

1995 BILL 211

Third Session, 23rd Legislature, 44 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 211

PROTECTION FOR PERSONS IN CARE ACT

MR. TANNAS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 211
Mr. Tannas

BILL 211

1995

PROTECTION FOR PERSONS IN CARE ACT

(Assented to _____, 1995)

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

Definitions

1 In this Act,

(a) "agency" means

(i) an approved hospital as defined in the *Hospitals Act*,

(ii) a lodge accommodation as defined in the *Alberta Housing Act*,

(iii) a nursing home as defined in the *Nursing Home Act*,

(iv) a facility as defined in the *Social Care Facilities Review Committee Act*, or

(v) any institution or organization designated by regulation as an agency;

(b) "client" means an individual who receives services from an agency;

(c) "Committee" means the Social Care Facilities Review Committee;

(d) "complainant" means an individual, client or service

provider who, in good faith, reports abuse of a client to the Committee or a law enforcement agency;

(e) "Minister" means the Minister of Family and Social Services;

(f) "service provider" means a person who provides services to a client who is employed by or provides services on behalf of an agency.

**Duty to report
abuse**

2(1) Every individual or service provider who has reasonable and probable grounds to believe and believes that there is or has been abuse against a client must report such abuse to the Committee.

(2) Subsection (1) applies notwithstanding that the information on which the belief is founded is confidential and its disclosure is prohibited under any other Act.

(3) This section does not apply to information that is privileged as a result of a solicitor-client relationship.

(4) Notwithstanding and in addition to any other penalty provided by this Act, if the Committee has reasonable and probable grounds to believe that a person has not complied with subsection (1) and that person is registered under an Act regulating a profession or occupation prescribed in the regulations, the Committee shall advise the appropriate governing body of that profession or occupation of the failure to comply.

(5) Any person who fails to comply with subsection (1) is guilty of an offence and liable to a fine of not more than \$2000 and in default of payment to imprisonment for a term of not more than 6 months.

**Complainant
protection**

3(1) No action lies against a complainant unless the complaint is made maliciously or without reasonable and probable grounds for the belief.

(2) No agency shall take adverse employment action against a service provider because that person is a complainant.

(3) No agency or person shall alter, interrupt, discontinue or

threaten to alter, interrupt or discontinue service to a client, or a client's spouse, child or parent who receives services from an agency because the client is a complainant.

(4) Any person who violates subsection (2) or (3) is guilty of an offence and is liable

(a) in the case of an individual, to a fine not more than \$5000, or

(b) in the case of an agency, to a fine of not more than \$25 000.

Duties of an agency 4(1) Every agency shall have a duty to protect the clients it serves from abuse and to maintain a reasonable level of safety for its clients.

(2) Every agency shall make the provisions of this Act available to employees and clients.

(3) Every agency must require that every applicant for employment provide a criminal records check.

Investigations by the Committee 5(1) When the Committee receives a complaint under section 2, it shall review and investigate the matter in accordance with the *Social Care Facilities Review Committee Act* unless the Committee is satisfied that

(a) the complaint was made maliciously,

(b) the complaint was made without reasonable and probable grounds for the belief, or

(c) the complaint or evidence is unfounded.

(2) Notwithstanding any other provision of this section, if the Committee receives a complaint under section 2, the subject matter of which could, in its opinion, constitute an offence under the *Criminal Code* (Canada) then the Committee shall forthwith refer the complaint to a law enforcement agency.

(3) When the Committee receives a complaint under this Act it shall report to the Minister within 30 days and provide the

complainant and agency or service provider which is the subject of the complaint with a copy of its report.

(4) After completing its investigation, the Committee may recommend in its report to the Minister:

- (a) that if the agency receives funding from the Crown or any Crown agency that the funding be reviewed or altered;
- (b) that the complaint be referred to a law enforcement agency;
- (c) that an agency take disciplinary action against an employee or service provider;
- (d) that the complaint be dismissed; or
- (e) any other action that it deems appropriate in the circumstances.

(5) Upon receiving a report from the Committee, the Minister may

- (a) approve the recommendations of the Committee;
- (b) order that the Committee undertake a further hearing; or
- (c) reject the recommendations of the Committee.

(6) The decision of the Minister is final and binding.

Regulations

6 The Lieutenant Governor in Council may make regulations

- (a) designating institutions or organizations as agencies under this Act;
- (b) prescribing the professions or occupations to which section 2(4) applies.

Reference to other body

7(1) Notwithstanding any other provision of this Act or the *Social Care Facilities Review Committee Act*, the Committee may refer a complaint to another committee, body or person

established by statute to investigate that complaint if the matter falls within the jurisdiction of that committee, body or person.

(2) Any committee, body or person to which a complaint is referred under subsection (1) must report to the Minister within 30 days of the receipt of the referred complaint.

(3) When the Committee refers a complaint to another committee, body or person under subsection (1) it shall notify the complainant forthwith of the reference.

(4) When a complaint is referred under subsection (1), the time limit imposed in section 5(3) does not apply to the Committee.

Actions against the
Committee or
others

8 No action lies against the Committee, any of its members, former members or any other person who is or was employed or engaged by the Committee for anything done in good faith under this Act.

RSA 1980 cS-15

9 *The Social Care Facilities Review Committee Act is amended by adding the following after section 8:*

Duties under the
Protection of
Persons in Care
Act

8.1(1) Notwithstanding any other provision of this Act, the Committee may investigate any complaint concerning an agency or service provider under the *Protection of Persons in Care Act*, as if the complaint were made under this Act.

(2) When the Committee receives a complaint under the *Protection of Persons in Care Act*, the Committee has all the powers and responsibilities under sections 8 to 16 of this Act.

Crown bound

10 This Act binds the Crown.

Coming into force

11 This Act comes into force on Proclamation.