

# Saskatchewan Child Abuse Protocol 2017



A commitment by the Saskatchewan Government, police, professionals and organizations to collaborate in an effort to prevent and investigate child abuse and provide support to child victims of abuse.

This Protocol will be maintained and coordinated by the Ministry of Social Services. Reviews of the Protocol will be scheduled by the Ministry every two years or as required. The reviews will take into consideration any changes in the applicable governing legislation and any policy or procedural changes that are required by the various parties to this Protocol.

## Our Commitment to Children

The Saskatchewan Child Abuse Protocol (the Protocol) demonstrates a commitment by the Government of Saskatchewan and Police Services to ensure that all efforts to protect children from abuse and neglect are integrated, effective and sensitive to the needs of children. To achieve this goal, all professionals will support the Government of Saskatchewan and Police Services to enable them to prevent, detect, report, investigate and prosecute cases of child abuse and support children who have been abused.

Child abuse is a serious issue that requires a community response and the co-operation of service providers and the public. This Protocol recognizes that collaboration among all signatory partners will enhance support for the protection of children from abuse and neglect.

By co-ordinating efforts, government, police and human service providers will better:

- protect children;
- recognize and identify incidents of child abuse;
- respond to and investigate reports of child abuse;
- document statements and collect evidence related to allegations of abuse;
- hold persons accountable for violation of criminal laws prohibiting child abuse;
- provide treatment and support to optimize the physical, emotional and psychological well-being of child victims, their siblings, non-offending parents and/or custodians;
- promote collaboration and integrated inter-agency investigation and case management; and
- reduce emotional trauma to the victims who experience repeat interviews, court appearances, medical and psychological examinations and other human service interventions.

**If you are concerned a child may be at risk of abuse, immediately contact the Ministry of Social Services at:**

Prince Albert (North) 1-866-719-6164

Saskatoon (Centre) 1-800-274-8297

Regina (South) 1-844-787-3760

Your local First Nations Child and Family Services (FNCFS) Agency

Your local Police.

## Protocol Signatories

The Government of Saskatchewan and Police Services endorse the 2017 Saskatchewan Child Abuse Protocol and adopt it for use within our organizations. We commit to making it an essential part of our regular operations and will ensure managers and employees know how to implement the Protocol. Each organization commits to take the Protocol and develop policies and procedures that support the intent and purpose of this Protocol.

Ministry of Health

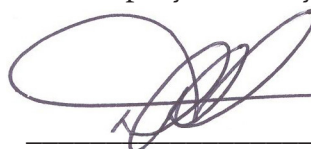


Max Hendricks, Deputy Minister

Ministry of Justice

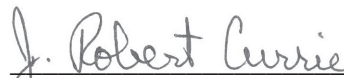


J. Glen Gardner, Q.C., Deputy Minister  
and Deputy Attorney General



Dale McFee, Deputy Minister

Ministry of Education



J. Robert Currie, Deputy Minister

Ministry of Social Services



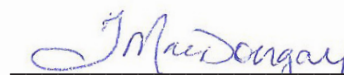
J. Greg Miller, Deputy Minister

Ministry of Government Relations



Tammy Kirkland, Deputy Minister

Ministry of Parks, Culture and Sport



Twyla Macdougall, Deputy Minister

Saskatchewan Association of Chiefs of Police  
(S, R, W, E, PA, MJ, FH, RCMP)



Chief Marlo Pritchard, President

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## Statement of Purpose

The purpose of this Protocol is to describe what constitutes child abuse and neglect under the law, to describe roles and responsibilities of service providers, and to describe the process by which they must respond.

Responding to child abuse is a challenge in every community. Police, prosecutors, child protection services, child care providers, medical, educational and other professionals recognize the needs of child victims, and are committed to working collaboratively to respond to the problem. This document is for all community members in recognition of our need to protect, respond and provide a voice for all children.

The **goals and objectives** of this Protocol are to:

1. Confirm every individual's "Duty to Report" all suspicions of child abuse;
2. Define child abuse and explain procedures and responses of signatory ministries and agencies in cases of suspected child abuse;
3. Establish multi-disciplinary, collaborative and responsive practices amongst all professionals involved in a suspected child abuse investigation to enhance the safety and well-being of any child who may be in need of protection;
4. Promote child-centered investigations and support services to reduce the likelihood of further traumatizing a child<sup>1</sup>;
5. Improve understanding of how and when information can be shared among professionals and agencies towards a common goal of improved response to suspected child abuse cases;
6. Promote training and information for all ministries, professions, agencies and communities to improve the safety and well-being of children as it pertains to the "Duty to Report".

## Statement of Principles

**These statements of principles are to be considered by every citizen of the province:**

- Suspected child abuse or neglect must be treated seriously, and must be reported to the Ministry of Social Services, Child Protection/local FNCFS Agencies or police according to Section 12 of *The Child and Family Services Act*.
- When a child discloses abuse, particular care will be taken to ensure that the child is provided with support.
- A child's disclosure of abuse will be investigated with the same concern as an adult's complaint under both *The Criminal Code of Canada* and *The Child and Family Services Act*.
- Responses to all disclosures or allegations of child abuse will be responded to with particular attention to the level of risk and the vulnerability of the child.
- Reports of child abuse require a co-ordinated response to investigation and a multi-disciplinary response to assessment, intervention, treatment and follow-up. Appropriate information sharing is essential to support decisions about the protection, safety and well-being of the child, and the protection of the public.
- Treatment and support services for victims, their families and offenders are components of an effective multi-disciplinary response.

The Child Abuse Protocol makes clear that all citizens have a "Duty to Report" suspicions of child abuse and neglect. Failure by any person to report suspected child abuse may result in legal or professional consequences.

The best service to the child is the service closest to the child, and children who are victims of neglect, abuse, or abandonment must not also be victims of bureaucracy. They deserve our devoted attention, not our divided attention.

*Kenny Guinn*

<sup>1</sup> The child's best interests are paramount in all child abuse investigations. The child-centered investigation ensures that all relevant information is gathered and assessed using the least disruptive manner and appropriate to the circumstances.

## Defining Child Abuse - A Child who may be in Need of Protection

*The Child and Family Services Act* provides the mandate for the Ministry of Social Services and FNCFS Agencies to investigate suspected abuse and neglect of children by their parents, guardians or other adults in the household who provide day-to-day care and supervision of the child. Section 11 of the *Act* defines the circumstances in which a child is in need of protection.

The definitions below provide a framework for child protection intervention by responsible agencies and individuals in situations of child abuse. **All** forms of abuse identified are open to intervention according to *The Child and Family Services Act*. Also sexual abuse, sexual exploitation, physical abuse and severe physical neglect are considered to be criminal offences according to *The Criminal Code of Canada*.

**Physical Abuse** refers to all actions resulting in non-accidental physical injury or harm. This may include non-accidental injury, cruel or excessive corporal punishment (which may or may not cause physical injury), threats of physical harm, dangerous behaviour towards a child or in immediate proximity to the child (e.g., throwing objects, use of weapons).

**Sexual Abuse and Exploitation** occurs when a child has been or is likely to be exposed to harmful interaction for a sexual purpose by a parent, caretaker, any person in a position of trust and/or any other person. It can include both physical and/or non-physical contact. Examples include engaging a child in sexual acts, obscene acts, taking pictures of a sexual nature, pornography, voyeurism, exhibitionism and threatening sexual assault, as well as the utilization of “grooming”<sup>2</sup> techniques. Special protections for children being sexually exploited can be accessed under the *The Emergency Protection for Victims of Child Sexual Abuse and Exploitation Act*. Appendix A provides information to explain age of consent for sexual conduct, which generally means age 16, subject to close in age and abuse of authority exceptions.

**Physical Neglect** refers to acts of omission on the part of the parent/caregiver. This includes failure to

provide for the child’s basic needs and appropriate level of care with respect to food, clothing, shelter, health/medical, hygiene, safety and supervision as determined by the minimum levels of care standards. Parents/caregivers exposing their children to substance abuse, criminal activity or with unaddressed mental health and/or addictions issues fall into this category. Children under 12 committing criminal offences are also considered at risk and may require child protection services.

**Emotional Maltreatment** refers to both emotional abuse and emotional neglect of the child. Emotional abuse includes excessive and overt rejection, criticism and excessive demands of performance for a child’s age and ability. Emotional neglect refers to the failure of the parent/caregiver to provide adequate psychological nurturance necessary for a child’s growth and development.

**Exposure to Domestic or Interpersonal Violence** refers to a child living in a situation where there is interpersonal violence, including children witnessing, hearing or being aware of violence perpetrated by one adult figure against another adult figure, or against another child. Such situations may put the child at risk of physical, emotional or mental health harm.

**Failure to Provide Essential Medical Treatment** refers to a parent or caregiver failing to provide essential medical treatment or to remedy a mental, emotional or developmental condition of a child. This includes parents/caregivers who have children with mental health and/or addictions concerns that are not being treated.

Certain unlawful practices are also considered a physical, sexual, or emotional abuse of children under Canadian law, including forced marriage<sup>3</sup>, marriage under age 16, and female genital mutilation. The reference to “forced” marriage not only acknowledges the lack of consent, but also recognizes that in such circumstances other criminal acts may be committed to “force” the person into the marriage, including threats, forcible confinement, assault, and sexual assault.

<sup>2</sup> Grooming is defined as deliberate actions taken with the aim of befriending and establishing an emotional connection with a child, in order to lower the child’s inhibitions in preparation for sexual abuse or exploitation of the child.

<sup>3</sup> *Zero Tolerance for Barbaric Cultural Practices Act*. - [http://laws-lois.justice.gc.ca/eng/AnnualStatutes/2015\\_29/page-1.html](http://laws-lois.justice.gc.ca/eng/AnnualStatutes/2015_29/page-1.html)

## Reporting and Investigating Child Abuse

### Duty to Report Suspected Child Abuse

*The Child and Family Services Act (Section 12, Subsection 1 and 4)* states that **every** person who has reasonable suspicion to believe that a child may be in need of protection shall **report** the information to a **child protection worker**, Ministry of Social Services or FNCFS Agency or a **police officer**, and that every police officer who has reasonable grounds to believe that a child may be in need of protection shall immediately report the information to a child protection worker.

*The Emergency Protection of Victims of Child Sexual Abuse and Exploitation Act (Section 4, Subsection 1)* makes it mandatory for every person who has reasonable suspicion to believe that a child (under the age of 18 years) has been or is likely to be subjected to sexual abuse to report the information to a child protection worker or police officer.

The duty to report **applies** in spite of any claim of confidentiality or professional privilege (e.g., priest, religious clergy, etc.) other than solicitor/client privilege or Crown privilege.

During regular business hours (Monday to Friday 8 a.m. – 5 p.m.) contact your local Ministry of Social Services or FNCFS Agency child protection intake and/or local police to report suspicions or disclosures of child abuse.

Ministry of Social Services Child Protection Lines:

Prince Albert (North)	1-866-719-6164
Saskatoon (Centre)	1-800-274-8297
Regina (South)	1-844-787-3760

Reports **after regular business** hours or on statutory holidays can be made to after hours crisis services or local police. (Contact information for local police can be found on the inside page of your local telephone directory or by conducting a web search on *mysask411.com*).

After Hours Crisis Services:

Prince Albert	306-764-1011
Regina	306-569-2724
Saskatoon	306-933-6200
Other Communities	Local Police/RCMP

### Receiving Disclosures of Abuse from a Child

Regardless of the type of abuse a child reports, all disclosures must be treated in a similar manner. If a child makes a disclosure:

- listen openly and control your reaction;
- reassure the child that he/she is safe and this is not his/her fault;
- do not correct language and let the child report the incident in his/her own words;
- record what the child has reported and your observations; and
- avoid making promises that cannot be kept (e.g., “I won’t tell anyone. I will keep this secret.”)

### Reporting Abuse, Neglect, Interpersonal Violence

Time is of the essence in ensuring the safety and well-being of children.

- Report the suspected abuse, observations of suspected abuse and/or disclosure of abuse **immediately** to the closest Ministry of Social Services intake line or FNCFS Agency and/or to police. Do not wait until you have all information before calling to report. Tell the child protection worker or police officer as much information as you know.
- Even if you believe someone else is reporting the situation, you still have a duty to report.
- You have an ongoing duty to report child abuse, even if you know a report has already been made about a child. You must make a further report if there is additional reasonable suspicion that the child is or may be at risk of abuse or neglect. All incidents must be reported.
- If you believe the child or other children must be protected from further abuse, do not contact the alleged perpetrator – this is the responsibility of police and/or the Ministry of Social Services/ FNCFS Agencies.



## What to Report?

Your report should include:

- your name, telephone number and relationship to the child (*this information is confidential and may be provided anonymously; however, if the case is presented to court for a child protection hearing or criminal proceeding, those who identify themselves may be summoned to court*);
- your immediate concerns about the child's safety;
- the child's location, the child's name, age and gender;
- information about the situation;
- information about the family, caregivers and alleged offenders;
- other children who may be affected; and
- any other relevant information.

## Investigating Child Abuse

After a report is made, child protection staff and police officers are responsible for the investigation of child abuse cases.

Child protection staff will investigate to determine if there are reasonable grounds to find the child in need of protection.

The police investigate to determine if a criminal offence has been committed and if there are reasonable grounds to lay charges under *The Criminal Code of Canada*.

**Note:** Other professionals play a critical role in assisting with the investigation, supporting the child during and after the investigation, and providing follow-up services.

**Two provincial acts** that apply to child abuse are:

1. *The Child and Family Services Act* applies to children under the age of 16 and in exceptional circumstances youth ages 16 and 17. Every person who has a reasonable suspicion to believe an individual under the age of 18 has been or is likely to be the victim of child abuse must immediately report the suspicion or disclosure to the Ministry of Social Services, FNCFS Agency or police. Following the report, the child or youth's level of risk and service need will be assessed.
2. *The Emergency Protection of Victims of Child Sexual Abuse and Exploitation Act* applies to children and youth under the age of 18.

As well, *The Criminal Code of Canada* governs situations as it relates to criminal offences perpetrated against children under the age of 18.

If you have doubt about where a report should be made based on the age of the child, a report should be made to both the Ministry of Social Services/ FNCFS Agency **and** Police. These agencies will determine which legislation and investigation procedures apply.

## Roles and Responsibilities

### Child Protection Services

*The Child and Family Services Act* establishes the mandate for the **Ministry of Social Services** and **FNCFS Agencies** to conduct the following:

- receive and investigate reports of children who may be in need of protection from abuse;
- assess a family's ability to protect the child;
- wherever it is safe to do so, provide support services to children and families which may allow for the child to remain safely in the family home;
- provide out-of-home care where support services to the family cannot maintain the child's safety in the family home;
- provide services to sexually exploited children and youth, according to *The Emergency Protection of Victims of Child Sexual Abuse and Exploitation Act*; and
- share appropriate information with police and those involved in the investigation and follow up as necessary to ensure the child's best interests are met.

A child protection worker will ensure any report received of physical or sexual abuse or severe neglect is reported to police.

Both a child protection worker and a police officer may investigate the **same** report of child abuse or neglect; however, the reasons for investigation can **differ**, and the conclusions of each investigation are independent of the other. Ministry of Social Services or FNCFS workers will investigate to determine if a child is in need of protection from his/her parent or caregiver as a result of their action or inaction; whereas, the police will investigate if a criminal offence as defined by *The Criminal Code of Canada* has occurred. Regardless of whether proceedings are initiated under *The Criminal Code of Canada*, child protection services must make an independent decision regarding the child's need for protection according to *The Child and Family Services Act*. There must be no delay in proceeding with any necessary action to ensure the child's safety.

If the concerns do not relate to actions or lack of action by a parent or caregiver to the alleged victim(s), the Ministry of Social Services/FNCFS Agency may not have a role; however, the matter may still be referred to police services to investigate independently if a criminal offence has occurred.

### Police

Local police services and the RCMP are primarily responsible for public safety and have a responsibility to:

- receive reports of a child who may be in need of protection and potential offences against a child;
- provide an emergency response to children who may be in need of protection;
- investigate alleged criminal acts;
- lay criminal charges; and
- provide victim services.

Criminal investigation and public protection responsibilities rest with the police. Agencies participating under the Protocol will report cases immediately to the police to ensure evidence is protected, investigation procedures are followed, and the victim and the public are protected.

The police shall immediately inform the Ministry of Social Services/FNCFS Agency when a child may be in need of protection. This shall occur even if there is a current or ongoing criminal investigation of the perpetrator.

Police and child protection services conduct separate investigations; however, joint interviews of the child victim wherever practical may be conducted to assess/identify both criminal and child protection issues. When the police receive a report of suspected child abuse they will complete their investigation in a timely fashion and determine if criminal charges will be laid against any individual. Similarly, child protection services will complete their investigation in a timely fashion to determine if there is reason to believe that child welfare services are required.

## Victim Services

The Victim Services programs work closely with all police agencies. In cases where child abuse has been reported, Victim Services has a responsibility to:

- provide information on the status of the case to the victim;
- provide support to the victim and his/her family throughout the criminal justice process; and
- refer the victim and his/her family for assistance with other issues related to the case.

These services are provided in order to decrease the immediate and long-term effects of victimization.

Victim/Witness Co-ordinators will provide support to and prepare the child that may have to testify in court.

## Crown Prosecutors

The Public Prosecution Division of the Ministry of Justice is responsible for reviewing police investigation files when requested to do so by the police. The prosecutor may also advise when criminal charges should be laid, what the appropriate charges should be, and whether any further investigation is advisable. The prosecutor will prepare witnesses for court appearances to ensure the best evidence available is presented to the court, and refer witnesses to victim/witness services.

The responsibility to assess whether the facts raise criminal law or public protection concerns is a matter for police or the Crown to determine.

## Health

The roles and responsibilities of health professionals including, but not limited to physicians, medical professionals, medical social workers, mental health professionals, addictions workers and public health nurses, are to:

- report suspected cases of child abuse in accordance with *The Child and Family Services Act*;
- report suspected cases of child abuse in accordance with *The Emergency Protection of Victims of Child Sexual Abuse and Exploitation Act*;
- share information regarding the child's needs as required through the investigation, assessment and treatment of the child and the child's family;
- gather and preserve medical and behavioural evidence;
- co-operate with child protection and police by providing information regarding the physical, psychological and behavioural indicators of the reported abuse;
- assess, diagnose and treat any condition associated with abuse or neglect, inclusive of referrals for any subsequent medical care, counseling, treatment or support;
- provide support to the abused child and family during and after the child abuse investigation;
- provide physical and mental health treatment and consultation to victims and perpetrators of child abuse and their families;
- preserve the physical and emotional well-being of the child being examined; and
- provide medical and behavioural evidence, documentation and expert opinion in court proceedings.

## Education (Pre-Kindergarten to Grade 12)

Schools play an important role in the lives of children and their families. The roles and responsibilities of persons in schools, including principals, teachers, administrators, assistants, counselors, social workers, supervisory personnel, volunteers, custodians, paraprofessionals and others working in a school setting is to:

- **report (not investigate)** all suspected cases of child abuse directly to child protection services and/or police in accordance with *The Child and Family Services Act*;
- (Note: The duty to report is a personal “Duty to Report” and it cannot be delegated to another individual.)**
- notify the school principal that a report has been made to a child protection worker or police officer about a suspected case of child abuse;
  - co-operate with police and child protection workers by providing access to information and an opportunity to speak to the child as needed;
  - participate in case planning and observe the child’s progress, including behaviour, academic progress, emotional functioning and physical well-being;
  - maintain a written record of observations and/or discussions with, or relating to the child;
  - provide academic, social and emotional support to the child; and
  - provide evidence and documentation in court proceedings.

## Interviews of Children at School by Police and/or Child Protection Services

Whether a report of suspected abuse originates from the school or another source, it may be necessary for the child to be interviewed by a child protection worker or the police in the school setting **without parental/caregiver consent**. The interview of a child without parental consent is done in many cases of physical abuse, sexual abuse or neglect. It is critical to ensure the child’s safety; therefore, **the child should be interviewed before the parents/caregivers are notified**. This provides an opportunity to ensure parents/caregivers are not able to influence the child and ensures that the child receives the required protection.

Arrangements to interview a child at school will be directed to the school principal (or designate) by the child protection worker or police. The principal (or designate) will make the necessary arrangements for a confidential interview to occur.

The child protection worker and police will determine who will be present at a child’s interview, considering the child’s support needs and comfort level. If a staff member is present at the interview to support and comfort the child, there is a possibility that the staff member may be subpoenaed to give testimony at a child protection hearing or any criminal proceedings.

An update may be provided to the school by the child protection worker and/or police indicating the general outcome of the investigation with respect to the child in the school setting. If an update is provided it shall be retained in confidential school files.

## Children who Change Schools Due to an Out of Home Placement

In some cases, a child may have to be removed from the parent's/caregiver's care to ensure the child's safety. When a child has been apprehended, he/she may be placed with extended family, a foster family or a group home outside the school or school division where the child normally attends. In this case, the child protection worker is to notify the principal of the child's sending (i.e. original) school that a child has been safely relocated. The principal of the sending school shall be responsible for notifying the principal of the receiving school about the child's circumstances and academic history. The student's cumulative folder may be transferred with the child as agreed between the principals, according to established school protocol. The child protection worker should also inform the principal of the receiving school regarding the child's circumstances.

## Licensed Child Care Facilities

Child care plays an important role in the lives of many children and their families. The role of licensed child care centre staff and licensees of homes, including board members, centre directors, supervisors, early childhood educators, child care workers, family child care home providers, assistants and alternates, cooks and volunteers is to:

- understand the definitions of child abuse as outlined in the Child Abuse Protocol (2017) and "Duty to Report" responsibilities;

**(Note: It is not the role/responsibility of persons working in licensed child care facilities to contact the suspected abuser or the child's family about the reported abuse.)**

- **report (not investigate)** suspected cases of child abuse in accordance with *The Child and Family Services Act*;
- notify the centre director or home licensee that a report **has been made** to a child protection worker or police officer about a suspected case of child abuse;

**(Note: The duty to report is a personal "Duty to Report" and it cannot be delegated to another individual.)**

- ensure, in the case of child care centres and homes, that all staff are aware of policies and procedures regarding reporting suspected cases of child abuse and neglect;
- co-operate with police and Ministry of Social Services/FNCFS Agencies by providing information on the abused child;
- co-operate with other professionals involved in the investigation of child abuse – this includes providing police and child protection workers access to the child who may be abused or neglected; and

**(Note: This does not require the knowledge or consent of the parents.)**

- provide social and emotional support to the child.

**Similar to interviews of children at schools by police and/or child protection services, interviews of a child could also occur at a licensed child care facility and the process would be the same as interviewing children at schools.**

## Parks, Culture and Sport

The Ministry of Parks, Culture and Sport's third party stakeholders, and agencies, are involved in the delivery of sport, recreation and cultural activities to community groups across the province who work with children. Interpreters and other staff in the province's provincial parks and at the Royal Saskatchewan Museum are also in direct contact with children, and although most staff are already familiar with the Child Abuse Protocol, the Ministry of Parks, Culture and Sport will continue to build awareness and help keep children safe, by sharing the information with staff and partners to reinforce it.

As a protocol signatory, the Ministry of Parks, Culture and Sport will ensure that instructors, coaches, staff and leaders in our communities are aware of their legal obligations and "Duty to Report" suspicions of child abuse.

## Community and Custody Services for Offenders

Corrections and Policing is responsible for custody and community-based correctional services for both adults and youth in the province. The role of corrections staff includes assessment, preparation of court-ordered and correctional reports, case planning, and providing necessary structure and support so that clients are able to successfully complete their sentence and reduce their offending behavior. Corrections staff also provide security, support and access to treatment services while the correctional client is in custody and under supervision. Staff working with youth develop Community Safety Plans collaboratively with other support services, families and communities addressing all risk factors, including a safe environment to live in.

Information regarding child abuse may come to the attention of correctional staff working with adults and youth within both custody and community settings. Corrections has a responsibility to ensure all staff, service providers, volunteers and researchers:

- have access to the Saskatchewan Child Abuse Protocol;
- are aware of their duty to report suspected cases of child abuse in accordance with *The Child and Family Services Act* and the Ministry's Duty to Report policy.

When child abuse is suspected, staff shall:

- fulfill their duty to report suspected cases of child abuse in accordance with *The Child and Family Services Act*;
- co-operate with the police, Ministry of Social Services and/or FNCFS Agencies by providing information on the abuse or neglect of children and youth; and
- support the child or youth and share information regarding their needs as required throughout the investigation, assessment and treatment of the child or youth's family.

## Sharing Confidential Information in Relation to Child Abuse Investigations

Sharing information is a critical part of a collaborative response to suspected child abuse. While many organizations and service providers receive information in confidence, children's health and safety are paramount. Your duty to report suspected child abuse overrides any duty to protect the privacy of clients, patients, or students. No action for damages may be brought against a person who reports child abuse, unless that person has knowingly made a false report or if the report was not made in good faith.

To ensure the best course of action is taken in every case, there will be mutual sharing of all relevant information by agencies, third parties and professionals involved in the investigation process. Saskatchewan law not only permits the sharing of information for ensuring child protection; it requires it.

**A reluctance to share appropriate information can contribute to continued abuse and even death of a child.**

Due to the contentious nature of investigations, the need to ensure a child's safety and to protect the integrity of the investigations, the opportunity to gather client consent is not always possible.

Further, individuals fearing possible incrimination may choose not to provide consent. As such, organizations must share appropriate information and review disclosure provisions in the context of the child's best interest and safety.

Prompt, accurate and relevant information-sharing is critical in an investigation and in protecting the safety and health of the child.

Section 74 of *The Child and Family Services Act* allows child protection staff to share confidential information as required to carry out the intent of *The Child and Family Services Act*. This allows for investigations to be completed and necessary interventions to be put in place for children who may be in need of protection.

Saskatchewan's access to information and protection of privacy legislation, namely *The Freedom of Information and Protection of Privacy Act* (FOIP), *The Local Authority Freedom of Information and Protection of Privacy Act* (LAFOIP) and *The Health Information and Protection of Privacy Act* (HIPA), establish the rules for how the public sector agencies they govern can use and disclose the personal information and personal health information they collect. Each of these laws allow for the disclosure of information without the consent in certain circumstances.

Under FOIP for instance, various authorities exist which allow for the disclosure of personal information to a child protection worker or a police officer including:

- Where necessary to protect the mental or physical health and safety of any individual (FOIP s.29(2) (m));
- For any purpose in accordance with any Act or regulation that authorizes disclosure (FOIP s. 29(2)(t); and
- For the purposes of clause 29(2)(u) of the Act, personal information may be disclosed (FOIP Regulations ss. 16(q), (r)).

These provisions enable the disclosure of personal information by a government institution and its employees to a child protection worker or a peace officer to comply with *The Child and Family Services Act's* duty to report.

Similarly authorities exist in LAFOIP, which allow LOCAL AUTHORITIES and their employees to disclose personal information to a child protection worker or a police officer in various circumstances including:

- Where necessary to protect the mental or physical health or safety of any individual (LA FOIP s. 28(2)(l)); and
- For any purpose in accordance with any Act or regulation that authorizes disclosure (LA FOIP s. 28(2)(r)).

Under HIPA, personal health information may be disclosed by a trustee<sup>4</sup> to a child protection worker or a peace officer in various circumstances including:

- Where a trustee believes disclosure will avoid or minimize a danger to the health or the safety of any person (HIPA s.27(4)(a));
- Where the disclosure is being made for the provision of health or Social Services to the child, where the trustee believes disclosure will benefit the child (HIPA s. 27(4)(j)); and
- Where the disclosure is permitted or required pursuant to any Act or regulation (HIPA s. 27(4)(l)).

It is essential that agencies share information fully to ensure that the investigation proceeds in an expeditious manner. Information includes witness statements, reports, assessments, observations or any other information that relates to an investigation of child abuse.

Addressing a child's needs is paramount to any given agency's professional mandate; therefore, collaborating and integrating services within, between and across disciplines and sectors is critical. Follow-up services to children, youth and their families require service providers to work together on a co-ordinated case plan for the child and family.

Mutual sharing of appropriate information among professionals and individuals involved is essential during assessment, treatment, and follow-up for a child abuse case.

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<sup>4</sup> Persons and organizations identified as trustees include government institutions, health authorities, licensees of care homes and health facilities, operators of mental health facilities, owners and operators of pharmacies, and licensed health professionals.



## Appendix A – Age of Consent and Close in Age Provisions of *The Criminal Code*

**Age of Consent:** Amendments made to *The Criminal Code* May 1, 2008, raised the age for persons to be able to consent to sexual activity from 14 to 16 years. [See s. 150.1(1) of *The Criminal Code*]. All activity such as sexual interference [s. 151], sexual touching [s. 152], sexual exploitation [s. 153], bestiality in presence of or inciting a child to commit [s. 160(3)]; exposure for sexual purpose [s. 173(2)]; sexual assault [s. 271]; and aggravated sexual assault [s. 273] are covered.

The **age of consent** means the age at which the criminal law recognizes that a young person has capacity to consent to sexual activity. Below this age, all sexual activity with a young person ranging from sexual touching to intercourse is prohibited and the victim cannot legally consent to the sexual activity. There are exceptions to this prohibition in the following circumstances:

Close in Age: The **close in age** defence recognizes that youth may consent to engage in sexual experimentation with other similarly aged youth and seeks to avoid criminalizing such activity:

- Where the victim is 12 to 14 years of age, and the accused is less than two years older than the victim [under 14 and under 16 respectively]

**and** the accused is not in a position of trust or authority towards the victim, is not someone the victim depends on or is not in an exploitative relationship with the victim, then the accused has a defence of “close in age”.

- Where the victim is 14 to 16 years of age, and the accused is less than five years older than the victim [under 19 or under 21 respectively] **and** the accused is not in a position of trust or authority towards the victim, is not someone the victim depends on or is not in an exploitative relationship with the victim, then the accused has a defence of “close in age”. As well, for this age range, where the victim is married to the accused there is a defence of close in age.

An accused cannot raise a mistaken belief in the age of the victim to rely on the **close in age defence**, unless the accused took **all reasonable steps** to ascertain the age of the victim [s. 150.1(6)]. As well, the **close in age** defence does not apply to a number of offences including aggravated sexual assault, sexual exploitation, anal intercourse, parent/guardian procuring sexual activity, householder permitting sexual activity, corrupting children, procuring a person under 18, prostitution offences and luring.

### Example scenarios:

- Victim 12 and accused 13 – victim can consent if the situation is not exploitative, dependent or authority relationship.
- Victim 12 and accused under 14 – aggravated sexual assault. Victim unable to consent.
- Victim 13 and accused 16 – victim unable to consent as over two year age difference.
- Victim 16 and accused 20 or 21 – victim can consent if the situation is not exploitative, dependent or authority relationship;
- Victim 16 and accused 22 - victim unable to consent as more than 5 years age difference.