

1975 Bill 54
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 54

THE SOCIAL SERVICES AND COMMUNITY HEALTH STATUTES
AMENDMENT ACT, 1975

MR. YOUNG

First Reading

Second Reading

Third Reading

Bill 54
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(Second Session)

THE SOCIAL SERVICES AND COMMUNITY HEALTH STATUTES AMENDMENT ACT, 1975

(Assented to _____, 1975)

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

The Child Welfare Act

1. (1) *The Child Welfare Act is amended by this section.*
- (2) *Section 14 is amended by striking out clause (f) and by substituting the following clause:*
 - (f) "parent" includes a step-parent of a child and any person who, in the opinion of the Director, stands in loco parentis to a child, but does not include the father of a child born out of wedlock unless, in the opinion of the Director, he stands in loco parentis to that child;
- (3) *Section 22, subsection (1) is amended by striking out the words "to his parent or" and by substituting therefor the words "to his parents, or either of them, or to his".*
- (4) *Section 23, subsection (1), clause (b) is amended by striking out the words "to his parent or" and by substituting therefor the words "to his parents, or either of them, or to his".*
- (5) *Section 25 is amended*
 - (a) *as to subsection (1) by adding the word " or" at the end of clause (b), and by adding after clause (b) the following clause:*
 - (c) *once during the period of temporary wardship but after the expiration of the period of appeal provided in section 27, upon the application of a parent or guardian of the child.*

and

Explanatory Notes

1. (1) This section will amend chapter 45 of the Revised Statutes of Alberta 1970.

(2) Section 14, clause (f) presently reads:

14. In this Part,
(f) "parent" includes a step-parent;

(3) These amendments will permit a child who has been apprehended as possibly being a neglected child to be returned to the custody of either of the child's parents where circumstances so dictate.

(4) Similar to previous amendment.

(5) This amendment will add another opportunity to appeal an order to temporary wardship. Section 25 presently reads:

25. (1) Where a child has been made a temporary ward of the Crown a further hearing may be held before a judge

(a) at any time during the period of temporary wardship if the Director considers it advisable, or

(b) at the expiration of the period of temporary wardship.

(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.

(b) *as to subsection (2) by striking out the words "to the parent or" and by substituting therefor the words "to his parents, or either of them, or to his".*

(6) *Section 30 is amended*

(a) *in subsection (1) by striking out the words "a parent" and the words "the parent" and by substituting respectively the words "a person who is a guardian and parent" and the words "that person",*

(b) *in subsection (2) by striking out the words "a parent who is" and the words "the parent" and by substituting respectively the words "a person who is a guardian and parent" and the words "that person".*

(7) *Section 79 is struck out.*

(8) *The following Part is added after Part 5:*

PART 6 CONFINEMENT OF CHILDREN

86. (1) In this section "institution" means an institution as defined in Part 2.

(2) For the purposes of this section, a child shall be deemed to be confined if he 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.

(3) The Attorney General shall designate a judge of the Juvenile Court who shall

(a) review each week the reports in respect of all children who have been confined in Alberta during that week, and

(b) receive applications for a hearing to review the confinement of any child.

(4) Every person in charge of an institution in Alberta shall provide to the judge once a week a report, in a form satisfactory to the judge, in respect of each child who has been confined within that institution during that week, giving the reasons for confinement.

(5) The judge may at any time direct that there be a hearing before himself or before any other judge of the Juvenile Court designated by him, for the purpose of conducting a review of the confinement of any child the report of whose confinement has been reviewed by him.

(6) This amendment results from the change in definition of "parent" in subsection (2) of this Bill. Section 30, subsections (1) and (2) read as follows:

30. (1) Where a parent, by instrument of surrender acceptable to the Director, surrenders custody of a child to the Director for the purposes of adoption, the parent is not thereafter entitled, contrary to the terms of the instrument, to the custody of or the control or authority over or any right to interfere with the child.

(2) A surrender of custody of a child by an instrument as mentioned in subsection (1) given by a parent who is under 18 years of age is as valid and binding as if the parent had attained the age of 18.

(7) and (8) These amendments will make some variations in the for review of committal orders. Section 79 presently reads as follows:

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 of 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.

In Part 2, institution is defined as follows:

- (c) "institution" means a building or part thereof, other than a home maintained by a person to whom the children living in that home are related by blood or marriage, wherein care, supervision or lodging is provided for four or more children under the age of eighteen years but does not include a place of accommodation designated by the Minister as not constituting a child caring institution;

(6) An application for a hearing to review the confinement of any child may be made

- (a) by a parent or guardian of the child, or
- (b) by the child, who may apply with or without any person interested on his behalf, or
- (c) by the Director.

(7) Upon receipt of an application for a hearing to review the confinement of a child, the judge shall direct that there be a hearing within 10 days, before himself or before any other judge of the Juvenile Court designated by him, for the purpose of conducting a review of the confinement of the child in respect of whom the application is made.

(8) In directing that a hearing be held under this section, the judge shall also direct that the person in charge of the institution concerned produce the child at the hearing and that notice of the hearing be served upon the Director, the guardian or guardians of the child and, where applicable, upon the judge of the Juvenile Court whom he designates to hold the hearing.

(9) The provisions of section 21 apply with all necessary modifications to a hearing under this section.

(10) In conducting a hearing under this section, the judge holding the hearing shall inquire and determine whether the circumstances justify the termination of the confinement or justify the continuation of the confinement with or without conditions and may make an order

- (a) that the confinement be terminated and that the child be not further confined without leave of a judge, or
- (b) that the confinement be continued but be terminated on or before a date specified by the judge and that the child be not further confined without leave of a judge, or
- (c) that the confinement be continued at the discretion of the Director,

as appears to him just in the circumstances.

(9) No order made or surrender given under The Child Welfare Act or any predecessor Act in respect of a child born out of wedlock and made before the coming into force of this subsection shall be held to be invalid by reason only of the fact that

- (a) in the case of an order, the father of that child was not given proper or any notice of any hearing or other proceeding under The Child Welfare Act or any predecessor Act, or*
- (b) in the case of a surrender, the father of that child was not informed of, or did not consent to, the surrender.*

(9) This provision will cure orders and surrenders made in cases where no notice was given to the father of a child born out of wedlock.

The Maintenance and Recovery Act

2. (1) *The Maintenance and Recovery Act is amended by this section.*

(2) *Section 7, clause (c) is amended*

(a) *by striking out subclause (ii) and by substituting therefor the following subclause:*

(ii) a married woman, divorced woman or widow who has been delivered of a child or is pregnant and likely to be delivered of a child or who was pregnant and the pregnancy was terminated without the birth of a child

(A) where the woman was not cohabiting with her husband at the time conception occurred or probably occurred, or

(B) where a person other than her husband or former husband admits that he is the father of the child, or

(C) where a court has found that the woman's husband or former husband is not the father of the child,

or

(b) *by striking out subclause (iii),*

(c) *as to subclause (iv) by striking out the words "subclause (i), (ii) or (iii)" and by substituting therefor the words "subclause (i) or (ii)", and*

(d) *by striking out subclause (v).*

The Nursing Service Act

3. (1) *The Nursing Service Act is amended by this section.*

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

(2) The Department shall pay all or any portion of the cost of the nursing service and the balance, if any, shall be paid by the municipality or municipalities involved as provided in the agreement.

(3) *Section 7, subsection (3) is amended by striking out the words "60 per cent" and by substituting therefor the words "such percentage as the Minister considers appropriate".*

The Welfare Homes Act

4. (1) *The Welfare Homes Act is amended by this section.*

2. (1) This section will amend chapter 223 of the Revised Statutes of Alberta 1970.

(2) Section 7, clause (c) presently reads as follows:

7. In this Part,

(c) "mother" means

- (i) a single woman who has been delivered of a child or who is pregnant and likely to be delivered of a child or who was pregnant and the pregnancy terminated without the birth of a child, or
 - (ii) a widow who
 - (A) has been delivered of a child, or
 - (B) is pregnant and likely to be delivered of a child, 12 months or more after the death of her husband, or
 - (iii) a married woman living apart from her husband who
 - (A) has been delivered of a child, or
 - (B) is pregnant and likely to be delivered of a child, 12 months or more after she ceased cohabiting with her husband, or
 - (iv) a woman mentioned in subclause (i), (ii) or (iii) who has married or resumed cohabitation with her husband, and
 - (A) who may make a complaint or continue proceedings pursuant to section 14, subsection (3), or
 - (B) who incurred the expenses mentioned in section 21, subsection (1), clause (a) and who married or resumed cohabitation with her husband before the making of an order or the entering into of an agreement,
- or
- (v) a married woman who has been delivered of a child,
 - (A) where a person other than her husband admits that he is the father of the child, or
 - (B) where a court has found that the woman's husband is not the father of the child;

3. (1) This section will amend chapter 265 of the Revised Statutes of Alberta 1970.

(2) The limitation on the provincial contribution under nursing service agreements will be removed.

(3) The limitation on the provincial contribution where Indian reservations are included will be removed. Section 7, subsection (3) presently reads:

(3) The Department shall pay 60 per cent of that portion of the operating costs that is not borne by the federal Regional Director under the conditions agreed to by the Minister and the federal Regional Director.

4. (1) This section will amend chapter 390 of the Revised Statutes of Alberta 1970.

(2) Section 11 is amended by adding after clause (d) the following clause:

- (d1) fixing the rates to be charged to persons residing in homes owned and operated by the Government of Alberta,*

Commencement

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

(2) This amendment will permit the Lieutenant Governor in Council to fix the rates to be charged residents of Government owned and operated homes.