

1971 Bill 44

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Fourth Session, 16th Legislature, 20 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 44**

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

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THE MINISTER OF SOCIAL DEVELOPMENT

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 44

1971

## AN ACT TO AMEND THE CHILD WELFARE ACT

(Assented to \_\_\_\_\_, 1971)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. *The Child Welfare Act is hereby amended.*

2. (1) *Section 8, subsection (1) is amended by striking out the word "Minister" and by substituting the word "Director".*

(2) *A person appointed a child welfare worker prior to the coming into force of this section shall be deemed to have been appointed by the Director.*

3. *Section 23 is amended by striking out subsection (2) and by substituting the following:*

(2) Where a case is adjourned pursuant to subsection (1), the Director may at any time he considers it advisable during the period of adjournment, and upon notice, bring the case again before a judge to extend the time of adjournment and supervision for a further period not exceeding 12 months or for further and other consideration and action.

4. *Section 24 is amended by striking out subsections (2), (3), (4) and (5).*

5. *The following section is added after section 26:*

**26.1** (1) A judge making an order under section 24 or section 26, subsection (2)

(a) shall enquire as to the ability of the persons liable under the law for the child's support and maintenance to contribute to the support and maintenance of the child, and

## **Explanatory Notes**

**1.** This Bill amends chapter 45 of the Revised Statutes of Alberta 1970.

**2.** The amendment gives the Director, instead of the Minister, the power to appoint child welfare workers.

**3.** Section 23, subsection (2) presently reads:

(2) Where a case is adjourned pursuant to subsection (1), the Director may at any time he considers it advisable during the period of adjournment, and upon notice, bring the case again before a judge for further and other consideration and action.

**4.** These subsections are now included in the new section 26.1.

**5.** The amendment is section 24, subsections (2), (3), (4) and (5) which were struck out and re-enacted to cover both section 24 and 26(2) and to make The Maintenance and Recovery Act apply to the proceedings instead of The Alimony Orders Enforcement Act.

(b) may order them to pay to the Director such monthly sum for the maintenance of the child as he considers proper, having regard to their ability to pay, but if those persons are present in court the judge, before making an order pursuant to clause (b), shall give them an opportunity to be heard.

(2) A judge may, from time to time, vary the amount to be paid under the order on the application of

(a) the Director, or

(b) any person against whom the order is made, upon proof of such circumstances as in his opinion justify a varying of the terms of the order.

(3) The amount fixed by an order under subsection (1) shall not exceed the current rate paid by the Government for foster home care.

(4) For the purpose of enforcing an order made under subsection (1) a judge of the juvenile court, on the application of

(a) the Director, or

(b) the Director of Maintenance and Recovery, may issue a summons to any person against whom the order was made, and Part 4 of The Maintenance and Recovery Act applies *mutatis mutandis* to the proceedings.

6. *Section 35 is amended*

(a) *as to subsection (3) by striking out the words "for a further period not exceeding six months" and by substituting the words "for such further period as he may determine",*

(b) *by adding the following subsection after subsection (4):*

(5) For the purpose of enforcing an agreement made under this section a judge of the juvenile court, on the application of

(a) the Director, or

(b) the Director of Maintenance and Recovery, may issue a summons to any person against whom the order was made, and Part 4 of The Maintenance and Recovery Act applies *mutatis mutandis* to the proceedings.

7. *Section 45 is amended by striking out subsection (6) and by substituting the following:*

(6) The Director or his representative shall be permitted

(a) to enter an institution at any time,

**6.** The amendment enables the Director to renew the agreement for as long as he may determine instead of the six month period and the new subsection sets out enforcement procedures.

Section 35, subsection (3) presently reads:

(3) Where the Director considers it to be in the best interests of the child to do so, the Director may renew an agreement for a further period not exceeding six months.

**7.** Section 45, subsection (6) presently reads:

(6) The Director or his representative shall be permitted to enter an institution at any time and to examine the records kept by the institution.

- (b) to examine all records kept by the institution, and
- (c) to review the programs offered to the child by the institution.

8. *Section 54 is amended*

- (a) *by striking out subsection (3) and by substituting the following:*

(3) Where the consent of any other person required to an order of adoption is not produced, the judge

- (a) may order notice of the petition to be served on that person and may permit the service to be made substitutionally and *ex juris* in accordance with the Alberta Rules of Court, and
- (b) may order that service of the notice of the petition on the guardian of the child be dispensed with, if it appears to the judge to be in the best interests of the child.

- (b) *by adding the following subsection after subsection (3):*

(3.1) If the person served with the notice of the petition

- (a) fails to appear at the time and place appointed, or
- (b) appears and objects to giving consent upon grounds that the judge considers insufficient, the judge may dispense with the consent of the person.

9. (1) *Section 69, subsections (1) and (3) are amended by striking out the word "Minister" and by substituting the word "Director".*

(2) *A person appointed a probation officer by the Minister prior to the coming into force of this section shall be deemed to have been appointed by the Director.*

10. (1) *Section 71, subsection (1) is amended by striking out the word "Minister" and by substituting the word "Director".*

(2) *Any place declared a detention centre prior to the coming into force of this section shall be deemed to have been declared a detention centre by the Director.*

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

**8. Section 54, subsection (3) presently reads:**

(3) Where the consent of any other person required to an order of adoption is not produced, the judge may order notice of the petition to be served on that person and may permit the service to be made substitutionally and ex juris in accordance with the Alberta Rules of Court and if the person

(a) fails to appear at the time and place appointed, or

(b) appears and objects to giving consent upon grounds that the judge considers insufficient,

the judge may dispense with the consent of the person.

The judge may order service of the notice of the petition for adoption on any other person who is required to consent and who has not consented and may dispense with service of the notice of the petition on the guardian. At the hearing, the judge may dispense with the consent of the person required to consent.

**9. Section 69, subsections (1) and (3) presently read:**

69. (1) In accordance with The Public Service Act 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.

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

**10. The amendment gives the Director, instead of the Minister, the power to declare places as detention centres.**