

From: [REDACTED]  
 To: [CYAA Review](#)  
 Subject: Child and Youth Advocate Act  
 Date: Thursday, September 15, 2016 9:59:32 AM

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Hello. I tried many times to submit my answers to the questions of the survey at this address: <http://www.assembly.ab.ca/net/LO.aspx>, but it would not accept my answers. Therefore, I am forwarding them to you. My answers are in red. Thanks for taking the time to study the answers given to you by the public you serve.

Sincerely,

[REDACTED]

## Standing Committee on Legislative Offices: Have your say on legislation that helps vulnerable children and youth

- The Standing Committee on Legislative Offices invites you to provide input into its review of the *Child and Youth Advocate Act*.
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- The purpose of this review is to seek out areas of improvement with regard to the legislation that governs the Office of the Child and Youth Advocate.
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- The role of Alberta's Child and Youth Advocate is set out in the *Child and Youth Advocate Act*, which was created to ensure that the rights, interests and viewpoints of the most vulnerable children and youth in provincial government systems are considered in matters that affect them.
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- Should you wish to submit a formatted document, please email your submission to [CYAARevue@assembly.ab.ca](mailto:CYAARevue@assembly.ab.ca)

### Part A: Submitter Contact Information

First Name \*

[REDACTED]

Last Name \*

[REDACTED]

E-mail \*

[REDACTED]

Phone \*

[REDACTED]

City/Town \*

Gunn

Are you 18 years of age or over? \*

*Submissions from minors will be accepted*

Yes

No

Would you like your submission to remain confidential? \*

*Submissions from members of the public will remain confidential upon request; otherwise, they will be made public with the names of submitters and all third-party personal information removed.*

Yes

No

\*Required fields

### Part B

The Standing Committee on Legislative Offices would like to hear from you. The questions below are meant to assist you in creating your submission. Please answer only the questions that you feel are relevant. Each question includes a link to related information in the [discussion guide](#) for background.

**1. Age limits: under the Act services are provided to those in different age groups.**

[ - ] Section of the guide dealing with age limits

There are various age limits in which the Advocate can provide services to a child or youth depending upon the government service the child or youth is receiving and the service they require from the Advocate.

- Individual Advocacy: under 24 years for youth receiving support and financial care; otherwise, 18 years for other child intervention services. Up to age 27 years for youth in youth justice custody; otherwise, 18 years for other youth justice involvement.

- Legal representation: up to 18 years.

- Investigative reviews: up to 26 years for youth who received support and financial care up to age 24 years and their death was within two years of receiving this service. Otherwise, up to 24 years for youth with intervention involvement and up to age 27 for youth in youth justice custody.

The *Child and Youth Advocate Act* defines “child” as

(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*, [R.S.A. 2000, c. C-12 (s. 1(c))].

“Youth” means a child who is 16 years of age or older.

Section 9(4) provides an exception to the definition of “child” by stating that the Advocate cannot appoint a lawyer for a young person who is receiving assistance under section 57.3 of the *Child, Youth and Family Enhancement Act*.

Are these age limits appropriate? Please discuss your answer and provide suggestions if possible.

These ages are appropriate when the government is OFFERING help and assistance. The family unit should be supported until parents prove they are incapable of providing safety and provision to their children. When in care, a child who is able to express an opinion should be given due weight of opinion in determining his caregivers. Youth should be taught to work, go to school, and be responsible for themselves, rather than having government dependence offered as an easy alternative instead of working. That is, those young adults who can be taught to look after themselves should be encouraged to do so - far more than is presently being done. Too many young adults are being taught to continue their dependence on the government rather than learning to be responsible for themselves.

**2. Designated services: the Act permits the Advocate to provide services only to children and youth receiving designated Government services.**

[ - ] Section of the guide dealing with designated services

The *Child and Youth Advocate Act* defines “designated service” as

(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 (PSECA)*, or

(iii) a service provided to children in the youth criminal justice system (s. 1(e)).

This means the Office of the Child and Youth Advocate provides individual advocacy to children and youth receiving child intervention, PSECA and youth justice services. The OCYA provides legal representation to children and youth for child intervention and PSECA matters.

Does the Act permit the Advocate to provide appropriate services to children and youth? Should the Advocate provide services to children and youth who are receiving Government services other than what

is currently indicated within the Act? Please discuss your answer and provide suggestions if possible.

I am an adoptive parent of two girls who were foster children. The incredible positive transformations I've seen in their lives since the adoption took place are remarkable! Children need permanency more than almost any other need. The needs that you've mentioned should be allowed, yes; but adoption should be made more easily available, more quickly available, and more universally available to children in need - and it should be a simpler process for families to go through. Get these kids into forever families! But only if their parents can't / won't provide their basic needs.

### 3. Role and Function: the Act creates the role and functions of the Advocate.

[ - ] Section of the guide dealing with the role and functions of the Advocate

The *Child and Youth Advocate Act* creates the role, functions and general powers of the Advocate.

Section 9(1) states that the role of the Advocate and his office is to represent the rights, interests and viewpoints of children. Section 9(2) enables the Advocate and his Office to do their work. The exact wording of section 9(2) is as follows:

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<sup>1</sup>;

(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<sup>2</sup>;

(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 [under the *Child, Youth and Family Enhancement Act*, other than an adoptive service];

(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 [under the *Protection of Sexually Exploited Children Act* or a service provided to children in the youth criminal justice system;<sup>3</sup>],

(iii) the death of a child who at the time of the death was receiving a designated service [under the *Child, Youth and Family Enhancement Act*, other than an adoptive service], or

(iv) the death of a child who at any time during the two-year period immediately preceding the death received a designated service [under the *Child, Youth and Family Enhancement Act*, other than an adoptive service];

(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.<sup>4</sup>

<sup>1</sup> Section 9(3) provides that "[s]ubsection (2)(b) does not apply in respect of a designated service referred to in section 1(e)(iii)" of the Act; that is, a designated service provided to

youth in the criminal justice system.

<sup>2</sup> Section 9(4) provides that “[s]ubsection (2)(c) does not apply in respect of a child referred to in section 1(c)(ii)”; that is, a person under 22 years who is receiving support and financial assistance under section 57.3 of the *Child, Youth and Family Enhancement Act*.

<sup>3</sup> Section 9(5) provides that “[s]ubsection (2)(d)(ii) does not apply in respect of a designated service referred to in section 1(e)(iii)”; that is, youth in the criminal justice system – “unless at the time of the serious injury to or death of the child, the child was in open or secure custody.”

<sup>4</sup> There are currently no other functions prescribed in the regulations.

Should the role of the Advocate stay the same? Is the Advocate able to do enough or should the Advocate be able to do more? Please discuss your answer and provide suggestions if possible.

Many points in this section do not specify that the Advocate is to represent the needs of children in social services' care. The Advocate's role should be restricted to those children. I do not believe the Advocate needs any further power than is stated in these points - and we need to ensure that families who are providing good care for their children are not interfered with by government - by the Advocate or any other department - regardless of current political leanings.

#### **4. Powers: the Act specifies the powers of the Advocate.**

[ - ] Section of the guide specifying the powers of the Advocate

The powers of the Child and Youth Advocate are set out in the Act as follows:

- Section 8(1): set up the Office of the Child and Youth Advocate.
  
- Section 10: delegate to others most of the powers, duties and functions of the Advocate under the Act.
  
- Section 13: broad access to government information that may be used for advocacy and investigations.
  
- Section 14: specific powers relating to investigation including the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

Does the Act provide the Advocate with sufficient powers to conduct the roles and functions set out in the Act? Are other powers necessary? Please discuss your answer and provide suggestions if possible.

The role of the Advocate must be to help children in care to be protected from those who would disrupt their lives or harm them. The role of the Advocate needs to be restricted from interfering in the lives of families who are doing their best to provide for their children. In light of this need for restricted power, this section is scary. Section 10 does not denote who the "others" may be - and it should. Section 13 is far too vague! What exactly does "broad access to government information" mean? The role of the Advocate can be easily abused, and needs to be restricted from overarching influence in the lives of peaceful citizens of this province.

#### **5. Information Protection: the Act indicates how the information provided by a child is protected.**

[ - ] Section of the guide dealing with the protection of information

The Act protects the information that is provided by a child or by someone during an investigation.

- Section 18: all information provided during an investigation is privileged (kept confidential).
  
- Section 20: information provided by a child to the Advocate in confidence is privileged. An advocate must not be compelled to give evidence in a legal action.

Is the information provided by a child to an advocate sufficiently protected? Is the information provided for an investigation sufficiently protected? Please discuss your answer and provide suggestions if possible.

It may be protected too much. Any information garnered from a child should be accessible by that child's parents if those parents have not broken criminal laws. If there is legal action against a parent, that parent should know what the accusations against him are based on. Governmental power has been abused in terms of their powers to break up innocent families before, both abroad and in this province. Sometimes a child will reference an incident that, in his/her childlike understanding, may come across very differently than it actually happened. A parent will possibly have access to further information that will prove the incident in question to be different than it may appear in a childish perspective. A child should be protected from predators, yes. A child's experiences should not be made public - agreed. But to keep a child's information confidential from his parents is dangerous.

#### **6. Investigations: what the Advocate can investigate is set out in the Act.**

[ - ] Section of the guide referring to investigations

The circumstances in which the Advocate can begin an investigation are set out in the Act.

As discussed above, section 9(2)(d) of the Act enables the Advocate to launch an

investigation. If, in the opinion of the Advocate, an investigation is warranted or in the public interest, the Advocate may investigate systemic issues arising from

- A serious injury to or the death of a child who at the time of the injury or death was receiving a designated service ,
- The death of a child who at the time of the death was receiving a designated service, or
- The death of a child who at any time during the two-year period immediately preceding the death received a designated service (s. 9(2)(d)).

Powers Relating to Investigations

Section 14 of the Act sets out the powers of the Advocate when conducting an investigation. During an investigation, the Advocate has all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*, [R.S.A. 2000, c. P-39]. This includes the ability to engage the services of experts to assist in an investigation and the ability to summon any person as a witness and require them to give evidence under oath about the matter being investigated.

Should the Advocate be able to investigate the same, more, less or different issues? Do you agree with how the Act enables the Advocate to conduct investigations? Please discuss your answer and provide suggestions if possible.

In the case of death or serious injury, the Advocate should investigate fully. However, compassion and, usually, legal immunity should be granted parents who had no ill intent or intentional negligence in the death or injury of their child. That is, if a child is injured or killed in an accident which could have happened to anyone else in their circumstances, those parents should not be put through more grief by an intense investigation. Case in point: the child who died recently, who had not been vaccinated. Those parents should never have received the treatment they were given. When a parent exercises his right to choose the health care of his children, believing that he is doing the right thing, and death or injury occurs which may not be the result of his action or inaction, that parent should not be treated as a criminal.

#### **7. Reporting: what the Advocate can report is set by the Act.**

[ - ] Section of the guide referring to reporting

The Act sets out the process of reporting following the completion of an investigation.

After completing an investigation the Advocate must make a report containing recommendations for any public body or other person the Advocate considers appropriate. The report may also address any other matters the Advocate considers appropriate (ss. 15(1)(a) and (b)).

The report cannot contain any findings of legal responsibility or any conclusions of law (s. 15(2)).

A report 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 (s. 15(3)).

The Advocate must provide a copy of the report to the public body that is directly or indirectly the subject of investigation and to the public (ss. 15(4) and (5)).

Do the reports contain enough information? Should they contain the same, more or different information? Please discuss your answer and provide suggestions if possible.

The Advocate's judgment must be based on good law, and not merely a matter of opinion. Their finding must be related to the upholding of good law.

#### **8. Other: please comment on any topic related to the Act not addressed by this discussion guide.**

The rights of parents as full authorities and caregivers of their own children must be upheld, and not hindered by any change in the law.

These rights may be waived when their children are repeatedly found to be in physical danger because of inadequate care by parents.

Differing ideologies, when those ideologies are not dangerous in terms of the physical well-being of the children or others, should never be a cause of government intervention in family life.