

BILL

No. 73 of 1935.

An Act to amend The Child Welfare Act.

(Assented to _____, 1935.)

HIS 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 Child Welfare Act Amendment Act, 1935.*"

2. *The Child Welfare Act*, being chapter 4 of the Statutes of Alberta, 1925, is hereby amended as to section 2 thereof by striking out paragraph (n) thereof and by substituting therefor the following:

"(n) 'Neglected child' shall mean—

- "(i) a child who is an orphan and who is not being properly cared for by anyone, or who is brought with the consent of the person in whose charge he is to the judge to be dealt with under the provisions of this Act;
- "(ii) a child who is abandoned or deserted by his parents or only living parent, or who is deserted by one parent and whose other parent is unable to maintain him;
- "(iii) a child whose parents, only living parent, guardian, or other person in whose charge he may be, cannot by reason of disease, or misfortune, or infirmity, properly care for him;
- "(iv) a child whose home, by reason of neglect, cruelty, or depravity on the part of his parents, guardian or other person in whose charge he may be, is an unfit and improper place for him;
- "(v) a child found living or associating with a thief, drunkard, vagrant, prostitute or other dissolute person not its parent, or living in or frequenting a house of ill fame;
- "(vi) a child found begging or receiving alms in a public place or carrying on a street trade contrary to this Act, or loitering in a public place after 9 o'clock in the evening;
- "(vii) a child who with the consent or connivance of his parent or parents commits any act which renders him liable to a fine or to be sent to any prison or reformatory institution under any Dominion or Provincial statute or municipal by-law;

- “(viii) a child who by reason of inadequate parental control is delinquent or incorrigible, or who is growing up without salutary parental control or under circumstances tending to make him idle or dissolute;
 - “(ix) a child who without sufficient cause habitually absents himself from his home;
 - “(x) a child born out of lawful wedlock whose mother is unable to maintain him;
 - “(xi) a child whose parents neglect or refuse to provide or secure proper medical, surgical or remedial care or treatment necessary for his health or well-being, or who refuse to permit such care or treatment to be supplied to the child when ordered by competent authority;
 - “(xii) a child who is not being properly cared for and whose only parent is serving a term of imprisonment and who is brought, with the consent of the person in whose charge he is, to the judge to be dealt with under this Act;
 - “(xiii) a child who by reason of ill-treatment, cruelty, continual personal injury, grave misconduct or frequent intemperance by or of either of his parents or his guardian or other person in whose charge he may be, is in peril of loss of life, health or morality;
 - “(xiv) a child whose only living parent is confined in a mental hospital or in an institution for incurables and is unable to provide for the child;
 - “(xv) a child who is guilty of lewd or immoral conduct involving another person;
 - “(xvi) a child who has no proper guardianship or who has no parent capable and willing to exercise proper parental control over the child;
 - “(xvii) a child who—
 - “(i) being a female; or
 - “(ii) being a male under the age of twelve years; or
 - “(iii) being a male over the age of twelve years and under the age of fourteen years, without the written consent of his parents or guardian—
 is found peddling or selling newspapers or other articles, or distributing advertising matter for hire or reward in any street or public place at any time during the day or night; or
 - “(xviii) a child who, being under sixteen years of age is employed anywhere between the hours of nine o'clock p.m. of one day and eight a.m. of the following day, or is found sleeping at night in barns or outhouses or in the open air; or
 - “(xix) a child who frequents or visits any public pool-room or billiard-room, or any place where any gambling device is or is believed to be operated, or any place which exists, or where his or her presence is permitted, in violation of law;
- or

- “(xx) a child who, being under the age of fifteen years and over the age of seven years, without reasonable excuse, does not regularly attend a public school and is not being educated otherwise in a manner equal to the standards of the public schools of this Province (referred to in this Act as a ‘truant’); or
- “(xxi) a child who is found to have in his or her possession obscene pictures or drawings, or any obscene printed or written matter; or
- “(xxii) a child who habitually uses obscene, profane, or indecent language.”

3. The Act is further amended as to section 6 thereof by striking out the same and by substituting therefor the following:

“**6.** Any agent or officer appointed by a city or town pursuant to section 5a of this Act or any constable, policeman, policewoman or other police officer or any school attendance officer; or any officer of a Child Welfare Association, Children’s Aid Society, Child Welfare Committee or other person duly authorized by the Superintendent, or the Superintendent, may apprehend without warrant and bring to a receiving home, shelter, detention home or temporary home pending the disposition of his or her case any child who, on reasonable or probable grounds he believes to be a neglected child.”

4. The said Act is further amended as to section 7 thereof by striking out the same and by substituting therefor the following:

“**7.—(1)** Any person who has apprehended any child pursuant to section 6 hereof or any other person duly authorized by the Superintendent or the Superintendent shall serve a notice in form 4 upon the parents or guardian of the child or the person or persons having the actual custody of the child at the time of his or her apprehension and upon the municipality to which such child belongs, stating the time and place for investigating the facts of the case, which time shall not be less than ten days after the apprehension of the child, unless otherwise ordered by the judge, and the intention to apply to a judge for an order against the municipality to which such child belongs for the expenses including medical and hospital treatment, and the maintenance and support of such child, including necessary clothing, from the date of apprehension of such child so long as such child remains in the care and custody of a society or of the Superintendent or in an industrial school or other institution approved by the Lieutenant Governor in Council.

“(2) The person apprehending any child shall make a written report to the Superintendent, setting out the circumstances of the case and the time and place for investigating the facts, and the Superintendent may permit such child to be returned, pending the investigation, to his or her

parents, or either of them, or guardian or other person in whose care he or she may have been.

“(3) The judge shall upon the return date of the notice investigate the facts of the case and ascertain whether the child is a neglected child and his or her age, name and residence and the religion of his or her parents or guardian.

“(4) The judge shall not proceed to hear and dispose of the matter until he is satisfied that the parents or guardian or the persons having the actual custody of the child and the municipality to which the child is deemed to belong have been notified of the investigation, or that every reasonable effort has been made to give such notification.

“(5) The judge may compel the attendance of witnesses on such investigation, and is hereby given all the powers which are conferred for that purpose upon a justice of the peace under Part XV of *The Criminal Code*.

“(6) The evidence of every witness shall be taken under oath, and the Court shall cause the same to be taken down in writing and signed by the witness in the same manner as if the same were a preliminary enquiry before a justice of the peace under Part 14 of *The Criminal Code*.

“(7) If on such investigation the judge finds that the child is not a neglected child, he shall order that the child be returned to his or her parents, guardian, or other person in whose care he or she may have been.

“(8) If on such investigation the judge finds that the child is a neglected child, he may so declare, and in such event he may make any of the orders specified in section 8 hereof.

“(9) The judge’s order shall recite the facts so far as ascertained and the judge shall deliver a certified copy of such order to the Superintendent and also to any society to whose care and custody the child may be committed, and the Superintendent shall on request supply to the parents or guardian a copy of any such order, free of charge.

“(10) In respect of any child who has been surrendered pursuant to section 52 of this Act, a notice in form 5 shall be served upon the municipality to which such child belongs, stating the intention to apply to a judge on the date mentioned in the notice for an order against the municipality for the expenses including medical and hospital treatment, and maintenance and support of such child, including necessary clothing, from the date of surrender of such child so long as such child remains in the care and custody of a society or of the Superintendent or in an industrial school or other institution approved by the Lieutenant Governor in Council.

“(11) In respect of any child who has been arrested under *The Juvenile Delinquents Act, 1929*, a notice in form 6 shall be served upon the municipality to which such child belongs, stating the intention to apply to a judge on the date mentioned in the notice for an order against the municipality for the expenses including medical and hospital treatment, and maintenance support of such child, including necessary clothing, from the date of arrest of such child so long as such

child remains in the care and custody of a society or of the Superintendent or in an industrial school or other institution approved by the Lieutenant Governor in Council.

“(12) In respect of any child declared to be a neglected child or of any child surrendered under section 52 hereof or of any child adjudged to be a juvenile delinquent under *The Juvenile Delinquents Act, 1929*, the judge shall call upon the municipality to which such child belongs to show cause why such municipality should not be ordered to pay the expenses including medical and hospital treatment, and maintenance and support of such child, including necessary clothing, from the date of apprehension surrender or arrest, so long as such child remains in the care and custody of a society or of the Superintendent or in an industrial school or other institution approved by the Lieutenant Governor in Council.

“(13) The judge shall upon the application referred to in subsection (12) proceed with all possible expedition to deal with the matter and, if the application is opposed by the municipality, shall hear such evidence as either party desires to adduce; and shall if it appears that such child belongs to the municipality make an order against such municipality:

“Provided that if the municipality does not appear the judge may make an order against the municipality, or may adjourn the hearing on such terms as to costs or otherwise as he may deem advisable:

“Provided also that every order shall direct the municipality to pay a reasonable sum to be named therein as maintenance for the support of such child, including necessary clothing, and in addition thereto the expenses including medical and hospital treatment which may be incurred in respect of such child from the date of the apprehension or surrender or arrest of such child so long as such child remains in the care and custody of a society or of the Superintendent or in an industrial school or other institution approved by the Lieutenant Governor in Council.

“(14) For the purpose of this section, any child shall be deemed to belong to the municipality in which said child has last resided, prior to apprehension, for a period of six months; or, in the case of a child under six months of age, the municipality in which the said child's mother has last resided for a period of six months; but, in the absence of evidence to the contrary, residence of six months in the municipality in which such child is taken into custody shall be presumed:

“Provided always that for the purposes of this section the time during which a child or a child's mother, in case the child is under six months of age, is outside the Province or during which a child is an inmate in a maternity boarding house, an infants' or children's boarding home, a correctional or charitable institution, a hospital or any home or institution for custodial, medical or other care or supervision, shall not be included in the calculation of time of residence of such child:

“Provided also that if any child of a woman in receipt of an allowance under *The Mothers Allowance Act* shall be apprehended or surrendered under the provisions of this Act, or *The Juvenile Delinquents Act, 1929*, then, upon application for a maintenance order hereunder, such child shall notwithstanding any other provision hereof, be deemed to belong to the municipality liable under *The Mothers Allowance Act* to pay one-half of such allowance.

“(15) Any municipality which has made a payment under the provisions of this section for the maintenance of a child in respect to whom some other municipality is liable shall be entitled to recover the amount so paid from such other municipality.

“(16) Any municipality which has made a payment under the provisions of this section for the maintenance of a child shall also be entitled to recover the amount with costs of action from the parent or parents of the child, unless it has been already recovered under the preceding subsection.

“(17) In case of default in making payment under any order made under subsection (13) of this section, the order may be filed in the office of the Clerk of the Supreme Court of the judicial district in which the municipality or the greater part thereof is situate. Upon such filing with proof by affidavit of the default, and the amount owing, judgment shall be entered against the municipality, which judgment shall be and shall have the same force and effect as a judgment of the said Court.

“(18) Service of any notice directed to be given under this section may be effected either personally or by double-registered mail.

“(19) Every order for support heretofore made under *The Juvenile Delinquents Act, 1908*, *The Juvenile Delinquents Act* being chapter 108 of the Revised Statutes of Canada, 1927, or under *The Juvenile Delinquents Act, 1929*, shall be as valid and have the same force and effect as if the same had been made in accordance with the provisions of this section.

“(20) If and in so far as any provision of *The Juvenile Delinquents Act* is within the legislative authority of the Province and outside that of the Dominion of Canada, such provision shall have the force of law in the Province until the same is repealed by the Dominion Parliament, or until this Act is repealed by the legislature of the Province, whichever shall first happen.

“(21) Any sum made payable by any order made at any time heretofore or hereafter pursuant to this section shall be payable to the Provincial Treasurer and shall be deemed to be a debt due to the Crown.”

5. The said Act is further amended as to section 8 thereof by adding immediately after the word “parents”, where the same occurs in paragraph (a) thereof, the words “or either of them”.

6. The said Act is further amended by striking out section 74 thereof,

7. The said Act is further amended as to the schedule thereof by adding thereto the following new forms:

“FORM 4.

“IN THE JUVENILE COURT OF THE PROVINCE OF ALBERTA

“IN THE MATTER OF THE CHILD WELFARE ACT, and
“IN THE MATTER OF
alleged to be a neglected child.

“To, of,
and

“To, of,
Secretary-Treasurer of the
of

“WHEREAS the above named
has been apprehended upon a complaint that . . he is a
neglected child within the meaning of *The Child Welfare Act*.

“TAKE NOTICE that the said will
on day, the day of 193 . . .,
at o'clock in the noon be brought before a
judge of the Juvenile Court sitting at,
in the said Province, for examination, and that the said judge
shall then and there investigate the facts of the case.

“AND TAKE FURTHER NOTICE that an application
will be made at the time and place aforesaid for an order
against the said (being the municipality
to which the said child is alleged to belong) for the expense
including medical and hospital treatment and maintenance
and support of the said child, including necessary clothing,
from the date of apprehension so long as such child be or
remains in the care and custody of a society or of the Superin-
tendent of Child Welfare or in an industrial school or other
institution approved by the Lieutenant Governor in Council.

“AND ALSO TAKE NOTICE that the said judge may,
whether in your absence or presence, make an order for
delivery of the said child to a society or to the said Superin-
tendent, and an order against the said municipality for the
said expense, maintenance and support.

“DATED at, this day
of, A.D. 193 . . .

“
“A Judge of the Juvenile Court of the
Province of Alberta.”

“FORM 5.

“IN THE JUVENILE COURT OF THE PROVINCE OF ALBERTA

“IN THE MATTER OF THE CHILD WELFARE ACT, and
“IN THE MATTER OF
alleged to be a neglected child.

"To....., of.....,
and

"To....., of.....,
Secretary-Treasurer of the.....
of.....

"WHEREAS the above named.....
has been surrendered under the provisions of section 52 of
The Child Welfare Act.

"TAKE NOTICE that the said..... will
on.....day, the.....day of.....193..,
at.....o'clock in the.....noon be brought before a
judge of the Juvenile Court sitting at.....,
in the said Province, for examination, and that the said judge
shall then and there investigate the facts of the case.

"AND TAKE FURTHER NOTICE that an application
will be made at the time and place aforesaid for an order
against the said..... (being the municipality
to which the said child is alleged to belong) for the expense
including medical and hospital treatment and maintenance
and support of the said child, including necessary clothing,
from the date of apprehension so long as such child be or
remains in the care and custody of a society or of the Superin-
tendent of Child Welfare or in an industrial school or other
institution approved by the Lieutenant Governor in Council.

"AND ALSO TAKE NOTICE that the said judge may,
whether in your absence or presence, make an order for
delivery of the said child to a society or to the said Superin-
tendent, and an order against the said municipality for the
said expense, maintenance and support.

"DATED at....., this.....day
of....., A.D. 193...

".....
"A Judge of the Juvenile Court of the
.....of....."

"FORM 6.

"IN THE JUVENILE COURT OF THE PROVINCE OF
ALBERTA

"IN THE MATTER OF THE CHILD WELFARE ACT,
"IN THE MATTER OF THE JUVENILE DELINQUENTS
ACT, 1929, and

"IN THE MATTER OF.....
alleged to be a juvenile delinquent.

"To....., of.....,
and

"To....., of.....,
Secretary-Treasurer of the.....
of.....

"WHEREAS the above named.....
has been arrested upon a complaint that .he is a juvenile
delinquent within the meaning of *The Juvenile Delinquents
Act*.

“TAKE NOTICE that the said will on day, the day of 193 . . . , at o’clock in the noon be brought before a judge of the Juvenile Court sitting at , in the said Province, for trial and that the judge shall then and there determine the case in accordance with provisions of *The Juvenile Delinquents Act*.

“AND TAKE FURTHER NOTICE that an application will be made at the time and place aforesaid for an order against the said (being the municipality to which the said child is alleged to belong) for the expense including medical and hospital treatment and maintenance and support of the said child, including necessary clothing, from the date of apprehension so long as such child be or remains in the care and custody of a society or of the Superintendent of Child Welfare or in an industrial school or other institution approved by the Lieutenant Governor in Council.

“AND ALSO TAKE NOTICE that the said judge may, whether in your absence or presence, make an order for delivery of the said child to a society or to the said Superintendent, and an order against the said municipality for the said expense, maintenance and support.

“DATED at , this day of , A.D. 193 . . .

“
“A Judge of the Juvenile Court of the
. of”

8. This Act shall come into force on the day upon which it is assented to.

No. 73.

FIFTH SESSION
SEVENTH LEGISLATURE
25 GEORGE V
1935

B I L L

An Act to amend The Child Welfare
Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. LYMBURN

EDMONTON:
W. D. McLEAN, KING'S PRINTER
1935