

1977 BILL 16

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 16

THE EXTRA-PROVINCIAL ENFORCEMENT
OF CUSTODY ORDERS ACT

MR. ASHTON

First Reading

Second Reading

Third Reading

Bill 16
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THE EXTRA-PROVINCIAL ENFORCEMENT OF CUSTODY ORDERS ACT

(Assented to , 1977)

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

1. In this Act

- (a) "child" means a person who has not attained the age of 18 years;
- (b) "court" means a court in Alberta having jurisdiction to grant custody of a child;
- (c) "custody order" means an order, or that part of an order, of an extra-provincial tribunal that grants custody of a child to any person and includes provisions, if any, granting another person a right of access or visitation to the child;
- (d) "extra-provincial tribunal" means a court or tribunal outside Alberta with jurisdiction to grant custody of a child.

2. (1) A court, on application by originating notice, shall enforce, and may make such orders as it considers necessary to give effect to, a custody order as if the custody order had been made by the court unless it is satisfied on evidence adduced that the child affected by that custody order did not, at the time the custody order was made, have a real and substantial connection with the province, state or country in which the custody order was made.

Explanatory Notes

GENERAL: This Act is based on a model Act recommended by the Uniform Law Conference of Canada in 1974.

1. Definitions.

2. Enforcement of custody orders.

(2) The court, upon application ex parte, may make an interim order under subsection (1) and may direct that the interim order be served upon any persons, and in any manner, as the court may specify in the interim order.

3. (1) A court may at any time by order vary a custody order as if the custody order had been made by the court if it is satisfied

- (a) that the child affected by the custody order does not, at the time the application for variation is made, have a real and substantial connection with the province, state or country in which the custody order was made or was last enforced, and
- (b) that the child has a real and substantial connection with Alberta or all the parties affected by the custody order are resident in Alberta.

(2) A person is not resident in Alberta for the purposes of subsection (1), clause (b) when that person is within Alberta solely for the purpose of making or opposing an application under this Act.

(3) In varying a custody order under this section, the court shall

- (a) give first consideration to the welfare of the child regardless of the wishes or interests of any person seeking or opposing the variation, and
- (b) treat the question of custody as of paramount importance and the question of access or visitation as of secondary importance.

4. Notwithstanding any other provision of this Act, where a court is satisfied that a child would suffer serious harm if the child remained in or was restored to the custody of the person named in a custody order, the court may at any time vary the custody order or make such other order for the custody of the child as it considers necessary.

5. An application under this Act shall be accompanied by a copy of the custody order to which the application relates, certi-

3. Variation of custody orders.

4. Extraordinary power of the court.

5. Copies of custody orders.

fied as a true copy by a judge, other presiding officer or registrar of the extra-provincial tribunal or by the person charged with keeping the orders of the extra-provincial tribunal and no proof is required of the signature or appointment of a judge, presiding officer, registrar or other person in respect of any certificate produced as evidence under this section.

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

