

## **BILL 23**

2003

### **FAMILY SUPPORT FOR CHILDREN WITH DISABILITIES ACT**

*(Assented to , 2003)*

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#### **Preamble**

WHEREAS the people of Alberta honour and respect the dignity and equal worth of children with disabilities;

WHEREAS the Legislature of Alberta recognizes and values the ability of families to care for and to promote the development of children with disabilities;

WHEREAS the Legislature of Alberta acknowledges the value of family-centred support and services in empowering and preserving families of children with disabilities;

WHEREAS the Legislature of Alberta recognizes that the individual needs of children with disabilities are most effectively met through an integrated and multi-disciplinary approach; and

WHEREAS the Legislature of Alberta recognizes the importance of facilitating the inclusion of children with disabilities in community life:

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 clause (e)(ii), an agreement entered into under section 3 or 4;
- (b) “director” means the director designated by the Minister pursuant to section 2;
- (c) “disability” means a chronic developmental, physical, sensory, mental or neurological condition or impairment, other than a condition or impairment that is primarily a medically treatable illness;
- (d) “child” means an individual under the age of 18 years;
- (e) “guardian” means
  - (i) a person who is or is appointed a guardian of the child under Part 7 of the *Domestic Relations Act*, or
  - (ii) a person who is a guardian of the child under an agreement or order made pursuant to the *Child Welfare Act*;
- (f) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

### **Director**

**2(1)** The Minister may designate an employee of the Government under the administration of the Minister as the director for the purposes of this Act.

(2) The director may delegate any powers and duties of the director, including the power to subdelegate, to any person employed or assisting in the administration of this Act.

#### **Family support services**

**3(1)** If a medical diagnosis, in a format satisfactory to the director, of a child's condition or impairment indicates that the child has a disability, the director may

- (a) assist the child's guardian in
  - (i) identifying, obtaining and co-ordinating services and supports available in the community and from the municipality and the governments of Alberta and Canada,
  - (ii) obtaining information concerning the child's disability, and
  - (iii) advocating on behalf of the child and the guardian,

and

- (b) enter into an agreement with the child's guardian, in a form satisfactory to the director, with respect to the provision of family support services to the guardian.

(2) An agreement under subsection (1) must include, in accordance with the regulations, terms prescribing the nature and amount of services to be provided by the director.

#### **Therapeutic services**

**4(1)** If

- (a) a medical diagnosis, in a format satisfactory to the director, of a child's condition or impairment indicates that the child has a disability, and
- (b) an assessment of the child, completed in a manner satisfactory to the director, indicates that the disability significantly limits the child's ability to function in normal daily living,

the director and the child's guardian may enter into an agreement, in a form provided for in the regulations, with respect to the provision of therapeutic services.

**(2)** In determining the terms of an agreement under subsection (1), the director and the guardian

- (a) must have regard to the assessment referred to in subsection (1)(b), and
- (b) may consult with experts in disabilities and persons who have knowledge of the child's functional abilities.

**(3)** An agreement under subsection (1) must include, in accordance with the regulations,

- (a) a therapeutic services plan setting out the services required to meet the needs of the child, and
- (b) terms prescribing
  - (i) the nature and amount of services to be provided by the director, and
  - (ii) the responsibilities of the guardian with respect to the services set out in the therapeutic services plan.

#### **Termination and recovery**

**5(1)** If in the opinion of the director a guardian contravenes an agreement under section 3 or 4, the director may cancel the agreement on 30 days' written notice to the guardian.

**(2)** If, pursuant to an agreement under section 3 or 4, the director has paid for services to a guardian or to a person on behalf of the guardian in excess of the amount set out in the agreement, the excess may be recovered by the director as a debt due the Crown.

#### **Mediation**

**6(1)** The director and a guardian may enter into mediation with respect to any decision made by the director under this Act.

**(2)** No action may be brought against a person who conducts a mediation under this section for any act done or omitted to be done

with respect to the mediation unless it is proved that the person acted maliciously and without reasonable and probable cause.

### **Appeal**

**7(1)** A guardian may appeal a decision of a director made under section 3(1)(b), 4 or 5(1) to an appeal committee established under section 8.

**(2)** An appeal under subsection (1) must be commenced by serving a notice of appeal, in the form provided for in the regulations, on the director within 45 days of the date on which the guardian has been notified of the decision that is the subject of the appeal.

**(3)** A director must, within 10 days of receiving a notice under subsection (2), deliver it to a chair of an appeal committee.

**(4)** Despite subsection (2), if the director and the guardian have entered into mediation pursuant to section 6, the time for commencing an appeal is suspended until the conclusion or abandonment of the mediation.

### **Appeal committee**

**8(1)** The Minister may establish one or more appeal committees each consisting of not fewer than 3 nor more than 7 persons appointed by the Minister.

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

**(3)** The Minister may

- (a) designate the chair, vice-chair and secretary of an appeal committee,
- (b) prescribe the number of members of an appeal committee that constitutes a quorum, and
- (c) authorize and provide for the payment of the remuneration and expenses of the members of an appeal committee.

### **Appeal committee powers**

**9(1)** The *Administrative Procedures Act* applies to the proceedings of an appeal committee.

(2) An appellant may be represented at a hearing of an appeal by a lawyer or by any other person.

(3) An appeal committee

- (a) may confirm, vary or rescind the decision of the director under appeal, and
- (b) must notify the appellant and the director, in writing, of its decision.

### **Regulations**

**10** The Minister may make regulations

- (a) respecting forms;
- (b) respecting contents of agreements under sections 3 and 4;
- (c) respecting the nature and amount of family support services and therapeutic services that may be provided by a director under the terms of an agreement;
- (d) respecting the standards for services to be provided pursuant to agreements under sections 3 and 4.

### **Transitional**

**11(1)** On the coming into force of this Act, an existing agreement under section 106 of the *Child Welfare Act* continues until the agreement expires or an agreement is entered into under this Act.

(2) On the coming into force of this Act, an appeal from a decision of a director respecting a matter under section 106 of the *Child Welfare Act* that has been commenced under section 120 of that Act but has not been disposed of by an Appeal Panel continues under that Act as if this Act had not come into force.

### **Amends RSA 2000 cC-12**

**12** The *Child Welfare Act* is amended

- (a) in section 33(2) by striking out “or pursuant to an agreement under section 106”;

- (b) by repealing the heading “Handicapped Child” that precedes section 106;
- (c) by repealing section 106;
- (d) by repealing section 120(2)(f).

**Amends RSA 2000 cC-3**

**13** The *School Act* is amended in section 44(2)(b) by striking out “section 106 of the *Child Welfare Act*” and substituting “the *Family Support for Children with Disabilities Act*”.

**Coming into force**

**14** This Act comes into force on Proclamation.

**Explanatory Notes**

**12** Consequential amendment.

**13** Consequential amendment.

**14** Coming into force.