

Child Protection Law

YWCA Training

Manitoba 2013

The Child and Family Services Act

- Part I- Administration
- Part II- Services to Families
- Part III- Child Protection
- Part IV- Children in Care

Best Interests of the Child

Best interests

2(1) The best interests of the child shall be the paramount consideration of the director, an authority, the children's advocate, an agency and a court in all proceedings under this Act affecting a child, other than proceedings to determine whether a child is in need of protection, and in determining best interests the child's safety and security shall be the primary considerations. After that, all other relevant matters shall be considered, including

Best Interests of the Child (con't)

- (a) the child's opportunity to have a parent-child relationship as a wanted and needed member within a family structure;
- (b) the mental, emotional, physical and educational needs of the child and the appropriate care or treatment, or both, to meet such needs;
- (c) the child's mental, emotional and physical stage of development;
- (d) the child's sense of continuity and need for permanency with the least possible disruption;
- (e) the merits and the risks of any plan proposed by the agency that would be caring for the child compared with the merits and the risks of the child returning to or remaining within the family;
- (f) the views and preferences of the child where they can reasonably be ascertained;
- (g) the effect upon the child of any delay in the final disposition of the proceedings; and
- (h) the child's cultural, linguistic, racial and religious heritage.

Voluntary Process

- Develop Plan of Care jointly
- Safety planning process
- Support services CAS can provide (Special Needs services, Emergency Assistance, Day Care service, Homemaker Service, Parent Aide)
- s.14(1) CFSA- Voluntary Placement Agreement

Legal Status

Voluntary

- Temporary Care Agreements

Involuntary

- Interim Care
- Society Ward
- Permanent Ward

Involuntary Process

- Grounds for Protection
- Duty to Report
- Apprehension
- Requirement of Legal Status
- Court Application
- Court Proceedings

Grounds for Protection

Child in need of protection

- 17(1)** For purposes of this Act, a child is in need of protection where the life, health or emotional well-being of the child is endangered by the act or omission of a person.

Definitions of Grounds

Illustrations of child in need

17(2) Without restricting the generality of subsection (1), a child is in need of protection where the child

(a) is without adequate care, supervision or control;

(b) is in the care, custody, control or charge of a person

(i) who is unable or unwilling to provide adequate care, supervision or control of the child, or

(ii) whose conduct endangers or might endanger the life, health or emotional well-being of the child, or

(iii) who neglects or refuses to provide or obtain proper medical or other remedial care or treatment necessary for the health or well-being of the child or who refuses to permit such care or treatment to be provided to the child when the care or treatment is recommended by a duly qualified medical practitioner;

Definitions of Grounds (con't)

(c) is abused or is in danger of being abused, including where the child is likely to suffer harm or injury due to child pornography;

(d) is beyond the control of a person who has the care, custody, control or charge of the child;

(e) is likely to suffer harm or injury due to the behaviour, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child;

(f) is subjected to aggression or sexual harassment that endangers the life, health or emotional well-being of the child;

(g) being under the age of 12 years, is left unattended and without reasonable provision being made for the supervision and safety of the child;
or

(h) is the subject, or is about to become the subject, of an unlawful adoption under *The Adoption Act* or of a sale under section 84.

Duty to Report

Reporting a child in need of protection

- 18(1) Subject to subsection (1.1), where a person has information that leads the person reasonably to believe that a child is or might be in need of protection as provided in section 17, the person shall forthwith report the information to an agency or to a parent or guardian of the child.

Duty to Report (con't)

- 18(2) Notwithstanding the provisions of any other Act, subsections (1) and (1.0.1) **apply** even where the person has acquired the information through the discharge of professional duties or **within a confidential relationship**, but nothing in this subsection abrogates any privilege that may exist because of the relationship between a solicitor and the solicitor's client.

Court Forms

- Application (originating document)
- Notice of Motion
- Supporting Affidavit
- Answer
- Filing, serving and timeframes

Complaints of CFS

Should your client have a question or concern about the services, your client should:

1. Speak directly to the assigned worker;
2. Go to the worker's supervisor or Director;
3. CFS Authority;

If still unresolved, Other Options:

- Child Protection Branch
- Office of Children's Advocate
- MB Ombudsman
- Minister of Family Services and Consumer Affairs