



A Voice for Youth

MEDIA RELEASE

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CHILDREN'S ADVOCATE CALLS FOR AMENDMENTS TO *The Youth Drug Detoxification and Stabilization Act*

Saskatchewan Children's Advocate, Marvin Bernstein, tabled a Special Report in the Legislature today. The Special Report contains 12 recommendations requesting amendments to *The Youth Drug Detoxification and Stabilization Act*.

"I have been very patient and respectful of the legislative process," Bernstein said. "I have brought forward my concerns at various points in the process, but they have not been addressed and I continue to have significant concerns with this legislation."

Bernstein said, "The government claims that parents of children with addictions need the service provided through this Act. In fact, this whole piece of legislation has been presented as a last resort for addicted youth to receive treatment. Yet, upon review, nowhere does the legislation speak to treatment, nor is a direct connection to a treatment program included in this legislation, nor are there adequate safeguards contained directly in the legislation to ensure this Act will only be invoked as a measure of last resort. I am very concerned that the stated intention of its purpose is very different than the legislation itself."

The Youth Drug Detoxification and Stabilization Act gives power to particular individuals to initiate the lock up of youth involuntarily for drug and alcohol addictions. These individuals include, but are not limited to, parents.

"While my Office has great empathy for families who are in crisis, I do not believe parents will be supportive of others having the right to lock up their children. And, that is exactly what we have with this legislation. The Act states that persons who have a close personal relationship with the youth can initiate this intervention. But that could mean anyone – for example, a coach, teacher, neighbour – and I don't believe that is acceptable. Parental rights and children's rights are being violated. Parents are asking for addiction services and easy access to those services – not for someone to have the right to lock up their child involuntarily.

"And, if treatment is the desired outcome of this legislation, it falls far short of its goal. If treatment was the objective, the infrastructure required to support such a goal is not in place in

this province, nor is the connection from involuntary lock up for detoxification purposes to addiction treatment included in this Act.”, Bernstein said.

Mr. Bernstein went on to add that the government’s stated intention of this Act is as a “means of last resort”, that is, in the most severe cases of addiction. “While this is an admirable goal, it falls to all of us – where the young person is the most vulnerable and one might argue the least coherent and functional – to do everything in our power to ensure the method of intervention entrenches the fundamental principles of justice.”

“In this instance the legislation does not. Its language is vague and unclear. It does not adhere to the principles of fairness in our judicial system. There are a number of gaps in its language that leave the legislation open to potential abuse. It is clearly a case of age discrimination. This type of legislation would never be imposed on an adult.”

The Saskatchewan Children’s Advocate was established in 1995 as an independent Legislative Officer under *The Ombudsman and Children’s Advocate Act*. The mandate is to promote the interests of, and act as a voice for, children and youth who have concerns about provincial government services and recommend improvements of programs for children to the government and/or the Legislative Assembly.

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NOTE: Full Report Available at www.saskcao.ca link to Publications (Special Report: *The Youth Detoxification and Stabilization Act*)

NOTE: Executive Summary of Recommendations Appended to this Media Release

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Executive Summary

CHILDREN'S ADVOCATE RECOMMENDATIONS MADE TO THE SASKATCHEWAN LEGISLATIVE ASSEMBLY — APRIL 25, 2006

As the Children's Advocate for Saskatchewan, I have been both patient and respectful of the legislative process used to pass and proclaim this piece of legislation. At every conceivable point of intervention, I have expressed formally, serious reservations and concerns regarding this Act and its implications for Saskatchewan young persons and their families. Additionally, I called for Public Hearings and requested an opportunity, as an Independent Legislative Officer, to make a formal submission to the Standing Committee on Human Services when the legislation in question was in its formative stage as Bill 27. Both of these requests were declined.

I also understand the plea of parents to be able to rescue their children from the devastating grip of an addiction. The challenge is balancing the child's right to protection from harm, with the right to fair treatment. As Children's Advocate, I believe achieving this balance is not only possible but also absolutely necessary. However, I find that this balance has not been achieved in *The Youth Drug Detoxification and Stabilization Act* and, more importantly, this legislation as presently worded, is a violation of the rights of children. Moreover, the plea of parents is for access to treatment programs, not involuntary lock-up without direct connection to addiction treatment for their children – a connection that is noticeably absent from this Act.

It is the right of all children, and indeed all people, to receive fair treatment from Government. It is with the deepest respect and commitment to the principles of our democracy that I have presented a Special Report and corresponding recommendations for amendments to *The Youth Drug Detoxification and Stabilization Act* for consideration by the Saskatchewan Legislature.

It is my duty and obligation pursuant to Section 30.1(3) of *The Ombudsman and Children's Advocate Act*, to bring forward the following recommendations to the Legislature.

In keeping with the Government's commitments, as referenced within each recommendation where applicable, the Children's Advocate respectfully makes the following recommendations requesting amendments to *The Youth Drug Detoxification and Stabilization Act* to be enacted in the 2006 spring session, or alternatively as soon as practicable thereafter:

1. That an explicit statement be provided of the underlying purpose(s) of this Act in a Preamble, or alternatively a Statement of Purpose provision, stipulating that: (a) the intent of this Act is to balance the need of young persons for protection and safety where they may be at risk of serious harm with their entitlement to have all of their fundamental human rights, as set out in the United Nations Convention on the Rights of the Child, and their rights to procedural fairness respected at all times; (b) this Act shall be treated as having a health-related and not a criminal law focus; (c) more intrusive measures shall

- only be used where less intrusive ones would be insufficient; and (d) any period of involuntary detention shall be limited to the shortest appropriate period of time;
2. That all young persons, who are apprehended pursuant to this Act, be provided with legal counsel at the point of apprehension, rather than at the completion of the assessment process, at no cost to the young person or family, and with sufficient information as to that right without delay;
 3. That all young persons, who are subject to this Act, be automatically informed of their right to access legal counsel, the official representative and the Children's Advocate, without first having to request such information;
 4. That all young persons, who are subject to this Act, be given automatic access to the warrant of apprehension and the sworn information in support of that warrant, so that they will have full and fair written disclosure of the grounds for the apprehension, without being subject to an "onus reversal" and first having to request such information;
 5. That all post-apprehension hearings occur automatically, with the Government assuming the onus of proof throughout, rather than there being an "onus reversal" imposed upon all young persons, who are subject to this Act and who may be in crisis and acting in some diminished capacity;
 6. That all young persons, who are subject to this Act, be given the right to participate in any process or procedure, which may result in decisions being made about them under this Act;
 7. That all young persons, who are subject to this Act, be provided with a "youth worker" immediately upon detention, and that the qualifications and duties of that position be defined, so as to include training and experience in both addictions counselling and in acting as a case manager with the capacity to coordinate a broad range of services on behalf of those young persons impacted by this Act;
 8. That a mandatory child protection assessment be completed to protect the safety of all young persons in those circumstances where they are subject to a community order pursuant to this Act;
 9. That the concerns raised by Saskatchewan's Information and Privacy Commissioner, as outlined in his Special Report to the Saskatchewan Legislative Assembly on March 22, 2006 be addressed;

10. That there be a comprehensive evaluation of the impact of this Act upon a statistically representative sample of young persons, who are subject to this Act, and that this information be provided to the Children's Advocate Office on a regular basis;
11. That all young persons, who are subject to this Act, be protected from being prosecuted for non-compliance with orders made under this Act; and,
12. That this Special Report be referred to the Standing Committee on Human Services for further consideration to ensure fairness and respect for the principles of natural justice; and, that the rights of children and young persons of this province are respected and protected.