

Feb 18/20

# BILL

No. 141

## An Act respecting the Disclosure of Certain Information in accordance with an Interpersonal Violence Disclosure Protocol

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(Assented to )

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

#### Short title

1 This Act may be cited as *The Interpersonal Violence Disclosure Protocol (Clare's Law) Act*.

#### Definitions

2 In this Act:

**"applicant"** means:

- (a) an individual who considers that there is a risk of interpersonal violence to the individual; or
- (b) a prescribed individual or an individual who is a member of a prescribed class of individuals;

**"disclosure information"** means prescribed information;

**"Interpersonal Violence Disclosure Protocol"** means the Interpersonal Violence Disclosure Protocol, being the protocol through which a local police service may disclose information, including the terms and conditions on which and the manner in which that information may be disclosed, that is prescribed or adopted;

**"local police service"** means a police service or regional police service as defined in *The Police Act, 1990* or the Royal Canadian Mounted Police detachment responsible for providing police services to the area in which the disclosure will be made;

**"minister"** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

**"person at risk"** means a prescribed individual or an individual who is a member of a prescribed class of individuals;

**"prescribed"** means prescribed in the regulations.

### Disclosure

3(1) A local police service may provide disclosure information to an applicant or a person mentioned in subsection (2) in accordance with the Interpersonal Violence Disclosure Protocol.

(2) Subject to the Interpersonal Violence Disclosure Protocol, the following persons may assist with or make an application on behalf of an applicant:

- (a) with the consent of the applicant:
  - (i) a person approved by the person's employer to make an application pursuant to this Act and who is employed:
    - (A) by an agency or organization to assist persons for whom the agency or organization provides accommodation in an emergency or transitional shelter because of homelessness or abuse; or
    - (B) to provide support for victims of interpersonal violence;
  - (ii) a lawyer;
  - (iii) a member of a local police service;
  - (iv) a member, as defined in *The Social Workers Act*, of the Saskatchewan Association of Social Workers;
  - (v) a member, as defined in *The Psychologists Act, 1997*, of the Saskatchewan College of Psychologists;
  - (vi) a duly qualified medical practitioner;
  - (vii) a practising member, as defined in *The Registered Nurses Act, 1988*, of The Saskatchewan Registered Nurses' Association; or
  - (viii) a practising member, as defined in *The Registered Psychiatric Nurses Act*, of the Registered Psychiatric Nurses Association of Saskatchewan;
- (b) any other person or member of a prescribed class of persons.

(3) A local police service may provide disclosure information to an individual who has been determined to be a person at risk in accordance with the Interpersonal Violence Disclosure Protocol.

(4) Every person who receives disclosure information pursuant to this section shall comply with the terms and conditions of the Interpersonal Violence Disclosure Protocol, including the following terms and conditions:

- (a) terms and conditions for safeguarding disclosure information received by that person;
- (b) terms and conditions prohibiting the subsequent use and disclosure of the disclosure information for purposes not related to the Interpersonal Violence Disclosure Protocol, except:
  - (i) with the consent of the person to whom the disclosure information relates; or
  - (ii) if required or authorized by law.

**Other obligations not affected**

4 Nothing in this Act prevents a local police service from disclosing information, including disclosure information, that the local police service is otherwise by law permitted or authorized to disclose.

**Immunity**

5 No action or other proceeding lies or shall be instituted against the minister, the Government of Saskatchewan, a local police service, an agent, employee or member of a local police service, an agent or employee of the Government of Saskatchewan, a board of police commissioners or a member of a board of police commissioners based on any cause of action arising out of, resulting from, relating to or incidental to:

- (a) the enactment of this Act;
- (b) the application in good faith of all or any provision of this Act;
- (c) anything done, caused, permitted or authorized to be done, attempted to be done or omitted to be done in good faith pursuant to or in connection with this Act;
- (d) any disclosure of disclosure information about an individual by a police service if the disclosure is made in good faith and in conformity with this Act.

**Confidentiality**

6 Subject to this Act and the regulations, no person shall disclose any disclosure information that comes to the knowledge of that person pursuant to this Act, except if authorized in the exercise of the powers, performance of the responsibilities or carrying out of the functions of the person in accordance with this Act.

**Non-compellability**

7(1) A local police service and members, agents or employees of a local police service are not compellable to:

- (a) give evidence in any proceeding of a judicial nature concerning any information that comes to their knowledge pursuant to this Act; or
  - (b) produce any files, papers, information, reports, correspondence or other documents relating to the Interpersonal Violence Disclosure Protocol.
- (2) Subsection (1) does not apply to an application for judicial review.

**Non-application of Act**

8 All or any portion of any prescribed provision of this Act does not apply:

- (a) to any prescribed person or any prescribed class of persons; or
- (b) in any prescribed circumstance.

**Regulations**

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

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) authorizing individuals or classes of individuals who may be applicants;
- (c) prescribing individuals or classes of individuals who are persons at risk;

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- (d) prescribing persons or classes of persons who may assist with or make an application on behalf of an applicant;
  - (e) subject to subsection (2), prescribing an Interpersonal Violence Disclosure Protocol;
  - (f) prescribing information or classes of information as disclosure information;
  - (g) exempting any person or any class of persons from all or any portion of any provision of this Act, and prescribing any circumstance in which all or any provision of this Act does not apply;
  - (h) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
  - (i) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) For the purposes of clause (1)(e), the Lieutenant Governor in Council may make regulations:
- (a) adopting, as amended from time to time or otherwise, all or any part of a protocol relating to the collection, use or disclosure of disclosure information;
  - (b) amending for the purposes of this Act all or any part of any protocol adopted pursuant to clause (a).

**Coming into force**

**10** This Act comes into force on proclamation.

2019 Bill 17

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First Session, 30th Legislature, 68 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 17**

**DISCLOSURE TO PROTECT  
AGAINST DOMESTIC VIOLENCE  
(CLARE'S LAW) ACT**

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THE MINISTER OF COMMUNITY AND SOCIAL SERVICES

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 17

2019

### DISCLOSURE TO PROTECT AGAINST DOMESTIC VIOLENCE (CLARE'S LAW) ACT

(Assented to , 2019)

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#### **Preamble**

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

WHEREAS the Government of Alberta recognizes that addressing domestic violence requires a range of prevention and protection measures; and

WHEREAS individuals should have access to information to help them make informed choices and reduce the risk of harm;

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) “applicant” means an individual who applies for disclosure information and
  - (i) believes that they are at risk of domestic violence, or
  - (ii) is authorized to be an applicant in accordance with the regulations;
- (b) “disclosure information” means information prescribed as disclosure information in the regulations;
- (c) “Disclosure Protocol” means the Disclosure Protocol established in the regulations;
- (d) “police service” means a police service as defined in the *Police Act*;
- (e) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f) “person at risk” means an individual who is determined to be a person at risk in accordance with the regulations.

#### **Collection, use and disclosure of information**

**2(1)** A police service or the Minister may collect, use or disclose personal information for the purposes of

- (a) making a disclosure in accordance with section 3(1) or (3),
- (b) determining whether to make a disclosure in accordance with section 3(1) or (3),
- (c) determining whether a person is a person at risk in accordance with the regulations, or
- (d) any other purposes related to this Act identified in the regulations.

(2) If the Minister enters into an agreement with the Government of Canada or the government of any province or territory in relation to the sharing of information for the purposes of this Act or legislation that has similar purposes in the other jurisdiction, then a police service or the Minister may collect, use or disclose personal information for the purposes referred to in subsection (1) in accordance with that agreement.

#### **Disclosure**

3(1) A police service may provide disclosure information to an applicant or a person referred to in subsection (2) in accordance with the Disclosure Protocol.

(2) Subject to the Disclosure Protocol, the following persons may assist with an application for disclosure information or make an application for disclosure information on behalf of an applicant:

- (a) a person who has the consent of the applicant, provided in the manner required by the regulations;
- (b) any other person who is authorized by the regulations to assist with an application or make an application on behalf of an applicant.

(3) A police service may provide disclosure information to a person at risk in accordance with the Disclosure Protocol, regardless of whether or not the person at risk applies for disclosure information.

(4) Every person who receives disclosure information pursuant to this section shall comply with the terms and conditions of the Disclosure Protocol.

#### **Disclosure Protocol**

4 The Disclosure Protocol must include the following:

- (a) terms and conditions for safeguarding disclosure information received by persons at risk;
- (b) terms and conditions prohibiting the subsequent use or disclosure of the disclosure information for purposes not related to this Act unless



- (i) the person to whom the disclosure information relates has provided consent, or
- (ii) the disclosure is required or authorized by law.

**Other obligations not affected**

**5** Nothing in this Act prevents a police service from disclosing information, including disclosure information, that the police service is otherwise permitted or authorized by law to disclose.

**Commissioner's powers and duties not limited**

**6** For greater certainty, nothing in this Act shall be construed as limiting the powers and duties of the Information and Privacy Commissioner under the *Freedom of Information and Protection of Privacy Act*.

**Immunity**

**7** No action or other proceeding lies or shall be instituted against the Minister or an agent, employee, delegate or subdelegate of the Minister, the Government of Alberta or an agent or employee of the Government of Alberta, a police service or an agent, employee or member of a police service or a police committee, police commission or regional police commission or a member of a police committee, police commission or regional police commission based on any cause of action arising out of, resulting from, relating to or incidental to

- (a) the enactment of this Act,
- (b) the application in good faith of this Act or any provision of this Act,
- (c) anything done, caused, permitted or authorized to be done, attempted to be done or omitted to be done in good faith pursuant to or in connection with this Act, and
- (d) any disclosure of disclosure information by a police service if the disclosure is made in good faith.

**Confidentiality**

**8(1)** Subject to the regulations, no person shall disclose any disclosure information that comes to the knowledge of that person

pursuant to this Act, unless that person is authorized by this Act, or otherwise authorized by law, to do so.

(2) Subject to subsection (3), the name of an applicant and information that would identify the applicant is privileged information of the applicant.

(3) The information referred to in subsection (2) may be released if the Minister directs that it may be released.

#### **Non-compellability**

**9(1)** A police service or a member, agent, employee or delegate of a police service and the Minister or a delegate or subdelegate of the Minister is not compellable to

- (a) give evidence in any proceeding of a judicial nature concerning any information that comes into their knowledge pursuant to this Act, or
- (b) produce any file, paper, information, report, correspondence or other document relating to the Disclosure Protocol.

(2) Subsection (1) does not apply for the purposes of a judicial review proceeding.

#### **Non-application of Act**

**10** This Act and any provision of this Act prescribed in the regulations does not apply

- (a) to any person or class of persons prescribed in the regulations for the purpose of this section, or
- (b) in any circumstance prescribed in the regulations for the purpose of this section.

#### **Delegation**

**11(1)** The Minister may delegate to any person any power, duty or function of the Minister under this Act.

(2) Subsection (1) does not apply to any power or duty of the Minister to make regulations as defined in the *Regulations Act*.

(3) A delegation under subsection (1) may include the power to subdelegate.

**Regulations made by the Lieutenant Governor in Council**

**12(1)** The Lieutenant Governor in Council may make regulations

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act, including any word or expression defined in this Act;
- (b) respecting individuals or classes of individuals who may apply for disclosure information;
- (c) respecting the provision of consent by an applicant for the purposes of section 3(2)(a);
- (d) respecting the determination of individuals or classes of individuals who are or may be persons at risk for the purposes of this Act;
- (e) respecting the persons or classes of persons who may assist an applicant with an application or make an application on behalf of an applicant;
- (f) respecting the collection, use or disclosure of information for the purposes of this Act by a police service or the Minister;
- (g) subject to subsection (2), establishing a Disclosure Protocol;
- (h) prescribing information or classes of information as disclosure information;
- (i) respecting the use or disclosure of disclosure information by an applicant or by a person at risk to whom a disclosure has been made under section 3(3);
- (j) exempting any person or any class of persons from the application of this Act or any portion of this Act, or prescribing any circumstance in which this Act or any provision of this Act does not apply;
- (k) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

- (l) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) For the purposes of subsection (1)(g), the Lieutenant Governor in Council may make regulations
  - (a) adopting, as amended from time to time or otherwise, all or any part of any protocol relating to the collection, use or disclosure of disclosure information;
  - (b) amending for the purposes of this Act all or any part of any protocol adopted pursuant to clause (a).
- (3) The Lieutenant Governor in Council may make regulations
  - (a) respecting the establishment of a committee for any purposes related to this Act;
  - (b) respecting the committee referred to in clause (a), including, without limitation,
    - (i) any powers, duties or functions of the committee, and
    - (ii) the remuneration of the committee.

**Regulations made by the Minister**

**13** The Minister may make regulations prescribing forms for the purposes of this Act.

**Coming into force**

**14** This Act comes into force on Proclamation.

First Session, 49th General Assembly  
68 Elizabeth II, 2019

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## **BILL 6**

### **AN ACT RESPECTING DISCLOSURE OF INFORMATION UNDER AN INTERPERSONAL VIOLENCE DISCLOSURE PROTOCOL**

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Received and Read the First Time.....  
Second Reading.....  
Committee.....  
Third Reading.....  
Royal Assent.....

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HONOURABLE ANDREW PARSONS, Q.C.  
Minister of Justice and Public Safety and Attorney General

Ordered to be printed by the Honourable House of Assembly

#### **EXPLANATORY NOTES**

This Bill would provide authority for a police force to disclose information regarding interpersonal violence to a person at risk or to an applicant in accordance with an Interpersonal Violence Disclosure Protocol established by the Lieutenant-Governor in Council.

## **A BILL**

### **AN ACT RESPECTING DISCLOSURE OF INFORMATION UNDER AN INTERPERSONAL VIOLENCE DISCLOSURE PROTOCOL**

*Analysis*

1. Short title
2. Definitions
3. Disclosure
4. Authorized or permitted disclosure not affected
5. Immunity
6. Confidentiality
7. Non-compellability
8. Non-application of Act
9. Regulations
10. Commencement

*Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:*

Short title

1. This Act may be cited as the *Interpersonal Violence Disclosure Protocol Act*.

Definitions

2. In this Act

- (a) "applicant" means
  - (i) an individual who considers that there is a risk of interpersonal violence to the individual, or
  - (ii) an individual or a class of individuals prescribed in the regulations;
- (b) "disclosure information" means information prescribed in the regulations;
- (c) "Interpersonal Violence Disclosure Protocol" means the Interpersonal Violence Disclosure Protocol prescribed in the regulations;
- (d) "police force" means
  - (i) the Royal Newfoundland Constabulary, and
  - (ii) the Royal Canadian Mounted Police;
- (e) "minister" means the minister appointed under the *Executive Council Act* to administer this Act; and
- (f) "person at risk" means an individual or a class of individuals prescribed in the regulations.

Disclosure

3. (1) A police force may, in accordance with the Interpersonal Violence Disclosure Protocol, provide disclosure information to

- (a) an applicant;
- (b) an individual referred to in subsection (2); or
- (c) a person at risk.

(2) An individual or a class of individuals prescribed in the regulations may assist with or make an application on behalf of an applicant in accordance with the Interpersonal Violence Disclosure Protocol.

(3) A person who receives disclosure information under this section shall comply with the terms and conditions of the Interpersonal Violence Disclosure Protocol,

including terms and conditions

- (a) safeguarding disclosure information received by that person; and
- (b) prohibiting the subsequent use and disclosure of the disclosure information for purposes not related to the Interpersonal Violence Disclosure Protocol, except
  - (i) with the consent of the person to whom the disclosure information relates, or
  - (ii) where required or authorized by law.

Authorized or permitted disclosure not affected

4. Nothing in this Act prevents a police force from disclosing information, including disclosure information, which the police force is otherwise permitted or authorized by law to disclose.

Immunity

5. An action or proceeding does not lie against the government of the province, the minister, a police force, an agent, employee or member of a police force, or an agent or employee of the government of the province based on any cause of action arising out of, resulting from, relating to or incidental to

- (a) the enactment of this Act;
- (b) the application in good faith of all or any provision of this Act;
- (c) anything done, caused, permitted or authorized to be done, attempted to be done or omitted to be done in good faith under or in connection with this Act; or
- (d) any disclosure of disclosure information about an individual by a police force where the disclosure is made in good faith and in accordance with this Act.

Confidentiality

6. A person shall not disclose any disclosure information that comes to the knowledge of that person under this Act, except where authorized in the exercise of the powers, performance of the responsibilities or carrying out of the functions of the person under this Act and the regulations.

Non-compellability

7. (1) A police force and members, agents or employees of a police force are not compellable to

- (a) give evidence in any proceeding of a judicial nature concerning any information that comes to their knowledge under this Act; or
- (b) produce any files, papers, information, reports, correspondence or other documents relating to the Interpersonal Violence Disclosure Protocol.

(2) Subsection (1) does not apply to an application for judicial review.

Non-application of Act

8. Any provision, or portion of a provision, of this Act prescribed in the regulations does not apply

- (a) to a person or class of persons prescribed in the regulations; or
- (b) in those circumstances prescribed in the regulations.

#### Regulations

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

- (a) prescribing individuals or classes of individuals who may be applicants;
- (b) prescribing individuals or classes of individuals who are persons at risk;
- (c) prescribing individuals or classes of individuals who may assist with or make an application on behalf of an applicant under subsection 3(2);
- (d) prescribing an Interpersonal Violence Disclosure Protocol;
- (e) prescribing information as disclosure information;
- (f) exempting a person or class of persons from a provision of this Act or any portion of a provision of this Act;
- (g) prescribing any circumstance in which a provision of this Act or any portion of a provision of this Act does not apply;
- (h) defining a word or expression that is used but not defined in this Act; and
- (i) generally to give effect to the purpose of this Act.

(2) The Lieutenant-Governor in Council may, in addition to or instead of regulations made under paragraph (1)(d), adopt by reference and constitute as regulations the whole or part of provisions of a protocol or standard relating to the collection, use or disclosure of disclosure information, with or without modification, and including amendments to the protocol or standard of an organization acceptable to the minister.

(3) A certificate of the minister that a document is a copy of a protocol or standard referred to in subsection (2) or an extract from, a modification of, or an amendment to, a protocol or standard is without further proof presumptive evidence of the content of that protocol, standard, extract or amendment.

#### Commencement

**10.** This Act comes into force on a day to be proclaimed by the Lieutenant-Governor in Council.