

Position Statement

Access to Justice for People with Intellectual and Developmental Disabilities

Technical Version

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Introduction

Inclusion BC is a federation of members committed to advancing the human rights and social inclusion of children, youth, and adults with intellectual and developmental disabilities. Guided by the UN Convention on the Rights of Persons with Disabilities, we recognize that people have the right to exercise legal capacity, including supported decision making, on an equal basis with others in all aspects of life.

Our position statement aims to challenge racist, ableist, ageist, colonial and other unfair ideas about people with intellectual and developmental disabilities. Our goal is to promote the inclusion of everyone in the community, no matter how much money they have, where they come from (background or culture), what their religion is, if they are married or not, what their sex, sexual orientation, or gender identity and expression is, their age, or the type of disability they live with.

We recognize and support Indigenous rights and titles throughout the province of British Columbia, the implementation of the UN Declaration on the Rights of Indigenous Peoples, the 94 Calls to Action by the Truth and Reconciliation Commission, and the B.C. Declaration on the Rights of Indigenous Peoples Act.

Position Statement

Access to justice for all people is fundamental to the fulfilment of human rights. Access to justice means everyone can understand and use the legal system to resolve problems fairly. It requires a person-centred approach, accommodations, supports, and addressing barriers. The BC justice system at every level must confront deep-rooted discrimination and promote inclusive participation to ensure everyone can fully and equally exercise their right to justice.

A fair and inclusive justice system at all levels includes the police, courts, correctional services, and the broader network of institutions that administer justice, including:

- legislatures,
- law enforcement,
- legal and victim services,
- youth justice services,
- community agencies, and
- other interconnected social systems, such as health, housing, and social services.

All systems must support self-determination, individual choice and control, personhood, appropriate accommodations, and supported decision-making to ensure equal access to justice for everyone.

Governments at all levels have a legal responsibility to ensure a fair and inclusive justice system. To make the justice system equitable, it must provide the supports and services that all British Columbians need to be fully included and to access what they require.

The justice system must identify and eliminate rules, practices, and attitudes that prevent people from obtaining fair outcomes. This includes addressing the impacts of colonialism, ableism, and other forms of discrimination.

For people engaged with the justice system, we advocate for innovative and inclusive pathways that honour, respect, and respond to the diverse needs of people across the province.¹ In this position statement, we emphasize the specific needs and calls to action for people with intellectual and developmental disabilities.

To skip the background and rights-based section and move directly to the calls to action, [click here](#).

¹ West Coast LEAF, Access to Justice, online: <https://westcoastleaf.org/access-to-justice/>

Background

Rights of People with Intellectual and Developmental Disabilities

People with intellectual and developmental disabilities have the same right to access justice and equal protection under the law as anyone else. These rights are affirmed through international human rights agreements and Canadian federal and provincial legislation.

In Canada, the Canadian **Charter of Rights and Freedoms (1982)** guarantees equality before and under the law without discrimination, including on the basis of mental or physical disability (Section 15). Canada reinforced these protections in **2010** by ratifying the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Articles 12 and 13 recognize the legal capacity of persons with disabilities and require governments to provide supports, procedural accommodations, and training for justice system professionals to ensure equal access to justice.²

International guidance, including the **2020 International Principles and Guidelines on Access to Justice for Persons with Disabilities**, confirms that states must provide necessary accommodations so persons with disabilities can fully exercise their legal rights.

Canada's commitments also include the **United Nations Declaration on the Rights of Indigenous Peoples Act**, which received royal assent in 2021 and affirms freedom from discrimination and the right of Indigenous peoples, including people with disabilities, to effective remedies that respect Indigenous legal traditions.³

In British Columbia, the **Accessible BC Act (2021)** established a legal framework to enhance accessibility by requiring public sector organizations to identify, remove, and prevent barriers to full participation, while recognizing intersecting forms of discrimination.⁴

² The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), online: <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd>

³ United Nations Declaration on the Rights of Indigenous Peoples Act, S.C. 2021, c.14, online: <https://laws-lois.justice.gc.ca/eng/acts/u-2.2/page-1.html>

⁴ British Columbia, Accessible British Columbia Act [S.B.C. 2021], online: <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/21019>

Despite these legal obligations, serious gaps persist. In its **2025 Concluding Observations**, the Committee on the Rights of Persons with Disabilities highlighted concern with the persistent discrimination of persons with disabilities in Canada, including:

- Inconsistent access to procedural and age-appropriate accommodations in the justice system, over-reliance on medical records, and limited sign language support.
- Long delays in resolving disability discrimination complaints in human rights tribunals.
- Jurisdictional differences, limited eligibility criteria and issues covered by Legal Aid.
- Over-policing and complex court processes disproportionately affect Indigenous, Black, racialized, homeless, and people with psychosocial disabilities, often leading to repeated incarceration.
- Overrepresentation of people with disabilities in prisons, especially Indigenous women, Black and marginalized groups, and those with intellectual, psychosocial disabilities or Fetal Alcohol Syndrome Disorder.
- Lack of culturally appropriate, gender- and age-specific supports, accessible infrastructure, and mental health or drug treatment services in prisons.
- Indefinite detention and limited procedural safeguards for those deemed 'unfit to stand trial' or not criminally responsible.⁵

These findings highlight the ongoing gap between rights and reality: despite clear legal protections, many people with intellectual and developmental disabilities continue to face significant barriers to accessing justice.

Intersections of Identity

Justice issues disproportionately impact certain groups of people due to discrimination based on Indigenous identity, disability, gender, social condition, poverty, and other marginalized identities.⁶ For example, the ongoing effects of

⁵ Committee on the Rights of Persons with Disabilities (2025), Concluding Observations on the combined second and third periodic reports of Canada, online: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=4&CountryID=31&DocTypeID=5.

⁶ British Columbia's Office of the Human Rights Commissioner (2024), Rights in focus: Lived realities in B.C., online: [Rights in Focus: Lived realities in B.C. | BC's Office of the Human Rights Commissioner](#).

colonization, across Canada and in BC, have led to the overrepresentation of Indigenous people in the justice system.⁷

Research shows that:

- 27% of people with disabilities facing legal problems and justice processes in Canada identify as racialized persons, and another 27% as members of the 2SLGBTQIA+ community.⁸
- As of 2025, 38.5% of transgender people and 81.9% of non-binary people have disabilities.⁹
- Current disability benefit rates in BC leave people with disabilities living approximately 35% below the poverty line.^{10, 11}
- The justice system and related supports and services cannot adequately support the diversity of people's lived experiences.¹²

To ensure access to justice, intersections of identity must be recognized, and a diversity of people with intellectual and developmental disabilities must be included in the development of policies and practices that affect access to justice. Furthermore, the justice system and related health and social supports must prioritize inclusivity and cultural safety. This requires honouring, respecting, and responding to differences in culture, language, identity, and worldview.

⁷ Government of Canada (2025), The Indigenous Justice Program, online: [Indigenous Justice Program](#).

⁸ Department of Justice Canada (2021), A Qualitative Look at Serious Legal Problems for People with Disabilities in Central Canada, online: [A Qualitative Look at Serious Legal Problems for People with Disabilities in Central Canada](#).

⁹ Statistics Canada (2025), Socioeconomic outcomes of transgender and non-binary people in Canada, online: [Socioeconomic outcomes of transgender and non-binary people in Canada](#).

¹⁰ British Columbia (2025), Disability Assistance Rate Table, online: [Disability Assistance Rate Table - Province of British Columbia](#).

¹¹ Statistics Canada (2025), Market Basket Measure (MBM) thresholds for the reference family by Market Basket Measure region, component and base year, online: [Market Basket Measure \(MBM\) thresholds for the reference family by Market Basket Measure region, component and base year](#).

¹² Department of Justice Canada, *supra note 8*.

What has been done to Advance Access to Justice

Strengthen Supported Decision Making

In February 2000, the [Representation Agreement Act](#) took effect, expanding options in BC to address barriers to legal capacity. Previously, it was more likely for adults with “cognitive difficulties” to lose their rights under committeehip.¹³ This Act provides an easily accessible, affordable, and meaningful way to implement the right to legal capacity by establishing that every adult can:

- Make, change, or revoke a representation agreement.
- Make decisions until otherwise demonstrated.
- Have a trusted person as a legally recognized representative.

This applies even if an adult is incapable of making a contract, managing health care, personal care or legal matters, or the routine management of their financial affairs.¹⁴ The Act clarifies that a person’s method of communication does not justify deciding they are incapable. For example, some people communicate through their behaviour.¹⁵ **Representation agreements enable supported decision-making** related to health care, personal care, legal, and financial matters.

Another tool that supports access to justice, in alignment with human rights standards, is the 2020 [International Principles and Guidelines on Access to Justice for Persons with Disabilities](#). These guidelines recognize that people with disabilities have legal capacity and should not be denied access to justice because of a disability.

Plans to Improve Participation in the Justice System

In 2018, the Re-Imagining Community Inclusion Initiative was launched to help establish a strong path forward for adults with intellectual and developmental disabilities, including well-supported participation in the justice system. One year later, a roadmap was developed with the following steps:

¹³ Nidus Personal Planning Resource Centre and Registry (2024), Representation Agreements Overview, online: [Nidus_FactSheet_RA_Overview.pdf](#)

¹⁴ Ibid.

¹⁵ Nidus, (2024), RA7 Approach to Capability - For Adults with Cognitive Difficulties, online: [Nidus_Info_Capability_RA7Path.pdf](#)

- “Police, Crown, and victim services have, or have access to, specialized expertise in working with victims with intellectual and developmental disabilities,
- Police, Crown, legal aid, and corrections have, or have access to, specialized expertise in working with offenders with intellectual and developmental disabilities, and
- People with [disabilities] have access to supported decision making.”¹⁶

To date, these changes have not been implemented.

The provincial government has also committed to improving access to justice more broadly. The BC Premier's most recent (2025) mandate letter to the Attorney General and Deputy Premier directs strong stakeholder engagement and innovative use of technology. As well as “citizen-oriented processes” to reduce costs, increase efficiency, and ensure fair processes within the justice system.¹⁷

People who call our advocacy program share the many barriers they face in interacting with the justice system. The government must urgently fulfill its responsibility to ensure all people in BC have access to justice. This includes identifying and removing systemic barriers, providing necessary accommodations, and offering the supports and services people need to navigate the justice system effectively. These changes must happen now and be informed by meaningful engagement with people with intellectual and developmental disabilities.

Challenges and Barriers

People with intellectual and developmental disabilities face barriers to accessing justice because of:

- ableism,
- discrimination,
- systemic barriers,

¹⁶ Ministry of Social Development and Poverty Reduction (2019), Re-Imagining Community Inclusion, online: [Re-Imagining Community Inclusion Report](#).

¹⁷ British Columbia (2025), Mandate letter Niki Sharma, online: [mandate_letter_niki_sharma.pdf](#) at 2.

- a lack of accommodations, and
- inadequate access to supports and services.

Unequal Treatment and Exclusion

Accessibility barriers exclude people with intellectual and developmental disabilities from equal participation in the justice system as accused, victims, complainants, offenders, plaintiffs, and respondents.¹⁸ “Ableism is a form of discrimination or prejudice against people with disabilities. It can appear in obvious ways or in more subtle forms, including through conscious biases, deliberate and intentional prejudices, and unconscious biases, which are automatic assumptions shaped by societal norms, cultural influences, and personal experiences.”¹⁹ This unfair treatment leads to people experiencing:

- Rights violations and denial of legal protections.
- Infantilization, trauma, and exhaustion.
- Perceptions of unworthiness and incapacity to benefit from the same due process protections as others.²⁰
- Not having their legal problems and rights violations adequately addressed.

The denial of fundamental rights —such as the right to remain silent and the presumption of innocence — can lead to significant harms, including false confessions, incorrect verdicts, and wrongful detention or imprisonment.²¹ The systemic and pervasive nature of ableism and discrimination makes it imperative that professionals at all levels of the justice system receive comprehensive training on the rights of people with disabilities. This equally applies to first responders such as police, firefighters, paramedics, help lines, call dispatchers, and others. There have been some valuable efforts by community organizations to offer training;²²

¹⁸ Inclusion Canada (2025), Position on Access to Justice, online: [Access to Justice | Inclusion Canada](#)

¹⁹ Ibid.

²⁰ United Nations Human Rights Special Procedures, Special Rapporteurs, Independent Experts & Working Groups (2020), International Principles and Guidelines on Access to Justice for Persons with Disabilities, online: [International Principles and Guidelines on Access to Justice for Persons with Disabilities | OHCHR](#)

²¹ Ibid.

²² Pacific Autism Family Network, Autism Awareness Training, online: <https://aat.pacificautismfamily.com/>

however, comprehensive training needs to be embedded in policies and funded to reach all services across BC.

Complex Needs

People with complex needs face a greater risk of having their right to access justice undermined. People with complex needs are people with intellectual and developmental disabilities who also experience substance use and/or mental health challenges that increase their vulnerability to:

- homelessness,
- overdose,
- hospitalization,
- victimization,
- involvement with the criminal justice system, and
- other adverse experiences.

This group of people remains extremely marginalized and vulnerable because systems of support across BC exclude them. For example, despite the existence of multi-disciplinary collaborative community teams, people with complex needs are consistently left out of these processes. Ministries and agencies work in silos, with rigid eligibility criteria and competing mandates, resulting in no one taking responsibility or meeting a person's true needs. As a result, people with complex needs often encounter justice problems, incarceration, emergency care, and preventable crises.

According to the BC's Office of the Human Rights Commissioner, nearly two-thirds of incarcerated people have mental health or substance use disorders. Experts consider prisons unsuitable for addressing these challenges.²³ People experience significant challenges upon release from custody because of the absence of appropriate discharge planning and community-based supports and services that lack the capacity to meet complex needs. These service gaps drive a revolving door of incarceration, poor health outcomes, and a greater likelihood of death from the toxic drug supply.²⁴ The [*Position Statement on Access to Mental Health for People with*](#)

²³ British Columbia's Office of the Human Rights Commissioner, *supra note 6*.

²⁴ *Ibid.*

Intellectual and Developmental Disabilities explains in greater detail the lack of inclusive support options for people with complex needs in BC.

To address these challenges, the province must establish person-centered, interdisciplinary teams across BC, with the authority, capacity, and appropriate guidelines to coordinate complex cases and bring together multiple systems. By improving coordination and addressing gaps, people with complex needs will gain timely access to the supports and services necessary to prevent involvement with the justice system and achieve fair outcomes when they engage with it.

Access to Supports and Services

People with intellectual and developmental disabilities face greater vulnerability to involvement in the criminal justice system when they do not have access to inclusive health, mental health, housing, income, supported-decision making, and supports and services. The lack of supports and services also increases the likelihood of engagement in family and civil law matters, such as losing housing, parental rights, financial stability, or legal autonomy, in ways that may violate human rights.²⁵ Governments must reduce these socioeconomic risk factors and help people navigate barriers within the justice system. Additionally, community supports should be:

- person-centered,
- based on individual needs,
- culturally safe, and
- robust.

The social safety net must provide supports for justice-specific issues, including accessibility, navigating legal complexities, stress and trauma, and ensuring access to technology and income security.²⁶ Access to income security plays a key role in ensuring access to justice. Yet, people with disabilities continue to experience

²⁵ ARCH Disability Law Centre (2019), Submission – Plain English version of the Submission of Canadian Civil Society Organizations to the Committee on the Rights of Persons with Disabilities, online: ARCH Disability Law Centre | Submission – Plain English version of the Submission of Canadian Civil Society Organizations to the Committee on the Rights of Persons with Disabilities

²⁶ Murray, M.K. (2021), Achieving Digital Equity in Access to Justice, online: [Murray_2021_LABC_Achieving_Digital_Equity_Final_Report_0.pdf](#)

poverty or extreme poverty due to insufficient financial supports.²⁷ The [Position Statement on Access to Income Security for Adults with Intellectual and Developmental Disabilities](#) details these challenges in greater depth.

For people already involved in the criminal justice system, Review Boards make or review legal decisions for people who stand accused and for those whom courts have deemed not criminally responsible “by reason of mental disorder or unfit to stand trial.”²⁸ However, this process is not accessible to people with intellectual and developmental disabilities. Similarly, people with these disabilities are often excluded from restorative justice practices.

Criminal justice services often do not accommodate the needs of people with disabilities, nor do they provide effective transition planning or do enough to arrange assessments that can provide an eligibility pathway to supports. Furthermore, the more complex a person's needs are, the less capacity the justice system has to provide appropriate support. The [Position Statement on Access to Disability Supports and Services for Adults with Intellectual and Developmental Disabilities](#) identifies the changes needed to ensure everyone can access the supports they need and deserve.

Parents with Disabilities

A long history of ableism and a lack of available supports create barriers for parents with intellectual and developmental disabilities. As a result, these parents face disproportionately high rates of child apprehension,²⁹ and systemic discrimination often forces them to engage with the justice system. Birth alerts provide a clear example of this.

[A scoping review](#), published in 2025, found that child welfare processes are discriminatory, inaccessible, and distressing for parents with intellectual and developmental disabilities. These parents often:

²⁷ Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of Canada (2017), online: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhshFUYvCoX405cFaiGbrlbL87R7e4hNB%2FgZKnTAU8BqK7FKCyFSQGUzS4dKwSRSD%2FCPUoSzW7oP9OI5lweGr%2Br%2B7wpRzQbCN1rv%2B%2BwMd4FofZ>

²⁸ British Columbia Review Board (2023), About the Board, online: [About the Board - British Columbia Review Board](#)

²⁹ West Coast Leaf (2014), Able Mothers: The intersection of parenting, disability and the law, online: [Able Mothers Report - West Coast LEAF](#)

- Have their needs overlooked.
- Do not receive information about their legal rights.
- Do not get access to the supports necessary to navigate the court system.
- Encounter child welfare workers and legal professionals who do not understand intellectual disabilities.³⁰

People with intellectual and developmental disabilities have told us they fear reaching out for health and social supports because the Ministry of Children and Family Development might see them as unfit to parent and remove their children. A 2023 [report](#) by First Call Child and Youth Advocacy Society highlights this reality, showing that parents with a disability and Indigenous parents are more likely to fear child apprehension than other parents, which prevents them from seeking support.³¹

Ableism also contributes to significant barriers in housing that impact families with disabilities. The BC Office of the Human Rights Commissioner's [report](#) documents extremely high rates of landlord discrimination against women with disabilities in BC. This discrimination, combined with a lack of affordable and accessible housing in BC, can cause parents to lose their children, creating a serious human rights issue.³² Additional challenges around housing will be discussed in the upcoming *Position Statement on Access to Housing for People with Intellectual and Developmental Disabilities*.

The Digital Divide

People with intellectual and developmental disabilities often face barriers to accessing digital legal resources and services. Legal Aid BC's *Achieving Digital Equity Survey of BC Residents* found that 44% of people in low-income households and 53% of those in very low-income households encounter barriers when accessing digital legal supports, including cost and disability-related challenges.³³

³⁰ Morris, R., Walsh, L., Goos, M., Lomness, A. and Hole, R. (2025), Parenting Experiences Among Adults with Intellectual Disabilities: A Scoping Review, *British Journal of Learning Disabilities*, <https://doi.org/10.1111/bld.70009>

³¹ First Call Child and Youth Advocacy Society (2023), A failure to Protect. The Denial of Children's Rights to Housing in British Columbia, online: <https://firstcallbc.org/wp-content/uploads/2024/01/First-Call-Housing-Report-2023.pdf>

³² British Columbia's Office of the Human Rights Commissioner, *supra note 9*.

³³ Sentis (2021), *Achieving Digital Equity: Survey of Lower Income BC Residents*, online: [Achieving Digital Equity](#)

Access to affordable assistive technology helps accommodate disability-related needs and enables people to use digital legal tools and services effectively.³⁴ Through our advocacy program, we also know that individualized family and community supports help further bridge the digital divide. This allows people to better navigate the justice system's growing use of digital processes, forms, and resources. Governments and legal systems must take active steps to remove barriers to technology and ensure that digital legal information and resources are accessible.

Calls to Action

The government has a responsibility to ensure equal access to justice. We call on the province to:

Develop and implement a **comprehensive Provincial Disability Strategy** aligned with Article 13 of the UN Convention on the Rights of Persons with Disabilities to ensure equal access to justice for people with intellectual and developmental disabilities, with actionable steps including:

- Establish **interdisciplinary teams across BC**, led by professionals with the authority and capacity to coordinate across systems. Teams should integrate health, justice, social services, education, and housing. They should provide coordinated, person-centered supports for people with intellectual and developmental disabilities and complex needs.
- Establish a **provincial oversight body** to guide this work, promote accountability, and capture learning from across the province. This oversight body should identify and share best practices, build system-wide capacity, and ensure consistent, person-centered support for every person, regardless of where they live in BC.
- **Involve people with intellectual and developmental disabilities** in developing policies, practices, and resources related to access to justice.
- Ensure that adult corrections, youth justice, child welfare, police, Crown, victim services, and first responders have, or have access to, **specialized training**

³⁴ Murray, M.K. (2021), Achieving Digital Equity in Access to Justice, online: [Murray_2021_LABC_Achieving_Digital_Equity_Final_Report_0.pdf](#)

and expertise in working with people with intellectual and developmental disabilities. Require and expand training on ableism, supported decision making, the importance of accessing restorative justice, particularly for Indigenous youth, and the recognition of Representation Agreements across all levels of the justice and service systems.

- Develop an **accessible process with culturally safe resources** to ensure **parents with intellectual and developmental disabilities** can secure access to justice when they are involved with the Ministry of Children and Family Development.
- Provide significant investment for **Legal Aid** to secure access to justice for people with intellectual and developmental disabilities, following the recommendations of the Canadian Bar Association, British Columbia.³⁵
- Invest in incorporating and expanding **legal navigation services** in all the courts and tribunals of the justice system.
- **Address barriers to digital equity**³⁶ for people with intellectual and developmental disabilities and ensure all legal information and resources are accessible.

Ensuring full and equal access to justice for everyone requires upholding self-determination, autonomy, and personhood. It also requires access to supported decision-making and appropriate accommodations. To guarantee that all British Columbians can fully exercise their right to justice, governments must fulfill their responsibility to make the justice system accessible and provide the necessary supports and services. In addition, the justice system at every level must take meaningful action to identify and address systemic discrimination, ensuring meaningful and inclusive participation for all.

³⁵ Canadian Bar Association British Columbia (2025), Agenda for Justice 2025, online: [Agenda for Justice | CBA British Columbia](#)

³⁶ Digital equity means that everyone has access to computers, the internet, and other technology. This includes removing barriers and providing the supports and accommodations people need to use technology fully.