

# Standing Committee on Resource Stewardship

## **Final Report – Review of the *Personal Information Protection Act***

Thirty-First Legislature  
First Session  
February 2025



Standing Committee on Resource Stewardship  
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**STANDING COMMITTEE ON RESOURCE STEWARDHIP**

February 2025

**To the Honourable Nathan M. Cooper  
Speaker of the Legislative Assembly  
of the Province of Alberta**

I have the honour of submitting, on behalf of the Standing Committee on Resource Stewardship, the Committee's final report on its review of the *Personal Information Protection Act*, to the Legislative Assembly of Alberta.

Sincerely,

[original signed]

Garth Rowswell, MLA  
Chair, Standing Committee on Resource Stewardship

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**MEMBERS OF THE STANDING COMMITTEE ON RESOURCE STEWARDSHIP  
31st Legislature**

Garth Rowsell, MLA  
Chair  
Vermilion-Lloydminster-Wainwright (UC)

Heather Sweet, MLA\*  
Deputy Chair  
Edmonton-Manning (NDP)

Nagwan Al-Guneid, MLA  
Calgary-Glenmore (NDP)

Hon. Jackie Armstrong-Homeniuk, MLA  
Fort Saskatchewan-Vegreville (UC)

Jodi Calahoo Stonehouse, MLA†  
Edmonton-Rutherford (NDP)

Nolan B. Dyck, MLA  
Grande Prairie (UC)

Hon. David Eggen, MLA‡  
Edmonton-North West (NDP)

Hon. Grant R. Hunter, MLA  
Taber-Warner (UC)

Myles McDougall, MLA  
Calgary-Fish Creek (UC)

Hon. Marlin Schmidt, MLA§  
Edmonton-Gold Bar (NDP)

Scott Sinclair, MLA  
Lesser Slave Lake (UC)

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

Brooks Arcand-Paul, MLA\*\*  
Edmonton-West Henday (NDP)

Andrew Boitchenko, MLA††  
Drayton Valley-Devon (UC)

Nathan Ip, MLA‡‡  
Edmonton-South West (NDP)

Eric Bouchard, MLA§§  
Calgary-Lougheed (UC)

Glenn van Dijken, MLA\*\*\*  
Athabasca-Barrhead-Westlock (UC)

Amanda Chapman, MLA†††  
Calgary-Beddington (NDP)

Scott J. Cyr, MLA‡‡‡  
Bonnyville-Cold Lake-St. Paul (UC)

Peter Singh, MLA§§§  
Calgary-East (UC)

**Also in Attendance**

Jennifer Johnson, MLA\*\*\*\*  
Lacombe-Ponoka (UC)

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\* Deputy Chair of the Committee from November 4, 2024, to present.

† Member of the Committee from October 31, 2023, to February 28, 2024, and from November 4, 2024, to present.

‡ Member of the Committee from February 28, 2024, to present.

§ Member of the Committee from October 31, 2023, to November 4, 2024. Mr. Schmidt was also the Deputy Chair of the Committee from October 31, 2023, to November 4, 2024.

\*\* Substitute for Heather Sweet on January 22, 2024, and Nagwan Al-Guneid on June 28, 2024.

†† Substitute for Scott Sinclair on January 22, 2024.

‡‡ Substitute for Jodi Calahoo Stonehouse on January 22, 2024.

§§ Substitute for Scott Sinclair on April 25, 2024.

\*\*\* Substitute for Nolan Dyck on April 25, 2024.

††† Substitute for Heather Sweet on June 28, 2024.

‡‡‡ Substitute for Scott Sinclair on June 28, 2024.

§§§ Substitute for Jackie Armstrong-Homeniuk on December 9, 2024.

\*\*\*\* Attended the Committee's meeting on January 22, 2024.

## 1.0 EXECUTIVE SUMMARY

During its deliberations on December 9, 2024, the Standing Committee on Resource Stewardship (the “Committee”) made the following recommendations pertaining to its review of the *Personal Information Protection Act* (“PIPA”):

### Protection of Minors

1. that the *Personal Information Protection Act* be amended to provide for specific requirements for the collection, use and disclosure of the personal information of a minor.

### PIPA’s Substantially Similar Designation

2. that the Government monitor the consideration of the federal Bill C-27 and take the necessary steps to ensure that the *Personal Information Protection Act* continues to be substantially similar to federal private-sector personal information privacy legislation.

### Administrative Monetary Penalties

3. that the *Personal Information Protection Act* be amended to authorize the Information and Privacy Commissioner
  - (a) to impose monetary administrative penalties on an organization with clear criteria for determining the penalty amounts, including increased amounts for serious contraventions, repeated contraventions, and wilful noncompliance or deliberate errors, and
  - (b) to provide for a mechanism for an organization to appeal an administrative monetary penalty.

### Aligning PIPA with World-leading Jurisdictions

4. that the Government continue to monitor privacy legislation developments in world-leading jurisdictions and take necessary steps to ensure that the *Personal Information Protection Act* requires comparable or better requirements for organizations to protect personal information.

### Deidentified and Anonymized Data

5. that the *Personal Information Protection Act* be amended to include comprehensive provisions regarding deidentification and anonymization of personal information that
  - (a) includes the following:
    - (i) standardized definitions aligned with those found in comparable privacy legislation in other Canadian jurisdictions;
    - (ii) clear requirements of subsequent use of deidentified data;
    - (ii) identical standards for deidentification processes, and
  - (b) considers the Information and Privacy Commissioner of Alberta’s detailed recommendations in respect of the matters referred to in clause (a).

### Other Provincial Privacy Legislation

6. that the Government take all necessary steps, including through proposing amendments to the *Personal Information Protection Act*, to improve alignment of all provincial privacy legislation, including in the private, public and health sectors.

## **Nonprofit Organizations**

7. that the Standing Committee on Resource Stewardship recommend that
  - (a) the *Personal Information Protection Act* be amended to clarify the definition of commercial activity in respect of nonprofit organizations, and
  - (b) the Government develop guidelines for best practices for nonprofit organizations in respect of the collection, use and disclosure of personal information in carrying out noncommercial activities.

## **Forms of Consent**

8. that the *Personal Information Protection Act* be amended to more clearly define, using plain language, the forms of consent to the collection, use, and disclosure of an individual's personal information, including deemed consent, express consent and opt-out consent.

## **Offences and Penalties**

9. that the *Personal Information Protection Act* be amended to ensure that the penalties for committing an offence under the Act are the same or higher than those of similar legislation in other Canadian jurisdictions.

## **Defining Significant Harm**

10. that the *Personal Information Protection Act* be amended to define significant harm in respect of the loss or unauthorized access or disclosure of personal information.

## **Automated Decision-making System (ADS)**

11. that the *Personal Information Protection Act* be amended to require organizations to notify individuals if an automated processing system is used to make a decision about that individual.

## **Third-party Service Providers**

12. that the *Personal Information Protection Act* be amended to require an organization to contractually bind a third-party service provider to comply with the requirements of the Act in respect of personal information in its custody or under its control.

## 2.0 COMMITTEE MANDATE

On December 5, 2023, the Legislative Assembly passed Government Motion 9, which deemed the Standing Committee on Resource Stewardship to be the special committee for the purpose of conducting a comprehensive review of the *Personal Information Protection Act* (PIPA).

The scope of the Committee's review with respect to the PIPA is mandated by section 63 of that 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 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 January 22, 2024.



### 3.0 BACKGROUND

The *Personal Information Protection Act* is designed to govern the use, collection, and disclosure of personal information of individuals. The Act requires organizations, including corporations, unincorporated associations, trade unions, partnerships, or an individual acting in a commercial capacity, to follow rules regarding the collection, use, and disclosure of personal information. The Act applies to all organizations with respect to all personal information, save for the exceptions listed in Section 4 of the Act. Some of these exceptions include the Act not applying to public bodies or to situations where an individual uses personal information for personal or domestic purposes.

The Act stipulates that organizations are responsible for 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 for purposes that are reasonable.

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

The Act's first mandatory review was commenced by the Standing Committee on Alberta's Economic Future on July 14, 2015. The final report of the Committee included one recommendation and was submitted to the Assembly in October 2016; however, the Assembly made no changes to the Act following this review.

This report is the result of the second mandatory review of the Act. The review was conducted by the Standing Committee on Resource Stewardship and commenced in January 2024. This report contains the recommendations that the Committee agreed to during its deliberations. For a complete record of the Committee's deliberations please consult the transcripts of the Committee's meetings, which are posted online at [www.assembly.ab.ca](http://www.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 staff.

### Technical Support Staff

#### Ministry of Technology and Innovation

Ms Hilary Faulkner, Acting Assistant Deputy Minister, Innovation, Privacy and Policy

Ms Breanne McEachren, Acting Director, Access and Privacy Policy

#### Office of the Information and Privacy Commissioner Participants

Ms Diane McLeod, Information and Privacy Commissioner

Ms Cara-Lynn Stelmack, Assistant Commissioner, Case Management

Mr. Chris Stinner, Assistant Commissioner, Strategic Initiatives and Information Management

#### Legislative Assembly Office Support Staff

Ms Shannon Dean, KC, Clerk

Mr. Trafton Koenig, Law Clerk

Dr. Philip Massolin, Clerk Assistant and Executive Director of Parliamentary Services

Ms Nancy Robert, Clerk of *Journals* and Committees

Mr. Abdul Bhurgri, Research Officer

Dr. Rachel McGraw, Research Officer

Mr. Warren Huffman, Committee Clerk

Ms Jody Rempel, Committee Clerk

Mr. Aaron Roth, Committee Clerk

Ms Sharon Marioselva, Committee Services Operations Assistant

Ms Rhonda Sorensen, Manager of Corporate Communications

Ms Christina Steenbergen, Supervisor of Communications Services

Ms Amanda LeBlanc, Managing Editor of *Hansard* and Manager of Venue Services

*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, broadcast on Alberta Assembly TV, and video- and audio-streamed live on the Legislative Assembly website. These meetings took place on January 22, April 25, June 28, September 24, and December 9, 2024.

As part of its review the Committee held its first meeting on January 22, 2024. During that meeting the Committee requested a technical briefing on the Act from the Ministry of Technology and Innovation and the Office of the Information and Privacy Commissioner. The Committee also directed the Legislative Assembly Office to prepare a draft stakeholder list for its review. On April 25, 2024, the Committee received a technical briefing on the Act and agreed to invite stakeholders and members of the public to make written submissions with respect to the Act until May 31, 2024. The invited stakeholders included certain Government of Alberta ministries, the Office of the Information and Privacy Commissioner, unions, public interest advocacy groups, private-sector organizations, nonprofit organizations, and professional regulatory associations. The Committee advertised for written submissions from the public through the Legislative Assembly's social media platforms and on the Assembly's website. The Committee received 34 written submissions from stakeholders and members of the public. The names of those who made written submissions are listed in Appendix A of this report.

On June 28, 2024, the Committee met to discuss the written submissions made to the Committee and the documents prepared by the Legislative Assembly Office, including the summary of submissions and the comparison of similar privacy legislation across select jurisdictions in Canada. The Committee also agreed to invite select stakeholders to make oral presentations to the Committee at its subsequent meeting.

On September 24, 2024, the Committee met with stakeholders to hear oral submissions. These included submissions from the Ministry of Technology and Innovation of Alberta, the Information and Privacy Commissioner of Alberta, the Information and Privacy Commissioner for British Columbia, the Privacy Commissioner of Canada, and the Nonprofit Chamber. The names of those who made oral submissions to the Committee are listed in Appendix B of this report.

The Committee held its final meeting on December 9, 2024, 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 Ministry of Technology and Innovation attended the meeting and supported the Committee by providing technical expertise on the Act.

This report is the result of the Committee's deliberations and contains its recommendations in relation to the *Personal Information Protection Act*.

## 6.0 COMMITTEE RECOMMENDATIONS

### 6.1 Protection of Minors.

During its deliberations the Committee discussed the importance of protecting the personal information of children. The Committee observed that the *Personal Information Protection Act*, as it stands, does not have specific provisions to protect the personal information of minors; instead, the Act treats children similar to adults and offers them the same general protections that are available to adults. According to the Committee the privacy concerns of children should be considered separately and there should be specific provisions in the Act for minors.

Accordingly, the Committee recommends

**that the *Personal Information Protection Act* be amended to provide for specific requirements for the collection, use and disclosure of the personal information of a minor.**

### 6.2 PIPA's Substantially Similar Designation

Currently PIPA has a substantially similar designation to the federal privacy legislation titled *Personal Information Protection and Electronic Documents Act* (PIPEDA). At the time of this review the *Consumer Privacy Protection Act*, also known as Bill C-27, was under a clause-by-clause review by a committee of the House of Commons. If the bill had passed, it would have brought significant changes to PIPEDA, which may have affected PIPA and its substantially similar designation.\*

The Information and Privacy Commissioner and the Ministry of Technology and Innovation made a recommendation to the Committee to monitor the status of Bill C-27 and maintain Alberta's substantially similar designation.

During its deliberation the Committee discussed the importance of this designation as it allows provinces to regulate the personal information of organizations that operate within their borders. The Committee agreed that PIPA's substantially similar status should be maintained but noted that Bill C-27 had not yet been passed by the House of Commons. Therefore, the Committee recommends that the Government monitor any amendments to the federal privacy bill and amend PIPA, if necessary, to maintain Alberta's substantially similar status.

Accordingly, the Committee recommends

**that the Government monitor the consideration of the federal Bill C-27 and take the necessary steps to ensure that the *Personal Information Protection Act* continues to be substantially similar to federal private-sector personal information privacy legislation.**

### 6.3 Administrative Monetary Penalties

Administrative monetary penalties (AMPs) are sanctions or financial penalties that are aimed at organizations or individuals that are in contravention of a legislation. AMPs are imposed by a regulator such as the Information and Privacy Commissioner and are distinct from the penalties imposed by courts.

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\* It is important to note that Bill-C27 is no longer under a clause-by-clause review as the House of Commons was prorogated on January 6, 2025, until March 24, 2025.

Currently PIPA does not contain provisions allowing the Information and Privacy Commissioner to impose administrative monetary penalties.\*

During its deliberations the Committee discussed the Information and Privacy Commissioner's powers, or lack thereof, in the Act to penalize organizations or individuals in violation of the Act. The Committee noted that under the Act the Information and Privacy Commissioner has the power to investigate violations of the Act but not to penalize organizations. The Committee emphasized the need to have enhanced enforcement controls in Alberta for privacy violations. The Committee suggested that enhanced enforcement controls, such as the power to impose administrative penalties can effectively deter privacy violations and be more efficient than penalties imposed by courts.

The Committee also observed that the inclusion of administrative monetary penalties in the Act would help align Alberta with jurisdictions such as British Columbia and Ontario that similarly allow their privacy commissioners to impose monetary penalties. The Committee agreed that the Information and Privacy Commissioner should be allowed to impose penalties, especially against those organizations that repeatedly violate privacy rights.

Accordingly, the Committee recommends

**that the *Personal Information Protection Act* be amended to authorize the Information and Privacy Commissioner**

**(a) to impose monetary administrative penalties on an organization with clear criteria for determining the penalty amounts, including increased amounts for serious contraventions, repeated contraventions, and wilful noncompliance or deliberate errors, and**

**(b) to provide for a mechanism for an organization to appeal an administrative monetary penalty.**

## 6.4 Aligning PIPA with World-leading Jurisdictions

In its submission to the Committee the Ministry of Technology and Innovation recommended that the Committee consider aligning Alberta with world-leading jurisdictions that have enacted comprehensive privacy legislation.

During its deliberations the Committee acknowledged the submission made by the Ministry of Technology and Innovation and engaged in a discussion regarding the monitoring of world-leading jurisdictions. The Committee agreed that Alberta should have the best privacy protection in the world and suggested monitoring world-leading jurisdictions to ensure that PIPA has comparable or better requirements for organizations to protect the personal information of Albertans.

The Committee also agreed that aligning PIPA with world-leading jurisdictions will lead to more international commercial activity in the province, as organizations and businesses that operate interjurisdictionally will have similar standards of privacy protections to follow.

Accordingly, the Committee recommends

**that the Government continue to monitor privacy legislation developments in world-leading jurisdictions and take necessary steps to ensure that the *Personal Information Protection Act* requires comparable or better requirements for organizations to protect personal information.**

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\* Administrative monetary penalties are incorporated into the European Union's privacy legislation, known as the *General Data Protection Regulation* (GDPR), Ontario's *Personal Health Information Protection Act* and British Columbia's *Personal Information Protection Act*.

## 6.5 Deidentified and Anonymized Data

Currently PIPA contains provisions that address the use of nonidentifying information; however, the term “non-identifying” is not defined in the Act. PIPA also has no provisions that directly address the use of anonymized data.\*

In its submission to the Committee the Ministry of Technology and Innovation argued that PIPA’s provisions do not provide an adequate framework that leverages the potential of new emerging types of data such as deidentified and anonymized data. The Ministry recommended that PIPA be amended to authorize the creation and use of these new types of data.

The Information and Privacy Commissioner of Alberta also provided detailed recommendations to the Committee, including but not limited to defining deidentified and anonymized data, prohibiting the creation of deidentified data except in accordance with established standards, and generally prohibiting reidentification of personal data.

During its deliberations the Committee observed that Alberta businesses are increasingly collecting and analyzing data for research and technological development, utilizing tools such as deidentified and anonymized data; however, the current rules concerning deidentification and anonymization are unclear and inconsistent. The Committee noted that this lack of clarity in the Act can hinder innovation and put the privacy of Albertans at risk.

The Committee acknowledged the recommendation of the Information and Privacy Commissioner and the Ministry of Technology and Innovation and agreed on the need to establish clear technical standards of concepts such as deidentified and anonymized data. According to the Committee this kind of clarity with respect to rules would enable organizations to protect the privacy rights of Albertans and align Alberta’s privacy legislation with other jurisdictions. The Committee also noted that such an approach will make compliance simpler for Alberta businesses and position the province as a leader in responsible data innovation.

Accordingly, the Committee recommends

**that the *Personal Information Protection Act* be amended to include comprehensive provisions regarding deidentification and anonymization of personal information that**

**(a) includes the following:**

- (i) standardized definitions aligned with those found in comparable privacy legislation in other Canadian jurisdictions;**
- (ii) clear requirements of subsequent use of deidentified data;**
- (iii) identical standards for deidentification processes, and**

**(b) considers the Information and Privacy Commission of Alberta’s detailed recommendations in respect of the matters referred to in clause (a).**

## 6.6 Other Provincial Privacy Legislation

In its submission to the Committee the Ministry of Technology and Innovation recommended that the Committee improve alignment between Alberta’s three privacy laws to help streamline compliance efforts and “promote consistency in privacy practices across the private, public, and health sectors.”

The Committee discussed enhancing alignment among privacy legislation in the province: PIPA, *Health Information Act* (HIA), and the *Freedom of Information and Protection of Privacy Act* (FOIP).† The Committee argued that improving alignment among these laws would streamline compliance efforts and

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\* Deidentified and anonymized data are forms of personal data that remove or modify personal information such that it cannot be linked to a specific individual.

† It is important to note that the *Freedom of Information and Protection of Privacy Act* is being replaced by the *Protection of Privacy Act* and *Access to Information Act*. These Acts have received Royal Assent but have not yet been proclaimed.

promote consistency in privacy practices of organizations across the public, private, and health sectors in Alberta. The Committee agreed that many businesses and organizations are subject to different types of privacy laws in Alberta and that greater consistency among the laws would help organizations better comply to the requirements of the legislation.

Accordingly, the Committee recommends

**that the Government take all necessary steps, including through proposing amendments to the *Personal Information Protection Act*, to improve alignment of all provincial privacy legislation, including in the private, public and health sectors.**

## 6.7 Nonprofit Organizations

Currently nonprofit organizations are not subject to the PIPA (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 its submission to the Committee the Ministry of Technology and Innovation suggested that there is some confusion regarding the definition of the term “commercial activity.” The Ministry recommended clarifying the definition of commercial activity so that nonprofits can better understand their obligations under the Act.

During its deliberations the Committee discussed the importance of having a clear definition of commercial activity. The Committee agreed that a clear definition would enhance nonprofits’ understanding of their obligations and provide them the necessary tools to comply with the Act. The Committee emphasized that nonprofits need to ensure that Albertans’ personal information is protected regardless of whether it is being used for a commercial purpose; however, the Committee also acknowledged that nonprofit organizations often operate with limited resources and excessive regulations in this area can increase administrative and financial burdens for them.

Accordingly, the Committee recommends

- (a) the *Personal Information Protection Act* be amended to clarify the definition of commercial activity in respect of nonprofit organizations, and**
- (b) the Government develop guidelines for best practices for nonprofit organizations in respect of the collection, use and disclosure of personal information in carrying out noncommercial activities.**

## 6.8 Forms of Consent

PIPA establishes consent as the primary mechanism by which individuals may control the collection, use, and disclosure of their personal information. The Act provides three types of consent: express consent, implicit or deemed consent, and consent by not opting out. Section 8 of the Act sets out the Act's consent requirements.

In its submission to the Committee the Ministry of Technology and Innovation recommended that the Committee consider amending the Act to ensure that consent requirements within PIPA are clear and transparent.

The Committee noted that PIPA, like all comparative privacy legislation across Canada, establishes consent as the primary mechanism through which the personal information of individuals can be collected, used, and disclosed. It emphasized the importance of having clear and transparent consent requirements, giving individuals the opportunity to give informed consent about the use of their personal information. The Committee agreed that there is a need for consent requirements to be expressed in plain language, allowing people to understand their rights and meaningfully consent to the collection of their personal data.

Accordingly, the Committee recommends

**that the *Personal Information Protection Act* be amended to more clearly define, using plain language, the forms of consent to the collection, use, and disclosure of an Individual's personal information, including deemed consent, express consent and opt-out consent.**

## 6.9 Offences and Penalties

In her submission to the Committee the Information and Privacy Commissioner of Alberta recommended that the Committee make amendments to PIPA to align the Act's fine structure with similar legislation in other Canadian jurisdictions.

The Committee noted that under PIPA the courts may levy fines against a person or organization found to have committed an offence, as defined in section 59 of the Act. These fines are \$10,000 for an individual and \$100,000 for a "person other than an individual." The Committee observed that the fines for privacy violations in Alberta are lower than other comparable privacy laws such as *la Loi sur la protection des renseignements personnels dans le secteur privé/An act respecting the protection of personal information in the private sector* (QPSA) and the *Consumer Privacy Protection Act*, also known as Bill C-27.

The Committee agreed with the recommendation of the Information and Privacy Commissioner and emphasized the need to ensure that fines in Alberta are comparable to or higher than other similar jurisdictions in Canada.

Accordingly, the Committee recommends

**that the *Personal Information Protection Act* be amended to ensure that the penalties for committing an offence under the Act are the same or higher than those of similar legislation in other Canadian jurisdictions.**

## 6.10 Defining Significant Harm

Currently PIPA requires organizations to provide notice to the Commissioner of any incident that involves the loss of or unauthorized access of personal information under its control when there is a risk of significant harm. The Act uses the reasonable person standard to determine what qualifies as significant harm.



Section 34.1 of the Act provides:

- (1) An organization having personal information under its control must, without unreasonable delay, provide notice to the Commissioner of any incident involving the loss of or unauthorized access to or disclosure of the personal information where a reasonable person would consider that there exists a real risk of significant harm to an individual as a result of the loss or unauthorized access or disclosure.
- (2) A notice to the Commissioner under subsection (1) must include the information prescribed by the regulations.

In her submission to the Committee the Information and Privacy Commissioner suggested that PIPA be amended to include a definition of “significant harm” and “include factors for use by an organization in determining whether a real risk of significant harm exists.” According to the Commissioner a definition or list of factors should clarify that the determination of significant harm is based on the risks to the affected individuals and not to the organization or its employees.

The Committee noted that the current definition of significant harm relies on the reasonable person standard, which does not clarify the meaning of the term. The Committee observed that most similar privacy laws in Canada that have breach reporting requirements clarify the meaning of significant harm in a non-exhaustive way. The Committee agreed that there is a need to define significant harm to clarify the meaning of the term.

According to the Committee, without a clear definition of the term “significant harm,” there is room for considerable discretion to be exercised.

Consequently, the Committee recommends

**that the *Personal Information Protection Act* be amended to define significant harm in respect of the loss or unauthorized access or disclosure of personal information.**

## **6.11 Automated Decision-making System (ADS)**

Automated decision-making systems (ADS) use computer systems such as algorithms, artificial intelligence (AI), and heuristic programming to analyze data and make decisions, often without direct human intervention. Currently PIPA has no provisions relating to automated decision-making systems.

The Committee discussed ADS and the principle of algorithmic transparency. The Committee noted that the principle of algorithmic transparency requires decisions made by algorithms to be transparent to the individuals who are affected by them.\* The Committee agreed that there is a need for decisions made by algorithms to be transparent, especially when decisions that affect individuals are made by a system instead of a person.

Accordingly, the Committee recommends

**that the *Personal Information Protection Act* be amended to require organizations to notify individuals if an automated processing system is used to make a decision about that individual.**

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\* Algorithmic transparency is a principle by which decisions made by algorithms should be transparent to those who use, regulate, and are affected by them. This principle requires clarity about the purpose, structure, underlying actions, or logic involved in an ADS.

## 6.12 Third-party Service Providers

In their submission to the Committee the College of Acupuncturists of Alberta and College of Alberta Denturists suggested that “there may be an opportunity to address cross-border data transfers . . . by providing specific and clear guidelines for organizations wishing to engage third-party service providers.” Currently Section 13 of PIPA deals with service providers.

Section 13 provides:

- (1) Subject to the regulations, an organization that uses a service provider outside Canada to collect personal information about an individual for or on behalf of the organization with the consent of the individual must notify the individual in accordance with subsection (3).
- (2) Subject to the regulations, an organization that, directly or indirectly, transfers to a service provider outside Canada personal information about an individual that was collected with the individual's consent must notify the individual in accordance with subsection (3).
- (3) An organization referred to in subsection (1) or (2) must, before or at the time of collecting or transferring the information, notify the individual in writing or orally of
  - (a) the way in which the individual may obtain access to written information about the organization's policies and practices with respect to service providers outside Canada, and
  - (b) the name or position name or title of a person who is able to answer on behalf of the organization the individual's questions about the collection, use, disclosure or storage of personal information by service providers outside Canada for or on behalf of the organization.
- (4) The notice required under this section is in addition to any notice required under section 13.

The Committee noted that under PIPA third-party service providers are not subject to the same privacy requirements or protection standards as the organizations that directly manage users' personal information. The Committee agreed that it is important to amend this oversight and ensure that Albertans' personal information is protected regardless of whether the personal information is in the custody of the organization subject to the Act or a third-party service provider.

Accordingly, the Committee recommends

**that the *Personal Information Protection Act* be amended to require an organization to contractually bind a third-party service provider to comply with the requirements of the Act in respect of personal information in its custody or under its control.**

## APPENDIX A: WRITTEN SUBMISSIONS TO THE COMMITTEE

### List of Written Submissions

Name	Organization
Judith Knight	Private Citizen
Dale Moll	Private Citizen
Richard J. Spelliscy	Alberta College of Psychologists
David Bonnell	Private Citizen
Kevin McCubbin	Private Citizen
Del Dawson	Private Citizen
Lorraine Hebert-Soucy	Private Citizen
Vicki Giles	Canadian Association of Counsel for Employers
Tony Perrota	i-SIGMA
Karen Ball	The Nonprofit Chamber
Leslie Evans	Federation of Calgary Communities
John Graham and Kate Skipton	Retail Council of Canada
Andrea Snow	College of Acupuncturists of Alberta and College of Alberta Denturists
Miki Stricker-Talbot	Volunteer Alberta
Sharon Prusky	College of Midwives of Alberta
Philippe Dufresne	Office of the Privacy Commissioner of Canada
Aaron Sutherland	Insurance Bureau of Canada
Jessica Cardill	Liberal Party of Canada
Michael Harvey	Office of the Information and Privacy Commissioner for British Columbia
Lorraine Krugel	Canadian Bankers Association
Anny Duval	Canadian Life and Health Insurance Association
Johanna FitzPatrick	TransUnion of Canada Inc.
Imran Mohiuddin	Cybera
Brett Oland	Bow Valley Credit Union
Alanna Gaudet	Credit Union Central Alberta Limited
Gemma Dunn	Edmonton Chamber of Voluntary Organizations
Diane McLeod	Office of the Information and Privacy Commissioner of Alberta
Nancy Bains	Law Society of Alberta
John Lawford	Public Interest Advocacy Centre
Brian Kingston	Canadian Vehicle Manufacturers' Association
Wade Collinge	Private Citizen
Shreya Bali	Canadian Marketing Association
J. Kent Donlevy	Faculty Association of the University of Calgary
Maureen Towle	Ministry of Technology and Innovation

## APPENDIX B: ORAL PRESENTATIONS TO THE COMMITTEE

### List of Oral Submissions

Names	Individual/Organization
Hilary Faulkner and Meredith Giel	Ministry of Technology and Innovation
Karen Ball and Alexa Briggs	The Nonprofit Chamber
Diane McLeod	Office of the Information and Privacy Commissioner of Alberta
Michael Harvey	Office of the Information and Privacy Commissioner for British Columbia
Philippe Dufresne	Office of the Privacy Commissioner of Canada