



Seeking a Legal Declaration of Death for a Missing Person in British Columbia

There are two separate and distinct processes by which an application can be made to have a missing person legally declared dead. The circumstances of the case will determine which process is used.

Declaration under the *Coroners Act*

The BC Coroners Service (BCCS) can investigate a death without a body under very limited circumstances:

- The event which caused the person to be missing must have been witnessed
- AND
- There is no reasonable likelihood the missing person could have survived the event
- AND
- At least 6 months have passed since the event (to allow a reasonable amount of time for investigation and potential recovery of the body)

If the case satisfies all of the above criteria, contact the BCCS Special Investigations Unit at bccs.siu@gov.bc.ca or 1-877-660-5077.

Note: The process can take a year or more to complete.

Declaration under the *Presumption of Death Act (PDA)*

The BC Supreme Court may make an order under the PDA when:

- The missing person has not been seen or heard from since he or she went missing
- AND
- There is no reason to believe that the missing person is alive
- AND
- Reasonable grounds exist for supposing that the person is dead

There is no minimum length of time a person must be missing before an application can be made under the PDA; however, the length of time may be a factor in satisfying the criteria listed above.

See the next page for details on making an application to the BC Supreme Court under the PDA.

This document is meant as a helpful reference and is not a substitute for legal advice.

This document has been prepared pursuant to the authority of the Chief Coroner, Coroners Act, S.B.C 2007 c.15 Section 10

Presumption of Death Act Application Process

Step 1 – Obtain a summary of relevant information from the police investigation into the event

- This information can generally be provided in the form of a letter from the police investigator, upon request.
- This summary will serve as the basis for the affidavit the applicant will eventually need to submit to the Court.
- An application for information under the Access to Information and Privacy (ATIP) or Freedom of Information and Protection of Privacy Act (FOIPPA) legislation is generally not required.

Step 2 – Make an application to the Supreme Court of BC

- As making a Supreme Court application is not a straightforward process, legal consultation can be extremely valuable.
- The Canadian Bar Association Lawyer Referral Service provides the opportunity to have a consultation with a lawyer for up to 30 minutes for a fee of \$25 plus taxes (1-800-663-1919 or www.lrsbc.org). After this initial consultation, applicants may choose to hire a lawyer or represent themselves.
- For applicants in financial need, Access Pro Bono provides free legal services for those who qualify (1-877-762-6664 or www.accessprobono.ca), and the Legal Services Society (Legal Aid BC) provides legal information and advice to people with low incomes (1-866-577-2525 or www.lss.bc.ca).
- If applicants choose to represent themselves, further information can be found at www.supremecourtbc.ca.

To read the *Presumption of Death Act* or the *Coroners Act*, go to the BC Laws website www.bclaws.ca.

For families of missing persons who require support, assistance is available through VictimLinkBC (1-800-563-0808 or VictimLinkBC@bc211.ca).

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