

2011 Bill 22

Fourth Session, 27th Legislature, 60 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 22

**JUSTICE AND COURT STATUTES
AMENDMENT ACT, 2011**

MS WOO-PAW

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 22
Ms Woo-Paw

BILL 22

2011

JUSTICE AND COURT STATUTES AMENDMENT ACT, 2011

(Assented to , 2011)

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

Administration of Estates Act

Amends RSA 2000 cA-2

1(1) The *Administration of Estates Act* is amended by this section.

(2) Section 1(b) is amended by striking out “clerk of the court for a judicial centre” and substituting “clerk, deputy clerk or acting clerk of the court at a judicial centre, and includes a person authorized by the clerk”.

(3) Sections 8 to 10 are repealed and the following is substituted:

Search of court records

8 When application is made for a grant, the clerk shall forthwith search the court records to determine whether

Explanatory Notes

Administration of Estates Act

1(1) Amends chapter A-2 of the Revised Statutes of Alberta 2000.

(2) Section 1(b) as amended by section 1 of the Rules of Court Statutes Amendment Act, 2011 (SA 2011 c14) effective October 1, 2011 reads:

1 In this Act,

(b) “clerk” means the clerk of the court for a judicial centre;

(3) Sections 8 to 10 presently read:

8(1) When application is made for a grant, the clerk shall forthwith send to the Deputy Minister of Justice and Deputy Attorney General notice of the application showing

(a) in the case of probate or administration, the name and description or occupation of the deceased, the date of the

- (a) any other application has been filed or a grant has issued in respect of the same estate or minor,
- (b) a caveat has been filed in respect of the same estate or minor and has not expired or been discharged or withdrawn, or
- (c) a will of the same deceased was, during the life of the deceased, deposited with the clerk or with a clerk of the district court before July 12, 1967.

Conditions for issuance of grant

9 Except on special order or judgment of the court, no grant shall be issued until the clerk has completed a search under section 8 and confirmed that

- (a) no other application referred to in section 8(a) has been filed,
- (b) no grant referred to in section 8(a) has issued,
- (c) no caveat referred to in section 8(b) has been filed, and
- (d) no will referred to in section 8(c) has been deposited.

Procedure where more than one application

10(1) If a search under section 8 reveals that 2 or more applications for a grant have been made in respect of the same estate or minor, all the applications are stayed and the clerk shall send notice of the stay to each of the applicants.

(2) Any of the applicants may apply to the court for directions and, on receiving an application for directions, the court shall inquire into the matter and give directions as to which application is to be proceeded with.

(3) The court may order costs to be paid by any of the applicants or out of the estate.

(4) The order of the court is final and conclusive.

deceased's death and the place of residence at the time of the deceased's death, all as stated in the affidavits made in support of the application,

(b) in the case of guardianship, the name, description or occupation and place of residence of the minor,

(c) the name, address and description or occupation of the applicant, and

(d) any other information prescribed by the Rules.

(2) As soon as possible after receiving a notice under subsection (1), the Deputy Minister of Justice and Deputy Attorney General or a person authorized by that Deputy to do so shall send to the clerk a certificate stating whether, according to the records of that Department,

(a) notice has been received of any other application or of a grant in respect of the same estate or minor,

(b) there is on file in that Deputy's office a caveat or a copy of a caveat in respect of the same estate or minor and that has not expired and has not been discharged or withdrawn, and

(c) notice has been received in that Deputy's office in respect of a will of the same deceased that was deposited during the deceased's lifetime with a clerk of the court or with a clerk of the district court before July 12, 1967.

(3) When the certificate under subsection (2) shows that there is on file in the office of the Deputy Minister of Justice and Deputy Attorney General a caveat or copy of a caveat that has not expired and has not been discharged or withdrawn, a copy of the caveat shall accompany the certificate sent to the clerk.

(4) The certificate may be given by the Deputy Minister of Justice and Deputy Attorney General or by a person authorized by that Deputy to do so and shall be accepted by the court without proof of the signature or authority of the person making it.

(5) When a grant is issued, the clerk shall forthwith send a notice of that fact to the Deputy Minister of Justice and Deputy Attorney General.

(6) Records shall be kept in the Department of Justice of all notices sent under subsections (1) and (4).

(4) Section 11 is repealed and the following is substituted:

Filing of caveat or withdrawal

11 Caveats against the issue of a grant and withdrawals of caveats against the issue of a grant may be filed with the clerk.

9 Except on special order or judgment of the court, no grant shall be issued until the clerk has received a certificate under section 8(2) that shows that no notice or caveat or copy of a caveat referred to in that section has been received by the Deputy Minister of Justice and Deputy Attorney General.

10(1) If it appears by the certificate under section 8(2) that 2 or more applications for a grant have been made in respect of the same estate or minor, the Deputy Minister of Justice and Deputy Attorney General or a person authorized by that Deputy for the purpose shall send notices to that effect to each of the clerks concerned.

(2) The notices under subsection (1) on being received operate to stay the proceedings under the respective applications, and each clerk concerned shall notify accordingly the applicants whose applications are filed in the clerk's office.

(3) Any of the applicants may apply to the Court of Queen's Bench for directions and the court shall inquire into the matter and give directions as to which application is to be proceeded with.

(4) The Court of Queen's Bench may order costs to be paid by any of the applicants or out of the estate and a copy of the order certified by the clerk of the Court of Queen's Bench shall be filed with the Court of Queen's Bench having jurisdiction, and on filing the order has the same force and effect as if the order were an order of the Court of Queen's Bench.

(5) The order of the court is final and conclusive and the clerk of the court shall transmit a certified copy of the order to each clerk in whose office the applications for grants were filed.

(4) Section 11 presently reads:

11(1) Caveats against the issue of a grant may be filed with a clerk or in the office of the Deputy Minister of Justice and Deputy Attorney General.

(2) If a caveat or withdrawal of a caveat is filed with a clerk, the clerk shall forthwith send a copy of it to the office of the Deputy Minister of Justice and Deputy Attorney General.

(3) If a caveat or withdrawal of a caveat is filed in the office of the Deputy Minister of Justice and Deputy Attorney General after the sending of the certificate under section 8(2), the Deputy Minister of Justice and Deputy Attorney General or a person authorized by that

(5) Section 13 is amended by striking out “the receipt by the clerk in whose office the application is filed of a caveat or copy of a caveat” **and substituting** “a caveat is filed with the clerk”.

Builders’ Lien Act

Amends RSA 2000 cB-7

2(1) The *Builders’ Lien Act* is amended by this section.

(2) Section 38 is amended

- (a) in subsection (5) by striking out** “The clerk of the court” **and substituting** “A court clerk in the judicial centre”;
- (b) in subsection (7)(a) by striking out** “the clerk of the court” **and substituting** “a court clerk”.

(3) Section 43 is amended

- (a) in subsection (2) by striking out** “The clerk of the court” **and substituting** “A court clerk in the judicial centre”;
- (b) in subsection (4)(a) by striking out** “under the seal of the clerk of the court” **and substituting** “from a court clerk”.

Deputy for the purpose shall forthwith send a copy of the caveat or withdrawal to the clerk in whose office the application was filed.

(5) Section 13 presently reads:

13 No further proceedings shall be taken in respect of an application for a grant after the receipt by the clerk in whose office the application is filed of a caveat or copy of a caveat, until the caveat has expired or has been discharged or withdrawn.

Builders' Lien Act

2(1) Amends chapter B-7 of the Revised Statutes of Alberta 2000.

(2) Section 38 presently reads in part:

(5) The clerk of the court in which a proceeding is begun under this section may grant a certificate of lis pendens to a lien claimant

(a) who is a party to the proceeding, and

(b) whose lien was invalidated for failure to comply with section 155 or 156 of the Land Titles Act.

(7) On receiving

(a) a certificate under the seal of the clerk of the court stating that the proceeding for which a certificate of lis pendens was granted is discontinued, or

(b) a withdrawal of a certificate of lis pendens signed by the person on whose behalf the certificate was registered,

the Registrar shall cancel registration of the certificate of lis pendens.

(3) Section 43 presently reads in part:

(2) The clerk of the court in which an action is begun may grant a certificate of lis pendens to any lienholder who is a party to the proceedings.

(4) On receiving

(4) Section 47(3)(b) is amended by striking out “under the seal of the clerk of the court” **and substituting** “from a court clerk”.

(5) Section 48 is amended

- (a) in subsection (3) by striking out** “the clerk of”;
- (b) in subsection (4) by striking out** “in the office of the clerk of the court” **and substituting** “with the court”.

(6) Section 52 is amended

- (a) in subsection (3) by striking out** “the clerk of”;
- (b) in subsection (4) by striking out** “in the office of the clerk of the court” **and substituting** “with the court”.

- (a) *a certificate under the seal of the clerk of the court stating that proceedings for which a certificate of lis pendens was granted are discontinued, or*
- (b) *a withdrawal of a certificate of lis pendens signed by the person on whose behalf the certificate was registered or the person's agent, if the claim was signed by that agent,*

the Registrar shall cancel registration of the certificate of lis pendens.

(4) Section 47 presently reads in part:

- (3) *The Registrar shall cancel the registration of a lien and of any certificate of lis pendens*
 - (b) *on receiving a certificate under the seal of the clerk of the court stating that pursuant to an order or judgment of the court*
 - (i) *the amount due by an owner in respect of a lien has been ascertained and paid into court, or*
 - (ii) *the land, improvement or material has been sold in satisfaction of the lien.*

(5) Section 48 presently reads in part:

- (3) *At any time following service of an application, a party may file with the clerk of the court and serve on the registered lienholder a notice to prove the lien.*
- (4) *A registered lienholder served with a notice to prove lien shall, within 15 days from the day of the service of the notice on the lienholder, file in the office of the clerk of the court in which the proceedings were commenced an affidavit providing detailed particulars of the lienholder's lien.*

(6) Section 52 presently reads in part:

- (3) *At any time following the issuance of the statement of claim, a party may file with the clerk of the court and serve on any lienholder a notice to prove lien in the prescribed form.*
- (4) *A lienholder served with a notice to prove lien shall, within 15 days from the day of the service of the notice on the lienholder, file in the office of the clerk of the court in which the proceedings were*

(7) This section comes into force on Proclamation.

Civil Enforcement Act

Amends RSA 2000 cC-15

3(1) The *Civil Enforcement Act* is amended by this section.

(2) Section 1(1)(rr) is amended by adding “to exercise the powers and carry out the duties of a sheriff under this Act” **after** “Minister”.

(3) Section 15 is amended by adding the following after subsection (1):

(1.1) Notwithstanding subsection 1(e) and (j), a person designated as a sheriff under another enactment does not, by virtue of the person’s designation as a sheriff under that other enactment and carrying out the powers and duties of a sheriff under that other enactment,

- (a) contravene subsection (1)(e), or
- (b) contravene subsection (1)(j) as it relates to displaying the word “sheriff”.

commenced an affidavit providing detailed particulars of the lienholder's lien.

(7) Coming into force.

Civil Enforcement Act

3(1) Amends chapter C-15 of the Revised Statutes of Alberta 2000.

(2) Section 1(1)(rr) presently reads:

1(1) In this Act,

(rr) "sheriff" means a person designated as a sheriff by the Minister;

(3) Section 15 presently reads in part:

15(1) A person who does any of the following is guilty of an offence:

(e) purports to be

(i) a sheriff, or

(ii) willing or otherwise in a position to carry out the functions of a sheriff;

unless that person is a sheriff;

(j) displays the word "agency", "bailiff", "sheriff" or "civil enforcement" either alone or as part of a word or in conjunction with any other words

(i) on any business papers or correspondence or similar documents,

(ii) on any business or identification cards or similar documents, or

(iii) on any uniform, insignia, badge or vehicle,

where the display of those words might lead the public or a member of the public into believing that the person displaying those words is, is employed by or is providing

(4) Section 47 is amended

(a) in subsection (2)

- (i) by striking out “90 days” and substituting “45 days”;**
- (ii) by striking out “30 days’ notice” and substituting “15 days’ notice”;**

(b) in subsection (3) by striking out “30-day” and substituting “15-day”;

(c) by adding the following after subsection (3):

(4) Subsections (2) and (3) as amended by section 3(4) of the *Justice and Court Statutes Amendment Act, 2011*, apply only to personal property seized on or after the coming into force of this subsection.

(5) Section 48.2 is repealed and the following is substituted:

Personal property already under seizure

48.2(1) A person who has a right of distress against personal property that is already under seizure pursuant to other civil enforcement proceedings

- (a) may distrain against the seized property notwithstanding that it is already under seizure;
- (b) after having distrained against the seized property under clause (a), may, with the prior written consent of the

services on behalf of an agency, bailiff or sheriff, except where

- (iv) the person displaying the word “agency” is employed by or providing services on behalf of any agency,*
- (iv.1) the person displaying the words “civil enforcement” is employed by or providing services on behalf of any agency,*
- (v) the person displaying the word “bailiff” is a bailiff, or*
- (vi) the person displaying the word “sheriff” is or is acting under the directions of a sheriff.*

(4) Section 47 presently reads in part:

(2) If personal property has been under seizure for at least 90 days, the agency may give 30 days’ notice of the agency’s intention to release the property from seizure to

- (a) every enforcement creditor who, at the time that the notice is given, has a related writ against the enforcement debtor, and*
- (b) any person who has given notice to the agency under section 48.1.*

(3) Unless within the 30-day period referred to in subsection (2) the agency has been directed by a person given a notice under subsection (2) to continue the seizure, the agency may release from seizure the property in respect of which the notice was given.

(5) Section 48.2 presently reads:

48.2(1) Unless permitted or otherwise authorized to do so by an order of the Court granted under this section, a person shall not

- (a) exercise a right of distress against personal property that is already under seizure pursuant to other civil enforcement proceedings, or*
- (b) conduct a seizure against personal property that is already under seizure by another person pursuant to a right of distress.*

person with control of the civil enforcement proceedings, assume control of the civil enforcement proceedings relating to the seized property.

(2) An enforcement creditor who wishes to seize personal property that is already under seizure pursuant to a right of distress

(a) may seize the property notwithstanding that it is already under seizure;

(b) after having seized the property under clause (a), may, with the prior written consent of the person with control of the civil enforcement proceedings, assume control of the civil enforcement proceedings related to the seized property.

(3) Any action taken under subsection (1) or (2) does not affect priority to the seized property or its proceeds.

(4) A person who has assumed control of civil enforcement proceedings pursuant to subsection (1) or (2) is responsible for the personal property and any storage costs incurred in respect of that property.

(6) Section 79(1) is repealed and the following is substituted:

When garnishee summons is in effect

79(1) Subject to subsection (2), a garnishee summons issued on or after the coming into force of this subsection expires 2 years from the day on which the summons was issued.

(2) A person who has a right of distress against personal property that is already under seizure pursuant to other civil enforcement proceedings may apply to the Court for an order

- (a) transferring to that person the control of the civil enforcement proceedings relating to the seized property, or*
- (b) permitting that person to distrain against the seized property notwithstanding that it is already under seizure.*

(3) An enforcement creditor who wishes to seize personal property that is already under seizure pursuant to a right of distress may apply to the Court for an order

- (a) transferring to that enforcement creditor the control of the civil enforcement proceedings related to the seized property, or*
- (b) permitting that enforcement creditor to seize the property notwithstanding that it is already under seizure.*

(4) Where the Court considers that it would be appropriate to do so in the circumstances, the Court may grant an application under subsection (2) or (3) subject to any terms or conditions as the Court may determine.

(5) An order under subsection (2) or (3) or any action taken under an order under subsection (2) or (3) does not affect priority to the seized property or its proceeds.

(6) Unless otherwise ordered by the Court, a person to whom the control of civil enforcement proceedings has been transferred pursuant to an order under subsection (2) or (3) is responsible on the granting of the order for the personal property and any storage costs incurred in respect of that property.

(6) Section 79 presently reads:

79(1) Subject to subsection (2), a garnishee summons expires one year from the day on which it was issued.

(2) Subject to section 83(2), where a garnishee summons is issued in respect of a deposit account, the garnishee summons expires 60 days from the day on which it was issued.

(3) A garnishee summons remains in effect until the earliest of the following occurs:

(7) Section 81(1)(a) is amended by striking out “employment debtor’s” and substituting “enforcement debtor’s”.

(8) This section comes into force on Proclamation.

Court of Queen’s Bench Act

Amends RSA 2000 cC-31

4(1) The *Court of Queen’s Bench Act* is amended by this section.

(2) Section 1(b.2) is amended by adding “a half-time master in chambers, a part-time master in chambers and” after “includes”.

(3) The following is added after section 8.2:

Reappointment of half-time masters in chambers

8.21(1) Notwithstanding section 8.1(1), a master in chambers may, in accordance with this section, be appointed as a half-time master in chambers.

- (a) *the garnishee summons expires;*
- (b) *the garnishee pays the garnishee summons amounts to the clerk who issued the garnishee summons;*
- (c) *the enforcement creditor notifies the garnishee that the garnishee summons is no longer in effect;*
- (d) *the garnishment proceedings are terminated by order of the Court.*

(7) Section 81(1)(a) presently reads:

81(1) For the purposes of garnishing an enforcement debtor's employment earnings from the enforcement debtor's employer, the following applies:

- (a) *in any month during which a garnishee summons is in effect, the garnishee summons attaches the amount, if any, by which an enforcement debtor's net pay for the month exceeds the employment debtor's actual employment earnings exemption for the month;*

(8) Coming into force.

Court of Queen's Bench Act

4(1) Amends chapter C-31 of the Revised Statutes of Alberta 2000.

(2) Section 1(b.2) presently reads:

1 In this Act,

- (b.2) *“master in chambers” means a master in chambers appointed or reappointed under this Act and includes an ad hoc master in chambers;*

(3) Reappointment of half-time masters in chambers.

(2) Where a master in chambers

- (a) has attained the age of 60 years and has completed 10 years of service as a master in chambers, and
- (b) states in writing to the Chief Justice that the master in chambers is prepared to retire as a full-time master in chambers in order to be appointed as a half-time master in chambers,

the Chief Justice may request that the Lieutenant Governor in Council appoint that person as a half-time master in chambers on that person's retirement as a full-time master in chambers if the Chief Justice determines that the appointment will enhance the efficient and effective administration of the Court.

(3) Where a master in chambers

- (a) is approaching the age of 70 years but has not attained age 70, and
- (b) states in writing to the Chief Justice that the master in chambers is prepared to retire at age 70 as a full-time master in chambers in order to be appointed as a half-time master in chambers,

the Chief Justice may request that the Lieutenant Governor in Council appoint that person as a half-time master in chambers on that person's retirement as a full-time master in chambers if the conditions in subsection (6) are met.

(4) Where a master in chambers

- (a) has been reappointed as a full-time master in chambers pursuant to section 8.2, and
- (b) states in writing to the Chief Justice that the master in chambers is prepared to retire as a full-time master in chambers in order to be appointed as a half-time master in chambers,

the Chief Justice may request that the Lieutenant Governor in Council appoint that person as a half-time master in chambers on that person's retirement as a full-time master in chambers if the conditions in subsection (6) are met.

(5) Where a master in chambers

- (a) is a half-time master in chambers and the appointment is about to expire, and
- (b) states in writing to the Chief Justice that the master in chambers is prepared to be reappointed as a half-time master in chambers,

the Chief Justice may request that the Lieutenant Governor in Council reappoint that person for one year as a half-time master in chambers if the conditions in subsection (6) are met.

(6) A request under subsection (3), (4) or (5) may be made if

- (a) the Chief Justice determines that the appointment under subsection (3) or (4) or the reappointment under subsection (5) will enhance the efficient and effective administration of the Court, and
- (b) the request is made in accordance with and subject to the criteria established by the Chief Justice and approved by the Judicial Council.

(7) Where a request is made under subsection (2), (3), (4) or (5), the Lieutenant Governor in Council shall, subject to subsection (8), appoint or reappoint the person as a half-time master in chambers for a term set out in subsection (9).

(8) An appointment or reappointment of a master in chambers as a half-time master in chambers shall be made only if

- (a) the master in chambers has consented to the appointment or reappointment,
- (b) the master in chambers is not nor has been appointed as an ad hoc master in chambers, and
- (c) the master in chambers has not attained the age of 75 years.

(9) The term for which a half-time master in chambers is appointed or reappointed under this section is as follows:

- (a) if the request for appointment is made under subsection (2), the term commences on the date the master is appointed as a half-time master and expires on the commencement of the master's 70th birthday;
- (b) if the request for appointment is made under subsection (3), the term is one year commencing on the master's 70th birthday;
- (c) if the request for appointment is made under subsection (4), the term commences on the date the master is appointed as a half-time master and expires on the commencement of the master's next birthday;
- (d) if the request for reappointment is made under subsection (5), the term is one year commencing on the expiry of the previous appointment.

(10) A half-time master in chambers must serve the equivalent of 6 months of full-time service during the year.

(11) Half-time masters in chambers shall, in addition to any pension benefits, be paid an annual salary of up to 50% of the annual salary of a full-time master in chambers, but the total annual salary and pension benefits payable to a half-time master in chambers cannot exceed the annual salary of a full-time master in chambers.

(12) Notwithstanding anything in this section, the term of appointment of a half-time master in chambers expires when the master in chambers attains the age of 75 years.

(13) Subject to Part 6 of the *Judicature Act*, no half-time master in chambers appointed or reappointed under this section may be removed from office before the expiry of that master's term.

(4) The following is added after section 15:

Restriction on other employment

15.1(1) Unless otherwise authorized by the Lieutenant Governor in Council, a master in chambers who is appointed as a full-time, half-time or part-time master in chambers shall not carry on or practise any other business, profession, trade or occupation.

(4) Restriction on other employment.

(2) This section applies only to masters appointed on or after the date this section comes into force.

(5) Section 16(1)(b) is amended by adding “and half-time” after “part time”.

(5) Section 16 presently reads:

16(1) The Lieutenant Governor in Council shall make regulations

- (a) fixing the salaries to be paid to masters in chambers;*
- (b) fixing the amount to be paid to masters in chambers sitting part time;*
- (c) providing for the benefits to which masters in chambers are entitled, including*
 - (i) personal expense allowances and services;*
 - (ii) travel and moving allowances;*
 - (iii) leaves of absence and vacations;*
 - (iv) sick leave credits and payments in respect of those credits;*
 - (v) benefits under one or more pension plans for masters in chambers and other individuals deriving benefit entitlements through them;*
- (d) without limiting anything in clause (c), providing for the continuation or establishment of*
 - (i) one or more pension plans, including a supplemental retirement plan that may or may not be registrable under the Income Tax Act (Canada), and*
 - (ii) one or more pension funds,*
 - including the making of any provisions in respect of those plans or funds that are made, or that are similar to or that correspond to provisions made, by or under, or that could be made under, the Public Sector Pension Plans Act with respect to any pension plan or pension fund continued or established by that Act;*
- (e) providing for the transfer or other disposition of those benefits to which persons appointed as masters in chambers under this Act were entitled under the Public Service Act and the regulations under that Act or the Public Service Pension*

Family Law Act

Amends SA 2003 cF-4.5

5(1) The *Family Law Act* is amended by this section.

(2) Section 80.1(4)(d) and (5)(c) are amended by striking out “dependants under section 3 of the *Dependants Relief Act*” and substituting “family members under Division 2 of Part 5 of the *Wills and Succession Act*”.

(3) This section comes into force on the coming into force of Division 2 of Part 5 of the *Wills and Succession Act*.

Family Law Statutes Amendment Act, 2010

Amends SA 2010 c16

6(1) The *Family Law Statutes Amendment Act, 2010* is amended by this section.

(2) Section 2 is amended by adding the following after subsection (9):

Plan, the Public Service Management (Closed Membership) Pension Plan or the Management Employees Pension Plan at the time of their appointment under this Act.

(2) Regulations made under subsection (1) shall, if so provided in the regulation, be effective from a date prior to the making of the regulation.

Family Law Act

5(1) Amends chapter F-4.5 of the Statutes of Alberta, 2003.

(2) Section 80.1(4)(d) and (5)(c) presently read:

(4) Before the court makes an order under subsection (2) in respect of a child support order or support agreement, the court shall consider

(d) any claims or potential claims for maintenance and support of one or more dependants under section 3 of the Dependents Relief Act,

(5) Before the court makes an order under subsection (2) in respect of a spousal or adult interdependent partner support order or support agreement, the court shall consider

(c) any claims or potential claims for maintenance and support of one or more dependants under section 3 of the Dependents Relief Act,

(3) Coming into force.

Family Law Statutes Amendment Act, 2010

6(1) Amends chapter 16 of the Statutes of Alberta, 2010.

(2) Section 19(1) of the Interjurisdictional Support Orders Act presently reads:

(9.1) Section 19(1) is amended by striking out “ordinarily”.

(3) Section 2(10) is amended

- (a) in the new subsection (5)(a) by striking out “reside” and substituting “resided”;**
- (b) in the new subsection (5)(b)**
 - (i) by striking out “does” and substituting “did”;**
 - (ii) by striking out “is” and substituting “was”.**

(4) Section 2 is amended by adding the following after subsection (15):

(15.1) Section 34 is amended by striking out “ordinarily”.

(5) Section 2(17) is amended by striking out “section 34”.

19(1) After the registration of a foreign order under section 18, the designated authority must, in accordance with the regulations, notify any party to the order believed to ordinarily reside in Alberta of the registration of the order.

(3) Section 2(10) presently reads:

(10) Section 19(5) is repealed and the following is substituted:

(5) For the purposes of subsection (3)(b)(iii), the Alberta court must consider the foreign court to have had jurisdiction if the Alberta court finds that

- (a) both parties to the foreign order habitually reside in the reciprocating jurisdiction outside Canada, or*
- (b) a party who does not habitually reside in the reciprocating jurisdiction outside Canada is, under the conflict-of-law rules of Alberta, subject to the jurisdiction of the court that made the foreign order.*

(4) Section 34 of the Interjurisdictional Support Orders Act presently reads:

34 The designated authority must, as soon as practicable, send a certified copy of a support variation order made under this Division and reasons, if any, to the appropriate authority in the reciprocating jurisdiction in which the applicant ordinarily resides and, if the support order was originally made in another reciprocating jurisdiction, to the appropriate authority in that jurisdiction.

(5) Section 2(17) presently reads:

(17) The following provisions are amended by striking out “ordinarily resides” wherever it occurs and substituting “habitually resides”:

*section 5(2)(b);
section 6(2)(b);
section 7(1);
section 9(1) to (3);
section 24(2)(c);
section 25(2)(b);
section 26;
section 27(1);
section 29(1), (2), (3)(c);*

Fatality Inquiries Act

Amends RSA 2000 cF-9

7(1) The *Fatality Inquiries Act* is amended by this section.

(2) Section 2 is amended by striking out “voting” wherever it occurs.

(3) Section 3 is amended by striking out “of the voting”.

(4) Section 42(a)(i) of the *Alberta Public Agencies Governance Act* is amended in the new subsection (6.1) by striking out “voting”.

Justice of the Peace Act

Amends RSA 2000 cJ-4

8(1) The *Justice of the Peace Act* is amended by this section.

*section 31(4) and (5);
section 34.*

Fatality Inquiries Act

7(1) Amends chapter F-9 of the Revised Statutes of Alberta 2000.

(2) Section 2 presently reads in part:

2(1) There is hereby established a Board called the “Fatality Review Board” that shall consist of 3 members appointed by the Lieutenant Governor in Council.

(5) The Lieutenant Governor in Council may designate

(a) one voting member of the Board as chair of the Board, and

(b) one voting member of the Board as vice-chair of the Board.

(6) The voting members of the Board shall receive the remuneration for their services that may be prescribed by the Lieutenant Governor in Council.

(3) Section 3 presently reads:

3 Two of the voting members constitute a quorum at a meeting of the Board.

(4) Amends chapter A-31.5 of the Statutes of Alberta, 2009. The new subsection (6.1) presently reads:

(6.1) If regulations under the Alberta Public Agencies Governance Act apply in respect of the remuneration for the voting members of the Board, those regulations prevail, to the extent of any conflict or inconsistency, over any regulations prescribing remuneration under subsection (6).

Justice of the Peace Act

8(1) Amends chapter J-4 of the Revised Statutes of Alberta 2000.

(2) Section 1 is amended

(a) by adding the following after clause (b):

(b.1) “justice of the peace” means a justice of the peace who is appointed under this Act as a justice of the peace and includes an ad hoc justice of the peace;

(c) by repealing clauses (d) and (e).

(3) Section 4 is amended

(a) in subsection (1) by striking out “designated as a sitting justice of the peace or as a presiding justice of the peace”;

(b) in subsection (2) by striking out “the person appointed as a sitting justice of the peace or as a presiding justice of the peace and shall designate”;

(c) by adding the following after subsection (4):

(4.1) A person whose appointment has been designated as a part-time justice of the peace may apply, in accordance with the regulations, to have the appointment designated as a full-time justice of the peace.

(d) in subsection (5)(f) by striking out “section 7.1(1),” **and substituting** “sections 7.1(1) and 7.2(1)”.

(2) Section 1 presently reads:

1 In this Act,

- (a) “Chief Judge” means the Chief Judge of The Provincial Court of Alberta;*
- (b) “Judicial Council” means the Judicial Council established under Part 6 of the Judicature Act;*
- (c) “non-presiding justice of the peace” means a justice of the peace who is appointed by the Minister under section 5(1);*
- (d) “presiding justice of the peace” means a justice of the peace who is designated under section 4(2) or under section 7.1(6) as a presiding justice of the peace;*
- (e) “sitting justice of the peace” means a justice of the peace who is designated under section 4(2) or under section 7.1(6) as a sitting justice of the peace.*

(3) Section 4 presently reads in part:

4(1) The Lieutenant Governor in Council may appoint a person as a justice of the peace designated as a sitting justice of the peace or as a presiding justice of the peace if the Judicial Council has determined that the person is qualified.

(2) An order under subsection (1) shall designate the person appointed as a sitting justice of the peace or as a presiding justice of the peace and shall designate whether the appointment is full time or part time.

(3) Subject to subsection (4), a designation under subsection (2) may not be changed except with the consent of the Judicial Council and the justice of the peace.

(4) A person whose appointment has been designated as a full-time justice of the peace may apply, in accordance with the regulations, to have the appointment designated as a part-time justice of the peace.

(5) The following are not eligible to be appointed or to remain as justices of the peace appointed under this section:

- (f) subject to section 7.1(1), a person who is 70 years of age or older.*

(4) Section 5(2)(c) is amended by striking out “sitting”.

(5) Section 6 is amended

- (a) in subsection (1) by striking out “sitting justice of the peace or presiding”;**
- (b) in subsection (2) by striking out “who has been designated as a sitting justice of the peace”;**
- (c) in subsection (3) by striking out “sitting”.**

(6) The appointment of a justice of the peace under this section terminates if the person becomes ineligible under subsection (5).

(4) Section 5(2)(c) presently reads:

(2) A non-presiding justice of the peace is appointed as a justice of the peace solely for the purposes of exercising the following, to the extent that their exercise is consistent with the constitutional requirements for independence, if any:

(c) adjourning cases where a judge of the Provincial Court or a sitting justice of the peace is not present;

(5) Section 6 presently reads:

6(1) Notwithstanding that a statute or regulation provides that any power or duty must be exercised by 2 or more justices of the peace, the following may be exercised by any one sitting justice of the peace or presiding justice of the peace:

(a) receiving an information or complaint or receiving an information or complaint from another justice of the peace and granting a summons or warrant on it;

(b) issuing a subpoena, summons or warrant to compel the attendance of any witnesses for either party;

(c) doing all other acts and matters necessary preliminary to a hearing.

(2) A justice of the peace who has been designated as a sitting justice of the peace may conduct a hearing or settlement conference or hear an application under Part 4 of the Provincial Court Act.

(3) In the absence of any provision to the contrary in any statute and subject to the regulations made under this Act, a complaint or information may be heard, tried and determined by one sitting justice of the peace.

(4) Nothing in this section shall be taken to confer on any justice of the peace, other than one who is also a judge of the Provincial Court acting in that capacity, the power to hold a preliminary inquiry under the Criminal Code (Canada).

(5) Every justice of the peace is by virtue of the office a commissioner for taking affidavits and declarations and for administering oaths and affirmations.

(6) Section 7 is amended

- (a) in subsection (1) by striking out “sections 4(6) and 7.1(1)” and substituting “sections 4(6), 7.1(1) and 7.2(1)”;**
- (b) in subsection (2) by striking out “section 7.1” and substituting “section 7.1 or 7.2”;**
- (c) by repealing subsections (4), (5), (6), (7) and (8).**

(6) Section 7 presently reads:

7(1) Subject to sections 4(6) and 7.1(1), a justice of the peace appointed under section 4(1) holds office for 10 years and may be removed from office only in accordance with Part 6 of the Judicature Act.

(2) An appointment referred to in subsection (1) may not be renewed or extended except in accordance with section 7.1.

(3) A non-presiding justice of the peace holds office at the discretion of the Minister.

(4) A person who is a sitting justice of the peace on January 31, 1999 and who the Judicial Council determines to be qualified as of that date as a sitting justice of the peace shall, subject to section 4(5), be appointed under section 4(1) and shall be designated under section 4(2) as a sitting justice of the peace.

(5) A person who is a justice of the peace, other than a sitting justice of the peace, on January 31, 1999 and who the Judicial Council determines to be qualified as of that date as a presiding justice of the peace shall, subject to section 4(5), be appointed under section 4(1) and shall be designated under section 4(2) as a presiding justice of the peace.

(6) An appointment referred to in subsection (4) or (5) shall be designated under section 4(2) as full time or part time in accordance with subsection (7).

(7) For the purposes of determining whether the appointment of a person referred to in subsection (4) or (5) is to be designated as full time or part time,

(a) if the person was, before February 1, 1999, paid a salary to exercise the powers of a justice of the peace, the appointment shall be designated as full time, and

(b) if the person was, before February 1, 1999, paid on a basis other than salary to exercise the powers of a justice of the peace, the appointment shall be designated as part time.

(8) A person appointed as a justice of the peace before February 1, 1999 who is not appointed under section 4(1) or 5 may not exercise any authority or receive any remuneration as a justice of the peace on or after February 1, 1999.

(7) Section 7.1(6) is amended

- (a) by striking out “4(3) and (4)” and substituting “4(3), (4) and (4.1)”;**
- (b) by striking out “as a sitting justice of the peace or as a presiding justice of the peace, and”;**
- (c) by striking out “, consistent with the initial designation of that justice of the peace”.**

(8) The following is added after section 7.1:

Appointment of ad hoc justices of the peace

7.2(1) A justice of the peace appointed under section 4(1) or reappointed under section 7.1(1) may, if the justice of the peace is not disqualified under section 4(5)(a) to (e), be appointed as an ad hoc justice of the peace in accordance with this section.

(2) Where 10 years has elapsed from the date on which a justice of the peace referred to in subsection (1) was appointed under section 4(1), the Chief Judge may request that the Lieutenant Governor in Council appoint the justice of the peace as an ad hoc justice of the peace for a term of one year.

(3) Where an ad hoc justice of the peace has been appointed under this section, the Chief Judge may request that the Lieutenant Governor in Council reappoint that person for a term of one year.

(4) The Chief Judge may request the appointment or the reappointment of an ad hoc justice of the peace under this section if

- (a)** the Chief Judge determines that the appointment or reappointment will enhance the efficient and effective administration of the Court, and
- (b)** the request is made in accordance with and subject to the criteria established by the Chief Judge and approved by the Judicial Council.

(7) Section 7.1 presently reads in part:

7.1(1) A justice of the peace appointed under section 4(1) may, if the justice of the peace is not disqualified under section 4(5)(a) to (e), be reappointed as a justice of the peace in accordance with this section.

(6) Subject to section 4(3) and (4), a justice of the peace reappointed under this section must be designated as a sitting justice of the peace or as a presiding justice of the peace, and as a full-time or part-time justice of the peace, consistent with the initial designation of that justice of the peace.

(8) Appointment of ad hoc justices of the peace.

(5) Where the Chief Judge requests

- (a) under subsection (2) that the Lieutenant Governor in Council appoint, or
- (b) under subsection (3) that the Lieutenant Governor in Council reappoint,

an ad hoc justice of the peace for a term of one year, the Lieutenant Governor in Council shall, subject to subsection (6), appoint or reappoint that ad hoc justice of the peace for a term of one year.

(6) A justice of the peace shall be appointed or reappointed under this section only if

- (a) a request for appointment has been made under subsection (2) or a request for reappointment has been made under subsection (3),
- (b) the justice of the peace in respect of whom the request has been made has consented to the appointment or reappointment, and
- (c) the justice of the peace has not attained the age of 75 years.

(7) A justice of the peace may, subject to subsection (6), be appointed or reappointed under subsection (5) for a maximum of 5 terms of one year.

(8) Notwithstanding anything in this section, a term of appointment or reappointment of a justice of the peace who is appointed or reappointed under this section expires when

- (a) the justice of the peace attains the age of 75 years, or
- (b) the justice of the peace has served 5 terms of one year as an ad hoc justice of the peace,

whichever occurs first.

(9) Subject to Part 6 of the *Judicature Act*, no justice of the peace reappointed under this section may be removed from office before the expiry of the justice of the peace's term.

(9) Section 9 is amended by renumbering it as section 9(1) and by adding the following after subsection (1):

(2) The judge or supernumerary judge to whom the Chief Judge has made a delegation under subsection (1)(b) may further delegate to justices of the peace administrative functions including scheduling, record-keeping, interfacing with police agencies and developing forms.

(10) Section 10(1) is amended by striking out “under section 4 or reappointed under section 7.1” and substituting “under section 4, reappointed under section 7.1 or appointed or reappointed under section 7.2”.

(11) The following is added after section 10:

Restriction on other employment

10.1 Unless otherwise authorized by the Lieutenant Governor in Council,

- (a) a justice of the peace who is designated as a full-time justice of the peace shall not practise law;
- (b) a justice of the peace who is designated as a part-time justice of the peace shall not practise criminal law or family law, appear as counsel on any matter in the Provincial Court of Alberta, represent any client in any proceeding involving the Government of Alberta or the Government of Canada, or represent the Government of Alberta or the Government of Canada in any proceeding.

(12) Section 12 is amended by striking out “sitting” wherever it occurs.

(9) Section 9 presently reads:

9 The Chief Judge of the Provincial Court

- (a) shall supervise and assign duties to justices of the peace, and*
- (b) may delegate the supervision and assignment of duties referred to in clause (a) to a judge or a supernumerary judge of the Provincial Court.*

(10) Section 10 presently reads:

10(1) This section applies only to justices of the peace appointed under section 4 or reappointed under section 7.1.

(2) A complaint about the competence, conduct, misbehaviour or neglect of duty of a justice of the peace or the inability of a justice of the peace to perform duties shall be dealt with in accordance with Part 6 of the Judicature Act.

(11) Restriction on other employment.

(12) Section 12 presently reads:

12(1) Where a sitting justice of the peace

- (a) hears, tries and determines a complaint or information, or*
- (b) conducts a hearing or settlement conference or hears an application under Part 4 of the Provincial Court Act,*

(13) Section 15 is amended

(a) in subsection (1)

(i) in clause (b) by striking out “sitting”;

(ii) by repealing clause (e) and substituting the following:

(e) respecting the qualifications of a person to be appointed as a justice of the peace, including a justice of the peace designated as a non-presiding justice of the peace;

(iii) in clause (f)

(A) by striking out “sitting justice of the peace and presiding”;

(B) by adding “and from part time to full time” **after** “part time”;

(b) in subsection (2) by striking out “sitting justices of the peace and presiding” **wherever it occurs.**

that sitting justice of the peace shall do the things referred to in subsection (2).

(2) Where subsection (1) applies, the sitting justice of the peace while carrying out the functions referred to in subsection (1)

(a) shall hear, try and determine the matter in the Provincial Court, and

(b) for the purpose of hearing, trying and determining the matter is, subject to the regulations, empowered to exercise all of the powers and perform all of the duties of a judge of the Provincial Court.

(13) Section 15 presently reads in part:

15(1) The Lieutenant Governor in Council may make regulations

(b) prescribing the statutes, the regulations and the bylaws of municipalities or any provision of them in respect of which a sitting justice of the peace may hear, try and determine a complaint or information;

(e) respecting the qualifications of a person to be designated as a sitting justice of the peace, presiding justice of the peace or non-presiding justice of the peace;

(f) respecting the application of a sitting justice of the peace and presiding justice of the peace for a change in designation from full time to part time;

(2) The Lieutenant Governor in Council shall make regulations

(a) respecting the remuneration to be paid to sitting justices of the peace and presiding justices of the peace;

(b) respecting the remuneration to be paid to sitting justices of the peace and presiding justices of the peace who sit part time;

(c) providing for and governing the benefits to which sitting justices of the peace and presiding justices of the peace are entitled.

(14) The *Administrative Procedures and Jurisdiction Act* is amended in section 10(b)(ii) by striking out “sitting”.

(15) The *Family Law Act* is amended in section 38(1)(f) by striking out “a presiding justice of the peace or a sitting”.

(16) The *Freedom of Information and Protection of Privacy Act* is amended in section 4(1)(a) and (3) by striking out “a sitting justice of the peace or a presiding justice of the peace under the *Justice of the Peace Act*” and substituting “a justice of the peace other than a non-presiding justice of the peace under the *Justice of the Peace Act*”.

(14) Amends chapter A-3 of the Revised Statutes of Alberta 2000. Section 10(b) presently reads in part:

10 In this Part,

(b) “decision maker” means an individual appointed or a body established by or under an Act of Alberta to decide matters in accordance with the authority given under that Act, but does not include

(ii) a sitting justice of the peace conferred with the authority to determine a question of constitutional law under the Provincial Court Act,

(15) Amends chapter F-4.5 of the Statutes of Alberta, 2003. Section 38(1)(f) presently reads:

38(1) In this Division,

(f) “justice of the peace” means a presiding justice of the peace or a sitting justice of the peace under the Justice of the Peace Act;

(16) Amends chapter F-25 of the Revised Statutes of Alberta 2000. Section 4 presently reads in part:

4(1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:

(a) information in a court file, a record of a judge of the Court of Appeal of Alberta, the Court of Queen’s Bench of Alberta or The Provincial Court of Alberta, a record of a master of the Court of Queen’s Bench of Alberta, a record of a sitting justice of the peace or a presiding justice of the peace under the Justice of the Peace Act, a judicial administration record or a record relating to support services provided to the judges of any of the courts referred to in this clause;

(3) In this section, “judicial administration record” means a record containing information relating to a judge of the Court of Appeal of Alberta, the Court of Queen’s Bench of Alberta or The Provincial Court of Alberta or to a master of the Court of Queen’s Bench of Alberta or a sitting justice of the peace or a presiding justice of the peace under the Justice of the Peace Act, and includes

(17) The *Judicature Act* is amended

- (a) by repealing section 30(e) and substituting the following:**
 - (e) “justice of the peace” means a justice of the peace appointed under the *Justice of the Peace Act* but does not include a justice of the peace designated as a non-presiding justice of the peace;
- (b) in section 34(3) by striking out “9(b)” and substituting “9(1)(b)”;**
- (c) in section 41.1(1)(c) by striking out “9(b)” and substituting “9(1)(b) or 9(2)”.**

(18) The *Personal Information Protection Act* is amended in section 4(3)(k) by striking out “a sitting justice of the peace or a presiding justice of the peace under the *Justice of the Peace Act*” and substituting “a justice of the peace other than a non-presiding justice of the peace under the *Justice of the Peace Act*”.

- (a) *the scheduling of judges and trials,*
- (b) *the content of judicial training programs,*
- (c) *statistics of judicial activity prepared by or for a judge, and*
- (d) *any record of the Judicial Council established under Part 6 of the Judicature Act.*

(17) Amends chapter J-2 of the Revised Statutes of Alberta 2000. Sections 30, 34 and 41.1 presently read in part:

30 In this Part,

- (e) *“justice of the peace” means a justice of the peace designated as a sitting justice of the peace or presiding justice of the peace under section 4 of the Justice of the Peace Act;*

34(3) The Chief Judge may delegate the function of reviewing a matter or complaint in respect of a justice of the peace referred to in subsection (2) to the person referred to in section 9(b) of the Justice of the Peace Act.

41.1(1)(c) “supervisory judge” means

- (i) *in respect of a judge, the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge of the Provincial Court of Alberta;*
- (ii) *in respect of a justice of the peace, the Chief Judge of the Provincial Court of Alberta or another judge to whom a delegation is made under section 9(b) of the Justice of the Peace Act.*

(18) Amends chapter P-6.5 of the Statutes of Alberta, 2003. Section 4(3)(k) presently reads:

(3) This Act does not apply to the following:

- (k) *personal information contained in a court file, a record of a judge of the Court of Appeal of Alberta, the Court of Queen’s Bench of Alberta or The Provincial Court of Alberta, a record of a master in chambers of the Court of Queen’s Bench of Alberta, a record of a sitting justice of the peace or a presiding justice of the peace under the Justice of the Peace Act, a judicial administration record or a record relating to*

(19) The *Provincial Court Act* is amended

- (a) by repealing section 1(1)(d) and (f);**
- (b) in section 7 by striking out “the presiding justice of the peace and the sitting justices of the peace” and substituting “and the justices of the peace”;**
- (c) in section 9.61(1) by striking out “sitting or presiding”;**
- (d) in section 22(a) by striking out “sitting”.**

(20) This section comes into force on Proclamation.

Legal Profession Act

Amends RSA 2000 cL-8

9(1) The *Legal Profession Act* is amended by this Act.

(2) Section 41 is amended

- (a) in subsection (1)(f) by adding “and other” after “academic”;**

support services provided to the judges of any of the courts referred to in this clause;

(19) Amends chapter P-31 of the Revised Statutes of Alberta 2000. Sections 1, 7, 9.61 and 22 presently read in part:

1 In this Act,

(d) “presiding justice of the peace” means a justice of the peace designated by the Lieutenant Governor in Council as a presiding justice of the peace under the Justice of the Peace Act;

(f) “sitting justice of the peace” means a justice of the peace designated by the Lieutenant Governor in Council as a sitting justice of the peace under the Justice of the Peace Act.

7 Sheriffs, deputy sheriffs, civil enforcement bailiffs, persons employed at correctional institutions and peace officers shall give assistance to and comply with the directions of the Court, the judges, the presiding justices of the peace and the sitting justices of the peace in the exercise of the jurisdiction of the Court.

9.61(1) For the purposes of enforcing compliance or the continuing of compliance, as the case may be, with an order of the Court, a judge may, on application or on the judge’s own initiative, declare that a person is in civil contempt of the Court if that person fails, without adequate excuse, to obey an order of a judge or an order of a sitting or presiding justice of the peace.

22 In this Part,

(a) “Court” includes a sitting justice of the peace;

(20) Coming into force.

Legal Profession Act

9(1) Amends chapter L-8 of the Revised Statutes of Alberta 2000.

(2) Section 41 presently reads in part:

41(1) The Executive Director shall approve the enrolment of a person as a member of the Society if the person proves to the

(b) in subsection (2)(b) by striking out “subsection (1)(a), (b) and (c)” and substituting “subsection (1)(b) and (c)”;

(c) by adding the following after subsection (2):

(3) The Benchers may make rules respecting the enrolment of a person under subsection (1), including but not limited to rules establishing conditions to which the enrolment is subject, including

- (a) restrictions on the areas of law in which a person may practise in Alberta,
- (b) the condition that a person must be sufficiently proficient in English to be able to engage competently in the practice of law, and
- (c) the payment of a fee.

(3) Section 53(4) is repealed and the following is substituted:

(4) On the completion of a review under subsection (1), the Executive Director shall either

- (a) direct that the matter be dismissed, or
- (b) refer the matter, together with the Executive Director’s report respecting the review,
 - (i) to the Practice Review Committee,
 - (ii) to the Conduct Committee, or
 - (iii) to both Committees.

(4) Section 59 is amended

(a) in subsection (1)

- (i) by striking out “If” and substituting “Subject to section 60(3), if”;**

Executive Director's satisfaction and in accordance with the rules that the person

(f) has satisfied the academic requirements specified by the rules, and

(2) The Credentials and Education Committee or the Executive Director acting in accordance with the guidelines of that Committee may direct that an applicant under this section serve under articles in Alberta before that person's enrolment as a member and, if so directed,

(a) the Credentials and Education Committee or the Executive Director acting in accordance with the guidelines of that Committee shall prescribe the period of articles and may prescribe any conditions related to the service under articles, and

(b) the Executive Director shall approve the admission of the applicant as a student-at-law if the applicant proves to the Executive Director's satisfaction and in accordance with the rules that the applicant meets the requirements of subsection (1)(a), (b) and (c).

(3) Section 53(4) presently reads:

(4) On the completion of a review under subsection (1), the Executive Director shall either

(a) direct that the matter be dismissed, or

(b) refer the matter, together with the Executive Director's report respecting the review, to the Conduct Committee.

(4) Section 59 presently reads in part:

59(1) If the Conduct Committee directs that the conduct of a member is to be dealt with by a Hearing Committee,

(a) the Executive Director, on being informed of the direction, shall give the member notice of the hearing and of the acts or

(ii) **in clause (b) by striking out** “3 or more Benchers other than the President or any Benchers disqualified from sitting on the Committee” **and substituting** “3 or more persons, at least one of whom must be a Bencher or former Bencher”;

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

(1.1) For the purposes of subsection (1)(b), the President and any person disqualified from sitting on the Hearing Committee may not be appointed to the Hearing Committee.

(5) Section 60 is amended

(a) in subsection (3) by striking out “3 or more Benchers other than the President or any Benchers disqualified from sitting on the Committee” **and substituting** “one person, who must be a Bencher or former Bencher, or 3 persons, at least one of whom must be a Bencher or former Bencher”;

(b) by adding the following after subsection (3):

(3.1) For the purposes of subsection (3), the President and any person disqualified from sitting on the Hearing Committee may not be appointed to the Hearing Committee.

matters regarding the member's conduct to be dealt with, with reasonable particulars of each act or matter,

(b) the chair of the Conduct Committee shall appoint a Hearing Committee consisting of 3 or more Benchers other than the President or any Benchers disqualified from sitting on the Committee, and

(c) the Hearing Committee so appointed shall hold a hearing respecting the member's conduct.

(2) Notwithstanding subsection (1)(b), the chair of the Conduct Committee may appoint as a member of the Hearing Committee a member of the Society who is

(a) an honorary Bencher referred to in section 9(1)(b) who was a President of the Society in the 10 years immediately preceding the appointment of the Hearing Committee, or

(b) not a Bencher if that member was elected as a Bencher at least twice in the 10 years immediately preceding the appointment of the Hearing Committee.

(5) Section 60 presently reads:

60(1) Subject to the rules, a member may, at any time after the commencement of proceedings under this Division regarding the member's conduct and before a Hearing Committee makes its findings in respect of the member's conduct, submit to the Executive Director a statement of admission of guilt of conduct deserving of sanction in respect of all or any of the acts or matters that are the subject of the proceedings.

(2) A statement of admission of guilt shall not be acted on until it is in a form acceptable to

(a) the Conduct Committee, if the statement is submitted before the day on which a Hearing Committee is appointed to conduct a hearing respecting the matter, or

(b) the Hearing Committee, if the statement is submitted on or after the day on which the Hearing Committee is appointed.

(3) If a statement of admission of guilt is accepted under subsection (2)(a), the chair of the Conduct Committee shall appoint a Hearing Committee consisting of 3 or more Benchers other than the

(6) Section 66(1) and (3) are amended by striking out “Hearing Committee” wherever it occurs and substituting “Hearing Committee or Appeal Committee”.

(7) Section 68(2) is amended by striking out “A Bencher who is a” and substituting “Any”.

President or any Benchers disqualified from sitting on the Committee.

(4) If a statement of admission of guilt is accepted, each admission of guilt in the statement in respect of any act or matter regarding the member's conduct is deemed for all purposes to be a finding of

(a) the Hearing Committee appointed under subsection (3), or

(b) the Hearing Committee that accepted the statement,

as the case may be, that the conduct of the member is conduct deserving of sanction.

(5) The Hearing Committee appointed under subsection (3) or the Hearing Committee that accepted the statement, as the case may be, shall proceed with a hearing for the purpose of making its determination, if any, under section 71(4), its order under section 72 and its order, if any, under section 73.

(6) Section 66(1) and (3) presently read:

66(1) Subject to subsection (2), a member of a Hearing Committee who at any time after the commencement of a hearing of the Committee

(a) ceases to be a Bencher, or

(b) becomes the President

may continue to act as a member of the Hearing Committee in all subsequent proceedings of the Hearing Committee.

(3) If after the commencement of a hearing the membership of a Hearing Committee is reduced, the remaining members of the Hearing Committee may continue to act as the Hearing Committee if at least 2 members of the Committee remain.

(7) Section 68(2) presently reads:

(2) A Bencher who is a member of a Committee referred to in subsection (1) may administer an oath to a witness who is to give evidence before that Committee.

(8) Section 75 is amended

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

Appeal to Benchers

75(1) If the Hearing Committee makes an order under section 72(1), the member in respect of whom the order is made may appeal to the Benchers in accordance with this section.

- (b) in subsections (2)(a) and (6) by striking out “section 72(1)(a) or (b)” and substituting “section 72(1)”.**

(9) Section 77 is amended

- (a) in subsection (1) by striking out “Committee under section 72(1)(a) or (b)” and substituting “Committee under section 72(1)”;**
- (b) in subsection (2) by striking out “section 21(1)” and substituting “section 21”.**

(8) Section 75 presently reads in part:

75(1) If the Hearing Committee makes

- (a) an order of disbarment under section 72(1)(a), or*
- (b) an order under section 72(1)(b) that the membership of a member be suspended during a prescribed period,*

the member may appeal to the Benchers in accordance with this section.

(2) An appeal to the Benchers under this section may relate to all or any of the following:

- (a) any finding of guilt by the Hearing Committee under section 71(1) on which the order under section 72(1)(a) or (b) was based;*
- (b) a determination by the Hearing Committee under section 71(4) that the member's conduct arose from incompetence;*
- (c) all or any part of an order made by the Hearing Committee against the member pursuant to section 72.*

(6) At any time after the Hearing Committee informs the member of its decision to make an order against the member under section 72(1)(a) or (b) and on notice to the Executive Director, the member may apply to the Hearing Committee for a stay of the operation of the order, pending the conclusion of the appeal to the Benchers.

(9) Section 77(1) and (2) presently read in part:

77(1) Within a reasonable time after the conclusion of their appeal hearing under section 76, the Benchers may, in respect of any conduct that resulted in the order of the Hearing Committee under section 72(1)(a) or (b), make one or more of the following orders:

(2) Notwithstanding section 21(1), if the Benchers vote on a motion to make an order under subsection (1) either to confirm or to quash a finding, determination or order of a Hearing Committee and there is an equality of votes on the motion, the Benchers are deemed to have voted in favour of confirming the finding, determination or order.

Proceedings Against the Crown Act

Amends RSA 2000 cP-25

10(1) The *Proceedings Against the Crown Act* is amended by this section.

(2) Section 10 is amended by striking out “the *Provincial Court Act* or”.

(3) This section comes into force on Proclamation.

Provincial Court Act

Amends RSA 2000 cP-31

11(1) The *Provincial Court Act* is amended by this section.

(2) Section 9.24 is amended

(a) in subsection (8)

(i) in clause (a) by striking out “the judge’s birthday following the date the request is made” and substituting “the date the judge is appointed as a part-time judge”;

(ii) by repealing clause (b.1) and substituting the following:

(b.1) if the request for appointment is made under subsection (3.1), the term commences on the date the judge is appointed as a part-time judge and expires on the commencement of the judge’s next birthday;

(b) by repealing subsection (9) and substituting the following:

(9) A part-time judge must serve the equivalent of 6 months of full-time service during the year.

Proceedings Against the Crown Act

10(1) Amends chapter P-25 of the Revised Statutes of Alberta 2000.

(2) Section 10 presently reads:

10 Nothing in this Act authorizes proceedings against the Crown under the Provincial Court Act or the Masters and Servants Act.

(3) Coming into force.

Provincial Court Act

11(1) Amends chapter P-31 of the Revised Statutes of Alberta 2000.

(2) Section 9.24 presently reads in part:

(8) The term for which a part-time judge is appointed or reappointed under this section is as follows:

(a) if the request for appointment is made under subsection (2), the term commences on the judge's birthday following the date the request is made and expires on the commencement of the judge's 70th birthday;

(b) if the request for appointment is made under subsection (3), the term is one year commencing on the judge's 70th birthday;

(b.1) if the request for appointment is made under subsection (3.1),

(i) unless subclause (ii) applies, the term is one year commencing on the judge's birthday following the date the request is made;

(ii) where the appointment is made after the judge's birthday but on or before the mid-point of the term of the judge's current appointment under section 9.23, the term commences on the 183rd day after the judge's birthday and expires on the commencement of the judge's next birthday;

(3) Section 53 is amended by adding the following after subsection (1):

(1.1) Unless section 46(4) applies, the Court of Queen’s Bench may not refer the matter back to the Provincial Court for the purposes of conducting a new trial.

**Victims Restitution and
Compensation Payment Act**

Amends SA 2001 cV-3.5

12(1) The *Victims Restitution and Compensation Payment Act* is amended by this section.

(2) Section 5(1)(a) is amended

- (a) in subclause (ii) by adding “or another person” after “civil enforcement agency”;**
- (b) in subclause (iv) by adding “or other person” after “civil enforcement agency”.**

(c) *if the request for reappointment is made under subsection (4), the term is one year commencing on the expiry of the previous appointment.*

(9) *A part-time judge must serve*

(a) *the equivalent of 6 months of full-time service during the year, or*

(b) *in the case of an appointment referred to in subsection (8)(b.1)(ii), the equivalent of 3 months of full-time service.*

(3) Section 53 presently reads:

53(1) The Court of Queen's Bench shall

(a) *hear and determine an appeal,*

(b) *give its judgment, and*

(c) *make an order awarding costs, if any, to the parties, including costs of all proceedings previous to the appeal.*

(2) *The decision of the Court of Queen's Bench is final and cannot be further appealed.*

Victims Restitution and Compensation Payment Act

12(1) Amends chapter V-3.5 of the Statutes of Alberta, 2001.

(2) Section 5(1) presently reads in part:

5(1) On hearing an application made under section 4, the Court may, if the Court is satisfied that there are reasonable grounds to believe that the property that is the subject of the application has been acquired by illegal means, grant a restraint order,

(a) *with respect to the property, doing one or more of the following:*

(ii) *appointing a civil enforcement agency to take control of, possess, hold, handle, maintain, preserve or manage the*

(3) Section 6 is amended

- (a) in subsection (1)(b) by striking out** “peace officer or a civil enforcement agency” **and substituting** “peace officer, a civil enforcement agency or another person”;
- (b) in subsection (5)**
 - (i) by striking out** “peace officer or a civil enforcement agency” **and substituting** “peace officer, a civil enforcement agency or another person”;
 - (ii) by striking out** “peace officer or the civil enforcement agency” **and substituting** “peace officer, civil enforcement agency or other person”.

(4) Section 19.4(1)(a) is amended

- (a) in subclause (ii) by adding** “or another person” **after** “civil enforcement agency”;
- (b) in subclause (iv) by adding** “or other person” **after** “civil enforcement agency”.

property or to carry out any combination of those functions;

- (iv) *requiring any person having possession of or control over the property to deliver the property to the civil enforcement agency appointed under subclause (ii);*

(3) Section 6 presently reads in part:

6(1) Where, by reason of exigent circumstances, it is impractical to obtain a restraint order, a peace officer who has reasonable grounds to believe that property has been acquired by illegal means may give directions in writing doing one or more of the following:

- (a) *prohibiting any person from doing anything with respect to the property except as provided in the direction;*
- (b) *directing any person having possession of or control over the property to turn that property over to a peace officer or a civil enforcement agency;*
- (c) *providing for matters that are ancillary to any direction given under clause (a) or (b).*

(5) If a person has turned the possession of or control over the property over to a peace officer or a civil enforcement agency pursuant to a direction given under subsection (1)(b), the peace officer or the civil enforcement agency, as the case may be, must return the property to that person at the expiration of that direction unless otherwise directed by the Court.

(4) Section 19.4(1) presently reads in part:

19.4(1) On hearing an application made under section 19.3, the Court may, if the Court is satisfied that there are reasonable grounds to believe that the property that is the subject of the application is an instrument of illegal activity, grant a restraint order,

- (a) *with respect to the property, doing one or more of the following:*
 - (ii) *appointing a civil enforcement agency to take control of, possess, hold, handle, maintain, preserve or manage the property or to carry out any combination of those functions;*

(5) Section 19.5 is amended

- (a) in subsection (1)(b) by striking out** “peace officer or a civil enforcement agency” **and substituting** “peace officer, a civil enforcement agency or another person”;
- (b) in subsection (5)**
 - (i) by striking out** “peace officer or a civil enforcement agency” **and substituting** “peace officer, a civil enforcement agency or another person”;
 - (ii) by striking out** “peace officer or the civil enforcement agency” **and substituting** “peace officer, civil enforcement agency or other person”.

(6) Section 55 is amended by renumbering it as section 55(1) and by adding the following after subsection (1):

- (2)** A regulation made under subsection (1)(a) or (b) may be made effective in respect of an illegal act regardless of whether that illegal act takes place before or after the regulation comes into force.

Wills and Succession Act

Amends SA 2010 cW-12.2

13(1) The *Wills and Succession Act* is amended by this section.

- (iv) *requiring any person having possession of or control over the property to deliver the property to the civil enforcement agency appointed under subclause (ii);*

(5) Section 19.5 presently reads in part:

19.5(1) Where, by reason of exigent circumstances, it is impractical to obtain a restraint order, a peace officer who has reasonable grounds to believe that property is an instrument of illegal activity may give directions in writing doing one or more of the following:

- (a) *prohibiting any person from doing anything with respect to the property except as provided in the direction;*
- (b) *directing any person having possession of or control over the property to turn that property over to a peace officer or a civil enforcement agency;*
- (c) *providing for matters that are ancillary to any direction given under clause (a) or (b).*

(5) If a person having possession of or control over the property turns the property over to a peace officer or a civil enforcement agency pursuant to a direction given under subsection (1)(b), the peace officer or the civil enforcement agency, as the case may be, must return the property to that person at the expiration of that direction unless otherwise directed by the Court.

(6) Section 55 presently reads in part:

55 The Lieutenant Governor in Council may make regulations

- (a) *specifying enactments of Canada or provisions of those enactments to which this Act applies;*
- (b) *specifying enactments of Alberta or provisions of those enactments to which this Act applies;*

Wills and Succession Act

13(1) Amends chapter W-12.2 of the Statutes of Alberta, 2010.

(2) Section 4 is amended by striking out “an application” and substituting “a contested application”.

(3) Section 5(1) is repealed and the following is substituted:

Survivorship rules

5(1) If 2 or more individuals die at the same time or in circumstances rendering it uncertain which of them survived the other or others, all rights and interests of each of the individuals with respect to property must be determined as if that individual had predeceased the other or others unless

- (a) the Court, in interpreting a will or other instrument, finds a contrary intention,
- (b) section 599 or 690 of the *Insurance Act* applies, or
- (c) a provision of an Act provides for a different result.

(4) Section 8(1) is amended by striking out “Unless otherwise expressly provided in this Part or” and substituting “Except as expressly provided otherwise in section 23 or 25 or in”.

(5) Section 21(1) is amended by striking out “or appointment”.

(2) Section 4 presently reads:

4 Every lawyer who acts on behalf of a party in an application to the Court under this Act has a duty

- (a) to discuss with the party alternative methods of resolving the matters that are the subject of the application, and*
- (b) to inform the party of collaborative processes, mediation facilities and other justice services known to the lawyer that might assist the parties in resolving those matters.*

(3) Section 5(1) presently reads:

5(1) Subject to sections 599 and 690 of the Insurance Act, if 2 or more individuals die at the same time or in circumstances rendering it uncertain which of them survived the other or others, then unless the Court in interpreting a will or other instrument finds a contrary intention, all rights and interests of each of the individuals with respect to property must be determined as if that individual had survived the other or others.

(4) Section 8(1) presently reads:

8(1) Unless otherwise expressly provided in this Part or another enactment of Alberta,

- (a) this Part applies to wills made on or after the day this section comes into force,*
- (b) the former Act continues in force, as if unrepealed, in respect of wills made under that Act, and*
- (c) The Wills Act, RSA 1955 c369, continues in force, as if unrepealed, in respect of wills made before July 1, 1960.*

(5) Section 21(1) presently reads:

21(1) Subject to subsection (2) and any order made under section 40, a beneficial disposition or appointment that is made by will to

(6) Section 25(2) is repealed and the following is substituted:

- (2) Subsection (1) does not apply in respect of an individual
- (a) who is a former adult interdependent partner of the testator, and
 - (b) who is also
 - (i) the spouse of the testator at the time of the testator's death, or
 - (ii) related to the testator by blood or adoption.

(7) Section 39(2)(a) is amended by striking out “will” and substituting “document”.

(8) Section 40(2) is repealed and the following is substituted:

- (2) An application under this section may not be made more than 6 months after the date the grant of probate or

- (a) *an individual who acts as a witness to the signature of the testator,*
- (b) *an individual who signs the will on behalf of the testator under section 19(1),*
- (c) *an interpreter who provided translation services in respect of the making of the will, or*
- (d) *the spouse or adult interdependent partner of an individual described in clause (a), (b) or (c)*

is void as against the individual, the spouse or adult interdependent partner of the individual and any individual claiming under any of them.

(6) Section 25(2) presently reads:

(2) Subsection (1) does not apply in respect of a former adult interdependent partner who is related to the testator by blood or adoption.

(7) Section 39(2) presently reads:

(2) Subsection (1) applies to the omission of the testator's signature only if the Court is satisfied on clear and convincing evidence that the testator

- (a) intended to sign the will but omitted to do so by pure mistake or inadvertence, and*
- (b) intended to give effect to the writing in the document as the testator's will.*

(8) Section 40(2) presently reads:

(2) An application under subsection (1) may be made only within 6 months after the date the grant of probate or administration is issued.

administration is issued unless the Court orders an extension of that period.

(3) The Court may order an extension of the period on any terms the Court considers just.

(9) Section 61(2) is amended by adding “of Justice and Attorney General” after “Minister”.

(10) Section 109(2) is amended by striking out “a person” and substituting “an applicant”.

(11) Section 111 is amended

(a) in subsection (1)

(i) by striking out “give a gift” and substituting “dispose”;

(ii) in clauses (a) and (b) by striking out “gift” and substituting “disposition”;

(b) in subsection (2) by striking out “gift” and substituting “disposition”.

Witness Security Act

Amends SA 2010 cW-12.5

14(1) The *Witness Security Act* is amended by this section.

(2) Section 11(3) is amended by striking out “*Adult Guardianship Act*” and substituting “*Adult Guardianship and Trusteeship Act*”.

(9) Section 61(2) presently reads:

(2) The Minister may make regulations prescribing an amount for the purpose of subsection (1)(b)(i).

(10) Section 109(2) presently reads:

(2) If a deceased, during life, has transferred property to a prospective beneficiary, a person who alleges that the transfer was intended by the deceased to be an advance against, or otherwise repayable from, the prospective beneficiary's share of the estate may make an application to the Court under this section.

(11) Section 111 presently reads:

111(1) Where a testator purports, by will, to give a gift of property that the testator does not own,

(a) the gift is void, and

(b) any rights that the owner of the property has as a beneficiary under the will are not affected by the testator's purported gift.

(2) Nothing in subsection (1) affects the right of a testator to make a gift of property that is conditional on a disposition by the beneficiary of property that is owned by the beneficiary.

Witness Security Act

14(1) Amends chapter W-12.5 of the Statutes of Alberta, 2010.

(2) Section 11(3) presently reads:

(3) If a witness or an associated person is a minor or a represented adult as defined in the Adult Guardianship Act,

- (a) the guardian of the minor or of the represented adult, as the case may be, may sign a letter of acknowledgment on his or her behalf, and*
- (b) on the signing of the letter of acknowledgment by the guardian, the witness or associated person is deemed to have signed the letter of acknowledgment.*

