

# Alberta Council of Women's Shelters



Submission to the  
Child Welfare Review  
Committee

## **SUBMISSION TO THE CHILD WELFARE ACT REVIEW**

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The **ALBERTA COUNCIL of WOMEN'S SHELTERS** is an umbrella organization representing thirty-seven women's shelters across the province of Alberta. These shelters are on the front line providing emergency, educational, counselling and preventative services. In 2000 (the most recent year for which statistics are available) we saw total admissions rise by 9.7% from 1999, with 11,230 women and children served. Sadly in this same year, 19,191 women and children were turned away because our shelters were full, an increase of 9.5% from 1999.

In 2000, women's shelters served 5,834 children. But, due to shelters being filled to capacity 10,103 children could not be accommodated because there were no additional spaces available for them and their mothers.

Research tells us that the effects on children witnessing violence between parents are serious and long lasting. These children are at an increased risk of becoming victims or perpetrators of violence themselves and are at greater risk of numerous behavioural, emotional and developmental problems<sup>1</sup>. Given our long-term experience with family violence and the number of children that arrive with their mothers seeking shelter and safety, we believe we have a unique perspective to provide.

The implementation of good legislation depends upon skilled staff, adequate resources and supportive policies and procedures. Women's shelters, still operating under a provincial 1985 staffing model, know how difficult it is to provide the necessary services without sufficient resources. Indeed, we would say that the staggering impact of violence against women and their children has been significantly underestimated in provincial social policies (income support, legal aid, housing, child welfare are but a few examples). The increase in the number of children in care can be partly attributed to this. Family violence is well represented in child welfare caseloads.

ACWS has identified a number of key issues that we would like to address, with recommended legislative and policy changes. In order for children exposed to family violence to be safe, their mother must also be safe and have adequate resources.

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<sup>1</sup> Statistics Canada, *Family violence in Canada: A statistical profile 2001*, <http://www.statcan.ca/Daily/English/010628/d010628b.htm>

## 1. THE PRINCIPLES AND VALUES OF THE ACT

**Women and their children need to feel safe  
in seeking help before problems become critical.**

**Abused women and their children need to be provided  
with adequate resources and services to keep themselves safe.**

a) We recommend that the Act be named **The Children and Family Services Act**. The act's title and content should reflect the following values and approaches:

- Children come first
- A broader title emphasizes the need for integrated services
- The interdependence between the child and the family is recognized
- Remove the stigma of the term "welfare: (The Child Welfare Act)
- A separation between child and family identifies the best interests of the child as the foremost consideration
- Encompasses more than protection and looks to providing comprehensive services
- Stresses the need for various intervention strategies (family mediation, counselling, support, etc), prior to apprehension of the child
- Allows for the four pillars, which have been identified as being basic to previous reforms
- Helps to implement the Alberta Children's Initiative: An Agenda for Joint Action signed by the Ministers of Education, Health, Justice and Children's Services in 1998.

Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

**Article 19:  
UN Convention  
on the  
Rights of the  
Child**

- b) Secondly, we recommend that the preamble to the act acknowledges that Family Violence and its subsequent impact on children is a social problem. While separation of the child from the abusive parent may be required, it is not always necessary.
- The Act implies that families should be kept together. In the case of family violence, this may not be desirable. In some cases, the safety of children and the non-abusive parent must have priority over keeping the family together and proper assessments testing for family violence must always be done.
  - Statistical evidence shows that exposure to family violence causes subsequent problems.
  - To keep the child safe, supports need to be in place for the mother as well as her children. Violence against women is a serious social problem. We need to acknowledge that it exists, is gender based, and is not going to go away anytime soon if we want to break the cycle of violence.
  - There are significant costs involved in ignoring the problem of children who witness violence (social and financial).
  - Studies tell us that family violence is ongoing and intergenerational.
  - The most common form of Substantiated Emotional Maltreatment was exposure to family violence (58%) - Canadian Incidence Study of Reported Child Abuse and Neglect (CIS)<sup>2</sup>.

ACWS recommends the province show moral leadership and a commitment to children by signing the UN Convention on the Rights of the Child: A review conducted by the Alberta Civil Liberties Centre found that “core aspects of Alberta's *Child Welfare Act*... are in strong compliance with the Convention. In addition to including an overarching best interests of the child provision, the *Child Welfare Act* directs those making decisions and exercising authority in relation to children in need of protection to give children an opportunity to express their views and to take these views into account. The advocacy program it establishes for children in care is also an extremely positive legislative development and should be emulated in other legislative contexts.”<sup>3</sup>

The UN Convention has broken all records as the most widely ratified human rights treaty in history. We believe that the province needs to show its strong commitment to children by becoming a signatory to this convention. Alberta is the only province refusing to ratify the Convention.

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<sup>2</sup> Nico Trocmé, Ph.D., David Wolfe, Ph.D., Child Maltreatment in Canada, The Canadian Incidence Study of Report Child Abuse and Neglect, National Clearinghouse on Family Violence, 2001, [http://www.hc-sc.gc.ca/hpb/lcdc/publicat/cissr-ecirc/pdf/cmhc\\_e.pdf](http://www.hc-sc.gc.ca/hpb/lcdc/publicat/cissr-ecirc/pdf/cmhc_e.pdf)

<sup>3</sup> Pellatt, Anna S. Canada and the UN Convention on the Rights of the Child: How Do We Measure Up? Alberta's Monitoring Project, Alberta Civil Liberties Research Centre, Summer 1999, <http://cwlc1.cwlc.ca/live/E/pubs/CanChild/Summer1999.htm>

## 2. PREVENTION, INTERVENTION AND PROTECTION

**Alberta's response is deeply inadequate when it comes to responding to situations in which family violence, child maltreatment and poverty occur together.**

**Safety for abused mothers and their children can be supported by holding the perpetrator, *not the adult victim*, accountable for the abuse.**

**Children should be in the care of their non-offending parents.**

- a) The act needs to define how service providers respond to children who are exposed to violence: ACWS recommends that the act state that children who witness abuse in their homes are deemed to be in need of timely integrated prevention and intervention services. This intervention must include a thorough assessment and adequate integrated resources to keep the mother and the children safe (e.g., financial support, adequate housing, safety plans and timely access to services for all family members rather than the apprehension of children prior to the completion of the assessment).

While a child may be in need of protection when family violence occurs, this does not apply in all cases. ACWS does not support family violence as a sole ground for protection and apprehension. It is the perpetrator's abusive actions that may emotionally or physically injure a child; not the guardian's failure to protect the child, when the guardian is herself being abused. The child's need for safety, continuity and stability can be better met by helping to keep both the mother and children safe.

Experiences in other jurisdictions show that placing the onus on the guardian to protect revictimizes the mother. Too often, abused women are seen as "bad" mothers because remaining with their abuser is harmful to the child. This "blame the victim" mentality cannot be sanctioned in the act. There is a major class action suit in New York over the very issue. Ironically, other jurisdictions that practice the apprehension model subsequently see the child's custody awarded by the courts to the abuser. Courts tend to view a mother claiming family violence as "un-cooperative". The discussion paper on revisions to Family Law in Alberta does not require judges to screen for family violence when considering custody and access. The judge **MAY** consider a number of factors when determining the best interests of the child in allocating responsibilities for guardianship. Violent and abusive behavior is #15 on the list.

Without adequate resources, any intervention strategy will not work. Legislation based on providing a supportive environment to children and families without the resources is counterproductive.

ACWS recommends that the resources be put in place to address the needs of women and children who are impacted by family violence. The following resources need to be in place to successfully practice an intervention model:

- Adequate financial support. The present allowances under SFI are grossly inadequate for any woman leaving an abusive relationship. Please refer to our submission to the Low Income Review Committee.
- Housing. Low vacancy rates and increased housing costs make it difficult for women to re-establish themselves. Shelter workers frequently hear that women will return to an abuser because they are unable to find housing.
- More outreach and follow-up services for women and their children in and/or leaving an abusive partner. Shelters are still working under a 1985 staffing model, which does not include outreach and follow-up. This needs to change.
- Second stage housing is woefully inadequate in this province. A study of the Los Angeles shelter system suggests that, ideally, there should be two or three transitional housing beds for each crisis bed. In Alberta we have over 400 funded emergency shelter beds: but only 200 transitional beds, a shortfall of 600 to 1000 beds. When you consider the turn away rate for emergency shelters, the number of women who stayed in hotels as emergency accommodation and the tight Alberta housing market, this shortfall becomes even more considerable.
- Specialized and available treatment programs for children witnesses of family violence, for abused women themselves and for the perpetrators.
- Educational programs on family violence and its impact upon children for workers in Education, Justice, Health and Child Welfare. This would be in support of the four pillars.
- Child Welfare protocols for children and women need to be developed. The Centre for Children and Families in the Justice System of the London Family Court Clinic have done some excellent work in the area that could easily be adapted in Alberta. ACWS would be pleased to work with the provincial government in developing these protocols.
- Supervised visitation centres. The most dangerous time for a woman is after she leaves the abuser. Access rights of the father often result in further violence against the mother. Visitation rights need to put the safety of the mother and her children first.
- Safety planning for unsupervised visits. Unsupervised visits must be undertaken only after consultation with a non-abusing parent. The safety plan must be realistic, simple and age appropriate.

- Greater collaboration between Child Welfare and Women's shelters.
- Develop a broader array of culturally competent early intervention programs for children exposed to community, youth, and family violence. Integrate these programs into sites that serve children and young families. This would include women's shelters.

In some regions, Child Welfare does not provide Healthy Parenting, early or even "at risk" intervention services while families are in shelters. At the same time children's behaviors can be out of control and moms are struggling. Early intervention would help families make a smoother transition from shelter to their new living circumstances. One shelter reports that while 135 children entered the shelter with their mother, six referrals were made to Child Welfare. Only one of those six children received follow-up and support from Child Welfare. Another 20 children, represented by twelve families had child welfare status. Only three of those twelve families had contact with their worker while in the shelter.

- b) ACWS recommends that to implement the above strategies, the province establish a Commission to Prevent Family Violence similar in structure to AADAC. The Commission would provide education and training, work to integrate the various players and fund family violence prevention efforts including women's shelters and second stage housing. The Commission would develop a 10-year plan to reduce violence in the province, in line with the Mazankowski report.

There is concern voiced in the community that the purpose of the Child Welfare Act Review is to narrow its scope to meet the province's cost containment objectives. If the revised act becomes one that speaks solely to child protection, ACWS would not support the inclusion of family violence as a ground for apprehension. There would be too great an opportunity to revictimize the mother and the children.

### Children need timely and appropriate interventions.

- c) ACWS recommends that the legislation mandate timely interventions. Just as the Mazankowski report recommends guaranteed access to selected services within a certain time frame, so should our most vulnerable citizens, our children, be guaranteed a timely response to their needs. One of our shelters reports, for instance, that children were abandoned for three days in their shelter without a response from Child Welfare. Others are dropped off at a women's shelter by other authorities, i.e., the police, when they cannot get a response from child welfare. This is inappropriate and **NOT** in the best interests of the child.

## **Custody and Access Issues**

- d) The legislation needs to be integrated with both family law and the Divorce Act. After divorce, we see that the abused woman is often held solely accountable. But, if she is fearful of her former partner and allows access to her children, she is seen as the one who is putting her child(ren) at risk. ACWS recommends that the legislation address the needs of children during a custody and access dispute. Custody and Access disputes or a divorce should not stop an investigation that meets other requirements. It should not matter if parents are together or not, because we know the perpetrator often uses the children to get back at the mother. Presently, child welfare might refuse to do any investigation during a custody and access dispute. The well-publicized efforts of Lisa Dillman of Red Deer to prevent access to her children by their father (a convicted sex offender, including her teenage daughter from another marriage) demonstrate the difficulties that can be encountered. It was not until the children were actually in the jail and the social worker was able to see that emotional injury was sustained and observable that the visit was called off. But, what a horrible experience for those children.

As well, if custody has been finalized and the father is still abusing his former partner, child welfare should investigate. However, present practice now sees children being apprehended and placed in foster care while Child Welfare investigates. This approach gives women one reason, among many others, to keep quiet about the abuse that occurs. We believe that the investigation needs to take place, but rather than apprehend the children, Child Welfare should conduct their assessment and take measures to help keep the mother and the children safe.

- e) To assist in the recognition of family violence and the need to keep the mother and children safe we recommend that the province intervene strongly against the present proposals and course of action in the proposed federal Divorce Act. Changes to family law should not be harmonized with federal legislation. First and foremost, the act should ensure that children and their mother are safe. Our concerns regarding the proposed Divorce Act are attached.



### 3. ACCOUNTABILITY

ACWS believes that the act needs to address accountability at a number of levels:

- Accountability of the abuser,
  - Accountability to the community and
  - Accountability to Albertans.
- a) We recommend that the legislation ensure that the perpetrator is held accountable. This would include ordering perpetrators out of the home until they have successfully completed treatment. In addressing perpetrator accountability, there is an entire range of resources that can be used to protect children: restraining orders, prosecution of domestic assaults, batterer intervention programs. By focusing on the perpetrator, we are less likely to blame the victim for harm to another.
- b) ACWS recommends that the legislation provide for **Regional Child Welfare Committees** comprised of well-regarded representatives of the four pillars: Community Development, Early Intervention and Prevention, Aboriginal Issues and Integration. This should include representatives from health, justice, education, First Nations as well as the child welfare manager, a representative from a woman's shelter, and selected community members. These committees would review child welfare cases and make recommendations. We believe that such a committee would assist in Integration at the local level, provide community input, connect the various players and enhance the accountability to the community by the service provider. We would further recommend at a policy level that there be special training for members on family violence.
- c) Role of the Children's Advocate: ACWS believes that the role of the Children's Advocate needs to be strengthened by ensuring that s/he:
- Reports to the Legislature,
  - Is able to investigate any complaint regarding children receiving services from any department or authority without a child welfare file being opened.
  - Implements the children's filter recommendation from the Children's Forum by reviewing all legislation, budgets, policies and procedures for their impact on children.

Further, we would build on experience in the United States, which requires that government act on the recommendations of the Children's Advocate and Task Forces.

## 4. CONFIDENTIALITY

- a) Legislation needs to encourage the sharing of information for case conferencing. However, confidentiality policies must balance the need for information with the abused mother's right to privacy and the shelters need to keep certain information confidential. Shelters are an important resource for children when their mother has left her abuser. Ideally, shelter workers would work in partnership with child welfare officials. This does not happen consistently across the province. We would hope that with the implementation of the new act, there would be a closer relationship between child welfare and shelter workers and we would welcome an opportunity to work with Children's Services.
- b) We also recommend that confidentiality be protected for aboriginal children in much the same way. Just as it would be inappropriate to discuss guardianship issues with a municipal council, so is it with a band council. Child protection issues need to be discussed with band social workers similar to the provisions of Section 91. This also gives two different standards on and off reserves.
- c) Other protections for confidentiality, i.e., protecting the identity of the source of a complaint need to be kept in place.

We believe the time is right to link the women's shelter movement with the needs of children who are exposed to violence in the home. Both shelter workers and child welfare workers have a great deal in common including

- A growing and common client base
- Lack of funding, resources and public attention
- A need for significant policy reform.

A co-ordinated community based response requires that child welfare agencies and women's shelters work together to stop the violence. It is time shelter workers are recognized as important players in an integrated provincial response. We must all work together to stop all forms of violence in the home.

**“Emotional violence does not result in the death of the body, it results in death of the soul.”**

— Bruce D. Perry, M.D., Ph.D.

# ALBERTA COUNCIL of WOMEN'S SHELTERS

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**This brief was developed by the ACWS Ad Hoc Committee on the Child Welfare Act Review...**

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Jeannie Dumont, Brigantia Place, Camrose  
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Jan Reimer, Provincial Co-ordinator, Alberta Council of Women's Shelters

**...with the assistance of women and children leaving abusive relationships who shared their experiences with us.**

## **ACWS CONCERNS REGARDING THE PROPOSED THE DIVORCE ACT**

- The violence and conflict that women face is largely ignored in judgments about custody and access arrangements. Shelter workers see court decisions putting more and more women and children in danger.
- The approach taken in the Executive Summary of the Report on Federal-Provincial-Territorial Consultations on Custody, Access and Child Support in Canada minimizes the need for a woman to protect herself and her children.

Personal safety and security should be basic to any legislation. The Alberta Council of Women's Shelters believes that custody and access provisions in the legislation can be greatly improved by recognizing the right of women and children to live without violence. The following three points need to be reflected in any changes to the Divorce Act:

1. The legislation needs to instruct judges to take violence into consideration when making decisions in custody and access cases.

The impact of violence against a mother on a child and the impact of violence against a child must be overriding considerations when determining the best interests of a child. "High conflict" is not a separate category as indicated in the report. Instead the term disguises the existence of violence in intimate relationships. A civil standard in the judgement of violence must be affirmed. If women are not to be believed when they disclose abuse, their safety and that of their children is compromised.

2. An acknowledgment that maximum contact is NOT always in the best interest of the child.

Maximum contact can put women and children in danger. It can actually undermine the best interest of the child and expose women and children to ongoing violence and harassment.

3. Shared Parenting must not be legislated.

Shared parenting has not worked in any jurisdictions where it has been implemented. If violence is not a primary consideration, shared parenting means that the mother and child will be exposed to ongoing harassment and violence according to a court-imposed schedule. The "Australian Family Law Reform Act 1995: The First Three Years" states that the safety of children has been compromised by shared parenting reforms as they have created greater opportunity for harassment and interference in the life of the mother and her children.