

No. 49

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13 Elizabeth II  
2nd Session, 15th Legislature, Alberta

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## **BILL 49**

A Bill respecting the Prevention of Venereal Disease

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HON. DR. ROSS

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## Explanatory Note

**1. General.** This Bill will repeal and replace The Venereal Diseases Prevention Act, R.S.A. 1955, c. 358, which has been in force with few changes since 1917. Almost all of the provisions of the Bill have their equivalent in the legislation of the other provinces. A significant new feature is found in section 17 which would enable a scheme to be set up to ensure free treatment of venereal disease cases by private physicians, the physicians in turn to be paid by the Province.

**2. Definitions.** The definition of "venereal disease" contains two additional diseases, viz., granuloma inguinale and lymphopathia venereum.

# BILL

No. 49 of 1965

An Act respecting the Prevention of Venereal Disease

(Assented to \_\_\_\_\_, 1965)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Venereal Diseases Prevention Act, 1965*".

2. In this Act,

- (a) "clinical examination" means an examination for venereal disease consisting of a physical examination, the taking of samples or specimens from the body on the same occasion as the physical examination and the testing of the samples or specimens at the place where the samples or specimens were taken;
- (b) "Director" means the Director of the Division;
- (c) "Division" means the Division of Social Hygiene of the Department of Public Health;
- (d) "infected" means having a venereal disease in a communicable stage;
- (e) "gaol physician" means a physician in attendance in his professional capacity at a gaol, lock-up, reformatory or similar place;
- (f) "laboratory tests" means tests of samples or specimens from the body made in a laboratory at a place other than where the samples or specimens were taken;
- (g) "Minister" means the Minister of Health;
- (h) "physician" means a duly qualified medical practitioner;
- (i) "place of detention" means a hospital, sanatorium, gaol, lock-up, reformatory, or any place designated as a place of detention by the Lieutenant Governor in Council;
- (j) "provincial clinic" means a venereal disease clinic operated by the Division;
- (k) "venereal disease" means syphilis, gonorrhoea, chancroid, granuloma inguinale or lymphopathia venereum.

**3.** New. Duty of persons to consult physician or clinic and take treatment.

**4.** New. Duties of infected persons.

**5.** New. Duties of physicians and other medical personnel to report cases.

**6.** New. Report of laboratory tests.

### **Duties of Infected Persons**

**3.** Every person who knows or suspects or has reason to believe that he is or may be infected with venereal disease

(a) shall immediately consult a physician or attend at a provincial clinic to determine whether he is infected or not, and

(b) if he is found to be infected, shall submit to such treatment as may be directed by a physician or at a provincial clinic until he is no longer infected with venereal disease in the opinion of the physician consulted or the physician in charge of a provincial clinic.

**4.** Every person who is required by section 3 to submit to treatment for venereal disease

(a) shall inform the physician consulted or the provincial clinic, as the case may be, of any change of his address occurring during the period of treatment, or

(b) if he is under treatment by a physician and wishes to discontinue treatment under that physician, shall immediately consult and submit to treatment by another physician or at a provincial clinic.

### **Duties of Physicians and Others**

**5.** (1) It is the duty of

(a) every physician,

(b) every superintendent or head of a hospital or sanatorium, and

(c) every person in charge of medical services in a gaol, lock-up or reformatory or similar place or in an educational institution,

to report to the Director every case of infection with venereal disease coming under his diagnosis, treatment, care or charge for the first time.

(2) The report shall be completed and forwarded to the Director within forty-eight hours after the first diagnosis, treatment or knowledge by or of the physician, superintendent, head or other person.

**6.** The person in charge of a laboratory shall report to the Director

(a) all positive and negative results of tests for syphilis made in the laboratory, and

(b) all positive results of tests for gonorrhoea made in the laboratory,

within forty-eight hours of the time the results are determined.

**7.** New. Duty of physician to instruct patient re disease.

**8.** New. Duty of physician to report delinquent patients.

**9.** Notice to require attendance of suspected infected person to attend for examination and treatment.

7. Every physician who examines or treats a person for or in respect of venereal disease shall instruct him in measures for preventing the spread of the disease and inform him of the necessity for regular treatment until cured.

8. (1) Where an infected person under treatment for venereal disease by a physician refuses or neglects to continue his treatment in a manner and to a degree satisfactory to the physician, the physician shall forward a report to that effect to the Director unless he is sooner notified that the infected person is under treatment at a provincial clinic.

(2) A person who fails to attend upon his physician within seven days of an appointment for treatment for venereal disease shall be presumed to have neglected to continue his treatment and in that case the physician shall forward the report to the Director within fourteen days of the appointment.

#### **Notice to Attend for Examination and Treatment**

9. (1) Where the Director has reasonable grounds for believing that a person is infected with venereal disease by virtue of

- (a) a report forwarded by him pursuant to section 5, 6 or 8, or
- (b) the refusal or neglect of that person to continue treatment at a provincial clinic, or
- (c) that person being named in a statutory declaration as a probable source or contact of venereal disease, or
- (d) any other proof or information in the possession of the Director,

the Director or any person authorized by the Director to do so may serve a notice on that person requiring him to attend at the provincial clinic nearest his residence or at the office of a named physician for examination for venereal disease and, if he is found to be infected, for treatment of the disease.

(2) A notice under subsection (1)

- (a) shall specify the time at or within which the person is to attend, and
- (b) may require more than one attendance for examination.

(3) Where the notice requires attendance at the office of a named physician, the Director shall send a copy of it to that physician with directions to

- (a) conduct a clinical examination of the person suspected of being infected,
- (b) send any samples or specimens taken from the person's body to a laboratory for testing, and
- (c) forward a certificate to the Director within a prescribed time stating whether or not, on the basis of

**10.** Procedure to have a suspected infected person detained for clinical examination and, if necessary, treatment. (The present section 6 permits detention on the warrant of the Provincial Board of Health.) A person detained for treatment may, however, be released earlier under certain conditions under clause 16.



the clinical examination and the laboratory tests, if any, the person examined is infected with venereal disease.

(4) Where a person notified pursuant to subsection (1) is found to be infected by virtue of the certificate of a physician in charge of a provincial clinic or the named physician, as the case may be, or by virtue of the certificate of the person in charge of the laboratory where the tests were made, the Director or a physician in charge of a provincial clinic may by notice give directions to that person as to the course of conduct to be pursued by him in undergoing treatment for venereal disease.

(5) Where it is intended to name a physician in a notice under this section, the Director shall consult that physician before doing so.

#### **Persons Required to Undergo Treatment**

**10.** (1) The Director or any officer of the Division authorized by the Director to do so may lay an information before a magistrate stating that he has reason to believe that the person named therein is infected with venereal disease on any of the following grounds, namely,

- (a) that the person has failed to comply with a notice served upon him under subsection (1) or (4) of section 9, or
- (b) that the person has been found to be infected on the basis of a clinical examination or laboratory tests and has refused or neglected to submit to treatment or to continue treatment, or
- (c) that the person has been named in a statutory declaration as a probable source or contact of venereal disease, or
- (d) that in the opinion of the Director the clinical findings and history of the person indicate that he is or may be infected with venereal disease.

(2) Upon receiving the information the magistrate shall hear and consider the allegations of the informant and if he considers it necessary or desirable the evidence of any witness, and if he is of the opinion that a case for so doing has been made out he shall issue his warrant to take the person named therein into custody and cause him to be taken to a place of detention and detained there

- (a) for a clinical examination to determine whether he has venereal disease, and
- (b) if he is found to be infected, for treatment for venereal disease until he is no longer infected.

(3) A person detained under subsection (2) shall be given a clinical examination forthwith upon being so detained.

(4) The attending physician, immediately upon completion of the clinical examination, shall issue and forward to

**11.** This section deals with cases where a person detained under clause 10 is not found infected on the basis of a clinical examination alone but is later found to have venereal disease when the laboratory tests are later known. A further warrant may then be applied for under section 10.

**12.** (1) New. Certificate of physician as prima facie proof.

(2) New. Secrecy is to be preserved as to the name of a declarant whose declaration is used as the basis for proceedings under clause 10. The court may, however, see it on request.

a magistrate a certificate stating that the person named therein either

- (a) is infected with venereal disease, in which case he shall be detained for treatment until he is no longer infected, or
- (b) is not infected with venereal disease, in which case the magistrate shall order his immediate release, **or**
- (c) is not infected with venereal disease on the basis of the clinical examination only and without the result of laboratory tests being determined, in which case the magistrate shall order his immediate release.

(5) When a magistrate is in receipt of a certificate of a physician stating that a person detained for treatment under clause (a) of subsection (4) is no longer infected with venereal disease, the magistrate shall forthwith order the immediate release of that person.

**11.** (1) Where a person is released pursuant to clause (c) of subsection (4) of section 10 and the laboratory tests subsequently show that the person is infected, a further information may be laid under clause (b) of subsection (1) of section 10 and if the magistrate issues his warrant,

- (a) no clinical examination is necessary, and
- (b) upon being detained in a place of detention, the person shall be deemed to be detained pursuant to clause (a) of subsection (4) of section 10.

(2) In any case to which subsection (1) refers, the magistrate may refuse the information if the application is made later than seven days after the results of the laboratory tests are known.

**12.** (1) In proceedings under section 10, the certificate of a physician stating that the person named therein is infected with venereal disease is and shall be admitted in evidence as *prima facie* proof of that fact and that the person making it is a physician, without the necessity of proving the qualifications or signature of the physician making it.

(2) Where the ground or one of the grounds on which an information is laid under section 10 is that the person against whom the proceedings are taken has been named in a statutory declaration as a probable source or contact of venereal disease

- (a) it is not necessary that the declaration be an exhibit to the information, and
- (b) neither the person against whom the proceedings are taken, his counsel or agent, is entitled in those proceedings, or in any proceedings in Supreme Court for an order in the nature of a prerogative writ arising out of proceedings under section 10, to

**13.** The present section 3(2) and section 4 extensively revised. The Criminal Code offences mentioned in subsection (1) are as follows:

Section 164 (1) (c): vagrancy by being a common prostitute or night walker.

Section 164 (1) (d): vagrancy by reason of being a person who supports himself in whole or in part by gaming or crime and has no lawful profession or calling.

Section 182 (1): keeping a common bawdy-house.

Section 182 (2) (a) and (b): being an inmate of, or found without lawful excuse in, a common bawdy-house.

Section 184 (1): procuring.

**14.** The present section 3(1) extended to permit examination of all persons in gaol.

inspect the declaration or ascertain the name of the declarant, but the magistrate or judge may request that the declaration be produced to him for examination as to its validity or sufficiency.

**13.** (1) Where any person is under arrest or in custody and charged with a criminal offence, a gaol physician may cause him to undergo a clinical examination to determine whether or not he is infected with venereal disease

(a) if that person is charged under any of the following provisions of the *Criminal Code*, namely,

(i) paragraph (c) of subsection (1) of section 164,  
or

(ii) paragraph (d) of subsection (1) of section 164 by reason of living wholly or in part on the avails of prostitution, or

(iii) subsection (1) of section 182, or

(iv) paragraph (a) or (b) of subsection (2) of section 182, or

(v) subsection (1) of section 184,  
or

(b) in any other case, if the Director or the gaol physician has reason to believe that the person is or may have been exposed to infection with venereal disease,

and may order that the person remain in custody until the clinical examination is completed.

(2) Where a physician certifies that the person examined is infected, the infected person shall undergo medical treatment for venereal disease but only while he is in custody and if he is not otherwise entitled to be released.

**14.** (1) Where any person is in custody serving a sentence imposed on a conviction, a gaol physician may cause him to undergo a clinical examination to determine whether or not he is infected with venereal disease and may order that the person remain in custody until the clinical examination is completed.

(2) Where a physician certifies that a person in custody serving a sentence imposed on a conviction is infected

(a) the infected person shall undergo medical treatment for the disease and such action shall be taken as the gaol physician considers advisable for his isolation and the prevention of infection by him, and

(b) notwithstanding that he may otherwise be entitled to be released, he shall be detained in custody for treatment until he is no longer infected.

(3) When a physician is of the opinion that a person detained for treatment under this section is no longer infected with venereal disease, the physician shall forthwith issue a

**15.** Treatment of infected person in custody. The present section 3(4), (5) and (6) and section 4(3) and (4) extensively revised.

**16.** New. Procedure for the release of an infected person conditioned on his following directions for treatment. If he fails to comply, he may again be detained for treatment.

certificate to that effect and cause it to be delivered immediately to the gaoler, warden, superintendent, constable or officer having the care and custody of the person so detained.

(4) A certificate issued under subsection (3) is sufficient warrant and authority to the gaoler, warden, superintendent, constable or officer having the care and custody of that person to release him from custody if he is otherwise entitled to be released.

**15.** (1) A certificate made under subsection (2) of section 13 or subsection (2) of section 14 shall be based either on the clinical examination or on the results of laboratory tests.

(2) An order of a gaol physician or a certificate of a physician under section 13 or 14 is sufficient warrant to the gaoler, warden, superintendent, constable or officer having the care and custody of the person so charged or convicted to detain that person until the clinical examination is completed and, in the case of a convicted person found to be infected, to carry out the provisions of subsection (2) of section 14.

(3) Every infected person required to undergo medical treatment under section 13 or 14 shall comply with all directions given by a gaol physician as to treatment and every gaoler, warden, superintendent, constable and officer having the care and custody of any infected person shall see that the directions of the gaol physician are carried out.

**16.** (1) In this section "person detained for treatment" means a person detained in custody for treatment for venereal disease pursuant to

- (a) subsection (4) of section 10, or
- (b) subsection (2) of section 14 and who is otherwise entitled to be released.

(2) Notwithstanding anything in section 10 or 14, a magistrate may, upon application of which the Director has been given notice sufficient in the opinion of the magistrate, order the release of a person detained for treatment on the conditions that the person

- (a) attend for treatment at a specified provincial clinic or upon a physician named in the order, and
- (b) comply with the directions for treatment prescribed by the physician in charge of the provincial clinic or the named physician, as the case may be, until he is no longer infected with venereal disease.

(3) The Director or any officer of the Division authorized by the Director to do so may lay an information before a magistrate stating that he has reason to believe that the person released pursuant to an order made under subsection (2) has failed to comply with a condition of the order.

**17.** Replaces the present section 15. Clauses (a) and (b) are new.

**18.** The present section 15(2) (a) and (c) revised and with the addition of references to clinics.

**19.** New.



(4) Upon receiving the information the magistrate shall hear and consider the allegations of the informant and if he considers it necessary or desirable the evidence of any witness, and if he is of the opinion that a case for so doing has been made out, he shall issue his warrant to take the person named therein into custody and cause him to be taken to a place of detention and detained there for treatment until he is no longer infected with venereal disease.

(5) When a magistrate is in receipt of a certificate of a physician that a person detained pursuant to subsection (4) is no longer infected with venereal disease, the magistrate shall forthwith order the immediate release of that person.

(6) A person detained under subsection (4) is not precluded from making a further application for an order under subsection (2).

#### **General**

**17.** The Lieutenant Governor in Council may make regulations

- (a) prescribing a schedule of fees payable to physicians for services performed in reporting, diagnosing or treating cases of venereal disease and for drugs, medicines or appliances supplied to their patients,
- (b) authorizing the Minister to pay fees to physicians in accordance with the schedule prescribed under clause (a) and prescribing the terms and conditions on which such fees may be paid,
- (c) prescribing the forms of informations, certificates, warrants and orders to be used for the purpose of this Act, and
- (d) generally, for the carrying out of the provisions of this Act and for the prevention, treatment and cure of venereal diseases.

**18.** The Minister may

- (a) establish and maintain one or more venereal disease clinics in the Province to be operated by the Division,
- (b) subject to *The Public Service Act, 1962*, appoint physicians to be in charge of or to conduct examinations or to carry out or supervise treatment of persons for venereal disease at provincial clinics, and
- (c) provide for the free distribution to hospitals and other institutions of any drug, medicine or thing for the diagnosis, treatment or cure of venereal disease or the prevention of infection therefrom.

**19.** The Director may

- (a) prescribe the form of reports and notices required

**20.** Duty of approved hospital to provide accommodation, etc.

**21.** The present section 7 expanded to include all persons, not just physicians.

**22.** New.

**23.** When proceedings under the Act are to be held in camera. The present section 13 substantially revised.

or authorized to be given to or by the Director under this Act,

- (b) appoint or engage physicians to conduct clinical examinations or perform or supervise the treatment for venereal disease of persons to whom notices are given under section 9, and persons released pursuant to section 16,
- (c) provide for the distribution to physicians and hospitals of information as to the treatment and care of persons suffering from venereal disease, and
- (d) provide for public advertising and placarding of information relating to the treatment and cure of venereal disease and the places where proper treatment can be obtained.

**20.** (1) Every approved hospital within the meaning of *The Alberta Hospitals Act* shall provide accommodation satisfactory to the Director for such persons infected or suspected of being infected with venereal disease as are assigned to it.

(2) The treatment for such persons shall be carried out under the directions given by the Director.

(3) The Lieutenant Governor in Council may designate any hospital or other public institution, any portion of any hospital or institution under its jurisdiction or any house or building as a place of detention for the purposes of this Act.

**21.** No action, prosecution or other proceeding lies against any person by reason of the making by him of any certificate, report, notice, information, oral or written statement, statutory declaration, communication or record indicating directly or indirectly that any other person is or was or may be or may have been infected with venereal disease, if it is made in good faith and in the course of the administration of this Act or the regulations.

**22.** This Act shall be administered so as not to interfere with the course of justice in the case of any person under arrest or in custody prior to trial for any criminal offence except to the extent that it is necessary, for the purposes of this Act, to detain that person in custody until the clinical examination is completed.

**23.** (1) All proceedings

(a) under sections 10 and 16, or

(b) pertaining to applications to the Supreme Court for an order in the nature of a prerogative writ arising out of any proceeding under section 10 or 16,

shall be conducted in camera.

(2) In any proceedings

**24.** Disclosure of records and information obtained by persons administering the Act. The present section 14 substantially revised.

**25.** New.

- (a) pertaining to a prosecution for an offence against this Act or an appeal therefrom, or
- (b) pertaining to applications to the Supreme Court for an order in the nature of a prerogative writ arising out of any prosecution for an offence against this Act, or an appeal from the granting or refusing of the order,

the court shall order that the whole or any part of the proceedings shall be held in camera where it is shown to the court that the evidence to be given in the proceedings or part thereof will or is likely to indicate any person as being or having been infected with venereal disease and to reveal his identity and that the giving of such evidence in public will cause unnecessary hardship to that person in the circumstances.

(3) All records, transcripts and documents pertaining to any proceedings referred to in subsections (1) and (2) are confidential and shall not be made accessible for public inspection.

(4) No person shall make or publish a report or transcript of any proceedings referred to in subsection (1) or (2) unless the report or transcript forms part of the reasons for judgment given by a magistrate or judge, is contained in a publication devoted primarily to the reporting of judicial decisions and does not disclose the name of any person who in those proceedings was alleged or shown to be or to have been infected with venereal disease.

**24.** (1) In the public interest, any file, record, document or paper kept by any person in any place

- (a) that indicates in any way that any person is or was infected or is or was suspected of or alleged to be infected, and
- (b) that came into existence through any thing done under or pursuant to this Act or its predecessors,

shall not, without the written consent of the Minister, be disclosed to any person except to a person to whom its disclosure is or was necessary in the course of the administration of this Act or its predecessors.

(2) A person who is or has been employed or engaged in the administration of this Act shall not disclose or be compelled to disclose any information obtained by him in the course of the performance of his duties under this Act

- (a) except at a trial of an accused for an offence against this Act or in proceedings under section 10, and
- (b) in any other case, except upon the written consent of the Minister.

**25.** Any notice permitted or required to be given under this Act may be given personally or by registered mail addressed to the addressee's last known address.

**26.** The present section 10 revised.

**27.** The present section 12, in part, revised.

**28.** The present section 12 provides a penalty of \$10 to \$100, or up to 3 months for default.

**29.** New.

**30.** Repeal.

**31.** Commencement of Act.

### Offences and Penalties

**26.** (1) No person other than a physician shall attend upon or prescribe, recommend, supply or offer to supply to or for any person any drug, medicine, treatment or thing for the alleviation or cure of venereal disease.

(2) Subsection (1) does not apply to

- (a) a registered pharmaceutical chemist who dispenses a physician's prescription, or
- (b) a registered nurse who acts on the instructions of or under the supervision of a physician.

**27.** Every one is guilty of an offence who

- (a) fails to comply with section 3, 4, 5, 6 or 8, or a notice or direction given to him under section 9, or
- (b) without justification or excuse, publishes, discloses, exhibits or makes accessible to the public any report or document relating to proceedings required by this Act to be conducted in camera or discloses any file, record, document, paper or information in contravention of section 24, or
- (c) contravenes section 26, or
- (d) wilfully represents himself as bearing some other name than his own or makes any false statement as to his ordinary place of residence during the course of his treatment for venereal disease with the purpose of concealing his identity.

**28.** Every one who is guilty of an offence under this Act is liable on summary conviction to a fine of not more than two hundred dollars and in default of payment to imprisonment for a term of not more than ninety days.

**29.** No prosecution shall be taken against any person for an offence under this Act except with the consent of the Minister.

**30.** This Act repeals and replaces *The Venereal Diseases Prevention Act*, being chapter 358 of the Revised Statutes, but any proceedings commenced under the repealed Act shall be continued as if this Act had not come into force.

**31.** This Act comes into force on the first day of July, 1965.

No. 49

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SECOND SESSION

FIFTEENTH LEGISLATURE

13 ELIZABETH II

1965

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**BILL**

An Act respecting the Prevention  
of Venereal Disease

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Received and read the

First time.....

Second time.....

Third time.....

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HON. DR. ROSS

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