



First Nations Health Authority
Health through wellness

QUESTIONS & ANSWERS

Possession of small amounts of drugs to be decriminalized – but not legalized – in BC

What is happening with the decriminalization of drugs in BC?

On May 31, 2022, Health Canada approved BC's request to decriminalize the possession of small amounts of certain illegal drugs for a period of three years, beginning on Jan. 31, 2023. Health Canada's approval comes in response to BC's Nov. 1, 2021 submission of an "exemption request" under Canada's *Controlled Drugs and Substances Act*.

While BC has a long way to go in addressing the toxic drug crisis – which remains a public health emergency – Health Canada's decriminalization announcement marks an important turning point in treating substance use as a health rather than a criminal matter. The shift toward a public health response to the crisis will provide greater opportunities for people who use substances to connect with a growing range of harm reduction and treatment options.

Who is affected? How much can a person possess without it being a crime?

As of Jan. 31, 2023, all adults 18 and older in BC will be able to possess up to 2.5 grams of certain illicit substances without being subject to fines, arrest or drug seizures. The 2.5 gram calculation is "cumulative" – the weight of all drugs combined.

What substances will no longer be criminal to possess?

The drugs being decriminalized are:

- opioids (e.g., heroin and fentanyl)
- cocaine (powder or crack)
- methamphetamines (meth)
- MDMA (ecstasy)

For the most part, these particular drugs are being decriminalized because they are the substances that are poisoned in BC's toxic drug supply.

Will drugs be legal?

No. **Decriminalization is not legalization.** The selling or trafficking of drugs of any weight will remain illegal once decriminalization goes into effect in 2023. There will not be government-approved systems for the manufacturing or sale of these substances, as is the case for cannabis. Possession of drugs above the cumulative weight threshold will also remain criminal and people may be charged for having them.

What will this look like in First Nations communities?

How decriminalization is implemented in First Nations communities has not yet been determined. This will be informed by upcoming engagement with First Nations, which is being organized by the First Nations Health Authority (FNHA) and BC's Ministry of Mental Health and Addictions (MMHA). An ongoing discussion in BC's process of developing its decriminalization proposal was the possibility of some flexibility around threshold amounts (the most someone can possess without it becoming a crime) in rural and remote parts of the province. The MMHA reiterated this possibility after Health Canada's approval of the exemption request.

What are the likely impacts of decriminalization on people who use illegal substances?

The decriminalization of people who use drugs is one important step in responding to BC's toxic drug poisoning emergency, which has had a tremendous impact on First Nations people in BC. Over 1,000 First Nations people's lives have been lost in the province since the public health emergency was declared in 2016.

Decriminalization will both recognize those who use substances and reduce the stigma and shame around substance use. This will mean that many people are likely to be more open about their substance use, talk about it with friends, families and care providers, and feel like they do not have to hide their use – and use alone, where no one is available to provide naloxone or call for help.

However, the FNHA also anticipates a longer-term reduction in the many harmful impacts that criminalization has on the determinants of health and wellness. This includes the consequences of a criminal record on employment, housing and child custody, and the health effects of incarceration such as mental health impacts, higher transmission rates of blood-borne infections and greater risk of overdose upon release.

How has the government engaged with Indigenous communities and organizations so far, and what will this look like going forward?

The FNHA actively participated on BC's Decriminalization Core Planning Table (CPT), which drafted BC's proposal to Health Canada. The BC First Nations Justice Council, Métis Nation BC, and the BC Association of Aboriginal Friendship Centres also contributed to the CPT, as did representatives of several organizations that represent people who use drugs. The FNHA agreed to work with the province on the exemption request because decriminalization is likely to be an important step to addressing the toxic drug crisis. The FNHA also recognizes that the criminalization of people who use drugs contributes to the massive over-incarceration of First Nations people in BC.

As part of Health Canada's exemption, the federal government instructed BC to "uphold the spirit and principles of reconciliation under the BC *Declaration on the Rights of Indigenous Peoples Act*, and continue to consult with Indigenous governments, communities, partners and experts when working towards the implementation of the exemption. As the plan indicates, it is essential that BC MMHA engage with individual Indigenous communities through town hall discussions and one-on-one meetings as needed and provide Health Canada with updates following these sessions, and prior to coming into effect of the exemption."

In collaboration with BC's MMHA, the FNHA is planning a series of engagements with First Nations communities on decriminalization this summer, including two provincial town hall meetings in early July. These meetings are an opportunity to discuss how decriminalization will be implemented in First Nations communities when it goes into effect in 2023. Additional consultation at the regional level is planned by the provincial government following the July town hall meetings.

If we are in a public health emergency, why doesn't decriminalization take effect until January 2023?

Health Canada delayed implementation by eight months, which they determined to be the amount of time it will take for BC to prepare for the new approach to drug possession. The steps the federal government has instructed BC to undertake before January 2023 include: conducting public education around the new approach, retraining police to not arrest people with small amounts of drugs nor seize their drugs, developing locally relevant informational materials to help connect people who use drugs to health and social supports, including harm reduction and treatment services, consulting with Indigenous peoples around implementation in communities, and expanding BC's substance use system of care.

What happens next?

Once decriminalization is a reality, the FNHA will work with provincial partners to monitor and evaluate BC's approach to decriminalization, which may lead to further policy changes based on emerging evidence.

An important question for both First Nations engagement and the evaluation phase will be the appropriateness of the 2.5 gram cumulative threshold – especially in rural and remote areas. The threshold does not presently account for regional variations in purchasing and possession patterns, in which it is common to see higher quantities of substances being purchased in rural and remote areas.

Where can I find out more about this exemption?

Health Canada's exemption is explained in more detail [here](#).

What other work is happening to address the impact of the toxic drug crisis on First Nations people?

Working closely with First Nations communities and regional teams, the FNHA has developed a broad range of programs and initiatives to respond to the toxic drug poisoning crisis. This holistic response – ranging from prevention to harm reduction supports to treatment services to aftercare – is trauma-informed and grounded in culture, ceremony and community. Specific initiatives include the expansion of treatment and healing centres, distribution of naloxone and training people to use it, provision of harm reduction supplies, development of Indigenous-focused overdose prevention sites, hiring of regional staff focused on harm reduction education and peer support, prescription of opioid agonist therapy (OAT), distribution of harm reduction-related grants, and support for families and friends who have lost a loved one to the toxic drug supply.

**More information on FNHA's work to address the crisis can be found [here](#).
FNHA's [Policy on Harm Reduction](#) includes decriminalization as an emerging direction**