

Bill No. 80 of 1952.

A BILL TO PROVIDE FOR THE CONSTITUTION AND
ESTABLISHMENT OF THE JUVENILE COURT.

NOTE.

This Bill enacts a new Act to be known as "*The Juvenile Court Act, 1952*".

The administration of matters relating to juvenile delinquency is being transferred from the Department of Public Welfare to the Department of the Attorney General. The provisions formerly contained in Part II of *The Child Welfare Act* are being repealed and re-enacted in this Act with such variations or amendments as are considered necessary. *The Juvenile Offenders Act* is also being repealed.

Provision is made for the appointment of a superintendent of juvenile offenders, a chief probation officer and other probation officers and employees to assist him.

Supreme and District Court Judges and police magistrates are *ex officio* judges of the Juvenile Court but are not required to act in that capacity unless willing to do so. The Lieutenant Governor in Council may appoint judges of the Juvenile Court who hold office during pleasure. The Attorney General may also appoint any justice of the peace as a Juvenile Court judge for the trial of any specific case.

A probation officer may act as clerk of the Juvenile Court. A municipality that desires to pay for the services of a clerk of the court may appoint one with the approval of the superintendent. The duties of the clerk are set out in the Act. In the event that there is no clerk available the duties of the clerk are to be performed by the Juvenile Court judge.

In addition to the probation officers appointed by the Province each city and town is required to appoint such probation officers as it requires. The Lieutenant Governor in Council may also appoint voluntary probation officers without remuneration where such persons consent to act. Similarly, a judge of the Juvenile Court may appoint voluntary probation officers without remuneration where such persons consent to the appointment either to deal with a specific case or for a temporary period not in excess of six months. The duties and powers of the probation officers are set out in the Act.

Each municipality is required to provide a detention home satisfactory to the Attorney General. The Attorney Gen-

eral may declare certain orphans' homes, children's homes, temporary homes or shelters to be detention homes for the purposes of this Act and of *The Juvenile Delinquents Act, 1929* (Canada).

A child who is apprehended and placed in a detention home is required to be charged and brought before a judge as soon as practicable after his apprehension. The Act provides that a juvenile delinquent shall not be kept in the same place where a neglected child is staying. All foster homes where a juvenile delinquent may be placed must be approved by the Attorney General.

The financial liability of municipalities is not materially changed from the present provisions. The municipality of which a child is a resident is responsible for the expenses, maintenance and support of the child. The Juvenile Court judge, after notice to the municipality, determines what municipality is responsible for the child. Any municipality that makes a payment in respect of a child for which some other municipality is liable may recover the amount so paid from the other municipality as though it were a debt. Any municipality which pays for the expenses of a child under this Act may recover the amount paid from the parents of the child by action or by distraint and it also has a charge on any of their lands. The expenses incurred by the Department of the Attorney General in respect of any child are recoverable from the municipality to which the child belongs.

Where a juvenile delinquent is committed to the care or custody of a probation officer, a foster home, a children's aid society, an industrial school or the superintendent, the superintendent exercises all the rights of the legal guardian of the child during the period of the commitment.

J. W. RYAN,
Acting Legislative Counsel.

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

BILL

No. 80 of 1952.

An Act to Provide for the Constitution and Establishment
of the Juvenile Court.

(Assented to _____, 1952.)

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

Short Title.

1. This Act may be cited as "*The Juvenile Court Act*, Short title
1952".

Interpretation.

- 2.** In this Act, unless the context otherwise requires,—
- (a) "Child Welfare Commission" means the Child Welfare Commission appointed under *The Child Welfare Act*; Interpretation
"Child Welfare Commission"
 - (b) "court" means the Juvenile Court; "court"
 - (c) "judge" means a judge of the Juvenile Court; "judge"
 - (d) "juvenile delinquent" means a juvenile delinquent as defined in *The Juvenile Delinquents Act, 1929*. "juvenile delinquent"
(Canada);
 - (e) "municipality" means a city, town, village, county, municipal district, improvement district or special area; "municipality"
 - (f) "neglected child" means a neglected child as defined in *The Child Welfare Act*; "neglected child"
 - (g) "peace officer" includes a sheriff, sheriff's officer, justice of the peace, a superintendent or other employee of a correctional institution, a police officer, police constable, constable, bailiff or other person employed for the preservation and maintenance of public peace or for the service or execution of civil process; "peace officer"
 - (h) "probation officer" means a probation officer appointed under this Act; "probation officer"
 - (i) "superintendent" means the superintendent of juvenile offenders appointed under this Act. "superintendent"

Administration.

3. (1) The Attorney General shall have charge of the administration of this Act. Attorney General to administer Act

Lieutenant
Governor in
Council may
appoint
personnel

(2) Subject to the provisions of *The Public Service Act, 1947*, the Lieutenant Governor in Council may appoint,—

- (a) a superintendent of juvenile offenders;
- (b) a chief probation officer;
- (c) one or more probation officers; and
- (d) such other officers and employees as may be required;

who shall perform such duties as may be assigned to them by the Attorney General and by this Act.

(3) The superintendent shall be the "superintendent" within the meaning of and for the purposes of *The Juvenile Delinquents Act, 1929* (Canada).

Juvenile Court.

Creation of
Juvenile
Court

4. There shall be a juvenile court for the Province and such court shall be styled "The Juvenile Court of the Province of Alberta".

Jurisdiction.

Juvenile
Court has
powers
vested
therein
under
*Juvenile
Delinquents
Act, 1929*
(Canada)

5. The Juvenile Court shall be a juvenile court within the meaning of and for the purposes of *The Juvenile Delinquents Act, 1929* (Canada), and shall have all the powers vested in a juvenile court under that Act.

Application
of *Juvenile
Delinquents
Act, 1929*
(Canada)

6. If and insofar as any provision of *The Juvenile Delinquents Act, 1929* (Canada) is within the legislative authority of the Province and outside that of the Dominion of Canada, that provision shall have the force of law in the Province until it is repealed by the Dominion Parliament, or until this Act is repealed by the Legislature of the Province, whichever first happens.

Judges.

Ex officio
judges of
Juvenile
Court

7. (1) Each judge of the Supreme Court of the Province, each judge of a District Court in the Province and each police magistrate in the Province is *ex officio* a judge of the Juvenile Court, but is not required to act in such capacity unless willing to do so.

(2) The Lieutenant Governor in Council may appoint any person as a judge of the Juvenile Court and a person so appointed shall hold office during pleasure.

(3) Any justice of the peace, on the written request of the Attorney General, may act as a Juvenile Court judge for the trial of a case specified in the request and while so acting shall have all the powers of a judge of the Juvenile Court.

Absence or
illness of
judge

(4) In the case of the absence or illness of a judge,—
(a) any other judge may act in his stead; or

- (b) the Attorney General may appoint any person to act as a judge of the Juvenile Court instead of the judge during his absence or illness.

Clerks.

- 8.** (1) A probation officer may act as a clerk of the court. Probation officer may act as clerk
- (2) A municipality agreeing to pay for the services of a clerk may appoint one with the approval of the superintendent.
- 9.** The clerk of the court shall,— Duties of clerk
- (a) see that all cases to be heard before the court at which he attends are properly prepared;
- (b) have before the court all papers and documents in such cases;
- (c) arrange for the sittings of the court; and
- (d) preserve order during the sittings.
- 10.** (1) In the case of juvenile delinquent children the clerk shall keep proper records, the form of which shall be approved by the superintendent, containing full particulars of the cases dealt with by the court, including the disposition or order made in each case, the parentage, nationality and religion of each juvenile delinquent child, and such other information as may be required by the superintendent. Delinquent children
- (2) The clerk shall forward to the superintendent any information required by him relating to juvenile delinquent children at such times and on such forms as the superintendent may require.
- 11.** In the case of neglected children the clerk shall prepare and keep such reports and information as may be required by the Child Welfare Commission, and shall forward the same at such times and on such forms as the Child Welfare Commission may require. Neglected children
- 12.** In the event that there is no clerk in attendance the judge shall perform the duties of the clerk. Non-attendance of clerk

Probation Officers.

- 13.** Each city and town shall appoint one or more persons to be probation officers for juvenile delinquents within the city or town and notice of each appointment shall be given forthwith to the superintendent. Appointment of probation officers
- 14.** (1) With the consent of the person to be appointed the Lieutenant Governor in Council may appoint that person as a voluntary probation officer without remuneration and may revoke the appointment at any time. Voluntary probation officer

(2) With the consent of the person to be appointed a judge of the court may appoint that person as a voluntary probation officer without remuneration to deal with the case of a particular child and may revoke the appointment at any time.

(3) Subject to the approval of the superintendent and with the consent of the person to be appointed, a judge of the court may appoint that person as a voluntary probation officer without remuneration for a time to be designated in the appointment not in excess of six months.

(4) Each voluntary probation officer shall act without remuneration unless remuneration is provided by municipal authority or otherwise.

Probation officer to act under direction of judge

15. Each probation officer shall be under the direction of the judge and shall perform such duties as are assigned to him by the judge.

Powers of probation officer

16. A probation officer has all the powers of a peace officer while acting in the discharge of his duties.

Powers of probation officer under *The School Act, 1952*

17. A probation officer has all the powers of an attendance officer under the provisions of *The School Act, 1952*.

Detention and Foster Homes.

Detention home

18. Each municipality shall provide a detention home satisfactory to the Attorney General.

Attorney General may declare place detention home

19. The Attorney General may declare,—

- (a) an orphans' or children's home where the consent of the trustees or governing body thereof has been obtained;
- (b) a temporary home or shelter under *The Child Welfare Act*;
- (c) any other place, house, home or institution;

to be a detention home.

Detention home subject to provisions of *Juvenile Delinquents Act, 1929* (Canada)

20. (1) A detention home satisfactory to the Attorney General or declared to be a detention home by the Attorney General shall be a detention home within the meaning of *The Juvenile Delinquents Act, 1929* (Canada), and is subject to the provisions of that Act.

Regulations re detention homes

(2) The Lieutenant Governor in Council may make regulations for the government and management of detention homes in so far as they are used for that purpose.

Arrest of juvenile delinquent

21. A child who is arrested as a juvenile delinquent and placed in a detention home shall be charged and brought before a judge as soon as practicable after his apprehension.

22. Unless otherwise ordered by a judge, no child charged with being a juvenile delinquent shall be kept in a detention home pending a hearing for a period longer than four days after the date of apprehension of the child.

Period of detention

23. No child charged with being a juvenile delinquent,—
 (a) pending a hearing; or
 (b) after conviction; or
 (c) while awaiting transfer after conviction;
 shall be placed or kept in any place with a neglected child unless the consent of the Attorney General has first been obtained.

Juvenile delinquent not to be kept with neglected child

24. A judge shall not order a juvenile delinquent to be placed in a foster home which has not been approved by the Attorney General.

Juvenile delinquent not to be placed in unapproved foster home

Juvenile Court Committee.

25. In a municipality where there is no Juvenile Court Committee as provided for under *The Juvenile Delinquents Act, 1929* (Canada) the superintendent, with the approval of the Attorney General, may appoint a committee of citizens which shall act as the Juvenile Court Committee for that municipality.

Superintendent may appoint Juvenile Court Committee

Court Facilities.

26. A municipality shall provide, at its own expense, a suitable court room and offices for the use of the judge, clerk, probation officers and other officers of the court.

Court room

Financial Liability of Municipalities.

27. (1) A juvenile delinquent child shall be deemed to be a resident of the municipality in which the child's parent who is legally responsible for the child's maintenance or the child's legal guardian has then had his home or resided for twelve consecutive months out of the twenty-four consecutive months immediately preceding the laying of the charge of delinquency.

Determining residence

(2) Where the parent or legal guardian has not resided in a municipality for twelve consecutive months out of the twenty-four consecutive months immediately preceding the laying of the charge of juvenile delinquency, the parent or legal guardian shall be deemed to be a transient person.

(3) In the absence of evidence to the contrary, a juvenile delinquent shall be presumed to be a resident of the municipality in which the offence occurred.

(4) Where a juvenile delinquent is a child,—
 (a) of a woman in receipt of an allowance under *The Mothers' Allowance Act*; or

- (b) of a parent or legal guardian in receipt of indigent relief under the provisions of *The Town and Village Act, 1952*, *The Municipal District Act* or *The Improvement Districts Act, 1947*;

notwithstanding any other provision of this section, the child shall be deemed to reside in the municipality liable for payment of any part of the allowance under *The Mothers' Allowance Act*, or of any relief under *The Town and Village Act, 1952*, *The Municipal District Act* or *The Improvement Districts Act, 1947*.

Notice of
arrest to be
served on
municipality

28. (1) Where a child is charged under *The Juvenile Delinquents Act, 1929* (Canada), a judge shall serve or cause to be served upon the municipality of which the child is deemed to be a resident a notice stating the date on which the charge will be heard and advising that on the date mentioned in the notice an order may be made against the municipality for the expenses, maintenance and support of the child, including expenses incurred for transportation, necessary clothing and medical and hospital treatment, from the date of apprehension of the child and for so long as the child remains in the care or custody of a children's aid society or of the superintendent, or in an institution or foster home approved by the Attorney General.

(2) Service of the notice directed to be given to a municipality may be effected either personally or by double-registered mail.

Duties of
judge at
hearing

29. (1) Where a child is adjudged to be a juvenile delinquent under *The Juvenile Delinquents Act, 1929* (Canada) the judge shall,—

- (a) proceed to deal with the matter with all possible expedition on the date mentioned in the notice;
- (b) hear such evidence as may be adduced if the municipality disclaims financial liability for the child; and
- (c) make an order against the municipality if it appears that the child is a resident of the municipality.

(2) If the municipality served with the notice claims that the child is a resident of another municipality, the judge, upon hearing the evidence adduced by the disclaiming municipality, may adjourn the hearing to enable the municipalities concerned to be heard and in such case shall serve or cause to be served a notice upon that other municipality.

Municipality
not
represented

(3) If a municipality is not represented at the hearing, upon proof of the service of the notice upon such municipality, the judge may make an order against the municipality or may adjourn the hearing on such terms as to costs or otherwise as he deems advisable.

Recovery of
expenses
from other
municipality

30. A municipality which has made a payment under the provisions of this Act for the expenses, maintenance or support of a child in respect of whom some other municipal-

ity is liable may recover the amount so paid from the other municipality as though it were a debt due from that municipality.

31. (1) A municipality which has made a payment under the provisions of this Act for the expenses, maintenance or support of a child may recover the amount so paid from the parent or parents of the child by action or by distraint upon any of the goods of the parent or parents, or either of them, within the Province.

Recovery of expenses from parent

(2) The municipality shall have a charge upon the lands owned by the parent or parents or either of them situate within the Province for the expenses, maintenance or support ordered to be paid by the municipality under this Act.

Expenses due municipality charge upon land

32. Where the Department of the Attorney General makes a payment for the expenses, maintenance or support of a child for which a municipality is liable under an order made by a judge under section 29, the same shall be deemed to be a debt due to the Crown and shall be payable to the Attorney General who shall forward all sums so received to the Provincial Treasurer.

Expenses paid by Attorney General's Department

33. (1) In case of default of payment to the Attorney General the order may be filed in the office of the clerk of the Supreme Court of the judicial district or sub-judicial district in which the municipality or the greater part thereof is situate.

Default of payment

(2) Upon such filing with proof by affidavit of the default and of the amount owing, judgment shall be entered in favour of the Crown as represented by the Attorney General against the municipality, and thereupon it shall be and have the same force as a judgment of the Supreme Court.

Judgment in favour of Crown

General.

34. (1) Where a child is adjudged to be a juvenile delinquent and the judge commits the child to the care or custody of,—

Powers of superintendent when child committed

- (a) a probation officer or other suitable person;
- (b) a suitable family home as a foster home;
- (c) a children's aid society or the superintendent;
- (d) an industrial school;

the superintendent shall exercise during the period of the commitment all the rights of the legal guardian of the child except in respect of proceedings for adoption of the child under *The Child Welfare Act*.

(2) Where a judge commits a juvenile delinquent to the care or custody of the Superintendent, the Superintendent, at any time, may direct the release of the juvenile delinquent from his care or custody, either absolutely or on such conditions as he may think fit.

Release of juvenile delinquent

Reports
confidential

35. No person shall disclose or make public the contents of a report relating to a juvenile delinquent or any portion thereof without the consent of the Attorney General and a person contravening the provisions of this section shall be guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars and costs and in default of payment to a term of imprisonment not exceeding three months.

Offence to
disclose con-
tents of
report

Regulations

36. The Lieutenant Governor in Council may make such regulations as he deems necessary or advisable for the carrying out of the provisions of this Act according to their true intent.

Assistance
by peace
officer

37. A peace officer, if requested to do so, shall serve a process issued out of the court or an order made by a judge of the court, and shall assist any officer of the court in carrying out the provisions of this Act and *The Juvenile Delinquents Act, 1929 (Canada)*.

Validity of
previous
orders

38. Each order for support heretofore made under *The Juvenile Delinquents Act, 1929 (Canada)* or any other Act previously in force respecting juvenile delinquents shall be as valid and have the same force and effect as if the same had been made in accordance with the provisions of this Act.

Coming
into force

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

No. 80

FIFTH SESSION
ELEVENTH LEGISLATURE

1 Elizabeth II

1952

BILL

An Act to Provide for the
Constitution and Establishment of
the Juvenile Court.

Received and read the

First time

Second time

Third time

HON. MR. MAYNARD.
