

Excerpts from *the Child and Family Services Act*

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.

Reporting to agency only

18(1.1) Where a person under subsection (1)

- (a) does not know the identity of the parent or guardian of the child;
- (b) has information that leads the person reasonably to believe that the parent or guardian
 - (i) is responsible for causing the child to be in need of protection, or
 - (ii) is unable or unwilling to provide adequate protection to the child in the circumstances; or
- (c) has information that leads the person reasonably to believe that the child is or might be suffering abuse by a parent or guardian of the child or by a person having care, custody, control or charge of the child;

subsection (1) does not apply and the person shall forthwith report the information to an agency.

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.

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;
- (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.

Identity of informant

18.1(2) Except as required in the course of judicial proceedings, or with the written consent of the informant, no person shall disclose

(a) the identity of an informant under subsection 18(1) or (1.1)

(i) to the family of the child reported to be in need of protection, or

(ii) to the person who is believed to have caused the child to be in need of protection; or

(b) the identity of an informant under subsection 18(1.0.1) to the person who possessed or accessed the representation, material or recording that is or might be child pornography.

s.1(1) of *the CFS Act*:

"**family**" means a child's parent, step-parent, siblings, grandparent, aunt, uncle, cousin, guardian, person *in loco parentis* to a child and a spouse or common-law partner of any of those persons.

Offences

18.3 Where a person,

(a) through an act or omission of the person, causes a child to be a child in need of protection as provided in section 17;

(b) fails to report information as required under section 18;

(c) discloses the identity of an informant in contravention of subsection 18.1(2); or

(d) dismisses, suspends, demotes, disciplines, harasses, interferes with or otherwise disadvantages an informant in contravention of subsection 18.1(3);

the person is guilty of an offence and is liable on summary conviction to a fine of not more than \$50,000. or imprisonment for a term of not more than 24 months, or both.

Proceedings open to media

75(1) All proceedings under Parts II, III and V, other than a proceeding under *The Summary Convictions Act*, shall be closed to the general public but shall be open to representatives of the press, radio and television unless the court, on application, is satisfied that the presence of such representatives would be manifestly harmful to any person involved in the proceedings.

Reporting not to identify persons involved

75(2) No press, radio or television report of a proceeding under Part II, III or V shall disclose the name of any person involved in the proceedings as a party or a witness or disclose any information likely to identify any such person.

Offence and penalty

75(3) A person violating subsection (2) commits an offence punishable on summary conviction and is liable, if an individual, to imprisonment for 2 years or to a fine of \$5,000 or both and, if a corporation, to a fine of \$50,000.

Records are confidential

76(3) Subject to this section, a record made under this Act is confidential and no person shall disclose or communicate information from the record in any form to any person except

- (a) where giving evidence in court; or
- (b) by order of a court; or
- (c) to the director or an agency; or
- (d) to a person employed, retained or consulted by the director or an agency; or
- (d.1) to the children's advocate; or
- (d.2) where the disclosure is by the children's advocate under section 8.10; or
- (e) by the director or an agency to another agency including entities out of the province which perform substantially the same functions as an agency where reasonably required by that agency or entity
- (i) to provide service to the person who is the subject of the record, or
- (ii) to protect a child; or
- (f) to a student placed with the director or an agency by contract or agreement with an educational institution; or
- (g) where a disclosure or communication is required for purposes of this Act; or
- (h) by the director or an agency for the purpose of providing to the person who is the subject of the record, services under Part 2 of *The Vulnerable Persons Living with a Mental Disability Act*, or for the purpose of an application for the appointment of a substitute decision maker under Part 4 of that Act.