



Legal Age for Leaving Children Unsupervised Across Canada

Mónica Ruiz-Casares & Ivana Radic
March, 2015

This study reviewed Canadian (a) statutory norms and jurisprudence to determine age at which children can be left unsupervised and (b) safety, child self-care and babysitting programs. Only three provinces establish a minimum age (12 or 16 years) at which children can be left alone or in charge of other children. Quebec is the only province with an age limit for leaving children unsupervised in a vehicle (seven years). Age is only one of the child factors generally considered by the courts in assessing adequate care and supervision. Canadian social services organizations advise that children under 12 years should not be left at home alone. Policy and advocacy efforts should provide accurate information and support to caregivers and children.

Introduction

Parents and caregivers often have to make difficult decisions to ensure children's safety and support while coordinating school-work schedules and facilitating children's growing independence. In reality, many children regularly spend time home alone unsupervised. As children mature, increasing autonomy may help them "engender responsibility and self-reliance" (Flynn & Rodman, 1989, p. 668). However, lack of supervision has been linked to a number of negative outcomes such as unintentional injuries and death in young children (Petross, Blitvich, & Finch 2009; 2011; van Beelen et al., 2013; Panzino et al., 2013) and self-harm in adolescents (Richardson et al., 1989; Ruiz-Casares et al., 2012). For parents, the consequences of leaving children without adequate care or supervision may also include legal responsibility. Indeed, in the USA and in Canada, lack of supervision is the most common type of substantiated child neglect (Ruiz-Casares, Trocmé, & Fallon 2012; Hussey, Chang, & Kotch, 2006).

Child welfare jurisdictions across the 13 Canadian provinces and territories define supervisory neglect in terms of caregiver behaviors that result in harm or place children at risk of harm (i.e., no observable harm needed to bring legal charges against caregivers) (Ruiz-Casares, Trocmé, & Fallon, 2012). Inadequate parental supervision may encompass behaviors and circumstances that include not watching a child closely enough, using inadequate substitute child care, failing to protect a child from a third party, or allowing a child to engage in a harmful activity (Coohey, 2003; 2008). In this study, we focus on the use of inadequate substitute childcare and particularly leaving a child alone or under the supervision of another child in a vehicle or at home. While other factors such as child's maturity and context are essential when determining adequate

supervision (DePanfilis, 2006), clarifying legal minimum ages below which children shall be presumed not to have the capacity to care for themselves or other children would help guide caregivers and professionals.

Findings

Legal age limits for leaving children alone at home or in a vehicle in Canada

Parents are required to adequately provide for the supervision of their children at all times as they are ultimately responsible for their children's safety. As indicated in Table 1, the definition of "child" under welfare Acts is linked to the age of majority in seven provinces and territories. One territory defines child as a person under 18 where the age of majority is 19. The remaining five provinces and territories define child as either being or appearing to be under the age of 16.

The majority of provinces and territories do not limit the age at which a child can be left alone in their statutory rules. However, in two provinces (Manitoba and New Brunswick), the welfare Acts state that a parent cannot leave a child under the age of 12 unattended without making provision for adequate supervision. In Ontario, the statutory limit is 16 years. When it comes to leaving a child unattended in a vehicle, only Quebec establishes a statutory age limit (seven years).

Jurisprudence specifically related to child age and lack of supervision is limited, even where there is a statutory age limit. Indeed, in provinces with a statutory age limit, sometimes the courts applied the statutory rule. For example, the Queen's Bench in Manitoba stated that because children between 19 months and 8 years were left alone, protection was needed¹. Other times age did not appear to be a determining factor. For example, an Ontario court concluded that, because the "mother was living a party lifestyle", there was a serious risk of emotional harm to five year-old child and intervention was necessary².

Where the Statutes are silent as to the age at which a child can be left home alone, the courts have weighed in their position. Most noteworthy is an Alberta case where a father specifically asked if his 11 year old son could be left home alone for 3 hours after school; the court said that children under 12 should not be left unattended by parents during parenting hours³. In Alberta, families appear to be expected to arrange care for children under 12 years (Government of Alberta, 2014). Additionally, in foster/kinship cases, government authorities define "a safe and stable environment for a child" to include ensuring the child under 12 is not left unsupervised (Alberta Human Services, 2012). In most cases, an analysis of lack of supervision of young children is included in a pattern of neglect that leads to a serious risk of negligence for children under 12 years of age⁴. However, age in itself is not the only or determining factor. In a Nova Scotia case, the court found that leaving a 13 year old child alone overnight in the home did not amount to adequate supervision of the child because that 13 year old was not mature and not responsible enough⁵; in another case in the same province, the court found that leaving children under five and two years of age unattended for short periods of time (here the mother would exit the home to smoke) was acceptable⁶.

Table 1: Legal Framework for Child Supervision at Home or in a Vehicle in Canada (2014)

Province/ Territory	Legal age of majority	“Child” (Welfare Act)	Child home alone (years)	Child alone in vehicle (years)	Situations	Penalties	
						Fine (CAD)	Imprison ment (months)
Alberta	18	18	–	–	Abandonment/loss Inability/unwillingness to supervise	≤ 25,000	≤ 12
British Columbia	19	19	–	–	Abandonment Inability/unwillingness to supervise No/inadequate care provision	–	–
Manitoba	18	18	12	–	Inability/unwillingness to supervise No/inadequate care provision	≤ 50,000	≤ 24
New Brunswick	19	19	12	–	Abandonment/loss Inability/unwillingness to supervise No/inadequate care provision	240 – 10,200	≤ 3 only repeat offence
Newfoundland and Labrador	19	16	–	–	Abandonment No/inadequate care provision	≤ 10,000	≤ 6
Northwest Territories	19	16	–	–	Abandonment Inability/unwillingness to supervise	≤ 10,000	≤ 12
Nova Scotia	19	16	–	–	Abandonment Inability/unwillingness to supervise Permitting criminal behaviour	–	–
Nunavut	19	16	–	–	Abandonment Inability/unwillingness to supervise	≤ 10,000	≤ 12
Ontario	18	18	16	–	No/inadequate care provision	≤ 1,000	≤ 12
Prince Edward Island	18	18	–	–	Abandonment No/inadequate care provision	≤ 2,000	–
Quebec	18	18	–	7	Abandonment No/inadequate care provision	625 – 5,000	–
Saskatchewan	18	16	–	–	Inability/unwillingness to supervise	≤ 25,000	≤ 24
Yukon	19	18	–	–	Abandonment Inability/unwillingness to supervise	–	–

Sources: Child Welfare, Majority and Traffic Safety Acts of all provinces and territories (see Endnote ⁷)

Unsupervised children in need of protection and legal consequences

In situations related to lack of supervision, the law identifies several conditions for a child to become a child in need of protection (Table 1). Expressions vary widely across jurisdictions and include inability or unwillingness to provide adequate care, supervision or control of the child, failing to supervise and protect the child adequately, leaving a child unattended for an unreasonable length of time and failing to make adequate provision for the child's care, and abandoning, deserting or losing a child. The burden of proof lies with the party bringing the case forward, i.e., the State through its Child Services Department. The State needs to prove (1) the child's age, for those provinces that have an age limit, (2) that the child was left unattended and (3) that as a consequence, the child was in danger or suffered harm. However, in Ontario, the burden is reversed if the child is under ten years. In that case, the State would simply need to prove (1) that the child was under the age of ten years and (2) that the child was left unattended; the parents need then to prove that the child was not in danger.

When a person in charge of a child is found guilty under a Welfare Act, that person commits an offence and may be liable to a fine, imprisonment or both. As listed on Table 1, most provinces and territories provide for such an offence and for the subsequent possibility of penalties: a fine ranging from a minimum of \$240 to a maximum of \$50,000; imprisonment ranging from a minimum of 3 months to a maximum of 24 months or both a fine and imprisonment; only New Brunswick does not provide for both. Of the provinces and territories that allow for a fine, only two provinces do not also allow for imprisonment (Quebec and Prince Edward Island). No such offence and penalty are provided for in the Welfare Acts of two provinces and one territory (i.e., British Columbia, Nova Scotia and Yukon).

Information and support programs for children home alone and their parents

Public information provided to families and professionals does not always reflect the text of the law. For example, Toronto Children's Aid Societies (CAS) indicate on their online informational materials that "there is no law in Ontario that dictates a specific age at which a child can be left unsupervised" (n.d.). The Halton CAS also stated as of 2012 that "there is not specific age at which a child can be left unattended", however it specifies that the law "states that parents of children under the age of 16 years, must make "reasonable provisions' for their care" (n.d., p. 1). Similarly confusing are some provincial government sites for new immigrants. For example, both Quebec (Gouvernement du Québec, 2014) and Prince Edward Island (Government of P.E.I., 2010) sites indicate that children under 12 years should not be left home alone, yet none of these provinces has a statutory age limit when it comes to leaving children home alone.

Our online scan identified three agencies in Canada that offer programs to support parents and children who stay home alone or with other children. The types of programs (in English and/or French) included informational pamphlets and checklists, and youth trainings onsite and/or online. The Canada Safety Council (CSC) provides online checklists for safety (i.e., Telephone, Security, Fire Safety, First Aid, and Power Outages) and advises parents and children to communicate clearly and to prepare children for being home alone. CSC also provides structured onsite programs such as the Home Alone Program and the Babysitters Training Course in several

provinces and territories as well as online. Through ten sessions (25 hours) of interactive group learning, the former provides children ten years of age and older with the skills and knowledge needed to stay home alone “for short periods of time.” The Babysitters Training Course, aimed at children turning 12 years of age within the calendar year or older, includes information on issues ranging from child development and nutrition to games and basic first aid. Another program, the Babysitting training program offered directly by Red Cross Canada, is aimed at children between 11 and 15 years of age. Over the course of 8 hours, participants learn basic safety, first aid and caregiving skills, how to prevent and respond to emergencies, and how to promote themselves as a babysitter to prospective parents. Both CSC and the Red Cross offer their programs in several provinces. Finally, Child Safe Canada offers the Home Alone Safety + First Aid and the Red Cross Babysitter Program to children aged ten years and older in Alberta. The former is an interactive safety training program that also covers first aid and comfort skills. The latter is offered to “responsible adolescents of ten years and up who want to become a babysitter or may already be one” (Child Safe Canada, 2014), and covers the responsibilities of a babysitter, care and safety tips for children of all ages, basic first aid and responding to an emergency. All programs provide participants with a babysitter's manual and completion card.

Methodology

Legislation and case law

The legislation and caselaw databases of the Canadian Legal Information Institute (CanLii) and Quicklaw were used to find legislative and jurisprudential information on child supervision. Keywords (i.e., “age”; “abandoned”; “abandonment”; “child”; “home alone”; “lack of supervision”; “need of protection”; “neglected”; “negligence”; “supervision”; “unattended children”; “unsupervised children”) yielded the pertinent legal provisions in the Welfare and Transportation Acts of each province and territory which in turn helped identify examples in case law. To establish the legal definition of “child” or “minor”, the legal age of majority for each province and territory was noted first. Similarly, a definition of “child” under the Welfare Acts was documented in order to establish whether there was a different (lower) age at which parents could leave their child alone or unattended at home or if they were bound by the age of majority or other age limit set by the welfare Act. Situations of lack of supervision where the Welfare Act provides for intervention by State authorities to protect the child as well as possible legal consequences parents could face if found guilty of an offence under the Welfare Act for lack of supervision were recorded. These results were entered into an Excel database and all source documents were stored into a separate file and linked for easy access.

Social services and data

Websites from Children’s Aid Societies and other Canadian organizations offering guidance to parents and caregivers on safety and other issues related to child care and supervision and from babysitting or self-care training and certification for young adolescents were searched using keywords such as “age”, “home alone”; “unattended”; and “unsupervised”. The name and address of each organization meeting the inclusion criteria, as well as the name, type (such as printed material, training, etc.), geographic coverage, and description of relevant program(s)

were recorded in an Excel database. All results were analyzed within and across all provinces and territories; similarities and contradictions across data sources were documented.

Limitations

Data gathering for this study concluded in July 2014, hence the information hereby contained reflects the state of legislation, jurisprudence, and social services as of that date. In addition, the review of jurisprudence used set keywords across all provinces and territories yet it did not constitute a systematic review of all Court decisions on supervisory neglect. Finally, social services programs were identified over the internet. Accordingly, organizations that do not have websites or if their websites were in a language other than English or French or their program information was not up to date may not be included in our study.

Conclusion

Despite public and professional concern about the lack of clear guidelines about when children can be left home alone, there has been no legislative response. Our review of child welfare legislation across all 13 Canadian jurisdictions reveals that only three provinces have a minimum age at which children can be left at home unsupervised and only one establishes an age limit for leaving children unsupervised in a vehicle. In their application and interpretation of the law, the Courts have considered age among several other factors, thus indicating the need to assess adequate care and supervision on a case-by-case basis. Chronological age is not the solely determining factor when assessing adequacy of supervision because some children are able to take care of themselves for a limited period of time at a young age whereas others will never be able to be home alone safely (Ruiz-Casares et al., 2012). Balancing chronological age with child capacity and a number of environmental factors (such as accessibility of other adults, duration and frequency of unsupervised time, and neighbourhood safety) is needed in decision-making involving young people (Ruiz-Casares et al., 2012). Indeed, finding a balance between protection and autonomy is a complex issue not solved by the mere establishment of a minimum legal age. Moreover, empirical evidence for determining the optimal minimum legal age for leaving children unsupervised is lacking. The development of home safety checklists and supervision guidelines that include child, caregiver, and environmental factors has been advocated by researchers (Coohey, 2003; Hardoff, 2012; Ruiz-Casares, Trocmé, & Fallon 2012).

In this context, many parents and caregivers turn to child-focused social services organizations that provide printed information as well as training activities such as babysitting courses and certification. These organizations largely advise that children under 12 years should not be left at home alone or put in charge of younger children, yet families need to reconcile seemingly contradictory messages as some home alone and babysitting courses are offered to children as young as ten years (even in provinces with higher statutory age limits for child supervision) and some of the information publicly provided may not accurately reflect the full and/or exact content of the law.

Considering the multiplicity of determinants of child wellbeing, the establishment of a legal minimum age will not adequately protect all children. Nonetheless, accurate information should be provided to the public so that decision-makers at all levels—from caregivers to case workers,

have a clear indication of what constitutes appropriate care in their community and the dangers associated with lack of supervision (for example, Duzinski et al., 2014). Although organizations may understandably want to convey that age is not the only factor in determining whether a child can be left unsupervised for any period of time, more emphasis should be put on disseminating accurate information.

About the authors:

Mónica Ruiz-Casares is an Assistant Professor at McGill University Department of Psychiatry and a Scientific Advisor at the Centre de Santé et de Services Sociaux de la Montagne. Ivana Radic is a lawyer and legal consultant and researcher in private practice.

Suggested citation:

Ruiz-Casares, M., & Radic, I. (2015). Legal Age for Leaving Children Unsupervised Across Canada. CWRP Information Sheet #144E. Montreal, QC: McGill University, Centre for Research on Children and Families.

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¹ Wpg. C.F.S. v. H.(W.J.), C.(C.), T.(R.L.J.), 2002 MBQB 190 (paragraphs 46 to 48).

² CASNR v M(V) et al, 1994 CanLII 3829.

³ SC v. JD, 2013 ABPC 220, par. 37 - 40.

⁴ For example, in Quebec, see Protection de la Jeunesse - 131471, 2013 QCCQ 8558; Protection de la Jeunesse - 132014, 2013 QCCQ 8548; and Protection de la Jeunesse - 096898, 2009 QCCQ 19285.

⁵ Mo v. Ma, 2012 NSSC 159, par. 61 & 87.

⁶ FCSCC and MJK, 2003 NSFC 27, see paragraphs 91 to 94.

⁷ *Table 1 Sources*: Alberta: Child, Youth and Family Enhancement Act, RSA 2000, c C.12, Age of Majority Act, RSA 2000, c A-6 & Traffic Safety Act, RSA 2000, c T-6; British Columbia: Child, Family and Community Service Act, RSBC 1996, c 46, Age of Majority Act, RSBC 1996, c 7 & Motor Vehicle Act, RSBC 1996, c 318; Manitoba: The Child and Family Services Act, CCSM c C80, The Age of Majority Act, CCSM c A7 & The Highway Traffic Act, CCSM c H60; New Brunswick: Family Services Act, SNB 1980, c. F-2.2, Age of Majority Act, RSNB 2011, c 103, Motor Vehicle Act, RSNB 1973, c M-17 & Provincial Offences Procedure Act, SNB 1987, c P-22.1; Newfoundland and Labrador: Children and Youth Care and Protection Act, SNL 2010, c. C-12.2, Age of Majority Act, SNL 1995, c A-4.2 & Highway Traffic Act, RSNL 1990, c H-3; Northwest Territories: Child and Family Services Act, SNWT 1997, c.13, Age of Majority Act, RSNWT 1988, c A-2 & Motor Vehicles Act, RSNWT 1988, c M-16; Nova Scotia: Children and Family Services Act, SNS 1990, c 5, Age of Majority Act, RSNS 1989, c 4 & Motor Vehicle Act, RSNS 1989, c 293; Nunavut: Child and Family Services Act, SNWT (Nu) 1997, c 13, Age of Majority Act, RSNWT (Nu) 1988, c A-2 & Motor Vehicles Act, RSNWT (Nu) 1988, c M-16; Ontario: Child and Family Services Act, RSO 1990, C.11, Age of Majority and Accountability Act, RSO 1990, c A.7 & Highway Traffic Act, RSO 1990, c H.8; Prince Edward Island: Child Protection Act, RSPEI 1988, c C-5.1, Age of Majority Act, RSPEI 1988, c A-8 & Highway Traffic Act, RSPEI 1988, c H-5; Quebec: Youth Protection Act, CQLR c P-34.1, Civil Code of Québec, LRQ, c C-1991 & Highway Security Code, CQLR c C-24.2; Saskatchewan: The Child and Family Services Act, SS 1989-90, c C-7.2, The Age of Majority Act, RSS 1978, c A-6 & The All-Terrain Vehicles Act, SS 1988-89, c A-18.02; Yukon: Child and Family Services Act, RSY 2002, c. 31, Age of Majority Act, RSY 2002, c 2 & Motor Vehicles Act, RSY 2002, c 153.