

Bill No. 65 of 1949.

A BILL TO AMEND THE CHILD WELFARE ACT.

NOTE.

This Bill amends *The Child Welfare Act*, being chapter 8 of the Statutes of Alberta, 1944.

Section 6 is struck out. This section provided for the appointment of a selection committee by the Lieutenant Governor in Council which committee had to approve all appointments of child welfare workers whether municipal or provincial. The effect of the removal of this section is that municipalities will be free to make their own child welfare appointments and the Province will no longer exercise any control over such municipal appointments.

Section 10 (c) is amended. This paragraph defines a "Child welfare worker" as meaning an official appointed by the Lieutenant Governor in Council or by a municipality to carry on child welfare work in the Province or in the municipality, as the case may be. The reference to approval of the appointment by the selection committee has been omitted.

Section 10 (h) which defines "institutions" has been amended so that the definition of institution will include a detention home and an observation home. All institutions are, of course, subject to inspection by the Commission under section 51 (9) of the Act.

Section 11 is amended. Subsection (1) of this section presently provides that cities and towns having a population of three thousand or more shall appoint their own inspectors or child welfare workers. This subsection is amended to provide that every municipality shall appoint its own child welfare workers.

Section 12 (2) is amended by striking out "city or town" and substituting "municipality". The effect of the amendment is that inspectors or child welfare workers appointed by a municipality may act as probation officers in the municipality for which they are appointed.

Section 14 (7) is amended. Under the present subsection it is mandatory for the judge who finds that a child is not a neglected child to order that it be returned to its parents, guardian, etc. The purpose of the amendment is to give the judge a discretion in directing the persons to whom the child shall be returned.

Section 14 (13) is amended by striking out the second proviso and substituting a new proviso. The effect of the

amendment is that a judge in determining the liability of a municipality for the support of a child who has been declared to be a ward of the Government shall direct the municipality to pay the actual costs incurred for the maintenance of the child rather than the minimum of seven dollars per week provided for in the present section.

Section 14 (14) is also amended by striking out the second proviso and substituting a new proviso. This section presently provides that a child is deemed to belong to a municipality in certain circumstances. The new proviso establishes that a child of a woman who is receiving mothers' allowance or of parents who are receiving indigent relief shall be deemed to belong to the municipality which is liable for payment of any part of the mothers' allowance or the relief, as the case may be.

Section 15 is struck out and a new section is substituted. The new section amplifies the powers contained in the present section. It enables a judge hearing the case of any neglected child to adjourn the same indefinitely and to return the child to the parents. If he commits the child temporarily to the care and custody of the Superintendent it shall not be for a greater period than twelve months. Where a child has been temporarily committed to the care of the Superintendent, the Superintendent may at any time during the period of the temporary commitment bring the case again before a judge to make a further order either permanently committing the child or returning the child to his parents. No child may be adopted during a period when it is temporarily committed.

Section 17 is amended to provide that the notice of appeal from an order of a judge shall be served both upon the Commission and the municipality rather than upon one or the other.

Subsection (3) of section 20 is amended so that a city is free to make its own appointment of a supervisor of a city observation home, and such appointment is no longer subject to the approval of the Commission.

Section 53 is amended. This section presently provides that no parent shall surrender the custody of his child and no person shall accept the custody of such a child without having first obtained the written approval of the Commission. The amendment provides an exception for a surrender upon the order of a District Court judge.

Section 55 (1) is amended. This subsection presently enables the council of any city, town, village or municipal district to pass a by-law regulating the time after which children shall not be in a public place at night without proper guardianship. The effect of the amendment is that the Minister of Municipal Affairs is given the same power in this regard in an improvement district or a special area that a council has in a municipality.

Section 57 (1) is amended to provide that every municipality shall provide a shelter for the care of its neglected children. It is to be noted that a private home may constitute a shelter under this section. At present only cities and towns with a population of three thousand or over are required to provide and maintain a shelter.

Section 87 (1) is struck out and a new subsection is substituted. The effect of the amendment is to require the Commission to make an investigation of every application for adoption and to submit a report of the investigation to the Court together with the petition for adoption.

Section 93 is amended by striking out references to the Superintendent and substituting references to the Commission. A new subsection (2) is added which deals with cases where a child is not a ward of the Government. The subsection provides that an order of adoption shall not be made unless the judge is satisfied either that the child has lived with the petitioner for one year and that during that period the conduct of the petitioner and the conditions in which the child lived justify the making of the order, or that the petitioner is a fit and proper person to have the care and custody of the child and that it appears desirable to the judge in the best interests of the child, or for some other good and sufficient reason that the one year period of residence be dispensed with.

Section 112 is amended. Subsection (1) is struck out and a new subsection is substituted. This new subsection provides that in affiliation proceedings the woman making the complaint may do so to a police magistrate or a judge. The amendment enables a police magistrate to take this complaint as well as a judge. In rural areas police magistrates are available more frequently and thus the difficulty previously experienced in commencing these proceedings will be removed. The police magistrate is required to forward the complaint to the Clerk of the Court who is required to notify the Superintendent when he receives it.

A new subsection (3) is added to section 112 providing that either the Superintendent or the complainant may then apply to a judge for a summons requiring the putative father to appear before a judge and to show cause why an affiliation order should not be made against him.

Sections 116 and 118 are both amended slightly to change the expression "The judge" to the expression "A judge". At present "A judge" may issue a summons and then "The judge" must hear and determine the case, etc. It is arguable that the expression "The judge" refers to the judge who issued the summons and that such judge is seized of the case and no other judge may hear it. This creates a practical difficulty as in many cases a judge who expects to take a sittings may issue a summons and then find that the court calendar is rearranged so that some other judge takes that

sittings. It is desirable that any judge should be able to hear these proceedings irrespective of what judge issued the summons.

Subsection (2) of section 127 is amended. Subsection (2) of section 118 provides that no application to vary an affiliation order can be made until after one year from the date of the order sought to be varied. It was not intended that this provision should apply to the circumstances covered by section 127 and subsection (2) is amended to make this clear.

KENNETH A. MCKENZIE,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 65 of 1949.

An Act to amend The Child Welfare Act.

(Assented to _____, 1949.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Child Welfare Act*, being chapter 8 of the Statutes of Alberta, 1944, is hereby amended as to section 6 by striking out the same.

2. The said Act is further amended as to section 10,—

(a) by striking out paragraph (c) and by substituting the following:

“(c) ‘Child welfare worker’ means an official appointed by the Lieutenant Governor in Council or by a municipality to carry on child welfare work in the Province, or in the municipality, as the case may be;”;

(b) by adding immediately at the end of paragraph (h) the words “and includes a detention home or observation home”.

3. The said Act is further amended as to section 11,—

(a) by striking out subsection (1) and by substituting the following:

“**11.—(1)** Every municipality shall appoint one or more inspectors or child welfare workers for the enforcement of this Act, and notice of each appointment shall be given forthwith to the Commission.”;

(b) by striking out the words “city or town” wherever the same occur in subsection (3), and by substituting the word “municipality”;

(c) by striking out the words “and pay” where the same occur in subsection (3).

4. The said Act is further amended as to section 12 by striking out the words “city or town” where the same occur in subsection (2), and by substituting the words “municipality”.

5. The said Act is further amended as to section 13 by striking out the words “by a city or town” where the same occur therein.

6. The said Act is further amended as to section 14,—

- (a) by striking out the words “shall order” where the same occur in subsection (7), and by substituting the words “may direct”;

- (b) by striking out the second proviso to subsection (13), and by substituting the following:

“Provided also that every order shall direct the municipality to pay the actual costs incurred for the maintenance of the child, including necessary clothing and in addition thereto the expenses including transportation, and medical and hospital treatment which may be incurred in respect of the child from the date of the apprehension or surrender or arrest of the child and so long as the child remains a ward of the Government or in the charge of the Superintendent or in an industrial school or other institution approved by the Commission.”;

- (c) by striking out the second proviso to subsection (14), and by substituting the following:

“Provided also that if a child of a woman in receipt of an allowance under *The Mothers' Allowance Act*, or of a parent in receipt of indigent relief under the provisions of *The Town and Village Act*, *The Municipal District Act*, or *The Improvement Districts Act*, 1947, is apprehended or surrendered under the provisions of this Act or *The Juvenile Delinquents Act*, the child shall, notwithstanding any other provision hereof, be deemed to belong to the municipality liable for payment of any part of the allowance under *The Mothers' Allowance Act*, or of relief under *The Town and Village Act*, *The Municipal District Act* or *The Improvement Districts Act*, 1947.”.

7. The said Act is further amended as to section 15 by striking out the same and by substituting the following:

“15.—(1) Where it appears to the judge that the public interest, and the interest of any child declared by him to be a neglected child may be best served thereby, the judge may make any one of the following orders:

- “(a) that the case may be adjourned *sine die* and that the child be returned to his parent or guardian or other person in whose charge he may be, subject to the direction of the judge;
- “(b) that the child be temporarily committed to the care and custody of the Superintendent for such specified period as in the circumstances of the case he may deem necessary, provided however, that such period shall not exceed twelve months; or
- “(c) that the child be committed permanently to the care and custody of the Superintendent.

“(2) Where a child has been temporarily committed to the care and custody of the Superintendent, the Superintendent may at any time during the period of temporary commitment bring the case again before the judge for further and other consideration and action under this section, and if the temporary commitment has not been earlier terminated, the case may, at the expiration of the specified period, again come before the judge and the judge shall thereupon further inquire and determine whether the circumstances justify an order returning the child to the parent or guardian or making a further order under this section.

“(3) During the period of temporary commitment the Superintendent shall keep the child in a temporary home or shelter or in some other suitable place and shall exercise during such period, all the rights of the legal guardian of such child except as to proceedings under Part III of this Act.”.

8. The said Act is further amended as to section 17 by striking out the words “the Commission or the municipality as the case may be” where the same occur in subsection (2), and by substituting the words “the Commission and the municipality”.

9. The said Act is further amended as to section 20 by striking out the words “whose appointment shall be subject to the approval of the Commission” where the same occur in subsection (3).

10. The said Act is further amended as to section 53 by adding immediately before the words “No parent shall surrender the custody of his child,” where the same occur therein, the words “Except upon the order of a District Court judge”.

11. The said Act is further amended as to section 55,—

- (a) by adding immediately after the words “municipal district may pass a by-law” where the same occur in subsection (1) the words “and the Minister of Municipal Affairs, in respect of an improvement district or a special area, may make an order”;
- (b) by adding immediately after the words “to whom the by-law” where the same occur in subsection (1) the words “or order”;
- (c) by adding immediately after the word “by-law” wherever the same occurs in subsections (2) and (3) the words “or order”.

12. The said Act is further amended as to section 57 by striking out the words “Every city, and every town of three thousand population or over” where the same occur in subsection (1), and by substituting the words “Every municipality”.

13. The said Act is further amended as to section 87 by striking out subsection (1) and by substituting the following:

"87.—(1) Any adult person being of the full age of twenty-one years wishing to adopt an unmarried minor as his child may apply to the Commission which shall investigate the application in the interests of the child and submit the applicant's petition for an order of adoption to a judge within sixty days of the receipt thereof, and no order of adoption shall be made unless the petition together with a report of the investigation is presented to the judge by the Commission."

14. The said Act is further amended as to section 93,—

- (a) by renumbering the same as subsection (1);
- (b) by striking out the word "Superintendent" wherever the same occurs in subsection (1), and by substituting the word "Commission";
- (c) by adding immediately after subsection (1) the following new subsection:

"(2) Where the child is not a ward of the Government, an order of adoption shall not be made unless the judge is satisfied,—

- "(a)** that the child has lived with the petitioner for at least one year immediately prior to the date of the petition, and that during that period the conduct of the petitioner and the conditions under which the child has lived have been such as to justify the making of the order; or
- "(b)** that the petitioner is a fit and proper person to have the care and custody of the child, and that it appears desirable in the best interests of the child or for other good and sufficient reason that the one year period of residence be dispensed with."

15. The said Act is further amended as to section 112,—

- (a) by striking out subsection (1) and by substituting the following:

"112.—(1) Upon complaint made in writing upon oath to a police magistrate or to a judge having jurisdiction in the judicial or sub-judicial district in which the mother hereinafter mentioned resides, or in which the child is born, that any child has been born out of wedlock, or that any woman has become a mother within the meaning of this Part, and stating the name of the person alleged to be the father of the child or to have caused the pregnancy, as the case may be, the police magistrate or the judge shall cause the said complaint to be forwarded to the Clerk of the Court in the judicial or sub-judicial district in which it was made."

- (b) by adding immediately after subsection (2) the following new subsection:

“(3) The Clerk of the Court, upon receipt of a complaint made pursuant to subsection (1) shall notify the Superintendent and the Superintendent or the complainant may apply to a judge for a summons requiring the putative father to appear at a time and place mentioned in the summons before a judge having jurisdiction in the said judicial or sub-judicial district, to show cause why an affiliation order should not be made against him under this Part.”.

16. The said Act is further amended as to section 116 by striking out the words “The judge” where the same occur in subsection (3), and by substituting the words “A judge”.

17. The said Act is further amended as to section 118 by striking out the words “the judge” where as same occur in subsection (1), and by substituting the words “a judge”.

18. The said Act is further amended as to section 127 by striking out the words “Where it appears to the judge” where the same occur in subsection (2), and by substituting the words “Notwithstanding the provisions of subsection (2) of section 118, where it appears to a judge”.

19. This Act shall come into force on the day upon which it is assented to.

No. 65

FIRST SESSION
ELEVENTH LEGISLATURE
13 GEORGE VI
1949

BILL

An Act to Amend The Child Welfare
Act.

Received and read the

First time

Second time

Third time

HON. DR. CROSS.
