

2009 Bill 6

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Second Session, 27th Legislature, 58 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 6**

## **PROTECTION OF CHILDREN ABUSING DRUGS AMENDMENT ACT, 2009**

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MRS. FORSYTH

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 6*  
*Mrs. Forsyth*

## **BILL 6**

2009

### **PROTECTION OF CHILDREN ABUSING DRUGS AMENDMENT ACT, 2009**

*(Assented to , 2009)*

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

#### **Amends SA 2005 cP-27.5**

**1 The *Protection of Children Abusing Drugs Act* is amended  
by this Act.**

#### **2 Section 1(1) is amended**

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

(c) “Co-ordinator” means the person designated as the  
Co-ordinator by the Minister under section 10;

**(b) by adding the following after clause (d):**

(d.1) “director”, in respect of a protective safe house, means  
the person identified as the director under section 11(2);

**(c) in clause (e)(ii) by striking out “, other than a tobacco  
product”;**

**(d) by repealing clause (i) and substituting the following:**

(i) “protection order” means an order under section 2.1;

**(e) by adding the following after clause (j):**

## Explanatory Notes

**1** Amends chapter P-27.5 of the Statutes of Alberta, 2005.

**2** Section 1(1) presently reads in part:

*1(1) In this Act,*

- (c) “Commission” means the Alberta Alcohol and Drug Abuse Commission;*
- (e) “drug” means alcohol or a substance, other than a tobacco product,*
  - (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;*
- (i) “program” means a program approved by the Minister;*
- (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).

**3 Section 2 is repealed and the following is substituted:**

**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.

**Protection order**

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

**3** Section 2 presently reads:

*2(1) The guardian of a child may apply to the Court for an apprehension and confinement order.*

*(2) The guardian must give notice of the application to the Commission and any other guardian of the child.*

*(3) The Court may grant an apprehension and confinement order if the Court is satisfied that the child is abusing drugs.*

*(4) The apprehension and confinement order may*

*(a) authorize a police officer to apprehend and convey the child to a protective safe house,*

*(b) authorize the confinement of the child in the protective safe house for a period of not more than 5 days,*

*(c) authorize the director or the head of the safe house to confine the child in accordance with the order, and*

*(d) authorize the Commission to assess the child and to treat the child for detoxification during the confinement.*

*(5) A guardian of a child may apply to the Court for an order authorizing a police officer to enter, by force if necessary, a place or premises and search for and apprehend the child.*

*(6) The Court may grant the order applied for under subsection (5) if it is satisfied that the child may be found in the place or premises.*

*(7) The director or head of the protective safe house to which a child is conveyed must notify the Commission that the child is confined in the protective safe house.*

**(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.

#### **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.

#### **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.



**4 Section 3 is repealed and the following is substituted:**

**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.

**4** Section 3 presently reads:

*3(1) The Commission must assess the confined child and determine whether there are reasonable grounds to believe the confined child is abusing alcohol or a drug.*

*(2) In order to make an assessment, the Commission may request that*

*(a) the child, the child's guardian or the applicant appear before the Commission, or*

*(b) the child or the child's guardian provide the Commission with access to the child's medical records.*

*(3) The Commission may treat the child for the effects of detoxification while the child is confined in the protective safe house.*

*(4) The Commission may assess the child and may recommend a treatment program for the child after the child is released from the protective safe house.*

*(5) The Commission must make the assessment and recommendation under this section while the child is confined in the protective safe house.*

**5 The following is added after section 3:**

**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.

**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*.

**5** New provisions respecting discharge of child before and after expiry of period of confinement in protection order.

**6 Section 4 is repealed and the following is substituted:**

**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.

**7 The following is added after section 4:**

**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 leave of the Court.

**6** Section 4 presently reads:

*4(1) If a child is confined in a protective safe house under this Act, the director or head of the protective safe house must forthwith give the child a request for review form provided for in the regulations and inform the child in writing of*

- (a) the reasons for, and the time period of, the confinement,*
- (b) the right to ask the Court to review the apprehension and confinement order,*
- (c) the right to contact a lawyer, and*
- (d) the telephone number of the nearest office of the Legal Aid Society of Alberta.*

*(2) A review by the Court must be held within one day of filing the request for review.*

*(3) The Court may require service of a notice of review on a guardian of the child.*

*(4) After hearing a review under this section, the Court may make an order confirming, varying or terminating the original apprehension and confinement order.*

*(5) The Court shall not extend the period of confinement set by the original apprehension and confinement order.*

**7** Review of protection order; Court process.

(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.

**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.

#### **8 Section 5 is amended**

(a) **in subsection (1) by striking out** “an application to the Court, serve a notice” **and substituting** “hearing an application to the Court under section 2 or 4.1, give notice”;

(b) **in subsection (2)(c) by adding** “subject to subsection (3),” **before** “dispense”;

(c) **by adding the following after subsection (2):**

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

**9 Section 6(2) is amended by adding** “the Co-ordinator,” **after** “not exclude”.

#### **10 Section 9 is amended**

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

(a) the Co-ordinator,

(b) **in subsection (2) by striking out** “The person” **and substituting** “Subject to section 4.2(1) and the regulations, the person”.

**8** Section 5 presently reads:

*5(1) The applicant must, not less than 2 days before the date fixed for an application to the Court, serve a 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) dispense with service on any person.*

**9** Section 6(2) presently reads:

*(2) The Court may not exclude a director or a lawyer representing the child or the guardian of the child.*

**10** Section 9 presently reads in Part:

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

- (a) the Commission,*
- (b) a director,*
- (c) a board under the Hospitals Act,*

**11 Section 10 is repealed and the following is substituted:**

**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.

**12 Section 11 is amended**

**(a) in subsection (2) by striking out “or head of a safe” and substituting “of a protective safe”;**

**(b) by adding the following after subsection (2):**

**(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.

**13 Section 12 is amended**

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

**(b.1)** respecting information sessions for the purpose of section 2, including the written confirmation that must

*(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) 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.*

**11** Section 10 presently reads:

*10 The Minister may approve programs that in the opinion of the Minister are appropriate to treat children who are abusing alcohol or a drug.*

**12** Section 11(2) presently reads:

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

**13** Section 12 presently reads:

*12 The Minister may make regulations*

*(a) respecting the rules to be followed in a proceeding before the Court under this Act;*

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;

**(b) by repealing clauses (c) to (g) and substituting the following:**

(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.

- (b) respecting the forms, including notices, to be used under this Act;*
- (c) respecting the costs of treatment or programs;*
- (d) respecting the costs of the guardian or of a child who is receiving treatment under a program;*
- (e) respecting the assessment of children under this Act;*
- (f) respecting panels of the Commission that include professionals who are not members of the Commission;*
- (g) respecting treatment programs.*

**14 The following is added after section 12:**

**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.

**15(1) The *Health Governance Transition Act* is amended by this section.**

**(2) Section 22(2), (4) and (5) are repealed.**

**16 This Act comes into force on Proclamation.**

**14** Transitional provision.

**15** Amends SA 2008 cH-4.3. Section 22 presently reads:

*22(1) The Protection of Children Abusing Drugs Act is amended by this section.*

*(2) Section 1(1)(c) is repealed and the following is substituted:*

*(c) “Co-ordinator” means the person designated by the Minister as the Co-ordinator;*

*(3) Section 9(3) is amended by striking out “Alcohol and Drug Abuse Act,”.*

*(4) Section 12(f) is repealed.*

*(5) The following provisions are amended by striking out “Commission” wherever it occurs and substituting “Co-ordinator”:*

*section 2;*

*section 3;*

*section 9(1)(a).*

**16** Coming into force.





