

1998 BILL 1

Second Session, 24th Legislature, 46 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 1

PROTECTION OF CHILDREN INVOLVED
IN PROSTITUTION ACT

THE PREMIER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 1

BILL 1

1998

PROTECTION OF CHILDREN INVOLVED IN PROSTITUTION ACT

(Assented to , 1998)

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Preamble

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

WHEREAS children engaged in prostitution are victims of sexual abuse and require protection; and

WHEREAS the Legislature of Alberta recognizes the responsibility of families and communities to provide that protection; and

WHEREAS the Government of Alberta is committed to assisting families and communities in providing that protection; and

WHEREAS the Government of Alberta is committed to ensuring the safety of all children; and

WHEREAS the Government of Alberta is committed to assisting children in ending their involvement with prostitution;

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

Definitions

1(1) In this Act,

- (a) “child” means a person under the age of 18 years;
- (b) “Court” means the Provincial Court;
- (c) “director” means a director under the *Child Welfare Act*;
- (d) “guardian” means guardian as defined in the *Child Welfare Act*;
- (e) “Minister” means the Minister designated with the responsibility for the *Child Welfare Act*;
- (f) “police officer” means a member of a police service under the *Police Act* and includes a member of the Royal Canadian Mounted Police;
- (g) “protective safe house” means premises prescribed by the Minister as a protective safe house.

(2) For the purposes of this Act a child is in need of protection if the child is engaging in prostitution or attempting to engage in prostitution.

Apprehension
order

2(1) If a police officer believes on reasonable and probable grounds that a person is a child and is in need of protection, the police officer may apply to a judge of the Court or to a justice of the peace for an order

- (a) authorizing the police officer to apprehend and convey the child to the child’s guardian or to an adult who in the opinion of the police officer is a responsible adult who has care and control of the child, or
- (b) authorizing the police officer to apprehend and convey the child to a protective safe house and authorizing a director to confine the child for up to 72 hours to ensure the safety of the child and to assess the child,

and if the judge of the Court or justice of the peace is satisfied that the child may be found in a place or premises, the judge of the Court or justice of the peace may authorize the police officer to enter, by force if necessary, that place or premises to search for and apprehend the child.

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

(3) The information on which an application for an order by telephone or other means of telecommunication is based must be given on oath and must be recorded verbatim by the judge of the Court or justice of the peace who, as soon as practicable, must cause the record or a transcription of the record, certified by the judge of the Court or the justice of the peace 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 must include the following:

- (a) a statement of the circumstances that make it impracticable for the police officer to appear personally before a judge of the Court or a justice of the peace;
- (b) the identity of the child, if known;
- (c) a statement setting out the police officer's grounds for believing that the person is a child and is in need of protection;
- (d) a statement as to any prior application for an order under this section in respect of the same child of which the police officer has knowledge.

(6) A judge of the Court or justice of the peace referred to in subsection (2) who is satisfied that an application made by telephone or other means of telecommunication

- (a) is based on information that 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 apprehension, conveying, confinement and entry as may be conferred under subsection (1).

(7) If a judge of the Court or justice of the peace makes an order under subsection (6),

- (a) the judge of the Court or justice of the peace must 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 police officer, on the direction of the judge of the Court or justice of the peace, must complete, in duplicate, a facsimile of the order in the prescribed form, noting on its face the name of the judge of the Court or justice of the peace making the order and the time, date and place at which it was made, and
- (c) the judge of the Court or justice of the peace must, as soon as practicable after the order has been made, cause the order to be filed with the clerk of the Court, who must provide a copy to a director.

(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), if a police officer has reasonable and probable grounds to believe that a person is a child and that the child's life or safety is seriously and imminently endangered because the child is engaging in prostitution or attempting to engage in prostitution, the police officer may apprehend and convey the child to a protective safe house without an order.

(10) Notwithstanding subsection (1)(b), a director may confine a child conveyed to a protective safe house under subsection (9) if the director considers it necessary in order to ensure the safety of the child and to assess the child.

(11) If subsection (9) applies, a police officer 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.

(12) If a director confines a child pursuant to subsection (10), the director must appear before the Court within 3 days of the commencement of the confinement to show cause why the confinement was necessary.

Director's
decision

- 3(1)** If a police officer apprehends a child under section 2,
- (a) the police officer must notify a director forthwith, and
 - (b) on the child's being conveyed to a protective safe house, a director must
 - (i) return the child to the custody of the child's guardian or to an adult who in the opinion of the director is a responsible adult who has care and control of the child,
 - (ii) release the child if in the opinion of the director the child is capable of providing for the child's own needs and safety, or
 - (iii) confine the child, pursuant to section 2, in a protective safe house to ensure the safety of the child and to assess the child.

(2) Notwithstanding subsection (1)(b), if a child is confined and is neither returned under subsection (1)(b)(i) nor released under subsection (1)(b)(ii) within 3 days after the apprehension under section 2, a director must apply to the Court under section 19 of the *Child Welfare Act* for a supervision order, a temporary or permanent guardianship order or an order returning the child to the custody of the child's guardian.

(3) If a director makes an application under subsection (2), the child is deemed to have been apprehended under the *Child Welfare Act*.

Notice to
guardian

4(1) If a child has been apprehended and conveyed to a protective safe house, a director must notify the guardian of the child forthwith

- (a) that the child has been apprehended, and
- (b) of the intention, if any, of the director to confine the child pursuant to section 3(1)(b)(iii).

(2) Notice under subsection (1) may be by any method and may be oral or in writing.

(3) The validity of proceedings under this Act is not affected by the director's inability, after reasonable effort, to give notice in accordance with this section.

Director's responsibilities	<p>5 If a child has been apprehended and conveyed to a protective safe house, a director has exclusive custody of the child and is responsible for the child's care, maintenance and well being while the child is confined in the protective safe house.</p>
Restraining order	<p>6(1) If a child is confined under this Act and a director has reasonable and probable grounds to believe that a person</p> <ul style="list-style-type: none"> (a) has physically or emotionally injured or sexually abused or is likely to physically or emotionally injure or sexually abuse the child within the meaning of the <i>Child Welfare Act</i>, or (b) has encouraged or is likely to encourage the child to engage in prostitution, <p>the director may apply by originating notice to the Court of Queen's Bench for an order restraining that person from contacting the child or associating in any way with the child.</p> <p>(2) If a child is participating voluntarily in a program to assist the child in ending involvement in prostitution and the child or the child's guardian has reasonable and probable grounds to believe that a person</p> <ul style="list-style-type: none"> (a) has physically or emotionally injured or sexually abused or is likely to physically or emotionally injure or sexually abuse the child within the meaning of the <i>Child Welfare Act</i>, or (b) has encouraged or is likely to encourage the child to engage in prostitution, <p>the child or the child's guardian may apply by originating notice to the Court of Queen's Bench for an order restraining that person from contacting the child or associating in any way with the child.</p>
Programs	<p>7 The Minister may establish programs that in the opinion of the Minister are necessary to assist children in ending their involvement in prostitution.</p>
Regulations	<p>8(1) The Lieutenant Governor in Council may make regulations</p> <ul style="list-style-type: none"> (a) respecting the rules to be followed in a proceeding before the Court under this Act;

(b) respecting the forms, including notices, to be used in any application made to the Court under this Act.

(2) The Minister may make regulations

(a) prescribing premises as protective safe houses;

(b) respecting assessment of children in need of protection.

Offence

9 Any person who

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

(b) obstructs or interferes with, or attempts to obstruct or interfere with, a director or a police officer exercising any power or duty under this Act

is guilty of an offence and liable to a fine of not more than \$25 000 or to imprisonment for a period of not more than 24 months, or to both a fine and imprisonment.

Amends SA
1984 cC-8.1

10 **The *Child Welfare Act* is amended**

(a) **in section 1(1)(i) by adding “and the *Protection of Children Involved in Prostitution Act*” after “this Act”;**

(b) **in section 19 by adding the following after subsection (1):**

(1.1) If a child is apprehended under the *Protection of Children Involved in Prostitution Act*, conveyed to a protective safe house as defined in that Act and confined and is not, within 3 days of being apprehended,

(a) released, or

(b) returned to the custody of the child’s guardian or to an adult who in the opinion of a director is a responsible adult who has care and control of the child,

the director must 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 the child’s guardian.

(c) **in section 28(1) by striking out “child, the director may” and substituting “child or has encouraged or is likely to**

encourage the child to engage in prostitution, the director may”;

(d) in section 91(2) by adding the following after clause (g):

(g.1) any person employed or assisting in the administration of the *Protection of Children Involved in Prostitution Act*;

(e) in section 94(1) by adding “and the *Protection of Children Involved in Prostitution Act*” after “this Act”.

Coming into
force

11 This Act comes into force on Proclamation.