



Province of Alberta

# **PROTECTION OF CHILDREN ABUSING DRUGS ACT**

Statutes of Alberta, 2005  
Chapter P-27.5

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## Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Regulations

The following is a list of the regulations made under the *Protection of Children Abusing Drugs Act* that are filed as Alberta Regulations under the Regulations Act.

<b>Alta. Reg.</b>	<i>Amendments</i>
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#### **Protection of Children Abusing Drugs Act**

Protection of Children Abusing Drugs

Act Court Forms and Procedures .....138/2006 ..... *108/2011, 117/2012,  
3/2015, 85/2016*

# **PROTECTION OF CHILDREN ABUSING DRUGS ACT**

## Chapter P-27.5

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### **Preamble**

WHEREAS the safety, security and well-being of children and families is of paramount importance to the people of Alberta;

WHEREAS children who abuse alcohol or drugs are a danger to themselves and require help;

WHEREAS the Legislative Assembly of Alberta recognizes the responsibility of families and communities to provide that help;

WHEREAS the Legislative Assembly of Alberta is committed to assisting families and communities in providing that help;

WHEREAS the Legislative Assembly of Alberta is committed to ensuring the health and safety of all children; and

WHEREAS the Legislative Assembly of Alberta is committed to helping children to overcome their problems with alcohol and drugs;

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

#### **Interpretation**

**1(1)** In this Act,

- (a) “alcohol” means liquor as defined under the *Gaming and Liquor Act*;
- (b) “child” means a person under 18 years of age;
- (c) “Co-ordinator” means the person designated as the Co-ordinator by the Minister under section 10;
- (d) “Court” means the Provincial Court;
- (d.1) “director”, in respect of a protective safe house, means the person identified as the director under section 11(2);
- (e) “drug” means alcohol or a substance,
  - (i) whose use is controlled by law, or
  - (ii) that is used by the child in a manner that is not intended by the manufacturer of the substance, other than a tobacco product;
- (f) “guardian” means guardian as defined in the *Child, Youth and Family Enhancement Act*;
- (g) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (h) “police officer” means a member of a municipal police service, a member of the Royal Canadian Mounted Police,

or a peace officer appointed under the *Peace Officer Act* for the purposes of this Act;

- (i) “protection order” means an order under section 2.1;
- (j) “protective safe house” means premises approved by the Minister as a protective safe house;
- (k) “youth custody facility” means a place of custody designated as
  - (i) a place of secure or open custody under the Youth Criminal Justice Act (Canada), or
  - (ii) a place of temporary detention under the Youth Justice Act or the Youth Criminal Justice Act (Canada).

**(2)** For the purposes of this Act, a child is abusing a drug if the child is using the drug and the use caused or is likely to cause significant

- (a) psychological or social harm to the child, or
- (b) physical harm to the child or others.

2005 cP-27.5 s1;2006 cP-3.5 s40;2008 cH-4.3 s22;  
2009 c12 s2

### **Application for protection order**

**2(1)** Subject to subsection (2), a guardian of a child may apply to the Court for an order to protect a child who is abusing drugs.

**(2)** A guardian may make an application under this section only if the guardian has, with regard to the application, attended an information session provided for in the regulations respecting the services available in Alberta for the assessment and treatment of children who abuse drugs.

**(3)** An application under this section must

- (a) be in the prescribed form, and
- (b) contain a statement of the applicant that the applicant has attended an information session referred to in subsection (2).

**(4)** The guardian must give notice of an application to

- (a) the Co-ordinator,
- (b) any other guardians of the child,
- (c) any person prescribed by the regulations, and

- (d) any other person as the Court may direct.

2005 cP-27.5 s2;2008 cH-4.3 s22;2009 c12 s3

#### **Protection order**

**2.1(1)** The Court may grant a protection order if the Court is satisfied that the child is abusing drugs.

**(2)** In determining whether a child is abusing drugs, the Court must consider any evidence provided with respect to the following:

- (a) the age of the child;
  - (b) the types of drugs being used by the child;
  - (c) the length of time that the child has been using the drugs;
  - (d) the intensity, pattern and frequency of drug use by the child;
  - (e) the impact of drug use on the child's life, including the impact the drug use has on
    - (i) the child's relationships with family members and friends,
    - (ii) the child's attendance and performance at school,
    - (iii) the child's health,
    - (iv) the child's living arrangements, and
    - (v) the child's involvement in the legal system, if any;
  - (f) any previous addiction and treatment history of the child, including information on whether the child has received treatment for drug abuse, what treatment has been provided or offered and whether the child has ever refused treatment;
  - (g) any history the child may have of mental illness;
  - (h) any other factors the Court considers relevant.
- (3)** A protection order may contain provisions authorizing
- (a) a guardian to have the child confined in a protective safe house,
  - (b) the director of a protective safe house to confine the child in accordance with the order for one period of not more than 10 days beginning, as the case may be,

- (i) on the day that the child is first confined in the protective safe house, or
- (ii) if the child is assessed in accordance with section 3(4), on the first day of the assessment,

and

- (c) the Co-ordinator to assess the child, treat the child for the effects of detoxification and provide services to stabilize the child for the period of confinement authorized by the order.

(4) If the Court is satisfied that there are reasonable grounds to believe that a guardian cannot convey the child to a protective safe house, the protection order may contain provisions authorizing a police officer

- (a) to apprehend the child and convey the child to a protective safe house, or
- (b) to assist the guardian in conveying the child to a protective safe house.

(5) If the Court is satisfied that the child may be found in a place or premises, the protection order may contain provisions authorizing a police officer to enter the place or premises, by force if necessary, and search for and apprehend the child.

(6) Subject to the regulations, if a protection order contains a provision referred to in subsection (4), a police officer must exercise the authority.

2009 c12 s3

#### **Expiry of order**

**2.2** If the child who is the subject of a protection order has not been confined in a protective safe house and the Co-ordinator has not taken any action under section 3(4) in respect of the child within 50 days from the date on which the protection order is granted, the order expires.

2009 c12 s3

#### **Notification of confinement**

**2.3** The director of the protective safe house to which a child is conveyed under a protection order must notify the Co-ordinator that the child is confined in the protective safe house.

2009 c12 s3

**Assessment by Co-ordinator**

- 3(1)** The Co-ordinator must assess the confined child and determine whether there are reasonable grounds to believe the confined child is abusing a drug.
- (2)** In order to make an assessment, the Co-ordinator may require that
- (a) the child or a guardian of the child appear before the Co-ordinator, or
  - (b) the child or a guardian of the child provide the Co-ordinator with access to the child's medical records.
- (3)** The Co-ordinator may, while the child is confined in the protective safe house,
- (a) assess the child,
  - (b) treat the child for the effects of detoxification, and
  - (c) provide services to stabilize the child.
- (4)** If the child is being treated in a health facility or is in a youth custody facility while the protection order is in effect, the Co-ordinator may assess the child, treat the child for the effects of detoxification and provide services to stabilize the child while the child is in that facility if the Co-ordinator is satisfied that the circumstances are appropriate for those purposes.
- (5)** The Co-ordinator may recommend to the child and a guardian of the child a treatment program or treatment services for the child.
- (6)** If the Co-ordinator considers it to be in a child's best interests for a guardian of the child to have any information respecting the assessment of the child under subsection (3) or (4), the Co-ordinator may disclose the information to the guardian without the child's consent.

2005 cP-27.5 s3;2008 cH-4.3 s22;2009 c12 s4

**Discharge before end of period of confinement**

- 3.1(1)** The Co-ordinator may direct the director of a protective safe house to discharge a child into the custody of a guardian of the child before the end of the period of confinement authorized in the protection order if
- (a) the Co-ordinator has assessed the child,
  - (b) the Co-ordinator is of the opinion, after consultation with the child, the applicant under section 2 and the director, that



it is in the best interests of the child that the child be discharged, and

- (c) the child, the applicant under section 2 and the director agree that the child should be discharged.

(2) If the child, the applicant under section 2 or the director of the protective safe house objects to the child's being discharged under subsection (1), the Co-ordinator may apply to the Court for a review of the protection order under section 4.1.

2009 c12 s5

#### **Discharge after end of period of confinement**

**3.2(1)** A guardian who was granted a protection order must attend, or make arrangements for an appropriate person to attend, the protective safe house in which the child is confined to pick up the child at the end of the period of confinement authorized in the protection order.

(2) If a guardian or an appropriate person does not attend the protective safe house as described in subsection (1), the director of the protective safe house

- (a) may continue to confine the child in the protective safe house for a period that the director considers reasonable in the circumstances, and
- (b) shall forthwith make a report of the matter under section 4 of the *Child, Youth and Family Enhancement Act*.

2009 c12 s5

#### **Confinement in protective safe house**

**4** If a child is confined in a protective safe house pursuant to a protection order, the director of the protective safe house must at the beginning of the period of confinement

- (a) give the child a request for review form provided for in the regulations,
- (b) give the child a copy of the order,
- (c) provide the child with a written explanation of
  - (i) the child's right to ask the Court to review the order, and
  - (ii) the child's right to contact a lawyer,
- (d) explain the Court order and the information referred to in clause (c) to the child orally in a way that the director believes the child is likely to understand, and

- (e) give the child the telephone number of the Legal Aid Society of Alberta in writing.

2009 c12 s6

**Review of protection order**

**4.1(1)** An application to the Court for a review of a protection order may be made by

- (a) the child who is the subject of the order,
- (b) a guardian of the child,
- (c) the Co-ordinator, or
- (d) any other person, with the permission of the Court.

**(2)** A review by the Court must be held within 2 days after the application for review is filed with the Court, or within any shorter or longer period that may be ordered by the Court, taking into consideration the period of confinement authorized in the protection order.

**(3)** The applicant must give notice of the application for review to the following:

- (a) the child who is the subject of the protection order,
- (b) the Co-ordinator,
- (c) the director of the protective safe house in which the child is confined,
- (d) the guardian who applied for the protection order, and
- (e) any other person that the Court requires to be given notice.

**(4)** If the Court is satisfied that it is appropriate to do so, the Court may dispense with notice to a person referred to in subsection (3).

**(5)** After hearing a review under this section, the Court may make an order confirming, varying or terminating the protection order and may extend the period of confinement authorized in that order by up to 5 days.

**(6)** The Court may extend the period of confinement under subsection (5) only if the Court is satisfied that an additional period of confinement is required

- (a) to assess the child,

(b) to treat the child for the effects of detoxification, or

(c) to provide services to stabilize the child.

2009 c12 s7;2014 c13 s50

#### **Court process**

**4.2(1)** On application to the Court and on showing good reason for doing so, the Court may permit evidence to be admitted by telephone, audio-visually or by other means satisfactory to the Court.

**(2)** The Court may grant adjournments at any time in the proceedings before the Court on any conditions that the Court considers proper.

**(3)** Where this Act or the regulations or the *Provincial Court Act* or the regulations under the *Provincial Court Act* do not provide for a specific practice or procedure of the Court that is necessary to ensure an expeditious and inexpensive resolution of a matter under this Act before the Court, the Court may apply the *Alberta Rules of Court* and for that purpose may modify the *Alberta Rules of Court* as needed.

2009 c12 s7

#### **Service**

**5(1)** The applicant must, not less than 2 days before the date fixed for hearing an application to the Court under section 2 or 4.1, give notice of the nature, date, time and place of the hearing by any method orally or in writing, on a person required to be served under this Act.

**(2)** The Court may do any of the following at the time of a hearing:

- (a) approve service made in a manner it considers adequate in the circumstances;
- (b) approve a shortened period as sufficient notice;
- (c) subject to subsection (3), dispense with service on any person.

**(3)** In the case of an application under section 2, the Court may not dispense with service on the Co-ordinator.

2005 cP-27.5 s5;2009 c12 s8

#### **Exclusion from hearing**

**6(1)** Subject to subsection (2), the Court may exclude any person, including a guardian of the child or the child, from all or part of the proceedings if the Court considers that person's presence to be

unnecessary to the conduct of the proceedings and the Court is satisfied that

- (a) the evidence or information presented to the Court may be seriously injurious or seriously prejudicial to the child who is the subject of a hearing under this Act or to a child who is a witness at a hearing under this Act, or
- (b) it would be in the interest of public morals, the maintenance of order or the proper administration of justice to exclude any or all members of the public from the courtroom.

(2) The Court may not exclude the Co-ordinator, a director or a lawyer representing the child or the guardian of the child.

2005 cP-27.5 s6;2009 c12 s9

#### **Ban on publication**

**7(1)** Except with the consent of the Court, no person shall publish by any means any report of a Court proceeding under this Act in respect of a child in which the name of the child or a guardian of the child, or any information serving to identify the child or a guardian of the child, is disclosed.

(2) A person who contravenes subsection (1) is guilty of an offence and liable to a fine of not more than \$2000 and in default of payment to imprisonment for a term of not more than 6 months.

#### **Witnesses**

**8(1)** In a proceeding before the Court under this Act, the Court or a justice of the peace on the application of a party, or the Court on its own motion, may

- (a) compel the attendance of any person and require the person to give evidence on oath,
- (b) require the production by any person of any documents or things, and
- (c) exercise the powers that are conferred for those purposes on a justice of the peace under Part XXII of the *Criminal Code* (Canada).

(2) The record of the evidence given at any other hearing, any documents and exhibits received in evidence at any other hearing and an order of the Court are admissible in evidence in a hearing under this Act.

(3) The evidence of each witness in a Court proceeding under this Act must be taken under oath and forms part of the record.

(4) Despite subsection (3), if the Court considers it proper to do so and is satisfied that no better form of evidence is readily available, the Court may

- (a) accept evidence by affidavit, or
- (b) accept hearsay evidence.

**Confidential evidence**

**9(1)** Notwithstanding Part XXII of the *Criminal Code* (Canada), the Court may issue a subpoena requiring

- (a) the Co-ordinator,
- (b) a director,
- (c) a board under the *Hospitals Act*,
- (d) a board under the *Mental Health Act*, or
- (e) the Chief Medical Officer under the *Public Health Act*,

or the designate of any of them to produce any documents, records or other information they possess or control that may relate to the proceedings before the Court with respect to a child.

(2) Subject to section 4.2(1) and the regulations, the person named in a subpoena or the person's designate must attend at the time and place stated in the subpoena with any documents, records or other information that may relate to the proceedings before the Court and must remain in attendance throughout the proceedings unless the person is excused or excluded by the Court.

(3) If as the result of the issuing of a subpoena under subsection (1) a person is required to produce any documents, records or other information that is otherwise confidential under the *Hospitals Act*, *Mental Health Act* or *Public Health Act*, the documents, records or other information must be dealt with in accordance with this section.

(4) The person named in the subpoena or the person's designate must permit a director, the child, the child's guardian or a lawyer representing any of them to examine the documents, records or other information before the time stated in the subpoena.

(5) A director, the child or the child's guardian may apply to the Court at the time stated in the subpoena or at any other time during the proceedings before the Court to have all or part of the documents, records or other information admitted into evidence.

2005 cP-27.5 s9;2008 cH-4.3 s22;2009 c12 s10

#### **Co-ordinator**

**10(1)** The Minister may designate a person as the Co-ordinator for the purposes of this Act.

(2) The Co-ordinator may in writing delegate any power, duty or function conferred on or imposed on the Co-ordinator by this Act or the regulations on any person.

2005 cP-27.5 s10;2009 c12 s11

#### **Safe houses**

**11(1)** The Minister may approve premises as protective safe houses for the purposes of this Act.

(2) The Minister may identify a person, by title or by personal name, as a director of a protective safe house for the purposes of this Act.

(3) The director of a protective safe house may delegate the director's responsibilities under this Act to an individual who is employed or engaged by the owner or operator of the protective safe house to work in the protective safe house.

2005 cP-27.5 s11;2009 c12 s12

#### **Regulations**

**12** The Minister may make regulations

- (a) respecting the rules to be followed in a proceeding before the Court under this Act;
- (b) respecting the forms, including notices, to be used under this Act;
- (b.1) respecting information sessions for the purpose of section 2, including the written confirmation that must be provided to a guardian who has attended an information session;
- (b.2) prescribing persons who must be given notice of an application under section 2;
- (c) governing the costs and the responsibility for payment of the costs of
  - (i) assessment, treatment for the effects of detoxification, and stabilization services;

- (ii) transportation to convey children to protective safe houses;
- (iii) programs referred to in clause (d);
- (d) respecting programs for
  - (i) the assessment, treatment and stabilization of children who are subject to protection orders, and
  - (ii) the support of the guardians and family members of children who are subject to protection orders;
- (e) respecting the exercise of authority by police officers under Court orders containing provisions referred to in section 2.1(4);
- (f) prescribing circumstances in which a person referred to in section 9(2) is not required to attend the proceedings;
- (g) respecting the terms and conditions that are applicable where a guardian is required to appear before the Co-ordinator under section 3(2);
- (h) respecting the service of a document or notice, or the giving of notice, required to be served on or given to any person under this Act.

2005 cP-27.5 s12;2008 cH-4.3 s22;2009 c12 s13

#### **Transitional**

**12.1** If the child who is the subject of an apprehension and confinement order granted before the coming into force of this section has not been confined in a protective safe house and the Co-ordinator has not taken any action under section 3(4) in respect of the child within 50 days from the date on which this section comes into force, the apprehension and confinement order expires.

2009 c12 s14

#### **Coming into force**

**13** This Act comes into force on July 1, 2006.



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