaid.ab.ca) • 1-866-845-3425

#### British Columbia

##### Law Society of British Columbia

[www.lawsociety.bc.ca](http://www.lawsociety.bc.ca) • 1-800-903-5300

##### Legal Aid BC

[www.legalaid.bc.ca](http://www.legalaid.bc.ca) • 1-866-577-2525

#### Manitoba

##### Law Society of Manitoba

[www.lawsociety.mb.ca](http://www.lawsociety.mb.ca) • 1-855-942-5571

##### Legal Aid Manitoba

[www.legalaid.mb.ca](http://www.legalaid.mb.ca) • 1-800-261-2960

#### New Brunswick

##### Law Society of New Brunswick

[www.lawsociety-barreau.nb.ca](http://www.lawsociety-barreau.nb.ca)

506-458-8540

##### Legal Aid Services

[www.legalaid-aidejuridique-nb.ca/home](http://www.legalaid-aidejuridique-nb.ca/home)

506-462-2290

#### Newfoundland and Labrador

##### Law Society of Newfoundland & Labrador

[www.lsnl.ca](http://www.lsnl.ca) • 709-722-4740

##### Legal Aid NL

[www.legalaid.nl.ca](http://www.legalaid.nl.ca) • 1-800-563-9911

#### Northwest Territories

##### Law Society of the Northwest Territories

[www.lawsociety.nt.ca](http://www.lawsociety.nt.ca) • 867-873-3828

##### Legal Aid NWT

[www.justice.gov.nt.ca/en/legal-aid](http://www.justice.gov.nt.ca/en/legal-aid)

1-844-497-1319

#### Nova Scotia

##### Nova Scotia's Barristers' Society

[www.nsbs.org](http://www.nsbs.org) • 902-422-1491

##### Nova Scotia Legal Aid

[www.nslegalaid.ca](http://www.nslegalaid.ca) • 1-877-420-6578

#### Nunavut

##### Law Society of Nunavut

[www.lawsociety.nu.ca](http://www.lawsociety.nu.ca) • 844-979-2330

##### Legal Services Board of Nunavut

[www.nulas.ca](http://www.nulas.ca) • 1-866-240-4006

## Ontario

### Law Society of Ontario

[www.iso.ca](http://www.iso.ca)  • 1-800-668-7380

### Legal Aid Ontario

[www.legalaid.on.ca](http://www.legalaid.on.ca)  • 1-800-668-8258

## Prince Edward Island

### Law Society of Prince Edward Island

[www.lawsocietypei.ca](http://www.lawsocietypei.ca)  • 902-566-1666

### Legal Aid PEI

<https://www.princeedwardisland.ca/en/information/justice-and-public-safety/legal-aid> 

## Quebec

### Barreau du Quebec

[www.barreau.qc.ca](http://www.barreau.qc.ca)  • 1-844-954-3411

### Commission des services juridiques

[www.csj.qc.ca](http://www.csj.qc.ca)  • 1-800-842-2213

## Saskatchewan

### Law Society of Saskatchewan

[www.lawsociety.sk.ca](http://www.lawsociety.sk.ca)  • 1-833-733-0133

### Legal Aid Saskatchewan

[www.legalaid.sk.ca](http://www.legalaid.sk.ca)  • 1-800-667-3764

## Yukon

### Law Society of Yukon

[www.lawsocietyukon.com](http://www.lawsocietyukon.com)  • 867-668-4231

### Yukon Legal Services Society

[www.yukonlegalaid.ca](http://www.yukonlegalaid.ca)  • 867-667-5210

## Local sexual assault centres, crisis lines, and support services:

<https://endingviolencecanada.org/sexual-assault-centres-crisis-lines-and-support-services> 

## Legal Rights Resources:

**CLEO – Do You Know a Woman Who Is Being Abused?** A Legal Rights Handbook (while the handbook focuses on Ontario, it includes helpful basic information for all women in Canada): [www.cleo.on.ca/en/publications/handbook](http://www.cleo.on.ca/en/publications/handbook) 

**Canadian Women’s Foundation – Are You Being Abused?:** [canadianwomen.org/wp-content/uploads/2017/09/CWF-Avon-TipSheet2-EN-web-RevisedJan2017.pdf](http://canadianwomen.org/wp-content/uploads/2017/09/CWF-Avon-TipSheet2-EN-web-RevisedJan2017.pdf) 

**Family Law Education for Women (focuses on Ontario):** [www.onefamilylaw.ca](http://www.onefamilylaw.ca) 

**Luke’s Place – Family Court and Abuse Resources:** [www.lukesplace.ca/resources](http://www.lukesplace.ca/resources) 

**Luke’s Place – Intimate Partner Violence and Racialized Women:** <https://lukeplace.ca/intimate-partner-violence-and-racialized-women> 

**BC Civil Liberties Associations – The Arrest Handbook:** <https://bccla.org/resource/the-arrest-handbook-2023> 

**Barbara Schlifer Commemorative Clinic – Race, Gendered Violence, and the Rights of Women with Precarious Immigration Status:** <https://schliferclinic.com/wp-content/uploads/2018/03/Race-Gendered-Violence-and-the-Rights-of-Women-with-Precarious-Immigration-Status.pdf> 

## HIV Legal Network:

**Indigenous Communities - HIV, Privacy, and Confidentiality:** [www.hivlegalnetwork.ca/site/know-your-rights-indigenous-communities-hiv-privacy-and-confidentiality](http://www.hivlegalnetwork.ca/site/know-your-rights-indigenous-communities-hiv-privacy-and-confidentiality) 

**Black Communities - HIV and the Criminal Law in Canada:** [www.hivlegalnetwork.ca/site/black-communities/?lang=en](http://www.hivlegalnetwork.ca/site/black-communities/?lang=en) 

**Special Considerations for Advising Sexual Assault Complainants Living with HIV:** <http://www.halco.org/wp-content/uploads/2022/12/Special-Considerations-for-Advising-Sexual-Assault-Complainants-Living-W...pdf> 

**Responding to the Criminalization of HIV Transmission or Exposure - Resources for lawyers and advocates:** [www.hivlegalnetwork.ca/site/responding-to-the-criminalization-of-hiv-transmission-or-exposure-resources-for-lawyers-and-advocates-2](http://www.hivlegalnetwork.ca/site/responding-to-the-criminalization-of-hiv-transmission-or-exposure-resources-for-lawyers-and-advocates-2) 

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