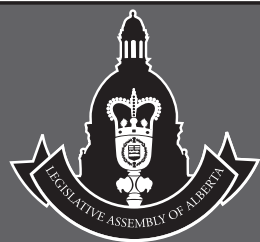


## Standing Committee on Alberta's Economic Future

### Review of the *Personal Information Protection Act*

Twenty-Ninth Legislature  
Second Session

October 2016



**COMMITTEES**  
OF THE LEGISLATIVE ASSEMBLY



**STANDING COMMITTEE ON ALBERTA'S ECONOMIC FUTURE**

October 2016

**To the Honourable Robert Wanner  
Speaker of the Legislative Assembly  
of the Province of Alberta**

As Chair of the Standing Committee on Alberta's Economic Future, I have the honour of submitting the Committee's final report regarding its review of the *Personal Information Protection Act*.

Sincerely,

*(original signed by)*

Graham Sucha, MLA  
Chair, Standing Committee on Alberta's Economic Future

c. Mr. Robert Reynolds, Q.C.  
Clerk of the Legislative Assembly

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**MEMBERS OF THE STANDING COMMITTEE ON ALBERTA'S ECONOMIC FUTURE**  
**29<sup>th</sup> Legislature**

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Michael R.D. Connolly, MLA<sup>§</sup>  
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Sherwood Park (ND)

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Lac-La Biche-St. Paul-Two Hills (W)

Wes Taylor, MLA  
Battle River-Wainwright (W)

Trevor A.R. Horne, MLA<sup>††</sup>  
Spruce Grove-St. Albert (ND)

Grant R. Hunter, MLA  
Cardston-Taber-Warner (W)

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<sup>\*</sup> Committee Member to October 29, 2015, and Chair from March 9, 2016

<sup>†</sup> Chair to October 29, 2015, and Member from October 29, 2015

<sup>‡</sup> Chair from October 29, 2015, to March 9, 2016

<sup>§</sup> Committee Member from October 29, 2015

<sup>\*\*</sup> Committee Member from October 29, 2015

<sup>††</sup> Committee Member to March 9, 2016

<sup>††</sup> Committee Member to October 29, 2015

<sup>§§</sup> Committee Member to October 29, 2015

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<sup>†††</sup> Committee Member from March 9, 2016

<sup>†††</sup> Committee Member from October 29, 2015

**Substitutions Pursuant to Standing Order 56(2.1-2.4):**

Jason Nixon, MLA<sup>\*</sup>  
Rimbey-Rocky Mountain House-Sundre (W)

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Mark W. Smith, MLA<sup>‡</sup>  
Drayton Valley-Devon (W)

Wayne Anderson, MLA<sup>§</sup>  
Highwood (W)

Dr. A. Robert Turner, MLA<sup>\*\*</sup>  
Edmonton-Whitemud (ND)

**Members also in Attendance:**

Hon. Stephanie V. McLean, MLA<sup>††</sup>  
Calgary-Varsity (ND)

Dr. Richard Starke, MLA<sup>††</sup>  
Vermilion-Lloydminster (PC)

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<sup>\*</sup> Substitute for David Schneider on December 18, 2015, and for Wes Taylor on October 6, 2016

<sup>†</sup> Substitute for Jonathon Carson on December 18, 2015

<sup>‡</sup> Substitute for Wes Taylor on December 18, 2015

<sup>§</sup> Substitute for Wes Taylor on June 14, 2016

<sup>\*\*</sup> Substitute for Shaye Anderson on June 14, 2016

<sup>††</sup> October 15, 2015

<sup>‡‡</sup> December 18, 2015

## 1.0 EXECUTIVE SUMMARY

During its deliberations on October 6, 2016, the Standing Committee on Alberta's Economic Future made the following recommendation pertaining to the *Personal Information Protection Act*, S.A. 2003, c. P-6.5 (the "Act").

That the Act be amended in section 56 to clarify the definition of a commercial activity.

## 2.0 COMMITTEE MANDATE

On June 25, 2015, the Legislative Assembly passed Government Motion 11, which deemed the Standing Committee on Alberta's Economic Future the special committee for the purpose of conducting a comprehensive review of the *Personal Information Protection Act*.

The scope of the Committee's review with respect to the *Personal Information Protection Act* is mandated by the Act:

63(1) A special committee of the Legislative Assembly must begin a comprehensive review of this Act and the regulations made under it

- (a) by July 1, 2015, and
- (b) thereafter, every 6 years after the date on which the previous special committee submits its final report under subsection (2).

(2) A special committee must submit a final report to the Legislative Assembly within 18 months after beginning a review under subsection (1).

(3) The report of a special committee may include the special committee's recommendations for amendments to this Act, the regulations made under this Act or any other enactment.

The Committee began its review of the Act on July 14, 2015.

### 3.0 INTRODUCTION

The *Personal Information Protection Act* aims to protect the personal information of individuals. Organizations have to follow the rules in the Act about collecting, using, and disclosing personal information and must look after the personal information that is in their custody or under their control. The Act also gives individuals the right to ask an organization to see the personal information it has about them, to find out how it is being used and disclosed, and to ask for corrections if they believe a mistake has been made. The stated purpose of the Act, as provided in section 3, is:

To govern the collection, use and disclosure of personal information by organizations in a manner that recognizes both the right of an individual to have his or her personal information protected and the need of organizations to collect, use or disclose personal information in a way that is reasonable.

The *Personal Information Protection Act* was enacted in 2003, and all parts were proclaimed in force on January 1, 2004.

This report is the result of the review of the Act by the Standing Committee on Alberta's Economic Future, which started in July 2015. It contains the recommendation that was agreed to during the Committee's deliberations. For a complete record of the Committee's deliberations please consult the transcripts of the Committee's meetings, which are available online at [assembly.ab.ca](http://assembly.ab.ca).



## 4.0 ACKNOWLEDGEMENTS

The Committee wishes to acknowledge the useful contributions of the individuals and organizations who provided written submissions and/or appeared before the Committee.

The Committee also wishes to acknowledge the valuable assistance of the technical support staff and Legislative Assembly Office support staff.

### Technical Support Staff

#### Office of the Information and Privacy Commissioner

Ms Jill Clayton, Information and Privacy Commissioner

Ms Jillian Harker, Legal Counsel

Ms Kim Kreutzer Work, Director, Knowledge Management

Ms Amanda Swanek, Adjudicator

#### Ministry of Service Alberta

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Ms Christina Hopkins Crichton, Access and Privacy Adviser, Corporate and Departmental FOIP Services

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Mr. Aaron Roth, Committee Clerk

Mr. Chris Tyrell, Committee Clerk

Mr. Duncan Leung, Committee Services Co-ordinator

Ms Leah Kirtio, Committee Services Administrative Assistant

Ms Rhonda Sorensen, Manager of Corporate Communications and Broadcast Services

Ms Jeanette Dotimas, Communications Consultant

*Hansard* staff

Security staff

## 5.0 CONSULTATION AND REVIEW PROCESS

The Committee's review of the *Personal Information Protection Act* involved a series of meetings that were open to the public and streamed live on the Legislative Assembly website. These meetings took place on July 14, October 15, and December 18, 2015, and on June 14, September 7, and October 6, 2016.

As part of the review process the Committee received a background briefing on the *Personal Information Protection Act* from the Information and Privacy Commissioner and from officials from the Ministry of Service Alberta on October 15, 2015.

The Committee invited written submissions from identified stakeholders and advertised for written submissions from the public through radio and newspapers, on its website, and through social media and other web-based initiatives. Stakeholders included Government of Alberta ministries, the Office of the Information and Privacy Commissioner, unions, public interest advocacy groups, private-sector organizations, non-profit organizations, and professional regulatory associations.

The Committee received 36 written submissions from stakeholders and members of the public. On October 15, 2015, the Committee heard oral presentations from the Office of the Information and Privacy Commissioner and from the Ministry of Service Alberta; and on September 7, 2016, from representatives of the Calgary Chamber of Voluntary Organizations, Edmonton Chamber of Voluntary Organizations, Calgary Urban Project Society, Federation of Calgary Communities, Ministry of Service Alberta, Historical Society of Alberta, Canadian Information Processing Society of Alberta, United Food and Commercial Workers Local 401, Insurance Bureau of Canada, and the Canadian Marketing Association. Appendices A and B contain a list of the individuals and organizations that provided written submissions and oral presentations to the Committee.

The Committee met on October 6, 2016, to deliberate on the issues and proposals arising from the written submissions and oral presentations. Representatives from the Office of the Information and Privacy Commissioner and from Service Alberta attended the meeting and supported the Committee by providing technical expertise.

This report is the result of the Committee's deliberations and contains its recommendation in relation to the Act.

## 6.0 COMMITTEE RECOMMENDATIONS

### 6.1 Non-profit Organizations

The Act applies to all provincially regulated organizations in Alberta, but there are special provisions for certain non-profit organizations that are:

- incorporated under the *Societies Act*,
- incorporated under the *Agricultural Societies Act*,
- registered under part 9 of the *Companies Act*, or
- meet the criteria established under the regulations to qualify as a non-profit organization (s. 56(1)(b)).

These non-profit organizations are not subject to the Act (s. 56(2)), except when they engage in a commercial activity (s. 56(3)).

Section 56(1) defines “commercial activity” as

- (i) any transaction, act or conduct, or
- (ii) any regular course of conduct,

that is of a commercial character and, without restricting the generality of the foregoing, includes the following:

- (iii) the selling, bartering or leasing of membership lists or of donor or other fund-raising lists;
- (iv) the operation of a private school or an early childhood services program as defined in the *School Act*;
- (v) the operation of a private college as defined in the *Post-secondary Learning Act*.

In their oral presentations to the Committee, the Calgary Chamber of Voluntary Organizations, Edmonton Chamber of Commerce, Calgary Urban Project Society and the Federation of Calgary Communities discussed the ways in which compliance with the Act is challenging and burdensome for some non-profit organizations, especially those that are run by volunteers. These organizations discussed the need to clarify the definition of “commercial activity” so that non-profit organizations can more easily understand the legislation. The Federation of Calgary Communities and the Calgary Chamber of Voluntary Organizations suggested that the Act be amended to clarify the definition of commercial activity.

The Committee acknowledged the important contributions made by non-profit organizations to communities across Alberta and sought to reduce administrative burdens arising from their obligations under the Act. To this end, the Committee discussed clarifying the definition of commercial activity and rendering that definition in “plain language” that is easier to understand.

Therefore, the Committee recommends:

**That the Act be amended in section 56 to clarify the definition of a commercial activity.**

## APPENDICES

### Appendix A: Written Submissions to the Committee

Name	Organization
Jack Meyer	Private Citizen
Belinda Crowson	Historical Society of Alberta
Trevor Pizzey	Private Citizen
June Robinson	Private Citizen
Nancy Bains	Law Society of Alberta
Brian Gregg	Private Citizen
Wendy Keiver	Literacy and Learning Day Society of Edmonton
Margo Desmarais	Public Business Accountants' Society of Edmonton
Bob Myroniuk	Real Estate Council of Alberta
H. Mark Ramsankar	Alberta Teachers' Association
Mark Olson	Canadian Information Processing Society of Alberta
Gil McGowan	Alberta Federation of Labour
Paul Meunier	Federation of Calgary Communities
Rhona Allen	Private Citizen
Brenda McPhail	Canadian Civil Liberties Association
Joan Lee	Direct Sellers Association of Canada
John Russo	Equifax Canada Co.
William Adams	Insurance Bureau of Canada
Wally Hill	Canadian Marketing Association
Sandra Hoenle	Faculty Association of the University of Calgary
Steve Hunt	United Steelworkers, District 3
John Lawford	Public Interest Advocacy Centre
Katherine van Kooy	Calgary Chamber of Voluntary Organizations
Heather Craig-Peddie	Association of Canadian Travel Agencies
Bruce Fafard	Edmonton District and Labour Council
Holly Rose	Alberta College of Paramedics
Jill Clayton	Office of the Information and Privacy Commissioner of Alberta
Frank Zinatelli	Canadian Life and Health Insurance Association
Katrina Piechotta	United Food and Commercial Workers Canada Local 401
Timothy Perras	ATB Financial
Warren Fraleigh	Building Trades of Alberta
Tim Grant	Ministries of Service Alberta and Human Services
Jill Wilkie	Canadian Association of Counsel to Employers

Robert Perry	Calgary Urban Project Society
Kristjan Backman	National Association of Information Destruction – Canada
Sharon Barron	College of Physicians and Surgeons of Alberta

## Appendix B: Oral Presentations to the Committee

Name	Organization
Katherine van Kooy	Calgary Chamber of Voluntary Organizations
Robert Perry and Emily Wong	Calgary Urban Project Society
Leslie Evans	Federation of Calgary Communities
Russ Dahms	Edmonton Chamber of Voluntary Organizations
Jill Clayton	Office of the Information and Privacy Commissioner
Tim Grant	Ministry of Service Alberta
Mark Olson	Canadian Information Processing Society of Alberta
Steven Lingard	Insurance Bureau of Canada
David Elder and Wally Hill	Canadian Marketing Association
Christine McMeckan and Katrina Piechotta	United Food and Commercial Workers Canada Local 401
Belinda Crowson	Historical Society of Alberta