

Increase Small Claims Court Limit and Increase Access to Justice

Issue

The Alberta Provincial Courts generally lack sufficient resources to ensure that Criminal and Civil matters are resolved in timely manner. The lack of resources is not confined to one particular area. In some jurisdictions the Court lacks appropriate infrastructure; in others, the Court lacks Crown Prosecutors, Justice of the Peace, Judges and support staff.

In any jurisdiction where resources are lacking, an Albertan facing a Criminal Charge and victims of criminal acts are at risk of being denied timely access to Justice.

The lack of resources is also felt in the context of civil disputes. Due to the cost and time required to navigate the lawyer/rules of the court driven process found in the Alberta Court of Queen's Bench, the majority of Albertans attempt to resolve civil disputes in Provincial Court. Partially for this reason, the Provincial Government increased the Provincial Court small claims limit to \$50,000.00 in 2014. While perhaps not accurately termed an issue of access to Justice, the same insufficient resource issues that affect the Provincial Court in the criminal context, also put Albertan's access to timely resolution of Civil Matters at risk and threaten to undermine the intent of the recent Small Claims Court increase. Given that the concerns over resource allocation engage the discussion regarding the Small Claims limit, it is also timely to consider a further increase in the Small Claims limit to \$100,000.00 since, theoretically, resource allocation issues aside, an increase in the small claims limit should facilitate Court access for Albertans.

In addition, the only way for the Court to adequately address its lack of resources is for the Provincial government to make a budgetary commitment to ensure the current resource allocation is sufficient, including the hiring of more Provincial Court Judges, Crown Prosecutors, Masters in Chambers, and other support staff.

Background

Our court system is critical to the functioning of our democratic society and the well-being of Alberta communities. As our province's population grows, insufficient infrastructure, and insufficient judicial and support staff within the Courts are impacting the effectiveness of our judicial system. While the system pressures are felt both internally and by the public, accessing data on resourcing, caseload types and caseload increases/decreases is not easily accessible to the public.

Compounding the problem of insufficient resources are increasing crime rates across the province, putting pressure on an already taxed court system. Despite most Canadian provinces and territories seeing reduced crime levels, Alberta's crime rate continues to rise. Rates vary across the province; some areas are experiencing reductions, others are seeing moderate increases, while some are facing surging rates. As caseloads and demand for justice services increases, additional resources are not being appropriately allocated by the Provincial Government to meet growing pressures on the system.

In 2014 the Small Claims Court limit, which is governed by the *Provincial Court Act* R.S.A. 2000, c. P31. Section 9(1)(i), was increased to \$50,000.00. It is assumed that the motivating factor behind this increase was that it allowed Albertans better access to Court intervention.

However, a lack of resources and infrastructure are also proving to be an impediment to the average Albertans' and Alberta businesses' ability to resolve disputes in Small Claims Court. The greater the Provincial Court limit, the more cases that are before the Court, the greater the backlog of cases to be heard. No matter what the Small Claims limit is increased to it will allow access to Court guided resolution only if it is balanced with a commitment on behalf of the government to provide adequate resources to ensure that there is enough space and personnel to allow resolution of civil matters in a timely fashion. However, regardless of practical realities and concerns, theoretically, a further increase in the jurisdictional limit to \$100,000.00 will further aid the ordinary Albertan in being able to settle civil matters in cost effective and timely manner.

Trends of Crime Severity Index by Year¹³⁸ *Note that COVID-19 began in 2020 and exerted non-typical effects on statistical trends.

Year	Crime Severity Index
2016	105.99
2017	112.06
2018	113.65
2019	120.17
*2020	107.36

The Alberta Chambers of Commerce recommends the Government of Alberta and Government of Canada:

1. Implement a change in regulation of the Provincial Court Act to increase the maximum jurisdictional limit in Small Claims Court under Section 9 (1) (i) of the *Provincial Court Act*, R.S.A. 2000, c. P-31 to \$100,000;
2. Make a budgetary commitment to ensure the current resource allocation is sufficient to address the timely resolution of disputes in small claims court, including the appointment of more Provincial Court Judges, Masters in Chambers, and the hiring of other support staff; and,
3. Integrate virtual technology solutions for select categories of cases to allow further access to the judicial system.