



MIGRANTS KNOW YOUR RIGHTS

ONTARIO'S EMERGENCY COVID ID REQUIREMENT



PREPARED BY

**BUTTERFLY: ASIAN AND MIGRANT SEX
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NO ONE IS ILLEGAL TORONTO

ONTARIO COALITION AGAINST POVERTY



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**WHAT IS
THE LAW?**



On March 31st, the Ontario government passed an order under the Emergency Management and Civil Protection Act (EMCPA) that gives police and all provincial offenses officers the power to require anyone they think is breaking emergency laws to show them identification (ID). (1, 2)

This gives massive new powers to law enforcement.

In addition to police, any provincial offenses officers including some municipal bylaw officers, campus officers, TTC and other transportation constables, community housing constables, public health officers, and others can now require people to carry and produce ID with their correct name, date of birth, and address on request. It also allows these officers to charge and fine you for not giving them your ID. If you don't correctly identify yourself you can now get a fine of \$750 for "Failure to Comply" or \$1,000 for obstructing the officer. (3)

You can also be detained by a provincial offenses officer if they don't think they can identify you. This is often based on whether you are Black, Indigenous, person of colour, sex worker, etc. (4)

In addition, the City of Toronto signed emergency order No. 1 (on April 1) and emergency order No. 2 (on April 3) to create new physical distancing rules in City of Toronto parks and public squares. (5,6) Any two people who don't live together, who fail to keep two metres of distance between them in a park or public square, can get a \$1,000 ticket – the maximum set fine available. Officers could issue higher tickets where courts can rule on fines of up to \$5,000 upon conviction. Many other municipalities have done the same.

ADDITIONAL RESOURCES

(1) Emergency Management and Civil Protection Act

(1) RSO 1990, c E9 at ss 7.01, 7.02(2) and (4).

(2) O Reg 114/20: Order Under Subsection 7.0.2.(4) of the Act – Enforcement of Orders.

(3) Ministry of the Solicitor General, “Public Required to Identify Themselves if Charged with Breaching an Emergency Order During the COVID-19 Outbreak” (31 March 2020).

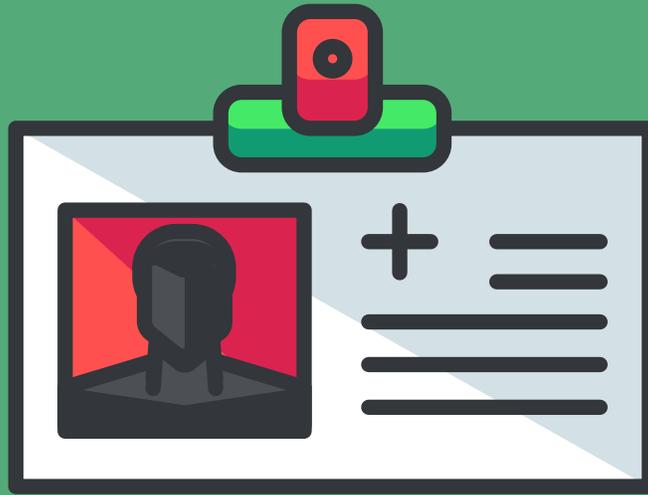
(4) 146 (1) a (i) Provincial Offences Act, R.S.O. 1990, c. P.33

(5, 6) Emergency Order No. 1 - To impose regulations requiring physical distancing within Parks and Public Squares.

**WHAT DOES
THIS MEAN
FOR YOU?**



ID REQUIREMENT

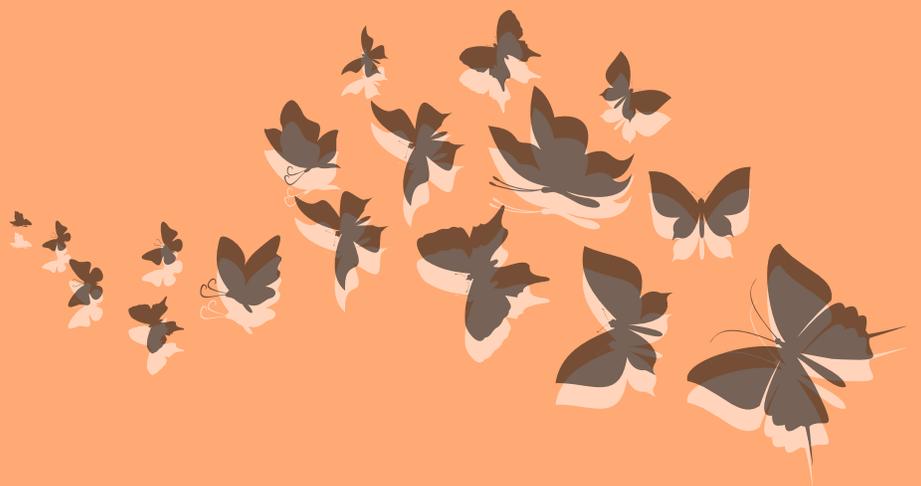


Before this emergency ID requirement, there was generally no law that required individuals to carry or produce ID on request to police or bylaw officers unless they were operating a motor vehicle or cycling.

In most cases, if the police stop you on the street, you don't have to show the police your ID, give them your name or date of birth, or answer any questions.

Now, if police or most other law enforcement officers ask you for your name, date of birth, and address, you have to correctly identify yourself or you risk being charged and fined.

**WHY IS
THIS ORDER
DANGEROUS?**



THIS ORDER IS DANGEROUS.

First, it increases the risk of police and other officers abusing their powers. It makes it possible for a much larger number of law enforcement officers to give tickets and to stop and harass people in public on arbitrary suspicion of breaking emergency laws.

Second, like carding or street checks, it can mean racial profiling and an increased risk of arrest and detention. Basically, it gives many law enforcement officers an excuse to stop and question people for whatever reason they want. This is particularly dangerous for Black and Indigenous communities and raises the risk that migrants can be stopped, arrested, and detained for immigration reasons by police or other law enforcement officers. In fact, at this time, essentially the only way someone can end up being detained by the Canada Border Services Agency (CBSA) is if the police arrest someone and then call them (CBSA, which carries out immigration detentions and deportations is not doing proactive investigations or arrests due to the crisis). This order greatly increases the number of interactions with frontline law enforcement on issues of identification, which in turn greatly increases the risk of CBSA being called.

THIS ORDER IS DANGEROUS.

Thirdly, because many non-status migrants – especially poor and/or under-housed migrants – do not even have identification, they may end up arrested or fined as a result. For example, when a person makes a refugee claim, their Identification documents are taken by CBSA. Though they are usually given a temporary identification, it expires in a short period and can't be renewed. As well, it is often very hard for homeless people in shelters (including those who are not migrants) to hold on to get or hold on to ID.

Finally, this order is bad for public health. It means that migrant workers, who are already the hardest hit by the COVID-19 crisis and who must often continue working in essential services, are driven further underground and face greater challenges in accessing critical transportation, health, and housing services. COVID-19 is spreading quickly in courts, jails and immigration detention centres and orders forcing people to show their ID will make the spread even worse, putting many lives at risk.

We must work together to fight this unfair order!



**WHAT CAN
YOU DO IF
STOPPED
BY POLICE?**



**DEVELOP A
STRATEGY IF
CONFRONTED BY
AN OFFICER.**

CONFRONTED?



If the police speak to you, under the new order you must provide your name, date of birth, and address. However, you should **NOT** answer any other questions as your answers could be used against you in future deportation removal proceedings. You have a right to silence.



If you get stopped by officers who do not have a warrant for your arrest, you may still be required to produce your name, date of birth, and address or risk getting fined.



Generally, only police have the powers to arrest or detain, however they can **ONLY** do so if they have reasonable cause to believe you are breaking the law – not producing ID is not a criminal offense but can still result in a ticket.



Municipal by-law officers and most other provincial offenses officers generally **DO NOT** have the powers to arrest or detain but they can report you to CBSA.

CONFRONTED?



If you've already identified yourself to frontline officers, and they keep asking you questions, you **SHOULD NOT** answer them.

- Ask the officers:
"Am I being detained or am I free to go?"
- Eventually they will either arrest you or let you go. Running away during questioning may lead to additional charges.



However, if CBSA are called in by other law enforcement, they **DO** have the power to arrest and detain you if you do not properly identify yourself or they think you are here without valid status.

If an officer claims to have a warrant for your arrest, you have the right to ask to see it.



- Make sure you are the person named on it and that it is dated and signed.
- If there is a mistake, point it out to the officer.



**CREATE A
SAFETY PLAN IN
CASE YOU ARE
DETAINED.**

SAFETY PLANNING



Have the number of a trusted lawyer or immigration consultant.



Give a spare set of house keys and email information to someone you trust and who can access your important papers and tell others living at your house what happened.



Have the number of someone who can:

- Contact your lawyer
- Care for your children or others who rely on you
- Tell your work about your absence
- Be a bondsperson.
 - A bondsperson is a person who can provide a promise or money to get you out of detention.

SAFETY PLANNING



Find support from friends, family, religious or community organizations, neighbours, and other supporters who can rally together to help you get out of detention.



Give someone you trust your immigration client ID so that a lawyer can locate you if you are detained.



Know your specific risk of immigration and criminal arrest and detention.

- Is there a warrant out for your arrest?
- Do you have expired immigration status that may put you at risk?



IF YOU ARE

ARRESTED

&

DETAINED

IF YOU ARE ARRESTED & DETAINED YOU HAVE THE RIGHT TO:



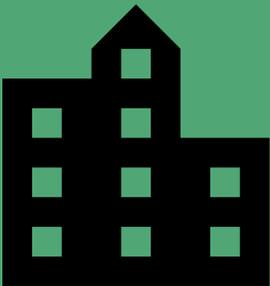
- Know the reason(s) for your detention.
- Talk to a lawyer or other legal representative



- Use an interpreter.
- Receive medical attention



- Practice your religion



- Contact a representative of your country's embassy or consulate.
 - Speak to a lawyer first if you are afraid of your government and may want to make a refugee claim



ARRESTED & DETAINED?



- If you are being held in Toronto at the Immigration Holding Centre (which is usually referred to as “Rexdale”) you can ask for the help of the Toronto Refugee Affairs Council (TRAC) for legal information.



- TRAC runs an office at the Immigration Holding Centre Mondays to Thursdays.



- Their telephone number is 416-401-8537.



- Staff from Legal Aid Ontario’s Refugee Law Office also helps at Immigration Detention Centres in the Toronto area. They can provide legal advice by phone and might be able to represent you at your detention review if you meet their eligibility criteria.



- You can call the Refugee Law Office collect at 416-977-8111 or toll-free at 1-800-668-8258.



ARRESTED & DETAINED?



For criminal matters, duty counsel are still available for bail hearings and other criminal matters but may only be available by phone during the COVID-19 outbreak.



The increased risk of contracting COVID-19 may be a relevant factor to argue for release or bail as current jails and detention facilities are overcrowded, have unsanitary conditions, and limited ability to help people self-isolate.



FOR MORE INFORMATION

- Migrant Know Your Rights Guide (No One is Illegal Toronto)
 - toronto.nooneisillegal.org/knowyourrights
- Immigration Law and Sex Workers' Rights Guide (Butterfly)
 - bit.ly/migrantsexworkersrights
- "I am not a Canadian citizen. Can immigration authorities detain me?" (Steps to Justice)
 - stepstojustice.ca/questions/refugee-law/i-am-not-canadian-citizen-can-immigration-authorities-detain-me



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