

Summary of proposed changes to Alberta’s human rights system

Issue	How Issue is Being Addressed
<p>1 Complaints take too long to resolve.</p> <ul style="list-style-type: none"> The Alberta Commissioners, Commission staff, and the Chumir Foundation, among others, have expressed concern with the length of time taken to resolve complaints, and that more trained officers are needed to address this growing and increasingly complex work. 	<ul style="list-style-type: none"> Proposed legislative amendments include a new process to address appeals more quickly by referring matters to a member of a Tribunal. In addition, this year government is strengthening Alberta’s human rights system through an additional \$1.7 million – an increase of 26 per cent – to enhance the system’s ability to investigate and mediate complaints in a timely manner, while maintaining fairness to all parties in the process.
<p>2 The Commission needs strong leadership.</p> <ul style="list-style-type: none"> The Chumir Foundation said there is a “perception of a weak and politically dependent Commission”, and suggested that Commissioners be well-known and experienced. The Alberta Commissioners said they need a better mix of full time and part time qualified Commissioners to address the workload. 	<ul style="list-style-type: none"> The hiring of a new Chief Commissioner brings a new perspective to the Commission, and is a well-respected former Queen’s Bench judge. The new Chief Commissioner is working closely with the Minister of Culture and Community Spirit on changes to the human rights system.
<p>3 A separate tribunal should be created, and complaints should go directly there.</p> <ul style="list-style-type: none"> The Chumir Foundation recommended creating a separate stand alone tribunal, but this would be costly – and unnecessary. 	<ul style="list-style-type: none"> Alberta will retain both a commission (investigation and mediation) and a tribunal (adjudicative) approach to human rights. There is separation of investigation and adjudication roles now, but the legislation will clarify this separation.
<p>4 The Commission needs to be independent of government.</p>	<ul style="list-style-type: none"> The Commission has always operated independently of government. Changes will be made to further reinforce that independence. For example, the Commission offices will be moved out of its current space into another more suitable location.
<p>5 Alberta’s employers need clearer laws regarding workplace drug and alcohol testing policies.</p>	<ul style="list-style-type: none"> The Alberta Court of Appeal decision is the law in Alberta. Employers may have testing policies to protect workplace safety. Employers also have responsibilities to accommodate employees with true disabilities due to drugs and alcohol. Section 11 of Alberta’s human rights law allows for “reasonable and justifiable” contraventions of the legislation: workplace safety is a justifiable contravention.
<p>6 Aboriginal Albertans need better protection of their rights.</p>	<ul style="list-style-type: none"> Aboriginal Albertans are already protected since “race” and “ancestry” are now prohibited grounds.
<p>7 The Commission should be authorized to initiate its own complaints.</p> <ul style="list-style-type: none"> This is a recommendation of the Chumir Foundation. 	<ul style="list-style-type: none"> Government believes that individual Albertans want to make those decisions, and that the Commission and its staff should not have the ability to initiate complaints or investigations.

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8	<p>“Frivolous” complaints are being accepted.</p> <ul style="list-style-type: none"> The Chumir Foundation has stated that the overwhelming majority of cases arise regarding employment, and that the other “meat and potatoes” issues are rental accommodation and access to services. 	<ul style="list-style-type: none"> The Act already provides, in Section 10, that no person shall, with malicious intent, make a complaint that is frivolous or vexatious. The Commission is independent from government, and therefore, government <u>does not</u> direct the Commission on how it manages the complaints it receives. The hiring of a new Chief Commissioner brings a new perspective to the Commission. The Chief Commissioner is working closely with the Minister of Culture and Community Spirit to champion new education, mediation and other processes to help address less complex cases more quickly.
9	<p>Government needs to assure parents of their rights regarding education of their children.</p> <ul style="list-style-type: none"> Some faith-based groups urged government to recognize – as a right – parents’ role in making education choices for their children. 	<ul style="list-style-type: none"> Proposed amendments to human rights legislation simply confirm rights that parents or guardians already have concerning the education of their children. Parents or guardians would have the right to exempt their child from courses of study, programs or materials that include subject matter dealing explicitly with religious instruction, sexuality or sexual orientation. The change would also ensure the child receives alternative learning experiences without penalty. These choices are already practiced throughout Alberta’s school system, but this change reinforces that right.
10	<p>Sexual orientation needs to be written in to Alberta’s human rights legislation.</p> <ul style="list-style-type: none"> The Alberta Commissioners, Commission staff, and the Chumir Foundation, among others, all recommended updating Alberta’s written law in this way, to show respect for the rule of law, and assure minorities that they are protected. 	<ul style="list-style-type: none"> Sexual orientation has been a protected area in Alberta’s human rights legislation for over a decade. “Writing in” sexual orientation to the Act simply makes it consistent with current legislative and judicial decisions.
11	<p>“Hatred” is a matter for the federal Criminal Code, not the province.</p> <ul style="list-style-type: none"> Commission staff advised that the public is sometimes confused between what is a federal responsibility and what is provincial responsibility. The Chumir Foundation prefers removing the reference to “hatred” altogether. 	<ul style="list-style-type: none"> Expressions which incite hatred would continue to be dealt with under the Criminal Code. Alberta’s human rights legislation will balance freedom of speech with our responsibility to others. Jurisdictional issues are complex, but recognizing the responsibilities that come with freedom of expression is also important.
12	<p>Section 3 on “publications” limits freedom of speech.</p> <ul style="list-style-type: none"> Advice from stakeholders and experts differed on this matter. The Chumir Foundation recommended returning to the wording of 1972-96: that there be no limits on free expression. Alberta’s Commissioners noted that <i>if</i> the section remained, the section should be clarified as to its intent. 	<ul style="list-style-type: none"> Section 3 of Alberta’s human rights legislation already states that “nothing shall be deemed to interfere with the free expression of opinion on any subject.” Government found that removing “publications” from the Act could have serious consequences. Ultimately, Albertans need a balance between freedom of speech and responsibility.