

1979 BILL 28

First Session, 19th Legislature, 28 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 28

**THE ASSURED INCOME FOR THE SEVERELY
HANDICAPPED ACT**

THE MINISTER OF SOCIAL SERVICES AND COMMUNITY
HEALTH

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 28

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THE ASSURED INCOME FOR THE SEVERELY HANDICAPPED ACT

(Assented to _____, 1979)

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

1 In this Act,

- (a) "Department" means the Department of Social Services and Community Health;
- (b) "Director" means the Director appointed under section 2;
- (c) "facility" means
 - (i) a nursing home operated by a district board as defined in *The Nursing Homes Act*,
 - (ii) a contract nursing home as defined in *The Nursing Homes Act*,
 - (iii) an approved hospital or auxiliary hospital as defined in *The Alberta Hospitals Act*, and
 - (iv) a facility licensed under *The Social Care Facilities Licensing Act* that is designated under the regulations as a facility for the purposes of this Act;
- (d) "handicap benefit" means a monthly allowance authorized to be paid under this Act in an amount prescribed in the regulations;
- (e) "institution" means an institution designated in the regulations as an institution for the purposes of this Act;
- (f) "Minister" means the Minister of Social Services and Community Health;
- (g) "severe handicap" means a severe handicap as defined in the regulations.

Explanatory Notes

1 Definitions.

2 In accordance with *The Public Service Act* there may be appointed a Director who shall administer this Act under the direction of the Minister.

3(1) The Director may authorize an employee of the Department to exercise any of the powers, duties and functions conferred or imposed upon the Director by or under this Act.

(2) If the Director, pursuant to subsection (1), authorizes a person to exercise any power, duty or function, a reference in this Act or the regulations to the Director in connection with that power, duty or function shall be construed as also referring to the person so authorized.

4(1) The Director may in accordance with this Act, out of money voted by the Legislature for the purpose, provide a handicap benefit of a nature or category and in an amount prescribed in the regulations to or for the benefit of a person who is eligible under subsection (2).

(2) A person is eligible to receive a handicap benefit if he satisfies the Director that

(a) he is a Canadian citizen or permanent resident within the meaning of the *Immigration Act* (Canada), is ordinarily resident in Alberta and is 18 years of age or more,

(b) he suffers from a severe handicap, and

(c) the portion of his and his spouse's income that is not exempt under the regulations is less than the maximum amount of the handicap benefit prescribed in the regulations.

(3) Notwithstanding subsection (2), a person is not eligible to receive a handicap benefit under this Act if he receives or is qualified to receive a monthly pension under the *Old Age Security Act* (Canada).

(4) Notwithstanding subsection (2), a person who receives an allowance or pension under

(a) *The Blind Persons Act*,

(b) *The Disabled Persons Act*, or

(c) regulations under *The Disabled Persons' Pensions Act*,

is not eligible to receive a handicap benefit or modified amount of handicap benefit.

2 Director.

3 Delegation of authority.

4 Handicap benefit.

(5) The Director may provide a modified amount of a handicap benefit as prescribed in the regulations to or for the benefit of a severely handicapped person who resides in a facility.

(6) The Director shall not provide a handicap benefit to or for the benefit of a severely handicapped person who resides in an institution.

5(1) An application for a handicap benefit shall be made to the Director by or on behalf of the applicant on forms provided for that purpose.

(2) The Director may require an applicant to submit to any physical, mental or psychological examinations that the Director considers necessary or to provide any information respecting the physical, mental or psychological condition of the applicant that he considers necessary for the purpose of determining whether the applicant is severely handicapped.

(3) If the Director is satisfied that a person who receives a social allowance under *The Social Development Act* suffers from a severe handicap he may dispense with an application for a handicap benefit from that person.

6(1) A person who receives a handicap benefit shall notify the Director forthwith of any material change of his handicap and of his or his spouse's income.

(2) If an applicant for a handicap benefit or a person who receives a handicap benefit, in the opinion of the Director,

(a) has refused to seek or to accept reasonable employment for reasonable wages,

(b) has terminated employment that he might reasonably have held,

(c) has refused or neglected to collect income to which he is entitled,

(d) has refused or neglected to avail himself of appropriate training or rehabilitative measures,

(e) has refused to provide complete information or has provided false information required to determine his eligibility for a handicap benefit, or

(f) has left Alberta,

the Director is under no obligation to provide or continue to provide a handicap benefit to that person and may discontinue, suspend or vary the handicap benefit provided.

5 Application for handicap benefit.

6 Changes in circumstances.

(3) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

7(1) The Director may require a person who receives a handicap benefit to submit to a review of his circumstances to determine whether that person continues to be severely handicapped and entitled to the handicap benefit and may require that person to submit any further evidence that the Director considers necessary to ascertain if the person continues to be eligible to receive the handicap benefit.

(2) If a person who receives a handicap benefit refuses to submit any evidence required by the Director to establish continuing eligibility for the handicap benefit, the Director may discontinue or reduce the handicap benefit as he considers appropriate.

8 The Director may

(a) if he is satisfied that the income of the person who receives a handicap benefit or of his spouse has changed, increase, reduce or discontinue the handicap benefit as he considers appropriate, or

(b) if he is satisfied that the person who receives a handicap benefit is no longer severely handicapped, discontinue the handicap benefit.

9(1) The Director may require a person who, in the opinion of the Director,

(a) receives a handicap benefit to which he is not entitled, or

(b) receives an overpayment of a handicap benefit,

due to non-disclosure of a material fact, false representation, mistake or any other reason, to repay the amount of the handicap benefit in the manner of repaying an overpayment under Part 3 of *The Maintenance and Recovery Act*.

(2) Notwithstanding subsection (1), if a person receives a handicap benefit to which he is not entitled or an overpayment of the amount of the handicap benefit to which he is entitled, not exceeding \$500, the Director may deduct from further handicap benefit payments to which the person is otherwise entitled monthly amounts not exceeding 10% of the maximum amount of the handicap benefit prescribed in the regulations until the full amount of the handicap benefit to which he is not entitled or the overpayment has been repaid.

7 Review of handicap benefit entitlement.

8 Disentitlement to handicap benefit.

9 Repayment of handicap benefit.

10 If a debt not exceeding \$500 is due to the Crown and recoverable under

- (a) *The Blind Persons Act*,
- (b) *The Disabled Persons Act*,
- (c) *The Social Development Act*, or
- (d) regulations under *The Disabled Persons' Pensions Act*

from a person to whom or for whose benefit a handicap benefit is paid under this Act, the Director may deduct from further handicap benefit payments to which the person is otherwise entitled monthly amounts not exceeding 10% of the maximum amount of the handicap benefit prescribed in the regulations until the full amount of the debt so due has been repaid.

11(1) If a person who is eligible to receive a handicap benefit is unable to conduct his own affairs, the Director may appoint a trustee to ensure that the handicap benefit is expended for the benefit of that person.

(2) A trustee appointed under subsection (1) shall, when required by the Director, make returns showing the amount of any handicap benefit received, the amount that has been expended for the benefit of the person who is entitled to receive the handicap benefit and the balance remaining with the trustee, and shall, if necessary, remit any balance to the Director.

(3) If the trustee appointed under subsection (1) is an officer or employee of a facility or other place of care in which a person who receives or is entitled to receive a modified amount of handicap benefit or a handicap benefit is maintained, the trustee shall pay to that facility or other place of care that proportion of the modified amount of handicap benefit or handicap benefit received that is considered by the Director to be a reasonable sum for the maintenance of that person, but the Director shall require the trustee to make available to the person entitled to receive the modified amount of handicap benefit or handicap benefit the amount that has been provided for his personal use.

12(1) The Minister may establish one or more appeal panels to hear appeals from decisions of the Director on any matter respecting a handicap benefit.

(2) The Minister may with respect to an appeal panel established under subsection (1)

- (a) appoint or provide for the appointment of its members,

10 Recovery of overpayment of other allowances.

11 Trustee.

12 Appeal panels.

(b) prescribe the terms of office of its members,

(c) designate a chairman, vice-chairman and secretary,

(d) authorize, fix and provide for the payment of expenses to its members, and remuneration to those members who are not employees of the Government, and

(e) prescribe the number of members of the appeal panel who constitute a quorum.

(3) *The Administrative Procedures Act* applies to proceedings of an appeal panel under this section.

(4) An appeal panel may, subject to this Act and the regulations, confirm, reverse or vary the decision of the Director appealed from, and the decision of the appeal panel is final.

13(1) A person affected by a decision of the Director or a person on that person's behalf may appeal that decision to the chairman of an appeal panel.

(2) An appeal under this section shall be made in writing within 30 days from when the person receives notice of the decision of the Director and of his right of appeal.

14 The Lieutenant Governor in Council may make regulations

(a) specifying the income of any person and of his spouse that may be exempt for the purpose of determining the amount of a handicap benefit payable to that person;

(b) prescribing the nature, categories, amounts of handicap benefits and modified amounts of handicap benefits that may be provided under this Act;

(c) designating facilities licensed under *The Social Care Facilities Licensing Act* as facilities for the purposes of this Act;

(d) designating institutions as institutions for the purposes of this Act;

(e) prescribing the fees to be paid to physicians for the performance of examinations and the preparation of reports in relation to an application or a review of eligibility for a handicap benefit under this Act;

(f) defining "severe handicap" for the purposes of this Act.

13 Appeal procedure.

14 Regulations.

15(1) No person shall disclose to any other person

(a) any file, document or paper kept by any person in any place, that has come into existence through anything done under or pursuant to this Act, or

(b) any information obtained by him in the performance of any duties under this Act,

that deals with the personal history or record of a person who has applied for or has received a handicap benefit or a spouse of that person, except with the written consent of the Minister or a duly authorized official responsible for the administration of this Act.

(2) Subsection (1) does not apply to a disclosure considered necessary in the administration of this Act or in the best interests of a person who has applied for or has received a handicap benefit and his spouse,

(a) to an employee of the Department or of any other department or agency of the Government,

(b) to an official of the Government of Canada, or an agent of that government,

(c) to a person assisting the Director or acting as an agent of the Director,

(d) at a trial, hearing or proceedings under the *Criminal Code* or *The Maintenance and Recovery Act* related to any matter under this Act, or to a solicitor acting on behalf of any government, authority or agency and responsible for the institution of that trial, hearing or proceedings,

(e) to a government department, municipality or agency of another province of Canada having a responsibility to provide financial assistance to persons in need,

(f) during the hearing of an appeal before an appeal panel established and acting pursuant to section 12, or

(g) to a member of the Legislative Assembly if he has the consent of the person who has applied for or has received a handicap benefit.

(3) A person who contravenes this section is guilty of an offence and liable upon summary conviction to a fine of not more than \$500.

16 *The Maintenance and Recovery Act is amended by repealing section 33(e) and substituting the following:*

15 Disclosure of information.

16 Consequential amendment to chapter 345 of the Revised Statutes of Alberta 1970.

(e) “overpayment” means an amount

(i) by which, as determined by the authority giving a social allowance or handicap benefit, the social allowance or handicap benefit received by a person under *The Social Development Act* exceeds the amount of the social allowance or handicap benefit he was actually entitled to receive, or

(ii) by which, as determined by the authority giving the handicap benefit, the handicap benefit received by a person under *The Assured Income for the Severely Handicapped Act* exceeds the amount of the handicap benefit he was actually entitled to receive.

17 *The Treatment Services Act* is amended in section 3(1)(a) by adding “or” at the end of subclause (viii) and by adding the following after subclause (viii):

(ix) a handicap benefit under *The Assured Income for the Severely Handicapped Act*,

18 *The following Acts are repealed:*

(a) *The Blind Persons Act*;

(b) *The Disabled Persons Act*;

(c) *The Disabled Persons’ Pensions Act*.

19 This Act comes into force on a date or dates to be fixed by Proclamation.

17 Consequential amendment to chapter 371 of the Revised Statutes of Alberta 1970.

18 Repeals chapters 24, 85 and 86 of the Revised Statutes of Alberta, 1955.