

1988 BILL 55

Third Session, 21st Legislature, 37 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 55

CHILD WELFARE AMENDMENT ACT, 1988

THE MINISTER OF SOCIAL SERVICES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 55

1988

CHILD WELFARE AMENDMENT ACT, 1988

(Assented to _____, 1988)

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

1 *The Child Welfare Act is amended by this Act.*

2 *Section 1(1) is amended*

(a) *by repealing clause (f) and substituting the following:*

(f) "Children's Advocate" means the person appointed by the Lieutenant Governor in Council as the Children's Advocate for the purposes of this Act;

(b) *by repealing clause (g);*

(c) *by adding the following after clause (s):*

(s.1) "qualified person" means a qualified person as prescribed in the regulations;

3 *Section 2 is amended by striking out "In exercising any authority or making any decision pursuant to this Act, a court and all persons shall consider the following:" and substituting "A Court and all persons shall exercise any authority or make any decision relating to a child who is receiving protective services under this Act in the best interests of the child and in doing so shall consider the following as well as any other relevant matter:".*

Explanatory Notes

1 This Bill will amend chapter C-8.1 of the Statutes of Alberta, 1984.

2 Section 1(1)(f) and (q) presently read:

(f) "Children's Guardian" means the person appointed by the Minister as the Children's Guardian for the purposes of this Act;

(q) "placement" means the placement under this Act of a child by a director in a home, institution or any other place;

3 Section 2 presently reads:

2 In exercising any authority or making any decision pursuant to this Act, a court and all persons shall consider the following:

(a) the family is the basic unit of society and its well-being should be supported and preserved;

(b) the interests of a child should be recognized and protected;

(c) the family has the right to the least invasion of its privacy and interference with its freedom that is compatible with its own interest, the interest of the individual family members and society;

(d) a child, if the child is capable of forming an opinion, is entitled to an opportunity to express that opinion on matters affecting the child and the child's opinion should be considered by those making decisions that affect the child;

(e) the family is responsible for the care and supervision of its children and every child should have an opportunity to be a wanted and valued member of a family, and to that end

(i) if protective services are necessary to assist the family in providing for the care of a child, those services should be supplied to the family in so far as it is reasonably practicable to do so in order to support the family unit and to prevent the need to remove the child from the family, and

4 The following is added after section 2:

2.1(1) The Lieutenant Governor in Council may, on the recommendation of the Minister, appoint a Children's Advocate, who shall hold office for a term not exceeding 5 years.

(2) The Minister may authorize and provide for the payment of the remuneration and expenses of the Children's Advocate and for the office and staff of the Children's Advocate.

- (ii) a child should be removed from the family only when other less intrusive measures are not sufficient to protect the survival, security or development of the child;
- (f) any decision concerning the removal of a child from the child's family should take into account
 - (i) the benefits to the child of maintaining, wherever possible, the child's familial, cultural, social and religious heritage,
 - (ii) the benefits to the child of stability and continuity of care and relationships,
 - (iii) the risks to the child if the child remains with the family, is removed from the family or is returned to the family, and
 - (iv) the merits of allowing the child to remain with the family compared to the merits of removing the child from the family;
- (g) if it is not inconsistent with the protection of a child who may be in need of protective services, the child's family should be referred to community resources for services that would support and preserve the family and prevent the need for any other intervention under this Act;
- (h) any decision concerning the placement of a child outside the child's family should take into account
 - (i) the benefits to the child of a placement that respects the child's familial, cultural, social and religious heritage,
 - (ii) the benefits to the child of stability and continuity of care and relationships,
 - (iii) the benefits to the child of a placement within or as close as possible to the child's home community,
 - (iv) the mental, emotional and physical needs of the child and the child's mental, emotional and physical stage of development, and
 - (v) whether or not the proposed placement is suitable for the child;
- (i) the provision of protective services is intended to remedy or alleviate the condition that caused the child to be in need of protective services;
- (j) if a child is being provided with care under this Act, the child should be provided with a level of care that is adequate to meet the needs of the child and consistent with community standards and available resources;
- (k) if a child is being provided with care under this Act, a plan for the care of a child should be developed that will address the child's need for stability and continuity of care and relationships;
- (l) a person who assumes responsibility for the care of a child under this Act should endeavour to make the child aware of the child's familial, cultural, social and religious heritage;
- (m) there should be no unreasonable delay in making or implementing a decision affecting a child.

4 Office of the Children's Advocate.

- (3) The Children's Advocate shall
- (a) advise the Minister on matters relating to the welfare and interests of children who receive services under this Act and the provision of those services;
 - (b) receive, review and investigate complaints or concerns that come to his attention respecting children who receive services under this Act;
 - (c) represent the rights, interests and viewpoints of children who receive services under this Act;
 - (d) perform additional duties and functions that are conferred on him by the regulations or are from time to time assigned to him by the Minister;
 - (e) prepare and submit annual reports to the Minister respecting the exercise of the duties and functions of the Children's Advocate.
- (4) For the purpose of performing his duties and functions, the Children's Advocate may
- (a) communicate with and visit a child who is receiving services under this Act or a guardian or other person who represents the child;
 - (b) have access to information relating to a child that is in the possession of a director or other person or agency providing services to a child on behalf of a director;
 - (c) at the request of a child who is receiving services under this Act, the Minister or any person acting on the child's behalf, receive, review or investigate and make recommendations regarding any matter relating to the provision of services to the child under this Act;
 - (d) provide information relating to, speak on behalf of and otherwise represent a child who is receiving services under this Act when major decisions relating to the child are being made under this Act;
 - (e) on his own initiative or at the request of a child who is receiving services under this Act, assist in appealing or reviewing a decision of a director relating to the child;
 - (f) provide assistance and advice to an Appeal Panel or a Court with respect to a child who is receiving services under this Act.
- (5) The Children's Advocate may delegate any duty or function conferred or imposed on him under this Act or the regulations in respect of a child
- (a) to a person employed or engaged in the administration of this Act, or
 - (b) to a person who provides care to the child, represents the child or is concerned about the welfare of the child.

5 Section 5 is amended by adding the following after subsection (3):

(4) If, after an investigation, a director is of the opinion that it would be consistent with the protection of the child, he may convey a child to the person who has custody of the child or to a person who is temporarily caring for the child.

6 Section 6 is amended

(a) in subsection (1)

(i) by striking out “in the residence in which the child was found”;

(ii) by adding “, and the director may convey the child for the purpose of placing the child in the care of that person” after “care of the child”;

(b) in subsection (2) by adding “care for the child in the residence in which the child was found and for that purpose may” after “may”;

(c) by adding the following after subsection (2):

(2.1) The person appointed under subsection (1) may care for the child in the person’s own residence for not more than 2 days.

7 Section 7(1) is amended

(a) by adding “or with another person who, with the express or implied consent of the guardian or pursuant to a Court order or an agreement, has custody of the child” after “guardian of a child”;

(b) in clause (b) by adding “or the person who has custody of the child, as the case may be” after “guardian”.

8 Section 10 is amended

(a) in subsection (1) by striking out “the director may” and substituting “a director may”;

(b) in subsection (2)(d) by striking out “11 or 33” and substituting “11, 11.1, 33 or 38(2)”.

5 Section 5 presently reads:

5(1) A director shall examine a report made under section 3 or 4 and any other allegation or evidence that a child may be in need of protective services and shall cause the matter to be investigated, unless he is satisfied that

- (a) the report or allegation was made maliciously,*
- (b) the report or allegation was made without reasonable and probable grounds for the belief,*
- (c) the report or allegation or evidence is unfounded, or*
- (d) it would be consistent with the protection of the child to refer a member of the family or the family to community resources for services.*

(2) If a director refers a member of the family or the family to a community resource under subsection (1), the community resource shall report to the director any matter respecting the protection of the child that may require investigation by the director.

(3) If, after an investigation, a director is of the opinion that the child is in need of protective services, he shall take whatever measures he considers appropriate under this Act.

6 Section 6(1) and (2) presently read:

6(1) If a director is satisfied that a child may be in need of protective services because the guardian of the child cannot be located after a reasonable search or has died or become incapacitated, the director may appoint a person to care for the child in the residence in which the child was found until the guardian can be located or other satisfactory arrangements can be made for the care of the child.

- (2) The person appointed under subsection (1) may*
- (a) enter the residence,*
 - (b) live in the residence,*
 - (c) carry on normal housekeeping activities in the residence that are necessary for the care of the child, and*
 - (d) exercise reasonable control over all children residing in the residence.*

7 Section 7(1) presently reads:

7(1) A director may enter into an agreement in the prescribed form with the guardian of a child with respect to the provision of support services to the family or the child if, in the opinion of the director,

- (a) the child is in need of protective services, and*
- (b) as a result of the provision of the support services, the child's survival, security or development will be adequately protected if the child remains with his guardian.*

8 Section 10(1) and (2) presently read:

10(1) If a child has been in the actual custody of at least 1 of his guardians for a cumulative period of less than 6 months, all the guardians of the child and the director may enter into a permanent guardianship agreement in the prescribed form under which the Children's Guardian will assume the guardianship of the child.

9 *Section 11 is repealed and the following is substituted:*

11(1) A guardian who has entered into a permanent guardianship agreement under section 10 may, within 10 days of the date of the agreement, request the director in writing to terminate the agreement and return the child who is the subject of the agreement to that guardian.

(2) Subject to subsection (3), a director who receives a request from a guardian under subsection (1) shall notify any other guardian who was a party to the permanent guardianship agreement of the request and shall place the child in the custody of the guardian who makes the request under subsection (1) within 48 hours of receiving the request or within any other period agreed to by the director and the guardian who makes the request.

(3) A permanent guardianship agreement terminates on the expiration of the 48 hours or any other period agreed to under subsection (2).

(4) A director who has reasonable and probable grounds to believe that the termination of a permanent guardianship agreement under this section would render the child who is the subject of the permanent guardianship agreement in need of protective services may

(a) enter into an agreement under section 7 or 8, or

(b) apply to the Court in the prescribed form for an order under Part 3.

11.1(1) A person claiming to be a parent of a child who is the subject of a permanent guardianship agreement under section 10 may, within 10 days of the date of the agreement, apply to the Court in the prescribed form for an order terminating the agreement.

(2) An applicant under subsection (1) shall give not less than 1 day's notice of the nature, time and place of the hearing of the application to

(a) a director, and

(b) a person who was a guardian of the child immediately before the permanent guardianship agreement was entered into.

(3) Section 21(3) and (4) apply to an application under this section.

- (2) *When an agreement is made pursuant to this section*
- (a) *the guardianship of any person who was a guardian of the child at the time the agreement was entered into is terminated,*
 - (b) *the agreement is binding on any parent who at the time the agreement was entered into was not a guardian of the child, whether or not he had notice of the agreement,*
 - (c) *the Children's Guardian is the sole guardian of the child for all purposes, and*
 - (d) *the agreement may be terminated only pursuant to section 11 or 33.*

9 Section 11 presently reads:

11(1) If a guardian of a child has entered into a permanent guardianship agreement with respect to a newborn child, that guardian or any person claiming to be a parent of that child may make an application in the prescribed form to the Court within 10 days of the birth of the child for an order terminating the agreement.

(2) The applicant shall give notice of the time and place of the application in any manner not less than 1 day before the application is made to

- (a) the Children's Guardian, and*
- (b) if the applicant is not the guardian who entered into the guardianship agreement, that guardian.*

(3) The Court may adjourn a hearing under this section for a period of not more than 15 days or for any longer period that the parties agree to.

(4) If the applicant is the guardian who entered into the guardianship agreement, the Court may terminate the agreement if it is satisfied that the applicant and any other former guardian of the child are capable of assuming and willing to assume the responsibilities of guardianship of the child.

(5) If the applicant claims to be a parent of the child and the Court is satisfied that the applicant is a parent of the child, the Court may terminate the guardianship agreement and do any 1 or more of the following:

- (a) declare the applicant to be a parent of the child;*
- (b) appoint the applicant as a guardian of the child if the Court is satisfied that*
 - (i) the applicant is capable of assuming and willing to assume the responsibilities of guardianship of the child, and*
 - (ii) it is in the best interests of the child that the applicant be appointed guardian;*
- (c) direct that the child be placed in the custody of the applicant or any other guardian of the child.*

(6) If the Court makes an order under subsection (5) appointing the applicant as a guardian, the applicant becomes the equal guardian of the child with any other guardian.

(7) An order made under this section does not come into effect until the applicant serves the Children's Guardian with a copy of the order.

- (4) The Court may adjourn the hearing of an application under this section for not more than 15 days or for a longer period agreed to by the parties to the application.
- (5) If the Court is satisfied that the applicant is a parent of the child, the Court may terminate the permanent guardianship agreement and do any one or more of the following:
- (a) declare the applicant to be a parent of the child;
 - (b) appoint the applicant as a guardian of the child if the Court is satisfied that
 - (i) the applicant is capable of assuming and willing to assume the responsibilities of guardianship of the child, and
 - (ii) it is in the best interests of the child that the applicant be appointed a guardian;
 - (c) direct that the child be placed in the custody of any guardian of the child if the Court is satisfied that
 - (i) the guardian is capable of assuming and willing to assume the custody of the child, and
 - (ii) it is in the best interests of the child that the guardian assume the custody of the child.
- (6) If the Court makes an order under subsection (5),
- (a) the guardianship of any person who was a guardian of the child before the permanent guardianship agreement was entered into is revived,
 - (b) the guardianship of the child by the director is terminated, and
 - (c) if a person is appointed as a guardian under subsection (5)(b), that person is an equal guardian of the child with any other guardian of the child.
- (7) If the Court makes an order under subsection (5)(b), it may make a further order terminating the guardianship of any other guardian of the child if
- (a) the Court is satisfied that the other guardian of the child consents to the termination, or
 - (b) the Court considers it necessary or desirable to do so.
- (8) An order made under this section does not come into effect until the applicant serves the director with a copy of the order.

10 Section 12 is amended

- (a) by repealing subsection (1) and substituting the following:*

12(1) A director may enter into an agreement in the prescribed form with

- (a) a guardian of a child who is the subject of a temporary guardianship order, or
- (b) any person who has a significant relationship with a child who is the subject of a temporary guardianship order.

10 Section 12 presently reads:

12(1) A director may enter into an agreement in the prescribed form with all the guardians of a child who is the subject of a temporary guardianship order.

(2) The agreement may include the following:

(a) the visits or other access to be provided between the child and the guardians or any other person;

(b) the conditions, if any, under which the director will consult with the guardians on matters affecting the child;

(b) in subsection (2)(a)

(i) by striking out “guardians” and substituting “guardian”;

(ii) by adding “with whom the child has a significant relationship” after “person”;

(c) by adding the following after subsection (2):

(3) No agreement under subsection (1)(b) relating to a child who is 12 years of age or over shall be made without the consent of the child.

11 Section 17 is amended

(a) by adding the following after subsection (1):

(1.1) If

(a) a child who is in the custody of a director under Part 2 or this Part has left or been removed from the custody of the director without the consent of the director, and

(b) the director has reasonable and probable grounds to believe that the child may be found in a place or premises,

the director may make an ex parte application to a judge of the Court, or if no judge is reasonably available to a justice of the peace, for an order under subsection (1.2).

(1.2) A judge of the Court or a justice of the peace, if he is satisfied on reasonable and probable grounds that the child may be found in the place or premises, may make an order authorizing the director, a child welfare worker or any person named in the order and any peace officer called on to assist him, to enter, by force if necessary, the place or premises specified in the order and to search for and remove the child for the purpose of returning the child to the custody of the director.

(1.3) If a director has reasonable and probable grounds to believe that a child referred to in subsection (1.1) may be found in a place or premises and that the life or health of the child would be seriously and imminently endangered as a result of the time required to obtain an order under subsection (1.2) or (2), the director may, without an order and by force if necessary, enter that place or those premises for the purposes specified in subsection (1.2).

(b) in subsection (2) by adding “or (1.1)” after “subsection (1)”;

(c) in subsection (5) by repealing clause (b) and substituting the following:

(b) the identity of the child, if known;

(b.1) with respect to an application under subsection (1), a statement setting out the director’s grounds for believing that the child is in need of protective services;

(b.2) with respect to an application under subsection (1.1), a statement setting out the authority under which the director has custody of the child and the director’s grounds for believing that the child may be found in the place or premises;

- (c) the contributions, financial or otherwise, that will be made by a guardian other than the Children's Guardian for the maintenance of the child while he is the subject of a temporary guardianship order;*
- (d) any other matter relating to the guardianship of the child.*

11 Section 17 presently reads:

17(1) If a director has reasonable and probable grounds to believe that a child is in need of protective services, the director may make an ex parte application to a judge of the Court, or if no judge is reasonably available, to a justice of the peace, for an order

- (a) authorizing the director to apprehend the child, or*
 - (b) if the judge or justice is satisfied that the child may be found in a place or premises, authorizing the director, a child welfare worker or any person named in the order and any peace officer called on to assist him to enter, if necessary by force, that place or premises and to search for and apprehend the child.*
- (2) If, in the opinion of the director, it would be impracticable to appear personally before a judge or justice to apply for an order in accordance with subsection (1), the director may make the application by telephone or other means of telecommunication to a judge of the Court designated by the chief judge of the Court.*
- (3) The information on which an application for an order by telephone or other means of telecommunication is based shall be given on oath and shall be recorded verbatim by the judge who, as soon as practicable, shall cause the record or a transcription of the record, certified by the judge as to time, date and contents, to be filed with the clerk of the Court.*
- (4) For the purposes of subsection (3), an oath may be administered by telephone or other means of telecommunication.*
- (5) The information submitted by telephone or other means of telecommunication shall include the following:*
- (a) a statement of the circumstances that make it impracticable for the director to appear personally before a judge of the Court or a justice;*
 - (b) a statement of the director's grounds for believing that a child is in need of protective services and the identity of the child, if the identity is known;*
 - (c) a statement of the director's grounds for believing that the child will be found in the place or premises to be searched;*
 - (d) a statement as to any prior application for an order under this section in respect of the same child of which the director has knowledge.*
- (6) A judge of the Court referred to in subsection (2) who is satisfied that an application made by telephone or other means of telecommunication*
- (a) conforms to the requirements of subsection (5), and*
 - (b) discloses reasonable grounds for dispensing with personal appearance for the purpose of making an application under subsection (1)*
- may make an order conferring the same authority respecting search and apprehension as may be conferred under subsection (1).*

(d) in subsection (6) by adding “or (1.1)” after “subsection (1)” wherever it occurs;

(e) by repealing subsection (9) and substituting the following:

(9) Notwithstanding subsection (1), a child welfare worker or peace officer may apprehend a child without an order if he has reasonable and probable grounds to believe that the child's life or health is seriously and imminently endangered because

(a) the child has been abandoned or lost or has no guardian,

(b) the child has left the custody of his guardian without the consent of the guardian and, as a result, the guardian is unable to provide the child with the necessities of life, or

(c) the child has been or there is substantial risk that he will be physically injured or sexually abused.

(10) A person who is authorized to apprehend a child under subsection (9) and who has reasonable and probable grounds to believe that the child may be found in a place or premises may, without an order and by force if necessary, enter that place or those premises and search for the child.

(11) Notwithstanding subsection (1), a child welfare worker or peace officer may apprehend a child without an order if he has reasonable and probable grounds to believe that the child has left or been removed from the custody of his guardian without the consent of the guardian.

12 Section 19 is amended by adding the following after subsection (2):

(2.1) If

(a) a child is returned to the custody of his guardian, or

(b) an agreement under section 7 or 8 is entered into in respect of the child

before the expiration of the period referred to in subsection (2), the application under subsection (1) may be withdrawn at the time and place scheduled for the hearing of the application.

13 Section 20 is amended

(a) in subsection (1) by repealing clauses (a) and (b) and substituting the following:

(a) convey the child, and detain the child while he is being conveyed, to a secure treatment institution and confine the child in the secure treatment institution if the director considers it necessary to do so in order to ensure the survival, security or development of the child, and

(b) if the guardian of the child is unable or unavailable to consent to the provision of essential medical, surgical, dental or other remedial treatment for the child that is recom-

- (7) *If a judge of the Court makes an order under subsection (6),*
- (a) *the judge shall complete and sign an order in the prescribed form, noting on its face the time, date and place at which it was made,*
 - (b) *the director, on the direction of the judge, shall complete, in duplicate, a facsimile of the order in the prescribed form, noting on its face the name of the judge of the Court making the order and the time, date and place at which it was made, and*
 - (c) *the judge shall, as soon as practicable after the order has been made, cause the order to be filed with the clerk of the Court.*
- (8) *An order made by telephone or other means of telecommunication is not subject to challenge by reason only that the circumstances were not such as to make it reasonable to dispense with personal appearance for the purpose of making an application under subsection (1).*
- (9) *Notwithstanding subsection (1), a child welfare worker or peace officer may apprehend a child who is actually or apparently under 16 years of age without an order if he has reasonable and probable grounds to believe that the child is in need of protective services because*
- (a) *the child has been abandoned, lost or has no guardian,*
 - (b) *the child has left the custody of his guardian without the consent of the guardian and, as a result, the guardian is unable to provide the child with the necessities of life, or*
 - (c) *the child's life or health is seriously and imminently endangered because the child has been or there is substantial risk that he will be physically injured or sexually abused.*

12 Section 19 presently reads in part:

- 19(1) If a child is apprehended under section 17 and is not returned to the custody of his guardian within 2 days after being apprehended, the director shall apply in the prescribed form to the Court for a supervision order, a temporary or permanent guardianship order or an order returning the child to the custody of his guardian.*
- (2) An application under subsection (1) shall be heard not more than 10 days after the child is apprehended.*

13 Section 20 presently reads in part:

- 20(1) Subject to subsection (2), if a child has been apprehended, a director has exclusive custody of the child, is responsible for his care, maintenance and well being and may*
- (a) *authorize the provision of any essential medical, surgical, dental or other remedial treatment that is recommended by 2 or more physicians or dentists, as the case may be, without the consent of the guardian of the child, or*
 - (b) *confine the child in a secure treatment institution if the director considers it necessary to do so in order to protect the survival, security or development of the child.*

mended by a physician or dentist, authorize the provision of any of those treatments for the child.

(b) *by repealing subsection (2) and substituting the following:*

(2) If the guardian of a child who has been apprehended refuses to consent to essential medical, surgical, dental or other remedial treatment for the child that is recommended by a physician or dentist, the director shall apply to the Court for an order authorizing the treatment.

(c) *in subsection (7)*

(i) *by striking out “(1)(b)” and substituting “(1)(a)”;*

(ii) *by striking out “1 day” and substituting “3 days”;*

(iii) *in clause (b) by striking out “8” and substituting “6”.*

14 *Section 22 is amended*

(a) *in subsection (1)(a) by adding “who is the subject of a hearing under this Part or to a child who is a witness at a hearing under this Part” after “child”;*

(b) *in subsection (2) by striking out “, the Children’s Guardian”;*

(c) *by adding the following after subsection (2):*

(3) At the outset of a hearing under this Part, the Court shall inform the parties of their right to make an application under subsection (1).

15 *Section 24(2) is repealed and the following is substituted:*

(2) If the Court adjourns a hearing under subsection (1), it shall make an interim order in respect of the child who is the subject of the hearing

(a) providing for the custody of or access to the child, and

(b) if the child is the subject of a temporary guardianship order, providing for guardianship of the child

during the adjournment.

(3) Notwithstanding subsection (1), no hearing in respect of a child who is the subject of a secure treatment order under section 42(1.1) shall be adjourned for more than 30 days.

16 *Section 26(1)(c) is repealed.*

(2) If a child is apprehended because the guardian of the child refuses to permit essential medical, surgical or remedial treatment that is recommended by a physician, the director shall apply to the Court for an order authorizing the treatment.

(7) If a director confines a child pursuant to subsection (1)(b), the director shall appear before the Court within 1 day of the confinement

(a) to show cause why the confinement was necessary, and

(b) if necessary, to apply for an order authorizing the confinement of the child for a further period of not more than 8 days.

14 Section 22 presently reads:

22(1) Subject to subsection (2), if the Court is satisfied that

(a) the evidence or information presented to the Court may be seriously injurious or seriously prejudicial to the child, or

(b) it would be in the interest of public morals, the maintenance of order or the proper administration of justice to exclude any or all members of the public from the court room,

the Court may exclude any person including a guardian of the child or the child from all or part of the proceedings if the Court considers that person's presence to be unnecessary to the conduct of the proceedings.

(2) The Court may not exclude a director, the Children's Guardian or a lawyer representing any of the parties.

15 Section 24 presently reads:

24(1) The Court may adjourn a hearing under this Part for a period of not more than 40 days or for such longer period as the parties agree to.

(2) If the Court adjourns under subsection (1), it may make any interim order providing for the custody of or access to the child during the adjournment that it considers appropriate.

16 Section 26(1) presently reads:

26(1) The Court may make a supervision order for a period of not more than 6 months if it is satisfied that

(a) a child is in need of protective services,

(b) mandatory supervision of the child and a person residing with the child and the compliance by that person with the terms of the order are necessary to adequately protect the survival, security or development of the child, and

(c) all persons residing with the child will comply with the terms of the order.

17 *Section 27(1) is repealed and the following is substituted:*

27(1) If, on an application by a director in the prescribed form, the Court is satisfied that a guardian or other person residing with a child has failed to comply with a term of a supervision order, the Court may, without hearing any further evidence as to the child's need of protective services,

- (a) renew, vary or extend the supervision order, or
- (b) make a temporary guardianship order or a permanent guardianship order in respect of the child.

18 *Section 28(1) is amended*

(a) *by adding* "has been apprehended under section 17 or" *after* "If a child";

(b) *by striking out* "an order restraining that person" *and substituting* "either or both of the following orders:";

(c) *by repealing clauses (a) and (b) and substituting the following:*

- (a) an order restraining that person from residing with the child;
- (b) an order restraining that person from contacting the child or associating in any way with the child.

19 *Section 29 is amended*

(a) *in subsection (4)*

(i) *by striking out* "or a guardian of the child" *and substituting* "a guardian of the child, the child if the child is 12 years of age or over or any person with whom the child has a significant relationship";

(ii) *by repealing clause (b);*

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

(4.1) No order under subsection (4)(a)(i) providing for access between a child who is 12 years of age or over and a person with whom the child has a significant relationship shall be made without the consent of the child.

(4.2) An order under this section may provide that a guardian, other than the director, or any person who will have custody of the child shall, prior to the expiration of the temporary guardianship order, submit to an assessment in order to assist the director or the Court, as the case may be, to determine the fitness of the guardian or other person to assume the custody of the child when the order expires or is terminated.

(c) *in subsection (5) by striking out* "(4)(b)" *and substituting* "(4.2)".

17 Section 27(1) presently reads:

27(1) If, on application by a director in the prescribed form, the Court is satisfied that a guardian has failed to comply with a term of a supervision order, the Court may make a temporary guardianship order or a permanent guardianship order in respect of the child without hearing any further evidence that the child is in need of protective services.

18 Section 28(1) presently reads:

28(1) If a child is the subject of a supervision order or a temporary or permanent guardianship order and a director has reasonable and probable grounds to believe that a person has physically or emotionally injured or sexually abused the child, or is likely to physically or emotionally injure or sexually abuse the child, the director may apply by originating notice to the Court of Queen's Bench for an order restraining that person

(a) from residing with the child, or

(b) from contacting the child or associating in any way with the child.

19 Section 29 presently reads in part:

(4) On making a temporary guardianship order or at any time during its term, the Court, on the application of a director or a guardian of the child, may

(a) on being satisfied that the matter cannot be resolved by agreement or the terms of an agreement have not been complied with, make an order prescribing

(i) the access to be provided between the child and a guardian or any other person with whom the child has a significant relationship,

(ii) the conditions under which the director shall consult with the guardian on matters affecting the child, or

(iii) the financial contributions to the maintenance of the child to be made

(A) by a person other than the Children's Guardian who is legally responsible for the maintenance of the child, or

(B) by a trustee from property or an estate held in trust for the child,

or

(b) order a guardian other than the Children's Guardian to submit prior to the expiration of the term of the temporary guardianship order to an assessment in order to assist the director or the Court, as the case may be, to determine that guardian's fitness to resume custody of the child when the term of the order ends.

(5) The Court shall consider the recommendations of the director in respect of an assessment before making an order under subsection (4)(b).

20 Section 30 is amended

(a) by repealing subsection (1) and substituting the following:

30(1) If a child is the subject of a supervision order or a temporary guardianship order and the appeal period with respect to the order has expired,

(a) a director, at any time during the term of the order,
or

(b) a guardian of the child or the child if the child is 12 years of age or over, once during the term of the order,

may apply to the Court in the prescribed form for an order renewing, varying or terminating the original order or for a new order under section 26, 29 or 32.

(b) by repealing subsection (3);

(c) by repealing subsection (4) and substituting the following:

(4) Unless it is satisfied that it would be in the best interests of the child to order otherwise, the Court shall extend the period of the original order pending the hearing of an application under this section.

21 Section 31(1.1) is amended by adding "or pursuant to an agreement under section 72" after "20(1)".

22 Section 32 is amended

(a) by adding the following after subsection (2):

(2.1) The Court may make an order dispensing with a consent required under subsection (2)(b) if the Court is satisfied that it is in the best interests of the child to do so.

(b) in subsection (4) by striking out "send the Children's Guardian and" and substituting " , on request, send";

(c) in subsection (6) by adding " , the child if the child is 12 years of age or older" after "guardian of the child";

(d) by adding the following after subsection (6):

(6.1) No order under subsection (6) relating to a child who is 12 years of age or over shall be made without the consent of the child.

20 Section 30 presently reads:

30(1) If the Court has made a supervision or temporary guardianship order and the appeal period for the order has expired, the Court may review the order

(a) at any time on the application in the prescribed form of a director, or

(b) once during the term of the order on the application in the prescribed form of

(i) a guardian of the child, or

(ii) the child, if the child is 12 years of age or over.

(2) On reviewing an order under this section, the Court may consider any matter it thinks is relevant, and shall consider the following:

(a) whether the circumstances that caused the child to be in need of protective services have changed;

(b) the protective services that have been provided to the child or the family of the child;

(c) whether the director has followed the plan for the care of the child filed with the Court;

(d) whether a guardian, other than the Children's Guardian, has complied with the order.

(3) On hearing an application under this section, the Court may

(a) continue, vary or terminate the original order, or

(b) make an order pursuant to section 26, 29 or 32.

(4) The Court may extend the period of the original order pending the hearing of an application under this section.

21 Section 31 presently reads in part:

31(1) The total cumulative period during which a child is in the custody of 1 or more directors or the subject of a temporary guardianship order shall not be more than 2 years.

(1.1) A period during which a director has custody of a child pursuant to section 20(1) shall not be included in computing the total cumulative period in subsection (1).

22 Section 32 presently reads:

32(1) The Court, on application pursuant to this Part by a director, may make a permanent guardianship order appointing the Children's Guardian as guardian of the child if it is satisfied that

(a) the child is in need of protective services or is the subject of a temporary guardianship order,

(b) the survival, security or development of the child cannot be adequately protected if the child remains with or is returned to his guardian, and

(c) it cannot be anticipated that the child could or should be returned to the custody of his guardian within a reasonable time.

(2) The Court, on application pursuant to this Part by a guardian of a child, may make a permanent guardianship order appointing the Children's Guardian as guardian of the child if

(a) the guardian wishes to relinquish his guardianship, and

(6.2) A director may enter into an agreement in the prescribed form with

(a) a former guardian of a child who is the subject of a permanent guardianship order, or

(b) any person who has a significant relationship with a child who is the subject of a permanent guardianship order

providing for visits or other access to be provided between the child and the former guardian or other person.

(6.3) No agreement under subsection (6.2)(b) relating to a child who is 12 years of age or over shall be made without the consent of the child.

23 *Section 33(2) is repealed and the following is substituted:*

(2) When a child who is the subject of a support agreement under section 7(2), a custody agreement under section 8(2), a temporary or permanent guardianship order or a permanent guardianship agreement attains the age of 18 years, the Minister may continue to provide the child with care and maintenance

(a) for the periods and the purposes, and

(b) on the conditions

prescribed in the regulations.

24 *Section 38(2) is amended by adding the following after clause (a):*

(a.1) a private guardianship order is made in respect of the child,

25 *Section 41(1) and (5) are amended by striking out “5” and substituting “10”.*

(b) the child consents to the order, if the child is 12 years of age or over.

(3) If the Court makes a permanent guardianship order, the Children's Guardian is the sole guardian of the person of the child and the Public Trustee is the sole trustee of the estate of the child.

(4) A director shall send the Children's Guardian and the Public Trustee a copy of the permanent guardianship order.

(5) If the Court makes a permanent guardianship order it may, on the application of a director, order that financial contributions be made to the maintenance of the child

(a) by a person other than the Children's Guardian who is legally responsible for the maintenance of the child, or

(b) by a trustee from property or an estate held in trust for the child.

(5.1) If an order is made under subsection (5), a director or the person ordered to make financial contributions may apply to the Court for a review of the order.

(6) On making a permanent guardianship order or at any time during its term, the Court, on the application of a director, a former guardian of the child or any other person with whom the child has a significant relationship, may make an order prescribing the access to be provided between the child and the former guardian or that other person.

23 Section 33 presently reads:

33(1) If a child is the subject of a permanent guardianship agreement or order, the Children's Guardian, if he is satisfied that the child should be returned to the guardianship of the person who was the guardian of the child before the agreement or order was made, may apply to the Court for an order terminating the permanent guardianship agreement or order.

(2) When a child who is the subject of a permanent guardianship agreement or order attains 18 years of age, the Minister may continue to provide him with care and maintenance for a further period prescribed in the regulations so that he can complete a course of studies or other training.

24 Section 38(2) presently reads:

(2) A permanent guardianship agreement or order remains in effect until

(a) the agreement or order is terminated by a court,

(b) an adoption order is made in respect of the child,

(c) the child attains the age of 18 years, or

(d) the child marries,

whichever occurs first.

25 Section 41 presently reads:

41(1) If a child is the subject of a temporary or permanent guardianship order, a director may issue a secure treatment certificate in the prescribed form for a period of not more than 5 days in respect of the child if he has reasonable and probable grounds to believe that

(a) the child is suffering from a mental or behavioural disorder,

(b) the child is in a condition presenting a danger to himself or others, and

(c) it is necessary to confine the child in order to remedy or alleviate the disorder.

26 *Section 42 is amended by adding the following after subsection (2):*

(2.1) Section 21(3) and (4) apply to an application under this section.

27 *Section 45(2) and (3) are repealed.*

28 *Section 46 is amended*

(a) by renumbering subsection (1) as subsection (1.1) and by adding the following before subsection (1.1):

46(1) When a child who is the subject of a secure treatment certificate or order

(a) leaves a secure treatment institution when no leave of absence has been granted, or

(5) The director shall appear before the Court not more than 5 days after a secure treatment certificate is issued

(a) to show cause why the certificate was issued, and

(b) to satisfy the Court that subsections (2) and (4) have been complied with.

26 Section 42 presently reads in part:

42(1) If a child is the subject of a temporary or permanent guardianship order, a director may apply in the prescribed form to the Court for a secure treatment order.

(1.1) If a child has been apprehended under section 17, the director may apply in the prescribed form to the Court for a secure treatment order to be effective for a period to end 30 days after the granting of the order or when a supervision order or a temporary or permanent guardianship order is made in respect of the child, whichever occurs first.

(1.2) The Court shall not renew pursuant to subsection (7) a secure treatment order to which subsection (1.1) applies.

(2) The director shall serve a guardian of the child and the child, if the child is 12 years of age or over, with notice of the time and place of the hearing of an application under subsection (1) not less than 2 days before the date of the hearing.

27 Section 45 presently reads:

45(1) During the term of a secure treatment certificate or order, a director may grant the child a leave of absence from the secure treatment institution for medical, humanitarian or rehabilitative reasons on any terms and conditions that the director considers necessary.

(2) When a child who is the subject of a secure treatment certificate or order

(a) leaves a secure treatment institution when a leave of absence has not been granted, or

(b) leaves a secure treatment institution pursuant to a leave of absence but fails to return within the time prescribed,

a director may order any child welfare worker or peace officer to return the child to a secure treatment institution.

(3) On receipt of an order pursuant to subsection (2), every child welfare worker or peace officer is empowered to apprehend, without an order of a court or a warrant, the child named in the director's order, to convey the child to the nearest secure treatment institution and to detain the child while he is being conveyed to the secure treatment institution.

28 Section 46 presently reads:

46(1) If a director has reasonable and probable grounds to believe that a child who is the subject of a secure treatment certificate or order

(a) has left a secure treatment institution when a leave of absence has not been granted, or

(b) has left a secure treatment institution pursuant to a leave of absence but has not returned within the time prescribed,

the director may make an ex parte application to a judge of the Court or, if no judge is reasonably available, to a justice of the peace, for an order

(b) leaves a secure treatment institution pursuant to a leave of absence and fails to return within the time prescribed,

a director may authorize a child welfare worker, a peace officer or any other person to apprehend and convey the child, and to detain the child while he is being conveyed, to a secure treatment institution.

(b) in subsections (3), (7) and (9) by striking out “(1)” wherever it occurs and substituting “(1.1)”;

(c) by adding the following after subsection (9):

(10) If a child welfare worker, peace officer or other person authorized under subsection (1) to apprehend a child has reasonable and probable grounds to believe that

(a) the child may be found in a place or premises, and

(b) the life or health of the child would be seriously and imminently endangered as a result of the time required to obtain an order under subsection (1.1) or (3),

the child welfare worker, peace officer or other person may, without an order and by force if necessary, enter that place or those premises and search for and remove the child for the purpose of conveying the child to a secure treatment institution and may detain the child while he is being conveyed to a secure treatment institution.

authorizing the director, a child welfare worker or any person named in the order and any peace officer called on to assist him to enter, if necessary by force, any place or premises specified in the order, to search for, apprehend and convey the child to any secure treatment institution and to detain the child while he is being conveyed to a secure treatment institution.

(2) The judge or justice may make an order under this section if he is satisfied that the child may be found in the place or premises specified in the order.

(3) If, in the opinion of the director, it would be impracticable to appear personally before a judge or justice to apply for an order in accordance with subsection (1), the director may make the application by telephone or other means of telecommunication to a judge of the Court designated by the chief judge of the Court.

(4) The information on which an application for an order by telephone or other means of telecommunication is based shall be given on oath and shall be recorded verbatim by the judge who, as soon as practicable, shall cause the record or a transcription of the record, certified by the judge as to time, date and contents, to be filed with the clerk of the Court.

(5) For the purposes of subsection (4), an oath may be administered by telephone or other means of telecommunication.

(6) The information submitted by telephone or other means of telecommunication shall include the following:

(a) a statement of the circumstances that make it impracticable for the director to appear personally before a judge of the Court or a justice;

(b) a statement of the director's belief that the child is the subject of a secure treatment certificate or order and

(i) has left the secure treatment institution without a leave of absence, or

(ii) has not returned to the secure treatment institution within the time prescribed;

(c) a statement of the director's grounds for believing that the child will be found in the place or premises to be searched;

(d) a statement as to any prior application for an order under this section in respect of the same child of which the director has knowledge.

(7) A judge of the Court referred to in subsection (3) who is satisfied that an application made by telephone or other means of telecommunication

(a) conforms to the requirements of subsection (6), and

(b) discloses reasonable grounds for dispensing with personal appearance for the purpose of making an application under subsection (1)

may make an order conferring the same authority respecting search and apprehension as may be conferred under subsection (1).

(8) If a judge of the Court makes an order under subsection (7),

(a) the judge shall complete and sign an order in the prescribed form, noting on its face the time, date and place at which it was made,

(b) the director, on the direction of the judge, shall complete, in duplicate, a facsimile of the order in the prescribed form, noting on its face the name of the judge of the Court making the order and the time, date and place at which it was made, and

29 *Section 47 is amended*

(a) *by repealing subsection (2) and substituting the following:*

(2) An application for a review of a secure treatment order may be made

(a) by a director, at any time during the period of the order and the period of any renewal of the order, or

(b) by the child who is the subject of the secure treatment order or a guardian of the child, once during the period of the order and once during the period of any renewal of the order.

(b) *in subsection (5)*

(i) *by striking out “director” and substituting “applicant”;*

(ii) *in clause (b) by adding “if a director is not the guardian of the child” after “child”;*

(c) *by adding the following after subsection (5):*

(6) Section 21(3) and (4) apply to an application under this section.

30 *The following is added after section 48:*

48.1(1) The Court may adjourn the hearing of an application under section 42 or 47 for not more than 7 days

(a) with the consent of the parties to the application, or

(b) if the Court is satisfied that the adjournment is necessary in order to obtain evidence to assist the Court in determining whether a secure treatment order should be made, or confirmed, varied or terminated, as the case may be.

(2) Unless it is satisfied that it would be in the best interests of the child to order otherwise, the Court shall in respect of a child who is confined under this Part extend the confinement pending the hearing of an application under section 42 or the hearing of a review under section 47, as the case may be.

(3) The number of days that the hearing of an application under section 42 or 47 is adjourned shall be included in a calculation of the duration of the order made at the hearing if the child is confined in the secure treatment institution during the adjournment.

(c) the judge shall, as soon as practicable after the order has been made, cause the order to be filed with the clerk of the Court.

(9) An order made by telephone or other means of telecommunication is not subject to challenge by reason only that the circumstances were not such as to make it reasonable to dispense with personal appearance for the purpose of making an application under subsection (1).

29 Section 47 presently reads:

47(1) A child with respect to whom a secure treatment order has been made, a guardian of the child or a director may apply to the Court in the prescribed form for a review of the order.

(2) An application for a review may be made only

(a) once during the period of the order, and

(b) once during the period of a renewal of the order.

(3) The hearing of a review shall be held not more than 10 days after the application is filed with the Court or within any further period the Court directs.

(4) The clerk of the Court shall notify a director of the application.

(5) The director shall send a notice of the date, time and place of the hearing of the review by the Court by registered mail or by any other method approved by the Court to

(a) the child,

(b) a guardian of the child, and

(c) the person in charge of the secure treatment institution in which the child is confined

not less than 5 days before the date fixed for the hearing.

30 Extension of confinement.

31 *Section 49 is amended by adding the following after subsection (1):*

(1.1) A director may, on behalf of an applicant, make an application under subsection (1) in respect of a child who is the subject of a permanent guardianship order or agreement if

- (a) the applicant consents in writing, and
- (b) the director is satisfied that it is in the best interests of the child for the child to be placed under the guardianship of the applicant.

32 *Section 50(2) is repealed and the following is substituted:*

- (2) The Court may, if it considers it appropriate to do so,
- (a) order that service of the notice of the application be made substitutionally or ex juris,
 - (b) shorten the period of service required under subsection (1), or
 - (c) dispense with service on any person other than the director.

33 *Section 53 is amended by renumbering it as section 53(1) and by adding the following after subsection (1):*

- (2) The clerk of the Court shall provide a certified copy of an order made under subsection (1) to
- (a) the applicant,
 - (b) any person who was a guardian of the child immediately before the making of the order, and
 - (c) the child if the child is 12 years of age or over.

34 *Section 54 is amended by adding the following after subsection (2):*

(3) A guardian of a child in respect of whom a private guardianship order is made whose guardianship is not terminated under subsection (2) may apply to the Court in the prescribed form to terminate an order made under section 53(1), and if the Court is satisfied that

- (a) the applicant is capable of resuming and willing to resume the responsibilities of guardianship of the child, and
- (b) it is in the best interests of the child to do so,

the Court may, subject to subsection (4), terminate the private guardianship order.

31 Section 49 presently reads in part:

49(1) Any adult who has had the continuous care of a child for a period of more than 6 months may apply to the Court in the prescribed form for a private guardianship order in respect of the child if the child or the applicant resides in Alberta.

32 Section 50 presently reads:

50(1) The applicant shall serve a notice of the nature, time and place of the hearing of the application not less than 30 days before the date of the hearing on

- (a) the guardian of the child,*
- (b) the child, if the child is 12 years of age or over, and*
- (c) a director, if the Children's Guardian is not the guardian.*

(2) The Court may

- (a) if it considers it appropriate to do so*
 - (i) order that service of the notice of the application be made substitutionally or ex juris, or*
 - (ii) shorten the period of service required under subsection (1), or*
- (b) dispense with service on the child if the Court, for reasons that appear to it to be sufficient, considers it necessary or desirable to do so.*

33 Section 53 presently reads:

53 If the Court is satisfied that

- (a) the applicant is able and willing to assume the responsibility of a guardian towards the child, and*
- (b) it is in the best interests of the child,*

the Court may make a private guardianship order appointing the applicant as a guardian of the child.

34 Section 54 presently reads:

54(1) Notwithstanding Part 7 of the Domestic Relations Act, for all purposes when a private guardianship order is made the applicant is a guardian of the child.

(2) Notwithstanding Part 7 of the Domestic Relations Act, if the Court makes a private guardianship order, it may make a further order terminating the guardianship of any other guardian of the child if

- (a) the Court is satisfied that the other guardian of the child consents to the termination, or*
- (b) for reasons that appear to it to be sufficient, the Court considers it necessary or desirable to do so.*

(4) No order under subsection (3) relating to a child who is 12 years of age or over shall be made without the consent of the child.

(5) Sections 50 and 52(2) apply to an application under this section.

35 *Part 6 is repealed and the following is substituted:*

PART 6
ADOPTION

55 In this Part,

(a) "Court", notwithstanding section 1(1)(g), means the Court of Queen's Bench;

(b) "licensed adoption agency" means an adoption agency that holds a licence issued under section 70.

56(1) An adoption order in respect of a child shall not be made without the consent in the prescribed form of

(a) all the guardians of the child, and

(b) the child if the child is 12 years of age or over.

(2) A consent to an adoption executed in a province other than Alberta in a form prescribed for consents in that province is deemed to be a consent under this Act.

57(1) A guardian who has consented to the adoption of a child under section 56 may, not later than 10 days after the date of the consent, revoke the consent by providing written notice of the revocation to a director.

(2) The director who receives a notice under subsection (1) shall ensure that the person in whose custody the child has been placed and any other guardian of the child who has consented to the adoption of the child are notified forthwith of the revocation of consent.

(3) On receiving notification of a revocation of consent by the guardian who surrendered custody of the child, the person in whose custody the child has been placed shall forthwith return the child

(a) if the child was placed in the custody of that person directly by the guardian who surrendered custody of the child, to the custody of that guardian, or

(b) if the child was placed in the custody of that person by a licensed adoption agency, to the agency.

(4) A licensed adoption agency to which a child is returned under subsection (3)(b) shall forthwith return the child to the custody of the guardian who surrendered custody of the child.

58(1) Subject to this section, an adult who

(a) maintains his usual residence in Alberta, or

(b) maintained his usual residence in Alberta at the time he received custody of a child under this Part,

may petition the Court in the prescribed form for an adoption order.

35 New Part 6 on Adoption substituted.

(2) A petition for an adoption order shall be presented to the Court not later than 6 months after the filing of the petition.

(3) No petition for an adoption order shall be filed in respect of a child unless

(a) the period for revoking a consent to adoption under section 57(1) has expired,

(b) if the child is the subject of a permanent guardianship order, the period for appealing the order has expired or an appeal of the order has been disposed of, or

(c) if the child is the subject of a permanent guardianship agreement, the period for terminating the agreement has expired or an application for termination of the agreement has been disposed of.

59(1) A petition for an adoption order in respect of a child who is the subject of a permanent guardianship agreement or order or a child who is placed directly in the custody of the petitioner by a parent shall be filed with the Court by a director and must be accompanied by the following documentation:

(a) the affidavit of the director setting out

(i) the name, date and place of birth, gender and parentage of the child, so far as is known,

(ii) if the child is the subject of a permanent guardianship agreement or order,

(A) a statement that the director is the guardian of the child pursuant to the agreement or order,

(B) the terms of any agreement or order respecting access to the child, and

(C) a statement that the petitioner, in the opinion of the director, is a fit and proper person to have the care and custody of the child;

(iii) if the child is an Indian,

(A) the treaty number of the child,

(B) if the child is a member of a band as defined in section 73, the band number of the child, and

(C) a statement that section 62.1 has been complied with;

(b) the affidavit of the petitioner setting out

(i) the age, address, marital status and occupation of the petitioner and the relationship, if any, of the petitioner to the child, and

(ii) if the child is placed directly in the custody of the petitioner by a parent

(A) the terms of any agreement and any document or writing relating to any agreement under which payment or other consideration passes from the peti-

tioner in respect of care, maintenance, medical treatment or other necessities to or for the benefit of the parent, and

(B) the terms of any agreement or order respecting access to the child;

(c) the consent in the prescribed form of the guardian of the child and of the child if the child is 12 years of age or over;

(d) a home assessment report in the prescribed form prepared by a qualified person on behalf of the director respecting

(i) the suitability of the petitioner as an adoptive parent, and

(ii) the capability and willingness of the petitioner to assume the responsibility of a parent towards the child;

(e) the affidavit of any person acceptable to the director respecting the fitness of the petitioner to adopt the child, or any other material that the director may require.

(2) A petition for an adoption order in respect of a child who is placed in the custody of the petitioner by a licensed adoption agency may be filed with the Court by an officer of the licensed adoption agency and must be accompanied by the following documentation:

(a) the affidavit of an officer of the licensed adoption agency setting out

(i) the name, date and place of birth, gender and parentage of the child, so far as is known,

(ii) a statement that the petitioner, in the opinion of the officer, is a fit and proper person to have the care and custody of the child, and

(iii) if the child is an Indian,

(A) the treaty number of the child,

(B) if the child is a member of a band as defined in section 73, the band number of the child, and

(C) a statement that section 62.1 has been complied with;

(b) the affidavit of the petitioner setting out

(i) the age, address, marital status and occupation of the petitioner and the relationship, if any, of the petitioner to the child,

(ii) the terms of any agreement and any document or writing relating to any agreement under which payment or other consideration passes from the petitioner in respect of care, maintenance, medical treatment or other necessities to or for the benefit of the parent of the child, and

- (iii) the terms of any agreement or order respecting access to the child;
 - (c) the consent in the prescribed form of the guardian of the child and of the child if the child is 12 years of age or over;
 - (d) a home assessment report in the prescribed form prepared by a qualified person on behalf of an officer of the licensed adoption agency respecting
 - (i) the suitability of the petitioner as an adoptive parent, and
 - (ii) the capability and willingness of the petitioner to assume the responsibility of a parent towards the child;
 - (e) the affidavit of any person acceptable to an officer of the licensed adoption agency respecting the fitness of the petitioner to adopt the child, or any other material that the officer may require;
 - (f) the consent in the prescribed form to the transfer of the interim care and custody of the child from a parent to the petitioner.
- (3) A petition for an adoption order in respect of a child of the spouse of a petitioner shall be filed with the Court and must be accompanied by the following documentation:
- (a) the affidavit of the petitioner setting out
 - (i) the name, date and place of birth, gender and parentage of the child, so far as is known,
 - (ii) the age, address, marital status and occupation of the petitioner and the relationship of the petitioner to the child, and
 - (iii) the name of the spouse of the petitioner;
 - (b) the consent in the prescribed form of the guardian of the child and of the child if the child is 12 years of age or over.
- 60(1)** A petitioner under section 58 shall serve by personal service not less than 30 days before the date of the hearing, a notice of the nature, time and place of the hearing of the petition and the documentation required under section 59 on
- (a) the guardians of the child,
 - (b) the child if the child is 12 years of age or over,
 - (c) a director if a person other than a director is filing the petition, and
 - (d) in the case of the adoption of a child who is not the subject of a permanent guardianship agreement or order, the biological father of the child.
- (2) If the Court is satisfied that it is proper to do so, the Court, on the ex parte application of the petitioner at any time before the time fixed for the hearing, may do any of the following:
- (a) authorize service ex juris, service by registered mail or any other form of substitutional service;

- (b) if an order is made under clause (a), extend or reduce the time within which service may be effected;
 - (c) if an order is made under clause (a), extend the time within which a hearing shall be held;
 - (d) authorize the giving of a shorter period of notice;
 - (e) dispense with service on any person other than the director.
- (3) Whether or not authorization has been given under subsection (2), the Court may do any of the following at the time of the hearing:
- (a) approve service made in a form it considers adequate in the circumstances;
 - (b) approve a shortened period as sufficient notice;
 - (c) dispense with service on any person other than the director.

61(1) A parent who places a child directly in the custody of a person who intends to petition the Court under section 58 for an adoption order in respect of the child shall give notice of the placement to a director in the prescribed form not later than 30 days after the placement.

(2) A person, in whose custody a child is placed directly by a parent, who intends to petition the Court under section 58 for an adoption order in respect of the child shall give notice of the placement to a director in the prescribed form not later than 30 days after the placement.

(3) A person who contravenes this section is guilty of an offence and liable to a fine of not more than \$5000 and in default of payment to imprisonment for a term not exceeding 3 months.

62(1) On being served with a notice under section 60, a director may conduct an investigation with respect to the proposed adoption and may file a report of the investigation with the clerk of the Court.

(2) The director shall serve on the petitioner not less than 7 days before the date of the hearing of the petition a copy of any report filed by him under subsection (1).

62.1(1) If a director or an officer of a licensed adoption agency, as the case may be, has reason to believe that a child who is being placed for adoption is an Indian and a member of a band and that the guardian who is surrendering custody of the child is a resident of a reserve, the director or officer shall consult with a chief of the council or the council of the band, or the designate of either of them, before filing the petition for an adoption order.

(2) If a director or an officer of a licensed adoption agency, as the case may be, has reason to believe that a child who is being placed for adoption is an Indian and a member of a band and that the guardian who is surrendering custody of the child is not a resident of a reserve, the director or officer shall

- (a) request the guardian who is surrendering custody of the child to consent to a consultation between the director or

officer and a chief of the council or the council of the band,
and

(b) if the guardian consents to a consultation under clause (a), consult with a chief of the council or the council of the band, or the designate of either of them, before filing the petition for an adoption order.

63(1) Unless the Court otherwise directs, the proceedings relating to the adoption of a child shall be heard in private.

(2) The petitioner and the child if the child is 12 years of age or over are entitled to be heard, in person or by counsel, at the hearing before the Court.

(3) The Court may adjourn the hearing of a petition under this Part for not more than 30 days

(a) with the consent of the parties to the petition, or

(b) if the Court is satisfied that the adjournment is necessary in order to obtain evidence to assist the Court in determining whether an adoption order should be made.

(4) Notwithstanding sections 56(1) and 59, on the hearing of a petition under this Part, the Court may make an order dispensing with the consent of

(a) a guardian of the child other than a director, or

(b) the child

if the Court, for reasons that appear to it to be sufficient, considers it necessary or desirable to do so.

63.1 The Court may, if it considers it appropriate to do so, require a petitioner who has petitioned the Court for an adoption order in respect of a child of the petitioner's spouse to submit to the Court a home assessment report in the prescribed form prepared by a qualified person respecting

(a) the suitability of the petitioner as an adoptive parent, and

(b) the capability and willingness of the petitioner to assume the responsibility of a parent towards the child.

64(1) If the Court is satisfied that

(a) the petitioner is capable of assuming and willing to assume the responsibility of a parent towards the child, and

(b) it is in the best interests of the child that the child be adopted by the petitioner,

the Court may order the adoption of the child by the petitioner.

(2) An adoption order shall be in the prescribed form and shall show the name of the child prior to the adoption.

(3) An adoption order made in respect of a child who is an Indian shall show

(a) the treaty number of the child, and

(b) if the child is a member of a band as defined in section 73, the band number of the child.

(4) If the adopting parent is a widow or widower whose deceased spouse was a party to the petition for the adoption order, the Court may, on the request of the adopting parent and with the consent of the child if the child is 12 years of age or over, name both the petitioner and the deceased spouse as the adopting parents of the child.

(5) On the request of the adopting parent and with the consent of the child if the child is 12 years of age or over, the Court may change the given name of the child in the adoption order.

(6) When an adoption order is made, the surname of the adopting parent becomes the surname of the child unless the Court orders otherwise.

64.1(1) If the Court dismisses a petition for an adoption order, no further petition for an adoption order under this Part shall be filed with the Court by or on behalf of that petitioner until the expiration of a period of not less than 2 years after the date of the hearing of the petition.

(2) Notwithstanding subsection (1), a petition may be filed with leave of the Court within the 2-year period set out in subsection (1) if the Court is satisfied that the reasons for dismissal of the previous petition no longer exist.

65(1) For all purposes, when an adoption order is made, the adopted child is the child of the adopting parent and the adopting parent is the parent and guardian of the adopted child as if the child had been born to that parent in lawful wedlock.

(2) Subject to subsection (3), for all purposes when an adoption order is made the adopted child ceases to be the child of his previous parents, whether his biological mother and biological father or his adopting parents under a previous adoption order, and his previous parents cease to be his parents and guardians.

(3) If a person adopts the child of his spouse, the child does not cease to be the child of that spouse and that spouse does not cease to be the parent and guardian of the child.

(4) In any testamentary or other document, whether made before or after the coming into force of this section, unless the contrary is expressed, a reference to a person or a group or class of persons described in terms of their relationship by blood or marriage to another person shall be deemed to refer to or to include, as the case may be, a person who comes within the description as a result of his own adoption or the adoption of another person.

(5) For all purposes, when an adoption order is made, the relationship between the adopted child and any other person is the same as it would have been if the adopting parent were the biological mother or biological father of the adopted child.

(6) Subsections (2), (4) and (5) do not apply

(a) for the purposes of the laws relating to incest, and

(b) with respect to the prohibited degrees of marriage, to remove a person from a relationship in consanguinity that, but for this section, would have existed between them.

(7) A marriage between 2 persons is prohibited if, as a result of an adoption order, the relationship between them is such that their marriage would be prohibited by the law respecting those relationships that bars the lawful solemnization of marriage.

(8) This section

(a) applies and is deemed always to have applied to an adoption made under any enactment heretofore in force, and

(b) is binding on the Crown for the purpose of construing this Act and the rights of succession affecting adopted children,

but nothing in this section affects an interest in property that has vested in a person before the making of an adoption order.

(9) An adoption order in respect of a child terminates any agreement or order made under this Act relating to the child except a restraining order made under section 28.

65.1 An adoption effected according to the law of any jurisdiction outside Alberta has the effect in Alberta of an adoption order made under this Act.

66(1) Not more than 35 days after an adoption order is made, the clerk of the Court shall send a certified copy of the adoption order to

(a) the adopting parent,

(b) a director,

(c) the Public Trustee, if

(i) a director was the guardian of the child immediately before the making of the order, and

(ii) the Public Trustee requests a copy of the order,

(d) if the adopted child is an Indian, the Registrar under the *Indian Act* (Canada), and

(e) the Director of Vital Statistics.

(2) The clerk of the Court shall provide to the Director of Vital Statistics

(a) any other information relating to an adoption order that the Director of Vital Statistics requires to enable him to carry out the requirements of the *Vital Statistics Act*, and

(b) if the adopted child was born outside Alberta, an additional certified copy of the adoption order.

(3) Where a guardian other than a director has consented to the adoption of a child, a director or an officer of a licensed adoption agency shall, within 35 days of the making of the adoption order, notify the consenting guardian that the adoption order has been made, unless the consenting guardian has indicated a desire not to be notified.

(4) If a child who is an Indian is adopted under this Act or any predecessor to this Act, the Director of Vital Statistics, on the

request of the child or his guardian, shall provide the Registrar under the *Indian Act* (Canada) with a copy of the original birth certificate of the child.

(5) The clerk of the Court shall seal all documents in the hands of the Court that relate to an adoption and those documents are not available for inspection by any person except on order of the Court or with the consent in writing of the Minister.

(6) The Minister shall seal all documents in his hands that relate to an adoption and those documents are not available for inspection by any person except on order of the Court, with the consent in writing of the Minister or pursuant to section 66.1 or 67.

(7) Notwithstanding subsections (5) and (6), the Minister or the clerk of the Court may, on request, provide a certified copy of an adoption order to

- (a) the adopted person, if that person is 18 years of age or over,
- (b) a guardian who consented under section 56 to the adoption of the child who is the subject of the adoption order, and
- (c) any person named in subsection (1).

(8) The Minister may disclose the identity of a person referred to in section 66.1 only in accordance with section 66.1 unless, in the opinion of the Minister, the disclosure is necessary to the health of the adopted person.

66.1(1) In this section, “interested person”, in respect of an adopted person, means any one or more of the following:

- (a) a biological parent of the adopted person;
- (b) an adult sibling of the adopted person;
- (c) an adult related by blood to the adopted person if the biological parents of the adopted person consent in writing to the recording of the name of the related person under subsection (4) or if the Minister is satisfied that the biological parents of the adopted person
 - (i) are deceased,
 - (ii) cannot be located, or
 - (iii) are unable by reason of mental incapacity to consent to the recording of the name of the related person under subsection (4);
- (d) if the adopted person is an Indian and if the criteria under clause (c) are met, in addition to a person referred to in clauses (a) to (c), an adult member of the band of the adopted person;
- (e) a person who was a parent of the adopted person under a previous adoption order.

(2) If an adoption order is made under this Act or any predecessor to this Act, an interested person may apply to the Minister for the disclosure to the interested person of the identity of the adopted person.

(3) An adopted person who is 18 years of age or over may apply to the Minister for the disclosure to the adopted person of the identity of an interested person who applies under subsection (2) for the disclosure of the identity of the adopted person.

(4) On receipt of an application under subsection (2) or (3), the Minister shall enter the name of the applicant in a record kept for that purpose and shall examine the record to determine

(a) when the applicant is an interested person, if the name of the adopted person is entered in the record, and

(b) when the applicant is the adopted person, if the name of an interested person is entered in the record.

(5) Notwithstanding section 66, if the applicant is

(a) the adopted person and the Minister determines that the name of an interested person referred to in subsection (1)(a) or (b) is entered in the record, or

(b) an interested person referred to in subsection (1)(a) or (b) and the Minister determines that the name of the adopted person is entered in the record,

the Minister shall disclose the identity of each of the applicants to the other.

(6) Notwithstanding section 66, if the applicant is

(a) the adopted person and the Minister determines that the name of an interested person other than an interested person referred to in subsection (1)(a) or (b) is entered in the record, or

(b) an interested person other than an interested person referred to in subsection (1)(a) or (b) and the Minister determines that the name of the adopted person is entered in the record,

the Minister shall

(c) locate and advise the adopted person that the name of that interested person is entered in the record,

(d) inquire as to whether the adopted person wishes his identity to be disclosed to that interested person, and

(e) if the adopted person agrees to the disclosure, disclose the identity of each of the applicants to the other.

(7) If, after reasonable efforts have been made, the Minister is unable to locate an adopted person or an interested person for the purposes of disclosure under subsection (5) or (6)(e), the Minister shall disclose an identity only to an adopted person or an interested person the Minister is able to locate.

(8) If an applicant withdraws his application under subsection (2) or (3), the Minister shall remove the name of the applicant from the record referred to in subsection (4).

(9) On being advised by an adopting parent that an adopted person has died, the Minister shall enter in the record referred to in

subsection (4) the name of the adopted person and the fact of his death.

67(1) Notwithstanding sections 66 and 66.1, the Minister may give information that does not disclose the identity of a child who is the subject of an adoption order, his biological mother, his biological father, his sibling or his adopting parents to that child, his biological mother, his biological father, his sibling or his adopting parents.

(2) Any person may provide the Minister with information that the Minister may disclose under subsection (1).

67.1(1) The Minister may provide financial assistance in accordance with the regulations to a person who adopts a child who was, at the time of the adoption order, the subject of a permanent guardianship agreement or order if the Minister is satisfied that

- (a) the adoption of the child by that person is desirable, and
- (b) the adoption would place an undue burden on the financial resources of that person.

(2) The Minister may review the financial assistance from time to time and may vary or terminate the financial assistance in accordance with the regulations.

68(1) No application to set aside an adoption order shall be made after the expiration of 1 year from the date of the adoption order except on the ground that the order was procured by fraud and then it may be set aside only if it is in the best interests of the adopted child to do so.

(2) Notice of the nature, time and place of the hearing of an application under subsection (1) shall be served by the applicant on

- (a) the Minister,
- (b) the adopting parent, if he is not the applicant,
- (c) the adopted child, if he is 12 years of age or over and is not the applicant,
- (d) the person who was the guardian of the child immediately before the adoption order was made,
- (e) the Public Trustee, if a director was the guardian of the child immediately before the adoption order was made, and
- (f) any other person who in the opinion of the Court should be served.

(3) If the adoption order is set aside, the applicant for the order setting it aside shall serve a copy of the order setting it aside on all those required to be served under subsection (2).

(4) The clerk of the Court shall send a certified copy of an order setting aside an adoption order to

- (a) the Director of Vital Statistics, and
- (b) if the adopted child is an Indian, the Registrar under the *Indian Act* (Canada).

- (5) When an adoption order is set aside,
 - (a) the child ceases to be the child of the adopting parent,
 - (b) the adopting parent ceases to be the parent and guardian of the child,
 - (c) the relationships to one another of the child and all persons are re-established as they were immediately before the adoption order was made,
 - (d) unless the Court orders otherwise, the person who was the guardian of the child immediately before the adoption order was made is the guardian of the child, and
 - (e) unless the Court orders otherwise,
 - (i) the child's given name is the given name he had before the adoption order was made, if any, and
 - (ii) the child's surname is the surname he had before the adoption order was made.

68.1(1) No person shall give or receive or agree to give or receive any payment or reward, whether direct or indirect,

- (a) to procure or assist in procuring, or
 - (b) to place or facilitate the placement of
- a child for the purposes of an adoption in or outside Alberta.
- (2) Subsection (1) does not apply to reasonable fees, expenses or disbursements paid to
- (a) a qualified person in respect of the preparation of a home assessment report pursuant to this Part,
 - (b) a lawyer in respect of legal services provided in connection with an adoption,
 - (c) a physician in respect of medical services provided to a child who is the subject of an adoption, or
 - (d) a licensed adoption agency, if the fees, expenses or disbursements are prescribed in the regulations.

69(1) Any person and any officer or employee of a corporation who contravenes section 68.1 is guilty of an offence and liable to a fine of not more than \$10 000 or in default of payment to imprisonment for a term not exceeding 6 months.

(2) No prosecution shall be commenced under this section except on the written authority of the Minister.

69.1(1) An application for a licence to operate an adoption agency, or for a renewal of a licence, may be submitted to a director in accordance with this Part and the regulations by

- (a) a body incorporated under the *Societies Act*,
- (b) a body referred to in Part 9 of the *Companies Act*, or
- (c) a body incorporated under Part II or III of the *Canada Corporations Act (Canada)*.

- (2) An application under subsection (1) must
 - (a) be in the prescribed form,
 - (b) be accompanied by any other information required under the regulations to enable a director to determine the capacity of the applicant to provide the services and carry out the responsibilities of a licensed adoption agency in accordance with this Act, and
 - (c) be accompanied by the prescribed fee.
- 70(1)** A director who receives an application under section 69.1 may
 - (a) issue or renew a licence,
 - (b) if the applicant does not meet the requirements under section 69.1(2), issue a conditional licence, subject to any terms and conditions the director considers appropriate and for the period the director considers appropriate, to provide the applicant time to meet the requirements, or
 - (c) if the director is not satisfied that the applicant is capable of providing the services and carrying out the responsibilities of a licensed adoption agency, refuse to issue or renew a licence.
- (2) A licence issued under this section shall
 - (a) identify the name of the corporate body to which it is issued, and
 - (b) in the case of a conditional licence, state the terms and conditions to which the licence is subject.
- (3) A licence issued under this section, other than a conditional licence, is valid for 2 years from the date of its issue.
- (4) A licence issued under this section is not transferable.
- 70.1(1)** A director may suspend or cancel the licence of a licensed adoption agency if
 - (a) the director is not satisfied that the licensed adoption agency is capable of continuing to provide the services and to carry out the responsibilities of a licensed adoption agency, or
 - (b) an officer or employee of the licensed adoption agency has contravened this Act or the regulations or has acquiesced in a contravention of this Act or the regulations or of any other Act.
- (2) If a director imposes terms and conditions under section 70(1)(b), refuses to issue or renew a licence under section 70(1)(c) or suspends or cancels a licence under subsection (1) of this section, the director shall serve on the licensed adoption agency a notice in writing in the prescribed form
 - (a) setting out that decision and the reasons for the decision, and
 - (b) informing the applicant or licensed adoption agency, as the case may be, of its right to an appeal under section 86.

(3) A decision under subsection (1) of this section or section 70(1)(b) or (c) takes effect 30 days after the date of service of the notice under subsection (2) and remains in force pending the outcome of an appeal.

(4) If a director is of the opinion that a licensed adoption agency is being operated in a manner that presents an imminent risk to the health or safety of children, he may on 48 hours' notice in writing

- (a) suspend the licence of the licensed adoption agency, and
- (b) provide to the licensed adoption agency a direction as to what remedy is required to rectify the situation.

(5) A licensed adoption agency that is served with a notice under subsection (4) shall forthwith comply with the direction set out in the notice.

(6) A director may on 48 hours' notice in writing cancel the licence of a licensed adoption agency that does not comply forthwith with the direction set out in the notice.

(7) A director shall notify the clients of a licensed adoption agency of a decision under this section forthwith.

71 A licensed adoption agency

- (a) whose licence is cancelled, or
- (b) that ceases to carry on the operation of a licensed adoption agency

shall surrender to a director its licence and the books and records in its possession that relate to its clients or to the children that it has placed for adoption.

71.1(1) A director or his delegate, on reasonable notice, at a reasonable time and on communicating to an officer of a licensed adoption agency the purpose and authority for an inspection, may

- (a) enter any land or premises of a licensed adoption agency other than a private dwelling and inspect the land or premises for the purpose of ascertaining if the licensed adoption agency is complying with this Part and the regulations,
- (b) demand the production for examination of any books, records, accounts or other documents that are or may be relevant to the purpose of the inspection, and
- (c) on giving a receipt for them, remove any of the things referred to in clause (b) for the purpose of making copies of them.

(2) A person who removes anything referred to in subsection (1)(b) may make copies of the things that were removed and shall return the things that were removed to the premises from which they were removed within a reasonable time after removing them.

(3) If a person refuses or fails

- (a) to permit entry of any land or premises under subsection (1)(a), or after permitting entry obstructs a director or his delegate in the exercise of his authority under this section,

(b) to comply with a demand under subsection (1)(b), or
(c) to permit the removal of a thing under subsection (1)(c),
the director may apply to a judge of the Court by notice of motion for an order under subsection (4).

(4) If on application under subsection (3) the judge is satisfied that there are reasonable and probable grounds to believe that access to land or premises or the production or removal of books, records, accounts or other documents is necessary for the purpose of ascertaining if the licensed adoption agency is complying with this Part and the regulations, he may make any order he considers necessary to enforce compliance with this section.

36 *Section 79 is repealed and the following is substituted:*

79 An order of the Court under this Act directing a person to make a financial contribution towards the maintenance of a child or an agreement under this Act in which a person agrees to make a financial contribution towards the maintenance of a child may be enforced pursuant to the *Maintenance Enforcement Act*.

37 *Section 80(1) is amended by adding the following after clause (a):*

(a.1) a person who was a guardian of the child immediately before the order was made,

38 *Section 85 is amended*

(a) *in subsection (2) by striking out “and the decision of an Appeal Panel is final”;*

(b) *in subsection (4) by adding “or a child who is the subject of an appeal” after “appellant”;*

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

(5) If no one is present at the hearing of an appeal to represent the interests of a child who is the subject of the appeal, the Appeal Panel may direct that the child be represented at the hearing.

(6) A decision of an Appeal Panel may be appealed to the Court of Queen’s Bench by a party to the appeal before the Appeal Panel.

(7) Sections 82 and 83 apply to an appeal under this section to the Court of Queen’s Bench.

36 Section 79 presently reads:

79 If the Court makes an order under this Act directing that financial contribution to the maintenance of a child be made by a person, the clerk of the Court of Queen's Bench shall, on the director filing an affidavit of default in the prescribed form, issue a summons to the person who is in default and the order may be enforced by the director under Part 4, except section 56(1), of the Maintenance and Recovery Act.

37 Section 80 presently reads:

80(1) An order of the Court made under this Act may be appealed to the Court of Queen's Bench not more than 30 days after the date on which the order is made or renewed by

- (a) a guardian of the child other than the Children's Guardian,*
- (b) the child, if he is 12 years of age or over,*
- (c) the child, if he is the subject of a secure treatment order, or*
- (d) a director.*

(2) If the Court refuses to make an order under this Act, the applicant may appeal the refusal to the Court of Queen's Bench not more than 30 days after the date of the refusal.

38 Section 85 presently reads:

85(1) Any Appeal Panel may hear an appeal made pursuant to section 86.

(2) 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 an Appeal Panel is final.

(3) The Administrative Procedures Act applies to the proceedings of the Appeal Panel.

(4) An appellant may be represented at the hearing of the appeal by a lawyer or by any other person.

39 Section 86 is amended

(a) in subsection (1)(c) by striking out “6 months” and substituting “6 of the 12 months immediately preceding a decision under subsection (2)”;

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

(5) A person who has been approved by a director as a foster parent may appeal the withdrawal of that approval to an Appeal Panel in accordance with this section.

(6) A person

(a) who is dissatisfied with the terms and conditions imposed by a director under section 70(1)(b),

(b) whose application for a licence or renewal of a licence is refused under section 70(1)(c), or

(c) whose licence has been suspended or cancelled under section 70.1

may appeal the decision to an Appeal Panel in accordance with this section.

40 Section 87 is amended

(a) by striking out “or the Children’s Guardian” wherever it occurs;

(b) in subsection (1) by striking out “65” and substituting “66.1”;

(c) in subsection (3) by striking out “or” at the end of clause (b), by adding “or” at the end of clause (c) and by adding the following after clause (c):

(d) any other person or any government.

(d) by adding the following after subsection (3):

(4) The Minister or a director is authorized to receive any authority delegated to him by a government or child welfare

39 Section 86 presently reads:

86(1) Any

- (a) child,*
- (b) guardian of a child, or*
- (c) foster parent or other person who has had the continuous care of the child for more than 6 months*

who is affected by a decision of a director may appeal that decision in accordance with this section.

(2) An appeal may be made from a decision of a director respecting the following:

- (a) the removal from or placement in a foster home, an adoptive home or any other place of a child who is the subject of a temporary or permanent guardianship order or a permanent guardianship agreement;*
- (b) the permitting or refusing to permit any person who has a significant relationship with the child to visit a child who is the subject of a permanent guardianship agreement;*
- (c) the disclosure of or refusal to disclose information in the possession of the Minister that relates to the appellant except information to which section 66 applies;*
- (d) the provision of or refusal to provide any support services to a child 16 years of age or over by entering into a support agreement or custody agreement;*
- (e) the refusal or failure of a director to enter into an agreement under Part 2 or to apply to the Court under Part 3 in respect of a child who, in the opinion of that director, is in need of protective services;*
- (f) the refusal or failure of a director to enter into an agreement under section 72 in respect of a handicapped child;*
- (g) any other matter prescribed in the regulations as being subject to an appeal to an Appeal Panel.*

(3) A notice of appeal in the prescribed form shall be served on the director whose decision is the subject of the appeal not more than 30 days after the date on which the appellant receives notice of the decision appealed.

(4) A person who has applied to a director to become a foster parent or to have a child who is the subject of a permanent guardianship agreement or order placed in his home for the purposes of adopting that child and whose application is refused may appeal that decision.

40 Section 87 presently reads in part:

87(1) The Minister may delegate any of the duties or powers conferred or imposed on him under this Act, except the power to delegate under subsection (2), the decision to disclose identifying information in respect of an adoption other than in accordance with section 65 and the power to make regulations under section 96, to any person or government for any purpose in connection with the administration of this Act.

(3) A director or the Children's Guardian may delegate any of the duties or powers conferred or imposed on him by a court or under this Act, including the power to form an opinion, to receive a report under section 3 or 4 or to delegate or subdelegate to

- (a) a person employed or engaged in the administration of this Act,*
- (b) a foster parent in respect of a particular child, or*

authority relating to a child who is in the custody or under the guardianship of that government or authority.

41 Section 91 is amended

- (a) in subsection (1) by striking out “65” and substituting “66.1”;*
- (b) in subsection (2) by adding the following after clause (h):*
 - (h.1) the Children’s Advocate or his delegate;*

42 Section 94(2) is repealed.

43 Section 96(2) is amended

- (a) in clause (e) by adding “, the purposes for which and the conditions on which” after “which”;*
- (b) in clause (j) by striking out “68” and substituting “67.1”;*
- (c) by adding the following after clause (o):*
 - (p) respecting the activities of the Children’s Advocate and the manner in which they shall be carried out;*
 - (q) prescribing additional duties and functions of the Children’s Advocate;*
 - (r) respecting the establishment and operation of licensed adoption agencies for the placement of children for adoption;*

(c) any other person who is providing care to a child in respect of that child.

41 Section 91 presently reads in part:

91(1) Except in proceedings under this Act or in accordance with section 65, the Minister and any person employed or assisting in the administration of this Act shall preserve secrecy with respect to the name and any other identifying information of a person that comes to his attention under this Act and shall not disclose or communicate that information to any other person except as otherwise provided in this section.

(2) Subject to section 66, the Minister or any person employed or assisting in the administration of this Act may disclose or communicate any information referred to in subsection (1) to the following:

(a) the guardian, parent or foster parent of the child to whom the information relates or the lawyer of any of them;

(b) the child to whom the information relates or his lawyer;

(c) a physician, certified psychologist or registered social worker who is responsible for any care or treatment being provided to the child to whom the information relates or for any assessment in respect of that child;

(d) a member of a police force or an agent of the Attorney General if the person disclosing the information has reasonable and probable grounds to believe that an offence under an Act of the Parliament of Canada has been committed;

(e) a teacher if he has responsibility for the education of a child to whom the information relates;

(f) the board of an approved hospital or health unit that is responsible for providing services to the child to whom the information relates;

(g) any person employed or engaged by the Minister;

(h) any person assisting the Minister in the administration of this Act;

(i) any person employed in the administration of child protection legislation in another province;

(j) any person with the consent in writing of the Minister, the child or a guardian of the child.

42 Section 94(2) presently reads:

(2) The Minister shall appoint a person as Children's Guardian for the purposes of this Act.

43 Adds regulation-making powers of the Minister. Section 96(2) presently reads:

(2) The Minister may make regulations

(a) prescribing the forms to be used under this Act other than the forms prescribed under subsection (1);

(b) prescribing the amount, nature and conditions of services and financial assistance provided under this Act;

(c) respecting support services;

(d) prescribing the rates payable by the Minister for the provision of any protective services under this Act;

(e) prescribing the period for which a person may be provided with care and maintenance under section 33(2);

- (f) prescribing institutions as secure treatment institutions;*
- (g) prescribing the standards of diagnostic and treatment services to be provided in a secure treatment institution;*
- (h) prescribing the level of security required for the confinement of a child in a secure treatment institution;*
- (i) defining "handicapped child" for the purposes of this Act;*
- (j) respecting the amount, nature, conditions and reviews of any financial assistance granted under section 68;*
- (k) prescribing a schedule of fees that will be paid by the Minister to lawyers appointed under section 78;*
- (l) prescribing matters that may be the subject of an appeal to an Appeal Panel;*
- (m) repealed 1985 c16 s30;*
- (n) prescribing those persons required to keep records under this Act;*
- (o) prescribing any other matter required to be prescribed under this Act.*

44 Section 114 presently reads:

114(1) Section 55 is repealed on Proclamation.

(2) An application for an adoption order commenced before the coming into force of this section shall be concluded as if this section had not come into force.

45 Consequential amendments to the changes to the office of the Children's Guardian.

(2) *In the following provisions, “the Children’s Guardian” is struck out wherever it occurs and “a director” is substituted:*

- section 29(1);
- section 32(2);
- section 37;
- section 50(1)(c);
- section 52(2)(a);
- section 80(1)(a);
- section 82(3)(a);
- section 93(1)(a).

46(1) *In the following provisions, “the Children’s Guardian” is struck out wherever it occurs and “a director under the Child Welfare Act” is substituted:*

Act	Section
Alberta Health Care Insurance Act	13
Maintenance Order Act	4
Maintenance and Recovery Act	21(1)(d)
Public Trustee Act	4(f)
Vital Statistics Act	6

(2) *Section 13 of the Fatality Inquiries Act is amended*

(a) *by striking out “The Children’s Guardian” and substituting “A director under the Child Welfare Act”;*

(b) *by striking out “the custody of a director pursuant to the Child Welfare Act” and substituting “his custody”.*

(3) *Section 18(2)(d) of the Marriage Act is amended by striking out “the Children’s Guardian pursuant to the Child Welfare Act, the consent may be given by the Children’s Guardian” and substituting “a director under the Child Welfare Act, the consent may be given by that director”.*

(4) *Section 1(i)(i) of the Mental Health Act is amended by striking out “the Children’s Guardian pursuant to” and substituting “a director under”.*

(5) *Section 1(i)(ii) of the School Act is repealed and the following is substituted:*

(ii) *if a child is under the guardianship of a director under the Child Welfare Act, that director, and*

47(1) *Any application or proceeding that was commenced before the coming into force of this Act shall be concluded as if this Act had not come into force.*

(2) *A child who was under the guardianship of the Children’s Guardian before the coming into force of this Act is deemed to be under the guardianship of a director.*

48 *This Act comes into force on Proclamation.*

46 Consequential amendments.

47 Transitional.

48 Coming into force.