



# Newfoundland and Labrador's child welfare system<sup>1</sup>

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## An overview of child welfare in Newfoundland and Labrador

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*<sup>2</sup> 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.

In Newfoundland and Labrador, the Children and Youth Services Division of the Department of Health and Community Services oversees the quality and delivery of child welfare services under the direction of the Provincial Director of Child, Youth and Family Services. The Provincial Director has legislated responsibility for establishing and monitoring provincial policies, programs, and standards.

Four regional health authorities deliver health and social services throughout the province. Each regional authority appoints a director who oversees the delivery of child, youth and family services within the region. Children who need to be removed from their families for protective intervention are placed in the legal guardianship (called the care and custody) of the director of each regional authority. The directors of each region delegate their responsibilities for child, youth and family services to registered social workers employed by the regional health authorities.

The number of children in the care and custody of the directors of the four health authorities in Newfoundland and Labrador has been increasing in recent years, as shown in Table 1.

**Table 1. Number of children in care and custody in Newfoundland and Labrador**

2002/03	2003/04	2004/05	2005/06
625	600	690	775

Source: Child, Youth and Family Services Division, Department of Health and Community Services of Newfoundland and Labrador.

The health authorities provide a range of services through the Family Services Program to enhance the functioning of families identified as being in need of services to protect children who are under the age of 16 and at risk of maltreatment. The number of children and families receiving these services has also been increasing, as shown in Table 2.

**Table 2. Number of children and families in the Family Services Program of Newfoundland and Labrador**

	2002/03	2003/04	2004/05	2005/06
Children in Family Services	580	1,145	1,285	1,550
Families in Family Services	410	745	810	980

Source: Child, Youth and Family Services Division, Department of Health and Community Services of Newfoundland and Labrador. These statistics were drawn from the NL data tracking system (CRMS) and include numbers from all but one health authority.

In addition, Newfoundland and Labrador has a Youth Services Program, which provides services and supports to youth aged 16 to 17 who are in need of protective intervention (Table 3). These services can be provided to youth living either in or outside the family home. Youth who have been in care prior to turning 16 can remain in the Youth Services Program until they are 21.

**Table 3. Number of youth involved in the Youth Services Program of Newfoundland and Labrador**

2002/03	2003/04	2004/05	2005/06
525	555	685	745

Source: Child, Youth and Family Services Division, Department of Health and Community Services of Newfoundland and Labrador.

### What do we mean by child maltreatment?

The term “child maltreatment” generally 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 Newfoundland and Labrador, the *Child, Youth and Family Services Act*<sup>3</sup> considers protective intervention necessary for anyone under age 16 who is or is at risk of being:

- physically harmed by the action or lack of appropriate action of a parent, or physically harmed by another person and is not being protected by a parent, and/or
- sexually abused or exploited by a parent, or sexually abused by another person and is not being protected by a parent, and/or
- emotionally harmed by a parent’s conduct, or emotionally harmed by another person and is not being protected by a parent;

or when the child:

- is in the custody of a parent who refuses or fails to obtain or permit essential medical, psychiatric, surgical, or remedial care or treatment to be given to the child when recommended by a health practitioner,
- is abandoned,
- has no living parent or has a parent who is unavailable to care for the child and has not made adequate provision for the child’s care,
- is living in a situation where there is violence,

or when the child is actually or apparently under 12 years of age and has:

- been left without adequate supervision, and/or
- allegedly killed or seriously injured another person or has caused serious damage to another person’s property, and/or
- on more than one occasion, caused injury to another person or other living thing or threatened, either with or without weapons, to cause injury to another person or other living thing, either with the parent’s encouragement or because the parent does not respond adequately to the situation.

Any person who wilfully contributes to a child being in need of protective intervention is guilty of an offence and may be fined up to \$10,000 and/or imprisoned for up to six months.

### What does child welfare legislation in Newfoundland and Labrador cover?

In Newfoundland and Labrador, the *Child, Youth and Family Services Act*<sup>4</sup> is the primary piece of legislation promoting the protection, best interests, and well-being of children. The *Adoption Act*<sup>5</sup> also has implications for child welfare.

The *Child, Youth and Family Services Act*<sup>6</sup> promotes prevention of child maltreatment through a framework that supports early intervention to meet the needs of children, youth, and families. The main purposes of the Act are to enable government to:

- a) take a developmental approach to the potential and existing maltreatment of children in families by providing services that enhance family functioning and reduce the risk of maltreatment,
- b) ensure that the safety, health, and social needs of maltreated children are met in a holistic manner, and
- c) take a promotional/primary prevention approach that reduces the incidence of maltreatment of children.

The main principles of the Act are that:

- the best interests of the child are paramount in any decision,
- every child is entitled to safety, health, and well-being, and maltreatment prevention activities are integral to promoting these basic rights,
- the family is the basic unit of society and is responsible for its children,

- the community has a responsibility to support the safety, health, and well-being of children, and may require assistance in fulfilling this responsibility,
- kinship ties are integral to a child's growth and development, and if the child's safety, health, and well-being cannot be assured within the immediate family, the extended family should be encouraged to care for the child as long as this does not put the child at risk of harm,
- the cultural heritage of a child should be respected and connections with a child's cultural heritage should be preserved, and
- in the absence of evidence to the contrary, a child aged 12 or over is presumed to be capable of forming and expressing an opinion regarding his or her care and custody.

In providing for child, youth, and family services, the Act indicates that:

- services should support the safety, health, and well-being of children,
- the least intrusive means of intervention should be used,
- the views and wishes of children should be sought and considered,
- families should be informed of the services available to assist them in supporting the safety, health, and well-being of children, and
- families should be encouraged to participate in the identification, planning, provision and evaluation of services.

Factors to be considered in the best interests of the child include:

- the child's safety and developmental needs, cultural heritage, views, and wishes,
- the importance of stability and continuity in care, including the continuity of relationships with family and others with whom the child has a significant relationship,
- the child's geographic and social environment,
- the child's supports outside the family, and
- the effect upon the child of a delay in the decisions that affect the child.

All individuals, and especially people who work with children, have a mandatory duty to immediately report actual or suspected child maltreatment to a director of a regional health authority, a social worker, or a peace officer. Individuals who report

that a child is in need of intervention are protected from legal action against them as long as the report is not made maliciously or without reasonable cause. Failure to report is an offence and is liable to a fine of up to \$10,000 and/or imprisonment.

The Act (Section 10) provides a framework for supportive services that enhance the health and well-being of children and youth and prevent situations in which children need protective intervention. The legislation also provides a framework for support to youth, aged 16 to 17, who are in need of protective services and were not in the care and custody of a director prior to their 16<sup>th</sup> birthdays. If the youth is unable to remain safely at home, voluntary agreements can be developed to support the transition to independent living at the age of 18.

### **What is the role of the regional health authorities?**

The regional health authorities provide a range of health care and social services, including child protection. Social workers in the Child, Youth and Family Services offices of the health authorities act in the best interests of children by:

- providing a range of services to assist families and communities in caring for their children,
- investigating allegations or evidence that children may be in need of protection,
- providing care for children for whom it is not safe to live at home,
- providing comprehensive planning for children in permanent care, and
- providing families with supports and services to promote their health and integrity, being mindful of the importance of preserving the cultural heritage of children and their families.

The service delivery network for child protection provides service 24 hours a day, 7 days a week.

### **What happens after child maltreatment is reported?**

All reported incidents of child maltreatment are referred to the Child, Youth and Family Services office of the local health authority. After a report has been received, a social worker responds in a timely manner to determine whether the situation for the child requires intervention, as defined by the *Child, Youth and Family Services Act*. If it does, the case is

“screened in” and the social worker uses a risk management assessment system to help determine the appropriate response.<sup>7</sup> The risk management system focuses on social workers identifying family strengths and working in a respectful and collaborative manner to address challenges, such as mental health problems, substance abuse, parenting skills, and other problems so that children can live in a safe and healthy home environment.

In some cases, social workers must take further steps to ensure the child’s safety, which may include working with the family on a voluntary or 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 basis. If it is not safe for the child to remain at home, the legislation requires the child to be placed outside the home using the least intrusive means of intervention. An extended family member or other person who has a relationship with the child and who is willing to provide safe and temporary care for the child is usually the option of first choice.<sup>8</sup>

If intervention is not needed, but the family would benefit from services to enhance family functioning or prevent child maltreatment, social workers at the health authorities can help to connect the family to other services available within or outside of the health authorities. A range of services are available to assist in the safety, health, and well-being of children, youth, and families.

For 2005/06, Newfoundland and Labrador received 6,500 referrals of child maltreatment, of which 5,145 were screened in for further investigation. Not all cases screened in were substantiated as child maltreatment.<sup>9</sup>

## How does the system work for Aboriginal children?

The *Constitution Act*, the *Indian Act*, and the *Canadian Charter of Rights and Freedoms* recognize the special legal status and rights of Canada’s Aboriginal peoples in matters of child welfare as in other situations. First Nations children in Canada are not only considered to be members of their families, but also members of their First Nations.

Newfoundland and Labrador’s *Child, Youth and Family Services Act* recognizes the importance of respecting and preserving the cultural heritage of children, as well as the responsibility of the

community and the extended family to support the safety, health, and well-being of children. These cultural concepts are used by social workers in case planning for Aboriginal children.

In Newfoundland and Labrador, there are no delegated First Nations child and family service agencies and Aboriginal families receive child welfare services from the regional health authorities. To enhance child and family service delivery in Aboriginal communities, community members are employed by the health authorities as Community Services Workers. They assist social workers in providing culturally appropriate supports to Aboriginal families. The *Child, Youth and Family Services Act* was recently amended to appoint a Director of Child, Youth and Family Services for Innu communities. This individual is employed by the Labrador/Grenfell Regional Health Authority and is responsible for ensuring that culturally sensitive child and family services are provided to Innu people within the province.<sup>10</sup>

- 1 This information sheet was reviewed by experts in the field of child welfare. Thanks are extended to: Ivy Burt, Provincial Director of Child, Youth and Family Services; Michelle Shallow, Manager of Child, Youth and Family Services; and Ken Barter, Professor, School of Social Work, Memorial University.
- 2 *Constitution Act*, 1982, being Schedule B of the Canada Act, 1982 (U.K.), 1982.
- 3 *Child, Youth and Family Services Act*, SNL 1998 c. C-12.1. Retrieved February 16, 2007 from <http://www.hoa.gov.nl.ca/hoa/statutes/C12-1.htm>
- 4 Ibid.
- 5 *Adoption Act*, SNL 1999 c. A-2.1. Retrieved February 28, 2006 from <http://www.hoa.gov.nl.ca/hoa/statutes/a02-1.htm>
- 6 *An Act to Amend the Child, Youth and Family Services Act*. Retrieved February 16, 2007 from <http://www.hoa.gov.nl.ca/hoa/chapters/2000/0007.chp.htm>
- 7 Risk management is a formalized system for identifying, assessing, responding to, and documenting the risk of child maltreatment after a report has been made. It involves using a specific risk assessment instrument, which guides the child protection worker through a number of decisions, based on the situation being dealt with, to determine the level of risk of maltreatment to the child and the corresponding steps to be taken when working with the family. Newfoundland and Labrador uses a revised version of the New York Risk Assessment Tool. Personal communication with Michelle Shallow, Newfoundland and Labrador Child, Youth and Family Services, February 14, 2007.
- 8 Personal communication with Michelle Shallow, Newfoundland and Labrador Child, Youth and Family Services, February 14, 2007.
- 9 Ibid.
- 10 Ibid.

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