

REVISED 2013

Child Protection in BC



This booklet is about what parents are legally required to do to care for their children. It will help you decide when to ask for help if you feel you are unable to care for your children. This booklet will also tell you what may happen if you are unable to care for your children.



PEOPLE'S
LAW SCHOOL

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IF YOU NEED LEGAL ADVICE YOU SHOULD CONTACT A LEGAL PROFESSIONAL.

FREE

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Glossary of Terms

Agreement:	An agreement, usually in writing, which two or more people use to record their settlement of legal issues, such as child support.
Alienate:	To cause somebody to change his or her previously friendly or supportive attitude and become unfriendly, unsympathetic, or hostile
Child support:	A cash payment from the payor to the recipient to satisfy the payor's duty to pay child support. The amount of child support to be paid is determined by the Child Support Guidelines, an agreement on child support and/or an order on child support.
Neglect:	To fail to give the proper or required care and attention to somebody or something
Order:	A direction of a judge to do something or not do something, such as an order that someone pay child support.
Stable	Steady and not liable to change

Terms used in this glossary are underlined on their first instance of use.

Introduction to the Law

In British Columbia, every person who is a parent or guardian of a child is legally required to look after them.

The law is written in the *Child, Family and Community Service Act*, or the CFCSA. The CFCSA outlines the standard that parents and guardians must meet when caring for a child, and what the government can do if a parent cannot adequately care for a child. The government takes a parent's obligation to look after a child very seriously.

The Ministry for Children and Family Development (formerly called Social Services) is the government department that has social workers. Their job is to ensure that people care for children at a community accepted standard.

Another important law relating to families in BC is the *Family Law Act*. The CFCSA and the *Family Law Act* are two different laws and they have different purposes. The CFCSA only applies to parents who are separating or divorcing and who agree about who should look after their children.

The *Family Law Act* applies when parents don't agree and ask the court to decide who should have parenting time, who should make decisions about a child, and who should pay **child support**. Information about these topics under the *Family Law Act* is found in the other publications available in this series including *Child Support in BC* and *Learning about the Law: Family Law, Young People and the Law, Elder Law*.

Under the CFCSA, a child is anyone under the age of 19. In general terms, a parent is

legally required to look after a child until the child turns 19. The obligation to look after a child is financial, emotional, and physical.

Under this law, you may be considered a parent even if you are not the natural mother or father. Someone living with a child's parent and looking after a child may be considered a parent. Someone having a court **order** granting parenting time or guardianship can be considered a parent under this law. This can include common law partners, grandparents, and even family friends.



A parent's job

Becoming a parent is a life changing event. It will likely be the most important part of your life, but it can also be a difficult, challenging job. You must meet all of your child's physical and emotional needs. You must also put your child's best interests ahead of your own. Parents must make sure that a child who is in their care is safe and not neglected or abused.

A child's needs will change as they grow older. Babies and young children have different needs than teenagers, but all children have certain basic needs that a parent must meet. Whatever the age of your child, you must love, guide and provide for him or her. That

includes meeting all of a child's physical, emotional and health related needs until they are 19 years old.

It is against the law for a parent to abuse or **neglect** a child. It is also against the law for a parent to allow another person to abuse or neglect a child. If you know that a child is being abused or neglected, you are required to report it to the authorities. Teachers, doctors, professionals, police, or friends and family of the child must report abuse or neglect to the Ministry, regardless of who is responsible.

If you are struggling with your job as a parent, and you cannot meet your child's basic needs, it is important that you look to other people or community groups to help support you as a parent. Asking for help can be as simple as talking to a friend or relative about the situation, or going to a community agency, your family doctor, or a government based group.

There are a wide variety of community based groups or agencies where a parent can ask for help with parenting and meeting a child's needs. A list of some of the province wide groups available to help parents can be found in the **Where to get help** section at the back of this book.



A child's basic needs

The CFCSA says all children have the right to grow up in a safe and healthy home, free from abuse and neglect. There are different types of abuse, including:

- neglect
- emotional abuse
- physical abuse
- sexual abuse or sexual exploitation.

Neglect

A child is normally at the greatest risk of neglect when a parent abuses prescription or street drugs, or has a serious physical or mental illness. All of these conditions can make the challenging job of parenting overwhelming or impossible. A parent who has an addiction or illness may struggle to meet a child's basic care needs.

It is not acceptable in any circumstances for a parent to be impaired by drugs or alcohol when caring for a child. A parent should never drink to drunkenness when caring for a child. A parent should also avoid using any drugs, even marijuana, around a child, as this can impair the parent's ability to look after the child. A parent should also never make a child use drugs which are not prescribed for the child by a doctor. All of the above examples are considered child protection concerns under the CFCSA.

If a parent does abuse drugs or alcohol, they must arrange for the child to be cared for by someone they know and who is sober, responsible and trustworthy. It is a protection concern under the CFCSA if a parent fails to do this.

A parent must also meet a child's basic physical needs. These include a stable place to live, weather-appropriate clothes, and enough food for the child to eat three meals a day. The child's home must be maintained to community standards, have running hot water and heat. Some examples of maintaining a home to community standards include regular house cleaning, regular garbage pickup, routine cleaning of dishes and ashtrays, ensuring pet food and pet feces are not accessible to young children, and ensuring that a child cannot access prescription medication or drug paraphernalia. If a parent cannot ensure the child's home meets this standard, it can be considered a protection concern under the CFCSA.

A child's basic medical needs must also be met. example, regular visits to a dentist and visits to a doctor if a child becomes ill. A parent must also follow a doctor's recommendations for a child's health care and ensure that all medication prescribed by the doctor is taken in the way the doctor recommends.

If you are struggling to meet a child's basic needs, there are different organizations you can ask for help. If a parent is struggling with addiction or mental health issues, there are drug and alcohol counseling programs and mental health programs in every community in B.C. Food banks can help provide food for a family. There are organizations that can help someone find **stable** and affordable housing. If you cannot maintain the child's home to community standards due to illness, talk to a doctor or public health nurse to see if you can get help with housekeeping and cleaning. Whatever the issue, a parent who

is struggling should look to the organization in the community (see the list at the back of this booklet).

You must find the support you need BEFORE the child is put at risk.

Emotional abuse

Not all of a child's basic needs are physical ones, some are emotional. A child must also have love and support from a parent., The home must be free from domestic violence. This can include arguing and physical fighting between the child and a parent, or watching other people living in the home argue or physically fight. The CFCSA says that exposing a child to physical fighting or exposing a child to extensive verbal arguing is a child protection concern.

It is also emotionally abusive for a parent to **alienate** the child from the child's other parent or caregiver. Even if you are angry or upset with the child's other parent, you should avoid talking negatively about the other parent to the child. Otherwise, if you do this often, a child may begin to take a negative view of the other parent. This can be considered emotional abuse.

A parent must also provide emotional support, guidance and affection for a child. If you are always criticizing a child, talking negatively about their abilities, or constantly punishing them, it can be considered emotional abuse which is a protection concern under the CFCSA.

A child who is emotionally abused may not be able to explain what is wrong. The child may instead behave in a way that expresses their feelings without using words. For

example, the child may be always angry, sad, nervous, worried, or withdrawn, even when the child is in a safe place.

If you are involved in a violent relationship, or frequently argue with your partner, there are agencies and services that can help you. You may want or need counseling to change your relationship with your partner, or you may want information on how to leave a violent relationship.

Many extended health care plans include an Employee Assistance Plan (EAP), which can include counseling sessions if you feel your relationship can be saved. There are also local agencies or groups that can provide free or low cost counseling.

If you are being hit or physically abused, whether you are a man or woman, you may want to talk with a women's shelter or other similar agency. You can get support and counseling to help manage the relationship if a partner is abusive.

Some of the local agencies that provide counseling or support for abused people in the Lower Mainland are listed at the back of this booklet.

If a parent is talking negatively to a child about the child's other parents or caregivers, the parent should stop talking to the child and consider talking to a counselor or other agency instead. There are parenting groups which help parents communicate better with their child.

Physical abuse

The children most at risk for physical abuse are very young children who can't yet talk or

describe what is happening. Young children are unable to defend themselves from abuse. The Ministry considers signs like bruises and broken bones to be signs of physical abuse.

If a parent has trouble controlling angry feelings and then takes those angry feelings out on the child, the parent should talk to a counselor or program to get help. It is never acceptable for a parent to hit a child with a fist, an item like a belt, spoon, or stick, or to slap, bite, push or shake a child. This type of behaviour towards a child is a protection concern under the CFCSA.

A parent must be able to discipline a child in a fair and reasonable way if the child does something wrong. When a child misbehaves, a parent may become angry, which can make it difficult for the parent to discipline the child effectively. There are many different ways to discipline a child and these will change as the child grows up. It is important for a parent to be consistent when disciplining a child., You need to tell them why you are disciplining them. If the child misbehaves again, the consequence should be similar.

Toddlers and young children need patience and gentle guidance from a parent to help them learn what behaviour is acceptable. Older children often understand what behaviour is right and wrong but may choose to misbehave. In those cases, a parent may need to create a consequence for the child.

Parents have different methods of disciplining children but it is never appropriate for a parent to physically hit a child and say it is discipline.

Sometimes a parent may want to spank a child if they do something wrong. It is a parent's choice to spank a child or not, but there are important legal limits about spanking. A parent must follow these specific guidelines about spanking or the parent could be charged with a crime.

A parent cannot spank a child with anything other than an open hand, and only over their clothes on their bottom. You cannot use a belt, spoon or other item when spanking a child. If a parent hits a child anywhere other than on their bottom, hits a child with a closed fist, hits a child hard enough to leave a mark, or spanks a child on their bare skin, the parent may be considered to be physically abusing the child. Physical abuse of a child is a protection concern under the CFCSA.

If a parent does not know any ways to discipline a child other than spanking, the parent may want to talk to a local service or agency about attending a parenting program. There parents can learn about different ways to discipline a child without using physical force.

Sexual abuse or exploitation

A parent must protect a child from sexual abuse or exploitation. Sexual abuse occurs when a parent or other person touches a child sexually. It is never appropriate, under any circumstances, for a parent to use a child for sexual pleasure; this is considered a child protection concern under the CFCSA.

Sexual abuse can include:

- touching the child in a sexual way,
- having the child touch the parent in a sexual way

- making the child watch pornographic videos or read pornographic magazines or books and
- creating pornographic pictures or videos of the child.

This type of contact is not only a child protection concern, but is also a serious crime under the Criminal Code of Canada, and can result in criminal charges against the person who sexually abuses the child.

A parent who has sexual feelings for a child must immediately tell a trusted person, get counseling, and avoid any sort of sexual contact with the child at all times. It is not appropriate for a parent to act on these types of sexual feelings even once.

Sexual exploitation occurs when a parent allows the child to be involved in activities that involve the child in sexual activity. Such activities can include

- encouraging or making the child engage in prostitution
- allowing the child to be involved in the making of pornographic pictures or videos and
- allowing another person to have any sort of sexual contact with the child.

These are all child protection concerns under the CFCSA.

There will be times when a child is away from their parent. Sexual abuse may happen when the parent is not present. It is important for a parent to take steps to help the child if the parent learns that a child has been sexually abused. The parent should call the police or other authorities to report the abuse.

The parent should make sure the child is safe and will not have further contact with the abuser. The parent should also have the child examined by a doctor to ensure that the child does not have any physical problems as a result of the sexual abuse.

The parent should also find out if the child should have counseling or other therapy to help the child deal with the abuse. If a parent does not care appropriately for a child after the abuse, this could be considered neglect under the CFCSA.



What could happen if a parent does not meet their child's needs?

The previous sections talk about what sort of things a parent must do to make sure that a child in their care is safe from neglect, physical abuse, emotional abuse and sexual abuse or exploitation.

If a parent is struggling with ensuring that a child in their care is safe, the parent must talk to someone to get help. If a parent does not meet a child's needs, a report may be made to the Ministry that a child is at risk.

A social worker will assess each report and, if necessary, investigate to determine if a child is at risk and is in need of protection.

An investigation can involve telephone calls from the social worker to the parents of the child. Other family members, the person who made the report, or other professionals like teachers, police officers or doctors may also be contacted. The social worker may also interview the child and request records about the child from the police, doctors or other professionals.

If anyone refuses to cooperate with the social worker's investigation, including preventing the social worker from talking to the child, the social worker may go to court to get court orders to obtain information or talk to the child.

If the social worker determines that a child is at risk, there are several different steps they can take to ensure the child is safe. Some of the options are voluntary and no one but the parent needs to know a social worker is involved. Other options are court based if the child is at a serious risk in the parent's care.

Non-Court Options

A social worker does not want to remove a child from a parent unless it is absolutely necessary to ensure the child's safety. There are several options which allow the family to address the issues putting the child at risk, while allowing the child to remain with his or her family. One of the least disruptive options open to the social worker is a Support Services Agreement.

Support Services Agreements

A Support Services Agreement is an official written **agreement** between the parent and the Ministry. The social worker works with the parent to create a plan including services for the entire family, both parent and child, to help deal with the issues in the home which are putting the child at risk. If the social worker wants the parent to attend courses, or have a child attend services, the social worker will ask the parent to sign a Support Services Agreement outlining the services the parent or child must attend. The Ministry may pay for all or part of the cost of attending these services, or help the parent apply for subsidies.

The parent is entitled to get legal advice about the services the social worker would like the parent to take.

A Support Services Agreement can include:

- Services for children and youth;
- Counselling;
- In-home supports;
- Respite Care;
- Parenting Programs; and
- Services to support children who witness family violence

Support Services Agreements can last up to 6 months, and be renewed for further periods of up to 6 months.

Since a Support Services Agreement is voluntary, a parent is not compelled to attend the services outlined in the agreement. However, if the parent refuses to complete the services requested, the social worker may need to re-assess the ongoing safety of the child in the parent's care.

Safety Plans or Respite Care

If a child may be at short-time risk of harm the social worker might suggest the parent create a short term Safety Plan for the child. This may include having the child stay for a short time with extended family or a close friend until the parent can address an immediate problem which is a safety risk for the child.

If there is no such family member or close friend, the social worker may be able to provide the parent with short term respite care to give the parent a break from parenting the child.

A Safety Plan or Respite Care arrangement is only meant to last no more than a few days. The parent retains all parenting and guardianship responsibilities for the child, even if the child is not in the parent's care. After the immediate issue is addressed, the child can return to the parent's care.

A few days are often not long enough to address more serious issues which may put a child at risk. The social worker may then ask a parent to enter into a Support Services Agreement along with creating a Safety Plan or providing Respite Care.

Voluntary Care Agreements (VCAs) or Extended Family Placements

If a parent in crisis does not have extended family or friends willing to care for a child, the social worker may suggest the parent enter into a Voluntary Care Agreement (VCA). A VCA places the child in the temporary care of the Ministry (a foster home) with the parent's agreement for periods of between one to two years, depending upon the age of the child. If the parent has extended

family or friends who can care for the child, this can be arranged for under an Extended Family Placement or EFP. This is a similar arrangement to a VCA, but allows the child to stay in the care of family or friends instead of being cared for in a foster home.

The VCA includes a partial transfer of parental authority from the parent to the Ministry to allow the MCFD to care for the child while the child is in foster care. This is a voluntary transfer of parental authority, and it ends when the parent asks for the transfer to end.

A VCA or EFP can also include a Support Services Agreement which addresses more serious and longer term protection concerns. This type of arrangement allows a parent to go into a residential treatment program, or concentrate on attending services without worrying about the child's care.

Court Based Options

If a social worker tells you your child may be at risk and an application will be made to court, you should ask for legal advice from a lawyer familiar with child protection law. If you cannot afford a lawyer, legal aid is usually available for low income earners who are dealing with court based child protection matters. The numbers for legal aid are listed in the back of this booklet.

Supervision Orders

If a parent refuses to work with a social worker and attend services to reduce a risk to a child, the social worker can legally require the parent to attend services by applying to court.

The first type of court application is for a supervision order without removal. If a social

worker believes a child is at risk, but certain services can protect the child while leaving the child in the parent's home, the social worker will apply for a supervision order. This normally happens if parent refuses to attend services which could address the protection concerns in the child's home. The social worker will make a list of supervision terms for a parent to follow. The social worker can ask the court to place the parent under the supervision of the MCFD for two periods of up to six months, totaling one year.

A social worker may also ask a parent to remain under supervision when a child is returned to a parent's care after a removal. This type of supervision order is meant to ensure that the parent and child have addressed the protection concerns which resulted in the removal. The social worker again can ask the court to place the parent under the supervision of the Ministry for two periods of up to six months, totaling one year.

Removing a Child

A social worker may be required to remove a child from a parent's care if they believe that there is an immediate safety risk to the child and no other option is available to ensure the child's safety.

If a social worker removes a child, they will normally ask whether there are family members or close friends who can care for the child. If there is no one, the child will be placed in a Ministry-approved foster home.

The social worker must appear in court within 7 days of removing a child to tell the court about the protection concerns which led to the child's removal. The social worker

must notify the parents, the child if over age 12, any care giver for the child and any aboriginal band of the date and time for court hearings related to the child's removal.

If there are family or friends able to care for the child, the social worker can recommend to the court that the child be placed in the temporary custody of a family member or friend, under the supervision of the Ministry, on terms and conditions recommended by the social worker.

This type of order temporarily transfers custody and guardianship of a child to another person under the CFCSA.

If the parent does not have anyone able to care for the child, the court will be asked to make an order placing the child in the temporary care of the Ministry. The child is placed in a foster home and the Ministry assumes all custody, guardianship and parenting responsibilities for the child.

Under a temporary custody order, the transfer of custody of the child is not permanent. If the parent can address the protection concerns, the transfer of custody to another party eventually expires.

A parent of a child between 0-5 years is given up to one year to work on the protection concerns identified by the social worker. For children aged 5-12 a parent has 18 months. For children aged 12 – 19 a parent has up to two years to address any issues.

If the parent cannot address the protection concerns identified by the social worker within the time noted above, the social worker may have to apply for a permanent

order removing the child from the parents' care. This is called a continuing custody order. It permanently removes the parenting and guardianship responsibilities, and any other parental rights from a parent. This is not normally the first option taken by a social worker, unless a parent has a long history of neglect or abuse with other children previously in their care, and the issues leading to the neglect or abuse have not been addressed.

Other Related Public Legal Information Booklets Include:



This booklet contains basic information about child support in BC. Inside you will find information on: What child support is and who has to pay it; Your duty as a parent or guardian to support your child, and where you can get more help.

This series and other public legal education booklets are available online at:



www.publiclegaled.bc.ca



www.clicklaw.bc.ca

Where to get help

<p>Comprehensive Child Support Service</p>	<p>If you live in the Kelowna, Nanaimo, Vancouver or Surrey areas and need to find out more about child support, and obtaining or changing a child support order or agreement, the new Child Support Officer can help. Child Support Officers help you understand the child support guidelines and calculate what you are entitled to receive or must pay under those guidelines.</p>	<p>Kelowna: 250.712.3636 Vancouver: 604.660.2084 Nanaimo: 250.741.5447 Surrey: 604.501.3100 Toll-free: 1.888.227.7734</p>
<p>Family Justice Counsellors</p>	<p>Family Justice Counsellors can mediate issues involving parenting arrangements, contact, child support and spousal support. Family Justice Counsellors don't provide legal advice. They will refer you to legal services if you need them. Family Justice Counsellors can also make referrals to other sources of help.</p>	<p>Call Enquiry BC to find the nearest Family Justice Centre. Greater Vancouver: 604.660.2421 Greater Victoria: 250.387.6121 Elsewhere in BC: 1.800.663.7867</p>
<p>Family Maintenance Enforcement Program (FMEP)</p>	<p>FMEP is a government service that enforces orders and agreements for child support and spousal support. If necessary, staff will take action to try to ensure that the payor makes the required payments. To register with FMEP, you need an enrolment package. You can get the enrolment package at any Provincial Courthouse, Service BC Centres, Ministry of Social Development offices or FMEP at the central Enrolment Office.</p>	<p>Enrolment Office: Box 5100 Victoria, BC V8R 6N3 250.220.4040 Toll-free: 1.800.663.3455 www.fmep.gov.bc.ca</p>
<p>Mediate BC</p>	<p>Mediators are impartial and have no decision-making powers. The mediator's roles include:</p> <ul style="list-style-type: none"> • helping the parties to define the issues in dispute • providing a neutral and appropriate location for the mediation • screening cases to ensure safety • managing the mediation process and keeping the discussion on track • helping the parties to communicate their interests clearly • helping parties reach an agreement 	<p>Mediate BC Society Family Mediation Services Lower Mainland: 604.684.1300 local 23 Toll-Free: 1.877.656.1300 fms@mediatebc.com www.mediatebc.com</p>

Ministry of Children and Families Development of BC	<p>The Ministry provides programs and services to ensure that healthy children and responsible families are living in safe, caring and inclusive communities.</p>	<p>Victoria: 250.387.7027 Toll-Free: 1.877.387.7027 www.gov.bc.ca/mcf MCF.CorrCorrespondenceManagement@gov.bc.ca</p>
Parenting After Separation Program	<p>The Parenting After Separation Program is a free, three-hour information session that parents (and other family members, such as grandparents) may attend in person. You do not have to attend the same program session as the other parent. The Parenting After Separation Program is also available online.</p>	<p>www.familieschange.ca To find out more about Parenting After Separation, talk to a Family Justice Counsellor.</p>
Parent Support Services Society of BC	<p>The Parent Support Services Society runs parent support circles around the province for parents who want to find ways to have better relationships with their children.</p>	<p>Lower Mainland: 604.669.1616 Victoria: 250.384.8042 Toll-Free: 1.877.345.9777 (9PSS) office@parentsupportbc.ca www.parentsupportbc.ca</p>
PovNet	<p>Check the PovNet website if you need to find 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.</p>	<p>www.povnet.org</p>
VictimLink BC	<p>VictimLink BC is a toll-free, confidential, multilingual telephone service available across BC and Yukon 24 hours a day, 7 days a week. It provides information and referral services to all victims of crime and immediate crisis support to victims of family and sexual violence. VictimLink BC provides service in more than 110 languages, including 17 North American aboriginal languages.</p>	<p>Toll-Free: 1.800.563.0808 TTY: 604.875.0885 VictimLinkBC@bc211.ca www.victimlinkbc.ca</p>

Getting Legal Advice

Access Pro Bono Society of BC	Access Pro Bono volunteer lawyers provide free legal advice to persons who cannot obtain legal aid or afford a lawyer.	Lower Mainland: 604.878.7400 Toll-free: 1.877.762.6664 help@accessprobono.ca www.accessprobono.ca
JP Boyd's BC Family Law Resource	This website offers a comprehensive survey of family law, divorce law and the court process in BC. It's written in plain language, with handy pop-up definitions for legal words and phrases.	www.bcfamilylawresource.com Blog: www.bcfamilylawresource.blogspot.ca
Lawyer Referral Service	The Lawyer Referral Service can give you the name of a family law lawyer near you who will give you a 30-minute consultation for \$25.	Greater Vancouver: 604.687.3221 Toll-free: 1.800.663.1919
Legal Services Society of BC (Legal Aid)	If your legal problem is covered under the legal aid rules and you are financially eligible, the Legal Services Society of BC will appoint a lawyer for you if you apply.	Lower Mainland: 604.408.2172 Toll-Free: 1.866.577.2525 www.lss.bc.ca/legal_aid
Family LawLINE	If you are a person with a low income experiencing a family law issue, you may be eligible for free legal advice from a family lawyer.	www.lss.bc.ca/legal_aid/FamilyLawLINE.php
Publications/ Media	Helpful booklets and an online self-help kits for people dealing with family law issues.	www.lss.bc.ca/publications
Family Law in BC website	Website contains detailed information about Family Law in BC.	www.familylaw.lss.bc.ca/default.asp
Family Duty Counsels	Lawyers available to help people with lower incomes with their family law problems.	www.familylaw.lss.bc.ca/help/who_FamilyDutyCounsel.php
Native Courtworkers and Counselling Association of BC	The Native Courtworkers and Counselling Association of British Columbia provides culturally appropriate services to aboriginal people and communities consistent with their needs. It includes advocacy for aboriginal families and youth, community outreach, training and workshops.	Lower Mainland: 604.985.5355 Toll-Free: 1.877.811.1190 nccabc@nccabc.net www.nccabc.ca

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