

## Family

## The newly proclaimed Clare's Law in Alberta

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(April 7, 2021, 11:31 AM EDT) -- On April 1, 2021, Alberta followed the lead of Saskatchewan in proclaiming "Clare's Law." Only the second province to proclaim the legislation, Clare's Law aims to prevent domestic violence by giving the victims or potential victims of violence in an intimate partner relationship access to information about the history of a partner's violence or abuse.

The goal of this groundbreaking legislation is simple: to give people an opportunity to make informed choices to reduce their risk of harm in an intimate relationship. A secondary goal of Clare's Law is to link the person at risk to social support services in the community.

The *Disclosure to Protect Against Domestic Violence Act*, SA 2019 c. D-13.5 (Clare's Law), together with its accompanying Regulation, Alta. Reg. 66/2021, and the Disclosure Protocol, is fashioned after initiatives in the United Kingdom to protect women from violence following the 2009 murder of Clare Wood by a partner who she did not know had a violent criminal past, including receiving a six-year jail term for holding a woman at knifepoint.

The partner's dangerous proclivities were known to the U.K. police, and Wood's family stated that, if she had known of her partner's violent past, she would not have entered into a relationship with him. The initiative in the United Kingdom was, for the most part, implemented by government policy issued to police departments.

Several provinces in Canada have implemented the U.K. initiatives by way of statute. Saskatchewan proclaimed its Clare's Law in 2020, and Newfoundland and Labrador have similar legislation enacted, although not proclaimed.

All of the "Clare's Laws" enacted to date have three key components:

- a Right to Ask;
- a Right to Know; and
- implicitly, a Right to Privacy.

The *Right to Ask* empowers the intimate partner, or another party with their consent, or other third parties such as parents of a minor or substitute decision makers, to apply to receive information from police authorities as to their partner's potential for violence, including information as to prior acts of stalking and breach of restraining orders.

Once an application for disclosure of information is received by the government of Alberta from an individual so authorized by the Act, the provincial Integrated Threat and Risk Assessment Centre (I-TRAC) will conduct a risk assessment, including a summarized case history. If the risk is assessed at moderate or high, the police are empowered to have an in-person meeting (subject to Public Health Emergency orders) with the person at risk (or an assisting person sanctioned by the Act) to disclose the results of their risk assessment verbally.

The information shared by the police, however, cannot be conveyed either electronically or in writing, in order to preserve confidentiality, minimize the risk of inappropriate distribution of the information and prevent placing the applicant intimate partner at even greater potential risk. Those persons attending the in-person meeting will be required to sign a confidentiality agreement.

The *Right to Know* empowers the police to disclose such information to a person at risk on their own initiative if the police have knowledge of an intimate partner relationship and have reason to suspect that an act of domestic violence is reasonably likely to occur. Again, if the risk is moderate or high, the information must be imparted in person and access to social support services offered. Importantly, the confidentiality safeguards of the meeting, set out above, will be adhered to.

The implied *Right to Privacy* results from the statute's provisions safeguarding confidentiality of the disclosed information (s. 8), and precluding a police officer who conveys the information, or the minister and its delegates, from giving evidence in a legal proceeding (s. 9). Any "file, paper, information, report, correspondence or other document" prepared as part of the disclosure can also not be compelled to be produced (s. 9(1)(b), except for the purposes of a judicial review proceeding (s. 9(2)).

This is part one of a two-part series. The second part will examine the interplay of Clare's Law and the recently amended *Divorce Act*.

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