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3rd edition

CARING FOR CHILDREN

Parents' Rights & Responsibilities



You should not rely on this booklet for legal advice. It provides general information only.



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Who this booklet is for

Are you a parent or a guardian of a child?

Do you ever wonder about what kind of discipline is okay to use with your children?

Have you ever been angry and frustrated with your children, and not known where to turn?

Have you wondered what to do if a social worker thinks your child is being abused?

If you answered yes to some of these questions, this booklet is for you. It was written for parents and legal guardians of children, who have questions about what the law says in B.C. about the rights and responsibilities of parents and children.

Who this booklet is about

This booklet tells you what the law says about children and parents in BC. It answers questions like:

- What are your rights and responsibilities as a parent?
- What are the rights of children?
- What does the law say about abuse and neglect?
- What can you do if you need help as a parent?
- What happens if someone reports that you are abusing your child, and what can you do?

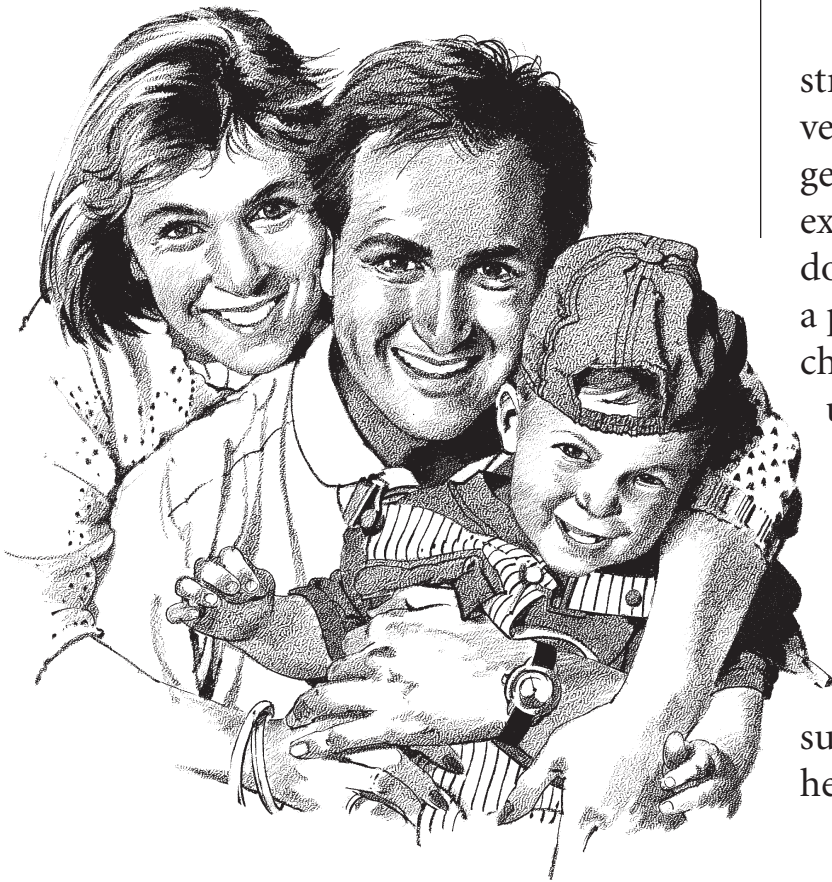
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What does the law say about parents' responsibilities?

In BC there is a law that protects the safety of children. It is called the *Child, Family and Community Service Act*. This law begins by saying that:

Parents (or guardians) are responsible for the care and safety of their children. (See next page for how the law defines a child or parent.)

This means that, as a parent, you are responsible for taking care of your child's physical and emotional needs until they reach the age of 19. It includes making sure your child has enough food every day, has clothing, shelter, and health care. It means giving a child the emotional care and support they need to grow up safely.



The law also says:

Children have a right to be safe from abuse and neglect. This means it is against the law for parents to abuse or neglect their children. It also means parents must protect their child from:

- physical & emotional abuse
- sexual abuse and sexual exploitation, and
- neglect.

Getting help as a parent

Many parents say that raising children is the most difficult job they do. Every parent has times when they feel frustrated, discouraged, overwhelmed, angry, or just plain exhausted with their children. These feelings are normal for every parent but they do not mean you are a bad or abusive parent.

However, the way you act when you have strong feelings like anger or frustration is very important. It is often when feelings get out of control that abuse occurs. For example, abuse can happen when a parent doesn't know how to handle anger, or when a parent doesn't know how to discipline a child in constructive ways. Abuse doesn't usually happen suddenly. It starts gradually, after feelings have built up, and it may get worse over time.

You can often prevent problems by dealing with things early. See *Where to get help*, page 10, for more information about where parents can get help and support. Remember, it's okay to ask for help. Nobody is a perfect parent.

Parent – A parent is the mother or father of a child, or the person who has custody of a child, or a person who lives with a child and acts in place of a mother or father. The information about parents in this booklet applies to any of these people.

Guardian – A person who has been given legal authority to act as a parent. Any information in this booklet about parents also applies to guardians.

Child – In B.C. law, anyone under 19 years old is a child.

What is abuse?

Even in law, it is not always easy to say exactly what abuse is. It depends sometimes on the situation. However, the law and the courts are clear about certain things that are abuse. Here are some examples:

Emotional abuse occurs when a parent's behaviour is emotionally harmful to a child. If a child seems very anxious, depressed, or withdrawn, or hurts themselves or others, this may be seen as a sign of emotional abuse. Emotional abuse can happen if a parent refuses to give their child normal affection or attention, or when a parent constantly criticizes or threatens a child, making the child feel worthless and afraid. Emotional abuse can also occur when a child sees a lot of violence or fighting at home.

Physical abuse occurs when a child is shaken, kicked, punched, beaten, or thrown. It happens when a child is deliberately burned, hit with an object, choked or held under water. Physical abuse also occurs when a parent uses a cruel method of punishment, like locking their child in a room without food or water for a long time.

Sexual abuse occurs when a parent (or another person) touches their child in a sexual way, has sex with their child, or threatens to do so. It also occurs when a parent tries to get sexual pleasure by deliberately allowing their child to watch people having sex, or by allowing the child to look at sex magazines and videos.

Sexual exploitation occurs when a parent (or another person) uses a child as a prostitute or to make pornography (sexual pictures or movies) or involves a child in other sexual activities.

What is neglect?

It is difficult sometimes for the law to define neglect. Again, it may depend on the situation. Generally, neglect occurs when a parent or guardian does not provide the things a child needs to be safe and healthy.

A child needs enough food to eat, clothes that are appropriate for the weather, a safe place to live, health care, affection from the adults who care for him or her, and protection from danger.

In some situations, a child is more likely to be neglected, such as when a parent is in crisis or in a violent relationship, or if a parent has a serious alcohol or drug problem. If you are in any of these situations,

you need to take a close look at how it is affecting your child.

Here are some examples of things that could be considered neglect under the law:

- A child does not have enough food to eat.
- A child is not dressed warmly or doesn't wear clothes that protect them from bad weather.
- A child is left with babysitters whose judgment is impaired by drugs or alcohol.
- A child doesn't get health care they need.
- A child who cannot care for herself or himself is left alone in the house, in a locked car, or on the street.

When can a parent leave children alone?

There is no exact age when the law says it is okay to leave a child alone, or leave a child to take care of younger children. Parents must use their judgment about whether it is safe. This depends on things like:

- the child's abilities and maturity
- how long the child will be alone and at what time of day
- where the child will be
- how much the child is responsible for (for example, caring for younger children, cooking dinner)
- whether there are other adults nearby to help out if needed
- whether the child knows what to do in an emergency.

What about disciplining children?

Most parents agree that children need guidance, structure, and limits. And parents have many different beliefs about what kind of guidance and discipline is okay. This is usually based on their own family experience, their cultural background, and what they have learned from other people or books. For example, one family might think it's wrong to spank or yell at a child, while another family might think it's okay to spank and yell.

Sometimes the line between discipline and abuse is hard to see. It is abuse to strike a child with an object (like a stick or belt) or to hit a child hard enough to leave a mark. If you are often using threats, or severe forms of physical or emotional punishment or discipline with a child, get some parenting support, even if no one else has said there is a problem.

In February 2004, the Supreme Court of Canada upheld a parent's right under the law to spank a child. But the Court also set very strict limits on spanking. When spanking a child, the parent must use an open hand, not a closed fist or an object. The parent cannot slap or hit a child in the face or head.

The spanking must be done briefly and without physically harming the child. A parent cannot spank a child under two years of age. A parent cannot spank a teenager.

There are parents' groups and other services that provide support to parents and help you learn new ways to influence your child's behaviour. There are also services that work with families – both parents and children. (See *Where to get help*, page 10, for information about where to find these services.)

Who is responsible for protecting children in B.C.?

The B.C. government has a Ministry for Children and Families. Its job is to provide support services to children and families, and also to make sure children are protected from abuse and neglect. In some aboriginal communities, this job is done by aboriginal child and family services agencies. (There are various agencies throughout the province to which the government has delegated authority).

If any person believes a child is being, or might be, abused or neglected, the law says they must report it to the Ministry for Children and Families. However, it is against the law to knowingly make a false report to the Ministry. This means if a person is genuinely worried about a child's safety, they are legally required to report it to the Ministry. But it is illegal to deliberately lie to the Ministry.

What happens if someone tells the Ministry your child is abused or neglected?

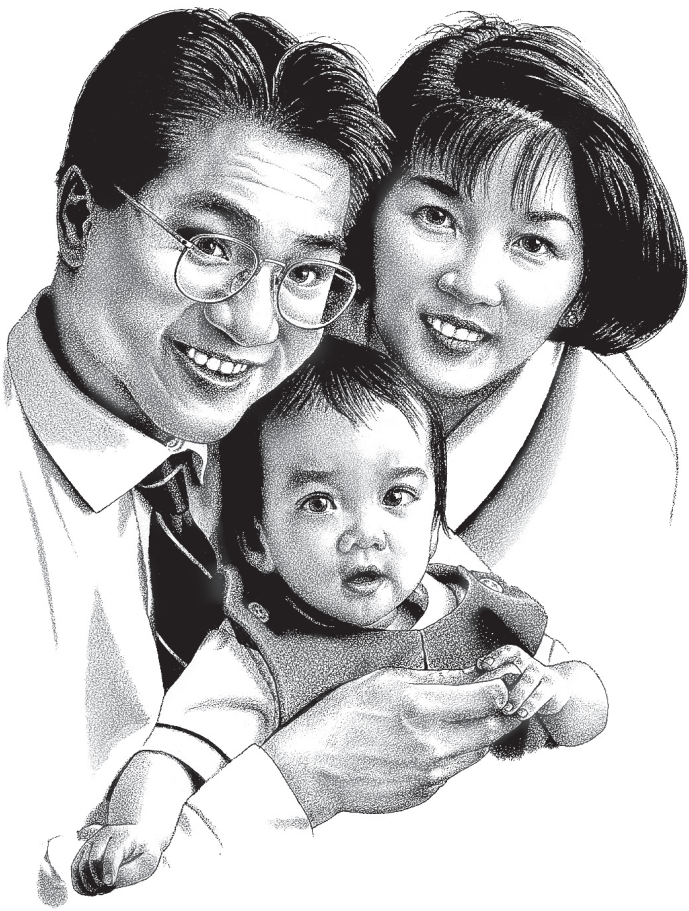
The law says the Ministry **must** look into every report of possible child abuse or neglect and take it seriously. A social worker from the Ministry will assess the report and decide what to do based on what they find out. There is a range of appropriate responses, depending on the circumstances.

The social worker may decide no further action may be required, refer the family to support services or work with the family to develop a response everyone agrees is

appropriate. The social worker may suggest a family group conference or mediation if there is difficulty reaching an agreement. In family group conferences, a facilitator leads a discussion, and then the family is left alone to brainstorm and present ideas to the social worker. In mediation, the mediator directs the discussion so that the family and social workers reach an agreement together.

If there is a particularly serious concern, the social worker will commence a more formal investigation. In some aboriginal communities, the social worker who assesses the report and, if necessary, investigates may be from an aboriginal child and family services agency.





What are your rights when a social worker comes to investigate?

You have a right to have someone you trust, or an advocate or lawyer with you when you talk to a Ministry social worker. (See *Where to get help*, page 10, for how to find an advocate or lawyer.) An advocate can provide support, give you information about your rights and choices, help make sure you are listened to, and explain how the Ministry works.

If a social worker comes unexpectedly to your door, you might not want to talk to them or let them into your house. But remember, the social worker is required by law to investigate, and it is best to cooperate. If you are alone with your child, you can try asking the social worker to wait until you arrange to have someone else with you. However, if the social worker thinks your child is in serious danger, they will not agree to wait.

- You can ask the social worker any questions you may have, and ask them to explain exactly what their concern is about your child.
- You have a right to get information about the social worker in writing (their name, office address, and phone number, and the name of their District Supervisor.)
- You have a right to say what you think is best for your child. The law says that the social worker must also consider what your child wants.

In assessing a report or in an investigation, the social worker may talk to the parents, to the child, and to other people who know the child.

If the Ministry is investigating your child's safety, it is important to remember that:

- You have choices. You can take steps to keep your child and ensure the child's safety.
- You can ask for help.

It is also a good idea to make notes about every conversation you have with the Ministry, so you have a record of what you both said.

- You have a right to be told what action the Ministry can take, and what services are available to you.
- You have a right to know what information the Ministry has about your case (except the name of the person who made the report to them). Once the social worker has done an investigation, you have a right to ask for a copy of their report.
- If your child is removed, you have a right to ask the Ministry to make sure the culture, language, race, and religion of your child are respected. For example, you can suggest relatives, friends, or community members who could care for the child.

Can the Ministry take your child away?

Just because a social worker is looking into your child's safety, it does not mean your child will be taken away or "removed from the home." The Ministry may decide there is no danger to your child, or they may decide your child needs protection. If they decide the child needs protection, they may ask you to make certain changes in order to keep the child.

If you do not agree about the requested changes, you may be asked to go to a family group conference or mediation to help reach an agreement about what changes need to be made to keep the child safe. However, if the Ministry believes the child is in danger and the problem cannot be easily or quickly resolved, they can remove the child for a period of time.

The child will be taken to a foster home or to relatives or friends who can keep the child safe.

The BC law protecting children says the Ministry's main concern must be the safety and well-being of children. But it also says:

- A child's family is usually the best place for a child to live
- A family has a right to get support services
- A child has a right to keep their cultural identity.

This means that before making any decision to remove your child, the Ministry must look at all the possible ways of keeping the child safe within the family. If the child is of First Nations ancestry, the Ministry will try to involve the child's aboriginal community, unless you or the child say you don't want them to. Once an aboriginal child has been removed and the matter is going to court, the law requires the Ministry to inform the appropriate aboriginal organization of the court dates.

If the Ministry has removed your child from your home, or if they have told you they are going to, you need a lawyer. (See *Where to get help*, page 10, to find out how to get one.)

Can a social worker arrest you or deport you?

As a parent, you may be worried that a social worker can arrest you or put you in jail, or deport you if you are a newcomer to Canada. A social worker cannot do these

things. The social worker's concern is protecting the safety of children.

However, if a social worker finds signs that your child is sexually or physically abused, they will usually tell the police. This may not always result in further action, but it can lead to criminal charges. If you are applying for permanent residence, your application can be affected only if you are found guilty of criminal charges.



Making an agreement with the Ministry

One of the things the Ministry may ask you to do is make a written agreement with them to make certain changes. An agreement is a legal document saying what you and the Ministry are going to do to ensure the safety and well-being of your child. You can make an agreement at any time during the Ministry's assessment or investigation. You have the right to get help from an advocate or lawyer when making an agreement.

If you decide to make an agreement with the Ministry, it is important to agree only to what you think you can really do. You and your advocate have a right to discuss it with the social worker and have a say about what goes into it.

Before signing an agreement, make sure you get an advocate or a lawyer to look it over. For more information about agreements, read the booklet *Parents' Rights, Kids' Rights* from the Legal Services Society. (See *Where to get help*, page 10, for how to get it.)

What other steps can you take?

Look at your family situation honestly and see if there is anything that needs to change. You can do this on your own or with someone you trust, before a serious problem occurs. For example, if you are worried that you might lose control of your feelings and hurt your child, get help. There are groups and services that can offer support and help you with parenting skills.

Look through the descriptions of abuse and neglect in this booklet. Are any of these things happening in your home? If so, you need to make changes. For example,

- If you have been leaving the children alone, find a babysitter in your community, or an after-school program, or a group that provides childcare
- If you lose your temper a lot or often use severe physical punishment or discipline with your child, find a parenting group or counselling service to learn new ways to handle your child's behaviour
- If you are a heavy drug or alcohol user, consider a detox program, or getting drug or alcohol counselling
- If you are a woman with a partner who mistreats you emotionally or physically, contact a transition house worker or a women's centre for information and support. (See *Where to get help*, page 10, for more information.)
- Look for services and programs in your community (see *Where to get help*, page 10, for more information). You may also try to get services from the Ministry for Children and Families. The Ministry may be able to provide services such as
 - counselling
 - services for children and youth
 - in-home support (someone to do childcare or housework regularly)
 - respite care (occasional overnight childcare to give you a break)
 - parenting programs
 - services for children who witness family violence.



Dealing with the Ministry

If you phone or go to the Ministry for services, try to have someone you trust or an advocate with you, and keep notes about every conversation you have with the Ministry. Be clear with them about what you want and how it will protect the safety and well-being of your child.

If the Ministry is investigating your child's safety, get help from someone you trust or an advocate who knows about child protection law.

Remember, if you make an agreement with the Ministry, make sure you get an advocate or lawyer to look it over before signing it.

If the Ministry has removed your child, or said they will, get a lawyer right away.

Where to get help

Family support and counselling

If you need help urgently, or are in a crisis, call the local crisis line. It is listed at the front of the white pages of the phone book under “Emergency Services.”

You may want to ask neighbours, friends, or relatives to help you with day-to-day things like shopping, babysitting, or getting out once in a while for fun.

Contact the Parent Support Services Society of BC at **604-669-1616** in Vancouver, or **250-384-8042** in Victoria (toll free **1-800-665-6880**). They run parent support circles around the province for parents who want to find ways to have better relationships with their children.

For information about programs in your area such as after-school programs for children or teens, family counselling, or First Nations healing circles, you can contact any of these local organizations:

- community centres
- aboriginal or Native friendship centres
- women’s centres
- family centres
- multicultural centres or service agencies
- family service agencies
- religious organizations
- public libraries.

You can find many of these organizations listed at the front of the white pages of your phone book under “Community Services.”

If you are a woman with a partner who threatens or abuses you, contact a women’s

centre or transition house for information and support. Look for their numbers at the front of the white pages of your phone book, or call the VictimLINK (toll free) at **1-800-563-0808**.

Contact the Ministry for Children and Families to find out what services they can provide. Their number is listed in the blue pages of the phone book. When you ask the Ministry for help, take an advocate or support person with you.

Legal Help

If you can afford a lawyer, contact the Lawyer Referral Service at **604-687-3221** in the Lower Mainland or **1-800-663-1919** (toll free in BC). You can ask for the name of a lawyer in your community who knows about child protection. Through the Lawyer Referral Service, you can also see a lawyer for \$25 plus tax for the first half hour and then decide if you want to hire the lawyer.

If the Ministry has removed your child, or said they will, you need a lawyer. If you meet legal aid guidelines, legal aid will pay for a lawyer.

You can find the nearest legal aid office by looking in the white pages of the phone book under “Legal Aid Legal Services Society,” or in the “Lawyers” section of the Yellow Pages. You can also get the number by calling the VictimLINK (toll free) at **1-800-563-0808**. You may also get information and advice from the Legal Services Society LAWline, by calling: **604-408-2172** (Lower Mainland) or toll free, province wide, at **1-866-577-2525**

If you cannot afford a lawyer, you can get free legal advice from family duty counsel in your local provincial courthouse. These are experienced family lawyers who are paid by legal aid to help people who cannot afford a lawyer. Call your local courthouse or legal aid office to find out when family duty counsel will be at your courthouse. Or see the LSS website at: http://www.lss.bc.ca/Legal_advice/Legal_advice_services.htm

You can also get free legal advice from volunteer lawyers with Access Justice by telephoning for an appointment at **604-878-7400** in the Greater Vancouver area or by calling their toll-free number outside Greater Vancouver at **1-877-762-6664**.

You may also help from Pro Bono Law of BC. It acts as a central facilitator for the public seeking pro bono (free) legal services. Their website includes a directory of pro bono clinics and advocacy programs, as well as a resource library. Tel: **604-893-8932**. Website: www.probononet.bc.ca; E-mail: info@probononet.bc.ca

In addition, it is a good idea to get an advocate who has experience with child protection cases. An advocate can provide support, help make sure you are listened to, give you information about your choices and your rights, and explain how the Ministry works. You can find an advocate by contacting any of these groups:

- advocacy centres
- anti-poverty groups
- community centres
- aboriginal friendship centres
- women's centres

- multicultural centres or service agencies
- organizations for people with disabilities
- religious organisations.

You may also find an advocate to help you through PovNet. You can find their regional directory of advocates by going to www.povnet.org/advocates/bc-map.html

If you are of aboriginal ancestry, you can get legal information from a Native Courtworker or a Native Family Advocate. To find the one nearest you, ask at an aboriginal friendship centre, or phone the Native Courtworkers and Counselling Association of BC at **604-687-0281** in Vancouver or toll-free at **1-877-771-9444**.

Get a copy of the free booklet *Parents' Rights, Kids' Rights* from any legal aid office. It explains what happens when the Ministry says your child needs protection. It tells you how to make an agreement with the Ministry, what happens in court if the Ministry removes your child, and how to stand up for your rights and your child's rights. The booklet is also available on the Legal Services Society family law website at www.familylaw.lss.bc.ca, in the Family Law A- Z section. The website also has information on child protection in the Online Self Help Kits section.

The People's Law School

The People's Law School is a non-profit Society whose purpose is to provide British Columbians with reliable information about their rights and responsibilities under the law.



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You should not rely on this booklet for legal advice. It provides general information only.

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