

1974 Bill 226

Third Session, 17th Legislature, 23 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 226

The Mental Health Human Rights Act

MR. WILSON

First Reading

Second Reading

Third Reading

Bill 226
Mr. Wilson

BILL 226

1974

THE MENTAL HEALTH HUMAN RIGHTS ACT

(Assented to _____ *, 1974)*

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

AND WHEREAS society may deem it necessary to limit, suspend or eliminate an individual's freedom and rights because of mental disorder so that an individual's own interests or those of others are protected;

AND WHEREAS society affirms the principle that the mentally disordered person should have the same rights as other citizens unless a specific determination has been made by the appropriate procedures, that the persons exercise of some or all such rights will place the persons own interests or those of others in undue jeopardy;

AND WHEREAS society affirms the principle that the mentally disordered involuntarily committed to government institutions have a right to humane and adequate treatment;

AND WHEREAS it is desirable that the rights of people seeking and receiving mental health care be codified into law for the benefit and guidance of those requiring and providing the mental health care.

THEREFOR 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 the following human rights for a person with a mental disorder; namely:

Civil Liberties

- (a) the right to exercise all individual freedoms that a person is capable of unless it is deemed contrary to the person's interests or those of others;

- (b) the right to protection, assistance and restrictions in the exercise of individual rights and citizenship as is necessary and appropriate in light of the person's limitations;
- (c) the rights of citizenship that the person is capable of exercising;
- (d) the right to appeal and review involuntary commitment to a psychiatric institution;
- (e) the right to a legally appointed guardian in the absence of next of kin;

Treatment

- (f) the right to a comprehensive physical and mental examination and review of behavioral status as soon as possible after admission to hospital;
- (g) the right to an individualized treatment plan developed by a qualified mental health professional, and explained and interpreted to the person and/or next of kin or legal guardian;
- (h) the right to treatment by an adequate number of qualified medical professionals;
- (i) freedom from physical or psychological treatment without the express and informed consent after consultation with the person or legally appointed guardian of the person;

Health Care

- (j) the right to human, adequate and appropriate care and treatment;
- (k) freedom from being subject to experimental research without the express and informed consent of the person or the person's legally appointed guardian;
- (l) freedom from unnecessary or excessive medication;
- (m) the right to access to a person's medical records by the person, next of kin or legal guardian;
- (n) the right to receive prompt and adequate medical treatment for any physical ailments;

Personal Rights

- (o) the right to education;
- (p) the right to recreational opportunities;
- (q) freedom from performing labor which is not deemed therapeutic;

- (r) the right to compensation for the value of work performed in accordance with minimum wage laws of the Province of Alberta;
- (s) freedom from unnecessary physical restraint or isolation;
- (t) the right to religious worship of the person's choice;
- (u) the right to a reasonable degree of privacy and dignity;
- (v) the right to adequate clothing, exercise and diet;
- (w) the right to wear a person's own clothes and to keep and use personal possessions, except insofar as such clothes or personal possessions may be dangerous or otherwise inappropriate to the treatment;
- (x) the right to visitation, the use of the telephone, and to send and receive mail, unless it is deemed contrary to the person's interests or those of others.

2. This Act binds the Crown.

3. Every law of Alberta shall, unless it is expressly declared by an Act of the Legislature that it operates notwithstanding *The Mental Health Human Rights Act*, 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.

4. (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 an Act of the Legislature of Alberta enacted before or after the commencement of this Act, any order, rule or regulation made thereunder, and any law in force in Alberta at the commencement of this Act that is subject to be repealed, abolished or altered by the Legislature of Alberta.

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

5. (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, or 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.

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