

Bill 24
Mr. Cenaiko

BILL 24

2003

CHILD WELFARE AMENDMENT ACT, 2003

(Assented to , 2003)

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

Amends RSA 2000 cC-12

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

2 The title of the Act is repealed and the following is substituted:

CHILD, YOUTH AND FAMILY ENHANCEMENT ACT

3 Section 1 is amended

(a) in subsection (1)

(i) by renumbering clause (a) as clause (a.1) and adding the following before clause (a.1):

(a) “aboriginal” includes Indian, Metis and Inuit;

(ii) by adding the following after clause (a.1):

(a.2) “adoption services” means any service provided under Part 2;

(a.3) “Appeal Panel” means an Appeal Panel established under Part 4;

- (a.4) “band” means band within the meaning of the *Indian Act* (Canada);
- (iii) in clause (d) by adding** “and includes a youth unless specifically stated otherwise” **after** “years”;
- (iv) by repealing clauses (f) and (g) and substituting the following:**
- (f) “Child and Youth Advocate” means the person appointed by the Lieutenant Governor in Council as the Child and Youth Advocate for the purposes of this Act;
- (g) “council of the band” means council of the band within the meaning of the *Indian Act* (Canada);
- (v) in clause (i) by adding** “or 57.2(2)” **after** “section 9”;
- (vi) in clause (j) by adding** “and without limiting the generality of the foregoing includes a person designated as a director in accordance with an agreement under section 122(2) of this Act” **after** “*Prostitution Act*”;
- (vii) by adding the following after clause (j):**
- (j.1) “family enhancement agreement” means an agreement entered into under section 8 or 57.2(1);
- (j.2) “family enhancement services” means any service provided under a family enhancement agreement and care provided under section 7;
- (viii) by adding the following after clause (m):**
- (m.1) “intervention services” means any service provided to a child or family under this Act except for services provided under Part 2 or Part 3 or under section 106;
- (m.2) “marital status” includes, on and after the coming into force of the *Adult Interdependent Relationships Act*, an adult interdependent partner as defined in that Act;
- (ix) by adding the following after clause (q):**

(q.01) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;

(x) by repealing clause (s) and substituting the following:

- (s) “protective services” means any service provided to a child who either
- (i) is in the custody of a director, or
 - (ii) is the subject of a supervision order, temporary guardianship order or permanent guardianship agreement or order;

(xi) by adding the following after clause (t):

(t.1) “reserve” means reserve within the meaning of the *Indian Act* (Canada);

(xii) by repealing clauses (u), (v) and (w) and substituting the following:

- (u) “secure services certificate” means a secure services certificate issued under section 43.1;
- (v) “secure services facility” means a facility designated by the Minister, by regulation, as a secure services facility;
- (w) “secure services order” means a secure services order made under Part 1, Division 4;

(xiii) by repealing clause (x);

(xiv) by repealing clauses (z) and (aa);

(xv) by adding the following after clause (bb):

(cc) “youth” means a child who is 16 years of age or older.

(b) in subsection (2)

- (i) by striking out “protective services” and substituting “intervention”;**

(ii) by repealing clause (c) and substituting the following:

(c) the child is neglected by the guardian;

(iii) by repealing clause (i);

(c) by adding the following after subsection (2):

(2.1) For the purposes of subsection (2)(c), a child is neglected if the guardian

- (a) is unable or unwilling to provide the child with the necessities of life,
- (b) is unable or unwilling to obtain for the child, or to permit the child to receive, essential medical, surgical or other remedial treatment that is necessary for the health or well-being of the child, or
- (c) is unable or unwilling to provide the child with adequate care or supervision.

(d) in subsection (3)(a)

(i) by repealing subclause (i) and substituting the following:

- (i) if there is impairment of the child's mental or emotional functioning or development, and

(ii) in subclause (ii)

(A) by adding the following after paragraph (A):

(A.1) emotional, social, cognitive or physiological neglect,

(B) by striking out "or" at the end of paragraph (D) and by repealing paragraph (E) and substituting the following:

- (E) the mental or emotional condition of the guardian of the child or of anyone living in the same residence as the child;

- (F) chronic alcohol or drug abuse by the guardian or by anyone living in the same residence as the child;

(d) by adding the following after subsection (4):

(5) For the purposes of this Act, a child is in the custody of a director if

- (a) the child has been apprehended under section 19 and has not been returned to the custody of the child's guardian,
- (b) the child is the subject of a custody order under section 21.1(2)(a) or an interim order for custody under section 21.1 or 26, or
- (c) the child is the subject of a custody agreement.

4 Section 2 is repealed and the following is substituted:

Matters to be considered

2 If a child is in need of intervention, a Court, an Appeal Panel and all persons who exercise any authority or make any decision under this Act relating to the child must do so in the best interests of the child and must consider the following as well as any other relevant matter:

- (a) the family is the basic unit of society and its well-being should be supported and preserved;
- (b) the importance of stable, permanent and nurturing relationships for the child;
- (c) the intervention services needed by the child should be provided in a manner that ensures the least disruption to the child;
- (d) a child who is capable of forming an opinion is entitled to an opportunity to express that opinion on matters affecting the child, and the child's opinion should be considered by those making decisions that affect the child;
- (e) the family is responsible for the care, supervision and maintenance of its children and every child should have

an opportunity to be a wanted and valued member of a family, and to that end

- (i) if intervention services are necessary to assist the child's family in providing for the care of a child, those services should be provided to the family, insofar as it is reasonably practicable, in a manner that supports the family unit and prevents the need to remove the child from the family, and
 - (ii) a child should be removed from the child's family only when other less disruptive measures are not sufficient to protect the survival, security or development of the child;
- (f) any decision concerning the removal of a child from the child's family should take into account the risk to the child if the child remains with the family, is removed from the family or is returned to the family;
- (g) if it is not inconsistent with protecting the survival, security or development of a child who is in need of intervention, and appropriate community services are available, the child or the child's family should be referred to the community for services to support and preserve the family and to prevent the need for any other intervention under this Act;
- (h) any decision concerning the placement of a child outside the child's family should take into account
- (i) the benefits to the child of a placement within the child's extended family;
 - (ii) the benefits to the child of a placement within or as close as possible to the child's home community,
 - (iii) the benefits to the child of a placement that respects the child's familial, cultural, social and religious heritage,
 - (iv) the benefits to the child of stability and continuity of care and relationships,

- (v) the mental, emotional and physical needs of the child and the child's mental, emotional and physical stage of development, and
- (vi) whether the proposed placement is suitable for the child;
- (i) the provision of intervention services is intended to remedy or alleviate the condition that caused the child to be in need of intervention;
- (j) intervention services are most effective when they are provided through a collaborative and multi-disciplinary approach;
- (k) if a child is being provided with care under this Act, the child should be provided with a level of care that is adequate to meet the needs of the child and consistent with community standards and available resources;
- (l) if a child is being provided with care under this Act, a plan for the care of that child should be developed that
 - (i) addresses the child's need for stability, permanence and continuity of care and relationships, and
 - (ii) in the case of a youth, addresses the youth's need for preparation for the transition to independence and adulthood;
- (m) a person who assumes responsibility for the care of a child under this Act should endeavour to make the child aware of the child's familial, cultural, social and religious heritage;
- (n) there should be no unreasonable delay in making or implementing a decision affecting a child;
- (o) if the child is an aboriginal child, the uniqueness of aboriginal culture, heritage, spirituality and traditions should be respected and consideration should be given to the importance of preserving the child's cultural identity.

5 The following is added after section 2:

Procedural rights

2.1 A director, when it is appropriate, must inform a child of the child's procedural rights under this Act.

6 Section 3 is amended

- (a) in subsection (1) by striking out “Children’s” and substituting “Child and Youth”;**
- (b) in subsection (2) by striking out “Children’s” wherever it occurs and substituting “Child and Youth”;**
- (c) in subsection (3)**
 - (i) by striking out “Children’s” wherever it occurs and substituting “Child and Youth”;**
 - (ii) in clause (b) by striking out “receive, review and investigate” and substituting “receive and review”;**
 - (iii) by adding the following after clause (c):**
 - (c.1) facilitate the involvement of family or community members in assisting in advocating for a child who is receiving services under this Act;
 - (iv) by adding the following after clause (d):**
 - (d.1) submit a report to the Minister every 3 months on the Child and Youth Advocate’s activities and observations;
- (d) in subsection (5)**
 - (i) by striking out “Children’s” wherever it occurs and substituting “Child and Youth”;**
 - (ii) in clause (c) by striking out “receive, review or investigate” and substituting “review”;**
- (e) in subsection (6)**
 - (i) by striking out “Children’s” wherever it occurs and substituting “Child and Youth”;**

(ii) by striking out “or” at the end of clause (a), adding “or” at the end of clause (b) and adding the following after clause (b):

- (c) to a family or community member referred to in subsection (3)(c.1) who is assisting in advocating for the child.

7 The following is added after section 3:

Alternative dispute resolution

3.1(1) In this section, “alternative dispute resolution” includes mediation.

(2) A child, the guardian of the child or a person who in the opinion of a director has a significant connection to the child may, with the agreement of the director, enter into alternative dispute resolution with the director with respect to any decision made by the director with respect to the child.

(3) All documents and records created as a result of, or information provided orally during, alternative dispute resolution under this section are privileged documents and records of the person creating them and privileged information of the person providing it and are confidential, and no person shall disclose them or be compelled to disclose them except

- (a) with the consent of all who participated in the alternative dispute resolution,
- (b) if disclosure is necessary to make or to carry out an agreement under this Act,
- (c) if they are disclosed pursuant to an order of the Court granted with the consent of all who participated in the alternative dispute resolution,
- (d) to the extent that the disclosure is necessary to protect the survival, security or development of the child, or
- (e) for the purposes of disclosure required by section 4.

(4) If there is a conflict or inconsistency between subsection (3) and the *Freedom of Information and Protection of Privacy Act*, subsection (3) prevails despite that Act.

(5) No action may be brought against a person who, under this section, conducts alternative dispute resolution for any act done or omitted to be done with respect to the alternative dispute resolution unless it is proved that the person acted maliciously and without reasonable and probable cause.

8 The heading preceding section 4 is repealed and the following is substituted:

Part 1 Intervention Services

Division 1 Preliminary Matters

9 Section 4 is amended

(a) in subsection (1)

(i) by striking out “and believes”;

(ii) by striking out “protective services” **and substituting** “intervention”;

(b) by adding the following after subsection (1):

(1.1) A referral received pursuant to section 35 of the *Youth Criminal Justice Act* (Canada) is deemed to be a report made under subsection (1).

(c) in subsection (4) by adding “, including a person who reports information referred to in subsection (3),” **after** “this section”.

10 Section 6 is repealed and the following is substituted:

Assessment, investigation, response

6(1) If a director receives information in the form of

- (a) a request for intervention services,
- (b) a report under section 4 or 5, or
- (c) any other allegation or evidence that a child is in need of intervention,

the director must assess the child's need for intervention, unless the director is satisfied that the information was provided maliciously or is unfounded or that the report or allegation was made without reasonable and probable grounds.

(2) If, after an assessment referred to in subsection (1), the director is of the opinion that the child is in need of intervention, the director must,

- (a) if the director is satisfied that it is consistent with the child's need for intervention, provide family enhancement services in accordance with this Act to the child or to the child's family, or
- (b) if the director is not satisfied that the child's need for intervention may be met under clause (a), cause the matter to be investigated.

(3) If, after an investigation referred to in subsection (2)(b), the director continues to be of the opinion that the child is in need of intervention, the director must,

- (a) if satisfied that it is consistent with the child's need for intervention, provide family enhancement services in accordance with this Act to the child or to the child's family, or
- (b) if not satisfied that the child's need for intervention may be met under clause (a), take whatever action under this Act the director considers appropriate, including the provision of protective services in accordance with this Act.

(4) If family enhancement services are provided, the person or a member of the organization providing those services must report to the director any matter respecting the child that may require further assessment or investigation by the director.

(5) During an investigation, a director may, if in the opinion of the director it is necessary, convey a child to any place in order to complete the investigation.

(6) If, after an investigation pursuant to subsection (2)(b), a director is of the opinion that it would be consistent with the child's need for intervention, the director may convey the child to the person who has custody of the child or to a person who is temporarily caring for the child.

11 Section 7 is amended

- (a) **in subsection (1) by striking out “protective services” and substituting “intervention”;**
- (b) **in subsection (3) by striking out “2 days” and substituting “10 days”;**
- (c) **in subsection (4) by striking out “any child welfare worker” and substituting “a director”.**

12 The heading preceding section 8 is repealed and the following is substituted:

**Division 2
Agreements**

13 Section 8 is amended

- (a) **in subsection (1)**
 - (i) **by striking out “support”;**
 - (ii) **in clause (a) by striking out “protective services” and substituting “intervention”;**
 - (iii) **in clause (b) by striking out “support”;**
- (b) **by repealing subsection (2).**

14 Section 9 is repealed and the following is substituted:

Custody agreement

9 Subject to section 33, a director may enter into an agreement in the prescribed form for terms of not more than 6 months each with the guardian of a child under which custody of the child is given to the director if, in the opinion of the director,

- (a) the child is in need of intervention, and
- (b) the survival, security or development of the child cannot be adequately protected if the child remains with the child's guardian.

15 Section 10 is amended

- (a) **by striking out** “or a child”;
- (b) **by adding “and” at the end of clause (b), striking out “and” at the end of clause (c) and repealing clause (d).**

16 Section 12(4) is amended

- (a) **by striking out** “protective services” **and substituting** “intervention”;
- (b) **in clause (b) by striking out** “Part 3” **and substituting** “Division 3”.

17 Section 14(2)(c) is repealed.

18 The heading preceding section 16 is repealed and the following is substituted:

**Division 3
Court Orders**

19 Section 18 is amended

- (a) in subsection (1)(a) by striking out “protective services” and substituting “intervention”;**
- (b) by repealing subsection (2).**

20 Section 19 is amended

- (a) in subsection (1)**

 - (i) by striking out “protective services” and substituting “intervention”;**
 - (ii) in clause (b) by striking out “, a child welfare worker”;**

- (b) in subsection (2)(a) by striking out “Part 2 or this Part” and substituting “Division 2 or this Division”;**
- (c) in subsection (3) by striking out “, a child welfare worker”;**
- (d) in subsection (8)(c) by striking out “protective services” and substituting “intervention”;**
- (e) in subsection (10)(c) by striking out “or a presiding justice of the peace”;**
- (f) in subsections (12) and (14) by striking out “child welfare worker or” wherever it occurs and substituting “director or”.**

21 Section 20 is amended

- (a) in subsection (1)**

 - (i) in clause (b) by striking out “section 22(1)(a)” and substituting “section 43.1(1)”;**
 - (ii) in clause (c) by striking out “section 22(7)(b)” and substituting “section 43.1(3)”;**

- (b) in subsection (3) by striking out “the rights of the guardian under section 21” and substituting “the telephone number of the nearest office of the Legal Aid Society of Alberta”.

22 Section 21 is amended

- (a) by repealing subsection (4)(b) and substituting the following:

- (b) a family enhancement agreement or custody agreement is entered into in respect of the child,

- (b) by repealing subsections (5) to (10).

23 The following is added after section 21:

Initial custody, concurrent planning

21.1(1) If a director makes an application to the Court under section 21(1)(b) for a temporary guardianship order or permanent guardianship order, the director must also apply for an order for custody of the child until the application for a temporary guardianship order or a permanent guardianship order is withdrawn or disposed of.

(2) On hearing a custody application under subsection (1), the Court must

- (a) order the child into the custody of a director, or
- (b) order that the child be returned to the custody of the child’s guardian

until the director’s application for a temporary guardianship order or a permanent guardianship order is withdrawn or disposed of.

(3) If an order is made under subsection (2)(a), the Court may

- (a) include terms for access to be provided between the child and the guardian or any other person with whom the child has a significant relationship, and
- (b) require an assessment of the child and of the child’s guardian and any other person who may be given

custody of the child when the application for a temporary guardianship order is disposed of.

(4) Despite section 26, an application under subsection (1)

- (a) is summary in nature, and
- (b) may be adjourned for a period of no more than 7 days at a time unless the parties agree to a longer adjournment; however, the total adjournment period under this clause shall not exceed 42 days.

(5) If the Court adjourns a hearing under subsection (4), it must make an interim order providing for the custody of the child, and the order may include terms respecting access to the child.

(6) If an order is made under subsection (2)(a), unless exempted by the regulations, the director must, within 42 days of the director's application under section 21(1)(b), consult with the guardian and other family members to develop a plan, in accordance with the regulations, that

- (a) describes the services to be provided to facilitate the return of the child to the custody of the child's guardian, and
- (b) describes an alternative permanent placement for the child.

24 Section 22 is repealed and the following is substituted:

Custody on apprehension

22 If a child has been apprehended, a director has exclusive custody of the child and is responsible for the child's care, maintenance and well-being until the director has returned the child to the custody of the child's guardian or an application under section 21 has been disposed of.

25 The following is added after section 22:

Health care on apprehension

22.1(1) If the guardian of a child who has been apprehended is unable or unavailable to consent to the provision of essential medical, surgical, dental or other remedial treatment for the child that is recommended by a physician or dentist, a director

may authorize the provision of any recommended treatment for the child.

(2) If the guardian of a child who has been apprehended refuses to consent to essential medical, surgical, dental or other remedial treatment for the child that is recommended by a physician or dentist, the director must apply to the Court for an order authorizing the treatment.

(3) Despite section 23(4), notice of the date, time and place at which an application under subsection (2) is to be heard must be served not less than one day before the date fixed for the hearing.

(4) A director may make an application by telephone or other means of telecommunication to a judge of the Court in accordance with section 19(5) to (10), in which case section 19(11) applies to the order.

(5) If it is satisfied that the treatment is in the best interests of the child, the Court may authorize the treatment notwithstanding that the guardian of the child refuses to consent to the treatment.

(6) If the Court authorizes treatment under this section, the authorization extends to the conclusion of the course of treatment unless the Court orders otherwise, even if a director ceases to have custody or guardianship of the child.

(7) If a child is treated pursuant to an order under this section, no liability attaches to the person treating the child by reason only that the guardian of the child did not consent to the treatment.

Health care under guardianship

22.2(1) If a child who is the subject of a temporary guardianship order or a permanent guardianship agreement or order refuses to consent to essential medical, surgical, dental or other remedial treatment that is recommended by a physician or dentist, the director must apply to the Court for an order authorizing the treatment.

(2) Despite section 23(4), notice of the date, time and place at which an application under subsection (1) is to be heard must be

served not less than one day before the date fixed for the hearing.

(3) If the Court authorizes treatment under this section, the authorization extends to the conclusion of the course of treatment unless the Court orders otherwise, even if a director ceases to have guardianship of the child.

(4) If a child is treated pursuant to an order under this section, no liability attaches to the person treating the child by reason only that the child did not consent to the treatment.

26 Section 23(1) is amended by striking out “this Part, other than an application under section 21,” **and substituting** “this Division”.

27 Section 25 is repealed.

28 Section 26 is amended

(a) **in subsection (1) by striking out** “40” **and substituting** “42”;

(b) **by repealing subsection (3).**

29 Section 27 is repealed and the following is substituted:

General powers of Court

27 After a hearing under this Division, the Court may make any order it has jurisdiction to make under this Division or Division 4 if it is satisfied as to the appropriateness of that order notwithstanding that it is not the order applied for.

30 Section 28(3)(b)(i) is amended by striking out “child welfare worker” **and substituting** “director”.

31 Section 29(1) is amended by striking out “of protective services” and substituting “for intervention”.

32 Section 31 is amended

(a) in subsection (1)

(i) by striking out “for a period of not more than one year”;

(ii) in clause (a) by striking out “protective services” and substituting “intervention”;

(b) in subsection (2) by striking out “Part 6” and substituting “Part 2, Division 1”;

(c) by repealing subsection (3);

(d) in subsection (4)

(i) by striking out “complied with,” and substituting “complied with, and on considering the recommendations of the director,”;

(ii) by striking out “or” at the end of clause (b) and adding the following after clause (c):

(d) if recommended by a director, participation by the child or the guardian or both in treatment or remedial programs, and

(e) any other terms that the Court considers necessary.

33 Sections 31.1 and 31.2 are repealed.

34 Section 32 is amended

(a) in subsection (2)

- (i) **in clause (a) by striking out** “protective services” **and substituting** “intervention”;
- (ii) **in clause (b) by striking out** “protective” **and substituting** “intervention”;
- (iii) **by repealing clause (c) and substituting the following:**
 - (c) if a plan has been developed in accordance with section 21.1(6), whether a director has followed the plan for the care of the child;

(b) in subsection (3)

- (i) **by adding** “, despite section 33,” **after** “the Court shall”;
- (ii) **by striking out** “hearing of an” **and substituting** “disposition of the”.

35 Section 33 is repealed and the following is substituted:

Term of custody

33(1) The total cumulative period during which a child is in the custody of a director or the subject of a temporary guardianship order shall not exceed

- (a) 6 months if the child is under the age of 6 years, or
- (b) 9 months if the child is 6 years of age or older.

(2) Despite subsection (1), the Court may make a temporary guardianship order for one further period of not more than 6 months if the Court is satisfied there are good and sufficient reasons for doing so.

(3) Despite subsections (1) and (2), the Court may make a temporary guardianship order for one further period of not more than an additional 3 months if the Court is satisfied that

- (a) there are exceptional circumstances that justify exceeding the time limit, and

(b) it can be anticipated that the child may be returned to the custody of the child's guardian within the period of the order.

(4) For the purposes of subsection (1), the following periods during which a director has custody of a child shall not be included in computing the total cumulative period of time:

(a) custody referred to in section 22, and

(b) the first 42 days provided for in section 21.1(6).

(5) If a child is returned to the custody of the child's guardian or a director's application under section 21(1)(b) is withdrawn or disposed of within the first 42 days referred to in subsection (4)(b), the 42-day exemption from the cumulative period of time in care is deemed to have occurred.

(6) Despite subsections (1), (2) and (3), the Court may make a temporary guardianship order with respect to a child for a further period of not more than 9 months if the child has not been in the custody of a director or the subject of a temporary guardianship order during the 5 years immediately preceding the application, and subsections (4) and (5) apply to determining the total cumulative period of time that a child can be in the custody of a director pursuant to this subsection.

(7) If a child attains 6 years of age while in the custody of a director or the subject of a temporary guardianship order, the time period set out in subsection (1)(b) applies.

36 Section 34 is amended

(a) in subsection (1)(a) by striking out "protective services" and substituting "intervention";

(b) by repealing subsections (2), (3), (6) and (7).

37 The following is added after section 34:

Report on guardianship

34.1 A director must, with respect to each child who is the subject of a permanent guardianship agreement or order for one year or more, report to the Minister in the manner required by the regulations regarding the plan for a permanent placement for that child.

38 Section 35 is amended

(a) by adding the following after subsection (1):

(1.1) If a permanent guardianship agreement or order is terminated pursuant to subsection (1), the person, other than a director, who was the guardian immediately before the permanent guardianship agreement or order was made is the guardian of the child unless the Court orders otherwise.

(b) by repealing subsection (2).

39 Sections 36 and 37 are repealed.

40 Section 40(1) is amended by adding the following after clause (a):

(a.1) a private guardianship order is made in respect of the child,

41 Section 41 is repealed.

42 The heading preceding section 43 is repealed and the following is substituted:

**Division 4
Secure Services**

43 Section 43 is repealed.

44 The following is added before section 44:

Secure services certificate

43.1(1) Subject to subsection (2), if a child

- (a) other than a youth who is the subject of a custody agreement under section 57.2(2), is in the custody of a director,
- (b) is the subject of a supervision order, temporary guardianship order or permanent guardianship agreement or order, or
- (c) is the subject of a family enhancement agreement under section 8,

and a director has reasonable and probable grounds to believe that

- (d) the child is in a condition presenting an immediate danger to the child or others,
- (e) it is necessary to confine the child in order to stabilize and assess the child, and
- (f) less intrusive measures are not adequate to sufficiently reduce the danger,

the director may issue a secure services certificate, and on issuing it the director may convey the child, and may detain the child while the child is being conveyed, to a secure services facility and may confine the child in a secure services facility.

(2) A director may not issue a secure services certificate respecting a child who is the subject of a supervision order, a custody agreement under section 9 or a family enhancement agreement under section 8 without the written consent of the guardian.

(3) If a director confines a child pursuant to subsection (1),

- (a) the director must appear before the Court within 3 days after the confinement to show cause why the certificate was issued, and

(b) the director may also apply for a secure services order in respect of the child for a further period of not more than 7 days if it is necessary to stabilize the child or to assess the child and to prepare a plan for services that meets the requirements of the regulations.

(4) If a director confines a child pursuant to subsection (1), the director must provide a copy of the secure services certificate to the child and to the guardian who has consented to the issuing of the secure services certificate not more than one day after the certificate is issued.

(5) A secure services certificate or order is sufficient authority for any person to confine the child in a secure services facility.

(6) An application pursuant to subsection (3) may be heard by a judge of the Court, a judge of the Court of Queen's Bench or a sitting justice of the peace.

45 Section 44 is amended

(a) by repealing subsection (1) and substituting the following:

Secure services order

44(1) If a child

- (a) other than a youth who is the subject of a custody agreement under section 57.2(2) is in the custody of a director,
- (b) is the subject of a supervision order, temporary guardianship order or permanent guardianship agreement or order, or
- (c) is the subject of a family enhancement agreement under section 8,

the director may apply to the Court for a secure services order.

(b) by repealing subsections (2) and (3);

(c) by repealing subsection (6) and substituting the following:

(6) The Court may make a secure services order in respect of a child for a period of not more than 10 days if it is satisfied that

- (a) the child is in a condition presenting an immediate danger to the child or others,
- (b) it is necessary to confine the child in order to stabilize and assess the child, and
- (c) less intrusive measures are not adequate to sufficiently reduce the danger.

(6.1) During the term of a secure services order under subsection (6), a director must assess the child who is subject to the order and must prepare a plan for services that meets the requirements of the regulations.

(d) in subsection (7) by striking out “treatment institution” and substituting “services facility” and by striking out “treatment order” and substituting “services order”;

(e) by repealing subsection (8) and substituting the following:

(8) A secure services order is sufficient authority for any person to confine the child in a secure services facility.

(f) in subsection (9)

(i) by striking out “treatment” and substituting “services”;

(ii) in clause (b)(iv) by striking out “treatment institution” and substituting “services facility”;

(g) by repealing subsection (10).

46 The following is added after section 44:

Renewal of section 43.1 and 44 orders

44.1(1) A secure services order granted under section 43.1 or 44 may be renewed in accordance with the application procedures of section 44 on the application by a director in the prescribed form for a period of not more than 20 days.

(2) The total period of confinement of a child in a secure services facility under this section and sections 43.1 and 44 shall not exceed 30 consecutive days.

(3) Despite subsection (2), if the child ceases to be in the custody of a director or the subject of a supervision order, a temporary guardianship order, a permanent guardianship agreement or order or a family enhancement agreement under section 8, the confinement in the secure services facility terminates immediately.

47 Section 45 is amended

(a) in subsection (1)

(i) **by striking out** “treatment certificate or” **and substituting** “services certificate or”;

(ii) **by striking out** “or child welfare worker” **and substituting** “or director”;

(iii) **by striking out** “treatment institution” **wherever it occurs and substituting** “services facility”;

(b) by repealing subsection (2) and substituting the following:

(2) On the issuing of a secure services certificate or order, the person in charge of the secure services facility specified by a director must admit the child to the secure services facility if the child is not already resident in that facility, and the person is responsible for ensuring that

- (a) the child is provided with services to stabilize the child in accordance with the standards prescribed for such services in the regulations,
- (b) any assessment required for the preparation of a plan for services for the child is undertaken, and
- (c) the level of security provided to the child meets what is reasonably required for the confinement of the child.

48 Section 46 is amended

- (a) **by striking out** “treatment certificate or” **and substituting** “services certificate or”;
- (b) **by striking out** “treatment institution” **wherever it occurs and substituting** “services facility”;
- (c) **by striking out** “child welfare worker” **and substituting** “director”.

49 Section 47 is amended

- (a) **by striking out** “treatment certificate” **and substituting** “services certificate”;
- (b) **by striking out** “treatment institution” **and substituting** “services facility”.

50 Section 48 is amended

- (a) **by repealing subsection (1) and substituting the following:**

Search and apprehension order

48(1) When a child who is the subject of a secure services certificate or order

- (a) leaves a secure services facility when no leave of absence has been granted, or
- (b) leaves a secure services facility pursuant to a leave of absence and fails to return within the time permitted by the leave,

a director may apprehend and convey or authorize a peace officer or any other person to apprehend and convey the child, and to detain the child while the child is being conveyed, to a secure services facility.

- (b) **in subsection (2)**
 - (i) **by striking out** “treatment certificate or” **and substituting** “services certificate or”;
 - (ii) **by striking out** “, a child welfare worker”;

(iii) by striking out “treatment institution” wherever it occurs and substituting “services facility”;

(c) in subsection (7)(b)

(i) by striking out “treatment certificate or” and substituting “services certificate or”;

(iii) by striking out “treatment institution” wherever it occurs and substituting “services facility”;

(d) in subsection (11)

(i) by striking out “a child welfare worker,” and substituting “a director or a”;

(ii) by striking out “treatment institution” wherever it occurs and substituting “services facility”;

(iii) by striking out “the child welfare worker” and substituting “the director”.

51 Section 49 is amended

(a) in subsection (1) by striking out “treatment” and substituting “services”;

(b) in subsection (2) by striking out “treatment” wherever it occurs and substituting “services”;

(c) in subsection (3) by striking out “10 days” and substituting “5 days”;

(d) in subsection (5)

(i) in clause (c) by striking out “treatment institution” and substituting “services facility”;

(ii) by striking out “5 days” and substituting “2 days”.

52 Section 50 is amended

- (a) in subsection (1) by striking out “treatment” wherever it occurs and substituting “services”;
- (b) in subsection (2) by striking out “treatment” and substituting “services”;
- (c) in subsection (3) by striking out “treatment institution” and substituting “services facility”.

53 Section 51 is amended

- (a) by repealing subsection (1) and substituting the following:

Adjournment and extension of confinement

51(1) The Court may adjourn the hearing of an application under section 43.1, 44, 44.1 or 49

- (a) with the consent of the parties to the application, or
 - (b) if the Court is satisfied that the adjournment is necessary in order to obtain evidence to assist the Court in determining whether a secure services order should be made, or confirmed, varied or terminated.
- (b) in subsection (2) by striking out “44” and substituting “43.1, 44 or 44.1”;
 - (c) in subsection (3)
 - (i) by striking out “44” and substituting “43.1, 44, 44.1”;
 - (ii) by striking out “treatment institution” and substituting “services facility”

54 The heading preceding section 52 is repealed and the following is substituted:

**Division 5
Private Guardianship**

55 Section 52 is amended

- (a) **by repealing subsection (1) and substituting the following:**

Private guardianship

52(1) Any adult who for a period of at least one month has had the continuous care of a child who is in the custody of a director or is the subject of a temporary guardianship order or a permanent guardianship agreement or order may apply to the Court in the prescribed form for a private guardianship order in respect of the child.

(1.1) An application under subsection (1) must include a report in the prescribed form prepared by a qualified person respecting

- (a) the suitability of the applicant as a guardian,
- (b) the ability and willingness of the applicant to assume the responsibility of a guardian with respect to the child, and
- (c) whether it is in the best interests of the child that the applicant be appointed as a guardian of the child.

(1.2) If the child is the subject of a permanent guardianship agreement or order, the report required under subsection (1.1) must be prepared by a director.

- (b) **in subsection (2) by striking out** “in respect of a child who is the subject of a permanent guardianship order or agreement”.
- (c) **by repealing subsections (3) to (5).**

56 Section 53 is amended

- (a) **in subsection (1) by adding** “under section 52 and a copy of the report described in section 52(1.1)” **after** “the application”;
- (b) **in subsection (2)(a) by adding** “and a copy of the report described in section 52(1.1)” **after** “application”.

57 Section 54 is repealed.

58 Section 55 is amended

(a) in subsection (1) by striking out “and” at the end of clause (a), adding “and” at the end of clause (b) and adding the following after clause (b):

(c) a director, if a director is not the guardian of the child.

(b) in subsection (2)

(i) by repealing clause (a) and substituting the following:

(a) the guardian of the child,

(ii) by adding “or” at the end of clause (b) and adding the following after clause (b):

(c) a director, unless a director is the guardian of the child,

59 Section 56 is amended

(a) in subsection (1) by striking out “and” at the end of clause (a), adding “and” at the end of clause (b) and adding the following after clause (b):

(c) the child has been in the continuous care of the applicant for a period of at least 3 months immediately prior to the hearing,

(b) by adding the following after subsection (1):

(1.1) On making an order under subsection (1), the Court may include terms respecting custody of and access to the child.

(c) in subsection (2) by striking out “and” at the end of clause (b), adding “and” at the end of clause (c) and adding the following after clause (c):

- (d) a director, if a director was not the guardian of the child immediately before the making of the order.

60 The following is added after section 56:

Financial assistance

56.1(1) A director may provide financial assistance in accordance with the regulations to a person who is made a private guardian of a child who was, at the time of making the private guardianship order, the subject of a permanent guardianship agreement or order if the director is satisfied that the private guardianship would place an undue burden on the financial resources of that person.

(2) The director may review the financial assistance from time to time and may vary or terminate the financial assistance in accordance with the regulations.

61 Section 57(3) to (5) are repealed.

62 The following is added after section 57:

Termination of order

57.1(1) If a private guardianship order is made under this Division, a guardian whose guardianship is not terminated under section 57 may apply to the Court in the prescribed form to terminate the private guardianship order and, if the Court is satisfied that

- (a) the applicant is capable of fully resuming and willing to fully resume the responsibilities of guardianship of the child, and
- (b) it is in the best interests of the child to do so,

the Court may, subject to subsection (3), terminate the private guardianship order.

(2) If the Court terminates a private guardianship order, the applicant and any other person whose guardianship was not terminated under section 57 are the guardians of the child.

(3) No order shall be made under subsection (1) relating to a child who is 12 years of age or older without the consent of the child.

(4) Sections 53 and 55 apply to an application under this section, and the applicant must include a report described in section 52(1.1) in the application.

Division 6 Youth

Family enhancement, custody agreements

57.2(1) A director may enter into an agreement in the prescribed form with a youth with respect to the provision of services to the youth if the director is

- (a) satisfied that the youth is living independently of the youth's guardian, and
- (b) of the opinion that
 - (i) the youth is in need of intervention, and
 - (ii) as a result of the provision of services, the youth's survival, security or development will be adequately protected while the youth continues to live independently of the youth's guardian.

(2) Subject to section 33, a director may enter into a custody agreement in the prescribed form for terms of not more than 6 months each with a youth under which custody is given to the director if the director is

- (a) satisfied that the youth is living independently of the youth's guardian, and
- (b) of the opinion that
 - (i) the youth is in need of intervention, and
 - (ii) the survival, security and development of the youth can be adequately protected through the agreement.

- (3) The terms of an agreement under this section must include
- (a) in the case of a custody agreement, the visits or other access to be provided between the youth and the youth's guardian or any other person, and
 - (b) a plan of care, in the prescribed form, that addresses the youth's need for preparation for the transition to independence and adulthood.

Post-18 care and maintenance

57.3 When a youth who is the subject of a family enhancement agreement under section 57.2(1), a custody agreement under section 57.2(2), a temporary guardianship order or a permanent guardianship agreement or order attains the age of 18 years, a director may continue to provide the person with support and financial assistance

- (a) for the periods and the purposes, and
- (b) on the conditions

prescribed in the regulations.

**Division 7
Guardian's Financial
Responsibility**

Definition

57.4 In this Division, "child support" includes contributions in kind towards the maintenance of a child.

Child support agreement

57.5(1) If a child is in the custody of a director or the subject of a temporary guardianship order or a permanent guardianship agreement or order or if a director has entered into a family enhancement agreement under section 57.2(1), a director may enter into an agreement in the form prescribed in the regulations with the guardian of the child whereby the guardian agrees to pay child support.

(2) An agreement under subsection (1) does not prevent the director from applying to a Court for an order under section 57.6.

Child support order

57.6(1) If a child is in the custody of a director or the subject of a temporary guardianship order or a permanent guardianship agreement or order or if a director has entered into a family enhancement agreement under section 57.2(1), a director may apply in the form prescribed in the regulations to a Court for an order requiring payment of child support by any or all of

- (a) the guardians and parents, and
- (b) the trustees, from an estate held in trust for the child.

(2) A Court on hearing an application under subsection (1) may make an order requiring a guardian, parent or trustee to pay child support.

(3) An order of the Court under subsection (2) may be retroactive in effect to the commencement of the child being in the custody of a director, the subject of a temporary guardianship order or a permanent guardianship agreement or order or the subject of a family enhancement agreement under section 57.2(1).

(4) In making an order requiring a guardian, parent or trustee to pay child support for a child under this section, the Court must consider

- (a) the income, earning capacity and other financial resources or benefits of the guardian or parent and of any other person residing with the guardian or parent,
- (b) the value of the estate, if any, held in trust for the child excluding damages paid to the child to compensate for personal injuries,
- (c) the needs of the child, and
- (d) the present and past standard of living of the child and of the guardian or parent.

(5) If an order is made under subsection (2), a guardian, parent or trustee ordered to pay child support may apply to the Court for a review of the order.

(6) On reviewing an order under this section, the Court may vary, suspend or terminate the order or may reduce or cancel

arrears if the Court is satisfied that there has been a substantial change in

- (a) the ability of the guardian, parent or trustee to provide the child support, or
- (b) the needs of the child.

(7) Notice of the nature, date, time and place of a hearing under this section must be served personally by the applicant at least 5 days before the date fixed for the hearing on the guardian or parent of the child, on a trustee or on a director, as the case may be.

(8) Section 23(5) and (6) apply to an application under this section.

Termination of agreement or order

57.7 An agreement or order under this Division terminates on the earliest of

- (a) the day the child attains 18 years of age,
- (b) the day the child is adopted,
- (c) the day the child dies,
- (d) the day the child marries, and
- (e) the day the child is returned to the custody of the guardian.

Transfer of child support

57.8(1) If a private guardianship order is made with respect to a child who is the subject of a child support agreement or order under this Division, the private guardianship order may direct that child support payments made pursuant to the agreement under section 57.5 or order under section 57.6 must be made to the private guardian, notwithstanding that the private guardian was not a party to the agreement or a party to the application for the order.

(2) If the Director of Maintenance Enforcement has not received a copy of the private guardianship order referred to in subsection (1), the Director of Maintenance Enforcement is not responsible for the repayment of any money disbursed by the

Director of Maintenance Enforcement after the private guardianship order has been made.

Financial information

57.9(1) In order to assist a director in determining terms of an agreement under section 57.5 or to assist the Court in determining terms of an order under section 57.6, the director may request from a guardian, parent or trustee the disclosure of financial information in accordance with the regulations.

(2) If the guardian, parent or trustee refuses to disclose the financial information requested by the director, the director may apply to the Court for an order for financial disclosure.

(3) In making an order under section 57.6, the Court may draw an adverse inference against a guardian, parent or trustee and impute income to a guardian or parent or impute assets and income to an estate held in trust for a child in the amount that the Court considers appropriate.

63 The heading preceding section 58 is repealed and the following is substituted:

**Part 2
Adoption**

64 Section 58(1) is amended by repealing clauses (d) and (e).

65 The following is added after section 58:

Matters to be considered

58.1 A Court and all persons who exercise any authority or make any decision under this Act relating to the adoption of a child must do so in the best interests of the child, and must consider the following as well as any other relevant matter:

- (a) the importance of a positive relationship with a parent, and a secure place as a member of a family, in the child's development;
- (b) the benefits to the child of stability and continuity of care and relationships;

- (c) the mental, emotional and physical needs of the child and the child's mental, emotional and physical stage of development;
- (d) the benefits to the child of maintaining, wherever possible, the child's familial, cultural, social and religious heritage;
- (e) the child's views and wishes, if they can be reasonably ascertained;
- (f) the effects on the child of a delay in decision-making;
- (g) in the case of an aboriginal child, the uniqueness of aboriginal culture, heritage, spirituality and traditions, and the importance of preserving the child's cultural identity.

66 The following heading is added after section 58.1:

**Division 1
Adoption Process**

67 Section 60(2) is amended by striking out “or” at the end of clause (b) and by adding the following after clause (b):

- (b.1) when the child leaves the care and custody of the prospective adopting parent because of a breakdown in the adoption placement, or

68 Section 62 is amended

- (a) in subsection (1)(b) by striking out “this Part” and substituting “this Division”;
- (b) by repealing subsection (2).

69 Section 63 is amended

- (a) in subsection (1) by striking out** “permanent guardianship agreement or order” **and substituting** “permanent guardianship agreement or order or who is the subject of an equivalent order or agreement in another country and has been lawfully admitted to Canada for permanent residence”;
- (b) in subsection (2)**
 - (i) by striking out** “or a child who is placed by a parent directly in the custody of the petitioner”;
 - (ii) in clause (a) by adding “and” at the end of subclause (ii), striking out “and” at the end of subclause (iii) and repealing subclause (iv);**
- (c) in subsection (3)**
 - (i) by striking out** “who is a relative of the child”;
 - (ii) by adding the following after clause (b):**
 - (c) family and medical history of the child’s biological parent as required by the regulations;
 - (d) the results of a criminal record check of the petitioner.

70 Section 64 is amended

- (a) in subsection (1)**
 - (i) by adding “either” before “a notice”;**
 - (ii) by adding “or a notice of objection in the prescribed form” after “petition”;**
- (b) in subsection (3) by adding “or the results of a criminal record check under section 63(3)” after “subsection (1)”;**
- (c) by repealing subsections (4) and (5) and substituting the following:**
 - (4)** A person who is served with a notice of objection form under subsection (1) may, within 10 days after being served, file a notice of objection with the clerk of the Court.

(5) If no notice of objection is filed within 10 days after service on all the persons required to be served under subsection (1), the Court may consider the petition in the absence of the applicant and all the persons referred to in subsection (1).

(6) If a notice of objection is filed or if the Court considers that a hearing is necessary, the applicant must, at least 10 days before the date the petition is to be heard, serve a notice on the persons described in subsection (1) and any person who filed a notice of objection under this section.

(7) No order for service ex juris is necessary for service of a copy of a notice on any of the persons referred to in subsection (1) in a province or territory of Canada other than Alberta or in the United States of America, but service must be effected at least

(a) 30 days before the date the petition is to be heard in the case of a person in a province or territory other than Alberta, or

(b) 45 days before the date the petition is to be heard in the case of a person in the United States of America.

(8) The Court may, if it considers it appropriate to do so,

(a) shorten the time for service on all or any of the persons referred to in subsection (1), and

(b) direct the manner of service, or approve the manner of service that has been effected, on all or any of the persons referred to in subsection (1).

71 Section 65 is repealed.

72 Section 66(2) is amended by striking out “not less than 7 days before the date of the hearing of the petition” and substituting “forthwith”.

73 Section 67 is amended

- (a) in subsection (1) by striking out** “consult with a chief of the council or the council of the band, or the designate of either of them, before filing the petition for an adoption order” **and substituting** “involve a person designated by the council of the band in decisions relating to the adoption of the child”;
- (b) in subsection (2) by repealing clauses (a) and (b) and substituting the following:**
 - (a) request the guardian who is surrendering custody of the child to consent to the involvement of a person designated by the council of the band in decisions relating to the adoption of the child, and
 - (b) if the guardian consents to the involvement under clause (a), involve the person designated by the council of the band in decisions relating to the adoption of the child.

74 Section 68 is amended

- (a) by repealing subsection (1) and substituting the following:**

Court proceedings

68(1) If the Court considers, under section 64, that a hearing is necessary, the proceedings relating to the adoption of a child shall be heard in private unless the Court orders otherwise.

- (b) in subsection (4) by striking out** “on the hearing of” **and substituting** “on considering”.

75 Section 70(3) is amended by adding “or if on and after the coming into force of the *Adult Interdependent Relationships Act* the adopting parent is an adult interdependent partner, as defined in that Act, whose deceased adult interdependent partner was a party to the petition,” **after** “adoption order.”.

76 The following is added after section 72:

Adoption of non-resident of Canada

72.1 A resident of Alberta who wishes to adopt a child who is not lawfully admitted to reside in Canada must apply to a director, in accordance with the regulations, for approval for the placement of the child.

77 Section 73 is amended by striking out “this Act” and substituting “this Act, if the effect of the adoption order in the other jurisdiction is to create a permanent parent-child relationship”.

78 The following is added after section 73:

Setting aside an adoption order

73.1(1) No application to set aside an adoption order shall be made after the expiration of one year from the date of the adoption order except on the ground that the order was procured by fraud, in which case it may be set aside only if it is in the best interests of the adopted child.

(2) Notice of the nature, date, time and place of the hearing of an application under subsection (1) must be served by the applicant on

- (a) the Minister,
- (b) the adopting parent, if the adopting parent is not the applicant,
- (c) the adopted child, if the adopted child is 12 years of age or older and is not the applicant,
- (d) the person who was the guardian of the child immediately before the adoption order was made, if the person is not the applicant,
- (e) the Public Trustee, if a director was the guardian of the child immediately before the adoption order was made, and
- (f) any other person who in the opinion of the Court should be served.

(3) If the adoption order is set aside, the applicant for the order setting it aside shall serve a copy of the order setting it aside on all those required to be served under subsection (2).

(4) The clerk of the Court shall send a certified copy of an order setting aside an adoption order to

- (a) the Director of Vital Statistics, and
- (b) the Registrar under the *Indian Act* (Canada) if the adopted child is an Indian.

(5) When an adoption order is set aside,

- (a) the child ceases to be the child of the adopting parent,
- (b) the adopting parent ceases to be the parent and guardian of the child,
- (c) the relationships between the child and all persons as they were immediately before the adoption order was made are re-established,
- (d) unless the Court orders otherwise, the person who was the guardian of the child immediately before the adoption order was made is the guardian of the child, and
- (e) unless the Court orders otherwise,
 - (i) the child's given name is the given name the child had before the adoption order was made, if any, and
 - (ii) the child's surname is the surname the child had before the adoption order was made.

79 Section 74 is amended by repealing subsections (5) to (10).

80 The following is added after section 74:

Division 2 Adoption Information

Sealed information

74.1(1) The clerk of the Court must seal all documents possessed by the Court that relate to an adoption, and those documents are not available for inspection by any person except on order of the Court or with the consent in writing of the Minister.

(2) Despite the *Freedom of Information and Protection of Privacy Act*, the Minister must seal adoption orders, all documents filed in support of adoption petitions, adopted children's original birth certificates and other documents required to be sealed by the regulations that are in the possession of the Minister, and they are not available for inspection by any person except on order of the Court or pursuant to this Division.

Right to disclosure, pre-2005 adoptions

74.2(1) In this section,

- (a) "adopted person" means a person who is adopted under an adoption order made prior to January 1, 2005;
- (b) "parent" means a biological parent and an adoptive parent under a previous adoption order.

(2) Subject to subsection (3), on receiving a written request from an adopted person who is 18 years of age or older, a descendant of a deceased adopted person or a parent of an adopted person, the Minister may release to the person making the request the information in the orders, certificates and documents sealed under section 74.1(2) other than personal information about an individual who is neither the adopted person nor a parent of the adopted person.

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

(4) Despite subsection (2), if an adopted person who is 18 years of age or older or a parent of the adopted person has, prior to the date of the request under subsection (2), registered with the Minister a veto in a form satisfactory to the Minister prohibiting

the release of personal information in the orders, certificates and documents sealed under section 74.1(2), the Minister shall not release the personal information unless the veto is revoked.

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

(6) A veto registered under subsection (4) is revoked when the person who registered the veto is deceased.

(7) Despite subsections (2) and (4), the Minister may disclose to

- (a) an adopted person who is 18 years of age or older,
- (b) a descendant of a deceased adopted person, and
- (c) 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,

the birth surname of the adopted person if the adoption order relating to that person did not disclose it.

(8) Despite subsection (2), if the Minister receives proof, satisfactory to the Minister, that all the parents of an adopted person are deceased, the Minister may release to the adopted person or a descendant of the adopted person all the personal information in the orders, certificates and documents sealed under section 74.1(2), including personal information about individuals who are neither the adopted person nor a parent.

Adoptions on or after January 1, 2005

74.3(1) In this section,

- (a) “adopted person” means a person who is adopted under an adoption order made on or after January 1, 2005;
- (b) “parent” means a biological parent and an adoptive parent under a previous adoption order.

(2) Subject to subsection (3), on receiving a written request from an adopted person who is 18 years of age or older, a descendant of a deceased adopted person or a parent of an adopted person, the Minister may release to the person making

the request personal information in the orders, certificates and documents sealed under section 74.1(2).

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

(4) An adopted person, a parent or any person whose personal information may be in orders, certificates or documents sealed under section 74.1(2) may register a contact preference with the Minister that indicates the person's preferences concerning contact with a person who makes a request under subsection (2).

(5) The Minister shall advise a person making a request under subsection (2) of any contact preference registered with respect to the requested information.

General disclosure

74.4(1) If a child who is aboriginal is adopted under this Act or any predecessor to this Act, the Minister, on the request of the child, whether a minor or an adult, or the child's guardian, at any time, may provide a copy of the original birth certificate of the child and identifying information about the child's biological parents to the Registrar under the *Indian Act* (Canada), a settlement council of a Metis settlement or a federal or provincial official responsible for providing benefits to persons of Inuit ancestry, for the purpose of facilitating an application for the child's aboriginal status and for execution of the child's rights as a person with aboriginal status.

(2) Despite section 74.1, the Minister or the clerk of the Court may, on request, provide a certified copy of an adoption order to

- (a) the adopted person, if that person is 18 years of age or older,
- (b) a descendant of a deceased adopted person,
- (c) a guardian who consented under section 59(1) and a person who consented under section 59(2) to the adoption of the child who is the subject of the adoption order, and
- (d) any person named in section 74(1).

(3) The Minister may disclose the identity of a person referred to in a sealed order, certificate or document if, in the opinion of the Minister, there are compelling circumstances that support disclosure.

(4) The Minister may disclose personal information sealed under section 74.1

- (a) to the Director of Maintenance Enforcement for the purposes of administering the *Maintenance Enforcement Act*, and
- (b) for use in a proceeding before a Court to which the Government of Alberta is a party.

(5) The Minister, on request, may release to an adopted person or the adopted person's

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

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

(6) Only an adult sibling may make a request under subsection (5)(c).

(7) If an adopted child is in need of intervention, the Minister may release personal information in orders, certificates and documents sealed under section 74.1(1) to a director for the purposes of providing intervention services.

81 Section 75 is amended

- (a) in subsection (1)(c)**

(i) by adding the following after subclause (i):

(i.1) a parent, by adoption, of an adopted person, if the adopted person is deceased;

(ii) in subclause (iv) by adding “or Metis settlement” after “Indian band”;

(b) by repealing subsection (6);

(c) by repealing subsection (7)(a).

82 Sections 76 to 80 are repealed.

83 The following heading is added before section 81:

**Division 3
Financial Assistance**

84 Section 82 is repealed.

85 The following heading is added before section 83:

**Division 4
Offences**

86 Section 84(e) is repealed.

87 Section 85(2)(b) is repealed and the following is substituted:

(b) in accordance with section 126.2(2)(a), the publication of any advertisement authorized by the Minister or a director for the purpose of finding homes for children in the custody or under the guardianship of a director,

88 The following heading is added before section 87:

**Division 5
Licensing of Adoption Agencies**

89 Section 87 is amended

(a) in subsection (1)

(i) by striking out “or a search agency,”;

(ii) by striking out “Part” and substituting “Division”;

(b) in subsection (2) by striking out “or a licensed search agency, as the case may be,”.

90 Sections 88(1)(c) and 90(b) are amended by striking out “or a licensed search agency, as the case may be”.

91 Section 91(1)(a) is amended by striking out “agency or a licensed search”.

92 The heading preceding section 92 is amended by striking out “Part 7” and substituting “Division 6”.

93 Section 94 is repealed and the following is substituted:

Paramountcy

94 Division 1 applies to an adoption to which this Division applies, but if there is a conflict between Division 1 and this Division, this Division prevails.

94 The following is added after section 105:

Part 3 Licensing of Residential Facilities

Definition

105.1 In this Part, “residential facility” means a facility that provides residential care to a child in the custody or under the guardianship of a director and includes a secure services facility, a foster home and a group home, but does not include a facility that primarily provides medical care, educational services or correctional services.

Licence required

105.2 No person shall operate a residential facility unless that person holds a subsisting residential facility licence issued by the Minister under this Act.

Application for licence

105.3(1) An application for a residential facility licence or a renewal of a residential facility licence must

- (a) be made to the Minister in a form satisfactory to the Minister, and
- (b) state the maximum number of persons intended to be accommodated or cared for in the residential facility.

(2) On considering an application for or renewal of a residential facility licence, the Minister may issue a residential facility licence and impose terms and conditions in the licence.

(3) Unless otherwise specified in the licence, the term of a residential facility licence is one year from the date of its issue.

(4) A residential facility licence issued under this section must

- (a) identify the residential facility that may be operated under the licence, and
- (b) state
 - (i) who may operate the residential facility,
 - (ii) the maximum number of children who may reside in the residential facility,

- (iii) the term of the licence if the term is other than one year from the date of issue, and
- (iv) any conditions to which the licence is subject.

Standards

105.4 A holder of a residential facility licence must ensure that the residential facility meets the requirements of the regulations, and the residential facility licence holder may not charge more for residential facility services than the rates provided for by the regulations.

Inspection

105.5(1) Subject to subsection (2), for the purposes of ensuring compliance with this Act, the regulations and any conditions to which a residential facility licence is subject, the Minister or a person authorized by the Minister may

- (a) at any reasonable hour enter a residential facility other than a private dwelling place and inspect it,
- (b) enter a residential facility that is a private dwelling place and inspect it with the consent of the owner or operator of the private dwelling place,
- (c) require the production of any books, records or other documents and examine them, make copies of them or remove them temporarily for the purpose of making copies,
- (d) inspect and take samples of any material, food, medication or equipment being used in a residential facility, and
- (e) perform tests, take photographs or make recordings in respect of a residential facility.

(2) When a person removes any books, records or other documents under subsection (1)(c), the person must

- (a) give to the person from whom those items were taken a receipt for those items, and
- (b) forthwith make copies of, take photographs of or otherwise record those items and forthwith return those items to the person to whom the receipt was given.

(3) When a person takes samples of any material, food, medication or equipment under subsection (1)(d), the person must

- (a) give to the person from whom those items were taken a receipt for those items, and
- (b) on that person's request, return those items to that person when those items have served the purposes for which they were taken.

(4) If entry is refused or cannot be reasonably obtained under subsection (1) or a person interferes with the Minister or a person authorized by the Minister in exercising rights and performing duties under this section, an application may be made to the Court of Queen's Bench by way of originating notice for an order that the Minister or a person authorized by the Minister may

- (a) at any reasonable hour enter the residential facility and inspect it,
- (b) require the production of any books, records or other documents and examine them, make copies of them or remove them temporarily for the purpose of making copies,
- (c) inspect and take samples of any material, food, medication or equipment being used in the residential facility, and
- (d) perform tests, take photographs or make recordings in respect of the residential facility,

and the Court may, on being satisfied that the order is necessary for the purpose of this section, make any order that it considers appropriate.

(5) An application under subsection (4) may be made ex parte, if the Court considers it proper.

Order after inspection

105.6 If a residential facility has been inspected under section 105.5 and the Minister is of the opinion that

- (a) this Act, the regulations or a condition of a residential facility licence is not being complied with, or
- (b) the residential facility is not providing proper care,

the Minister may in writing order the person operating that residential facility to take measures as specified in the order within the time limits specified in the order.

Suspension or cancellation of licence

105.7(1) When the Minister is of the opinion that

- (a) a residential facility licence holder is not providing proper care to a child who resides in the licence holder's residential facility,
- (b) the premises described in the residential facility licence have become unfit or unsuitable for a residential facility,
- (c) a residential facility licence holder has not complied with
 - (i) this Act, the regulations or a condition of the residential facility licence,
 - (ii) an order made under section 105.6, or
 - (iii) any other enactment that applies to a residential facility,

the Minister may, by notice in writing to the residential facility licence holder, suspend or cancel the residential facility licence and terminate the licensee's contract with the Crown to provide residential facility services.

(2) Every contract between the Crown and the owner or operator of a residential facility is deemed to contain a provision that the Crown may terminate the contract without notice and without damages payable by the Crown to the owner or operator if the owner or operator fails to comply with an order issued under section 105.6 or if the residential facility licence is suspended, cancelled or expired.

95 The heading to Part 8 is amended by striking out "Part 8" and substituting "Part 4".

96 The following is added after the heading “Part 8 General”:

Financial assistance for children

105.8 If the guardian of a child is unable or unwilling to care for the child and the child is, in the opinion of a director, being cared for by another adult person, financial assistance may be provided in accordance with the regulations to that adult person on behalf of the child.

97 Section 107 is repealed and the following is substituted:

Indian child

107(1) If a director has reason to believe that a child is an Indian and a member of a band, the director must involve a person designated by the council of the band in planning for the services to be provided to the child if

- (a) the child is the subject of a temporary guardianship order or a permanent guardianship agreement or order,
- (b) the child is the subject of an application for a permanent guardianship order, or
- (c) the child is a resident of a reserve and
 - (i) is the subject of an investigation by a director under section 6, or
 - (ii) is receiving intervention services.

(2) If a director has reason to believe that a child who is in need of intervention is an Indian and a member of a band but is not a resident of a reserve, the director must

- (a) ask the guardian of the child to consent to the involvement of a person designated by the council of the band in planning for the services to be provided to the child, and
- (b) if the guardian consents, involve that person in planning for the services to be provided to the child.

(3) If the Court makes a supervision order, a temporary guardianship order or a permanent guardianship order in respect of a child who is an Indian and a member of a band, the director must provide the person designated by the council of the band with a copy of the order not more than 20 days after the date of the order.

(4) Despite subsection (3), a director shall not provide a copy of an order made under subsection (3) to a person designated by the council of a band if the guardian of a child described in subsection (2) has not consented to the involvement of that person.

(5) If a person adopts a child who is an Indian, that person must

(a) take reasonable actions on behalf of the child necessary for the child to exercise any rights the child may have as an Indian, and

(b) as soon as, in the opinion of that person, the child is capable of understanding the child's status as an Indian, inform the child of that status.

(6) On making an adoption order, a Court, if it has reason to believe the adopted child is an Indian, must inform the adopting parent of the requirements of subsection (5).

98 Section 111 is amended

(a) in subsections (1), (2) and (3) by striking out "Part 3 or 4" and substituting "Part 1, Division 3 or 4";

(b) in subsection (2) by striking out " , the Minister and, in the case of an application under section 36, the applicant" and substituting "and the Minister".

99 Section 112(1) is amended by striking out "Part 3 or 4" and substituting "Part 1, Division 3 or 4".

100 Section 113 is amended by striking out “make a financial contribution” wherever it occurs and substituting “pay financial support”.

101 Section 114(1)(d) is amended by striking out “treatment” and substituting “services”.

102 Section 116(3)(c) is amended by striking out “treatment” and substituting “services”.

103 The following is added after section 117:

Administrative Decision

Review of director’s decision

117.1(1) The following persons directly affected by a decision of a director under this Act may request, in writing within 30 days of the decision, that the director review the decision:

- (a) a child;
- (b) a guardian;
- (c) a foster parent;
- (d) an individual who has had continuous care of a child for more than 6 of the 12 months preceding the decision of the director.

(2) A request under subsection (1) must set out

- (a) the decision in sufficient details for the director to be able to identify it, and
- (b) the grounds for the review.

(3) In reviewing a decision, a director may receive oral or written submissions from the person who requested the review.

(4) On completing a review the director

- (a) may confirm, vary or rescind the decision that has been reviewed, and
- (b) must, within 15 days of receiving the request under subsection (1), provide the person who requested the review with a copy of the decision under clause (a) that includes the reasons.

(5) If a copy of the decision is not received under subsection (4)(b) within 15 days of the making of the request under subsection (1), the person who requested the review is deemed to have received a copy of the decision stating that the director has confirmed the decision that was reviewed.

104 Section 119 is amended

(a) by adding the following after subsection (1):

(1.1) An Appeal Panel may

- (a) determine whether representations will be oral or by written submission, and
- (b) consider any new evidence that is raised or presented in a hearing.

(b) in subsection (3) by striking out “The” and substituting “Subject to subsection (1.1), the”.

105 Section 120 is amended

(a) in subsection (1)

(i) by striking out “The Minister or any” and substituting “Any”;

(ii) by repealing clause (c);

(b) by adding the following after subsection (1):

(1.1) In this section, “residential facility” means a residential facility as defined in Part 3 other than a secure services facility and a residential facility that has a treatment component to its services.

(c) in subsection (2)

(i) by adding “that has been reviewed under section 117.1”
after “from a decision of a director”;

(ii) by repealing clause (a) and substituting the following:

(a) the removal from or placement in a residential facility of a child who is the subject of a temporary guardianship order or a permanent guardianship agreement or order;

(iii) by repealing clauses (c) and (d);

(iv) by repealing clause (e) and substituting the following:

(e) the refusal or failure of a director to enter into an agreement under Part 1, Division 2 or to apply to the Court under Part 1, Division 3 in respect of a child who, in the opinion of that director, is in need of intervention;

(v) by adding the following after clause (f):

(f.1) the refusal to provide financial assistance pursuant to section 56.1 or 81;

(f.2) the refusal to provide support or financial assistance pursuant to section 57.3;

(d) by repealing subsections (3) to (6) and substituting the following:

(3) A notice of appeal in the prescribed form

(a) must include, where applicable, a copy of the decision provided under section 117.1(4)(b) or a statement that the review is deemed to have confirmed the decision in accordance with section 117.1(5), and

(b) must be served on the director

(i) not more than 30 days after the copy of the decision was provided under section 117.1(4)(b) or the

deemed confirmation occurred under section 117.1(5), or

- (ii) in the case of an appeal of a decision or order described in subsection (6), not more than 30 days after the appellant has received notice of the Minister's decision or order.

(4) A person whose application to become a foster parent is refused and a person whose approval as a foster parent has been rescinded may appeal the refusal or rescission in accordance with this section.

(5) A person

- (a) who is dissatisfied with the terms and conditions imposed by the Minister with respect to licences issued under section 88(1)(b) or 105.3(2),
- (b) whose application for a licence or renewal of a licence is refused under section 88(1)(c) or 105.3,
- (c) whose licence has been suspended or cancelled under section 89 or 105.7, or
- (d) who is the subject of an order under section 105.6

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

106 Section 122 is amended

(a) by renumbering it as section 122(1);

(b) in subsection (1) by striking out "protective" and substituting "intervention";

(c) by adding the following after subsection (1):

(2) The Minister may enter into an agreement, in accordance with the regulations, with a band for the purposes of providing services under this Act on a reserve.

107 The following is added after section 124:

Reciprocal agreement

124.1(1) The Minister may enter into agreements with the appropriate authority in any jurisdiction within or outside Canada with respect to

- (a) the transfer to the authority by a director of the guardianship of a child under a permanent guardianship agreement or order, and
- (b) the transfer to a director by the authority, of the guardianship of any child under the guardianship of that authority.

(2) If a director assumes responsibility for the guardianship of a child pursuant to subsection (1), the child is deemed to be under the guardianship of the director pursuant to a permanent guardianship order under this Act.

(3) Any proceedings with respect to the guardianship of a child transferred to a director pursuant to this section must be taken in accordance with this Act.

108 Section 126 is amended

- (a) by repealing subsection (1) and substituting the following:**

Confidentiality

126(1) The Minister and any person employed or assisting in the administration of this Act shall preserve confidentiality with respect to personal information that comes to the Minister's or person's attention under this Act and shall not disclose or communicate that information except in accordance with the *Freedom of Information and Protection of Privacy Act*, in proceedings under this Act, in accordance with Part 2, Division 2 or this Division or as follows:

- (a) to any person or organization if the disclosure is necessary to plan or provide services to a child or the child's family or to plan or provide for the day to day care or education of the child;
- (b) to the guardian of the child to whom the information relates or the guardian's lawyer;

- (c) to the child to whom the information relates or the child's lawyer;
- (d) to any person employed in the administration of child protection legislation in another province or territory of Canada;
- (e) to any person with the written consent of the Minister.

(b) by repealing subsection (2);

(c) in subsection (3) by striking out "subsection (2)" and substituting "subsection (1)";

(d) by repealing subsection (4) and substituting the following:

(4) A director may collect health information as defined in the *Health Information Act* and personal information for the purposes of conducting an assessment or an investigation or providing services under this Act.

(e) by repealing subsection (6).

109 The following is added after section 126:

Privileged information

126.1(1) Despite section 126(1), the name of a person who makes a report to the director under section 4 or 5 and information that would identify that person is privileged information of the person making the report and is not admissible in evidence in any action or proceeding before any court or an Appeal Panel or before any inquiry without the consent of the person.

(2) Despite subsection (1), the Minister may direct the release of information under subsection (1) that would identify the person.

(3) If there is a conflict or inconsistency between subsection (1) and the *Freedom of Information and Protection of Privacy Act*, subsection (1) prevails.

Ban on publication

126.2(1) No person shall publish any information serving to identify a child who has come to the Minister's or a director's

attention under this Act or any information serving to identify the guardian of the child.

(2) Despite subsection (1),

- (a) a director may, with the written authorization of the Minister, publish by any means the name of a child, information serving to identify the child and any other information related to the child authorized by the Minister;
- (b) a child who has attained the age of 18 years may publish information that identifies that person as having come to the Minister's or a director's attention under this Act;
- (c) a Court
 - (i) may on an ex parte application by a director grant the director permission to publish the name of a child and information serving to identify the child if the Court is satisfied the publication is in the child's best interest or necessary for the proper administration of justice, and
 - (ii) may on an application of a child or of the guardian of a child, if the child or guardian has notified a director, grant permission to the child to publish information that identifies the child as having come to the Minister's or a director's attention under this Act and any other related information that the Court permits if the Court is satisfied the publication is in the child's best interest or the public interest.

(3) Any person who contravenes this section is guilty of an offence and liable to a fine of not more than \$10 000 and in default of payment to imprisonment for a term of not more than 6 months.

110 Section 129 is amended

(a) by adding the following after subsection (1):

(1.1) An individual designated under subsection (1) must have the qualifications required by the regulations.

(b) by repealing subsections (2) and (3) and substituting the following:

(2) A director or a director's delegate when acting under section 19, 45, 46 or 48 has the powers of a peace officer.

111 Section 130 is amended

- (a) in clause (a) by striking out "protective services" and substituting "intervention";**
- (b) in clause (b) by striking out "a child welfare worker" and substituting "a director's delegate";**
- (c) by striking out "\$10 000" and substituting "\$25 000".**

112 Section 131 is amended

- (a) in subsection (1)**
 - (i) in clause (b) by striking out "protective" and substituting "intervention";**
 - (ii) in clause (f) by striking out "Parts 5 and 6" and substituting "Part 1, Division 5 and Part 2";**
- (b) in subsection (2)**
 - (i) in clause (d) by striking out "protective" and substituting "intervention";**
 - (ii) in clause (e) by striking out "care and maintenance under section 35(2)" and substituting "support and financial assistance under section 57.3";**
 - (iii) by repealing clause (f) and substituting the following:**
 - (f) designating facilities as secure services facilities;**
 - (iv) by repealing clauses (g) and (h);**
 - (v) in clauses (o) and (p) by striking out "Children's" and substituting "Child and Youth";**

- (vi) by repealing clause (r);**
- (vii) in clauses (s), (t), (u), (v), (w), (y) and (z) by striking out “and licensed search agencies” wherever it occurs;**
- (viii) by repealing clauses (aa) to (cc) and substituting the following:**
 - (aa) respecting applications under section 72.1;
 - (bb) respecting reports under sections 34.1 and 52;
 - (cc) respecting documents required to be sealed under section 74.1(2);
 - (dd) respecting standards for the operation of residential facilities;
 - (ee) respecting rates that may be charged by residential facilities;
 - (ff) respecting plans for services under sections 43.1 and 44;
 - (gg) respecting agreements under section 122;
 - (hh) respecting financial assistance under sections 56.1 and 105.8 and support and financial assistance under section 57.3;
 - (ii) respecting procedures for review under section 117.1;
 - (jj) respecting exemptions from preparing a plan and respecting the contents of the plan under section 21.1(6);
 - (kk) respecting financial disclosure to a director under section 57.9;
 - (ll) respecting plans of care under section 57.2;
 - (mm) respecting qualifications of directors.

113 The heading after section 131 is amended by striking out “Part 9” and substituting “Part 5”.

114 Section 133(3) is amended by striking out “Part 6” and substituting “Part 2, Division 1”.

115(1) In the following provisions “this Part” is struck out wherever it occurs and “this Division” is substituted:

section 21(11)(b);
section 24(1)(a) and (3);
section 26(1);
section 34(1);
section 51(2);
section 68(3) and (4);
section 71(1);
section 92(1);
section 93(1), (2) and (3);
section 95(1) and (2);
section 96(2);
section 97(1)(b);
section 102(1);
section 103;
section 104(1);
section 105.

(2) In the following provisions “protective services” is struck out wherever it occurs and “intervention” is substituted:

section 16(1)(a);
section 17(a);
section 21(11)(a) and (b);
section 28(1)(a).

116(1) Any joint guardianship that exists on the coming into force of section 39 of this Act continues to exist until it is terminated by a Court, and sections 36(4) and (5) and 37 of the *Child Welfare Act* continue to apply to the joint guardianship as if section 39 of this Act had not come into force.

(2) On the coming into force of this Act, any adoption petition that is commenced but not determined by the Court continues as if this Act had not come into force.

(3) On the coming into force of this Act, any appeal to an Appeal Panel that is commenced but in respect of which the decision has not been rendered continues as if this Act had not come into force.

(4) On the coming into force of this Act, any application for a private guardianship order that is commenced but not disposed of continues as if this Act had not come into force.

(5) If, on the coming into force of this Act, a child is in the custody of a director or is the subject of a temporary guardianship order, section 33 of the *Child Welfare Act*, as it read immediately before the coming into force of this Act, continues to apply to the child as if this Act had not come into force until the child ceases to be in the custody of a director or ceases to be the subject of the temporary guardianship order.

117(1) In the following enactments “*Child Welfare Act*” is struck out wherever it occurs and “*Child, Youth and Family Enhancement Act*” is substituted:

Alberta Health Care Insurance Act, section 22(5);
Alcohol and Drug Abuse Act, section 9(7);
Child and Family Services Authorities Act, section 12(1) and (2)(a);
Domestic Relations Act, sections 65(1)(b) and 77(a);
International Child Abduction Act, section 5;
Maintenance Enforcement Act, sections 1(3) and 7(4);
Maintenance Order Act, section 4(1)(g);
Marriage Act, section 19(2)(d);
Mental Health Act, section 1(f)(ii);
Protection of Children Involved in Prostitution Act, sections 1(1)(c), (d), (e), 3(3), 6(1)(a) and (2)(a);
Public Trustee Act, section 4(f);
Social Development Act, section 5(1).

(2) The *Child Welfare Amendment Act, 2002* is amended in section 1 by striking out “*Child Welfare Act*” and substituting “*Child, Youth and Family Enhancement Act*”.

(3) The *Corrections Act* is amended in section 1(b) by striking out “an institution as defined in the *Child Welfare Act*” and substituting “a secure services facility within the meaning of the *Child, Youth and Family Enhancement Act*”.

(4) The *Fatality Inquiries Act* is amended

- (a) in sections 11(a) and 12(a) by striking out “treatment institution as defined in the *Child Welfare Act*” and substituting “services facility as defined in the *Child, Youth and Family Enhancement Act*”;
- (b) in section 13 by striking out “*Child Welfare Act*” and substituting “*Child, Youth and Family Enhancement Act*”.

(5) The *Health Professions Act* is amended by repealing sections 153(1) and 154.

(6) The *Income Support Recovery Act* is amended

- (a) in section 7(1)(b), (2), (3), (4)(a) and (5) by striking out “Part 2, 3 or 4 of the *Child Welfare Act*” and substituting “Part 1, Division 2, 3 or 4 of the *Child, Youth and Family Enhancement Act*”;
- (b) in section 30(a) and (b) by striking out “or Part 3 of *The Child Welfare Act*, RSA 1955 c39,”.

(7) The *Provincial Court Act* is amended

- (a) in section 10(a) by striking out “protective services under the *Child Welfare Act*” and substituting “intervention under the *Child, Youth and Family Enhancement Act*”;
- (b) in section 14(a) and (b) by striking out “*Child Welfare Act*” and substituting “*Child, Youth and Family Enhancement Act*”.

(8) The *School Act* is amended

- (a) in section 1(1)(m)(ii)(B) by striking out “section 8(2) of the *Child Welfare Act*” and substituting “section 57.2 of the *Child, Youth and Family Enhancement Act*”;
- (b) in the following provisions by striking out “*Child Welfare Act*” and substituting “*Child, Youth and Family Enhancement Act*”:

section 1(2)(d)(i), (ii);
section 44(2)(a), (b), (5), (6)(b) and (7)(c)(i);
section 128(1)(d).

(9) The *Social Care Facilities Licensing Act* is amended in section 2 by striking out “or” at the end of clause (b), adding “, or” at the end of clause (c) and adding the following after clause (c):

- (d) a residential facility as defined in Part 3 of the *Child, Youth and Family Enhancement Act*.

(10) The *Vital Statistics Act* is amended

- (a) in section 11(b) by striking out “Part 6 of the *Child Welfare Act*” and substituting “Part 2 of the *Child, Youth and Family Enhancement Act*”;**
- (b) in the following provisions by striking out “*Child Welfare Act*” and substituting “*Child, Youth and Family Enhancement Act*”:**

- section 6(4), (7);
- section 9(1), (3), (5);
- section 10(4);
- section 30(2)(a).

118 This Act comes into force on Proclamation.

Explanatory Notes

1 Amends chapter C-12 of the Revised Statutes of Alberta 2000.

2 The title presently reads:

Child Welfare Act

3 Section 1 presently reads:

1(1) In this Act,

- (a) *“adoption order” means an order made under section 70;*
- (b) *“biological father” means the man*
 - (i) *who is married to the biological mother at the time of the birth of the child,*
 - (ii) *acknowledged by the biological mother as the biological father of the child,*
 - (iii) *declared by a court to be the biological father of the child, or*
 - (iv) *who satisfies a director that he is the biological father of the child;*
- (c) *“biological mother” means the woman who gave birth to the child;*
- (d) *“child” means a person under the age of 18 years;*
- (e) *“Child and Family Services Authority” means a Child and Family Services Authority continued or established under the Child and Family Services Authorities Act;*
- (f) *“child welfare worker” means a person appointed by a director as a child welfare worker;*
- (g) *“Children’s Advocate” means the person appointed by the Lieutenant Governor in Council as the Children’s Advocate for the purposes of this Act;*
- (h) *“Court” means the Provincial Court;*
- (i) *“custody agreement” means an agreement entered into under section 9;*
- (j) *“director” means a person designated by the Minister as a director for the purposes of this Act and the Protection of Children Involved in Prostitution Act;*

- (k) *“foster parent” means a person approved as a foster parent by a director;*
- (l) *“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 this Act;*
- (m) *“Indian” means an Indian as defined in the Indian Act (Canada);*
- (n) *“Minister” means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act;*
- (o) *“peace officer” means a member of a municipal police service, a member of the Royal Canadian Mounted Police or a special constable;*
- (p) *“permanent guardianship agreement” means an agreement entered into under section 11;*
- (q) *“permanent guardianship order” means a permanent guardianship order made under section 34;*
- (q.1) *“presiding justice of the peace” means a presiding justice of the peace as defined in the Justice of the Peace Act;*
- (r) *“private guardianship order” means a private guardianship order made under section 56;*
- (s) *“protective services” means any services provided to a child under this Act except those provided under section 106;*

- (t) *“qualified person” means a qualified person as prescribed in the regulations;*
 - (u) *“secure treatment certificate” means a secure treatment certificate issued under section 43;*
 - (v) *“secure treatment institution” means an institution prescribed by the Minister as a secure treatment institution;*
 - (w) *“secure treatment order” means a secure treatment order made under section 44 and includes a renewal order;*
 - (x) *“sibling” means a person who has the same biological mother or biological father as an adopted person;*
 - (x.1) *“sitting justice of the peace” means a sitting justice of the peace as defined in the Justice of the Peace Act;*
 - (y) *“supervision order” means a supervision order made under section 28 and includes a renewal order;*
 - (z) *“support agreement” means an agreement entered into under section 8;*
 - (aa) *“support services” means protective services provided under a support agreement;*
 - (bb) *“temporary guardianship order” means a temporary guardianship order made under section 31 and includes a renewal order.*
- (2) *For the purposes of this Act, a child is in need of protective services if there are reasonable and probable grounds to believe that the survival, security or development of the child is endangered because of any of the following:*
- (a) *the child has been abandoned or lost;*
 - (b) *the guardian of the child is dead and the child has no other guardian;*

- (c) *the guardian of the child is unable or unwilling to provide the child with the necessities of life, including failing to obtain for the child or to permit the child to receive essential medical, surgical or other remedial treatment that has been recommended by a physician;*
- (d) *the child has been or there is substantial risk that the child will be physically injured or sexually abused by the guardian of the child;*
- (e) *the guardian of the child is unable or unwilling to protect the child from physical injury or sexual abuse;*
- (f) *the child has been emotionally injured by the guardian of the child;*
- (g) *the guardian of the child is unable or unwilling to protect the child from emotional injury;*
- (h) *the guardian of the child has subjected the child to or is unable or unwilling to protect the child from cruel and unusual treatment or punishment;*
- (i) *the condition or behaviour of the child prevents the guardian of the child from providing the child with adequate care appropriate to meet the child's needs.*

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

- (a) *a child is emotionally injured*
 - (i) *if there is substantial and observable impairment of the child's mental or emotional functioning that is evidenced by a mental or behavioural disorder, including anxiety, depression, withdrawal, aggression or delayed development, and*

(ii) *if there are reasonable and probable grounds to believe that the emotional injury is the result of*

(A) *rejection,*

(B) *deprivation of affection or cognitive stimulation,*

(C) *exposure to domestic violence or severe domestic disharmony,*

(D) *inappropriate criticism, threats, humiliation, accusations or expectations of or toward the child, or*

(E) *the mental or emotional condition of the guardian of the child or chronic alcohol or drug abuse by anyone living in the same residence as the child;*

(b) *a child is physically injured if there is substantial and observable injury to any part of the child's body as a result of the non-accidental application of force or an agent to the child's body that is evidenced by a laceration, a contusion, an abrasion, a scar, a fracture or other bony injury, a dislocation, a sprain, hemorrhaging, the rupture of viscus, a burn, a scald, frostbite, the loss or alteration of*

consciousness or physiological functioning or the loss of hair or teeth;

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

(4) *Subject to this Act, a person who is a guardian of a child under an agreement or order made under this Act is a guardian under the Domestic Relations Act.*

4 Section 2 presently reads:

2 A Court and all persons shall exercise any authority or make any decision relating to a child who is in need of protective services under this Act in the best interests of the child and in doing so shall consider the following as well as any other relevant matter:

- (a) the family is the basic unit of society and its well-being should be supported and preserved;*
- (b) the interests of a child should be recognized and protected;*
- (c) the family has the right to the least invasion of its privacy and interference with its freedom that is compatible with its own interest, the interest of the individual family members and society;*
- (d) a child, if the child is capable of forming an opinion, is entitled to an opportunity to express that opinion on matters affecting the child and the child's opinion should be considered by those making decisions that affect the child;*
- (e) the family is responsible for the care and supervision of its children and every child should have an opportunity to be a wanted and valued member of a family, and to that end*
 - (i) if protective services are necessary to assist the family in providing for the care of a child, those services should be supplied to the family insofar as it is reasonably practicable to do so in order to support the family unit and to prevent the need to remove the child from the family, and*

- (ii) *a child should be removed from the family only when other less intrusive measures are not sufficient to protect the survival, security or development of the child;*
- (f) *any decision concerning the removal of a child from the child's family should take into account*
 - (i) *the benefits to the child of maintaining, wherever possible, the child's familial, cultural, social and religious heritage,*
 - (ii) *the benefits to the child of stability and continuity of care and relationships,*
 - (iii) *the risks to the child if the child remains with the family, is removed from the family or is returned to the family, and*
 - (iv) *the merits of allowing the child to remain with the family compared to the merits of removing the child from the family;*
- (g) *if it is not inconsistent with the protection of a child who may be in need of protective services, the child's family should be referred to community resources for services that would support and preserve the family and prevent the need for any other intervention under this Act;*
- (h) *any decision concerning the placement of a child outside the child's family should take into account*
 - (i) *the benefits to the child of a placement that respects the child's familial, cultural, social and religious heritage,*
 - (ii) *the benefits to the child of stability and continuity of care and relationships,*
 - (iii) *the benefits to the child of a placement within or as close as possible to the child's home community,*

- (iv) *the mental, emotional and physical needs of the child and the child's mental, emotional and physical stage of development, and*
- (v) *whether the proposed placement is suitable for the child;*
- (i) *the provision of protective services is intended to remedy or alleviate the condition that caused the child to be in need of protective services;*
- (j) *if a child is being provided with care under this Act, the child should be provided with a level of care that is adequate to meet the needs of the child and consistent with community standards and available resources;*
- (k) *if a child is being provided with care under this Act, a plan for the care of a child should be developed that will address the child's need for stability and continuity of care and relationships;*
- (l) *a person who assumes responsibility for the care of a child under this Act should endeavour to make the child aware of the child's familial, cultural, social and religious heritage;*
- (m) *there should be no unreasonable delay in making or implementing a decision affecting a child.*

5 Procedural rights.

6 Section 3 presently reads:

3(1) The Lieutenant Governor in Council may, on the recommendation of the Minister, appoint a

Children's Advocate, who shall hold office for a term not exceeding 5 years.

(2) The Minister may authorize and provide for the payment of the remuneration and expenses of the Children's Advocate and for the office and staff of the Children's Advocate.

(3) The Children's Advocate shall

- (a) advise the Minister on matters relating to the welfare and interests of children who receive services under this Act and the provision of those services;*
- (b) receive, review and investigate complaints or concerns that come to the attention of the Children's Advocate respecting children who receive services under this Act;*
- (c) represent the rights, interests and viewpoints of children who receive services under this Act;*
- (d) perform additional duties and functions that are conferred on the Children's Advocate by the regulations or are from time to time assigned to the Children's Advocate by the Minister;*
- (e) prepare and submit annual reports to the Minister respecting the exercise of the duties and functions of the Children's Advocate.*

(4) On receiving a report under subsection (3)(e), the Minister shall lay a copy of the report before the Legislative Assembly if it is then

sitting, and if not, within 15 days after the commencement of the next sitting.

(5) For the purpose of performing the duties and functions of the Children's Advocate, the Children's Advocate may

- (a) *communicate with and visit a child who is receiving services under this Act or a guardian or other person who represents the child;*
- (b) *have access to information relating to a child that is in the possession of a director or other person or agency providing services to a child on behalf of a director;*
- (c) *at the request of a child who is receiving services under this Act, the Minister or any person acting on the child's behalf, receive, review or investigate and make recommendations regarding any matter relating to the provision of services to the child under this Act;*
- (d) *provide information relating to, speak on behalf of and otherwise represent a child who is receiving services under this Act when major decisions relating to the child are being made under this Act;*
- (e) *on the initiative of the Children's Advocate or at the request of a child who is receiving services under this Act, assist in appealing or reviewing a decision of a director relating to the child;*
- (f) *provide assistance and advice to an Appeal Panel or a Court with respect to a child who is receiving services under this Act.*

(6) The Children's Advocate may delegate any duty or function conferred or imposed on the Children's Advocate under this Act or the regulations in respect of a child

- (a) *to a person employed or engaged in the administration of this Act, or*
- (b) *to a person who provides care to the child, represents the child or is concerned about the welfare of the child.*

7 Alternative dispute resolution.

8 The heading preceding section 4 presently reads:

*Part 1
Preliminary Intervention*

9 Section 4 presently reads in part:

4(1) Any person who has reasonable and probable grounds to believe and believes that a child is in need of protective services shall forthwith report the matter to a director.

(2) Subsection (1) applies notwithstanding that the information on which the belief is founded is confidential and its disclosure is prohibited under any other Act.

(3) This section does not apply to information that is privileged as a result of a solicitor-client relationship.

(4) No action lies against a person reporting pursuant to this section unless the reporting is done maliciously or without reasonable and probable grounds for the belief.

10 Section 6 presently reads:

6(1) A director shall examine a report made under section 4 or 5 and any other allegation or evidence that a child may be in need of protective services and shall cause the matter to be investigated, unless the director is satisfied that

(a) the report or allegation was made maliciously,

(b) the report or allegation was made without reasonable and probable grounds for the belief,

- (c) *the report or allegation or evidence is unfounded, or*
- (d) *it would be consistent with the protection of the child to refer a member of the family or the family to community resources for services.*

(2) If a director refers a member of the family or the family to a community resource under subsection (1), the community resource shall report to the director any matter respecting the protection of the child that may require investigation by the director.

(3) If, after an investigation, a director is of the opinion that the child is in need of protective services, the director shall take whatever measures the director considers appropriate under this Act.

(4) If, after an investigation, a director is of the opinion that it would be consistent with the protection of the child, the director may convey a child to the person who has custody of the child or to a person who is temporarily caring for the child.

11 Section 7 presently reads:

7(1) If a director is satisfied that a child may be in need of protective services because the guardian of the child cannot be located after a reasonable search or has died or become incapacitated, the director may appoint a person to care for the child until the guardian can be located or other satisfactory arrangements can be made for the care of the child, and the director may convey the child for the purpose of placing the child in the care of that person.

(2) The person appointed under subsection (1) may care for the child in the residence in which the child was found and for that purpose may

- (a) enter the residence,*
- (b) live in the residence,*

(c) *carry on normal housekeeping activities in the residence that are necessary for the care of the child, and*

(d) *exercise reasonable control over all children residing in the residence.*

(3) *The person appointed under subsection (1) may care for the child in the person's own residence for not more than 2 days.*

(4) *When a person is appointed under subsection (1), no liability attaches to that person in the course of carrying out that person's duties under subsection (2) or to any child welfare worker assisting that person in carrying out those duties by reason only of the entry into and occupation of the residence without the consent of the owner or occupier.*

12 The heading preceding section 8 presently reads:

*Part 2
Agreements*

13 Section 8 presently reads:

8(1) A director may enter into an agreement in the prescribed form with the guardian of a child or with another person who, with the

express or implied consent of the guardian or pursuant to a Court order or an agreement, has custody of the child with respect to the provision of support services to the family or the child if, in the opinion of the director,

(a) *the child is in need of protective services, and*

(b) *as a result of the provision of the support services, the child's survival, security or development will be adequately protected if the child remains with the child's guardian or*

the person who has custody of the child, as the case may be.

(2) A director may enter into an agreement in the prescribed form with a child who is 16 years of age or older with respect to the provision of support services to the child if the director is

- (a) satisfied that the child is living independently of the child's guardian, and*
- (b) of the opinion that*
 - (i) the child is in need of protective services, and*
 - (ii) as a result of the provision of the support services, the child's survival, security or development will be adequately protected if the child continues to live independently of the child's guardian.*

14 Section 9 presently reads:

9(1) A director may enter into an agreement in the prescribed form for a term of not more than 6 months with the guardian of a child under which custody of the child is given to the director if, in the opinion of the director,

- (a) the child is in need of protective services, and*
- (b) the survival, security or development of the child cannot be adequately protected if the child remains with the child's guardian.*

(2) A director may enter into an agreement in the prescribed form for a term of not more than 6 months with a child who is 16 years of age or older under which custody of the child is given to the director if the director is

- (a) satisfied that the child is living independently of the child's guardian, and*
- (b) of the opinion that*

- (i) *the child is in need of protective services, and*
- (ii) *the survival, security and development of the child can be adequately protected through the agreement.*

(3) Before entering into a custody agreement in respect of a child, the director shall consult with the child if, in the opinion of the director, the child is capable of expressing an opinion.

(4) A custody agreement may be renewed for terms of not more than 6 months each, but the cumulative period during which the child is in the custody of one or more directors or the subject of a temporary guardianship order shall not be more than 2 years.

(5) Notwithstanding subsection (4), custody agreements may be entered into with respect to a child for a further cumulative period of not more than 2 years if the child has not been in the custody of one or more directors or the subject of a temporary guardianship order during the 5 years immediately preceding the term of the new custody agreement.

15 Section 10 presently reads:

10 A custody agreement between a guardian or a child and a director shall include terms prescribing

- (a) the plan for the care of the child, including a description of the services to be provided,*
- (b) the visits or other access to be provided between the child and the child's guardian or any other person,*
- (c) the extent of the delegation of the authority of the guardian to the director, and*
- (d) the contributions, financial or otherwise, to be made by the guardian for the maintenance*

of the child while the child is in the custody of the director.

16 Section 12(4) presently reads:

(4) A director who has reasonable and probable grounds to believe that the termination of a permanent guardianship agreement under this section would render the child who is the subject of the permanent guardianship agreement in need of protective services may

- (a) enter into an agreement under section 8 or 9, or*
- (b) apply to the Court in the prescribed form for an order under Part 3.*

17 Section 14(2) presently reads:

(2) The agreement may include the following:

- (a) the visits or other access to be provided between the child and the guardian or any other person with whom the child has a significant relationship;*
- (b) the conditions, if any, under which the director will consult with the guardians on matters affecting the child;*
- (c) the contributions, financial or otherwise, that will be made by a guardian other than the director for the maintenance of the child while the child is the subject of a temporary guardianship order;*
- (d) any other matter relating to the guardianship of the child.*

18 The heading preceding section 16 presently reads:

*Part 3
Court Orders*

19 Section 18 presently reads:

18(1) A director may make an application in the prescribed form to the Court for a permanent guardianship order under section 34 in respect of a child if, in the opinion of the director,

- (a) the child is in need of protective services or is the subject of a temporary guardianship order,*
- (b) the survival, security or development of the child cannot adequately be protected if the child remains with or is returned to a guardian other than the director, and*
- (c) it cannot reasonably be anticipated that the child could or should be returned to the custody of the child's guardian within a reasonable period of time.*

(2) A guardian of the child may make an application in the prescribed form to the Court for a permanent guardianship order under section 34 in respect of a child if the guardian wishes to relinquish guardianship of the child.

20 Section 19 presently reads in part:

19(1) If a director has reasonable and probable grounds to believe that a child is in need of protective services, the director may make an ex parte application to a judge of the Court, or if no judge is reasonably available, to a sitting justice of the peace or presiding justice of the peace, for an order

- (a) authorizing the director to apprehend the child, or*

(b) *if the judge or justice is satisfied that the child may be found in a place or premises, authorizing the director, a child welfare worker or any person named in the order and any peace officer called on for assistance, to enter, by force if necessary, that place or premises and to search for and apprehend the child.*

(2) *If*

(a) *a child who is in the custody of a director under Part 2 or this Part has left or been removed from the custody of the director without the consent of the director, and*

(b) *the director has reasonable and probable grounds to believe that the child may be found in a place or premises,*

the director may make an ex parte application to a judge of the Court or, if no judge is reasonably available, to a sitting justice of the peace or presiding justice of the peace, for an order under subsection (3).

(3) *A judge of the Court or a sitting justice of the peace or presiding justice of the peace, if satisfied on reasonable and probable grounds that the child may be found in the place or premises, may make an order authorizing the director, a child welfare worker or any person named in the order and any peace officer called on for assistance, to enter, by force if necessary, the place or premises specified in the order and to search for and remove the child for the purpose of returning the child to the custody of the director.*

(8) *The information submitted by telephone or other means of telecommunication shall include the following:*

(a) *a statement of the circumstances that make it impracticable for the director to appear personally before a judge of the Court or a*

sitting justice of the peace or presiding justice of the peace;

- (b) the identity of the child, if known;*
- (c) with respect to an application under subsection (1), a statement setting out the director's grounds for believing that the child is in need of protective services;*
- (d) with respect to an application under subsection (2), a statement setting out the authority under which the director has custody of the child and the director's grounds for believing that the child may be found in the place or premises;*
- (e) a statement of the director's grounds for believing that the child will be found in the place or premises to be searched;*
- (f) a statement as to any prior application for an order under this section in respect of the same child of which the director has knowledge.*

(10) If a judge of the Court or a presiding justice of the peace makes an order under subsection (9),

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

(12) Notwithstanding subsection (1), a child welfare worker or peace officer may apprehend a child without an order if the child welfare worker or peace officer has reasonable and probable grounds to believe that the child's life or health is seriously and imminently endangered because

- (a) the child has been abandoned or lost or has no guardian,*
- (b) the child has left the custody of the child's guardian without the consent of the guardian and, as a result, the guardian is unable to provide the child with the necessities of life, or*
- (c) the child has been or there is substantial risk that the child will be physically injured or sexually abused.*

(14) Notwithstanding subsection (1), a child welfare worker or peace officer may apprehend a child without an order if the child welfare worker or peace officer has reasonable and probable grounds to believe that the child has left or been removed from the custody of the child's guardian without the consent of the guardian.

21 Section 20(1) and (3) presently read:

20(1) If a child has been apprehended, the director shall notify the guardian of the child forthwith

- (a) that the child has been apprehended,*
- (b) of the intention, if any, of the director to confine the child pursuant to section 22(1)(a), and*
- (c) of the intention, if any, of the director to apply for an order pursuant to section 22(7)(b).*

(3) Notice under subsection (1) shall include a statement of the reasons for the apprehension and the rights of the guardian under section 21.

22 Section 21 presently reads:

21(1) If a child is apprehended under section 19 and is not, within 2 days after being apprehended, returned to the custody of the child's guardian or, in the case of a child who is ordinarily resident in another province, placed in the custody of the child welfare authorities of that other province, the director shall apply to the Court in the prescribed form for

- (a) a supervision order,*
- (b) a temporary or permanent guardianship order,*
- (c) an order returning the child to the custody of the child's guardian, or*
- (d) in the case of a child who is ordinarily resident in another province, an order placing the child in the custody of the child welfare authorities of that other province.*

(3) An application under subsection (1) shall be heard not more than 10 days after the child is apprehended.

(4) If

- (a) a child is returned to the custody of the child's guardian or placed in the custody of the child welfare authorities of the province in which the child is ordinarily resident, or*
- (b) an agreement under section 8 or 9 is entered into in respect of the child*

before the expiration of the period referred to in subsection (3), the application under subsection (1) may be withdrawn at the time and place scheduled for the hearing of the application.

(5) If a child is apprehended under section 19 and is not, within 2 days after being apprehended,

- (a) returned to the custody of the child's guardian, or*
- (b) in the case of a child who is ordinarily resident in another province, placed in the custody of the child welfare authorities of that other province,*

the guardian of the child may serve the director with a demand notice in the prescribed form not more than 5 days after the apprehension.

(6) Notwithstanding subsection (3), if the director is served with a demand notice under subsection (5), the application under subsection (1) shall be heard not more than one day after the director is served.

(7) If the director is served with a demand notice, the director shall forthwith notify the guardian and the child, if the child is 12 years of age or older, of the time and place of the hearing.

(8) Notification under subsection (7) may be made by any method and may be oral or in writing.

(9) The validity of proceedings under this Act is not affected if the director is unable, after reasonable effort, to give notice in accordance with this section.

(10) If the director is not served with a demand notice, the director shall serve the guardian of the child and the child, if the child is 12 years of age or older, with notice of the time and place of the hearing not less than 2 days before the date of the hearing.

(11) The Court, on hearing an application under this section, may

- (a) if it is not satisfied that the child is in need of protective services, order the director to return the child to the custody of the child's guardian, or*

- (b) *if it is satisfied that the child is in need of protective services, make any order with respect to the child that it may make under this Part.*

23 Initial custody, concurrent planning.

24 Section 22 presently reads:

22(1) Subject to subsection (2), if a child has been apprehended, a director has exclusive custody of the child, is responsible for the child's care, maintenance and well-being and may

- (a) *convey the child, and detain the child while the child is being conveyed, to a secure treatment institution and confine the child in the secure treatment institution if the director considers it necessary to do so in order to ensure the survival, security or development of the child, and*
- (b) *if the guardian of the child is unable or unavailable to consent to the provision of essential medical, surgical, dental or other remedial treatment for the child that is recommended by a physician or dentist, authorize the provision of any of those treatments for the child.*

(2) If the guardian of a child who has been apprehended refuses to consent to essential medical, surgical, dental or other remedial treatment for the child that is recommended by a physician or dentist, the director shall apply to the Court for an order authorizing the treatment.

(3) The director shall serve the guardian of the child with notice of the time and place at which an application under subsection (2) is to be heard not less than one day before the time fixed for the hearing.

(4) Notwithstanding subsection (3), the Court, on the ex parte application of the director, may dispense with the service of notice under subsection (3) or authorize the giving of a shorter period of notice.

(5) If it is satisfied that the treatment is in the best interest of the child, the Court may authorize the treatment notwithstanding that the guardian of the child refuses to consent to the treatment.

(6) If a child is treated pursuant to an order under this section, no liability attaches to the person treating the child by reason only that the guardian of the child did not consent to the treatment.

(7) If a director confines a child pursuant to subsection (1)(a), the director shall appear before the Court within 3 days after the confinement

(a) to show cause why the confinement was necessary, and

(b) if necessary, to apply for an order authorizing the confinement of the child for a further period of not more than 6 days.

(8) An application pursuant to subsection (7) may be heard by a judge of the Court, a judge of the Court of Queen's Bench or a sitting justice of the peace.

25 Consent for health care. Direction on health care.

26 Section 23(1) presently reads:

23(1) Notice of the nature, date, time and place of every hearing under this Part, other than an application under section 21, shall be served by the applicant on

(a) all the guardians of the child,

(b) a director, if the applicant is not a director,

- (c) *the child, if the child is 12 years of age or older,*
- (d) *a foster parent of the child, if the child was in the continuous care of that foster parent for more than 6 months immediately preceding the application, and*
- (e) *any other person in whose care the child was when the child was apprehended, if the child was in the continuous care of that person for more than 6 months immediately preceding the application.*

27 Section 25 presently reads:

25(1) Except with the consent of the Court, no person shall publish by any means any report of a proceeding under this Act in respect of a child in which the name of the child or a guardian of the child, or in which any information serving to identify the child or a guardian of the child, is disclosed.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable to a fine of not more than \$2000 and in default of payment to imprisonment for a term of not more than 6 months.

28 Section 26 presently reads in part:

26(1) The Court may adjourn a hearing under this Part for a period of not more than 40 days or for any longer period that the parties agree to.

(3) Notwithstanding subsection (1), no hearing in respect of a child who is the subject of a secure treatment order under section 44(2) may be adjourned for more than 30 days.

29 Section 27 presently reads:

27 After a hearing under this Part, the Court may make any order it has jurisdiction to make under this Part or Part 4 if it is satisfied as to the

appropriateness of that order notwithstanding that it is not the order applied for by a director or a guardian of the child.

30 Section 28(3) presently reads:

(3) A supervision order shall

- (a) require that a director supervise the child within the residence of the child, and*
- (b) set out reasonable terms in respect of*
 - (i) the frequency of visits at the residence by a child welfare worker,*
 - (ii) the assessment or treatment of the child or any person residing with the child, and*
 - (iii) any other terms that the Court considers necessary.*

31 Section 29(1) presently reads:

29(1) If, on an application by a director in the prescribed form, the Court is satisfied that a guardian or other person residing with a child has failed to comply with a term of a supervision order, the Court may, without hearing any further evidence as to the child's need of protective services,

- (a) renew, vary or extend the supervision order, or*
- (b) make a temporary guardianship order or a permanent guardianship order in respect of the child.*

32 Section 31 presently reads:

31(1) The Court may make an order appointing a director as a guardian of a child for a period of not more than one year if it is satisfied that

- (a) the child is in need of protective services, and*
- (b) the survival, security or development of the child may not be adequately protected if the child remains with the child's guardian,*

but it can be anticipated that within a reasonable time the child may be returned to the custody of the child's guardian or, if the child is 16 years of age or older, the child will be able to live independently.

(2) If the Court makes an order under subsection (1), the director becomes a joint guardian with any other guardian of the child and, subject to any order under subsection (4), may exercise all of the authority of a guardian of the child to the exclusion of any other guardian except with respect to a proceeding under Part 6.

(3) Not more than 30 days after an order is made under subsection (1), the director shall file with the Court a plan for the care of the child, including a description of the services to be provided.

(4) On making a temporary guardianship order or at any time during its term, the Court, on the application of a director, a guardian of the child, the child if the child is 12 years of age or older or any other person with whom the child has a significant relationship, may, on being satisfied that the matter cannot be resolved by agreement or the terms of an agreement have not been complied with, make an order prescribing

- (a) the access to be provided between the child and a guardian or any other person with whom the child has a significant relationship,*
- (b) the conditions under which the director shall consult with the guardian on matters affecting the child, or*
- (c) the financial contributions to the maintenance of the child to be made*

- (i) *by a person other than the director who is legally responsible for the maintenance of the child, or*
- (ii) *by a trustee from property or an estate held in trust for the child.*

(5) No order under subsection (4)(a)(i) providing for access between a child who is 12 years of age or older and a person with whom the child has a significant relationship shall be made without the consent of the child.

(6) An order under this section may provide that a guardian, other than the director, or any person who will have custody of the child shall, prior to the expiration of the temporary guardianship order, submit to an assessment in order to assist the director or the Court, as the case may be, to determine the fitness of the guardian or other person to assume the custody of the child when the order expires or is terminated.

(7) The Court shall consider the recommendations of the director in respect of an assessment before making an order under subsection (6).

33 Sections 31.1 and 31.2 presently read:

31.1(1) Despite any decision of any court, a temporary guardianship order for which a plan for the care of the child has not been filed in accordance with section 31(3) is deemed to be valid from the date the order was made.

(2) Subsection (1) applies only to temporary guardianship orders made before February 21, 2002.

31.2(1) Despite section 31(3), if a director files with the Court a plan for the care of a child before or within 30 days after the coming into force of this section, the director is deemed to have filed the plan in accordance with section 31(3).

(2) Subsection (1) applies only to plans filed in respect of temporary guardianship orders made before February 21, 2002.

34 Section 32 presently reads:

32(1) If a child is the subject of a supervision order or a temporary guardianship order and the appeal period with respect to the order has expired,

- (a) a director, at any time during the term of the order, or*
- (b) a guardian of the child or the child if the child is 12 years of age or older, once during the term of the order,*

may apply to the Court in the prescribed form for an order renewing, varying or terminating the original order or for a new order under section 28, 31 or 34.

(2) On reviewing an order under this section, the Court may consider any matter it thinks is relevant, and shall consider the following:

- (a) whether the circumstances that caused the child to be in need of protective services have changed;*
- (b) the protective services that have been provided to the child or the family of the child;*
- (c) whether the director has followed the plan for the care of the child filed with the Court;*
- (d) whether a guardian, other than the director, has complied with the order.*

(3) Unless it is satisfied that it would be in the best interests of the child to order otherwise, the Court shall extend the period of the original order pending the hearing of an application under this section.

35 Section 33 presently reads:

33(1) The total cumulative period during which a child is in the custody of one or more directors or the subject of a temporary guardianship order shall not be more than 2 years.

(2) A period during which a director has custody of a child pursuant to section 22(1) or pursuant to an agreement under section 106 is not to be included in computing the total cumulative period in subsection (1).

(3) Notwithstanding subsection (1), the Court may make a temporary guardianship order with respect to a child for a further cumulative period of not more than 2 years if the child has not been in the custody of one or more directors or the subject of a temporary guardianship order during the 5 years immediately preceding the date of the application.

(4) Notwithstanding subsection (1), if the Court is satisfied that there are good and sufficient reasons for doing so, it may make an order of temporary guardianship for one further period of not more than one year.

36 Section 34 reads in part:

34(1) The Court, on application pursuant to this Part by a director, may make a permanent guardianship order appointing the director as guardian of the child if it is satisfied that

- (a) the child is in need of protective services or is the subject of a temporary guardianship order,*
- (b) the survival, security or development of the child cannot adequately be protected if the child remains with or is returned to the child's guardian, and*

(c) *it cannot be anticipated that the child could or should be returned to the custody of the child's guardian within a reasonable time.*

(2) *The Court, on application pursuant to this Part by a guardian of a child, may make a permanent guardianship order appointing a director as guardian of the child if*

(a) *the guardian wishes to relinquish the guardian's guardianship, and*

(b) *the child consents to the order, if the child is 12 years of age or older.*

(3) *The Court may make an order dispensing with a consent required under subsection (2)(b) if the Court is satisfied that it is in the best interests of the child to do so.*

(4) *If the Court makes a permanent guardianship order, the director is the sole guardian of the person of the child and the Public Trustee is the sole trustee of the estate of the child.*

(5) *A director shall, on request, send the Public Trustee a copy of the permanent guardianship order.*

(6) *If the Court makes a permanent guardianship order it may, on the application of a director, order that financial contributions be made to the maintenance of the child*

(a) *by a person other than the director who is legally responsible for the maintenance of the child, or*

(b) *by a trustee from property or an estate held in trust for the child.*

(7) *If an order is made under subsection (6), a director or the person ordered to make financial contributions may apply to the Court for a review of the order.*

(8) On making a permanent guardianship order or at any time during its term, the Court, on the application of a director, a former guardian of the child, the child if the child is 12 years of age or older or any other person with whom the child has a significant relationship, may make an order prescribing the access to be provided between the child and the former guardian or that other person.

(9) No order under subsection (8) relating to a child who is 12 years of age or older shall be made without the consent of the child.

(10) A director may enter into an agreement in the prescribed form with

(a) a former guardian of a child who is the subject of a permanent guardianship order, or

(b) any person who has a significant relationship with a child who is the subject of a permanent guardianship order

providing for visits or other access to be provided between the child and the former guardian or other person.

37 Report on permanent ward.

38 Section 35 presently reads:

35(1) If a child is the subject of a permanent guardianship agreement or order, the director, if the director is satisfied that the child should be returned to the guardianship of the person who was the guardian of the child before the agreement or order was made, may apply to the Court for an order terminating the permanent guardianship agreement or order.

(2) When a child who is the subject of a support agreement under section 8(2), a custody agreement under section 9(2), a temporary or permanent

guardianship order or a permanent guardianship agreement attains the age of 18 years, a director may continue to provide the child with care and maintenance

(a) for the periods and the purposes, and

(b) on the conditions

prescribed in the regulations.

39 Sections 36 and 37 presently read:

36(1) If a child is the subject of a permanent guardianship agreement or order, any adult may make an application in the prescribed form to the Court to be appointed as guardian of the child jointly with the director.

(2) The applicant shall serve notice of the date, time and place at which the application is to be heard on the director not less than 30 days before the date of the hearing.

(3) The Court may make an order appointing a person as a guardian of a child jointly with the director if it is satisfied that

(a) the person is capable of assuming and willing to assume the responsibility of joint guardianship of the child,

(b) the person has had a significant and continuing relationship with the child,

(c) the child has consented, if the child is 12 years of age or older,

(d) the director is of the opinion that it cannot reasonably be anticipated that the child will be adopted within a reasonable time, and

(e) the appointment of that person as a joint guardian will be beneficial to the child.

(4) If the Court makes an order under subsection (3), the director

- (a) subject to any order of the Court under subsection (5), may exercise all the authority of a guardian of the child to the exclusion of the other guardian, and*
- (b) has sole authority to consent to the adoption of the child.*

(5) If the Court makes an order appointing a joint guardian, it may, on the application of the director or the joint guardian and on being satisfied that the director and the joint guardian have been unable to negotiate an agreement or have not complied with the terms of an agreement, make an order prescribing

- (a) the access that will be provided between the joint guardian and the child, and*
- (b) the conditions under which the director shall consult with the joint guardian on matters affecting the child.*

37(1) If the Court makes an order under section 36, the director, the joint guardian or the child, if the child is 12 years of age or older, may apply to the Court in the prescribed form at any time for a review of the order.

(2) The applicant shall serve notice of the date, time and place at which the application for a review is to be heard on the director, the joint guardian and the child, if the child is 12 years of age or older, not less than 5 days before the date of the hearing.

(3) The Court may, on hearing the application and in accordance with section 36, continue, vary or terminate any order made under section 36.

40 Section 40 presently reads:

40(1) A temporary guardianship order remains in effect until

- (a) the order expires or is terminated by a court,*
- (b) the child attains the age of 18 years, or*
- (c) the child marries,*

whichever occurs first.

(2) A permanent guardianship agreement or order remains in effect until

- (a) the agreement or order is terminated by a court,*
- (b) a private guardianship order is made in respect of the child,*
- (c) an adoption order is made in respect of the child,*
- (d) the child attains the age of 18 years, or*
- (e) the child marries,*

whichever occurs first.

41 Section 41 presently reads:

41 In making an order requiring a person to pay maintenance for a child under this Act, the Court shall consider all relevant circumstances, including

- (a) the income, earning capacity, property and other financial resources or benefits of that person, that person's spouse and any other person residing with that person,*
- (b) the needs of the child,*
- (c) the present and past standard of living of the child and of that person,*

- (d) *the child's aptitude for and reasonable prospects of obtaining an education,*
- (e) *the legal or moral obligation of that person to provide support for any other person,*
- (f) *the assets of the child, excluding an award of general damages or a settlement paid to compensate the child for a personal injury,*
- (g) *any other legal right of the child to support other than out of public money, and*
- (h) *the needs of that person.*

42 The heading preceding section 43 presently reads:

*Part 4
Secure Treatment*

43 Section 43 presently reads:

43(1) If a child is the subject of a temporary or permanent guardianship order, a director may issue a secure treatment certificate in the prescribed form for a period of not more than 10 days in respect of the child if the director has reasonable and probable grounds to believe that

- (a) *the child is suffering from a mental or behavioural disorder,*
- (b) *the child is in a condition presenting a danger to the child or others, and*
- (c) *it is necessary to confine the child in order to remedy or alleviate the disorder.*

(2) A secure treatment certificate shall include a statement showing

- (a) *the reason for the confinement,*

- (b) the duration of the certificate,*
- (c) the date, time and place at which the appearance to show cause under subsection (5) will be held,*
- (d) that the child may be represented by a lawyer at any appearance before the Court, and*
- (e) the address and telephone number of the nearest office of the Legal Aid Society.*

(3) A secure treatment certificate is sufficient authority for any person to confine the child who is the subject of the certificate in a secure treatment institution for the period stated in the certificate.

(4) A secure treatment certificate shall be served on the child in respect of whom it is issued not more than one day after it is issued.

(5) The director shall appear before the Court not more than 10 days after a secure treatment certificate is issued

- (a) to show cause why the certificate was issued, and*
- (b) to satisfy the Court that subsections (2) and (4) have been complied with.*

(6) The director may apply in accordance with section 44 for a secure treatment order when the director appears under subsection (5).

44 Secure services certificate.

45 Section 44 presently reads:

44(1) If a child is the subject of a temporary or permanent guardianship order, a director may apply in the prescribed form to the Court for a secure treatment order.

(2) If a child has been apprehended under section 19, the director may apply in the prescribed form to the Court for a secure treatment order to be effective for a period to end 30 days after the granting of the order or when a supervision order or a temporary or permanent guardianship order is made in respect of the child, whichever occurs first.

(3) The Court shall not renew pursuant to subsection (10) a secure treatment order to which subsection (2) applies.

(4) The director shall serve a guardian of the child and the child, if the child is 12 years of age or older, with notice of the date, time and place of the hearing of an application under subsection (1) not less than 2 days before the date of the hearing.

(5) Section 23(5) and (6) apply to an application under this section.

(6) The Court may make a secure treatment order in respect of a child for a period of not more than 30 days if it is satisfied that

- (a) the child is suffering from a mental or behavioural disorder,*
- (b) the child is in a condition presenting a danger to the child or others, and*
- (c) it is necessary to confine the child in order to remedy or alleviate the disorder.*

(7) A director shall specify the secure treatment institution in which a child is to be confined pursuant to a secure treatment order.

(8) A secure treatment order is sufficient authority for any person to confine the child in a secure treatment institution for the period stated in the order or the period of the guardianship order, whichever is the shorter.

(9) If the Court makes a secure treatment order, it shall

- (a) *inform the child of the reason for doing so, and*
- (b) *provide the child, the child's guardian and the child's lawyer with a copy of the order and a written statement showing*
 - (i) *the reasons for the confinement,*
 - (ii) *the period of the confinement and the date on which it terminates,*
 - (iii) *that the order may be reviewed or appealed on the application of the child, the child's guardian or a director,*
 - (iv) *that the child may obtain a copy of the form prescribed for making an application for a review from the person in charge of the secure treatment institution,*
 - (v) *that the child may be represented by a lawyer at any application to the Court, and*
 - (vi) *the address and telephone number of the nearest office of the Legal Aid Society.*

(10) A secure treatment order may be renewed in accordance with this section on the application in the prescribed form of a director for a period of not more than 60 days in the case of the first renewal or 90 days in the case of any subsequent renewal or the period of the guardianship order, whichever is the shorter.

46 Renewal of section 43.1 and 44 orders.

47 Section 45 presently reads:

45(1) A secure treatment certificate or order is sufficient authority for any peace officer or child welfare worker to apprehend and convey the child

named in it to the secure treatment institution specified by a director and to detain the child while the child is being conveyed to the secure treatment institution.

(2) On a secure treatment certificate or order being issued, the person in charge of the secure treatment institution specified by a director shall admit the child to the secure treatment institution, if the child is not already resident in that institution, and shall be responsible for ensuring that the child is provided with

- (a) the diagnostic and treatment services that the child is in need of in accordance with the standards prescribed in the regulations, and*
- (b) the level of security that is reasonably required for the confinement of the child in accordance with the regulations.*

48 Section 46 presently reads:

46 When the child named in a secure treatment certificate or order is in a secure treatment institution, a director may transfer the child to another secure treatment institution and the certificate or order is sufficient authority for any peace officer, child welfare worker or member of the staff of the secure treatment institution to detain the child while the child is being transferred.

49 Section 47 presently reads:

47 During the term of a secure treatment certificate or order, a director may grant the child a leave of absence from the secure treatment institution for medical, humanitarian or rehabilitative reasons on any terms and conditions that the director considers necessary.

50 Section 48 presently reads:

48(1) When a child who is the subject of a secure treatment certificate or order

- (a) leaves a secure treatment institution when no leave of absence has been granted, or*
- (b) leaves a secure treatment institution pursuant to a leave of absence and fails to return within the time prescribed,*

a director may authorize a child welfare worker, a peace officer or any other person to apprehend and convey the child, and to detain the child while the child is being conveyed, to a secure treatment institution.

(2) If a director has reasonable and probable grounds to believe that a child who is the subject of a secure treatment certificate or order

- (a) has left a secure treatment institution when a leave of absence has not been granted, or*
- (b) has left a secure treatment institution pursuant to a leave of absence but has not returned within the time prescribed,*

the director may make an ex parte application to a judge of the Court or, if no judge is reasonably available, to a sitting justice of the peace or presiding justice of the peace, for an order authorizing the director, a child welfare worker or any person named in the order and any peace officer called on for assistance, to enter, by force if necessary, any place or premises specified in the order, to search for, apprehend and convey the child to any secure treatment institution and to detain the child while the child is being conveyed to a secure treatment institution.

(3) The judge or justice may make an order under this section if the judge or justice is satisfied that the child may be found in the place or premises specified in the order.

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

(5) The information on which an application for an order by telephone or other means of telecommunication is based shall be given on oath and shall be recorded verbatim by the judge or justice who, as soon as practicable, shall cause the record or a transcription of the record, certified by the judge or justice as to time, date and contents, to be filed with the clerk of the Court.

(6) For the purposes of subsection (4), an oath may be administered by telephone or other means of telecommunication.

(7) The information submitted by telephone or other means of telecommunication shall include the following:

- (a) a statement of the circumstances that make it impracticable for the director to appear personally before a judge of the Court or a sitting justice of the peace or presiding justice of the peace;*
- (b) a statement of the director's belief that the child is the subject of a secure treatment certificate or order and
 - (i) has left the secure treatment institution without a leave of absence, or*
 - (ii) has not returned to the secure treatment institution within the time prescribed;**
- (c) a statement of the director's grounds for believing that the child will be found in the place or premises to be searched;*

(d) a statement as to any prior application for an order under this section in respect of the same child of which the director has knowledge.

(8) A judge of the Court or a presiding justice of the peace referred to in subsection (4) who is satisfied that an application made by telephone or other means of telecommunication

(a) conforms to the requirements of subsection (7), and

(b) discloses reasonable grounds for dispensing with personal appearance for the purpose of making an application under subsection (2)

may make an order conferring the same authority respecting search and apprehension as may be conferred under subsection (2).

(9) If a judge of the Court or a presiding justice of the peace makes an order under subsection (8),

(a) the judge or justice shall 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 director, on the direction of the judge or justice, shall complete, in duplicate, a facsimile of the order in the prescribed form, noting on its face the name of the judge or justice making the order and the time, date and place at which it was made, and

(c) the judge or justice shall, as soon as practicable after the order has been made, cause the order to be filed with the clerk of the Court.

(10) 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 (2).

(11) If a child welfare worker, peace officer or other person authorized under subsection (1) to apprehend a child has reasonable and probable grounds to believe that

- (a) the child may be found in a place or premises, and*
- (b) the life or health of the child would be seriously and imminently endangered as a result of the time required to obtain an order under subsection (2) or (4),*

the child welfare worker, peace officer or other person may, without an order and by force if necessary, enter that place or those premises and search for and remove the child for the purpose of conveying the child to a secure treatment institution and may detain the child while the child is being conveyed to a secure treatment institution.

51 Section 49 presently reads:

49(1) A child with respect to whom a secure treatment order has been made, a guardian of the child or a director may apply to the Court in the prescribed form for a review of the order.

(2) An application for a review of a secure treatment order may be made

- (a) by a director, at any time during the period of the order and the period of any renewal of the order, or*
- (b) by the child who is the subject of the secure treatment order or a guardian of the child, once during the period of the order and once during the period of any renewal of the order.*

(3) The hearing of a review shall be held not more than 10 days after the application is filed with the

Court or within any further period that the Court directs.

(4) The clerk of the Court shall notify a director of the application.

(5) The applicant shall send a notice of the date, time and place of the hearing of the review by the Court by registered mail or by any other method approved by the Court to

(a) the child,

(b) a guardian of the child if a director is not the guardian of the child, and

(c) the person in charge of the secure treatment institution in which the child is confined

not less than 5 days before the date fixed for the hearing.

(6) Section 23(5) and (6) apply to an application under this section.

52 Section 50 presently reads:

50(1) After hearing an application for the review of a secure treatment order, the Court may make an order in accordance with section 44 confirming, varying or terminating the secure treatment order.

(2) An order made under subsection (1) shall not extend the period of the secure treatment order reviewed.

(3) The director shall provide the child, the child's guardian, the child's lawyer and the person in charge of the secure treatment institution in which the child is confined with a copy of the order made under subsection (1).

53 Section 51 presently reads:

51(1) The Court may adjourn the hearing of an application under section 44 or 49 for not more than 7 days

- (a) with the consent of the parties to the application, or*
- (b) if the Court is satisfied that the adjournment is necessary in order to obtain evidence to assist the Court in determining whether a secure treatment order should be made, or confirmed, varied or terminated, as the case may be.*

(2) Unless it is satisfied that it would be in the best interests of the child to order otherwise, the Court shall in respect of a child who is confined under this Part extend the confinement pending the hearing of an application under section 44 or the hearing of a review under section 49, as the case may be.

(3) The number of days that the hearing of an application under section 44 or 49 is adjourned shall be included in a calculation of the duration of the order made at the hearing if the child is confined in the secure treatment institution during the adjournment.

54 The heading preceding section 52 presently reads:

*Part 5
Guardianship*

55 Section 52 presently reads:

52(1) Any adult who has had the continuous care of a child for a period of more than 6 months may apply to the Court in the prescribed form for a private guardianship order in respect of the child if the child or the applicant resides in Alberta.

(2) A director may, on behalf of an applicant, make an application under subsection (1) in respect of a child who is the subject of a permanent guardianship order or agreement if

- (a) the applicant consents in writing, and*
- (b) the director is satisfied that it is in the best interests of the child for the child to be placed under the guardianship of the applicant.*

(3) If it is satisfied that it is in the best interests of the child to do so, the Court may waive the requirement in subsection (1) that

- (a) the child or the applicant resides in Alberta, or*
- (b) the applicant has had the continuous care of the child for more than 6 months.*

(4) No private guardianship order shall be made under this section

- (a) in respect of a child who is the subject of a temporary guardianship order, or*
- (b) if the purpose of the application is to facilitate the adoption of the child.*

(5) No application shall be made for a private guardianship order in respect of a child who is the subject of a permanent guardianship order unless the appeal period for the order has expired.

56 Section 53 presently reads:

53(1) The applicant shall serve notice of the nature, date, time and place of the hearing of the application not less than 30 days before the date of the hearing on

- (a) the guardian of the child,*

(b) *the child, if the child is 12 years of age or older, and*

(c) *a director, if a director is not the guardian.*

(2) *The Court may, if it considers it appropriate to do so,*

(a) *order that service of the notice of the application be made substitutionally or ex juris,*

(b) *shorten the period of service required under subsection (1), or*

(c) *dispense with service on any person other than the director.*

57 Section 54 presently reads:

54(1) The Court, on hearing an application for a private guardianship order, may require the applicant to provide it with a report in the prescribed form prepared by a qualified person respecting

(a) *the suitability of the applicant as a guardian,*

(b) *the ability and willingness of the applicant to assume the responsibility of a guardian toward the child, and*

(c) *whether it is in the best interests of the child that the applicant be appointed as a guardian of the child.*

(2) If the child is the subject of a permanent guardianship agreement or order, the report required under subsection (1) shall be prepared by a director.

(3) If the child is not the subject of a permanent guardianship agreement or order, the applicant shall serve a copy of the report required under subsection (1) on a director not less than 2 days before the report is provided to the Court.

(4) On being served with notice of an application for a private guardianship order, a director may conduct an investigation with respect to the proposed guardianship and may make representations to the Court at the time that the application is heard.

(5) If a director intends to make representations to the Court under subsection (4), the director shall notify the Court and the applicant not less than 2 days before the date of the hearing of the application.

58 Section 55 presently reads:

55(1) A private guardianship order shall not be made without the consent in the prescribed form of

- (a) the guardian of the child, and*
- (b) the child, if the child is 12 years of age or older.*

(2) Notwithstanding subsection (1), the Court may make an order dispensing with the consent of

- (a) a guardian of the child other than a director,
or*
- (b) the child,*

if the Court is satisfied that it is in the best interests of the child to do so.

(3) A consent to guardianship executed in any province or territory in a form prescribed for consents in that province or territory is as good and sufficient as if it had been executed in the form prescribed under this Act.

59 Section 56 presently reads:

56(1) If the Court is satisfied that

(a) *the applicant is able and willing to assume the responsibility of a guardian toward the child, and*

(b) *it is in the best interests of the child,*

the Court may make a private guardianship order appointing the applicant as a guardian of the child.

(2) *The clerk of the Court shall provide a certified copy of an order made under subsection (1) to*

(a) *the applicant,*

(b) *any person who was a guardian of the child immediately before the making of the order, and*

(c) *the child, if the child is 12 years of age or older.*

60 Financial assistance.

61 Section 57 presently reads:

57(1) Notwithstanding Part 7 of the Domestic Relations Act, for all purposes when a private guardianship order is made the applicant is a guardian of the child.

(2) *Notwithstanding Part 7 of the Domestic Relations Act, if the Court makes a private guardianship order, it may make a further order terminating the guardianship of any other guardian of the child if*

(a) *the Court is satisfied that the other guardian of the child consents to the termination, or*

(b) *for reasons that appear to it to be sufficient, the Court considers it necessary or desirable to do so.*

(3) *A guardian of a child in respect of whom a private guardianship order is made whose*

guardianship is not terminated under subsection (2) may apply to the Court in the prescribed form to terminate an order made under section 56(1), and if the Court is satisfied that

(a) the applicant is capable of resuming and willing to resume the responsibilities of guardianship of the child, and

(b) it is in the best interests of the child to do so,

the Court may, subject to subsection (4), terminate the private guardianship order.

(4) No order under subsection (3) relating to a child who is 12 years of age or older shall be made without the consent of the child.

(5) Sections 53 and 55(2) apply to an application under this section.

62 Order termination, youth, guardian's financial responsibility.

63 The heading preceding section 58 presently reads:

*Part 6
Adoption*

64 Section 58(1) presently reads:

58(1) In this Part,

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

(b) "descendant", in respect of a deceased adopted person, means an adult child or adult grandchild of the adopted person;

- (c) *“licensed adoption agency” means an adoption agency that holds a licence issued under section 88;*
- (d) *“licensed search agency” means a search agency that holds a licence issued under section 88;*
- (e) *“relative”, in respect of a child, means*
 - (i) *a grandparent of the child,*
 - (ii) *an aunt or uncle of the child, or*
 - (iii) *a great-aunt or great-uncle of the child,*
whether related to the child by blood, marriage or adoption.

65 Matters to be considered.

66 New heading.

67 Section 60(2) presently reads:

(2) The prospective adopting parent’s status as a joint guardian under subsection (1) terminates

- (a) if a consent given under section 59 is revoked in accordance with section 61(1),*
- (b) when the adoption order is made or the petition for the adoption order is dismissed, or*
- (c) if the Court makes an order declaring the status of the joint guardian to be terminated.*

68 Section 62 presently reads:

62(1) Subject to this section, an adult who

- (a) *maintains the adult's usual residence in Alberta, or*
- (b) *maintained the adult's usual residence in Alberta at the time the adult received custody of a child under this Part,*

may petition the Court in the prescribed form for an adoption order.

(2) A petition for an adoption order shall be presented to the Court not later than 6 months after the filing of the petition.

(3) No petition for an adoption order shall be filed in respect of a child unless the child is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and

- (a) *the period for revoking a consent to adoption under section 61(1) has expired,*
- (b) *if the child is the subject of a permanent guardianship order, the period for appealing the order has expired or an appeal of the order has been disposed of, or*
- (c) *if the child is the subject of a permanent guardianship agreement, the period for terminating the agreement has expired or an application for termination of the agreement has been disposed of.*

69 Section 63 presently reads:

63(1) A petition for an adoption order in respect of a child who is the subject of a permanent guardianship agreement or order shall be filed with the Court by a director and must be accompanied with the following documentation:

- (a) *the affidavit of the director setting out*
 - (i) *the name, date and place of birth, gender and parentage of the child, so far as is known,*

- (ii) *a statement that the director is the guardian of the child pursuant to the agreement or order,*
 - (iii) *the terms of any agreement or order respecting access to the child,*
 - (iv) *a statement that the petitioner, in the opinion of the director, is a fit and proper person to have the care and custody of the child, and*
 - (v) *if the child is an Indian, a statement that section 67 has been complied with;*
- (b) *the affidavit of the petitioner setting out the age, address, marital status and occupation of the petitioner and the relationship, if any, of the petitioner to the child;*
 - (c) *the consents required under section 59 or an affidavit indicating the reasons why the petitioner is requesting that the Court dispense with one or more of the consents;*
 - (d) *a home assessment report in the prescribed form prepared by a qualified person on behalf of the director respecting*
 - (i) *the suitability of the petitioner as an adoptive parent, and*
 - (ii) *the capability and willingness of the petitioner to assume the responsibility of a parent toward the child;*
 - (e) *the affidavit of any person acceptable to the director respecting the fitness of the petitioner to adopt the child, or any other material that the director may require.*

(2) A petition for an adoption order in respect of a child who is placed in the custody of the petitioner by a licensed adoption agency or a child who is placed by a parent directly in the custody of the petitioner shall be filed with the Court by an officer

of the licensed adoption agency and must be accompanied with the following documentation:

- (a) the affidavit of an officer of the licensed adoption agency setting out*
 - (i) the name, date and place of birth, gender and parentage of the child, so far as is known,*
 - (ii) a statement that the petitioner, in the opinion of the officer, is a fit and proper person to have the care and custody of the child,*
 - (iii) if the child is an Indian, a statement that section 67 has been complied with, and*
 - (iv) if a person referred to in section 84(e) was involved in the placement of the child,*
 - (A) a copy of that person's written request to a director for authorization to place or facilitate the placement of the child, and*
 - (B) a copy of the authorization;*
- (b) the affidavit of the petitioner setting out*
 - (i) the age, address, marital status and occupation of the petitioner and the relationship, if any, of the petitioner to the child,*
 - (ii) the terms of any agreement and any document or writing relating to any agreement under which payment or other consideration passes from the petitioner in respect of care, maintenance, medical treatment or other necessities to or for the benefit of the parent of the child, and*
 - (iii) the terms of any agreement or order respecting access to the child;*

- (c) *the consents required under section 59 or an affidavit indicating the reasons why the petitioner is requesting that the Court dispense with one or more of the consents;*
- (d) *a home assessment report in the prescribed form prepared by a qualified person on behalf of an officer of the licensed adoption agency respecting*
 - (i) *the suitability of the petitioner as an adoptive parent, and*
 - (ii) *the capability and willingness of the petitioner to assume the responsibility of a parent toward the child;*
- (e) *the affidavit of any person acceptable to an officer of the licensed adoption agency respecting the fitness of the petitioner to adopt the child, or any other material that the officer may require.*

(3) A petition for an adoption order in respect of a child whose step-parent is the petitioner or a child who is placed by a parent directly in the custody of a petitioner who is a relative of the child shall be filed with the Court and must be accompanied with the following documentation:

- (a) *the affidavit of the petitioner setting out*
 - (i) *the name, date and place of birth, gender and parentage of the child, so far as is known,*
 - (ii) *the age, address, marital status and occupation of the petitioner and the relationship of the petitioner to the child,*
 - (iii) *where the petitioner is the step-parent of the child, the name of the parent who has lawful custody of the child, and*
 - (iv) *the terms of any agreement or order respecting access to the child;*

- (b) *the consents required under section 59 or an affidavit indicating the reasons why the petitioner is requesting that the Court dispense with one or more of the consents.*

70 Section 64 presently reads:

64(1) A petitioner under section 62 shall serve by personal service not less than 30 days before the date of the hearing, a notice of the nature, date, time and place of the hearing of the petition and the documentation required under section 63 on

- (a) *the guardians of the child other than the petitioner,*
- (b) *if the petitioner is the sole guardian of the child, the person who consented to the adoption under section 59(2),*
- (c) *the child, if the child is 12 years of age or older,*
- (d) *the Minister, if a person other than a director is filing the petition, and*
- (e) *in the case of the adoption of a child who is not the subject of a permanent guardianship agreement or order, the biological father of the child.*

(2) Any guardian who has indicated a desire not to be notified of the hearing need not be served under subsection (1).

(3) A child referred to in subsection (1)(c) need not be served with the home assessment report under subsection (1).

(4) If the Court is satisfied that it is proper to do so, the Court, on the ex parte application of the petitioner at any time before the time fixed for the hearing, may do any of the following:

- (a) *authorize service ex juris, service by registered mail or any other form of substitutional service;*
- (b) *if an order is made under clause (a), extend or reduce the time within which service may be effected;*
- (c) *if an order is made under clause (a), extend the time within which a hearing shall be held;*
- (d) *authorize the giving of a shorter period of notice;*
- (e) *dispense with service on any person other than the director.*

(5) Whether or not authorization has been given under subsection (4), the Court may do any of the following at the time of the hearing:

- (a) *approve service made in a form it considers adequate in the circumstances;*
- (b) *approve a shortened period as sufficient notice;*
- (c) *dispense with service on any person other than the director.*

71 Section 65 presently reads:

65(1) A parent who places a child directly in the custody of a person who intends to petition the Court under section 62 for an adoption order in respect of the child shall give notice of the placement to a director in the prescribed form not later than 30 days after the placement.

(2) A person, in whose custody a child is placed directly by a parent, who intends to petition the Court under section 62 for an adoption order in respect of the child shall give notice of the placement to a director in the prescribed form not later than 30 days after the placement.

(3) A person who contravenes this section is guilty of an offence and liable to a fine of not more than \$5000 and in default of payment to imprisonment for a term not exceeding 3 months.

(4) This section does not apply where the child is placed by a parent directly in the custody of a petitioner who is a relative of the child.

72 Section 66(2) presently reads:

(2) The Minister 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 the Minister under subsection (1).

73 Section 67 presently reads:

67(1) If a director or an officer of a licensed adoption agency, as the case may be, has reason to believe that a child who is being placed for adoption is an Indian and a member of a band and that the guardian who is surrendering custody of the child is a resident of a reserve, the director or officer shall consult with a chief of the council or the council of the band, or the designate of either of them, before filing the petition for an adoption order.

(2) If a director or an officer of a licensed adoption agency, as the case may be, has reason to believe that a child who is being placed for adoption is an Indian and a member of a band and that the guardian who is surrendering custody of the child is not a resident of a reserve, the director or officer shall

(a) request the guardian who is surrendering custody of the child to consent to a consultation between the director or officer and a chief of the council or the council of the band, and

(b) if the guardian consents to a consultation under clause (a), consult with a chief of the council or the council of the band, or the

designate of either of them, before filing the petition for an adoption order.

74 Section 68 presently reads:

68(1) Unless the Court otherwise directs, the proceedings relating to the adoption of a child shall be heard in private.

(2) The petitioner and the child if the child is 12 years of age or older are entitled to be heard, in person or by counsel, at the hearing before the Court.

(3) The Court may adjourn the hearing of a petition under this Part for not more than 30 days

(a) with the consent of the parties to the petition, or

(b) if the Court is satisfied that the adjournment is necessary in order to obtain evidence to assist the Court in determining whether an adoption order should be made.

(4) Notwithstanding sections 59 and 63, on the hearing of a petition under this Part, the Court may make an order dispensing with the consent of

(a) a guardian of the child other than a director,

(b) a person who is required under section 59(2) to provide a consent, or

(c) the child

if the Court, for reasons that appear to it to be sufficient, considers it necessary or desirable to do so.

75 Section 70(3) presently reads:

(3) If the adopting parent is a widow or widower whose deceased spouse was a party to the petition

for the adoption order, the Court may, on the request of the adopting parent and with the consent of the child if the child is 12 years of age or older, name both the petitioner and the deceased spouse as the adopting parents of the child.

76 Adoption of non-resident of Canada.

77 Section 73 presently reads:

73 An adoption effected according to the law of any jurisdiction outside Alberta has the effect in Alberta of an adoption order made under this Act.

78 Setting aside an adoption order.

79 Section 74 presently reads in part:

(5) If a child who is an Indian is adopted under this Act or any predecessor to this Act, the Director of Vital Statistics, on the request of the child or the child's guardian, shall provide the Registrar under the Indian Act (Canada) with a copy of the original birth certificate of the child.

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

(7) The Minister shall seal all documents in the Minister's 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 75, 76, 77 or 80.

(8) Notwithstanding subsections (6) and (7), the Minister or the clerk of the Court may, on request, provide a certified copy of an adoption order to

- (a) *the adopted person, if that person is 18 years of age or older,*
- (b) *a guardian who consented under section 59(1) and a person who consented under section 59(2) to the adoption of the child who is the subject of the adoption order, and*
- (c) *any person named in subsection (1).*

(9) The Minister may disclose the identity of a person referred to in section 75 only in accordance with section 75 unless, in the opinion of the Minister, there are compelling circumstances that support disclosure.

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

- (a) *to a licensed search agency, for the purpose of processing an application under section 78, the identity and other personal information of a family member as defined in the regulations or of an adopted person, and*
- (b) *to an adopted person who is 18 years of age or older, the birth surname of that person if the adoption order relating to that person did not disclose it.*

80 Disclosure of information.

81 Section 75 presently reads in part:

75(1) In this section,

- (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.*

(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.*

82 Sections 76 to 80 presently read:

76 On receiving a written request from an adopted person who is 18 years of age or older, the Minister may release to that person that person's original registration of birth under the Vital Statistics Act and information contained in any other sealed document held under section 74 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.*

77(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 74 other than personal 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.

78(1) In this section, “family member” has the meaning given to it in the regulations.

(2) An application may be made to a licensed search agency

(a) for the location of a family member, or

(b) for the disclosure of the identity and other personal information

(i) of the applicant to a family member, and

(ii) of a family member to the applicant.

(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.

(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 the Minister

(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 the Minister.

(6) If a family member consents to a reunion with the applicant and wishes the licensed search agency to facilitate the reunion, the agency shall use the services of a qualified person to bring about the reunion.

(7) If the disclosure of information has been consented to under subsection (4)(b), the licensed search agency may disclose the

identity and other personal information about each of the applicant and the family member to the other.

79 The Minister may provide financial assistance in accordance with the regulations to applicants under section 78 who are described in the regulations.

80(1) Notwithstanding sections 74 and 75, 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.

(2) Any person may provide the Minister with information that the Minister may disclose under subsection (1).

83 New heading.

84 Section 82 is renumbered as section 73.1.

85 New heading.

86 Section 84 presently reads:

84 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) the Minister;*

- (e) *a person authorized by the Minister in accordance with the regulations.*

87 Section 85 presently reads in part:

85(1) No person shall publish in any form or by any means an advertisement dealing with the adoption of a child.

(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 the Minister or a director for the purpose of finding homes for children in the custody of the director who are available for adoption,*
- (c) the publication of an announcement by a petitioner in respect of the approval of the petitioner's petition, or*
- (d) the publication of an advertisement by a licensed adoption agency advertising its services only, without making any reference to specific children.*

88 New heading.

89 Section 87 presently reads:

87(1) An application for a licence to operate an adoption agency or a search agency, or for a renewal of a licence, may be submitted to the Minister in accordance with this Part and the regulations by

- (a) a body incorporated under the Societies Act,*
- (b) an extra-provincial corporation registered under Part 21 of the Business Corporations*

Act if, in the opinion of the Minister, the corporation does not carry on business for the purpose of gain,

- (c) a body referred to in Part 9 of the Companies Act, or*
- (d) a body incorporated under Part II or III of the Canada Corporations Act (Canada).*

(2) An application under subsection (1) must

- (a) be in the prescribed form,*
- (b) be accompanied with any other information required under the regulations to enable the Minister to determine the capacity of the applicant to provide the services and carry out the responsibilities of a licensed adoption agency or a licensed search agency, as the case may be, in accordance with this Act, and*
- (c) be accompanied with the prescribed fee.*

90 Sections 88(1)(c) and 90(b) presently read:

88(1) The Minister, after receiving an application under section 87, may

- (c) if the Minister is not satisfied that the applicant is capable of providing the services and carrying out the responsibilities of a licensed adoption agency or a licensed search agency, as the case may be, refuse to issue or renew a licence.*

90 *A licensee*

- (b) that ceases to carry on the operation of a licensed adoption agency or a licensed search agency, as the case may be,*

shall surrender to the Minister its licence and the books and records in its possession that relate to its clients or to the children that it has placed for adoption.

91 Section 91(1) presently reads:

91(1) The Minister or the Minister's delegate, on reasonable notice, at a reasonable time and on communicating to an officer of a licensee the purpose and authority for an inspection, may

- (a) enter on any land or premises of a licensed adoption agency or a licensed search agency, other than a private dwelling, and inspect the land or premises for the purpose of ascertaining if the agency is complying with this Part and the regulations,*
- (b) demand the production for examination of any books, records, accounts or other documents that are or may be relevant to the purpose of the inspection, and*
- (c) on giving a receipt for them, remove any of the things referred to in clause (b) for the purpose of making copies of them.*

92 The heading preceding section 92 presently reads:

*Part 7
Intercountry Adoption with Respect
to Designated States*

93 Section 94 presently reads:

94 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.

94 Residential facilities.

95 The heading to Part 8 presently reads:

*Part 8
General*

Handicapped Child

96 Financial assistance for children.

97 Section 107 presently reads:

107(1) In this section, “band”, “council of the band” and “reserve” have the same meaning that they have under the Indian Act (Canada).

(2) If a director has reason to believe that a child is an Indian, a member of a band and a resident of a reserve, the director shall consult with a chief of the council or the council of the band, or the designate of either of them, before entering into a permanent

guardianship agreement or applying for a supervision order or a temporary or permanent guardianship order in respect of the child.

(3) If a director has reason to believe that a child is an Indian and a member of a band but is not a resident of a reserve, the director shall

(a) ask the guardian of the child to consent to the director’s consulting with a chief of the council or the council of the band, and

(b) if the guardian consents, consult with a chief of the council or the council of the band, or the designate of either of them, before entering into a permanent guardianship agreement or applying for a supervision order or a temporary or permanent guardianship order.

(4) If the Court makes a supervision order or a temporary or permanent guardianship order in respect of a child who is an Indian and a member of a band, the director shall provide a chief of the council or the council of the band, or the designate

of either of them, with a copy of the order not more than 20 days after the date of the order.

(5) If, on or after July 1, 1985, a person adopts a child who is an Indian, that person shall

(a) take reasonable measures on behalf of the child necessary for the child to exercise any rights the child may have as an Indian, and

(b) as soon as, in the opinion of that person, the child is capable of understanding the child's status as an Indian, inform the child of that status.

(6) On making an adoption order, a court, if it has reason to believe the adopted child is an Indian, shall inform the adopting parent of the requirements of subsection (5).

98 Section 111 presently reads:

111(1) In any proceedings before the Court under Part 3 or 4,

(a) a foster parent or any other person who has had continuous care and custody of the child for not less than 6 months, and

(b) any other person, with the consent of the Court,

may appear and make representations to the Court.

(2) Notwithstanding subsection (1), the only parties to a proceeding under Part 3 or 4 or an appeal from that proceeding are the child, the child's guardian, the director, the Minister and, in the case of an application under section 36, the applicant.

(3) The Minister need not be served with notice of any proceeding under Part 3 or 4.

(4) Notwithstanding subsection (2), a child may examine the Court record only with the consent of the Court.

99 Section 112(1) presently reads:

112(1) If an application is made for a supervision order or a temporary or permanent guardianship order or a child is the subject of a supervision order or a temporary or permanent guardianship order and the child is not represented by a lawyer in a proceeding under Part 3 or 4, the Court may direct that the child be represented by a lawyer if

- (a) the child, the guardian of the child or a director requests the Court to do so, and*
- (b) the Court is satisfied that the interests or views of the child would not be otherwise adequately represented.*

100 Section 113 presently reads:

113 An order of the Court under this Act directing a person to make a financial contribution toward the maintenance of a child or an agreement under this Act in which a person agrees to make a financial contribution toward the maintenance of a child may be enforced pursuant to the Maintenance Enforcement Act.

101 Section 114 presently reads in part:

114(1) An order of the Court made under this Act may be appealed to the Court of Queen's Bench not more than 30 days after the date on which the order is made or renewed by

- (d) the child, if the child is the subject of a secure treatment order,*

102 Section 116 presently reads in part:

(3) The appellant shall serve the notice of appeal on

- (a) the guardian of the child other than a director,*
- (b) the child, if the child is 12 years of age or older,*
- (c) the child, if the child is the subject of a secure treatment order, and*
- (d) a director.*

103 Review of director's decision.

104 Section 119 presently reads in part:

119(1) Any Appeal Panel may hear an appeal made pursuant to section 120.

(2) An Appeal Panel may, subject to this Act and the regulations, confirm, reverse or vary the decision of the director appealed from.

(3) The Administrative Procedures Act applies to the proceedings of the Appeal Panel.

105 Section 120 presently reads:

120(1) The Minister or any of the following persons who are affected by a decision of a director may appeal that decision in accordance with this section:

- (a) a child;*
- (b) a guardian of a child;*
- (c) a foster parent or other person who has had the continuous care of the child for more than 6 of the 12 months immediately preceding a decision under subsection (2).*

(2) An appeal may be made from a decision of a director respecting the following:

- (a) the removal from or placement in a foster home, an adoptive home or any other place of a child who is the subject of a temporary or permanent guardianship order or a permanent guardianship agreement;*
- (b) the permitting or refusing to permit any person who has a significant relationship with the child to visit a child who is the subject of a permanent guardianship agreement;*
- (c) the disclosure of or refusal to disclose information in the possession of the Minister or a director that relates to the appellant except information to which section 74 applies;*
- (d) the provision of or refusal to provide any support services to a child 16 years of age or older by entering into a support agreement or custody agreement;*
- (e) the refusal or failure of a director to enter into an agreement under Part 2 or to apply to the Court under Part 3 in respect of a child who, in the opinion of that director, is in need of protective services;*
- (f) the refusal or failure of a director to enter into an agreement under section 106 in respect of a handicapped child;*
- (g) any other matter prescribed in the regulations as being subject to an appeal to an Appeal Panel.*

(3) A notice of appeal in the prescribed form shall be served on the director whose decision is the subject of the appeal not more than 30

days after the date on which the appellant receives notice of the decision appealed.

(4) A person who has applied to a director to become a foster parent or to have a child who is the subject of a permanent guardianship agreement or order placed in the person's home for the purposes of adopting that child and whose application is refused may appeal that decision.

(5) A person who has been approved by a director as a foster parent may appeal the withdrawal of that approval to an Appeal Panel in accordance with this section.

(6) A person

(a) who is dissatisfied with the terms and conditions imposed by the Minister under section 88(1)(b),

(b) whose application for a licence or renewal of a licence is refused under section 88(1)(c), or

(c) whose licence has been suspended or cancelled under section 89

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

106 Section 122 presently reads:

122 The Minister or a director may enter into an agreement with any person for the purpose of that person providing protective services to a child under this Act.

107 Reciprocal agreement.

108 Section 126 presently reads:

126(1) Except in proceedings under this Act or in accordance with section 74 or 75, the Minister and any person employed or assisting in the administration of this Act shall preserve secrecy with

respect to the name and any other identifying information of a person that comes to the Minister's or person's attention under this Act and shall not disclose or communicate that information to any other person except as otherwise provided in this section.

(2) Subject to section 74, the Minister or any person employed or assisting in the administration of this Act may disclose or communicate any information referred to in subsection (1) to the following:

- (a) the guardian, parent or foster parent of the child to whom the information relates or the lawyer of any of them;*
- (b) the child to whom the information relates or the child's lawyer;*
- (c) a physician, certified psychologist or registered social worker who is responsible for any care or treatment being provided to the child to whom the information relates or for any assessment in respect of that child;*
- (d) a member of a police service or an agent of the Minister of Justice and Attorney General if the person disclosing the information has reasonable and probable grounds to believe that an offence under an Act of the Parliament of Canada has been committed;*
- (e) a teacher if the teacher has responsibility for the education of a child to whom the information relates;*
- (f) the board of an approved hospital or health unit, or a regional health authority under the Regional Health Authorities Act, that is responsible for providing services to the child to whom the information relates;*
- (g) any person employed or engaged by the Minister or by a Child and Family Services Authority;*

- (h) *any person employed or assisting in the administration of the Protection of Children Involved in Prostitution Act;*
- (i) *any person assisting the Minister in the administration of this Act;*
- (j) *the Children's Advocate or the delegate of the Children's Advocate;*
- (k) *any person employed in the administration of child protection legislation in another province or territory;*
- (l) *any person with the consent in writing of the Minister, the child or a guardian of the child.*

(3) Notwithstanding subsection (2), no information shall be disclosed or communicated pursuant to this section without the consent in writing of the Minister of Justice and Attorney General or that Minister's agent if that information was provided by an agent of the Minister of Justice and Attorney General.

(4) Notwithstanding subsection (2), the name of a person who reports to a director pursuant to section 4 or 5 shall not be disclosed or communicated to any person without the consent in writing of the Minister.

(5) No liability attaches to the Minister or any other person who discloses or communicates information in accordance with this section if the disclosure or communication is made in the administration of this Act or for the protection of the child.

(6) Any person who contravenes this section is guilty of an offence and liable to a fine of not more than \$2000 and in default of payment to imprisonment for a term of not more than 6 months.

109 Privileged information ban on publication.

110 Section 129 presently reads:

129(1) The Minister shall designate one or more individuals as directors for the purposes of this Act and the Protection of Children Involved in Prostitution Act.

(2) A director may appoint an individual with the qualifications prescribed by the regulations as a child welfare worker for the purposes of this Act.

(3) For the purposes of this Act, a child welfare worker has all the powers of a peace officer.

111 Section 130 presently reads:

130 Any person who

- (a) wilfully causes a child to be in need of protective services, or*
- (b) obstructs or interferes with, or attempts to obstruct or interfere with, a director, a child welfare worker, a peace officer or any other duly authorized person exercising any power or performing any duty under this Act*

is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a period of not more than 12 months or to both a fine and imprisonment.

112 Section 131 presently reads:

131(1) The Lieutenant Governor in Council may make regulations

- (a) respecting procedures for the assessment and placement of children under this Act;*
- (b) prescribing the standards to be met in providing protective services including the qualifications of persons to be employed in providing those services;*

- (c) *prescribing the rules to be followed in a proceeding before the Court under this Act;*
 - (d) *prescribing the forms including notices to be used in any application made to the Court under this Act;*
 - (e) *prescribing the professions or occupations to which section 4(5) applies;*
 - (e.1) *respecting any matter necessary or advisable to carry out effectively the intent and purpose of section 19.1;*
 - (f) *prescribing qualified persons for the purposes of Parts 5 and 6.*
- (2) *The Minister may make regulations*
- (a) *prescribing the forms to be used under this Act other than the forms prescribed under subsection (1);*
 - (b) *prescribing the amount, nature and conditions of services and financial assistance provided under this Act;*
 - (c) *respecting support services;*
 - (d) *prescribing the rates payable for the provision of any protective services under this Act;*
 - (e) *prescribing the period for which, the purposes for which and the conditions on which a person may be provided with care and maintenance under section 35(2);*
 - (f) *prescribing institutions as secure treatment institutions;*
 - (g) *prescribing the standards of diagnostic and treatment services to be provided in a secure treatment institution;*

- (h) *prescribing the level of security required for the confinement of a child in a secure treatment institution;*
- (i) *defining “handicapped child” for the purposes of this Act;*
- (j) *respecting the amount, nature, conditions and reviews of any financial assistance granted under section 81;*
- (k) *prescribing a schedule of fees that will be paid to lawyers appointed under section 112;*
- (l) *prescribing matters that may be the subject of an appeal to an Appeal Panel;*
- (m) *prescribing those persons required to keep records under this Act;*
- (n) *prescribing any other matter required to be prescribed under this Act;*
- (o) *respecting the activities of the Children’s Advocate and the manner in which they shall be carried out;*
- (p) *prescribing additional duties and functions of the Children’s Advocate;*
- (q) *respecting the establishment and operation of licensed adoption agencies for the placement of children for adoption;*
- (r) *respecting the establishment and operation of licensed search agencies;*
- (s) *respecting applications and fees for the licensing of licensed adoption agencies and licensed search agencies and respecting the issuance, renewal and expiry of licences;*
- (t) *prescribing the books, records, accounts and other documents required to be maintained by licensed adoption agencies and licensed search agencies, and the inspection,*

maintenance and security of those books, records, accounts and other documents;

- (u) prescribing the qualifications to be met by persons operating or employed by licensed adoption agencies and licensed search agencies and prescribing the duties of those persons;*
- (v) prescribing the services that may be provided by licensed adoption agencies and licensed search agencies and the fees and expenses that may be charged for those services and prescribing the standards of service that must be maintained by licensed adoption agencies and licensed search agencies;*
- (w) prescribing the information, documents and reports required to be submitted to the Minister by licensed adoption agencies and licensed search agencies;*
- (x) respecting the placement of children for adoption in or outside Alberta by licensed adoption agencies;*
- (y) prescribing the forms to be used by licensed adoption agencies and licensed search agencies and providing for their use;*
- (z) respecting the contents of advertisements and other promotional material that may be used by licensed adoption agencies and licensed search agencies;*
- (aa) defining “family member” for the purposes of Part 6;*
- (bb) respecting the granting of authority by the Minister to persons for the purpose of placing or facilitating the placement of children for adoption in accordance with this Act;*
- (cc) respecting the provision of financial assistance to persons who apply to licensed search agencies under section 78(2) and*

describing applicants who qualify for the assistance.

113 The heading after section 131 presently reads:

*Part 9
Transitional, Repeal and
Coming into Force*

114 Section 133(3) presently reads:

(3) On the repeal of section 58(1)(a) pursuant to subsection (1) of this section, a reference in Part 6

(a) to “petitioner” means “applicant”,

(b) to “petition” means “application”, and

(c) in section 91(3) to “Court” means “Court of Queen’s Bench”.

115 Consequential amendments.

116 Transitional provisions.

117 Consequential amendments.

118 Coming into force.