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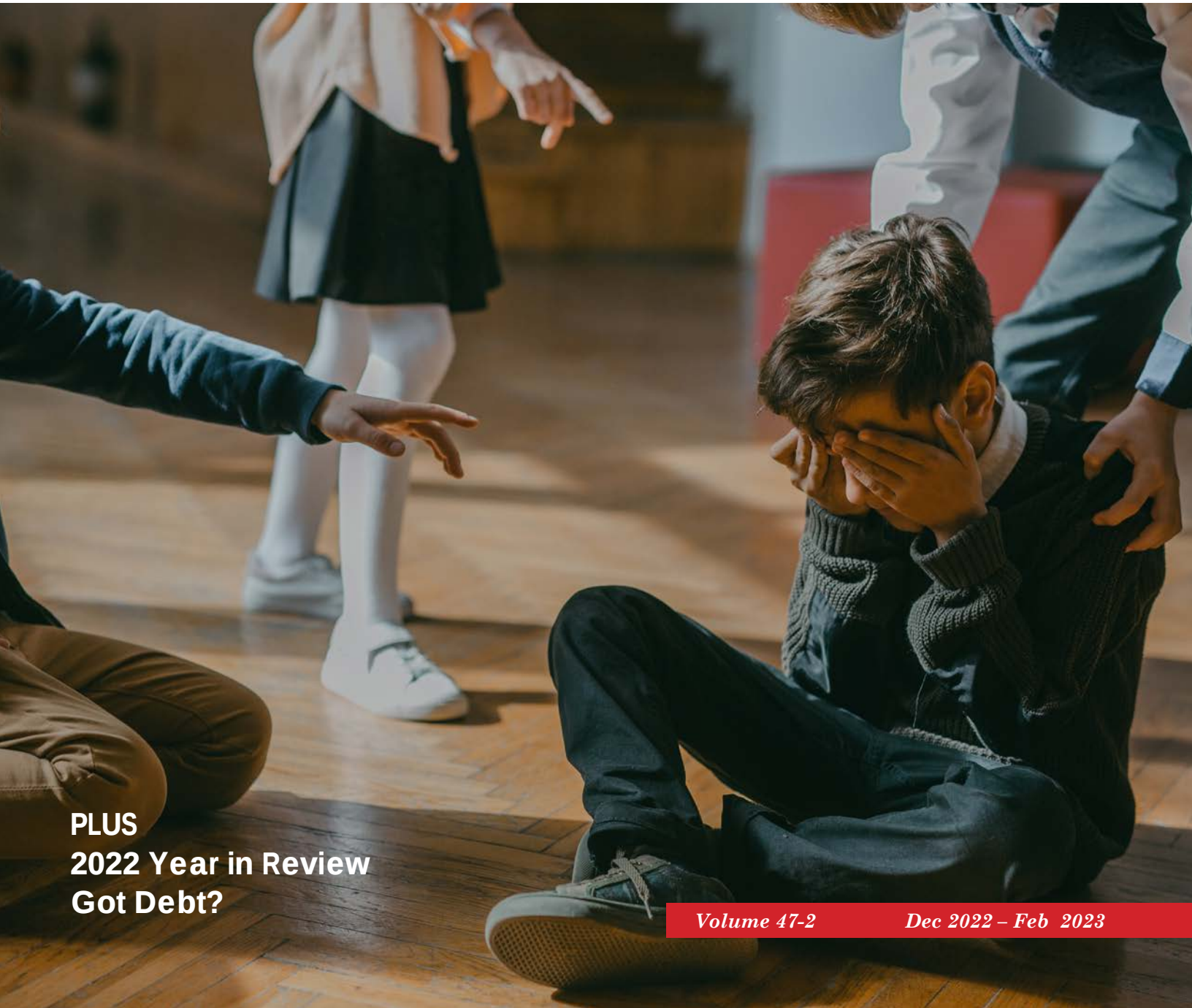

PLUS
2022 Year in Review
Got Debt?

*Volume 47-2* *Dec 2022 – Feb 2023*

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# December

# January

# February

# 2022 Employment Law Alberta Year in Review

December 6, 2022 by Joel Fairbrother

**This past year, the courts have left us with important decisions about employment contracts, constructive dismissal, severance, just cause and the oppression remedy.**

This article is a short summary of some important employment law decisions in Alberta in 2022, separated roughly into subcategories of employment law. This article does not focus on cases from other jurisdictions, although many of those can have persuasive weight here. It also does not address developments in human rights and labour (union) law, because to do so would make the article more than twice as long as it already is!

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## Employment Contracts

In *Lawton v Syndicated Services Inc*, 2022 ABPC 3, the Alberta Provincial Court upheld an employment contract which provided 4 weeks of severance upon termination of employment of an employee. This case is a bit unusual. Based on other cases, I think the Court in this case *could have* found the clause violated the *Employment Standards Code*. The Court could have then struck out the clause to provide additional severance to the employee. Instead, the Court seemed to focus on the fact that this was a small "mom and pop" business that was losing money at the relevant time.

In *Bryant v Parkland School Division*, 2022 ABCA 220, the Alberta Court of Appeal found the following clause was not clear and unambiguous enough to limit the employee's entitlement to reasonable notice severance:

> ***This contract may be terminated by the Employee by giving to the Board thirty (30) days or more prior written notice, and by the Board upon giving the Employee sixty (60) days or more written notice.***

This case is not particularly ground-breaking, but it does reaffirm established principles of contractual interpretation which tend to favor the employee.

## Constructive Dismissal

In *Kosteckyj v Paramount Resources Ltd*, 2022 ABCA 230, the Alberta Court of Appeal found the employer breached the employment terms by unilaterally reducing the plaintiff's compensation. However, the Court decided it was not a constructive dismissal because the plaintiff – a professional employee – did not protest that reduction and resign or claim constructive dismissal more than 10 days after the reduction. It is well-established that a plaintiff must decide whether to pursue constructive dismissal within a "reasonable time" after an employer breach, but 10 days is shorter than what we usually see in the caselaw.

In *Benke v Loblaw Companies Limited*, 2022 ABQB 461, the Alberta Court of Queen's Bench found an employee who was put on unpaid leave for refusing to wear a mask at work and then resigned was not constructively

dismissed. The judge reasoned that Loblaw's requirement for the employee to wear a mask in its stores was not a substantial change to his job duties and therefore did not breach his employment terms. This case is significant because many employees across Canada were placed on unpaid leave for similar reasons. Until recently, there was very little guidance in the caselaw on whether that could qualify for constructive dismissal.

## Severance

In *Hubbard v 651398 British Columbia Ltd.*, 2022 ABPC 22, the Alberta Provincial Court found an employer and employee had a verbal severance agreement. The employee agreed to take valuable tools and materials from the closing-down employer instead of cash severance. The Court found this was a valid form of severance, and the employee was not entitled to additional cash severance.

In *Oostlander v Cervus Equipment Corporation*, 2022 ABQB 200, the Alberta Court of Queen's Bench awarded a terminated employee 24 months of reasonable notice (severance). This was despite the employee knowing for 16 months prior to the termination date that his employment was ending. The Court also deducted CERB benefits he had received since termination from his severance award. The case is important mostly because 24 months is generally the most severance an employee can get, and there are relatively few cases with awards in that range.

## Just Cause

In *Baker v Weyerhaeuser Company Limited*, 2022 ABCA 83, the Alberta Court of Appeal found an employer did not have just cause to dismiss an employee, despite proven performance issues and employee dishonesty. This is a significant case, because although courts take into account the context of dishonesty, often dishonesty alone is enough for just cause. In this case, the Court was concerned the employer's actual motivation for discipline and termination was a manager's private vendetta against the plaintiff employee.

## Oppression Remedy

In *Wisser v CEM International Management Consultants Ltd*, 2022 ABQB 414, the Alberta Court of Queen's Bench allowed a dismissed employee to use the "oppression remedy". The employee secured a severance award directly against the directors of the corporation he previously worked for, as well as against a third-party corporate entity that had purchased the assets of the prior employer after termination of employment. It is rare for an employee to be able recover severance against third parties and directors.

**Joel Fairbrother**

Joel Fairbrother is an employment lawyer and partner at Bow River Law LLP. His key practice areas are employment law, labour law and human rights, but he does some general civil litigation as well. Joel has experience litigating at all levels of court and many different tribunals in Alberta.

# Canada's Constitution: What it is and why you should care

December 9, 2022 by Centre for Public Legal Education Alberta

**Understanding Canada's Constitution is a great first step in understanding the debate around Alberta's *Sovereignty Act* and the draft *Saskatchewan First Act*.**

Photo from Pexels/Pixabay

***EDITOR'S NOTE** Alberta's Sovereignty Act came into effect on December 15, 2022 when it received royal assent from the Lieutenant Governor.*

There is a lot of talk right now about Canada's Constitution and what government actions are or are not constitutional.

On December 7, 2022, Alberta passed its *Alberta Sovereignty Within a United Canada Act* (dubbed the *Sovereignty Act*), which is awaiting Royal Assent before it takes effect. The government has said the *Act* sets out a process for it to push back against federal initiatives it believes interfere with Alberta's authority. The *Act* has been the subject of much debate in recent weeks. But Alberta is not the only province taking action. The *Saskatchewan First Act* passed second reading on November 28, 2022 and aims to solidify Saskatchewan's authority over energy and natural resources.

Understanding Canada's Constitution is a good first step in understanding these Acts and the debate surrounding them.

## What is Canada's Constitution?

Canada's Constitution creates a framework for how the nation will operate. Canada's Constitution is not just one document. It consists of:

- *The Constitution Act, 1867*
- *The Constitution Act, 1982* (which includes the *Canadian Charter of Rights and Freedoms*)
- unwritten rules and customs

When we talk about "the Constitution", we are usually talking about both the 1867 and 1982 *Constitution Acts* together.

Two important legal foundations flow from the Constitution: division of powers and separation of powers.

## What is the division of powers?

Canada is a federal state, which means the federal government, the three territorial governments and the ten provincial governments share lawmaking responsibilities. Sections 91 and 92 of *The Constitution Act, 1867* distribute powers between the federal and provincial governments, with each level having jurisdiction (authority) to make laws over certain subjects.

Section 91 lists thirty areas within federal jurisdiction and section 92 lists fifteen areas within provincial jurisdiction. For example, the federal government has jurisdiction over

unemployment insurance and copyrights and patents, while the provincial governments have jurisdiction over property and civil rights and marriage ceremonies. The provincial governments also have jurisdiction over municipalities, meaning they can delegate certain law-making responsibilities to cities and towns within their borders.

The Constitution does not cover every subject requiring governance. One reason is that the drafters in 1867 could not possibly think of everything that would need to be regulated going forward. Over the last 150 years, the federal government and the provinces have for the most part worked together to regulate areas not covered in sections 91 or 92. Where they cannot agree, they refer the issue to the courts, who determine which level of government has jurisdiction. For example, the Constitution does not say who is responsible for the environment. Over the years, several issues have gone to the Supreme Court of Canada for decision, including the federal carbon pricing law in 2021.

### What is the separation of powers?

The separation of powers distributes a government's jurisdiction among three branches. (Whereas the division of powers divides jurisdiction between *levels* of government.)

Federal, provincial and territorial governments separate powers among three branches:

1. The **legislative** branch makes the laws. Federally, this is Parliament, which includes the House of Commons and the Senate. Provincially, this is the provincial legislatures.
2. The **executive** branch implements the laws. It includes the monarch (as represented by the Governor General and Lieutenant Governors), the government leader and the cabinet.
3. The **judicial** branch interprets the laws. It includes the Supreme Court of Canada, the courts within a province, and the federal courts.

This separation of powers provides important checks and balances on government and is foundational to a democratic system. For example, the legislature makes the law, but the judiciary interprets the laws. The courts are the final decision maker on whether a law made by a legislature is unconstitutional (illegal because it goes against the Constitution).

### Why should you care about Canada's Constitution?

Canada's Constitution is foundational to how our country and provinces operate. It delegates powers between levels of government and separates powers within a level of government. It is the backbone of our democracy.

### Where to find more information?

Below are more resources to help you better understand the Constitution, including in relation to Alberta's *Sovereignty Act*.

- Centre for Constitutional Studies website, where you can find information about the Constitution, Charter rights, federalism, Indigenous rights, and governance.
- Democratic Governance: The Constitution and Canada's Branches of Government LawNow article further explaining the executive, legislative and judicial branches of government in Canada.
- The Rule of Law: What is it? Why should we care? LawNow article explaining the rule of law, in that no person or government is above the law.
- Interview by the Centre for Constitutional Studies with Professor Feo Snagovsky (Political Science, University of Alberta) about Alberta's *Sovereignty Act* and democratic institutions.

- Interview by the Centre for Constitutional Studies with Marion Sandilands (constitutional lawyer with Conway Litigation) about how the Constitution works and the constitutionality of Alberta's *Sovereignty Act*.

**Centre for Public Legal Education Alberta**

The Centre for Public Legal Education Alberta (CPLEA) makes the law understandable for Albertans. Information is available through its many websites, info sheets, videos, webinars, FAQs and more. Visit www.cplea.ca to learn more.

# 2022 Housing and Consumer Year in Review

December 15, 2022 by Judy Feng

**A look back at important housing and consumer topics in 2022, including household debt, rent increases and housing affordability.**

If this year has taught us anything, housing and consumer law issues are more important than ever. We began the year hearing about soaring house prices throughout Canada. The combination of pandemic-related restrictions, (previously) low interest rates and desire for more space resulted in increased housing demand.

With the cost of living, rent and home ownership all becoming more expensive throughout the year, housing affordability remains an important issue for many. The combination of inflation and rapid interest rate hikes throughout the year affected many of you – regardless of whether you are a tenant, landlord, condo resident, homeowner, potential home buyer or consumer.

Through CPLEA's work throughout the year, we also heard from (and revisited insights from) community stakeholders, resource users and experts about the top housing and consumer law developments.

Here is a roundup of highlights throughout the year:

## Increasing household debt and the legal issues that come with it

In CPLEA's Got Debt? webinar (available on our CPLEA TV YouTube page) earlier this year, experts from Money Mentors and The Alberta Debtor Support Project discussed common debt problems and how to get out of consumer debt. Speaking of consumer debt, we also covered the gaining popularity of buy now pay later (BNPL) with Canadian consumers.

## Federal legislative and policy developments on housing affordability

The Budget 2022 in the spring unveiled policy directions and steps towards housing affordability. The Federal government announced many initiatives. This included supporting Rent-to-Own projects, developing a Home Buyers' Bill of Rights, providing direct financial support to Canadians in housing need, and temporarily banning non-Canadian residential property purchases.

Photo by Jessica Bryant from Pexels

## Rent increases

Anecdotally and in news reports, we heard that landlords raised rent quite significantly this year. For example, there are reports that average rent in Calgary went up 21 to 29% year over year. Starting in April 2022, rent increases became the number one accessed topic across all CPLEA's housing law resources. We continue to receive many inquiries from landlords and tenants about the law around rent increases.

So, what does the legislation say? The *Residential Tenancies Act (RTA)* is legislation governing the relationship between most landlords and tenants in Alberta. However, it doesn't say anything about how much landlords can increase rent. But there are limits in the *RTA* on how often landlords can increase rent and also rent increase notice requirements. For more information, visit our resource on Rent Increases.

That said, a few lawyers have suggested for many years now that there may be a limit to rent increases in economic eviction situations – for more insight, refer to Constraining a Landlord's Ability to Terminate a Residential Tenancy by Raising the Rent by Jonnette Watson Hamilton (ABlawg) and Economic Evictions in a Residential Tenancy by Tim Patterson (Access Review).

## Escalation in conflict and challenges in various housing situations

We heard from our community stakeholders and resource users throughout the year about the general escalation in conflict and challenges in their housing situations. This includes landlords and tenants in rental housing and subsidized housing situations, as well as amongst condominium owners. From facilitating a workshop at the Alberta Public Housing Administrators' Association in the fall, we also learned that Illegal activities, mental health/addiction problems and family violence issues are amongst the top issues that the subsidized housing sector is concerned about.

## Servicing debt in a cooling housing market and softening economy … and foreshadowing of foreclosures?

As we near the end of the year, you may have heard reports of a cooling housing market and fears about an economic downturn. It was also widely reported this year that Canadians are in an increasingly tight spot with servicing consumer and mortgage debt.

So, what happens when people struggle to service debt in a softening economy and housing market? Judith Hanebury's 2020 LawNow article, Foreclosures in Alberta: The return of the '80s?, is as relevant as ever in foreshadowing what is likely to happen in such situations. You can also find resources on how to get out of debt (and more) on CPLEA's new money and debt page.

## Year-end federal housing affordability initiatives

Towards year-end, we heard about the realization of some of the Federal government's housing affordability initiatives. For example:

- As of December 12, 2022, low-income renters in Canada can access the **Canada Housing Benefit Top-Up**, a one-time $500 payment. Applications are only open until March 31, 2023. More information on the benefit is available on the Canada Revenue Agency website.
- The Federal Government passed the Prohibition on the Purchase of Residential Property by Non-Canadians Act, which will come into force on January 1, 2023. The Act imposes a two-year ban on non-Canadians in buying all types of residential property. This includes detached houses, semi-detached houses, condominium units, rowhouse units and more.

## Looking forward to 2023

Now that concludes another year for housing and consumer issues from CPLEA's perspective. We look forward to sharing additional insights and developing new resources in 2023 on issues that are of interest to you. Have an idea for a potential resource need in these areas? Please let us know by e-mailing us at info@cplea.ca.

**Judy Feng**

Judy Feng, BCom, JD, is a staff lawyer at the Centre for Public Legal Education Alberta.

# Hot Legal Topics of 2022

December 20, 2022 by Jessica Steingard

**You asked and we answered – questions about interest rates, rent increases, layoffs and terminations of employment, grants of probate and conversion therapy.**

As another year ends, it's a time to reflect back on the year that was and look forward to the year that will be. I think many of us are still processing 2020 and the arrival of COVID-19, yet here we are almost three years later!

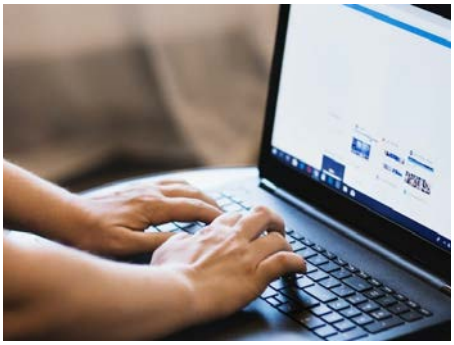

Photo by EVG Kowalievska from Pexels

We looked back at the most frequent questions we received as well as our most-visited webpages in 2022. Below we have summarized what the law says about these hot topics and have pointed you in the direction of more information.

## Inflation and rising interest rates

Inflation continues to be a persistent problem. The Bank of Canada has raised the policy interest rate by 4 points to 4.25% (as of December 7, 2022 and more hikes are still possible by the end of the year). When the economy is growing quickly, raising the policy interest rate increases the cost of borrowing money and discourages spending. In turn, the economy grows slower, which reduces inflation.

So, what does the law say about inflation and interest rates?

First, Canada's *Constitution Act, 1867* gives the federal government jurisdiction over interest and banking (except for credit unions and treasury branches). Exercising its authority, the federal government enacted the *Bank of Canada Act*, which gives the Bank of Canada its authority. Section 21 says the Bank must publicly share the minimum rate at which it is prepared to make loans or advances. This is the policy interest rate. So, while interest rates are about economics, the authority to manage the economy is based in law.

Learn more about the policy interest rate from the Bank of Canada's website.

## Rent increases

We continue to receive many questions about rent increases from both tenants and landlords. Are they legal? When can a landlord increase rent? By how much can a landlord increase rent?

So, what does the law say about rent increases?

Alberta's *Residential Tenancies Act* governs the relationship between most landlords and tenants in the province. It includes terms that landlords and tenants cannot contract out of. The *Act* says when a landlord can increase rent and the notice they must give, all depending on whether it is a fixed tenancy (with an end date) or periodic tenancy (such as month-to-month). However, the *Act* does not say anything about how much the rent increase can be.

Read more about rent increases and more housing issues in our 2022 Housing and

Consumer Year in Review article. And learn more about the law around rent increases on our Rent Increases page on CPLEA's Laws for Landlords and Tenants in Alberta website.

### Layoffs and terminations of employment

During this economic cooling off period, some employers may trim their workforce. Amazon, Twitter and Hootsuite have made headlines recently for mass layoffs.

So, what does the law say about layoffs?

First, the rules depend on which law applies. Alberta's *Employment Standards Code* applies to most workers in Alberta. The *Canada Labour Code* applies to workers in Alberta who work in federally regulated workplaces.

Second, terms are important. At law, the term 'layoff' refers to a temporary layoff where the employer can recall the employee. Other times people use it to mean a termination without cause. Let's briefly look at both.

An employer can temporarily layoff an employee with whom they wish to maintain an employment relationship. Often this happens during periods of slowdown. The *Employment Standards Code* says employment terminates if an employee is laid off for more than 90 days within a 120-day period. The layoff then becomes a termination without cause.

A termination without cause is where an employee has not done anything wrong but the employer still wants to terminate their employment. (A termination *with* cause is where the employee has behaved poorly so to justify termination.) When an employer terminates an employee without cause, they must give the employee notice or pay in lieu of notice of the termination. Since the employee has not done anything wrong, notice is meant to give them time to find a new job. The amount of notice depends on legislation and common law (judge-made law).

Note that the rules for without cause terminations are a bit different under the *Canada Labour Code*, which provides union-like protections to non-union workers.

Employees with questions about their employment ending and whether they are entitled to termination pay can read more about their rights at work from CPLEA or contact the Workers' Resource Centre.

### Grants of Probate

We have received lots of questions about grants of probate – what they are, how to get one, and how to find out if the court issued one.

So, what does the law say about grants of probate?

A grant of probate is a court order that confirms the persons named have authority to deal with the deceased's estate. A grant is not always necessary, depending on what is in the estate. When a grant is necessary, the personal representative must complete the grant application and take several other steps to get permission from the court to act. The personal representative may not be able to deal with the estate until they get the grant.

On June 15, 2022, the process for getting a grant of probate changed, including the applications forms. The new forms simplify the process for personal representatives. If a lawyer is helping the personal representative, the lawyer can file the documents online with the court. If the personal representative is preparing the application themselves, they must file a paper copy with the court.

When it comes to finding out if the court issued a grant of probate, the curious individual may want to contact the personal representative. If that is not an option, you can pay a fee to search the court records at the appropriate courthouse.

For more information on grants of probate, read CPLEA's Getting a Grant of Probate booklet.

## Ban on Conversion Therapy

Equality, diversity and inclusion efforts continue to be at the forefront of society, the courts and politics. And this year, the conversation included conversion therapy – what it is and the harm it causes.

So what does the law say about conversion therapy?

On January 7, 2022, new *Criminal Code* provisions came into effect that ban conversion therapy and related conduct. It is now illegal to make someone undergo conversion therapy, as well as to provide, promote, advertise or make money off it. CPLEA hosted a virtual panel discussion on the topic with special guests Blake Desjarlais, MP, Emmet Michael, Glynnis Lieb, Rin Lawrence, and Charles Easton. Watch the recording on CPLEA's YouTube channel.

For more information on the ban on conversion therapy, see CPLEA's information resources, including an info sheet, poster, FAQs and video.

**Jessica Steingard**

Jessica Steingard, BCom, JD, is a staff lawyer at the Centre for Public Legal Education Alberta.

# 2022 Criminal Law in Review

December 30, 2022 by Charles Davison

**Over the past year, important criminal law developments came from several changes Parliament made to Canada's *Criminal Code*.**

The law is always changing. So, it is challenging to list the most significant developments over the last 12 months. Others might have different choices, but what follows is my take on the most important changes in Canadian criminal law in 2022.

Some years are marked by significant court decisions (usually from the Supreme Court of Canada), which bring about noteworthy and lasting change in the process or substance of criminal law. This year, however, almost all the changes I count as the most important have come from Parliamentary action: changes to the *Criminal Code*.

In early 2022, amendments to the *Criminal Code* that Parliament passed in 2021 became effective. Several new offences came into force to respond to various situations and needs that arose over the last few years.

## Ban on conversion therapy

In support of its efforts to promote general equality and tolerance among all sectors of society, the government proposed (and Parliament adopted) the criminalization of "conversion therapy". Conversion therapy is the idea that gender identities and sexual orientations can and should be changed by way of "therapies" favoured by other persons. While individuals can freely pursue any form of therapy or treatment for themselves, to cause another person to undergo conversion therapy is now a criminal offence punishable by up to five years in jail. Promoting, advertising or making money off conversion therapy are also now against the law and carry maximum sentences of up to two years in jail.

## Intimidating healthcare professionals or obstructing access to health facilities

New criminal offences also respond to some of the most unpleasant and outrageous public reactions to emergency measures during the COVID-19 pandemic. A shameful side effect of the pandemic was some people harassing and intimidating doctors and nurses – the same healthcare professionals upon whom we all rely – simply because they were carrying out their duties to their patients. Some chose to picket and block hospitals, swear at and insult (and in some cases, threaten) healthcare professionals, and prevent patients from going into healthcare facilities.

In response, Parliament created new offences of intimidating healthcare professionals or obstructing access to healthcare services. Peaceful protest is allowed. But, anyone who intends to cause healthcare professionals or their patients to be fearful, or who obstructs access to a health facility, may spend up to ten years in jail if convicted.

## Defence of extreme intoxication

In June 2022, Parliament achieved rare party unanimity in its response to a Supreme Court of Canada decision to strike down a *Criminal Code* section banning the defence of "extreme intoxication".

In 1994, the Supreme Court of Canada considered where an accused drinks alcohol and/or uses drugs to the extent they become so intoxicated they are almost in a psychotic

state. The Court ruled these individuals may be acquitted of criminal charges based on them not knowing what they were doing and having no control over their conduct. The basic constitutional requirements of criminal law say no person can be convicted of an offence for conduct that is not voluntary. In these rare cases, an accused might defend the charges against them by saying they were not acting voluntary and so should be found 'not guilty'.

Shortly after the 1994 decision, Parliament enacted section 33.1 of the *Criminal Code*. It banned the use of this defence, reasoning that the individual voluntarily consumed an intoxicating substance and put themselves into the state of extreme intoxication. In May 2022, the Supreme Court of Canada decided this provision is unconstitutional. A majority of the Court held that because section 33.1 would apply in any case where an accused person had voluntarily consumed intoxicants, it improperly allowed conviction where even the most basic guilty state of mind was lacking. Someone who took an intoxicant without knowing or expecting the extreme results of their conduct while under the influence could be convicted and punished for the criminal offences they committed during that period. This goes against basic principles underlying our criminal justice system, notably that the *Criminal Code* only punishes voluntary actions intended to break the law.

In response to the Court's decision, all parties in Parliament agreed to move quickly to enact a new provision. On June 23, 2022, the new section 33.1 came into force. The law now requires all persons who consume intoxicants to follow "the standard of care expected of a reasonable person in the circumstances". In deciding whether an individual has departed from this standard of care, the court must consider the objective foreseeability that consuming the substances might cause extreme intoxication and lead the person to harm another. Where an accused has acted contrary to this standard of care, they cannot defend a charge by saying they were unaware of, or unable to control, their own conduct and behaviour.

## Mandatory minimum sentences

Late in 2022, another set of changes to the *Criminal Code* as well as our drug laws (the *Controlled Drugs and Substances Act*) came into effect. Most importantly, these changes removed several mandatory minimum sentences (all requiring judges to impose long jail terms). Sentencing judges once again have the power to order a sentence that responds to the specific situation. In deciding the punishment, judges will focus on the characteristics of the offender and the circumstances of the offence they committed.

Photo by Kindel Media from Pexels

## House arrest orders

The laws about Conditional Sentence Orders (commonly referred to as "house arrest orders") were changed to remove restrictions imposed by earlier Parliaments. In more cases than was possible before, a judge can order the convicted person to serve a sentence of imprisonment at home under strict conditions as long as public safety is not an issue and the punishment achieves the usual goals of sentencing (denunciation, deterrence, rehabilitation and reintegration into society).

## Minor drug offences

Other changes signal a shift in how Canada addresses some minor forms of drug offences. In at least some cases, drug use is to be seen as a health and social issue not necessarily requiring a criminal response. Instead of

charging an individual with illegal possession of drugs, a police officer can warn the person about drug use and refer them to a program or agency that offers help with addictions. Prosecutions for "simple possession" offences (different from trafficking or "possession for the purposes of trafficking" offences) will now only take place where a prosecutor has reviewed the matter and concluded taking the file to court is necessary and appropriate.

## His Majesty the King

A final change in criminal law is minor yet nominally affects every criminal proceeding before the courts. Criminal prosecutions are conducted in the name of the Sovereign, often referred to as "the Crown". Until September 2022, prosecutions were always entitled as being between "Her Majesty the Queen" (or in Latin, as "Regina") and the accused person.

With the death of Queen Elizabeth II on September 8, we no longer have a Queen. Immediately, all prosecutions (current or future) began referring instead to "His Majesty the King" or "Rex" in Latin. This does not affect substantive or procedural criminal law, but nonetheless is a change across the board to the titles of all criminal proceedings anywhere in Canada.

**Charles Davison**

Charles Davison is the Senior Criminal Defence Counsel with the Somba K'e office of the Legal Services Board in Yellowknife, N.W.T.

# Dealing with Holiday Debt

January 6, 2023 by Liam Bartie

**Money Mentors provides practical tips and free supports for dealing with holiday debt, including credit card balances.**

For many people, the most wonderful time of the year also ends up being the most expensive. The joy of the holiday season can quickly become overshadowed by the stress of overspending and the looming prospect of an overwhelming credit card balance.


Photo by Pexels/Pixabay

There is no quick and easy way to deal with holiday debt. However, the first step to recovering from your Christmas spending is to understand there are a number of things you can do to improve your situation. Once you realize there are steps you can take, and people to help guide you, dealing with holiday debt starts to feel much more manageable.

At Money Mentors, we publish numerous success stories of clients who have overcome eye-watering amounts of debt, and come out the other end with financial freedom and an improved relationship with money. These clients often report the same thing: the two most important things you need are a plan and someone to help you execute it. In this article, we will list some steps that might be part of the plan. And if you need help, reach out for a free consultation with one of our credit counsellors.

### Step 1: Acknowledge Your Debt

Just like with a scary film, or a nightmare after Christmas if you'll pardon the pun, there can often be a tendency to look away, to avoid checking your balance and coming to terms with the scale of your debt. This is one of the worst things you could do. With high interest rates, credit card debt can quickly grow from a small problem into a much larger one.
Get to grips with the situation as quickly as possible by getting all your bills together in one place and writing down each balance and the interest rates associated with them. If you have multiple credit card bills, consider ranking them in terms of balance, from lowest to highest – this will be helpful in a later step.

### Step 2: Make a Budget

Once you've got a clear picture of the size of the debt, the next thing to do is draw up a budget. It's essential that you have a good understanding of how much money is coming in and how much is going out. This is a great opportunity to make a meaningful shift in your financial life. Learning how to budget effectively is one of the most important skills you can learn.

To get you started, we wrote this how-to guide on creating a budget and maintaining it, complete with links to download an editable spreadsheet.

### Step 3: Low-interest Balance Transfer

The most worrisome thing about debt is the interest, and most credit cards have very high interest rates. So, before you start thinking about paying off the debt, the best thing you

can do at this stage is attempt to transfer your balances from a high interest account to a low interest account. Ask your bank if this is an option. If not, consider doing some research to find a bank with a low or 0% interest rate on balance transfers.

With that said, this option is only a temporary fix. Low or 0% interest rate accounts usually have a term of around six months. This means you'll eventually still need to pay off that debt. If you can do so within the term of low interest, then great. If not, let's have a look at the next step.

### Step 4: Choose a Debt Payment Strategy

OK, you have acknowledged your debt, made a budget, and if possible, you have transferred to a low interest credit card or account – you're now well on your way to dealing with your holiday debt. The next step is to pick a method for paying off your debt. There are two main schools of thought when it comes to paying off your credit card debt, and they both have cold and wintery names: the avalanche method and the snowball method. Regardless of which option you choose, make sure you have set up automated payments to pay at least the minimum on all your balances.

#### Pay Down Debt with the Avalanche Method

The avalanche method is all about targeting the credit card bills with the highest interest rates first. Once you have identified the credit card bill with the highest interest rate, start paying it off with any surplus from your budget. After paying off this balance, move on to the one with the next highest interest rate, and so on.

Money Mentors has a great calculator to help you do this. Give it a try with our Roll Down Your Debts tool.

#### Try the Snowball Method for Debt Repayment

In this method, you are looking for the smallest balance, rather than the highest interest rate. This way, you can get a whole balance paid off, reduce the number of bills you receive, and enjoy the psychological boost that comes with crossing this one off your list. Keep going though! Take the amount you were using to pay off this balance and now target the next smallest bill, until everything is paid off.

### What Next?

This article is for those who may have had a financially difficult holiday period and need some help dealing with their Christmas debt. If you fall into this category, then hopefully you found these steps useful. However, if your holiday debt is a small part of a larger problem, you may need to think about a more comprehensive debt strategy.

At Money Mentors, we exclusively manage the Orderly Payment of Debts program on behalf of the Government of Alberta. With a fixed interest rate of 5%, many clients find peace of mind with our federally legislated program and access to accredited counsellors for support along the way. As a non-profit, Money Mentors is committed to providing free and unbiased financial advice whatever your situation. This article provides you with a plan, but you may still need someone to help you execute that plan. Get in touch with Money Mentors, that's what we're here for.

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**Liam Bartie**

Liam Bartie is the Marketing Communications Specialist at Money Mentors. Money Mentors is the only Alberta-based, non-profit credit counselling, debt consolidation, and financial education agency.

# New approach in Alberta to imputing income to underemployed and unemployed parents

January 12, 2023 by Sarah Dargatz

**In 2022, the Alberta Court of Appeal in *Peters v Atchooay* changed course and adopted the reasonableness test for imputing income to calculate child support.**

The amount of child support a parent pays is based on their income. For many parents, figuring out their income means looking at their tax return. However, sometimes a parent's tax return does not reflect their true income. In these cases, the law allows a judge to "impute" their income for to calculate child support. Imputing income might be necessary where a parent earns non-taxable income, lives in another country, or is self-employed.

Photo by Karolina Grabowska from Pexels

Imputing income may also be necessary if a parent is underemployed or unemployed. The *Federal Child Support Guidelines* (and mirroring provincial guidelines) allow a judge to impute a parent's income where that person is "intentionally under-employed or unemployed, other than where the under-employment or unemployment is required by the needs of a child of the marriage or any child under the age of majority or by the reasonable educational or health needs of the [parent]" (section 19(1)(a)).

## The (old) deliberate evasion test

It is up to the court to interpret this section and impute an income it "considers appropriate". For over 20 years, judges in Alberta interpreted this section differently than judges in other Canadian provinces. The 2001 Alberta Court of Appeal decision in *Hunt v Smolis-Hunt* limited imputing income under this section to circumstances where a parent *deliberately sought to evade their child support obligations*. A judge had to find proof a parent specifically intended to undermine or avoid their support obligations. This is the "deliberate evasion test".

In all other provinces, judges considered whether a parent's choice of employment that did not maximize their earning capacity was *reasonable* ("the reasonableness test"). The Supreme Court of Canada did not weigh in to clarify the issue. Using the deliberate evasion test in Alberta meant it was much more difficult to impute a parent's income in cases

of under- or unemployment. That changed in the 2022 Alberta Court of Appeal decision in *Peters v Atchooay*.

### The (new) reasonableness test

Courts of appeal usually do not change the law made in past decisions. Canada's common law legal system relies on following precedents set by earlier decisions. This provides certainty and stability to our justice system. However, a court can reconsider binding precedent in limited circumstances. In granting permission to do so, the court considers the age of the decision, whether the decision created settled expectations, how other appeal courts treated the issue, whether the court overlooked authority, and whether the decision had an obvious flaw. In the *Peters* case, the appellant's lawyer sought and was granted permission from the Court of Appeal to reconsider the decision made in *Smolis-Hunt*.

The Court of Appeal noted much has changed in the family law landscape since it decided *Smolis-Hunt* in 2001. In 2001, the Court of Appeal prioritized a *parent's* personal agency and freedom to choose their own career path. But in 2022, the Court of Appeal concluded that child support, like parenting, should be decided in the context of the overall best interests of the *child* and a child's right to be supported by their parents. In *Peters*, the Court of Appeal concludes the "deliberate evasion test" does not align with the *Guidelines* and has proven to be impractical. Therefore, the interpretation of the law in Alberta must change, and judges should now apply the "reasonableness test" like the rest of Canada.

In *Peters*, the Court outlines three steps to analyze whether to impute a parent's income for being under- or unemployed:

1. Is the parent intentionally under-employed or unemployed?
2. Do the listed exceptions to imputation apply? (As in, do the needs of a child or the reasonable education or health needs of the parent require under- or unemployment?)
3. Should the court use its discretion to impute income? This involves deciding if the voluntary under- or unemployment is reasonable in the circumstances.

Considering the reasonableness of a parent's employment does not mean they must maximize their earning potential at all costs. The Court notes:

> ***For most parents with child support obligations, there is likely a range of reasonable career options and a parent is not always compelled to choose the one that provides the greatest income. Some leeway must be given to a parent to organize [their] working life in a way that promotes [their] own self-actualization. On the other hand, a parent must weigh in the balance [their] obligations to support a child and cannot unfairly disregard the needs of a child.***

So long as a parent's employment decisions are reasonable in all the circumstances, *and in light of the fact that they have a child to financially support*, the Court will likely not impute their income. A very high-income earner does not have to sacrifice their health, well-being, or parenting time simply to maintain a high level of support. For example, consider a parent who earned a high income by working out of town during the relationship but who then takes a lower income after the separation to prioritize shared parenting. They are making a reasonable decision.

The *Peters* decision finally brings Alberta in line with the rest of the country on this issue.

**Sarah Dargatz**

Sarah Dargatz has been practicing family law since 2009. She is currently a partner at Latitude Family Law LLP.

# The Transfer from Hospital to Continuing Care: The process & dispute resolution tools

January 17, 2023 by Amy Kasper and Anna Lund

**Alberta Health Services facilitates patient transfers to publicly funded continuing care facilities, but bigger policy problems are constraining the process.**

It is a common yet difficult scenario. During a stay in hospital, it has become clear the individual's existing housing arrangements are no longer sufficient. They need to move into continuing care.

Photo from Pexels/Pixabay

The transition process can feel overwhelming because of the magnitude of the change, but also disempowering because there is so much information to digest. Sometimes patients may feel they are not the ones driving the decision about which facility they will transfer to. Alberta hospitals are over capacity and need to make acute care beds available to those in need, but there are limited continuing care options available. As a result, patients may feel pressured to accept an unsuitable placement in continuing care. Ideally, patients or their family members will reach a workable, if not ideal, solution by communicating openly with hospital staff. But that may not always be the case.

This article is for Albertans who find themselves or their loved ones in hospital and making the transition to publicly funded continuing care. It will provide information about the process, their rights and responsibilities during it, and some of the dispute resolution processes available to them. The transfer into *privately* funded care may follow a different process.

## *Charter* challenge in Ontario

A lawsuit underway in Ontario highlights the fundamental importance of the rights in question when a patient is transferred from a hospital to continuing care. The Ontario government recently changed its provincial legislation (SO 2022, c 16) to put more pressure on patients to accept transfers from hospitals to long-term care.

A pair of organizations has challenged these new rules in that they violate the rights of patients as protected in *The Canadian Charter of Rights and Freedoms*. The organizations argue the new rules violate the equality protection in the *Charter* (s 15) because they will be used primarily against mentally and physically ill, as well as elderly, patients. Additionally, they argue the new rules violate

the patients' rights to life, liberty and security of the person (s 7) by coercing people into living and care situations they would not otherwise choose. As of the writing of this article, a court has not yet ruled on these claims.

## The transfer process in Alberta

The process for transferring a patient from Alberta Health Services ("AHS") into a publicly funded continuing care facility (called a 'designated living option) is set out in a procedure document. AHS temporarily suspended this process during the ongoing COVID-19 crisis by a much briefer document that requires hospitals to expedite the transfer of patients into continuing care. It is unclear when AHS will lift this suspension.

When the ordinary procedure is in force, an AHS case manager facilitates the following process:

- A health care professional assesses the individual to determine what level of care they need.
- The case manager provides the individual with information about continuing care options, including which ones best meet the individual's needs, the waitlists at the different housing options, and what will happen if the individual is not able to get into their preferred location.
- An individual indicates their "most preferred" continuing care option(s), in consultation with their case manager. The case manager can identify the most preferred option if the individual fails to identify one, or if there is only one facility that meets the individual's needs.
- Individuals must then wait for a spot to open up. The waitlist prioritizes individuals based on criteria set out in the policy. For example, individuals who can no longer be safely cared for in the community have higher priority.
- While waiting for a spot to open up in their "most preferred" option, an individual may be offered a spot in a different continuing care facility.

When offered a spot in a continuing care facility, individuals have 48 hours to consider the offer and respond.

If an individual refuses the offer of a placement in a continuing care facility, the case manager will talk with them to understand why the individual refused and to identify another living arrangement acceptable to the individual. If available, a second continuing care option will be offered to the individual. If the individual refuses the second offer, and no other suitable arrangements are available, the individual may be transferred to an available continuing care facility or discharged from the hospital.

Hospital administrators have the power to transfer or discharge patients under the *Hospital Act*. An individual who stays in hospital after being discharged is trespassing. They can be fined or imprisoned, as can family members who are responsible for their care. Additionally, the individual or their family member may have to pay the costs of caring for the individual in hospital after they have been discharged.

## Making a complaint and resolving disputes

Individuals who feel a hospital has failed to comply with the AHS policy on transfers can make a complaint to the Patient Relations department of AHS or the senior representative in their health zone.

The policy governing complaints says parties should be supported in negotiating a resolution to their dispute. If that approach is unsuccessful, the policy provides the complainant with a formal appeal process before an appeal board. The appeal board can confirm the transfer decision, or decide the

hospital should provide the complainant with a different option.

In addition to the AHS policies, there are two sources of information an individual may wish to consult: the **patient handbook** of the hospital, and **Alberta's *Health Charter***.

First, the hospital in which a patient is located may have a patient handbook. Ask for a copy. It may contain additional information about how the hospital manages transfers to continuing care or how to raise concerns about the patient's treatment in the hospital. Be aware that the hospital's handbooks cannot override AHS policies.

Second, Alberta has a *Health Charter*, which the Government of Alberta adopted under the *Alberta Health Act*. It guides the conduct of the institutions and people who deliver health services in the province. It says patients can expect to "be treated with respect and dignity," while being "informed in ways that [they] understand so that [they] may make informed decisions" about their care. The patient's ability to raise concerns or ask questions will not be hindered by a "fear of retribution or an impact on" their care or their future situation. A patient who feels their health care providers have violated the *Health Charter* can contact the Health Advocate. The Health Advocate supports patients to advocate on their own behalf. The Advocate also has the power to review complaints, but with limited remedial power: the Advocate can make recommendations *to any appropriate person* about how to comply with the *Charter* in the future.

## A comment on the current situation

We have heard that these dispute resolution processes may move too slowly to provide meaningful relief to patients who are mishandled during the transfer from a hospital to continuing-term care. After an elderly or frail patient has moved once, it may not be possible to move them a second time, even if an appeal board or Health Advocate recommends a move.

Moreover, bigger policy problems constrain the transfer process on both sides: the shortage of hospital beds and of satisfactory continuing-term care options. Even the most well-designed transfer process cannot address these bigger issues. This article aims to provide people navigating the existing transfer process with information about their rights. But much remains to be done to ensure that all Albertans have adequate healthcare and housing options.

**Amy Kasper**

Amy Kasper has a keen interest in family law and reproductive justice. She has a BA in Anthropology that mainly focused on archeology and the cultural anthropology of North America. She loves to read and knit, and desperately adores alpacas.

**Anna Lund**

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# An Overview of Specialized Courts & Restorative Justice at Provincial Court in Edmonton

January 23, 2023 by Crystal Hayden

**Edmonton's Indigenous Court, Mental Health Court and Drug Treatment Court use restorative justice principles in sentencing a person convicted of a criminal offence.**

The Edmonton Indigenous Court, Edmonton Mental Health Court and Edmonton Drug Treatment Court are three specialized courts in the Provincial Court of Alberta. They use restorative justice as an approach to sentencing a person convicted of a criminal offence.

These specialized courts respond to crime in a holistic way by looking at and dealing with all the factors that led to the person committing the crime. The specialized courts understand the "traditional adversarial process is not necessarily the most appropriate for every process or for every population". Unlike regular criminal court, they are therapeutic in their approach by going beyond punishment and including individualized and monitored corrective treatment. Before a criminal matter can be heard in one of these courts, the accused must take responsibility for their actions and agree to actively participate in their corrective healing journey.

## Restorative Justice

Restorative justice is an alternative and holistic approach to the traditional sentencing of crimes. It addresses the underlying issues and circumstances that often play a part in the criminal offences. Restorative justice not only corrects the harm done but aims to prevent future harm by addressing underlying issues that can lead to repeat offences. Many laws and government policies allow for restorative justice, including the *Criminal Code*, the *Youth Criminal Justice Act*, the *Canadian Victims Bill of Rights*, and the *Corrections and Conditional Release Act*.

Restorative justice involves everyone affected by the offence. It aims to repair harm "by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of a crime."

## The Edmonton Indigenous Court

The Edmonton Indigenous Court (EIC) is held on Thursdays at 9:00 a.m. in courtroom 358. EIC uses Indigenous restorative justice principles and provides "a culturally relevant, restorative, and holistic system of justice for Indigenous individuals, including offenders, victims and the community harmed by an offender's actions." It "addresses the

unique challenges and circumstances of the Indigenous People."

Anyone who identifies as Indigenous can ask to have their criminal matter heard in this court. Participants can smudge before having to speak about their criminal matter. Participants also have the support of traditional knowledge keepers, Indigenous support counsellors, and Indigenous community support agencies. These supports work together to help the participant create and complete their healing plan. Successful acceptance into and completion of the program depends on the participant actively engaging in their healing plan.

Photo by Pavel Danilyuk from Pexels

## The Edmonton Mental Health Court

The Edmonton Mental Health Court (EMHC) is held on Mondays, Wednesdays, and Fridays from 9:30 a.m. to 4:30 p.m. in courtroom 357. EMHC focuses on the individual's underlying mental health conditions that can lead to repeat criminal offences. A judge can refer a person to MHC if they believe the accused's underlying mental health issue contributed to their offence. A lawyer can also recommend their client's matter be heard in MHC.

MHC takes a collaborative approach to help participants, such as mental health workers, social workers, and psychiatrists. Success in this program requires an active and willing participant. See the MHC info and tip sheet to learn more about what matters can be heard, who is an eligible participant, and how the court operates.

## The Edmonton Drug Treatment Court

The Edmonton Drug Treatment Court (DTC) is held on Wednesdays at 2 p.m. in courtroom 267. DTC focuses on helping an individual overcome the underlying drug dependency that is contributing to their criminal offences. It is a minimum one-year, court-supervised drug treatment program. The Court engages a multi-disciplinary team of judges, Crown prosecutors, duty counsel, social workers, police liaisons, probation officers, and a case management team. Participants have weekly supervised case management, frequent drug testing, support meetings, and court attendances to make sure they are doing well in the program.

An accused must plead guilty to a non-violent offence to participate in the program. They must also agree to participate, along with the Crown prosecutor and the Court. Anyone interested in participating in the program should contact their lawyer or probation officer for a referral.

## An Effective Response

Restorative justice is an effective response to crime prevention as it considers the many people and factors involved in a crime. Through the process, individuals who have caused harm can grow through healing and take accountability for their actions in a more meaningful way. To learn more about restorative justice in the Canadian legal system, visit the Government of Canada's website.

**Crystal Hayden**

Crystal Hayden is a law student at the University of Alberta who will complete her degree in 2024. She enjoys legal research in a variety of areas including family, criminal, and property law.

# How To Co-parent When You Don't Get Along

January 27, 2023 by Glenda Lux

**A look at common co-parenting challenges, as well as practical dos and don'ts for parents and a reminder of when to get help.**

Photo by August de Richelieu from Pexels

Co-parenting is never easy and comes with complications, especially when you don't get along with your co-parent. However, it is important to try, where possible, to co-parent effectively and to find ways to support and care for your children.

Co-parenting difficulty falls on a continuum. If you do not get along with your co-parent, you might be experiencing "high conflict". "High conflict" is marked by ongoing trust issues, misunderstandings, and challenges communicating, decision-making and working together.

Family law often uses the term "high conflict". However, family lawyers and professionals should carefully screen their cases to avoid confusing difficult co-parenting, high conflict and family violence. Detecting family violence is vital because mistaking it for high conflict co-parenting can have serious consequences for the client and their children.

## Common co-parenting challenges

Below are some common challenges that arise when co-parenting with someone you do not get along with:

1. Difficulty creating a parenting plan and coordinating schedules.
2. Conflicts about different parenting styles including misunderstandings and trust issues, especially if you and your co-parent have different approaches to discipline, routines, and other aspects of parenting.
3. Lingering resentment, emotions, or other issues from your past romantic relationship.
4. Issues with financial obligations such as child support.
5. Spending less time with your child(ren) than you may have previously. Co-parenting means sharing your child with their other parent, even if you do not like them. Conflict can arise when parents have different ideas about how much contact the child should have with the "off-duty" parent while in the care of the one "on-duty" and how much information to share between the homes.
6. The arrival of a new partner may lead to feelings of jealousy or resentment from one or both co-parents, which can create tension and conflict in the co-parenting relationship. There can be disagreements about the new partner's role, expectations, or boundaries around their involvement in the children's lives.

Despite not getting along with your co-parent, it is essential to prioritize the well-being of your children.

### What to do

1. **Do** set boundaries and communicate with them using a friendly tone. Boundaries can help minimize misunderstandings and reduce tension between you and your co-parent. Boundaries also help ensure you both have personal space and time for yourselves.
2. **Do** think of co-parenting as a business relationship where you discuss expectations and needs and try to solve problems diplomatically. Establish clear communication lines and discuss issues related to your children openly and honestly. When expressing your thoughts and feelings, use "I" statements to avoid accusations or blame. "I" statements help your co-parent feel heard and understood, which can help to reduce conflict. Try to avoid engaging in personal attacks. Instead, focus on the issue at hand, finding a resolution and avoiding criticism.
3. **Do** take a break if the conversation becomes too heated or challenging to manage. It may help to return to the discussion later.
4. **Do** make decisions that are in the best interests of your children, even if it means compromising your own needs or desires. Focus on your children's needs. Doing so can help minimize conflict and ensure that your children are well cared for.
5. **Do** create a consistent routine, especially if you have young children. Routines can include bedtimes, screen time, diet, etc. These help provide stability and security for your children.
6. **Do** practice self-care. Co-parenting can be emotionally and mentally draining, especially if you do not get along with your co-parent. So, take care of yourself to help you manage the stress.
7. **Do** seek support from a licensed mental health professional with expertise in co-parenting or a family mediator, if needed.
8. **Do** remember that co-parenting can be a dynamic process and may involve different levels of conflict and cooperation at different times.

### What NOT to do

1. **Do not** use your children as a way to communicate with your co-parent. Speak directly to your co-parent out of earshot of your children when discussing potentially hot topics.
2. **Do not** speak negatively about your co-parent in front of your children and ask the same from your extended family. Avoid venting your frustrations to your children. Negative talk about your co-parent can harm your children's emotional well-being.
3. **Do not** ignore your co-parent's input or concerns. Listen to and consider your co-parent's views, even if you disagree with them.
4. **Do not** let your conflicts with your co-parent affect your parenting. Instead, try to keep your disputes with your co-parent separate from your parenting responsibilities. Focus on providing a positive and supportive environment for your children when they are in your care.
5. **Do not** fall into the trap of trying to control or micromanage your co-parent. It is normal for parents to have different approaches. Focus on what you can control during your time with your children.

### When to get help

The following problems signal that you may need the help of a family lawyer, the services of an allied professional, or the court.

1. If your co-parent refuses to communicate, cooperate, or compromise. Or if the two of you cannot resolve conflicts or make decisions promptly or effectively for the children.
2. If you or your children have experienced family violence.
3. If your co-parent is withholding the children from you, using them to manipulate or control you, or trying to turn the children against you.
4. If your co-parent is making important decisions about the children without involving you (unless the court has said your co-parent is able to make decisions without you).
5. If your co-parent shows difficulties managing their emotions, including becoming oppositional, impulsive, aggressive or not regulating their emotions while parenting the children. This includes alcohol, drugs or other addictions.
6. If your children are not adjusting well to the co-parenting arrangement and are showing signs of undue stress.
7. If your children are consistently expressing a desire to change the parenting schedule.
8. If you believe your children are being neglected or abused or are unsafe.
9. If your co-parent is breaking agreements or not following court orders.

In these situations, consider psychological support and alternative dispute resolution processes, including co-parenting coaching, co-parenting coordination, court-supported therapeutic interventions and assessments. Arbitration and court proceedings are available and often needed options but consider them carefully as messy litigation can sometimes make things worse. In hostile or abusive situations, get legal help right away.

## Best interests of the children

In family law cases involving children, the court considers the child's best interests to be the most important factor when deciding parenting time and responsibilities, including the parents' ability to co-parent effectively.

If a parent can co-parent effectively, the court or arbitrator may see this as a positive factor. It shows the parent can prioritize the child's needs and work with the other parent to make decisions that are in the best interests of the child. On the other hand, if a parent is unable to co-parent effectively, the court or arbitrator may see this as a negative factor.

Please note, in cases of family violence and post-separation abuse, effective co-parenting is unlikely and co-operation with one's abuser is an unreasonable expectation. The court will consider the family violence when looking at what is in the best interests of the children.

Ultimately, the court or arbitrator will consider all relevant factors when making decisions about parenting time and decision-making responsibilities. They will strive to make decisions that are in the child's best interests.

**Glenda Lux**

Glenda Lux is a psychologist in independent practice in Calgary Alberta since 2001. She specializes in domestic violence, parenting time/parenting responsibility assessments and high-conflict divorce. Co-Parenting College & Lux Psychology Services | LinkedIn

# Racial Bullying in Schools

February 2, 2023 By Myrna El Fakhry Tuttle

**Studies show a majority of students have witnessed or experienced racism at school, with implications for both students and teachers.**

A majority of students in Canada have either witnessed or experienced racism at their schools, according to a 2021 survey by the Angus Reid Institute in partnership with the University of British Columbia (ARI/UBC Survey). In this context, racism likely means racial discrimination as opposed to systemic racism.

The ARI/UBC Survey said 58% of respondents had seen kids insulted, bullied, or excluded based on their race or ethnicity, and 14% had experienced bullying themselves. Visible minority students were three times as likely to say they had been bullied.

Photo by Mikhail Nilov from Pexels

The ARI/UBC Survey also reported that "half (54%) say kids name call or use insults based on racial or ethnic background at their school, while smaller proportions say kids are made to feel unwelcome (38%) or are bullied (42%) based on their racial or ethnic background."

Students who experienced or witnessed racism at their school said teachers usually tried to discourage the behaviour and talked to the bullies about it. The school usually suspended or punished the bully for their racist (discrimination based on race) behavior. However, three-in-ten victims of bullying said teachers or school staff either ignored racist behaviour (racial discrimination) or were unaware of it (ARI/UBC Survey).

## What is bullying?

According to the Government of Canada:

> ***Bullying is characterized by acts of intentional harm, repeated over-time, in a relationship where an imbalance of power exists. It includes physical actions (punching, kicking, biting), verbal actions (threats, name calling, insults, racial or sexual comments), and social exclusion (spreading rumours, ignoring, gossiping, excluding) … Boys tend to be more likely to bully and be bullied, usually in the form of a physical attack and exhibition of aggressive behaviour. Alternatively, girls appear to be more prone to indirect bullying in the form of social isolation, slandering and the spreading of rumours.***

In Alberta, the *Education Act* is the legal framework for education. It sets out that students must learn in a welcoming, caring, respectful and safe environment. The *Education Act* defines bullying as:

> ***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 (section 1(1)(d)).***

Bullying is a form of harassment, which as a form of discrimination can include unwanted physical contact, attention, demands, jokes or insults. **Racial harassment** is "harassment on the ground of race, which may also be associated with the grounds of colour, ancestry, where a person was born, a person's religious belief, ethnic origin or even a person's language."

The *Alberta Human Rights Act* prohibits harassment as a form of discrimination if it is based on one or more protected grounds and in some protected areas under the *Act*. Protected grounds include race, religious beliefs, colour, ancestry, place of origin. Protected areas include services, goods, and facilities such as schools, hospitals, restaurants, etc.

## Consequences of bullying

When bullying occurs, it can hurt everyone involved. Victims may develop physical and mental conditions and may stop attending schools and social gatherings. Bullies can develop anti-social and criminal behaviors. Aggressive and isolating behaviours can affect both victims and bullies even when they reach adulthood.

Stanton and Beran stated:

> *A substantial body of research has shown that bullying is associated with a number of long-term negative consequences. Targeted children are likely to be at risk for internalizing disorders, such as depression, anxiety, diminished self-esteem, social withdrawal, suicide ideation, and suicide attempts. With the increased interest in this field and with a more comprehensive understanding of the negative consequences associated with bullying, a number of countries have proposed amendments to legislation recognizing bullying as a criminal offence. These laws have been introduced with the intention of preventing and better managing incidents of bullying, particularly when individuals are aware that bullying is illegal and punishable under law.*

If certain racial slurs, actions or jokes make some students uncomfortable in school or scared to attend school, then bullying has poisoned the school environment.

## What responsibilities do schools have?

Schools and school boards must take serious steps to deal with bullying.

Section 33 of Alberta's *Education Act* requires school boards to have a policy showing how they will provide students a welcoming, caring, respectful, and safe learning environment. This policy must include a code of conduct that addresses bullying behaviour. School boards must share this code of conduct with all staff, students and parents, and review it once a year.

In *Jubran v Board of Trustees*, the British Columbia Human Rights Tribunal stated:

> *It is the statutory responsibilities of school boards as well as the compelling state interest in the education of young people ..., and the school board's obligation to maintain a non-discriminatory school environment for students ... which gives rise to the School Board's duty respecting student conduct under the* Code. *(At para 115)*

> *As a matter of legislation and case authority, there is a legitimate state interest in the education of the young, that students are especially vulnerable, that the School Board may make rules establishing a code of conduct for students attending those schools as part of its responsibility to manage those schools ... the School Board has the duty to provide students with an educational environment that does not expose them to discriminatory harassment. (At para 116)*

According to Legalline, an employee of a school must inform the principal immediately if they know a student may be the victim of bullying. The principal must investigate the situation. The bully must be suspended or even expelled if they have previously been suspended for bullying or if their continuing presence can put other students' safety at risk.

## Conclusion

Racial bullying is unacceptable under any circumstances and students have the right to an education free of bullying. Racial bullying can prompt students to not complete schoolwork, skip classes, or drop out of school.

Schools must offer students a safe learning environment. Students need to also know that schools do not tolerate bullying and such behaviors will have consequences. Schools should have a bullying prevention policy and should inform teachers and school staff on how to address bullying and harassment in schools.

**Myrna El Fakhry Tuttle**

Myrna El Fakhry Tuttle, JD, MA, LLM, is the Research Associate at the Alberta Civil Liberties Research Centre in Calgary, Alberta.

# Workplace Sexual Harassment: Reporting options

February 8, 2023 by Quinn Blythe

**The Workers' Resource Centre's Workplace Sexual Harassment Advisory Program aims to educate survivors on options for reporting sexual harassment in the workplace.**

Sexual harassment occurs at work, often without acknowledgement, and leaves workers with lasting impacts. It creates unsafe and unproductive workplaces.

Sexual harassment is any unwelcome conduct, comment, gesture, or contact that is gender-related or sexual in nature that makes the recipient feel uncomfortable, unsafe, offended, or humiliated. It is often coercive and emotionally abusive. It does not matter whether the behaviour was intentional or not.

The 2017 #MeToo movement brought much-needed awareness to the issue. Workers around the globe shared their experiences and the trauma they endured from sexual harassment and violence. While workplace sexual harassment is maybe not talked about as much as it was in 2017-2018, it is still very much an issue that plagues workplaces.

## Experiencing Sexual Harassment

A 2020 Statistics Canada report found that one-quarter of women and one-sixth of men reported having personally experienced inappropriate sexualized behaviours in their workplace. We know that offences related to sexual violence often go unreported, thus we suspect this number is much higher.

Workplace sexual harassment has significant impacts on both the worker and employer. Sexual harassment is traumatic to experience and has both physical and mental health impacts on the survivor. They may become absent from work more often to avoid the harassment, leading to both financial and productivity costs for the employer. The survivor may also go on leave or change jobs, which can contribute to career costs for the employee. The Alberta Human Rights Commission suggests "sexual harassment in the workplace can be costly for employers in terms of financial costs and employee morale, especially for employers who do not have an effective sexual harassment policy and who do not treat such complaints seriously".

Workers may report sexual harassment to their employer or someone on the leadership team. However, workers often do **not** report it to their employer out of fear of being punished, terminated, or not taken seriously. Many workers do not know there are ways to report harassment to someone outside the workplace.

## Workplace Sexual Harassment Advisory Program

The **Workers Resource Centre (WRC)** created the Workplace Sexual Harassment Advisory Program to educate workers on their rights and reporting options and to increase access to justice. The Workplace Sexual Harassment Advisory Program is based on the philosophy that knowledge leads to empowerment. The more you know about your rights and obligations in the workplace, the better you can identify violations of your rights. Our Sexual Harassment Legal Specialist works one-on-one with survivors of workplace sexual

harassment to review their reporting options and help file complaints with the proper agency.

Below is a brief overview of the laws and reporting options related to workplace sexual harassment.

Photo by SHVETS production from Pexels

## Alberta Human Rights Commission

Sexual harassment is a form of discrimination based on the protected ground of gender, which is prohibited under the *Alberta Human Rights Act*. And employers are responsible for the actions of their employees. This means an employer who neglects to follow up on a complaint of sexual harassment may be liable for discrimination under the *Act*.

Workers can file a complaint with the Alberta Human Rights Commission within one year from the date of the incident. Complaints made to the Commission can take several years to resolve. There is an expectation that complainants (workers) work collaboratively with respondents (employers) to resolve the complaint. Successful complaints can result in financial compensation, an apology letter, training for staff, a reference letter, etc.

## Canadian Human Rights Commission

Workers in federally regulated industries (banks, air transportation, telephone and cable systems, radio and TV broadcasting, etc.) can make a complaint to the Canadian Human Rights Commission. The *Canadian Human Rights Act* says a worker must do so within one year from the date of the incident.

The Commission works with both the complainant (worker) and respondent (employer) to resolve complaints through mediation. The Commission may refer the complaint to a tribunal when the parties cannot settle their issues or when the Commission decides further examination is necessary. Successful complaints can result in financial compensation, an apology, training for staff, etc.

## The *Criminal Code*

Criminal harassment is found in section 264 of the *Criminal Code*. Criminal harassment exists where the accused does all the following:

1. engages in one or more prohibited forms of conduct without lawful authority (repeatedly communicating with a person, repeatedly following a person from place to place, watching a person at the place where they live, work or happen to be, engaging in threatening conduct directed towards a person or member of their family)
2. causes someone to reasonably fear for their or another person's safety, and
3. knows, is reckless to, or is wilfully blind to the fact that their actions caused another person to be harassed.

Criminal harassment can include stalking, spying, cyberstalking, and sending threatening letters, emails, gifts or messages. The criminal law aims to penalize the offender and prevent dangerous harassment from continuing. Successful prosecution can lead to jail time for the accused. If you believe your safety is at risk, contact your local police.

## Civil Law

Civil law allows a person experiencing harassment to take the harasser to court in search of a remedy, usually monetary compensation. Please be aware there are costs associated with civil court and hiring a lawyer

can be expensive. Successful cases usually result in financial compensation.

## Occupational Health and Safety (OHS)

Harassment and Violence are considered workplace hazards in Alberta's *Occupational Health and Safety Act*. The *OHS Act* states that employers must:

- investigate any incident of harassment or violence
- address the incident
- prevent the incident from happening again
- prepare an investigation report outlining the circumstances of the incident, and
- develop and implement workplace harassment and violence prevention plans.

If you believe your employer is in violation of the *OHS Act*, contact Alberta OHS to report your concern.

## Help is Available

Workplace sexual harassment is against the law and leaves lasting impacts on workers. Employers have a legal obligation to create safe and healthy workplaces. And workers should feel safe and confident standing up against sexual harassment. Everyone deserves to feel safe at work.

If you have experienced sexual harassment at work, you are not alone. The Workers' Resource Centre is here for you. Our Sexual Harassment Legal Specialist offers supportive casework and can help you with the reporting options described above.

**Quinn Blythe**

Quinn Blythe is the Sexual Harassment Legal Specialist at the Workers' Resource Centre.

# Bullying of 2SLGBTQIA+ Students: The impacts and what educators can do about it

February 15, 2023 by Rin Lawrence

**2SLGBTQIA+ students are at a higher risk of experiencing bullying and mental health concerns, but educators can take proactive and preventative steps to create inclusive learning environments.**

Photo by Alexander Grey from Pexels

**OPINION | The views expressed in this article are those of the author.**

Students of all ages have first-hand experiences with bullying and harassment in schools. Their experiences may be different than adults as they do not have the language or worldly experience to understand oppressive systems and to defend themselves. School staff can and should interrupt these experiences, both proactively and when they occur. Proactive intervention includes educating all students, staff, and families about harm and how to prevent it. Prevention and education are well within a school's ability to affect and must be prioritized to ensure that all students feel welcome, safe, and included throughout their education.

Studies show that Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, Intersex, Asexual/Aromantic and plus (2SLGBTQIA+) students have a much higher risk of being the targets of harassment, as their identities do not conform to societal norms.

Egale's second climate survey on homophobia, biphobia, and transphobia in Canadian schools outlines the enhanced bullying that 2SLGBTQIA+ students face compared to their cisgender heterosexual peers. For these statistics, the acronym 2SLGBTQ represents those who responded to the survey specifically. Respondents were between grades 8 and 12 in Canadian schools and responded to multiple questions about their experiences in school.

A few survey findings:

- 2SLGBTQ youth were four times more likely to experience **verbal harassment** than their cisgender peers and three times more likely to have the harassment target their expression of masculinity or femininity.
- 57% of trans students specifically reported being the **target of mean rumours or lie**s. These incidents are also not uncommon, as 64% of respondents heard homophobic comments daily or weekly.
- 34% of respondents reported **physical harassment** at school, with 35% never telling an adult about their experience. Of those trans students that did tell an adult

about the incident, 79% said staff were ineffective in addressing the harassment.

- 62% of 2SLGBTQ respondents **feel unsafe at school**, with 76% of trans students reporting feeling the most unsafe.

## Impacts on Mental Health

The mental health implications of victimization are perhaps obvious. But it deserves attention in the discussion around bullying of 2SLGBTQIA+ students. Why?

For one, the impact of bullying of 2SLGBTQIA+ children and youth has resulted in increased attention deficit and anxiety disorders in both children (ages 3-9) and youth (ages 10-17). We see a 16% increase in theses diagnoses in 2SLGBTQIA+ children and a 40% increase in 2SLGBTQIA+ youth as compared to their cisgender heterosexual peers.

It is important to stress that being 2SLGBTQIA+ *does not cause* attention deficit and anxiety disorders. Instead, circumstances create stigmas, which reinforce the othered status of these identities, and affects the mental health of these individuals. Impacting circumstances may include verbal, physical, or sexual assault, prejudice, the stress of concealing identities, and rejection from friend and family groups. Trans students experience the deepest mental health concerns, with 40% reporting languishing mental health.

## Role of Educators

School staff can greatly affect experiences for all 2SLGBTQIA+ people in the school and the community. There is undeniable need for staff members to be welcoming and inclusive, be trained in sexual and gender diversity, and have the skills to support those in the community. Research shows that youth mental health drastically improves when they receive positive reinforcement of their identity. For example, when a student is called by their chosen name, they experienced less depressive symptoms, a 29% drop in suicide ideation, and a 56% drop in suicide behaviour. Those with a supportive parent, guardian, or school staff member reported a 70% increase in positive mental health, 64% higher self-esteem, and a 93% reduction in suicide attempts. (See papers by Russell et al., 2018 and Wells et al., 2017). This staggering improvement is not something to ignore.

So what can educators do?

First, when homophobia, transphobia, and bullying occur, school staff must address it every time. If staff ignore homophobia and transphobia, they persist in covert systemic spaces. When addressed suitably and effectively, staff actively establish a culture of inclusion. Action on a school-wide scale can inspire positive behaviours and reduce the harmful impact of homophobia and transphobia.

Schools can also take meaningful proactive steps:

- Starting, supporting, and maintaining a **Gender and Sexuality Alliance (GSA)** provides visible support for sexual and gender diverse students, identifies safe staff members involved in the GSA, and normalizes the existence of sexual and gender diverse people.
- Using and teaching **inclusive language** increases safe feelings in the school. Inclusive language includes using chosen or updated names and pronouns, gender-neutral language and affirming statements. It also means reducing microaggressions, deadnaming, and misgendering. Staff teaching these practices to each other, students, and the community also impacts the overall inclusive practices in a school.
- Using **inclusive resources** means students see their identities represented positively in educational content. Examples include positive depictions of sexual and gender diverse characters in books, films, songs, and class examples. Staff can also use

simple strategies such as gender-neutral pronouns in math questions or broad recognition of significant role models related to the topic. In this way, students see potential futures for themselves, which is essential to understanding how they belong in the world.

Lastly, school boards can create inclusive policies to support inclusive strategies. Inclusive policies empower staff create inclusive environments knowing the school board and administration agree. Board policies push staff to engage with the topic, take professional learning sessions, and prioritize inclusive work. It also shows valuing of sexual and gender diverse people instead of diminishing or hiding their identities.

## Power to Change

Bullying and harassment are an issue in schools, and the targeting of 2SLGBTQIA+ students is notably more prominent than that of cisgender heterosexual students. If schools can address, educate, and prevent the attacking of these identities and establish an overall culture of safety and inclusion, the educational experience will improve for all students. By creating a culture of inclusion, schools have the power to change the experiences of 2SLGBTQIA+ identities, impact the attitudes and behaviours of young adults transitioning out of schools, and work toward creating a more inclusive society for all.

**Rin Lawrence**

Rin Lawrence (he/him) is a Diversity Consultant for Sexual Orientation, Gender Identity, and Expression (SOGIE) and has been a teacher since 2013 in two Alberta school districts. Rin is the chair of the Edmonton Public Teachers Local 37 Diversity, Equity, and Human Rights Committee (DEHR) and the Edmonton Public Teachers Local 37 Staff Gender and Sexuality Alliance. Rin also is the lead organizer of the Alberta Teachers Association Gender and Sexuality Alliance (ATAGSA). Rin holds a Master in Educational Studies with focus on Leadership and School Improvement, having completed a research project on Inclusion Experiences of 2SLGBTQIA+ Teachers in Alberta schools. Rin's lived experience and dedication to inclusion in education fuels his passion when speaking to the importance of diversity in all aspects of our world.

# Family Justice Crisis in Alberta: Day of action

February 21, 2023 by Alberta Family Lawyers Association

**Alberta Family Lawyers' Association promotes a *Day of Action* on February 21, 2023 in support of raising awareness for the Family Justice Crisis in Alberta.**

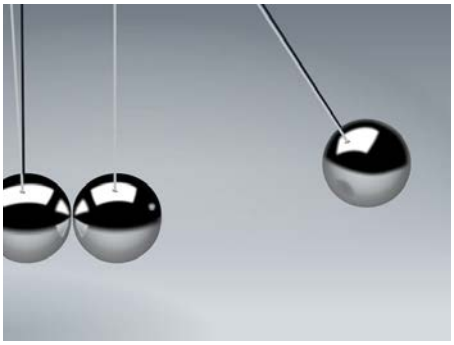

Photo by Pixabay/Pexels

**OPINION | The views expressed in this article are those of the author.**

AFLA, an association of family lawyers in Alberta working together to advocate for access to justice in the family law justice system, has announced a "Day of Action" on February 21, 2023.

### What is the AFLA Day of Action?

Many lawyers across Alberta will not be scheduling matters in Court on the Day of Action, and many will be closing their doors and not conducting business on that day, in order to draw attention to Alberta's Family Justice Crisis.

AFLA is raising awareness and support primarily for the following issues which affect all Albertans navigating the family justice system:

1. Improving availability and access to legal aid in family matters for lower income Albertans, and
2. Following through with implementing a Unified Family Court in Alberta.

### What is the Alberta Family Justice Crisis?

AFLA members are pressing to advance advocacy efforts as a result of the extreme negative impacts being felt by Albertans attempting to utilize the family law justice system. The impacts upon families, including children, are significant and long term.

The consequences of an underfunded system result in:

- increased use of court resources
- poorer outcomes for families going through the court system
- delays in getting legal remedies where there has been family violence
- an increase in all forms of family violence due to lack of timely relief, and
- greater demand upon social assistance programs, and an increase in child poverty and financial instability, where parents cannot apply for or receive child and/or spousal support.

A Unified Family Court in Alberta would benefit all Albertans by:

- adding up to 17 more judges to our courts as offered by the Federal Government and to be paid for paid for by the Federal Government obviously reducing Court hearing wait times
- streamlining process and procedure to a single court with consistent processes and procedures

- creating a separate group of judges who specialize in family law matters which would bring greater skills, expertise and consistency to court decisions thereby improving the reputation of the Alberta Courts and improving outcomes for litigants, and
- adding additional judicial resources to the system overall thereby decreasing the significant and critical delays being experienced throughout the civil superior court system.

## About AFLA

The Alberta Family Lawyers' Association is an organization formed of family lawyers in Alberta, with 261 members from all across the province. AFLA members are unified in working together to ensure the family justice system in Alberta is more efficient, more cost-effective for clients, and to ensure access to justice is systemically facilitated. AFLA is committed to improving the family justice system for the families and children of Alberta.

**Alberta Family Lawyers Association**

AFLA is an association of family lawyers in Alberta working together to advocate for access to justice in the family law justice system.

# The Many Forms of Harassment

February 28, 2023 by Temitope Oluleye

**Harassment may exist in many forms, including discrimination under human rights laws, a workplace hazard, sexual harassment, and bullying.**

Harassment is the act of treating another person in a way that causes them to feel insulted, demeaned, sad and sometimes unsafe. It can take many forms including bullying, racial harassment, and sexual harassment.

What can harassment look like? It can mean annoying, intimidating, threatening, or bullying another person. It also includes tormenting a person by persistent attacks or criticism, or subjecting that person to uninvited or unwelcome conduct. Oftentimes, harassment involves a power imbalance, such as between a boss and employee.

Harassment may be verbal, non-verbal, or physical. Examples of verbal harassment include derogatory slurs or jokes. Uninvited or unwanted physical contact is an example of physical harassment. Examples of non-verbal harassment include the display of discriminatory images or leering at another person.

## Harassment as Discrimination

In Canada, human rights laws prohibit harassment based on discrimination. The *Alberta Human Rights Act* prohibits discrimination in five protected areas and on fifteen protected grounds.

The five **protected areas** are:

- employment
- goods, services, accommodation, or facilities customarily available to the public
- tenancy
- representations including statements, publications, notices, signs, symbols, and emblems
- membership in trade unions, employers' organizations, or occupational associations

The fifteen **protected grounds** are:

- race
- gender, gender identity and gender expression
- sexual orientation
- religious beliefs
- colour
- physical and mental disability
- age
- ancestry and place of origin
- marital and family status
- source of income

**Discrimination** is behaviour that results in an adverse effect on the recipient of the discrimination. It could be a distinction, exclusion, restriction, or preference that goes against human rights and fundamental freedoms. Human rights laws prohibit discrimination based on a protected ground and in a protected area.

In the 1990 case of *R. v. Andrews*, the Supreme Court of Canada described discrimination as:

> *... a distinction, whether intentional or not but based on grounds relating to personal*

*characteristics of the individual or group, which has the effect of imposing burdens, obligations, or disadvantages on such individual or group not imposed upon others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society.*

## Harassment as a Workplace Hazard

Alberta's *Occupational Health and Safety Act* also deals with harassment in the workplace. Section 1(n) of the *Act* defines harassment:

*"harassment" means any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought reasonably to know will or would cause offence or humiliation to a worker, or adversely affect the worker's health and safety, and includes*

*(i) conduct, comments, bullying or actions because of race, religious beliefs, colour, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression and sexual orientation, and*

*(ii) a sexual solicitation or advance,*

*but excludes any reasonable conduct of an employer or supervisor related to the normal management of workers or a work site.*

The *Occupational Health and Safety Act* says harassment is workplace violence and a workplace hazard. The *Act* imposes an obligation on employers to maintain a healthy workplace free from harassment, hostility, and discrimination.

## Sexual Harassment

Sexual harassment is discrimination based on gender. It can be upsetting and unsettling.

The Alberta Human Rights Commission describes sexual harassment as:

*any unwelcome sexual behaviour that adversely affects, or threatens to affect, directly or indirectly, a person's job security, working conditions or prospects for promotion or earnings; or prevents a person from getting a job, living accommodations or any kind of public service.*

The Supreme Court of Canada (in the 1989 case of *Janzen v Platy Enterprises Ltd.*) defines sexual harassment in the workplace as "unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences for the victims of the harassment".

Photo by Yan Krukau from Pexels

## Bullying

Bullying is aggression and a form of harassment. Bullying may be a willful, deliberate act of hostility which induces fear in the victim through the threat of further aggression. Bullying can take different forms – emotional, psychological, physical, verbal, online, or cyber. Bullying that takes the form of emotional or psychological aggression may be subtle, and though it is not visible, it can still be very painful to its victims.

## Criminal Behaviour

Sometimes, harassment can be criminal in nature, such as when physical or sexual assault occurs. Criminal harassment is an offense which carries penalties under Canada's *Criminal Code*.

## Intention versus Impact

The harasser's intention does not matter. Instead, the law looks at the impact of the harassing or discriminatory action. The courts have said discrimination does not have to be intentional for it to be illegal.

## Alberta Civil Liberties Research Centre

Alberta Civil Liberties Research Centre (ACLRC) provides information to the public as well as research on contemporary civil liberties and human rights issues that are of concern to Albertans.

Find more information (including videos) about harassment and bullying and making a complaint at the Commission on ACLRC's website: www.aclrc.com.

**Temitope Oluleye**

Temitope Oluleye, LLB, BL is a human rights educator at the Alberta Civil Liberties Research Centre in Calgary, Alberta.

# Thank You

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