

Councillor Request for Information

Included on Agenda

(Submitted to Municipal Clerk's Office
by Noon Thursday)

Added Item

(Submitted to Municipal Clerk's Office
by Noon Monday)

Date of Council Meeting: October 10, 2006

Subject: Parental Responsibility Act

Request:

Please add the above item to the Agenda for the next Regional Council meeting.

Reason:

Take Notice that at the next regular meeting of Halifax Regional Council, to be held on October 10, 2006, I intend to introduce a motion requesting the Provincial Government enable an Act which holds parents of youth under 18 years of age who commit property crime, financially responsible.

I would like this response as:

- Email to Mayor and/or Councillor/Municipal Clerk's Office
- Memo to Councillor
- | | | |
|--------------------------|--|------------------|
| Information Report to | <input type="checkbox"/> Community Council | Regional Council |
| Recommendation Report to | <input type="checkbox"/> Community Council | Regional Council |

Councillor Gary Martin
District 21

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IMPORTANT INFORMATION

PARENTAL RESPONSIBILITY ACT
[SBC 2001] CHAPTER 45

Assented to August 27, 2001

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Part 1 — Interpretation and Application

Definitions

1 In this Act:

"child" means a person who is under 18 years of age;

"director" means a director under the *Adoption Act*, the *Child, Family and Community Service Act* or the *Secure Care Act*;

"federal youth legislation" means the *Youth Criminal Justice Act* (Canada), or the *Young Offenders Act* (Canada) that was in force before April 1, 2003;

"parent" means, with respect to a child,

- (a) a biological parent of the child, unless the child is adopted,
- (b) an adoptive parent of the child,
- (c) an individual declared to be a parent of the child under section 95 of the *Family Relations Act*,
- (d) an individual who
 - (i) is married to, or lives in a marriage-like relationship with, a parent referred to in paragraph (a), (b) or (c), and
 - (ii) contributes to the support, maintenance and care of the child,
- (e) an individual who has custody of the child, and
- (f) an individual who has a right of access to the child,

but does not include

- (g) a director,
- (h) subject to the regulations, an individual who is included in paragraph (e) or (f) solely because he or she is responsible for the care, treatment, custody or supervision of the child under an arrangement with the government of British Columbia, the government of Canada or any other government, or under any of the following:
 - (i) the *Adoption Act*;
 - (ii) the *Child, Family and Community Service Act*;
 - (iii) the *Correction Act*;
 - (iv) the *Criminal Code*;
 - (v) the *Mental Health Act*;
 - (vi) the *Secure Care Act*;
 - (vii) the federal youth legislation;
 - (viii) the provincial youth legislation;
 - (ix) an enactment of British Columbia or of Canada that is prescribed by the Lieutenant

Governor in Council, or

(i) an individual described in paragraph (a), (b) or (c) who has no right of custody and no right of access to the child;

"property loss" means a loss

(a) experienced as a result of loss of or damage to property, and

(b) caused by an act of a child that is described in section 3,

and includes economic loss suffered as a consequence of loss of or damage to property;

"provincial youth legislation" means the *Youth Justice Act*, or the *Young Offenders (British Columbia) Act* that was in force before the date on which the *Youth Justice Act* came into force.

Application

2 This Act does not apply in the circumstances referred to in section 10 of the *School Act*.

Part 2 — Parent's Liability and Bringing an Action

Parent's liability

3 Subject to section 6 and Part 3, if a child intentionally takes, damages or destroys property of another person, a parent of the child is liable for the loss of or damage to the property experienced as a result by an owner and by a person legally entitled to possession of the property.

Small Claims Act

4 An action under this Act must be commenced under the *Small Claims Act*.

Joint and separate liability

5 If more than one parent of a child is liable in an action brought under this Act, the parents of the child are jointly and separately liable.

Maximum award

6 (1) Subject to subsection (2), if either an owner of property or a person legally entitled to possession of property suffers property loss, the owner, the person legally entitled to possession of the property or both may commence a civil action under this Act against a parent of a child who caused the property loss to recover damages, in an amount not exceeding \$10 000, excluding interest and costs, in respect of the property loss.

(2) If one or more persons has suffered property loss as a result of the action of one or more children, the total amount of damages awarded against all the parents of all the children who caused the property loss must not exceed \$10 000, irrespective of the number of parents of the children who

are liable under this Act.

Insurers subrogated

7 (1) An insurer who has paid compensation to an owner of property or a person legally entitled to possession of the property in connection with property loss is subrogated to the rights of the person under this Act up to the amount paid in compensation.

(2) After an insurer pays compensation to a person in connection with property loss, the insurer may bring an action in the name of the insured or in its own name to enforce the rights referred to in subsection (1).

(3) If compensation permitted under this Act is recovered against a parent and the payment is to be shared by the insurer and the insured, the net amount, after deduction of the costs of recovery, as determined by the court, must be divided as follows:

- (a) to the insurer, the amount of compensation paid to the insured;
- (b) to the insured, the amount that exceeds the amount of compensation paid by the insurer.

Right of action in addition to other rights

8 (1) Subject to section 2, the right of action and remedies under this Act are in addition to any other right of action or remedy that may be available.

(2) Subsection (1) does not require that damages awarded under this Act for the activity of a child be disregarded in assessing damages in any other proceeding arising out of that activity of the child.

Part 3 — Defence to an Action under Part 2

Parent's defence

9 A parent has a defence to an action under this Act if the parent satisfies the court that he or she

(a) was exercising reasonable supervision over the child at the time the child engaged in the activity that caused the property loss, and

(b) made reasonable efforts to prevent or discourage the child from engaging in the kind of activity that caused the property loss.

Factors that court may consider

10 In determining under section 9 whether a parent exercised reasonable supervision over a child or made reasonable efforts to prevent or discourage the child from engaging in the kind of activity that caused the property loss, the court may consider any of the following:

- (a) the age and maturity of the child;

- (b) the prior conduct of the child;
- (c) the likelihood that the activity would result in property loss;
- (d) psychological or medical disorders, psychological, physical or learning disabilities or emotional disturbances of the child;
- (e) whether the likelihood of property loss arising from the child's conduct was reasonably foreseeable by the parent;
- (f) whether the child was under the supervision of the parent when the child engaged in the activity that resulted in the property loss;
- (g) if the child was not under the supervision of the parent when the child engaged in the activity that resulted in the property loss, whether the parent made reasonable arrangements for the supervision of the child;
- (h) whether the parent has sought to improve his or her parenting skills by attending parenting courses or in any other manner;
- (i) whether the parent has sought professional assistance for the child, designed to discourage activity of the kind that resulted in the property loss;
- (j) psychological or medical disorders, psychological, physical or learning disabilities or emotional disturbances of the parent;
- (k) any other matter that the court considers relevant to the determination.

Part 4 — Evidentiary Matters related to Young Offenders

Proof

- 11** (1) In this section, "**offence**" has the same meaning as in the federal youth legislation.
- (2) In an action under this Act, proof that a child has been found guilty of an offence under the federal youth legislation is proof, in the absence of evidence to the contrary, that the offence was committed by the child if
- (a) no appeal of the finding of guilt was taken and the time for an appeal has expired, or
 - (b) an appeal of the finding of guilt was taken but was dismissed or abandoned and no further appeal is available.
- (3) For the purposes of subsection (2), a copy of an order of disposition or sentence under the federal youth legislation purporting to be signed by the officer having custody of the records of the court that made the order is, on proof of the identity of the child named in the order as guilty of the offence, sufficient evidence that the child was found guilty of the offence, without proof of the signature or

official character of the person appearing to have signed the order.

Disclosure of evidence obtained under federal youth legislation

12 If evidence obtained under the federal youth legislation is presented in an action under this Act, the court file must not be disclosed to any person except to the following:

- (a) the court, authorized court employees and authorized persons who provide services to the court;
- (b) the claimant and the claimant's lawyer or agent;
- (c) the child, his or her parents and their lawyers or agents;
- (d) a peace officer who requires the information for the purpose of conducting an investigation;
- (e) a Crown counsel who requires the information for the purpose of prosecuting an offence.

No effect on provisions limiting disclosure or publication

13 If information from records under the federal youth legislation or the provincial youth legislation is made available for the purposes of an action under this Act or presented as evidence in an action under this Act, nothing in this Act affects the provisions of the federal youth legislation or the provincial youth legislation that limit disclosure or publication of the information.

Part 5 — Miscellaneous

Amount of damage award

14 In determining the amount of damages to be awarded under this Act, the court may consider any restitution made by, or compensation paid by, the child, a parent of the child or a person on behalf of the parent or the child.

Power to make regulations

15 The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*, including regulations that establish the circumstances in which a person responsible for the care, treatment, custody or supervision of a child is a parent within the meaning of section 1.

Commencement

16 This Act comes into force by regulation of the Lieutenant Governor in Council.