

2009 Bill 44

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Second Session, 27th Legislature, 58 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 44**

## **HUMAN RIGHTS, CITIZENSHIP AND MULTICULTURALISM AMENDMENT ACT, 2009**

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THE MINISTER OF CULTURE AND COMMUNITY SPIRIT

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 44*

## **BILL 44**

2009

### **HUMAN RIGHTS, CITIZENSHIP AND MULTICULTURALISM AMENDMENT ACT, 2009**

*(Assented to , 2009)*

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

**Amends RSA 2000 cH-14**

**1** The *Human Rights, Citizenship and Multiculturalism Act* is  
amended by this Act.

**2** The title and chapter number of the Act are repealed and the  
following is substituted:

#### **Alberta Human Rights Act**

Chapter A-25.5

**3** The preamble is amended in the 2nd recital by striking out  
“or family status” and substituting “, family status or sexual  
orientation”.

**4** Sections 3(1) and 4 are amended by striking out “or family  
status” and substituting “, family status or sexual orientation”.

## Explanatory Notes

**1** Amends chapter H-14 of the Revised Statutes of Alberta 2000.

**2** Change to title of Act.

**3** The 2nd recital of the preamble presently reads:

*WHEREAS it is recognized in Alberta as a fundamental principle and as a matter of public policy that all persons are equal in: dignity, rights and responsibilities without regard to race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income or family status;*

**4** Sections 3(1) and 4 presently read:

*3(1) No person shall publish, issue or display or cause to be published, issued or displayed before the public any statement,*

**5 Section 5 is amended by striking out “or family status” and substituting “, family status or sexual orientation”.**

*publication, notice, sign, symbol, emblem or other representation that*

- (a) indicates discrimination or an intention to discriminate against a person or a class of persons, or*
- (b) is likely to expose a person or a class of persons to hatred or contempt*

*because of the race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income or family status of that person or class of persons.*

**4** *No person shall*

- (a) deny to any person or class of persons any goods, services, accommodation or facilities that are customarily available to the public, or*
- (b) discriminate against any person or class of persons with respect to any goods, services, accommodation or facilities that are customarily available to the public,*

*because of the race, religious beliefs, colour, gender, physical disability, mental disability, ancestry, place of origin, marital status, source of income or family status of that person or class of persons or of any other person or class of persons.*

**5** Section 5 presently reads:

**5** *No person shall*

- (a) deny to any person or class of persons the right to occupy as a tenant any commercial unit or self-contained dwelling unit that is advertised or otherwise in any way represented as being available for occupancy by a tenant, or*
- (b) discriminate against any person or class of persons with respect to any term or condition of the tenancy of any commercial unit or self-contained dwelling unit,*

*because of the race, religious beliefs, colour, gender, physical disability, mental disability, ancestry, place of origin, marital status,*

**6 Section 7(1) is amended by striking out “or family status” and substituting “, family status or sexual orientation”.**

**7 Section 8(1) is amended by striking out “or family status” wherever it occurs and substituting “, family status or sexual orientation”.**

**8 Section 9 is amended by striking out “or family status” and substituting “, family status or sexual orientation”.**

*source of income or family status of that person or class of persons or of any other person or class of persons.*

**6** Section 7(1) presently reads:

*7(1) No employer shall*

- (a) refuse to employ or refuse to continue to employ any person, or*
- (b) discriminate against any person with regard to employment or any term or condition of employment,*

*because of the race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income or family status of that person or of any other person.*

**7** Section 8(1) presently reads:

*8(1) No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry of an applicant*

- (a) that expresses either directly or indirectly any limitation, specification or preference indicating discrimination on the basis of the race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income or family status of that person or of any other person, or*
- (b) that requires an applicant to furnish any information concerning race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income or family status.*

**8** Section 9 presently reads:

*9 No trade union, employers' organization or occupational association shall*

- (a) exclude any person from membership in it,*

**9 The following is added after section 11:**

**Notice to parent or guardian**

**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 explicitly with religion, 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 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.

*(b) expel or suspend any member of it, or*

*(c) discriminate against any person or member,*

*because of the race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income or family status of that person or member.*

**9** Notice to parent or guardian.

**10 Section 13(1) is amended by striking out** “Human Rights, Citizenship and Multiculturalism Education Fund” **and substituting** “Human Rights Education and Multiculturalism Fund”.

**11 The heading preceding section 15 is amended by striking out “and Citizenship”.**

**12 Section 15 is amended**

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

**Commission continued**

**15(1)** The Alberta Human Rights and Citizenship Commission is continued under the name “Alberta Human Rights Commission” and consists of the members appointed by the Lieutenant Governor in Council.

**(b) in subsection (2) by striking out** “chief commissioner of the Commission” **and substituting** “Chief of the Commission and Tribunals”;

**(c) by repealing subsection (3) and substituting the following:**

**(3)** The Minister may designate one of the members of the Commission as Acting Chief of the Commission and Tribunals, and the Acting Chief so designated has, during the absence of the Chief of the Commission and Tribunals, the powers and duties of the Chief of the Commission and Tribunals.

**(d) in subsection (4) by striking out** “chief commissioner” **and substituting** “Chief of the Commission and Tribunals”.

**13 Section 16(1) is amended by striking out** “or family status” **wherever it occurs and substituting** “, family status or sexual orientation”.

**10** Section 13(1) presently reads:

*13(1) The Multiculturalism Fund established under the Alberta Multiculturalism Act, SA 1984 cA-32.8, is continued as the Human Rights, Citizenship and Multiculturalism Education Fund.*

**11** Heading preceding section 15 presently reads:

*Alberta Human Rights and Citizenship Commission*

**12** Section 15 presently reads:

*15(1) The Alberta Human Rights Commission is continued under the name “Alberta Human Rights and Citizenship Commission”, consisting of the number of members appointed by the Lieutenant Governor in Council.*

*(2) The Lieutenant Governor in Council may designate one of the members as chief commissioner of the Commission.*

*(3) The Minister may designate one of the members of the Commission as acting chief commissioner of the Commission, and the acting chief commissioner so designated has, during the absence of the chief commissioner, the powers and duties of the chief commissioner.*

*(4) The chief commissioner and other members of the Commission shall receive remuneration and expenses for their services as prescribed by the Minister.*

**13** Section 16(1)(a) and (e) presently read:

*16(1) It is the function of the Commission*

**14 Section 17(1)(b) is amended by striking out “panels” and substituting “tribunals”.**

**15 Section 18 is repealed and the following is substituted:**

**Director and staff**

**18(1)** The Lieutenant Governor in Council may appoint a director for the purpose of the administration of this Act.

**(2)** The Minister may appoint any employees that the Minister considers necessary for the purpose of the administration of this Act.

**16 Section 22(1)(c) is amended by striking out “chief commissioner” and substituting “Chief of the Commission and Tribunals”.**

**17 Section 26 is repealed and the following is substituted:**

- (a) *to forward the principle that all persons are equal in: dignity, rights and responsibilities without regard to race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income or family status,*
- (e) *to research, develop and conduct educational programs designed to eliminate discriminatory practices related to race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income or family status,*

**14** Section 17(1)(b) presently reads:

*17(1) The Commission may make bylaws respecting*

- (b) *procedural matters related to the handling of complaints under this Act, including procedural matters related to the proceedings before human rights panels.*

**15** Section 18 presently reads:

*18 There may be appointed a director and any other employees required for the purpose of the administration of this Act.*

**16** Section 22(1)(c) presently reads:

*22(1) Notwithstanding section 21, the director may at any time*

- (c) *report to the chief commissioner that the parties are unable to settle the complaint.*

**17** Section 26 presently reads:

*26(1) The complainant may, not later than 30 days after receiving notice of dismissal of the complaint or notice of discontinuance*

**Appeal to Chief of the Commission and Tribunals**

**26(1)** The complainant may, not later than 30 days after receiving notice of dismissal of the complaint or notice of discontinuance under section 22, by notice in writing to the Commission request a review of the director's decision by the Chief of the Commission and Tribunals.

**(2)** The Commission shall serve a copy of a notice requesting a review referred to in subsection (1) on the person against whom the complaint was made.

**(3)** The Chief of the Commission and Tribunals shall

(a) review the record of the director's decision and decide whether

(i) the complaint should have been dismissed, or

(ii) the proposed settlement was fair and reasonable,  
as the case may be, and

(b) forthwith serve notice of the decision of the Chief of the Commission and Tribunals on the complainant and the person against whom the complaint was made.

**(4)** The Chief of the Commission and Tribunals may delegate the functions, powers and duties set out in subsection (3) to another member of the Commission.

**18 Section 27 is repealed and the following is substituted:**

**Referral to human rights tribunal**

**27(1)** The Chief of the Commission and Tribunals shall appoint a human rights tribunal to deal with a complaint in the following circumstances:

(a) where the Chief of the Commission and Tribunals receives a report from the director that the parties are unable to settle the complaint;

(b) where the Chief of the Commission and Tribunals or another member of the Commission decides under section 26(3) that the complaint should not have been

*under section 22, by notice in writing to the Commission request a review of the director's decision by the chief commissioner.*

*(2) The Commission shall serve a copy of a notice referred to in subsection (1) on the person against whom the complaint was made.*

*(3) The chief commissioner shall*

*(a) review the director's decision and decide whether*

*(i) the complaint should have been dismissed, or*

*(ii) the proposed settlement was fair and reasonable,*

*as the case may be, and*

*(b) forthwith serve notice of the chief commissioner's decision on the complainant and the person against whom the complaint was made.*

**18** Section 27 presently reads:

*27(1) The chief commissioner shall appoint a human rights panel to deal with a complaint in the following circumstances:*

*(a) where the chief commissioner receives a report from the director that the parties are unable to settle the complaint;*

*(b) where the chief commissioner decides under section 26(3) that the complaint should not have been dismissed or that the proposed settlement was not fair and reasonable.*

*(2) A human rights panel shall consist of one or more members of the Commission, one of whom may be the chief commissioner.*

dismissed or that the proposed settlement was not fair and reasonable.

(2) A human rights tribunal shall consist of one or more members of the Commission, one of whom may be the Chief of the Commission and Tribunals.

(3) Where the Chief of the Commission and Tribunals or another member of the Commission has conducted a review under section 26(3) in respect of a complaint, the Chief of the Commission and Tribunals or the other member, as the case may be, is not eligible to sit as a member of a human rights tribunal dealing with that complaint.

(4) A human rights tribunal and each member of the tribunal have all the powers of a commissioner under the *Public Inquiries Act*.

(5) If a human rights tribunal consists of more than one member, the decision of the majority is the decision of the tribunal.

**19 Section 28 is amended by striking out “panel” wherever it occurs and substituting “tribunal”.**

**20 Section 29 is repealed and the following is substituted:**

**Carriage of proceedings**

**29(1)** The director has carriage of a proceeding before a human rights tribunal except where the Chief of the Commission and Tribunals or a member of the Commission has made a decision under section 26(3) that the complaint should not have been dismissed or that the proposed settlement was not fair and reasonable, and in that case the complainant has carriage of the proceeding.

(2) The director shall not have carriage of a proceeding before a court without the approval in writing of the Chief of the Commission and Tribunals.

*(3) Where the chief commissioner has conducted a review under section 26 in respect of a complaint, the chief commissioner is not eligible to sit on a human rights panel dealing with that complaint.*

*(4) A human rights panel and each member have all the powers of a commissioner under the Public Inquiries Act.*

*(5) If a human rights panel consists of more than one person, the decision of the majority is the decision of the panel.*

**19** Change in terminology.

**20** Section 29 presently reads:

*29 The director has carriage of a proceeding before a human rights panel except where the chief commissioner has made a decision under section 26(3) that the complaint should not have been dismissed or that the proposed settlement was not fair and reasonable, and in that case the complainant has carriage of the proceeding.*

**21 Section 30 is amended by striking out “panel” wherever it occurs and substituting “tribunal”.**

**22 Section 31 is amended by striking out “panel” and substituting “tribunal”.**

**23 Section 32 is amended by striking out “panel” wherever it occurs and substituting “tribunal”.**

**24 Section 33 is amended by striking out “panel” wherever it occurs and substituting “tribunal”.**

**25 Section 34 is amended by striking out “panel” and substituting “tribunal”.**

**26 Section 35 is amended by striking out “chief commissioner” and substituting “Chief of the Commission and Tribunals or another member of the Commission”.**

**27 Section 36 is amended by striking out “panel” and substituting “tribunal”.**

**28 Section 37 is amended by striking out “panel” wherever it occurs and substituting “tribunal”.**

**29 Section 38(1) is amended by striking out “panel” and substituting “tribunal”.**

**30 Section 44(1) is amended**

**(a) in clause (c) by striking out “and Citizenship”;**

**(b) in clause (g)**

**21** Change in terminology.

**22** Change in terminology.

**23** Change in terminology.

**24** Change in terminology.

**25** Change in terminology.

**26** Section 35 presently reads:

*35 A decision of the chief commissioner under section 26(3)(a) is final and binding on the parties, subject to a party's right to judicial review of the decision.*

**27** Change in terminology.

**28** Change in terminology.

**29** Change in terminology.

**30** Section 44(1) presently reads in part:

*44(1) In this Act,*

*(c) "Commission" means the Alberta Human Rights and Citizenship Commission;*

- (i) **by striking out** “the status” **and substituting** “the state”;
- (ii) **by striking out** “of the opposite sex”.

**31 The following is added after section 44:**

**Transitional matters**

**45** A human rights panel that was appointed under section 27 to deal with a complaint before the coming into force of this section remains appointed as a human rights tribunal, and the members of the human rights panel continue to serve as members of the human rights tribunal, in respect of the complaint.

**32 The *Conflicts of Interest Act* is amended in Part 3 of the Schedule by striking out “Alberta Human Rights and Citizenship Commission” and substituting “Alberta Human Rights Commission”.**

**33 The *Dangerous Goods Transportation and Handling Act* is amended in section 3 by striking out “*Human Rights, Citizenship and Multiculturalism Act*” and substituting “*Alberta Human Rights Act*”.**

**34 The *Emergency Management Act* is amended in section 18(5) by striking out “*Human Rights, Citizenship and Multiculturalism Act*” and substituting “*Alberta Human Rights Act*”.**

**35 The *Financial Administration Act* is amended in section 2(1) by striking out “*Human Rights, Citizenship and Multiculturalism Act*” and substituting “*Alberta Human Rights Act*”.**

(g) *“marital status” means the status of being married, single, widowed, divorced, separated or living with a person of the opposite sex in a conjugal relationship outside marriage;*

**31** Transitional matters.

**32** Amends chapter C-23 of the Revised Statutes of Alberta 2000.  
Change in name of Commission.

**33** Amends chapter D-4 of the Revised Statutes of Alberta 2000.  
Change in name of Act.

**34** Amends chapter E-6.8 of the Revised Statutes of Alberta  
2000. Change in name of Act.

**35** Amends chapter F-12 of the Revised Statutes of Alberta 2000.  
Change in name of Act.

**36** The *Government Accountability Act* is amended in section 2 by striking out “*Human Rights, Citizenship and Multiculturalism Act*” and substituting “*Alberta Human Rights Act*”.

**37** The *Court Statutes Amendment Act, 2008* is amended in section 16(1) by striking out “*Human Rights, Citizenship and Multiculturalism Act*” and substituting “*Alberta Human Rights Act*”.

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

**36** Amends chapter G-7 of the Revised Statutes of Alberta 2000.  
Change in name of Act.

**37** Amends chapter 32 of the Statutes of Alberta, 2008. Change  
in name of Act.

**38** Coming into force.

