

1972 Bill 1

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First Session, 17th Legislature, 21 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 1**

**The Alberta Bill of Rights**

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THE PREMIER

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 1

1972

## THE ALBERTA BILL OF RIGHTS

(Assented to

15, 15, 72

, 1972)

WHEREAS the free and democratic society existing in Alberta is founded upon principles, fostered by tradition, that honour and respect human rights and fundamental freedoms and the dignity and worth of the human person;

AND WHEREAS the Parliament of Canada, being desirous of enshrining certain principles and the human rights and fundamental freedoms derived from them, enacted the Canadian Bill of Rights in order to ensure the protection of those rights and freedoms in Canada in matters coming within its legislative authority;

AND WHEREAS the Legislature of Alberta, affirming those principles and recognizing the need to ensure the protection of those rights and freedoms in Alberta in matters coming within its legislative authority, desires to enact The Alberta Bill of Rights.

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. It is hereby recognized and declared that in Alberta there exist, without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely:

- (a) the right of the individual to liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and
- (f) freedom of the press.

## **Explanatory Notes**

General. This Bill will provide for an Alberta Bill of Rights. The Canadian Bill of Rights enacted by the Parliament of Canada in 1960 provides for the protection of certain human rights and fundamental freedoms but its effectiveness is limited by the fact that it operates only within the fields of the federal Parliament's constitutional authority. The Alberta Bill of Rights is intended to provide for the protection of those same human rights and fundamental freedoms so that, in Alberta, those rights and freedoms will have protection in both provincial and federal fields of legislative jurisdiction. The result will be to have those rights and freedoms protected in Alberta under a single legislative shield consisting of the Canadian Bill of Rights and The Alberta Bill of Rights.

The effect of the Bill will be to have the Legislature, out of its respect for those rights and freedoms, limit its powers to enact laws that could operate, or could be applied to operate, so as to abrogate, abridge or infringe those rights and freedoms. It is primarily aimed, therefore, at protecting the citizen from power of the state.

**1. Recognition and declaration of human rights and fundamental freedoms.**

**2.** Every law of Alberta shall, unless it is expressly declared by an Act of the Legislature that it operates notwithstanding The Alberta Bill of Rights, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared.

**3.** (1) Nothing in this Act shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated herein that may have existed in Alberta at the commencement of this Act.

(2) In this Act "law of Alberta" means

(a) any Act of the Legislature of Alberta enacted before, on or after the commencement of this Act, and

(b) any order, rule or regulation made or approved by the Lieutenant Governor in Council or by a Minister of the Crown before, on or after the commencement of this Act.

(3) The provisions of this Act shall be construed as extending only to matters coming within the legislative authority of the Legislature of Alberta.

**4.** (1) Where in any action or other proceeding a question arises as to whether any law of Alberta abrogates, abridges or infringes, or authorizes the abrogation, abridgment or infringement, of any of the rights and freedoms herein recognized and declared, no adjudication on that question is valid unless notice has been given to the Attorney General.

(2) Where the Attorney General has notice under subsection (1), he may, in person or by counsel, appear and participate in that action or proceeding on such terms and conditions as the court, person or body conducting the proceeding may consider just.

**5.** This Act comes into force on a date to be fixed by Proclamation.

**2.** Construction and application of laws of Alberta. The effect of this section is that if a law of Alberta cannot be sensibly construed and applied by the courts so that it does not abrogate, abridge or infringe one of the rights and freedoms recognized and declared by the Bill, the courts may hold that such law is inoperative unless it is expressly declared by an Act of the Legislature of Alberta that it shall operate notwithstanding The Alberta Bill of Rights. This is the interpretation placed on the equivalent section in the Canadian Bill of Rights by the Supreme Court of Canada in the celebrated case of *The Queen v Drybones*.

This section will thus serve as an effective instrument for the courts to use in rendering inoperative a law that is in conflict with The Alberta Bill of Rights.

**3.** (1) Rights and freedoms not enumerated are preserved and remain unaffected.

(2) "Law of Alberta" defined.

(3) Jurisdiction of the Legislature.

**4.** Notice to the Attorney General in proceedings where a question arises as to effect of The Alberta Bill of Rights on a law of Alberta.