



BILL NO. 202

Government Bill

*1st Session, 59th General Assembly
Nova Scotia
54 Elizabeth II, 2005*

An Act to Amend Chapter 5 of the Acts of 1990, the Children and Family Services Act

CHAPTER 15
ACTS OF 2005

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
MAY 19, 2005**

The Honourable David M. Morse
Minister of Community Services

*Halifax, Nova Scotia
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**An Act to Amend Chapter 5
of the Acts of 1990,
the Children and Family Services Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 47 of Chapter 5 of the Acts of 1990, the *Children and Family Services Act*, as amended by Chapter 10 of the Acts of 1996, is further amended by adding immediately after subsection (7) the following subsection:

(8) At least thirty days prior to consenting to an order for adoption, the Minister shall inform any person who has been granted an order for access under subsection (2) of the Minister's intention to consent to the adoption.

2 (1) Subsection 48(4) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by adding "or to vary or terminate access under such an order" immediately after "custody" in the fifth line.

(2) Subsection 48(5) of Chapter 5 is amended by

(a) striking out "Subject to" in the first line and substituting "Notwithstanding"; and

(b) adding "or to vary or terminate access under such an order" immediately after "custody" in the third line.

3 Subsection 70(3) of Chapter 5 is repealed.

4 Subsection 76(1) of Chapter 5, as amended by Chapter 10 of the Acts of 1996, is further amended by

(a) adding "or relative" immediately after "parent" in the last line of clause (a); and

(b) adding "with respect to a child in permanent care and custody or a child that is the subject of an adoption agreement" immediately after "it" in the third line of clause (b).

5 Subsection 77(2) of Chapter 5 is repealed and the following subsection substituted:

(2) Where the application is for the adoption of a child in permanent care and custody or a child that is the subject of an adoption agreement, the Minister may submit a written recommendation to the court respecting the adoption.

6 Section 78 of Chapter 5 is amended by adding immediately after subsection (4) the following subsections:

(5) Subject to subsection (6), where an order for adoption is made in respect of a child, any order for access to the child ceases to exist.

(6) Where an order for adoption is made in respect of a child, the court may, where it is in the best interests of the child, continue or vary an order for access or an access provision of an agreement that is registered as an order under the *Maintenance and Custody Act* in respect of that child.

7 Chapter 5 is further amended by adding immediately after Section 78 the following Section:

78A (1) For the purpose of this Section, “openness agreement” means an agreement for the purpose of facilitating communication with or maintaining a relationship with a child between an adopting parent or an adoptive parent and

- (a) a relative of the child;
 - (b) an adopting parent or adoptive parent of a sibling of the child;
- or
- (c) a person who has established a relationship with the child.

(2) An openness agreement may

- (a) only be made if consent to the adoption is given by
 - (i) the parent, or
 - (ii) the guardian who placed the child for adoption; and
 - (b) include a process to resolve disputes arising under the agreement.
- (3) Where a child that is the subject of an openness agreement is
- (a) twelve years of age or older, the child’s views must be taken into account before an agreement is made; and
 - (b) less than twelve years of age, the child’s views must, where it is appropriate, be taken into account before an agreement is made.
- (4) An openness agreement does not affect the legal status of an order for adoption.

8 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
