

Alberta Bill of Rights Amendment Act, 2024

Fall 2024

Overview

- The *Alberta Bill of Rights* has not been significantly updated since it was first introduced in 1972.
- The proposed amendments would broaden and strengthen Albertans' rights, with increased protections for personal autonomy, including the right against medical care or treatment without consent; strengthened property rights; and more effective enforcement of rights.
- Many of the changes would align the *Alberta Bill of Rights* with the approach to fundamental rights in the *Canadian Charter of Rights and Freedoms*.
- Many of the changes relate to recommendations in the final report of the Public Health Emergencies Governance Review Panel

What is currently included in the *Alberta Bill of Rights*

- The act currently includes the following rights:
 - the right of the individual to liberty, security of the person and enjoyment of property, and the right not to be deprived of these except by due process of law
 - the right to equality before the law and the protection of the law
 - freedom of religion
 - freedom of speech
 - freedom of assembly and association
 - freedom of the press
 - the right of parents to make informed decisions respecting the education of their children
- The act states that every law in Alberta is to be interpreted and applied so as not to limit or interfere with the rights in the *Alberta Bill of Rights*.

The *Alberta Bill of Rights* applies to:

- The *Alberta Bill of Rights* applies to all Albertans, including minors, without discrimination based on race, national origin, colour, religion, sexual orientation, sex, and gender identity or gender expression.
- The *Alberta Bill of Rights* protects Albertans from laws of and actions by the provincial government. It does not apply to federal laws or to actions by the federal government, the private sector, or individuals.
 - The *Canadian Charter of Rights and Freedoms* protects Canadians from both laws and actions of the federal and provincial governments. The *Alberta Human Rights Act* applies to actions of the private sector.

Proposed changes

Adding protections for Albertans

If passed, proposed changes would give Albertans the following rights:

- The right for an individual with capacity not to be subjected to, or coerced into receiving, medical care, medical treatment or a medical procedure without consent unless that individual is likely to cause substantial harm to themselves or to others.
- The right for an individual with capacity not to be compelled or coerced into receiving a vaccine.
- The right to freedom of expression, broadening the scope of Albertans' rights protected beyond written and spoken language to include other expressive activities.
- The right to acquire, keep and use firearms **in accordance with the law**, reinforcing the right to lawful ownership and affirming government's intent that provincial laws should not interfere with the right to own legally acquired firearms.
- Expanded property rights.
 - If an individual or entity is deprived of the enjoyment of their property, this would need to be authorized by law.

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- If government takes property, this taking would need to be authorized by law and government would need to provide just compensation.

Making the *Alberta Bill of Rights* a stronger civil rights document

If passed, the following proposed changes would allow Albertans' rights to be enforced more effectively.

- For any provincial law that is declared by a court to be inconsistent with the *Alberta Bill of Rights*, the inconsistent part of the law has no legal effect so could not be enforced.
- The *Alberta Bill of Rights* would apply to all provincial government action, including policies and programs. The act currently only applies to laws in Alberta, such as statutes or regulations or actions taken under those laws.
 - This application to government action would also include organizations that operate under extensive government control, such as municipalities and police services.
 - It would also apply to specific activities by organizations where there is a high degree of government control over those specific activities, such as hospitals delivering public medical services.
- If a court determines rights under the *Alberta Bill of Rights* have been breached, the court may impose any remedy that it considers appropriate and just in the circumstances.
 - There is one exception: the court cannot order damages related to the passage of legislation that is later found to violate the *Alberta Bill of Rights*. This exception is included to recognize that passing new laws is the exclusive jurisdiction of the legislature.
- A new statement in the *Alberta Bill of Rights* would clarify that government may place reasonable limits on rights if it can demonstrate it has a good reason for doing so. The statement will refer to a "free and democratic Alberta" to recognize Alberta's distinct culture, the value Albertans place on individual rights and Alberta's government's commitment to respect individual rights.
- The parliamentary supremacy or notwithstanding clause in the *Alberta Bill of Rights* would be updated to clarify that it could apply to a regulation, bylaw or similar document when the clause is used in an act.
- The requirement for the Minister of Justice to be notified when any legal action that challenges a law under the *Alberta Bill of Rights* is initiated would be updated to align with the existing notification requirements in the *Judicature Act* for constitutional challenges.

Preamble

A preamble in a piece of legislation is intended to assist in explaining the enactment. If proposed changes pass, three updates to the preamble in the *Alberta Bill of Rights* would refer to principles important to Albertans, specifically freedom, family and the rule of law:

- Confirm that fundamental freedoms retain their importance during times of emergency.
- Add language to recognize "the position of the family in a society of free people and free institutions."
- Add a reference to the rule of law.

Taking effect

- The proposed amendments to the *Alberta Bill of Rights* would take effect upon Royal Assent.
- The proposed amendments would only apply to infringements on Albertans' rights that occur after the amendments take effect. This would include infringements on rights that began before the amendments take effect but continue after the amendments take effect.
 - There would be an exception for property rights: the amendments would not apply to a deprivation of property rights that began before the amendments take effect even if that deprivation continues after the amendments take effect, if litigation has already been started against the Crown in respect of the matter.

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