



West Coast LEAF

QMUNITY

BACKGROUND:

Name Changes in BC are managed under the Name Act by the Vital Statistics Agency, a branch of the Ministry of Health.

[Bill 26 the Name Amendment Act \(No 2\) 2024](#) was passed in the last two days before the legislative Assembly was dissolved for the provincial election in May 2024. It is based on a proposal by BC United Party MLA Kevin Falcon in a [Private Member's Bill](#) to prevent dangerous offenders from changing their names to avoid accountability, because Allan Schoenborn changed his name. Mr. Falcon's proposal would not have applied to Mr. Schoenborn, because he was found Not-Criminally Responsible by Reason of a Mental Disorder (NCRMD) - but not convicted- for the murder of his three children. The government version of the bill adopted Mr. Falcon's proposal and extended the ban to people found NCRMD, to people designated as dangerous or long-term offenders, and to youth tried as adults. It received unanimous support from all parties.

The bill added section 4.1, to prohibit name changes for people convicted of certain offences, people found NCRMD because they were unwell at the time of the offence or the trial, and to dangerous and long-term offenders ([DO and LTO](#)). It applies to young offenders tried as adults.

Debate in the legislature focused on violent crimes, but the [Regulations](#) released in September list a broad range of charges, including those historically used to criminalize gay sex (like gross indecent, incident acts, exposure); charges related to sex work which were struck down as unconstitutional for adults in the *Bedford* case), and a number of non-violent offenses like breaking and entering and trespassing at night. It applies to attempts and to threats. The prohibition applies even if the convictions leading to a DO or LTO designation are listed. In debate the Minister of Health said he wanted the ban to apply to pardons.

Section 6.1 adds a new criminal record check for all applicants over 12 years old; and mandatory records sharing of an applicant's personal information between the Vital Statistic Agency and the RCMP, about adults 7(1.1) and children 7(1.2)(1.3).

The [adult application form](#) says results of criminal records checks will be sent by the RCMP to the Vital Statistics Agency. The [youth application form](#) say the results of criminal records checks for children aged 12-17 are given to the applicant to send to Vital Statistics.

In debate the Minister of Health said the changes would delay applications by one week for all applicants, and 120 day delay for those with criminal records. The [RCMP reports](#) processing times up to 120 days. This means applicants will wait 8 month or more to see if their applications will be accepted.

Section 9 of the Name Act already gave the Registrar General the power to reject applications made for improper purposes, and to repeal name changes obtained by fraud. All adult applicants had been fingerprinted prior to the amendment.

Bill 26 also amended the Adoption Act to prevent name changes because of adoption. However legal name changes are allowed under the [Witness Protection Program](#) which gives new names to police informants who may have convictions for the listed charges. Anyone can still change their name [as a result of marriage](#) without applying for a legal name change and without a criminal records check.

Impact

Transgender people

The Supreme Court of Canada in [Hansman v Neufeld](#) says gender identity is a protected ground in human rights legislation across the country, and under the Charter; but despite legal protection transgender still people occupy a unique position of disadvantage in our society (paras 84-89). The BC Human Rights Tribunal in [Oger v Whatcott](#) and [Dawson v Vancouver Police Board](#) affirms the rights of trans people to use their chosen names. Deadnaming trans people is discriminatory. The Name Act allows the government to deadname some trans people and encourages others to do so, by depriving them of the documents they need to prove who they are.

Indigenous people

The [United Nations Declaration on the Rights of Indigenous Peoples](#) Article 13 ([enacted in BC in 2019](#)) and the Truth and Reconciliation Commission [Recommendation 17](#) calls upon all levels of government to enable residential school Survivors and their families to reclaim names changed by the residential school system by waiving administrative costs for a period of five years for the name-change process and the revision of official identity documents, such as birth certificates, passports, driver's licences, health cards, status cards, and social insurance numbers.

The BC government [announced](#) a fee waiver of the \$137 application fee for indigenous name changes, but implemented an expensive affidavit [requiring applicants to prove](#) a connection to the Residential School System or the 60s scoop in order to access it.

The [Department of Justice reports](#) “as a result of Canada’s colonial history, Indigenous peoples have been subjected to [assimilation](#) policies and practices that have created collective and individual [intergenerational trauma](#) resulting in negative impacts on [social determinants of health](#) for many. Their experiences, often compounded by inadequate housing as well as limited education and employment opportunities, have been identified in the literature as contributing to Indigenous people being in contact with the criminal justice system more often and for longer periods than non-Indigenous people.” This contributes to the overrepresentation of indigenous Indigenous people [in custody](#) in Canada. Indigenous people are more likely to be convicted of the listed crimes, and are more likely to be [designated as dangerous offenders](#) and now cannot reclaim their names.

Children and youth

The [UN Convention on the Rights of the Child](#) Article 2 compels state parties to protect children from discrimination. Articles 7 and 8 guarantee children and youth the right to a name, and the protection of their identity. Article 13 guarantees freedom from arbitrary or unlawful interference with privacy. Article 40 says youth are entitled to have their privacy protected at all stages when involved with the courts. Part 6 of [The Youth Criminal Justice Act](#) prohibits access to the criminal records of young people. The criminal records check requirement in the Name Act, and the coercive access to criminal records of young people (which cannot be disclosed directly so are given to the applicant to send in) runs afoul of these protections; as does the ban on name changes for youth who are convicted as adults. The lack of proper identity documents compounds existing inequalities faced by youth with criminal records who are queer and trans, indigenous, or fleeing violence.

2SLGBTQ+ Apology

The federal government [apologised](#) for the historical criminalization of homosexuality with [the Expungement of Historically Unjust Convictions Act](#) by providing for the [expungement](#) (pardon) for crimes for 2SLGBT people, including gross indecency, indecent acts and exposure. These offences are listed in the Name Act regulations and people convicted of them (and possibly people pardoned with expunged records) cannot change their names.

Sex workers

In the [Bedford Case](#) the Supreme Court of Canada found three provisions of the Criminal Code unconstitutional: S. 210 operating a common bawdy house, s.212(1)(j), living on the avails of prostitution; and s. 213(1)(c) communicating for the purpose of prostitution were struck down. The Harper government [re-enacted similar provisions](#) related to sex work in s 286.1 of the Criminal Code. These offences are listed in the Name Act regulations and people convicted of them cannot change their names.

Survivors of violence

Many survivors of family violence, including youth, change their names for their own safety, or to avoid a traumatic association with a previous name. Survivors from marginalised communities are often charged with offences when they report crimes, if

they remove their children from dangerous situations, or if they fight back against an attacker. Kidnapping, abduction, and removing a child from Canada, and a number of charges that could result from self defence are listed in the Name Act regulations and would prevent survivors from changing their names. [Moka Dawkins](#) was convicted of manslaughter for defending herself against an attacker who stabbed her in the face. Some BC abduction [cases](#) arise when a young person runs away from family violence and people who assist them are charged.