

2014 Bill 10

Third Session, 28th Legislature, 63 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 10

**AN ACT TO AMEND THE
ALBERTA BILL OF RIGHTS
TO PROTECT OUR CHILDREN**

MS JANSEN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 10
Ms Jansen

BILL 10

2014

AN ACT TO AMEND THE ALBERTA BILL OF RIGHTS TO PROTECT OUR CHILDREN

(Assented to , 2014)

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

Alberta Bill of Rights

Amends RSA 2000 cA-14

1(1) The *Alberta Bill of Rights* is amended by this section.

(2) Section 1 is amended

- (a) by striking out “or sex” and substituting “, sex or sexual orientation”;**
- (b) by adding the following after clause (f):**
 - (g) the right of parents to make informed decisions respecting the education of their children.**

Explanatory Notes

Alberta Bill of Rights

1(1) Amends chapter A-14 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads:

1 It is hereby recognized and declared that in Alberta there exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely:

- (a) the right of the individual to liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;*
- (b) the right of the individual to equality before the law and the protection of the law;*
- (c) freedom of religion;*
- (d) freedom of speech;*
- (e) freedom of assembly and association;*

Education Act

Amends SA 2012 cE-0.3

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

(2) Section 30(1)(d) and (e) are repealed and the following is substituted:

- (d) in Part 3, sections 31, 32 and 35.1, section 42, except subsection (3), in respect of appeals referred to in sections 35.1 and 58.2, and Division 7;
- (e) in Part 4, sections 56, 58.1, 58.2, 70 and 71;

(3) The heading preceding section 35 is repealed and the following is substituted:

Division 2 Bullying Awareness and Non-discrimination

(4) The following is added after section 35:

Support for student organizations

35.1(1) If a student requests a staff member employed by the board that operates the school attended by the student for support to establish or lead an activity or organization intended to promote a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging and that staff member does not provide the requested support, that failure to support the student is deemed to be a decision that may be appealed to the board in accordance with section 42.

(2) For the purposes of subsection (1), an activity or organization includes an activity or organization that promotes equality and non-discrimination with respect to, without limitation, race, religious beliefs, colour, gender, physical

(f) *freedom of the press.*

Education Act

2(1) Amends chapter E-0.3 of the Statutes of Alberta, 2012.

(2) Section 30(1) presently reads in part:

30(1) The following provisions and any regulations made under them apply to a registered or accredited private school and its operation, and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to the person responsible for the operation of a private school or a member of the governing body of the operator of a private school, as the case may be:

(d) in Part 3, sections 31 and 32 and Division 7;

(e) in Part 4, sections 56, 70 and 71;

(3) The heading preceding section 35 presently reads:

*Division 2
Bullying Awareness and
Prevention Week*

(4) Support for student organizations.

disability, mental disability, family status, sexual orientation and gender identity, including but not limited to organizations such as gay-straight alliances, diversity clubs and anti-bullying clubs.

(3) A decision of the board under section 42 with respect to an appeal relating to subsection (1) is final, subject to the right to judicial review set out in subsection (4).

(4) A decision of the board referred to in subsection (3) may be challenged on judicial review for jurisdictional error or unreasonableness.

(5) The following is added after section 58:

Notice to parent

58.1(1) A board shall provide notice to a parent of a student where courses, programs of study or instructional materials, or instruction or exercises, include subject-matter that deals primarily and explicitly with religion or human sexuality.

(2) Where a teacher or other person providing instruction, teaching a course or program of study or using the instructional materials referred to in subsection (1) receives a written request signed by a parent of a student that the student be excluded from the instruction, course or program of study or use of instructional materials, the teacher or other person shall, in accordance with the request of the parent, permit the student, without academic penalty,

- (a) to leave the classroom or place where the instruction, course or program of study is taking place or the instructional materials are being used for the duration of the part of the instruction, course or program of study, or the use of the instructional materials, that includes the subject-matter referred to in subsection (1), or
- (b) to remain in the classroom or place without taking part in the instruction, course or program of study or using the instructional materials.

(5) Notice to parent; non-compliance.

(3) This section does not apply to incidental or indirect references to religion, religious themes or human sexuality in a course, program of study, instruction or exercises or in the use of instructional materials.

Non-compliance

58.2(1) If a board, teacher or other person fails to comply with section 58 or 58.1, that failure to comply is deemed to be a decision that may be appealed in accordance with section 42.

(2) A decision of the board under section 42 with respect to an appeal relating to section 58 or 58.1 is final, subject to the right to judicial review set out in subsection (3).

(3) A decision of the board referred to in subsection (2) may be challenged on judicial review for jurisdictional error or unreasonableness.

(6) Section 263 is repealed.

(6) Section 263 presently reads:

263(1) The Alberta Human Rights Act is amended by this section.

(2) Section 11.1 is amended

(a) in subsection (1)

(i) by striking out “in the School Act” and substituting “in the Education Act”;

(ii) by striking out “courses of study, educational programs” and substituting “courses, programs of study”;

(b) in subsection (2)

(i) by striking out “course of study or educational program” wherever it occurs and substituting “course or program of study”;

(ii) by striking out “course of study, educational program” and substituting “course, program of study”;

(c) in subsection (3) by striking out “course of study, educational program” and substituting “course, program of study”.

School Act

Amends RSA 2000 cS-3

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

(2) The preamble is amended by adding the following after the 2nd recital:

WHEREAS students are entitled to welcoming, caring, respectful and safe learning environments that respect diversity and nurture a sense of belonging and a positive sense of self;

(3) Section 1(1) is amended by adding the following after clause (b):

(b.1) “bullying” means repeated and hostile or demeaning behaviour by an individual in the school community where the behaviour is intended to cause harm, fear or distress to one or more other individuals in the school community, including psychological harm or harm to an individual’s reputation;

(4) Section 12 is repealed and the following is substituted:

Students

12 A student shall conduct himself or herself so as to reasonably comply with the following code of conduct:

- (a) be diligent in pursuing the student’s studies;
- (b) attend school regularly and punctually;
- (c) co-operate fully with everyone authorized by the board to provide education programs and other services;
- (d) comply with the rules of the school;
- (e) account to the student’s teachers for the student’s conduct;
- (f) respect the rights of others;

School Act

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

(2) Adds to preamble.

(3) Adds definition.

(4) Section 12 presently reads:

12 A student shall conduct himself or herself so as to reasonably comply with the following code of conduct:

- (a) be diligent in pursuing the student's studies;*
- (b) attend school regularly and punctually;*
- (c) co-operate fully with everyone authorized by the board to provide education programs and other services;*
- (d) comply with the rules of the school;*
- (e) account to the student's teachers for the student's conduct;*
- (f) respect the rights of others.*

- (g) ensure that the student's conduct contributes to a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging;
- (h) refrain from, report and not tolerate bullying or bullying behaviour directed toward others in the school, whether or not it occurs within the school building, during the school day or by electronic means;
- (i) positively contribute to the student's school and community.

(5) The following is added after section 16:

Support for student organizations

16.1(1) If a student requests a staff member employed by the board that operates the school attended by the student for support to establish or lead an activity or organization intended to promote a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging and that staff member does not provide the requested support, that failure to support the student is deemed to be a decision that may be appealed to the board in accordance with section 123.

(2) For the purposes of subsection (1), an activity or organization includes an activity or organization that promotes equality and non-discrimination with respect to, without limitation, race, religious beliefs, colour, gender, physical disability, mental disability, family status, sexual orientation and gender identity, including but not limited to organizations such as gay-straight alliances, diversity clubs and anti-bullying clubs.

(3) A decision of the board under section 123 with respect to an appeal relating to subsection (1) is final, subject to the right to judicial review set out in subsection (4).

(4) A decision of the board referred to in subsection (3) may be challenged on judicial review for jurisdictional error or unreasonableness.

(5) Support for student organizations; parents.

Parents

16.2 A parent of a student has the responsibility

- (a) to take an active role in the student's educational success, including assisting the student in complying with section 12,
- (b) to ensure that the parent's conduct contributes to a welcoming, caring, respectful and safe learning environment,
- (c) to co-operate and collaborate with school staff to support the delivery of specialized supports and services to the student,
- (d) to encourage, foster and advance collaborative, positive and respectful relationships with teachers, principals, other school staff and professionals providing supports and services in the school, and
- (e) to engage in the student's school community.

(6) Section 24 is amended

(a) by repealing subsection (1) and substituting the following:

Suspension

24(1) A teacher or a principal may suspend a student in accordance with subsection (2) or (3) if in the opinion of the teacher or principal

- (a) the student has failed to comply with section 12,
- (b) the student has failed to comply with the code of conduct established under section 45.1(2), or
- (c) the student's conduct, whether or not the conduct occurs within the school building or during the school day, is injurious to the physical or mental well-being of others in the school.

(b) by repealing subsection (7) and substituting the following:

(6) Suspension for failure or refusal to comply with code of conduct.

(7) The principal may recommend that the board expel the student if

- (a) the student has displayed an attitude of wilful, blatant and repeated refusal to comply with section 12,
- (b) the student has displayed an attitude of wilful, blatant and repeated refusal to comply with the code of conduct established under section 45.1(2), or
- (c) the student's conduct, whether or not the conduct occurs within the school building or during the school day, is injurious to the physical or mental well-being of others in the school.

(7) Section 28 is amended by adding the following after subsection (6):

(7) Sections 16.1, 50.1 and 50.2 and section 123, in respect of appeals referred to in sections 16.1 and 50.2, apply to a private school and its operation, and a reference in those provisions to a board is deemed to include a reference to the operator of a private school.

(8) Section 36(1)(d) is amended

- (a) by adding "45.1," before "49";
- (b) by adding ", 50.1, 50.2" after "50".

(9) The following is added after section 43:

Bullying Awareness and Prevention Week

43.1(1) The 3rd week in November in each year is Bullying Awareness and Prevention Week.

(7) Application of provisions to private schools.

(8) Section 36(1)(d) presently reads:

36(1) The following provisions and any regulations made under them apply to a charter school and its operation, and a reference in those provisions or those regulations to a board or a trustee is deemed to include a reference to a society or company that operates a charter school or a member of the governing body of that society or company, as the case may be:

(d) in Part 3, sections 49, 50, 52, 54, 56, 57, 60, 75, 77, 78, 79, 80 and 81, section 82 except subsections (1)(a) and (2), sections 83 to 85 and section 86 except clauses (b) and (c);

(9) Bullying Awareness and Prevention Week.

(2) The purpose of subsection (1) is to promote awareness and understanding of bullying and its consequences in the school community.

(10) Section 45(8) is repealed.

(11) The following is added after section 45:

Board responsibility

45.1(1) A board has the responsibility to ensure that each student enrolled in a school operated by the board and each staff member employed by the board is provided with a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging.

(2) A board shall establish, implement and maintain a policy respecting the board's obligation under subsection (1) to provide a welcoming, caring, respectful and safe learning environment that includes the establishment of a code of conduct for students that addresses bullying behaviour.

(3) A code of conduct established under subsection (2) must

- (a) be made publicly available,
- (b) be reviewed every year,
- (c) be provided to all staff of the board, students of the board and parents of students of the board,
- (d) contain the following elements:
 - (i) a statement of purpose that provides a rationale for the code of conduct, with a focus on welcoming, caring, respectful and safe learning environments;
 - (ii) one or more statements that address the prohibited grounds of discrimination set out in the *Alberta Human Rights Act*;

(10) Section 45(8) presently reads:

(8) A board shall ensure that each student enrolled in a school operated by the board is provided with a safe and caring environment that fosters and maintains respectful and responsible behaviours.

(11) Board responsibility.

- (iii) one or more statements about what is acceptable behaviour and what is unacceptable behaviour, whether or not it occurs within the school building, during the school day or by electronic means;
- (iv) one or more statements about the consequences of unacceptable behaviour, which must take account of the student's age, maturity and individual circumstances, and which must ensure that support is provided for students who are impacted by inappropriate behaviour, as well as for students who engage in inappropriate behaviour,

and

- (e) be in accordance with any further requirements established by the Minister by order.

(4) An order of the Minister under subsection (3)(e) must be made publicly available.

(12) The following is added after section 50:

Notice to parent

50.1(1) A board shall provide notice to a parent of a student where courses of study, educational programs or instructional materials, or instruction or exercises, include subject-matter that deals primarily and explicitly with religion or human sexuality.

(2) Where a teacher or other person providing instruction, teaching a course of study or educational program or using the instructional materials referred to in subsection (1) receives a written request signed by a parent of a student that the student be excluded from the instruction, course of study, educational program or use of instructional materials, the teacher or other person shall in accordance with the request of the parent permit the student, without academic penalty,

- (a) to leave the classroom or place where the instruction, course of study or educational program is taking place or the instructional materials are being used for the duration of the part of the instruction, course of study or educational program, or the use of the instructional

(12) Notice to parent or guardian; complaint process.

materials, that includes the subject-matter referred to in subsection (1), or

(b) to remain in the classroom or place without taking part in the instruction, course of study or educational program or using the instructional materials.

(3) This section does not apply to incidental or indirect references to religion, religious themes or human sexuality in a course of study, educational program, instruction or exercises or in the use of instructional materials.

Complaint process

50.2(1) If a board, teacher or other person fails to comply with section 50 or 50.1, that failure to comply is deemed to be a decision that may be appealed in accordance with section 123.

(2) A decision of the board under section 123 with respect to an appeal relating to section 50 or 50.1 is final, subject to the right to judicial review set out in subsection (3).

(3) A decision of the board referred to in subsection (2) may be challenged on judicial review for jurisdictional error or unreasonableness.

Alberta Human Rights Act

Amends RSA 2000 cA-25.5

4(1) The *Alberta Human Rights Act* is amended by this section.

(2) Section 11.1 is repealed.

Alberta Human Rights Act

4(1) Amends chapter A-25.5 of the Revised Statutes of Alberta 2000.

(2) Section 11.1 presently reads:

11.1(1) A board as defined in the School Act shall provide notice to a parent or guardian of a student where courses of study, educational programs or instructional materials, or instruction or exercises, prescribed under that Act include subject-matter that deals primarily and explicitly with religion, human sexuality or sexual orientation.

(2) Where a teacher or other person providing instruction, teaching a course of study or educational program or using the instructional materials referred to in subsection (1) receives a written request signed by a parent or guardian of a student that the student be

Coming into Force

Coming into force

5 Section 3, except subsections (1), (8)(b) and (12), comes into force on March 1, 2015.

excluded from the instruction, course of study, educational program or use of instructional materials, the teacher or other person shall in accordance with the request of the parent or guardian and without academic penalty permit the student

(a) to leave the classroom or place where the instruction, course of study or educational program is taking place or the instructional materials are being used for the duration of the part of the instruction, course of study or educational program, or the use of the instructional materials, that includes the subject-matter referred to in subsection (1), or

(b) to remain in the classroom or place without taking part in the instruction, course of study or educational program or using the instructional materials.

(3) This section does not apply to incidental or indirect references to religion, religious themes, human sexuality or sexual orientation in a course of study, educational program, instruction or exercises or in the use of instructional materials.

Coming into Force

5 Coming into force.

