



## 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](mailto: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](http://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](http://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](http://www.lss.bc.ca)).
- If applicants choose to represent themselves, further information can be found at [www.supremecourtbc.ca](http://www.supremecourtbc.ca).

To read the *Presumption of Death Act* or the *Coroners Act*, go to the BC Laws website [www.bclaws.ca](http://www.bclaws.ca).

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

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