

2011 Bill 25

---

Fourth Session, 27th Legislature, 60 Elizabeth II

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 25**

## **CHILD AND YOUTH ADVOCATE ACT**

---

THE MINISTER OF HUMAN SERVICES

---

First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

---

---



## BILL 25

2011

### CHILD AND YOUTH ADVOCATE ACT

*(Assented to , 2011)*

#### *Table of Contents*

- 1 Definitions
- Part 1**  
**Office of the Child and Youth Advocate**
- 2 Appointment of Child and Youth Advocate
- 3 Term of office
- 4 Resignation, removal or suspension of Advocate
- 5 Acting Advocate
- 6 Remuneration
- 7 Oath
- 8 Office of the Child and Youth Advocate
- Part 2**  
**Advocate's Role, Functions and General Powers**
- 9 Role and functions of Advocate
- 10 Delegation by Advocate
- 11 No power to act as legal counsel
- 12 Duty to report
- 13 Right to information
- 14 Powers relating to investigations
- 15 Report after investigation

**Part 3  
Administrative and  
General Provisions**

- 16 Financing of operations
- 17 Advocate not compellable as witness
- 18 Communications privileged
- 19 Protection of Advocate and others
- 20 Communications by child
- 21 Annual report
- 22 Regulations
- 23 Review of Act

**Part 4  
Transitional Provisions,  
Consequential and Related  
Amendments and Coming into Force**

- 24 Transitional provision
- 25-36 Consequential and related amendments
- 37 Coming into force

**Preamble**

WHEREAS the Government of Alberta recognizes that children and youth are our greatest resource;

WHEREAS the Government of Alberta is committed to ensuring that the rights, interests and viewpoints of the most vulnerable children and youth in provincial government systems are considered in matters affecting those children and youth; and

WHEREAS the Government of Alberta recognizes the importance of continual improvement in the provision of services to vulnerable children and youth;

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

**Definitions**

- 1 In this Act,

- (a) “action” means action as defined in the *Alberta Evidence Act*;
- (b) “Advocate” means the Child and Youth Advocate appointed under section 2(1);
- (c) “child” means
  - (i) a person under the age of 18 years, including a youth, who is receiving or is seeking to receive a designated service, or
  - (ii) a person under the age of 22 years who is receiving support and financial assistance under section 57.3 of the *Child, Youth and Family Enhancement Act*;
- (d) “custodian” means a custodian as defined in the *Health Information Act*;
- (e) “designated service” means
  - (i) a service under the *Child, Youth and Family Enhancement Act*, other than an adoption service under Part 2 of that Act,
  - (ii) a service under the *Protection of Sexually Exploited Children Act*, or
  - (iii) a service provided to children in the youth criminal justice system;
- (f) “health information” means health information as defined in the *Health Information Act*;
- (g) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;
- (h) “public body” means a public body as defined in the *Freedom of Information and Protection of Privacy Act*;
- (i) “serious injury”, in respect of a child, means
  - (i) a life-threatening injury to the child, or
  - (ii) an injury that may cause significant impairment of the child’s health;

- (j) “Standing Committee” means the Standing Committee on Legislative Offices;
- (k) “youth” means a child who is 16 years of age or older.

## **Part 1 Office of the Child and Youth Advocate**

### **Appointment of Child and Youth Advocate**

- 2(1)** The Lieutenant Governor in Council, on the recommendation of the Legislative Assembly, must appoint a Child and Youth Advocate to carry out the duties and functions set out in this Act.
- (2)** The Advocate is an officer of the Legislature.
- (3)** The Advocate may not be a member of the Legislative Assembly.

### **Term of office**

- 3(1)** Except as provided for in section 4, the Advocate holds office for a term not exceeding 5 years.
- (2)** A person holding office as Advocate continues to hold office after the expiry of that person’s term of office until that person is reappointed, a successor is appointed or a period of 6 months has expired, whichever occurs first.
- (3)** A person is eligible for reappointment as Advocate.

### **Resignation, removal or suspension of Advocate**

- 4(1)** The Advocate may resign at any time by notifying the Speaker of the Legislative Assembly or, if there is no Speaker or the Speaker is absent from Alberta, by notifying the Clerk of the Legislative Assembly.
- (2)** The Lieutenant Governor in Council must remove the Advocate from office or suspend the Advocate for cause or incapacity on the recommendation of the Legislative Assembly.
- (3)** If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the Advocate for cause or incapacity on the recommendation of the Standing Committee.

**Acting Advocate**

**5(1)** The Lieutenant Governor in Council, on the recommendation of the Standing Committee, may appoint an acting Advocate if

- (a) the office of Advocate is or becomes vacant when the Legislative Assembly is not sitting,
- (b) the Advocate is suspended when the Legislative Assembly is not sitting, or
- (c) the Advocate is removed or suspended or the office of the Advocate becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Assembly under section 2 before the end of the sitting.

**(2)** The Lieutenant Governor in Council may appoint an acting Advocate if the Advocate is temporarily absent because of illness or for another reason.

**(3)** An acting Advocate holds office until

- (a) a person is appointed as Advocate under section 2(1),
- (b) the suspension of the Advocate ends, or
- (c) the Advocate returns to office after a temporary absence.

**Remuneration**

**6** The Advocate must be remunerated as determined by the Standing Committee, and it must review that remuneration at least once a year.

**Oath**

**7(1)** Before beginning the duties and functions of office, the Advocate must take an oath to faithfully and impartially perform the duties and functions of the office and not to disclose any information received by the Office of the Child and Youth Advocate under this Act except as provided in this Act.

**(2)** The oath must be administered by the Speaker of the Legislative Assembly or the Clerk of the Legislative Assembly.

### **Office of the Child and Youth Advocate**

**8(1)** There may be a part of the public service of Alberta called the Office of the Child and Youth Advocate consisting of the Advocate and those persons employed pursuant to the *Public Service Act* that are necessary to assist the Advocate in carrying out the Advocate's duties and functions under this or any other enactment.

**(2)** The Advocate may engage the services of any persons necessary to assist the Advocate in carrying out the Advocate's duties and functions.

**(3)** On the recommendation of the Advocate, the Standing Committee may order that

- (a) any regulation, order or directive made under the *Financial Administration Act*, or
- (b) any regulation, order, directive, rule, procedure, direction, allocation, designation or other decision under the *Public Service Act*,

does not apply to, or is varied in respect of, the Office of the Child and Youth Advocate or any particular employee or class of employees in that Office.

**(4)** An order made under subsection (3)(a) operates despite section 2 of the *Financial Administration Act*.

**(5)** The *Regulations Act* does not apply to orders made under subsection (3).

**(6)** The chair of the Standing Committee must lay a copy of each order made under subsection (3) before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the start of the next sitting.

**(7)** Every person employed or engaged under subsection (1) or (2) must, before beginning to perform duties under this Act, take an oath, to be administered by the Advocate, not to disclose any information received by that person under this Act except as provided in this Act.



## **Part 2 Advocate's Role, Functions and General Powers**

### **Role and functions of Advocate**

**9(1)** The role of the Advocate is to represent the rights, interests and viewpoints of children.

**(2)** In carrying out the role of the Advocate under subsection (1), the Advocate may

- (a) communicate and visit with a child, or with a guardian or other person who represents a child;
- (b) on the Advocate's own initiative, or at the request of a child, assist in appealing or reviewing a decision relating to a designated service;
- (c) appoint, or cause to be appointed, lawyers to represent children with respect to any matter or proceeding under the *Child, Youth and Family Enhancement Act* or the *Protection of Sexually Exploited Children Act* or any matter or proceeding prescribed by regulation;
- (d) investigate systemic issues arising from a serious injury to or the death of a child who was receiving a designated service at the time of the injury or death if, in the opinion of the Advocate, the investigation is warranted or in the public interest;
- (e) participate in processes in which decisions are made about children;
- (f) promote the rights, interests and well-being of children through public education;
- (g) undertake or collaborate in research related to improving designated services or addressing the needs of children receiving those services;
- (h) provide information and advice to the Government with respect to any matter relating to the rights, interests and well-being of children;
- (i) perform any other function prescribed in the regulations.

(3) Subsection (2)(b) does not apply in respect of a designated service referred to in section 1(e)(iii).

(4) Subsection (2)(c) and (d) do not apply in respect of a child referred to in section 1(c)(ii).

(5) Subsection (2)(d) does not apply in respect of a designated service referred to in section 1(e)(iii) unless, at the time of the serious injury to or death of the child, the child was in open or secure custody.

**Delegation by Advocate**

**10(1)** The Advocate may delegate to any person any power, duty or function of the Advocate under this Act except the power

(a) to delegate under this section, and

(b) to make a report under this Act.

(2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the Advocate considers appropriate.

**No power to act as legal counsel**

**11** The Advocate may not act as legal counsel in person or by agent.

**Duty to report**

**12(1)** When a child is seriously injured or dies while receiving a designated service, the public body responsible for the provision of the designated service shall report the incident to the Advocate as soon as practicable.

(2) Subsection (1) does not apply in respect of a designated service referred to in section 1(e)(iii), unless at the time of the serious injury to or death of the child, the child was in open or secure custody.

**Right to information**

**13(1)** The Advocate is entitled to any information, including personal information and health information, that

- (a) is in the custody or under the control of a public body or custodian, and
- (b) is necessary to enable the Advocate to exercise the Advocate's powers or perform the Advocate's duties or functions under this Act.

**(2)** A public body or a custodian that is a public body shall, on request, disclose to the Advocate the information to which the Advocate is entitled under subsection (1).

**(3)** A custodian that is not a public body may, on request, disclose to the Advocate the information to which the Advocate is entitled under subsection (1).

**(4)** Nothing in this section compels the disclosure of any information or records that are subject to any type of legal privilege, including solicitor-client privilege and parliamentary privilege.

#### **Powers relating to investigations**

**14** In conducting an investigation under section 9(2)(d), the Advocate has all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

#### **Report after investigation**

**15(1)** Where the Advocate conducts an investigation under section 9(2)(d), the Advocate must, after completing the investigation, make a report

- (a) containing recommendations for any public body or other person as the Advocate considers appropriate, and
- (b) addressing any other matters the Advocate considers appropriate.

**(2)** The findings of the Advocate shall not contain any findings of legal responsibility or any conclusions of law.

**(3)** A report made under subsection (1) must not disclose the name of, or any identifying information about, the child to whom the investigation relates or a parent or guardian of the child.

(4) The Advocate must provide a copy of a report made under subsection (1) to a public body that is directly or indirectly a subject of the investigation.

(5) The Advocate must make a report made under subsection (1) available to the public at a time and in a form and manner that the Advocate considers appropriate.

### **Part 3 Administrative and General Provisions**

#### **Financing of operations**

**16(1)** The Advocate must submit to the Standing Committee in respect of each fiscal year an estimate of the public money that will be required to be provided by the Legislature to defray the several charges and expenses of the Office of the Child and Youth Advocate in that fiscal year.

(2) The Standing Committee must review each estimate submitted pursuant to subsection (1) and, on the completion of the review, the chair of the Committee must transmit the estimate to the Minister of Finance for presentation to the Legislative Assembly.

(3) If at any time that the Legislative Assembly is not in session the Standing Committee, or if there is no Standing Committee, the Minister of Finance,

- (a) reports that the Advocate has certified that, in the public interest, an expenditure of public money is urgently required in respect of any matter pertaining to the Office of the Child and Youth Advocate, and
- (b) reports that either
  - (i) there is no supply vote under which an expenditure with respect to that matter may be made, or
  - (ii) there is a supply vote under which an expenditure with respect to that matter may be made but the authority available under the supply vote is insufficient,

the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the expenditure of the amount estimated to be required.

(4) When the Legislative Assembly is adjourned for a period of more than 14 days, for the purposes of subsection (3), the Assembly is deemed not to be in session during the period of the adjournment.

(5) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(i), the authority to spend the amount of money specified in the special warrant for the purpose specified in the special warrant is deemed to be a supply vote for the purposes of the *Financial Administration Act* for the fiscal year in which the special warrant is signed.

(6) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(ii), the authority to spend the amount of money specified in the special warrant is, for the purposes of the *Financial Administration Act*, added to and deemed to be part of the supply vote to which the report relates.

(7) When a special warrant has been prepared and signed pursuant to this section, the amounts authorized by it are deemed to be included in, and not to be in addition to, the amounts authorized by the Act, not being an Act for interim supply, enacted next after it for granting to Her Majesty sums of money to defray certain expenditures of the Public Service of Alberta.

#### **Advocate not compellable as witness**

**17** The Advocate and a person employed or engaged under section 8(1) or (2) must not give or be compelled to give evidence in an action in respect of any matter coming to their knowledge in the exercise of powers and the performance of duties and functions under this Act, except

- (a) to enforce the Advocate's powers of investigation,
- (b) to enforce compliance with this Act, or
- (c) in a prosecution for perjury.

### **Communications privileged**

**18** The following information, records and reports are privileged and not admissible in evidence in an action, except in a prosecution for perjury:

- (a) anything said, any information supplied or any record produced during an investigation under section 9(2)(d);
- (b) any report made under section 15(1).

### **Protection of Advocate and others**

**19(1)** Subject to subsection (2), no action lies or may be commenced or maintained against

- (a) the Advocate, or
- (b) a person employed or engaged under section 8(1) or (2)

in respect of anything done or omitted to be done in the exercise or intended exercise of any power under this Act or in the performance or intended performance of any duty or function under this Act.

**(2)** Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted to be done by that person in bad faith.

### **Communications by child**

**20(1)** All information provided by a child to the Advocate in confidence and all documents and records created as a result of confidential communications between a child and the Advocate are the privileged information, documents and records of the child and are not admissible in evidence in any action without the consent of the child.

**(2)** Despite subsection (1), the information, documents and records described in subsection (1) must be disclosed if disclosure is required by section 4 of the *Child, Youth and Family Enhancement Act*.

### **Annual report**

**21(1)** The Advocate must report annually to the Speaker of the Legislative Assembly on the work of the Office of the Child and Youth Advocate.

**(2)** The Speaker must lay each annual report before the Legislative Assembly as soon as possible.

### **Regulations**

**22** The Lieutenant Governor in Council may make regulations

- (a) prescribing other functions of the Advocate;
- (b) prescribing matters or proceedings for the purposes of section 9(2)(c);
- (c) defining any word or expression used but not defined in this Act;
- (d) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary for carrying out the intent of this Act.

### **Review of Act**

**23** A committee of the Legislative Assembly must begin a comprehensive review of this Act by July 1, 2016 and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the committee.

## **Part 4 Transitional Provisions, Consequential and Related Amendments and Coming into Force**

### **Transitional provision**

**24** The person who, immediately before the coming into force of this Act, held the office of Child and Youth Advocate under the *Child, Youth and Family Enhancement Act* is deemed to be the Advocate under this Act until a successor is appointed under section 2(1).

**Amends RSA 2000 cA-46**

**25** The *Auditor General Act* is amended in section 1(1)(b) by striking out “and” at the end of subclause (iv), adding “and” at the end of subclause (v) and adding the following after subclause (v):

- (vi) the Child and Youth Advocate and the staff of the Office of the Child and Youth Advocate;

**Amends RSA 2000 cC-12**

**26(1)** The *Child, Youth and Family Enhancement Act* is amended by this section.

**(2)** Section 1(1) is amended

**(a)** by repealing clause (f) and substituting the following:

- (f) “Child and Youth Advocate” means the person appointed as the Child and Youth Advocate under section 2 of the *Child and Youth Advocate Act*;

**(b)** by adding the following after clause (h):

- (h.1) “custodian” means a custodian as defined in the *Health Information Act*;

**(c)** by adding the following after clause (l):

- (l.1) “health information” means health information as defined in the *Health Information Act*;

**(d)** by adding the following after clause (s):



## Explanatory Notes

**25** Amends chapter A-46 of the Revised Statutes of Alberta 2000. Section 1(1)(b) presently reads:

- (b) *“department” means a department as defined in section 1 of the Financial Administration Act and includes*
  - (i) *the Legislative Assembly Office,*
  - (ii) *the Ombudsman and the staff of the Office of the Ombudsman,*
  - (iii) *the Chief Electoral Officer and the staff of the Office of the Chief Electoral Officer,*
  - (iv) *the Ethics Commissioner and the staff of the Office of the Ethics Commissioner, and*
  - (v) *the Information and Privacy Commissioner and the staff of the Office of the Information and Privacy Commissioner;*

**26** Amends chapter C-12 of the Revised Statutes of Alberta 2000. Part 3.1 and related amendments added in respect of the establishment and functions of a Council for quality assurance. Sections 126, 126.01, 126.2 and 131(2)(o) and (p) presently read:

*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;*

(s.1) “public body” means a public body as defined in the *Freedom of Information and Protection of Privacy Act*;

**(3) Section 3 is repealed.**

**(4) The following is added after section 105.7:**

### **Part 3.1 Council for Quality Assurance**

#### **Definitions**

**105.71** In this Part,

- (a) “action” means action as defined in the *Alberta Evidence Act*;
- (b) “Council” means the Council established under section 105.72(1);
- (c) “Department” means the department administered by the Minister;
- (d) “expert review panel” means an expert review panel appointed under section 105.75;
- (e) “serious injury”, in respect of a child, means
  - (i) a life-threatening injury to the child, or
  - (ii) an injury that may cause significant impairment of the child’s health.

#### **Establishment of Council**

**105.72(1)** The Minister may establish a Council for quality assurance purposes.

- (2)** The Minister may, with respect to the Council,
- (a) appoint or provide for the manner of the appointment of its members,
  - (b) prescribe the term of office of any member,
  - (c) designate a chair, and

(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.*

(3) *Notwithstanding subsection (1), 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) *A director may collect and use personal information, including health information as defined in the Health Information Act, for the purposes of conducting an assessment or an investigation or providing services under this Act.*

(4.1) *A custodian as defined in the Health Information Act may disclose health information as defined in the Health Information Act to a director for the purposes set out in subsection (4).*

(4.2) *A public body as defined in the Freedom of Information and Protection of Privacy Act may disclose personal information to a director for the purposes set out in subsection (4).*

(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.*

*126.01(1) Despite section 126(1), all information provided by a child to the Child and Youth Advocate in confidence and all documents and records created as a result of confidential communications between a child and the Child and Youth Advocate are the privileged information, documents and records of the child and are 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 child.*

(2) *Despite subsection (1), the information, documents and records described in subsection (1) must be disclosed if disclosure is required by section 4 or directed by the Minister.*

(d) authorize or provide for the payment of remuneration and expenses of its members.

(3) In appointing members to the Council, the Minister must ensure the Council includes persons with knowledge and expertise in the provision of services to children.

(4) The Child and Youth Advocate is, by virtue of that office, a member of the Council.

(5) Subject to this Part, the Council may determine its own procedures.

#### **Role of Council**

**105.73** The role of the Council is

- (a) to identify effective practices and make recommendations for the improvement of intervention services, at the direction of the Minister and in co-operation with the Department;
- (b) to appoint an expert review panel to review incidents giving rise to serious injuries or deaths of children as reported by a director under section 105.74.

#### **Director's duty**

**105.74** When a director becomes aware of an incident giving rise to a serious injury to or the death of a child who was in the custody or under the guardianship of the director at the time of the injury or death, the director must, as soon as practicable, report the incident to the Council.

#### **Expert review panels**

**105.75(1)** The Minister may

- (a) on the recommendation of the Council, establish a roster of experts to serve on an expert review panel appointed under this section, and
- (b) authorize or provide for the payment of remuneration and expenses for those experts who serve on an expert review panel.

(2) The Council may, in accordance with the regulations, appoint an expert review panel to review an incident giving rise to a serious injury to or the death of a child as reported by a director under section 105.74.

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

*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 publish, or consent to the publication of, by any means, the name of a child, information serving to identify the child or the child's guardian and any other information related to the child if, in the opinion of the director, the publication is in the child's best interest or necessary for the proper administration of justice;*

*(b) a child who has attained the age of 18 years may publish or consent to the publication of 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 or the child's guardian 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 or to the child's guardian to publish or to consent to the publication of 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.*

(3) The chair of the Council must designate one of the members of the expert review panel to act as chair of the panel, and while so acting, that member must perform all of the responsibilities and may exercise any of the powers of the chair of the Council with respect to that panel.

(4) Subject to this Part, an expert review panel may determine its own procedures.

**Report of expert review panel**

**105.76(1)** The chair of an expert review panel must make a written report of the panel's findings and recommendations and must submit the report to the Council.

(2) The findings of the expert review panel shall not contain findings of legal responsibility or any conclusion of law.

(3) On receiving a report from an expert review panel under subsection (1),

(a) the Council

(i) must provide a copy of the report to

(A) the Minister,

(B) the Child and Youth Advocate, and

(C) the director who reported the incident that is the subject of the review,

and

(ii) may provide a copy of the report

(A) in the case of a review of a serious injury, to the child if he or she is 16 years of age or older,

(B) to the parent of the child, and

(C) to the guardian of the child if the parent is not the guardian of the child at the time of the incident;

(b) the Council must

*(4) In this section, if a director is or has been a guardian of the child, a reference to “guardian” includes the person who was the guardian of the child immediately before a director became the guardian of the child.*

*131(2) The Minister may make regulations*

- (o) respecting the activities of the Child and Youth Advocate and the manner in which they shall be carried out;*
- (p) prescribing additional duties and functions of the Child and Youth Advocate;*

- (i) prepare a publicly releasable version of the report from which the name of, and any other identifying information about, the child or a parent or guardian of the child is removed, and
- (ii) provide a copy of the publicly releasable version of the report to the Minister.

**(4)** The Council must make the publicly releasable version of the report available to the public within 6 months after providing it to the Minister under subsection (3)(b)(ii), unless the Minister directs otherwise.

#### **Right to information**

**105.77(1)** An expert review panel is entitled to any information, including personal information and health information, that

- (a) is in the custody or under the control of a public body or custodian, and
- (b) is necessary to enable the expert review panel to exercise the panel's powers or perform the panel's functions or duties under this Part.

**(2)** A public body or a custodian that is a public body shall, on request, disclose to the expert review panel the information to which the panel is entitled under subsection (1).

**(3)** A custodian that is not a public body may, on request, disclose to the expert review panel the information to which the panel is entitled under subsection (1).

**(4)** Nothing in this section compels the disclosure of any information or records that are subject to any type of privilege, including solicitor-client privilege and parliamentary privilege.

#### **Members not compellable as witnesses**

**105.78** A member of the Council or of an expert review panel must not give or be compelled to give evidence in an action in respect of any matter coming to his or her knowledge in the exercise of powers and the performance of duties and functions under this Part, except in a prosecution for perjury.





### **Communications privileged**

**105.79** The following information, records and reports are privileged and not admissible in evidence in an action, except in a prosecution for perjury:

- (a) anything said, any information supplied or any record produced during a review under section 105.75(2);
- (b) any report referred to in section 105.76.

### **Protection of Council and others**

**105.791(1)** Subject to subsection (2), no action lies or may be commenced or maintained against

- (a) the Council,
- (b) a member of the Council, or
- (c) a member of an expert review panel

in respect of anything done or omitted to be done in the exercise or intended exercise of any power under this Part or in the performance or intended performance of any duty or function under this Part.

**(2)** Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted to be done by that person in bad faith.

### **Annual report**

**105.792(1)** The Council must submit annual reports to the Minister on the exercise of the duties and functions of the Council.

**(2)** On receiving a report under subsection (1), the Minister must lay a copy of the report before the Legislative Assembly if it is then sitting, and if it is not sitting, within 15 days after the commencement of the next sitting.

### **(5) Section 126 is repealed and the following is substituted:**

#### **Confidentiality**

**126(1)** The Minister and any person employed or assisting in the administration of this Act, including an agency providing services on behalf of a director, may disclose or communicate personal information that comes to the Minister's or person's or



agency's attention under this Act only 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 Part or as follows:

- (a) to any person or organization, including an agency providing services to a child, if the disclosure is necessary to plan services for or provide services to the 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.

**(2)** Notwithstanding subsection (1), 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.

**(3)** A director or a person acting on behalf of a director, including an agency providing services on behalf of a director, may collect and use personal information, including health information, for the purposes of conducting an assessment or an investigation or providing services under this Act.

**(4)** A custodian may disclose health information to a director or a person acting on behalf of a director, including an agency providing services on behalf of a director, for the purposes set out in subsection (3).

**(5)** A public body may disclose personal information to a director or a person acting on behalf of a director, including an agency providing services on behalf of a director, for the purposes set out in subsection (3).



(6) 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) **Section 126.01 is repealed.**

(7) **Section 126.2 is repealed and the following is substituted:**

**Ban on publication**

**126.2(1)** No person shall publish the name or a photograph of a child or of the child's parent or guardian in a manner that reveals that the child is receiving or has received intervention services.

(2) Despite subsection (1),

- (a) a director may publish or consent to the publication of the name or a photograph of a child or of the child's parent or guardian and any other information related to the child if, in the opinion of the director, the publication is in the child's best interest or necessary for the proper administration of justice;
- (b) a child who is 16 years of age or older may publish, or consent to the publication of, the child's name or photograph in a manner that reveals that the child has received intervention services;
- (c) a Court may, on the application of
  - (i) a child,
  - (ii) a parent or guardian of a child, or
  - (iii) any interested party, with leave of the Court,

grant permission to the child, the parent or guardian or the interested party, as the case may be, to publish or consent to the publication of the name or photograph of the child or of the child's parent or guardian in a manner that reveals that the child is receiving or has received intervention services if the Court is satisfied that the publication is in the child's best interest or the public interest.

(3) A person who brings an application under subsection (2)(c) must provide notice of the application to a director.



(4) Any person who contravenes subsection (1) 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.

(5) If a director is or has been a guardian of the child, a reference in this section to “guardian” includes the person who was the guardian of the child immediately before a director became the guardian of the child.

**(8) Section 131 is amended**

**(a) in subsection (1) by adding the following after clause (e.2):**

(e.3) respecting the circumstances under which the Council may appoint an expert review panel;

**(b) by repealing subsection (2)(o) and (p).**

**Amends RSA 2000 cC-23**

**27 The *Conflicts of Interest Act* is amended in Part 2 of the Schedule by adding the following after item 5:**

6. The Child and Youth Advocate

**Amends SA 2001 cE-5.5**

**28 The *Electronic Transactions Act* is amended in section 1(1)(h)(vi) by striking out “or the Information and Privacy Commissioner” and substituting “, the Information and Privacy Commissioner or the Child and Youth Advocate”.**



**27** Amends chapter C-23 of the Revised Statutes of Alberta 2000.  
Part 2 of the Schedule presently reads:

*Part 2*  
*Offices of the Legislature*

1. *The Auditor General of Alberta under the Auditor General Act*
2. *The Ombudsman under the Ombudsman Act*
3. *The Chief Electoral Officer under the Election Act*
4. *The Ethics Commissioner under the Conflicts of Interest Act*
5. *The Information and Privacy Commissioner*

**28** Amends chapter E-5.5 of the Statutes of Alberta, 2001.  
Section 1(1)(h)(vi) presently reads:

*1(1) In this Act,*

*(h) “public body” means*

- (vi) the office of the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner or the Information and Privacy Commissioner, or*

**Amends RSA 2000 cF-12**

**29(1) The *Financial Administration Act* is amended by this section.**

**(2) Section 1(1) is amended**

**(a) in clause (f) by striking out “and” at the end of subclause (viii), adding “and” at the end of subclause (ix) and adding the following after subclause (ix):**

(x) the Office of the Child and Youth Advocate;

**(b) in clause (u) by striking out “or” at the end of subclause (vii), adding “or” at the end of subclause (viii) and adding the following after subclause (viii):**

(ix) the Child and Youth Advocate;

**(3) Section 29(d) is amended by striking out “and” at the end of subclause (v), adding “and” at the end of subclause (vi) and adding the following after subclause (vi):**

(vii) the Child and Youth Advocate with respect to the Office of the Child and Youth Advocate;

**(4) Section 76(11)(a)(ii) is amended by striking out “and the Office of the Ethics Commissioner” and substituting “, the Office of the Ethics Commissioner and the Office of the Child and Youth Advocate”.**

**29** Amends chapter F-12 of the Revised Statutes of Alberta 2000. Sections 1(1), 29 and 76(11) presently read in part:

*1(1) In this Act,*

*(f) “department” means*

*(i) a department of the Government or of the public service of Alberta established under the Government Organization Act,*

*(ii) a part of the public service of Alberta that is not part of a department referred to in subclause (i) and that is designated as a department by the Lieutenant Governor in Council for the purposes of this Act, or*

*(iii) any other part of the public service of Alberta,*

*but does not include*

*(iv) the Legislative Assembly Office,*

*(v) the Office of the Auditor General,*

*(vi) the Office of the Ombudsman,*

*(vii) the Office of the Chief Electoral Officer,*

*(viii) the Office of the Ethics Commissioner, and*

*(ix) the Office of the Information and Privacy Commissioner;*

*(u) “public official” means*

*(i) a member of the Executive Council,*

*(ii) a person who holds an office at the appointment of the Lieutenant Governor in Council or a member of the Executive Council and who receives remuneration from the Crown in respect of that office,*

*(iii) the Speaker of the Legislative Assembly,*

*(iv) the Auditor General,*

*(v) the Information and Privacy Commissioner,*



- (vi) *the Ombudsman,*
- (vii) *the Chief Electoral Officer, or*
- (viii) *the Ethics Commissioner;*

29 *In this Part,*

(d) *“deputy head” includes*

- (i) *the Clerk of the Legislative Assembly with respect to the Legislative Assembly Office,*
- (ii) *the Auditor General with respect to the Office of the Auditor General,*
- (iii) *the Ombudsman with respect to the Office of the Ombudsman,*
- (iv) *the Chief Electoral Officer with respect to the Office of the Chief Electoral Officer,*
- (v) *the Ethics Commissioner with respect to the Office of the Ethics Commissioner, and*
- (vi) *the Information and Privacy Commissioner with respect to the Office of the Information and Privacy Commissioner;*

(11) *For the purposes of this section, participants include the following:*

- (a) *unless the Treasury Board prescribes otherwise,*
  - (i) *departments, public officials and Provincial agencies, and*
  - (ii) *the Legislative Assembly Office, the Office of the Auditor General, the Office of the Information and Privacy Commissioner, the Office of the Ombudsman, the Office of the Chief Electoral Officer and the Office of the Ethics Commissioner;*
- (b) *participants and classes of participants prescribed by the Treasury Board.*

**Amends RSA 2000 cF-25**

**30(1) The *Freedom of Information and Protection of Privacy Act* is amended by this section.**

**(2) Section 1(m) and (p)(vi) are amended by striking out “or the Information and Privacy Commissioner” and substituting “, the Information and Privacy Commissioner or the Child and Youth Advocate”.**

**(3) Section 40(1) is amended by striking out “or” at the end of clause (ee), by adding “or” at the end of clause (ff) and by adding the following after clause (ff):**

(gg) to a law enforcement agency, an organization providing services to a minor, another public body or any prescribed person or body if the information is in respect of a minor or a parent or guardian of a minor and the head of the public body believes, on reasonable grounds, that the disclosure is in the best interests of that minor.

**(4) Section 94(1) is amended by adding the following after clause (m):**

(m.1) prescribing persons or bodies for the purposes of section 40(1)(gg);

**Amends SA 2003 cP-6.5**

**31 The *Personal Information Protection Act* is amended in section 4(3)(g) by adding the following after subclause (v):**

(vi) the Child and Youth Advocate;

**30** Amends chapter F-25 of the Revised Statutes of Alberta 2000. Sections 1(m) and (p)(vi), 40(1)(ee) and (ff) and 94(1)(m) presently read:

*1 In this Act,*

*(m) “officer of the Legislature” means the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner or the Information and Privacy Commissioner;*

*(p) “public body” means*

*(vi) the office of the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner or the Information and Privacy Commissioner, or*

*40(1) A public body may disclose personal information only*

*(ee) if the head of the public body believes, on reasonable grounds, that the disclosure will avert or minimize an imminent danger to the health or safety of any person, or*

*(ff) to the Administrator of the Motor Vehicle Accident Claims Act or to an agent or lawyer of the Administrator for the purpose of dealing with claims under that Act.*

*94(1) The Lieutenant Governor in Council may make regulations*

*(m) prescribing persons to whom a public body may disclose personal information for audit purposes;*

**31** Amends chapter P-6.5 of the Statutes of Alberta, 2003. Section 4(3)(g) presently reads:

*(3) This Act does not apply to the following:*

*(g) the collection, use or disclosure of personal information by the following officers of the Legislature if the collection, use or disclosure, as the case may be, relates to the exercise of that officer’s functions under an enactment:*

*(i) the Auditor General;*

*(ii) the Ombudsman;*

**Amends RSA 2000 cP-27**

**32** The *Protection Against Family Violence Act* is amended by adding the following after section 13.1:

**Arrest without a warrant**

**13.2** A peace officer may arrest without warrant a person the peace officer believes on reasonable grounds has committed an offence under section 13.1(1).

**Amends RSA 2000 cP-30.3**

**33(1)** The *Protection of Sexually Exploited Children Act* is amended by this section.

**(2)** Section 1(1)(a.1) is repealed and the following is substituted:

(a.1) “Child and Youth Advocate” means the person appointed as the Child and Youth Advocate pursuant to the *Child and Youth Advocate Act*;

**(3)** Section 6.3 is repealed and the following is substituted:

**Ban on publication**

**6.3(1)** No person shall publish the name or a photograph of a child or of the child’s parent or guardian in a manner that reveals that the child is receiving or has received services under this Act.

**(2)** Despite subsection (1),

- (a) a director may publish or consent to the publication of the name or a photograph of a child or of the child’s parent or guardian, and any other information related to the child, if, in the opinion of the director, the publication is in the child’s best interest or necessary for the proper administration of justice;
- (b) a child who is 16 years of age or older may publish, or consent to the publication of, the child’s name or photograph in a manner that reveals that the child has received services under this Act;



- (iii) *the Chief Electoral Officer;*
- (iv) *the Ethics Commissioner;*
- (v) *the Information and Privacy Commissioner;*

**32** Amends chapter P-27 of the Revised Statutes of Alberta 2000. Arrest without a warrant.

**33** Amends chapter P-30.3 of the Revised Statutes of Alberta 2000. Sections 1(1)(a.1) and 6.3 presently read:

*1(1) In this Act,*

*(a.1) “Child and Youth Advocate” means the person appointed as the Child and Youth Advocate under the Child, Youth and Family Enhancement Act;*

*6.3(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.*

*(1.1) Despite subsection (1),*

- (a) a director may publish, or consent to the publication of, by any means, the name of a child, information serving to identify the child or the child’s guardian and any other information related to the child if, in the opinion of the director, the publication is in the child’s best interest or necessary for the proper administration of justice;*
- (b) a child who has attained the age of 18 years may publish or consent to the publication of information that identifies that person as having come to the Minister’s or a director’s attention under this Act;*
- (c) the Court 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 or to the child’s*

- (c) the Court may, on the application of
  - (i) a child,
  - (ii) a parent or guardian of a child, or
  - (iii) any interested party, with leave of the Court,

grant permission to the child, the parent or guardian or the interested party, as the case may be, to publish or consent to the publication of the name or photograph of the child or of the child's parent or guardian in a manner that reveals that the child is receiving or has received services under this Act if the Court is satisfied that the publication is in the child's best interest or the public interest.

**(3)** A person who brings an application under subsection (2)(c) must provide notice of the application to a director.

**(4)** 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.

**(5)** In this section, if a director is or has been a guardian of the child, a reference to "guardian" includes the person who was the guardian of the child immediately before a director became the guardian of the child.

**Amends RSA 2000 cP-42**

**34(1) The *Public Service Act* is amended by this section.**

**(2) Section 1 is amended**

**(a) in clause (c) by adding the following after subclause (vi):**

(vi.1) the Child and Youth Advocate with respect to the Office of the Child and Youth Advocate,

**(b) in clause (d) by adding the following after subclause (vi):**

(vi.1) the Child and Youth Advocate with respect to the Office of the Child and Youth Advocate,

*guardian to publish or to consent to the publication of 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.*

*(2) 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.*

**34** Amends chapter P-42 of the Revised Statutes of Alberta 2000. Sections 1 and 2(2) presently read in part:

*1 In this Act,*

*(c) "department head" means*

- (i) the Speaker with respect to the Legislative Assembly Office,*
- (ii) the Auditor General with respect to the Office of the Auditor General,*
- (iii) the Ombudsman with respect to the Office of the Ombudsman,*

**(3) Section 2(2) is amended by adding “, the Child and Youth Advocate” after “the Information and Privacy Commissioner”.**

- (iv) *the Chief Electoral Officer with respect to the Office of the Chief Electoral Officer,*
  - (v) *the Ethics Commissioner with respect to the Office of the Ethics Commissioner,*
  - (vi) *the Information and Privacy Commissioner with respect to the Office of the Information and Privacy Commissioner,*
  - (vii) *the chair of the Labour Relations Board with respect to the staff of that Board, or*
  - (viii) *with respect to any other department,*
    - (A) *the member of the Executive Council having the administration of the department, or*
    - (B) *where the administration of the department is assigned to 2 or more members of the Executive Council, each member with respect to the part of the department over which that member has the administration;*
- (d) *“deputy head” means*
- (i) *the Clerk of the Legislative Assembly with respect to the Legislative Assembly Office,*
  - (ii) *the Auditor General with respect to the Office of the Auditor General,*
  - (iii) *the Ombudsman with respect to the Office of the Ombudsman,*
  - (iv) *the Chief Electoral Officer with respect to the Office of the Chief Electoral Officer,*
  - (v) *the Ethics Commissioner with respect to the Office of the Ethics Commissioner,*
  - (vi) *the Information and Privacy Commissioner with respect to the Office of the Information and Privacy Commissioner,*
  - (vii) *the chair of the Labour Relations Board with respect to the staff of that Board, or*
  - (viii) *with respect to any other department,*

**Amends RSA 2000 cP-43**

**35** The *Public Service Employee Relations Act* is amended in section 12(1)(g) by striking out “or” at the end of subclause (v), adding “or” at the end of subclause (vi) and adding the following after subclause (vi):

(vii) the Office of the Child and Youth Advocate;

**Amends SA 2008 cS-4.7**

**36** The *Security Services and Investigators Act* is amended in section 10(o) by striking out “and the Information and Privacy Commissioner” and substituting “, the Information and Privacy Commissioner and the Child and Youth Advocate”.

- (A) *the chief officer of the department, or*
- (B) *if there is more than one chief officer of the department, the chief officer of that part of the department for which that chief officer is responsible to the department head;*

*2(2) The Auditor General, the Chief Electoral Officer, the Ombudsman, the Ethics Commissioner, the Information and Privacy Commissioner and the chair of the Labour Relations Board shall be considered as employees for the purposes of this Act except in relation to their appointment, salary and tenure of office or any other conditions prescribed by the Act under which they are appointed.*

**35** Amends chapter P-43 of the Revised Statutes of Alberta 2000. Section 12(1)(g) presently reads:

*12(1) A person employed by an employer*

*(g) in any of the following:*

- (i) the Legislative Assembly Office,*
- (ii) the Office of the Auditor General,*
- (iii) the Office of the Chief Electoral Officer,*
- (iv) the Office of the Ombudsman,*
- (v) the Office of the Ethics Commissioner, or*
- (vi) the Office of the Information and Privacy Commissioner;*

**36** Amends chapter S-4.7 of the Statutes of Alberta, 2008. Section 10(o) presently reads:

*10 The following persons and classes of persons are exempt from the requirement to be licensed under this Act and the regulations:*

- (o) an officer of the Legislature, including the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner and the Information and Privacy Commissioner, while acting within the scope of that person's office and any person employed or engaged in any of those*

**Coming into force**

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



*offices while acting within the scope of that employment or engagement capacity;*

**37** Coming into force.





