

Bill10CourtChallenge.Org Response to UCP Statement on Bill 24

Reference: [Bill 24 - An Act to Support Gay-Straight Alliances](#)

On November 7, 2017, Hon. Jason Kenney, Leader, United Conservative Party (UCP) released a [Statement on Bill 24](#). The following is an analysis of the UCP Statement with some observations and questions/requests (Q/Rs) for clarification. There are four general areas of discussion, which include quotes (italicized and in bold) taken from the UCP Leader's letter:

- **CONCERN #1 – THE LEGISLATIVE STATUS QUO IS NOT OKAY**
- **CONCERN #2 – RESPONSIBILITY FOR A CHILD'S SEXUAL DEVELOPMENT AND HEALTH SHOULD NOT BE TURNED OVER TO THE ALBERTA TEACHERS' ASSOCIATION**
- **CONCERN #3 – AMBIGUOUS GSA LAW COMBINED WITH GENDER IDEOLOGY PUTS ALBERTA CHILDREN AT RISK**
- **CONCERN #4 – INSERTING THE STATE BETWEEN PARENT AND CHILD WITHOUT LEGAL PROCESS VIOLATES PARENTAL RIGHTS AND UNDERMINES FAMILY AUTONOMY**

CONCERN #1 – THE LEGISLATIVE STATUS QUO IS NOT OKAY

“We support the common-sense status quo, the same status quo the NDP has supported until this week.” “Bill 24 also concentrates enormous new powers in the hands of the Minister, undermining local decision making by principals, school boards, and independent schools.” “We believe in local decision making by principals and school boards, rather than constantly amassing new powers in the hands of one politician.”

The [Oakes Test](#) is used by the courts to assess whether a law that limits Charter rights can be justified. A government must prove that provisions in the law are rationally connected to the law's purpose; minimally impair violated Charter rights; and are proportionate in effects. The UCP *“common sense status quo”* claim ignores the probability that Bill 10 legislation and follow-on Ministry policies currently fail the Oakes balanced and just threshold test.

Bill 24 only tweaks what is already approved in Bill 10. As will be shown most of the points raised by the UCP in criticism of Bill 24 are equally valid concerns for Bill 10 – *An Act to Amend the Alberta Bill of Rights to Protect Our Children*. Left unchanged, Bill 10 is revolutionary legislation for Albertans simultaneously undermining parental rights; freedoms of religion, speech, and association; and the democratic elected mandate of school boards. Bill 10 implementation effectively declares: (1) the state will protect children K-12 (waverers, sexually confused and/or self-identified LGBTQ students) by isolating them from their parents; (2) the state is indifferent, indeed celebratory, of a child's move along a transsexual path over heterosexuality; and (3) GSA club members have the mandate, uniquely protected from parental approval and school board oversight/accountability, to move their peers from a value system of tolerance towards Sexual Minority students to celebration of LGBTQ identities and lifestyles. All in theory to protect at risk children.

The *inclusive education (kids at risk)* mantra has two verses: (1) “homophobic bullying” by heterosexual majority students is the key cause of low self-esteem, health risks, and poor academic performance among LGBTQ students; and (2) eliminate homophobia and all will be well. This is more a movement narrative than proven science and must be challenged. The focus on eradication of homophobia over addressing other inherent Sexual Minority risk factors is blatant. Students (heterosexual or LGBTQ) are bullied, are at risk, and must be supported; however, LGBTQ students don’t need to turn into state approved and empowered social/political activists in our schools to achieve sustained respectful, caring and safe learning space.

The fact Bill 10 declares GSA clubs are to be established and empowered based upon the request of one student is new; however, the intended purpose of GSAs is not. As early as 2006, the intent of GSAs was made clear in the ATA publication *GSAs and QSAs in Alberta Schools: A Guide for Teachers*. This First Edition reads:



Work with your GSA to develop an action plan that will help make your group an active and sustainable presence in your school. Your action plan might include long- and short-range goals and priorities. Possible activities include:

- *showing LGBTQ-themed movies*
- *inviting guest speakers,*
- *holding joint meetings with other school groups,*
- *writing articles for the school newspaper or website,*
- *networking with local LGBTQ community groups,*
- *visiting your school library, suggesting potential LGBTQ student resources,*
- *creating a bulletin board display about LGBTQ history,*
- *planning activities to celebrate special days, such as National Coming Out Day, National Day Against Homophobia, Transgender Day of Remembrance, and LGBTQ Pride Week.*

The possibilities are endless. Be creative and have fun!

In late 2014, both political parties on the right understood that embedding gender identity and gender expression in the Bill of Rights and implementing GSA legislation in most schools could well impair the rights and freedoms of numerous stakeholders. At the time Wildrose Leader Danielle Smith said:

We also have to be conscious of the fact that parental rights are an issue and religious freedom and how is that all balanced in the actual text of the legislation. I think there’s an answer.ⁱ

On November 27, 2014, Premier Prentice stated he planned to introduce legislation to “strike a balance” between stakeholders. The draft would require school boards to approve creation of a GSA/QSA club. Premier Prentice said:

This is too important an issue to be reduced to a political game. When faced with such an unfair and unbalanced approach [Liberal MLA Blakeman’s private member’s [Bill 202](#)], I believe that it is the job of a Premier and the job of a government to show leadership and to build consensus because rights need to be advanced, because children need to be protected, because parents need to be reassured and because school boards need to be respected.ⁱⁱ

Paradoxical to a social conservative mind, on March 10, 2015, all parties approved Bill 10. Liberal MLA Laurie Blakeman (author of the original Private Members Bill) got all she had hoped for and perhaps more. She said after the vote:

I’m really glad that the government was brave enough to take that step, and I will give you credit for being brave. That one wasn’t easy, and it wasn’t a gimme. I didn’t think you’d be able to go there.ⁱⁱⁱ

In the end, concern for balance was abandoned in the Government’s rush to get the legislation passed on the first day of the legislature, only 29 days before calling an election. Conflicts such as the Alberta Government versus the [Independent Baptist Christian Education Society](#) and between the Battle River School Board and [Cornerstone Christian Society](#) are rooted in Charter rights infringements anchored to the lack of sensitivity and balance in Bill 10 legislation, and not as implied to Bill 24.

Regarding proportionate effects, the truth is “inclusive education” requires zero tolerance for promotion of the heterosexual development path. To elevate some 5% of the student body the remainder must be downgraded. For proof, look no further than Kathleen Wynne’s 2015, Ontario Health and Physical Education curriculum for Grades 1-6. The H&PE glossary defines: bisexual, gay, gay-straight alliance, gender, gender expression, gender identity, homophobia, lesbian, intersex, sexual orientation, sexuality, transgender, transsexual, and two-spirited; but not heterosexual. The word *Gender Identity* is found 43 times, *Sexual Orientation* 42 times and *Gender Expression* 11 times. The word *heterosexual* is found once, listed in brackets along with gay, lesbian, and bisexual, as a type of sexual orientation.

After decades spent by the political left deconstructing heterosexism, investing in the constructs of homophobia and gender ideology, it is no longer seen as necessary or “politically correct” to promote heterosexuality as a life choice in our schools. For the “beyond tolerance” advocates, the goal is a school environment where everyone is indifferent, if not celebratory, of a student’s decision to change gender, to cross dress, to date concurrently a boy and a girl, or to adopt a queer identity etc. And while this “inclusive education” goal is a work-in-progress, the strategy is to encourage early experimentation and self-identification (K-12), attendance in an unregulated GSA, and to empower students to take these decisions and live a lifestyle at school secret from their parents. For Christian,

Muslim, Jewish students and parents “*moving beyond tolerance*” requires denial of their faith. Not going to happen and neither are the courts likely to subjugate religious freedom in such a way.

Q/R1 – Please explain how no changes to Bill 10 (i.e. the “status quo”) provides a just balance of rights and constitutional freedoms for all stakeholders (parents, faith-based schools, elected trustees, wavering and sexually confused students, students wishing to overcome homosexual inclinations, and self-identified sexual minority students)

CONCERN #2 – RESPONSIBILITY FOR A CHILD’S SEXUAL DEVELOPMENT AND HEALTH SHOULD NOT BE TURNED OVER TO THE ALBERTA TEACHERS’ ASSOCIATION

“We believe that highly trained educators are in a much better position than politicians to exercise their discretion on whether it is in the best interests of a child to engage parents.” “Teachers, not politicians, should decide when it makes sense to engage parents.” “We believe every child is unique, and that educators should be left with the discretion they currently have to engage parents when it is in the best interests of the child to do so.”

Current policy in Ministry [Guidelines for Best Practices](#) does not give teachers and school staff the flexibility to inform parents against a student’s wish.

In 2009, Bill 44 – legislation adding parental notification and student opt-out provisions for education in sexual orientation to the Alberta Human Rights Act (Section 11.1), was before the Legislature. On May 26, PC MLA Rob Anderson cited an article in the *Calgary Herald* by Naomi Lakritz. The article titled “Bill 44 Debate Gives Parents an Unfair Rap,” reads in part:

Since when did parents get to be so stupid that they can’t be trusted with raising their own children? To hear some of the opponents of Bill 44 talk, you’d think that kids should be removed from their parents’ custody and handed over to schools to raise. The teachers – the same ones who complain at bargaining time that large class sizes prevent them from paying adequate attention to their students – apparently know what’s best for all those kids they say they don’t have time to really get to know.^{iv}

It is the 46,000 member ATA that has endorsed and/or published over twenty [pro-LGBTQ references and anti-homophobia resources](#). The Ministry [Guidelines for Best Practices](#) acknowledges input from the Toronto District School Board and Canadian Teacher’s Federation in drafting the document. Lastly, the ATA have [fully endorsed Bill 24](#).

Q/R #2 – Why should social conservative parents (faith-based or secular) trust ATA school teachers and/or school staff to know best how to secretly manage their children’s sexual development; and subsequently during some crisis, inform the parents that its time they took overall responsibility for their son or daughter’s welfare?

CONCERN #3 – AMBIGUOUS GSA LAW COMBINED WITH GENDER IDEOLOGY PUTS ALBERTA CHILDREN AT RISK

“Our caucus...focussed on one overriding question: what is in the best interests of children, especially kids at risk?” “We believe that every child is unique, and that every circumstance faced by kids at risk is different.” “We believe that it is wrong to treat young elementary school children the same way as teenagers in high school on sensitive matters.” “Schools are to be legally barred from engaging parents, even if teachers, counsellors or principals deem it prudent to do so.”

Bill 10 and Ministry [Guidelines for Best Practices](#) apply K-12. Bill 24 does not change this fact. [Guidelines for Best Practices](#) implements Bill 10 legislation and directs teachers to respect a child’s self-identity and confidentiality. The document states in part:

- *Self-identification (K-12) is the sole measure of an individual’s sexual orientation, gender identity or gender expression.*
- *All individuals have the right to be addressed by their chosen name and to choose pronouns that align with their gender identity and/or gender expression.*
- *In keeping with the principles of self-identification, it is important to protect a student’s personal information and privacy, including, where possible, having a student’s explicit permission before disclosing information related to the student’s sexual orientation, gender identity or gender expression to peers, parents, guardians or other adults in their lives.*

Yes every child is unique and every circumstance faced by kids at risk is different. So what’s best for a wavering or sexually confused child at risk of self-identifying as transgender? Drs. Achen and Fenske of the Faculty of Medicine, University of Alberta, argue against encouraging children along this path. In a critique of Minister Eggen’s [Guidelines for Best Practices](#) they wrote in part:

The so-called guiding principle of “Self-identification” as the “sole measure of an individual’s sexual orientation, gender identity or gender expression,” appears throughout the document, serving as a foundational statement, with no reference as to why this is valid nor how it is substantiated...Our role as parents and leaders in the community is not to uncritically approve of the vagaries – at face value – of our children’s emotions as they try to come to grips with who they are, but to help them recognize the source of such confusion and to reaffirm and help re-align their perceived identity with their “assigned” sexual gender.

Moreover, the [Guidelines for Best Practices](#) document states that “No student or family should be referred to programs which purport to ‘fix’ ‘change or ‘repair’ a student’s sexual orientation, gender identity or gender expression.” Drs. Achen and Fenske comment:

This naïve and oppressive statement disregards the underlying emotional, mental or physical reasons that might lead someone to identify sexually as someone other than

his or her morphological and genetic identity. Nowhere else in medicine, other than gender identity and sexuality, is such a reckless stance taken or practiced presently.

The American College of Pediatricians takes a similar position making their argument under the title "[Gender Ideology Harms Children.](#)" They equate indoctrination of gender ideology in schools to institutional "child abuse." The ACPeds release states in part:

Conditioning children into believing that a lifetime of chemical and surgical impersonation of the opposite sex is normal and healthful is child abuse. Endorsing gender discordance as normal via public education and legal policies will confuse children and parents, leading more children to present to "gender clinics" where they will be given puberty-blocking drugs. This, in turn, virtually ensures that they will 'choose' a lifetime of carcinogenic and otherwise toxic cross-sex hormones, and likely consider unnecessary surgical mutilation of their healthy body parts as young adults.

In addition to indoctrination in gender ideology and the separation of wavering, sexually confused or LGBTQ-identified students from parental oversight, our children are to be re-educated "beyond tolerance" to indifference, if not celebration of Sexual Minority lifestyles. The ATA 2016 Edition of [GSAs and QSAs in Alberta Schools: A Guide for Teachers](#) confirms this goal. The [Guide](#) advocates GSAs and QSAs be employed as follows:

- *Have a visible school wide presence*
- *Are characterized by social, educational and political activities*
- *Build networks and coalitions with other school and community-based groups*
- *Focus on school climate and organizational change through outreach activities (e.g., diversity days, staff training, inclusive curriculum, pride week activities)*
- *Have an anti-oppression educational mandate across intersections of difference (race, gender, class, sexual orientation, gender identity, gender expression)*
- ***Strive to move beyond tolerance***



Q/R #3 - Does the UCP acknowledge that Bill 10 legislation and associated [Guidelines for Best Practices](#) and the ATA publication [GSAs and QSAs in Alberta Schools: A Guide for Teachers](#) will have the macro-level impact of leading more children into a Sexual Minority life path than would otherwise be the case?

Q/R #4 – Does the UCP believe that Alberta parents have a legal/moral/spiritual right to influence their children’s human sexuality development according to parental conviction?

Q/R #5 – If the answer to Q/R #4 is no, please clarify at what child’s age parents should release responsibility for their son or daughter’s sexual self-identity and sexual development to ATA teachers.

CONCERN #4 – INSERTING THE STATE BETWEEN PARENT AND CHILD WITHOUT LEGAL PROCESS VIOLATES PARENTAL RIGHTS AND UNDERMINES FAMILY AUTONOMY

“We do not support, I repeat we do not support mandatory notification of parents regarding the involvement of students in GSAs.” “And neither I nor anyone in our caucus has proposed “outing” gay kids.” “We believe that parents should continue to have the right to be informed of educational programs or materials that deal with human sexuality.” (Section 50.1(1) of the School Act)

The Alberta Family Law Act states:

21 (6) Except where otherwise limited by law, including a parenting order, each guardian may exercise the following powers:

- (a) to make day-to-day decisions affecting the child, including having the day-to-day care and control of the child and supervising the child’s daily activities;*
- (c) to make decisions about the child’s education, including the nature, extent and place of education and any participation in extracurricular school activities;*
- (d) to make decisions regarding the child’s cultural, linguistic, religious and spiritual upbringing and heritage;*
- (e) to decide with whom the child is to live and with whom the child is to associate;*
- (g) to consent to medical, dental and other health-related treatment for the child;*
- (h) to grant or refuse consent where consent of a parent or guardian is required by law in any application, approval, action, proceeding or other matter;*

Furthermore, the Alberta Bill of Rights declares without discrimination by reason of religion etc. the fundamental freedom, namely: “S.1(g) *the right of parents to make informed decisions respecting the education of their children.*” Leader Kenney’s own words affirm this right: “**...to ensure the moral education of their children in conformity with their own convictions, rights which were recently affirmed by the Supreme Court of Canada.**” Moreover, School Act S.50.1 empowers parents through mandatory notification of “implicit” teaching on human sexuality and permits student opt-out provisions for their children. So

one asks, “why would the UCP overturn/reverse/nullify the proceeding rights by accepting the “*status quo*” – i.e. empowerment of our sons and daughters (K-12) to usurp parental oversight/authority by self-identifying LGBTQ etc. at any age, by living a secret double life at school, by secretly joining a GSA/QSA, and by secretly connecting with the Alberta GSA Network, all without parental awareness or approval?”

Previously before becoming UCP leader, Mr. Kenney stated “[I] *do, however, think that parents have a right to know what’s going on with their kids in schools unless the parents are abusive, in which case there are protocols to deal with bad parents.*”

The state, according to the Alberta Family Law Act, can only interfere with the parental rights (listed at Family Law Act S.21 above) after reasonable notice and due process in a court of law and issuance of a legal Parenting Order.

Q/R #6 – Does the UCP support the state thwarting the Family Law Act “protocols” (i.e. legal process) and parenting powers/rights by empowering school children (K-12) to secretly self-identify at school, secretly join an unregulated GSA, and secretly connect with the unregulated Alberta GSA Network?

Q/R #7 – Family Law refers to a “child” as a person under the age of 18 years. Is there not a need to establish an age applicable for independent self-determination of sexual identity and attendance in a GSA?

Q/R #8 – Who is legally liable should a student, living a secret self-identity at school and attending a GSA and the Alberta GSA Network, without parental knowledge and approval, commit suicide or self-damage or has a mental breakdown?

Q/R #9 – What is the state-parent arbitration/litigation mechanism available to parents who discover that their child has secretly self-identified LGBTQ (K-12) and is attending a GSA, one or both of which they disapprove?

Q/R #10 – At what points (i.e. level of concern, need of counselling, pending clinical procedures etc.) are schools obligated to inform parents of their child’s need for medical interventions (hormone treatments and/or surgery) related to a self-identity, or psychological/spiritual counselling related to sexual identity and/or mental health, whether the child permits or not?

Q/R #11 - Is it legal to support and counsel a child with Gender Dysphoria (K-12) without parental approval and parent-approved medical professionals?

Q/R #12 - Current legislation fails to address the reality that some students who are wavering, sexually confused or experience LGBTQ attractions may seek counselling to follow a heterosexual development path. These students are entitled to unbiased counselling and their parents entitled to be informed? How will these happen in an

“inclusive education” environment that encourages and celebrates Sexual Minority orientations, identities and expressions?

ⁱ Michelle Bellefontaine, *CBC News Edmonton*, “[Laurie Blakeman hopeful PCs and Wildrose will support Bill 202](#),” 20 November 2014.

ⁱⁱ Matt Dykstra, *Edmonton Sun*, “[Proposed PC Bill 10 in reaction to Bill 202 on gay-straight alliances draws criticism in Alberta Legislature](#),” 27 November, 2014.

ⁱⁱⁱ Alberta Hansard, MLA Blakeman, 10 March 2015, pg. 541.

^{iv} Alberta Hansard, MLA Anderson, 26 May 2009, pg. 1313.