



# KNOW YOUR RIGHTS

A GUIDE FOR INDIGENOUS WOMEN  
LIVING WITH HIV AND AFFECTED BY  
INTIMATE PARTNER VIOLENCE



**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.

# KNOW YOUR RIGHTS

## A Guide for Indigenous 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 Indigenous communities, recognizing the unique forms of anti-Indigenous 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 Indigenous women, these decisions are shaped by systemic and intersecting forms of oppression which are further complicated for those who are Two-Spirit, or who use(d) drugs or engage(d) in sex work. These realities can make it harder to access support, 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, Indigenous organization, shelter, or survivor support centre. These organizations may be able to offer support and help you navigate your options.***

# GIKENDAN JI-IZHI- GANAWAABANDIYAN

Gikinoowaabanda'iwewin ozhibii'igan onji oshki obimaadizi ikwewag bimaadiziwaad onji hiv zhigo gaa- izhisemagag onji wiibiingeng owijjiwaaganan ji- wiisagaapinanzhiweng.

**Owe gikinoowaabanda'ive ozhibii'igan onji ikwewag gaa-bimaadiziwaad onji HIV izhisewiwaad — gemaa iniwewizhid izhi — wiibiingeng owijjiwaaganan ji-wiisagaapinanzhiweng (IPV).** IPV dagwaginde izhi zoongiziwin, inamanjimowin, inendamowin, wiibiingewin, gemaa zhooniyaawin aanimitoonan onji megwaa gemaa izhkwaach owijjiwaagan. Gaawiin eta wiisagendamowin: idash ge gaawiin gwayak onji inaakonigewin. IPV bigo awiya daa izhisemagan- apiitendang onji ingwe ikwewag, dago niizhowi ikwewag, Niizhoo-Ojaakowin, zhigo gaawiin-niizho awiyag e'bimaadiziwaad onji HIV. Owe gikinoowaabanda'ive ozhibii'igan ozhichigaade onji wiinawaa oshki obimaadiziig izhidaaniwanan, ji-nisidawinaageng maamakaadiziwinan onji gaawiin izhi-oshki obimaadiziig izhichigewin, gaa-mamizhiinged, zhigo zhiingezhiwewin daa izhisemagag onji IPV zhigo HIV.

**Gaawiin inaakonigewin gakina gegoo wiindamaagesii izhi IPV zhigo HIV, zhigo aanind gegoo gaa ozhibii'igaadeg izhi inaakonigewin gaawiin bane'igo wegonen daa-izhisemagag.** Aanind awiya, izhaawaad izhi zhimaaganish, namaadamaagewininiwag, gemaa onashowewigamig daa inendamooowag mii iwe gwayak doodamowin. Aanind bakaan awiya, gaawiin iwe izhi. Onji oshki obimaadizi ikweg, onwen inendamowinan izhisewan onji gaa doodang zhigo naagishkaadiwang izhi maji-doodamowin idash zanaganoon onji ingweg Niizho-Ojaakowin, gemaa daa abajitoowaad maji mashkiki gemaa doodang izhi wiibiingewi anokiiwin. Onwen gikenjigaadewinan daa zanagadinoon ji-ayaayan wijji'iwewin, debwetaagoowin, gemaa aabajitoowin gi-ganawaabandiyanan.

***Megwaa owe gikinoowaabanda'ive ozhibii'igan ateg inaakogewin gaa-dibaadodeg mamaazhiwinan, gaawiin iwe daabishkoo inaakogewin wiindamaagewin. Giishpin andendaman inaakogewin wiindamogewin giin onji izhiseg, daga ganoonsh namaadamaagewinini. Zhigo ge gidaa ganoonaa ingwe AIDS ganawaabandangewaad, Oshki obimaadizi ganawaabandangewaad, ozhigaazowin, gemaa ishkwaniidiwin wijji'iwewinigamig. Magishaa onwen ganawaabandangewinan gidaa wijji'igoog zhigo wijji'ig ji-gwayak doodaman.***



# KISKÊYIHTA KIMIYIKOSIWINA

**Kiskinohtahiwêwin kiki nêhiyaw iskwêwak  
ka-pimatisihôcik asici hiv mîna kakwâtakihtawin  
ohci wîcimosa kitimahtâsowin**

ôma kiskinohtahiwêwin êwako kiki iskwêwak ka-pimatisihôcik asici HIV ka-môsihocik — ahpô astâsowân ohci — wîcimosa kitimahtâsowin (IPV). IPV êwako asici kakwâtakihêwin, kisiwêyihamowin, pîkwêyihamowin, ahkwâtisiwin, ahpô sôniyâwa ohcinêwin ohci mastaw ahpô kayahtê wîcimosa. namôy piko mâyi-tôtawêwin: mâma mîna asicâyihk wiyasiwêwin. IPV ta-kî-âyimihikow piko awiyak — ohtitaw ôta iskwêwak, asici êyihkwêwak, ahcahkowinâniwiw, mîna pâh-pîtos nisitawêyihâtakosiw ayisiyiniw ka-pimatisihôcik asici HIV. ôma kiskinohtahiwêwin kî-ôsîhtâniwan âsônê itapisiniwin isi nêhiyaw mâmawâyâwinihk, nistawinamowin mâmaskâci pâh-pîtos-âya pîtotêyimowina ohci nêhiyawak pakwâcikêwin, âtawêyihamowin, êkwa pakwâsiwêwin êkwânihi wiyahâtaw sa kiskêyihamowina ohci IPV êkwa HIV.

wiyasiwêwin namôy pisiskêyiham kahkiyaw mawinêskâkêwina êkwânihi isi IPV êkwa HIV, mîna atiht ispayiwina kîkway ka-masinahikâtêk isi wiyasiwêwin namôy nôkosîtam kîkwaya ka-ispayikihk. kiki atiht, wîcihowin ohci simâkanisak, opîkiskwêstamâkêwak, ahpô wiyasiwêwinohk êwako tâpiskôc katawa yahkohtêwin. kiki kotakak, namôy êkosi isi. kiki nêhiyaw kiki iskwêwak, ôhi itêyihamowina nôkwanwa ohci âyimihiwêwina mîna nanâtohkânôwin itowahk ohci kakwâtakihiwêwin kiko ayiwâk nêsowan kiki êkwâniki ahcahkowinâniwiwak, ahpô ka-kî-âpacihtaw (ak) maskihkiya ahpô kî-nitawi (wak) isi ahkwâtisiwin. ôhi kiskêyihamowina nawac âyimihowan ta-kahcitina sîtoskâkêwin, ta-tâpwêyihahk, ahpô tâpowakêyiham sa miyikowiwin.

**âta ôma kiskinohtahiwêwin ihtakon kwayaskomiwêwin, namôy  
pêyakwan kakêskimiwêwin. kîspin kinitawêyihâm kakêskimiwêwin  
kiki tipiyaw ispayiwin, mahti kahcitin opîkiskwêstamâkêw. ka-kî-nôhtê  
pîkiskwâtawak AIDS pamîstakêwin mâmawohkamâtowin, nêhiyaw  
mâmawohkamâtowin, nâtâmototamowin, ahpô paspîwiyiniw sîtoskâkêwin  
kamik. ôhi âmawohkamâtowina ta-kî-mâtinamâkêwak mîna ka-wîcihikwak  
ta-nâkatohkatamin ki-nawasonikêwina.**

# KJIJITE'N KI'L TETPAQA'QEWYML

**Ta'n ila'kwenawek ukjit l'nu'skwe'jk mimajultijik weskunmi'tij hiv aqq we'tuweyakwi'tij ta'n kesalti'titl tekweyati'titl matntl**

Ula ila'kwenawek na ukjit E'pijik mimajultijik ala'tu'tij HIV ta'n na telitpia'tijik — kiswa lukwaqna'lukwi'tij ta'n — tekweyati'titl kesalti'titl matntl (IPV). IPV wiaqtek ktinin, teleyimk, telita'simk, kepaqseyuksin, kiswa suliewey ewlo'tasik ta'n na nike' tekweyatioq kiswa tekweyatioqip. Mu na pasik lukwaqna'tikektnuk: katu elt na mu asite'tasiktnuk tplutaqniktuk. IPV ta'n pasik wen kisi-we'tuweyakutew — wiaqpultijik tett na e'pijik, wiaqiw e'pit-ji'nmuk, Tapui-Kjijaqmij, aqq mu-nastaqpulti'k mimajuinu'k mimajultijik ala'tu'tij HIV. Ula ila'kwenawek na kisitasiksip elt ta'n piltuwamu'k ankaptmk ta'n L'nue'kati'l, mikuaptmk na kelu'k telikkl ta'n mu-L'nuey telaptasik, penoqo'tasimk, aqq penoqite'tikemk ta'n telika'toq nekemowk telitpia'tijik ta'n IPV aqq HIV.

Ta'n tplutaqn na mu maliaptmukl msit lukwaqnikl wiaqtekl na IPV aqq HIV, aqq na kijka' telitpiaql ta'n na ewikasik na tplutaqniktuk mu apajapa'siktuk ta'n telitpiaq na amal-tl-lukwemk. Ukjit kijka', eli-ktuwapsimk nuji-kla'qa'taqetite'wk, tplutaqne'k, kiswa ta'n nuji-ilsutekemkl jiptuk tlo'ttew nkutey na inaqney elkusuwasik. Ukjit ktikik, jiptuk ma na. Ukjit L'nu'skwe'jk, ula kisite'tasikl na telika'tasikl na telitasik aqq sa'se'wa'sik telikkl ukjit wetqutasik na me' metuwe'k ukjit ta'n na Tapui-kjijaqmijmultijik, kiswa ta'n ewe'wmi'titl kepaqsamu'kl kiswa tel-lukwutijik ta'n kepaqseyuksin elukwen. Ula ketloqoe'l kisa'tutew naji-mtuwe'k ukjit msnmn apoqnmasuti, ketlamsitasik, kiswa ewe'wmi'titl nekemowk tetpaqa'qeweymual.

**Ke'sk ula ila'kwenawek wiaqtek tplutaqney ewikasik, mu na newte' tele'ktnuk nkutey tplutaqney aknutmaq. Ki'l ta'n tujiw nuta'n tplutaqney pipanikesimk ukjit ki'l telitpien, tl-wla'li kisapsken na tplutaqney. Ki'l jiptuk ma'wt ajipjutsk klulan na ta'n AIDS tel-lukwek toqi-lukwutijik, L'nuey toqi-lukwutijik, inkwasimk, kiswa mimajimk apoqnmasutiuo'kuo'm. Ula toqi-lukwutikl jiptuk na kisi iknmultaq apoqnmasuti aqq apoqnmultaq kwilmn ki'l mekenemnl.**

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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.** Indigenous women and girls in Canada face disproportionately high rates of IPV due to the ongoing impacts of colonialism, systemic racism, and state violence. In 2018, 61% of Indigenous women reported experiencing IPV in their lifetime, compared to 44% of non-Indigenous women.<sup>1</sup> Confidence in the criminal legal system is also lower — only 55% of Indigenous women report having confidence in the police, compared to 71% of non-visible minority women — reflecting generations of systemic racism, discriminatory policies, and the ongoing legacy of colonialism.<sup>2</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 making disclosure, treatment, or care unsafe. Stigma, poverty, racism, 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>3</sup> IPV also raises the risk of acquiring HIV by reducing autonomy in sexual relationships or drug use.<sup>4</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 consequences, and/or impacts on children or relationships. If possible, 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>5</sup> Many of these approaches draw on Indigenous traditions and teachings that focus on repairing harm and restoring balance within the community, though they are often used today without proper recognition of their origins. 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 or an Indigenous 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.”<sup>6</sup>**

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 or Indigenous 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 Criminalization – Information for Indigenous Communities*, at [www.hivlegalnetwork.ca/site/our-work/indigenous-communities/hiv-criminalization-information-for-indigenous-communities/?lang=en](http://www.hivlegalnetwork.ca/site/our-work/indigenous-communities/hiv-criminalization-information-for-indigenous-communities/?lang=en) .

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## HIV criminalization in Canada

HIV disproportionately impacts Indigenous people.<sup>7</sup> Although Indigenous people represent 5% of the total population, they accounted for over 18% of new HIV cases in 2020 and about 10% of the 62,790 people living with HIV that year.<sup>8</sup> Indigenous populations are diverse, with distinct histories, languages, and cultural traditions. But across communities, higher rates of HIV are linked to the ongoing, multigenerational effects of colonialism, the residential school system, and systemic racism. These systemic factors also contribute to the overrepresentation of Indigenous people in the criminal legal system and in prison, including in relation to cases of HIV non-disclosure.<sup>9</sup>

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.

For Indigenous people facing criminal charges, the *Criminal Code* and the Supreme Court of Canada’s decision in *Gladue* require judges to consider unique historical and systemic factors known as *Gladue* factors. These must be considered at bail hearings, sentencing, and other stages of the criminal process. *Gladue* applies to all Indigenous Peoples, including status and non-status First Nations, Inuit, and Métis, regardless of whether they live on or off reserve. If you are charged with a crime, inform your lawyer and work with them to obtain a *Gladue* report. If you do not have a lawyer, ask to speak with an Indigenous court worker or community organization at the courthouse.

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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. No Canadian court has definitively confirmed this. **Even so, your safety is what matters most.** AIDS service organizations and Indigenous 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, including Indigenous women, have been charged for non-disclosure in the context of abusive relationships – a clear injustice in a system that often fails survivors, including Indigenous survivors.

**To date, no Canadian court has clearly ruled on 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.

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**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.

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## 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>10</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>11</sup> This does not require police involvement and help 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>12</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.

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**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 Indigenous, Two-Spirit, and/or have had negative experiences with the legal system. For some, taking legal action may escalate abuse, draw unwanted attention, or create criminal and/or family policing (often referred to as “child protection services” 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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▲ ARTWORK ABOVE PROVIDED BY **JASMINE CAFFYN**

## 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>13</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 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 Indigenous community groups can work with you on a safety plan and get other forms of support, like mental health supports.


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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) 

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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 helping women fleeing violence, including trans women and those with children and pets, and can often help connect you with long-term resources.<sup>14</sup> Local women's centres, Indigenous friendship centres, 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, often these programs remain insufficient, inadequate, or inaccessible to meet survivors' needs.<sup>15</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>16</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>17</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 Two-Spirit, trans, or gender diverse.**

For example:

- Lack of culturally appropriate or responsive services;
- 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 such as only recognizing cis-women can make shelters unsafe for Two-Spirit or trans people.

Such restrictions likely violate human rights protections, but 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 Indigenous organizations 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.** Reporting violence in your relationship does not automatically mean that child protection services will get involved. Indigenous family services are guided by national standards that focus on the best interests of the child, cultural continuity, and Indigenous rights.<sup>18</sup>

Indigenous communities also have the recognized authority to design and deliver their own child and family service systems, based on their own laws, teachings, and traditions. These systems vary across communities – some are self-governing, while others work in partnership with provincial, territorial, or federal governments.

Where Indigenous family service agencies are not available, provincial and territorial CPS laws apply. When deciding whether to get involved, child and family service workers must look at the full picture of a child's life: their safety, family and community relationships, cultural identity, and any exposure to violence in the home. Exposure to IPV may be considered when assessing whether a child is at risk, but it does not automatically lead to an investigation.

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**Indigenous-led approaches often emphasize keeping families and communities together.** Because each community's system may work differently, it is best to contact a local Indigenous organization or child and family service agency to learn how these processes work where you live.

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Despite some reforms, Indigenous families continue to face systemic discrimination in CPS – a reality rooted in Canada’s ongoing colonial history, including the residential school system and the Sixties Scoop. Today, Indigenous children account for over half of all children in the foster system despite representing a much smaller percentage of the population.<sup>19</sup>

Indigenous mothers in particular have been harshly judged and unfairly surveilled for parenting while living in poverty, using drugs, or experiencing violence.<sup>20</sup> These judgments often ignore systemic factors – such as lack of housing, inadequate access to healthcare, and intergenerational trauma – that shape families’ circumstances.

This history and ongoing discrimination explain why many Indigenous families may not trust CPS. Too often, these systems have caused harm through family separation, loss of culture, and lack of culturally safe services. Building trust requires systemic change, accountability, and Indigenous-led supports that keep families safely together.

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**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, Indigenous community organization, shelter, or support worker, who can help connect you to legal help that is attentive to your cultural, racial, and linguistic realities.

# 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, among other grounds.

If your parenting is being unfairly questioned, you can contact a community legal clinic or 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, an Indigenous organization, shelter, or support worker, who can help connect you to HIV- and IPV-informed legal help.



ARTWORK ABOVE PROVIDED BY LORETTA GOULD

## 12. Do I have to tell CPS 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 HIV, though in practice this is not always the case. Indigenous women and children in particular are disproportionately targeted by CPS in Canada.

**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.

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

**No. Your HIV status alone should not affect custody or parenting decisions.** Decisions about parenting and custody must always be based on the best interests of the child, taking into account the child's safety, relationships, and overall well-being. Fear, stigma, or discrimination about HIV should never play a role.

When deciding what is in the best interests of an Indigenous child, decision-makers are expected to look at the whole picture. This includes the child's age and developmental needs; their relationships with parents, caregivers, and extended family; and their views and wishes, depending on their age and maturity. It also includes the child's cultural identity and connection to their language, territory, and community; any plans for their care in line with community customs or traditions; and whether there has been any family violence and its impact on the child.

**If your HIV status is being used unfairly 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, Indigenous community 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 they 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, including by the systems that are meant to support families.

**How CPS responds depends on where you live.** Family policing laws vary across Canada. In some jurisdictions, drug use and sex work may be treated as a basis for reporting or investigation, while in others they may not. It is best to connect with a community legal clinics, AIDS service organization, shelter, or local Indigenous organization to learn more about how it works in your community.

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, cultural support person, or Elder.

**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.**

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## RESOURCES AND SUPPORT

If you are facing violence, discrimination, or legal concerns, the following 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](http://www.legalaid-aidejuridique-nb.ca)

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

[www.princeedwardisland.ca/en/information/justice-and-public-safety/legal-aid](http://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> 

## Helpful 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) 


**BCCLA – The Arrest Handbook:** <https://bccla.org/resource/the-arrest-handbook-2023> 


**CAAN & Dr. Peter Centre:**


- **Creating Safer Spaces: Knowledge Bundle 1:** [www.drpeter.org/media/CAAN%20knowledge%20bundle%201%20SCREEN%20Mar.2024.pdf](http://www.drpeter.org/media/CAAN%20knowledge%20bundle%201%20SCREEN%20Mar.2024.pdf) 
- **Child Apprehension & Trauma-Informed Principles: Knowledge Bundle 2:** [www.drpeter.org/media/CAAN%20Knowledge%20Bundle%202%20SCREEN%20Mar2024.pdf](http://www.drpeter.org/media/CAAN%20Knowledge%20Bundle%202%20SCREEN%20Mar2024.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) 

**HIV Criminalization – Information for Indigenous Communities:** <https://www.hivlegalnetwork.ca/site/our-work/indigenous-communities/hiv-criminalization-information-for-indigenous-communities/?lang=en> 

**Special Considerations for Advising Sexual Assault Complainants Living with HIV:** [www.halco.org/wp-content/uploads/2022/12/Special-Considerations-for-Advising-Sexual-Assault-Complainants-Living-W...pdf](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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1240 Bay St. Suite 600, Toronto, ON M5R 2A7, Canada  
Phone: +1 416-595-1666

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