



Ontario's Child Welfare System¹

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An overview of child welfare in Ontario

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

There are 53 child welfare agencies in Ontario, most of which are called Children's Aid Societies. These organizations have the legal responsibility to investigate reports that a child may be in need of protection due to maltreatment or risk of maltreatment by his/her caregivers. Together, these agencies cover the entire province.

Child welfare activity in Ontario has been increasing over the years. The number of child maltreatment investigations in Ontario has nearly tripled in the past decade, expanding from 45,000 in 1993 to close to 130,000 in 2003. The number of children in care also rose from 10,000 in the early 1990s to over 18,000 in 2003-2004.³

In 2003, the rate of substantiated child maltreatment in Ontario was 24.44 per 1,000 children.⁴

What do we mean by child maltreatment?

The term "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, while in the care of someone the child trusts or depends upon, such as a parent, caregiver, teacher, or coach. In Ontario, protection is considered necessary when:

- The child has experienced physical harm, inflicted by the person having charge of the child, or when there is substantial risk that the child will experience physical harm.
- The child "has been sexually molested or exploited" by the person having charge of the child, or the caregiver "knows or should know of the possibility" of such harm and does not protect the child.⁵
- The person having charge of the child does not provide the physical necessities of life, does not protect the child from harm, or fails to provide the child with love, safety, and a sense of well being.
- The child demonstrates serious anxiety, depression, withdrawal, self-destructive, or aggressive behaviour, and there are reasonable grounds to believe that the child has experienced emotional harm as a result of the actions, failure to act, or pattern of neglect of the child's caregiver.
- The child has been exposed to family violence, considered to be a form of emotional maltreatment.⁶

What does child welfare legislation in Ontario cover?

In Ontario, the *Child and Family Services Act*⁷ is the primary piece of legislation promoting the protection, best interests, and well-being of children. Other major child welfare statutes are:

- *Children's Law Reform Act* as of August 1, 2002⁸
- *Family Law Act* as of August 13, 2002⁹

The paramount principle of Ontario's *Child and Family Services Act* is that children need to be protected from harm. The core aspects of the Act are that:

- All individuals, and especially professionals who work with children, have a mandatory duty to immediately report suspected child

abuse or neglect to a child welfare agency or to the police. This duty cannot be delegated to anyone. For example, a teacher must report directly and not through the principal of the school.¹⁰

- Family autonomy should be preserved if possible. It is recognized that, while parents often need help in caring for their children, the preferred way to provide such help should give support to the autonomy and integrity of the family.
- Children should be provided with continuity of care (as few changes in caregivers as possible).
- The views of children should be considered when decisions are being made.
- The child's cultural heritage must be respected when decisions are made regarding his or her well-being, especially for Aboriginal children, who have a unique status.¹¹

What does the province do to protect children?

The Ministry of Children and Youth Services (MCYS) is responsible for the legislation and funding under which child welfare services are provided in the province of Ontario. The *Child and Family Services Act* gives the Minister of Children and Youth Services the authority to develop policies and programs for the range of services provided by the Act, including the establishment and monitoring of Children's Aid Societies and other approved agencies.

What is the role of a child welfare agency?

Child welfare agencies are non-profit incorporated organizations, designated under Section 15 of the *Child and Family Services Act*. They are mandated to investigate allegations of child abuse and neglect and to provide ongoing protection, residential care, adoption services, and extended care for children in their care. These agencies are governed by community-based, volunteer Boards of Directors that are responsible for staff and services and are accountable to the Ministry of Children and Youth Services and their local communities.

The functions of a child welfare agency are to:

- Investigate allegations or evidence that children who are under the age of 16 years, or are in the society's care or under its supervision, may be in need of protection;
- Protect, where necessary, children who are under the age of 16 years or are in the society's care or under its supervision;
- Provide guidance, counselling, and other services to families for protecting children or for the

prevention of circumstances requiring the protection of children;

- Provide care for children assigned or committed to its care;
- Supervise children assigned to its supervision under the *Child and Family Services Act*; and,
- Place children for adoption.

Child welfare agencies provide service 24 hours a day, seven days a week.

What happens after a child welfare agency is called?

Reports of child maltreatment are assigned to child welfare workers who assess the situation and ensure that the child lives in a safe environment while the problem at hand is being addressed. Although requirements and standards for child protection investigations are set provincially, each Ontario child welfare agency is operated independently and establishes its own protocols for working with local police forces, school systems, and the public health system. If a child welfare worker determines that a child is in need of protection, the agency first tries to engage the family in voluntary problem-solving. In some cases, the agency must take other steps to ensure the child's safety, which may include working with the family on a non-voluntary basis by involving the court and obtaining a court order of supervision, or by taking the child into care on a temporary or permanent wardship basis.

How does the Ontario child welfare system work for Aboriginal children?

First Nations children in Canada are not only considered to be members of their families, but also members of their First Nations. Ontario's *Child and Family Services Act* recognizes the uniqueness of Aboriginal culture and makes it clear that the preservation of cultural identity is an important factor in the best interests of an Aboriginal child. If the child is "an Indian or native person," the Act requires that the child's band or native community be notified if a child welfare agency is assessing the child or commencing child protection or adoption proceedings.

There are six Aboriginal-managed child and family service organizations in Ontario that are fully mandated to provide all the services of a child welfare agency. Five of these are First Nations on-reserve child and family agencies, and one, Native Child and Family Services of Toronto, is an urban Aboriginal agency.

- 1 This information sheet was reviewed by experts in the field of child welfare.
- 2 *Constitution Act*, 1982, being Schedule B of the Canada Act, 1982 (U.K.), 1982.
- 3 Ontario Ministry of Children and Youth Services. (2005). *Child welfare transformation 2005: A strategic plan for a flexible, sustainable and outcome oriented service delivery model*. Toronto, ON: Author.
- 4 Fallon, B., Trocmé, N., MacLaurin, B., Knoke, D., Black, T., Daciuk, J. and Felstiner, C. (2005). *Ontario incidence study of reported child abuse and neglect-2003 (OIS 2003): Major findings- Executive summary report*. Toronto, ON: Centre of Excellence for Child Welfare.
- 5 *Child and Family Services Act* R.R.O. 1990, Reg. 70 as of July 30, 2002. Retrieved August 29, 2005 from http://192.75.156.68/DBLaws/Statutes/English/90c11_e.htm.
- 6 Ontario Association of Children's Aid Societies. (2000). *Ontario child welfare eligibility spectrum*. Toronto: Ontario Association of Children's Aid Societies.
- 7 *Child and Family Services Act* R.R.O. 1990, Reg. 70 as of July 30, 2002. Retrieved August 29, 2005 from http://192.75.156.68/DBLaws/Statutes/English/90c11_e.htm.
- 8 *Children's Law Reform Act* as of August 1, 2002. Retrieved August 29, 2005 from http://192.75.156.68/DBLaws/Statutes/English/90c12_e.htm.
- 9 *Family Law Act* as of August 13, 2002. Retrieved August 29, 2005 from http://192.75.156.68/DBLaws/Statutes/English/90f03_e.htm.
- 10 Regehr, C. and K. Kanini. 2006. *Law for social work practice in Canada*. Toronto: Oxford University Press.
- 11 Bala, N. (2004). Child welfare law in Canada: an introduction. In Bala, N., Zapf, M., Williams, R., Vogl, R. & Hornick, J. (Eds.), *Canadian Child Welfare Law: Children, Families and the State*. Toronto:Thompson Educational Publishing.

Suggested citation: Gough, P. (2005). Ontario's child welfare system. CECW Information Sheet #31E. Toronto, ON: University of Toronto, Faculty of Social Work.

CECW information sheets are produced and distributed by the Centre of Excellence for Child Welfare to provide timely access to Canadian child welfare research.

The Centre of Excellence for Child Welfare (CECW) is one of the Centres of Excellence for Children's Well-Being funded by Health Canada. The CECW is also funded by Canadian Institutes of Health Research and Bell Canada. The views expressed herein do not necessarily represent the official policy of the CECW's funders.



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