

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**FAIR CHANGE**

**Applicant**

**-and-**

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO AS  
REPRESENTED BY THE ATTORNEY GENERAL OF ONTARIO**

**Respondent**

**-and-**

**ABORIGINAL LEGAL SERVICES, CANADIAN CIVIL LIBERTIES  
ASSOCIATION, INCOME SECURITY ADVOCACY CENTRE, JUSTICE FOR  
CHILDREN AND YOUTH, AND ONTARIO HUMAN RIGHTS COMMISSION**

**Interveners**

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**FACTUM OF THE INTERVENER,  
INCOME SECURITY ADVOCACY CENTRE**

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December 1, 2023

**Income Security Advocacy Centre**  
1500 – 55 University Ave  
Toronto, ON M5J 2H7

**Anu Bakshi (45587D)**  
**Nabila F. Qureshi (70100Q)**  
Tel: (416) 597-5820 ext. 5154/5156  
Fax: (416) 597-5821  
Email: [anu.bakshi@isac.clcj.ca](mailto:anu.bakshi@isac.clcj.ca) /  
[nabila.qureshi@isac.clcj.ca](mailto:nabila.qureshi@isac.clcj.ca)

Counsel for the Intervener,  
Income Security Advocacy Centre

TO: **NICOLAS ROULEAU PROFESSIONAL CORPORATION**  
41 Burnside Dr.  
Toronto, ON M6G 2M9

**Nicolas M. Rouleau (54515D)**

Tel: (416) 885-1361

Fax: (888) 850-1306

Email: [rouleau@gmail.com](mailto:rouleau@gmail.com)

**GOWLING WLG (CANADA) LLP**

100 King Street West, Suite 1600

Toronto ON M5X 1G5

**Chris Hummel (77018T)**

Tel: (416) 862-3540

Fax: (416) 862-7661

Email: [chris.hummel@gowlingwlg.com](mailto:chris.hummel@gowlingwlg.com)

Counsel for the Applicant, Fair Change

AND  
TO: **MINISTRY OF THE ATTORNEY GENERAL**  
Constitutional Law Branch  
720 Bay Street, 4<sup>th</sup> floor  
Toronto, ON M7A 2S9

**Ravi Amarnath (66824A)**

**Emily Owens (80144G)**

**Sean Kissick (84753L)**

Tel: (416) 326-8517

Fax: (416) 326-4015

Email: [ravi.amarnath@ontario.ca/](mailto:ravi.amarnath@ontario.ca)

[emily.owens@ontario.ca/](mailto:emily.owens@ontario.ca)

[sean.kissick@ontario.ca](mailto:sean.kissick@ontario.ca)

Counsel for the Respondent, His Majesty the King in Right  
of the Province of Ontario

**Canadian Civil Liberties Association**

400-124 Merton Street  
Toronto, ON M4S 2Z2

**Rebecca Amoah (82108N)**

**Harini Sivalingam (53149V)**

Tel: (416) 363-0321

Email: [ramoah@addario.ca/](mailto:ramoah@addario.ca)  
[hsivalingam@ccla.org](mailto:hsivalingam@ccla.org)

Counsel for the Intervener, Canadian Civil Liberties Association

**Justice for Children and Youth**

1500 – 55 University Ave  
Toronto, ON M5J 2H7

**Mary Birdsell (38108V)**

**Stephanie Giannandrea (55524M)**

Tel: (416) 920-1633

Fax: (416) 920-5855

Email: [mary.birdsell@jfcy.clcj.ca/](mailto:mary.birdsell@jfcy.clcj.ca)  
[stephanie.giannandrea@jfcy.clcj.ca](mailto:stephanie.giannandrea@jfcy.clcj.ca)

Counsel for the Intervener, Justice for Children and Youth

**Aboriginal Legal Services**

211 Yonge Street, Suite 500  
Toronto, ON M5B 1M4

**Christa Big Canoe (53203N)**

**Emily Hill (46899Q)**

Tel: (416) 408-4041

Fax: (416) 408-3967

Email: [christa.bigcanoe@als.clcj.ca/](mailto:christa.bigcanoe@als.clcj.ca)  
[emily.hill@als.clcj.ca](mailto:emily.hill@als.clcj.ca)

Counsel for the Intervener, Aboriginal Legal Services

**Ontario Human Rights Commission**  
180 Dundas Street West, 9th Floor  
Toronto, ON M7A 2G5

**Nika Farahani (73491H)**

**Reema Khawja (40895M)**

Tel: (416) 326-9511

Fax: (416) 326-1312

Email: [nika.farahani@ohrc.on.ca/](mailto:nika.farahani@ohrc.on.ca)  
[reema.khawja@ohrc.on.ca](mailto:reema.khawja@ohrc.on.ca)

Counsel for the Intervener, Ontario Human Rights Commission

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## **PART I – OVERVIEW**

1. Panhandling is an act of survival. People who depend on social assistance live in deep poverty, and many do not have enough to afford food, rent, medicine and winter boots. They turn to panhandling as a means to survive. Their need stems from overlapping and compounding vulnerabilities: the inadequacy of social assistance; the challenges of living with mental health disabilities and addiction; and the hardship of no stable home to return to each night. As a result, their lives and everyday decisions are constrained by the burdens of deep poverty, with severe effects on their health and quality of life.

2. And yet, under the *Safe Streets Act* the very people most in need of help can be fined and imprisoned for asking for it. The consequences are often devastating. They may see their social assistance cut off, lose their housing, and experience a deterioration in health. As people already stigmatized as “lazy” and “responsible” for their own poverty, the *Safe Streets Act* reinforces and perpetuates these dangerous stereotypes. The effect is to render social assistance recipients invisible and less worthy of help, pushing them further into poverty and marginalization.

3. The Income Security Advocacy Centre (“ISAC”) is a specialty legal clinic funded by Legal Aid Ontario to serve low-income communities, including social assistance recipients across the province. ISAC intervenes in this case to urge the Court to apply an intersectional analysis to both s. 15 and “security of the person” under s. 7, with a particular focus on the lived experiences of social assistance recipients with mental health and addiction disabilities. These contextual considerations are crucial to assessing whether the impugned provisions of the SSA violate the equality guarantee of s. 15 of the *Charter* and deprive people who panhandle of their security of the person under s. 7.

## PART II – FACTS

4. ISAC takes no position on the facts. ISAC relies on the following facts from social assistance legislation and in the record.

5. Each of the four individuals in this case live with mental illness and depend on social assistance. They panhandle because they cannot survive on social assistance. As a result, the *Safe Streets Act* significantly impacts them. X<sup>1</sup>, X<sup>2</sup> and X<sup>3</sup> received Ontario Disability Support Program (ODSP) benefits as persons with a disability. X received ODSP until age 65 because of anxiety and depression. As a senior, she panhandles to support her disabled son who receives ODSP.<sup>4</sup>

6. Like X, X, X and X, the majority of those in Ontario who receive social assistance have disabilities.<sup>5</sup>

7. Social assistance recipients live in deep poverty.<sup>6</sup> Social assistance consists of two programs: Ontario Works (OW) and Ontario Disability Support Program (ODSP). The programs are intended for those who have exhausted all other means of financial support. A single person on OW receives a maximum of \$343 per month as a “basic needs” allowance and \$390 per month for their shelter allowance.<sup>7</sup> A single person on ODSP receives a maximum of \$752 per month to

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<sup>1</sup> Affidavit of X, at paras. 23-25, 28, 33, Applicant’s Amended Application Record (“AAR”), Tab 2.

<sup>2</sup> Affidavit of X, at paras. 5, 6 11, 14-15, 22, 27, AAR, Tab 3.

<sup>3</sup> Affidavit of X, at paras. 3, 9, 11, 12, 20, AAR, Tab 5.

<sup>4</sup> Affidavit of X, at paras. 20-23, 35, AAR, Tab 4.

<sup>5</sup> Affidavit of John Stapleton, (“Stapleton Affidavit”) at para. 40, AAR, Tab 13; Noah Zon and Thomas Granofsky, *Resetting Social Assistance Reform* (2019 October 29), online at: [https://on360.ca/policy-papers/resetting-social-assistancereform/#\\_ftn40](https://on360.ca/policy-papers/resetting-social-assistancereform/#_ftn40), as cited in Stapleton Affidavit, AAR, Tab 13.

<sup>6</sup> Stapleton Affidavit, at para. 27, AAAR, Tab 13; Jennefer Laidley and Mohy Tabbara, “Welfare in Canada, 2020” (Toronto: Maytree: December 2021), at para. 61, online (pdf): <[https://maytree.com/wp-content/uploads/Welfare\\_in\\_Canada\\_2020.pdf](https://maytree.com/wp-content/uploads/Welfare_in_Canada_2020.pdf)>

<sup>7</sup> *Ontario Works Act, 1997*, S.O. 1997, c. 25, Sched. A (“OWA”); O. Reg. 134/98 under the OWA, ss. 41-42; Stapleton Affidavit, at para. 17, AAR, Tab 13.

cover basic needs and \$556 per month for shelter.<sup>8</sup> These amounts are substantially below the poverty line.<sup>9</sup>

8. Social assistance legislation creates barriers to financial stability. When a person is in crisis or a transition and needs support to stabilize their life (such as homelessness, periods of incarceration, or fleeing violence without important legal or financial documents), social assistance legislation reduces or cuts off income assistance, preventing people in need from saving money for emergencies or a brighter future.

9. For example, when a social assistance recipient loses their housing or lives in their car, they stop receiving funds for shelter and must survive on the basic needs allowance alone.<sup>10</sup> This creates a homelessness-perpetuating Catch-22, where the person cannot access money for shelter until they secure housing, but they cannot secure housing until they have the money to pay for it.

10. Social assistance legislation imposes barriers on those charged with offences. When a person is incarcerated, they lose income support, even if they are awaiting trial.<sup>11</sup> Even if the recipient is ultimately found not guilty, they will have no home to return to if they have lost their income support and as a result, not able to pay their rent.

11. People living on social assistance have regular reporting obligations under the legislation. They must provide documentation as requested to continue to receive income assistance.<sup>12</sup> When

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<sup>8</sup> [Ontario Disability Support Program Act, 1997](#), S.O. 1997, c. 25, Sched. B (“ODSPA”); [O. Reg. 222/98](#) under the [ODSPA](#), ss. [30-31](#); Stapleton Affidavit, at para. 17, AAR, Tab 13.

<sup>9</sup> Stapleton Affidavit, at paras. 23, 27, AAR, Tab 2.

<sup>10</sup> *Kimaev v. Social Services Department (City of Toronto)*, [2020 ONSC 1281](#) (Div. Ct.); [ODSPA](#), s. [11](#); [O. Reg. 222/98](#), s. [31](#); [OWA](#), s. [7\(1\)](#); [O. Reg. 134/98](#), s. [42](#).

<sup>11</sup> [O. Reg. 222/98](#), s. [9](#); [O. Reg. 134/98](#), s. [8](#).

<sup>12</sup> *Rea v. Simcoe (County Administrator, Social Services Department)*, (2005) [79 O.R. \(3d\) 583](#) (C.A.); ODSP [Income Support Directive 3.1, "Reviewing Eligibility"](#) (December 2021); [OW Directive 5.1, "Income and Exemptions"](#) (April 2021); [OWA](#), s. [7\(3\)\(c\)](#); [ODSPA](#), s. [5\(1\)\(d\)](#); [O. Reg. 134/98](#), s. [14\(1\)](#); and [O. Reg. 222/98](#), s. [12\(1\)](#).



recipients lose their documents during periods of homelessness, emergency (such as family breakdown or flood) or theft, they can lose their income assistance as well.

12. Under social assistance legislation, people can actually be worse off if they try to save costs by living with a roommate,<sup>13</sup> save money for emergencies or education, or earn income through part-time employment. While this approach may seem reasonable at first blush, expert John Stapleton characterized it as punitive and unfair:

...even if they get a job or reduce their expenses, these individuals are often still living in poverty and in dire need of financial assistance to cover the cost of their basic needs. Social assistance rules that reduce or eliminate recipients' benefits when they earn income or reduce expenses, incorrectly assume that social assistance rates are adequate to cover the basic costs of living to begin with, and that a recipient's financial needs will decrease if they secure any job or reduce their expenses. This is often not the case.<sup>14</sup>

These rules differ from benefit rate reduction rules under other income support programs in Canada aimed at supporting low-income people, where benefits are reduced or eliminated only when recipients have achieved much higher income thresholds.<sup>15</sup>

13. In contrast to employment income, people living on social assistance may keep voluntary donations that they receive by panhandling up to \$10,000 per year.<sup>16</sup>

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<sup>13</sup> *Kimdev v. Social Services Department (City of Toronto)*, [2020 ONSC 1281](#) (Div. Ct.); *ODSPA*, s. [11](#); *O. Reg. 222/98*, s. [31](#); *OWA*, s. [7\(1\)](#); *O. Reg. 134/98*, s. [42](#).

<sup>14</sup> Stapleton Affidavit at paras. 25-29, AAR, Tab 13.

<sup>15</sup> Stapleton Affidavit at para. 32, AAR, Tab 13.

<sup>16</sup> *O. Reg. 134/98*, s. [54\(1\)8](#); *O. Reg. 222/98*, s. [43\(1\)13](#).

### **PART III – STATEMENT OF ISSUES, LAW, AND ANALYSIS**

14. ISAC makes two arguments:

- a. In applying the s. 15 *Charter* framework to the *SSA*, the Court must adopt an intersectional lens focusing on the analogous ground of receipt of social assistance and mental disability.
- b. An intersectional equality lens must also inform analysis of “security of the person” under s. 7 of the *Charter*. In particular, the Court should consider how the *SSA* provisions impact individuals in light of personal and structural barriers related to social assistance and mental health disabilities.

#### **(1) APPLICATION OF S. 15 IN THE CONTEXT OF THE SSA**

##### **A. Receipt of social assistance is an analogous ground under s. 15**

15. Receipt of social assistance is an analogous ground of discrimination under s. 15 of the *Charter*.<sup>17</sup> In *Falkiner*, the Ontario Court of Appeal explicitly recognized receipt of social assistance as an analogous ground within section 15 alongside sex and marital status, commenting that economic disadvantage often co-exists with other forms of disadvantage.<sup>18</sup> The Court confirmed the historic disadvantage and vulnerability experienced by social assistance recipients,<sup>19</sup> and the “immutability” of this ground, as something that is “difficult to change”.<sup>20</sup>

16. This legal recognition reflects the multiple barriers people living on social assistance face to find decent work and financial security: homelessness, disability and poor health, lack of

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<sup>17</sup> *Falkiner v. Ontario (Minister of Community and Social Services)*, (2002) [59 O.R. \(3d\) 481](#) (C.A.), at paras. [84](#), [87](#).

<sup>18</sup> *Ibid* at paras. [87](#)-88.

<sup>19</sup> *Ibid* at para. [88](#).

<sup>20</sup> *Ibid* at para. [89](#).

adequate or affordable housing, limited training and social isolation.<sup>21</sup> The statutory scheme compounds these barriers because income assistance is reduced or cut-off if a person becomes homeless or incarcerated;<sup>22</sup> loses paperwork while temporarily unhoused;<sup>23</sup> moves in with a roommate to share expenses<sup>24</sup> or tries to save money for education, emergencies, or a brighter future.<sup>25</sup> Recipient's choices are constrained and shaped by inadequacy of benefits, their own marginalization and the restrictions of the legislation.

17. Panhandling, social assistance and mental disability are linked.<sup>26</sup> X receives ODSP because of his mental health disability and addiction issues.<sup>27</sup> He affirmed that he panhandled because he could not make ends meet on ODSP, no matter how hard he tried.<sup>28</sup> X's lived experience accords with the City of Toronto survey of panhandlers referred to in the Stapleton affidavit, which found that 44% of those surveyed received social assistance. Ninety-one percent panhandled to buy food. Most (72%) of the people who panhandled were homeless.<sup>29</sup>

18. People living on social assistance are historically disadvantaged, politically marginalized, and particularly vulnerable because they depend on the state for the necessities of life. Social assistance is a benefit of last resort serving some of the "province's most impoverished and

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<sup>21</sup> Stapleton Affidavit, at paras. 23-24, 33, 37-39, AAR, Tab 13.

<sup>22</sup> [O. Reg. 134/98](#), s. 8(a); [O. Reg. 222/98](#), s. 9(a); *Kimaev v. Social Services Department (City of Toronto)*, [2020 ONSC 1281](#) (Div. Ct).

<sup>23</sup> *1705-04432 (Re)*, [2018 ONSBT 87](#)

<sup>24</sup> [O. Reg. 134/98](#), s. 1(1)(d); [O. Reg. 222/98](#), s. 1(1)(d).

<sup>25</sup> Stapleton Affidavit, at paras. 23-39, AAR, Tab 13.

<sup>26</sup> Stapleton Affidavit, at paras. 22-24, AAR, Tab 13; Affidavit of Joanna Nefs, at para. 6, AAR, Tab 7.

<sup>27</sup> Affidavit of X, at paras. 23-33, AAR, Tab 2,

<sup>28</sup> Affidavit of X, at para. 44, AAR, Tab 2.

<sup>29</sup> Stapleton Affidavit, at para. 22, City of Toronto, *Enhancing Streets to Homes Service to Address the Needs of People Who Are Street Involved, Including Those Who Panhandle* (21 April 2008) at pp. 7-8, 10, online at: <https://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-12533.pdf>; Stapleton Cross-examination, Book of Cross-examination, Vol. VI, Tab P, at Exhibit 1. The City of Toronto Study found that an additional 27% received partial OW, at p. 10.

vulnerable residents”.<sup>30</sup> Recipients receive these last resort benefits precisely because they are already so marginalized.

19. Social assistance recipients are victims of prejudice, blame and hostility and are frequently viewed as morally inferior or “broken”.<sup>31</sup> They are stigmatized as “not pulling their weight”, making irresponsible choices or pretending to be in need of assistance.<sup>32</sup>

20. For these reasons, it is not only in the Charter s. 15 context that social assistance is recognized as a ground of discrimination. Social assistance recipients are protected from discrimination in human rights legislation across Canada.<sup>33</sup> This includes Ontario, where the *Human Right Code* protects tenants against discrimination based on “receipt of public assistance”.<sup>34</sup>

## **B. The Court must adopt an intersectional lens in its s. 15(1) analysis**

21. Substantive equality is the “animating norm” of s. 15.<sup>35</sup> A robust application of substantive equality requires an intersectional analysis focusing on how the *Safe Streets Act* reinforces and perpetuates the disadvantages that uniquely affect social assistance recipients living with mental

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<sup>30</sup> *Surdivall v. Ontario (Disability Support Program)*, 2014 ONCA 240, at para. 35.

<sup>31</sup> Stapleton Affidavit, at paras. 44-54, AAR, Tab 13; *Falkiner*, at para. 86.

<sup>32</sup> Stapleton Affidavit, at para. 46, AAR, Tab 13.

<sup>33</sup> *Falkiner*, at para. 90; Ontario *Human Rights Code*, R.S.O. 1990, c. H.19, s. 2(1)-(2); *The Saskatchewan Human Rights Code*, S.S. 1979, c. S-24.1, s. 2(1)(m.01); *Alberta Human Rights Act*, R.S.A. 2000, c. A-25.5, ss. 3(1), 4, 5, 7(1), 8(1), 9; Manitoba *Human Rights Code*, C.C.S.M., c. H175, s. 9(2)(j); Nova Scotia *Human Rights Act*, R.S.N.S. 1989, c. 214, c. 5(1)(t); Prince Edward Island *Human Rights Act*, R.S.P.E.I. 1988, c. H-12, s. 1(1)(d); Quebec *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12, s. 10; Newfoundland and Labrador *Human Rights Code*, R.S.N.L. 1990, c. H-14, ss. 6(1), 7(1), 8, 9, 12, 14; Northwest Territories *Human Rights Act*, S.N.W.T. 2002, c. 18, s. 5. The Court referred to protected in human rights status in Canada as a helpful observation in analogous grounds cases considered in *Fraser v. Canada (Attorney General)*, 2020 SCC 28, at paras. 34, 115-118.

<sup>34</sup> Ontario *Human Rights Code*, R.S.O. 1990, c. H.19, s. 2(1)-(2).

<sup>35</sup> *Fraser*, at para. 42.

illness, who panhandle to survive.<sup>36</sup> This is because “the constellations of factors or characteristics that go into the construction of identities often masquerade as unconnected, purely individual traits, behaviours, choices, or situations”, when in fact, they are tightly linked.<sup>37</sup>

22. The Supreme Court has confirmed the importance of a “robust intersectional analysis” because grounds of discrimination may intersect, compounding an individual’s disadvantage.<sup>38</sup> An intersectional approach takes into account the historical, social and political context and recognizes the unique experience of the individual based on the intersection of all relevant grounds. The approach allows for “fuller appreciation of the discrimination involved”.<sup>39</sup>

23. Intersectional discrimination is not merely about adding up identities, but a distinct form of discrimination all bound up together, reinforced and perpetuated by existing systems and institutions. It requires “reference to a conflux of factors, any one of which taken alone might not be sufficiently revelatory of how keenly the denial of a benefit or the imposition of a burden is felt”.<sup>40</sup>

24. In the context of applying the SSA to social assistance recipients living in deep poverty, a focus on a “single axis” of discrimination ignores the complex disadvantage experienced by social assistance recipients living with disabilities or addiction, who panhandle to survive. In short, it is too simplistic to say there’s a panhandling problem here, a disability problem here, and a problem

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<sup>36</sup> Coined by law professor Kimberlé Williams Crenshaw, “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics” (1989) [U Chicago Legal F 139](#). Intersectionality is a lens to understand how multiple grounds of identity or structural inequalities intersect and compound to form the unique experience of inequality and discrimination.

<sup>37</sup> *Fraser*, at para. 34, quoting Professors Lisa Phillips and Margot Young.

<sup>38</sup> *Fraser*, at paras. 116, 123; *Withler v. Canada (Attorney General)*, 2011 SCC 12, at paras. 58; *R. v. Sharma*, 2022 SCC 39, at para. 196.

<sup>39</sup> *Fraser*, at para. 116.

<sup>40</sup> *Withler v. Canada (Attorney General)*, 2011 SCC 12, at para. 58.

based on receipt of social assistance there. A single ground framework erases and misconceives their true overlapping lived experience of systemic discrimination.<sup>41</sup>

25. Accordingly, the Court must consider the s. 15 claim from the perspective of the claimant<sup>42</sup> - including their overlapping marginalization and the entrenched social systems that they encounter. This means assessing the SSA's impact on X, X, X, and X as persons with mental health disabilities, who rely on inadequate social assistance and must panhandle to survive. These considerations are relevant to whether the SSA provisions create a distinction based on an enumerated or analogous ground, and in turn whether they reinforce or perpetuate their disadvantage.

26. The fact that the SSA provisions negatively impact some, but not necessarily all social assistance recipients who live with mental illness does not defeat a discrimination claim. Claimants need not show that the impugned law affects all members of a protected or analogous group in the same way.<sup>43</sup>

27. Further, the Court has consistently held that differential treatment can be discriminatory even if based on choices made by the affected individual or group. Substantive equality looks not only at the choices that are available to individuals, but the social and economic environments in which they play out. Any number of structural conditions push people living with addiction to panhandle while intoxicated or a social assistance recipient to hold up a "please help" sign while

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<sup>41</sup> See Madam Justice L'Heureux-Dubé writing for the minority in *Canada (A.G.) v. Mossop*, [1993] 1 S.C.R. 554, at 645-646.

<sup>42</sup> *Falkiner*, at para. 65.

<sup>43</sup> *Fraser*, at para. 72; *Quebec (Attorney General) v. A*, 2013 SCC 5, at para. 354.

walking at a traffic light. When living below the poverty line, the “choice” between eating or skipping a meal for another day is no real choice at all.<sup>44</sup>

### **C. The Court must take a flexible approach in assessing evidence of discrimination**

28. To establish a *prima facie* violation of s. 15(1), a claimant must first demonstrate that the impugned law, “on its face or in its impact”, creates a “distinction based on an enumerated or analogous ground”.<sup>45</sup> This requires the Court to assess whether the impugned law creates or contributes to a disproportionate impact on the claimant group based on a protected ground.<sup>46</sup>

29. The claimant must therefore establish a connection between the impugned law and the disproportionate impact. The Supreme Court has stated that this connection is satisfied where a claimant can show that members of protected groups are denied benefits or imposed burdens “more frequently than others”.<sup>47</sup>

30. No specific form of evidence is required to establish this sort of connection, but the Supreme Court has described two forms as “especially helpful”: evidence about the full context of the claimant group’s situation, and evidence of the practical outcomes of the law or policy.<sup>48</sup> This evidence can come from claimants themselves, expert witnesses, or through judicial notice.<sup>49</sup> The necessary connection may even be established by a reasonable inference.<sup>50</sup> The claimant’s evidentiary burden cannot be unduly difficult to meet. Courts must be mindful of the evidentiary

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<sup>44</sup> *Fraser*, at paras. [86-92](#).

<sup>45</sup> *Sharma*, at para. [28](#); *R. v. C.P.*, [2021 SCC 19](#), at paras. [56](#), [141](#); *Fraser*, at para. [27](#).

<sup>46</sup> *Sharma*, at para. [31](#).

<sup>47</sup> *Fraser*, at para. [55](#).

<sup>48</sup> *Fraser*, at paras. [55-56](#).

<sup>49</sup> *Fraser*, at para. [57](#).

<sup>50</sup> *Sharma*, at paras. [49-50](#).

hurdles, such as lack of ability to force governments to collect and share data, and of the asymmetry of knowledge (relative to the state) that many claimants face.<sup>51</sup>

31. Further, when evaluating evidence about most marginalized groups such as the homeless or mentally ill, “courts should be mindful of the fact that issues which predominantly affect certain populations may be under-documented. These claimants may have to rely more heavily on their own evidence or evidence from other members of their group, rather than on government reports, academic studies or expert testimony.”<sup>52</sup>

32. A flexible approach to the evidence required to show connection between an impugned law and disproportionate impact is important to substantive equality. Among other things, such an approach ensures marginalized groups enjoy the full protections of s. 15. Conversely, a formalistic or unduly restrictive approach is unrealistic and may place impossible burdens on marginalized groups to establish s. 15 claims.

## **(2) SECTION 7 “SECURITY OF THE PERSON” ANALYSIS MUST ACCOUNT FOR BARRIERS IMPOSED BY DISABILITY AND SOCIAL ASSISTANCE**

### **A. An intersectional equality lens is necessary to assess “security of the person” under section 7 of the *Charter***

33. An intersectional equality lens is also necessary when assessing whether state restrictions and penalties on panhandling deprive persons living in deep poverty of “security of the person” contrary to s. 7. This is because facially neutral laws can have different impacts on people who are differently situated.<sup>53</sup> The Court must assess the impugned provisions’ impact on security of

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<sup>51</sup> *Sharma*, at para. [49](#).

<sup>52</sup> *Fraser*, at para. [57](#).

<sup>53</sup> *R. v. Boudreault*, [2018 SCC 58](#), at para. [66](#).



the person with regard to the lived realities of persons who panhandle, who are disproportionately persons with mental health and addiction disabilities who receive social assistance.<sup>54</sup>

34. Jurisprudence from the Supreme Court of Canada supports this approach. The Supreme Court has described the equality guarantee as “the broadest of all guarantees,” one which applies to, strengthens, and supports all other rights guaranteed by the *Charter*.<sup>55</sup> Substantive *Charter* rights, such as the right to security of the person, should be interpreted in a manner that is consistent with equality principles to ensure that the law responds to the needs of those disadvantaged individuals and groups whose protection is at the heart of section 15 of the Charter.<sup>56</sup> This approach is consistent with the “generous and purposive” interpretation required of *Charter* rights.<sup>57</sup>

35. State interference with an individual’s physical or psychological integrity engages their security of the person. This includes any state action that causes physical or serious psychological suffering.<sup>58</sup> The psychological harm need not necessarily rise to the level of nervous shock or psychiatric illness, but it must be greater than ordinary stress or anxiety.<sup>59</sup> A law can be said to be the “cause” of a deprivation of security of the person where there is a “sufficient causal connection.”<sup>60</sup> This standard does not require the impugned law to be the only or the dominant cause of the prejudice. It is satisfied by a “reasonable inference, drawn on a balance of probabilities.”<sup>61</sup>

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<sup>54</sup> Stapleton Affidavit, at paras. 22 and 40, AAR, Tab 13; Nefs Affidavit, at para. 6, AAR, Tab 7.

<sup>55</sup> *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143, at 185.

<sup>56</sup> *New Brunswick (Minister of Health and Community Services) v. G.(J.)*, [1999] 3 S.C.R. 46, at paras. 112, 115; *R. v. Williams*, [1998] 1 S.C.R. 1128, at paras. 48-49; *R. v. Boudreault*, 2018 SCC 58, at paras. 54-55.

<sup>57</sup> *Gosselin v. Québec (Attorney General)*, 2002 SCC 84, at para. 316, citing *Hunter v. Southam Inc.*, [1984] 2 S.C.R. 145.

<sup>58</sup> *Carter v. Canada (Attorney General)*, 2015 SCC 5, at para. 64.

<sup>59</sup> *New Brunswick (Minister of Health and Community Services) v. G.(J.)*, [1999] 3 S.C.R. 46, at para. 60.

<sup>60</sup> *Canada (Attorney General) v. Bedford*, 2013 SCC 72, at para. 75.

<sup>61</sup> *Canada (Attorney General) v. Bedford*, 2013 SCC 72, at para. 76.

36. The impact of the impugned provisions on the physical and psychological integrity of the deeply poor persons they target must be understood in context with the pre-existing disadvantage these persons already face. Courts have applied intersectional equality considerations to find a breach of s. 7 in numerous cases, including where single mothers who were disproportionately poor were excluded from legal aid services for parents whose children were subject to removal proceedings<sup>62</sup>; where the state's refusal to exempt a safe injection site from narcotics control disproportionately impacted persons using intravenous drugs, who suffered from addiction, disability, and poverty, and many of whom were Indigenous<sup>63</sup>; and recently, where homelessness, disability and inadequate shelter spaces meant that municipal bylaws prohibiting encampments breached s. 7<sup>64</sup>.<sup>65</sup>

37. In assessing whether the claimants have suffered physical and psychological harm in this case, the Court must consider the impact of the SSA provisions in light of (i) the individual vulnerability and marginalization of the claimants, particularly those who are social assistance recipients with mental health and addiction disabilities; and (ii) the structural and systemic barriers that restrict their options for supporting themselves, including within the social assistance regime. These considerations are critical to understand how panhandling is essential to the survival of many poor people, and in turn how the SSA restrictions and penalties on panhandling can deprive those individuals of their security of the person.

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<sup>62</sup> *New Brunswick (Minister of Health and Community Services) v. G.(J.)*, [1999] 3 S.C.R. 46.

<sup>63</sup> *Canada (AG) v. PHS Community Services Society*, 2011 SCC 44.

<sup>64</sup> See, for example, *The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained*, 2023 ONSC 670; *Victoria (City) v. Adams*, 2008 BCSC 1363, aff'd with slight variation on order, 2009 BCCA 563.

<sup>65</sup> Equality principles have also supported findings of other *Charter* rights violations. For example, racialization and location in a low-income neighbourhood contributed to breach of the s. 9 right against arbitrary detention (*R v. Le*, 2019 SCC 34); and overrepresentation of poverty, precarious housing, disability and Indigeneity among the incarcerated meant that mandatory victim surcharges were cruel and unusual treatment contrary to s. 12 (*R v. Boudreault*, 2018 SCC 58).

*i. Intersecting vulnerabilities of social assistance recipients with disabilities*

38. Equality principles require the Court to consider the intersecting vulnerabilities of persons targeted by the SSA because this context informs why the SSA's intrusions on physical and psychological integrity are sufficiently serious to engage security of the person. Persons who panhandle are disproportionately homeless and persons with addictions and mental health disabilities who receive social assistance.<sup>66</sup> These circumstances are relevant to whether their security of the person is breached in multiple ways:

- a. **Addiction and mental health disabilities impede compliance with the SSA:** Persons with addictions and mental health disabilities are particularly unlikely to be able to comply with SSA restrictions on panhandling while “intoxicated” or in a manner that appears “aggressive”.
- b. **Exacerbation of already poorer health:** Persons who panhandle are more likely to suffer from poor health and inadequate access to health care to begin with as a result of membership in one or more of these groups. Restrictions and penalties on panhandling that impact their ability to afford food, shelter, and other basic necessities – also known as social determinants of health – can therefore amount to physical and serious psychological harm. For example, panhandling prohibitions on persons who are “intoxicated by alcohol or drug” or who are perceived to be “aggressive” because of mental health or addiction disabilities, could mean they cannot afford food, clothing, or shelter, to the detriment of their health. Accumulation of debt from tickets under the SSA, the threat of imprisonment, or actual imprisonment and the resulting loss of social assistance and housing<sup>67</sup> are all circumstances that could exacerbate existing health conditions.
- c. **Penalties under the SSA will necessarily impose much greater hardship on the poor:** The imposition of fines and potential incarceration may compel some

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<sup>66</sup> Stapleton Affidavit, at paras. 22-24, AAR, Tab 13; Affidavit of Joanna Nefs, at para. 6, AAR, Tab 7.

<sup>67</sup> Nefs Affidavit, at para. 32, AAR, Tab 7; X Affidavit, at para. 27, AAR, Tab 3.

panhandlers to pay the fines. But this could mean hardship and sacrifice of the basic necessities of life, a price that those with greater financial means will not need to pay.

***ii. Structural and systemic barriers that prevent panhandlers from accessing other sources of income***

39. The Court must also consider the broader context of structural and systemic barriers that limit panhandlers' access to other sources of income. In particular, systemic barriers to stable employment and to accessing income security programs are relevant to assessing deprivation to security of the person because they restrict poor people's options for supporting themselves. This means that panhandling is often a key, if not the only, source of income for basic necessities for people who live in poverty, particularly social assistance recipients with mental health or addiction disabilities:

***a. Barriers to employment faced by persons who panhandle:*** People sometimes ask why social assistance recipients don't "just get a job." The answer is that they encounter multiple barriers to securing employment, especially permanent and stable employment that could adequately support them.<sup>68</sup> These barriers include homelessness, disability, lack of affordable or adequate housing or childcare, and limited education, training or Canadian work experience.<sup>69</sup> At a broader level, even where they do secure employment, it is unlikely to be the permanent and full-time employment that could help lift them out of poverty. Rather, work has become increasingly precarious, characterized by low wages, fewer hours, job insecurity, and little to no employer-provided benefits.<sup>70</sup>

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<sup>68</sup> Stapleton Affidavit, at para. 24, AAR, Tab 13.

<sup>69</sup> Stapleton Affidavit, at para. 24, AAR, Tab 13.

<sup>70</sup> Daily Bread Food Bank, *Who's Hungry 2020* (2020) at p. 18, online at: <https://www.dailybread.ca/wp-content/uploads/2020/11/Whos-Hungry-Report-2020.pdf>, as cited in Stapleton Affidavit, AAR, Tab 13.

The SSA provisions themselves present an additional barrier to employment. Those who live in poverty are more likely than their wealthier peers to have a need to panhandle and become subject to fines regardless of their ability to pay. But the failure to pay, and potential subsequent incarceration, can lead to the loss of driver's licenses, social assistance, and work permits, the loss of which can severely undermine employment and food and housing security.<sup>71</sup> Unpaid fines can also lead to the garnishment of wages, impacting income and housing security as well.<sup>72</sup>

- b. ***Barriers to accessing more substantial income support programs faced by persons who panhandle:*** Persons who panhandle also face barriers to accessing more substantial income support programs due to the same barriers that restrict their employment opportunities. For example, Employment Insurance, Canada Pension Plan and Workplace Safety and Insurance benefits are based on the outdated assumption that the majority of people have long-term, well paid employment. As a result, people engaged in short-term, contract or precarious work often fail to qualify for these benefits, and are left without any income replacement if they lose their jobs or have to stop working because of illness or disability.<sup>73</sup> This exacerbates their financial insecurity.
- c. ***Social assistance alone is insufficient to meet basic needs:*** Against this backdrop, social assistance is a lifeline for the poor. It is a “last resort” benefit for people who usually cannot access other income supports. But two serious problems with it mean that income supplementation through panhandling is often necessary for social assistance recipients to survive.

*First*, social assistance is grossly inadequate: the maximum of \$733 per month available to single persons through OW, and of \$1,308 per month through ODSP, is to cover the

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<sup>71</sup> Criminal Code, R.S.C., 1985, c. C-46, s. 734.5; *R. v. Wu*, [2003] 3 S.C.R. 530, at para. 56; Kidd Affidavit, at para. 17, AAR, Tab 10; Nefs Affidavit, at para. 32, AAR, Tab 7; X Affidavit, at para. 27, AAR, Tab 3.

<sup>72</sup> O'Grady Affidavit, at para. 25, AAR, Tab 8.

<sup>73</sup> Income Security Reform Working Group et al., *Income Security: A Roadmap for Change* (October 2017) at pp. 50, 54, online at [https://files.ontario.ca/income\\_security\\_-\\_a\\_roadmap\\_for\\_change-english-accessible\\_0.pdf](https://files.ontario.ca/income_security_-_a_roadmap_for_change-english-accessible_0.pdf) as cited in Stapleton Affidavit, AAR, Tab 13; Noah Zon and Thomas Granofsky, *Resetting Social Assistance Reform* (2019 October 29), online at: [https://on360.ca/policy-papers/resetting-social-assistancereform/#\\_ftn40](https://on360.ca/policy-papers/resetting-social-assistancereform/#_ftn40), as cited in Stapleton Affidavit, AAR, Tab 13.

*entire* cost of shelter, food, clothing, and other basic necessities. These amounts are insufficient to cover rent for most individuals<sup>74</sup>, let alone food and other necessary expenses, and fall well below the poverty line.<sup>75</sup>

*Second*, as previously described, these already inadequate rates are reduced or withheld entirely during life transitions and crises such as homelessness and incarceration. Where a single person loses their shelter allowance due to homelessness, they receive a basic needs allowance of only \$343 per month on OW or \$390 per month on ODSP.<sup>76</sup> As this Court has recognized, social assistance provides “only a minimal level of subsistence” and as a result, “any negative impact on the payments being received can have very serious effects.”<sup>77</sup>

40. In short: like X, X, X, and X, people who panhandle face personal and systemic barriers to obtaining sufficient income to afford basic necessities. This leaves them little choice but to panhandle to survive. This context is crucial to assessing the harms of the SSA restrictions and penalties on panhandling and whether they amount to a deprivation of security of the person.

**B. “Security of the person” includes the right not to be deprived of the ability to meet one’s basic needs**

41. This Court should confirm that the impugned provisions, as state restrictions on vulnerable persons’ ability to meet their basic needs, engage the security of the person interest.

42. This context is unique because persons who panhandle do not have meaningful options, other than panhandling, to meet their basic needs and survive. Panhandlers with addictions and mental health impairments do not have meaningful options other than panhandling while intoxicated or in a manner others may view as “aggressive”. State restrictions on panhandling, and

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<sup>74</sup> Stapleton Affidavit, at para. 23, AAR, Tab 13.

<sup>75</sup> Stapleton Affidavit, at para. 23, AAR, Tab 13.

<sup>76</sup> [O. Reg. 134/98](#), ss. [41-42](#); [O. Reg. 222/98](#), ss. [30-31](#).

<sup>77</sup> *Broomer v. Ontario (Attorney General)*, [2002] O.J. No. 2196 at para. 47, ISAC Book of Authorities, Tab 1.

the imposition of fines and imprisonment for those who breach them, therefore deprive vulnerable persons of security of the person by restricting them from obtaining the funds they require for basic survival and their physical and psychological integrity.

43. While the Court of Appeal found that the *SSA* provisions did not constitute deprivation of security of the person in *Banks*,<sup>78</sup> it failed to apply an intersectional equality lens to this question and did not consider the specific impact of the restrictions on persons with addictions and mental health disabilities who must supplement their social assistance income and lack means other than panhandling to do so. It also relied on<sup>79</sup> reasoning from *Reference re ss. 193 and 195.1(1)(c) of the Criminal Code*,<sup>80</sup> that restrictions on sex work did not engage security of the person, but that reasoning has now been overturned by the Supreme Court in *R. v. Bedford*.<sup>81</sup>

44. In the same way that restrictions on sex work impact the security of the person of sex workers, who “because of financial desperation, drug addictions, mental illness, ... often have little choice but to sell their bodies for money”, restrictions on panhandling impact that security of the person of panhandlers who solicit alms, while intoxicated or experiencing mental illness, in order to survive.<sup>82</sup>

45. The s. 7 security of the person interest is engaged where a state action restricts vulnerable persons from their only practical means of obtaining the income they require to meet their most basic survival needs. In *Irwin Toy*, the Supreme Court of Canada left open the door to whether security of the person includes “those economic rights fundamental to human life or survival”,

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<sup>78</sup> *R. v. Banks*, [2007 ONCA 19](#).

<sup>79</sup> *Ibid*, at para. [79](#).

<sup>80</sup> *Reference re ss. 193 and 195.1(1)(c) of the Criminal Code*, [\[1990\] 1 S.C.R. 1123](#).

<sup>81</sup> *Canada (Attorney General) v. Bedford*, [2013 SCC 72](#).

<sup>82</sup> *Ibid*, at para. [86](#).

such as rights to “adequate food, clothing, and shelter.”<sup>83</sup> As Justice Arbour observed in her dissenting reasons in *Gosselin*, these interests are “so intimately intertwined with considerations related to one’s basic health...and, at the limit, even of one’s survival” that they readily fall within the ambit of s. 7, including security of the person.<sup>84</sup>

46. This approach is necessary to ensuring the most marginalized groups – those who “lack the basic means of subsistence” – can enjoy the protections of the *Charter*. Otherwise, the *Charter* accords rights which can only be fully enjoyed by “people who are fed, are clothed, are sheltered, have access to necessary health care, to education, and to a minimum level of income.”<sup>85</sup>

47. In recent years, courts have recognized state deprivations to basic necessities of life as breaching security of the person. Recent case law from this Court and from British Columbia found that restrictions on the capacity to secure one of the “necessary conditions for life” – shelter – deprive the homeless of security of the person. These decisions hold that where a jurisdiction has inadequate shelter options to meet the needs of its homeless residents, municipal bylaws prohibiting homeless persons from sheltering themselves from the elements put them at risk of harm to their physical and psychological integrity.<sup>86</sup>

48. The present application is analogous. Restrictions on the capacity to panhandle to afford shelter, food, and other basic necessities, deprives the poor and social assistance recipients of their security of the person.

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<sup>83</sup> *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 S.C.R. 927, at pp. 1003-1004.

<sup>84</sup> *Gosselin v. Québec (Attorney General)*, 2002 SCC 84, at para. 311.

<sup>85</sup> Martha Jackman, “The Protection of Welfare Rights Under the Charter” (1988) 20 Ottawa Review 257 at 326, available online at <https://ssrn.com/abstract=2319189>.

<sup>86</sup> See, for example, *The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained*, 2023 ONSC 670; *Victoria (City) v. Adams*, 2008 BCSC 1363, aff’d with slight variation on order, 2009 BCCA 563.



**PART IV – ORDER SOUGHT**

49. ISAC takes no position on the outcome of this application. It seeks no costs and asks that no costs be awarded against it.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 1<sup>st</sup> day of December, 2023.



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Anu Bakshi/ Nabila F. Qureshi  
Lawyers for the Appellants

**SCHEDULE “A”  
LIST OF AUTHORITIES**

1. *1705-04432 (Re)*, [2018 ONSBT 87](#)
2. *Andrews v. Law Society of British Columbia*, [\[1989\] 1 S.C.R. 143](#)
3. *Broomer v. Ontario (Attorney General)*, [2002] O.J. No. 2196
4. *Canada (A.G.) v. Mossop*, [\[1993\] 1 S.C.R. 554](#)
5. *Canada (A.G.) v. PHS Community Services Society*, [2011 SCC 44](#)
6. *Canada (Attorney General) v. Bedford*, [2013 SCC 72](#)
7. *Carter v. Canada (Attorney General)*, [2015 SCC 5](#)
8. *Falkiner v. Ontario (Minister of Community and Social Services)*, (2002) [59 O.R. \(3d\) 481](#)  
(C.A.)
9. *Fraser v. Canada (Attorney General)*, [2020 SCC 28](#)
10. *Gosselin v. Québec (Attorney General)*, [2002 SCC 84](#)
11. *Irwin Toy Ltd. v. Quebec (Attorney General)*, [\[1989\] 1 S.C.R. 927](#)
12. *Kimaev v. Social Services Department (City of Toronto)*, [2020 ONSC 1281](#) (Div. Ct.)
13. *New Brunswick (Minister of Health and Community Services) v. G.(J.)*, [\[1999\] 3 S.C.R. 46](#)
14. *Quebec (Attorney General) v. A*, [2013 SCC 5](#)
15. *R. v. Banks*, [2007 ONCA 19](#)

16. *R. v. Boudreault*, [2018 SCC 58](#)
17. *R. v. C.P.*, [2021 SCC 19](#)
18. *R v. Le*, [2019 SCC 34](#)
19. *R. v. Sharma*, [2022 SCC 39](#)
20. *R. v. Williams*, [\[1998\] 1 S.C.R. 1128](#)
21. *R. v. Wu*, [\[2003\] 3 S.C.R. 530](#)
22. *Rea v. Simcoe (County Administrator, Social Services Department)* (2005), [79 O.R. \(3d\) 583](#) (C.A.)
23. *Reference re ss. 193 and 195.1(1)(c) of the Criminal Code*, [\[1990\] 1 S.C.R. 1123](#)
24. *Surdivall v. Ontario (Disability Support Program)*, [2014 ONCA 240](#)
25. *The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained*, [2023 ONSC 670](#)
26. *Victoria (City) v. Adams*, [2008 BCSC 1363](#), aff'd [2009 BCCA 563](#)
27. *Withler v. Canada (Attorney General)*, [2011 SCC 12](#)

**SCHEDULE “B”  
TEXT OF STATUTES, REGULATIONS, AND BY-LAWS**

**I. STATUTES**

**1. [Alberta Human Rights Act, R.S.A. 2000, c. A-25.5](#)**

**Discrimination re publications, notices**

**3(1)** No person shall publish, issue or display or cause to be published, issued or displayed before the public any statement, publication, notice, sign, symbol, emblem or other representation that

- (a) indicates discrimination or an intention to discriminate against a person or a class of persons, or
- (b) is likely to expose a person or a class of persons to hatred or contempt

because of the race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or class of persons.

**Discrimination re goods, services, accommodation, facilities**

**4** No person shall

- (a) deny to any person or class of persons any goods, services, accommodation or facilities that are customarily available to the public, or
- (b) discriminate against any person or class of persons with respect to any goods, services, accommodation or facilities that are customarily available to the public,

because of the race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or class of persons or of any other person or class of persons.

**Discrimination re tenancy**

**5(1)** No person shall

- (a) deny to any person or class of persons the right to occupy as a tenant any commercial unit or self-contained dwelling unit that is advertised or otherwise in any way represented as being available for occupancy by a tenant, or
- (b) discriminate against any person or class of persons with respect to any term or condition of the tenancy of any commercial unit or self-contained dwelling unit,

because of the race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or class of persons or of any other person or class of persons.

(2) Subsection (1) as it relates to age and family status does not apply with respect to a minimum age for occupancy for premises that contain a unit or site to which section 4.2(1) applies.

(3) Subsection (1) as it relates to age and family status does not apply with respect to a minimum age for occupancy that applies to a unit or site at premises in which every unit or site is reserved for occupancy by one individual who has reached a specified age not less than 55 or by two or more individuals at least one of whom has reached a specified age not less than 55.

(4) A minimum age for occupancy under subsection (3)

- (a) must not prevent occupancy by a prescribed class of individuals or in the prescribed circumstances, and
- (b) may permit occupancy by a prescribed class of individuals or in the prescribed circumstances.

(5) If a landlord adopts a minimum age for occupancy in accordance with subsection (3), the minimum age for occupancy shall not be considered to be non-compliant with subsection (3) by reason of continued occupation by individuals who were resident in the premises before that minimum age for occupancy was adopted and who do not conform to the minimum age for occupancy, to subsection (3) or to the regulations under subsection (4).

### **Discrimination re employment practices**

**7(1)** No employer shall

- (a) refuse to employ or refuse to continue to employ any person, or
- (b) discriminate against any person with regard to employment or any term or condition of employment,

because of the race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person.

(2) Subsection (1) as it relates to age and marital status does not affect the operation of any bona fide retirement or pension plan or the terms or conditions of any bona fide group or employee insurance plan.

(3) Subsection (1) does not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational requirement.

### **Applications and advertisements re employment**

**8(1)** No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry of an applicant

- (a) that expresses either directly or indirectly any limitation, specification or preference indicating discrimination on the basis of the race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or of any other person, or
- (b) that requires an applicant to furnish any information concerning race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.

**Membership in trade union, etc.**

**9** No trade union, employers' organization or occupational association shall

- (a) exclude any person from membership in it,
- (b) expel or suspend any member of it, or
- (c) discriminate against any person or member,

because of the race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation of that person or member.

**2. [The Constitution Act, 1982, Schedule B to the Canada Act 1982 \(UK\), 1982, c. 11](#)**

**Rights and freedoms in Canada**

**1** The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

**Life, liberty and security of person**

**7** Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

**Equality before and under law and equal protection and benefit of law**

**15 (1)** Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

**3. [Criminal Code, R.S.C., 1985, c. C-46](#)**

**Licences, permits, etc.**

**734.5** If an offender is in default of payment of a fine,

- (a) where the proceeds of the fine belong to Her Majesty in right of a province by virtue of subsection 734.4(1), the person responsible, by or under an Act of the legislature of the

province, for issuing, renewing or suspending a licence, permit or other similar instrument in relation to the offender may refuse to issue or renew or may suspend the licence, permit or other instrument until the fine is paid in full, proof of which lies on the offender; or

(b) where the proceeds of the fine belong to Her Majesty in right of Canada by virtue of subsection 734.4(2), the person responsible, by or under an Act of Parliament, for issuing or renewing a licence, permit or other similar instrument in relation to the offender may refuse to issue or renew or may suspend the licence, permit or other instrument until the fine is paid in full, proof of which lies on the offender.

#### 4. Manitoba [Human Rights Code, C.C.S.M., c. H175](#)

##### **Applicable characteristics**

9(2) The applicable characteristics for the purposes of clauses (1)(b) to (d) are

[...]

(j) source of income;

#### 5. Newfoundland and Labrador [Human Rights Code, R.S.N.L. 1990, c. H-14](#)

##### **Right of the public to services**

6 (1) A person shall not deny to or discriminate against a person or class of persons with respect to accommodation, services, facilities or goods to which members of the public customarily have access or which are customarily offered to the public because of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, sexual orientation, marital status, family status, age, physical disability or mental disability of that person or class of persons.

##### **Right to occupy commercial and dwelling units**

7 (1) A person, directly or indirectly, alone or with another, by himself or herself or by the interposition of another, shall not

- (a) deny to a person or class of persons occupancy of a commercial unit or a self-contained dwelling unit; or
- (b) discriminate against a person or class of persons with respect to a term or condition of occupancy of a commercial unit or a self-contained dwelling unit

by reason only of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, sexual orientation, marital status, family status, age, source of income, physical disability or mental disability of that person or class of persons.

##### **Harassment of occupant prohibited**

8 A person, directly or indirectly, alone or with another, by himself or herself only or by the interposition of another, shall not harass a person or class of persons who is an occupant of a

commercial unit or a self-contained dwelling unit because of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, sexual orientation, marital status, family status, age, source of income, physical disability or mental disability of that person or class of persons.

**Discrimination in employment**

**9 (1)** An employer, or a person acting on behalf of an employer, shall not refuse to employ or to continue to employ or otherwise discriminate against a person in regard to employment or a term or condition of employment because of

- (a) that person's race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, sexual orientation, marital status, family status, physical disability or mental disability; or
- (b) that person's age, if that person has reached the age of 19 years,

but this subsection does not apply to the expression of a limitation, specification or preference based on a good faith occupational qualification.

**(2)** An employer, or a person acting on behalf of an employer, shall not use, in the hiring or recruitment of persons for employment, an employment agency that discriminates against a person seeking employment because of his or her race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, sexual orientation, marital status, family status, physical disability or mental disability, or age, where the person has reached the age of 19 years.

**(3)** A trade union shall not exclude a person from full membership or expel or suspend or otherwise discriminate against 1 of its members or discriminate against a person in regard to his or her employment by an employer, because of

- (a) that person's race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, sexual orientation, marital status, family status, physical disability or mental disability; or
- (b) that person's age, if that person has reached the age of 19 years.

**(4)** A person shall not use or circulate a form of application for employment or publish an advertisement in connection with employment or prospective employment or make a written or oral inquiry in connection with employment that expresses either directly or indirectly

- (a) a limitation, specification or preference as to race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, sexual orientation, marital status, family status, physical disability or mental disability; or
- (b) an intent to
  - (i) dismiss from employment,
  - (ii) refuse to employ or rehire, or
  - (iii) discriminate against a person because of age, if that person has reached the age of 19 years,



but this subsection does not apply to the expression of a limitation, specification or preference based on a good faith occupational qualification.

(5) Notwithstanding subsection 19(1), the provisions of subsections (1), (3) and (4) as to age shall not apply to

- (a) prevent the operation of a good faith retirement or pension plan;
- (b) operation of the terms or conditions of a good faith retirement or pension plan which have the effect of a minimum service requirement; or
- (c) operation of the terms or conditions of a good faith group or employee insurance plan.

(5.1) Paragraph (5)(a) does not apply to a provision of a good faith retirement or pension plan requiring a person to retire at an age set out in the plan.

(6) This section does not apply to an employer

- (a) which is an exclusively religious, fraternal or sororal organization that is not operated for private profit; or
- (b) in respect of the employment of a domestic employed and living in a single-family home.

(7) The right under this section to equal treatment with respect to employment is not infringed where a judge is required to retire on reaching a specified age under the Provincial Court Act, 1991.

### **Harassment in establishment prohibited**

**12** A person in an establishment shall not harass another person in the establishment because of the race, religion, religious creed, sex, sexual orientation, marital status, family status, age, physical disability, mental disability, political opinion, colour or ethnic, national or social origin of that person.

### **Discriminatory publications**

**14 (1)** A person shall not

- (a) publish or display; or
- (b) permit to be published or displayed on lands or premises or in a newspaper, through a radio or television broadcasting station or by means of another medium which he or she runs or controls

a notice, sign, symbol, emblem or other representation indicating discrimination or an intention to discriminate against a person or a class of persons because of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, sexual orientation, marital status, family status, age, physical disability or mental disability of that person or class of persons.

(2) Nothing in this section interferes with the free expression of opinions upon a subject by speech or in writing.

6. Northwest Territories [Human Rights Act, S.N.W.T. 2002, c. 18](#)

**Prohibited Grounds of Discrimination and Intent**

**5 (1)** For the purposes of this Act, the prohibited grounds of discrimination are race, colour, ancestry, nationality, ethnic origin, place of origin, creed, religion, age, disability, sex, sexual orientation, gender identity or expression, marital status, family status, family affiliation, political belief, political association, social condition and a conviction that is subject to a pardon or record suspension.

(2) Whenever this Act protects an individual from discrimination on the basis of sex, the protection includes, without limitation, the protection of a female from discrimination on the basis that she is or may become pregnant.

(2.1) Whenever this Act protects an individual from discrimination on the basis of disability, the protection includes the protection of an individual from discrimination on the basis that he or she

- (a) has or has had a disability;
- (b) is believed to have or have had a disability; or
- (c) has or is believed to have a predisposition to developing a disability.

(3) Whenever this Act protects an individual from discrimination on the basis of a prohibited ground of discrimination, it also protects the individual from discrimination on the basis of

- (a) two or more prohibited grounds of discrimination or the effect of a combination of prohibited grounds; and
- (b) the individual's association or relationship, whether actual or presumed, with an individual or class of individuals identified by a prohibited ground of discrimination.

7. Nova Scotia [Human Rights Act, R.S.N.S. 1989, c. 214](#)

**Prohibition of discrimination**

**5 (1)** No person shall in respect of

- [...]
- (t) source of income;

8. [Ontario Disability Support Program Act, 1997, S.O. 1997, c. 25, Sched. B](#)

**Eligibility for income support**

**5 (1)** No person is eligible for income support unless,

[...]

(d) the person and the prescribed dependants provide the information and the verification of information required to determine eligibility including,

- (i) information regarding personal identification, as prescribed,
- (ii) financial information, as prescribed, and
- (iii) any other prescribed information

### **Determination of income support**

**11** The amount of income support to be provided and the time and manner of providing that support shall be determined in accordance with the regulations.

## **9. Ontario [Human Rights Code, R.S.O. 1990, c. H.19](#)**

### **Accommodation**

**2** (1) Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance.

### **Harassment in accommodation**

(2) Every person who occupies accommodation has a right to freedom from harassment by the landlord or agent of the landlord or by an occupant of the same building because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance.

## **10. [Ontario Works Act, 1997, S.O. 1997, c. 25, Schedule A](#)**

### **Who receives income assistance**

**7** (1) Income assistance shall be provided in accordance with the regulations to persons who satisfy all conditions of eligibility under this Act and the regulations.

### **Eligibility for income assistance**

(3) No person is eligible for income assistance unless,

[...]

(c) the person and the prescribed dependants provide the information and the verification of information required to determine eligibility including,

- (i) personal identification information, as prescribed,
- (ii) financial information, as prescribed, and
- (iii) any other prescribed information

11. Prince Edward Island [\*Human Rights Act, R.S.P.E.I. 1988, c. H-12\*](#)

**Definitions**

**1 (1)** In this Act

[...]

(d) “**discrimination**” means discrimination in relation to age, colour, creed, disability, ethnic or national origin, family status, gender expression, gender identity, marital status, political belief, race, religion, sex, sexual orientation, or source of income of any individual or class of individuals;

12. Quebec [\*Charter of Human Rights and Freedoms, R.S.Q., c. C-12\*](#)

10 Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right.

13. [\*Safe Streets Act, 1999, S.O. 1999, c. 8\*](#)

**Definition**

**1** In sections 2 and 3,

“solicit” means to request, in person, the immediate provision of money or another thing of value, regardless of whether consideration is offered or provided in return, using the spoken, written or printed word, a gesture or other means

**2 (1)** In this section,

“aggressive manner” means a manner that is likely to cause a reasonable person to be concerned for his or her safety or security.

**Solicitation in aggressive manner prohibited**

(2) No person shall solicit in an aggressive manner.

**Examples**

(3) Without limiting subsection (1) or (2), a person who engages in one or more of the following activities shall be deemed to be soliciting in an aggressive manner for the purpose of this section:

1. Threatening the person solicited with physical harm, by word, gesture or other means, during the solicitation or after the person solicited responds or fails to

respond to the solicitation.

2. Obstructing the path of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation.
3. Using abusive language during the solicitation or after the person solicited responds or fails to respond to the solicitation.
4. Proceeding behind, alongside or ahead of the person solicited during the solicitation or after the person solicited responds or fails to respond to the solicitation.
5. Soliciting while intoxicated by alcohol or drugs.
6. Continuing to solicit a person in a persistent manner after the person has responded negatively to the solicitation. 1999, c. 8, s. 2 (3).

### **Definitions**

**3 (1)** In this section,

“public transit vehicle” means a vehicle operated by, for or on behalf of the Government of Ontario, a municipality in Ontario or a transit commission or authority in Ontario, as part of a regular passenger transportation service;  
“roadway” has the same meaning as in the Highway Traffic Act;  
“vehicle” includes automobile, motorcycle, van, truck, trailer, bus, mobile home, traction engine, farm tractor, road-building machine, bicycle, motor-assisted bicycle, motorized snow vehicle, streetcar and any other vehicle drawn, propelled or driven by any kind of power, including muscular power.

### **Solicitation of captive audience prohibited**

**(2)** No person shall,

- (a) solicit a person who is using, waiting to use, or departing from an automated teller machine;
- (b) solicit a person who is using or waiting to use a pay telephone or a public toilet facility;
- (c) solicit a person who is waiting at a taxi stand or a public transit stop;
- (d) solicit a person who is in or on a public transit vehicle;
- (e) solicit a person who is in the process of getting in, out of, on or off a vehicle or who is in a parking lot; or
- (f) while on a roadway, solicit a person who is in or on a stopped, standing or parked vehicle.

### **Permitted fund-raising by charities**

**(3)** Subsection (2) does not apply to fund-raising activities that meet the following conditions:

1. They are conducted by a charitable organization registered under the Income Tax Act (Canada) on a roadway where the maximum speed limit is 50 kilometres per hour.
2. They are permitted by a by-law of the municipality in which the activities are conducted.

### **Offence**

**5** (1) Every person who contravenes section 2, 3 or 4 is guilty of an offence and is liable,

- (a) on a first conviction, to a fine of not more than \$500; and
- (b) on each subsequent conviction, to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

### **Subsequent conviction**

(2) For the purpose of determining the penalty to which a person is liable under subsection (1),

- (a) a conviction of the person of a contravention of section 2 is a subsequent conviction only if the person has previously been convicted of a contravention of section 2 or 3;
- (b) a conviction of the person of a contravention of section 3 is a subsequent conviction only if the person has previously been convicted of a contravention of section 2 or 3; and
- (c) a conviction of the person of a contravention of section 4 is a subsequent conviction only if the person has previously been convicted of a contravention of section 4.

## **14. [The Saskatchewan Human Rights Code, S.S. 1979, c. S-24.1](#)**

### **Interpretation**

**2**(1) In this Act:

- (m.01) “prohibited ground” means:
  - (i) religion;
  - (ii) creed;
  - (iii) marital status;
  - (iv) family status;
  - (v) sex;
  - (vi) sexual orientation;
  - (vii) disability;
  - (viii) age;
  - (ix) colour;
  - (x) ancestry;
  - (xi) nationality;
  - (xii) place of origin;
  - (xiii) race or perceived race;
  - (xiv) receipt of public assistance; and
  - (xv) gender identity;

## II. REGULATIONS

### 1. O. Reg. 134/98 under the *Ontario Works Act, 1997*, S.O. 1997, c. 25, Sched. A

#### DEFINITIONS

1. (1) For the purposes of the Act and the regulations,

“spouse”, in relation to an applicant or recipient, means,

- (d) a person who has been residing in the same dwelling place as the applicant or recipient for a period of at least three months, if,
  - (i) the extent of the social and familial aspects of the relationship between the two persons is consistent with cohabitation, and
  - (ii) the extent of the financial support provided by one person to the other or the degree of financial interdependence between the two persons is consistent with cohabitation. (“conjoint”).

#### PERSONS DETAINED IN CUSTODY

8. A person is not eligible for assistance while the person,

- (a) is detained in a lawful place of confinement; or
- (b) is on temporary absence, parole or probation or serving a conditional sentence and is residing in a community residence if the person’s placement is funded in whole or in part by Correctional Service Canada.

#### INFORMATION TO BE PROVIDED

14. (1) The administrator shall determine that a person is not eligible for income assistance if the person fails to provide the information the administrator requires to determine initial or ongoing eligibility for income assistance, including information with respect to,

- (a) new or changed circumstances;
- (b) participation in employment assistance activities;
- (c) the receipt or disposition of assets; and
- (d) the receipt or expected receipt of income or some other financial resource.

#### GENERAL BUDGETARY REQUIREMENTS

41. (1) The budgetary requirements for an applicant or recipient to whom sections 43, 44 and 44.1 do not apply shall be equal to the sum of the following amounts:

1. The amount payable for basic needs determined in accordance with the following Table:

TABLE

Number of Dependants other than a Spouse	Number of Dependants 18 Years or Older	Number of Dependants 0-17 Years	Recipient Amount in dollars	Recipient and Spouse Amount in dollars
0	0	0	343	494
1	0	1	360	494

1	1	0	623	652
2	0	2	360	494
2	1	1	623	652
2	2	0	781	826
3	0	3	360	494
3	1	2	623	652
3	2	1	781	826
3	3	0	956	1,001

For each additional dependant, add \$175 if the dependant is 18 years of age or older or \$0 if the dependant is 0 to 17 years of age.

2. If the applicant or recipient resides north of the 50th parallel and is without year round road access, an amount determined in accordance with the following Table:

TABLE

Number of Dependants other than a Spouse	Recipient Amount in dollars	Recipient and Spouse Amount in dollars
0	272	403
1	430	502
2	526	602

For each additional dependant, add \$102.

3. The amount payable for the cost of shelter calculated under section 42.
4. Subject to subsection (2), for the month in which the administrator receives an application for a special diet allowance and is satisfied that a member of the benefit unit requires a special diet allowance because of a medical condition set out in Schedule 1 to Ontario Regulation 564/05 (Prescribed Policy Statements) made under the Act and for each succeeding month, up to and including the month in which the administrator requests a new application and a reassessment of the requirement for a special diet allowance, an amount that is the lesser of, for each member of the benefit unit,
  - i. the sum of the amounts determined by the administrator in accordance with Schedule 1 to Ontario Regulation 564/05, and
  - ii. \$250.
5. A monthly amount for personal needs due to advanced age equal to \$44 with respect to each member of the benefit unit who has attained the age of 65 years.
6. For the month in which an approved health professional confirms that a member of the benefit unit is pregnant and for each succeeding month up to and including the month in which the pregnancy ends, and subsequently, if the member of the benefit unit is breast-feeding, for each succeeding month up to and including the month in which the infant is 12 months of age, a nutritional allowance equal to,



- i. \$50, if an approved health professional confirms that the person requires a non-dairy diet, or
- ii. \$40, otherwise.

(2) For the purposes of paragraph 4 of subsection (1), in order to establish for the administrator that a member of the benefit unit requires or, in the case of a reassessment continues to require, a special diet allowance, the member shall submit to the administrator the following:

1. A special diet allowance application form approved by the Director, specifying the medical condition for which the special diet allowance is being requested and completed by an approved health professional and by the member.
2. Additional information respecting his or her requirement for a special diet allowance because of a medical condition as requested by the administrator under subsection 36 (2).
3. An additional application form approved by the Director and completed by an approved health professional, other than the health professional who completed the application form under paragraph 1 or any earlier forms, as requested by the administrator.

#### **SHELTER**

**42.** (1) In this section,

“shelter” means the cost for a dwelling place used as a principal residence with respect to any of the following:

1. Rent, other than amounts paid for parking and cable.
2. Principal and interest on a mortgage or loan incurred to purchase the dwelling place or to make repairs that the administrator determines are necessary in order for the property to continue to be used as a dwelling place.
3. Occupancy costs paid under an agreement to purchase the dwelling place.
4. Taxes.
5. Premiums for an insurance policy with respect to the dwelling place or its contents.
6. Reasonable and necessary payments, approved by the administrator, for the preservation, maintenance and use of the dwelling place.
7. Common expenses required to be contributed for a condominium unit or a co-operative housing unit except that portion of the common expenses allocated to the cost of energy for heat.
8. The following utilities, if they are not included in rent or common expenses:
  - i. An energy source used for household purposes other than for heat.
  - ii. Water and sewage.
  - iii. Rental of a furnace and a hot water heater.
9. Rent under a land lease.
10. The cost of energy for heat.

(2) The following rules apply for calculating the cost of shelter:

1. Determine the actual cost payable for shelter under subsection (1).
2. Determine the maximum amount payable for shelter in accordance with the following Table:

TABLE

Benefit Unit Size	Maximum Monthly Shelter Allowance Amount in dollars
1	390
2	642
3	697
4	756
5	815
6 or more	844

3. Subject to paragraph 4, the amount payable for shelter shall be the lesser of the amount determined under paragraph 1 and the maximum amount determined under paragraph 2.

#### **OTHER EXEMPTIONS**

**54.** (1) The following shall not be included in income:

8. Gifts or other voluntary payments up to a maximum of \$10,000 for any 12-month period.

**2.** [O. Reg. 222/98](#) under *Ontario Disability Support Program Act, 1997*, S.O. 1997, c. 25, Sched. B

#### **DEFINITIONS**

**1.** (1) For the purposes of the Act and the regulations,

“spouse”, in relation to an applicant or recipient, means,

- (d) a person who has been residing in the same dwelling place as the applicant or recipient for a period of at least three months, if,
  - (i) the extent of the social and familial aspects of the relationship between the two persons is consistent with cohabitation, and
  - (ii) the extent of the financial support provided by one person to the other or the degree of financial interdependence between the two persons is consistent with cohabitation. (“conjoint”).

#### **PERSONS DETAINED IN CUSTODY**

**9.** A person is not eligible for income support while the person,

- (a) is detained in a lawful place of confinement; or

- (b) is on temporary absence, parole or probation or serving a conditional sentence and is residing in a community residence if the person's placement is funded in whole or in part by Correctional Service Canada.

#### INFORMATION TO BE PROVIDED

**12.** (1) The Director shall determine that a person is not eligible for income support if the person fails to provide the information the Director requires to determine initial or ongoing eligibility for income support, including information with respect to,

- (a) new or changed circumstances;
- (b) disability or membership in a prescribed class;
- (c) the receipt or disposition of assets; and
- (d) the receipt or expected receipt of income or some other financial resource.

#### GENERAL BUDGETARY REQUIREMENTS

**30.** (1) The budgetary requirements for an applicant or recipient to whom sections 32, 33 and 33.1 do not apply shall be equal to the sum of the following amounts:

- 1. The amount payable for basic needs, which is the sum of the following:
  - i. The amount determined in accordance with the following Table:

TABLE

Column 1 Number of dependent adults included in the benefit unit	Column 2 Recipient if there is no spouse included in the benefit unit	Column 3 Recipient with spouse included in the benefit unit, if Column 4 is not applicable	Column 4 Recipient with a spouse included in the benefit unit if each of the recipient and the spouse is a person with a disability or a person referred to in subparagraph 1 i of subsection 4 (1) or paragraph 3, 5.1, 5.2, 6, 7 or 8 of subsection 4 (1)
0	\$706	\$1,018	\$1,409
1	\$1,094	\$1,216	\$1,607
2 or more	\$1,293	\$1,437	\$1,828

- ii. If more than two dependent adults are included in the benefit, an additional amount of \$222 for each subsequent dependent adult included in the benefit unit.

- 1.1 An amount of \$143, in the case of a benefit unit in which no spouse is included and all dependants included in the benefit unit are less than 18 years old.
- 2. If the applicant or recipient resides north of the 50th parallel and is without year round road access, an amount determined in accordance with the following Table:

TABLE

Number of Dependants other than a Spouse	Recipient Amount in dollars	Recipient and Spouse Amount in dollars
0	272	431
1	430	530
2	526	628

For each additional dependant, add \$102.

3. The amount payable for the cost of shelter calculated under section 31.
4. Subject to subsection (5), for the month in which the Director receives an application for a special diet allowance and is satisfied that a member of the benefit unit requires a special diet allowance because of a medical condition set out in Schedule 1 to Ontario Regulation 562/05 (Prescribed Policy Statements) made under the Act and for each succeeding month, up to and including the month in which the Director requests a new application and a reassessment of the requirement for a special diet allowance, an amount that is the lesser of, for each member of the benefit unit,
  - i. the sum of the amounts determined by the Director in accordance with Schedule 1 to Ontario Regulation 562/05, and
  - ii. \$250.
5. For the month in which an approved health professional confirms that a member of the benefit unit is pregnant and for each succeeding month up to and including the month in which the pregnancy ends, and subsequently, if the member of the benefit unit is breast-feeding, for each succeeding month up to and including the month in which the infant is 12 months of age, a nutritional allowance equal to,
  - i. \$50, if an approved health professional confirms that the person requires a non-dairy diet, or
  - ii. \$40, otherwise.

(2) The total amount paid under paragraphs 1 and 3 of subsection (1) with respect to a recipient and his or her spouse shall not exceed \$2,070.

(3) Subsection (4) applies with respect to the special diet for a member of a benefit unit if,

- (a) on April 30, 1998, the monthly amount determined for basic needs under the *Family Benefits Act* with respect to that member was increased under paragraph 6 of subsection 12 (5) of Regulation 366 of the Revised Regulations of Ontario, 1990 by an amount greater than \$250; and
- (b) in each subsequent month, the additional cost required to provide the special diet has continued to be greater than \$250.

(4) Under the circumstances set out in subsection (3), the amount set out in subparagraph ii of paragraph 4 of subsection (1) shall be deemed to be the additional cost required to provide the special diet on April 30, 1998.

(5) For the purposes of paragraph 4 of subsection (1), in order to establish for the Director that a member of the benefit unit requires, or in the case of a reassessment continues to require, a special diet allowance, the member shall submit to the Director the following:

1. A special diet allowance application form approved by the Director, specifying the medical condition for which the special diet allowance is being requested and completed by an approved health professional and the member.
2. Additional information respecting his or her requirement for a special diet allowance because of a medical condition as requested by the Director under subsection 25 (2).
3. An additional application form approved by the Director and completed by an approved health professional, other than the health professional who completed the application form under paragraph 1 or any earlier forms, as requested by the Director.

#### **SHELTER**

**31.** (1) In this section,

“shelter” means the cost for a dwelling place used as a principal residence with respect to any of the following:

1. Rent, other than amounts paid for parking and cable.
2. Principal and interest on a mortgage or loan incurred to purchase the dwelling place or to make repairs that the Director determines are necessary in order for the property to continue to be used as a dwelling place.
3. Occupancy costs paid under an agreement to purchase the dwelling place.
4. Taxes.
5. Premiums for an insurance policy with respect to the dwelling place or its contents.
6. Reasonable and necessary payments, approved by the Director, for the preservation, maintenance and use of the dwelling place.
7. Common expenses required to be contributed for a condominium unit or a co-operative housing unit except that portion of the common expenses allocated to the cost of energy for heat.
8. The following utilities, if they are not included in rent or common expenses:
  - i. An energy source used for household purposes other than for heat.
  - ii. Water and sewage.
  - iii. Rental of a furnace and a hot water heater.
9. Rent under a land lease.
10. The cost of energy for heat.

(2) The following rules apply for calculating the cost of shelter:

1. Determine the actual cost payable for shelter under subsection (1).
2. Determine the maximum amount payable for shelter in accordance with the following Table:

TABLE

Benefit Unit Size	Maximum Monthly Shelter Allowance Amount in dollars
1	522
2	821
3	889
4	964
5	1,041
6 or more	1,078

3. Subject to paragraph 4, the amount payable for shelter shall be the lesser of the amount determined under paragraph 1 and the maximum amount determined under paragraph 2.
4. If the cost of energy for heat exceeds the maximum amount payable for shelter under paragraph 2, the cost payable for shelter shall be the cost of energy for heat.
5. The amount payable for shelter determined under paragraph 3 or 4 shall be increased by \$76 if the applicant or recipient has a spouse included in the benefit unit and both spouses are persons with a disability or members of a prescribed class described in subparagraph 1 i of subsection 4 (1) or paragraph 3, 5.1, 5.2, 6, 7 or 8 of subsection 4 (1).
6. If an applicant or a recipient is a tenant of an authority or agency that provides low rental housing accommodation on behalf of Canada, Ontario or a municipality, shelter does not include that portion of the rent for which the applicant or recipient is liable with respect to a person living in that rental accommodation who is not a member of the benefit unit.

#### **OTHER EXEMPTIONS**

**43.** (1) The following shall not be included in income:

13. Payments in addition to a payment under paragraphs 1 to 12 that are payments from a trust or life insurance policy or gifts or other voluntary payments up to a maximum of \$10,000 for any 12-month period.

### **III. OTHER TEXTS**

**1. Ontario Disability Support Program** [Policy Directive 3.1 Reviewing Eligibility \(December 2021\)](#)

**2. Ontario Works** [Policy Directive 5.1 Income and Exemptions \(April 2021\)](#)

**FAIR CHANGE**

- and -

**HIS MAJESTY THE KING IN RIGHT OF  
ONTARIO AS REPRESENTED BY THE  
ATTORNEY GENERAL OF ONTARIO**

Applicant

Respondent

---

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
Proceedings commenced at TORONTO

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**FACTUM OF THE INTERVENER,  
INCOME SECURITY ADVOCACY CENTRE**

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**Income Security Advocacy Centre**  
1500-55 University Avenue  
Toronto, Ontario M5J 2H7

**Anu Bakshi (45587D)**  
**Nabila Qureshi (70100Q)**  
Tel: (416) 597-5820 ext. 5154/5156  
Fax: (416) 597-5821  
Email: [anu.bakshi@isac.clcj.ca](mailto:anu.bakshi@isac.clcj.ca)/  
[nabila.qureshi@isac.clcj.ca](mailto:nabila.qureshi@isac.clcj.ca)

**Counsel for the Intervener,  
Income Security Advocacy Centre**