

## ABUSE AND NEGLECT CHILD PROTECTION ACTS

### The Role of Provincial and Territorial Authorities in Cases of Child Abuse Child Welfare in Canada

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Province: **British Columbia**

Ministry for Children and Families

<http://www.mcf.gov.bc.ca/>



**Act:** Child, Family and Community Service Act. Bill 46 1994

**Definition of a child:** any person under 19 years of age

Part 3, Division 1

**When protection is needed:**

- (1) A Child needs protection in the following circumstances:
  - (a) if the child has been, or is likely to be, physically harmed by the child's parent;
  - (b) if the child has been, or is likely to be, sexually abused or exploited by the child's parent;
  - (c) if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child;
  - (d) if the child has been, or is likely to be, physically harmed because of neglect by the child's parent
  - (e) if the child is emotionally harmed by the parent's conduct;
  - (f) if the child is deprived of necessary health care;
  - (g) if the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;
  - (h) if the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;
  - (i) if the child is or has been absent from home in circumstances that endanger the child's safety or well being;
  - (j) if the child's parent is dead and adequate provision has not been made for the child's care;
  - (k) if the child has been abandoned and adequate provision has not been made

- for the child's care;
- (1) if the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force.
  - (2) For the purpose of subsection (1)(e), a child is emotionally harmed if the child demonstrates severe:
    - (a) anxiety
    - (b) depression
    - (c) withdrawal, or
    - (d) self-destructive or aggressive behaviour.
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Province: **Alberta**



Children's Services

<http://www.gov.ab.ca/cs/index.html>

Act: Child Welfare Act

**Definition of a child:** any person under the age of 18 years.

Subsection 1(2):

**A child is in need of protective services** if there are reasonable and probable grounds to believe that the survival, security or development of a child is endangered because

- (a) the child has been abandoned or lost;
  - (b) the child's guardian is dead and the child has no other guardian; c) the child's guardian is unable or unwilling to provide the child with necessities of life;
  - (c) the child has been or there is risk that the child will be physically injured or sexually abused by the guardian;
  - (d) the guardian is unable or unwilling to protect the child from physical injury or sexual abuse;
  - (e) the child has been emotionally injured by the guardian;
  - (f) the child's guardian is unable or unwilling to protect the child from emotional injury;
  - (g) the child's guardian has subjected the child to or is unable or unwilling to protect the child from cruel and unusual treatment or punishment;
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- (h) the condition or behaviour of the child prevents the guardian from providing the child with adequate care appropriate to meet the child's needs.

Sub-section 1(3):

- (a) a child is **emotionally injured**
- i. if there is substantial and observable impairment of the child's mental or emotional functioning that is evidenced by a mental or behavioural disorder, including anxiety, depression, withdrawal, aggression or delayed development, and
  - ii. if there are reasonable and probable grounds to believe that the emotional injury is the result of
    - rejection,
    - deprivation of affection or cognitive stimulation,
    - exposure to domestic violence or severe domestic disharmony,
    - inappropriate criticism, threats, humiliation, accusations or expectations of or towards the child, or
    - the mental or emotional condition of the guardian of the child or chronic alcohol or drug abuse by anyone living in the same residence as the child;
- (b) a child is **physically injured** if there is substantial and observable injury to any part of the child's body as a result of the non-accidental application of force or an agent to the child's body that is evidenced by a laceration, a contusion, an abrasion, a scar, a fracture or other bony injury, a dislocation, a sprain, haemorrhaging, the rupture of viscus, a burn, a scald, frostbite, the loss of alteration of consciousness or physiological functioning or the loss of hair or teeth;
- (c) a child is sexually **abused** if the child is inappropriately exposed or subjected to sexual contact, activity or behaviour.
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Province: **Saskatchewan**



<http://www.gov.sk.ca/>

Act: The Child and Family Services Act

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**Definition of a child:** any unmarried person under 16 years of age. Section 18 provides for the apprehension of a 16 or 17 year old, in exceptional circumstances, who is in need of protection and is unable to protect himself/herself from a dangerous situation.

Section 11:

**A child is in need of protection where:**

- (a) as a result of action or omission by the child's parent:
  - i. the child has suffered or is likely to suffer physical harm;
  - ii. the child has suffered or is likely to suffer a serious impairment of mental or emotional functioning;
  - iii. the child has been or is likely to be exposed to harmful interaction for a sexual purpose, including conduct that may amount to an offence within the meaning of the Criminal Code;
  - iv. medical, surgical or other recognized remedial care or treatment that is considered essential by a duly qualified medical practitioner has not been or is not likely to be provided to the child;
  - v. the child's development is likely to be seriously impaired by failure to remedy a mental, emotional or development condition; or
  - vi. the child has been exposed to domestic violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child;
- (b) there is no adult person who is able and willing to provide for the child's needs, and physical or emotional harm to the child has occurred or is likely to occur; or
- (c) the child is less than 12 years of age and:
  - i. there are reasonable and probable grounds to believe that: a) the child has committed an act that, if the child were 12 years of age or more, would constitute an offence under the Criminal Code, the Narcotic Control Act (Canada) or Part III or Part IV of the Food and Drug Act (Canada); and b) family services are necessary to prevent a recurrence; and
  - ii. the child's parent is unable or unwilling to provide for the child's needs.

For child protection purposes, a definition of abuse has been omitted from The Child and Family Services Act. The concern is that the decision as to what constitutes abuse is left to the judge's discretion.

Province: **Manitoba**



**Department of Family Services**

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 Winnipeg, Manitoba R3C 1G1  
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<http://www.gov.mb.ca/fs/>

**Act:** The Child and Family Services Act

**Definition of a child:** any person under 18 years of age.

Section 17

**A child is in need of protection** “where the life, health or emotional well-being of the child is endangered by the act or omission of a person.” This may occur “where the child

- (a) is without adequate care, supervision or control;
- (b) is in the care, custody, control or charge of a person
  - i. who is unable or unwilling to provide adequate care, supervision or control of the child, or
  - ii. whose conduct endangers or might endanger the life, health or emotional well-being of the child, or
  - iii. who neglects or refuses to provide or obtain proper medical or other remedial care or treatment necessary for the health or well-being of the child or who refuses to permit such care or treatment to be provided to the child when the care or treatment is recommended by a duly qualified medical practitioner;
- (c) is abused or is in danger of being abused;
- (d) is beyond the control of a person who has the care, custody, control or charge of the child;
- (e) is likely to suffer harm or injury due to the behaviour, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child;
- (f) is subjected to aggression or sexual harassment that endangers the life, health or emotional well-being of the child;
- (g) being under the age of 12 years, is left unattended and without reasonable provision being made for the supervision and safety of the child; or
- (h) is the subject, or is about to become the subject, of an unlawful adoption

under section 63 or of an unlawful sale under section 84 of the Act.”

Under Section 1 **abuse** means “an act or omission of a parent or guardian of a child or of a person having care, custody, control or charge of a child, where the act or omission results in

- (a) physical injury to the child,
- (b) emotional disability of a permanent nature in the child or is likely to result in such a disability, or
- (c) sexual exploitation of the child with or without the child's consent.”

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Province: **Ontario**



**Ministry of Community and Social Services**

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Toronto, Ontario M7A 1E9

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<http://www.childsec.gov.on.ca/>

**Act:** the Child and Family Services Act

**Definition of a child for child protection purposes:** any person under 18 years of age

Sub-section 37(2):

**A child is in need of protection where:**

- (a) the child has suffered physical harm, inflicted by the person having charge of the child or caused by that person's failure to care and provide for or supervise and protect the child adequately;
- (b) there is substantial risk that the child will suffer physical harm inflicted or caused as described in clause (a);
- (c) the child has been sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child;
- (d) there is a substantial risk that the child will be sexually molested or sexually exploited as described in clause (c);
- (e) the child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the

- child does not provide, or refuses or is unavailable or unable to consent to, the treatment;
- (f) the child has suffered emotional harm, demonstrated by severe,
    - i) anxiety,
    - ii) depression,
    - iii) withdrawal, or
    - iv) self-destructive or aggressive behaviour, and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm;
  - (g) there is substantial risk that the child will suffer emotional harm of the kind described in clause (f), and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm;
  - (h) the child suffers from a mental, emotional or developmental condition that, if not-remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition;
  - (i) the child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody;
  - (j) the child is less than twelve years old and has killed or seriously injured another person or caused serious damage to another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment;
  - (k) the child is less than twelve years old and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately; or
  - (l) the child's parent is unable to care for the child and the child is brought before the court with the parent's consent and, where the child is twelve years of age or older, with the child's consent, to be dealt with under this Part."

Province: **Québec**



Ministère de la famille et de l'enfance

<http://www.famille-enfance.gouv.qc.ca/>

**Act:** Youth Protection Act/ Loi sur la protection de la jeunesse

**Definition of a child:** any person under eighteen years of age.

Section 38:

"the security or development of **a child is considered to be in danger** where:

- (a) his parents are dead, no longer take care of him or seek to be rid of him;
- (b) his mental or affective development is threatened by the lack of appropriate care or by the isolation in which he is maintained or by serious and continuous emotional rejection by his parents;
- (c) his physical health is threatened by the lack of appropriate care;
- (d) he is deprived of the material conditions of life appropriate to his needs and to the resources of his parents or of the persons having custody of him
- (e) he is in the custody of a person whose behaviour or way of life creates a risk of moral or physical danger for the child;
- (f) he is forced or induced to beg, to do work disproportionate to his capacity or to perform for the public in a manner that is unacceptable for his age;
- (g) he is the victim of sexual abuse or he is subject to physical ill-treatment through violence or neglect;
- (h) he has serious behavioural disturbances and his parents fail to take the measures necessary to remedy the situation or the remedial measures taken by them fail."

Section 38.1

"The security or development of **a child may be considered to be in danger** where:

- (a) he leaves his own home, a foster family, a reception centre or a hospital centre without authorization while his situation is not under the responsibility of the director of youth protection;
- (b) he is of school age and does not attend school, or is frequently absent without reason;
- (c) his parents do not carry out their obligations to provide him with care, maintenance and education or do not exercise stable supervision over him, while he has been entrusted to the care of an establishment or foster family for two years".

Sexual abuse and physical ill treatment are the result of an action or failure to act

which leads to trauma or physical injury, or which involves exploitation of the child for sexual purposes.

**Sexual abuse** means actions involving sexual stimulation or attempted sexual stimulation, which may or may not lead to injury or trauma.

**Physical ill treatment** includes any act committed in such a way as to provoke physical injury or trauma. These actions are unreasonable and excessive in nature and have serious consequences on the child's health, development or survival. They go beyond the limitations of parental corporal punishment as defined in Section 651 of the Civil Code of Québec. Blows causing bodily harm and intoxication of the child through medication, drugs or alcoholic beverages are examples of excessive physical force.

The notion of negligence in Sub-section 38(g) of the Youth Protection Act refers to situations in which the parent or guardian does not take the necessary steps to prevent sexual or physical ill treatment.

The legal definition of **neglect** is primarily any act of omission on the part of the parent in meeting the basic needs of a child or in sparing a child from suffering. Neglect also includes active and deliberate behaviour to deprive a child of care

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Province: **New Brunswick**



Office for Family and Prevention Services

<http://gov.nb.ca/acts/acts/f%2D02%2D2.htm> (english)  
Family Services Act

<http://gov.nb.ca/ACTS/LOIS/f-02-2.htm> (français)  
Loi sur les services à la famille

**Act:** Family Services Act, delivered by the 12 regional offices. Ten of the province's fifteen Indian Nations have signed agreements that establish social service agencies within individual native communities to deliver their own child and family services.

**Definition of a child:** any person under the age of under 19 years. However, regulations stipulate that for child protection purposes a child means a person actually or apparently under the age of 16 and includes a disabled person actually or apparently under the age of 19.

Under Section 31:

**A child's security of development may be considered to be in danger (i.e. a child in need of protection) when:**

- (a) the child is without adequate care, supervision or control;
- (b) the child is living in unfit or improper circumstances;
- (c) the child is in the care of a person who is unable or unwilling to provide adequate care, supervision or control of the child;
- (d) the child is in the care of a person whose conduct endangers the life, health or emotional well-being of the child;
- (e) the child is physically or sexually abused, physically or emotionally neglected, sexually exploited or in danger of such treatment;
- (f) the child is living in a situation where there is severe domestic violence;
- (g) the child is in the care of a person who neglects or refuses to provide or obtain proper medical, surgical or other remedial care or treatment necessary for the health or well-being of the child or refuses to permit such care or treatment to be supplied to the child;
- (h) the child is beyond the control of the person caring for him;
- (i) the child by his behaviour, condition, environment or association, is likely to injure himself or others;
- (l) the child is in the care of a person who does not have a right to custody of the child, without the consent of a person having such right;
- (k) the child is in the care of a person who neglects or refuses to ensure that the child attends school; or
- (l) the child has committed an offence or, if the child is under the age of twelve years; has committed an act or omission that would constitute an offence for which the child could be convicted if the child were twelve years of age or older.

Definitions of **abuse** and **neglect**:

**a) Physical Abuse**

Physical abuse refers to all actions resulting in non-accidental physical injury, from bruises and cuts to bums, fractures and internal injuries. Such abuse is distinguished from acceptable or reasonable use of force by its severity, its inappropriateness for the age of the child, and its lack of a healthy corrective purpose regarding the child's behaviour.

**b) Sexual Abuse**

Sexual abuse refers to any sexual acts involving a child and a parent/caretaker, any person in a position of trust, and any other adult. Sexual abuse can range from a parent/caretaker permitting or exposing a child to sexual acts, to actual molestation of the child by an adult. Molestation includes acts of exposure, fondling or masturbation, and intercourse, including incest.

c) **Physical Neglect**

Physical neglect covers acts of omission on the part of the parent/caretaker.

d) **Emotional Maltreatment**

Emotional maltreatment is the most difficult form of abuse and neglect to define and identify. Emotional abuse includes overt rejection, criticism and excessive demands of performance for a child's age and ability. Emotional abuse refers to the failure of the parent/caretaker to provide adequate psychological nurturance necessary for a child's growth and development.

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Province: **Nova Scotia**



Department of Community Services

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Halifax, Nova Scotia B3J 2T7

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<http://www.gov.ns.ca/coms/a-index.htm>

**Act:** Children and Family Services Act

**Definition of a child:** any person under sixteen years of age.

Subsection 22(2):

**A child is defined to be in need of protective services where:**

- (a) the child has suffered physical harm, inflicted by a parent or guardian of the child or caused by the failure of a parent or guardian to supervise and protect the child adequately;
- (b) there is a substantial risk that the child will suffer physical harm inflicted or caused as described in clause (a);
- (c) the child has been sexually abused by a parent or guardian of the child, or by another person where a parent or guardian of the child knows or should know of the possibility of sexual abuse and fails to protect the child;
- (d) there is substantial risk that the child will be sexually abused as described in clause (c);
- (e) a child requires medical treatment to cure, prevent or alleviate physical

- harm or suffering, and the child's parent or guardian does not provide, or refuses or is unavailable or is unable to consent to, the treatment;
- (f) the child has suffered emotional harm, demonstrated by severe anxiety, depression, withdrawal, or self-destructive or aggressive behaviour and the child's parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm;
  - (g) there is substantial risk that the child will suffer emotional harm of the kind described in clause (f), and the parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm;
  - (h) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the condition;
  - (i) the child has suffered physical or emotional harm caused by being exposed to repeated domestic violence by or towards a parent or guardian of the child, and the child's parent or guardian fails or refuses to obtain services or treatment to remedy or alleviate the violence;
  - (j) the child has suffered physical harm caused by chronic and serious neglect by a parent or guardian of the child, and the parent or guardian does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm;
  - (k) the child has been abandoned, the child's only parent or guardian has died or is unavailable to exercise custodial rights over the child and has not made adequate provisions for the child's care and custody, or the child is in the care of an agency or another person and the parent or guardian to the child refuses or is unable or unwilling to resume the child's care and custody;
  - (l) the child is under twelve years of age and has killed or seriously injured another person or caused serious damage to another person's property, and services or treatment are necessary to prevent a recurrence and a parent or guardian of the child does not provide, or refuses or is unavailable or unable to consent to, the necessary services or treatment;
  - (m) the child is under twelve years of age and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of a parent or guardian of the child or because of the parent or guardian's failure or inability to supervise the child adequately.

Section 62 defines abuse of a child to mean that the child:

- (a) has suffered physical harm, inflicted by the person or caused by the person's failure to supervise and protect the child adequately;
- (b) has been sexually abused by the person or by another person where the person,

- having the care of the child, knows or should know of the possibility of sexual abuse and fails to protect the child; or
- (c) has suffered serious emotional harm, demonstrated by severe anxiety, depression, withdrawal, or self-destructive or aggressive behaviour, caused by the intentional conduct of the person.
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Province: **Prince Edward Island**



Health and Social Services, Child Welfare  
<http://www.gov.pe.ca/>

**Act:** Family and Child Services Act

**Definition of a child:** any person under the age of 18.

**A child in need of protection** refers to a child:

- (a) who is not receiving proper care, education, supervision, guidance or control;
- (b) whose parents are unable or unwilling to care for the child, or whose behaviour or way of life creates a danger for the child;
- (c) who has been physically abused, neglected or sexually exploited or is in danger of consistently threatening behaviour;
- (d) who is forced or induced to do work disproportionate to his strength or to perform for the public in a manner that is unacceptable for his age;
- (e) whose behaviour, condition, environment or associations is injurious or threatens to be injurious to himself or others;
- (f) for whom the parent or person in whose custody he is neglects or refuses to provide or obtain proper medical or surgical care or treatment necessary for his health and well-being where it is recommended by a duly qualified medical practitioner;
- (g) whose emotional or mental health and development is endangered;
- (h) for whom the parent or person in whose custody he is neglects, refuses or is unable to provide the services and assistance needed by the child because of the child's physical, mental or emotional handicap or disability;
- (i) who is living in a situation where there is severe domestic violence;
- (j) who is beyond the control of the person caring for him;
- (k) who is living apart from his parents without their consent; or

- (l) who is pregnant and refuses or is unable to provide properly and adequately for the health and welfare needs of herself and her child both before and after the birth of her child.

**Abuse** in relation to a child is defined as "physical, mental, emotional or sexual mistreatment of the child by a person responsible for his care and well-being."

**Sexual abuse** as "any sexual activity (intercourse, molestation, fondling, exhibitionism, sexual exploitation, harassment) that involves a child."

Indicators of **abuse**:

- "where a non-accidental injury or condition is identified which requires immediate medical attention;
- whenever non-accidental injuries or conditions result in hospitalization of the child;
- when a child has been subjected or exposed to unusual or inappropriate sexual activity, or harassment
- when a child's life has been endangered by being abandoned."

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Province: **Newfoundland and Labrador**



**Department of Health and Community Services, Child Welfare**

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<http://www.gov.nf.ca/>

**Act:** Child Welfare Act

**Definition of a child:** any unmarried person under the age of 16.

Under Paragraph 19(13) (a) a child who is in the Director's care at age 16 may have wardship extended to age 19.

Sub-section 2(b):

**A child in need of protection to mean:**

- (a) a child who is without adequate care or supervision;
- (b) a child who is without necessary food, clothing or shelter;
- (c) a child who is living in circumstances that are unfit or improper for the child;

- (d) a child in the care or custody of a person who is unfit, unable or unwilling to provide adequate care for the child;
- (e) a child who is living in a situation where there is severe domestic violence;
- (f) a child who is physically or sexually abused, physically or emotionally, neglected sexually, exploited or in danger of that treatment;
- (g) a child who is in the care and custody of a person who fails to provide adequately for the child's education or attendance at school;
- (h) a child who has no living parents and who has no person willing to assume responsibility or with a legal responsibility for the child's maintenance;
- (i) a child who is in the care or custody of a person who refuses or fails:
  - i) to provide or obtain proper medical or other recognized remedial care or treatment necessary for the health or well-being of the child, or
  - ii) to permit such care and treatment to be supplied to the child when it is considered essential by a qualified medical practitioner;
- (j) child who is brought before the court with the consent of the parent, guardian or person with actual control for the purpose of transferring the guardianship of the child to the director;
- (k) a child who is beyond the control of the person caring for the child;
- (l) a child who by his or her behaviour, condition, environment or association, is likely to injure himself or herself or others;
- (m) a child taken into a home or otherwise in the care and custody of a person contrary to subsection 3(3) or (5) of the Adoption of Children Act (i.e., without the written approval of the Director of Child Welfare); and
- (n) a child actually or apparently under the age of 12 who performs an action that contravenes a provision of an Act or a regulation made under that Act or a municipal regulation or by-law or an Act of the Parliament of Canada."

Paragraph 2(b)(vi) provides the definition of **child abuse** and **neglect**:

"A child who is physically or sexually abused, physically or emotionally neglected, sexually exploited or in danger of that treatment. Such situations as lack of supervision or control and failure to provide the basic necessities of life constitute neglect..." A child who is living in a situation where there is severe domestic violence is included in the definition of a child in need of protection.

Territory: **Northwest Territories**



**Department of Health and Social Services**

<http://www.gov.nt.ca/>

**Act:** Child Welfare Act

**Definition of a child:** any person under 18 years of age, including a person under the guardianship of the Superintendent of Child Welfare who is over 18 years of age. Under Subsection 25(1), guardianship may be extended to age 19.

Sub-section 12(2)

**A child is deemed to be in need of protection when:**

- (a) the child is an orphan who is not being properly cared for or is brought, with the consent of the person in whose charge the child is, before a justice to be dealt with under this Part;
- (b) the person in whose charge the child is, has delivered the child to the Superintendent for adoption;
- (c) the child is deserted by the person in whose charge the child is, or that person has died or is unable to care properly for the child;
- (d) the person in whose charge the child is cannot by reason of disease, infirmity, misfortune, incompetence or imprisonment, care properly for the child;
- (e) the home of the child, by reason of neglect, cruelty or depravity on the part of the person in whose charge of the child is, is an unfit and improper place for the child;
- (f) the child is found associating with an unfit or improper person;
- (g) the child is found begging in a public place;
- (h) the child is or, in the absence of evidence to the contrary, appears to be under the age of 12 years and behaves in a way that, in the case of any other person, would be an offence created by an Act of Canada or by any regulation, rule, order, by-law or ordinance made under an Act of Canada or an enactment or municipal by-law;
- (i) the child habitually absents himself or herself from the home of the person in whose charge the child is without sufficient cause;
- (j) the person in whose charge the child is neglects or refuses to provide or secure proper medical, surgical or other remedial care or treatment necessary for the health or well-being of the child, or refuses to permit this care or treatment to be supplied to the child when it is recommended by a medical practitioner; or
- (k) the child is deprived of affection by the person in whose charge the child is to a degree that, on the evidence of a psychiatrist, is sufficient to endanger

the emotional and mental development of the child."

For the purposes of reporting child abuse, Sub-section 30(1) of the Child Welfare Act defines **child abuse** to be a condition of

- (a) physical harm in respect of which a child suffers physical injury but does not include reasonable punishment administered by a parent or guardian;
- (b) malnutrition or mental ill-health of degree that if not immediately remedied could seriously impair growth and development or result in permanent injury or death; or
- (c) sexual molestation.

**Physical abuse** is "any non-accidental infliction of physical injury on a child by a caretaker (guardian, foster parent, etc.). Non-accidental injury includes carelessness and intentional harm."

**Emotional abuse** means "injury to the emotional or intellectual capacity of a child."

**Sexual abuse** is "exposure of the child to sexual stimulation inappropriate for his age and role; the sexual exploitation of a child who is not developed mentally or capable of understanding or resisting the contact, or a child or adolescent who may be psychologically or socially dependant upon the perpetrator."

**Neglect** is "failing to give a child what he/she needs... A lack of attention to the physical and/or emotional needs of a child, and a failure to use available resources to meet those needs."

**Emotional neglect** is "A lack of attention to the emotional and social needs of a child to the extent he/she is not able to see himself as a person of worth, dignity and value."

Although a condition of malnutrition is defined in the Act as possible child abuse, it is noted in policy that malnutrition may have causes other than abuse and neglect. A medical opinion is recommended.

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**Family and Children's Services**

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**Act:** Children's Act

**Definition of a child:** any person under 18 years of age. Under Subsection 137(1), the Director of Family and Children's Services may extend care and custody to age 19.

Subsection 116(1)

**A child is in need of protection when**

- (a) he is abandoned,
- (b) he is in the care of a parent or other person who is unable to provide proper or competent care, supervision or control over him,
- (c) he is in the care of a parent or other person who is unwilling to provide proper or competent care, supervision or control over him,
- (d) he is in probable danger of physical or psychological harm,
- (e) the parent or other person in whose care he is neglects or refuses to provide or obtain proper medical care or treatment necessary for his health or well-being or normal development,
- (f) he is staying away from his home in circumstances that endanger his safety or well-being,
- (g) The parent or other person in whose care he is fails to provide the child with reasonable protection from physical or psychological harm,
- (h) the parent or person in whose care he is involves the child in sexual activity,
- (i) subject to subsection 2, (reference to use of reasonable or aggressive force) the parent or person in whose care he is beats, cuts, bums or physically abuses him in any other way,
- (j) the parent or person in whose care he is deprives the child of reasonable necessities of life or health,
- (k) the parent or person in whose custody he is harasses the child with threats to do or procures any other person to do any act referred to in paragraphs (a) to (j), or
- (l) the parent or person in whose care he is fails to take reasonable precautions to prevent any other person from doing any act referred to in paragraphs (a) to (j).

In the "Interdepartmental Protocol on Teacher/Principal Guidelines for Identifying and Reporting Child Abuse and Neglect" (see section on Child Abuse and Neglect Protocols), abuse includes "both familial and non-familial as well as neglect". In addition, the following definitions are included:

**Physical abuse:**

Any act or omission which results in or may potentially result in a non-accidental injury to a child and which exceeds that which could be considered reasonable discipline. It includes, but is not restricted to, physical beating and failure to provide reasonable protection for a child from physical harm

**Sexual abuse:**

Any sexual activity involving a child that could be a violation of the Criminal Code, the Young Offenders Act, or render a child in need of protection under the Children's Act. Sexual abuse may include intercourse, molestation, fondling, exhibitionism, sexual assault, harassment, and exploitation of a child for the purpose of pornography or prostitution.

**Emotional abuse:**

Acts or omissions on the part of the parent or caregiver that results in or may potentially result in psychological harm to the child. The results of emotional abuse may include non-organic failure to thrive, developmental retardation, serious anxiety, depression or withdrawal, and serious behavioural disturbances.

**Neglect:**

The failure of those responsible for the care of a child to provide proper or competent care, supervision or control resulting in failure to meet the physical, emotional or medical needs of the child to the extent that the child's health, development or safety is endangered

Under the Children's Act, a child is accorded the following rights: the right to apply to vary or end a custody order: the right to be informed of any protection investigation involving him or her and to be given reasons if he/she is deemed able to understand: and the right for the child's official guardian to determine if the child needs a lawyer at the public's expense. In addition, the child has a right to be in a family.

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Territory: **Nunavut**

Department of Health and Social Services

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