

REPRINTED BILL.

## BILL

No. 48 of 1923.

An Act to Provide for the Protection of Children of  
Unmarried Parents.

(Assented to \_\_\_\_\_, 1923.)

**H**IS MAJESTY, by and with the advice and consent of  
the Legislative Assembly of the Province of Alberta,  
enacts as follows:

**1.** This Act may be cited as "*The Children of Unmarried  
Parents Act.*"

**2.** In this Act, unless the context otherwise requires,—

- (a) "Judge" shall mean any judge of one of the District Courts in the Province of Alberta, or an acting judge or deputy lawfully acting for him, or a judge of the Supreme Court acting as a District Court judge;
- (b) "Superintendent" shall mean the Superintendent of Neglected and Dependent Children appointed under *The Children's Protection Act of Alberta*, or any other person authorized by the Attorney General to act for and in his place for the purposes of this Act;

**3.** The Lieutenant Governor in Council may by Order in Council from time to time—

- (a) fix the amount of the fees to be paid in any proceeding taken under the provisions of this Act;
- (b) provide for the expenditure involved in the administration of this Act;
- (c) make rules and regulations as to the procedure governing all applications and proceedings under this Act, and for the due administration thereof.

**4.** Every District Registrar of Vital Statistics shall, as soon as possible, give notice to the Superintendent of the birth of every child born out of wedlock which is registered in his office under *The Vital Statistics Act* and of the birth of every child which has been registered in such a manner as to suggest that the parents were then unmarried or unknown, and shall give in such notice such particulars as the Superintendent may require.

**5.** The Superintendent shall by inquiry through children's aid societies and otherwise obtain all information possible with respect to every child born out of wedlock, other than children legitimated by the subsequent intermarriage of their parents, or adopted pursuant to the provisions of *The Infants Act*, or being cared for voluntarily by a person who is, in the opinion of the Superintendent, a suitable person to have the charge of the child.

**6.** The mother of any child born out of wedlock and any unmarried woman pregnant with a child or any person who has the custody of such child or who has undertaken the care and maintenance of such child or who has supplied the mother or the child with necessaries may apply to the Superintendent for aid and advice in all matters pertaining to the child, and the Superintendent shall thereupon take such lawful action as may seem to him to be in the interests of the mother and child.

**7.** The Superintendent may upon his own application to a judge of the Supreme Court be appointed guardian of a child born out of wedlock either alone or jointly with the mother of the child.

**8.**—(1) Upon complaint made in writing upon oath to the judge of the district in which the woman hereinafter mentioned resides or in which the child is born that any child has been born out of wedlock or that any unmarried woman is pregnant with a child, and stating the name of the person alleged to be the father of the child, the judge may issue his summons requiring the putative father to appear at a time and place mentioned in the summons and show cause why an affiliation order should not be made against him under this Act.

(2) The complaint may be made—

- (a) by the mother of the child born out of wedlock; or
- (b) by the unmarried woman pregnant with a child;
- (c) by the next friend or guardian of the child born out of wedlock; or
- (d) by the Superintendent.

**9.** No affiliation order shall be made upon a complaint under this Act unless the complaint is made within the lifetime of the putative father, and—

- (a) within the twelve months next after the birth of the child; or
- (b) within the twelve months next after the doing of any act on the part of the putative father which could reasonably be regarded as an acknowledgment of paternity.

**10.**—(1) If the judge is satisfied upon evidence on oath that the putative father will not attend at the hearing of the complaint without being compelled so to do, then instead of issuing a summons, he may issue a warrant in the first instance under his hand directing the arrest of such person, and that he be brought before the judge at the time and place mentioned in the warrant.

(2) If the putative father, having been duly served with a summons, does not appear at the time and place specified therein and no just excuse is offered for his non-appearance, then the judge, after proof upon oath of the service of the summons, may issue a warrant under his hand directing the arrest of such person and that he be brought before the judge at the time and place mentioned in the warrant.

(3) Upon the putative father being brought before the judge upon a warrant, the latter may bind him over to appear at the hearing of the complaint, and may require that a surety or sureties be procured or produced and join in the recognizance, or that a sum of money be deposited with the judge, sufficient to ensure the appearance of the putative father at the hearing of the complaint, or upon being satisfied that the ends of justice would otherwise be defeated, the judge may commit such person to prison until the time at which he is bound by such recognizance to appear.

**11.**—(1) Whether or not the putative father appears in obedience to the summons, or in pursuance of his recognizance, the judge, upon proof of the service of the summons or of the giving of the recognizance, as the case may be, and upon sufficient evidence being adduced before him as to the fact of paternity and of the means of the putative father, may make an order declaring the putative father to be the father of the child and requiring him to make to the Superintendent any or all of the following payments:

- (a) The reasonable expenses for the maintenance and care, medical or otherwise, of the mother or unmarried woman during the three months next preceding the birth of the child, at the birth, and during such period after the birth as may in the opinion of the judge have been or be necessary in connection with or as a consequence of the birth of the child, taking into consideration the circumstances of the case and the report of any health officer or duly qualified medical practitioner made in respect thereof;
- (b) A sum of money weekly towards the maintenance and education of the child until the child attains

the age of sixteen years, or as long as the child is mentally or physically incapable of earning its own living;

- (c) The amount necessarily expended upon the care and maintenance of the child prior to the date of the affiliation, or the value of the necessaries supplied to the child, as the case may be;
- (d) The expenses of the burial of the mother or unmarried woman in case of her death at or in consequence of the birth of the child;
- (e) The expenses of the burial of the child in case of the death of the child before the making of the affiliation order.

(2) In determining the weekly sums payable by the putative father under this section, the judge shall take into consideration the respective abilities of the putative father and of the mother to provide the same, and his or her prospective means, and the means of the putative father to make provision for the proper subsistence and education of his wife and legitimate children (if any).

(3) When the judge determines that the mother should contribute towards the maintenance of the child, he shall make an order to that effect, the observance of which shall be enforced in the same way as an affiliation order, and may be varied in the same way.

(4) Every order made by a judge under this Act shall be in duplicate and one of such duplicates shall be transmitted to the Superintendent who shall enter in a register to be kept by him for that purpose particulars thereof.

(5) Where a putative father has given a recognizance, and fails to appear at the hearing, the judge may direct that all or any part of the amount of such recognizance be applied to the support of the unmarried woman or mother or child in such way as he may direct.

**12.** The judge shall fix such sums for maintenance as will enable the child to be maintained according to a reasonable standard of living, and the judge shall be governed in his findings by a consideration of the probable standard of living the child would have enjoyed if he had been born to his parents in lawful wedlock.

**13.**—(1) Where an affiliation order has been made under this Act, then (upon the application from time to time of the Superintendent, or of either parent of the child, or of the child, or of any person entitled to make complaint in respect of the child under this Act, and upon proof that there has been a substantial alteration in respect of the amount of the means of either parent, or the needs of the child, or in respect of the cost of living, since the making

of the affiliation order or the latest subsequent order varying it) or that the putative father owing to the terms of the order is unable to make provision for the proper subsistence and education of his wife and legitimate children (if any) the judge may vary the original or subsequent order so made.

(2) No application to vary any affiliation order shall be made until the lapse of one year from the date of the order it is sought to vary.

**14.** Where an affiliation order is made or varied under this Act, the judge may, after inquiry into the means of the putative father, require him to furnish such security for the future performance of the order and in such manner as the judge may direct; and if the putative father fails to furnish the security required, the judge may forthwith commit him to gaol, there to be imprisoned with hard labour for a term not less than six months nor more than twelve months, or until he furnishes the security and pays the cost and charges of the commitment and conveying of him to gaol.

**15.** No affiliation order shall be made upon the evidence of the mother of a child born out of wedlock or of an unmarried woman pregnant with a child unless her evidence as to the paternity of the child is corroborated by some other material evidence implicating the putative father.

**16.** The Superintendent shall not be debarred from instituting or continuing proceedings under this Act by the death of the mother of the child born out of wedlock for whom relief is sought.

**17.** Where any proceedings are instituted under this Act by any person other than the Superintendent, the person instituting the proceedings shall give notice thereof to the Superintendent, and the Superintendent shall have the right to appear and intervene and be heard in person or by counsel on the proceedings.

**18.** The room or place in which the judge sits to hear any complaint under this Act shall not be deemed an open or public court, and no persons other than the officers of the Court, the complainant and the defendant, their respective counsel, and such other persons as the judge in his discretion expressly permits, shall be present at such hearing.

**19.** Every payment ordered by a judge to be made in accordance with the provisions of this Act shall be made to the Superintendent, or to such person as the Superintendent may from time to time direct.

**20.** It shall be the duty of the Superintendent—

- (a) to see that all payments directed to be made by the putative father under an affiliation order are duly made, and in default of payment to take all necessary proceedings for the enforcement of the order, including the enforcement of any security given by the putative father;
- (b) to see that all moneys collected under any affiliation order are paid and applied forthwith, without any deduction, to or for the persons entitled to relief in accordance with the terms of the order and the provisions of this Act.

**21.** Every complaint under this Act and every order made thereunder shall be filed with the Clerk of the District Court, and he shall keep and record the same in the same manner as he is required to do in connection with civil proceedings, or in such other manner as may be provided by Order in Council, and the Superintendent may from time to time proceed to enforce the payment of all sums which the Superintendent shall certify in writing to be due under such order, as if the same were a judgment of the said Court in excess of the sum of one hundred dollars.

**22.**—(1) Every affiliation order shall bind the estate of the putative father after his death, and every sum payable thereunder shall be a debt due from and chargeable upon the estate of the putative father and recoverable at the suit of the Superintendent, but every affiliation order shall, as to any payment falling due before or after the putative father's death, be subject to review as provided in section 13, and after the death of the father no action or other proceeding shall be taken thereon without the leave of a judge, and the judge, before granting leave, shall direct that notice shall be given to the widow and legitimate children of the putative father.

(2) Where it appears to the judge that the terms of the affiliation order cannot be carried out without depriving the widow or legitimate children of the putative father of proper subsistence and education, he shall vary the affiliation order to such an extent and in such manner that the widow of the father and his children born in wedlock, if any, shall be duly provided for before the child or children born out of wedlock.

**23.** No agreement entered into between the mother of a child born out of wedlock, or an unmarried woman pregnant with a child and the putative father of the child, relating to any matters within the scope of this Act, shall be a bar to any proceedings under this Act.

**24.**—(1) Where the putative father admits the paternity of the child and makes an adequate offer to provide for the maintenance and education of the child, he may enter into an agreement therefor with the Superintendent, which agreement shall contain an admission of paternity and shall have the same force and effect as if its terms were contained in an affiliation order, and may be enforced or varied in the same way as an affiliation order upon its true execution being proved before a judge.

(2) Every such agreement shall be filed in the office of the Superintendent, and shall be recorded and kept by him, in the same manner as if the same were an order made under this Act.

**25.** This Act shall come into force upon the first day of June, one thousand nine hundred and twenty-three.

No. 48.

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THIRD SESSION  
FIFTH LEGISLATURE  
13 GEORGE V  
1923

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**BILL**

An Act to Provide for the Protection  
of Children of Unmarried Parents.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MRS. PARLBY.

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