

# The Dignity of a Name: BC's Name Change Ban and the fight to fix it



**Catherine White Holman  
Wellness Centre**

Adrienne Smith

Litigation Director CWHWC  
trans legal clinic

[adrienne@cwhwc.com](mailto:adrienne@cwhwc.com)



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# Punchline

BC banned legal name changes for people who are:

- convicted of certain crimes;
- found not criminally responsible because of a mental disorder (NCRMD);
- Designated as Dangerous or Long term offenders.

Introduced new criminal records checks (with a fee!);

Requires record sharing between health and police.

# The Name Change Ban:

- Wasn't needed;
- Can't work;
- Causes harm (by accident?)
- Conflicts with important laws;
- Won't be repealed.

We are going to court and you can help.

# The Pretend Problem

- In 2008, Allan Schoenborn killed his three children and was charged with three counts of first degree murder.
- He told the court he killed the children to protect them.
- The court found he committed the murders, but he suffered from a delusional psychotic disorder at the time.
- We was found Not Criminal Responsible by Reason of a Mental Disorder (NCRMD) under section 16 of the Criminal Code.

# The Pretend Problem, cont.

- Mr. Schoenborn has been in custody at the Forensic Psychiatric Hospital since for the last 15 years.
- His conditions are reviewed every year by the BC Review Board.
- He reports significant harassment and violence from other prisoners because his name is associated with his crimes.
- In 2021 he legally changed his name.
- In 2024 he asked the Review Board to redact his new name from decisions before it released them publicly. **The Board said no.**

# Conservative Rhetoric

- Kevin Falcon's BC United Party's criticizing David Eby's "catch and release" approach to crime.
- In April 2024, Kevin Falcon raised Mr. Schoenborn's name change in the news and the legislature, alleging he could "evade responsibility for his crimes" by changing his name.
- David Eby said it was Mr. Falcon's party who removed the requirement to publish name changes in the paper, and said he would look at going back to that.
- Kevin Falcon proposed a private member's bill that would ban name changes for people convicted of certain crimes, and for dangerous and long term offenders; and would make it a crime to apply. Ironically, it would not have applied to Mr. Schoenborn because he was not "convicted of a crime".

# BCNDP Law and Order initiatives

- Before the election, David Eby recriminalized drugs, restricted safe supply, promised to expand involuntary detention under the *Mental Health Act*, and participated in an announcement about more police in the DTES. The party stopped talking about trans people. The Name Change Ban is part of this pattern.
- The NDP adopted Kevin Falcon's idea in a government bill with broader scope.
- The bill was introduced on the second to last day of legislative session.
- There was no warning or consultation with anyone (except maybe police).
- The vote was unanimous. All MLA from all parties voted for it.
- Regulations (the list of crimes) were released in July 2024.
- The law came into force on September 1, 2024.
- Nobody in government thought it was problem or would affect us.

# The *Name Amendment Act, 2024*

- Amends the *Name Act*.
- Bans name changes for people convicted of a range of crimes; people found NCRMD; and people designated as dangerous and long term offenders;
- Requires new criminal records checks from all applicants over 12 which adds a new fee.
- Compels youth to share records protected under the *Youth Criminal Justice Act*;
- Requires record sharing between the Vital Statistics Agency and the RCMP.
- Delays all applications by 1 week, and by 4 months for people with record.
- Changes the *Adoption Act* to prevent court-ordered name changes for youth.

# The Name Change Ban was not needed

The problem is pretend. You can't escape a criminal record.

The government had sufficient safeguards without the ban:

- The *Name Act* already required fingerprints from adults;
- The Registrar of Vital Statistics can decline to grant a name change if it is brought for an improper purpose;
- The Registrar can cancel name changes obtained by fraud;

# The Name Change Ban won't protect the public

- Most BC name changes happen through marriage and don't require the legal name change system.
- Most people never see anyone's legal name documents.
- There is no relationship between legal names and danger.
- The listed crimes have no relationship to public safety.
- Participants in the *Witness Security Act* can legally change their names even if they are convictions of the listed offenses, or designated as dangerous or long term offenders.

# The listed crimes



- MLAs said in the House the ban would cover murder, serious violence, and offenses against vulnerable victims.
- But the list of crimes released months later doesn't include some serious and violent crimes which are reported on criminal records checks\*.
- The list includes non violent crimes, offenses historically used to criminalize queer sex and sex work (including some struck down as unconstitutional for adults in Bedford).
- **Download the list of charges that ban name changes with this QR code.**

# Serious crimes not listed\*

- Serious and violent charges like assault with a weapon, robbery, forcible confinement, uttering threats, gun, drug, & explosives charges, dangerous driving causing death, setting a trap causing death, flight from police, escaping custody, organized crime & gang charges, terrorism, war crimes, hate crimes, treason, or piracy;
- Crimes with vulnerable victims including infanticide, sex offender registry offenses, distributing intimate images without consent, invasion of privacy, mailing obscene materials, trafficking human organs, intimidating health care providers & clergy, conversion therapy.
- Trust charges like fraud or money laundering.



# Listed crimes

- Non violent crimes like trespassing at night, breaking & entering.
- Queer sex crimes like bestiality, voyeurism, indecent acts, exposure, indecent assault, gross indecency.
- Sex work charges like obtaining sexual services for consideration, procuring, making sexually explicit material available to a child, prostitution/living on the avails of a person under 18, householder permitting prohibited sexual activity /defilement, parent or guardian procuring sexual activity/defilement, agreement or arrangement for sexual offenses against a child.
- Charges for assisting a young person escape danger like removing a child from Canada, kidnapping, abduction.



# The harm

- Restricting access to accurate ID documents is never good.
- Legal name changes are essential to safety, survival, and full citizenship. Trans people, sex workers, indigenous people reclaiming indigenous names, people avoiding family names associated with trauma, and survivors of violence seeking safety.
- These groups are overpoliced, are more likely to be charged if they fight back against an attacker, and are and more likely to have criminal convictions.
- People without ID cannot participate in society, work, or vote.
- Personal information should not be shared with law enforcement.

# Legal violations

- The *Constitution Act* says criminal law is a federal power, but the ban has the effect of a sentence.
- Unlike in criminal sentencing, the ban can't consider the circumstances of the offense, or how old a charge is. Nobody would be sentenced to perpetual deadnaming. Minister Dix wanted the ban to apply retroactively, and to pardons.
- A principle of sentencing is rehabilitation. Name change bans prevent reintegration.
- The *Name Act* coerces disclosure of youth criminal records, which are protected by The *UN Declaration on the Rights of the Child*, and the *Youth Criminal Justice Act*.
- The *United Nations Declaration on the Rights of Indigenous People*, the BC law implementing it, and the Truth and Reconciliation Commission all say indigenous people should be able to reclaim indigenous names. The ban prevents this. Contact with the criminal justice system is part of the colonial project.
- The ban violates *Charter* protection for equality, and the prohibition against cruel and unusual punishment or treatment. Because shelters, healthcare, and employers require a name, the ban can also affect life liberty and security of the person.
- Human Rights legislation protects against discrimination on the basis of gender identity or expression, and unrelated criminal convictions in employment. The ban imposes perpetual deadnaming.
- Administrative law prohibits arbitrary exercises of government power against identifiable groups for no good reason.



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## Gender justice groups urge BC government to repeal harmful name change ban

November 7, 2024

Vancouver, unceded X̱məθkʷəy̓əm (Musqueam), Sḵwx̱wú7mesh (Squamish) and səliłwətaʔ (Tsleil-Waututh) homelands—

Gender justice groups from across the province are calling on the BC Government to repeal [Bill 26 the Name Amendment Act \(No 2\) 2024](#). The bill changed the [Name Act](#), restricting access to legal name changes for many British Columbians.

The new Name Act bans legal name changes for people convicted of [certain offences](#); for people found not-criminally responsible of certain crimes; and for people designated as dangerous or long-term offenders. It adds a new criminal record check for all applicants over 12 years old; and imposes mandatory records sharing between the Vital Statistic Agency and the RCMP. Applicants will face increased costs, a 4-month delay in processing applications, and for many, the inability to change their names at all.

Changes to the law were not necessary to protect the public, and it harms those most in need of legal name changes, including transgender people, Indigenous people, and survivors of gender-based violence. Lawmakers did not consider the factors that contribute to these groups being overrepresented in the justice system. None of the affected communities were consulted.



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## B.C. gender justice groups call for repeal of changes to Name Act

Groups say legislation limits people most in need of legal name changes, including trans and Indigenous people

CBC News · Posted: Nov 07, 2024 11:13 PM PST | Last Updated: November 7, 2024

- The CWHWC trans legal clinic
- The Union of BC Indian Chiefs
- Qmunity
- West Coast LEAF
- The Canadian Bar Association, BC Branch
- PACE Society
- The Society for Advocacy for Gender-Affirming Healthcare
  
- And **YOU**

# We can help you!

lawyer@cwhwc.com

- Free lawyer appointment for help changing names and gender markers on BC documents.
- Advice about the impact of the Name Change Ban on you.
- Vancity funding to help with application costs.
- If you can't change your name because of the Name Change Ban and want to help with the court challenge please reach out.

# You can help us!

## send an email – Repeal the name change ban!

### **Ministry of Health**

- [Josie.Osborne@gov.bc.ca](mailto:Josie.Osborne@gov.bc.ca)
- [HLTH.Health@gov.bc.ca](mailto:HLTH.Health@gov.bc.ca)

### **Gender Equity Office**

- [JenniferBlatherwick@gov.bc.ca](mailto:JenniferBlatherwick@gov.bc.ca)

### **Premier's office**

- [David.Eby@gov.bc.ca](mailto:David.Eby@gov.bc.ca)
- [premier@gov.bc.ca](mailto:premier@gov.bc.ca)

### **Attorney General**

- [AG.Minister@gov.bc.ca](mailto:AG.Minister@gov.bc.ca)
- [Niki.Sharma@gov.bc.ca](mailto:Niki.Sharma@gov.bc.ca)

# Join the fight!

## Donate to our clinic

- \$50 will fund a gender marker change!
- \$200 will fund a BC name change or updated citizenship papers.
- Whatever you can afford will help fight the Name Change Ban.



Catherine White Holman  
Wellness Centre



<https://cwhwc.com/donate/>

e-transfer to [accounting@cwhwc.com](mailto:accounting@cwhwc.com)