

1968 Bill 25

First Session, 16th Legislature, 1967-68 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 25

An Act to amend The Domestic Relations Act

THE ATTORNEY GENERAL

First Reading

Second Reading

Third Reading

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1968

An Act to amend The Domestic Relations Act

(Assented to _____, 1968)

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

1. *The Domestic Relations Act* is hereby amended.

2. Section 27 is amended by striking out subsections (3) to (5) and by substituting the following:

(3) A party to proceedings under this section who is dissatisfied with an order or refusal to make an order pursuant to this section may appeal from the order or refusal either

- (a) by way of stated case under the provision of Part XXIV of the *Criminal Code*, or
- (b) to the district court of the district within which the order or refusal was made,

if within 20 days of the date of the order or refusal sought to be appealed from the appellant causes to be served upon the magistrate who dealt with the matter a notice in writing containing the name and address of the appellant and of the opposite party, the substance of the order or refusal appealed from including the date and place of the order or refusal, and a statement saying that an appeal is being taken in accordance with the mode prescribed by either clause (a) or (b), as the case may be.

(3a) Notwithstanding anything in subsection (3), a judge of the court to which the appeal is being taken, by order

- (a) may, where service cannot be effected upon the magistrate who made the order or refusal, direct that service be made upon some other person in place of the magistrate,
- (b) may, where service cannot be effected upon the opposite party, make such order for substituted or other service or for substitution for service of the notice by letter, public advertisement or otherwise as appears just, or may dispense with service, and
- (c) may fix, before or after the expiration of the period prescribed for service by subsection (3), a further period not exceeding 20 days within which

Explanatory Notes

1. This Bill amends chapter 89 of the Revised Statutes.

2. Section 27, subsections (3) to (5) presently read:

(3) A party to proceedings under this section who is dissatisfied with an order or refusal to make an order pursuant to this section may appeal from the order or refusal either

(a) by way of stated case under the provision of Part XXIV of the Criminal Code, or

(b) to the district court of the district within which the order or refusal was made,

if within twenty days of the date of the order or refusal appealed from the party appealing serves on the magistrate who dealt with the matter and on the opposite party a notice in writing containing the name and address of the appellant and of the opposite party, the substance of the order or refusal appealed from, and the date and place of the order or refusal.

(4) Immediately on receipt of the notice mentioned in subsection (3) the magistrate shall forward it, together with the order and all other documents relating thereto, and the notes or a transcript of the evidence taken on the hearing, to the clerk or deputy clerk of the district court of the district or sub-judicial district within which the application was made.

(5) Thereupon the clerk or deputy clerk, as the case may be, shall notify the judge of the district, and the judge shall fix a time, not less than fourteen days after being so notified, and a place, for the hearing of the appeal.

The amendments (a) clarify, (b) provide for substitutional service, and (c) provide for time extensions to effect service.

any service required to be made pursuant to subsection (3) or this subsection may be effected.

(4) Immediately upon receipt of the notice served pursuant to subsection (3) or (3a) the magistrate or other person served in his stead shall forward it, together with the document containing the order or refusal, all other documents relating thereto, and the notes or a transcript of the evidence taken at the hearing, to the clerk or deputy clerk of the district court of the district within which the application was made.

(5) When subsection (4) has been complied with the clerk or deputy clerk shall notify the appropriate judge of the appeal court or the court, as the case may require, and the judge or court shall fix a time, not less than 14 days after being so notified, and a place, for the hearing of the appeal.

3. This Act comes into force on the day upon which it is assented to.

