

2007 Bill 52

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Third Session, 26th Legislature, 56 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 52**

**CORRECTIONS AMENDMENT ACT, 2007**

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MR. JOHNSTON

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 52*  
*Mr. Johnston*

## **BILL 52**

2007

### **CORRECTIONS 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 cC-29**

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

**2 The following is added after section 14.2:**

#### **Disclosure of information**

**14.3(1)** In this section,

- (a) “community corrections manager” means the employee of the department who is responsible for a probation office to which a court order has been issued in respect of the supervision of an offender in the community;
- (b) “department” means the department administered by the Minister;
- (c) “offender” means a person who has been found guilty of an offence, whether on acceptance of a plea of guilty or on a finding of guilt;
- (d) “probation office” means an office from which probation officers perform their duties;
- (e) “temporary absence” has the same meaning as in the *Prisons and Reformatories Act (Canada)*;

## **Explanatory Notes**

- 1** Amends chapter C-29 of the Revised Statutes of Alberta 2000.
- 2** Disclosure of information and electronic monitoring and recording.

- (f) “victim” means
- (i) the person against whom an offence was committed by the offender, or
  - (ii) if the person referred to in subclause (i) is deceased, the spouse, adult interdependent partner, children, parents or siblings of the person.

(2) Subject to the regulations, on the request of a victim of an offence of which an offender has been found guilty, the director of the correctional institution in which the offender is incarcerated

- (a) shall disclose to the victim the following information about the offender:
- (i) the offender’s name;
  - (ii) the offence of which the offender was found guilty and the court that found the offender guilty;
  - (iii) the date of commencement and length of the sentence that the court imposed;
  - (iv) any conditions contained in the offender’s sentence that relate to the victim,

and

- (b) may disclose to the victim any of the following information about the offender where, in the director’s opinion, the interest of the victim in the disclosure clearly outweighs any invasion of the offender’s privacy that could result from the disclosure:
- (i) the location of the correctional institution in which the offender’s sentence is being served;
  - (ii) the date on which the offender is to be released from custody, including the date or dates of a temporary absence;



- (iii) any conditions attached to the offender's release, including conditions attached to a temporary absence that relate to the victim;
- (iv) the municipality or area where the offender proposes to reside on temporary absence or while under court-ordered community supervision and whether the offender will be in the vicinity of the victim while travelling to that municipality or area, if known.

**(3)** Subject to the regulations, if the offender is under the supervision of a probation officer who is under the authority of a community corrections manager, the community corrections manager, on the request of a victim of the offence of which the offender has been found guilty,

- (a) shall disclose to the victim the following information about the offender:
  - (i) the offender's name;
  - (ii) the offence of which the offender was found guilty and the court that found the offender guilty;
  - (iii) the date of commencement and length of the sentence that the court imposed;
  - (iv) any conditions contained in the offender's sentence that relate to the victim,

and

- (b) may disclose to the victim any of the following information about the offender where, in the community corrections manager's opinion, the interest of the victim in the disclosure clearly outweighs any invasion of the offender's privacy that could result from the disclosure:
  - (i) any conditions attached to the offender's release, including conditions attached to a temporary absence or to court-ordered community supervision that relate to the victim;



- (ii) the municipality or area where the offender is residing while on temporary absence or while under community supervision and whether the offender will be in the vicinity of the victim while travelling to or through the municipality or area where the victim resides, if applicable.

#### **Electronic monitoring and recording**

**14.4(1)** Subject to the regulations, the director of a correctional institution may direct that telephone calls made by or received by an inmate be electronically monitored or recorded where the director believes on reasonable grounds

- (a) that the telephone calls contain or will contain evidence of
  - (i) an act that would jeopardize the security of the institution or the safety of any person, or
  - (ii) a criminal offence or a plan to commit a criminal offence,
- (b) that the telephone calls are or will be made to a victim as defined in section 14.3(1) or to another person who would be likely to consider the telephone calls intimidating or threatening, or
- (c) that the monitoring or recording of the telephone calls is otherwise necessary for the security of the institution and for the safety of inmates or the public.

**(2)** Telephone calls that are or will be the subject of a privilege shall not be monitored or recorded.

### **3 Section 15 is amended**

- (a) **by repealing subsection (1) and substituting the following:**

#### **Hearing adjudicators and disciplinary hearings**

**15(1)** The Minister may appoint persons, including employees of the Government of Alberta who are not employees of the correctional institution at which the



**3** Section 15 presently reads:

*15(1) The director of a correctional institution shall appoint a panel of 3 members of the staff of the correctional institution to conduct disciplinary hearings in accordance with the regulations for the purpose of*

*(a) reviewing breaches by inmates of the regulations or of the rules of the correctional institution, and*

disciplinary hearings will be conducted, as hearing adjudicators to conduct disciplinary hearings in accordance with the regulations for the purpose of

- (a) reviewing breaches by inmates of the regulations or of the rules of a correctional institution, and
- (b) determining appropriate punishment for breaches of the regulations or of the rules of a correctional institution.

**(b) by adding the following after subsection (1):**

**(1.1)** The Minister may in writing delegate any of the Minister's powers, duties or functions under this section to any person under the authority of the Minister.

**(1.2)** A hearing adjudicator may be appointed for a term of not more than 5 years and may be reappointed.

**(1.3)** A person appointed as a hearing adjudicator continues to hold office after the expiry of the term of the appointment until the person is reappointed, the person's successor is appointed or a period of 3 months has elapsed, whichever occurs first.

**(1.4)** The Minister may authorize and provide for the payment of the remuneration and expenses of hearing adjudicators who are not employees of the Government of Alberta.

**(1.5)** A hearing adjudicator may accept any evidence that the hearing adjudicator considers to be relevant to the determination of the issues and is not bound by the rules of law respecting evidence applicable to judicial proceedings.

**(c) in subsection (2) by striking out "a panel" and substituting "the hearing adjudicators appointed under subsection (1)";**

**(d) in subsection (3) by striking out "the correctional institution" and substituting "a correctional institution".**

**4 The following is added after section 15:**

*(b) determining appropriate punishment for contraventions of the regulations or of the rules of the correctional institution.*

*(2) In determining an appropriate punishment under subsection (1)(b) a panel must consider imposing the loss of earned remission in addition to any other punishment if the contravention of the regulations or of the rules of the correctional institution involves any of the following:*

*(a) inappropriate response by an inmate to a lawful request by an employee under the direction of the director;*

*(b) trafficking in an illicit drug by an inmate;*

*(c) possession or use of an illicit drug by an inmate or the presence of an illicit drug in an inmate's body unless the drug is prescribed for the inmate in writing by a physician and authorized by the director;*

*(d) the possession or use of a weapon;*

*(e) an assault;*

*(f) gang-related activity.*

*(3) The fact that an inmate is alleged to have committed an act or omission that is an offence under an enactment of Canada or Alberta does not prevent disciplinary action from being taken against the inmate in respect of a contravention of this Act or the regulations or the rules of the correctional institution.*

#### **4** Appeal adjudicators.

### **Appeal adjudicators**

**15.1(1)** The Minister may appoint persons as appeal adjudicators to conduct, subject to the regulations, appeals of decisions of hearing adjudicators in respect of disciplinary hearings.

(2) An appeal adjudicator may be appointed for a term of not more than 5 years and may be reappointed.

(3) A person appointed as an appeal adjudicator continues to hold office after the expiry of the term of the appointment until the person is reappointed, the person's successor is appointed or a period of 3 months has elapsed, whichever occurs first.

(4) An appeal adjudicator may be paid remuneration and expenses while engaged in conducting an appeal or writing a decision in respect of an appeal at a rate determined by the Minister.

(5) The Minister may in writing delegate any of the Minister's powers, duties or functions under this section to any person under the authority of the Minister.

### **Appeal of decision of hearing adjudicator**

**15.2(1)** For the purposes of subsections (2) and (4) and section 15.3, "director of the correctional institution" means the director of the correctional institution where the inmate was charged with the breach of the regulations or of the rules of the correctional institution that resulted in the disciplinary hearing.

(2) An inmate to whom the decision relates or the director of the correctional institution may appeal the decision of a hearing adjudicator to an appeal adjudicator.

(3) A request for an appeal by an inmate must be filed in writing with the director of the correctional institution in which the inmate is incarcerated within 7 calendar days of the decision being appealed from.

(4) A request for an appeal by the director of the correctional institution must be filed with the Chief Executive Officer within 7 calendar days of the decision being appealed from.

(5) The request for an appeal must set out



- (a) the circumstances and any other relevant particulars of the matter being appealed,
- (b) the grounds for the appeal, and
- (c) the relief being requested.

**(6)** An appeal must be based solely on the record of the disciplinary hearing and the decision of the hearing adjudicator.

**(7)** The record of the disciplinary hearing may be in the form of a written document or an audio or video recording of the disciplinary hearing, or any combination of them.

**(8)** If the information provided on a request for an appeal discloses that new evidence may have become available since the disciplinary hearing, the appeal adjudicator shall refer the matter, including any of the new evidence that may have been submitted to the appeal adjudicator, to the original hearing adjudicator or another hearing adjudicator to be dealt with in accordance with subsection (9).

**(9)** Where a matter is referred to a hearing adjudicator under subsection (8), the hearing adjudicator may

- (a) rehear the matter in accordance with section 15 if, in the opinion of the hearing adjudicator,
  - (i) the new evidence was not available at the original disciplinary hearing, and
  - (ii) the new evidence is relevant to and probative of the issues before the hearing adjudicator,

or

- (b) refuse to rehear the matter if, in the opinion of the hearing adjudicator,
  - (i) the evidence was available at the original disciplinary hearing but was not presented, or
  - (ii) the evidence is not relevant to or probative of the issues before the hearing adjudicator.



- (10) At the conclusion of an appeal, the appeal adjudicator may
- (a) confirm, revoke or vary the decision of the hearing adjudicator, or
  - (b) order that a new disciplinary hearing be held.

**Judicial review**

**15.3(1)** An inmate to whom the decision relates or the director of the correctional institution may apply for judicial review of a decision of an appeal adjudicator in accordance with Part 56.1 of the *Alberta Rules of Court*.

(2) Where an inmate applies for judicial review under subsection (1), the director of the correctional institution is a party to the judicial review and may make full submissions on all issues on the application.

**5 Section 33 is amended**

- (a) **in clause (j) by adding** “and appeals under section 15.2” **after** “section 15”;
- (b) **by adding the following after clause (k):**
  - (k.1) respecting the manner and form of making requests for disclosure of information under section 14.3 and respecting procedures to be followed in dealing with those requests;
  - (k.2) governing electronic monitoring and recording of inmate telephone calls and prescribing the procedures to be followed in implementing monitoring and recording;
- (c) **in clause (x) by adding** “and other sources of revenue” **after** “canteens”.

**6 This Act comes into force on Proclamation.**



**5** Section 33 presently reads in part:

*33 The Lieutenant Governor in Council may make regulations*

- (j) governing the procedure and conduct of disciplinary hearings under section 15;*
- (x) respecting the establishment and operation of canteens in correctional institutions and the distribution of profits from them;*

**6** Coming into force.





