



Prince Edward Island's child welfare system¹

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An overview of child welfare in Prince Edward Island

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 and territories the authority to operate child welfare systems to intervene, when necessary, and to set legislation to govern those systems. The purpose of the provincial and territorial child welfare systems is to protect the safety and well-being of children.

In Prince Edward Island (PEI), the provincial Minister of Social Services and Seniors has the overall responsibility for the administration of child welfare services, which includes child protection. The Director of Child Welfare is appointed by the Minister of Social Services and Seniors to oversee the protection of vulnerable children.

Child protection services in PEI are delivered by the Department of Social Services and Seniors' Child and Family Services Division child protection teams. The service delivery system consists of two administrative units with five offices located in communities across the province. Child protection staff are provincial social workers, under the supervision of the Director of Child Welfare.

In 2007/ 2008, there were 235 children in care in Prince Edward Island. The number of children in care in PEI during the recent past can be seen in Table 1.

Table 1. Number of children in care in PEI

2004/ 2005	2005/ 2006	2006/ 2007	2007/ 2008
289	302	277	235

What do we mean by child maltreatment?

In general terms, "child maltreatment" in PEI, as defined in the *Child Protection Act*,³ refers to the harm a child or youth may have experienced, be experiencing, or could be at substantial risk of experiencing, while in the care of a parent or guardian. Protection is considered necessary when a child has experienced, or is at substantial risk of experiencing, harm from:

- physical harm inflicted by a parent;
- parental neglect, or parental failure to adequately supervise or protect the child;
- sexual abuse where the parent knew, or ought to have known, of the possibility of sexual abuse of the child, and failed to protect the child;
- sexual exploitation for the purposes of prostitution and the parent failed to protect or was unable to protect the child;
- emotional harm inflicted by a parent or another person, where the parent knew or ought to have known that the other person was emotionally abusing the child and the parent failed to protect the child;
- physical or emotional harm caused by being exposed to domestic violence;

Protection is also considered necessary if a child:

- requires specific medical, psychological, or psychiatric treatment to cure, prevent or ameliorate a physical or emotional condition, and the parent does not obtain treatment or consent to treatment;
- suffers from a mental, emotional, or developmental condition that, if not addressed, could seriously harm the child, and the parent does not obtain treatment or consent to treatment;

- has been abandoned or is without parents able to take custody of him or her, and adequate provisions have not been made for the care of the child;
- the child is in the custody of the Director of Child Welfare or another person and the parent of the child refuses or is unable to resume custody of the child;
- the child is less than 12 years old and may have killed or seriously injured another person, or poses a serious danger to another person, or may have caused significant property damage, and the parent of the child does not obtain or consent to treatment which may be necessary to prevent a recurrence of the incidence; or
- the past parenting of the child has put the child at significant risk of harm within the meaning of the above situations.
- the developmental needs of children require timely decision making. Services provided under the *Act* should respect the fact that children have a concept of time that is different from that of adults;
- parents have the right and responsibility for the care and supervision of their children;
- children should only be removed from parental care when other measures have failed or are not appropriate;
- the rights of children, families and individuals are guaranteed by the rule of law;
- intervention into the affairs of individuals and families should be governed by law so as to protect those rights and preserve the autonomy and integrity of the family where possible;
- the prevention of child abuse and neglect is a responsibility shared by the family, community, and province.

What does child welfare legislation in Prince Edward Island cover?

Several pieces of legislation in PEI have implications for child welfare, reflecting the premise that the need to protect children from harm is built into a number of elements of the community and social service network. The *Child Protection Act* is the primary piece of legislation for the protection of vulnerable children, although other Acts also have implications for child and youth well-being, such as:

- *the School Act*,⁴
- *the Adoption Act*,⁵
- *the Youth Justice Act*,⁶
- *the Custody Jurisdiction and Enforcement Act*,⁷
- *the Social Assistance Act*,⁸ and
- *the Intercountry Adoption (Hague Convention) Act*.⁹

The paramount principles of the *Child Protection Act* are that:

- children are entitled to protection from abuse and neglect and have the same basic rights and fundamental freedoms as adults;
- children are entitled to special safeguards and assistance in the preservation of their rights and freedoms;
- children are entitled to be heard and to participate in processes that lead to decisions that affect them;
- the healthy development of children results from the preservation of their cultural, racial, linguistic and religious heritage;

All individuals who have reasonable grounds to believe that a child is in need of protection have a mandatory duty to immediately report this to a child protection worker or to a peace officer. Individuals making a report are protected from civil action as long as the report was not based on false or misleading information. The only situations in which exceptions are made to this duty to report suspected harm to children are those involving lawyer/client privilege. Failure to report suspected child harm is an offence and is subject to a fine of up to \$2,000.

Child protection services in PEI extend to all children from birth to age 18. Youths between the ages of 16 and 18 years who are assessed by child welfare workers to be unable to protect themselves due to developmental, mental or physical limitations are also entitled to child protection services.

Young people aged 16 and 17, who are deemed by child welfare workers to be in need of child protection services and are considered to be developmentally capable of a degree of self-protection, may live on a semi-independent basis, with supports provided under a Youth Service Agreement. If there are unusual circumstances requiring special transitional services, this arrangement can continue up to the age of 21.

For youth in permanent care, Prince Edward Island provides 'continued assistance' in the form of financial supports up to the age of 21 in order to assist with the transition to independent living.

What is the role of child protection workers and the Director of Child Welfare?

Child protection workers work under the supervision of the Director of Child Welfare to ensure that vulnerable children are protected within the contexts of their own families, whenever possible. They offer a range of services to help families care for their children in safe and healthy environments. These include assessments, crisis intervention, counseling, and services to prevent children from being harmed. When services are needed, they are provided within a framework of respect for the autonomy of the family and support for healthy child development and parenting capacity.

There are times when the risk factors of the home environment may be such that children may have to be removed from home on a temporary, or sometimes permanent, basis. In these situations, the Director of Child Welfare is able to take custody and guardianship of children, and may place them in the care of a member of the extended family or other caregiver. The staff of the Child and Family Services Division provide for adoptions and various forms of foster care and residential care for children in need of protection, in keeping with the legislation and the best interests of the children involved.

What happens after child maltreatment is reported?

Child protection services are available at all times and all reports are kept confidential. After a report has been received, the nature of the call is assessed to determine whether it fits within the mandate of the *Child Protection Act*. If it does, a child protection worker investigates the situation to determine if a full investigation of the circumstances of the child is appropriate. All reports that are recommended for investigation are monitored to ensure a timely response. After consultation with the family involved, workers develop an assessment of the situation and determine further action. This could include referring the family to community resources, providing services to help build family strengths while strengthening family links to the community, or other interventions such as kinship care or foster care that ensure the child lives in a safe environment while the problems are being solved.

How does the child welfare system in Prince Edward Island 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. The *Constitution Act*, the *Indian Act*¹⁰ and the *Canadian Charter of Rights and Freedoms*¹¹ recognize the special legal status and rights of Canada's Aboriginal peoples in matters of child welfare as in other situations.

The *Child Protection Act* recognizes the importance of preserving the cultural identity of Aboriginal children as a factor to be considered as part of the best interests of the child.

Although PEI does not have a delegated First Nations child and family service agency, the province's two First Nation bands have formed a joint organization called the Mi'kmaq Confederacy of Prince Edward Island (MCPEI) which provides culturally appropriate family and community services to Aboriginal families with funding from the province and the federal government's Department of Indian and Northern Affairs. Aboriginal children living on reserves receive mandated child protection services from provincial social workers, who collaborate with the Mi'kmaq Family Support Program of MCPEI to meet the needs of First Nations band children in a culturally appropriate manner. If a child is believed to be an Aboriginal child, the Director of Child Welfare is required by the *Child Protection Act* to notify the band prior to a protection hearing before the courts, and to consult with the band in developing a plan of care for the child.

Aboriginal families living off reserves in PEI receive child protection services from provincial workers and are entitled under the *Child Protection Act* to receive the same supports as on-reserve First Nations families if they desire them.

1 This information sheet was reviewed by experts in the field of child welfare. Thanks are extended to the following from PEI's Department of Social Services and Seniors: Rona Brown, Director of Child and Family Services, Wendy McCourt, Coordinator, West Child Protect, and Jennifer Burgess, Program Analyst, for their assistance.

2 *Constitution Act*, 1982, being Schedule B of the *Canada Act*, 1982 (U.K.), 1982.

3 *Child Protection Act*, R.S. P.E.I. 1998, c. C.-5.1. Retrieved August 25, 2008 from: <http://www.canlii.org/pe/laws/sta/c-5.1/index.html>

4 *School Act*, R.S. P.E.I. 1998, C. S-2.1. Retrieved August 25, 2008 from: <http://www.canlii.org/eliisa/highlight.do?language=en&searchTitle=Statutes+and+Regulations+of+Prince+Edward+Island&path=/pe/laws/sta/s2.1/20080715/whole.html>

- 5 *Adoption Act*, R.S. P.E.I. 1988, c. A-4.1. Retrieved August 25, 2008 from: <http://www.canlii.org/eliisa/highlight.do?language=en&searchTitle=Statutes+and+Regulations+of+Prince+Edward+Island&path=/pe/laws/sta/a-4.1/20080715/whole.html>
- 6 *Youth Justice Act*, R.S. P.E.I. 1988, Y-1. Retrieved August 25, 2008 from: <http://www.gov.pe.ca/law/statutes/pdf/y-03.pdf>
- 7 *Custody Jurisdiction and Enforcement Act*, R.S. P.E.I. 1988, c. C-33. Retrieved August 25, 2008 from: <http://www.canlii.org/eliisa/highlight.do?language=en&searchTitle=Prince+Edward+Island&path=/pe/laws/sta/c-33/20080715/whole.html>
- 8 *Social Assistance Act*, R.S. P.E.I. 1988, c. A-4.3. Retrieved August 25, 2008 from: <http://www.canlii.org/eliisa/highlight.do?language=en&searchTitle=Statutes+and+Regulations+of+Prince+Edward+Island&path=/pe/laws/sta/s-4.3/20080715/whole.html>
- 9 *Intercountry Adoption (Hague Convention) Act*, R.S. P.E.I. 1988, c. I-4.1. Retrieved August 25, 2008 from: <http://www.canlii.org/eliisa/highlight.do?language=en&searchTitle=Prince+Edward+Island&path=/pe/laws/sta/i-4.1/20080715/whole.html>
- 10 *Indian Act*, R.S.C. 1985, c.I-5. Retrieved September 2, 2008 from: <http://www.canlii.org/ca/sta/i-5/>
- 11 *Canadian Charter of Rights and Freedoms*. Retrieved September 2, 2008 from: <http://laws.justice.gc.ca/en/charter/>

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Suggested citation: Gough, P. (2008). *Prince Edward Island's child welfare system*. CECW Information Sheet #61E. Toronto, ON: University of Toronto, Faculty of Social Work.

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

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