

2021 Bill 70

Second Session, 30th Legislature, 70 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 70

COVID-19 RELATED MEASURES ACT

MR. GOTFRIED

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 70
Mr. Gotfried

BILL 70

2021

COVID-19 RELATED MEASURES ACT

(Assented to , 2021)

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

Interpretation

1(1) In this Act,

- (a) “good-faith effort” includes an honest effort, whether or not that effort is reasonable;
- (b) “health service facility” means
 - (i) a public hospital or chartered surgical facility as defined in the *Health Facilities Act*,

- (ii) an auxiliary hospital as defined in the *Hospitals Act*,
 - (iii) a facility as defined in the *Mental Health Act*,
 - (iv) a nursing home as defined in the *Nursing Homes Act*,
 - (v) a pharmacy as defined in the *Pharmacy and Drug Act*,
 - (vi) a protective safe house as defined in the *Protection of Children Abusing Drugs Act*,
 - (vii) a supportive living accommodation as defined in the *Supportive Living Accommodation Licensing Act*, or
 - (viii) a place where residential addiction treatment services are provided under the *Mental Health Services Protection Act*;
- (c) “law” means an Act, regulation, order, bylaw or other instrument made under an Act;
- (d) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (e) “public health guidance” means any advice, recommendations, directives, guidance or instructions given or made in respect of public health, regardless of the form or manner of their communication, by any of the following:
- (i) the Crown;
 - (ii) a regional health authority, or a member, employee or agent of a regional health authority;
 - (iii) the Chief Medical Officer, the Deputy Chief Medical Officer, an executive officer or a medical officer of health;
 - (iv) a Minister or a department of the Government of Alberta or the Government of Canada, or an officer or employee of such a department;
 - (v) an agency of the Government of Alberta or the Government of Canada, or an officer or employee of such an agency;
 - (vi) a public health official of the Government of Canada;

- (vii) a municipality as defined in the *Municipal Government Act*, or an officer or employee of a municipality;
- (viii) a regulatory body having jurisdiction over a person, or an officer or employee of such a regulatory body;
- (f) “regional health authority” means a regional health authority established under the *Regional Health Authorities Act*.

(2) Except as provided in this Act, words and phrases used in this Act have the meanings given to them in the *Public Health Act*.

(3) Nothing in this Act shall be read as affecting, interfering with, abrogating or limiting any defence or immunity that exists in law or at common law, including the protection from liability provided under section 66.1 of the *Public Health Act*.

Application of Act

2 Subject to the regulations, this Act applies in respect of the following:

- (a) a health service facility, including an owner, operator, director, officer, employee, contractor and subcontractor of a health service facility;
- (b) a regional health authority, including a member, officer, employee, agent, contractor and subcontractor of a regional health authority;
- (c) a regulated member as defined in the *Health Professions Act*, including an employee, contractor and subcontractor of a regulated member;
- (d) any other facility, person or class of persons prescribed in the regulations.

Crown bound

3 The Crown is bound by this Act.

COVID-19 liability protection

4(1) Subject to sections 6 and 7 and the regulations, no action for damages lies or shall be commenced or maintained against a health service facility, regional health authority or person referred to in section 2 as a direct or indirect result of an individual being or potentially being infected with or exposed to COVID-19 on or after

March 1, 2020 as a direct or indirect result of an act or omission of a health service facility, regional health authority or person, as the case may be, if

- (a) at the relevant time, the health service facility, regional health authority or person, as the case may be, acted or made a good-faith effort to act in accordance with
 - (i) public health guidance relating to COVID-19 that applied to the health service facility, regional health authority or person, as the case may be, and
 - (ii) any federal, provincial or municipal law relating to COVID-19 that applied to the health service facility, regional health authority or person, as the case may be,

and

- (b) the act or omission of the health service facility, regional health authority or person, as the case may be, does not constitute gross negligence.

(2) Subsection (1) applies notwithstanding any conflict or inconsistency in the public health guidance or laws applicable to the health service facility, regional health authority or person referred to in section 2.

(3) For greater certainty, a difference in the degree of specificity respecting a matter does not constitute a conflict or inconsistency for the purposes of subsection (2).

(4) Subsection (1) applies regardless of whether the cause of action arose before, on or after the day on which this section comes into force.

(5) This section applies, with any necessary modification, with respect to a person referred to in section 2 who is vicariously liable for the acts or omissions of another person if subsection (1) would negate the liability of the other person in relation to the act or omission.

No right to compensation or other remedy

5 No person is entitled to any compensation or any other remedy or relief for the extinguishment or termination of rights under this Act.

Non-application — required closure

6 Section 4 does not apply to acts or omissions of a health service facility, regional health authority or person referred to in section 2 if the act or omission

- (a) occurred while a law required the operation of the health service facility, regional health authority or person, as the case may be, to close, in whole or in part, and
- (b) relates to an aspect of the operation of the health service facility, regional health authority or person, as the case may be, that was required to close under the law.

Non-application — other Acts

7(1) Section 4 does not apply to any administrative process or proceeding under any other Act or regulations under any other Act.

(2) For greater certainty, section 4 does not apply to an administrative process or proceeding, or a cause of action, if any, under any of the following Acts, including any regulations under those Acts:

- (a) the *Employment Standards Code*;
- (b) the *Heroes' Compensation Act*;
- (c) the *Labour Relations Code*;
- (d) the *Occupational Health and Safety Act*;
- (e) the *Police Officers Collective Bargaining Act*;
- (f) the *Public Service Employee Relations Act*;
- (g) the *Workers' Compensation Act*, except sections 22 and 22.1 of that Act.

(3) For greater certainty, section 4 does not affect any immunity provided in the *Workers' Compensation Act*, including in sections 21 and 22 of that Act.

Regulations

8(1) The Lieutenant Governor in Council may make regulations

- (a) prescribing any other facility, person or class of persons for the purposes of section 2(d);

- (b) prescribing facilities, persons or classes of persons to whom section 4 does not apply;
- (c) imposing terms and conditions in respect of the application or non-application of section 4;
- (d) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.

(2) A regulation made under subsection (1) may be made retroactive to a day not earlier than March 1, 2020.

Coming into force

9 This Act has effect on March 1, 2020.

