



Province of Alberta

PROTECTION OF CHILDREN ABUSING DRUGS ACT

**Statutes of Alberta, 2005
Chapter P-27.5**

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Office Consolidation

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Note

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

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2009 c12 s2 amends s1(1), s3 repeals and substitutes s2 and adds ss2.1 to 2.3, s4 repeals and substitutes s3, s5 adds ss3.1 and 3.2, s6 repeals and substitutes s4, s7 adds ss4.1 and 4.2, s8 amends s5, s9 amends s6(2), s10 amends s9, s11 repeals and substitutes s10, s12 amends s11, s13 amends s12, s14 adds s12.1.

Regulations

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

Alta. Reg.	Amendments
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Protection of Children Abusing Drugs Act

Protection of Children Abusing Drugs

Act Court Forms and Procedures138/2006 108/2011

PROTECTION OF CHILDREN ABUSING DRUGS ACT

Chapter P-27.5

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Preamble

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

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

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

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

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

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

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

Interpretation

1(1) In this Act,

- (a) “alcohol” means liquor as defined under the *Gaming and Liquor Act*;
- (b) “child” means a person under 18 years of age;
- (c) “Co-ordinator” means the person designated by the Minister as the Co-ordinator;
- (d) “Court” means the Provincial Court;
- (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;
- (f) “guardian” means guardian as defined in the *Child, Youth and Family Enhancement Act*;
- (g) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (h) “police officer” means a member of a municipal police service, a member of the Royal Canadian Mounted Police, or a peace officer appointed under the *Peace Officer Act* for the purposes of this Act;
- (i) “program” means a program approved by the Minister;
- (j) “protective safe house” means premises approved by the Minister as a protective safe house.

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

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

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

Court order

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 Co-ordinator 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 Co-ordinator 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 Co-ordinator that the child is confined in the protective safe house.

2005 cP-27.5 s2;2008 cH-4.3 s22

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 alcohol or a drug.
- (2)** In order to make an assessment, the Co-ordinator may request that
- (a) the child, the child's guardian or the applicant appear before the Co-ordinator, or
 - (b) the child or the child's guardian provide the Co-ordinator with access to the child's medical records.
- (3)** The Co-ordinator may treat the child for the effects of detoxification while the child is confined in the protective safe house.
- (4)** The Co-ordinator 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 Co-ordinator must make the assessment and recommendation under this section while the child is confined in the protective safe house.

2005 cP-27.5 s3;2008 cH-4.3 s22

Review of Court order

- 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.

Service

- 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.

Exclusion from hearing

- 6(1)** Subject to subsection (2), the Court may exclude any person, including a guardian of the child or the child, from all or part of the proceedings if the Court considers that person's presence to be unnecessary to the conduct of the proceedings and the Court is satisfied that
 - (a) the evidence or information presented to the Court may be seriously injurious or seriously prejudicial to the child who is the subject of a hearing under this Act or to a child who is a witness at a hearing under this Act, or
 - (b) it would be in the interest of public morals, the maintenance of order or the proper administration of justice to exclude any or all members of the public from the courtroom.
- (2) The Court may not exclude a director or a lawyer representing the child or the guardian of the child.

Ban on publication

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

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

Witnesses

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

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

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

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

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

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

Confidential evidence

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

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

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

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

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

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

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

2005 cP-27.5 s9;2008 cH-4.3 s22

Programs

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.

Safe houses

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

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

Regulations

12 The Minister may make regulations

- (a) respecting the rules to be followed in a proceeding before the Court under this Act;
- (b) respecting the forms, including notices, to be used under this Act;
- (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) repealed 2008 cH-4.3 s22;
- (g) respecting treatment programs.

2005 cP-27.5 s12;2008 cH-4.3 s22

Coming into force

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