

The Public Disclosure Act

being

Chapter P-36.1 of the *Statutes of Saskatchewan, 1996* (effective November 15, 1996) as amended by the *Statutes of Saskatchewan, 2001, c.8; 2004, c.65; 2009, c.5; and 2014, c.E-13.1.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

TABLE OF CONTENTS

SHORT TITLE AND INTERPRETATION		
1	Short title	7 Advice
2	Interpretation	8 Actions barred
COMMITTEE		GENERAL
3	Committee established	9 Procedures
APPLICATIONS AND ADVICE		10 Confidentiality
4	Application for advice	11 Non-compellability
5	Notice	12 Annual report
6	Opportunity to make representations	13 Regulations

CHAPTER P-36.1

An Act respecting the Public Disclosure of Information related to Individuals who Pose a Significant Risk of Serious Harm to Other Persons

SHORT TITLE AND INTERPRETATION

Short title

1 This Act may be cited as *The Public Disclosure Act*.

Interpretation

2 In this Act:

- (a) “**application**” means an application for advice submitted pursuant to section 4;
- (b) “**cause of action**” means any cause of action or right to relief, including, without restricting the generality of the foregoing, any right to obtain damages, compensation or other pecuniary relief, or non-pecuniary relief, or any other remedy or order of any kind or nature, whether arising out of or imposed by law, equity, statute or otherwise;
- (c) “**committee**” means the Public Disclosure Committee established pursuant to section 3;
- (d) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (e) “**police service**” means a police service as defined in *The Police Act, 1990* or the Royal Canadian Mounted Police;
- (f) “**prescribed**” means prescribed in the regulations.

1996, c.P-36.1, s.2.

COMMITTEE

Committee established

- 3(1) The Public Disclosure Committee is established.
- (2) The committee consists of the members appointed by the Lieutenant Governor in Council.
- (3) Each member appointed pursuant to this section:
 - (a) holds office at pleasure for a term not exceeding three years and, notwithstanding the expiry of his or her term, continues to hold office until a successor is appointed; and
 - (b) may be reappointed.

c. P-36.1

PUBLIC DISCLOSURE

- (4) The Lieutenant Governor in Council shall designate one of the committee members as chairperson and may designate one other committee member as vice-chairperson.
- (5) The chairperson is responsible for the general supervision and direction of the affairs of the committee.
- (6) If the chairperson is absent or unable to act, the vice-chairperson may act in place of the chairperson.
- (7) Committee members who are not members of the public service of Saskatchewan are entitled to:
- (a) remuneration at the rates approved by the Lieutenant Governor in Council; and
 - (b) reimbursement for their expenses incurred in the performance of their responsibilities as committee members at the rates paid to members of the public service of Saskatchewan.
- (8) Committee members who are members of the public service of Saskatchewan are entitled to reimbursement for their expenses incurred in the performance of their responsibilities as committee members at the rates paid to members of the public service of Saskatchewan.

1996, c.P-36.1, s.3.

APPLICATIONS AND ADVICE

Application for advice

- 4(1) A prescribed representative of a police service may apply on behalf of the police service to the committee for advice respecting an individual if:
- (a) the individual has been convicted of a prescribed offence against the *Criminal Code* or the *Controlled Drugs and Substances Act* (Canada) or of an offence against the laws of another jurisdiction that is equivalent to a prescribed offence; and
 - (b) the representative believes that the individual poses a significant risk of serious harm to other persons.
- (2) No application may be made respecting a young person as defined in the *Youth Criminal Justice Act* (Canada).
- (3) An application is to be made in the prescribed manner and is to include the prescribed information.
- (4) The committee may request the police service on whose behalf an application is submitted to provide any other information that the committee reasonably requires to fulfil its responsibilities.
- (5) **Repealed.** 2009, c.5, s.8.

1996, c.P-36.1, s.4; 2001, c.8, s.16; 2004, c.65, s.26; 2009, c.5, s.8.

Notice

5(1) A police service on whose behalf an application is submitted shall make a reasonable effort to provide the individual who is the subject of the application with notice of the application.

(2) The committee may direct that the police service mentioned in subsection (1) provide notice of an application to any other persons who, in the opinion of the committee, may be interested in the application.

(3) Notice of an application provided pursuant to this section must be given in the prescribed manner.

(4) The failure of a police service on whose behalf an application is submitted to provide notice of an application to an individual who is the subject of the application or any other persons mentioned in subsection (2) does not invalidate any action or proceeding taken pursuant to this Act by a police service or the committee, nor does it give rise to any cause of action.

1996, c.P-36.1, s.5.

Opportunity to make representations

6(1) The committee shall make a reasonable effort to provide an opportunity to make representations to any persons to whom notice of an application was provided pursuant to section 5.

(2) The failure of the individual who is the subject of an application or any other persons to whom notice of the application was provided pursuant to section 5 to make representations to the committee or the failure of the committee to receive representations from that individual or those persons does not invalidate any action or proceeding taken pursuant to this Act by a police service or the committee, nor does it give rise to any cause of action.

1996, c.P-36.1, s.6.

Advice

7(1) On receipt of an application and after considering any representations made to it and any information the committee considers appropriate, the committee shall advise the police service on whose behalf an application is submitted and any other police service that the committee considers appropriate if any identifying information about the individual who is the subject of the application should be disclosed or not be disclosed.

(2) Before providing advice pursuant to this section, the committee shall consider all of the following matters with respect to an application:

(a) the level of risk posed by the individual who is the subject of the application;

(b) the persons or classes of persons who may be at significant risk of serious harm from the individual;

(c) the privacy interests of the individual and of any previous victims of the individual;

c. P-36.1

PUBLIC DISCLOSURE

- (d) any alternatives to public disclosure of identifying information about the individual;
 - (e) any other prescribed matters.
- (3) If the committee advises that identifying information about an individual should be disclosed, the committee:
- (a) shall advise with respect to the following:
 - (i) the specific information to be disclosed;
 - (ii) the persons or classes of persons to whom disclosure should be made;
 - (iii) the manner in which disclosure should be made;
 - (iv) any other prescribed matters; and
 - (b) may advise with respect to any other matters that the committee considers appropriate.
- (4) Before advising that identifying information about an individual should be publicly disclosed, the committee must be satisfied that, in its opinion:
- (a) the individual poses a significant risk of serious harm to other persons;
 - (b) disclosure will assist in avoiding the risk posed by the individual; and
 - (c) the public interest in the disclosure outweighs the privacy interests of the individual.
- (5) If the committee advises that identifying information about an individual should not be disclosed, the committee may advise with respect to the following:
- (a) the committee's reasons for so advising;
 - (b) the committee's recommended alternatives to public disclosure;
 - (c) any other prescribed information;
 - (d) any other matters that the committee considers appropriate.
- (6) The advice of the committee is not binding on a police service.
- (7) A police service may disclose identifying information about an individual in conformity with the advice of the committee.
- (8) The committee has exclusive jurisdiction to inquire into, hear and determine all matters and questions of fact and law arising pursuant to this Act.
- (9) The actions and proceedings of the committee are final and conclusive, and the committee's proceedings, decisions and advice are not open to question or review in any court, and no decision or advice of the committee shall be restrained by injunction, prohibition, mandamus, quo warranto, certiorari or other process or proceeding in any court or be removable by application for judicial review or otherwise into any court on any grounds.

Actions barred

8 No action or proceeding lies or shall be instituted or continued against or with respect to the Government of Saskatchewan, the minister, an employee or agent of the Government of Saskatchewan, the committee, any member of the committee, a police service, a prescribed representative of a police service, any member of a police service, any board of police commissioners or any member of a board of police commissioners based on any cause of action arising out of, resulting from, relating to or incidental to:

- (a) the enactment of this Act;
- (b) the application in good faith of all or any provision of this Act;
- (c) anything done, or omitted to be done, in good faith pursuant to or in connection with this Act;
- (d) any disclosure of identifying information about an individual by a police service if the disclosure is made in good faith and in conformity with the advice of the committee given pursuant to this Act;
- (e) any decision, advice or recommendation of the committee made or given in good faith.

1996, c.P-36.1, s.8.

GENERAL**Procedures**

9(1) The committee shall conduct its meetings and review applications in accordance with any prescribed rules.

(2) Subject to the regulations, the committee may make rules governing the practice and procedures of the committee.

1996, c.P-36.1, s.9.

Confidentiality

10 Subject to this Act and the regulations, no committee member shall disclose any information that comes to the knowledge of the committee member pursuant to this Act, except where required in the exercise of the powers, performance of the responsibilities or carrying out of the functions of the committee member.

1996, c.P-36.1, s.10.

c. P-36.1

PUBLIC DISCLOSURE

Non-compellability

11(1) A committee member is not competent or compellable to:

- (a) give evidence in any proceeding of a judicial nature concerning any information that comes to the knowledge of the committee member pursuant to this Act; or
- (b) produce any files, papers, information, reports, correspondence or other documents relating to the business or affairs of the committee.

(2) Subsection (1) does not apply to an application for judicial review or an action against the committee or a committee member.

1996, c.P-36.1, s.11.

Annual report

12(1) In this section, “**fiscal year**” means the period commencing on April 1 in one year and ending on March 31 in the following year.

(2) In accordance with section 13 of *The Executive Government Administration Act*, the committee shall prepare and submit to the minister a report setting out the business and affairs of the committee for the preceding fiscal year.

(3) A report prepared pursuant to subsection (2) must include any information that the minister may direct.

(4) In accordance with section 13 of *The Executive Government Administration Act*, the minister shall lay before the Assembly each report received by the minister pursuant to subsection (2).

1996, c.P-36.1, s.12; 2014, c.E-13.1, s.62.

Regulations

13 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing offences or classes of offences for the purposes of clause 4(1)(a);
- (c) prescribing persons or classes of persons who may be representatives of a police service;
- (d) prescribing the manner in which an application is to be made to the committee;
- (e) prescribing the information to be included in an application;
- (f) prescribing the manner in which notice is to be provided pursuant to this Act;
- (g) prescribing matters the committee shall advise a police service on if the committee advises that identifying information about an individual should be disclosed;

PUBLIC DISCLOSURE

c. P-36.1

- (h) prescribing information that the committee may provide to a police service if the committee advises that identifying information about an individual not be publicly disclosed;
- (i) prescribing matters the committee must consider before providing advice;
- (j) prescribing rules with respect to the review of applications by the committee and with respect to the practice and procedures of the committee;
- (k) respecting the reporting and publishing of decisions and advice of the committee;
- (l) respecting the quorum of the committee;
- (m) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (n) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

1996, c.P-36.1, s.13.

