



Provincial Advisory Council
on the Status of Women
NEWFOUNDLAND & LABRADOR

October 9, 2026

Access to Information and Protection of Privacy Statutory Review 2025
2nd Floor, Beothuck Building
20 Crosbie Place
St. John's, NL A1B 3Y8

Enclosed please find a submission prepared by The Provincial Advisory Council on the Status of Women NL (PACSW) that provides a review of the *Access to Information and Protection of Privacy Act, 2015* (ATIPPA).

Offering feedback on ATIPP legislation is in keeping with our legislated mandate under section 3(a) of the Status of Women Advisory Council Act:

- *Advising government on issues affecting the status of women and;*
- *Bring before the Provincial Government and the public matters of interest and concern to women*

Our submission applies a gender-based analysis (GBA+) lens, providing perspectives and insights on privacy safeguards and emerging technologies; and the protection of personal information, including issues related to access, collection, use and disclosure, with a focus on young people's privacy rights and decision-making authority. Implementing gender-responsive legislation and policymaking ensures the interests and needs of all genders are considered.

We look forward to a positive outcome of this review process. If you have questions regarding our submission, please do not hesitate to contact me.

Sincerely,

Paula Sheppard,
President/CEO

cc. Honourable Lela Evans, Minister of Women and Gender Equality

Statutory Review of The Access to Information and Protection of Privacy Act, 2015 (ATIPPA)

Introduction

The importance of ensuring and upholding privacy rights and obligations, while maximizing the benefits of sharing information, where appropriate, is the struggle and key imperative of the modern digital era. Efforts to balance privacy with protection, and thus, personal agency with safety is a difficult tightrope to walk.

This submission focuses on relevant recommendations that emerged from the [2023 review](#) of the [Personal Health Information Act](#) (PHIA), as well as highlighting further considerations of the *Access to Information and Protection of Privacy Act, 2015* (ATIPPA) beyond the PHIA review, with an additional focus on young people's privacy rights and decision-making authority. PACSW has applied a gender-based analysis (GBA+) lens to consider how ATIPPA could be strengthened to ensure that female-identifying and gender diverse individuals are not negatively impacted by changes to access and privacy protection and to ensure the needs of all genders are considered.

ATIPPA's Relationship to PHIA

As noted in the 2023 PHIA review report, ATIPPA and PHIA are not cohesive with respect to oversight provisions. PHIA currently provides the Office of the Information and Privacy Commissioner (OIPC) with ombudsman oversight, rather than the hybrid role adopted by the ATIPPA, 2015. Thus, there is no mechanism within PHIA, whether through the courts or through powers vested by the Commissioner, to compel compliance with the Act by custodians, except in relation to access and correction requests.

Recommendations:

- PACSW concurs with the recommendation to align the role of the OIPC to the ATIPPA to provide effective oversight and remedial powers with respect to PHIA.
- Any review of, and revisions to ATIPPA, 2015 should be made in tandem with the current, ongoing review of PHIA.

Privacy Safeguards and Emerging Technologies

In evaluating whether ATIPPA, 2015 adequately addresses risks associated with newly evolving technologies, it is pivotal that consideration be given to any anticipated changes to relevant health and privacy federal legislation such as amendments to the [Personal Information Protection and Electronic Documents Act](#) (PIPEDA) and/or the passing of Bills [C-34](#), and [C-36](#).

The 2023 PHIA review report spoke extensively to expected forthcoming changes with the anticipated implementation of [Bill C-27](#), the Digital Charter Implementation Act, 2022. This proposed federal legislation, initially tabled by the Government of Canada, did not survive the January Parliament prorogation. While many of the recommendations made in the report address ensuring alignment with Bill C-27 specifically, their relevance to both ATIPPA and PHIA may still be argued in light of the expected introduction of new, similar legislation, namely, Bill C-36, *An Act to enact the Protecting Privacy and Consumer Data Act and to make amendments to*

other Acts. Bill C-36 succeeds Bill C-27, and, before it, Bill C-11, marking the federal government's third attempt in six years to reform the [*Personal Information Protection and Electronic Documents Act*](#) (PIPEDA), federal legislation which governs the collection, use and disclosure of personal information. Bill C-36 passed first reading on June 15, 2026, and was tabled in the House of Commons on August 19, 2026.

With the proposed legislation, consent remains the primary basis for the collection, use and disclosure of personal information. Of specific relevance to both ATIPPA and PHIA is how Bill C-36 addresses children's information and other sensitive information, such as health information and information about sexual orientation. The recognition of children's personal information as sensitive aligns with the federal government's recent efforts to strengthen online protections for children, including through the *Digital Safety Act* proposed in Bill C-34.

Artificial Intelligence (AI)

Currently, Canada does not have stand-alone artificial intelligence (AI) legislation. Consistent with its [*AI strategy*](#), the federal government's approach to AI regulation is set to be divided between Bill C-34's *Digital Safety Act* and the proposed *Protecting Privacy and Consumer Data Act* (PPCDA), which would be enacted under Bill C-36.

In their AI Strategy, the Federal Government has committed to applying GBA+ "in a meaningful way across policy design, skills development, innovation, and governance to ensure that AI reflects our values, protects those most affected, and leads to outcomes that are safe, inclusive, and beneficial for all Canadians."¹ Canada's AI Strategy also recognizes that AI fueled online abuse such as deepfakes are used as a form of sexual violence and disproportionately targets women.²

Recommendations:

- Any review of, and revisions to ATIPPA, 2015 should consider any anticipated changes to relevant health and privacy federal legislation such as amendments to PIPEDA and/or the passing of Bills C-34 and C-36. Attention should be paid to how age and consent is understood in relation to privacy and personal information.
- Any review of, and revisions to ATIPPA, 2015 should be open to amendment to align with any definition of, and provisions relating to, artificial intelligence (AI) that may be introduced in federal legislation, and to consider the gendered impacts of its use.

Personal Information Protection

Clarification Required Around the Rights of a Minor in Accessing or Protecting their Personal Information

Consent laws center on the determination of decision-making capability. In general, informed consent requires that a decision-maker has the capacity to decide freely, without coercion.³

An examination of provincial and federal legislation reveals differing guidelines around consent and decision-making in general, based on varying definitions of "adult" and "child."

The [Adult Protection Act](#) defines “adult” as a person who is not a child or youth within the meaning of the [Children, Youth and Families Act](#). Under the Children, Youth and Families Act, a “child” means a person actually or apparently under 16 years of age. A “youth” is defined as a person who is at least 16 years of age but under 18 years of age.

The [Children’s Law Act](#) states that “Nothing in this Act abrogates the right of a child of 16 or more years of age to withdraw from parental control.”

With regards to privacy, the Office of the Privacy Commissioner of Canada (OPC) considers children under the age of 13 to be unable to meaningfully, legally consent to the collection of personal data, which implies different privacy measures than for adults or for young people older than 13 years of age.⁴

The proposed Bill C-36 defines a “child” as an individual under 18, which could have implications for how children’s personal information is addressed.

There should be privacy protections in place to ensure that young people (who have been determined to have the capacity to understand and make decisions without parental consent) are able to make informed decisions freely and to have information related to these decisions, kept private (i.e. not available to parents/guardians or proxies to view without the young person’s consent), particularly with respect to gender and sex-related matters.

The OPC acknowledges that many young people may wish for privacy from their parents, and notes that institutions should take this into account, in accordance with section 5(1) of the [Privacy Act](#), which requires institutions to collect information directly from individuals. This is particularly important for sensitive information such as medical and health records.⁵

Current research at McMaster University is exploring the tensions between parental authority and youth autonomy; it is argued that girls, throughout history and across cultures, have “tended to be subjected to higher degrees of parental surveillance and regulation.”⁶ This highlights the importance of protecting the rights of young people to seek out information and make informed decisions regarding accessing or protecting their personal information.

While it is common to see children and youth as vulnerable and in need of protection, young people often want to learn about matters that concern them and should be able to participate in decisions that affect them. The view that children are a distinct group with specific human rights is a recent perspective that emerged in the 20th century, first articulated in the 1924 Geneva Declaration of the Rights of the Child. The 1989 [United Nations Convention on the Rights of the Child](#) (UNCRC) expanded this view; Articles 12 and 13 specifically articulate children’s rights to express their views in all matters affecting them, to be heard in judicial and administrative proceedings that affect them, and to enjoy the “freedom to seek, receive and impart information and ideas of all kinds.” The UNCRC’s affirmation of children’s rights includes the right to privacy. The [UN General comment No. 25](#), which supplements the UNCRC, speaks to children’s rights in the digital environment.

How this is practiced, however, is quite variable across nations. The United States signed but never ratified the UNCRC. While Canada ratified the UNCRC in 1991, not all jurisdictions refer to it specifically in their relevant legislation. NL does not mention the UNCRC in its child protection legislation, the *Children, Youth and Families Act*.

In 2023, Canada's Privacy Commissioners and Ombuds with responsibility for privacy oversight passed a joint resolution, calling on their respective governments to put the best interests of young people at the forefront of privacy and access to personal information, noting the importance of the UNCRC, and that many jurisdictions have recognized that young people may be impacted by technologies differently than adults, be at greater risk of being affected by privacy-related issues, and therefore require special protections.⁷

Signatories to the above resolution called for governments to review, amend or adopt relevant privacy legislation to be consistent with internationally recognized policy and legal instruments to ensure adequate protection of the privacy rights of young people. The signatories recognized that the privacy rights of a young person are their own rights, stating:

Any limitation to their exercise (e.g. vis-à-vis parents/guardians or public bodies) must start from that principle, be specific and limited to the particular circumstances, and be consistent with the best interests of the young person.⁸

The signatories further highlighted that young people's personal information is particularly sensitive, and that any collection, use or disclosure of such information must be done with this in mind.

The Canadian Bar Association advocates for a modern, enforceable legislative framework for children's privacy that is consistent across jurisdictions and sectors, and that goes beyond PIPEDA guidance, aligns with international standards such as the UNCRC, and "applies consistently across all sectors and jurisdictions, and ensures coordinated implementation through cross-government, industry, and human rights oversight mechanisms to fully realize children's rights in the digital environment."⁹

Recommendations:

- Considerations with regards to decision-making in the context of privacy legislation should be given to the age and capacity of the individual, which are particularly relevant to consent.
- Any review of, and revisions to ATIPPA, 2015 should be made in tandem with the review of feedback received on the proposed development of a decision-making framework to improve legislation and policies in the province.
- Any review of, and revisions to ATIPPA, 2015 should ensure consistency with national and international privacy legislation regarding the protection of the privacy rights of young people.

Gender, Sex, and Sexual Orientation Identification in Personal Information Records: Considerations for Data Innovation, Collection, Privacy Protections, and Consent

It is important to consider the need for enhanced safeguards for sensitive categories of data. One of the recommendations from the 2023 Resolution of the Federal, Provincial and Territorial Privacy Commissioners and Ombuds with Responsibility for Privacy Oversight was that organizations conduct GBA+ analyses to consider the specific privacy risks to vulnerable groups of young people, including 2SLGBTQIA+ individuals and populations.¹⁰

Personal information records, including when they contain GSSO information, are sensitive, potentially putting an individual's privacy at risk. Everyone has a right to protect their personal information.

Recommendations:

- The creation of data collection and storage systems that properly recognize GSSO information and 2SLGBTQIA+ people.
- Legislation should ensure there are privacy protections in place for the safe access and use of personal information that contains GSSO identifiers, including use by researchers and research institutions.

¹ Innovation, Science and Economic Development Canada, “Canada’s National Artificial Intelligence Strategy: AI for All,” 2026, Government of Canada. <https://ised-isde.canada.ca/site/ised/en/canadas-national-artificial-intelligence-strategy-ai-all>

² Innovation, Science and Economic Development Canada, Canada’s National Artificial Intelligence Strategy

³ Kevin W. Coughlin, Position Statement. “Medical decision-making in paediatrics: Infancy to adolescence,” *Pediatrics & Child Health* 23, no.2 (2018): 138-146.

⁴ Office of the Privacy Commissioner of Canada, “Protecting the Privacy Rights of Young People” (November 28, 2023), https://www.priv.gc.ca/en/for-federal-institutions/privacy-act-bulletins/pab_20231128/

⁵ Office of the Privacy Commissioner of Canada, Protecting the Privacy Rights of Young People

⁶ McMaster University. “What History Can Teach Us About Young People’s Health Decisions,” *McMaster University News*, September 18, 2026, <https://news.mcmaster.ca/what-history-can-teach-us-about-young-peoples-health-decisions/#:~:text=When%20they%20have,well%2Dbeing>.

⁷ Office of the Privacy Commissioner of Canada, “Putting Best Interests of Young People at the Forefront of Privacy and Access to Personal Information, Resolution of the Federal, Provincial and Territorial Privacy Commissioners and Ombuds with Responsibility for Privacy Oversight” (Quebec, October 4-5, 2023), https://www.priv.gc.ca/en/about-the-opc/what-we-do/provincial-and-territorial-collaboration/joint-resolutions-with-provinces-and-territories/res_231005_01/

⁸ Office of the Privacy Commissioner of Canada, Putting Best Interests of Young People at the Forefront of Privacy and Access to Personal Information

⁹ Canadian Bar Association, Privacy and Child & Youth Sections, “Children’s Privacy Code – Exploratory Consultation.” September 2025. <https://cba.org/CBA/media/PDFs/Our%20Impact/Submission/2025/25-45-eng.pdf>

¹⁰ Office of the Privacy Commissioner of Canada, Putting Best Interests of Young People at the Forefront of Privacy and Access to Personal Information