

FOR IMMEDIATE RELEASE

Sent on behalf of the Criminal Defence Lawyers Association (Calgary) ("CDLA"), the Criminal Trial Lawyers' Association (Edmonton) ("CTLA"), the Red Deer Criminal Defence Lawyers Association ("RDCDLA"), the Southern Alberta Defence Lawyers Association ("SADL").

Albertan Should be Alarmed by Sweeping Invocation of the Notwithstanding Clause

The expedited procedure used to invoke s. 33 appears to be unprecedented, and the breadth and duration of the Charter violations authorized through this process should concern us all.

As Presidents of the three major defence associations in Alberta, we are deeply concerned by the Alberta government's decision to invoke the notwithstanding clause within Bill 2, the *Back to School Act*.

Section 33 of the *Charter of Rights and Freedoms* permits governments to pass laws that operate "notwithstanding" fundamental rights and freedoms guaranteed by the *Charter*, including freedom of expression, peaceful assembly, and association. It was designed as an extraordinary mechanism because it necessarily strips individuals of their fundamental rights. Prior to October 27, 2025, it had never been successfully invoked in Alberta history. The public is right to be concerned with the government's pre-emptive use of this clause against public school teachers.

The Alberta government has chosen not only to exempt this legislation from constitutional labour protections, but also from an entirely unjustified, seemingly unrelated, and broad range of other fundamental freedoms and protections guaranteed by the *Canadian Charter of Rights and Freedoms*, including:

- Freedom of expression;
- The right to counsel;
- The right to equal protection and benefit of the law;
- The right to be free from unreasonable search and seizure; and
- The fundamental right to life, liberty, and security of the person

In addition, the government has seen fit to remove the safeguards provided by both the *Alberta Bill of Rights* and the *Alberta Human Rights Act*, further weakening the legal protections that preserve equality, fairness, and justice in this province.

As organizations of criminal defence lawyers, whose role is to protect and preserve the rights and freedoms we all cherish and rely on, we are profoundly concerned by the extraordinary use of the notwithstanding clause by the government. Every day in our trial and appeal courts, we fight to protect individuals from state overreach and abuse. When governments seek to normalize the removal of robust *Charter* protections, it imperils all rights, including those that shield citizens from arbitrary or unjust state action within the criminal justice system.

The Alberta government's use of the notwithstanding clause demonstrates a disturbing disregard for rights and protections enshrined in our constitution. It is deeply concerning that this may be just the beginning, with the government confirming it is prepared to use the notwithstanding clause in other areas. This reflects a flagrant disregard for fundamental rights and freedoms, and a cavalier attitude which is shocking to Albertans and to Canadians. The use of s. 33 in this instance may be an attempt to inoculate the public to routine uses of s. 33 in the future.

Recently the Supreme Court of Canada found a minimum sentence for a child pornography crime to be unconstitutional. On October 31, 2025, Premier Danielle Smith tweeted a message encouraging the federal government to use the notwithstanding clause to overturn the Court's decision. By encouraging other governments to use the clause, the Premier shows her clear willingness to continue to do the same. Such knee-jerk reaction without meaningful examination a Court's decision reeks of political pandering and general disrespect for the rule of law.

We urge the Alberta government to repeal Bill 2 immediately and reaffirm the rights it so hastily took away. The *Charter* belongs to all Canadians. The loss of the rights by one group is a devastating loss of rights for us all, and erodes the fabric of our society. The people of Alberta know this, and they are watching closely.



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