



Type of law:  
**CRIMINAL LAW**

A 2018 Alberta Guide to the Law

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# Sex Work or Prostitution



**Student Legal Services**  
of Edmonton

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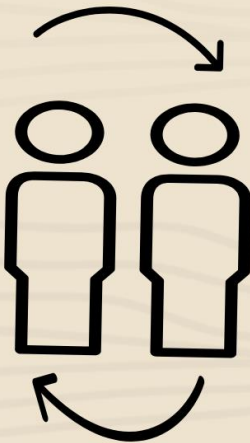
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# Prostitution

## RELATED OFFENCES:

s. 213 - Communication for the Purposes of Prostitution:  
Any person who stops or attempts to stop the flow of traffic to communicate for the purposes of offering, providing, or obtaining sexual services for consideration is guilty of a criminal offence



s. 286.2(1) - Material Benefit from Sexual Services:  
Anyone that receives a material benefit knowing that it was obtained by exchanging sexual services for payment is guilty of a criminal offence



Escort Agencies / Body Rub Centres:  
Are legal as long as they comply with the regulations and standards set out in the Business Licence Bylaw (13138)

s. 286.1 - Obtaining Sexual Services for Consideration:  
Anyone who pays another for sexual services is guilty of a criminal offence

This offence has varying punishments based on where the exchange took place and the age of the person providing sexual services

s. 286.3(1) - Procuring:  
It is an offence to convince someone else to provide sexual services for payment



## INTRODUCTION

Sex work (previously known as prostitution) or receiving payment for sexual acts, is not a crime if a person is over 18 years old. However, there are a number of related offences that ARE illegal.

1. Stopping or Impeding Traffic (*Criminal Code*, Section 213 (1)(a))
2. Communicating to Provide Sexual Services for Consideration (*Criminal Code*, Section 213 (1 ((1))
3. Obtaining Sexual Services for Consideration (*Criminal Code*, Section 286.1)
4. Material Benefits for Sexual Services (*Criminal Code*, Section 286.2)
5. Procuring (*Criminal Code*, Section 286.3)



**Note:** This is still relatively new law and it is unknown how all of it will be applied, please speak to a lawyer if you have any questions about specific examples and how they will be understood.

## RELATED OFFENCES

### 1. Stopping or Impeding Traffic

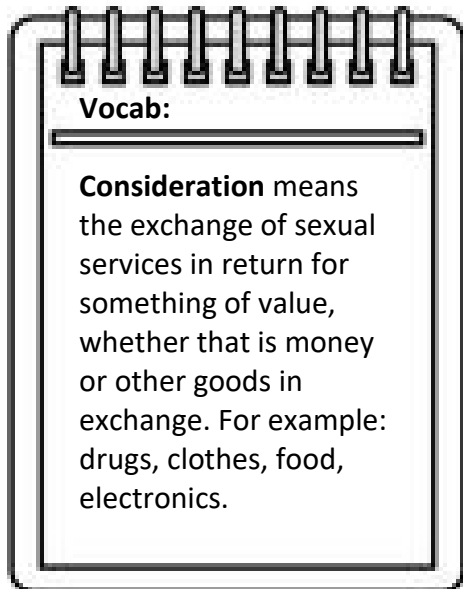
Section 213 of the *Criminal Code* states that any person who stops or tries to stop a motor vehicle or blocks the flow of traffic (which includes pedestrians or vehicles), to communicate for the purposes of offering, providing or obtaining sexual services for consideration in a public place or in any place open to a public view is guilty of an offence.



Under the *Criminal Code* a public place or a place open to public view would include anywhere where the public has access to.

## 2. Communication for the Purposes of Soliciting or Providing Sex Work

Section 213 (1.1) of the *Criminal Code* states that any person who communicates for the purposes of offering, providing or obtaining sexual services for consideration in a public place or in any place open to a public view, or is next to a school, playground or daycare is guilty of an offence.



Communication for the purpose of prostitution is any attempt to:

- Offer sex for payment or;
- Offer payment for sex.



There are two main forms of communication:

**a) Verbal Communication:** Verbal communication is using words to say something, either by talking or in writing. For example: A person is breaking the law if they discuss the price of sex acts or the services to be performed. A person can still be charged even if the price is not fixed, the acts to be performed were not fixed, or the communication does not end with the sexual service being provided.

**b) Non-Verbal Communication:** Non-verbal communication includes gestures, body language, hand signals or other ways of communicating without words. This can be anything from a wink to waving arms or interrupting the movement of pedestrians or traffic. Police must prove that the person used the action to stop another person for the purposes of providing or obtaining sexual services. For proof, the police look at facts like the time, place, past actions of the person stopping the car and other things going on in the area.

A person can be found guilty of communicating for the purposes of prostitution even where there has been no physical contact. Any communication for the purposes of sexual acts in exchange for payment is enough.

## 3. Obtaining Sexual Services for Consideration



UPDATE: It is an offence for anyone to pay another for sexual services. It is also an offence to communicate with anyone for the purpose of obtaining for **consideration** the

sexual services of a person. This can be punishable as an offence no matter where it takes place.

The offence will have different punishments depending on where the exchange of services or communication took place and whether it is an indictable offence (more serious) or a summary conviction (less serious). See below:

### **Adults:**

#### **Indictable Offence: [more serious]**


- If communication happened in a public place, next to a school or church or a place where people under the age of 18 can reasonably be expected to be present, the minimum fine for a first offence is \$2000 and for each offence after that it is \$4000.
- If communication happened in any other place the minimum fine for a first offence is \$1000 and for each offence after that it is \$2000.
- In BOTH situations, the maximum penalty is 5 years imprisonment.



#### **Summary Conviction: [less serious]**

- If communication happened in a public place, next to a school or church, or a place where people under the age of 18 can reasonably be expected to be present the minimum fine for a first offence is \$1000 and for each offence after that it is \$2000.
- If communication happened in any other place the minimum fine for a first offence is \$500 and for each offence after that, it is \$1000.
- In BOTH situations the maximum penalty is 18 months imprisonment.

### **Children:**

 Section 286.1(2) – if the sexual services come from someone who is under the age of 18 the offence will be an INDICTABLE OFFENCE with a maximum of 10 years imprisonment and a minimum of 6 months imprisonment if it is a first offence and 1-year imprisonment for every offence after the first.

## **4. Material Benefit from Sexual Services**

Section 286.2(1) makes it an offence for anyone to receive a **material benefit**, whether financial or other, when they know that the money or benefit came from obtaining sexual services for payment. A material benefit means something that is received in return for sexual services. It does not have to be money, it could also be other things that were given in exchange such as food, clothing, drugs, or electronics.



## Over 18:

If the sexual services came from someone over the age of 18, it will be an indictable offence with a maximum of 10 years imprisonment.



## Under 18:

If the sexual services came from someone under the age of 18, it will be an indictable offence with a maximum of 14 years and a minimum of 2 years.

**Section 286.2(3)** presumes (assumes unless proven otherwise) that someone who lives with or is often in the company of someone else who provides sexual services for payment is receiving a benefit from those services.



## UNLESS....

- They live in a legitimate living arrangement with the person providing sexual services for consideration.
  - The sharing of expenses between two people, where one of them is a prostitute, is not enough to satisfy this offence.
  - There must be a **direct benefit** to one person from the prostitution of another.
  - Sex workers who use their wages to support their children are not committing an illegal act and the children cannot be charged.
- They received a benefit due to a moral or legal obligation.
- They received it for a good or service that they also provide to the general public or a good or service that they only provided to the person who exchanges sexual services, but they did not encourage them to do so and the value of the benefit is equal to the value of the good or service.



**Note:** It is still unclear how this section will be interpreted and what will or will not be considered an exception.

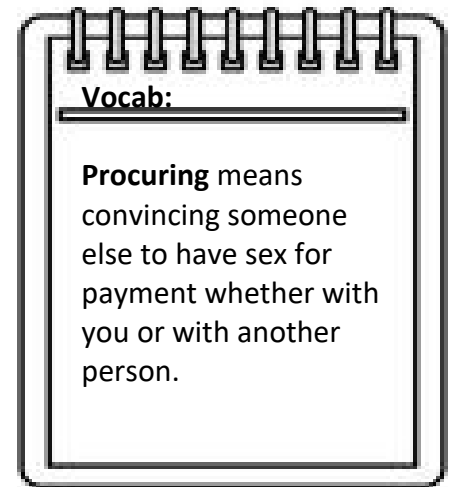


## 5. Procuring

Section 286.3(1) says that it is an offence for anyone to convince someone else to provide sexual services for payment.

If the person providing sexual services is...

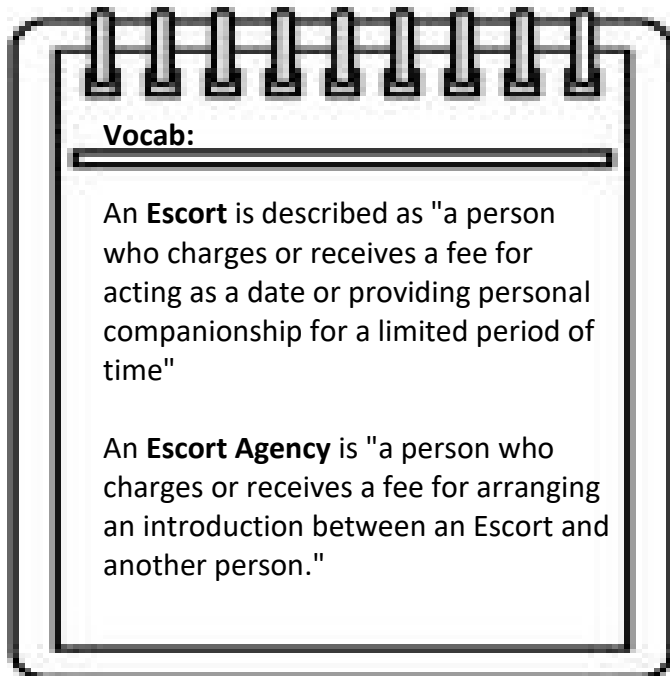
- Over 18: This an indictable offence which has a maximum punishment of 14 years imprisonment.
- 
- Under 18: This is an indictable offence which has a maximum punishment of 14 years imprisonment and a minimum punishment of 5 years imprisonment



## ESCORT AGENCIES



In Edmonton, escort services are legal as long as they comply with the City's Bylaw 13138 that regulates "Body Rub Centres" and "Escort Agencies".



There are special regulations and application requirements to be an escort or escort agency. For example:

- All escorts must be over 18 years old and submit a recent Police Information Check.
- The agency must maintain a written work log of all introductions made through their service.
- The agency must comply with rules around advertisements.

Please refer to the City of Edmonton website for more information on the Business Licence Bylaw:

[http://www.edmonton.ca/city\\_government/bylaws/bylaws-b.aspx](http://www.edmonton.ca/city_government/bylaws/bylaws-b.aspx)

## PUBLIC INDECENCY

- Section 173 (1) of the *Criminal Code* states that it is an offence to commit an indecent act in public in the presence of one or more persons, or in any place if the intent is to insult or offend any person. Essentially, something could be deemed indecent if it is something that would be considered so by the majority of general community members.
- Section 173 (2) of the *Criminal Code* states that it is an offence for a person in any place to expose for a sexual purpose their genital organs to a person under the age of 16 years old.
- Section 174 of the *Criminal Code* states that it is an offence if one is nude in a public place, or if one is nude in a private place but is exposed to public view. This is a rarely charged offence and requires the advance consent of the Attorney General.

## GETTING ARRESTED FOR PROSTITUTION CHARGES



When someone is arrested, the police must:

- ✓ Inform them of the reason for the arrest
- ✓ Inform them of their right to call a lawyer within a reasonable time
- ✓ Give them the phone number for legal aid in their area
- ✓ Give them reasonable privacy and access to a phone to call a lawyer
- ✓ Give them a reasonable amount of time to contact and talk to a lawyer
- ✓ The police must not force someone to answer questions before they talk to a lawyer, if they have asked to speak to one
- ✓ If they waive their right to counsel, they still have the right to be silent when asked questions

There are some court diversion programs that may be offered by the police upon arrest such as **SNUG**, which aims to provide services and other help for those who no longer wish to be involved in prostitution.

## Undercover Police Officers



A police officer does not have to identify himself or herself if asked, “Are you a cop?” or “Are you undercover?” The police *only have to identify themselves once they start an arrest.*

## Photographs

A police officer **cannot** take a photograph of someone who is charged with communicating for the purposes of prostitution unless permission is given. Communicating is a summary conviction offence, which means it is considered less serious than indictable offences. If someone is charged with a more serious offences, indictable or hybrid offences, they may be required to give fingerprints or be photographed at the police station.



## **CREATING OPTIONS AIMS AT REDUCING SEXUAL EXPLOITATION**

The Centre to End All Sexual Exploitation (CEASE) offers a diversion program called **COARSE** (“Creating Options Aimed at Reducing Sexual Exploitation”). If an adult is charged with summary conviction offences, such as soliciting, minor theft, or breach of probation, that relate to their being a prostitute, they can apply to do a COARSE diversion plan. If they are successful, their charges might be withdrawn, or the sentence might be reduced.

COARSE is designed to help people involved in prostitution deal with the causes of their involvement such as addictions, homelessness, and mental health issues. Applicants must be serious about trying to end their involvement with prostitution. A COARSE plan will be made based on your individual situation and will be different for each person.

The number for this program is 780-819-6656.



## **SEX TRADE OFFENDER PROGRAM (STOP)**

The Sex Trade Offender Program (STOP) is a post-court diversion program. It is for individuals who are first time offenders charged with 'communicating for the purposes of prostitution' who are apprehended by an undercover sting operation run by the EPS Vice Unit. Eligible offenders spend a full day hearing directly from the survivors, families, neighborhoods and businesses harmed by their actions.

To be eligible for the program one:

- Must NOT have a history of violence,
- Must NOT have a history of child exploitation, and
- Must pay a fee of \$750 must be paid to participate in the program as an alternative to a court-imposed fine for the charge. This fee, as the offenders learn throughout the program, gets redistributed within the community and all money collected goes towards combating sexual exploitation within the City of Edmonton. If the offenders pay the fee and complete the one-day program the original charge is withdrawn.

## **THE PROTECTION OF SEXUALLY EXPLOITED CHILDREN (PSECA)**

The *Protection of Sexually Exploited Children Act* (PSECA) is based on the idea that children (under 18 years old) involved in prostitution are victims of sexual abuse who need help and protection. PSECA allows for youth considered at immediate risk of being involved in prostitution to be taken away by the police or caseworker and taken to a “safe house” and confined for up to 5 days. This can be renewed for a maximum of 21 days more, to allow children to be connected with support services and placement services if they are unable to return home.



## WHO CAN I CALL FOR MORE HELP OR INFORMATION?

### Reporting Abuse

<b>Edmonton Police Service</b>	<b>Emergency Ph: 911</b> <b>Non-Emergency Ph: 780-423-4567</b>
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<b>Crime Stoppers National Tip-Line (anonymous)</b>	<b>Ph: 1-800-222-8477</b>
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<b>Child Abuse Hotline</b>	<b>Ph: 1-800-387-5437</b>
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### Legal Resources

<b>Legal Aid Society of Alberta</b> 10320 102 Ave NW, Edmonton, AB	<b>Ph: 1-866-845-3425</b> <b>Website: <a href="http://www.legalaid.ab.ca">www.legalaid.ab.ca</a></b>
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Free legal information lawyers who may represent you for a reduced rate.

<b>Lawyer Referral Service</b>	<b>Ph: 1-800-661-1095</b>
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Referrals to up to 3 lawyers that may be able to help you.

<b>Elizabeth Fry Society</b> 10523 100 Ave, Edmonton, AB	<b>Ph: 780-422-4775</b> <b>Website: <a href="http://www.efryedmonton.ab.ca">www.efryedmonton.ab.ca</a></b>
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Court workers explain court procedure and terminology, provide legal referrals, and offer practical assistance and support to those appearing in court.

<b>Native Counseling Services</b> 10975 124 Street, Edmonton, AB	<b>Ph: 780-423-2141</b> <b>Website: <a href="http://www.ncsa.ca">www.ncsa.ca</a></b>
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Court workers provide information on the nature of the criminal charge, rights, and court procedure. Assistance and support with the necessary documents, Legal Aid applications, and other help.

<b>Emergency Protection Order Program</b>	<b>Ph: 780-422-9222</b>
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Lawyers (free of charge, & with no eligibility requirements) to help obtain protection orders that can prevent a family member from contacting you.

<b>COARSE (Creating Options Aimed at Reducing Sexual Exploitation)</b>	<b>Ph: 780-819-6656</b>
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A community court diversion program where participants work hard to create a new path for their life, which can result in a withdrawal of charges or a reduced sentence.

**Support**

<b>Chrysalis National Human Trafficking Toll-Free Line</b>	<b>Ph: 1-866-528-7109</b> <b>Website: <a href="http://www.chrysalisnetwork.org">www.chrysalisnetwork.org</a></b>
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Free, confidential counseling service for women, men, & youth who have been trafficked or are sex workers. Service available in English, French, Punjabi, Hindi, Arabic, Mandarin, Cantonese, Malay, Portuguese, & Afrikaans.

<b>Crossroads</b>	<b>Ph: 780-474-7421</b> <b>Outreach Van Ph: 780-405-6539</b>
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Support for individuals that are/have been involved in street prostitution, escort, and massage service, including a street outreach van providing immediate help. (Mon, Tues, Wed, and Thurs from 8pm-12midnight)

<b>ACT Alberta (Action Coalition on Human Trafficking)</b>	<b>Ph: 780-474-1104</b> <b>Website: <a href="http://www.actalberta.org">www.actalberta.org</a></b>
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Assistance for victims of human trafficking, training, & education for professionals working with trafficked persons.

<b>Kindred House</b>	<b>Ph: 780-424-4091</b>
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A safe house and resource center for women and transgendered individuals who are involved in street prostitution. Open 12noon – 5pm, Monday – Friday.

**Counseling and Support**

<b>Support Network 24-Hour Distress Line</b>	<b>Ph: 780-482-4357</b> <b>Website: <a href="http://www.yourlifecounts.org/crisis-lines/support-network-distress-line">www.yourlifecounts.org/crisis-lines/support-network-distress-line</a></b>
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Someone to listen & talk to when life hurts, if you are thinking of suicide please call.

<b>Edmonton Sexual Assault Centre 24-Hour Crisis Line</b>	<b>Ph:</b> 780-423-4121 <b>Website:</b> <a href="http://www.sace.ab.ca">www.sace.ab.ca</a>
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Confidential support for anyone experiencing sexual violence or supporting someone affected by sexual violence.

<b>Family Violence 24-Hour Info Line</b>	<b>Ph:</b> 780-310-1818
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Information and support in over 170 languages

<b>CEASE (Centre to End All Sexual Exploitation)</b>	<b>Ph:</b> 780-471-6137 <b>Website:</b> <a href="http://www.ceasenow.org">www.ceasenow.org</a>
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Counseling, trauma recovery, and emergency poverty relief for individuals working to heal and rebuild their lives after experiencing exploitation.

<b>City of Edmonton Assessment &amp; Short-Term Counseling Services</b>	<b>Ph:</b> 780-496-4777
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Free short term individual counseling, free family violence support groups facilitated by a social worker, free cell phones for victims of family violence.

<b>YWCA Counseling Centre</b> 10080 Jasper Avenue, Edmonton, AB	<b>Ph:</b> 780-423-9922 ext. 222 <b>Website:</b> <a href="http://www.ywcaofedmonton.org">www.ywcaofedmonton.org</a>
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Counseling offered on a sliding scale (may be free depending on your income) for healing from violence, exploitation, addictions, and a variety of other concerns.

<b>Walk-in Counseling Society of Edmonton</b> 9562 82 Avenue, Edmonton, AB	<b>Ph:</b> 780-757-0900 <b>Website:</b> <a href="http://www.momentumcounselling.org">www.momentumcounselling.org</a>
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Drop-in counseling session offered on a sliding scale (may be free depending on your income), designed to be a one-time experience

## Shelters

<b>Edmonton Women's Shelter (WIN House)</b>	<b>24-Hour Crisis Ph:</b> 780-479-0058 <b>Website:</b> <a href="http://www.winhouse.org">www.winhouse.org</a>
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Shelter and support for women with or without children who are fleeing domestic violence.

<b>Lurana Shelter</b>	<b>24-Hour Crisis Ph:</b> 780-424-5875 <b>Website:</b> <a href="http://www.canacal.com/lurana">www.canacal.com/lurana</a>
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High security shelter and support for women with or without children who are fleeing domestic abuse.

<b>SAGE Seniors Safe House</b>	<b>Ph:</b> 780-702-1520 <b>Website:</b> <a href="http://www.mysage.ca/help/seniors-safe-house">www.mysage.ca/help/seniors-safe-house</a>
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Emergency housing for men and women over 60 years of age who are leaving abusive situations.

<b>A Safe Place (Sherwood Park)</b>	<b>24-Hour Crisis Ph:</b> 780-464-7233 <b>Website:</b> <a href="http://www.asafeplace.ca/home.html">www.asafeplace.ca/home.html</a>
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A shelter and support for abused women and their children, including free transportation (from Edmonton, Sherwood Park, & Fort Saskatchewan) for admission to the shelter.

<b>Women's Emergency Accommodation Centre (WEAC)</b> 9611 106 Ave, Edmonton, AB	<b>Ph:</b> 780-423-5302 <b>Website:</b> <a href="https://e4calberta.org/shelter-housing/">https://e4calberta.org/shelter-housing/</a>
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An emergency place to stay for homeless women, new women admitted at 9pm every night.

<b>Hope Mission Emergency Shelter</b> 9908 106 Ave, Edmonton, AB	<b>Ph:</b> 780-422-2018 <b>Website:</b> <a href="http://www.mysage.ca/help/seniors-safe-house">www.mysage.ca/help/seniors-safe-house</a>
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A safe place to sleep for those living on the streets. Separate shelter areas available for men, women, couples, and youth. Open at 8pm.

<b>YESS (Youth Empowerment and Support Services)</b> 9310 82 Ave, Edmonton, AB	<b>Ph:</b> 780-468-7070 <b>Website:</b> <a href="https://yess.org">https://yess.org</a>
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Emergency shelter and short-term shelter for youth.

### Health/Medical Resources

<b>Sexually Transmitted Infection (STI) Clinic</b> 11745 Jasper Avenue, Edmonton, AB	<b>Ph:</b> 780-342-2300
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Free and private testing/screening for STI infections and pregnancy, needle exchange, and other medical services.

<b>Boyle McCauley Health Centre</b> 10628 96 Street, Edmonton, AB	<b>Ph:</b> 780-422-7333 <b>Website:</b> <a href="http://www.bmhc.net/contact">www.bmhc.net/contact</a>
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Medical clinic for individuals in the Boyle McCauley area. Also includes a mental health clinic, a woman's health clinic and services in other areas such as dental and optometry.