

Appendix F
The Child and Family Services Act:
Grounds for Reporting

The Child and Family Services Act: Grounds for Reporting¹

Introduction

In March 2000 a number of amendments to the *Child and Family Services Act* (CFSA) came into effect. Under the previous Act, a report only had to be made when a child suffered abuse.

There is now a common duty for every person to report when they have reasonable grounds to suspect that a child (under the age of 16) has been abused or neglected, or is at risk of being abused or neglected.

If you have reasonable grounds you have a legal obligation under the CFSA to report that suspicion immediately and directly to the local Children's Aid Society. If you are unsure as to whether the matter is reportable, you should request a consultation with a CAS Intake Worker.

Even if you have already made a report concerning a child or a family, you are required to make a further report each time you have additional information to suspect actual or potential child abuse or neglect regarding that child or family.

If a situation is reported to you in confidence, you must advise the source that the law prevents you from keeping the information as a confidence and that you must report the matter to the CAS immediately.

Although members of the public, professionals, and officials have the same duty to report a suspicion that a child is in need of protection, the Act recognizes that people working closely with children will have a special awareness of the signs of child abuse and neglect, and, as a result, failure to report their suspicions is an offence for which they could be prosecuted.

Overview of the CFSA, March 2000

The paramount purpose of the *Child and Family Services Act* is to promote the best interests, protection and well being of children. The Act states clearly that members of the public, including professionals, have an obligation to report promptly to a Children's Aid Society if they suspect that a child is or may be in need of protection.

The Act defines a "child in need of protection" as a child who appears to suffering from abuse and neglect. Section 72(1) of the Act states: reasonable grounds for suspicion of any of the following require that person to immediately report the suspicion and the information on which it is based to the Children's Aid Society:

1. The child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person's,

¹ Excerpt taken from the Child and Family Services Act, Section 72(1)

- (i) failure to adequately care for, provide for, supervise or protect the child, or
 - (ii) pattern of neglect in caring for, providing for, supervising or protecting the child;
2. There is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,
 - a. failure to adequately care for, provide for, supervise or protect the child, or
 - b. pattern of neglect in caring for, providing for, supervising or protecting the child;
 3. The child has been sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child;
 4. There is a risk that the child is likely to be sexually molested or sexually exploited as described in paragraph 3;
 5. The child requires medical treatment to cure, prevent or alleviate physical harm or suffering the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment;
 6. The child has suffered emotional harm, demonstrated by serious,
 - a. anxiety,
 - b. depression,
 - c. withdrawal,
 - d. self-destructive or aggressive behaviour, or
 - e. delayed development,and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child;
 7. The child has suffered emotional harm of the kind described in subparagraph (a) (b), (c), (d), (e) or (f) of paragraph 6, and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm;
 8. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph (a) (b), (c), (d), (e) or (f) of paragraph 6, and resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child;
 9. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph (a) (b), (c), (d), (e) or (f) of paragraph 6, and and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm,

10. The child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition;
11. The child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody;
12. The child is less than 12 years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment; or
13. The child is less than 12 years old and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately.

Commonly Asked Questions

1. Who is responsible for reporting?

All persons are expected to report suspicion of child abuse or neglect to a CAS.
[CFSA s.72(5)]

2. When is a professional expected to report?

Any time you have reasonable grounds to suspect physical, sexual and emotional abuse, neglect or risk of harm as outlined in the CFSA, you must make a direct report to a CAS. You must not rely on anyone else to report on your behalf. The duty to report is an ongoing obligation. If you have made a previous report about a child, and have additional reasonable grounds to suspect that a child is or may be in need of protection, you must make a further report to a CAS. [CFSA s.72(1)(2)(3)]

3. Who is a "professional"?

The following is a partial list of people who are considered to be professionals under the CFSA:

- Health care professionals, including physicians, nurses, dentists, pharmacists, and psychologists;
- Teachers, and school principals;
- Social workers and family counsellors;

- Priests, rabbis and other members of the clergy;
- Operators or employees of day nurseries;
- Youth and recreation workers (not volunteers);
- Peace officers and coroners;
- Solicitors;
- Service providers and employees of service providers; and
- Any other person who performs professional or official duties with respect to children.

Please note that these are examples only. A person not listed above who does work that involves children may still be considered a professional or official under the duty to report requirements of the Act.

4. What is meant by “reasonable grounds” to suspect?

You do not need to be sure that a child is or may be in need of protection to make a report to a CAS. “Reasonable grounds” are what an average person would suspect, given his or her training, background and experience when exercising normal and honest judgement.

5. What is the penalty for failure to report?

Any professional or official who fails to report a suspicion that a child is or may be in need of protection, where the information on which that suspicion was obtained in the course of his or her professional or official duties, is liable on conviction to a fine of up to \$1,000. [CFSA s.72(4), (6.2)]

6. What about client confidentiality?

The professional’s duty to report overrides the provisions of any other provincial statute, specifically those provisions that would otherwise prohibit disclosure by the professional or official. You must report that a child is or may be in need of protection even when the information is supposed to be confidential or privileged. Only lawyers may not divulge “privileged” information about their clients. [CFSA s.72(7), (8)]

7. Will I be protected from liability if I make a report?

Yes. If a civil action is brought against you for making a report, you will be protected unless you acted maliciously or without reasonable grounds for the suspicion. [CFSA s.72(7)]

*This is a summary of the reporting responsibilities under Ontario’s **Child and Family Services Act**. Each professional and staff within an organization are responsible for the services they provide and are expected to adhere to the statutes and guidelines that are relevant to their work.*