

2021 Bill 63

Second Session, 30th Legislature, 70 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 63

**POLICE (STREET CHECKS AND CARDING)
AMENDMENT ACT, 2021**

THE MINISTER OF JUSTICE AND SOLICITOR GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 63

2021

POLICE (STREET CHECKS AND CARDING) AMENDMENT ACT, 2021

(Assented to _____, 2021)

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

Amends RSA 2000 cP-17

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

2 The following is added after section 38:

Authority to collect, record, retain, store, use and disclose information

38.1(1) This section only applies where a police officer has no other authority, responsibility or duty to collect, record, retain, store, use or disclose information from a member of the public.

(2) For the purposes of this section,

- (a) “carding” means any attempt to collect information, including personal information, from a member of the public if
 - (i) any part of the reason for the attempted collection of the information is based on a prohibited ground of discrimination, the person’s socio-economic status, or the police officer’s perception that the member of the public has a characteristic associated with a prohibited ground of discrimination or a person’s socio-economic status, or

Explanatory Notes

1 Amends chapter P-17 of the Revised Statutes of Alberta 2000.

2 Authority to collect, record, retain, store, use and disclose personal information.

- (ii) the attempted collection is done in an arbitrary way,
 - (b) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*, and
 - (c) “prohibited ground of discrimination” means a person’s race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.
- (3)** Subject to subsections (4) and (5), every police officer has the authority to collect, record, retain, store, use and disclose information, including personal information, voluntarily provided by a member of the public, obtained as a result of a non-detention, non-arrest interaction with a police officer, in accordance with the regulations.
- (4)** A police officer may only collect, record, retain, store, use or disclose information, including personal information, voluntarily provided by a member of the public, obtained as a result of a non-detention, non-arrest interaction with a police officer, under this section if that information is obtained during the course of one or more of the following activities:
- (a) crime prevention activities;
 - (b) gathering information for the purpose of intelligence related to individuals known or reasonably suspected to be engaged in illegal activities;
 - (c) inquiring into offences that may have been or might be committed;
 - (d) inquiring into suspicious activities that may lead to detecting illegal activities;
 - (e) another lawful law enforcement activity.
- (5)** A police officer is prohibited from carding.

(6) Notwithstanding subsection (2)(a), a police officer is not engaging in carding if the police officer considers a prohibited ground of discrimination or a person's socio-economic status as part of the reason for attempting to collect information, including personal information, from a member of the public and

- (a) the police officer is seeking a particular person,
- (b) a prohibited ground of discrimination or a person's socio-economic status forms part of a credible, reasonably specific description relating to the person, or is evident from a visual representation of the person, and
- (c) the description of the person consists of 2 or more prohibited grounds of discrimination or a prohibited ground of discrimination and one or more other credible, reasonably specific descriptions relating to the person.

(7) For the purposes of subsection (2)(a)(ii), an attempted collection of information, including personal information, from a member of the public by a police officer is done in an arbitrary way unless the police officer has a reason for attempting to collect the information that complies with all of the following criteria:

- (a) the reason includes details about the member of the public or the circumstances that caused the police officer to reasonably suspect that collecting information, including personal information, from the person may contribute to or assist with one of the activities referred to in subsection (4);
- (b) the reason does not include either of the following:
 - (i) that the person has declined to answer a question from the police officer which the person is not legally required to answer;
 - (ii) that the person has attempted or is attempting to discontinue interaction with the police officer in circumstances in which the person has the legal right to do so;

- (c) the reason is not only that the person is present in a high-crime location;
 - (d) the reason complies with any criteria established by regulation.
- (8)** Personal information that is collected under this section may be disclosed by any person, organization or public body
- (a) for the purpose of complying with a review, reporting or other requirement to ensure compliance with the Act, regulations or standards established by the Minister or Minister's delegate, and
 - (b) for other purposes as authorized by the regulations.
- (9)** The Lieutenant Governor in Council may make regulations respecting the collection, recording, retention, storage, use and disclosure of information, including personal information, voluntarily provided by a member of the public, obtained as a result of a non-detention, non-arrest interaction with a police officer, including
- (a) defining any word or expression for the purposes of a regulation made under this section;
 - (b) prescribing and respecting the circumstances in which a police officer is permitted to collect, record, retain, store, use or disclose information, including personal information, or is prohibited from collecting, recording, retaining, storing, using or disclosing information, including personal information;
 - (c) respecting the conduct of non-detention, non-arrest interactions between a police officer and a member of the public, including the duties that a police officer must fulfill prior to collecting information, including personal information, from a member of the public, or following the collection or attempted collection of that information from a member of the public;
 - (d) respecting the retention, storage, use and disclosure of information, including personal information, including the placement of that information in a police database or report and use of that database or report;

- (e) respecting the establishment, implementation and review of standards regarding
 - (i) the collection, recording, retention, storage, use or disclosure of information, including personal information, voluntarily provided by a member of the public, and
 - (ii) records or reports that must be kept or made in relation to the collection, recording, retention, storage, use or disclosure of information, including personal information, voluntarily provided by a member of the public;
- (f) respecting the training of any police officer who may collect, record, retain, store, use or disclose information, including personal information, voluntarily provided by a member of the public, including respecting requirements for police services to establish and implement a training program for police officers with respect to the collection, recording, retention, storage, use or disclosure of that information;
- (g) respecting reviews, reporting or other requirements to ensure compliance with the Act, regulations or standards established by the Minister or Minister's delegate, including
 - (i) authorizing and respecting the disclosure and the direct or indirect collection of personal information for the purpose of a review, reporting or other requirement, and
 - (ii) respecting actions that shall be taken to remedy any non-compliance with the Act, regulations or standards;
- (h) authorizing the direct or indirect collection of personal information collected under this section for other purposes;
- (i) prescribing additional criteria for the purposes of subsection (7);

- (j) authorizing the disclosure of personal information collected under this section for other purposes as contemplated by subsection (8)(b);
- (k) mandating that a police service establish a public education program regarding the collection, recording, retention, storage, use and disclosure of information, including personal information, including requirements for what the education program must include;
- (l) respecting the review of any regulation made under this section;
- (m) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent and purpose of this section.

3 This Act comes into force on Proclamation.

3 Coming into force.

