



Types of law:  
**CRIMINAL LAW**

A 2018 Alberta Guide to the Law

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# Mischief, Graffiti & Vandalism



**Student Legal Services**  
of Edmonton

A light blue silhouette of a city skyline is positioned at the bottom of the page, behind the text of the logo.

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# Mischief

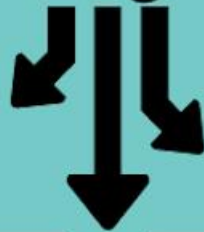
## Criminal Code s 430

Everyone commits mischief who willfully:

- a) destroys or damages property;
- b) renders property dangerous or useless;
- c) interferes with the lawful use or enjoyment of property;
- d) interferes with any person lawfully using or enjoying property.



## Specific Mischief Charges



**Mischief  
Related to  
a Hate  
Crime**

**Mischief  
Related to  
War  
Memorials**

**Mischief  
Related to  
Cultural  
Property**

**Mischief  
Involving  
Computer  
Data**



### Community Standards Bylaw 14600

Private property owners are not allowed to leave graffiti on their property that can be viewed from surrounding property. Failure to remove graffiti can result in a \$250 fine or paying the cost of the city removing the graffiti.

**Table of Contents**

**MISCHIEF..... 1**  
    **Hate Crimes ..... 1**  
    **War Memorials ..... 2**  
    **Cultural Property ..... 2**  
    **Mischief and Computer Data..... 2**  
    **Dangerous Act or Omissions ..... 3**  
    **Possession of a Device Designed to Commit Mischief..... 3**  
**GRAFFITI..... 3**  
**WHERE CAN I GET HELP OR MORE INFORMATION AND HELP? ..... 4**

## MISCHIEF

There are several offences which fall under the category of mischief in the *Criminal Code of Canada*. Mischief includes acts such as vandalism and graffiti. There is also a series of mischief offences which include more serious punishments, such as mischief constituting a hate crime.

The basic charge of mischief is described by the act as anyone who willfully:

1. Destroys or damages property;
2. Renders property dangerous, useless, inoperative or ineffective;
3. Obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property; or
4. Obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.



Anyone who commits mischief which endangers someone's life is guilty of an indictable offence and can be sentenced to life imprisonment.

Anyone who commits mischief which causes over five thousand dollars of property damage can either be charged with a summary conviction offence, or with an indictable offence carrying a maximum punishment of 10 years imprisonment.

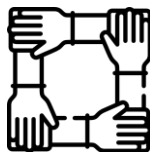
Finally, anyone who commits mischief which causes under five thousand dollars of property damage can either be charged with a summary conviction offence, or with an indictable offence carrying a maximum punishment of 2 years imprisonment.

## Hate Crimes

Any building used primarily for religious worship, or buildings used by an identifiable group for: education, administration, social or cultural activities, sports, events, or as a residence for seniors has additional protection. If anyone commits mischief in relation to these properties and their primary motivation involved bias, prejudice or hate, then that person can either be found guilty of an indictable offence with imprisonment for up to 10 years, or can be found guilty by summary conviction with imprisonment up to 18 months.

The bias, prejudice or hate must be based on one of the following:

- Colour;
- Race;
- Religion;
- National or ethnic origin;



- Age;
- Sex;
- Sexual orientation;
- Gender identity or expression; or
- Mental or physical disability.

## War Memorials

Anyone who commits mischief in relation to property used to honour those who were killed or died as a consequence of a war, can be prosecuted by either indictment or with a summary conviction offence.

The minimum punishment varies depending on how many times the offence has been committed.

- A first offence has a minimum fine of \$1,000.00.
- A second offence has minimum imprisonment of 14 days.
- For each subsequent offence there is a minimum imprisonment of 30 days.

The maximum punishment if the offence is prosecuted by indictment is 10 years imprisonment. If the offence is punishable on a summary conviction, then the maximum punishment is 18 months imprisonment.

## Cultural Property

Anyone who commits mischief in relation to property deemed cultural property, such as museums, large libraries or buildings of great cultural importance, is guilty of either an indictable offence with a maximum punishment of 10 years imprisonment, or an offence punishable on a summary conviction.



## Mischief and Computer Data

Mischief is defined differently in relation to computer data, in these situations anyone commits mischief who:

1. Destroys or alters computer data;
2. Renders computer data meaningless, useless or ineffective;
3. Obstructs, interrupts or interferes with the lawful use of computer data; or
4. Obstructs, interrupts or interferes with a person in the lawful use of computer data or denies access to computer data to a person who is entitled to access it.



Mischief in relation to computer data can either be charged with a summary conviction offence, or with an indictable offence carrying a maximum punishment of 10 years imprisonment.

### **Dangerous Act or Omissions**

Anyone who willfully does an act, or omits to do an act that it is their duty to do, and the act or omission constitutes mischief, then they are guilty of either an indictable offence or summary conviction. If prosecuted by indictment the maximum punishment is 5 years imprisonment.

An individual will not be guilty however, if they stopped working due to a dispute with their employer regarding their employment, or because of a failure by their employer or agent to act on their behalf regarding the employment. They will also not be guilty if they stopped working for their own protection.

### **Possession of a Device Designed to Commit Mischief**

The final mischief related charge is making, possessing or selling a device which was designed or adapted primarily to commit mischief, either in regard to property or computer data. Anyone found guilty of the offence can either be charged with a summary conviction offence, or with an indictable offence carrying a maximum punishment of 2 years imprisonment.

## **GRAFFITI**

In addition to the above mischief charges, there are also local bylaws against graffiti. The city acknowledges some graffiti is art, created with the property owners consent, but there are rules against graffiti that was placed on property without the owner's consent.



Private property owners are not allowed to leave graffiti on their property that is visible from surrounding property, and are required to remove it within a reasonable amount of time. Property owners who do not remove graffiti from their property may face a \$250 bylaw ticket. Alternatively a Municipal Enforcement Officer may issue an order for the city to remove the graffiti and bill the property owner for the expense.

Individuals with concerns about graffiti are urged to inform the property owner so they may contact the police. If this does not resolve the issue, contact the police by phoning 311.

## WHERE CAN I GET HELP OR MORE INFORMATION AND HELP?

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| <b>Student Legal Services – Criminal Project</b><br>#203, 9924-106 Street<br>Edmonton, AB T5K 1C4 | <b>Contact:</b><br><b>Ph:</b> 780-425-3356<br><b>Web:</b> <a href="http://www.slsedmonton.com">www.slsedmonton.com</a> |
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Law students able to provide free legal information and who may be able to assist individuals in court depending on their income and the circumstance of the offence.

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| <b>Legal Aid Society of Alberta</b><br>Revillon Building<br>Suite 600 – 10320 102 Avenue<br>Edmonton, AB T5J 4A1 | <b>Contact:</b><br><b>Ph:</b> 1-866-845-3425<br><b>Web:</b> <a href="http://www.legalaid.ab.ca">http://www.legalaid.ab.ca</a> |
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The Legal Aid Society of Alberta functions to assist low-income Albertans with certain types of legal matters. Assistance is provided through information, referrals, advice, and/or representation, depending on what your matter is and which eligibility guidelines you meet.

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| <b>Native Counselling Services of Alberta</b><br>14904 121a Ave NW<br>Edmonton, Alberta T5V 1A3 | <b>Contact:</b><br><b>Ph:</b> 780-451-4002<br><b>Web:</b> <a href="http://www.ncsa.ca">www.ncsa.ca</a> |
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Native Counselling Services can help guide individuals through the court process and also provide emotional support as well as the legal help.

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| <b>Fine Options Program</b><br>14605 134 Avenue NW<br>Edmonton, AB T5L 4S9 | <b>Contact:</b><br><b>Ph:</b> 780-422-0730 |
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This program is for adult offenders to work off fines instead of making payments or spending time incarcerated. Participants complete community work service for a specified number of hours, depending on how much of their fine they wish to pay off through this program. You must use your court papers and Time to Pay notice in order to register for the program.