

1978 BILL 253

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Fourth Session, 18th Legislature, 27 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 253

THE MENTAL HEALTH INFORMATION PROTECTION ACT

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MR. CLARK

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First Reading -----

Second Reading -----

Committee of the Whole -----

Third Reading -----

Royal Assent -----

Bill 253  
Mr. Clark

## BILL 253

1978

### THE MENTAL HEALTH INFORMATION PROTECTION ACT

(Assented to \_\_\_\_\_, 1978)

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

**1.** In this Act

- (a) "consent" means informed consent;
- (b) "identifier" means a reference or code by which a person may be identified and includes a social insurance number or a driver's license number;
- (c) "Minister" means the Minister to whom the administration of this Act has been assigned;
- (d) "non-routine use" means a use of a record that is not a routine use;
- (e) "personal information" means information respecting an individual which includes the individual's name or from which his identity is ascertainable;
- (f) "record" means the total of all personal information relating to an individual recorded in any form or any part thereof;
- (g) "routine use" means, in relation to the use of personal information or of a record regarding an individual, a use of a record for a purpose that is directly consistent with the use for which it was compiled and for which use consent has been given by that individual;
- (h) "system" means the Alberta Mental Health Information System established pursuant to section 2.

**2.** Every record relating to an individual's mental health maintained by the Government shall be maintained under one system to be known as the Alberta Mental Health Information System.

**3.** (1) Where an individual requests in writing to the Minister to be informed as to

- (a) what record concerning him is contained in the system;
- (b) the date when the record was first created;

## **Explanatory Notes**

**1. Definitions.**

**2. Records kept under one system.**

**3. Information as to content of record.**

- (c) the date when the record was last modified; or
  - (d) the instances of use to which the record has been put since the coming into force of this Act;
- the Minister shall within 30 days comply with the request and shall permit the person to examine each such record or a copy thereof whether or not that individual provided all or any of the information contained in the record.

(2) An individual who has requested information pursuant to subsection (1) may

- (a) request the Minister to correct the contents of any record where the individual has reason to believe there is an error or omission therein;
- (b) require a notation on any record where the contents of the record are not amended to reflect a requested correction and every notation shall show the substance of the request and shall be signed by one of the persons appointed by the Minister for that purpose.

**4.** Every individual is entitled to examine every record kept in the system which relates to him or a copy thereof

- (a) on each occasion when he receives a notice of request for consent to non-routine use of the record;
- (b) on each occasion that personal information is added or a record is amended, and every six months after either occasion.

**5.** Before personal information relating to an individual is stored in the system or a record is amended, the Minister shall

- (a) inform the individual of the fact and of the information to be included or the amendment to be made to the record in writing;
- (b) obtain the written consent of the individual to that information being stored in the system.

**6.** (1) The Minister shall inform the individual in writing that he is entitled to refuse to give his consent

- (a) to the storing of personal information in the system;
- (b) as to the purpose for which it is intended to store and use the information;
- (c) as to the type of information which will be stored and for how long;
- (d) as to the sources of the information; and
- (e) as to the use to which information will be put;

(2) A consent is limited to the purpose for which it was given.

**4. Right to examine own record.**

**5. Entries in record advised to subject.**

**6. Consent to storing and using information.**

**7.** At the time that he is asked to give his consent, every individual shall be informed in writing of the right he has and the procedures he may take to inspect and correct the records maintained in the system.

**8.** Consent given for a routine use of a record shall not be construed as consent for a non-routine use of a record.

**9.** Where consent to store information in the system is refused, the Government shall not for that reason only refuse to provide services which would otherwise have been provided unless it is impossible to provide them without the information.

**10.** A consent given for storage shall not remain in effect for longer than 2 years and a consent given for use shall not remain in effect for longer than 90 days.

**11.** Every individual is entitled to withdraw his consent in writing at any time prior to the expiry of the force of the consent but such withdrawal shall not affect the legality of any storage, disclosure or use carried out prior to the withdrawal and on the basis of the consent.

**12.** The Minister shall give notice in writing by registered mail to an individual where personal information concerning that individual is proposed to be used

(a) for any purpose which shall be specified in the notice;

(b) by any person who shall be specified in the notice;

(c) on any occasion which shall be specified in the notice;

and that individual shall thereupon be deemed to have been advised thereof and shall be deemed to have consented to the use of the information for the purpose by the person and on the occasion so specified unless written notice to the contrary is given by the individual within 30 days from the date of receipt of the notice and in a manner specified in the notice.

**13.** The Minister shall keep confidential the fact of the existence of a record on an individual.

**14.** (1) No record shall be made available to any person except for routine use without the consent of the person to whom it relates.

(2) The Minister shall not authorise the release of any personal information from the system unless the recipient agrees in advance in writing that he will keep the information confidential unless it is already known to him or is already or becomes public knowledge.

**7. Information as to rights.**

**8. Limit on consent.**

**9. Refusal of consent alone not to result in loss of services.**

**10. Duration of consent.**

**11. Withdrawal of consent.**

**12. Notice of use of information.**

**13. Confidentiality of record.**

**14. Release of information.**

**15.** Nothing herein contained shall be construed to prevent the release of information from the system where every reference, name or identifier that could indicate the identity or probable identity of any individual has been removed or deleted from it.

**16.** The Minister shall take all reasonable steps to ensure the security of the system and the records contained in them.

**17.** Every personal information record maintained in the system shall include a listing of all disclosures which have been made of information on the file and the listing shall include

- (a) the date of the disclosure;
- (b) the name of the person to whom the disclosure has been made;
- (c) the purpose for which the disclosure was made.

**18.** The listing defined in section 17 is part of the record.

**19.** The information in the system shall not be conveyed or transmitted outside the Province physically or electronically or by any other means whatsoever, without the consent of the individual to whom it relates.

**20.** (1) The Minister shall

- (a) keep under review the manner in which the system is maintained and managed to ensure compliance with the provisions of this Act, and
- (b) prescribe such forms as may be required for the operation of this Act.

(2) In order to co-ordinate the collection for, and the retention, use and storage of information in the system and to eliminate wherever possible any unnecessary collection, the Minister shall keep under review the utilization and potential modification of the system.

**21.** (1) The Minister may deny access to any record where, in the opinion of the Minister knowledge of the information contained in the record

- (a) would reveal personal information concerning another individual;
- (b) would impede the functioning of a court of law or a quasi-judicial board, commission or other tribunal; or



**15.** Release of information with identity removed.

**16.** Minister responsible for security.

**17.** List of disclosures recorded.

**18.** List is part of record.

**19.** Information not to be taken out of Province.

**20.** Ministerial duties.

**21.** Limit of access to record.

(c) would disclose legal opinions or advice provided to government on a matter of government business.

(2) Notwithstanding subsection (1) the Minister shall, where possible, separate or delete parts of a record to enable it to be revealed to the individual to whom it relates.

**22.** The Minister shall cause to be prepared once each year, a description in general terms of the information stored in the system and the routine uses to which that information is usually put, and shall make the publication available for sale to the public.

**23.** Every person who violates any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$2500 or to not more than 3 months imprisonment or to both fine and imprisonment.

**24.** This Act comes into force on January 1, 1979.

**22. Annual publication on system.**

**23. Offences and penalties.**