

1970 Bill 124

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Third Session, 16th Legislature, 19 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

## **BILL 124**

**An Act to amend The Child Welfare Act, 1966**

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THE MINISTER OF SOCIAL DEVELOPMENT

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 124

1970

An Act to amend The Child Welfare Act, 1966

(Assented to \_\_\_\_\_, 1970)

**H**ER 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, 1966* is hereby amended.

**2.** Section 6, subsection (3) is amended by adding after the words "An authorization" the words ", or copy thereof,".

**3.** Section 10, clause (a) is amended by adding the word "and" at the end of subclause (ii) and by adding the following subclause after subclause (ii):

(iii) a child apprehended under Part 4 while he is detained in custody pending disposition of his case.

**4.** Section 13 is amended by adding the following subsection after subsection (4):

(4a) Nothing in this section prohibits the Director from publishing notice of hearings or other notices as may be necessary in the interests of justice or for the proper administration of this Act.

**5.** Section 14 is amended by striking out clause (d) and by substituting the following:

(d) "judge" means

- (i) a judge of a district court, or
- (ii) a judge of the juvenile court, except in connection with permanent wardship orders, or
- (iii) a judge of the Supreme Court acting under section 27 or upon a further hearing where he has directed a continuation of temporary wardship;

## **Explanatory Notes**

**1.** This Bill will amend chapter 13 of the Statutes of Alberta, 1966.

**2.** Section 6, subsections (1) and (3) read:

**6.** (1) The Director may, in writing, authorize a child welfare worker or any employee of the Department to exercise any powers, duties and functions conferred upon the Director by this Act and specified in the authorization.

(3) An authorization purporting to be given by the Director under this section shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the signature or authority of the person signing it.

**3.** Section 10, clause (a), subclause (ii) reads:

**10.** Out of the moneys appropriated by the Legislature for the purpose, the Minister shall pay:

- (a) the costs incurred for the maintenance of
  - (ii) a temporary or permanent ward of the Crown, including necessary clothing, transportation and medical, hospital and dental treatment;

**4.** Section 13, subsection (4) reads:

(4) No person shall publish in any form or by any means

- (a) the name of a child or his parent concerned in any judicial proceedings under this Act, or
- (b) an account of the circumstances brought out at such a judicial proceeding.

**5.** Section 14, clause (d) presently reads:

- (d) "judge" means a judge of the district court or a judge of the juvenile court, except in connection with permanent wardship orders in which case it means a judge of the district court only;

**6.** Section 18, subsection (1) is amended by striking out the figure “16” and by substituting the figure “15”.

**7.** The following section is added after section 25:

**25a.** (1) Upon completion of the term of a temporary or permanent wardship of a child

(a) the child, or

(b) a parent or guardian of the child

may make a request, in writing, to the Director for permission for the child to remain a ward of the Crown for the purpose of completing a course of studies or other training, and the Director may grant the request for such period, not exceeding 10 months, as may be necessary to complete the course of studies or training.

(2) Where a request is granted under this section, the child remains a ward for the period authorized as if his term of wardship had not expired.

**8.** The following section is added after section 27:

**27a.** All the provisions of this Part are applicable for or against a parent even though under the age of 21 years, but a judge in his discretion may appoint the Public Trustee or other person to safeguard such a parent's interest before the court.

**9.** Section 28 is amended by renumbering the section as subsection (1) and by adding the following subsection:

(2) Where a child born out of wedlock is made a permanent ward of the Crown under section 26, subsection (2) and subsequently the parents of the child intermarry, the permanent wardship order shall be deemed to have been given with the consent of the father of the child.

**10.** Section 34 is amended by striking out subsection (3) and by substituting the following:

(3) At the time of surrendering a child by instrument as mentioned in section 30, a parent may state

(a) that he would prefer the child to be brought up in the Protestant faith or in the Roman Catholic faith or in a religious faith other than Protestant or Roman Catholic,

(b) that this statement of religious preference is binding for a specified time not exceeding six months, and

(c) that if the child is not placed for the purpose of adoption with a person of the designated religious

**6.** A typographical error is corrected.

**7.** Extension of temporary wardship for purposes of education.

**8.** Parents under 21.

**9.** Section 28 reads:

**28.** No adjudication or order made under this Part with respect to a child shall be quashed or set aside because of any informality or irregularity when it appears that the disposition of the case was in the best interests of the child.

**10.** Section 34, subsections (2) and (3) read:

(2) A parent who surrenders a child by instrument as mentioned in section 30 may state that he has no preference as to what religious faith the child is brought up in, and in that event the placement of the child is not governed by religious faith.

(3) At the time of surrendering a child by instrument as mentioned in section 30 a parent may state

(a) that he would prefer the child to be brought up in the Protestant faith or in the Roman Catholic faith or in a religious faith other than Protestant or Roman Catholic, but

(b) that he does not wish the statement of religious preference to prevent the earliest possible placement of the child for the purposes of adoption,

and in that event, in placing the child for the purposes of adoption an endeavour shall be made to place the child with a person of the same religious faith as that of the child, but the placement of the child is not governed entirely by religious faith.

faith within the specified time, it shall be conclusively deemed that the parent made a statement of no preference under subsection (2) at the time of surrender of the child.

**11.** The following section is added after section 37:

**37a.** Any child who

- (a) absconds or escapes from any premises where he is lawfully placed under this Act, or
- (b) without the express authorization of the Director or any person in charge of the premises where he is lawfully placed, leaves those premises or any other place where he is permitted to be,

may be apprehended with or without warrant by any person and returned forthwith to the premises where he was lawfully placed or to such other premises as the Director may designate.

**12.** Section 49, subsection (1) is amended by striking out clause (c).

**13.** The following Part is added after section 66:

#### **PART 4**

##### **JUVENILE DELINQUENCY**

**67.** In this Part,

- (a) "child" has the same meaning as under the *Juvenile Delinquents Act* (Canada);
- (b) "Court" means the Juvenile Court established under *The Juvenile Court Act*;
- (c) "judge" means a judge of the Court;
- (d) "juvenile delinquent" has the same meaning as under the *Juvenile Delinquents Act* (Canada);
- (e) "probation officer" means a juvenile probation officer appointed under this Act.

**68.** (1) In accordance with *The Public Service Act, 1968* there may be appointed such probation officers as may be required who shall perform such duties as may be assigned to them by the Minister and by this Part.

(2) Each city and town may appoint one or more persons to be probation officers for juvenile delinquents within the city or town, and notice of each appointment of a probation officer shall be given forthwith to the Director.

**11.** Apprehension of an absconding child.

**12.** Section 49, subsection (1), clause (c) reads:

49. (1) A petition shall be supported by affidavit disclosing  
(c) the name, date of birth, sex and address of each child of the  
petitioner.

**13.** A new Part is added to provide procedures with respect to juvenile delinquents. This will replace provisions presently found in The Juvenile Court Act.

(3) The Minister may appoint one or more persons to be probation officers for juvenile delinquents in any area of the Province.

**69.** (1) A probation officer under this Part

(a) is an officer of the Court, and

(b) has the powers of a peace officer for the purpose of performing and discharging his duties as a probation officer.

(2) For the purpose of giving effect to the relevant sections of the *Criminal Code*, the *Juvenile Delinquents Act* (Canada), *The Summary Convictions Act* and to any amendments from time to time made thereto, a probation officer may be designated by the Court for the purpose of supervising a person placed on probation as provided by law.

**70.** (1) The Minister may declare any place to be a detention centre for the reception, detention, custody, examination, care, treatment, education or rehabilitation of children pending the disposition of their cases by the Court.

(2) A detention centre established in accordance with subsection (1) shall be deemed to be a detention home within the meaning of the *Juvenile Delinquents Act* (Canada) and subject to the provisions of that Act.

**71.** (1) A child who is apprehended for juvenile delinquency and placed in a detention centre shall as soon as practicable after his apprehension be charged and brought before a judge.

(2) A peace officer who placed a child in a detention centre shall immediately take all reasonable action to notify the parents, guardian or other person responsible for the maintenance and welfare of the child, that the child has been taken into custody.

**72.** Unless ordered by a judge, no child charged with being a juvenile delinquent shall, pending a hearing, be kept in a detention centre for a period longer than four days after the day of his apprehension.

**73.** (1) Upon the authorization of a judge, or if that authorization cannot be obtained within a reasonable time, upon the authorization of a person designated by the Minister, any person so authorized may release a child from a detention centre into the custody of a parent, guardian or other person responsible for the maintenance and welfare of a child.



(2) A judge, or a person designated by the Minister under subsection (1), may require the person into whose custody the child may be released to undertake in writing to bring the child before the Court when notified of the time and place.

**74.** Any child apparently or actually under the age of 12 years who contravenes any provision of the *Criminal Code* or any federal or provincial statute, or any by-law of any municipality shall be referred to the Director who may extend such services as he considers advisable and who may for the benefit and protection of the child cause the child to be apprehended under Part 2.

**75.** No child apparently or actually under the age of 12 years shall be charged with being a juvenile delinquent without the consent of a judge.

**76.** Before the hearing of any charge under the *Juvenile Delinquents Act* (Canada) and where he is of the opinion that it is in the best interest of the child and the public interest that some action other than prosecution of the child be taken, the Attorney General may direct the withdrawal of a charge

- (a) upon apprehension of the child pursuant to section 15, or
- (b) upon completion of an agreement consented to by the child and the parent or parents or legal guardian, for the supervision of the child or such other terms as may appear appropriate for a period not exceeding one year.

**77.** Where, at the date this Part comes into force, an order committing a child to a superintendent or to an industrial school under section 20 of the *Juvenile Delinquents Act* (Canada) is in force, the Provincial Secretary shall be deemed to have made an order bearing the same date as the order first mentioned in this section committing the child to the custody of the Director as a temporary ward of the Crown pursuant to section 24, subsection (1) for a period of four months from the date this Part comes into force.

**78.** (1) Where an order is made under section 20, subsection (1), paragraph (h) or (i) of the *Juvenile Delinquents Act* (Canada) committing a child to a superintendent or to an industrial school, the child shall be deemed to be committed to the custody of the Director as a temporary ward of the Crown pursuant to section 24, subsection (1) as follows:



- (a) where the order is for a fixed period of time which does not exceed one year, the child shall be committed to the Director for the period of time specified in the order, or
  - (b) where the order is for an indefinite period of time, or for a period of time in excess of 12 months, the child shall be deemed to be committed to the Director for 12 months.
- (2) No order shall be made committing a child to the custody of the Director as a temporary ward of the Crown until the Court has received a written or oral report concerning the child from a probation officer.
- (3) Where a child has been made a temporary ward of the Crown pursuant to subsection (1), the Director may cause a further hearing to be held pursuant to section 25 or 26 and the provisions of Part 2 apply *mutatis mutandis* thereto.

**79.** A child who has been committed to the Director as a temporary ward of the Crown under section 78 or a parent or guardian of such a child may, not less than four months after the making of an order and, with the consent of a judge, apply to a judge to have the order reviewed pursuant to section 25.

**80.** A judge shall not order a juvenile delinquent to be placed in a foster home that has not been approved by the Director.

**14.** *The Juvenile Court Act* is amended

- (a) as to section 2 by striking out clauses (h) and (i),
- (b) as to section 3 by striking out subsections (2) and (3) and by substituting the following:
  - (3) In accordance with *The Public Service Act, 1968* there may be appointed a chief court counsellor and such other court counsellors as may be required, who shall perform such duties as may be assigned to them by the Attorney General and by this Act.
- (c) as to section 7 by striking out subsection (3),
- (d) as to section 8
  - (i) by striking out the words "probation officer" in subsection (1) and by substituting the words "court counsellor",
  - (ii) by striking out the word "Superintendent" in subsection (2) and by substituting the words "Attorney General",

**14.** Consequential amendments to chapter 166 of the Revised Statutes.

- (e) as to section 10 by striking out the word "Superintendent" wherever it occurs and by substituting the words "Director of Child Welfare",
- (f) by striking out sections 13 to 25 and section 33.

**15.** (1) This Act, except sections 12 and 13, comes into force on the day upon which it is assented to.

(2) Sections 12 and 13 come into force on August 1, 1970.

