

Alberta Laws and Policies on Family Violence, Prepared by Jennifer Koshan*

Issue	Act / Policy	What	Who**	When	Where
Protection orders – civil	Protection Against Family Violence Act (PAFVA) ; Protection Against Family Violence Regulation	- emergency protection orders (EPOs) with conditions for no contact / attendance; exclusive occupation of family home, s 2 - Queen’s Bench protection orders, s 4 - warrants permitting entry, s 10 - breach of order is arrestable offence, s 13.1	- applies to family members – spouses, adult interdependent partners, parents of children. Not dating relationships if parties have never cohabited.	- EPOs: without notice, when family violence has occurred, will continue / resume, and immediate protection is required - family violence includes actual / threatened personal injury, property damage, sexual abuse, stalking. Emotional / financial abuse not included.	- EPOS: in person at Provincial Court Family Division , or via phone / fax to Justice of Peace (JPs) by police and Child, Youth and Family Enhancement Act directors - within 9 days, Court of Queen’s Bench reviews EPOs - QBPOs: in person at Court of Queen’s Bench
Restraining orders	Judicature Act , s 13(2); Alberta Rules of Court , s 12.33	- no contact / communication orders	- available to any person, not restricted to family members	- applicant has reasonable, legitimate fear for safety, reputation, privacy	- Court of Queen’s Bench
Protection orders – family	Family Law Act , ss 68, 73	- exclusive possession of family home, use of household goods, restraint from entry	- applies to spouses, adult interdependent partners, parents of children	- part of order for child / spousal support	- Court of Queen’s Bench
	Matrimonial Property Act , ss 19, 25	- exclusive possession of matrimonial home, use of household goods, restraint from entry	- applies to married / formerly married spouses only	- part of order regarding matrimonial property	- Court of Queen’s Bench
	Child Youth Family Enhancement Act , s 38	- order restraining contact with child, for child maintenance	- applies to any person, where child has been apprehended / is subject to supervision / guardianship order	- where person has / is likely to physically / emotionally / sexually abuse child. Emotional abuse includes exposure to DV	- Court of Queen’s Bench

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Protection orders – criminal	Criminal Code , ss 810, 810.02, 810.1, s 810.2	- peace bonds, no communication / attendance / weapons conditions	- available to any person; often used in DV courts where accused pleads guilty	- reasonable grounds to fear person will cause personal injury or property damage; fear of forced marriage or marriage under 16; fear of sexual offence against children under 16; fear of serious personal injury offence	- Justices of the Peace - Domestic Violence (DV) Courts (see below) - Provincial Courts (Criminal Division)
	Criminal Code , ss 499, 503, 515; amendments pending in Bill C-75 re: release conditions	- bail orders, no communication / attendance / firearms conditions	- applies to persons accused of criminal offences related to DV	- in the discretion of person making order	- Police officers - Justices of the peace - Provincial Courts (Criminal Division) - Court of Queen's Bench
	Criminal Code , ss 731, 732.1	- probation orders, conditions for no communication / attendance, support / care of dependants, treatment programs	- applies to persons convicted / discharged of criminal offences, serving less than 2 years in jail	- based on age and character of offender, nature and circumstances of offence	- Provincial Courts (Criminal Division) - Court of Queen's Bench
Protection orders – First Nations reserves	Family Homes on Reserves and Matrimonial Interests or Rights Act , ss 16, 20	- emergency protection orders (EPOs), exclusive occupation orders (EOOs) for on-reserve family home - First Nations may pass own laws, only Tsuut'ina Nation and Salt River First Nation #195 have done so in AB	- applies to spouses, common-law partners	- EPOs: without notice when family violence has occurred, immediate protection needed for person / property at risk of harm / damage. - EOOs: several factors, including DV, best interests of child.	- EPOs: designated judges, none in AB - EOOs: Court of Queen's Bench

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Criminal law; see also Protection orders – criminal, above	Criminal Code - Pending: See Bill C-75 , which will add choking, strangulation and suffocation to ss 267 and 272 and s 718.3(8) re: maximum sentence where previous DV offences	- no specific offence for domestic violence - relevant offences include criminal harassment (s 264), assault (ss 265-269), sexual assault (ss 271-273), homicide (ss 229-231, 235) - intimate relationship an aggravating factor in sentencing (ss 718.2, .3)	- applies to accused persons - other relevant actors are police, Crown, courts (see below)	- charging, prosecution, sentencing of criminal offences	- Provincial Court (Criminal Division) - Domestic Violence (DV) Courts - Court of Queen's Bench
Criminal - Policing	Alberta Justice and Solicitor General, Domestic Violence Police Guidelines, 2013 ; Domestic Violence Handbook for Police Services and Crown Prosecutors in Alberta, 2014	- charges to be laid where reasonable grounds to believe offence committed. - Police to consult with Crown before laying mutual or dual charges. - Police must contact Human Services where children have been exposed to / witnessed domestic violence (see also Child Youth Family Enhancement Act , s 4	- applies to police covered by provincial law / policy	- laying / investigating charges, bail	- Blood Tribe Police Service ; Calgary Police Service ; Camrose Police Service ; Edmonton Police Service ; Lacombe Police Service ; Lakeshore Regional Police Service ; Lethbridge Police Service ; Medicine Hat Police Service ; Taber Police Service ; Tsuut'ina Nation Police Service
	RCMP, K Division, Domestic Violence, 2014	- policy discusses training, investigations, DV teams and partnerships	- applies to RCMP in Alberta (K Division)	- laying / investigating charges, bail	- RCMP detachments throughout Alberta

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Criminal - Prosecutions	Alberta Justice and Solicitor General, Domestic Violence Guideline, 2008 ; Domestic Violence Handbook, 2014	- safety of victim, children key in prosecutorial decision-making; charges not to be withdrawn or stayed solely at victim's request	- applies to Crown prosecutors	- when criminal charges laid, prosecuted	- Alberta Crown Prosecution Service offices throughout Alberta
Criminal – DV Courts	Alberta Courts, 2018 Court Calendar	- domestic violence matters heard on a separate docket, staffed by specialized personnel	- applies to judges, court clerks, victim services workers	- when criminal charges laid, prosecuted	- DV Courts : Calgary, Edmonton, Fort McMurray, Grand Prairie, Lethbridge, Medicine Hat, Pincher Creek, Red Deer; elsewhere, Provincial Court or Court of Queen's Bench
Victims' Rights	Victims of Crime Act , ss 4, 12, 12.1; Victims of Crime Regulation	- information and financial benefits for victims - death benefits to cover funeral costs	- applies to victims of crime and persons paying their funeral costs	- where victim suffers injury from criminal offence; benefits may be reduced where victim convicted / fails to report / contributes to offence	- applications for benefits made to Victims of Crime Financial Benefits Program
Family law – child, spousal support, property	Maintenance Enforcement Act , s 1(1)(e)	- procedures for enforcing maintenance orders, including Queen's Bench Protection Orders under Protection Against Family Violence Act - family violence otherwise not relevant to child, spousal support, property division	- applies to spouses / children receiving support - Director of Maintenance Enforcement enforces orders	- all maintenance orders to be filed with Director of Maintenance Enforcement - orders enforceable when parent / former spouse fails to make support payments	- Director of Maintenance Enforcement files orders in Personal Property Registry

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Family law – adoption	Child Youth Family Enhancement Act, Adoption Regulation , s 13(3) and Form 6	- information about abuse to be provided in medical report about child who is subject of adoption application	- applies to children who are being adopted and prospective adoptive parents	- when children can be adopted	- Provincial Court (Family Division)
Family law – child protection	Child Youth Family Enhancement Act , ss 1(3), 2(f), 4	- exposure to domestic violence / severe domestic disharmony are grounds for intervention; services to be provided to family to support abused family members, prevent need to remove child from their custody. - anyone with reasonable and probable grounds to believe child needs intervention has duty to report matter to Director	- applies to children in need of intervention, their parents / guardians	- when children are in need of intervention services	- Provincial Court (Family Division)
Family law – guardianship, parenting, contact, custody, access	Family Law Act , s 18(2)(b)(vi), s 18(3)	- family violence a factor when determining the “best interests of the child” for guardianship, parenting and contact orders	- applies to parents of children, whether married or not	- “family violence” includes forced confinement, sexual abuse, causing / attempting physical harm or reasonable fear for safety to child or other family / household member - does not include reasonable force to correct child, acts of protection	- Provincial Court (Family Division)

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Family law – guardianship, parenting, contact, custody, access	Divorce Act , ss X, Y - Pending: see Bill C 78 (2018) , ss 7.8(2), 16(3((j)))	- family violence not currently a factor when determining the “best interests of the child” for custody, access orders - amendments will add family violence as factor - courts will also be required to consider civil protection orders in making interim orders	- applies to parents of children who are / were married	- “family violence” includes conduct by one family member towards another that is violent, threatening or constitutes pattern of coercive, controlling behaviour or causes fear for safety - in the case of a child, includes direct, indirect exposure	- Court of Queen’s Bench
Family law – inter-jurisdictional issues	International Child Abduction Act , ss 12, 13(b)	- children wrongfully removed from habitual residence to be returned, unless return would expose child to unreasonable, grave risk of psych / physical harm, intolerable situation	- applies to children under 16 who are wrongly removed from their habitual residence, their parents / guardians	- wrongful removal includes breach of parent / guardian’s custody / access rights	- Provincial Court (Family Division) - Court of Queen’s Bench
	Extra-Provincial Enforcement of Custody Orders Act , s 4	- enforcement and variation by Alberta courts of custody orders made outside Alberta	- Alberta courts with jurisdiction over child custody may vary custody orders made outside Alberta	- outside orders may be varied in Alberta where child would suffer serious harm in custody of person named in outside order	- Provincial Court (Family Division) - Court of Queen’s Bench
Family law - procedures	Family Law Act , s 5(1)(b) and s 97, Child Youth Family Enhancement Act , s 3.1	- mediation, alternative dispute resolution available, not required for family law matters - no duty to screen for domestic violence	- mediators, arbitrators, other alternative dispute resolution professionals	- Guidelines for Child Protection Mediation provide limits on mediation where domestic violence is a factor in case	- Provincial Court (Family Division) - Court of Queen’s Bench

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Family law – adult guardianship	Adult Guardianship and Trusteeship Act , ss 27, 74	<ul style="list-style-type: none"> - guardianship orders available urgently for adults lacking capacity where necessary for someone to make decisions on their behalf to prevent death, serious physical, mental harm - Public Guardian may apply for protection orders for represented adults at risk of serious harm by guardians 	<ul style="list-style-type: none"> - applies to adults without capacity to make personal decisions, interested persons / Public Guardian on their behalf - guardians must be suitable adults who will act in best interests of adult lacking capacity 	- when adults are at risk of death, serious physical / mental harm	- Court of Queen's Bench
Housing	Residential Tenancies Act (RTA), ss 47.1-47.7; Termination of Tenancy (Domestic Violence) Regulation ; Mobile Home Sites Tenancies Act	<ul style="list-style-type: none"> - victims of domestic violence may terminate residential tenancy agreements without usual penalties imposed by early termination - landlords must ensure confidentiality of information they receive from/about tenant who is DV victim - also applies to mobile homes 	<ul style="list-style-type: none"> - applies to victims of domestic violence - designated authority (health practitioners, social workers, police, shelter and victim support workers) must provide certificate confirming grounds to terminate - landlords have duty of confidentiality 	<ul style="list-style-type: none"> - tenant has been subject to DV or has protection order under PAFVA or other no-contact order and their/children's safety is at risk if tenancy continues - requires notice 28+ days before tenancy terminates - DV defined to include dating relationships, emotional abuse 	- Residential premises covered by the Residential Tenancies Act ; Mobile Home Sites Tenancies Act
	Social Housing Accommodation Regulation	- household applying for social housing that requires accommodation because of emergency, including family violence, is allocated certain points	- head of household applying for social housing and experiencing family violence	- no points awarded if household breached tenancy agreement or abandoned premises, unless termination for DV under the RTA	- Alberta Housing

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Social Assistance	Income Support, Training and Health Benefits Regulation , ss 13, 14, 20, 24(2)(a)(iii)(D), 28(2), s 54(2)	- provides allowances to persons dealing with abuse, including for moving, household start up, phone services, transportation	- applicants for social assistance dealing with abuse, including those residing in emergency shelters - includes immigrants abused / abandoned by sponsor	- Director may refuse assistance when applicant refuses to pursue compensation, income or financial resources they are entitled to, but can also apply on their behalf	- Alberta Supports
	Assured Income for the Severely Handicapped (AISH) General Regulation , Schedule 3, ss 9(2), 11	- provides allowances to persons with severe handicaps dealing with abuse, emergencies, including moving expenses, essential goods and services	- applicants for AISH dealing with abuse, emergencies that present serious health, safety risks In circumstances beyond their control	- in circumstances of abuse, emergencies that present serious health, safety risks In circumstances beyond applicant's control	- Alberta Supports
Employment	Occupational Health and Safety Act , ss 3, 4, 5	- rules for prevention of harassment and violence at work, including domestic violence	- employers, supervisors have duty to protect workers - workers have duty to refrain from violence, harassment	- violence, harassment at the workplace - employers of 20+ workers must establish health and safety program	- Places of employment in Alberta covered by Occupational Health and Safety Act
	Employment Standards Code , s 53.981	- domestic violence leave of up to 10 days / year	- workers covered by Employment Standards who are victims of DV	- to obtain medical / legal / victim services, law enforcement, counselling, relocation - DV defined to include dating relationships, emotional abuse	- Places of employment in Alberta covered by Employment Standards Code
Legal Aid	Legal Aid Service and Eligibility	- Emergency Protection Order Program - some legal aid coverage for family, criminal law	- persons who meet service and financial eligibility guidelines	- legal aid coverage changes over time, including for DV related matters	- Legal Aid Alberta - Family Law Offices in Lethbridge, Calgary, Red Deer, Edmonton, Wetaskiwin

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Civil actions	Limitations Act , s 3.1	- no limitation periods for civil claims for sexual assault, assault and battery in DV cases	- persons suing for damages for assault, battery, sexual assault	- no limitation periods (time limits) to sue	- Provincial Court (Civil Division) (claims of \$50,000 or less) - Court of Queen's Bench (claims \$50,000+)
Insurance	Insurance Act , s 541	- allows for insurance claims by innocent persons for loss, damage to property caused by criminal / intentional acts by others	- innocent persons who suffer loss or damage to property	- loss or damage to property caused by criminal / intentional acts / omissions by the insured / other person	- Insurance companies in Alberta
Privacy	Freedom of Information and Protection of Privacy Act , s 17(2)(b) and (4)(b), s 18, s 40(1)(ee)	- personal information may be used / disclosed where necessary for law enforcement purposes / to protect someone's health or safety - personal information must not be disclosed if disclosure could threaten anyone's safety or mental / physical health	- applies to public bodies such as governments, police, universities	- when personal information is collected by public bodies	
	Personal Information Protection Act , ss 17(d) and (i), 20(f), (g) and (m), s 24(3)	- personal information may be used / disclosed for investigations / legal proceedings, or if necessary to respond to emergency re: life, health, security of individual / public; must not be disclosed where it could threaten life / security of individual	- applies to private organizations such as employers, landlords	- when personal information is collected by private organizations	

*** Note: This chart is current to November 1, 2018. It is not intended to provide legal advice. The author gratefully acknowledges the funding of SSHRC and the Ontario Law Foundation.**

**** Note: “Who” includes those who may apply for and be subject to remedies under different laws and policies, as well as other actors who have rights and duties under the laws.**