



KNOW YOUR RIGHTS

PARENTING
CHILDREN
LIVING WITH HIV



Know Your Rights: Parenting Children Living with HIV

Finding out that your child has HIV can be challenging news to receive. You might feel overwhelmed and have a lot of emotions and questions. That's completely normal.

The good news is that people living with HIV today can get effective medical care and treatment, including HIV medications called antiretroviral therapy (ART). With the right care, people living with HIV can live long, healthy lives with relationships, friendships, families, and goals, just like anyone else.

Knowing your child has HIV may raise questions about your and their rights and responsibilities when it comes to HIV, including who to tell, when to tell them, and how to do it.

This guide will provide you with information about some of the legal rights and responsibilities that apply in the context of a child (i.e. a person under 18 years old) living with HIV.

This guide provides legal information, not legal advice. **Legal information** explains laws, rights, and legal processes in a general way. **Legal advice** means getting guidance from a lawyer about your specific situation. If you need legal advice, you should retain a lawyer. (See page 9 for information about how to find a lawyer.)

The law can change over time. This guide was written in January 2026, so you may want to check with a lawyer or legal clinic to get the most up-to-date information.



Acknowledgements

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 that contribute to the disproportionate impact of the HIV epidemic on Indigenous communities.

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.

Funding was provided by the Public Health Agency of Canada. The opinions expressed in this publication are those of the authors and do not necessarily reflect the official views of the Public Health Agency of Canada.

Graphic Design: Ryan White, RGD / Mixtape Branding

Translation: Josée Dussault / Nota Bene Communication

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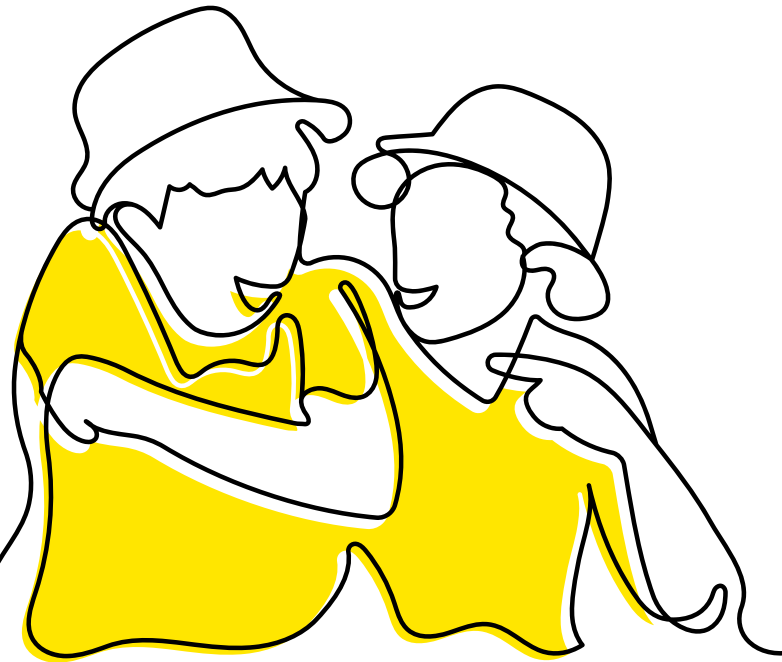
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Every child has a right to have their **best interests** taken into account as a primary consideration in all actions that concern them. Best interests broadly refers to that which is best for each child, considering the child’s views, identity, family environment and relationships, safety, health, education, and **evolving capacities** (i.e. their growing abilities and maturity as they age).



1. At what age can a child make their own healthcare decisions?

In most of Canada, **your child does not need to be 18 to make healthcare decisions on their own.**¹ What matters is whether they understand the information presented and the consequences of those decisions — and many young people do understand.

The “mature minor” rule

In most provinces, there is no set age for when a young person can seek out and consent to healthcare. Instead, healthcare providers must use the “mature minor” rule. Under this rule, a young person can make decisions about their health if a healthcare provider believes the young person understands:

- The testing and/or treatment;
- The possible risks and benefits; and
- What could happen if they say yes or no to the healthcare offered.

The rule applies to many types of care, including (but not limited to):

- HIV testing;
- HIV treatment (such as starting or continuing ART);
- Sexually transmitted and blood-borne infections (STBBI) testing;
- Birth control and pregnancy-related care; and
- Mental health support.

This means many young people can get an HIV test or start HIV treatment without needing a parent’s permission, if they’re able to understand the decision.

A doctor or nurse will apply the “mature minor” rule on a case-by-case basis. They assess whether a young person has the maturity and understanding to make their own healthcare decision.

EXAMPLE: Alex, 16, wants to start HIV treatment, but does not want to tell their parents about their HIV status. They understand how the medication works and why it is important. Their doctor decides Alex is a “mature minor.” Alex is able to start the treatment without involving their parents. ■

¹ For information on your jurisdiction, see Canadian Bar Association, *Age and Healthcare Rights Appendix*, at <https://cba.org/resources/practice-tools/the-cba-child-rights-toolkit/age-and-healthcare-rights-appendix/>.

Presumed capacity

Some provinces set a general age at which young people are presumed capable of making their own healthcare decisions. This does not replace the “mature minor” rule. Instead, it works as a legal shortcut: once a young person reaches that age, healthcare providers in a province can usually assume the young person has the capacity to consent without needing to assess their maturity in detail:

- In **Manitoba, New Brunswick, and Newfoundland and Labrador**, capacity is presumed at 16.
- In **Quebec**, youth aged 14 and older can usually consent to their own healthcare. Parental consent is generally only required for care involving serious risk, which does not include standard HIV testing and treatment.

Younger youth in these provinces may still be able to consent to healthcare on their own if they show enough maturity.

In practice, many young people who seek HIV testing or care are capable of consenting on their own because these decisions are usually considered straightforward and low risk.

Best Practices: When should parents tell their children that they are living with HIV?

Parents should tell a child about their HIV status by the time the child is able to make their own healthcare decisions. Doctors and parents can work together to decide when the child is ready.

It’s also important to think about when a young person may become sexually active. Youth who are living with HIV need to be able to make informed decisions about sexual activities and safer sex. They also need to be aware of their obligations under Canadian criminal law to let sexual partners know (“disclose”) their HIV status if there is a “realistic possibility of transmission.”

Young people who are living with HIV and who are becoming sexually active need clear information about safer sex, HIV prevention options, and their legal responsibilities. For more information, see our [Know Your Rights: HIV Criminalization](http://www.hivlegalnetwork.ca/site/know-your-rights-hiv-criminalization) (www.hivlegalnetwork.ca/site/know-your-rights-hiv-criminalization).

2. Who can be held legally responsible in cases involving children and youth?

Criminal laws in Canada have been used to charge and convict people living with HIV in some circumstances. This has led to concerns about how far the law can reach, including when children or youth are involved. Here we explain how Canadian law approaches legal responsibility for youth and parents.

Parents and criminal liability

In Canada, **parents are not usually legally responsible** if their child is charged with, or convicted of, a crime. Parents are not punished for their child's actions.

A child under 12 cannot be criminally charged. Youth between the ages of 12 and 17 are considered under the *Youth Criminal Justice Act*, which focuses more on support and rehabilitation rather than on punishment alone. Cases are heard in youth court, where a judge can order many outcomes such as community service, counselling, or custody. In some cases involving very serious or violent offences, youth over 14 may receive adult sentences and face adult penalties under the *Criminal Code*.

Civil liability (outside Quebec)

Separate from criminal law, **a person can sometimes be taken to court for monetary damages**. This is called civil liability and does not involve police or criminal punishment. In rare cases, this includes claims related to HIV.

In most of Canada, people under 18 cannot sue or be sued in their own name. When a youth is involved in a civil case, they need a litigation guardian — an adult who helps make legal decisions.

Courts recognize that youth have different levels of experience and capacity than adults. When deciding whether a young person is legally responsible in a civil case, courts consider:

1. Whether the youth was capable of understanding and carrying out the act (considering their age, intelligence, and experience); and
2. Whether they acted with the level of care expected of someone their age, intelligence, and experience.

Courts compare the youth's actions to what a "reasonable youth" of similar age, intelligence, and experience would have done. If the youth's actions fall below what would be expected of a "reasonable youth" in the same situation, they may be held responsible.

Older youth closer to the age of majority who engage in "adult activities" are more likely to be held to a "reasonable adult" standard. The age of majority varies across Canada:

- 18 in **Alberta, Manitoba, Ontario, Prince Edward Island, Quebec, and Saskatchewan.**
- 19 in **British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, and Yukon.**

Civil liability in Quebec

In Quebec, parents with parental authority over a child can be held civilly responsible for harm caused by their child (under 18). "Harm" can include physical injury, emotional harm, or damage to property.

The law assumes that parents have a legal duty to guide and supervise their children. Judges consider factors such as:

- Whether the parent could have predicted or prevented the situation;
- Custody and the level of supervision provided;
- The child's age, character, and behaviour; and
- Values taught, examples set, and behaviour allowed.

The older the child, the less likely the parents will be held responsible, especially when the child is almost 18.

Youth in Quebec can also be held civilly responsible for harm they cause as long as they are capable of understanding right from wrong. Courts assess this on a case-by-case basis. Courts have found that children develop this capacity as young as seven years old.

3. What can you do if someone shares your child’s HIV status without consent?

Your child’s HIV status is private health information. No one has the right to share it without permission — not a friend, partner, family member, teacher, classmate, or anyone online. Sharing someone’s HIV status without consent is a **privacy breach**.

EXAMPLE: Your child’s former friend posts on Snapchat, “FYI, they’re HIV-positive.” Even if that former friend thinks they are “warning” others, this is a serious violation of your child’s privacy. ■

EXAMPLE: Nina, 17, tells someone she is living with HIV during a private Instagram conversation. A few days later, screenshots of the conversation are shared in a WhatsApp group at school, and people begin talking openly about her health status.

Even though Nina chose to share her status with one person, she did not consent to it being shared with others. Sharing screenshots that reveal someone’s HIV status can be a serious breach of privacy and Nina may have legal options. Steps Nina (or a parent) can take include:

- Saving the screenshots and messages;
- Writing down who shared the information and where;
- Reaching out to a trusted adult, youth worker, and/or HIV organization; and
- Talking to a lawyer or legal clinic about options. ■

Suing for breach of privacy

Privacy laws vary across Canada, so legal options depend on where the privacy breach occurred. In some places, it may be possible to sue if someone publicly shares private information about your child’s HIV status.

In **Ontario, Alberta, Nova Scotia, and Saskatchewan**, courts have recognized lawsuits for “public disclosure of private facts.” This can include:

- Posting screenshots of private conversations;
- Tagging someone in a post that reveals their status; or
- Spreading their status in large group chats.

In **Ontario**, it may also be possible to sue for “intrusion upon seclusion,” such as when someone:

- Accesses private health records;
- Snoops through a phone; or
- Reads private messages without permission.

In **Quebec**, the *Civil Code of Quebec* and the *Quebec Charter of Human Rights and Freedoms* provide strong privacy protections. You may be able to sue if someone reveals a child’s HIV status, online or offline.

Even in provinces or territories that have not formally recognized these kinds of privacy lawsuits, courts may still allow a case in which someone’s HIV status was shared without consent.

Lawsuits can lead to financial compensation, but amounts awarded may be small. Note that lawsuits can be expensive, time-consuming, and emotionally difficult. There is no guarantee of success.

You are not alone. If someone exposes your child’s HIV status, it can feel scary and isolating. Support is available. You can reach out to:

- your local AIDS service organization;
- a trusted friend, youth worker, or outreach worker;
- a community health or legal clinic; and/or
- a lawyer (the only person who can give legal advice).

Privacy laws can be complicated and change often. It’s important to contact a lawyer or legal clinic in your province or territory. For help finding a lawyer, [contact your local law society](http://www.cba.org/public/legal-resources/legal-links/law-societies) (www.cba.org/public/legal-resources/legal-links/law-societies).

4. What happens if a healthcare professional shares your child's HIV status without consent?

Healthcare professionals, including doctors, nurses, counsellors, and social workers, have a legal and ethical duty to keep health information private.

There are limited situations — depending on the province or territory — where disclosure without consent may be allowed or required. If a disclosure does not fit one of these exceptions, it may be a breach of privacy.

EXAMPLE: A healthcare clinic staff member tells a friend about your child's HIV test results without permission, or the information is written on a chart that other patients or staff can see. **This is a breach of confidentiality.** ■

If you believe your child's privacy has been breached by a healthcare provider, **write down exactly what happened.** Notes can help you remember key details if you do decide to make a complaint or take legal action.

Your options include:

- **Speaking to the healthcare provider or facility directly** — many health facilities have privacy officers who handle these issues.
- **Filing a complaint with your provincial or territorial Privacy Commissioner** (or ombudsperson) — these offices can investigate and help resolve these issues.
- **Submitting a complaint with a regulatory college** — these colleges oversee healthcare professionals (such as doctors or nurses) and investigate and discipline members who breach privacy rules.
- **Considering legal action** — depending on where you live, you might be able to sue for breach of privacy.

Because laws differ across the country, it's important to get advice from a lawyer, legal clinic, or youth-friendly legal service in your province or territory.

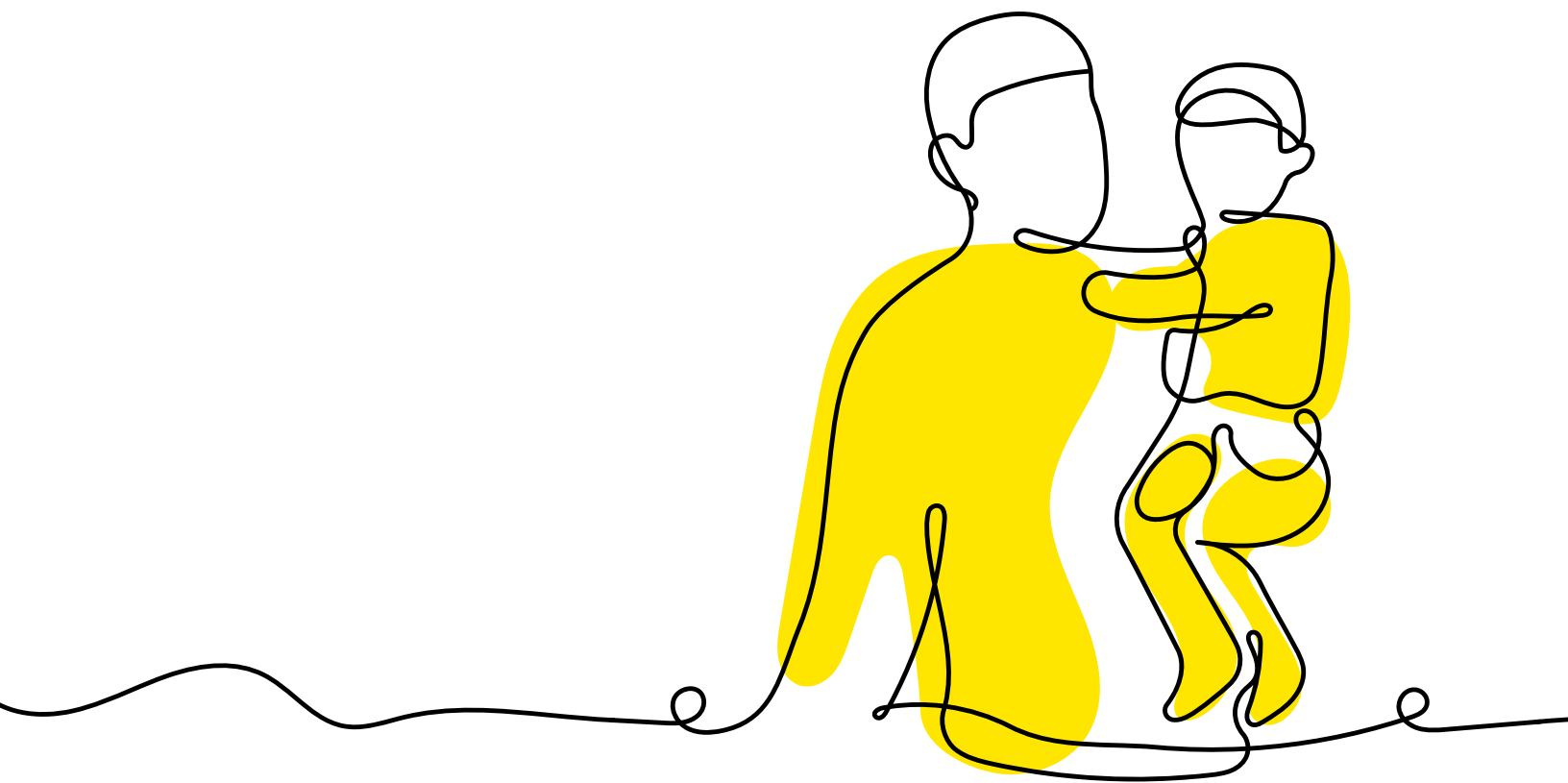
5. Does your child's HIV status need to be shared with schools or daycares?

In most situations, **there is no legal duty to share your child's HIV status with a school or daycare.** HIV status is personal health information.

HIV cannot be spread through casual contact or through bodily fluids including sweat, saliva, or vomit. This means everyday activities such as sharing toys, snacks, or playing together do not pose any risk. **People might worry about spitting, scratching, biting, or contact during sports, but HIV transmission in this way is extremely rare and would require serious injury with blood involved.**

A child's HIV status should only be shared with school authorities if it is truly necessary to protect the child or public health. Even then:

- Only the staff who need to know should be informed; and
- Schools cannot require disclosure as a condition for enrolment or attendance.



6. What if a school or daycare learns about your child's HIV status?

If a school or daycare learns about a child's HIV status, **it must be kept confidential with very limited exceptions**, regardless of the source of the information. The information cannot be shared with other students, parents, or teachers without consent. Privacy must be respected, even if the school learns about the information from someone other than the child or their parents.

How schools handle health information

In provinces such as **Alberta, Ontario, Newfoundland and Labrador, New Brunswick, Nova Scotia, and Prince Edward Island**, schools must report a student living with (or suspected of having) HIV to the provincial Medical Officer of Health. Even then, the information must remain confidential within the public health system.

In some provinces, a **Medical Officer of Health** may (in rare cases) place limits on certain activities for health or safety reasons. This usually only happens when there is a specific risk of blood exposure, for example, due to a child's neurological disorder. These decisions must be reviewed regularly.

Recourse

If your child's HIV status is shared without permission in a school or daycare setting, you may have legal options. Write down what happened, when it happened, and who was involved. Contact a lawyer, a legal clinic, or a privacy commissioner for advice. An HIV organization can also help you navigate the process and support you emotionally.

Note, most privacy laws only apply to people working in an official role (such as teachers, principals, or health professionals). If someone outside these roles shares a child's HIV status, legal options may be more limited. In some cases, civil legal action may still be possible (see Question 3 above).

Best Practices: Who should I tell about my child's HIV status?

To whom you should voluntarily disclose your child's HIV status can be a complicated question. Children have agency, and parents who only rely on their own discretion can destabilize a child's sense of self. On the other hand, enforcing "secrecy" or "privacy" can lead to feelings of shame and stigma.

In general, consider waiting until your child is old enough to take part in decisions about who knows their HIV status. As with all decisions related to your child's HIV status, it is important you consider their best interests and evolving capacities.

7. What can you do if someone discriminates against your child based on their HIV status?

Under Canadian human rights law, students in both public and private schools are protected from discrimination based on disability, which has been interpreted in the law to include HIV status. This protection falls under the right to equality. A student cannot be treated unfairly or denied access to education because of their disability, gender, race, sexual orientation, or other protected characteristics, and schools are required to have policies in place to address discrimination and provide a safe learning environment.

If a school treats a student differently, excludes them, or refuses to support them because of their HIV status, that counts as **discrimination** and is against the law.

EXAMPLE: A teacher refuses to let a student join a sports team because the student is living with HIV, even though HIV cannot be spread through contact in sports. This is discrimination. ■

If your child experiences unfair treatment related to their HIV status, start by writing down what happened including dates, what was said or done, and who was involved. You can then contact a teacher, principal, or guidance counsellor for support.

If the issue is not resolved at the school level, you can file a complaint with your province or territory's human rights commission or tribunal. Each jurisdiction has its own process and deadlines for filing a complaint. Filing a human rights complaint is free and you do not *need* a lawyer. That said, getting advice from a lawyer or community legal clinic can be helpful.



8. What accommodations can schools offer for students living with HIV?

In Canada, all public and private schools, from preschool all the way to college and university, **must support students with disabilities, including students living with HIV.**

To prevent discrimination, schools have a legal **“duty to accommodate.”** That means they must make reasonable changes or provide support so that students with disabilities can fully participate in school.

Schools must provide accommodations unless doing so would cause **“undue hardship,”** which is a very high standard. Undue hardship usually only applies if an accommodation would cause serious cost issues or create real health and safety risks to others. Accommodations should always be tailored to the student’s individual needs — there is no one-size-fits-all solution.

When asking for accommodation, parents or students might need to share some information about the student’s health needs. **This does not automatically mean disclosing HIV status.** In some cases, a medical diagnosis may be required for the accommodation, but **any personal health information must be kept confidential** and shared only with the people who need it to put the accommodation in place.

Examples of accommodations may include:

- Changes to the classroom or physical environment;
- Flexibility with classwork or deadlines;
- Extra support in the classroom;
- Transportation support; and/or
- Additional time for tests.

Schools should provide accommodations as soon as possible and check in regularly to monitor and evaluate the accommodation so it can be adjusted over time if necessary.

EXAMPLE: A high school student is on HIV treatment that sometimes causes fatigue and nausea in the morning. Rather than disclosing HIV status, the school accepts a short medical note explaining that the student has a health condition affecting energy levels. The student is given flexibility with morning deadlines, allowed short breaks, and permitted to write tests later in the day. Only the guidance counsellor and relevant teachers are aware of the accommodation. ■



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