
Bill 202: The Protection of Children Abusing Drugs Act

by Mary-Anne Jablonski, MLA

This article looks at the Standing Orders and Practices used for dealing with Private Members' Bills in Alberta. It describes the obstacles that had to be overcome in order to deal with drug abuse among children.



In 1993 under the leadership of Premier Ralph Klein and then House Leader, Ken Kowalski and with the co-operation of Opposition Leader Laurence Decore and Opposition House Leader Grant Mitchell, substantial changes were made to the way the Alberta Legislature deals with Private Members' Bills.

The most substantial change was a House Leader agreement to allow for free votes on Private Members days. The agreement reads "where the order of business of the Assembly consists of Private Members' Business, that business shall be conducted free of whips." Members would now have to come to the House with a position and be prepared to vote on the basis of what they believe is important and right. This seemingly small change had huge implications for Members. They were no longer able to tell their constituents that they voted a certain way because that is how the party voted. They are now accountable to the people they represent. Although in practice there is a tendency to vote along partisan lines, I have seen occasions time and again of Members voting against their party on Private Members' Business. In my experience, we have done well to preserve the spirit of free voting on Private Members' Business.

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The next substantial amendment to the *Standing Orders* in 1993 is that all Private Members' Motions that are on the *Order Paper* are now to be dealt with within 60 minutes of their initiation for discussion. This eliminated the situations where Motions stayed on the *Order Paper* for an entire calendar or sessional year as an adjourned item of business with the lowest possible of priorities over remaining motions that faced the identical fate.

Third, a new timely process for Private Members' Bills was created. Private Members' Bills are now introduced one day and go to second reading on the next Private Members Day. Two hours is provided to deal with the Bill in second reading and at the end of that time, the Bill is voted on. If defeated, the Bill falls off the *Order Paper*. If passed, it goes to the next stage, the Committee of the Whole House and if it is passed in Committee, it goes to third reading. These rule changes meant that for the first time, Private Members could possibly see their Bill become law, because every Bill brought forward could face a vote.

Fourth, Members were allowed to make Members Statements every Tuesday and Thursday following Question Period. According to the *Standing Orders*, six Members Statements of two-minute durations would be made on those days on any topic of interest to the Private member and would be free from procedural interruptions, such as points of order. This is substantial because these Members Statements can be made about any subject the Member desires. These rules have since been amended and Members Statements are now made every day in proportion to the number of Members each party represents in the House, or by agreement of the House Leaders. In my experience, these Members Statements

play a very important role in passing Private Members' Bills because they give Members the opportunity to bring issues related to the Bill to the forefront.

The final change in the *Standing Orders* that occurred in 1993 was a change in the hours of Session. The Legislature no longer sits on Fridays. The hours were extended from Monday to Thursday in the afternoons and the house would sit in the evenings. This allowed for Fridays to become constituency days.

The reason for this was best articulated by Premier Klein in 1993 when he said,

".....the more time we spend here, the more susceptible we become to that insidious disease called dome syndrome: we start to think that unless its happening here, its not happening at all. Its only when you get out from under the dome, amongst your constituents, that you understand that there is another reality."

Since 1993, 39 Private Members' Bills have received Royal Assent. It is important to note that since changing the Orders, only bills sponsored by Private Government Members have been passed. Also important to note, is that Government Members have voted for Opposition Bills and are free to do so if they choose.

My first experience with a Private Member's Bill was one that required children under the age of 18 to wear bike helmets. I supported this bill because I believe that it was a good tool to help parents to get their children to wear protective headgear. The moment the bill was passed, a group of people sitting in the Members Gallery jumped up and cheered while hugging each other. I discovered that these people were the doctors and nurses from the Stollery Childrens Hospital in Edmonton who treat children with irreversible brain damage that happens when helmets are not worn. That was when I realized Private Members' Bills are a great way to work with Albertans on issues that are important to them and to make changes that have a significant impact on their daily lives.

Bill 202 the *Protection of Children Abusing Drugs Act*

In the Spring 2005 Session the Alberta Legislature, unanimously passed Bill 202, the *Protection of Children Abusing Drugs Act* (PCHAD). The original purpose of the bill was to give provincial authorities and parents the power to place children, under the age of 18, abusing drugs, into mandatory drug treatment programs for up to 90 days. It was amended and now allows for a forced intervention with detox and assessment for up to five days.

The idea for this Bill came to me during a conference in my constituency on the subject of crystal meth. After a

discussion with then Solicitor General, Heather Forsyth, I decided to look into what could be done to address this problem. I spoke to parents, police officers, teachers, former addicts and street kids and they all told me the same thing. Kids who are addicted to drugs cannot help themselves. I was shocked to hear a youth stand up at the crystal meth conference and plead, "Do I have to commit a crime before I can get help?"

I began researching the issue and realized that, without either charging these children for committing a crime that results in a criminal record, or dragging them and their families through the child welfare system, there was no avenue available for parents to help their children.

I met some parents who told me they celebrated when they found out their child had finally been charged with a crime because now they would finally get help. And so began my quest.

In Alberta, in order to determine which Members will be able to bring forward Private Members' Bills, we use the old fashion method – we draw names out of a hat. I drew number 26. Knowing that only the first 7 to 12 bills ever made it to the floor of the Legislature during a session, I had a lot of work ahead of me. I felt very strongly about this legislation and in order to get it into the Assembly, I needed a better bill position. I needed my colleagues to agree that this idea was important enough to exchange their position with me.

I managed to switch with two members from my Caucus, first to the 7th position, Bill 207 and then to second place to Bill 202. I would now be able to bring my Bill to the Legislature to be debated and hopefully, passed into law. This would prove to be no small task. Bill 202 was destined for a very rough ride through the legislature.

Obstacles to be Overcome

Everyone agreed that we needed to do something to help youth addicted to drugs and their families, but many felt that allowing parents to go before a judge to ask for an apprehension order, detox, assessment and a mandatory treatment for up to 90 days was too risky. Bill 202 would not stand up to a constitutional challenge.

The media and the public played a very important role in the passage of Bill 202. I used the radio and newspapers as often as I could to get the message out. There is a group of very concerned parents in Alberta called Parents Empowering Parents which is made up of parents of former and current drug addicts. They were perhaps the most influential group in the ordeal. They wanted to help in any way they could, so I had them sign petitions, I asked them to phone their MLAs and to tell everybody

they knew to phone their MLA. I knew that if drug abuse was a top issue in constituency offices, no Member could ignore my bill.

This strategy worked quite well. Drug addiction is an important issue in everyone's mind. My next task was to convince my Caucus colleagues that this idea was a good one. For the most part my colleagues agreed and told me they would support my Bill, but there were some key individuals who were not convinced. They were concerned that the Bill would go against the rights of the child and the Charter. If I wanted the support of the four ministries that would be affected by this legislation, I would have to amend the Bill.

I even thought I might have to drop the bill, but I was bombarded by phone calls and emails from parents, addicted youth, street kids, drug rehabilitation therapists, teachers and police officers. The message I kept getting over and over again was do not give up. Petitions were coming in everyday from different communities in Alberta supporting Bill 202 and even journalists and reporters were supportive.

Bill 202 is modeled on another law in Alberta, the *Protection of Children Involved in Prostitution Act*. With that law police are able to take children who are involved with prostitution and place them in a protective safe house, and after an assessment, hold the children for an extended period of time.

Originally, Bill 202 would allow parents to get their addicted child, under the age of 18, off the street and into a drug treatment facility. The law called for an assessment of the child's condition, as well as a detoxification, within five days and contained a provision that allowed an addicted child to be held up to 90 days for treatment.

The difference between my Bill and the *Protection of Children Involved in Prostitution Act*, however is that it is obvious when a child is involved in Prostitution, and you can easily prove that you are protecting and helping the child. It is not as obvious when a child is addicted to drugs.

At the crystal meth conference, a Vancouver Police Officer told me that whether you force a child into treatment or a child volunteers for treatment, your chances of success are the same, 50%. I searched for studies that would prove this and although there is very little scientific evidence to show that mandatory drug treatment is successful, there is also no evidence to show that it is not successful! In fact, there is an addiction treatment center in Alberta called the Alberta Adolescent Rehabilitation Centre which can now show an 83 percent rate of success in treating addictions.

I knew that it was important to many people that this bill pass, so I agreed to amend it to remove the 90 day period, but my Bill would still give parents the right to go before a judge and ask for a mandatory detoxification and assessment. A parent can also ask for an apprehension order.

This legislation allows parents a legal avenue to have their drug addicted child removed from a drug house and other risky places and be taken to an assessment center. My hope is that during this time a child will realize that they need help and agree to voluntary addiction treatment.

In addition to convincing my own Caucus to vote for Bill 202, I knew I needed the support of the Opposition as well. Even before I began, I solicited their support. I worked with the Opposition to make sure that any objections they had were resolved. The Parents Empowering Parents group gave a presentation to the Opposition Caucuses and pleaded their case as to why this law should be supported. The only reason this Bill was passed unanimously was because all sides of the House were informed about the Bill's progress and were consulted about any changes. In fact, the opposition parties began pressuring our government about the Bill by presenting petitions and asking questions in Question Period. Without the help of the Opposition, I would have run out of time and my bill would not have been passed in the Spring Session.

We were faced with an abnormally tight Spring Session schedule due to an anticipated visit of Her Majesty the Queen for Alberta's Centennial. For this reason, there was a good chance that Bill 202 would not go through all the stages before the end of the sitting. There was also a question about whether or not there would be a fall session and that meant that after all the work that had gone into this bill, there was a good chance that it would have simply dropped off the *Order Paper* and the Bill would have disappeared.

To me this was simply not good enough. Too many desperate parents had by now counted on me, urging me to be strong, to hang in there and to persevere. At that point I asked the House for unanimous consent to move to the consideration of Private Members' Bills and to set aside Written Questions and Motions for Return. Unanimous consent was denied.

This is where all the work I did engaging the media, the public, and the parents groups paid off. Once the parents learned that this Bill might disappear, they got vocal. They phoned the leaders of the opposition parties and pleaded their case to them again. And after receiving a photo album from a broken hearted parent with a note

begging me not to give up, I decided to go for broke and I used a Member Statement to plead my case.

I stated that I would stand in the House each and every day to ask for unanimous consent to set aside the business of the day and to move to private members bills until consent was granted.

I spoke about the photo album given to me by a parent in tears, showing me how her beautiful daughter had gone from a smiling and happy child to being a drug user with a sickly and pale face with tired and darkened eyes. By reading the words of the broken hearted mother that stated her unconditional love for her child and begged us to help them, I convinced opposition and government members alike of the need to help these children and their families.

Here was legislation that would allow parents to help their children to be free of drugs. Where parents were once completely helpless, we were now offering hope. I knew that I had touched the hearts of all opposition when the day after the budget was read, the first question by the Leader of the Opposition, Kevin Taft, should have been about the budget. He stood and challenged the Premier to make Bill 202, a government bill and to arrange to have it passed before the end of session. The Premier looked at me and said that he would do what he could.

If there is one thing that can be said about Premier Ralph Klein, it is that his word is like solid gold, and so he called a meeting to make it happen. The very next day, when we should have been debating the terms of the new budget and dealing with the government business of Committee of Supply, I stood in the house to be recognized by Speaker, Ken Kowalski, the man who had the vision back in 1993 to change the way Private Members' Business was conducted, to seek unanimous consent of the House to move to Private Members' Business, specifically, Bill 202 to be debated in Committee of the Whole House. This time unanimous support was granted.

This was a victory for the parents who had helped me from the beginning, it was a victory for youth with drug addictions, it was a victory for me and it was most certainly a victory for democracy. That afternoon we got Bill 202 through Committee of the Whole House where the amendment was moved, debated and passed. Then I asked for unanimous support to move to Third Reading

of the Bill. Support was once again granted and we passed this bill through these two major stages in one afternoon.

The significance of this event was best summed up by our Speaker, who said, "Honourable Members, before I call on the Clerk, this is most unique. This perhaps, has never happened before in the history of Alberta in ninety-nine years, so it is a wonderful example of parliamentary cooperation, the highest form of democracy."

Conclusion

No system is perfect. There are individuals in our Assembly who do not believe that the way we deal with Private Members' Business is fair, prudent or even responsible. They are concerned that there is not enough consultation with stakeholders, with ministries and with the public. They argue that, for this reason, bills like 202 of such broad public importance, should not be passed as Private Members' Bills. For example, in order to implement Bill 202 it will take the coordination of four ministries, Childrens Services, Health and Wellness, Solicitor General and Justice.

It is my opinion that we do deal with Private Members' Business in a fair and responsible manner. By the time a bill becomes law, it has gone through a process similar to a Government Bill. The difference between the two, however, is that with Government Bills, heavy consultation is conducted with stakeholders and ministries before the law is written and brought to Caucus. By the time a government bill is voted on, all parties have voiced their concerns and most of the work is done.

Private Members' Bills may go through much less consultation before they are passed, but after passage, they must go through a process similar to that of a Government Bill. Once a Private Members Bill is passed by the Legislature, it becomes the responsibility of the ministry or ministries that deal with the area the bill addresses. It is then the duty of those ministries to ensure that regulations are drafted so the Bill can be implemented successfully.

Meaningful change takes leadership and vision. The 1993 changes in our *Standing Orders* along with the vision of our Premier and other leaders have made an environment where ideas like Bill 202 could become law. As a Private Member I have experienced the exhilaration of the power and the passion of our Legislature to work together to do the right thing and to make a difference in the lives of ordinary Albertans.