

1999 BILL 6

Third Session, 24th Legislature, 48 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 6

CHILD WELFARE AMENDMENT ACT, 1999

MR. SEVERTSON

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 6

1999

CHILD WELFARE AMENDMENT ACT, 1999

(Assented to , 1999)

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 55(1) is amended by adding the following after
clause (a):**

(a.1) “descendant”, in respect of a deceased adopted person,
means an adult child or adult grandchild of the adopted
person;

**3 Section 59(2)(a)(iv) is amended by striking out “section
68.11(1)(d)” and substituting “section 68.11(d)”.**

**4 Section 60(1)(c) is amended by striking out “a director if”
and substituting “the Minister if”.**

5 Section 62 is amended

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

Explanatory Notes

- 1 Amends chapter C-8.1 of the Statutes of Alberta, 1984.
- 2 Adds a new definition to Part 6 of the Act. Section 55(1) presently reads in part:

55(1) In this Part,

(a) "Court", notwithstanding section 1(1)(g), means the Court of Queen's Bench;

(b) "licensed adoption agency" means an adoption agency that holds a licence issued under section 70;
- 3 Corrects a cross-referencing error.
- 4 Section 60(1) presently reads in part:

60(1) A petitioner under section 58 shall serve by personal service not less than 30 days before the date of the hearing, a notice of the nature, time and place of the hearing of the petition and the documentation required under section 59 on

(c) a director if a person other than a director is filing the petition, and
- 5 Section 62 presently reads:

62(1) On being served with a notice under section 60, a director may conduct an investigation with respect to the proposed

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

6 Section 66 is amended

(a) in subsection (6) by striking out “66.1 or” and substituting “66.1, 66.11, 66.12 or”;

(b) in subsection (8) by striking out “the disclosure is necessary to the health of the adopted person” and substituting “there are compelling circumstances that support disclosure”;

(c) in subsection (9)(a) by striking out “who is 18 years of age or over”.

7 Section 66.1 is repealed and the following is substituted:

Matching
applications
for voluntary
disclosure of
identities

66.1(1) In this section,

(a) “adopted person” means a person who is the subject of an adoption order made under this Act or any predecessor to this Act;

(b) “adoptive applicant” means

(i) an adopted person who is 18 years of age or older,

(ii) an adopted child who is 16 years of age or older who is, in the opinion of the Minister, living independently from the child’s guardian,

(iii) an adopted child, where the application is made on the child’s behalf by the child’s guardian, and

adoption and may file a report of the investigation with the clerk of the Court.

(2) The director shall serve on the petitioner not less than 7 days before the date of the hearing of the petition a copy of any report filed by him under subsection (1).

6 Section 66 presently reads in part:

(6) The Minister shall seal all documents in his hands that relate to an adoption and those documents are not available for inspection by any person except on order of the Court, with the consent in writing of the Minister or pursuant to section 66.1 or 67.

(8) The Minister may disclose the identity of a person referred to in section 66.1 only in accordance with section 66.1 unless, in the opinion of the Minister, the disclosure is necessary to the health of the adopted person.

(9) Notwithstanding subsection (8), the Minister may disclose

(a) to a licensed search agency, for the purpose of processing an application under section 66.2, the identity and other personal information of a family member as defined in the regulations or of an adopted person who is 18 years of age or over, and

(b) to an adopted person who is 18 years of age or over, the birth surname of that person if the adoption order relating to that person did not disclose it.

7 Section 66.1 presently reads:

66.1(1) In this section, "interested person", in respect of an adopted person, means any one or more of the following:

(a) a biological parent of the adopted person;

(b) an adult sibling of the adopted person;

(c) an adult related by blood to the adopted person if the biological parents of the adopted person consent in writing to the recording of the name of the related person under subsection (4) or if the Minister is satisfied that the biological parents of the adopted person

(i) are deceased,

(ii) cannot be located, or

- (iv) a descendant of a deceased adopted person;
- (c) “family applicant”, in respect of an adopted person, means any one or more of the following:
 - (i) a biological parent of the adopted person;
 - (ii) an adult sibling of the adopted person;
 - (iii) an adult related by blood to the adopted person if the biological parents of the adopted person consent in writing to the application or if the Minister is satisfied that the biological parents of the adopted person
 - (A) are deceased,
 - (B) cannot be located, or
 - (C) are unable by reason of mental incapacity to consent to the application;
 - (iv) an adult member of any Indian band of which the adopted person is a member, if the biological parents of the adopted person consent in writing to the application or if the Minister is satisfied that the biological parents of the adopted person
 - (A) are deceased,
 - (B) cannot be located, or
 - (C) are unable by reason of mental incapacity to consent to the application;
 - (v) a person who was a parent of the adopted person under a previous adoption order.
- (2) An adoptive applicant or a family applicant who wishes to learn the other’s identity may apply to the Minister in the form set by the Minister and shall specify in the application the name of the adopted person to whom the application relates.
- (3) The Minister
 - (a) shall maintain a registry of applications made under subsection (2),

- (iii) *are unable by reason of mental incapacity to consent to the recording of the name of the related person under subsection (4);*
 - (d) *if the adopted person is an Indian and if the criteria under clause (c) are met, in addition to a person referred to in clauses (a) to (c), an adult member of the band of the adopted person;*
 - (e) *a person who was a parent of the adopted person under a previous adoption order.*
- (2) *If an adoption order is made under this Act or any predecessor to this Act, an interested person may apply to the Minister for the disclosure to the interested person of the identity of the adopted person.*
- (3) *An adopted person who is 18 years of age or over may apply to the Minister for the disclosure to the adopted person of the identity of an interested person who applies under subsection (2) for the disclosure of the identity of the adopted person.*
- (4) *On receipt of an application under subsection (2) or (3), the Minister shall enter the name of the applicant in a record kept for that purpose and shall examine the record to determine*
- (a) *when the applicant is an interested person, if the name of the adopted person is entered in the record, and*
 - (b) *when the applicant is the adopted person, if the name of an interested person is entered in the record.*
- (5) *Notwithstanding section 66, if the applicant is*
- (a) *the adopted person and the Minister determines that the name of an interested person referred to in subsection (1)(a) or (b) is entered in the record, or*
 - (b) *an interested person referred to in subsection (1)(a) or (b) and the Minister determines that the name of the adopted person is entered in the record,*
- the Minister shall disclose the identity of each of the applicants to the other.*
- (6) *Notwithstanding section 66, if the applicant is*
- (a) *the adopted person and the Minister determines that the name of an interested person other than an interested person referred to in subsection (1)(a) or (b) is entered in the record, or*
 - (b) *an interested person other than an interested person referred to in subsection (1)(a) or (b) and the Minister*

- (b) shall, on receiving an application made under subsection (2), examine the registry to determine if it contains another application concerning the same adopted person,
 - (c) shall, on receiving notice of withdrawal, immediately remove from the registry any application that is withdrawn by an adoptive applicant or a family applicant, and
 - (d) shall include in the registry
 - (i) all vetos received under subsection (6), and
 - (ii) the name of an adopted person who has died, if the Minister has been advised of the death.
- (4) Where the Minister determines from examining the registry that applications from an adoptive applicant and from a family applicant within the meaning of subsection (1)(c)(i) or (ii) concern the same adopted person, the Minister shall make reasonable efforts to locate the applicants and,
- (a) if both applicants are located, shall disclose the applicants' identities to each other, or
 - (b) if one applicant only is located, shall disclose the other applicant's identity to the located applicant.
- (5) Where the Minister determines from examining the registry that applications from an adoptive applicant and from a family applicant within the meaning of subsection (1)(c)(iii) to (v) concern the same adopted person, the Minister
- (a) shall make reasonable efforts to locate the applicants,
 - (b) shall advise the adoptive applicant that an application from the family applicant has been entered in the registry,
 - (c) shall inquire whether the adoptive applicant wishes to disclose the applicant's identity to the family applicant, and
 - (d) shall disclose

determines that the name of the adopted person is entered in the record,

the Minister shall

- (c) locate and advise the adopted person that the name of that interested person is entered in the record,*
- (d) inquire as to whether the adopted person wishes his identity to be disclosed to that interested person, and*
- (e) if the adopted person agrees to the disclosure, disclose the identity of each of the applicants to the other.*

(7) If, after reasonable efforts have been made, the Minister is unable to locate an adopted person or an interested person for the purposes of disclosure under subsection (5) or (6)(e), the Minister shall disclose an identity only to an adopted person or an interested person the Minister is able to locate.

(8) If an applicant withdraws his application under subsection (2) or (3), the Minister shall remove the name of the applicant from the record referred to in subsection (4).

(9) On being advised by an adopting parent that an adopted person has died, the Minister shall enter in the record referred to in subsection (4) the name of the adopted person and the fact of his death.

- (i) the applicants' identities to each other, if both applicants are located and if the adoptive applicant agrees to the disclosure, or
- (ii) the family applicant's identity to the adoptive applicant, if the adoptive applicant only is located.

(6) A person who is entitled to apply under this section may at any time register with the Minister a veto in the prescribed form to indicate that the person does not want disclosure of that person's identity.

(7) The Minister shall advise an applicant if

- (a) the registry contains a veto that affects the application,
- (b) the registry indicates that the adopted person is dead, or
- (c) the other applicant cannot be located.

8 The following is added after section 66.1:

Disclosure of
record by
consent

66.11 On receiving a written request from an adopted person who is 18 years of age or older, the Minister may release to that person his or her original registration of birth under the *Vital Statistics Act* and information contained in any other sealed document held under section 66 other than personal information about an individual who is not the adopted person nor a biological parent of the adopted person, if the Minister receives

- (a) written consent from each biological parent, or
- (b) if a biological parent is deceased, verification of the parent's death.

Right to
disclosure of
record in
certain
circumstances

66.12(1) In this section, "adopted person" means a person who is adopted under an adoption order made on or after January 1, 2000.

(2) Subject to subsections (3) and (4), on receiving a written request from an adopted person who is 18 years of age or older or from a biological parent of the adopted person, the Minister may release to the person making the request the adopted person's original registration of birth under the *Vital Statistics Act* and information contained in any other sealed document held under section 66 other than personal

8 Adds new sections to Part 6 of the Act. One new section provides for release of adoption records to an adopted person on consent of any living biological parent or on verification of death. The other new section provides for automatic release of adoption records on request (subject to a registered veto) to biological parents or to an adopted person who was adopted after January 1, 2000.

information about an individual who is not the adopted person nor a biological parent of the adopted person.

(3) The Minister shall not accept a request under subsection (2) from a biological parent of an adopted person unless the adopted person is 18 years and 6 months of age or older.

(4) Subsection (2) does not apply where an adopted person who is 18 years of age or older or a biological parent of the adopted person has, prior to the date of the request under subsection (2), registered with the Minister a veto in the prescribed form prohibiting the release of the sealed documents.

(5) A person who registers a veto under subsection (4) may revoke the veto by providing written notice of the revocation to the Minister.

9 Section 66.2 is amended

(a) by repealing subsection (3) and substituting the following:

(3) An application under subsection (2) may be made only by

(a) a person who is 18 years of age or older who

(i) was adopted in accordance with this Act or any predecessor to this Act,

(ii) is a biological parent or a sibling of an adopted person referred to in subclause (i),

(iii) is a guardian of an adopted person who is a child, or

(iv) is a descendant of a deceased adopted person,

or

(b) an adopted child who is 16 years of age or older who is, in the opinion of the Minister, living independently from the child's guardian.

(b) in subsections (4)(c) and (5) by striking out "a director" and substituting "the Minister".

9 Section 66.2 presently reads in part:

(3) An application under subsection (2) may be made only by a person who is 18 years of age or over and who

(a) was adopted in accordance with this Act or any predecessor to this Act, or

(b) is a biological parent or a sibling of an adopted person referred to in clause (a).

(4) A family member who is located by a licensed search agency may

(a) consent to a reunion with the applicant,

(b) consent to the disclosure of the family member's identity and other personal information to the applicant, or

(c) register a veto in the prescribed form with a director

(i) declining a reunion with the applicant, or

(ii) prohibiting the release of the family member's identity and other personal information to the applicant.

(5) A family member who registers a veto under subsection (4)(c) may revoke the veto by providing written notice of the revocation to a director.

10 Section 67(1) is repealed and the following is substituted:

Disclosure by
Minister

67(1) Notwithstanding sections 66 and 66.1, the Minister may release to an adopted person or to the adopted person's

- (a) biological mother,
- (b) biological father,
- (c) adult sibling,
- (d) adopting parents, or
- (e) descendant, if the adopted person is deceased,

any information about one or more of those persons that does not disclose the identity of any of those persons.

11 Section 68.11(1) is amended by renumbering it as section 68.11 and by repealing clause (c.1) and substituting the following:

- (c.1) the Minister;

12 Section 68.2(2)(b) is repealed and the following is substituted:

- (b) the publication of any advertisement authorized by the Minister or a director for the purpose of finding homes for children in the custody of the director who are available for adoption,

10 Section 67(1) presently reads:

67(1) Notwithstanding sections 66 and 66.1, the Minister may give information that does not disclose the identity of a child who is the subject of an adoption order, his biological mother, his biological father, his sibling or his adopting parents to that child, his biological mother, his biological father, his sibling or his adopting parents.

11 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;*
- (c.1) the Central Authority for Alberta as designated in Part 6.1 or any person authorized by the Central Authority for Alberta;*
- (d) a person authorized by the Minister in accordance with the regulations.*

12 Section 68.2(2) presently reads:

- (2) Subsection (1) does not apply to*
- (a) the publication of a notice pursuant to an order of the Court,*
 - (b) the publication of any advertisement authorized by a director for the purpose of finding homes for children in his custody who are available for adoption,*
 - (c) the publication of an announcement by a petitioner in respect of the approval of his petition, or*

13 Section 86(6)(a) is amended by striking out “a director” and substituting “the Minister”.

14 Section 87 is amended

- (a) in subsection (1) by striking out “subsection (2), the decision to disclose identifying information in respect of an adoption other than in accordance with section 66.1 and” and substituting “subsection (2) and”;**
- (b) in subsections (2) and (3) by striking out “this Act, including the power” and substituting “any Act, including the power under this Act”.**

15 Section 96(2)(w) and (z.2) are amended by striking out “a director” and substituting “the Minister”.

- (d) the publication of an advertisement by a licensed adoption agency advertising its services only, without making any reference to specific children.*

13 Section 86(6) presently reads in part:

(6) *A person*

- (a) who is dissatisfied with the terms and conditions imposed by a director under section 70(1)(b),*

may appeal the decision to an Appeal Panel in accordance with this section.

14 Section 87 presently reads in part:

87(1) The Minister may delegate any of the duties or powers conferred or imposed on him under this Act, except the power to delegate under subsection (2), the decision to disclose identifying information in respect of an adoption other than in accordance with section 66.1 and the power to make regulations under section 96, to a Child and Family Services Authority or to any person or government for any purpose in connection with the administration of this Act.

(2) The Minister may delegate any of the duties or powers conferred or imposed on a director by a court or under this Act, including the power to form an opinion, to receive a report under section 3 or 4 or to delegate or subdelegate, to a Child and Family Services Authority or to any person or government for any purpose in connection with the administration of this Act.

(3) A director may delegate any of the duties or powers conferred or imposed on him by a court or under this Act, including the power to form an opinion, to receive a report under section 3 or 4 or to delegate or subdelegate to

- (a) a person employed or engaged in the administration of this Act,*
- (b) a foster parent in respect of a particular child,*
- (c) any other person who is providing care to a child in respect of that child, or*
- (d) any other person or any government.*

15 Section 96(2) presently reads in part:

(2) *The Minister may make regulations*

- (w) prescribing the information, documents and reports required to be submitted to a director by licensed adoption agencies and licensed search agencies;*

16 The *Vital Statistics Act* is amended in section 10 by adding the following after subsection (3):

(4) The Director shall, on the request of the Minister of Family and Social Services, provide from the special register to that Minister a copy of an adopted person's original registration of birth for release to the adopted person in accordance with the *Child Welfare Act*.

17 This Act comes into force on Proclamation.

(z.2) respecting the granting of authority by a director to persons for the purpose of placing or facilitating the placement of children for adoption in accordance with this Act;

16 Amends chapter V-4 of the Revised Statutes of Alberta 1980.

17 Coming into force.