

2007 Bill 18

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 18

JUDICATURE AMENDMENT ACT, 2007

THE MINISTER OF JUSTICE AND ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 18

2007

JUDICATURE AMENDMENT ACT, 2007

(Assented to _____, 2007)

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

Amends RSA 2000 cJ-2

1 The *Judicature Act* is amended by this Act.

2 Section 23 is repealed and the following is substituted:

Part 2.1 Vexatious Proceedings

Definitions

23(1) In this Part,

- (a) “clerk of the Court” means
 - (i) in the case of the Court of Appeal, the Registrar or Deputy Registrar of the Court,
 - (ii) in the case of the Court of Queen’s Bench, a clerk, deputy clerk or acting clerk of the court of the judicial centre in which the proceeding is being instituted, and
 - (iii) in the case of the Provincial Court, a clerk or deputy clerk of the Court;
- (b) “Court” means

Explanatory Notes

1 Amends chapter J-2 of the Revised Statutes of Alberta 2000.

2 Section 23 presently reads:

23(1) When, on an application made by way of originating notice with the consent in writing of the Minister of Justice and Attorney General of Alberta, the Court is satisfied that a person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings in the Court or in any other court against the same person or against different persons, the Court may order that no legal proceedings shall, without leave of the Court, be instituted in any court by the person taking those vexatious legal proceedings.

(2) Leave shall not be given under subsection (1) unless the Court is satisfied that the proceedings are not an abuse of the process of the court and that there is on its face ground for the proceedings.

(3) The Minister of Justice and Attorney General of Alberta has the right to appear and be heard in person or by counsel on an application under subsection (1).

- (i) the Court of Appeal,
- (ii) the Court of Queen's Bench, or
- (iii) the Provincial Court.

(2) For the purposes of this section, instituting vexatious proceedings or conducting a proceeding in a vexatious manner includes, without limitation, any one or more of the following:

- (a) persistently bringing proceedings to determine an issue that has already been determined by a court of competent jurisdiction;
- (b) persistently bringing proceedings that cannot succeed or that have no reasonable expectation of providing relief;
- (c) persistently bringing proceedings for improper purposes;
- (d) inappropriately using previously raised grounds and issues in subsequent proceedings;
- (e) persistently failing to pay the costs of unsuccessful proceedings on the part of the person who commenced those proceedings;
- (f) persistently taking unsuccessful appeals from judicial decisions;
- (g) persistently engaging in inappropriate courtroom behaviour.

Application

23.1(1) Where on application or on its own motion, with notice to the Minister of Justice and Attorney General, a Court is satisfied that a person is instituting vexatious proceedings in the Court or is conducting a proceeding in a vexatious manner, the Court may order that

- (a) the person shall not institute a further proceeding or institute proceedings on behalf of any other person, or
- (b) a proceeding instituted by the person may not be continued,

without leave of the Court.

(2) An application under subsection (1) may be made by a party against whom vexatious proceedings are being instituted or conducted, a clerk of the Court or the Minister of Justice and Attorney General or, with leave of the Court, any other person.

(3) The Minister of Justice and Attorney General of Alberta has the right to appear and be heard in person or by counsel on an application under subsection (1).

(4) The Court may at any time on application or on its own motion, with notice to the Minister of Justice and Attorney General, make an order under subsection (1) applicable to any other individual or entity specified by the Court who in the opinion of the Court is associated with the person against whom an order under subsection (1) is made.

(5) An order under subsection (1) or (4) may not be made against a member of The Law Society of Alberta or a person authorized under section 48 of the *Legal Profession Act* when acting as legal counsel for another person.

(6) Subject to the right to appeal an order made under subsection (1) or (4), the Court of Appeal or a justice of the Court of Queen's Bench may make an order made under subsection (1) or (4) binding on any one or more of the other Courts referred to in section 23(1)(b), but an order under subsection (1) or (4) made by the Provincial Court is binding only on that Court.

(7) A person against whom an order has been made under subsection (1) or (4) may apply to a Court for leave to institute or continue a proceeding in that Court and the Court may, subject to any terms or conditions it may impose, grant leave if it is satisfied that the proceeding is not an abuse of process and that there are reasonable grounds for the proceeding.

(8) With respect to an application under this section before the Court of Appeal, the matter may be heard by a single justice.

(9) Nothing in this section limits the authority of a Court to stay or dismiss a proceeding as an abuse of process or on any other ground.

