



Province of Alberta

# **PROTECTION OF SEXUALLY EXPLOITED CHILDREN ACT**

Revised Statutes of Alberta 2000  
Chapter P-30.3

Current as of April 1, 2012

## **Office Consolidation**

© Published by Alberta Queen's Printer

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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 *Protection of Sexually Exploited Children Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Protection of Sexually Exploited Children Act</b>		
Court Forms and Procedures .....	7/99 .....	30/2001, 251/2001, 27/2002, 354/2003, 8/2005, 193/2007
Protection of Sexually Exploited Children.....	194/2007 .....	68/2008, 31/2012

# **PROTECTION OF SEXUALLY EXPLOITED CHILDREN ACT**

## **Chapter P-30.3**

### *Table of Contents*

<b>1</b>	Interpretation
<b>2</b>	Apprehension order
<b>2.1</b>	Review of confinement decision
<b>3</b>	Director's decision
<b>3.1</b>	Adjournment
<b>3.2</b>	Review of confinement order
<b>3.3</b>	Service
<b>3.4</b>	Appeal
<b>3.5</b>	Procedure on appeal
<b>3.6</b>	Decision of Court
<b>4</b>	Notice to guardian
<b>5</b>	Director's responsibilities
<b>6</b>	Restraining order
<b>6.1</b>	Definition
<b>6.2</b>	Exclusion from hearing
<b>6.3</b>	Ban on publication
<b>6.4</b>	Witnesses
<b>6.5</b>	Confidential evidence
<b>7</b>	Programs
<b>7.1</b>	Voluntary agreements
<b>7.2</b>	Services for 18-year-olds
<b>8</b>	Regulations
<b>9</b>	Offence

### **Preamble**

WHEREAS the safety, security and well being of children and families is a paramount concern of the Government of Alberta;

WHEREAS children engaged in prostitution are victims of sexual abuse and sexual exploitation and require protection;

WHEREAS the Legislature of Alberta recognizes the responsibility of families, communities and the Government of Alberta to provide that protection;

WHEREAS the Government of Alberta is committed to assisting families and communities in providing that protection;

WHEREAS the Government of Alberta is committed to ensuring the safety of all children; and

WHEREAS the Government of Alberta is committed to assisting children in ending their involvement with prostitution;

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) “child” means a person under the age of 18 years;
- (a.1) “Child and Youth Advocate” means the person appointed as the Child and Youth Advocate pursuant to the *Child and Youth Advocate Act*;
- (b) “Court” means the Provincial Court;
- (c) “director” means a director under the *Child, Youth and Family Enhancement Act*;
- (d) “guardian” means guardian as defined in the *Child, Youth and Family Enhancement Act*;
- (e) “Minister” means the Minister designated with the responsibility for the *Child, Youth and Family Enhancement Act*;
- (f) “police officer” means a police officer as defined in the *Police Act*;
- (f.1) “program” means a program established under section 7;
- (g) “protective safe house” means premises prescribed by the Minister as a protective safe house.

(2) For the purposes of this Act, a child is in need of protection if the child is sexually exploited because the child is engaging in prostitution or attempting to engage in prostitution.

RSA 2000 cP-28 s1;RSA 2000 c26(Supp) s2;2003 c16 s117;  
2005 c31 s30;2007 c8 s4;2011 cC-11.5 s33

#### **Apprehension order**

**2(1)** If a police officer or director believes on reasonable and probable grounds that a person is a child and is in need of protection, the police officer or director may apply to a judge of the Court or to a justice of the peace for an order, and the Court may grant an order,

- (a) authorizing the police officer or director to apprehend and convey the child to the child's guardian or to an adult who in the opinion of the police officer or director is a responsible adult who has care and control of the child, or
- (b) authorizing the police officer or director to apprehend and convey the child to a protective safe house and authorizing a director to confine the child for up to 5 days to ensure the safety of the child and to assess the child,

and if the judge of the Court or justice of the peace is satisfied that the child may be found in a place or premises, the judge of the Court or justice of the peace may, by order, authorize the police officer or director to enter, by force if necessary, that place or premises to search for and apprehend the child.

(2) If, in the opinion of the police officer or director, it would be impracticable to appear personally before a judge of the Court or justice of the peace to apply for an order in accordance with subsection (1), the police officer or director may make the application by telephone or other means of telecommunication to a judge of the Court or justice of the peace.

(3) The information on which an application for an order by telephone or other means of telecommunication is based must be given on oath and must be recorded verbatim by the judge of the Court or justice of the peace who, as soon as practicable, must cause the record or a transcription of the record, certified by the judge of the Court or the justice of the peace as to time, date and contents, to be filed with the clerk of the Court.

(4) For the purposes of subsection (3), an oath may be administered by telephone or other means of telecommunication.

(5) The information submitted by telephone or other means of telecommunication must include the following:

- (a) a statement of the circumstances that make it impracticable for the police officer or director to appear personally before a judge of the Court or a justice of the peace;
- (b) the identity of the child, if known;
- (c) a statement setting out the police officer's or director's grounds for believing that the person is a child and is in need of protection;
- (d) a statement as to any prior application for an order under this section in respect of the same child of which the police officer or director has knowledge.

**(6)** A judge of the Court or justice of the peace referred to in subsection (2) who is satisfied that an application made by telephone or other means of telecommunication

- (a) is based on information that conforms to the requirements of subsection (5), and
- (b) discloses reasonable grounds for dispensing with personal appearance for the purpose of making an application under subsection (1)

may make an order conferring the same authority respecting apprehension, conveying, confinement and entry as may be conferred under subsection (1).

**(7)** If a judge of the Court or justice of the peace makes an order under subsection (6),

- (a) the judge of the Court or justice of the peace must complete and sign an order in the prescribed form, noting on its face the time, date and place at which it was made,
- (b) the police officer or director, on the direction of the judge of the Court or justice of the peace, must complete, in duplicate, a facsimile of the order in the prescribed form, noting on its face the name of the judge of the Court or justice of the peace making the order and the time, date and place at which it was made, and
- (c) the judge of the Court or justice of the peace must, as soon as practicable after the order has been made, cause the order to be filed with the clerk of the Court, who must provide a copy to a director.

**(8)** An order made by telephone or other means of telecommunication is not subject to challenge by reason only that

the circumstances were not such as to make it reasonable to dispense with personal appearance for the purpose of making an application under subsection (1).

**(9)** Notwithstanding subsection (1), if a police officer or director has reasonable and probable grounds to believe that a person is a child and that the child's life or safety is seriously and imminently endangered because the child is engaging in prostitution or attempting to engage in prostitution, the police officer or director may apprehend and convey the child to a protective safe house without an order.

**(10)** Notwithstanding subsection (1)(b), a director may confine for up to 5 days a child conveyed to a protective safe house under subsection (9) if the director considers it necessary in order to ensure the safety of the child and to assess the child.

**(11)** If subsection (9) applies, a police officer or director who has reasonable and probable grounds to believe that the child may be found in a place or premises may, without an order and by force if necessary, enter that place or those premises and search for the child.

**(12)** If a director confines a child pursuant to subsection (10), the director must appear before the Court within 3 days after the commencement of the confinement to show cause why the confinement was necessary.

**(13)** A director must inform a child with respect to whom a show cause hearing is to be held under subsection (12), in writing, of

- (a) the director's reasons for, and the time period of, the confinement,
- (b) the time and place of the show cause hearing,
- (c) the right to attend the show cause hearing,
- (d) the right to contact a lawyer, and
- (e) the telephone number of the office of the Child and Youth Advocate.

**(14)** A director or a child with respect to whom a show cause hearing is being held or is to be held, or both the director and child, may ask the Court to grant an adjournment of up to 2 days, or of more than 2 days if the director and the child agree.

**(15)** If the Court grants an adjournment under subsection (14), the Court may make an interim order to confine the child to a protective safe house if the show cause hearing will not be

completed within the time period of the confinement set by the director under subsection (10).

RSA 2000 cP-28 s2;RSA 2000 c26(Supp) s3;  
2007 c8 s5

#### **Review of confinement decision**

**2.1(1)** If a child is confined to a protective safe house under section 3(1)(b)(iii), the director must forthwith give the child a request for review form provided for in the regulations and inform the child in writing of

- (a) the director's reasons for, and the time period of, the confinement,
- (b) the right to ask the Court to review the director's decision to confine,
- (c) the right to contact a lawyer, and
- (d) the telephone number of the office of the Child and Youth Advocate.

**(2)** If a show cause hearing has not been held under section 2(12) with respect to the child, a child who is confined under section 3(1)(b)(iii) may ask the Court to review the director's decision to confine by completing a request for review form, filing it with the Court and serving it on a director as soon as practicable.

**(3)** A review must be held within one day of filing and serving on a director the request for review.

**(4)** Notwithstanding subsection (3), a director or a child with respect to whom a review is being held, or both the director and child, may ask the Court to grant an adjournment of up to 2 days, or of more than 2 days if the director and the child agree.

**(5)** If the Court grants an adjournment under subsection (4), the Court may make an interim order to confine the child to a protective safe house if the review will not be completed within the time period of the confinement set by the director under section 3(1)(b)(iii).

**(6)** After hearing a review under this section, the Court may make an order confirming, varying or terminating the director's decision to confine.

**(7)** The Court shall not under subsection (6) extend the time period of the confinement set by the director under section 3(1)(b)(iii).

RSA 2000 c26(Supp) s4;2007 c8 s6



**Director's decision**

**3(1)** If a child is apprehended under section 2,

- (a) a police officer that apprehends the child must notify a director forthwith, and
- (b) on the child's being conveyed to a protective safe house, a director must
  - (i) return the child to the custody of the child's guardian or to an adult who in the opinion of the director is a responsible adult who has care and control of the child,
  - (ii) release the child if the child has attained the age of 16 years and in the opinion of the director the child is capable of providing for the child's own needs and safety, or
  - (iii) confine the child, pursuant to section 2, in a protective safe house to ensure the safety of the child and to assess the child.

**(2)** If a child is confined under subsection (1)(b)(iii) and after assessing the child a director is of the opinion that the child would benefit from a further period of confinement, the director may apply to the Court for an order to confine the child for a further period of confinement in a protective safe house for up to 21 days by completing, filing and serving on the child an application to confine form provided for in the regulations while the child is still confined.

**(3)** If a director does not make an application under subsection (2) and the director does not release the child from a confinement made pursuant to

- (a) subsection (1)(b)(iii), or
- (b) an interim order to confine under section 2(15) or 2.1(5),

the child is deemed to have been apprehended under section 19 of the *Child, Youth and Family Enhancement Act*.

**(4)** If, on an application under subsection (2), the Court is satisfied that

- (a) release of the child from a protective safe house presents a risk to the life or safety of the child because the child is unable or unwilling to stop engaging in or attempting to engage in prostitution,

- (b) less intrusive measures are not adequate to reduce the risk, and
- (c) it is in the best interests of the child to order a period of further confinement for the purposes of making programs or other services available to the child in a safe and secure environment,

the Court may make an order for further confinement of the child to a protective safe house for up to 21 days.

(5) A director may apply to the Court to renew an order to confine by completing, filing and serving on the child an application to renew an order to confine form provided for in the regulations, and if the Court is satisfied that the grounds in subsection (4) are met, the Court may renew the order one time to confine the child to a protective safe house for up to a further 21 days.

(6) If a child who is confined under subsection (1)(b)(iii) or who is subject to an order to confine leaves a protective safe house without the authorization of a director, a director or a peace officer may apprehend and convey the child, and detain the child while the child is being conveyed, to a protective safe house.

RSA 2000 cP-28 s3;RSA 2000 c26(Supp) s5;2003 c16 s117

#### **Adjournment**

**3.1(1)** The Court may adjourn the hearing of an application under section 3 for not more than 7 days

- (a) with the consent of the child and a director, or
- (b) if the Court is satisfied that the adjournment is necessary in order to obtain evidence to assist the Court in determining whether an order to confine should be made.

(2) Unless the Court is satisfied that it would be in the best interest of the child to order otherwise, the Court must in respect of a child who is confined under this Act extend the confinement pending the hearing of an application under section 3.

(3) The number of days that the hearing of an application under section 3 is adjourned must be included in a calculation of the duration of the order made at the hearing if the child is confined in a protective safe house during the adjournment.

RSA 2000 c26(Supp) s6

#### **Review of confinement order**

**3.2(1)** A child with respect to whom an order to confine has been made, or a director or a guardian of the child, may apply to the

Court by completing and filing a notice for review form provided for in the regulations for a review of the Court order to confine under section 3.

- (2) An application under subsection (1) may be made
  - (a) by a director, at any time during the period of the order and the period of any renewal of the order, or
  - (b) by the child who is the subject of the order or the guardian of the child, once during the period of the order and once during the period of any renewal of the order.
- (3) A review must be heard not more than 5 days after the notice of review is filed with the Court or within any further period the Court directs.
- (4) After a review is heard under this section, the Court may make an order confirming, varying or terminating the order to confine.
- (5) The Court shall not under subsection (4) extend the period of confinement in the order being reviewed.

RSA 2000 c26(Supp) s6;2001 c10 s6

### **Service**

**3.3(1)** The applicant must, not less than 2 days before the date fixed for a hearing, serve a notice of the nature, date, time and place of the hearing under sections 3.2 and 3.5 by any method orally or in writing,

- (a) if the applicant is the child, on the director,
  - (b) if the applicant is the director, on the child and on the guardian unless a director is the guardian, and
  - (c) if the applicant is the guardian of the child, on the child and director.
- (2) The Court or Court of Queen's Bench may do any of the following at the time of 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 other than the director.

RSA 2000 c26(Supp) s6

**Appeal**

**3.4(1)** An order of the Court made under section 3(4) or (5) may be appealed to the Court of Queen's Bench not more than 15 days after the date on which the order is made or renewed

- (a) by a director,
- (b) by a guardian on behalf of the child who is the subject of an order to confine, or
- (c) by the child who is the subject of an order to confine.

**(2)** If the Court refuses to make an order to confine under section 3(4) or to renew an order to confine under section 3(5), the applicant may appeal the refusal to the Court of Queen's Bench not more than 15 days after the date of the refusal.

RSA 2000 c26(Supp) s6

**Procedure on appeal**

**3.5(1)** An appeal to the Court of Queen's Bench under this Act must be commenced by

- (a) filing a notice of appeal setting out the grounds of the appeal with the clerk of the Court, and
- (b) filing a copy of the notice of appeal in the Court of Queen's Bench.

**(2)** If a notice of appeal is filed pursuant to this section, the appellant may apply to the Court or the Court of Queen's Bench for an order staying the execution of the order appealed pending the hearing of the appeal.

**(3)** On a notice of appeal being filed with the clerk of the Court, the clerk must forward to the clerk of the Court of Queen's Bench the record of the evidence taken and all other material in the possession of the Court that pertains to the matter being appealed not more than 7 days from the day the notice of appeal is filed with the clerk of the Court.

**(4)** On the requirements of subsection (3) and section 3.3(1) having been met, the Court of Queen's Bench must set down the appeal for hearing.

**(5)** Unless the Court of Queen's Bench directs otherwise, the appeal must come on for a hearing at the first sitting of the Court of Queen's Bench to be held after the filing of the notice of appeal in the Court of Queen's Bench.

**(6)** Notwithstanding subsections (4) and (5), if an appeal is not heard within 90 days of the filing of the notice of appeal, unless the Court of Queen's Bench grants leave to extend the time within which the appeal must be heard, the clerk of the Court of Queen's Bench must fix the next available date as the date on which the appeal must be heard and must notify the parties of the time and place of the hearing.

RSA 2000 c26(Supp) s6

**Decision of Court**

**3.6(1)** On hearing an appeal, the Court of Queen's Bench must determine the appeal on the material filed with or forwarded to the Court of Queen's Bench and any further evidence that the Court of Queen's Bench may require or permit to be given.

**(2)** The Court of Queen's Bench may

- (a) confirm the order or refusal,
- (b) revoke or vary the order made, or
- (c) make any order the Court could have made in the hearing before it.

RSA 2000 c26(Supp) s6

**Notice to guardian**

**4(1)** If a child has been apprehended and conveyed to a protective safe house, a director must notify the guardian of the child forthwith

- (a) that the child has been apprehended, and
- (b) of the intention, if any, of the director to confine the child pursuant to section 3(1)(b)(iii).

**(1.1)** If a director makes an application for an order to confine or to renew an order to confine under section 3, the director must notify the guardian of the child forthwith of the nature, time and place of the application.

**(2)** Notice under this section may be by any method and may be oral or in writing.

**(3)** The validity of proceedings under this Act is not affected by the director's inability, after reasonable effort, to give notice in accordance with this section.

RSA 2000 cP-28 s4; RSA 2000 c26(Supp) s7

**Director's responsibilities**

**5** If a child has been apprehended and conveyed to a protective safe house, a director has exclusive custody of the child and is responsible for the child's care, maintenance and well being while the child is confined in the protective safe house.

1998 cP-19.3 s5

**Restraining order**

**6(1)** If a child is confined under this Act and a director has reasonable and probable grounds to believe that a person

- (a) has physically or emotionally injured or sexually abused or is likely to physically or emotionally injure or sexually abuse the child within the meaning of the *Child, Youth and Family Enhancement Act*, or
- (b) has encouraged or is likely to encourage the child to engage in prostitution,

the director may apply to the Court of Queen's Bench for an order restraining that person from contacting the child or associating in any way with the child.

**(2)** If a child is participating voluntarily in a program to assist the child in ending involvement in prostitution and the child or the child's guardian has reasonable and probable grounds to believe that a person

- (a) has physically or emotionally injured or sexually abused or is likely to physically or emotionally injure or sexually abuse the child within the meaning of the *Child, Youth and Family Enhancement Act*, or
- (b) has encouraged or is likely to encourage the child to engage in prostitution,

the child or the child's guardian may apply to the Court of Queen's Bench for an order restraining that person from contacting the child or associating in any way with the child.

RSA 2000 cP-28 s6;2003 c16 s117;2009 c53 s145

**Definition**

**6.1** In sections 6.2 to 6.5, "Court" means the Provincial Court and the Court of Queen's Bench.

RSA 2000 c26(Supp) s8

**Exclusion from hearing**

**6.2(1)** Subject to subsection (2), if 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,

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.

- (2) The Court may not exclude a director or a lawyer representing a child.

RSA 2000 c26(Supp) s8;2008 cH-4.3 s23

#### **Ban on publication**

**6.3(1)** No person shall publish the name or a photograph of a child or of the child's parent or guardian in a manner that reveals that the child is receiving or has received services under this Act.

- (2) Despite subsection (1),

- (a) a director may publish or consent to the publication of the name or a photograph of a child or of the child's parent or guardian, and any other information related to the child, if, in the opinion of the director, the publication is in the child's best interest or necessary for the proper administration of justice;
- (b) a child who is 16 years of age or older may publish, or consent to the publication of, the child's name or photograph in a manner that reveals that the child has received services under this Act;
- (c) the Court may, on the application of
  - (i) a child,
  - (ii) a parent or guardian of a child, or
  - (iii) any interested party, with leave of the Court,

grant permission to the child, the parent or guardian or the interested party, as the case may be, to publish or consent to the publication of the name or photograph of the child or of the child's parent or guardian in a manner that reveals that the child is

receiving or has received services under this Act if the Court is satisfied that the publication is in the child's best interest or the public interest.

(3) A person who brings an application under subsection (2)(c) must provide notice of the application to a director.

(4) Any person who contravenes this section is guilty of an offence and liable to a fine of not more than \$10 000 and in default of payment to imprisonment for a term of not more than 6 months.

(5) In this section, if a director is or has been a guardian of the child, a reference to "guardian" includes the person who was the guardian of the child immediately before a director became the guardian of the child.

RSA 2000 c26(Supp) s8;2007 c8 s7;2011 cC-11.5 s33

#### Witnesses

**6.4(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) Notwithstanding 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.

RSA 2000 c26(Supp) s8



**Confidential evidence**

**6.5(1)** Notwithstanding Part XXII of the *Criminal Code* (Canada), the Court may issue a subpoena requiring a board under the *Hospitals Act* or the Chief Medical Officer under the *Public Health Act*, or the designate of either 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 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 or a lawyer representing either of them to examine the documents, records or other information before the time stated in the subpoena.

(5) A director or a child 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.

RSA 2000 c26(Supp) s8;2008 cH-4.3 s23

**Programs**

**7** The Minister may establish programs that in the opinion of the Minister are necessary to assist children and persons described in section 7.2 in ending their involvement in prostitution.

RSA 2000 cP-28 s7;2007 c8 s8

**Voluntary agreements**

**7.1(1)** If the director is of the opinion that a child is in need of protection, an agreement to make programs or other services available to the child may be entered into by

- (a) the child, a director and the child's guardian if other than a director, or
- (b) if the child is 16 years of age or older, the child and a director.

- (2) The agreement must be in the form provided for in the regulations and must
- (a) describe the programs or other services to be made available,
  - (b) state the contributions, financial or otherwise, to be made by the guardian with respect to the programs or other services to be made available to the child,
  - (c) state the duration of the agreement, and
  - (d) state how the agreement may be amended or terminated.
- (3) The duration of an agreement under this section may not exceed 6 months but the agreement may be renewed.

RSA 2000 c26(Supp) s9;2007 c8 s9

**Services for 18-year-olds**

**7.2(1)** If a child is the subject of an agreement under section 7.1 immediately before attaining the age of 18 years, a director may continue to provide that person with services

- (a) for the periods and the purposes, and
- (b) on the conditions

provided for in the regulations.

- (2) An agreement must be in the form provided for in the regulations and must
- (a) describe the services to be made available,
  - (b) state the duration of the agreement, and
  - (c) state how the agreement may be amended or terminated.
- (3) The duration of an agreement under this section may not exceed 6 months but an agreement may be renewed.

2007 c8 s10

**Regulations**

- 8(1)** The Lieutenant Governor in Council may make regulations
- (a) respecting the rules to be followed in a proceeding before the Court under this Act;

- (b) respecting the forms, other than agreements under sections 7.1 and 7.2, and notices, to be used under this Act.
- (2) The Minister may make regulations
  - (a) prescribing premises as protective safe houses;
  - (b) respecting assessment of children in need of protection;
  - (c) respecting services under section 7.2;
  - (d) respecting the form of agreements under sections 7.1 and 7.2.

RSA 2000 cP-28 s8; RSA 2000 c26(Supp) s10;  
2007 c8 s11

#### **Offence**

##### **9** Any person who

- (a) wilfully causes a child to be a child in need of protection,  
or
- (b) obstructs or interferes with, or attempts to obstruct or  
interfere with, a director or a police officer exercising any  
power or performing any duty under this Act

is guilty of an offence and liable to a fine of not more than \$25 000  
or to imprisonment for a period of not more than 24 months or to  
both a fine and imprisonment.

1998 cP-19.3 s9

