

1997 BILL 216

Fifth Session, 23rd Legislature, 46 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 216

PARENTAL RESPONSIBILITY ACT

MR. HLADY

First Reading

Second Reading GOVERNOR GENERAL

Committee of the Whole

Third Reading

Royal Assent

Bill 216
Mr. Hlady

BILL 216

1997

PARENTAL RESPONSIBILITY ACT

(Assented to _____, 1997)

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

Definitions

1 In this Act,

- (a) "child" means a person who is under the age of 18 years;
- (b) "court" means
 - (i) the Provincial Court, or
 - (ii) the Court of Queen's Bench;
- (c) "director" means a person designated as a director for the purposes of the *Child Welfare Act*;
- (d) "owner" includes a person who has the legal right of possession of the property;
- (e) "parent" includes, in respect of a child, any person who is under a legal duty to provide for that child or any person who has, in law or in fact, the custody or control of that child, but does not include a director who is responsible pursuant to the *Child Welfare Act* for the custody or guardianship of a child;
- (f) "property loss" means the loss experienced by an owner of

property as a result of an act of a child as described in section 3.

- Purpose** **2** The purpose of this Act is to ensure that parents are held reasonably accountable for the activities of their children in relation to the property of other people.
- Parent's liability** **3** The parent of a child who deliberately takes, damages or destroys the property of another person is liable for the loss suffered by the owner of the property as a result of the activity of the child, and the owner of the property may commence a civil action under this Act against the parent of the child to recover damages, in an amount not exceeding \$10,000, in respect of the owner's loss.
- Certificate as proof** **4** In an action under this Act, a certified copy of the disposition under the *Young Offenders Act* (Canada) purporting to be signed by an officer of the court of record and showing that the child has been found guilty of an offence in respect of the activity that caused the property loss is proof, in the absence of evidence to the contrary, that the child was found guilty of an offence under that Act and that the child caused the property loss of the owner.
- Provincial Court** **5** The provisions of Part 4 of the *Provincial Court Act* and the regulations made under that Act to the extent they are not changed by or provided for in this Act or the regulations under this Act apply to proceedings under this Act before the Provincial Court.
- Court of Queen's Bench** **6** An action commenced under this Act in the Court of Queen's Bench shall be by originating notice.
- One award** **7** For greater certainty, not more than one award of damages may be made under this Act arising out of the same act of the same child.
- Defence** **8(1)** It is a defence to an action under this Act if the parent establishes to the satisfaction of the court that he
- (a) was exercising reasonable supervision over the child at the

time the child engaged in the activity that caused the property loss; and

- (b) made reasonable efforts in good faith to prevent or discourage the child from engaging in the kind of activity that resulted in the property loss.

(2) The onus of establishing a defence under subsection (1) rests with the parent.

(3) In determining whether a parent exercised reasonable supervision over a child or made reasonable efforts to prevent or discourage the child from engaging in the kind of activity that resulted in the property loss, the court may consider

- (a) the age of the child;
- (b) the prior conduct of the child;
- (c) the potential danger of the activity;
- (d) the physical or mental capacity of the child;
- (e) any psychological or other medical disorders of the child;
- (f) whether the danger arising from the child's conduct was reasonably foreseeable by the parent;
- (g) whether the parent was responsible for the care and control of the child at the time when the child engaged in the activity that resulted in the property loss;
- (h) if the child was temporarily out of the care and control of the parent when the child engaged in the activity that resulted in the property loss, whether the parent made reasonable arrangements for the supervision of the child in the temporary location;
- (i) whether the parent has sought to improve his parenting skills by attending parenting courses or otherwise;
- (j) whether the parent has sought professional assistance for the child designed to discourage activity of the kind that resulted in the property loss; and

(k) any other matter that the court considers relevant to the determination.

Method of payment

9(1) In awarding damages under this Act, the court may order payment of the damages

(a) to be made in full before a fixed date; or

(b) to be made in installments by fixed dates, if the court considers that a lump sum payment is beyond the financial resources of the parent or will otherwise impose an unreasonable financial burden on the parent.

(2) When an order under subsection (1) is made, the court may require the parent to provide security in any form that the court considers appropriate.

Insurers subrogated

10 An insurer who has paid an amount as compensation to a person in connection with property loss is subrogated to the rights of that person under this Act to the extent of that amount.

Right of action in addition to other rights

11(1) Subject to subsection (2), the right of action and remedies under this Act are in addition to any other right of action or remedy that may be available, but this section is not to be construed as requiring any damages awarded under this Act to be disregarded in assessing damages in any other proceedings arising out of the same activity of the child.

(2) In determining the amount of damages under this Act, the court may consider any amount ordered as restitution under the *Young Offenders Act* (Canada).

Regulations

12 The Lieutenant Governor in Council may make regulations

(a) governing the practice and procedures in matters before the Provincial Court under this Act;

(b) concerning all matters that by this Act are required to be prescribed for carrying out or giving effect to this Act.

Coming into
force

13 This Act comes into force on Proclamation.