

2022 Bill 5

Fourth Session, 30th Legislature, 1 Charles III

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 5

JUSTICE STATUTES AMENDMENT ACT, 2022 (NO. 2)

THE MINISTER OF JUSTICE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 5

BILL 5

2022

JUSTICE STATUTES AMENDMENT ACT, 2022 (NO. 2)

(Assented to , 2022)

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

Interjurisdictional Support Orders Act

Amends SA 2002 cl-3.5

**1(1) The *Interjurisdictional Support Orders Act* is amended by
this section.**

(2) Section 1(f) is repealed and the following is substituted:

- (f) “Minister” means the Minister determined under section 16
of the *Government Organization Act* as the Minister
responsible for this Act;

**(3) Section 5(2)(d) and (3) are amended by striking out
“sworn”.**

Explanatory Notes

Interjurisdictional Support Orders Act

1(1) Amends chapter I-3.5 of the Statutes of Alberta, 2002.

(2) Section 1(f) presently reads:

1 In this Act,

(f) “Minister” means the Minister of Justice and Solicitor General;

(3) Section 5(2)(d) and (3) presently read in part:

(2) To start the process, the claimant must complete a support application that includes the following:

(d) the sworn document described in subsection (3);

(3) The sworn document referred to in subsection (2)(d) must set out the following:

(a) the respondent’s name and any information known to the claimant that can be used to locate or identify the respondent;

(4) Section 6(4) is amended by striking out “certified”.

(5) Section 10 is amended by adding the following after subsection (1):

(1.1) In dealing with a support application, the Alberta court, if it considers it appropriate to do so, may receive evidence, information or documents from a party or a witness by telephone or other means of electronic transmission.

(6) Section 17 is repealed and the following is substituted:

Copy of order

17(1) To enforce an extra-provincial order or a foreign order, the claimant or the appropriate authority of the reciprocating jurisdiction must send a copy of the order to the designated authority in Alberta.

(2) Subject to subsection (3), on receiving a copy of the extra-provincial order or foreign order the designated authority must send a copy of the order in accordance with the regulations to the clerk of the Alberta court.

(3) If the designated authority considers it appropriate, it may

- (a)** request the claimant or the appropriate authority of the reciprocating jurisdiction to provide a certified copy of the extra-provincial order or foreign order, and
- (b)** decline to send a copy of the order under subsection (2) until the designated authority receives the certified copy of the extra-provincial order or foreign order.

(4) Section 6(4) presently reads:

(4) On receiving a certified copy of a support order and reasons, if any, from a reciprocating jurisdiction under a provision of an enactment in that jurisdiction that corresponds to section 15, the designated authority must, in accordance with the regulations, provide a copy of the order and reasons, if any, to the claimant.

(5) Section 10(1) presently reads:

10(1) In dealing with a support application, the Alberta court must consider

(a) the evidence given or submitted to the Alberta court, and

(b) the documents sent from the reciprocating jurisdiction.

(6) Section 17 presently reads:

17(1) To enforce an extra-provincial order or a foreign order, the claimant or the appropriate authority of the reciprocating jurisdiction must send a certified copy of the order to the designated authority in Alberta.

(2) On receiving a certified copy of the extra-provincial order or foreign order, the designated authority must send a copy of the order in accordance with the regulations to the clerk of the Alberta court.

(7) Section 19 is amended

(a) by repealing subsection (3)(b) and substituting the following:

- (b) set aside the registration if the Alberta court
 - (i) determines that in the proceeding in which the foreign order was made a party to the order did not have proper notice or a reasonable opportunity to be heard,
 - (ii) determines that the foreign order is contrary to public policy in Alberta,
 - (iii) determines that the court that made the foreign order did not have jurisdiction to make the order, or
 - (iv) is not satisfied that the foreign order is authentic.

(b) by adding the following after subsection (5):

(5.1) For the purpose of subsection (3)(b)(iv), the Alberta court must have requested a certified copy of the foreign order and not received one within a reasonable time.

(8) Section 24 is amended

(a) in subsection (2)

(i) by repealing clause (b) and substituting the following:

- (b) a certified copy of the support order that the applicant is applying to vary, unless the designated authority agrees to accept a non-certified copy;

(ii) in clause (e) by striking out “sworn”;

(b) in subsection (3) by striking out “sworn”.

(9) Section 25(4) is amended by striking out “certified”.

(7) Section 19 presently reads in part:

- (3) *On an application under subsection (2), the Alberta court may*
- (b) *set aside the registration if the Alberta court determines that*
- (i) *in the proceeding in which the foreign order was made, a party to the order did not have proper notice or a reasonable opportunity to be heard,*
 - (ii) *the foreign order is contrary to public policy in Alberta,*
or
 - (iii) *the court that made the foreign order did not have jurisdiction to make the order.*

(8) Section 24 presently reads in part:

- (2) *To start the process, the applicant must complete a support variation application that includes the following:*
- (b) *a certified copy of the support order that the applicant is applying to vary;*
 - (e) *the sworn document described in subsection (3);*
- (3) *The sworn document referred to in subsection (2)(e) must set out the following:*
- (a) *the respondent's name and any information known to the applicant that can be used to locate or identify the respondent;*

(9) Section 25(4) presently reads:

(10) Section 30 is amended by adding the following after subsection (1):

(1.1) In dealing with a support variation application, the Alberta court, if it considers it appropriate to do so, may receive evidence, information or documents from a party or a witness by telephone or other means of electronic transmission.

(11) Section 39 is amended by renumbering it as section 39(1) and by adding the following after subsection (1):

(2) An order or document under this Act may be sent by any means of electronic transmission with the approval of the appropriate authority of the reciprocating jurisdiction.

(3) Subject to the regulations, the designated authority may receive orders or documents by any means of electronic transmission from an appropriate authority in a reciprocating jurisdiction.

(12) Section 44(3) is repealed and the following is substituted:

(3) Statements in writing sworn to or affirmed by the maker, depositions or transcripts of evidence taken in a reciprocating jurisdiction may be received in evidence by the Alberta court under this Act.

(4) If a document from a reciprocating jurisdiction corresponding to a support application under section 5(2) or a support variation application under section 24(2) has not been sworn to or affirmed, the Alberta court may receive the document in evidence under this Act if the document

- (a) includes a statement by the claimant or applicant declaring that the matters set out in the document are true, and

(4) On receiving a certified copy of a support variation order and reasons, if any, from a reciprocating jurisdiction under a provision of an enactment in that jurisdiction that corresponds to section 34, the designated authority must, in accordance with the regulations, provide a copy of the order and reasons, if any, to the applicant.

(10) Section 30(1) presently reads:

30(1) In dealing with a support variation application, the Alberta court must consider

- (a) the evidence given or submitted to the Alberta court, and*
- (b) the documents sent from the reciprocating jurisdiction.*

(11) Section 39 presently reads:

39 On receipt of an order or document to be sent under this Act to a reciprocating jurisdiction, the designated authority must send the order or document to the appropriate authority of the reciprocating jurisdiction.

(12) Section 44(3) presently reads:

(3) Statements in writing sworn to by the maker, depositions or transcripts of evidence taken in a reciprocating jurisdiction may be received in evidence by the Alberta court under this Act.

- (b) is being transmitted by an appropriate authority in a reciprocating jurisdiction to the designated authority in accordance with the regulations.

(5) If the Alberta court is not satisfied that a document referred to in subsection (4) is authentic, it may require the claimant or applicant to do any of the following:

- (a) swear to or affirm the document;
- (b) provide a sworn or affirmed statement that the matters set out in the document are true;
- (c) appear before the Alberta court by telephone or other means of electronic transmission to swear or affirm that the matters set out in the document are true or to give oral evidence.

(13) The following is added after section 44:

**Application of subsections 18.1(2), 19(2)
and 19.1(2) of Divorce Act (Canada)**

44.1 This Act and the regulations made under this Act are deemed to be the applicable provincial law for the purposes of subsections 18.1(2), 19(2) and 19.1(2) of the *Divorce Act* (Canada) except where the *Alberta Rules of Court* provide specific rules for the Court of King's Bench with regards to proceedings under sections 18 to 19.1 of the *Divorce Act* (Canada).

Legislative Assembly Act

Amends RSA 2000 cL-9

2(1) The *Legislative Assembly Act* is amended by this section.

(2) Section 1(1) is amended

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

- (d.1) "legislative precinct" means each of the following, but does not include a constituency office of a Member:

(13) Application of subsections 18.1(2), 19(2) and 19.1(2) of Divorce Act (Canada).

Legislative Assembly Act

2(1) Amends chapter L-9 of the Revised Statutes of Alberta 2000.

(2) Adds definitions.

- (i) the Legislature Building;
- (ii) the following areas within the Queen Elizabeth II Building located in Edmonton:
 - (A) the entirety of the main, 2nd, 3rd, 4th, 5th and 6th floors;
 - (B) any other area used by a Member or the Legislative Assembly Office, including employees, for the purpose of carrying out or supporting the carrying out of parliamentary functions;
- (iii) the pedway between the Legislature Building and the Queen Elizabeth II Building;
- (iv) the grounds of the Legislature Building bounded in the north by 99 Avenue NW, in the south by Fortway Drive NW, in the east by 107 Street NW and in the west by 109 Street NW in Edmonton;
- (v) any premises or area where a proceeding of the Assembly or its committees takes place;
- (vi) any other premises or area that is designated by the Speaker;

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

- (h) “legislative security officer” means an individual appointed as a legislative security officer under section 22.7(1);
- (i) “weapon” means a weapon as defined in the *Criminal Code* (Canada).

(3) The following is added after section 22:

(3) Division 4 Legislative Assembly Security.

Division 4 Legislative Assembly Security

Powers and privileges protected

22.1 For greater certainty, nothing in this Division is to be construed as detracting from or interfering with the privileges, immunities and powers described in section 9(1).

Speaker responsible for Assembly's security

22.2 As the custodian of the privileges, immunities and powers described in section 9(1), the Speaker is responsible for the security of the Legislative Assembly, its committees and Members.

Speaker directives

22.3(1) The Speaker may issue one or more directives

- (a) respecting the appointment of an individual as a legislative security officer;
- (b) respecting a legislative security officer's provision of security services within the legislative precinct;
- (c) respecting the office of a legislative security officer, including establishing classes of legislative security officers;
- (d) prescribing the powers and duties of each class of legislative security officer;
- (e) respecting a legislative security officer's exercise of powers or performance of duties;
- (f) authorizing a member of a law enforcement agency to possess, carry or use a weapon within the legislative precinct and prescribing terms or conditions that apply to that authorization;
- (g) respecting a code of conduct that applies to a legislative security officer, including the consequences of a legislative security officer's violation of that code of conduct;

- (h) establishing an individual's right to make a complaint about a legislative security officer's violation of the code of conduct;
- (i) respecting the making, investigation, disposition and review of a complaint described in clause (h);
- (j) respecting the collection, use and disclosure of personal information for the purposes of any matter referred to in clauses (h) and (i);
- (k) prescribing the uniform, badge, insignia or identification card of a legislative security officer.

(2) For greater certainty, a provision of a directive issued under subsection (1) is binding on a person to whom it applies.

Legislative precinct security agreement

22.4 The Speaker and Minister of Public Safety and Emergency Services shall enter into an agreement respecting the provision of security within the legislative precinct.

Information-sharing agreements

22.5 For the purpose of providing security services within the legislative precinct, the Legislative Assembly Office may enter into an agreement with a police service or a municipal, provincial or federal government that authorizes the collection, use and disclosure of personal information between the Legislative Assembly Office and that service or government.

Agreements with law enforcement agencies

22.6 The Speaker may enter into an agreement with a law enforcement agency to have members of the law enforcement agency provide security services within the legislative precinct in specified circumstances as determined by the Speaker.

Legislative security officer appointment and authorization

22.7(1) The Speaker may, in accordance with the regulations and directives issued under section 22.3, appoint, in writing, an individual as a legislative security officer for the purposes of providing security services within the legislative precinct.

(2) A legislative security officer's appointment must set out each of the following:

- (a) the legislative security officer's duties in respect of the provision of security services within the legislative precinct;
- (b) each weapon, ammunition and equipment that the legislative security officer is authorized to possess, carry and use within the legislative precinct for the purpose of carrying out the legislative security officer's duties;
- (c) the terms and conditions that apply to the legislative security officer's authorization referred to in clause (b), if any;
- (d) any other matter as determined by the Speaker.

(3) A legislative security officer is authorized to provide security services within the legislative precinct only in accordance with the legislative security officer's appointment.

Delegation of powers

22.8 The Speaker may, in writing, delegate any power or duty under this Division to a legislative security officer and may impose any terms or conditions on that delegation.

No impersonation of legislative security officer

22.9 An individual shall not, unless the individual is appointed as a legislative security officer under section 22.7(1), hold themselves out to be a legislative security officer.

Peace officer under the Criminal Code (Canada)

22.91(1) For the purposes of the application of the *Criminal Code* (Canada), a legislative security officer is employed for the preservation and maintenance of the public peace and has the powers and protections of a peace officer while performing the duties and exercising the powers of a legislative security officer under this Division

- (a) within the legislative precinct, and
- (b) outside of the legislative precinct
 - (i) while in fresh pursuit, or
 - (ii) if the legislative security officer has reasonable grounds to believe that an individual poses a threat to the security of the legislative precinct, while taking reasonable action to remove or mitigate the threat.

(2) For greater certainty, a legislative security officer is not a peace officer appointed under the *Peace Officer Act*.

No unauthorized weapon within legislative precinct

22.92 An individual shall not possess, carry or use a weapon within the legislative precinct unless authorized under this Division to do so.

Security measures on entry into legislative precinct

22.93(1) A legislative security officer may require an individual entering the legislative precinct to verify the individual's identity and be screened for weapons.

(2) A legislative security officer may refuse entry to an individual into the legislative precinct if

- (a) the legislative security officer is not satisfied as to the individual's identity, or
- (b) the individual refuses to be screened for weapons.

(3) In refusing entry to an individual in accordance with subsection (2), a legislative security officer may use such reasonable force as is necessary to do so.

Security measures within the legislative precinct

22.94(1) If a legislative security officer reasonably suspects that an individual who is within the legislative precinct possesses, is carrying or is using a weapon and is not authorized to do so, or poses a threat to the security of the legislative precinct, the legislative security officer may do any of the following:

- (a) request to screen the individual to determine whether the individual possesses or is carrying a weapon;
- (b) if the legislative security officer determines that the individual possesses or is carrying a weapon, seize the weapon;
- (c) request the individual to immediately leave the legislative precinct;
- (d) if the individual refuses to consent to a weapons screening or refuses to leave the legislative precinct, remove the individual from the legislative precinct.

(2) In seizing a weapon in accordance with subsection (1)(b) or removing an individual from the legislative precinct in accordance with subsection (1)(d), a legislative security officer may use such reasonable force as is necessary to do so.

Security services to members of the Executive Council

22.95 The Speaker shall permit the provision of security services within the legislative precinct to members of the Executive Council by an individual who is not a legislative security officer.

Injunction

22.96 If a person has contravened or is contravening a provision of this Division or the regulations made under this Division, the Court may, on application by the Speaker, make an order restraining that person from contravening or continuing to contravene that provision, whether or not a conviction has been adjudged in respect of the contravention.

Offence and penalty

22.97 A person who contravenes a provision of this Division or the regulations made under this Division is guilty of an offence and liable to a fine of not more than \$10 000 or to a term of imprisonment not exceeding 6 months, or to both a fine and imprisonment.

Lieutenant Governor in Council regulations

22.98 The Lieutenant Governor in Council may make regulations

- (a) respecting the eligibility, qualifications and training requirements that an individual must meet to be appointed as a legislative security officer under section 22.7(1);
- (b) respecting the training and performance requirements that apply to a legislative security officer, including the consequences of a legislative security officer's breach of a requirement;
- (c) respecting reporting requirements in the case of
 - (i) the use of excessive force by a legislative security officer,

- (ii) the use of a prescribed weapon or equipment by a legislative security officer in the prescribed circumstances,
 - (iii) an incident involving serious injury to or the death of any person that occurs within the legislative precinct and that may have resulted from the actions of a legislative security officer,
 - (iv) the loss or theft of a legislative security officer's weapon,
 - (v) a matter of a serious or sensitive nature related to the actions of a legislative security officer, or
 - (vi) a criminal allegation or charge against a legislative security officer;
- (d) prescribing to whom and the period within which a report referred to in clause (c) must be made;
 - (e) respecting an investigation of a matter referred to in clause (c);
 - (f) respecting the record management system that must be maintained for the purpose of recording a matter referred to in clause (c);
 - (g) prescribing the types of weapons, ammunition and equipment that legislative security officers may be authorized to use under their appointment;
 - (h) respecting the storage of the weapons, ammunition and equipment referred to in clause (g);
 - (i) defining any word or expression used but not defined in this Division.

(4) This section, except subsection (3) to the extent that it enacts section 22.98, comes into force on Proclamation.

(4) Coming into force.

Provincial Court Act

Amends RSA 2000 cP-31

3(1) The *Provincial Court Act* is amended by this section.

(2) Sections 3(2) and 5 are amended by striking out “Minister of Justice and Solicitor General” and substituting “Minister of Justice”.

(3) Section 9 is amended

(a) in subsection (1)(i) by striking out “\$50 000” and substituting “\$200 000”;

(b) in subsections (1.1) and (2) by striking out “Minister of Justice and Solicitor General” and substituting “Minister of Justice”.

(4) Sections 9.1(8)(d) and (10), 9.12(2), 9.23(9.1), 9.24(11.1), 9.3(5.1), 9.31, 9.42(1) and 9.51(5) are amended by striking out “Minister of Justice and Solicitor General” and substituting “Minister of Justice”.

Referendum Act

Amends RSA 2000 cR-8.4

4(1) The *Referendum Act* is amended by this section.

(2) Section 3 is amended by adding “ordered under section 1 or 2” after “at a referendum”.

Provincial Court Act

3(1) Amends chapter P-31 of the Revised Statutes of Alberta 2000.

(2) Updates terminology.

(3) Section 9 presently reads in part:

9(1) The Lieutenant Governor in Council may make regulations

(i) prescribing an amount, not to exceed \$50 000, for the purposes of section 9.6;

(1.1) The Court may make recommendations to the Minister of Justice and Solicitor General respecting regulations to be made under subsection (1)(i.2).

(2) The Minister of Justice and Solicitor General may make regulations

(4) Updates terminology.

Referendum Act

4(1) Amends chapter R-8.4 of the Revised Statutes of Alberta 2000.

(2) Section 3 presently reads:

3 The question or questions to be put to the electors at a referendum shall be determined by a resolution of the Legislative Assembly on the motion of a member of the Executive Council.

(3) This section is deemed to have come into force on the coming into force of the *Constitutional Referendum Amendment Act, 2020*.

Sale of Goods Act

Amends RSA 2000 cS-2

5(1) The *Sale of Goods Act* is amended by this section.

(2) Section 25(1) is repealed and the following is substituted:

Acquisition of title to grain

25(1) When grain is sold and delivered at an elevator licensed under the *Canada Grain Act* (Canada) to the manager or operator of the elevator as defined in that Act or to a grain dealer licensed under that Act, the buyer acquires a good title to the grain so bought and delivered if the buyer buys it in good faith and without actual knowledge of any defect or want of title on the part of the seller in the grain so sold and delivered.

Trustee Act

Amends SA 2022 cT-8.1

6(1) The *Trustee Act* is amended by this section.

(2) Section 26 is amended

- (a) in subsection (3) by striking out “the trust property vests in the court until a new trustee is appointed” and substituting “the trust does not fail because of the absence of a trustee”;**

- (3) Coming into force.

Sale of Goods Act

- 5(1)** Amends chapter S-2 of the Revised Statutes of Alberta 2000.

- (2) Section 25(1) presently reads:

25(1) When grain is sold and delivered at an elevator licensed under the Canada Grain Act (Canada) to the manager or operator of the elevator as defined in that Act or to a track buyer licensed under that Act, the buyer acquires a good title to the grain so bought and delivered if the buyer

- (a) buys it in good faith and without actual knowledge of any defect or want of title on the part of the seller in the grain so sold and delivered, and*
- (b) keeps a record showing the kind of vehicle from which the grain is delivered into the elevator or car, as the case may be, and if that vehicle is a motor propelled vehicle or a trailer drawn by a motor propelled vehicle, the licence number of it.*

Trustee Act

- 6(1)** Amends chapter T-8.1 of the Statutes of Alberta, 2022.

- (2) Section 26 presently reads in part:

(3) If a person who is a sole trustee or the last remaining trustee of a trust ceases to be a trustee and a new trustee has not been appointed or there is otherwise no trustee of a trust, the trust property vests in the court until a new trustee is appointed.

(b) in subsection (4) by striking out “or the court in which”.

(4) A vesting under this section has the same effect as if the property had been actually transferred to the person in whom or the court in which the property is vested.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
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