

1997 BILL 27

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First Session, 24th Legislature, 46 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 27

CHILD WELFARE AMENDMENT ACT, 1997

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MS FORSYTH

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First Reading .....  
Second Reading .....  
Committee of the Whole .....  
Third Reading .....  
Royal Assent .....

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*Bill 27*  
*Ms Forsyth*

## **BILL 27**

1997

### **CHILD WELFARE AMENDMENT ACT, 1997**

*(Assented to , 1997)*

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

Amends SA  
1984 cC-8.1

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

**2 Section 1(3)(c) is amended by adding “including prostitution related activities” after “behaviour”.**

**3 Section 68.11(1) is amended by adding the following after clause (c):**

(c.1) the Central Authority for Alberta as designated in Part 6.1 or any person authorized by the Central Authority for Alberta;

**4 The following is added after section 71.1:**

## Explanatory Notes

**1** Amends chapter C-8.1 of the Statutes of Alberta, 1984.

**2** Section 1(3) presently reads in part:

*(3) For the purposes of this Act,*

*(c) a child is sexually abused if the child is inappropriately exposed or subjected to sexual contact, activity or behaviour.*

**3** Section 68.11 presently reads:

*68.11(1) No person other than the following shall place or facilitate the placement of a child for the purpose of an adoption:*

*(a) a parent of the child;*

*(b) a director;*

*(c) a licensed adoption agency;*

*(d) a person authorized by a director in accordance with the regulations.*

**4** Intercountry adoption.

## PART 6.1

### INTERCOUNTRY ADOPTION WITH RESPECT TO DESIGNATED STATES

Interpretation

**71.2(1)** In this Part,

- (a) “competent authority for Alberta” means a competent authority designated in the regulations under this Part;
- (b) “designated State” means a State recognized as a designated State under section 71.95;
- (c) “licensed adoption agency” means an adoption agency that holds a licence under section 70;
- (d) “State” means a country or a political subdivision of a country.

**(2)** The Central Authority for Alberta is the Central Authority as provided for in section 71.4.

Scope of Part  
6.1

**71.25(1)** This Part applies if, for the purposes of adoption,

- (a) a child habitually resident in a designated State has been, is being or is to be moved to Alberta
  - (i) after the child’s adoption in the designated State, or
  - (ii) for the purposes of adoption in Alberta or in the designated State,

or

- (b) a child habitually resident in Alberta has been, is being or is to be moved to a designated State
  - (i) after the child’s adoption in Alberta, or
  - (ii) for the purposes of adoption in the designated State.

**(2)** This Part applies only to adoptions that create a permanent parent-child relationship.

**(3)** This Part ceases to apply to a child if the agreements described in section 71.65(1)(c) and (2)(c) have not been made before the child attains the age of 18 years.



Paramourncy

**71.3** Part 6 applies to an adoption to which this Part applies, but if there is a conflict between Part 6 and this Part, this Part prevails.

Intercountry  
adoptions

**71.35(1)** If a child is habitually resident in a designated State, an adoption under this Part may take place only if the competent authority for Alberta

- (a) has determined that the prospective adoptive parents are eligible and suited to adopt,
- (b) has ensured that the prospective adoptive parents have been counselled as necessary, and
- (c) is satisfied that the child is or will be authorized to enter and reside permanently in Canada.

**(2)** If a child is habitually resident in Alberta, an adoption under this Part may take place only if the competent authority for Alberta

- (a) has established that the child is adoptable,
- (b) has determined, after possibilities for placement of the child within Canada have been given due consideration, that an intercountry adoption is in the child's best interests,
- (c) has ensured that those who are required to consent to the adoption have been informed of the effect of the consent and have given consent freely in writing in the required form, have not withdrawn their consent and have not been induced by payment or compensation to provide consent,
- (d) has ensured that the consent of the guardians of the child has been given only after the birth of the child, and
- (e) if the child is 12 years of age or older, has ensured that
  - (i) the child has been counselled and informed of the effects of the adoption,
  - (ii) consideration has been given to the child's wishes and opinions, and
  - (iii) the child's consent to the adoption has been given freely in writing in the required form and



has not been induced by payment or compensation.

Central Authority for Alberta

**71.4(1)** The Minister is the Central Authority for Alberta.

(2) If authorized by the Minister, the functions of the Central Authority under this Part may, to the extent determined by the Minister, be performed by a director or by a licensed adoption agency.

Central Authority duties

**71.45(1)** The Central Authority for Alberta

(a) is to co-operate with Central Authorities in other designated States and promote co-operation with the competent authority in Alberta to protect children, and

(b) is to carry out its powers and duties under this Part.

(2) The Central Authority for Alberta must ensure that all appropriate measures are taken, in particular the collection, preservation and exchange of information about the situation of the child and the prospective adoptive parents, as necessary to complete the adoption.

Apply to adopt

**71.5** Persons who are habitually resident in Alberta may apply to the Central Authority for Alberta in the required form to adopt a child who is habitually resident in a designated State.

Report on applicants

**71.6(1)** If the Central Authority for Alberta determines that the applicants are eligible and suited to adopt, it must ensure that a report is made in accordance with the regulations.

(2) The Central Authority for Alberta must send the report referred to in subsection (1) to the Central Authority of the designated State where the child is habitually resident.

Decision on adoption

**71.65(1)** If a decision is to be made in a designated State regarding the placement of a child habitually resident in that State with prospective adoptive parents habitually resident in Alberta, the Central Authority for Alberta may approve the placement if

(a) the requirements of section 71.35(1) have been met,

(b) the prospective adoptive parents have agreed to the adoption, and





(c) the Central Authority of the designated State and the Central Authority for Alberta have agreed that the adoption may proceed.

(2) The Central Authority for Alberta may make a decision regarding the placement of a child habitually resident in Alberta with prospective adoptive parents habitually resident in a designated State if

(a) the Central Authority of the designated state has approved the placement,

(b) the prospective adoptive parents have agreed to the adoption, and

(c) the Central Authority for Alberta and the Central Authority of the designated State have agreed that the adoption may proceed.

Pre-existing relationship termination

**71.7** If an adoption granted in a designated State does not have the effect of terminating a pre-existing parent-child relationship, the Court may, on application by originating notice, convert it into an adoption having that effect only if the required consents are given for the purpose of such an adoption.

Recognition of the adoption

**71.8(1)** The Central Authority for Alberta may certify that an adoption granted in Alberta was made in accordance with this Part.

(2) A certification referred to in subsection (1) must specify when and by whom the Central Authority for Alberta and the Central Authority of the designated State have agreed that the adoption may proceed.

(3) An intercountry adoption certified by the competent authority of the designated State where the adoption was completed is recognizable as having the effect in Alberta of an adoption order under this Act and recognition may be refused only if the adoption is manifestly contrary to public policy, taking into account the best interests of the child.

Prohibition

**71.85** There shall be no contact between the prospective adoptive parents habitually resident in a designated State and the parents of the child habitually resident in Alberta to be adopted under this Part or any other person who has care of that child until

(a) the requirements of section 71.35(2)(a) to (d) have been met, and



- (b) the competent authority for Alberta is satisfied that the prospective adoptive parents are eligible and suited to adopt

unless the adoption takes place within a family or the contact is in compliance with the conditions established by the competent authority for Alberta.

Regulations

**71.9(1)** The Lieutenant Governor in Council may make regulations necessary to carry out the intent and purposes of this Part and, without limiting the generality of the foregoing, may make regulations

- (a) making inapplicable or limiting or varying the application of any enactment of Alberta that applies to adoptions under this Part;
- (b) respecting the contents of a report under this Part;
- (c) designating one or more persons as a competent authority for Alberta with respect to any provision in this Part.

**(2)** A regulation made under subsection (1)(a) ceases to have any effect after the last day of the next ensuing session of the Legislature.

Designated States

**71.95** The Minister may, by order, recognize States as designated States for the purposes of this Part.

**5 Sections 3 and 4 come into force on Proclamation.**

**5** Coming into force.

**6**

**Explanatory Notes**