

1975 Bill PR 5
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL PR 5

**AN ACT TO PROVIDE FOR THE EXTENSION OF TIME FOR FILING
A STATEMENT OF CLAIM BY HECTOR COUTURE BEYOND THE
PERIOD ALLOWED BY THE LIMITATION OF ACTIONS ACT**

MRS. CHICHAK

First Reading

Second Reading

Third Reading

Bill PR 5
Mrs. Chichak

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(Second Session)

AN ACT TO PROVIDE FOR THE EXTENSION OF TIME FOR FILING A STATEMENT OF CLAIM BY HECTOR COUTURE BEYOND THE PERIOD ALLOWED BY THE LIMITATION OF ACTIONS ACT

Preamble

WHEREAS it is alleged that Hector Couture, of the City of Edmonton, on or about the 8th day of June, A.D. 1973 was gravely injured when the oxygen bag that he was required to wear on one foot, pursuant to a certain prescribed medical treatment, exploded;

AND WHEREAS it is alleged that at the time of the said explosion Hector Couture was under the care and treatment of Dr. R. J. Lewis, Dr. J. T. McCaffery, The Edmonton General Hospital and The General Hospital (Grey Nuns) of Edmonton, all of the City of Edmonton and hereinafter referred to as the "proposed defendants";

AND WHEREAS *The Limitation of Actions Act* requires that actions brought against medical practitioners for negligence must be commenced within one year from the date when the professional services terminated in respect of the subject matter that is the subject of the complaint and that actions brought against hospitals must be commenced within one year after the cause of action arose;

AND WHEREAS under the circumstances of the case Hector Couture did not commence an action against the said "proposed defendants" until July 8th, 1974;

AND WHEREAS the said "proposed defendants" have expressed their intention to rely on the fact that over one year has elapsed since the alleged negligent care and treatment occurred;

AND WHEREAS Petitions have been presented by Hector Couture praying for an Act enabling him to commence an action in negligence against the "proposed defendants" for damages notwithstanding the expiration of one year since the alleged negligence occurred:

NOW THEREFORE Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short title *1. This Act may be cited as The Hector Couture Extension of Limitation Act.*

Authority to apply for extension of time for action **2.** Notwithstanding any provision of *The Limitation of Actions Act*, Chapter 209, of the Revised Statutes, and notwithstanding the fact that more than one year has elapsed since the occurrence of the aforementioned alleged negligent care and treatment, Hector Couture may apply by way of Originating Notice of Motion to a Judge of the Supreme Court of Alberta, in Chambers, and on hearing of the said motion, the Court, having regard to the real question in controversy, the very right and justice of the matter and all the circumstances of the case, may in its discretion enlarge the time allowed by Sections 55 and 56 of *The Limitation of Actions Act* for the bringing of an action by the said Hector Couture against the said Dr. R. J. Lewis, Dr. J. T. McCaffery, The Edmonton General Hospital and The General Hospital (Grey Nuns) of Edmonton.

Limit of time for bringing application **3.** No such application shall be made after expiration of sixty days from the coming into force of this Act.

Coming into force *4. This Act comes into force on the day upon which it is assented to.*