

1996 BILL 26

Fourth Session, 23rd Legislature, 45 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 26

**CHILD AND FAMILY SERVICES
AUTHORITIES ACT**

MR. SHARIFF

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 26
Mr. Shariff

BILL 26

1996

CHILD AND FAMILY SERVICES AUTHORITIES ACT

(Assented to , 1996)

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WHEREAS the safety, security and well-being of children and families is a paramount concern of the Government of Alberta;

WHEREAS parents, families, extended families and communities have a right and a responsibility to care for their children;

WHEREAS Alberta recognizes and values the ability of communities to support and respond to the needs of children, families and other members of the community;

WHEREAS the safety, security and well-being of children, families and other members of the community is best achieved through an integrated response to social problems and through the enhancement of prevention and early intervention programs and services;

WHEREAS in developing and providing programs and services for children, families and other members of the community, the diversity of culture in Alberta must be acknowledged and respected;

WHEREAS the development and provision of programs and services to First Nations, Metis and other aboriginal peoples must reflect their values, beliefs and customs in a respectful and collaborative manner;

WHEREAS the Government of Alberta has an ongoing responsibility to ensure and oversee the provision of statutory programs and services to children, families and other members of the community;

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

Definitions

1 In this Act,

- (a) “agreement” means, except in section 12, an agreement entered into under section 7;
- (b) “Authority” means a Child and Family Services Authority established under section 3;
- (c) “child and family services” means the programs and services for which an Authority has assumed responsibility pursuant to an agreement, and may include the following:
 - (i) programs and services under the *Child Welfare Act*;
 - (ii) programs and services under the *Social Care Facilities Licensing Act*;
 - (iii) the provision of social allowance for the care of children under section 9 of the *Social Development Act*;
 - (iv) the funding of women’s shelters and other safe living arrangements for victims of family violence;

- (v) education and prevention with respect to child abuse and domestic violence;
 - (vi) early intervention designed to prevent family isolation and breakdown;
 - (vii) financial assistance to eligible families needing out of home child care;
 - (viii) assistance to families involved in child custody and access disputes;
 - (ix) any other program or service prescribed in the regulations;
- (d) “Minister”, except in section 12, means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (e) “region” means a child and family services region established under section 2;
- (f) “service provider” means a person or organization providing child and family services under contract with an Authority.

Establishment of regions

2(1) The Minister may by order establish one or more child and family services regions in Alberta.

(2) An order under subsection (1) must name the region and describe its boundaries.

(3) The *Regulations Act* does not apply to an order under this section.

Establishment of Child and Family Services Authorities

3(1) Each region is to be administered by a Child and Family Services Authority.

(2) An Authority consists of not more than 15 members appointed by the Minister from nominations submitted to the Minister in accordance with the regulations.

(3) The Minister may establish a panel to review nominations submitted under subsection (2) and to make recommendations to the Minister concerning the appointment of members to an Authority.

(4) The Minister shall, when appointing members to an Authority, have regard to

- (a) the desirability of achieving a diversity of qualifications, backgrounds and experience among members, and
- (b) the aboriginal population of the region administered by the Authority.

(5) A member of an Authority must be resident in the region administered by that Authority.

(6) A member of an Authority may be appointed for a term of not more than 3 years and for not more than 2 consecutive terms.

(7) A member of an Authority continues to hold office after the expiry of that member's term of office until the member is reappointed, a successor is appointed or a period of 3 months has expired, whichever occurs first.

(8) The chair of an Authority is to be appointed by the Minister.

(9) The Minister may, with respect to members of an Authority and members of a panel established under subsection (3), authorize and provide for the payment of remuneration and travelling, living and other expenses incurred by members in the course of their duties.

Powers of Authority

4(1) An Authority is a corporation consisting of its members and, subject to this Act and the regulations, has the rights, powers and privileges of a natural person.

(2) An Authority may not operate for profit and must apply all its surpluses towards carrying out its responsibilities under section 9.

(3) An Authority may not enter into any transaction, directly or indirectly, to borrow money.

(4) Any money received by an Authority pursuant to a contract for the provision of goods or services by the Authority forms part of the funds of the Authority.

By-laws

5(1) Subject to this Act and the regulations, an Authority may make by-laws respecting the conduct of the business and affairs of the Authority.

(2) A by-law does not become effective until it is approved by the Minister.

(3) The *Regulations Act* does not apply to the by-laws of an Authority.

Agent of
Crown

6 An Authority is an agent of the Crown in right of Alberta.

Agreements

7(1) The Minister and an Authority may enter into an agreement that addresses the following:

- (a) the child and family services for which the Authority is responsible;
- (b) the administrative and other services to be provided to the Authority by the Minister;
- (c) the funding and other resources to be provided to the Authority by the Minister;
- (d) the designation by the Minister of statutory officials in the region administered by the Authority;
- (e) the delegation by the Minister of powers and duties to the Authority, employees of the Authority or any person acting on behalf of the Authority;
- (f) the transfer of assets and contractual obligations from the Minister to the Authority;
- (g) the transfer of responsibility for the care and maintenance of children who are the subjects of agreements and orders under the *Child Welfare Act* from the Minister to the Authority;
- (h) any other matter agreed to by the parties.

(2) If an agreement provides that an Authority is responsible for child and family services that are under the administration of a member of Executive Council other than the Minister,

- (a) that member of Executive Council must be a party to the agreement, and
- (b) subsection (1)(b) to (f) apply with respect to that member of Executive Council.

Responsi-
bilities of
Government

8 Subject to the terms of any agreement, the Minister and any other member of Executive Council who is a party to an agreement are responsible for the following:

- (a) setting objectives and strategic direction for the provision of child and family services;

- (b) establishing policies and standards for the provision of child and family services;
- (c) monitoring and assessing Authorities in the carrying out of their responsibilities under section 9;
- (d) allocating funding and other resources to Authorities;
- (e) providing administrative and other support services to Authorities.

Responsi-
bilities of
Authority

9(1) Subject to the terms of an agreement, this Act and the regulations, an Authority is responsible for the following:

- (a) promoting the safety, security, well-being and integrity of children, families and other members of the community;
- (b) planning and managing the provision of child and family services;
- (c) determining priorities in the provision of child and family services and allocating resources accordingly;
- (d) assessing on an ongoing basis the social and other related needs of the region;
- (e) ensuring reasonable access to quality child and family services;
- (f) ensuring that policies and standards established pursuant to section 8 are followed;
- (g) monitoring and assessing the provision of child and family services;
- (h) working with other Authorities, the Government and other public and private bodies to co-ordinate the provision of child and family services.

(2) In carrying out its responsibilities under subsection (1), an Authority must involve

- (a) children, families and other members of the community who receive or who benefit from child and family services, and
- (b) other interested members of the community.

- Directions by Minister **10** The Minister and any other member of Executive Council who is a party to an agreement may give directions to an Authority for the purposes of
- (a) providing priorities and guidelines for it to follow in carrying out its responsibilities, and
 - (b) co-ordinating the work of the Authority with the programs, policies and work of the Government, other Authorities and other public and private bodies in order to achieve the efficient provision of child and family services and to avoid duplication of effort and expense.
- Public interest **11** If the Minister or any other member of Executive Council who is a party to an agreement considers that it is in the public interest to do so, the Minister or the member, as the case may be, may provide or arrange for the provision of child and family services in any region, whether or not those services are also being provided in that region by an Authority.
- First Nations **12(1)** In this section, “Minister” means the Minister responsible for the *Child Welfare Act*.
- (2) Nothing in this Act
- (a) invalidates any agreement entered into by the Minister with a First Nation under the *Child Welfare Act*, or
 - (b) affects the role of the Minister in negotiating and entering into such agreements.
- Fiscal year **13** The fiscal year of an Authority is April 1 to the following March 31.
- Reports **14** An Authority must, on the request of the Minister, provide to the Minister any records, reports or other information specified by the Minister in the form specified by the Minister.
- Meetings **15** A meeting of an Authority must be open to the public unless the Authority determines that holding the meeting or part of it in public could result in the release of
- (a) information that might impair the ability of the Authority to carry out its responsibilities, or

- (b) information relating to the personal interest, reputation or privacy of any person.

Inspection
powers

16(1) For the purposes of this section, “inspector” means

- (a) the Minister or a person authorized by the Minister, or
- (b) in the case of an inspection with respect to a service provider,
 - (i) the Minister or a person authorized by the Minister, or
 - (ii) a person authorized by an Authority.

(2) Subject to subsections (1) and (3), for the purpose of ensuring compliance with this Act and the regulations, an inspector may

- (a) enter and inspect any place owned or operated by an Authority or a service provider,
- (b) require the production for examination of any documents or records in the possession of the Authority or service provider and make copies of them or temporarily remove them for the purpose of making copies, and
- (c) inspect and take samples of any material, food, medication or equipment being used in the provision of child and family services.

(3) Before exercising any powers under subsection (2) with respect to a service provider, an inspector must obtain the permission of the service provider.

(4) An inspector who removes documents or other records or samples of any material, food, medication or equipment under subsection (2) must

- (a) give a receipt for the items to the person from whom the items were taken,
- (b) on request, provide a copy of the documents or records removed to the person from whom they were taken or to a person who is entitled to custody of them, and
- (c) forthwith return the items to the person from whom they were taken when they have served the purposes for which they were taken.

(5) If anyone prevents an inspector from or obstructs or hinders an inspector in exercising powers under subsection (2), or if the permission required under subsection (3) is refused or cannot reasonably be obtained, a judge of the Court of Queen's Bench may, on the application of the inspector, make any order that the judge considers necessary to permit the inspector to exercise those powers.

(6) An application under subsection (5) may be made ex parte if the judge considers it proper in the circumstances.

Inquiry

17(1) The Minister may appoint a person to conduct an inquiry with respect to any matter concerning

- (a) the provision of child and family services by an Authority or a service provider, or
- (b) the carrying out of an Authority's responsibilities under section 9.

(2) In conducting an inquiry under this section, the appointed person has all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

(3) The Minister may authorize and provide for the payment of remuneration and travelling, living and other expenses incurred by the appointed person in the course of that person's duties.

Dismissal of Authority

18(1) The Minister may by order dismiss all the members of an Authority and appoint an official administrator in the Authority's place if the Minister considers that the Authority is not properly exercising its powers or carrying out its duties under this Act or under an agreement, or if for some other reason the Minister considers it to be in the public interest to dismiss the members of the Authority.

(2) An official administrator appointed under subsection (1)

- (a) has all the power of the Authority,
- (b) must perform all the duties and assume all the contractual obligations of the Authority, and
- (c) may be paid, as an operating expense of the Authority, the remuneration and expenses determined by the Minister.

(3) If in the opinion of the Minister an official administrator is no longer required, the Minister may appoint a new Authority.

- Liability **19** No action for damages may be commenced against a member of an Authority for anything done or not done by that person in good faith while carrying out duties or exercising powers under this or any other enactment.
- Regulations **20(1)** The Lieutenant Governor in Council may make regulations
- (a) prescribing programs and services for the purposes of section 1(c);
 - (b) respecting the manner in which prospective members of an Authority are nominated;
 - (c) respecting eligibility requirements for members of an Authority;
 - (d) respecting the investment powers of an Authority;
 - (e) respecting the winding-up of the affairs of an Authority.
- (2)** The Minister may make regulations
- (a) respecting the standards to be followed by an Authority in the planning, management and provision of child and family services;
 - (b) requiring an Authority to keep records and respecting the form and manner in which the records must be kept and the information they must contain;
 - (c) respecting the types of electronic systems to be used by Authorities for data transmission and storage and the standards that those systems must meet;
 - (d) respecting the sharing of information between Authorities and service providers.
- Review **21** The Minister must begin a comprehensive review of this Act within 3 years after the effective date of the Proclamation of this Act and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the Minister.
- Amends SA
1995 c2 **22** *The Agreement on Internal Trade Statutes Amendment Act, 1995 is amended in section 4 in the new clause (a.1) by striking out “a director” and substituting “the Minister”.*

23(1) *The Child Welfare Act is amended by this section.*

(2) *Section 1(1) is amended by adding the following after clause (d):*

(d.1) *“Child and Family Services Authority” means a Child and Family Services Authority established under the Child and Family Services Authorities Act;*

(3) *Section 66 is amended*

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

(b) *in subsection (3) by striking out “a director or”.*

(4) *Section 67.1 is amended*

(a) *in subsection (1)*

(i) *by striking out “The Minister” and substituting “A director”;*

(ii) *by striking out “Minister is satisfied that” and substituting “director is satisfied that”;*

(b) *in subsection (2) by striking out “Minister” and substituting “director”.*

(5) *Section 70(1) is amended*

(a) *by striking out “A director who receives an application under section 69.1 may” and substituting “The Minister, after receiving an application under section 69.1, may”;*

(b) *by striking out “the director” wherever it occurs and substituting “the Minister”.*

(6) *Section 70.1 is amended*

(a) *by striking out “A director” wherever it occurs and substituting “The Minister”;*

(b) *by striking out “a director” wherever it occurs and substituting “the Minister”;*

(c) *by striking out “the director” wherever it occurs and substituting “the Minister”.*

(7) *Section 71.1 is amended*

(a) in subsection (1) by striking out “A director” and substituting “The Minister”;

(b) in subsection (3)

(i) in clause (a) by striking out “a director” and substituting “the Minister”;

(ii) by striking out “the director” and substituting “the Minister”.

(8) Section 75 is amended

(a) in subsection (4) by adding “a director,” after “the Minister,”;

(b) in subsection (5) by adding “, a director” after “The Minister”.

(9) Section 77 is amended

(a) in subsection (2) by adding “, the Minister” after “the director”;

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

(2.1) The Minister need not be served with notice of any proceeding under Part 3 or 4.

(10) Section 80(1) is amended by striking out “or” at the end of clause (c), adding “, or” at the end of clause (d) and adding the following after clause (d):

(e) the Minister.

(11) Section 85(6) is amended by adding “or by the Minister” after “the Appeal Panel”.

(12) Section 86 is amended

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

86(1) The Minister or any of the following persons who are affected by a decision of a director may appeal that decision in accordance with this section:

(a) a child;

(b) a guardian of a child;

Administrative
appeals

(c) a foster parent or other person who has had the continuous care of the child for more than 6 of the 12 months immediately preceding a decision under subsection (2).

(b) in subsection (2)(c) by adding “or a director” after “the Minister”.

(13) Section 87 is amended

(a) in subsection (1) by adding “to a Child and Family Services Authority or” after “under section 96,”;

(b) in subsection (2) by adding “to a Child and Family Services Authority or” after “or subdelegate,”.

(14) Section 91 is amended

(a) in subsection (2)(g) by adding “or by a Child and Family Services Authority” after “the Minister”;

(b) in subsection (4) by striking out “reports to the Minister” and substituting “reports to a director”.

(15) Section 95 is repealed and the following is substituted:

Offence

95 Any person who

(a) wilfully causes a child to be in need of protective services, or

(b) obstructs or interferes with, or attempts to obstruct or interfere with, a director, a child welfare worker, a peace officer or any other duly authorized person exercising any power or duty under this Act

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.

(16) Section 96(2) is amended in clauses (d) and (k) by striking out “by the Minister”.

(17) The following provisions are amended by striking out “the Minister” wherever it occurs and substituting “a director”:

section 1(1)(c)(iv);
section 33(2);
section 78(4).

(18) *The following provisions are amended by striking out “a director” wherever it occurs and substituting “the Minister”:*

section 68.11(1)(d);
section 69.1(1) and (2)(b);
section 71.

Amends SA
1991 cC-22.1

24 *The Conflicts of Interest Act is amended in Part 3 of the Schedule by adding “Child and Family Services Authority under the Child and Family Services Authorities Act” after “Body incorporated under section 6 of the Universities Act”.*

Amends RSA
1980 cS-14

25(1) *The Social Care Facilities Licensing Act is amended by this section.*

(2) *Section 1 is amended*

(a) by repealing clause (a.1) and substituting the following:

(a.1) “director” means an individual designated by the Minister as a director for the purposes of this Act;

(b) by repealing clause (e.1).

(3) *Section 3 is repealed and the following is substituted:*

Designation of
director

3(1) The Minister may designate one or more individuals as directors for the purposes of this Act.

(2) A director may delegate any of the duties imposed or powers conferred on the director under this Act, including the power to form an opinion and to delegate or subdelegate, to any person or government.

(4) *Section 5 is amended in subsections (1)(a), (2) and (7) by striking out “the Director” wherever it occurs and substituting “a director”.*

(5) *Section 4 is amended*

(a) in subsection (1)

(i) by striking out “subsection (2)” and substituting “subsections (2) and (3)”;

(ii) by striking out “the Director” and substituting “a director”;

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

(3) The operator of a social care facility does not require a licence under subsection (1) if

- (a) the facility is an exempted facility as described in the regulations, and
- (b) the operator has complied with any conditions prescribed in the regulations for an exemption from licensing.

(6) *Section 6 is amended*

(a) *in subsections (1), (1.1), (2) and (3) by striking out “an officer” wherever it occurs and substituting “a director”;*

(b) *in subsection (4)*

(i) *by striking out “an officer” and substituting “a director”;*

(ii) *by striking out “the officer” wherever it occurs and substituting “the director”.*

(7) *Section 7 is amended by striking out “an officer” and substituting “a director”.*

(8) *Section 8 is amended*

(a) *in subsection (1)*

(i) *by striking out “When the Director” and substituting “When a director”;*

(ii) *by striking out “the Director may” and substituting “the director may”;*

(b) *in subsections (2), (3) and (5) by striking out “the Director” and substituting “the director”.*

(9) *Section 9(8) is amended by striking out “The Director” and substituting “The director”.*

(10) *Section 10 is amended*

(a) *in subsection (1)*

(i) *by striking out “If the Minister” and substituting “If a director”;*

(ii) *by striking out “the Minister may” and substituting “the director may”;*

(b) *in subsection (4) by striking out “the Director” and substituting “the director”;*

(c) *in subsection (6)(b) by striking out “an officer of the Minister’s Department” and substituting “the director”;*

(d) *in subsection (7)*

(i) *in clause (b) by striking out “an officer of the Minister’s Department authorized by the Minister for the purpose and any other persons assisting that officer” and substituting “any person authorized by the director for the purpose and any other persons assisting that person”;*

(ii) *in clause (c)*

(A) *by striking out “the Minister” and substituting “the director”;*

(B) *by striking out “by the Government”;*

(e) *in subsections (2), (3), (6) and (8) by striking out “the Minister” wherever it occurs and substituting “the director”.*

(II) *Section 11 is amended by adding the following after clause (i):*

(i.1) *describing categories of social care facilities as exempted facilities for the purposes of section 4(3);*

(i.2) *prescribing conditions for an exemption from licensing under section 4(3);*

Expiry

26(1) *Notwithstanding section 81.1 of the Financial Administration Act, this Act expires on March 31, 2004 unless it is continued for a further period by an order of the Lieutenant Governor in Council.*

(2) *If this Act is continued for a further period by an order of the Lieutenant Governor in Council, section 81.1 of the Financial Administration Act applies to this Act.*

Coming into
force

27(1) *This Act, except section 26, comes into force on Proclamation.*

(2) *Section 26 comes into force on the date section 16 of the Financial Administration Amendment Act, 1993 comes into force.*