

1973 Bill 21

Second Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 21

The Child Welfare Amendment Act, 1973

MR. LEE

First Reading

Second Reading

Third Reading

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Bill 21
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THE CHILD WELFARE AMENDMENT ACT, 1973

(Assented to , 1973)

HER 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. Section 2 is amended by striking out the words "an infant" wherever they appear in clause (g) and by substituting therefor the words "a child".*
- 3. Section 5, subsection (2), clause (e) is amended by adding after the word "evaluation," the word "approval".*
- 4. Section 14, clause (a) is amended by striking out the words "an unmarried" and by substituting therefor the word "a".*
- 5. Section 18, subsection (3) is amended by striking out the words ", including the name and the date and place of birth of the child and the name, age, racial origin and religion of the parents".*
- 6. Section 25, subsection (2) is amended by striking out the words ", but no further order may be made under section 24 that will result in the child being a temporary ward of the Crown for a continuous period after the commencement of this Act of more than 36 months".*

Explanatory Notes

1. This Bill will amend chapter 45 of the Revised Statutes of Alberta 1970.

2. Consequential amendment. Section 2(g) presently reads:

2. In this Act,

(g) "ward of the Crown" means

- (i) an infant who is, either temporarily or permanently, in the custody of the Director pursuant to the order of a judge under Part 2, or
- (ii) an infant who is in the custody of the Director pursuant to an instrument of surrender under Part 2.

3. The Director will be charged with approving foster homes.

Section 5(2)(e) presently reads:

(2) As part of his duties the Director shall

- (e) arrange for the evaluation, supervision and inspection of homes in which children have been placed for foster care or adoption, and

4. This amendment will include married minors in the definition of child in Part 2. Section 14(a) presently reads:

14. In this Part,

- (a) "child" means an unmarried boy or girl actually or apparently under eighteen years of age;

5. Section 18(3) presently reads:

(3) At the hearing the judge shall inquire into and ascertain the facts of the case, including the name and the date and place of birth of the child and the name, age, racial origin and religion of the parents.

6. Section 25 (2) presently reads:

(2) Upon the further hearing the judge shall enquire and determine whether the circumstances justify the continuation of the temporary wardship or justify the return of the child to the parent or guardian or other person in whose care he may have been at the time of apprehension either

(a) subject to inspection and supervision as provided in section 23, or

(b) not subject to such inspection and supervision,

and as the circumstances require, the judge may make a further order under section 24, discharge a subsisting order under section 24, make an order under section 23 or find the child to be no longer a child in need of protection, but no further order may be made under section 24 that will result in the child being a temporary ward of the Crown for a continuous period after the commencement of this Act of more than thirty-six months.

7. Section 35 is amended by striking out subsections (1), (2) and (3) and by substituting therefor the following subsections:

35. (1) A parent, guardian, or other person who has actual custody of a child,

(a) who through necessitous circumstances, illness or other misfortune likely to be of a temporary duration, is unable to make adequate provision for the child, or

(b) who is unable to provide the services required by the child because of the special needs of the child, may enter into an agreement with the Director to have the child placed in the care or custody or under the control or supervision of the Director for the purpose of making adequate provision for the child or for providing services or care required to meet the child's special needs.

(2) The agreement may provide that the cost of providing the maintenance or services or both for the child shall be apportioned between the Director and the parent, guardian or other person.

8. Section 41 is struck out and the following sections are substituted therefor:

41. (1) Any person who has reasonable and probable ground to believe that a child has been abandoned, deserted, physically ill-treated or is in need of protection shall report the ground of such belief to the Director or to any child welfare worker of the Department.

(2) Subsection (1) applies notwithstanding that the ground for belief is information that is confidential or privileged, and no action lies against the person so reporting unless the provision of the report is done maliciously or without reasonable and probable ground for belief.

(3) Any person who fails to comply with subsection (1), in addition to any civil liability, is guilty of an offence and liable upon summary conviction to a fine of not more than \$500 and in default of payment to imprisonment for a term not exceeding six months or to both fine and imprisonment.

41.1 The Director shall maintain a registry for the purposes of recording all reports received under section 41.

41.2 Upon a report being made pursuant to section 41, the Director shall cause the report to be examined and shall direct such further investigations of the matter reported as he considers necessary.

7. This amendment will bring handicapped children under this section. Presently they are dealt with under Part 5. Section 35 subsections (1) to (3) read:

35. (1) A parent or other person who has actual custody of a child and who, through necessitous circumstances, illness or other misfortune likely to be of a temporary duration, is unable to make adequate provision for the child may apply to the Director to have the child placed temporarily in a foster home or institution.

(2) The Director may enter into an agreement with the applicant to accept the child for care in a foster home or institution for a period not exceeding six months and to assume that part of the cost of maintenance of the child that the parent or other person is unable to pay.

(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 such further period as he may determine.

8. Requirement to report suspected cases of child abuse.

9. Section 79 is struck out and the following section is substituted therefor:

79. (1) For the purposes of this section, a child shall be deemed to be confined in a closed unit if it is restricted in any manner to any room, cell or other part of an institution for a period in excess of that which a parent would reasonably impose upon his child in the exercise of discipline of the child.

(2) The Attorney General shall appoint a judge of the Juvenile Court to receive applications for review of committal orders and to review weekly the names of all children in respect of whom orders of committal have been made under section 24 or 78 and who have been confined in closed units in any institution.

(3) An application for review of a committal order may be made by the child or a parent or guardian of the child or the Director.

(4) Every institution under Part 2 of the Act shall provide to the judge once a week a list of names of all children who have been confined in closed units within the institution during that week.

(5) Upon receipt of an application for review, the judge shall direct that the child be brought before the Juvenile Court within 10 days and shall direct that notice of the hearing be served upon the Court, the Director, the parent or guardian and the child.

(6) Upon a review of names of children confined in closed units within any institution, the judge may at any time direct that any child be brought before the Juvenile Court for review of the committal order, and shall direct that notice of the hearing be served upon the Court, the Director, the parent or guardian and the child.

(7) The hearing of a review of the committal order shall be conducted pursuant to section 25, and if the judge is satisfied that the committal order should be continued the judge may

- (a) order that the committal be continued,
- (b) order that the committal be continued but that the child should not be further confined without leave of the Court, or
- (c) order that the committal be continued and that the confinement of the child be restricted in accordance with conditions to be imposed by the Court.

10. Part 5 of the Act is struck out.

11. (1) This Act, except section 8, comes into force on the day upon which it is assented to.

(2) Section 8 comes into force on July 1, 1973.

9. Review of confinement of children in closed units.

10. Part 5 consists of five sections dealing with handicapped children. This will be covered by the proposed new section 35.