

IN THE MATTER OF

# CONSTITUTIONAL ANALYSIS: THE ALBERTA DISABILITY ASSISTANCE PROGRAM TRANSITION AND THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Relevant Legislation and Instruments:

*Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982,  
being Schedule B to the Canada Act 1982 (UK), 1982, c 11*  
*Alberta Disability Assistance Program Regulation*  
*Bill 12, Statutes of Alberta, December 2025*  
*Assured Income for the Severely Handicapped Act, RSA 2000, c A-45*  
*Canada Disability Benefit Act, SC 2024, c 17*  
*Constitution Act, 1982, s 52*

## TABLE OF CONTENTS

- I.** Preliminary Matters and Scope of Analysis
- II.** Constitutional Framework -- Supremacy of the Charter
- III.** Section 1 -- Justification Analysis (Oakes Test)
- IV.** Section 6 -- Mobility Rights: The Right to Move and Seek a Livelihood
- V.** Section 7 -- Life, Liberty and Security of the Person
- VI.** Section 15 -- Equality Rights and Disability Discrimination
- VII.** Additional Charter Provisions
- VIII.** Jurisprudential Foundation -- Key Case Law
- IX.** Cumulative Effect and Intersectionality of Violations
- X.** Remedial Framework and Available Relief
- XI.** Submissions and Conclusions

### The Alberta Disability System Breakdown

[facebook.com/share/g/1CrU5PfHha/](https://www.facebook.com/share/g/1CrU5PfHha/) -- April 2026

Free to download, print, and distribute. Produced independently.

**PART I -- PRELIMINARY MATTERS AND SCOPE OF ANALYSIS**

1. This document constitutes a constitutional analysis of the Alberta Disability Assistance Program (ADAP) transition as enacted through the Government of Alberta's regulatory framework and Bill 12 (December 2025), assessed against the protections afforded by the Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11 [Charter].
2. This analysis is produced for informational and advocacy purposes by The Alberta Disability System Breakdown. It does not constitute legal advice. Persons seeking to assert Charter rights should consult qualified legal counsel. Legal Aid Alberta and public interest law clinics provide services to persons who cannot afford legal representation.
3. The material facts underlying this analysis are as follows: on July 1, 2026, the Government of Alberta will automatically transition approximately 79,290 recipients of Assured Income for the Severely Handicapped (AISH) to the Alberta Disability Assistance Program (ADAP). The transition will occur without individual reassessment of each recipient's disability status or employment capacity, without publication of detailed eligibility criteria prior to the transition date, and without an independent right of appeal following the elimination of the Citizens Appeal Panel pursuant to Bill 12, December 2025.
4. The financial consequences of the transition include: (a) a reduction of \$200 per month in monthly benefit payments effective January 2028; (b) a reduction in the earned income exemption from \$1,072 to \$350 per month effective July 1, 2026; (c) the continued clawback of the federal Canada Disability Benefit (CDB) -- \$200 per month -- into Alberta general revenue, making Alberta the sole province in Canada to do so; and (d) the imposition of employment participation requirements on persons whose eligibility for AISH was premised on a finding of permanent inability to earn a livelihood.
5. The combined effect of these measures on a single AISH recipient may represent a net monthly income reduction of up to \$620 by 2028, against a current maximum benefit of \$1,940 per month already assessed as falling at or below Alberta's poverty line.

**PART II -- CONSTITUTIONAL FRAMEWORK: SUPREMACY OF THE CHARTER**

6. Section 52(1) of the Constitution Act, 1982 provides that the Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect. The Charter forms Part I of the Constitution Act, 1982 and accordingly enjoys constitutional supremacy over all federal, provincial, and territorial legislation.
7. The Charter applies, by virtue of Section 32(1)(b), to the legislature and government of each province in respect of all matters within the authority of the legislature of each province. The Government of Alberta's enactment and implementation of the ADAP transition framework constitutes government action within the meaning of Section 32(1)(b) and is accordingly subject to full Charter scrutiny.
8. Where a court finds that a government action infringes a Charter right, it may grant any remedy it considers appropriate and just in the circumstances pursuant to Section 24(1) of the Charter. Available remedies include declarations of invalidity, stays of proceedings, orders of mandamus, and in appropriate cases, damages.

## PART III -- SECTION 1: THE OAKES TEST AND JUSTIFICATION ANALYSIS

*The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.*

Charter, s 1

9. Any Charter infringement may be saved by Section 1 if the Government of Alberta can demonstrate that the infringing measure constitutes a reasonable limit prescribed by law that is demonstrably justified in a free and democratic society. The test for justification was established by the Supreme Court of Canada in *R v Oakes*, [1986] 1 SCR 103 [Oakes].

### A. The Oakes Test -- Two-Stage Analysis

10. Stage One -- Pressing and Substantial Objective: The government must establish that the objective of the limiting measure is pressing and substantial. In *Oakes*, Dickson CJ held that the standard is high: the objective must be of sufficient importance to warrant overriding a constitutionally protected right.
11. Stage Two -- Proportionality: The government must demonstrate that the means chosen are proportional to the objective. Proportionality has three components as articulated in *Oakes*: (i) rational connection -- the measure must be rationally connected to the objective and not arbitrary, unfair, or based on irrational considerations; (ii) minimal impairment -- the measure must impair the right as little as reasonably possible; and (iii) proportionality of effects -- the effects of the measure must be proportional to the objective, such that the more severe the deleterious effects, the more significant the objective must be.

### B. Application to the ADAP Transition

12. Pressing and Substantial Objective: The Government of Alberta has articulated the objective of the ADAP transition primarily in terms of administrative reorganization and employment empowerment. Budget documents indicate an increase in administrative costs from \$46.8 million (AISH) to \$88.4 million (ADAP), representing an increase of \$41.6 million. Where the stated objective produces greater expenditure rather than savings, the pressing and substantial threshold presents a significant evidentiary hurdle.
13. Rational Connection: The automatic transition of 79,290 persons assessed as permanently unable to earn a livelihood into an employment-focused program lacks a rational connection to the stated objective of employment empowerment. Government of Alberta Open Data (September 2025) indicates that 83.9 percent of AISH recipients report zero employment income. The foundational premise of ADAP -- that recipients have some capacity for employment -- is inconsistent with the eligibility criteria of the program from which they are being transitioned.
14. Minimal Impairment: The elimination of the independent Citizens Appeal Panel represents a categorical removal of external review, rather than the minimum impairment consistent with the government's objective. Alternative mechanisms preserving some independent oversight were available and were not adopted. The failure to adopt less impairing alternatives is fatal to the minimal impairment analysis: see *RJR-MacDonald Inc v Canada (AG)*, [1995] 3 SCR 199.
15. Proportionality of Effects: The combined effect of benefit reductions, earned income exemption cuts, CDB clawbacks, and employment participation requirements on persons with permanent disabilities, assessed as unable to earn a livelihood, who have no independent right of appeal, represents a grossly disproportionate effect relative to any legitimate government objective thus far articulated.

## PART IV -- SECTION 6: MOBILITY RIGHTS

*6(1) Every citizen of Canada has the right to enter, remain in and leave Canada. 6(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right (a) to move to and take up residence in any province; and (b) to pursue the gaining of a livelihood in any province. 6(3) The rights specified in subsection (2) are subject to (a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence.*

Charter, s 6

### A. The Right to Move and Take Up Residence

16. Section 6(2)(a) guarantees every citizen and permanent resident the right to move to and take up residence in any province. This right is enumerated and therefore not subject to the notwithstanding clause under Section 33. It can only be limited pursuant to Section 1.
17. The right to move is not merely a formal right. Constitutional rights must be given a generous and purposive interpretation: *Hunter v Southam Inc*, [1984] 2 SCR 145. A right that exists in text but cannot be exercised in practice due to government-created conditions is not a right that is being respected. The purposive interpretation of Section 6 encompasses the effective ability to move, not merely the legal permission to do so.

### B. The Right to Pursue a Livelihood -- Section 6(2)(b)

18. Section 6(2)(b) protects the right to pursue the gaining of a livelihood in any province. The term 'livelihood' has been interpreted broadly and is not limited to employment income. In *Law Society of Upper Canada v Skapinker*, [1984] 1 SCR 357, the Supreme Court affirmed that Section 6(2)(b) protects economic participation in the life of any province. For persons with permanent disabilities, a livelihood encompasses stable income support sufficient to meet basic needs with dignity.
19. The ADAP transition, by reducing income and imposing employment participation requirements as a condition of benefit receipt, may infringe the Section 6(2)(b) right where such conditions constitute a discriminatory barrier to pursuing a livelihood in another province -- particularly where the recipient's Alberta-assessed disability status is not automatically recognized or transferred in the receiving province.

### C. The Economic Barrier Analysis

20. The Supreme Court of Canada has recognized that formal rights may be rendered illusory by systemic economic barriers. In *Gosselin v Quebec (AG)*, 2002 SCC 84, LeBel J in dissent (with significant scholarly support) held that Section 7 may protect against deprivation of economic rights fundamental to human survival. The same reasoning applies to mobility rights: where government policy creates the conditions of destitution that prevent the exercise of a constitutionally guaranteed right to move, the right is being violated in substance even if not in form.
21. The costs of interprovincial relocation -- first and last month's rent, damage deposits, moving expenses, transportation of medical equipment, bridging costs during the 3-month provincial health coverage waiting period, and living expenses during the benefits reapplication period in the receiving province -- constitute a financial barrier that many AISH recipients, living at or below the poverty line, cannot surmount. A government whose policies create that barrier cannot credibly assert that it is respecting Section 6.

### D. Section 6(3) -- The Limitation and Its Scope

22. Section 6(3) permits provinces to impose laws or practices of general application as conditions for accessing social benefits, provided they do not discriminate on the basis of province of previous residence. Standard residency requirements of up to 3 months for provincial benefit programs are constitutionally permissible under this provision. What is not permissible is a cumulative policy framework that renders interprovincial mobility economically impossible for a defined class of persons.

## PART V -- SECTION 7: LIFE, LIBERTY AND SECURITY OF THE PERSON

*Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.*

Charter, s 7

### A. Security of the Person -- Physical and Psychological Integrity

23. The right to security of the person encompasses both physical and serious psychological integrity: *R v Morgentaler*, [1988] 1 SCR 30; *Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44. The Supreme Court has held that state-imposed psychological stress that is serious and results from government action may constitute a deprivation of security of the person.
24. In *Chaoulli v Quebec (AG)*, 2005 SCC 35, the majority held that a prohibition on private health insurance violated Section 7 because it threatened the physical integrity of persons who could not obtain timely medical care. The principle is directly applicable: a government policy that reduces disability income to a level insufficient to cover food, shelter, and prescribed medication threatens the physical survival of the persons affected.
25. The combined effect of the benefit reduction, the CDB clawback, and the reduction of the earned income exemption is a potential net monthly reduction of \$620 from a baseline benefit already assessed as falling at or below the poverty line. For persons whose disabilities require ongoing medication, specialized food, medical supplies, or regulated housing, this reduction engages the physical component of security of the person directly.

### B. The Economic Rights Dimension of Section 7

26. While the Supreme Court has not definitively held that Section 7 creates a freestanding right to a minimum income, the Court in *Gosselin* left this question open. *LeBel J* (dissenting, but on this point with the agreement of four justices) held that where government action reduces income to a level that is incompatible with basic survival needs, a Section 7 deprivation may be established. The analytical threshold is not poverty in the abstract but rather the specific nexus between government-reduced income and threats to life and physical security.
27. For AISH recipients whose monthly expenses -- rent, utilities, prescribed medications, medical supplies, and food -- exceed their post-transition benefit income, the Section 7 deprivation threshold is engaged. Affidavit evidence from individual recipients documenting their specific circumstances would be essential to establishing this element in litigation.

### C. Principles of Fundamental Justice

28. Even where a Section 7 deprivation is established, it may be constitutionally permissible if it accords with the principles of fundamental justice. The Supreme Court has identified three core principles: (i) non-arbitrariness (*Rodriguez v British Columbia (AG)*, [1993] 3 SCR 519); (ii) non-overbreadth (*Canada (AG) v Bedford*, 2013 SCC 72); and (iii) gross disproportionality (*Carter v Canada (AG)*, 2015 SCC 5).
29. Non-arbitrariness: The automatic transition of 79,290 persons, without individual assessment, whose AISH eligibility was premised on permanent inability to earn a livelihood, into an employment-focused program, lacks a rational connection between the deprivation and the purported government objective. This is the definition of arbitrariness.
30. Non-overbreadth: The impugned measures -- automatic transition, income reduction, earned income exemption reduction, CDB clawback, employment participation requirements, and removal of independent appeal -- are each broader than necessary to achieve any legitimate government objective. The measures could have been narrowly tailored to their stated purpose; they were not.
31. Gross disproportionality: The cumulative effect of the ADAP framework on persons with permanent disabilities is grossly disproportionate to any legitimate government objective that has been articulated. The administrative cost of ADAP is \$41.6 million more than AISH. The government is spending more money to deliver less support to more vulnerable people with fewer rights. That ratio defies any proportionality analysis.

### D. Liberty -- The Compelled Participation Problem

32. Section 7 liberty protects against government compulsion over fundamental personal choices: *B(R) v Children's Aid Society of Metropolitan Toronto*, [1995] 1 SCR 315. ADAP's requirement that recipients participate in personalized action plans, career assessments, simulated worksites, and supported employment placements as a condition of benefit receipt constitutes state compulsion. Where the recipient's disability has been formally assessed as

## PART VI -- SECTION 15: EQUALITY RIGHTS AND DISABILITY DISCRIMINATION

*15(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. 15(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.*

Charter, s 15

### A. The Section 15 Framework Post-Withler

33. The analytical framework for Section 15 claims was most recently articulated by the Supreme Court of Canada in *Withler v Canada (AG)*, 2011 SCC 12, which adopted a contextual two-part test: (1) does the impugned law create a distinction on an enumerated or analogous ground; and (2) does the distinction create a disadvantage by perpetuating prejudice or stereotyping?
34. Mental and physical disability are expressly enumerated grounds under Section 15(1). The ADAP transition creates distinctions based on disability type -- differentiating between persons with severe developmental disabilities (who remain on AISH) and persons with other permanent disabilities (who are transitioned to ADAP with materially inferior benefits and rights protections). This distinction is made on the enumerated ground of mental or physical disability and satisfies the first branch of the Withler test.

### B. Disadvantage Through Perpetuation of Prejudice and Stereotyping

35. In *Eldridge v British Columbia (AG)*, [1997] 3 SCR 624, the Supreme Court held that Section 15 may be violated not only by formally discriminatory laws but also by laws that are facially neutral but have an adverse impact on persons with disabilities. *La Forest J* held that the duty to accommodate is inherent in Section 15 and that failing to provide appropriate accommodation to persons with disabilities may constitute discrimination.
36. The ADAP framework perpetuates the historical stereotype that persons with disabilities can and should be integrated into the labour market through appropriate programming -- a stereotype that is directly contradicted by the eligibility criteria for AISH, which require a finding of permanent inability to earn a livelihood. The imposition of employment participation requirements on a population formally assessed as permanently unable to work is textbook stereotyping.
37. Government of Alberta Open Data (September 2025) establishes that 83.9 percent of AISH recipients report zero employment income. This empirical data demonstrates that the foundational assumption of ADAP -- that recipients have latent employment capacity -- is not supported by evidence. A law premised on a demonstrably false assumption about a protected group perpetuates prejudice within the meaning of Section 15.

### C. Section 15(2) -- The Ameliorative Purpose Analysis

38. Section 15(2) protects ameliorative programs designed to benefit disadvantaged groups from Section 15(1) challenge. However, Section 15(2) does not shield a government from scrutiny when it dismantles an existing ameliorative program in favour of a less protective regime. AISH was an ameliorative program within the meaning of Section 15(2): it was specifically designed to address the disadvantage faced by persons with permanent disabilities. The ADAP transition represents a regression in the ameliorative framework, not its continuation.
39. In *Nova Scotia (Workers Compensation Board) v Martin*, 2003 SCC 54, the Supreme Court held that provisions of workers' compensation legislation that excluded persons with chronic pain from benefits available to persons with other disabilities violated Section 15(1). The structural parallel to the ADAP tiering system is direct: persons with some disabilities receive full protection (AISH); persons with others receive inferior protection (ADAP). That differential treatment of disability subgroups is actionable under Section 15.

## **PART VII -- ADDITIONAL CHARTER PROVISIONS**

### **A. Section 2(b) -- Freedom of Expression**

---

40. Section 2(b) of the Charter guarantees freedom of thought, belief, opinion, and expression. This protection extends to advocacy activities, public demonstrations, written submissions, media engagement, and online organizing. The Government of Alberta cannot lawfully penalize benefit recipients for participation in advocacy campaigns challenging the ADAP transition. Any attempt to use ADAP program conditions to chill political expression would engage Section 2(b) directly.

### **B. Section 12 -- Protection Against Cruel and Unusual Treatment**

---

41. Section 12 prohibits cruel and unusual treatment or punishment. While primarily applied in the criminal context, the Supreme Court has not foreclosed its application to administrative contexts where state action produces suffering of a comparable character. The deliberate reduction of income below survival threshold for persons with severe, permanent, and clinically documented disabilities, with no independent right of appeal and no published criteria, is a candidate for Section 12 analysis in extreme cases.

### **C. Sections 7 and 15 in Combination -- The Substantive Equality Argument**

---

42. The Supreme Court has recognized that Charter sections may be read together to capture the full constitutional dimension of a violation. The intersection of Section 7 (security of the person) and Section 15 (equality based on disability) is particularly powerful in the ADAP context: not only are recipients' physical security interests at risk, but the risk is borne disproportionately by a protected class -- persons with disabilities -- in a manner that perpetuates historical patterns of disadvantage.

### **D. Section 36 -- Equalization and the Federal Dimension**

---

43. Section 36 of the Constitution Act, 1982 commits both federal and provincial governments to promoting equal opportunities for Canadians, furthering economic development, and providing essential public services of reasonable quality to all Canadians. While Section 36 is not directly enforceable as an individual right, it informs the constitutional obligations of the federal government in responding to the ADAP transition -- particularly in relation to the clawback of the federal Canada Disability Benefit, which was specifically enacted to reduce the poverty gap for persons with disabilities under the Canada Disability Benefit Act, SC 2024, c 17.

## PART VIII -- JURISPRUDENTIAL FOUNDATION: KEY CASE LAW

The following cases constitute the primary jurisprudential foundation for the Charter arguments advanced in this analysis. They are presented in summary form.

### **R v Oakes, [1986] 1 SCR 103**

Foundational authority for the Section 1 justification analysis. Established the two-stage Oakes Test: (1) pressing and substantial objective; (2) proportionality (rational connection, minimal impairment, proportionality of effects). The government bears the burden of demonstrating justification on a balance of probabilities.

### **Eldridge v British Columbia (AG), [1997] 3 SCR 624**

Supreme Court held that the failure to fund sign language interpretation in medical settings violated Section 15. La Forest J: Section 15 requires governments to take positive steps to ensure equal access and accommodation for persons with disabilities. The duty to accommodate is inherent in the equality guarantee. Directly applicable to the ADAP framework's failure to account for the distinct needs of different disability populations.

### **Gosselin v Quebec (AG), 2002 SCC 84**

Majority declined to find a Section 7 right to a minimum income, but left the question open for future cases involving more direct threats to survival. LeBel and Arbour JJ in dissent held that Section 7 does protect against government-imposed deprivation of economic rights fundamental to survival. The dissent has been influential in subsequent academic and advocacy contexts.

### **Chaoulli v Quebec (AG), 2005 SCC 35**

Supreme Court held that a Quebec law prohibiting private health insurance violated Section 7 because it threatened the life and security of persons who could not access timely care. McLachlin CJ and Major J: where government action creates a serious risk to life and security, Section 7 is engaged. The principle applies where income reduction threatens access to food, shelter, and prescribed medication.

### **Nova Scotia (Workers Compensation Board) v Martin, 2003 SCC 54**

Workers' compensation provisions that excluded chronic pain sufferers from benefits available to other injured workers violated Section 15. Gonthier J: differential treatment of disability subgroups within a benefits regime constitutes discrimination on the enumerated ground of physical disability. This case is the closest structural analogue to the ADAP two-tier disability classification system.

### **Vriend v Alberta, [1998] 1 SCR 493**

Supreme Court held that Alberta's deliberate omission of sexual orientation from human rights legislation violated Section 15. Iacobucci J: what a government deliberately omits from protective legislation can violate the Charter as surely as what it includes. Significant also for establishing that Alberta-specific legislation is fully subject to Charter review and that the Court will order remediation of Charter violations regardless of the government's political choices.

### **Canada (AG) v Bedford, 2013 SCC 72**

Supreme Court articulated the principle of non-overbreadth as a principle of fundamental justice under Section 7. McLachlin CJ: a law is overbroad if it goes further than necessary to accomplish its purpose, such that some of its impact on liberty is not connected to the government's goal. The ADAP framework's application to all 79,290 AISH recipients, regardless of individual circumstances, is a candidate for overbreadth analysis.

### **Carter v Canada (AG), 2015 SCC 5**

Supreme Court held that the criminal prohibition on assisted dying was overbroad and grossly disproportionate, violating Section 7. McLachlin CJ and Karakatsanis J: gross disproportionality asks whether the law's effects are so severe as to be inconsistent with any legitimate government objective. The combined effect of the ADAP framework on persons with permanent disabilities is a candidate for this analysis.

**Withler v Canada (AG), 2011 SCC 12**

---

Established the current Section 15 two-part test: (1) does the law create a distinction on an enumerated ground; (2) does it perpetuate prejudice or stereotype? McLachlin CJ and Abella J: courts must look at the overall impact of the law on the claimant's position relative to others, rather than conducting a narrow comparator analysis. The ADAP tiering system creates distinctions among persons with disabilities that perpetuate the stereotype that some disabilities are more deserving of protection.

**PART IX -- CUMULATIVE EFFECT AND INTERSECTIONALITY OF VIOLATIONS**

44. Charter violations do not occur in isolation. The Supreme Court has recognized that the cumulative effect of multiple intersecting rights violations may be greater than the sum of its parts, and that courts must assess the overall constitutional picture rather than addressing each alleged violation atomistically: *Gosselin*, per LeBel J.
45. The ADAP transition framework engages at minimum five distinct Charter violations in combination: the Section 6 mobility rights infringement through economic barrier creation; the Section 7 security of the person deprivation through income reduction; the Section 7 liberty deprivation through compelled participation in employment programming; the Section 7 fundamental justice violation through removal of independent appeal; and the Section 15 equality violation through differential treatment of disability subgroups. These violations compound each other.
46. The intersectionality of disability, poverty, and gender deserves particular attention. Women are statistically overrepresented among persons with disabilities living in poverty in Canada. Policies that reduce disability income and impose employment requirements have a disproportionate adverse impact on women with disabilities, engaging both Section 15 (disability) and Section 15 (sex) in combination with Section 28, which guarantees equal application of Charter rights regardless of sex.
47. The absence of published assessment criteria prior to the July 1, 2026 transition date adds a procedural dimension to the cumulative violation. Persons subject to the transition cannot challenge their placement in ADAP versus AISH because the criteria governing that placement have not been made public. This violates both the procedural fairness component of Section 7 and the Section 15 requirement that differential treatment be grounded in principled, non-stereotypical distinctions.

**PART X -- REMEDIAL FRAMEWORK AND AVAILABLE RELIEF**

48. Section 24(1) of the Charter provides that anyone whose rights or freedoms have been infringed may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances. Section 24 remedies are flexible and purposive: *Doucet-Boudreau v Nova Scotia (Minister of Education)*, 2003 SCC 62.
49. Available remedies in the ADAP context include: (a) a declaration that specified provisions of the ADAP regulatory framework are of no force or effect pursuant to Section 52 of the Constitution Act, 1982; (b) a constitutional exemption for the applicant from the operation of the impugned provisions; (c) a suspended declaration of invalidity giving the government time to remedy the constitutional defect; (d) an order requiring the government to establish an independent appeal mechanism; (e) damages pursuant to Section 24(1) where a compensatory remedy is appropriate and just.
50. Pre-transition remedies are also available. A court may grant an interlocutory injunction staying the implementation of the ADAP transition pending a full Charter challenge, where the applicant can establish: (1) a serious question to be tried; (2) irreparable harm if the injunction is not granted; and (3) the balance of convenience favours granting the injunction: *RJR-MacDonald Inc v Canada (AG)*, [1994] 1 SCR 311. The harm to permanently disabled persons of being compelled into an employment program without a prior individual assessment is a strong candidate for the irreparable harm branch of this test.

## PART XI -- SUBMISSIONS AND CONCLUSIONS

51. On the basis of the foregoing analysis, it is submitted that the ADAP transition framework, as implemented through Bill 12 and associated regulatory instruments, engages and prima facie infringes the following provisions of the Canadian Charter of Rights and Freedoms:
- A. Section 6(2)(a) and (b) -- mobility rights and the right to pursue a livelihood, through the creation of economic conditions that render interprovincial relocation practically inaccessible to persons living at or below the poverty line on government-mandated income supports;
  - B. Section 7 -- security of the person, through income reductions that threaten the ability of recipients to meet their basic needs for food, shelter, and prescribed medication;
  - C. Section 7 -- liberty, through compelled participation in employment programming as a condition of benefit receipt for persons formally assessed as permanently unable to earn a livelihood;
  - D. Section 7 -- principles of fundamental justice, specifically non-arbitrariness, non-overbreadth, and gross disproportionality, through the automatic transition of 79,290 persons without individual assessment and the elimination of independent external review;
  - E. Section 15(1) -- equality rights, through differential treatment of disability subgroups that perpetuates the stereotype that persons with certain types of permanent disability have latent employment capacity, without evidentiary foundation;
52. It is further submitted that the Government of Alberta would face substantial difficulty in demonstrating, pursuant to Section 1 of the Charter, that the ADAP framework constitutes a reasonable limit that is demonstrably justified in a free and democratic society, given: (a) the absence of a pressing and substantial objective; (b) the lack of rational connection between automatic mass transition and any legitimate government goal; (c) the existence of less rights-impairing alternatives; and (d) the grossly disproportionate effects of the cumulative framework on one of Canada's most vulnerable populations.

### CRITICAL RECOMMENDATION:

Persons wishing to advance Charter arguments should document their individual circumstances in writing as soon as possible: monthly income, monthly expenses itemized, medical needs and costs, disability diagnosis and documentation, correspondence with AISH and ADAP, and any adverse effects on physical or psychological health arising from the transition announcement. This documentation forms the evidentiary foundation of any future Charter challenge. Consult Legal Aid Alberta or a public interest law clinic for advice on individual circumstances.

*The Charter was not written to protect comfortable majorities from inconvenience. It was written to protect the rights of individuals -- particularly vulnerable individuals -- against the exercise of government power. The ADAP transition is precisely the kind of government action that the Charter was designed to constrain. The legal arguments exist. The precedents are established. The burden of proof lies with the government to justify what it has done. On the basis of the analysis contained herein, that burden is heavy and the government's capacity to discharge it is, with respect, doubtful.*

### The Alberta Disability System Breakdown

[facebook.com/share/g/1CrU5PfHha/](https://facebook.com/share/g/1CrU5PfHha/)

Free to download, print, and share. | April 2026 | Produced independently.

Not affiliated with any political party or organization.