

2021 Bill 58

Second Session, 30th Legislature, 70 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 58

FREEDOM TO CARE ACT

THE MINISTER OF CULTURE, MULTICULTURALISM AND
STATUS OF WOMEN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 58

2021

FREEDOM TO CARE ACT

(Assented to , 2021)

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Preamble

WHEREAS Alberta's volunteers and non-profit organizations are vital to their communities for programs, services and opportunities they provide in the Province;

WHEREAS volunteers may face barriers related to their fear of personal liability in performing their roles;

WHEREAS non-profit organizations may encounter regulatory barriers to performing social good, limiting their freedom to care; and

WHEREAS the Government of Alberta recognizes the important role that Alberta's volunteers play in contributing to the Province and the economy and wants to ensure that volunteers and non-profit organizations are supported to continue to provide programs and services that create vibrant, welcoming and engaged communities;

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) "charitable purpose" includes a benevolent, philanthropic, civic, educational, health, humane, welfare, religious, cultural, artistic, sport, recreational, environmental or tourism purpose, so long as the purpose is not for-profit;
- (b) "damage" includes physical, non-physical, economic and non-economic losses;
- (c) "economic loss" means any pecuniary loss, including
 - (i) the loss of earnings or other benefits related to employment,
 - (ii) medical expense loss,
 - (iii) replacement services loss,
 - (iv) loss due to death and burial costs, and
 - (v) loss of business or employment opportunities;
- (d) "for-profit" means making or distributing profits or assets for or to the owners, members or shareholders of an entity;

- (e) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f) “non-economic loss” means any non-pecuniary loss, including
 - (i) loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish or disfigurement,
 - (ii) loss of enjoyment of life,
 - (iii) loss of society and companionship,
 - (iv) loss of consortium, and
 - (v) injury to reputation;
- (g) “non-profit organization” means
 - (i) an entity organized and conducted for public benefit and operating primarily for a charitable purpose and incorporated by or under any Act of Alberta, and includes
 - (A) a society incorporated, or a body corporate incorporated or continued under the laws of any jurisdiction other than Alberta, and continued under the *Societies Act*, and
 - (B) an extra-provincial corporation registered under the *Business Corporations Act*,

so long as the society, body corporate or extra-provincial corporation, as the case may be, operates primarily for a charitable purpose, or
 - (ii) an entity designated as a non-profit organization by the Lieutenant Governor in Council in the regulations;
- (h) “volunteer” means an individual who
 - (i) performs services for a non-profit organization or the Crown, and

- (ii) does not receive any compensation in respect of the services, other than reasonable reimbursement or allowance for expenses actually incurred while performing the services for the non-profit organization or the Crown, as the case may be,

and may include a director, officer or trustee of the non-profit organization but does not include an individual performing the services under a court order.

Part 1 Volunteer Protection

Application of Part

2 This Part applies to any claim for damage caused by an act or omission of a volunteer where that claim is filed on or after the coming into force of this Act.

Limitations on liability

3(1) Notwithstanding any enactment, and subject to subsections (2) and (5), no volunteer is liable for damage caused by an act or omission of the volunteer on behalf of the organization or the Crown, as the case may be, if

- (a) the volunteer was acting within the scope of the volunteer's responsibilities in the non-profit organization or the Crown, as the case may be, at the time of the act or omission, and
- (b) the volunteer was properly licensed, certified or authorized, if required by law, by the appropriate authorities for the activities or practice undertaken by the volunteer at the time the damage occurred.

(2) The limitations on the liability of a volunteer under subsection (1) do not apply if

- (a) the damage was caused by wilful, reckless or criminal misconduct or gross negligence by the volunteer,
- (b) the damage was caused by the volunteer while operating a motor vehicle, vessel, aircraft or other vehicle for which the owner is required by law to maintain insurance,

- (c) the act or omission that caused the damage constitutes an offence, or
- (d) the volunteer was unlawfully using or impaired by alcohol or drugs at the time of the act or omission that caused the damage.

(3) Nothing in this section affects the liability of any non-profit organization with respect to damage caused to any person, including damage caused by an act or omission of a volunteer of the organization, for which the volunteer is not liable according to subsection (1).

(4) For greater certainty, where damages are awarded against or any amount is paid by a non-profit organization in respect of damage caused by a volunteer of the organization for which the volunteer is not liable according to subsection (1), the non-profit organization has no right of recovery against the volunteer.

(5) This section does not apply if the liability of a volunteer is limited or otherwise protected by or under any other enactment.

Solicitor-and-client costs

4 Where an action that is brought against a volunteer for damages caused by an act or omission of the volunteer acting on behalf of a non-profit organization does not result in a judgment against the volunteer, the volunteer is entitled to costs on a solicitor-and-client basis.

**Part 2
Exemption for Non-profit
Organizations**

Exemption from regulations under other Act

5(1) Notwithstanding any other enactment to the contrary, and subject to subsections (2) and (3), the Lieutenant Governor in Council may, by order, exempt a non-profit organization from the application of any regulations made under any other Act other than regulations that solely apply to non-profit organizations.

(2) A non-profit organization must make a request to the Minister for an exemption under this section in a form and manner as the Minister may direct.

- (3) An exemption made under this section must apply
- (a) to specific provisions of the regulations specified in the order,
 - (b) to one non-profit organization at a time specified in the order,
 - (c) for a specified charitable purpose, and
 - (d) for a limited period of time specified in the order.

(4) This section does not apply if another exemption is available to a non-profit organization under any other enactment that applies to the charitable purpose for which the non-profit organization is requesting an exemption under this section.

Annual report to Cabinet

6 The Minister shall submit to Cabinet an annual report on requests for exemptions received from non-profit organizations under section 5(2).

Part 3 General

Act binds Crown

7 This Act binds the Crown.

Regulations

- 8** The Lieutenant Governor in Council may make regulations
- (a) designating an organization as a non-profit organization for the purposes of this Act;
 - (b) excluding an organization from the definition of non-profit organization for the purposes of this Act;
 - (c) defining any word or expression used but not defined in this Act;
 - (d) for the purpose of remedying any confusion in the application of or difficulty in applying any provisions of this Act;

- (e) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent and purposes of this Act.

Coming into force

- 9** This Act has effect on September 1, 2021.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To