The Advocate for Children and Youth Act

being

Chapter A-5.4* of *The Statutes of Saskatchewan, 2012*
(effective September 1, 2012).

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

NOTE:

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER A-5.4

An Act respecting the Advocate for Children and Youth

PART I
Preliminary Matters

Short title

1 This Act may be cited as *The Advocate for Children and Youth Act*.

Interpretation

2 In this Act:

(a) **"Advocate"** means the Advocate for Children and Youth appointed pursuant to section 3 and includes any acting Advocate appointed pursuant to section 4, 5 or 6;

(b) **"agency of the government"** means any board, commission, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which:

(i) are appointed by an Act or by an order of the Lieutenant Governor in Council; or

(ii) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

(c) **"board member"** means a member of the board of management, or board of directors, of:

(i) an agency of the government; or

(ii) a publicly-funded health entity;

(d) **"child"** means a person under 18 years of age and includes a person 18 years of age or older who is receiving services pursuant to the *Youth Criminal Justice Act* (Canada), *The Youth Justice Administration Act* or section 56 of *The Child and Family Services Act*;

(e) **"minister"** means a member of the Executive Council;

(f) **"ministry"** means a department, ministry, secretariat or office of the executive government of Saskatchewan;

(g) **"publicly-funded health entity"** means:

(i) a regional health authority as defined in *The Regional Health Services Act*;

(ii) the Saskatchewan Cancer Agency continued pursuant to *The Cancer Agency Act*; and

(iii) a health care organization, including an affiliate, as those terms are defined in *The Regional Health Services Act*;

(h) **"youth"** means a person who is at least 12 years of age but under 18 years of age and includes a person 18 years of age or older who is receiving services pursuant to the *Youth Criminal Justice Act* (Canada), *The Youth Justice Administration Act* or section 56 of *The Child and Family Services Act*.

2012, c.A-5.4, s.2.

PART II
Office and Appointment of Advocate

Appointment of Advocate for Children and Youth

3(1) The office of the Children's Advocate is continued as the office of the Advocate for Children and Youth.

(2) The Advocate for Children and Youth is an officer of the Legislative Assembly.

(3) The Advocate for Children and Youth shall be appointed by resolution of the Legislative Assembly.

(4) Subject to sections 4 and 5, the Advocate holds office for a term of five years, unless he or she resigns, dies or is removed from office.

(5) The Advocate may be reappointed for one additional term of five years.

(6) The Advocate may resign the office at any time by giving written notice:

(a) to the Speaker; or

(b) if there is no Speaker or if the Speaker is absent from Saskatchewan, to the President of the Executive Council.

2012, c.A-5.4, s.3.

Removal or suspension

4(1) The Legislative Assembly may, by resolution, remove the Advocate from office or suspend the Advocate.

(2) If the Advocate is suspended pursuant to subsection (1), the Legislative Assembly, by resolution, shall appoint an acting Advocate to hold office until:

(a) the suspension is revoked by the Legislative Assembly; or

(b) the Advocate is removed from office by the Legislative Assembly pursuant to subsection (1) and a person is appointed as Advocate pursuant to section 3.

2012, c.A-5.4, s.4.

Suspension when Legislative Assembly not in session

5(1) If the Legislative Assembly is not in session, the Board of Internal Economy may suspend the Advocate for incapacity to act, neglect of duty or misconduct that is proved to the satisfaction of the Board of Internal Economy.

(2) No suspension imposed pursuant to subsection (1) continues past the end of the next session of the Legislative Assembly.

(3) If the office of the Advocate is vacant or the Advocate is suspended pursuant to subsection (1), the Board of Internal Economy shall appoint an acting Advocate to hold office until:

(a) a person is appointed as Advocate pursuant to section 3;

(b) the suspension is revoked by the Legislative Assembly; or

(c) the acting Advocate is removed from office by the Legislative Assembly pursuant to subsection 4(1) and a person is appointed as Advocate pursuant to section 3.

2012, c.A-5.4, s.5.

Acting Advocate

6 If the Advocate has resigned or is ill or otherwise unable to act, the Board of Internal Economy may appoint another person as acting Advocate until:

(a) the Advocate is able to act; or

(b) another Advocate is appointed pursuant to this Act.

2012, c.A-5.4, s.6.

Salary of Advocate

7(1) Subject to subsections (2) and (3), the Advocate is to be paid a salary equal to the average salary of all the deputy ministers and acting deputy ministers of the Government calculated as at April 1 in each year.

(2) Any benefits or payments that may be characterized as deferred income, retirement allowances, separation allowances, severance allowances or payments in lieu of notice are not to be included in calculating the average salary of all the deputy ministers and acting deputy ministers pursuant to subsection (1).

(3) If, as a result of a calculation made pursuant to subsection (1), the salary of the Advocate would be less than the Advocate's previous salary, the Advocate is to be paid not less than his or her previous salary.

(4) The Advocate is entitled to receive any benefits of office and economic adjustments that are provided generally to deputy ministers.

(5) The Advocate is entitled to be paid an allowance for travel and other expenses incurred in the performance of the duties of the Advocate at a rate approved pursuant to *The Public Service Act, 1998* for employees of the public service.

(6) The salary of the Advocate shall be paid out of the general revenue fund.

2012, c.A-5.4, s.7.

Application of certain Acts to Advocate

8(1) The Advocate is not subject to *The Public Service Act, 1998*, except section 32 of that Act.

(2) The Advocate is subject to *The Public Service Superannuation Act* and *The Public Employees Pension Plan Act*.

2012, c.A-5.4, s.8.

Staff of Advocate

9(1) The Advocate may appoint the employees that are required in order to exercise the powers and perform the duties of the Advocate effectively.

(2) *The Public Service Act, 1998*, *The Public Service Superannuation Act* and *The Public Employees Pension Plan Act* apply to the members of the staff of the Advocate.

2012, c.A-5.4, s.9.

Oath or affirmation respecting office

10 Before entering on the duties of office, the Advocate shall take an oath or affirmation before the Speaker of the Legislative Assembly or Clerk of the Legislative Assembly in the following form:

OATH OF (OR AFFIRMATION RESPECTING) OFFICE

I, _____ , do swear (affirm) that I will faithfully and impartially perform and discharge the duties of Advocate for Children and Youth and that I will not, except as provided in *The Advocate for Children and Youth Act*, divulge any information received by me in the exercise of my powers or the performance of my duties pursuant to that Act.

2012, c.A-5.4, s.10.

Oath or affirmation required of staff of Advocate

11 Before entering on the duties of his or her office, every member of the staff of the Advocate shall take an oath or affirmation before the Advocate in the following form:

OATH OF (OR AFFIRMATION RESPECTING) OFFICE

I, _____, do swear (affirm) that I will faithfully and impartially perform and discharge the duties of my office as a member of the staff of the Advocate for Children and Youth and that I will not, except as provided in *The Advocate for Children and Youth Act*, divulge any information received by me in the exercise of my powers or the performance of my duties pursuant to that Act.

2012, c.A-5.4, s.11.

Confidentiality

12(1) The Advocate and every member of the Advocate's staff shall maintain confidentiality with respect to all matters that come to their knowledge in the performance of their duties or the exercise of their powers pursuant to this Act, and shall not disclose any matter except as provided in this Act.

(2) Notwithstanding subsection (1) or any oath or affirmation taken pursuant to this Act, in the performance of his or her duties or in the exercise of his or her powers, the Advocate may disclose any matter, subject to this section, that the Advocate considers necessary.

(3) A report the Advocate makes pursuant to this Act must not disclose the name of or any identifying information about any child or youth involved in an investigation, any parent or guardian of the child or youth or any complainant, except if, in the Advocate's opinion, the interests of any of the following clearly outweigh any invasion of privacy that could result from the disclosure:

(a) the public;

(b) any ministry, agency of the government or publicly-funded health entity;

(c) any person.

(4) Notwithstanding anything else in this section, the Advocate shall not disclose information relating to the granting of an order of adoption unless authorized or permitted to do so pursuant to *The Adoption Act, 1998*.

2012, c.A-5.4, s.12.

Delegation of powers

13(1) The Advocate may, in writing, delegate to any member of the staff of the Advocate any of the Advocate's powers other than:

(a) the power of delegation pursuant to this section; and

(b) the power to make a report pursuant to this Act.

(2) A delegation pursuant to this section may:

(a) be made to:

(i) a specified member of the Advocate's staff; or

(ii) the holder for the time being of a specified office or the holders of offices of a specified class of the staff; and

(b) be made either generally or in relation to a particular case or class of cases.

(3) The Advocate may revoke a delegation at any time.

(4) No delegation prevents the exercise of any power by the Advocate.

(5) The Advocate may impose any restrictions or conditions that the Advocate considers appropriate on a delegation.

(6) A delegation continues in effect until it is revoked.

(7) If the Advocate who made a delegation ceases to hold office, the delegation continues in effect as if it were made by that Advocate's successor.

(8) If the Advocate has delegated a power pursuant to this section, the person to whom the power is delegated shall produce evidence of that person's authority to exercise the power when required to do so.

2012, c.A-5.4, s.13.

PART III
Powers and Duties

Powers and duties of Advocate

14(1) The Advocate has the power to do all things necessary to perform the duties given to the Advocate pursuant to this Act.

(2) The Advocate shall:

(a) become involved in public education and advocacy respecting the interests and well-being of children and youths;

(b) receive and investigate any matter that comes to his or her attention from any source concerning:

(i) a child or youth who receives services from any ministry, agency of the government or publicly-funded health entity;

(ii) a group of children or youths who receive services from any ministry, agency of the government or publicly-funded health entity; and

(iii) services to a child, group of children, youth or group of youths by any ministry, agency of the government or publicly-funded health entity;

(c) if appropriate, try to resolve those matters mentioned in clause (b) through the use of negotiation, conciliation, mediation or other non-adversarial approaches; and

(d) if appropriate, make recommendations on any matter mentioned in clause (b).

(3) The Advocate may:

(a) conduct or contract for research to improve the rights, interests and well-being of children or youths;

(b) advise or make recommendations to any minister responsible for services to children or youths on any matter relating to the interests and well-being of children or youths who receive services from any ministry, agency of the government or publicly-funded health entity.

2012, c.A-5.4, s.14.

Referrals to Advocate by Legislative Assembly and Lieutenant Governor in Council

15(1) A committee of the Legislative Assembly may refer to the Advocate for investigation and report any petition or matter relating to the rights, interests and well-being of children or youths that is before the committee for consideration.

(2) On a referral pursuant to subsection (1), the Advocate shall:

(a) subject to any special directions of the committee of the Legislative Assembly, investigate the petition or matter referred to the Advocate insofar as it is within the Advocate's jurisdiction; and

(b) make any report to the committee that the Advocate considers appropriate.

(3) The Lieutenant Governor in Council may refer to the Advocate for investigation and report any matter relating to the rights, interests and well-being of children or youths and services to children or youths by any ministry, agency of the government or publicly-funded health entity or by any officer, employee or member of any ministry, agency of the government or publicly-funded health entity.

(4) On a referral pursuant to subsection (3), the Advocate shall:

(a) subject to any special directions of the Lieutenant Governor in Council, investigate the matter referred to the Advocate insofar as it is within the Advocate's jurisdiction; and

(b) make any report to the Lieutenant Governor in Council that the Advocate considers appropriate.

2012, c.A-5.4, s.15.

Communication by child or youth and notice of child's or youth's right to communicate

16(1) In this section, **"facility"** means a facility, foster home, group home or other home or place in which a child or youth is placed pursuant to an Act that authorizes services to children or youths.

(2) If a child or youth in a facility asks to communicate with the Advocate, that request shall be forwarded to the Advocate immediately by the person in charge of that facility.

(3) If the child or youth, or someone on behalf of a child or youth, writes a letter addressed to the Advocate, the person in charge of the facility shall forward the letter immediately, unopened, to the Advocate.

(4) Every facility shall:

(a) provide means that permit a child or youth to communicate in private to the Advocate orally or by any other method; and

(b) inform each child or youth placed in the facility of:

(i) the child's or youth's right to communicate in private with the Advocate;

(ii) the services provided by the Advocate; and

(iii) how to communicate with the Advocate and the contact information for the Advocate.

2012, c.A-5.4, s.16.

Report to child or youth

17 If an investigation by the Advocate involves a review of a complaint about services from any ministry, agency of the government or publicly-funded health entity to a child or youth, the Advocate may, in a manner that the Advocate considers appropriate:

(a) report the results of the investigation to the parent or guardian of that child or youth; and

(b) report the results of the investigation to the child or youth.

2012, c.A-5.4, s.17.

PART IV
Jurisdiction and Procedures

Advocate not restricted by provisions of other Acts

18 The Advocate may exercise the Advocate's powers and shall carry out the Advocate's duties pursuant to this Act notwithstanding anything in any other Act that provides:

(a) that any decision, recommendation, act or omission that the Advocate is investigating is final;

(b) that there is no appeal with respect to any decision, recommendation, act or omission that the Advocate is investigating; or

(c) that no decision, recommendation, act or omission of a ministry, agency of the government, publicly-funded health entity, board member, officer, employee or person shall be challenged, reviewed, quashed or called into question.

2012, c.A-5.4, s.18.

Restrictions on jurisdiction

19(1) Nothing in this Act authorizes the Advocate to investigate:

(a) any decision, recommendation, act, order or omission of the Legislative Assembly, a committee of the Legislative Assembly, the Lieutenant Governor in Council, the Executive Council or a committee of the Executive Council;

(b) any decision, order or omission of a court, a judge of a court or a justice of the peace made or given in any action or proceeding in the court or before the judge or justice of the peace;

(c) subject to subsection (2), any decision, recommendation, act or omission with respect to which there is pursuant to an Act a right of appeal or objection or a right to apply for a review of the merits of the case to any court or tribunal constituted by or pursuant to an Act, whether or not:

(i) that right of appeal, objection or application has been exercised in the particular case; and

(ii) any time prescribed for the exercise of that right has expired; or

(d) any decision, recommendation, act or omission of any lawyer for the Crown in relation to any proceeding.

(2) Clause (1)(c) does not apply if the Advocate is satisfied that in the particular case it would have been unreasonable to expect the person referring the matter to resort to the court or tribunal.

(3) In the circumstances mentioned in subsection (2), the Advocate shall not commence any investigation until after the time for the exercise of that right to appeal, object or apply has expired.

2012, c.A-5.4, s.19.

Application to court re question of jurisdiction to investigate

20(1) If any question arises respecting the jurisdiction of the Advocate to investigate any case or class of cases pursuant to this Act, the Advocate may apply to the Court of Queen's Bench for a declaratory order determining the question.

(2) Notice of an application pursuant to subsection (1) must be served on the Attorney General for Saskatchewan at least 15 days before the date on which the application is to be heard.

2012, c.A-5.4, s.20.

Privileged communication

21(1) In this section:

(a) **"designated facility"** means a facility owned or operated by a publicly-funded health entity that is designated by the minister pursuant to:

(i) section 10 of *The Regional Health Services Act*;

(ii) section 4 of *The Mental Health Services Act*; or

(iii) section 3 of *The Youth Drug Detoxification and Stabilization Act*;

(b) **"person in charge"** means the person who:

(i) is in charge of an institution where a restricted complainant is in custody on a charge for an offence or after conviction for an offence;

(ii) has custody of a restricted complainant; or

(iii) is in charge of a designated facility in which a resident in care is located and from which the resident in care is receiving services;

(c) **"resident in care"** means a child or youth who is located in a designated facility and who is receiving services from the designated facility;

(d) **"restricted complainant"** means a child or youth who is:

(i) in custody on a charge for an offence or after conviction for an offence; or

(ii) in the custody of another person for any reason.

(2) Notwithstanding any Act, if a letter is written by or on behalf of a restricted complainant or resident in care and is addressed to the Advocate, the person in charge shall forward the letter, unopened, to the Advocate.

(3) Every institution where restricted complainants are in custody or confined shall:

(a) establish procedures and provide means that permit each restricted complainant to communicate in private with the Advocate; and

(b) inform each restricted complainant in the institution of:

(i) the restricted complainant's right to communicate in private with the Advocate;

(ii) the services provided by the Advocate; and

(iii) how to communicate with the Advocate and the contact information for the Advocate.

(4) Every designated facility in which residents in care are located and from which residents in care are receiving services shall:

(a) establish procedures and provide means that permit each resident in care to communicate in private with the Advocate; and

(b) inform each resident in care in the designated facility of:

(i) the resident in care's right to communicate in private with the Advocate;

(ii) the services provided by the Advocate; and

(iii) how to communicate with the Advocate and the contact information for the Advocate.

2012, c.A-5.4, s.21.

Refusal to investigate

22(1) The Advocate may refuse to investigate or cease to investigate a matter if:

(a) it relates to a decision, recommendation, act or omission of which the person referring the matter had knowledge for more than a year before the complaint is received by the Advocate;

(b) in the Advocate's opinion, it is frivolous, vexatious, not made in good faith or concerns a trivial matter;

(c) in the Advocate's opinion on a balance between the public interest and the interest of the person referring the matter, it should not be investigated or the investigation should not be continued;

(d) in the Advocate's opinion, the circumstances of the case do not warrant investigation;

(e) the person referring the matter does not have a sufficient personal interest in the subject-matter of the complaint; or

(f) during the course of an investigation it appears to the Advocate:

(i) that the person referring the matter has an adequate remedy or right of appeal under the law or existing administrative practices, other than a petition to the Legislature, whether or not the person referring the matter has availed himself or herself of that remedy or right; or

(ii) that, having regard to all the circumstances of the case, further investigation is unnecessary.

(2) This section does not apply to an investigation or report required to be made pursuant to section 15.

2012, c.A-5.4, s.22.

Notice not to investigate or cease an investigation

23(1) If the Advocate decides not to investigate a matter or to cease to investigate a matter, the Advocate shall inform the person referring the matter of the decision.

(2) If the Advocate considers it appropriate, the Advocate may state the reasons for a decision mentioned in subsection (1).

2012, c.A-5.4, s.23.

Notice to investigate

24(1) Before investigating any matter pursuant to this Act, the Advocate shall notify the deputy minister of the affected ministry, or the administrative or executive head of the affected agency of the government or publicly-funded health entity, of the Advocate's intention to make the investigation.

(2) The notice must:

(a) be in writing; and

(b) set out the nature of the complaint, if any, received by the Advocate.

(3) At any time during or after an investigation, the Advocate may consult with the minister who is concerned in the matter of the investigation.

(4) On the request of the minister responsible for the ministry or agency of the government or if an investigation relates to any recommendation made to a minister, the Advocate shall consult with that minister after making the investigation and before forming a final opinion on any matter mentioned in section 28.

(5) On the request of the administrative or executive head of the publicly-funded health entity, the Advocate shall consult with that administrative or executive head after making the investigation and before forming a final opinion on any matter mentioned in section 28.

(6) If, during or after an investigation, the Advocate is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any ministry or agency of the government, the Advocate:

(a) shall refer the matter to the minister responsible for the ministry or agency of the government; and

(b) following the referral mentioned in clause (a), may continue with any ongoing investigation.

(7) If, during or after an investigation, the Advocate is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any publicly-funded health entity, the Advocate:

(a) shall refer the matter to the administrative or executive head of the publicly-funded health entity; and

(b) following the referral mentioned in clause (a), may continue with any ongoing investigation.

2012, c.A-5.4, s.24.

Conduct of investigation

25(1) Every investigation by the Advocate pursuant to this Act must be conducted in private.

(2) The Advocate may:

(a) hold any hearings and hear or obtain any information from any person that the Advocate considers appropriate; and

(b) make any inquiries that the Advocate considers appropriate.

(3) The Advocate is not required to hold a hearing and no person is entitled as of right to be heard by the Advocate.

(4) Notwithstanding subsection (3), if at any time it appears to the Advocate that there are sufficient grounds for making a report or recommendation with respect to any matter that may adversely affect any ministry, agency of the government, publicly-funded health entity or person, the Advocate shall give that ministry, agency of the government, publicly-funded health entity or person an opportunity to make representations with respect to the matter.

(5) The ministry, agency of the government, publicly-funded health entity or person mentioned in subsection (4) may make representations with respect to the matter by counsel.

2012, c.A-5.4, s.25.

Power to require information and examine persons

26(1) Subject to section 27, the Advocate may require any person who in the Advocate's opinion is able to give any information relating to any matter being investigated pursuant to this Act:

(a) to furnish information to him or her; and

(b) to produce any document, paper or thing that, in the Advocate's opinion:

(i) relates to the matter being investigated; and

(ii) may be in the possession or under the control of that person.

(2) The Advocate may exercise the powers mentioned in subsection (1) whether or not:

(a) the person mentioned in that subsection is an officer or employee of a ministry, agency of the government or publicly-funded health entity or a board member; and

(b) the document, paper or thing is in the custody or under the control of a ministry, agency of the government or publicly-funded health entity.

(3) The Advocate may take possession of any document, paper or thing mentioned in subsection (1) to make copies for the purposes of the investigation.

(4) The Advocate may summon and examine under oath or on affirmation:

(a) any person who is an officer, employee or member of any ministry, agency of the government or publicly-funded health entity or a board member and who in the opinion of the Advocate may be able to give any information relating to any matter being investigated pursuant to this Act;

(b) any person who refers a matter; and

(c) any other person who in the opinion of the Advocate is able to give any information relating to any matter being investigated pursuant to this Act.

(5) For the purposes of subsection (4), the Advocate may administer an oath or take an affirmation.

(6) Every examination by the Advocate pursuant to subsection (4) is deemed a judicial proceeding for the purposes of section 136 of the *Criminal Code*.

(7) Subject to section 27:

(a) a rule of law that authorizes or requires the withholding of any document, paper or thing or the refusal to answer any question on the ground that the disclosure or answer would be injurious to the public interest does not apply with respect to any investigation by or proceedings before the Advocate;

(b) a provision of an Act requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall not apply with respect to an investigation by the Advocate;

(c) no person who is required by the Advocate to furnish any information or to produce any document, paper or thing or who is summoned by the Advocate to give evidence shall refuse to furnish the information, produce the document, paper or thing or to answer questions on the ground of a provision of an Act mentioned in clause (b); and

(d) nothing in subsection (4) permits the Advocate to require questions to be answered, or to require the production of any information, report, statement, recommendation, memorandum, data or record that would be the subject of a privilege pursuant to section 10 of *The Evidence Act* or section 58 of *The Regional Health Services Act*.

(8) Except on the trial of a person for perjury or respecting an offence against this Act:

(a) no statement made by the person or any other person in the course of an investigation by, or any proceedings before, the Advocate is admissible in evidence against any person in any court, at any inquiry or in any other proceedings; and

(b) no evidence with respect to proceedings before the Advocate is admissible against any person.

(9) No person is liable to prosecution for an offence against any Act by reason of the person's compliance with any requirement of the Advocate pursuant to this section.

2012, c.A-5.4, s.26.

Disclosure of certain matters not required

27(1) The Advocate shall not require any information or answer to be given or any document, paper or thing to be produced, as the case may be, if the Attorney General for Saskatchewan certifies to the Advocate that the giving of the information, the answering of the question or the production of the document, paper or thing might involve the disclosure of:

(a) the deliberations of the Executive Council; or

(b) proceedings of the Executive Council or a committee of the Executive Council relating to matters of a secret or confidential nature, the disclosure of which would be injurious to the public interest.

(2) The Advocate shall report the receipt of every certificate pursuant to this section in the next annual report.

2012, c.A-5.4, s.27.

Report on investigation

28(1) The Advocate shall take the actions described in subsection (2) if, after an investigation pursuant to this Act, the Advocate is of the opinion:

(a) that a decision, recommendation, act or omission that is the subject-matter of the investigation appears to have been:

(i) contrary to law;

(ii) unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law, a provision of an Act, or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;

(iii) based in whole or in part on a mistake of law or fact; or

(iv) wrong;

(b) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised:

(i) for an improper purpose;

(ii) on irrelevant grounds; or

(iii) on the taking into account of irrelevant considerations; or

(c) that reasons should have been given for a decision, recommendation, act or omission that was the subject-matter of the investigation.

(2) In the circumstances mentioned in subsection (1), the Advocate:

(a) shall report the opinion and the reasons for it to the appropriate minister and to the relevant ministry, agency of the government or publicly-funded health entity; and

(b) may make any recommendations that the Advocate considers appropriate.

(3) Without limiting the generality of subsections (1) and (2), in making a report pursuant to those subsections, the Advocate may recommend:

(a) that a matter should be referred to the appropriate authority for further consideration;

(b) that an omission should be rectified;

(c) that a decision should be cancelled or varied;

(d) that any practice on which a decision, recommendation, act or omission was based should be altered or reviewed;

(e) that any law on which a decision, recommendation, act or omission was based should be reconsidered;

(f) that reasons should be given for any decision, recommendation, act or omission; or

(g) that any other steps should be taken.

(4) This section does not apply to an investigation or report required to be made pursuant to section 15.

2012, c.A-5.4, s.28.

Notice of steps taken

29(1) If the Advocate makes a recommendation pursuant to section 28, the Advocate may request the ministry, agency of the government or publicly-funded health entity to provide notice within a specified time of the steps that it has taken or proposes to take to give effect to the recommendation.

(2) If, within a reasonable time after a request respecting a recommendation is made pursuant to this section, no action is taken that seems to the Advocate to be adequate and appropriate, the Advocate may:

(a) after considering the comments, if any, made by or on behalf of the ministry, agency of the government or publicly-funded health entity affected, submit a report of the matter, including a copy of the report containing the recommendation, to the Lieutenant Governor in Council; and

(b) after submitting a report pursuant to clause (a), mention the report in the next annual report to the Legislative Assembly.

2012, c.A-5.4, s.29.

Review of recommendations

30 If the Advocate makes a recommendation pursuant to section 28 and no action that seems to the Advocate to be adequate or appropriate is taken on the recommendation within a reasonable time, the Advocate shall:

(a) inform the person referring the matter of the recommendation; and

(b) make any comments on the matter that the Advocate considers appropriate.

2012, c.A-5.4, s.30.

Proceedings not subject to review

31(1) No proceeding of the Advocate is invalid for want of form.

(2) Except on the ground of lack of jurisdiction, no proceeding or decision of the Advocate is liable to be challenged, reviewed, quashed or called into question in any court.

2012, c.A-5.4, s.31.

Proceedings privileged

32(1) No action or proceeding lies or shall be commenced against the Advocate, or against any member of the Advocate's staff, for:

(a) anything done, or omitted to be done, in good faith in the course of the exercise or performance, or intended exercise or performance, of his or her powers and duties pursuant to this Act; or

(b) anything he or she may do, report or say in good faith in the course of the exercise or performance, or intended exercise or performance, of his or her powers and duties pursuant to this Act.

(2) Neither the Advocate nor any member of the Advocate's staff is competent or compellable to give evidence in any court or in any proceedings of a judicial nature with respect to anything coming to his or her knowledge in the exercise or performance of his or her powers and duties pursuant to this Act.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in any court relating to an investigation by or proceedings before the Advocate pursuant to this Act is privileged in the same manner as if the investigation or proceedings were proceedings in a court.

(4) For the purposes of *The Libel and Slander Act*:

(a) an Advocate's report made pursuant to this Act is deemed to be privileged; and

(b) a fair and accurate report in a newspaper or a broadcast on any Advocate's report pursuant to this Act is deemed to be privileged.

2012, c.A-5.4, s.32.

Entry on premises

33(1) For the purposes of this Act, the Advocate may:

(a) at any time enter on the premises occupied by any ministry, agency of the government or publicly-funded health entity; and

(b) subject to section 14, carry out any investigation pursuant to this Act.

(2) Before entering on any premises pursuant to subsection (1), the Advocate shall notify the deputy minister or administrative or executive head of the ministry, agency of the government or publicly-funded health entity that occupies the premises of the intention to conduct an investigation pursuant to this Act and to enter the premises.

2012, c.A-5.4, s.33.

PART V
General

Rules for guidance

34(1) On its own initiative or on the recommendation of the Lieutenant Governor in Council, the Legislative Assembly may make rules to guide the Advocate in the exercise of the Advocate's powers, and the performance of the Advocate's duties, pursuant to this Act.

(2) Subject to this Act and any rules made pursuant to subsection (1), the Advocate may determine the procedure and the procedure for the members of the Advocate's staff in the exercise of their powers, and the performance of their duties, pursuant to this Act.

2012, c.A-5.4, s.34.

Voluntary provision of information to Advocate

35 At the request of the Advocate, a ministry, agency of the government or publicly-funded health entity may provide information in its possession, custody or control respecting any person who is receiving services from or dealing with the ministry, agency of the government or publicly-funded health entity to the Advocate if it is satisfied that providing the information will assist the Advocate in fulfilling any of the Advocate's duties or in exercising any of the Advocate's powers pursuant to this Act.

2012, c.A-5.4, s.35.

Offence and penalty

36(1) No person shall:

(a) without lawful justification or excuse wilfully obstruct, hinder or resist the Advocate or any other person in the exercise or performance of his or her powers and duties pursuant to this Act;

(b) without lawful justification or excuse, refuse or wilfully fail to comply with any lawful requirement of the Advocate or any other person imposed pursuant to this Act; or

(c) wilfully make any false statement to, or mislead or attempt to mislead, the Advocate or any other person in the exercise or performance of the Advocate's or other person's powers and duties pursuant to this Act.

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding $500, or to imprisonment for not more than three months or to both.

2012, c.A-5.4, s.36.

Attorney General may intervene

37 The Attorney General for Saskatchewan or counsel appointed by the Attorney General for Saskatchewan may, without leave of the court or judge, intervene in any action or proceedings taken in any court pursuant to section 31 or 32, and no order for costs for or against the Attorney General for Saskatchewan is to be made as a result of the intervention.

2012, c.A-5.4, s.37.

Act to provide additional remedies

38 The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy, right of appeal or objection is provided for any person, or any procedure is provided for inquiry into or investigation of any matter, and nothing in this Act limits or affects any of those remedies, rights of appeal, objections or procedures.

2012, c.A-5.4, s.38.

Annual report of Advocate

39(1) In accordance with *The Tabling of Documents Act, 1991*, the Advocate shall, in each year, submit to the Speaker an annual report describing the progress and activities of the Advocate in the previous year.

(2) In accordance with *The Tabling of Documents Act, 1991*, the Speaker shall lay before the Legislative Assembly each report received by the Speaker pursuant to subsection (1).

(3) The Advocate may, from time to time in the public interest or in the interest of any person, ministry, agency of the government or publicly-funded health entity, publish reports respecting any of the following matters, whether or not those matters have been the subject of a report to the Legislative Assembly:

(a) the exercise of his or her powers and the performance of his or her duties pursuant to this Act;

(b) any particular case that he or she has investigated.

2012, c.A-5.4, s.39.

PART VI
Transitional and Coming into Force

Transitional

40 The person holding the office of the Children's Advocate on the day before the coming into force of this Act continues in office as the Advocate for Children and Youth for the term for which he or she was appointed unless the person sooner dies, resigns or is suspended or removed from office pursuant to this Act.

2012, c.A-5.4, s.40.

Coming into force

41 This Act comes into force on the day on which *The Ombudsman Act, 2012* comes into force.

2012, c.A-5.4, s.41.

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