

BCCLA Concerns about the Community Safety Act Initiative

What is the legislation and what will it do?

The BC government has recently introduced the [Community Safety Amendment Act](#), which alters the [Community Safety Act](#) of 2013 which has yet to be brought into force. The Minister of Public Safety & Solicitor General, who sponsored the Bill, has stated that he intends to implement the legislation by the end of this year.

Neighbours May Initiate the Process

These laws will allow people to report their suspicions about specified activities occurring at or near a property in their community to a Director of Community Safety, who can then investigate the allegations. The Director may also initiate proceedings independently of a community complaint.

Specified Activities

The activities that are targeted under these laws include:

- Activities involving drugs or intoxicants
- Activities involving firearms or weapons
- Activities involving criminal organizations or gangs
- Activities involving gaming or gambling
- Activities involving property obtained by crime
- Additional activities may be specified in the future through regulation

Community Safety Orders

The Director of Community Safety can seek a court order either on their own initiative or after a complaint is made. If the Director chooses not to pursue a court order, the complainant can still apply for a community safety order from the court.



If the court is satisfied, on a balance of probabilities¹, that activities that have been occurring on or near the property indicate that it is being habitually used for a specified activity, and that the neighbourhood is being adversely affected, the court may make a community safety order.

A community safety order will in all cases:

- prohibit persons from carrying out or permitting the activities on or near the property, and
- require the owner to do every possible to prevent the activities from continuing or occurring.

The court may also order:

- a person to vacate the property on or before a specified date;
- prohibit a person from entering or occupying the property;
- terminate the relevant tenancy agreement or lease (which would occur at least 3 weeks later);
- require the director of community safety to close the property for up to 90 days (in which case the owner has to compensate the director for the incurred costs); and
- limit the order to part of the property or a particular person.

Why the *Community Safety Act* should not be implemented

Too many people already struggle to find safe housing and a supportive community in British Columbia, and we fear that this initiative will exacerbate the situation. We are deeply troubled by this initiative for a number of reasons, which we have briefly set out below.

It is unclear why this legislation is needed, given that there are existing laws that can be used to deal with properties where illegal activities are adversely affecting others. The legislation will circumvent these laws with better procedural safeguards that are already available to police, landlords, and neighbours:

- The law will override the *Residential Tenancy Act*, which already allows tenants or persons engaged in illegal activities to be evicted if their activity is adversely affecting other occupants of the property. Although it is stressful to challenge eviction notices, the *Residential Tenancy Act* provides more procedural safeguards for a tenant, and a resource-intensive court fight is not necessary.

¹ This is the standard of proof for a civil case, which is below the standard of proof for a criminal case (proof beyond a reasonable doubt).

- Properties associated with crime can already be targeted using the *Criminal Code*, which ensures that the government meets a much higher burden of proof. Unlike the civil process used under the *Community Safety Act*, legal aid is available for criminal matters.

The legislation is being touted as a new tool to target gang-run drug and crime houses, and yet the activities that can result in an order to vacate are not those stereotypically associated with hardened and dangerous criminals. For instance, underage drinking or cannabis consumption is enough to form the basis of a complaint. The habitual consumption of an intoxicating substance by a person of any age—even if they do not live on the property—can also be grounds for a complaint. Other activities that could trigger an investigation and resulting court order include growing more than four cannabis plants, having a cannabis plant visible to the public, or hosting regular poker nights with friends.

The prospect of community safety orders will provide a major disincentive for British Columbians to provide support and shelter to their friends and family who may be struggling with addictions or have recently been released from incarceration. Similar legislation in other provinces has been used to target households in which all members are law-abiding except for one.

Previous criminal convictions—no matter how old—can be used in court as “proof” that a person is still in a criminal organization or is still involved in certain activities. If previous convictions are relied on as proof, the onus will be on the person targeted by the court order to prove otherwise.

Those who have suffered from a mental disability may face discrimination if they had previously faced criminal charges even though a court found them not to be criminally responsible due to a mental disorder.

The legislation allows for situations in which the occupants will only find out about an investigation and resulting community safety order once it has been served upon them. The proposed law does not require the Director to send the owner or occupier a warning letter (it is discretionary). Further, only the named owner of the property is notified of an application for a community safety order. The notification of affected occupants is not required unless the court orders otherwise.



Where the Director chooses not to act on a complaint, not to apply for an order, or to discontinue an application for an order, the complainant will be able to apply directly to the court for such an order. This provides an opportunity for well-resourced parties to use the court to displace people and families who do not have access to the same level of resources.

In the context of growing racial tensions in BC, and throughout Canada, these laws leave open an avenue for targeted harassment driven by racism and other forms of prejudice. This legislation will disproportionately impact vulnerable, and often over-policed, communities which are already overrepresented in the criminal justice system, including Black and Indigenous communities.

The legislation may enhance the government's capacity to take people's assets under the *Civil Forfeiture Act*. Complaints and resulting investigations will provide information that may be shared with the Director of Civil Forfeiture (or any other government agency or public body, for that matter) under the provision enabling information-sharing agreements.