

2014 Bill 11

Second Session, 28th Legislature, 63 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 11

**CHILD, YOUTH AND FAMILY
ENHANCEMENT AMENDMENT ACT, 2014**

THE MINISTER OF HUMAN SERVICES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 11

2014

CHILD, YOUTH AND FAMILY ENHANCEMENT AMENDMENT ACT, 2014

(Assented to , 2014)

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, Youth and Family Enhancement Act* is amended
by this Act.

2 The heading preceding section 105.71 is repealed and the
following is substituted:

Part 3.1 Quality Assurance

3 Section 105.71 is amended

(a) by adding the following after clause (a):

(a.1) “committee” means a committee appointed under section
105.73(2)(b);

(b) by repealing clause (c);

(c) by adding the following before clause (d):

(c.1) “designated individual” means an individual designated
under section 105.771(1);

Explanatory Notes

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

2 Part 3.1 heading presently reads:

*Part 3.1
Council for
Quality Assurance*

3 Definitions.

(d) in clause (d) by striking out “section 105.75” and substituting “section 105.73(2)(a);

(e) by adding the following after clause (d):

- (d.1) “quality assurance activity” means a planned or systematic activity the purpose of which is to study, assess or evaluate the provision of intervention services with a view to the continual improvement of
- (i) the quality of intervention services, or
 - (ii) the level of skill, knowledge and competence of individuals providing intervention services;

4 Section 105.73 is repealed and the following is substituted:

Role of Council

105.73(1) The role of the Council is to promote and improve the quality of intervention services by

- (a) identifying effective practices in respect of intervention services,
- (b) collaborating with the director to monitor and evaluate the director’s activities, strategies and standards for improving the quality of intervention services,
- (c) developing a quality assurance framework for intervention services, and
- (d) making recommendations to the Minister for the improvement of intervention services.

(2) For the purpose of carrying out its role, the Council may, from time to time, appoint

- (a) expert review panels to review incidents giving rise to the serious injury to or death of a child as reported by a director under section 105.74, and
- (b) committees to carry out one or more quality assurance activities as directed by the Council.

4 Section 105.73 presently reads:

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.*

5 Section 105.74 is repealed and the following is substituted:

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 receiving intervention services at the time of the injury or death, the director must, as soon as practicable, report the incident to the Council.

6 Section 105.75 is repealed and the following is substituted:

Expert review panels and committees

105.75(1) The Minister may

- (a) on the recommendation of the Council, establish a roster of experts to serve on expert review panels and individuals to serve on committees, and
- (b) authorize or provide for the payment of remuneration and expenses for experts who serve on expert review panels and individuals who serve on committees.

(2) Where the Council appoints an expert review panel or a committee, the chair of the Council must designate one of the members of the panel or committee to act as chair of the panel or committee.

(3) Subject to this Part, an expert review panel or a committee may determine its own procedures.

7 Section 105.76 is amended

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

Reports of expert review panels and committees

105.76(1) The chair of an expert review panel or committee must make a written report of the panel's or committee's

5 Section 105.74 presently reads:

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.

6 Section 105.75 presently reads:

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) 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.

7 Section 105.76 presently reads:

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.

findings and recommendations and must submit the report to the Council.

- (b) in subsection (2) by striking out “the expert review panel” and substituting “an expert review panel or committee”;**
- (c) in subsection (3)(b)(i) by striking out “is removed” and substituting “have been removed”;**
- (d) in subsection (4) by striking out “the report” and substituting “a report prepared under subsection (3)(b)(i)”;**
- (e) by adding the following after subsection (4):**
 - (5) On receiving a report from a committee under subsection (1), the Council must provide a copy of the report to the Minister and the director.**

8 The following is added after section 105.77:

Review by designated individual

105.771(1) A director may, in writing, designate individuals to review

(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

(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.

8 Review by designated individual.

- (a) incidents giving rise to the serious injury to or death of a child that occurred while the child was receiving intervention services, and
- (b) any other incident that, in the opinion of the director, is a serious incident and that occurred in respect of a child while the child was receiving intervention services.

(2) A designated individual must be

- (a) an individual employed in the public service of the Province, or
- (b) an individual to whom the director has delegated authority under section 121(3).

(3) A designated individual must provide the director with a report of the designated individual's findings and recommendations, if any, arising from a review under subsection (1).

9 Section 105.78 is amended by striking out “the Council or of an expert review panel” **and substituting** “the Council, a member of an expert review panel, a member of a committee and a designated individual”.

10 Section 105.79 is amended

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

- (a) anything said, any information supplied or any record produced during
 - (i) a review by an expert review panel,
 - (ii) a review under section 105.771(1) by a designated individual, or
 - (iii) a quality assurance activity carried out by a committee;

9 Section 105.78 presently reads:

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.

10 Section 105.79 presently reads:

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.*

(b) in clause (b) by striking out “section 105.76” and substituting “section 105.76(1) or 105.771(3)”.

11 Section 105.791(1) is amended by striking out “or” at the end of clause (b) and adding the following after clause (c):

- (d) a member of a committee, or
- (e) a designated individual

12 Section 105.792(1) is repealed and the following is substituted:

Annual report

105.792(1) The Council must submit annual reports to the Minister

- (a) respecting the exercise of the powers and the performance of the duties and functions of the Council,
- (b) respecting a director’s achievement of standards referred to in section 105.73(1)(b), and
- (c) containing an evaluation of activities and strategies undertaken by a director for the improvement of intervention services.

11 Section 105.791 presently reads:

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.

12 Section 105.792 presently reads:

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.

13 The following is added after section 105.792:

Annual public disclosure

105.793 Subject to sections 126 and 126.1, a director must make the following information available to the public annually in the manner the director considers appropriate:

- (a) statistical data about children who are receiving or have received intervention services;
- (b) statistical data about serious injuries to and deaths of children that occurred while the children were receiving intervention services;
- (c) findings and recommendations, if any, reported to the director under section 105.771(3);
- (d) the director's response to recommendations in a report made by the Child and Youth Advocate under section 15 of the *Child and Youth Advocate Act*, if the recommendations relate to this Act or the administration of it.

14 The following is added after section 126.11:

References to guardian

126.12 If a director is or has been a guardian of a child, a reference in section 126.2 or 126.3 to a guardian includes the person who was the guardian of the child immediately before a director became the guardian of the child.

15 Section 126.2 is amended

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

(4.1) This section does not apply in respect of a deceased child.

(b) by repealing subsection (5).

13 Annual public disclosure.

14 References to guardian.

15 Section 126.2 presently reads:

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

16 The following is added after section 126.2:

Application for publication ban respecting deceased child

126.3(1) In this section, “family member”, in respect of a deceased child, means an individual who

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.

16 Application for publication ban respecting deceased child.

- (a) is a parent, guardian, grandparent or sibling of the deceased child,
- (b) stands in the place of a parent, within the meaning of section 48 of the *Family Law Act*, with respect to the child, or
- (c) is a member of a prescribed class of individuals.

(2) Where a child who received intervention services has died,

- (a) a director,
- (b) a family member, or
- (c) with leave of the Court, any other person

may make an ex parte application in accordance with the regulations to the Court for an order that no person shall publish, in a manner that reveals that the deceased child received intervention services, the name or a photograph of the deceased child, of any parent or guardian of the deceased child or of any other individual identified in the order.

(3) The Court may grant an order applied for under subsection (2) if the Court is satisfied that the order would be appropriate, having regard to

- (a) the best interests of any child receiving intervention services who is a sibling of the deceased child, and
- (b) the known wishes of the deceased child.

(4) An order made under subsection (3) does not bind

- (a) any family member, or
- (b) any person who has not been served with a copy of the order unless the Court is satisfied that, in all of the circumstances, the person has knowledge of the order.

(5) Any person who is bound by an order made under subsection (3) may make an application to the Court to have the order set aside.

17 Section 131(1) is amended by adding the following after clause (d):

- (d.1) respecting applications to the Court under section 126.3, including, without limitation, regulations
 - (i) prescribing classes of individuals for the purpose of section 126.3(1)(c);
 - (ii) respecting service of orders made under section 126.3;

Amends SA 2011 cC-11.5

18 The *Child and Youth Advocate Act* is amended in section 9

(a) by repealing subsection (2)(d) and substituting the following:

- (d) if, in the opinion of the Advocate, the investigation is warranted or in the public interest, investigate systemic issues arising from
 - (i) a serious injury to a child who at the time of the injury was receiving a designated service referred to in section 1(e)(i),

17 Section 131(1) 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 intervention services including the qualifications of persons to be employed in providing those services;*
- (c) respecting rules under which appeals under this Act are to be made and heard and dealing generally with all matters of procedure before Appeal Panels, the Court and the Court of Queen's Bench under this Act;*
- (d) prescribing the forms including notices to be used in any application made to Appeal Panels, the Court and the Court of Queen's Bench 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.*
- (e.2) respecting the disclosure of financial information for the purpose of section 57.8;*
- (e.3) respecting the circumstances under which the Council may appoint an expert review panel;*

18 Amends chapter C-11.5 of the Statutes of Alberta, 2011.

Sections 9(2)(d) and (5) presently read:

9(2) In carrying out the role of the Advocate under subsection (1), the Advocate may

- (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;*

(5) Subsection (2)(d) does not apply in respect of a designated

- (ii) a serious injury to or the death of a child who at the time of the injury or death was receiving a designated service referred to in section 1(e)(ii) or (iii),
- (iii) the death of a child who at the time of the death was receiving a designated service referred to in section 1(e)(i), or
- (iv) the death of a child who at any time during the 2-year period immediately preceding the death received a designated service referred to in section 1(e)(i);

(b) in subsection (5) by striking out “Subsection (2)(d)” and substituting “Subsection (2)(d)(ii)”.

Amends SA 2013 cC-12.5

19 The *Children First Act* is amended in section 9

- (a) by repealing subsection (47);
- (b) in subsection (60) by striking out “126.2(5)” and substituting “126.12”.

Coming into force

20 Sections 14 to 17 and 19(b) come into force on Proclamation.

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.

19 Amends chapter C-12.5 of the Statutes of Alberta, 2013.
Sections 9(47) and (60) presently read:

(47) Section 105.74 is amended by striking out “of the director” and substituting “of the Crown”.

(60) Sections 126.2(5) and 128(1)(a) are amended by striking out “a director” wherever it occurs and substituting “the Crown”.

20 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To