

Protecting Children from Parental Harm: Child Protection Act Review

Backgrounder

The *Child Protection Act* was proclaimed in 2003 to replace the *Family & Child Services Act*. The intent of the substantive legislative changes were to improve service to children in need of protection from parental harm. The *Child Protection Act* also introduced a new provision requiring that the Minister appoint an advisory committee to review the *Act*. The purpose of the review is to report on the operation and administration of the *Act* to determine that the principles and purposes of the *Act* are being achieved.

In 2008, the first Child Protection Act Review Advisory Committee was appointed and a report entitled *What We Heard: A Report of the Child Protection Act Review Advisory Committee* is available at www.gov.pe.ca/photos/original/cpa_Report2008.pdf

In 2010, the *Child Protection Act* was amended to include:

- definition of a child to be every person under the age of 18;
- change title of Director of Child Welfare to Director of Child Protection;
- notification of Band Council Designate for Aboriginal children at each phase of the child protection service delivery process;
- inclusion of child pornography as a criteria to find a child in need of protection;
- sequential ordering of the *Act* to reflect practice;
- clarification on length of time and number of times children can be in care with focus on permanency and best interests of the child;
- clarification of service to 16-18 year olds;
- mandatory review of the *Act* be changed to every 5 years;
- ability for the Director of Child Protection to provide access to Child Protection records for evaluation and monitoring purposes;
- change child welfare language to child protection services language throughout the *Act*;
- clarification of duties of Minister and Director of Child Protection Services;
- ability to notify report source if a child protection report does not meet the eligibility criteria for investigation under the *Act*; and
- clarify language for voluntary care agreements to include custody and guardianship.

In 2013, a subsequent amendment was made to the *Child Protection Act* to provide authority for the Director of Child Protection to disclose information required for an investigation or inquest under the *Coroner's Act*.

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In November 2015, the Minister appointed the following individuals to the second Child Protection Act Review Advisory Committee:

- Patsy MacLean (Chair)- HR Atlantic
- Tammy Arsenault - Aboriginal representative
- Leslie Collins - Legal Aid Lawyer
- David Larter - Legal Counsel to the Director of Child Protection
- Wendy McCourt - Director of Child Protection
- Rona Smith, Maureen MacEwen, Sally Ripley, Katrina Anderson, Joyce Robertson - Child & Family Services employees
- Dr Heather Morrison - Chief Public Health Officer
- Dr Philip Smith - University of Prince Edward Island
- Victoria Pineau, Taylor Wilson, Danny Phalen - Youth representatives

The intent of the review is to seek public input and report on the administration of the Act and ensure that its principles and purposes are being achieved. The committee will provide a report to the Minister of Family & Human Services within six months. This report will enable government to consider the need for legislative and policy changes.

The Child Protection Act Review Advisory Committee will host public consultations across the province in February and March 2016. Individuals or groups can also provide input to the review through a private and confidential meeting or written submission.

Please use the enclosed guiding questions to make a written submission before March 31, 2016 to:

Child Protection Act Review Advisory Committee
c/o HR Atlantic
Brecken Building
1 Harbourside Drive,
Charlottetown, PE
C1A 8R4
email: cpareview@hratlantic.ca

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All children are entitled to safety and protection from parental harm, to be nurtured throughout their dependent years and to have their physical, emotional, social and safety needs met. The primary responsibility for meeting the needs, protecting the rights and ensuring the safety of children, rests with parents and families.

Notwithstanding the rights and responsibilities of parents, every adult has a responsibility to protect children from parental harm. The *Child Protection Act* provides protection for children from birth to eighteen. Through the mandatory reporting provisions of the *Child Protection Act*, every person is required by law to report when a child is known or suspected to be in need of protection from parental harm.

The *Child Protection Act* defines the criteria of when a child is in need of protection from parental harm. There are a number of situations in which children may be in need of protection, which include but are not limited to: physical, sexual, emotional harm by a parent; exposure to domestic violence by or towards a parent; neglect by a parent to adequately supervise or protect a child, provide the basic needs for a child to include shelter, food, clothing, medical care; parental refusal and/or failure to obtain required medical care for a child; parental abandonment of a child; exposure to or involved in the production of child pornography and the parent has failed or been unable to protect the child; etc.

Through the delivery of mandated Child Protection Services, the Director of Child Protection is responsible to assess all child protection reports and determine if the report meets the *Child Protection Act* criteria that a child may be in need of protection from parental harm. When Child Protection Services are provided, the best interests of the child are paramount.

When a report has been assessed to meet the *Child Protection Act* criteria, then a Child Protection Social Worker will begin an investigation. There are always two or more sides to every situation and the role of the Child Protection Social Worker is to gather the facts to determine if the child is in need of protection from parental harm. During the investigation, the Child Protection Social Worker will talk to the child, talk to the parent, gather information from other people such as police, doctors, schools, community resources, etc. At the end of the investigation, the Child Protection Social Worker will determine whether or not the child has been found to be in need of protection from parental harm. In situations where the child has been found to be in need of protection from parental harm, the Child Protection Social Worker will help the parents find a way to get help and change their behaviors that have caused harm to the child.

Sometimes, to ensure the child is safe while the parent gets help, the child may have to go and live somewhere else. This is called a least intrusive plan. This is when the parent asks a family member or friend to take the child and care for the child. When the parent makes a least intrusive plan to keep their child safe, the child is not in the legal custody and guardianship of the Director of Child Protection and Child Protection Services does not have the authority to provide financial compensation to help the family member or friend care for the child. This remains the responsibility of the parent.

Sometimes, to ensure the child is safe while the parent gets help and the parent is unable or unwilling to make a safety plan for the child, the child comes into the legal custody and guardianship of the Director of Child Protection. This is when a child is in care and placed in either an approved foster home or a group home for children. This can happen either voluntarily when the parent chooses to temporarily transfer custody and guardianship of the child to the Director of Child Protection, or the Child Protection Social Worker takes the child into the legal custody and guardianship of the Director of Child Protection without the consent of the parent and this is called an apprehension.

When children are found in need of protection from parental harm, the goal of Child Protection Services is always to work with the parent, either with the child in the home or when the child must live outside the home in order to be safe, to help the parent get the help the parent needs to change the behavior that caused harm to their child. Most Child Protection Services are provided to children and parents with the child remaining in the home.

Child Protection Services Statistics

	2012/13	2013/14	2014/15
Child Protection Reports Received	3,326	3,766	3,368
Child Protection Investigations Opened	1,786	1,926	1,838
Children who received Child Protection Services in their own homes	512	690	720
Children who received Child Protection Services in the legal custody and guardianship of the Director of Child Protection	224	230	225
Child Protection Services to Parents	529	632	659

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Guiding Questions:

- 1) What is your understanding of the purpose of the *Child Protection Act*?
- 2) What is working with the *Child Protection Act*?
- 3) What is not working with the *Child Protection Act*?
- 4) What are your suggestions for improvement to the *Child Protection Act*?
- 5) In your opinion, does the *Child Protection Act* provide an appropriate balance between privacy and confidentiality in the protection of children and the need for sharing of information to enable collaboration amongst service providers and other partners? Please explain.
- 6) What do you believe are the needs of children receiving child protection services under the *Child Protection Act*?
- 7) Do you believe there are children the *Child Protection Act* is not protecting? If so, tell us about them.
- 8) What do you believe families need to care for and protect their children?
- 9)
 - a) What can you do as an individual?
 - b) What can we do as a community?
 - c) What can we do as a government?
- 10) Any other comments?

Thank you!

Prince Edward Island Child Protection Act Review

For more information or to book a private consultation, please call Wendy Hughes at 902-368-5294 or visit the website at www.gov.pe.ca/sss/childprotectionact