

2003 Bill 203

Third Session, 25th Legislature, 52 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 203

**SCHOOL (COMPULSORY ATTENDANCE)
AMENDMENT ACT, 2003**

MR. McFARLAND

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 203
Mr. McFarland

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2003

SCHOOL (COMPULSORY ATTENDANCE) 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 cS-3

1 The *School Act* is amended by this Act.

2 Section 13 is amended

- (a) in subsection (1)(c) by striking out “16 years” and substituting “17 years”;**
- (b) in subsection (5) by striking out clause (e);**
- (c) by striking out subsection (6).**

3 Section 15 is repealed.

4 Sections 126 to 130 and the heading preceding section 126 are repealed.

5 Section 144 is amended

- (a) in subsection (1) by striking out** “a member of the Attendance Board,”;
- (b) in subsection (2) by striking out** “the Attendance Board,”.

6 The following sections are amended by striking out “16 years” and substituting “17 years”:

section 24(5)(c);
section 25(3);
section 44(6)(a);
section 54(3);
section 123(2)(b);
section 124(1).

Amends SA 2002 cF-12

7 The *Financial Administration Act* is amended in Part 5 of the Schedule by repealing section 1.

8 This Act comes into force on Proclamation.

Explanatory Notes

1 Amends chapter S-3 of the Revised Statutes of Alberta 2000.

2 Section 13 presently reads:

13(1) An individual who

- (a) is eligible to be enrolled in a school,*
- (b) at September 1 in a year is 6 years of age or older, and*
- (c) is younger than 16 years of age,*

shall attend school.

(2) A board may establish an attendance area for a school.

(3) A resident student of a board who resides in the attendance area for a school

- (a) shall be enrolled in that school if a program offered in the school is suitable for the student in the opinion of the board, and*
- (b) shall be given priority over a student who does not reside in the attendance area if there are insufficient resources and facilities to accommodate both students in the opinion of the board.*

(4) A board shall make all reasonable efforts to ensure that a student who is a resident student of the board or who is enrolled in a school operated by the board attends school.

(5) Notwithstanding subsection (1), a student is excused from attending school on a day on which the school is open if

- (a) the student is unable to attend by reason of sickness or other unavoidable cause,*
- (b) the day is recognized as a religious holiday by the religious denomination to which the student belongs,*
- (c) the principal of the school has suspended the student from school and the suspension is still in effect,*
- (d) the student has been expelled from a school and has not been given permission to enroll in another school, or*
- (e) the board or, if the student is enrolled in a private school or resides in an unorganized territory, the Minister*
 - (i) determines that the parent of the student has shown sufficient cause as to why the student should not be required to attend school, and*
 - (ii) excuses the student from attending school for a prescribed period of time.*

(6) Where a student is excused from attendance at school under subsection (5)(e), that student is excused from attendance at school only during the period of time prescribed by the board or the Minister, as the case may be.

3 Section 15 presently reads:

15(1) Where

- (a) a student who is required to attend a school under section 13 does not attend school, and*
- (b) attempts to enforce school attendance under section 14 have, in the opinion of the board, not been effective,*

the board of which the student is a resident student or that operates or supervises the school in which the student is enrolled may refer the matter to the Attendance Board.

(2) Where a student who is required to attend a school under section 13

- (a) is enrolled in a private school, and*

(b) does not regularly attend that private school,

and the person responsible for the operation of that private school has made all reasonable efforts to ensure that the student attends school, the person responsible for the operation of that private school shall refer the matter to the Attendance Board.

4 Sections 126 to 130 and the heading preceding section 126 presently read:

*Division 2
Attendance Board*

126(1) An Attendance Board may hear a matter referred to it pursuant to section 15 respecting the failure of a student to attend school as required under this Act.

(2) Before referring a matter respecting the attendance of a student to the Attendance Board, a board shall ensure

- (a) that the student has been advised by the board or the attendance officer of the student's duty to attend school in accordance with section 13, and*
- (b) that all reasonable efforts have been made by the board or the attendance officer to enforce the student's attendance at school.*

(3) Before referring a matter respecting the attendance of a student to the Attendance Board, the person responsible for the operation of a private school shall ensure

- (a) that the student has been advised by that person of the student's duty to attend school in accordance with section 13, and*
- (b) that all reasonable efforts have been made by that person to enforce the student's attendance at school.*

127(1) For the purpose of conducting a hearing before the Attendance Board, the following apply:

- (a) notice in writing of the date, time, place and purpose of the hearing shall be served on the parent, on the student who is the subject of the hearing, if the student is capable of understanding the situation, and on any other person the Attendance Board directs at least 10 days before the commencement of the hearing;*
- (b) the Attendance Board has, with respect to the holding of a hearing, the same power as is vested in the Court of Queen's Bench for the trial of civil actions*

- (i) *to summon and enforce the attendance of witnesses,*
- (ii) *to compel witnesses to give evidence on oath or otherwise, and*
- (iii) *to compel witnesses to produce documents, records and things;*
- (c) *the Attendance Board may require a board or a person responsible for the operation of a private school to produce to the Attendance Board, prior to a hearing, copies of all reports, statements, correspondence or other documents or things relating to the matter being heard;*
- (d) *if a person fails to attend, to answer questions or to produce an item as required under clause (b) or (c) or subsection (2) or (3), the Attendance Board may apply to the Court of Queen's Bench for an order committing that person for contempt in the same manner as if that person were in breach of an order or judgment of that Court;*
- (e) *the Attendance Board shall receive any evidence presented to it that is relevant to the matter being heard;*
- (f) *the rules of evidence applicable to judicial proceedings do not apply;*
- (g) *all oral evidence received shall be taken down in writing or recorded by electronic means;*
- (h) *all the evidence taken down in writing or recorded by electronic means and all documentary evidence and things received in evidence at a hearing form the record of the proceeding;*
- (i) *a person on whom notice of the hearing is served and the person's counsel or agent are entitled to examine the record;*
- (j) *the Attendance Board may from time to time adjourn matters that are before the Board;*
- (k) *a hearing shall be held in public;*
- (l) *notwithstanding clause (k), a hearing or any portion of it may be held in private if, in the opinion of the Attendance Board, it is in the public interest to do so;*
- (m) *a person who is likely to be affected by a hearing before the Attendance Board is entitled*
 - (i) *to appear before the Attendance Board,*
 - (ii) *to be represented by counsel or an agent, and*

- (iii) *to make representations to the Attendance Board;*
- (n) *a witness attending a proceeding before the Attendance Board may be paid the same fees and allowances as a witness summoned to attend at the Provincial Court unless otherwise prescribed in the regulations;*
- (o) *notice of every order together with a copy of the written reasons for it, if any, shall promptly be sent to*
 - (i) *a person on whom notice of the hearing was served, and*
 - (ii) *any person that the Attendance Board considers is substantially affected by it.*
- (2) *The Attendance Board may require the student or a parent of the student, or both, to attend proceedings before the Attendance Board.*
- (3) *Any person other than the student and a parent of the student who, in the opinion of the Attendance Board, has knowledge of the matter before the Attendance Board is a compellable witness in proceedings before the Attendance Board.*
- (4) *Notice under this section may be served personally on the person required to be served or by being sent to that person by registered or certified mail.*

128(1) On hearing a matter referred to it, the Attendance Board may, subject to any terms or conditions that the Attendance Board considers proper in the circumstances, make an order doing one or more of the following:

- (a) *directing the student to attend school;*
 - (b) *directing the parents of a student to send the student to school;*
 - (c) *subject to sections 29, 47 and 48, directing the student to take an education program, course or student program set out in the order;*
 - (d) *reporting the matter to a director under the Child Welfare Act;*
 - (e) *imposing on the student's parent a monetary penalty not exceeding \$100 per day up to a maximum of \$1000 to be paid to the Crown for each day that the student does not attend school;*
 - (f) *giving any other direction not referred to in clauses (a) to (e) that the Attendance Board considers appropriate in the circumstances.*
- (2) *Notwithstanding subsection (1), the Attendance Board may at any time during the proceedings*

- (a) *make an interim order giving any directions to the student, a parent of the student, the board or the person responsible for the operation of the private school that the Attendance Board considers appropriate in the circumstances,*
 - (b) *adjourn the proceedings before it for a period set by the Attendance Board, and*
 - (c) *reconvene the proceedings to hear further evidence, if the Attendance Board considers it necessary to do so, consider the interim order and make a final order under subsection (1).*
- (3) *A copy of an order of the Attendance Board made under subsection (1) may be filed with the clerk of the Court of Queen's Bench in the judicial district in which the cause of the proceedings before the Attendance Board arose.*
- (4) *On the filing of a copy of an order with the clerk of the Court of Queen's Bench pursuant to subsection (3), the order of the Attendance Board has the same force and effect as if the order were an order of that Court.*
- (5) *A copy of the order as filed shall be sent to the Minister and any person to whom notice of the order is sent.*

129 *The Minister may*

- (a) *divide Alberta into attendance districts;*
- (b) *appoint an Attendance Board consisting of as many members as the Minister considers necessary and designate from among the members a chair and one or more vice-chairs.*

130(1) *At the request of the chair or a vice-chair, 3 or more members may sit as a panel of the Attendance Board.*

- (2) *Two members constitute a quorum at a sitting of a panel of the Attendance Board.*
- (3) *A decision made or other action taken at a sitting of a panel of the Attendance Board at which a quorum is present*
 - (a) *is the decision or action of the Attendance Board, and*
 - (b) *binds all members of the Attendance Board.*
- (4) *A panel of the Attendance Board has, with respect to its duties, the jurisdiction of the Attendance Board and may exercise all the powers of the Attendance Board under this Act and the regulations.*
- (5) *The chair may designate a member of a panel of the Attendance Board to preside at any sitting of the panel at which the chair is not present.*

(6) A panel of the Attendance Board shall conduct its sittings separately from those of another panel of the Attendance Board being conducted at the same time.

(7) Where a hearing is conducted by a panel of the Attendance Board and one or more members of the panel do not for any reason attend on any day or part of a day, the remaining members present may, if they constitute a quorum of the panel, continue with the hearing.

5 Section 144 presently reads:

144(1) No action lies against a member of the Attendance Board, a member of the Board of Reference, a member of a Special Needs Tribunal, a person appointed as an official trustee or a person who conducts a review under section 124 on behalf of the Minister for anything done by that person in good faith and in purporting to act under this Act or the regulations.

(2) No action for defamation may be founded on a communication if the communication is published to or by an attendance officer, the Attendance Board, the Board of Reference, a member of a Special Needs Tribunal, a person appointed as an official trustee or a person who conducts a review under section 124 on behalf of the Minister in good faith in the course of any proceedings under this Act.

6 Consequential changes from amendment to the mandatory school age.

7 Amends chapter F-12 of the Revised Statutes of Alberta 2000. Section 1 in Part 5 of the Schedule presently reads:

1 Attendance Board appointed under section 111 of the School Act, SA 1988 cS-3.1.

8 Coming into force.