

HALCO provides free legal services for people living with HIV in Ontario

Dignity

Equity

Justice



Summer 2018



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HALCO highlights

Casework:

- HALCO staff responded to 4,423 legal issues from April 1, 2017 to March 31, 2018.

Public Legal Education:

- In the period April 2017 through March 2018, we provided 98 public legal education workshops at events, conferences and community organizations across Ontario. Please see page 25 for information about our workshops.
- We held the 16th and 17th series of our ever-popular free public legal education workshops in November-December 2017 and May-June 2018.
- HALCO staff also appeared in the media, including in the *Law Times*: End legal stigma against people with HIV: www.lawtimesnews.com/article/end-legal-stigma-against-people-with-hiv-15628/.

Law Reform and Community Development:

www.halco.org/our-services/law-reform-community-development.

Some of the recent activities we have been involved with include:

- **Excessive Demand Medical Inadmissibility of Immigrants:** See article on page 9.
- **HIV stigma case at Federal Court:** HALCO and the Canadian HIV/AIDS Legal Network jointly intervened at the Federal Court regarding HIV-related stigma in a sponsorship application (November 2017). www.halco.org/2018/news/federal-court-immigration-decision.
- **Ontario Income Security Roadmap for Change:** HALCO made submissions in January 2018. www.halco.org/2018/news/ontario-income-security-roadmap-halco-submissions
- **Ontario Human Rights Code Amendment:** HALCO and a coalition of community organizations supported proposed amendments to expand human rights protections for vulnerable Ontarians (December 2017). www.halco.org/2018/news/6338.
- **Right to equitable, non-discriminatory access to medical services:** HALCO, the Canadian HIV/AIDS Legal Network, and the Canadian Professional Association for Transgender Health jointly intervened in a matter in Ontario's Superior Court of Justice (Divisional Court). www.halco.org/2018/news/ontario-court-confirms-patient-rights.
- **Above Guideline Rent Increases:** HALCO joined the call to change the system of Above Guideline Increases for residential tenants in Ontario (February 2018). www.halco.org/2018/news/agi-halco-letter.

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- **Legal Aid Ontario Racialized Communities Strategy:** HALCO hosted an HIV-specific consultation session in April 2018. www.halco.org/2018/news/lao-racialized-communities-strategy-consultation.
- **Trusts and Access to Social Assistance:** HALCO and the Income Security Advocacy Centre (ISAC) intervened at the Supreme Court of Canada to ensure that the Supreme Court's decision does not have a negative impact on people in receipt of social benefits (April 2018). www.halco.org/2018/news/trusts-and-social-assistance-scc-2018.
- **Expungement of Historically Unjust Convictions Act:** HALCO and the Canadian HIV/AIDS Legal Network submitted a brief arguing that the Act, which purports to address criminal offences used against LGBTQ2S+ people, does not address the full range of laws that unjustly and disproportionately affected and continue to affect LGBTQ2S+ people and inhibit their access to HIV prevention, care, treatment and support (April 2018). www.halco.org/wp-content/uploads/2018/04/Bill_C-66-Submission2018Apr.pdf.
- **Online Reputation:** HALCO and the Canadian HIV/AIDS Legal Network submitted a brief in response to the call for comments by the Office of the Privacy Commissioner of Canada on its Draft Position on Online Reputation (May 2018). www.halco.org/wp-content/uploads/2018/05/OnlineReputation-OPC-2018Apr.pdf.
- **Health care in Ontario provincial correctional facilities:** HALCO, the Canadian HIV/AIDS Legal Network and Prisoners with HIV/AIDS Support Action Network (PASAN) provided comments to the Ministry of Health and Long-Term Care and the Ministry of Community Safety and Correctional Services (May 2018). www.halco.org/wp-content/uploads/2018/05/CorrectionalHealthCare-Submission2018May.pdf.
- **Toronto Community Housing Corporation (TCHC) proposed Accommodation/Accessibility Transfer Policy:** HALCO met with TCHC staff and provided written submissions (March-June 2018). www.halco.org/wp-content/uploads/2018/06/TCHC-HALCO-Sub2018June.pdf.
- **Challenging the deduction of Canada Pension Plan Disability (CPP-D) from private insurance long-term disability benefits:** HALCO, the Income Security Advocacy Centre (ISAC) and ARCH Disability Law Centre intervened as coalition in this important case at the Human Rights Tribunal of Ontario (June 2018). See page 11.
- **End Unjust HIV Criminalization:** HALCO, the Canadian HIV/AIDS Legal Network, Pride Toronto and the Ontario Working Group on Criminal Law and HIV Exposure hosted a community dialogue on June 14, 2018.
- **Pride Toronto 2018 Parade:** Parade commemorated 35 years of AIDS activism. HALCO staff, Canadian HIV/AIDS Legal Network staff and community volunteers marched at the head of the Toronto Pride Parade wearing **HIV IS NOT A CRIME** t-shirts.

HALCO

HIV & AIDS Legal Clinic Ontario

HALCO Annual General Meeting Tuesday October 23, 2018, at 6 p.m.

Save the Date!

Our 2018 Annual General Meeting will take place on Tuesday evening October 23, 2018, at 6 p.m. at our offices at 55 University Avenue, 14th Floor Room H2, Toronto, Ontario (just south of King Street West and the accessible St. Andrew subway station). Please save the date and plan to attend.

The agenda will include presentation of our **Annual Report 2017-2018**, approval of minutes of our 2017 annual general meeting, election of board of directors, auditor's report, appointment of auditors and other business. Light refreshments will be provided.

Our **Annual Report 2016-2017** and our **Strategic Plan 2017-2022** are available on our website:

www.halco.org/2017/news/halco-annual-report-and-strategic-plan

Criminalization of HIV non-disclosure - important update

Canada has the dubious distinction of being a “world leader,” after the United States and Russia, in prosecuting people living with HIV. There have been at least 210 prosecutions, the overwhelming majority since 2004. Over half have taken place in Ontario, which makes the province a global hot spot for criminalizing people living with HIV. Alarming, since 2012, almost half of those charged in Canada are African/Caribbean/Black men, and there is deep concern that a trend is developing that sees the overrepresentation of Indigenous women.

In 1998, the Supreme Court of Canada (SCC) decided that people living with HIV have a legal duty to disclose their HIV-positive status to sexual partners before having sex that poses a “significant risk” of HIV transmission, which a Crown attorney must prove in court. The Crown attorney also must prove that a complainant would not have consented to the sexual activity in question had they known about their partner’s HIV-positive status.

In 2012, the SCC ruled that this means that people living with HIV have a legal duty to disclose before having sex that poses a “realistic possibility of HIV transmission.” Based on the SCC decision, there is no realistic possibility when a condom is used and the person with HIV has a viral load of under 1500 copies per millilitre (ml) at the time of the sexual activity. As a result, it became clear that there is a criminal law duty for people living with HIV to disclose their HIV status unless a condom is used and the person with HIV has a viral load of under 1500 copies per ml at the time of the sexual activity. The law surrounding oral sex remains unclear.



People who face criminal charges related to HIV non-disclosure are typically charged with aggravated sexual assault, on the theory that the absence of disclosure, when legally required, negates a partner’s consent to sex (and that HIV infection “endangers the life” of the sexual partner).

Aggravated sexual assault is one of the most serious offences in Canada’s Criminal Code: it carries a maximum penalty of life imprisonment and registration as a sexual offender for a minimum of 20 years.

(Criminalization of HIV - continues on page 6)

(Criminalization of HIV - continued from page 5)

Despite the requirement that the Crown prove a “realistic possibility of transmission,” charges continue to be brought even when people living with HIV:

- have no intent to transmit HIV,
- engage in behaviours that, based on medical evidence, effectively pose negligible to no risk of transmission, and
- do not transmit HIV to their sexual partners.

In short, people with HIV are significantly over-criminalized in Canada. In addition to horrendous miscarriages of justice faced by individuals, the current use of the criminal law is bad public policy. Persons who are already vulnerable, such as those who do not have access to HIV medications or who are in abusive relationships, are at heightened risk of interaction with HIV criminalization. In particular, criminalization can have serious, adverse impacts on women living with HIV, especially those facing challenges due to socioeconomic status, discrimination, insecure immigration status or abusive or dependent relationships. An overly broad use of the criminal law also puts women at increased risk of violence and prosecution by providing a tool of coercion or revenge for vindictive partners.

The federal government itself recognized the problem in 2016, when federal Minister of Justice and Attorney General **Jody Wilson-Raybould** issued a World AIDS Day statement recognizing the ongoing problem of overly broad, unjust criminalization of people living with HIV, and signaled the federal government’s intent to address this critical issue in consultation with provincial/territorial counterparts, affected communities and medical professionals.

In response, HALCO and others continued the longstanding work on this issue of vital importance. For the history of the work in Ontario, please see the [timeline](#) on the website of the Ontario Working Group on Criminal Law and HIV Exposure (CLHE) (link 1 below).

On World AIDS Day in December 2017, Justice Canada released “**Criminal Justice System’s Response to Non-Disclosure of HIV**,” (link 2 below) which contains a number of important conclusions warranting a more limited application of the criminal law. In particular, the report explicitly recognizes that:

- (i) HIV is first and foremost a public health matter;
- (ii) use of the blunt instrument of the criminal law should be a matter of last resort; and
- (iii) the application of the criminal law to HIV non-disclosure is likely to disproportionately affect Indigenous, gay and Black people.

The report also recognizes that it is problematic, in at least some circumstances, to use the law of sexual assault to deal with allegations of HIV non-disclosure.

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(Criminalization of HIV - continued from page 6)

The report recommends, among other things, that the criminal law should not apply to people who have a suppressed viral load and should generally not apply to those who are not on treatment but use condoms or engage only in oral sex.

On the same day that the federal government released its report on the issue, Ontario finally took an initial step to bring the use of the criminal law in line with science and human when the then Ontario attorney general and minister of Health and Long-Term Care stated in a **joint statement** (link 3 below) that they “believe strongly that HIV should be considered with a public health lens, rather than a criminal justice one, wherever possible.” The statement further made it clear that “where an individual has a suppressed viral load (i.e., under 200 copies per ml) for six months, Ontario’s crown prosecutors will no longer be proceeding with criminal prosecutions.”

While the Ontario decision is welcome, there has been no announcement that Ontario will cease prosecutions against people living with HIV who do not have a suppressed viral load, even, for example, in circumstances relating to sex with a condom or oral sex.

As indicated for many years, and as reflected in a recently released **community consensus statement** (link 4 below) endorsed by more than 150 organizations across Canada, criminal prosecutions must be removed from the reach of sexual assault laws and be limited to cases of actual, intentional transmission of HIV. In addition, HIV-related criminal charges are not appropriate where a person living with HIV engaged in activities that, according to the best available scientific evidence, posed no significant risk of transmission, which include:

- (i) anal or vaginal sex without a condom while having a low viral load;
- (ii) oral sex; and
- (iii) anal or vaginal sex with a condom.

We are deeply concerned that Ontario will continue its overzealous approach by continuing to prosecute those who do not have a suppressed viral load, even in circumstances relating to sex with a condom or oral sex. Not only does this approach run counter to the federal recommendations and standards that have been recommended repeatedly, it would also

- (i) perpetuate stigma and discrimination against people living with HIV;
- (ii) ignore scientific evidence;
- (iii) continue unjust criminalization; and
- (iv) be bad public policy.

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(Criminalization of HIV - continued from page 7)

Among other reforms, the federal government must amend the law and create prosecutorial guidelines for prosecutors in the territories (where the federal government has the responsibility to administer justice). In addition, Ontario must, among other reforms, review historic convictions and immediately cease prosecutions in relation to oral sex and sex with a condom.

For the list of recommendations for the federal government, see the **community consensus statement** (link 4 below). For the list of recommendations for the Ontario government, see the **brief** presented by CLHE at a Ministerial Roundtable in April 2018 (link 5 below).

In addition, the recently released (July 2018) “**Expert consensus statement on the science of HIV in the context of criminal law**” (link 6 below) encourages governments and those working in legal systems to pay close attention to the science of HIV in order to ensure that current scientific knowledge informs the law related to HIV.

HALCO will continue to do its utmost, in partnership with people living with HIV and human rights organizations, to ensure that the law is brought in line with science and human rights in a manner that is supportive of HIV-related care, treatment, support and prevention.

The law related to criminalization is complex and rapidly evolving and could change at any time. Anyone living with HIV in Ontario who has questions about criminalization, disclosure or any other legal issue can contact us for free legal advice (see page 24).

Links:

1. Ontario Working Group on Criminal Law and HIV Exposure (CLHE) timeline <http://clhe.ca/advocacy-timeline>.
2. Justice Canada “Criminal Justice System’s Response to Non-Disclosure of HIV”: https://www.canada.ca/en/department-justice/news/2017/12/government_releasesreportonthecriminalityofhivnon-disclosure.html
3. Ontario attorney general and minister of Health and Long-Term Care joint statement: <http://clhe.ca/owg-criminal-law-hiv-exposure/wp-content/uploads/2018/04/Ontario-AG-and-MOHLTC-WorldAIDSDay2017statement.pdf>
4. Community Consensus Statement: <http://www.hivcriminalization.ca/community-consensus-statement/>
5. Ontario Working Group on Criminal Law and HIV Exposure (CLHE) brief: http://clhe.ca/owg-criminal-law-hiv-exposure/wp-content/uploads/2018/05/Brief_Ministerial-Meeting_FINAL.pdf
6. Expert consensus statement on the science of HIV in the context of criminal law: <https://onlinelibrary.wiley.com/doi/full/10.1002/jia2.25161>

Improvement to Canada's immigration medical inadmissibility regime

Many people living with HIV are no longer medically inadmissible to Canada.

On June 1, 2018, Immigration, Refugees, and Citizenship Canada (IRCC), announced major positive changes to the excessive demand medical inadmissibility regime.

Currently under the *Immigration and Refugee Protection Act*, foreign nationals are medically inadmissible as permanent residents to Canada if their health condition might reasonably be expected to cause an “excessive demand” on health or social services, or if their application to immigrate includes a family member in this situation. “Excessive demand” is defined in part by a cost threshold that results in many people living with HIV and other disabilities being considered medically inadmissible if they apply for temporary or permanent residence in Canada. Due to the high cost of antiretroviral medications, most people living with HIV were generally deemed medically inadmissible.

In April 2018, **Ahmed Hussien**, the Minister of Immigration, Refugees, and Citizenship announced that changes would be made to the excessive demand rules. On June 1, 2018, IRCC announced a *Temporary Public Policy Regarding Excessive Demand on Health and Social Services* (the “**Policy**”) that tripled the current cost threshold for excessive demand from \$6,604 per year to \$19,812 per year (<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/excessive-demand-june-2018.html>).

Under the Policy, officers can grant exemptions from excessive demand medical inadmissibility for temporary or permanent resident applications:

- that were received on or after April 16, 2018 or that were pending on this date; and
- where the cost of health and social services is less than \$19,812 per year for the next five years.

The Policy means that people who are eligible for this exemption will no longer be medically inadmissible when they apply for temporary or permanent residence in Canada. Since many anti-retroviral medications cost less than \$19,812 per year, this Policy means that many people living with HIV will no longer be medically inadmissible.

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(Medical inadmissibility - continued from page 9)

Despite the new Policy, many people with disabilities, including some people living with HIV, will continue to be medically inadmissible (e.g., if their medication cost is more than \$19,812 per year). This is unacceptable and discriminatory.

Minister Hussen has previously committed to work towards full repeal of the excessive demand regime: www.canada.ca/en/immigration-refugees-citizenship/news/2018/04/government-of-canada-brings-medical-inadmissibility-policy-in-line-with-inclusivity-for-persons-with-disabilities.html.

We call on the federal government to immediately fulfill its commitment to a full repeal of the excessive demand medical inadmissibility regime. HALCO will continue to work with our allies toward this goal.

People living with HIV in Ontario can contact HALCO for free legal advice about how the new Policy affects them. Lawyers can also contact us for more information about how the Policy will affect their clients living with HIV. Please see page 24 for information about contacting HALCO.

For further information on why the excessive demand medical inadmissibility regime is problematic, please read the joint HALCO and Canadian HIV/AIDS Legal Network submission to the Standing Committee on Citizenship and Immigration: www.halco.org/2018/news/medical-inadmissibility-of-immigrants-halco-and-legal-network-make-submissions-to-support-repeal.

The Government of Canada website provides more information about the Policy:

- www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/excessive-demand-june-2018.html.
- www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/standard-requirements/medical-requirements/refusals-inadmissibility/excessive-demand-on-health-social-services.html.



Challenge of deduction of Canada Pension Plan Disability benefits from long-term disability benefits

HALCO, the [Income Security Advocacy Centre \(ISAC\)](#) and [ARCH Disability Law Centre](#) intervened as a coalition in an application before the Human Rights Tribunal of Ontario (HRTO) about the deduction of Canada Pension Plan Disability benefits from long-term disability benefits. At the hearing in June 2018, we argued that this deduction is discriminatory. You can read our coalition submission on our website: www.halco.org/wp-content/uploads/2018/06/PPP-D-and-LTD-subs2018June.pdf.

Long-term disability (LTD) benefits may be part of an employer's benefit/insurance plan or workers may pay for their own LTD insurance. LTD benefits provide vital income for workers who are unable to work due to disability. LTD benefits are usually less than the amount that the worker earned while working. With less income, the worker may struggle to pay their usual expenses and find it difficult to pay increased expenses they may have as a result of their disability.

Workers and employers contribute to the Canada Pension Plan (CPP) based on the worker's employment and income. CPP benefits include CPP Disability (CPP-D) benefits for workers who are unable to work due to a severe and prolonged disability. Workers who have less severe or prolonged disabilities may be eligible for LTD but not eligible for CPP-D.

LTD benefit policies often allow LTD providers to deduct a worker's CPP-D benefits from the worker's LTD benefits. As a result, the CPP-D benefits do not result in any increase in the total amount of benefits that the worker receives. Here is an example: a worker who is eligible for \$1,200 from LTD and \$800 from CPP-D will only receive a total of \$1,200 in benefits, so the result is that the LTD provider is actually paying less to workers who have the most severe disabilities (workers who qualify for CPP-D).

The HRTO application was brought by an employee of Ford Motor Company who qualifies for both CPP-D and for LTD through Ford's benefits plan. The Ford plan deducts the worker's CPP-D benefits from his LTD benefits. The worker is challenging this practice on the grounds that it discriminates against him on the basis of disability.

The decision in this case, which is expected in the coming months, could have a significant impact on the income of workers with disabilities who receive LTD and CPP-D benefits.

If you are living with HIV in Ontario, you can [contact us](#) for free legal advice about this or other legal issues (see page 24).

Cancelled: Ontario Basic Income Pilot and important improvements for Ontario Works/Ontario Disability Support Program

After years of study and consultation, some important improvements were initiated for Ontario Works (OW) and the Ontario Disability Support Program (ODSP) last year and earlier this year, with additional important improvements set to take place in autumn 2018.

The new provincial government, which took office in late June 2018, has:

- cancelled the improvements that were to have taken effect in autumn 2018, including:
 - cancelling the improvements for people on OW and ODSP who are working.
 - cancelling the expansion of the Remote Communities Allowance (the allowance assists with the higher costs that people living in remote communities face).
 - cancelling the change to the definition of spouse (it would have brought the definition in-line with family law in Ontario).
 - cancelling the expansion of gift and asset exemptions.
- cut the rate increases to 1 ½ % instead of the 3% and 2% increases that had been announced earlier this year.
- announced that it is cancelling the Basic Income Pilot project, which is about half-way through its three year term. People who agreed to take part in the Pilot had expected it to last the full three years and are now left with uncertainty about exactly how and when the Pilot will end, and what it will mean for them and their families.

The Income Security Advocacy Centre (ISAC) Press Release on July 31, 2018, outlines the changes that have been cancelled:

There is nothing compassionate about Minister MacLeod's announcement: Ontario's cuts to social assistance will hurt the most vulnerable in Ontario

Minister MacLeod's announcement to cut social assistance rates by 1.5 per cent will take approximately \$150 million out of the hands of people who are among the most vulnerable in Ontario.

"People on social assistance continue to live well below the poverty line and would have used the additional much-needed money to pay for basic necessities," says Jackie Esmonde, Staff Lawyer at the Income Security Advocacy Centre (ISAC).

(Cancellation of important improvements - continues on page 13)

(Cancellation of important improvements - continued from page 12)

Important reforms to meet the unique needs of Indigenous communities have also been put on hold. Ending these changes will have a very negative impact on people experiencing the deepest poverty in our province and demonstrates a profound disrespect for the needs of Indigenous people in Ontario.

Minister MacLeod also cut or cancelled other positive changes that were slated for this fall, including:

- Reducing the amount of money that people on Ontario Works (OW) and Ontario Disability Support Program (ODSP) can keep in their pockets while working.
- Cuts to other allowances such as the guide dog benefit for people with vision impairments and the advanced age allowance for people who are older.
- Cancellation of a change to the definition of “spouse” from three months co-habitation to three years.
- Cancellation of full basic benefits to people who get housing and food from the same provider, including many people living with disabilities.
- Cancellation of increased support to people living in Northern Ontario, where daily living costs are higher.

A backgrounder about the changes that have been cancelled is available here: <http://incomesecurity.org/public-education/important-changes-coming-to-ow-and-odsp-changements-importants-aux-programmes-dot-et-du-posph/>.

“The way forward for social assistance reform is already comprehensively mapped out and low-income people in Ontario have been through enough reviews about reform,” says Jennefer Laidley, Research and Policy Analyst at ISAC. “Community members and advocates fought for these changes for many years and Minister MacLeod’s announcement betrays their hard work and their expectations for a better future.”

The recommendations of the “[Income Security: A Roadmap for Change](#)” report should be implemented to support people in their efforts to participate in the labour market and in their communities.

The government is also breaking a campaign promise to keep the Basic Income Pilot Project. Four thousand Ontarians participating in this pilot project will see their lives turned upside down by this sudden decision.

[\(http://incomesecurity.org/policy-advocacy/ontarios-cuts-to-social-assistance-will-hurt-the-most-vulnerable/\)](http://incomesecurity.org/policy-advocacy/ontarios-cuts-to-social-assistance-will-hurt-the-most-vulnerable/)


As always, HALCO provides free legal advice for people living with HIV in Ontario (see page 24). Local community legal clinics can provide information about services in your community (see last page).

Encouraging overdose reporting: protection for “Good Samaritans” from some criminal drug charges

In response to Canada’s ongoing opioid overdose crisis, Parliament amended Canadian criminal law last year to reduce the legal risks for people who call for help in case of a drug overdose. Opioids include prescription drugs like Dilaudid, Oxycodone, Oxycontin, fentanyl and street drugs such as heroin. A growing number of people in Canada and Ontario are overdosing on opioids and dying from opioid overdoses. In Ontario there were 1,053 opioid-related deaths from January to October 2017, compared with 694 during the same time period in 2016.

Many people who use drugs are unwilling to call emergency responders because of fear that the police will charge them with a drug-related crime or a breach of parole conditions. The goal of the *Good Samaritan Drug Overdose Act* is to decrease the number of people who die from drug overdoses by encouraging people to report overdoses. A person who reports a drug overdose - a “Good Samaritan” - will not be criminally charged in a limited number of situations in relation to drug use when they call for help for their own overdose or for another person who is overdosing. To meet the goal of preventing overdose deaths, people who use drugs need to know about the new law.

The Canadian HIV/AIDS Legal Network, in collaboration with the Waterloo Region Crime Prevention Council, produced 50,000 wallet-size cards with vital information about the new law. The wallet card is in English and French (see next page). The wallet card tells people when they will be protected from criminal charges and when they will not be protected:

The law does provide protection against charges for	The law does not provide protection against charges for	See an overdose? Call 911 immediately.
Possessing drugs for your own use	Selling illegal drugs (trafficking): Police may suspect this if you have a large amount of drugs, cash or items like scales, baggies, and debt lists	<p>Under Canada's <i>Good Samaritan Drug Overdose Act</i>, if you seek medical help for yourself or for someone else who has overdosed, neither of you will be charged for possessing or using drugs, nor will anyone else at the scene.</p> <p>See the other side of this card to know exactly when the Good Samaritan law will and won't protect you against charges.</p> <p>Police may not always know about the law's protections.</p> <p>If you need legal help, call 1 (800) 668-8258 (toll-free) for Legal Aid Ontario or 1 (855) 947-5255 (toll-free) for Law Society Referral Service, also online at https://lsrs.lsuc.on.ca/lsrs.</p>
Violating conditions of your parole, bail, probation or conditional sentence for a simple drug possession charge	Offences other than drug possession	
	Any outstanding arrest warrants	
	Violating conditions of your parole, bail, probation or conditional sentence for an offence that is not simple possession	
<p>Endorsed by the Ontario Association of Chiefs of Police.</p> <p>Disclaimer: This is legal information — not legal advice. If you need legal advice, please consult a lawyer about your situation.</p> <div style="display: flex; justify-content: space-around; align-items: center;">   </div>		

(Encouraging Overdose Reporting - continues on page 15)

(Encouraging Overdose Reporting - continued from page 14)

Témoign d'une surdose? Appelez le 911 immédiatement.

Grâce à la *Loi sur les bons samaritains secourant les victimes de surdose*, au Canada, si vous utilisez des secours médicaux pour vous ou une autre personne, en situation de surdose, ni vous ni l'autre personne ne serez accusé de possession ou de consommation de drogues, ni personne qui est sur les lieux.

Consultez le verso de cette carte pour savoir exactement dans quelles circonstances la loi sur les bons samaritains vous protège, ou pas, contre des accusations.

Il peut arriver que des policiers ne soient pas au courant des protections qu'offre cette loi.

Pour recevoir de l'assistance juridique :

1 (800) 668-8258 (sans frais d'interurbain) pour l'Aide juridique Ontario; ou
 1 (855) 947-5255 (sans frais d'interurbain) pour le Service de référence du Barreau, qui est aussi en ligne à <https://lsrs.lsuc.on.ca/lrs>

La loi protège contre des accusations de	La loi <u>ne</u> protège pas contre des accusations de
Possession de drogues pour votre consommation personnelle	Vente de drogues illégales (trafic) : La police peut soupçonner cette activité si vous possédez une grande quantité de drogues ou d'argent, ou des objets comme une balance, des sachets à fermer ou une liste de personnes qui vous doivent de l'argent
	Délits autres que la possession de drogues
Violation de conditions de votre libération conditionnelle, cautionnement, probation ou peine d'emprisonnement avec sursis relativement à une accusation de simple possession de drogues	Tout mandat d'arrestation en instance
	Violation de conditions de votre libération conditionnelle, cautionnement, probation ou peine d'emprisonnement avec sursis relativement à une infraction autre que la simple possession

Approuvé par l'Association des chefs de police de l'Ontario.
Déni de responsabilité : Ce document offre de l'information juridique — ce n'est pas un avis juridique. Si vous avez besoin d'un avis juridique, veuillez consulter un-e avocat-e au sujet de votre situation.

The wallet cards have been distributed to people who use drugs and to a wide variety of service providers including volunteer organizations serving people at risk of experiencing or witnessing an overdose, and also to health, social service, government and law enforcement workers across Ontario.

You can order copies of the wallet card:

- on-line www.aidslaw.ca/site/see-an-overdose-call-911-immediately/?lang=en; or
- by calling 416-595-1666 x 243.

You can find information including a factsheet/poster in English and French on the Waterloo Region Crime Prevention Council website:

<http://preventingcrime.ca/our-work/overdose-prevention/>.

The government of Canada website also includes information about the law as well as a poster that you can download and print (available in English and French):

www.canada.ca/en/health-canada/services/substance-abuse/prescription-drug-abuse/opioids/about-good-samaritan-drug-overdose-act.html.

If you are living with HIV in Ontario and have questions about this or other legal issues, please **contact us** for free legal advice (see page 24).

“Fair Workplaces, Better Jobs” employment law update

The *Fair Workplaces, Better Jobs Act* made important improvements to Ontario’s employment laws. The Act was passed in November 2017 and many of the new rights for workers are in place. Here are some of the major changes that are now in effect:

Increased Minimum Wages as of January 1, 2018

- \$14 general minimum wage (was \$11.60)
- \$13.15 minimum wage for students under 18 who work part-time/during school breaks (was \$10.90)
- \$12.20 minimum wage for liquor servers (was \$10.10)
- \$15.40 minimum wage for home workers (was \$12.80)



Time off from work

- Ten days of personal emergency leave (PEL) for all workers and two of the PEL days must be paid. PEL days can be used when you are sick or injured, when a close family member is sick or injured, or when a close family member has an emergency. A doctor’s note is not required.
- 3 weeks’ paid vacation after 5 years of working at the same employer.
- Up to 10 individual days off and up to 15 weeks of leave if the worker or the worker’s child must seek help or move because of domestic or sexual violence. The first 5 days of this leave each year will be paid.

Equal pay and protections for equal work

- Employers cannot treat someone as an independent contractor when they are really an employee. It is now up to the employer to prove that the person is not an employee.
- Equal pay for part-time, temporary, casual and seasonal employees doing substantially the same job as full-time employees, but
 - employers can pay different wages based on seniority, merit or other factors.
 - employers cannot reduce anyone’s pay to comply with the equal pay rules.
- Equal pay for temp agency employees doing substantially the same job as permanent employees.
- Forming a union will be easier for homecare workers, building service workers, and temp agency workers. An employer must recognize a union if the majority of employees signs union cards.
- Under the *Occupational Health and Safety Act*, employers can no longer require that workers wear footwear with a high heel, except in cases where such footwear ensures workers’ safety (or for workers in entertainment and advertising industries).

(Employment Law Update - continues on page 17)

Employment law changes that are scheduled for January 1, 2019

These changes were initiated by the previous provincial government. Since the new provincial government took office in late June 2018, it is not known at this time whether these changes will take place or not.

More increases to Minimum Wages

- \$15 general minimum wage
- \$14.10 minimum wage for students under 18 (work part-time/during school breaks)
- \$13.05 minimum wage for liquor servers
- \$16.50 minimum wage for home workers.

Fairer scheduling

- Workers have the right to refuse shifts if the employer gives less than 4 days' (96 hours') notice.
- Workers have the right to ask for a schedule or location change after working at a company for 3 months.
- 3 hours of pay for shift cancellation with less than 2 days' (48 hours') notice.
- 3 hours of pay for on-call workers who are scheduled to be on-call but are either not called in or work less than 3 hours.

You can find more information about these and other important changes on the Government of Ontario website:

www.ontario.ca/page/plan-fair-workplaces-and-better-jobs-bill-148.



The law can be complicated and there may be exceptions or other factors that affect your employment rights.

If you are living with HIV in Ontario, please **contact us** for free legal advice about this or other legal issues (see page 24).

You can contact your local community legal clinic for information about services in your community (see last page).

New standard lease for private residential tenants

Ontario's new "standard lease" for landlords and tenants

As of April 30, 2018, most landlords and tenants in Ontario who enter into a lease for a private market residential rental unit must now use a standard form of lease for Residential Tenancy Agreements. You have the right to receive a tenancy agreement written on the standard lease and the landlord has a legal obligation to provide you with the standard lease.

The standard lease and a guide to the standard lease are on the Ontario government website (includes link to standard lease form and information other languages):

www.ontario.ca/page/guide-ontarios-standard-lease-newcomers.

Who must use the standard lease and how is it used?

Beginning on April 30, 2018, most landlords of private market residential rental housing in Ontario must use the standard lease. Private market residential units may include apartments, rental condominiums, houses, and units in homes (see below for information about units that are not private market).



In the standard lease, you and the landlord:

- fill in blanks and checkboxes.
- cannot change or cross out anything.
- can agree to add "additional terms". But the additional terms you agree to must not conflict with the law or with anything in the standard lease. For example, additional terms saying that you cannot have pets or cannot have guests would not be valid as they are against the law. Additional terms must be written on separate pages and attached to the standard lease. Additional terms have to be in plain language and clearly explain what you or the landlord can, cannot, or must do.

(New standard lease - continues on page 19)

Other rules about the standard lease include:

- you and the landlord must sign the standard lease no later than the day you are supposed to move in.
- time limits for the landlord to give you a copy of the standard lease that you signed.

If the landlord does not give you a standard lease, you can ask the landlord in writing to give you a standard lease. If the landlord does not, you may be able to withhold one rent payment and/or end your tenancy early. You should get legal advice before you withhold rent or attempt to end your tenancy early.

Leases before April 30, 2018

If you entered into a lease agreement **before** April 30, 2018, your agreement will not change unless you and your landlord agree to enter into a new lease.

Many people in Ontario live in other types of housing that are not private market residential rental housing. The new standard lease does not apply to units that are not private market, including:

- public, subsidized, or rent-geared-to-income (“RGI”) housing
- housing co-operatives (“co-ops”)
- mobile homes or land lease homes
- some transitional housing
- care homes, for example: retirement homes
- a rental unit that is sublet from an existing tenant
- a tenant who shares the kitchen or bathroom with the owner/owner’s family.
- some other types of housing.



The law about standard leases is complicated. If you are living with HIV in Ontario and have questions about your lease or tenancy, please **contact us** for free legal advice (see page 24). You can contact your local community legal clinic for information about your area (see last page).

HALCO Kreppner Awards 2018

- Call for Nominations

The late **James Kreppner** was a great friend to HALCO and to people with HIV and Hepatitis C. In recognition of James' innumerable contributions, HALCO established the **Kreppner Awards** in 2010. Presented at HALCO's annual general meeting, the awards recognize the efforts of people who have made significant contributions in advocacy for and support of people with HIV or people with HIV and Hepatitis C in Ontario, Canada.

Criteria

Up to two awards may be given in any one year. One recognizes outstanding achievements in the area of public service, and the other recognizes exceptional accomplishments that might go unheralded or be considered as within the private sphere ("unsung hero"). There is no requirement that awards be given every year.

Eligibility

Anyone who has been employed by, held office with, or received remuneration from HALCO within two years preceding the HALCO annual general meeting in autumn 2018 is ineligible to receive an award.

Nominations

Nominations should provide specific details of the nominee's accomplishments and relate the nominee's activities to the **Kreppner Award** criteria. Nominations should include a minimum of two letters of support. A committee appointed by HALCO's board of directors will acknowledge all nominations, review the nominations, and make a recommendation to HALCO's board of directors.

Candidates selected for an award will be notified by HALCO, and if nominees accept, awards will be presented at HALCO's 2018 annual general meeting in Autumn 2018. The closing date for nominations is Wednesday, September 12, 2018. Late submissions will not be accepted. Nominations must include the name and contact information of the person making the nomination. Nominations may be printed, written or typed, and delivered by hand, mail, courier, FAX or e-mail to HALCO at:

Kreppner Awards Committee
HIV & AIDS Legal Clinic Ontario (HALCO)
1400 - 55 University Avenue
Toronto, Ontario M5J 2H7
Fax: 416-340-7248 E-mail: talklaw@halco.org

The **Kreppner Awards 2018 – Call for Nominations** is also available on our website: www.halco.org/2018/news/kreppner-award-2018-call.

Fifth Increase to Legal Aid Ontario financial eligibility limits

Legal Aid Ontario (LAO) imposes financial eligibility guidelines for most legal aid services, including services provided by community legal clinics such as HALCO.

We welcome the fifth increase to Legal Aid Ontario financial eligibility guidelines, which took place on April 1, 2018. On November 1, 2014, the first increase since 1994 took effect. Annual increases followed on April 1 in 2015, 2016, and 2017. LAO announced that annual increases are planned through 2020. These increases to the LAO guidelines expand access to justice in Ontario as additional low-income people in Ontario become eligible for LAO services.

The financial eligibility guidelines for legal clinics are not the same as the guidelines for LAO services like certificates for representation by a private bar lawyer, duty counsel/advice, victims of violence, etc. You can find more information on the Legal Aid Ontario website: www.legalaid.on.ca/en/getting/eligibility.asp.

HALCO thanks funders and supporters

Core Funders: Legal Aid Ontario
AIDS Bureau, Ontario Ministry of Health and Long-Term Care

Funding Partner: M-A-C AIDS Fund

ViiV Healthcare: Grant in support of our articling student program

Individuals: To all those who support us in so many ways: thank you!

HALCO is a registered charity and welcomes donations. Tax receipts are issued for donations of \$20.00 or more. You can make a donation by clicking on the **DONATE** button on our website at www.halco.org or by contacting us (see last page).

HALCO

HIV & AIDS Legal Clinic Ontario

People

Staff Update

Welcome and farewell Heather Cohen (staff lawyer – contract)

Heather joined us in March 2018 as our litigation lawyer (contract) while staff lawyer **Khalid Janmohamed** is on leave. Heather worked on casefiles and supported our staff team in relation to litigation issues. We bid Heather farewell in August.

Welcome articling student Eddy Carroll

Eddy joined us in early July as our articling student for the 2018-2019 term and started working on a variety of matters right away.

Wishing articling student Alexander Hood all the best

Alex joined us as our articling student for the 2017-2018 articling term. In addition to handling many intake enquiries and numerous files, Alex also worked with our staff team on community development, law reform and public legal education initiatives. We wish Alex every success.

HALCO Board of Directors

HALCO's skilled and dedicated volunteer board members oversee our governance:

- **Jessica Demeria**
- **Judith Odhiambo**
- **Marcus McCann**
- **Maureen Owino**
- **Noah Aiken-Klar**
- **Robert Maich**
- **Robert Newman**
- **Rodney Kort**

For more information about our board and board committees, please contact us or visit **Get Involved** on our website:

www.halco.org/get-involved.

HALCO Staff

- **Amy Secord** (director of administration)
- **Amy Wah** (staff lawyer)
- **Clare McMullen-Crummey** (on leave)
- **Eddy Carroll** (articling student)
- **Glenn Betteridge** (staff lawyer)
- **Heather Cohen** (staff lawyer – contract)
- **Jack Martin** (staff lawyer)
- **Jill McNall** (community legal worker)
- **Khalid Janmohamed** (on leave)
- **Meagan Johnston** (staff lawyer)
- **Rick Lobodzinski** (admin. assistant)
- **Robin Nobleman** (staff lawyer)
- **Ryan Peck** (executive director/lawyer)

Legal Information and Legal Advice

It is important to understand the difference between legal information and legal advice.

Legal information is general and includes information that someone tells you and information in pamphlets, newsletters, websites, etc. Legal information can help you:

- identify a legal problem or issue.
- prepare to get legal advice.
- find legal advice.

Legal Advice is about you and your situation. Each person's situation is different and laws change all the time. If you have a legal question or problem, you need legal advice.

Who Can Give Legal Advice

Generally, only licensed lawyers and paralegals can provide legal advice in Ontario. There are some exceptions (see LSO website link below), but a licensed lawyer or paralegal would be the most appropriate source for legal advice for most individuals in Ontario who have a legal question or problem.



The Law Society of Ontario – LSO (formerly Law Society of Upper Canada) regulates the provision of legal services in Ontario. The LSO:

- regulates who can provide legal services.
- licenses lawyers and paralegals.
- sets rules for lawyers and paralegals, including rules related to confidentiality, insurance, and continuing professional development requirements.
- provides complaint mechanisms.



For more information about who can provide legal advice, please visit the LSO website: www.lsuc.on.ca/for-the-public/.

For more information about getting legal advice from HALCO, please see the next page (page 24). For general information about getting legal help, please see the last page.

Getting Help from HALCO

- Intake Process for New Inquiries

HALCO provides free legal services for people living with HIV in Ontario. Anyone living with HIV in Ontario can call us for free legal advice, information and referrals. There is no financial eligibility for our legal advice service.

We take new inquiries for legal advice during our intake hours: **Monday, Wednesday and Friday from 9 a.m. to 5 p.m.** (not Tuesday or Thursday). You can call us at 416-340-7790 or toll-free at 1-888-705-8889. The person who has the question or legal problem should be the one to **contact us**. Interpreters are available.

One of our HALCO caseworkers is assigned to respond to new intakes each intake day. You do not need an appointment for intake but depending on how busy we are, you may have to wait to speak with the caseworker on intake.

For new immigration/refugee inquiries: our reception takes information to book an appointment for you with one of our two immigration lawyers (you can choose a phone or in-person appointment).

Many legal matters have time limits called “limitation periods”. Please **contact us** as soon as you have a question or problem so that we can have enough time to try to help. Some matters may be complex and take a long time, while others may be brief.

Through our intake process, our staff may:

- assess your legal issue or issues
- talk about the laws and rules that may apply
- explain your options
- help you decide what to do
- help you to take action by:
 - helping you to represent yourself
 - representing you for your case, or
 - providing a referral to other services.



Sometimes we may not be able to help or we may not be able to get the result that you would like. We welcome your feedback and we also have a Complaint Process if you are not satisfied with our services.

People in Ontario can contact their local community legal clinic for information about services in their community: You can find local legal clinics using the Legal Aid Ontario website: www.legalaid.on.ca/en/getting/type_civil-clinics.asp.

HALCO public legal education workshops

HALCO staff organize, conduct and participate in public legal education events across Ontario and provide workshops on topics of interest to people with HIV as well as HIV-related legal issues for the broader community. We also hold a series of free legal education workshops at our office twice a year that is open to everyone.

Please **contact us** or visit the **Public Legal Education** section of our website for more information: www.halco.org/our-services/public-legal-education.

Our workshop legal topics include:

- HIV and the Law Overview
- HIV Disclosure and the Law: Criminal and Public Health Issues
- HIV and Immigration Law
- HIV and Privacy Law
- HIV and Private Insurance
- HIV and Employment Law
- HIV and Human Rights
- Medical Cannabis
- Planning for illness: legal information for people living with HIV in Ontario

Please **contact us** if you would like to request a workshop or our participation in an event (see last page for HALCO contact information).

HALCO website: www.halco.org



Our **What's New** website sidebar helps keep you up-to-date on current issues, announcements, events and more.

Our **Areas of Law** pages include information about many different legal topics: www.halco.org/areas-of-law.

You can apply to become a member of HALCO or to renew your HALCO membership: www.halco.org/getinvolved/membership.

HALCO Membership

HALCO's work is supported by our members. HALCO membership is free and renewed every 3 years. Please offer your support by becoming a member of HALCO.

If you are a resident of Ontario age 18 years or older, and you agree with our **Statement of Principles** (below), you can apply for HALCO membership.

Membership applications can be made:

- on our HALCO website: www.halco.org/get-involved/membership.
- by **contacting us** to ask for a membership application form by mail (please see last page for HALCO contact information).

Please note that HALCO membership has no effect on eligibility to receive legal services from HALCO.

Statement of Principles of the HIV & AIDS Legal Clinic Ontario Adopted January 30, 2006, by the Board of Directors

It is agreed that:

1. People living with HIV/AIDS are confronted with unique legal problems of enormous proportions and complexity;
2. Those best equipped to make choices regarding HIV/AIDS issues and problems are those individuals who are HIV positive themselves;
3. People living with HIV/AIDS must have control over their own lives;
4. The HIV/AIDS affected communities are very diverse and are confronted by overwhelming challenges derived from both their diversity and from their common experience as people living with HIV/AIDS;
5. It is necessary to create and foster a climate of understanding and mutual respect for the dignity and worth of people living with HIV/AIDS; and
6. The confidentiality, bodily security, autonomy and privacy of people living with HIV/AIDS must be respected, which include but are not limited to:
 - a) the right of individuals to exercise control over their own medical treatment;
 - b) the right of individuals to exercise control over decisions concerning their own socio-economic position;
 - c) the right of all persons living with HIV/AIDS to be fully informed of all processes and procedures in which their interests are in any way involved; and
 - d) the right of all persons living with HIV/AIDS to consent, or withhold their consent, in all matters affecting them.

HALCO

HIV & AIDS Legal Clinic Ontario

HIV & AIDS Legal Clinic Ontario

Telephone: 416-340-7790 / 1-888-705-8889

55 University Avenue, Suite 1400 (14th floor)

Toronto, Ontario M5J 2H7



website: www.halco.org

Getting Legal Help

If you are living with HIV in Ontario and have a legal question or problem, please **contact us** for free legal advice at 416-340-7790 or toll-free 1-888-705-8889. For more information, please see page 24.

People in Ontario can contact their local community legal clinic to ask about local services: www.legalaid.on.ca/en/getting/type_civil-clinics.asp.

HALCO takes new inquiries on Monday, Wednesday and Friday from 9 a.m. to 5 p.m. (not on Tuesdays or Thursdays).

HALCO is a “scent-reduced environment” - please avoid wearing fragrances or scented products when coming to our office.

HALCO is a registered charity funded by Legal Aid Ontario, the AIDS Bureau of the Ministry of Health and Long-Term Care, and other sources including corporate, foundation and individual donors. We welcome **donations**.

HALCO news contains general information only. It is not legal advice.

Laws, policies and practices can and often do change.

If you have a legal question or problem, you need legal advice. Please **contact HALCO**, your local legal clinic or a licensed lawyer/paralegal for legal advice.

HALCO news newsletter is published by the HIV & AIDS Legal Clinic Ontario (HALCO) and is distributed free to our members, interested individuals, agencies and organizations. Previous editions are on our website: www.halco.org/our-services/our-publications.

Please contact HALCO if you want to reproduce or excerpt any part of our newsletter. The views expressed in HALCO news may not reflect those of HALCO board and/or staff, or funders.

(HALCO – 2018August)