



Province of Alberta

CHILD AND YOUTH ADVOCATE ACT

Statutes of Alberta, 2011
Chapter C-11.5

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Office Consolidation

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Alberta Queen's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca

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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 *Child and Youth Advocate Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	<i>Amendments</i>
Child and Youth Advocate Act		
Child and Youth Advocate	53/2012	50/2017, 250/2017

CHILD AND YOUTH ADVOCATE ACT

Chapter C-11.5

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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);
- (b.1) “Band” means a band within the meaning of the *Indian Act* (Canada);
- (b.2) “Chief Medical Examiner” means the Chief Medical Examiner appointed under section 5 of the *Fatality Inquiries Act*;
- (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*;
- (d.1) “Delegated First Nation Agency” means a society or corporation that is providing intervention services pursuant to a service delivery agreement under section 122(2) of the *Child, Youth and Family Enhancement 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*;
- (f.1) “ministry” includes the department and any agency for which a Minister is responsible;

- (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.

2011 cC-11.5 s1;2017 c8 s1

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*,
- (b) any regulation, order, directive, rule, procedure, direction, allocation, designation or other decision under the *Public Service Act*, or
- (c) any regulation, order, determination, direction or other decision under the *Public Sector Compensation Transparency 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*.

(4.1) An order made under subsection (3)(c) in relation to a regulation, order, determination, direction or other decision under the *Public Sector Compensation Transparency Act* operates notwithstanding that 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.

2011 cC-11.5 s8;2015 cP-40.5 s17

Part 2 Advocate's Role, Functions and General Powers

Role and functions of Advocate

9(0.1) In this section, "member of the family" includes an individual who

- (a) is a parent, guardian, grandparent or sibling of a child referred to in subsection (2)(d),
- (b) stands in the place of a parent, within the meaning of section 48 of the *Family Law Act*, with respect to a child referred to in subsection (2)(d),
- (c) had a close relationship with a child referred to in subsection (2)(d), or
- (d) is a member of a prescribed class of individuals.

(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) 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),
 - (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);
- (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) does not apply in respect of a child referred to in section 1(c)(ii).
- (5)** Subsection (2)(d)(ii) 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.
- (6)** The Advocate must at any time before or during an investigation under subsection (2)(d)
- (a) on the written request of a senior official of any relevant law enforcement agency, stay the investigation for the purpose of allowing a law enforcement investigation in respect of or in relation to any of the matters referred to in subsection

(2)(d) if in the senior official's opinion the investigation could reasonably be expected to interfere with or harm an ongoing law enforcement investigation, including a police investigation, or

- (b) on the written request of the Assistant Deputy Minister responsible for the Alberta Crown Prosecution Service, stay the investigation pending the prosecution or final determination of a charge where a person is charged, in respect of or in relation to any of the matters referred to in subsection (2)(d), under any statute in force in Alberta if, in the opinion of that Assistant Deputy Minister, the review could reasonably be expected to interfere with or harm that prosecution or determination.

(7) The Advocate must resume an investigation stayed

- (a) under subsection (6)(a), on receiving written confirmation from a senior official of the law enforcement agency that requested the stay under subsection (6)(a) that, in the senior official's opinion, the resumption of that investigation could not reasonably be expected to interfere with or harm an ongoing law enforcement investigation, including a police investigation, or
- (b) under subsection (6)(b), on receiving written confirmation from the Assistant Deputy Minister responsible for the Alberta Crown Prosecution Service that, in the opinion of that Assistant Deputy Minister, the resumption of that investigation could not reasonably be expected to interfere with or harm the prosecution or the final determination of a charge where a person is charged, in respect of or in relation to any of the matters referred to in subsection (2)(d), under any statute in force in Alberta.

(8) In conducting an investigation under subsection (2)(d), the Advocate must, at the commencement and the conclusion of the investigation, make reasonable efforts to notify the following persons of, as the case may be, the commencement or conclusion of the investigation:

- (a) any relevant ministry;
- (b) the members of the family of a child;
- (c) any relevant Band;
- (d) any relevant Delegated First Nation Agency;
- (e) any relevant community or cultural group as the Advocate considers appropriate;

- (f) any relevant law enforcement agency in Alberta;
- (g) the Office of the Chief Medical Examiner, as the Advocate considers appropriate;
- (h) Alberta Health Services;
- (i) any prescribed person or a person in a prescribed class of persons;
- (j) any other person as the Advocate considers appropriate.

(9) In conducting an investigation under subsection (2)(d), the Advocate must make reasonable efforts to involve the following persons, including giving them the opportunity to make representations to the Advocate:

- (a) any relevant ministry;
- (b) the members of the family of a child;
- (c) any relevant Band;
- (d) any relevant Delegated First Nation Agency;
- (e) any relevant community or cultural group as the Advocate considers appropriate;
- (f) any relevant law enforcement agency in Alberta;
- (g) any prescribed person or a person in a prescribed class of persons;
- (h) any other person as the Advocate considers appropriate.

(10) Despite subsections (8) and (9), the Advocate may choose not to notify or involve a person if doing so could, in the Advocate's opinion, reasonably be expected to

- (a) have a potentially harmful effect on that person or another person, or
- (b) harm an investigation under subsection (2)(d).

2011 cC-11.5 s9;2013 cC-12.5 s8;2014 c7 s19;2017 c8 s1

Mandatory review of death

9.1(1) In this section,

- (a) "child in need of intervention" means a child in need of intervention within the meaning of section 1(2) of the *Child, Youth and Family Enhancement Act*;

- (b) “intervention services” means intervention services as defined in section 1(1)(m.1) of the *Child, Youth and Family Enhancement Act*;
 - (c) “member of the family” includes an individual who
 - (i) is a parent, guardian, grandparent or sibling of a deceased person,
 - (ii) stands in the place of a parent, within the meaning of section 48 of the *Family Law Act*, with respect to the deceased person,
 - (iii) had a close relationship with the deceased person, or
 - (iv) is a member of a prescribed class of individuals;
 - (d) “Registrar of Vital Statistics” means the Registrar of Vital Statistics appointed under section 44 of the *Vital Statistics Act* and includes any person designated by the Registrar of Vital Statistics as a Deputy Registrar under that Act.
- (2)** The Advocate must review the death of a person who
- (a) was under 18 years of age at the time of the person’s death, and
 - (i) was receiving intervention services as a child in need of intervention at the time of the person’s death, or
 - (ii) had received intervention services as a child in need of intervention within the 2 years before the person’s death,
 - or
 - (b) was 18 or 19 years of age and had received intervention services as a child in need of intervention within the 2 years before the person’s death.
- (3)** The Advocate must
- (a) complete the review under subsection (2) and make the report of the review referred to in section 15.4(1) available to the public within one year from the earlier of
 - (i) the date that the Chief Medical Examiner provides notification of the death under section 32.1 of the *Fatality Inquiries Act*, and

- (ii) the date that the Advocate first collects information from the Registrar of Vital Statistics under subsection (8) about the death of the deceased person,

or

- (b) if any reviews cannot be completed within one year, report to the Speaker of the Legislative Assembly as required by subsection (4)(b).

(4) The Advocate must report to the Speaker of the Legislative Assembly every 6 months in accordance with the regulations

- (a) as to the number of completed reviews, and
- (b) the number of incomplete reviews and the reasons that those reviews have not been completed within one year as required by subsection (3)(a).

(5) The Speaker of the Legislative Assembly must lay a report received under subsection (4) before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

(6) Despite subsection (3)(a), the Advocate must at any time before or during a review under this section,

- (a) on the written request of a senior official of any relevant law enforcement agency, stay the review for the purpose of allowing a law enforcement investigation in respect of or in relation to the death that is the subject of the review if in the senior official's opinion the review could reasonably be expected to interfere with or harm an ongoing law enforcement investigation, including a police investigation, or
- (b) on the written request of the Assistant Deputy Minister responsible for the Alberta Crown Prosecution Service, stay the review pending the prosecution or final determination of a charge if a person is charged, in respect of or in relation to the death that is the subject of the review, under any statute in force in Alberta where, in the opinion of that Assistant Deputy Minister, the review could reasonably be expected to interfere with or harm that prosecution or determination.

(7) The Advocate must resume a review stayed

- (a) under subsection (6)(a), on receiving written confirmation from a senior official of the law enforcement agency that requested the stay under subsection (6)(a) that, in the senior

official's opinion, the resumption of that review could not reasonably be expected to interfere with or harm an ongoing law enforcement investigation, including a police investigation, or

- (b) under subsection (6)(b), on receiving written confirmation from the Assistant Deputy Minister responsible for the Alberta Crown Prosecution Service that, in the opinion of that Assistant Deputy Minister, the resumption of that review could not reasonably be expected to interfere with or harm the prosecution or the final determination of a charge where a person is charged, in respect of or in relation to the death that is the subject of the review, under any statute in force in Alberta.

(8) For the purposes of carrying out the Advocate's duties, powers and functions under this section, the Advocate may collect, use and disclose information as set out in the regulations from the Registrar of Vital Statistics about the death of any person under 20 years of age.

(9) In conducting a review under this section, the Advocate must, at the commencement and the conclusion of the review, make reasonable efforts to notify the following persons of, as the case may be, the commencement or conclusion of the review:

- (a) any relevant ministry;
- (b) the members of the family of the deceased person;
- (c) any relevant Band;
- (d) any relevant Delegated First Nation Agency;
- (e) any relevant community or cultural group as the Advocate considers appropriate;
- (f) any relevant law enforcement agency in Alberta;
- (g) the Office of the Chief Medical Examiner;
- (h) Alberta Health Services;
- (i) any prescribed person or a person in a prescribed class of persons;
- (j) any other person as the Advocate considers appropriate.

(10) In conducting a review under this section, the Advocate must make reasonable efforts to involve the following persons, including

giving them the opportunity to make representations to the Advocate:

- (a) any relevant ministry;
- (b) the members of the family of the deceased person;
- (c) any relevant Band;
- (d) any relevant Delegated First Nation Agency;
- (e) any relevant community or cultural group as the Advocate considers appropriate;
- (f) any relevant law enforcement agency in Alberta;
- (g) any prescribed person or a person in a prescribed class of persons;
- (h) any other person as the Advocate considers appropriate.

(11) Despite subsections (9) and (10), the Advocate may choose not to notify or involve a person if doing so could, in the Advocate's opinion, reasonably be expected to

- (a) have a potentially harmful effect on that person or another person, or
- (b) harm a review under this section.

2017 c8 s1

Communication regarding stays

9.2(1) The Advocate must, every 6 months after the Advocate stays an investigation under section 9(6) or a review under section 9.1(6),

- (a) request a senior official of the law enforcement agency that
 - (i) requested the stay under section 9(6)(a) to confirm in writing whether, in the opinion of that senior official, an investigation stayed under section 9(6)(a) should continue to be stayed or may be resumed in accordance with section 9(7)(a), or
 - (ii) requested the stay under section 9.1(6)(a) to confirm in writing whether, in the opinion of that senior official, a review stayed under section 9.1(6)(a) should continue to be stayed or may be resumed in accordance with section 9.1(7)(a);

- (b) request the Assistant Deputy Minister responsible for the Alberta Crown Prosecution Service
 - (i) to confirm in writing whether, in the opinion of that Assistant Deputy Minister, an investigation stayed under section 9(6)(b) should continue to be stayed or may be resumed in accordance with section 9(7)(b), or
 - (ii) to confirm in writing whether, in the opinion of that Assistant Deputy Minister, a review stayed under section 9.1(6)(b) should continue to be stayed or may be resumed in accordance with section 9.1(7)(b).

(2) If written confirmation is not received under subsection (1) within 21 days after the Advocate's request, the Advocate must resume

- (a) an investigation in accordance with section 9(7)(a) or (b), as applicable, or
- (b) a review in accordance with section 9.1(7)(a) or (b), as applicable.

2017 c8 s1

Protocol

9.3 For the purposes of sections 9(2)(d), (6) and (7), 9.1(2), (6) and (7), 9.2 and 14.1(2) and (7) and of fulfilling the intent of this Act, the Advocate may, subject to the regulations, enter into a protocol with any relevant law enforcement agency and any relevant ministry respecting

- (a) the collection, use, disclosure, safeguarding and confidentiality of information and records in the custody or control of that law enforcement agency or that ministry, and
- (b) the process for making determinations about
 - (i) the staying under section 9(6) of an investigation under section 9(2)(d) and the resumption of the investigation under section 9(7), and
 - (ii) the staying under section 9.1(6) of a review under section 9.1 and the resumption of the review under section 9.1(7).

2017 c8 s1

Indigenous advisors

9.4(1) The Advocate must in accordance with the regulations establish a roster of persons that includes First Nations, Métis and

Inuit persons whom the Advocate can engage to advise the Advocate.

(2) The Lieutenant Governor in Council may authorize, fix and provide for the payment of remuneration and expenses to the persons engaged under subsection (1).

2017 c8 s1

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) Repealed 2017 c8 s1.

2011 cC-11.5 s13;2017 c8 s1

Application of section 9 of the Public Inquiries Act

13.1 Section 9 of the *Public Inquiries Act* applies to the disclosure of information or records through the exercise of the Advocate's powers, duties and functions under this Act.

2017 c8 s1

Powers relating to investigations

14 In conducting an investigation under section 9(2)(d) or a review under section 9.1, the Advocate has all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

2011 cC-11.5 s14;2017 c8 s1

Obligation to provide information and records re investigations and reviews

14.1(1) In this section,

- (a) "information" means any information, including personal information and health information;
- (b) "record" means record as defined in section 1(q) of the *Freedom of Information and Protection of Privacy Act*.

(2) The following persons notified under section 9(8) of the commencement of an investigation under section 9(2)(d) who have information or records that are or may be relevant to the investigation under section 9(2)(d) must, on being notified, provide that information or those records forthwith to the Advocate:

- (a) any relevant ministry;
- (b) any relevant law enforcement agency;
- (c) Alberta Health Services;
- (d) any relevant Delegated First Nation Agency;
- (e) the Office of the Chief Medical Examiner, if notified under section 9(8).

(3) The following persons notified under section 9.1(9) of the commencement of a review under section 9.1 who have information or records that are or may be relevant to the review under section 9.1 must, on being notified, provide that information or those records forthwith to the Advocate:

- (a) any relevant ministry;
- (b) any relevant law enforcement agency;
- (c) Alberta Health Services;
- (d) any relevant Delegated First Nation Agency;
- (e) the Office of the Chief Medical Examiner.

(4) The Advocate may require that any person, including a person notified under section 9(8) or 9.1(9), that has information or records that are or may be relevant to an investigation under section 9(2)(d) or a review under section 9.1, as applicable, must provide that information or those records forthwith to the Advocate.

(5) A person that provides information or records pursuant to an investigation under section 9(2)(d) or a review under section 9.1 has the right not to have any incriminating evidence in the information or records so provided used to incriminate that person in any other proceedings, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

(6) A person must not take any adverse employment action against another person because that other person, acting in good faith, provided information or records to the Advocate for the purposes of carrying out the Advocate's powers, duties and functions under this Act.

(7) Despite section 13.1,

- (a) a law enforcement agency or the Alberta Crown Prosecution Service may refuse to provide
 - (i) information or records, if the provision could reasonably be expected to
 - (A) reveal the identity of a confidential source of law enforcement information, or
 - (B) harm the effectiveness of investigative techniques and procedures currently used, or likely to be used, in law enforcement,

- (ii) information or records obtained in accordance with an enactment in force in Alberta or a court order that expressly requires that the information or record be maintained in confidence, and
 - (iii) information or records set out in the regulations,
- and
- (b) section 9(2) to (7) of the *Public Inquiries Act* do not apply to an investigation under section 9(2)(d) or a review under section 9.1 with respect to information and records referred to in clause (a) in the custody or control of a law enforcement agency or the Alberta Crown Prosecution Service.

2017 c8 s1

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, subject to the criteria specified in the regulations for 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.

(3.1) The Advocate must make a copy of a report made under subsection (1) available to the Audit Advisory Committee.

(4) As soon as practicable after considering any comments of the Audit Advisory Committee, the Advocate must

- (a) provide a copy of a report made under subsection (1) to a public body that is directly or indirectly a subject of the investigation, and
- (b) make the report available to the public in form and manner that the Advocate considers appropriate.

(5) Repealed 2017 c8 s1.

2011 cC-11.5 s15;2017 c8 s1

Establishment of Audit Advisory Committee

15.1(1) The Lieutenant Governor in Council may establish a committee called the Audit Advisory Committee consisting of persons appointed as members of the Audit Advisory Committee by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council must designate one of the members of the Audit Advisory Committee as chair.

(3) The Lieutenant Governor in Council may authorize, fix and provide for the payment of remuneration and expenses to the members of the Audit Advisory Committee.

2017 c8 s1

Mandate

15.2(1) The mandate of the Audit Advisory Committee is

- (a) to advise the Advocate
 - (i) on whether the Advocate's recommendations in a report under section 15 of an investigation under section 9(2)(d) are consistent with the criteria specified in the regulations for recommendations in reports of investigations, and
 - (ii) on whether the Advocate's recommendations in a report under section 15.4 of a review under section 9.1 are consistent with the criteria set out in the regulations for recommendations in reports of reviews,

and

- (b) to perform any duties or functions set out in the regulations.

(2) The Advocate must give to the Audit Advisory Committee any information or records that the Committee considers reasonable and appropriate to enable the Committee to fulfil its mandate under subsection (1).

(3) Any confidential information or records provided by the Advocate to the Committee under subsection (2) for the purposes of the Committee in the course of carrying out its powers, duties and functions under this Act must not be disclosed or made known to any other person except as is necessary to carry out those powers, duties and functions.

2017 c8 s1

Meetings of Audit Advisory Committee

15.3(1) The Audit Advisory Committee may make rules respecting the calling of, and the conduct of business at, its meetings.

(2) The chair of the Audit Advisory Committee must, on the request of the Advocate, call a meeting of the Audit Advisory Committee to review any matter that the Advocate considers should be brought to the attention of the Audit Advisory Committee.

2017 c8 s1

Report of mandatory reviews of death

15.4(1) When the Advocate conducts a review under section 9.1, the Advocate must make a report of the review in accordance with the regulations

- (a) containing recommendations, if any, subject to the criteria specified in the regulations for recommendations, to any ministry as the Advocate considers appropriate as to the prevention of similar deaths,
- (b) containing observations, if any, to any ministry, or to persons outside Government as the Advocate considers appropriate, as to the prevention of similar deaths,
- (c) containing information on relevant recommendations, if any, in any previous report under section 15 or this section and the status of responses to those recommendations,
- (d) specifying whom the Advocate involved under section 9.1(10) in the course of the review, and
- (e) addressing any other matters as the Advocate considers appropriate.

(2) The findings of the Advocate must 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 person whose death is being reviewed under section 9.1 or a parent or guardian of that person.

(4) The Advocate must make a copy of a report made under subsection (1) available to the Audit Advisory Committee.

(5) As soon as practicable after considering any comments of the Audit Advisory Committee, the Advocate must

- (a) provide a copy of a report made under subsection (1) to a ministry that is directly or indirectly a subject of the review, and
- (b) make the report available to the public in a form and manner that the Advocate considers appropriate.

2017 c8 s1

Response to recommendations

15.5 A department of a ministry to which recommendations are made under section 15.4(1)(a) must publicly respond to those recommendations within 75 days of receipt of the recommendations.

2017 c8 s1

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 President of Treasury Board and 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 President of Treasury Board and 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.

2011 cC-11.5 s16;2013 c10 s32

Advocate not compellable as witness

17(1) 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.

(2) Notwithstanding subsection (1), the Advocate and a person employed or engaged under section 8(1) or (2) may give, but must not be compelled to give, evidence in an appeal under section 120 of the *Child, Youth and Family Enhancement Act* or any further appeal.

2011 cC-11.5 s17;2013 cC-12.5 s8

Dispute resolution

17.1(1) On application, the Court of Queen's Bench may decide

- (a) whether there are reasonable grounds that a stay under section 9(6) of an investigation under section 9(2)(d) should be initiated or remain in effect,
- (b) whether there are reasonable grounds that a stay under section 9.1(6) of a review under section 9.1 should be initiated or remain in effect,
- (c) whether there are reasonable grounds that an investigation that has been stayed under section 9(6) should be resumed under section 9(7), or
- (d) whether there are reasonable grounds that a review that has been stayed under section 9.1(6) should be resumed under section 9.1(7).

(2) On application, the Court of Queen's Bench may make an order respecting the provision of information or records in relation to an investigation under section 9(2)(d) or a review under section 9.1 in the event of a refusal or failure to comply with the requirement to provide information or records to the Advocate.

2017 c8 s1

Communications privileged

18(1) 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) or a review under section 9.1;
- (b) any report made under section 15(1) or 15.4.

(2) The name of a person who makes a report under section 4 or 5 of the *Child, Youth and Family Enhancement Act* that is made available to the Advocate during an investigation under section 9(2)(d) or a review under section 9.1 and information that would identify that person are privileged information of the person making the report.

(3) The Advocate shall not disclose the privileged information referred to in subsection (2) without the consent of the person.

2011 cC-11.5 s18;2017 c8 s1

Restrictions on disclosure of information and records

18.1(1) The Advocate and anyone acting for or under the direction of the Advocate shall not disclose any information or records obtained in performing their duties, powers and functions under this Act, except as provided in subsection (2).

(2) The Advocate may disclose, or may authorize anyone acting for or under the direction of the Advocate to disclose, information or records that are necessary for the purposes of

- (a) conducting an investigation under section 9(2)(d) or a review under section 9.1, or
- (b) establishing the grounds for findings and recommendations contained in a report under this Act.

(3) In conducting an investigation under section 9(2)(d) or a review under section 9.1 and in making a report under this Act, the Advocate and anyone acting for or under the direction of the Advocate must take every reasonable precaution to avoid disclosing, and shall not disclose, any information or records that would reveal confidential law enforcement information or records obtained in accordance with any protocol under section 9.3.

2017 c8 s1

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, including each report under section 15.4 of a completed review under section 9.1.

(1.1) The Advocate must report in the Advocate's annual report under subsection (1) on the progress of the implementation of the Advocate's recommendations.

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

(3) When a copy of the annual report is laid before the Legislative Assembly pursuant to subsection (2), the report so laid stands referred to the committee of the Legislative Assembly charged with the subject-matter of the report, or such other committee determined by the Legislative Assembly, for its review and report.

(4) The committee to which a report is referred pursuant to subsection (3) must report back to the Legislative Assembly within 90 days of the report being referred to it if it is then sitting or, if it is not sitting, within 15 days after the commencement of the next sitting.

2011 cC-11.5 s21;2017 c8 s1

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);
 - (b.1) prescribing a class of individuals for section 9(0.1)(d);
 - (b.11) prescribing persons or a class of persons that must be notified pursuant to section 9(8)(i);

- (b.2) prescribing persons or a class of persons that must be involved pursuant to section 9(9)(g);
- (b.21) respecting the process for conducting reviews under section 9.1;
- (b.22) prescribing a class of individuals for the purposes of section 9.1(1)(c)(iv);
- (b.23) respecting reports under section 9.1(4);
- (b.24) respecting the collection, use and disclosure of information under section 9.1(8);
- (b.25) prescribing persons or a class of persons that must be notified pursuant to section 9.1(9)(i);
- (b.26) prescribing persons or a class of persons that must be involved pursuant to section 9.1(10)(g);
- (b.3) respecting protocols under section 9.3;
- (b.31) respecting the establishment of a roster of persons to advise the Advocate under section 9.4;
- (b.32) respecting information and records for the purposes of section 14.1(7)(a)(iii);
- (b.33) respecting the criteria specified for recommendations included in reports under section 15;
- (b.34) respecting the establishment of the Audit Advisory Committee under section 15.1;
- (b.35) respecting the powers, duties and functions of the Audit Advisory Committee established under section 15.1;
- (b.36) respecting the criteria for reports under section 15.4;
- (b.4) specifying the criteria for recommendations included in reports under section 15.4;
- (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.

2011 cC-11.5 s22;2017 e8 s1;2017 c22 s9

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).

25 to 36 *(These sections make amendments to other Acts; the amendments have been incorporated into those Acts.)*

Coming into force

37 This Act comes into force on Proclamation.

(NOTE: Section 32 proclaimed in force December 15, 2011. The remainder of this Act proclaimed in force April 1, 2012.)



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