



British Columbia's child welfare system¹

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An overview of child welfare in British Columbia

The main responsibility for the well-being of children in Canada rests with parents. It is recognized, however, that there are times when others must intervene. Child maltreatment is one such circumstance. The *Constitution Act*² grants provinces and territories the authority to operate child welfare systems to intervene, when necessary, and to set legislation to govern those systems. The purpose of child welfare systems in Canada is to protect the safety and well-being of children.

In British Columbia, the Ministry of Children and Family Development (MCFD) oversees the quality and delivery of child protection services. The MCFD service delivery system consists of approximately 200 ministry offices in five regions. Each region has a regional executive director and operational directors who administer and manage service delivery, and a director delegated under the *Child, Family and Community Service Act* (CFCSA).³ In addition to child protection, the regional offices are mandated to provide a range of specialized services to ensure the safety and well-being of young people under the age of 19, including adoption arrangements and child and youth mental health services. They work closely with many non-profit community organizations, which are often contracted to provide specific programs and services.

British Columbia also has a large Aboriginal child protection and support system. Twenty-four Aboriginal agencies provide child protection and/or family support services to Aboriginal people under delegation agreements negotiated with the provincial government, or with the provincial and federal governments.

British Columbia has a wide variety of governance models for Aboriginal child and family service provision, and the extent to which existing governance models affirm First Nations community child welfare law-making differs from one model to another. The Spallumcheen Band, for example, asserts sole jurisdiction over child and family services on its reserve lands under the authority of the federal *Indian Act* through a band by-law consistent with the CFCSA. The Nisga'a Lisims First Nations government, on the other hand, includes provisions in a treaty for the development of Nisga'a laws over child welfare services, provided these meet provincial laws and regulations. The Nisga'a are currently developing their organizational capacity to deliver a full range of services under this delegation model.⁴ Other treaties are under negotiation.

The average number of children in care and the total number of child protection reports made to the MCFD in British Columbia have been gradually decreasing over the last six years, as shown in Table 1, while the percentage of Aboriginal children in care has increased.

What do we mean by child maltreatment?

Child maltreatment refers to the abuse (violence, harm, mistreatment) or neglect a child or youth may have experienced, be experiencing, or could be at substantial risk of experiencing due to an act or omission of the child's parent. British Columbia's *Child, Family and Community Service Act* and Canada's *Criminal Code* define the behaviour and conditions so potentially harmful that it is necessary to intervene for the well-being of children. In British Columbia, children

Table 1. British Columbia: Number of children in care and total annual protection reports

Fiscal Year	Number of children in care as of March	Percentage of children in care who are Aboriginal	Average number of children in care each month	Average percentage of children in care who are Aboriginal	Total number of protection reports during the year
2000/01	10,474	38.7%	10,247	36.6%	34,794
2001/02	10,049	42.5%	10,417	41.1%	33,522
2002/03	9,581	44.8%	9,731	44.1%	31,780
2003/04	9,086	46.3%	9,325	45.6%	30,074
2004/05	9,071	48.4%	9,101	47.6%	29,907
2005/06	9,157	49.6%	9,088	49.1%	30,507
2006/07	9,271	50.9%	9,204	50.5%	30,962

Source: British Columbia Ministry of Children and Family Development, Decision Support Branch, May 25, 2007.

and youth up to the age of 19 are in need of protection under the CFCSA if the child's safety or well-being is endangered because of any of the following:

- if the child has been, or is likely to be, physically harmed by the child's parent;
- if the child has been, or is likely to be, sexually abused or exploited by the child's parent;
- if the child has been, or is likely to be, physically harmed, sexually exploited, or sexually abused by another person and the child's parent is unwilling or unable to protect the child;
- if the child has been, or is likely to be, physically harmed because of neglect by the child's parent;
- if the child is emotionally harmed by the parent's conduct;
- if the child is deprived of necessary health care;
- 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;
- 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;
- if the child has been absent from home in circumstances that endanger the child's safety or well-being;
- if the child's parent is dead and adequate provision has not been made for the child's care;
- if the child has been abandoned and adequate provision has not been made for the child's care;
- 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.

All individuals who have reason to believe that a child is in need of protection have a legal duty to report this to a child welfare worker. Individuals making a report are protected from civil action as long as the report was not purposely false. Failure to report is punishable by a prison term of not more than six months, a maximum fine of \$10,000, or both.

What does child welfare legislation in British Columbia cover?

The *Child, Family and Community Service Act* is the primary child protection legislation in British Columbia. Other relevant legislation includes the *Adoption Act*, the *Family Relations Act*, the *Community Living Authority Act*, the *Representative for Children and Youth Act* and the *Community Service Interim Authorities Act*.

The *Child, Family and Community Service Act* has several guiding principles:

- children are entitled to be protected from abuse, neglect, and harm or threat of harm;
- a family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with parents;
- if, with available support services, a family can provide a safe and nurturing environment for a child, support services should be provided;
- the child's views should be taken into account when decisions relating to the child are made;
- kinship ties and a child's attachment to the extended family should be preserved if possible;

- the cultural identity of Aboriginal children should be preserved;
- decisions relating to children should be made and implemented in a timely manner.

What happens after child maltreatment is reported?

Anyone who has reason to believe that a child is experiencing, or is at risk of experiencing, abuse or neglect must promptly report this. Reports should be made to a child welfare worker at the local Ministry of Children and Family Development office or, if the child is an Aboriginal child, to an Aboriginal agency delegated to respond to child protection reports, if there is such an agency in the service delivery area. Reports can also be made at any time of the day or night to the Ministry of Children and Family Development's Helpline for Children. This is a toll-free phone line, staffed by child welfare workers who are available to receive and respond to child protection reports.

When a report is received, a child welfare worker will assess the report and make a decision about whether or not the child is at immediate risk of harm. If the child is at immediate risk of harm, the child welfare worker will take action to keep the child safe. Other service providers, such as police, may be involved if required. If the child is not at immediate risk of harm, appropriate responses to a report include:

- offering voluntary family support services,
- referring the child and/or family to a community agency, or
- taking no further action, if no further action is needed to keep the child safe.

If the child welfare worker continues to have reason to believe the child may be at risk or harm, he or she will initiate one of the following:

- a "family development response" that engages the family in developing a plan to keep the child safe, supported by services that emphasize and build on the family's strengths. This response is used in low risk situations where the family agrees to collaborate with the child welfare worker;⁵
- a youth service response, if the child is old enough. This is a plan developed in collaboration with the youth, so that he or she can live in safety while developing the capacity to live independently;⁶
- a child protection investigation.

Child welfare workers take the least disruptive steps necessary to keep children safe, and involve the child's family and community to the greatest extent possible.⁷

How does the British Columbia child welfare system work for Aboriginal children?

Federally, the *Constitution Act*, the *Indian Act*, the *Sechelt Self-Government Act*, the *Nisga'a Final Agreement Act* and the *Canadian Charter of Rights and Freedoms* recognize the special legal status and rights of Canada's Aboriginal peoples.

In British Columbia, the *CFCSA* recognizes the importance of preserving the cultural identity of Aboriginal children and maintaining their kinship ties and attachments to extended family. It also states that Aboriginal people should be involved in planning and delivering services to Aboriginal children and families. The *Adoption Act* also recognizes the importance of preserving the child's cultural identity as a factor in determining the child's best interests.

If an Aboriginal child is removed from parental care, the *CFCSA* requires that a designated representative of the child's band or Aboriginal community be notified of court hearings and encouraged to participate in planning for the child. In addition, the *CFCSA* requires that priority be given to placing the child within the child's Aboriginal cultural community or, if that is not possible, with another Aboriginal family.

Consistent with these principles, MCFD has formal agreements with several Aboriginal communities. Many Aboriginal communities designated in the *CFCSA* operate their own child and family services agencies with delegated authority, provided that they comply with provincial legislations, regulations, and standards. Delegated Aboriginal child and family services agencies work to ensure that Aboriginal children and families are served in ways that are culturally appropriate, reflecting their unique needs, strengths, and circumstances.

As of June 2007, 24 delegated Aboriginal Child and Family Services Agencies were operating in British Columbia. Two agencies were in start-up, meaning their child welfare workers did not yet have authority under the *CFCSA*. The remaining 22 agencies had the following levels of delegation:

- three provide voluntary services and approve foster homes,
- eleven have additional delegation to provide guardianship to children in continuing (permanent) care,
- eight have full child protection delegation, with child welfare workers in these agencies having the same delegated authority as MCFD to respond to reports of suspected child abuse or neglect.⁸

Services provided by delegated agencies are guided by Aboriginal operational and practice standards and indicators that meet or exceed MCFD standards and policy.

In addition, the child welfare services provided under the Spallumcheen Band by-law constitute one additional child and family service system, although child protection worker practice is not subject to MCFD or provincial standards and policy.

Of the 24 operational Aboriginal child and family service agencies in the province, 21 receive operational funding from Indian and Northern Affairs Canada for the provision of services on-reserve, and three receive funding solely from MCFD for the provision of services to two urban aboriginal communities and one Métis community in BC.⁹

Many Aboriginal people living in urban areas and communities that are not served by delegated Aboriginal agencies receive child protection and family support services from non-profit Aboriginal organizations contracted by the MCFD.

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- 1 This information sheet has been reviewed by child welfare experts. Thanks are extended to the following : Mark Sieben, Assistant Deputy Minister, Ministry of Children and Family Development; Karen Wallace, Director, Child Welfare Policy, Ministry of Children and Family Development, and H. Monty Montgomery, Manager, Policy and Programs Initiatives, Caring for First Nations Children Society.
 - 2 *Constitution Act*, 1982, being Schedule B of the Canada Act, 1982 (U.K.), 1982.
 - 3 *Child, Family and Community Services Act*, R.S.B.C. 1996 c. 46. Retrieved May 4, 2007 from: http://www.qp.gov.bc.ca/statreg/stat/C/96046_01.htm
 - 4 Personal communication with H. Monty Montgomery, Manager, Policy and Programs Initiatives, Caring for First Nations Children Society. For more background on jurisdictional models of Aboriginal child welfare in Canada, see Gough, P., Blackstock, C. & Bala, N. (2005). *Jurisdiction and funding models for Aboriginal child and family service agencies*. CECW Information Sheet #30E. Toronto, ON, Canada: University of Toronto.
 - 5 It should be noted that practice standards for child protection workers employed by Aboriginal agencies do not enable child protection workers to exercise this option at this time.
 - 6 Ibid.
 - 7 Personal communication with Karen Wallace, Director, Child Welfare Policy, Ministry of Children and Family Development, May 24, 2007.
 - 8 Ibid.
 - 9 Personal communication with H. Monty Montgomery, Manager, Policy and Programs Initiatives, Caring for First Nations Children Society.