

2019 Bill 17

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 17

DISCLOSURE TO PROTECT AGAINST DOMESTIC VIOLENCE (CLARE'S LAW) ACT

THE MINISTER OF COMMUNITY AND SOCIAL SERVICES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 17

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DISCLOSURE TO PROTECT AGAINST DOMESTIC VIOLENCE (CLARE'S LAW) ACT

(Assented to , 2019)

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Preamble

WHEREAS the Government of Alberta is committed to the prevention of domestic violence;

WHEREAS the Government of Alberta recognizes that addressing domestic violence requires a range of prevention and protection measures; and

WHEREAS individuals should have access to information to help them make informed choices and reduce the risk of harm;

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

Definitions

1 In this Act,

- (a) “applicant” means an individual who applies for disclosure information and
 - (i) believes that they are at risk of domestic violence, or
 - (ii) is authorized to be an applicant in accordance with the regulations;
- (b) “disclosure information” means information prescribed as disclosure information in the regulations;
- (c) “Disclosure Protocol” means the Disclosure Protocol established in the regulations;
- (d) “police service” means a police service as defined in the *Police Act*;
- (e) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f) “person at risk” means an individual who is determined to be a person at risk in accordance with the regulations.

Collection, use and disclosure of information

2(1) A police service or the Minister may collect, use or disclose personal information for the purposes of

- (a) making a disclosure in accordance with section 3(1) or (3),
- (b) determining whether to make a disclosure in accordance with section 3(1) or (3),
- (c) determining whether a person is a person at risk in accordance with the regulations, or
- (d) any other purposes related to this Act identified in the regulations.

(2) If the Minister enters into an agreement with the Government of Canada or the government of any province or territory in relation to the sharing of information for the purposes of this Act or legislation that has similar purposes in the other jurisdiction, then a police service or the Minister may collect, use or disclose personal information for the purposes referred to in subsection (1) in accordance with that agreement.

Disclosure

3(1) A police service may provide disclosure information to an applicant or a person referred to in subsection (2) in accordance with the Disclosure Protocol.

(2) Subject to the Disclosure Protocol, the following persons may assist with an application for disclosure information or make an application for disclosure information on behalf of an applicant:

- (a) a person who has the consent of the applicant, provided in the manner required by the regulations;
- (b) any other person who is authorized by the regulations to assist with an application or make an application on behalf of an applicant.

(3) A police service may provide disclosure information to a person at risk in accordance with the Disclosure Protocol, regardless of whether or not the person at risk applies for disclosure information.

(4) Every person who receives disclosure information pursuant to this section shall comply with the terms and conditions of the Disclosure Protocol.

Disclosure Protocol

4 The Disclosure Protocol must include the following:

- (a) terms and conditions for safeguarding disclosure information received by persons at risk;
- (b) terms and conditions prohibiting the subsequent use or disclosure of the disclosure information for purposes not related to this Act unless

- (i) the person to whom the disclosure information relates has provided consent, or
- (ii) the disclosure is required or authorized by law.

Other obligations not affected

5 Nothing in this Act prevents a police service from disclosing information, including disclosure information, that the police service is otherwise permitted or authorized by law to disclose.

Commissioner's powers and duties not limited

6 For greater certainty, nothing in this Act shall be construed as limiting the powers and duties of the Information and Privacy Commissioner under the *Freedom of Information and Protection of Privacy Act*.

Immunity

7 No action or other proceeding lies or shall be instituted against the Minister or an agent, employee, delegate or subdelegate of the Minister, the Government of Alberta or an agent or employee of the Government of Alberta, a police service or an agent, employee or member of a police service or a police committee, police commission or regional police commission or a member of a police committee, police commission or regional police commission based on any cause of action arising out of, resulting from, relating to or incidental to

- (a) the enactment of this Act,
- (b) the application in good faith of this Act or any provision of this Act,
- (c) anything done, caused, permitted or authorized to be done, attempted to be done or omitted to be done in good faith pursuant to or in connection with this Act, and
- (d) any disclosure of disclosure information by a police service if the disclosure is made in good faith.

Confidentiality

8(1) Subject to the regulations, no person shall disclose any disclosure information that comes to the knowledge of that person

pursuant to this Act, unless that person is authorized by this Act, or otherwise authorized by law, to do so.

(2) Subject to subsection (3), the name of an applicant and information that would identify the applicant is privileged information of the applicant.

(3) The information referred to in subsection (2) may be released if the Minister directs that it may be released.

Non-compellability

9(1) A police service or a member, agent, employee or delegate of a police service and the Minister or a delegate or subdelegate of the Minister is not compellable to

- (a) give evidence in any proceeding of a judicial nature concerning any information that comes into their knowledge pursuant to this Act, or
- (b) produce any file, paper, information, report, correspondence or other document relating to the Disclosure Protocol.

(2) Subsection (1) does not apply for the purposes of a judicial review proceeding.

Non-application of Act

10 This Act and any provision of this Act prescribed in the regulations does not apply

- (a) to any person or class of persons prescribed in the regulations for the purpose of this section, or
- (b) in any circumstance prescribed in the regulations for the purpose of this section.

Delegation

11(1) The Minister may delegate to any person any power, duty or function of the Minister under this Act.

(2) Subsection (1) does not apply to any power or duty of the Minister to make regulations as defined in the *Regulations Act*.

(3) A delegation under subsection (1) may include the power to subdelegate.

Regulations made by the Lieutenant Governor in Council

12(1) The Lieutenant Governor in Council may make regulations

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act, including any word or expression defined in this Act;
- (b) respecting individuals or classes of individuals who may apply for disclosure information;
- (c) respecting the provision of consent by an applicant for the purposes of section 3(2)(a);
- (d) respecting the determination of individuals or classes of individuals who are or may be persons at risk for the purposes of this Act;
- (e) respecting the persons or classes of persons who may assist an applicant with an application or make an application on behalf of an applicant;
- (f) respecting the collection, use or disclosure of information for the purposes of this Act by a police service or the Minister;
- (g) subject to subsection (2), establishing a Disclosure Protocol;
- (h) prescribing information or classes of information as disclosure information;
- (i) respecting the use or disclosure of disclosure information by an applicant or by a person at risk to whom a disclosure has been made under section 3(3);
- (j) exempting any person or any class of persons from the application of this Act or any portion of this Act, or prescribing any circumstance in which this Act or any provision of this Act does not apply;
- (k) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

- (l) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2)** For the purposes of subsection (1)(g), the Lieutenant Governor in Council may make regulations
- (a) adopting, as amended from time to time or otherwise, all or any part of any protocol relating to the collection, use or disclosure of disclosure information;
 - (b) amending for the purposes of this Act all or any part of any protocol adopted pursuant to clause (a).
- (3)** The Lieutenant Governor in Council may make regulations
- (a) respecting the establishment of a committee for any purposes related to this Act;
 - (b) respecting the committee referred to in clause (a), including, without limitation,
 - (i) any powers, duties or functions of the committee, and
 - (ii) the remuneration of the committee.

Regulations made by the Minister

13 The Minister may make regulations prescribing forms for the purposes of this Act.

Coming into force

14 This Act comes into force on Proclamation.

