



Province of Alberta

PROTECTION AGAINST FAMILY VIOLENCE ACT

Revised Statutes of Alberta 2000
Chapter P-27

Current as of March 30, 2018

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca

Copyright and Permission Statement

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20__.*

*The year of first publication of the legal materials is to be completed.

Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2013 cC-12.5 s19 adds heading after s1, amends ss12(a) and (b), 13 and 14, adds ss17 to 23.

Regulations

The following is a list of the regulations made under the *Protection Against Family Violence Act* that are filed as Alberta Regulations under the Regulations Act

| | Alta. Reg. | <i>Amendments</i> |
|---|-------------------|---|
| Protection Against Family Violence Act | | |
| Protection Against Family Violence | 80/99 | 206/2001, 354/2003, 192/2006, 68/2008, 55/2009, 134/2011, 31/2012, 14/2016 |

PROTECTION AGAINST FAMILY VIOLENCE ACT

Chapter P-27

Table of Contents

- 1 Definitions
- 2 Emergency protection order
- 3 Confirmation of emergency protection order
- 4 Queen's Bench protection order
- 5 Notice of order
- 6 Application for order
- 7 Duration of order
- 8 Confidentiality
- 9 Effect of order on property and leasehold interest
- 10 Warrant permitting entry
- 11 Rights not diminished by Act
- 12 Immunity
- 13 Prohibition
- 13.1 Offences and penalties
- 13.2 Arrest without a warrant
- 14 Regulations

Part 2 Family Violence Death Reviews

- 15 Family Violence Death Review Committee
- 16 Role of Committee
- 17 Right to information
- 18 Report respecting a review
- 19 Annual report
- 20 Members not compellable as witnesses
- 21 Communications privileged
- 22 Protection of Committee and its members
- 23 Regulations

Preamble

WHEREAS the Government of Alberta recognizes and values the family as the basic unit of society;

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

WHEREAS the Government of Alberta is committed to protecting victims of family violence from further violence;

WHEREAS an effective response to family violence provides an immediate period of safety to victims of family violence;

WHEREAS the Government of Alberta is committed to holding family members who are violent towards other family members accountable for their actions and the consequences of their actions; and

WHEREAS the Government of Alberta is committed to breaking the cycle of family violence by preventing and deterring further violence;

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

Definitions

1(1) In this Act,

- (a) “claimant” means a family member for whom a protection order is sought or granted;
- (a.1) “Committee” means the Family Violence Death Review Committee established under section 15;
- (a.2) “custodian” means a custodian as defined in the *Health Information Act*;
- (a.3) “Department” means the department of the Government of Alberta that is administered by the Minister;
- (b) repealed 2011 c4 s2;
- (c) “emergency protection order” means an order granted under section 2;
- (d) “family members” means
 - (i) persons who are or have been married to one another, who are or have been adult interdependent partners of one another or who are residing or have resided together in an intimate relationship,

- (ii) persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time,
 - (iii) persons who are related to each other by blood, marriage or adoption or by virtue of an adult interdependent relationship,
 - (iv) any children in the care and custody of a person referred to in subclauses (i) to (iii), or
 - (v) persons who reside together where one of the persons has care and custody over the other pursuant to an order of the court;
- (e) “family violence” includes
- (i) any intentional or reckless act or omission that causes injury or property damage and that intimidates or harms a family member,
 - (ii) any act or threatened act that intimidates a family member by creating a reasonable fear of property damage or injury to a family member,
 - (iii) forced confinement,
 - (iv) sexual abuse, and
 - (v) stalking,
- but is not to be construed so as to limit a parent or a person standing in the place of a parent from using force by way of correction toward a child who is under the care of the parent or person if the force does not exceed what is reasonable under the circumstances;
- (f) “judge” means a justice of the Court of Queen’s Bench, a judge of the Provincial Court or a justice of the peace;
- (f.1) “health information” means health information as defined in the *Health Information Act*;
- (f.2) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f.3) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;

- (g) “protection order” means an emergency protection order and a Queen’s Bench protection order;
 - (g.1) “public body” means a public body as defined in the *Freedom of Information and Protection of Privacy Act*;
 - (h) “Queen’s Bench protection order” means an order granted under section 4;
 - (h.1) “record” means
 - (i) a record as defined in the *Freedom of Information and Protection of Privacy Act*, and
 - (ii) a record as defined in the *Health Information Act*;
 - (i) “residence” means a place where a claimant normally or temporarily resides, and includes a place that a claimant has vacated due to family violence;
 - (j) “respondent” means a family member against whom a protection order is sought or granted;
 - (j.1) “review” means a review under section 16(a);
 - (k) “sexual abuse” means sexual contact of any kind that is coerced by force or threat of force;
 - (k.1) “stalking” means repeated conduct by a person, without lawful excuse or authority, that the person knows or reasonably ought to know constitutes harassment of a family member and causes a family member to fear for a family member’s personal safety;
 - (l) “weapon” means a weapon as defined in the *Criminal Code* (Canada).
- (2)** For the purposes of subsection (1)(k.1), “conduct” includes
- (a) following a family member or anyone known to the family member from place to place,
 - (b) communicating directly or indirectly with or contacting a family member or anyone known to the family member,
 - (c) being present at or watching any place where a family member, or anyone known to the family member, resides, works, carries on business or is present or likely to be present,

- (d) engaging in threatening conduct directed at a family member or anyone known to the family member, and
- (e) any other behaviour that a judge considers to be stalking.

RSA 2000 cP-27 s1;2002 cA-4.5 s65;2006 c8 s4;
2011 c4 s2;2013 cC-12.5 s19

Emergency protection order

2(1) An order under this section may be granted by a judge of the Provincial Court or a justice of the peace, on application without notice to the respondent, if the judge or justice of the peace determines

- (a) that family violence has occurred,
 - (a.1) that the claimant has reason to believe that the respondent will continue or resume carrying out family violence, and
 - (b) that, by reason of seriousness or urgency, the order should be granted to provide for the immediate protection of the claimant and other family members who reside with the claimant.

(2) In determining whether an order should be granted, the judge of the Provincial Court or justice of the peace must consider, but is not limited to considering, the following:

- (a) repealed 2006 c8 s5;
- (b) the history of family violence by the respondent toward the claimant and other family members;
 - (b.1) whether there is or has been controlling behaviour by the respondent towards the claimant or other family members;
 - (b.2) whether the family violence is repetitive or escalating;
- (c) the existence of any immediate danger to persons or property;
 - (c.1) the vulnerability of elderly claimants;
 - (c.2) the effect of exposure to family violence on any child of the claimant or on any child who is in the care and custody of the claimant;
- (d) the best interests of the claimant and any child of the claimant or any child who is in the care and custody of the claimant;

- (e) the claimant's need for a safe environment to arrange for longer-term protection from family violence.

(2.1) Without excluding any other circumstance, in determining whether an order under this section should be granted, by a judge of the Provincial Court or a justice of the peace, the following circumstances should not preclude the granting of an order:

- (a) that an emergency protection order, Queen's Bench protection order, restraining order or order of any Court ordering the respondent not to contact or communicate with the claimant has been granted previously;
- (b) that the respondent has previously complied with an emergency protection order, Queen's Bench protection order, restraining order or order of any Court ordering the respondent not to contact or communicate with the claimant;
- (c) that the respondent is temporarily absent from the residence at the time of application for an order;
- (d) that the claimant is temporarily residing in an emergency shelter or other safe place;
- (e) that criminal charges have been or may be laid against the respondent;
- (f) that the claimant has a history of returning to the residence and of residing with the respondent after occurrences of family violence.

(3) An order under this section may include any or all of the following:

- (a) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the claimant or other family members, including the residence, property, business, school or place of employment of the claimant or family members;
- (b) a provision restraining the respondent from communicating with or contacting the claimant and other specified persons;
- (c) a provision granting the claimant and other family members exclusive occupation of the residence for a specified period, regardless of whether the residence is jointly owned or leased by the parties or solely owned or leased by one of the parties;

- (d) a provision directing a peace officer to remove the respondent from the residence immediately or within a specified time;
- (e) a provision directing a peace officer to accompany a specified person to the residence within a specified time to supervise the removal of personal belongings in order to ensure the protection of the claimant;
- (f) a provision directing the seizure and storage of weapons where the weapons have been used or have been threatened to be used to commit family violence;
- (g) any other provision that the judge of the Provincial Court or justice of the peace considers necessary to provide for the immediate protection of the claimant.

(3.1) A provision of an order referred to in subsection (3)(b) is to be interpreted as prohibiting communication and contact by any means, including through a third party, unless the order expressly provides otherwise.

(4) An order under this section may be subject to any terms and conditions that the judge of the Provincial Court or justice of the peace considers appropriate.

(5) Subject to section 5(1), an order under this section takes effect immediately on the granting of the order.

(6) An order under this section must indicate the date, time and place at which the order is scheduled for review at a hearing by a justice of the Court of Queen's Bench, which may not be later than 9 working days after the granting of the order.

RSA 2000 cP-27 s2;2006 c8 s5;2008 c 32 s24;
2011 c4 s3

Confirmation of emergency protection order

3(1) If a judge of the Provincial Court or a justice of the peace grants an emergency protection order, the judge or justice of the peace must, immediately after granting the order, forward to the Court of Queen's Bench a copy of the order and all supporting documentation, including any notes.

(2) Repealed 2011 c4 s4.

(3) At a hearing referred to in section 2(6), the justice of the Court of Queen's Bench

- (a) must consider all the evidence that was before the judge of the Provincial Court or justice of the peace who made the order under section 2, and
 - (b) may allow additional evidence to be presented.
- (4)** At the hearing, the justice of the Court of Queen's Bench may, whether or not the claimant or the respondent is in attendance,
- (a) revoke the order,
 - (b) direct that an oral hearing be held,
 - (c) confirm the order, in which case the order becomes an order of the Court of Queen's Bench, or
 - (d) revoke the order and grant an order under section 4.

RSA 2000 cP-27 s3;2008 c 32 s24;2011 c4 s4

Queen's Bench protection order

- 4(1)** An order under this section may be granted by a justice of the Court of Queen's Bench on application if the justice determines that the claimant has been the subject of family violence.
- (2)** An order under this section may include any or all of the following:
- (a) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the claimant or other family members, including the residence, property, business, school or place of employment of the claimant or family members;
 - (b) a provision restraining the respondent from contacting the claimant or associating in any way with the claimant and from subjecting the claimant to family violence;
 - (c) a provision granting the claimant and other family members exclusive occupation of the residence for a specified period, regardless of whether the residence is jointly owned or leased by the parties or solely owned or leased by one of the parties;
 - (d) a provision requiring the respondent to reimburse the claimant for monetary losses suffered by the claimant and any child of the claimant or any child who is in the care and custody of the claimant as a direct result of the family violence, including loss of earnings or support, medical and dental expenses, out-of-pocket losses for injuries sustained,

moving and accommodation expenses, legal expenses and costs of an application under this Act;

- (e) a provision granting either party temporary possession of specified personal property, including a vehicle, cheque-book, bank cards, children's clothing, medical insurance cards, identification documents, keys or other necessary personal effects;
- (f) a provision restraining either party from taking, converting, damaging or otherwise dealing with property that the other party may have an interest in;
- (g) a provision restraining the respondent from making any communication likely to cause annoyance or alarm to the claimant, including personal, written or telephone contact or contact by any other communication device directly or through the agency of another person, with the claimant and other family members or their employers, employees, co-workers or other specified persons;
- (h) a provision directing a peace officer to remove the respondent from the residence within a specified time;
- (i) a provision directing a peace officer to accompany a specified person to the residence within a specified time to supervise the removal of personal belongings in order to ensure the protection of the claimant;
- (j) a provision requiring the respondent to post any bond that the Court considers appropriate for securing the respondent's compliance with the terms of the order;
- (k) a provision requiring the respondent to receive counselling;
- (k.1) a provision authorizing counselling for a child referred to in section 1(1)(d)(iv) without the consent of the respondent;
- (l) a provision directing the seizure and storage of weapons where the weapons have been used or have been threatened to be used to commit family violence;
- (m) any other provision that the Court considers appropriate.

(3) A provision of an order referred to in subsection (2)(b) is to be interpreted as prohibiting contact by any means, including through a third party, unless the order expressly provides otherwise.

RSA 2000 cP-27 s4;2006 c8 s6;2011 c4 s5

Notice of order

5(1) A provision of a protection order is not effective in relation to a person unless the person has actual notice of the provision.

(2) Notice of the provisions

- (a) of an emergency protection order must be given in accordance with the regulations, and
- (b) of a Queen's Bench protection order must be given in accordance with the *Alberta Rules of Court*.

(3) A copy of an order, or of any variation of an order, must be served,

- (a) in the case of an emergency protection order, in accordance with the regulations, and
- (b) in the case of a Queen's Bench protection order, in accordance with the *Alberta Rules of Court*.

1998 cP-19.2 s5

Application for order

6(1) An application for a protection order may be made

- (a) by a person who claims to have been the subject of family violence by a family member,
- (b) on behalf of a person referred to in clause (a), with that person's consent, by a person or a member of a category of persons designated in the regulations, or
- (c) by any person on behalf of a person referred to in clause (a), with leave of the judge.

(2) An application for an emergency protection order must be made in accordance with the regulations, and may be made by telecommunication.

(3) Unless this Act otherwise provides, notice of an application under this Act must be given to the respondent or claimant, as the case may be.

(4) An application to the Court of Queen's Bench under this Act must be made in accordance with the *Alberta Rules of Court*.

RSA 2000 cP-27 s6;2006 c8 s7;2009 c53 s143

Duration of order

7(1) Subject to subsection (2), a protection order must be granted for such specified duration as the judge considers appropriate in the circumstances.

(2) A protection order under this Act may not exceed one year unless it is extended by a further order under subsection (3).

(3) The Court of Queen's Bench may, on application, extend the term of a protection order for periods not exceeding one year each.

1998 cP-19.2 s7

Confidentiality

8(1) The clerks of the Court of Queen's Bench and of the Provincial Court must keep confidential any information relating to the location of a claimant unless the claimant or a person acting on the claimant's behalf consents to the giving of the information.

(1.1) Despite subsection (1), if a judge orders that the respondent be restrained from attending at or entering the residence of the claimant or another family member, the address of the residence may be disclosed by the clerk of the court as part of the order or in the transcript of the proceedings that resulted in the order being granted.

(2) The judge may order that all or any member of the public, other than the parties, may be excluded from any hearing under this Act.

(3) On the request of the claimant or the respondent or on the initiative of the judge, the judge may make an order prohibiting the publication of a report of a hearing or any part of a hearing if the judge believes that the publication of the report would have an adverse effect on or cause undue hardship to the claimant or respondent or any child of the claimant or respondent or any child who is in the care or custody of the claimant or respondent.

RSA 2000 cP-27 s8;2006 c8 s8

Effect of order on property and leasehold interest

9(1) A protection order does not in any manner affect the title to or an ownership interest in any real or personal property held jointly by the parties or held solely by one of the parties.

(2) Where a residence is leased by a respondent under an oral, written or implied agreement and a claimant who is not a party to the lease is granted exclusive occupation of that residence, no landlord may evict the claimant solely on the basis that the claimant is not a party to the lease.

(3) On the request of a claimant mentioned in subsection (2), the landlord must advise the claimant of the status of the lease and serve the claimant with notice of any claim against the respondent arising from the lease, and the claimant, at the claimant's option, may assume the responsibilities of the respondent under the lease.

1998 cP-19.2 s9

Warrant permitting entry

10(1) A judge may issue a warrant, on application by a person designated in the regulations and without notice to the respondent, if the judge is satisfied by information on oath that there are reasonable and probable grounds to believe that

- (a) the person who provided the information on oath has been refused access to a family member, and
- (b) the family member may have been the subject of family violence and will be found at the place to be searched.

(2) A warrant issued by a judge authorizes the person named in the warrant

- (a) to enter the place named in the warrant and any other structure or building used in connection with the place,
- (b) to search for, assist or examine the family member, and
- (c) with the family member's consent, to remove the family member from the premises for the purpose of assisting or examining the family member.

1998 cP-19.2 s10

Rights not diminished by Act

11 An application for a protection order is in addition to and does not diminish any existing right of action of a person who has been the subject of family violence by a family member.

1998 cP-19.2 s11

Immunity

12 No action lies against a peace officer, a clerk of a court or any other person by reason of anything done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them in good faith

- (a) pursuant to or in the exercise or purported exercise of any power conferred by this Act or the regulations, or

- (b) in the carrying out or purported carrying out of any decision or order made under this Act or the regulations or any duty imposed by this Act or the regulations.

1998 cP-19.2 s12

Prohibition

13 No person shall, with malicious intent, make a frivolous or vexatious complaint under this Act.

1998 cP-19.2 s13

Offences and penalties

13.1(1) A person who

- (a) contravenes or fails to comply with a provision of a protection order, other than a provision referred to in section 4(2)(d), or
- (b) obstructs or interferes with any person who is exercising a right or power or carrying out a duty or function under a provision of a protection order,

and who has actual notice of the provision under section 5, is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1)(a) or (b) is liable

- (a) for a first offence, to a fine of not more than \$5000 or to imprisonment for a term of not more than 90 days, or both,
- (b) for a 2nd offence, to imprisonment for a term of not less than 14 days and not more than 18 months, and
- (c) for a 3rd or subsequent offence, to imprisonment for a term of not less than 30 days and not more than 24 months.

2011 c4 s6

Arrest without a warrant

13.2 A peace officer may arrest without warrant a person the peace officer believes on reasonable grounds has committed an offence under section 13.1(1).

2011 cC-11.5 s32

Regulations

14 The Lieutenant Governor in Council may make regulations

- (a) defining any word or phrase used in this Act but not defined in this Act;

- (b) respecting the procedures to be followed for applications and other proceedings under this Act;
- (c) designating persons or categories of persons who may apply for protection orders on behalf of persons referred to in section 6(1)(a);
- (d) designating persons or categories of persons who may apply for a warrant under section 10;
- (e) respecting the giving of notices and the service of documents under this Act in respect of emergency protection orders;
- (f) respecting the retention, disposition or sealing of records resulting from court proceedings under this Act;
- (g) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

1998 cP-19.2 s14

Part 2

Family Violence Death Reviews

Family Violence Death Review Committee

15(1) The Minister may establish a Family Violence Death Review Committee.

- (2)** The Minister may, with respect to the Committee,
- (a) appoint or provide for the manner of the appointment of its members,
 - (b) prescribe the term of office of any member,
 - (c) designate a chair, and
 - (d) authorize or provide for the payment of remuneration and expenses of its members.
- (3)** In appointing members to the Committee the Minister shall ensure the Committee includes persons with knowledge and expertise in the area of family violence.
- (4)** A member of the Committee continues to hold office after the expiry of that member's term of office until the member is reappointed, a successor is appointed or a period of 3 months has expired, whichever occurs first.

(5) Subject to this Part, the Committee may determine its own procedures.

2013 cC-12.5 s19

Role of Committee

16 The role of the Committee is

- (a) to review incidents of family violence resulting in deaths;
- (b) to provide advice and recommendations to the Minister respecting the prevention and reduction of family violence.

2013 cC-12.5 s19

Right to information

17(1) The Committee is entitled to any information, including personal information and health information, that

- (a) is in the custody or under the control of a public body or custodian, and
- (b) is necessary to enable the Committee to carry out a review.

(2) A public body or a custodian that is a public body shall, on request of the Committee, disclose to the Committee the information to which the Committee is entitled under subsection (1).

(3) A custodian that is not a public body may, on request of the Committee, disclose to the Committee the information to which the Committee is entitled under subsection (1).

(4) Nothing in this section compels the disclosure of any information or records that are subject to any type of privilege, including solicitor-client privilege and parliamentary privilege.

2013 cC-12.5 s19

Report respecting a review

18(1) On completing a review, the Committee shall prepare a written report containing

- (a) its findings respecting the incident that is the subject of the review, and
- (b) its advice and recommendations to the Minister.

(1.1) In providing the advice and recommendations referred to in subsection (1)(b), the Committee shall consider any recommendations made by the Child and Youth Advocate in a report made available by the Advocate under section 15.4 of the *Child and Youth Advocate Act* respecting a death arising from the

same incident in respect of which a report is prepared under subsection (1).

(2) The findings of the Committee must not include any findings of legal responsibility or any conclusion of law.

(3) The Committee shall

- (a) provide the report prepared under subsection (1) to the Minister but shall not disclose it to any other person or body, and
- (b) prepare and provide to the Minister a publicly releasable version of the report.

(4) For the purposes of subsection (3)(b), a publicly releasable version of a report must not disclose the name of, or any identifying information about, the individual whose death is the subject of the review or any other individual involved in the death.

(5) The Minister shall make the publicly releasable version of the report public at a time and in a form and manner the Minister considers appropriate.

2013 cC-12.5 s19;2017 c8 s3

Annual report

19(1) As soon as possible after the end of each year, the Committee shall prepare and provide to the Minister a report summarizing the activities of the Committee in that year.

(2) On receiving a report under subsection (1), the Minister shall table the report in the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

2013 cC-12.5 s19

Members not compellable as witnesses

20 A member of the Committee shall not give or be compelled to give evidence in an action in respect of any matter coming to his or her knowledge in the course of a review, except in a prosecution for perjury.

2013 cC-12.5 s19

Communications privileged

21 The following information, records and reports are privileged and not admissible in evidence in an action, except in a prosecution for perjury:

- (a) anything said, any information supplied and any record produced during a review;

- (b) a report prepared under section 18(1) and provided to the Minister under section 18(3)(a).

2013 cC-12.5 s19

Protection of Committee and its members

22(1) Subject to subsection (2), no action lies or may be commenced or maintained against

- (a) the Committee, or
- (b) a member of the Committee

in respect of anything done or omitted to be done in the exercise or intended exercise of any power under this Part or in the performance or intended performance of any duty or function under this Part.

(2) Subsection (1) does not apply in respect of anything done, or omitted to be done, in bad faith.

2013 cC-12.5 s19

Regulations

23 The Lieutenant Governor in Council may make regulations

- (a) defining any word or expression used in this Part but not defined in this Part;
- (b) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Part.

2013 cC-12.5 s19



Printed on Recycled Paper 