

2008 Bill 211

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First Session, 27th Legislature, 57 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 211**

## **DOCUMENTATION OF CHILD ACCESS EXCHANGE ACT**

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MS DELONG

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 211

2008

### DOCUMENTATION OF CHILD ACCESS EXCHANGE ACT

(Assented to \_\_\_\_\_, 2008)

WHEREAS there is a need to encourage parents and guardians to have access to their children when it is in the best interests of the child;

WHEREAS courts are often required to reconsider or enforce existing parenting, contact, access or custody orders; and

WHEREAS those courts may benefit from a review of records, prepared by an impartial third party, recording instances of child access or exchange;

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

#### Definitions

1(1) In this Act,

- (a) “court order” means
  - (i) a parenting order,
  - (ii) a contact order, or
  - (iii) an order granting a right of custody or access under the *Provincial Court Act*, the *Divorce Act* (Canada) or similar legislation;
- (b) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;

- (c) “recorder” means a person who is approved to perform the services of a recorder under section 2.

(2) Unless the contrary intention appears, an expression used in this Act that is defined in the *Family Law Act* has the same meaning in this Act as it has for the purposes of that Act.

### **Application to be recorders**

**2(1)** Persons who wish to be recorders under his Act must apply to the Minister.

(2) Applicants must meet the eligibility criteria and conditions established by the Minister.

(3) The Minister may designate an official in his or her ministry to be responsible for receiving and approving or rejecting applications.

(4) The Minister or official appointed under subsection (3) shall notify applicants whether their application has been approved or rejected.

(5) The Minister or official designated pursuant to subsection (3) shall maintain an inventory of all persons who are approved to be recorders.

### **Duties of a recorder**

**3** A recorder must document

- (a) where and at what time access to a child is exchanged,
- (b) the person who arrived with the child and the person who departed with the child, and
- (c) any other information that is required to be provided concerning the exchange of access by court order, agreement with the recorder or as set by the Minister.

### **Admissibility**

**4** Documents created by a recorder under section 3 are admissible in evidence in a judicial proceeding without further proof.

### **Conditions of service**

**5(1)** Individuals who wish to have a recorder perform certain duties pursuant to section 3 must be parents or guardians or other

individuals who are entitled by court order or otherwise to have access to the child and must

- (a) apply to the recorder to use his or her services,
- (b) pay or agree to pay any fee charged by the recorder,
- (c) agree to abide by the terms and conditions that the recorder has in effect concerning the use of his or her facilities and services, and
- (d) provide any information that the Minister requires to be provided to the recorder.

(2) Failure to meet the requirements of subsection (1) or failure to provide correct information may result in the recorder denying the use of his or her services.

#### **Limitation of liability**

**6** A recorder or any other person who provides services under this Act is not liable for anything done or not done by that person in good faith while carrying out that person's powers or duties under this Act.

#### **Regulations**

**7** The Minister may make regulations

- (a) establishing criteria and setting conditions for persons who apply to be recorders;
- (b) setting fees related to applications by persons seeking to be recorders;
- (c) concerning the designation of recorders;
- (d) establishing forms to be used by a recorder in documenting exchanges of access;
- (e) identifying classes of persons who may use the services of a recorder for the purposes of this Act;
- (f) respecting the form and types of information and records to be kept by recorders;
- (g) concerning any other thing to give effect to this Act.

**Coming into force**

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





