



# IS THAT LEGAL?

WHAT THE LAW SAYS ABOUT  
ONLINE HARASSMENT AND ABUSE

MARCH 2017



WEST COAST  
LEAF



Legal  
Services  
Society

British Columbia  
[www.legalaid.bc.ca](http://www.legalaid.bc.ca)

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**West Coast LEAF** is an incorporated BC non-profit society and federally registered charity. West Coast LEAF works to advance women's equality and human rights through equality rights litigation, law and policy reform, and public legal education in British Columbia.

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This booklet is for the purposes of education and discussion only. It explains the law in general. It isn't intended to give you legal advice on your particular problem. Because each person's case is different, you may need to get help from a lawyer or advocate.

The information in this booklet is up to date as of March 2017.

# Your Right to Be Safe Online

The Internet can help us connect, learn, play, and create. But some people use it to **abuse** (harm) others.

Often, they **target** (choose to harm) people online who already experience unfair treatment in society. They may **harass** (bother) someone online because of:

- Gender, for example:
  - Being a woman or girl
  - Being **transgender** (having a different gender from what people expected when you were born)
  - Presenting yourself in a way that's different from what society expects about gender
- Sexual orientation (who you're attracted to in a sexual or romantic way)
- Disability
- Race
- Culture
- Indigenous identity (First Nations, Inuit, or Métis)
- Religion
- Income
- Body size or shape

Some people experience abuse on the Internet more than others. But it can happen to anyone.

We all have the right to be safe online. If you see a person doing something online that's against the law and you know what to do, you become safer online.

This booklet describes four online situations you might find yourself in. We explain the laws for each one. We also say what you can do if you're going through something similar, and where to get help.

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# ABOUT CONSENT

## THERE'S NO LEGAL CONSENT IN THESE SITUATIONS

If you're too young to give consent in that situation. See [page 3](#) for a chart showing how old you must be to give consent in different situations.

If you're asleep or unconscious.

If you feel afraid that something bad will happen if you say no.

If a person in a position of trust has convinced you to say yes (for example, a teacher, doctor, or coach).

If you're silent and still. There's legal consent only if you're doing or saying something to show clearly that you agree to what's happening.

**Consent** *is when a person communicates clearly they agree to take part in a sexual activity.*

Consent is an important concept in many laws that affect our lives on the Internet.

*The law says you must get consent if you want to do anything sexual with another person.* This means you must make sure the other person is happy to take part in the sexual activity with you and communicates that.

*Sexual touching without consent is **sexual assault**, a serious crime.*

*You always have the right to say no to sexual activity. You can also change your mind at any time about whether you want to take part in a sexual activity.*

Even if you say yes to sexual activity, the law says there's **no legal consent** (no agreement) in some situations.

The list on the left gives only a few examples where the law says there's no consent. There are also other situations.

*The law also says that in some situations a person may be affected by alcohol or drugs so much that they can't give legal consent.* When a person can't give legal consent, any sexual activity with them is sexual assault. If you want to do something sexual with someone who's been drinking alcohol or using drugs, you must be very careful that their thinking is clear. They must be able to decide freely if they want to be sexual with you and be able to communicate their consent clearly.

The law says how old you must be to give consent. The law also says how much of an age difference there can be between sexual partners for legal sexual activity.

The chart on [page 3](#) explains the ages of consent. Age of consent applies to all sexual activity, including sending **intimate** (sexual) photos or recordings. That activity is sometimes called **sexting**. See [page 4](#).

# AGE OF CONSENT

## UNDER 12

It's against the law for anyone to have sexual contact with you, even if you agree to it.

## AGE 12

You can consent to sexual activity with someone who's less than two years older than you.

## AGE 13

You can consent to sexual activity with someone who's less than two years older than you.

## AGE 14

You can consent to sexual activity with someone who's less than five years older than you.

## AGE 15

You can consent to sexual activity with someone who's less than five years older than you.

## AGE 16

You've reached the age of consent. This means that you can give consent to sexual activity even if the other person is much older than you. There's no restriction on how much older they can be.

## UNDER AGE 18

It's against the law for anyone in a **position of trust or power** over you to have sexual contact with you, even if you say you agree. People in positions of power over you are people you would normally depend on or trust. Some examples are a teacher, coach, family member, or doctor.

THE  
AGE OF  
CONSENT  
IN  
CANADA IS

16

There are 3 exceptions:

12-13

You can consent with someone **less than 2 years older** than you.

14-15

You can consent with someone **less than 5 years older** than you.

under  
18

It's **not legal** for someone over 18 to have sexual contact with someone under 18 where there's a **relationship of authority, trust, or dependency**.

Exact ages are important because the law measures the differences in age from birthday to birthday. For example, if your 13th birthday is today, you're too young to consent to sexual activity with someone who turned 15 last week.

		Other person's age									
		12	13	14	15	16	17	18	19	20	21
Your age	12	✓	✓	▲	✗	✗	✗	✗	✗	✗	✗
	13	✓	✓	✓	▲	✗	✗	✗	✗	✗	✗
	14	▲	✓	✓	✓	✓	✓	✓	▲	✗	✗
	15	✗	▲	✓	✓	✓	✓	✓	✓	▲	✗
	16	✗	✗	✓	✓	✓	✓	✓	✓	✓	✓



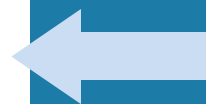
You can give consent

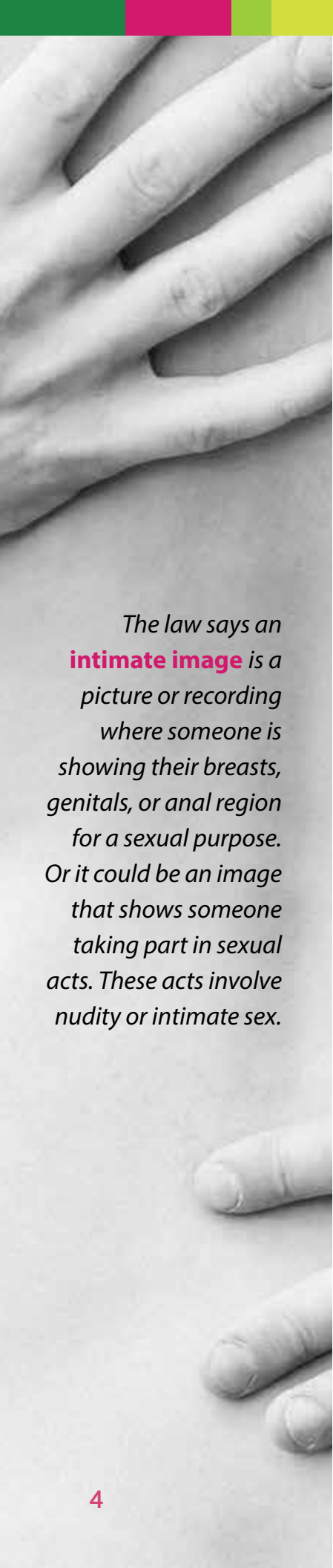


No legal consent possible



Depends on your birthdays





# TAKING INTIMATE IMAGES

I'm 16. I sent a naked picture of myself to a person I'm dating. Does the law say this is okay?

Sending someone an intimate image of yourself is sometimes called **sexting**.

## WHAT THE LAW SAYS

*If everyone in an intimate image is over 18*, the image is legal if everyone consents to any sexual activity shown in the image and consents to have the image taken. It's a crime to record anyone naked or engaged in sexual activity without their knowledge or consent if they expect their actions to be private.

**If anyone in an intimate image is under 18, child pornography laws apply.**

*The law says an **intimate image** is a picture or recording where someone is showing their breasts, genitals, or anal region for a sexual purpose. Or it could be an image that shows someone taking part in sexual acts. These acts involve nudity or intimate sex.*

## INTIMATE IMAGES OF PEOPLE UNDER 18 ARE LEGAL ONLY WHEN EVERYONE FOLLOWS ALL THESE REQUIREMENTS

Everyone in the image consented to the sexual activity shown in the image.

Everyone in the image is old enough to give consent. See the chart on [page 3](#) for information about how old you must be to consent to sexual activity.

Everyone in the image knows that someone is making an intimate image of them.

Everyone in the image consents to someone making an intimate image of them.

*The people who create the image must keep it private between them.* No one can share the image with anyone else.



If you're under 18, it doesn't matter if you say it's okay to take an intimate image of you or to share it. It's still a crime unless all of the requirements on [page 4](#) are followed.

Remember that sexually touching someone without their consent is **sexual assault**. Sexual assault is a serious crime.

#### WHAT YOU CAN DO

- If someone has taken an image of you without your consent, tell a trusted adult what's going on. This could be a family member, a school counsellor, a youth worker in your community — any adult you feel comfortable talking to. You could ask them for support to get help; for example, from the police.
- If you're not comfortable going to the police, contact a community organization that offers support services. See [page 10](#) for contact information.

## SHARING INTIMATE IMAGES

Someone at my school is threatening to post a naked picture of me that was taken at a party. I'm scared. What are my rights?

*It's never okay to share an intimate image of another person without their consent. It's often a serious crime.*

Sometimes people post intimate images of someone they used to date to get back at them for breaking up. Sometimes people post intimate images of another person as a way to bully them or make fun of them.

Even if it seems funny at the time, sharing intimate images of someone without their consent is dangerous and harmful. It's never a joke.

*If someone shares an intimate image of you without your consent, it's never your fault.*



## WHAT THE LAW SAYS

- It's against the law to share an intimate image of *anyone of any age* without their consent if they thought the image was private when they made it and they still think it should be kept private.
  - This includes sharing by text, messaging apps, social media, or email.
  - If someone chooses to share an intimate image of themselves with you, you must be very careful to keep it private.
- If the intimate image shows someone *under 18*, **child pornography** laws apply. See [page 4](#) for more information.
- Other laws also apply, depending on the situation.
  - **Criminal harassment** includes when someone contacts you again and again when you don't want them to, making you afraid. You could be afraid for your own safety (physical or psychological) or for someone else's safety. The repeated and unwanted contact could be by text, messaging apps, social media, or email. It's a crime for a person to act in a way they know is harassing to you, especially if they don't stop when they're asked to.
  - **Uttering threats** and **intimidation** are when someone says or does things to make you feel afraid.
  - **Extortion** includes when someone threatens to share an intimate image of you to make you do something.



If someone shares an intimate image of you without your consent, it's *not your fault*. You have the right to ask for help. You also have the right to go to the police without fear that someone will blame you for what happened to you.

## WHAT YOU CAN DO

- If you can, talk to an adult you trust.
- Contact the police. They have victim support services to help you.
- If you aren't comfortable going to the police, contact a community organization that offers support services. See [page 10](#) for contact information.
- It may be possible to make a **claim** (complaint) under civil law. Civil law deals with conflicts between individuals or organizations. You would need to make a civil claim in court yourself. It's not easy to do this. The process can be slow and expensive. You can't get **legal aid** (free legal help) for these civil law cases. But making a civil claim is one way to get justice, if the person who hurt you isn't charged or convicted of a crime. See [page 12](#) for where to get legal help.



# CYBERSTALKING

I chatted online with someone who now won't leave me alone. I tried blocking them on social media but it hasn't helped. This person finds me online and comments on my social media posts. They contact my friends and try to find out where I am.

When someone follows you in person and you don't want them to, we say the person is **stalking** you. When that happens online, we call it **cyberstalking**.


## WHAT THE LAW SAYS

- The law says it's **criminal harassment** when someone follows you or contacts you again and again, and makes you feel afraid. It includes when you get repeated and unwanted texts, social media messages, emails, chat messages, and other contact.
- It might be criminal harassment when a person knows they're harassing you but doesn't stop when you tell them to.


## WHAT YOU CAN DO

- If you're in immediate danger, phone **911**.
- Ask the person who's harassing you to stop bothering you if you feel safe to do that.
  - If you think they're not dangerous, ask them to stop. It's a good idea not to reply to harassing texts or emails after you ask them to stop.
  - Every situation is different. Sometimes, if you confront a stalker, they might react with violence. Or they might harass you more. Trust your instincts: if you think it's not safe to confront your stalker, don't do it.
- Talk to an adult you trust.
- Call the police.
  - If the harassment makes you afraid for your physical, psychological, or emotional safety, report it to the police.







**Justin** 4:23 p.m.  
I told you, I won't show anyone




**Anna** 4:24 p.m.  
Lol. I don't even know yet if you are who you say you are.




**Justin** 4:25 p.m.  
But I sent you MY risky pic :(




**Anna** 4:25 p.m.  
Well, you sent me a hot photo for sure. But how come my friends at your school don't know who you are?




**Justin** 4:26 p.m.  
I'm just shy. Except with you <3



**Justin** 4:29 p.m.  
Just send me something then. A teaser. Something to dream about.



**Justin** 4:31 p.m.  
Hullo?



**Anna** 4:33 p.m.  
I'm happy to chat with you. But no, I'm not sending topless pics!



- Record the details each time the person contacts you or harasses you. Include the date, time, place, persons involved, and what happened.
- Keep texts, emails, voicemails, chat messages, and social media posts. Give them to the police.
- Ask the police for a **peace bond** (a court order to protect you from someone). A peace bond says the person you're afraid of must follow certain conditions (for example, not contact you, or stay away from your home or school). A victim services worker can help you get a peace bond. See [page 10](#) for contact information.

- If the harassment happens at school, report it to a counsellor, teacher, principal, or vice-principal.
- If the harassment happens at your workplace, report it to your supervisor.
- Report the harassment to your Internet or cellphone company.
  - Most companies have policies about the use of their services to harass others. They can cancel a customer's service if they don't obey the policies.

## SEXUAL EXPLOITATION

I started chatting and Skyping with someone I met online. This person is 24 and I'm 16. One time we tried Skyping naked. But now this person is threatening me. They say I have to take my clothes off and do a performance on Skype. If I don't, they'll share my naked screen shot all over the Internet. I don't know what to do.

The person you met online wants to **exploit** (take advantage of) you for sexual purposes.

## WHAT LAWS APPLY

- **Sexual exploitation of youth.** This crime happens when an adult in a position of power or trust over a person under 18 abuses their power for a sexual purpose. The adult sexually touches the younger person or invites the younger person to sexually touch someone else.
- **Internet luring.** This crime happens when an adult uses the Internet or another communication technology to try to commit a sexual crime against a person under 18.
- **Extortion.** This crime is also known as “blackmail.” It’s against the law to threaten someone to get them to do something they don’t want to do.
- **Criminal harassment.** It’s against the law to make unwanted and repeated contact with someone in a way that makes them afraid.

## GROOMING AND THE LAW

The sexual exploitation law exists to catch **predators**. These are people who take advantage of others. Online predators use the Internet to find and contact you. They want to exploit you for sexual activity.

Predators can be **anonymous** online. This means they don’t say who they really are. They might give you a fake name.

They may try to get your trust through online chats. This is called **grooming**. It might not be sexual at first.

They may start by asking about your home life, interests, or other topics that seem harmless. They’re friendly and make you feel comfortable.

Once they have your trust, predators try to get you to take part in sexual activity. The sexual activity can be over the Internet or in person. Grooming is a crime when it leads to a sexual offence.

## WHAT YOU CAN DO

- If you can, tell a trusted adult what’s going on. Ask them for support. You might want an adult you trust to go with you to talk to a victim support worker or to the police. See [page 10](#) for who can help.
- Save messages, texts, and videos, even if they embarrass you. The police would need these for an investigation. Remember, it’s not your fault if someone is trying to exploit you.
- If you go to the police, tell them as many details as you can. That will help them find the person who’s hurting you.
- Contact an organization that has victim support services. See [page 10](#).

If you’re in a situation like this, you can get help. Even if you feel like you’ve made mistakes or done things you wish you hadn’t, it’s never too late to get help. See [page 10](#) for a list of support services.



## WHERE TO GET HELP



**Phone 911 if you're in immediate danger.**

**Also phone 911 to report online harassment and abuse.**

### **SUPPORT SERVICES**

#### **VictimLinkBC**

[victimlinkbc.ca](http://victimlinkbc.ca)

1-800-563-0808 (24 hours every day)

604-836-6381 (text messaging)

Get free, confidential support throughout BC in many languages from victim service workers. They can help victims of family and sexual violence.

#### **BC211**

[bc211.ca](http://bc211.ca)

211 (24 hours every day)

Call or text the free, confidential help line, available in many languages in Metro Vancouver, Fraser Valley, Squamish-Lillooet, and Sunshine Coast Regional Districts.

#### **Crisis Centre BC**

[crisiscentre.bc.ca](http://crisiscentre.bc.ca)

1-800-SUICIDE (1-800-784-2433) (24 hours every day)

Call for free, confidential, and non-judgmental emotional support in many languages. You don't need to be thinking about suicide to use this service.

#### **WAVAW Rape Crisis Centre**

[wavaw.ca](http://wavaw.ca)

1-877-392-7583 (24 hours every day)

Call to get support and information for women 14 and over (including transgender women) who have experienced sexual violence. Sexual violence includes abuse on the Internet.

### **Kids Help Phone (age 20 and under)**

[kidshelpphone.ca](http://kidshelpphone.ca)

1-800-668-6868 (24 hours every day)

Call for free, anonymous, confidential, and non-judgmental counselling.

### **NeedHelpNow.ca**

[needhelpnow.ca](http://needhelpnow.ca)

Use this website to get information and support if you or someone you know has been hurt by sharing intimate images. NeedHelpNow.ca is a program of the Canadian Centre for Child Protection.

### **Report Bullying BC**

[reportbullyingbc.ca](http://reportbullyingbc.ca)

Use this BC Ministry of Education tool to make anonymous and confidential online reports about bullying at your school.

### **Youth in BC**

[youthinbc.com](http://youthinbc.com)

Online chat (noon to 1:00 a.m. every day)

Crisis phone lines (24 hours every day)

604-872-3311 (Greater Vancouver)

1-866-661-3311 (Howe Sound, Sunshine Coast)

1-866-872-0113 TTY (for deaf and hard-of-hearing people)

Connect online and by phone to get support and information for youth.

## LEGAL HELP

### **Access Pro Bono Society of British Columbia**

[accessprobono.ca](http://accessprobono.ca)

604-878-7400 (Greater Vancouver)

1-877-762-6664 (no charge outside Greater Vancouver)

Volunteer lawyers give free, brief legal advice at legal clinics throughout BC.

### **Lawyer Referral Service**

[cbabc.org/for-the-public/lawyer-referral-service](http://cbabc.org/for-the-public/lawyer-referral-service)

604-687-3221 (Greater Vancouver)

1-800-663-1919 (no charge outside Greater Vancouver)

You can make an appointment to meet with a lawyer for 30 minutes to discuss if you have a case. The fee is \$25 plus tax.

### **UBC Indigenous Community Legal Clinic**

[allard.ubc.ca/iclc/indigenous-community-legal-clinic](http://allard.ubc.ca/iclc/indigenous-community-legal-clinic)

604-684-7334 (Greater Vancouver)

1-888-684-7874 (no charge outside Greater Vancouver)

UBC law students give free legal services to Indigenous people in Vancouver's Downtown Eastside.

### **UBC Law Students' Legal Advice Program**

[lslap.bc.ca](http://lslap.bc.ca)

604-822-5791 (Greater Vancouver)

604-684-1628 (for a Chinese language appointment at the Chinatown clinic)

UBC law students give free, brief legal advice at clinics in the Lower Mainland.



## HOW TO GET FREE COPIES OF *IS THAT LEGAL?*

### Read:

**[westcoastleaf.org](http://westcoastleaf.org)**

(under Publications, click  
Educational Resources)

**[mylawbc.com/pubs](http://mylawbc.com/pubs)**

### Order:

**[crownpub.bc.ca](http://crownpub.bc.ca)**

(under Quick Links, click BC Public  
Legal Education & Information)

## QUESTIONS ABOUT ORDERING?

### Contact:

**Legal Services Society**

604-601-6000

[distribution@lss.bc.ca](mailto:distribution@lss.bc.ca)



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Vancouver, BC V6C 1T2  
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