

An Overview of Child Protection and

Children's Exposure

to Intimate Partner Violence in Canada



Overview of Canadian Child Welfare

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Introduction to Canadian Child Welfare

Child maltreatment is a global issue with an estimated 1 billion children ages 2-17 being affected by sexual, physical, emotional abuse, and/or neglect every year (WHO, 2022). The Public Health Agency of Canada has identified child maltreatment as a serious issue affecting Canadian children and their families (Public Health Agency of Canada, 2019). In Canada, the responsibility for the protection of children from child maltreatment is a provincial/territorial mandate (Public Health Agency of Canada, 2019). The structure varies across provinces as does the legislation, regulations, policies and practices (Trocme et al., 2019).

Children's exposure to intimate partner violence (IPV) in Canada is a serious social issue. Over 90,000 Canadian women experienced IPV in 2021 (Government of Canada, 2022). Family violence increased during the years of the pandemic, which was likely due to families spending more time in the home (Government of Canada, 2022). Exposure to violence can have devastating impacts on children's well-being, such as trouble interacting socially, doing poorly in school, trauma, and mental health problems (Department of Justice Canada, 2017; Manitoba Advocate for Children and Youth, 2022). In response, many child protection services (CPS) authorities in Canada have made substantial changes to their policies and practices, including expanding the legal definition of child maltreatment to include exposure to violence in the home. Authorities are now routinely involved in cases of IPV, sometimes removing children from the home due to safety concerns.

In Canada, there are no national regulations or guidelines to determine CPS practice: rather, each province is responsible for developing and implementing its own child protection policy. Not surprisingly, there is considerable variation in policy, including statutory definitions of child maltreatment (which may or may not include children's exposure to IPV). Child protection legislation legally defines which children are in need of protection. Most jurisdictions include physical abuse, sexual abuse, emotional/psychological abuse, and neglect (Nixon et al., 2007); however, not all include children's exposure to IPV. To date, eight provinces and three territories¹ include exposure to IPV as grounds for protection in their child welfare legislation.

Understanding what policies, protocols, and programs that CPS jurisdictions across Canada have developed to respond to the issue of IPV (and guide their practice) was a main or overarching aim of this study. Four provinces serve as the primary cases or sites of investigation – Alberta, Manitoba, Ontario, and Saskatchewan. Child protection policy and practice with respect to children's exposure to IPV vary considerably across these four provinces. The CPS systems for each of the four sites are described.

¹ The provinces of British Columbia, Alberta, Saskatchewan, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador, as well as the Yukon, Nunavut, and Northwest Territories all explicitly include children's exposure to IPV as grounds for CFS involvement. Manitoba and Ontario do not.

Indigenous Child Welfare (Bill C-92)

In 2019 the Canadian government passed Bill C-92, *An Act respecting First Nations, Inuit and Métis children, youth and families*. The three aims set out in the legislation are: to "affirm inherent right of self-government" including jurisdiction to child and family services (CFS); to outline nationally applicable principles for Indigenous children in relation to CFS and; for the application of the United Nations Declaration of the Rights of Indigenous Peoples (Bill C-92, 2019, ss. 8). Principles outlined in the *Act* include focusing on the best interests of the child, cultural continuity, substantive equality (Bill C-92, 2019, ss. 9). The *Act* acknowledges that cultural continuity, including language and customs, are essential to well-being (Bill C-92, 2019, ss. 9). The *Act* states that CFS provisions regarding Indigenous children must be "provided in a manner that does not contribute to the assimilation of the Indigenous group [...] or the destruction of the culture" (Bill C-92, 2019, ss. 9.2.d). Substantive equality is to be reflected by the ability for the child to exercise their rights and be involved in their community "to the same extent as other children" (Bill C-92, 2019, ss. 9). Family members of the child, as well as Indigenous governing bodies acting on behalf of the community of the child, may also be able to exercise their rights and have their views considered in decisions (Bill C-92, 2019, para. 9).

There are two phases of the *Act*. As of January 1st, 2020, when the *Act* came into force, phase one has been in place. Phase two is optional, when the Indigenous community may choose to exercise authority. The *Act* affirms that Indigenous communities may have legislative authority related to CFS but must give notice to the government of any province in which they are located if they wish to exercise that authority and enter into phase two (Bill C-92, 2019, ss. 18, 20.1). The provincial government(s) and Indigenous governing bodies may have coordination agreements about the exercise of the authority which may include support measures, emergency services, economic arrangements and any other measure to ensure the efficacious operation of the legislative authority (Bill C-92, 2019, ss. 20.2). Once in phase two, there are multiple jurisdictions at play: the federal laws of C-92, the Indigenous laws, and the provincial/territorial law.

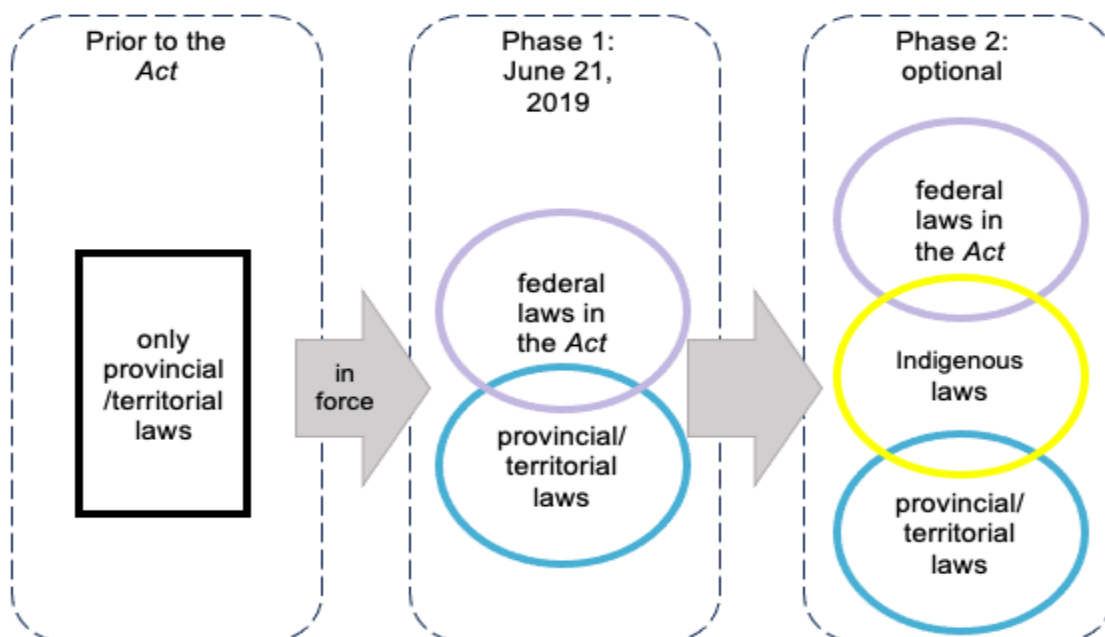


Image 1: Adapted from *A roadmap to C-92, the Federal Child Welfare Law* (Rae, 2019).

The legislation focuses on the best interests of the child, and states that "the child's physical, emotional and psychological safety, security and well-being", and the continuance of their relationship with culture, community, and family are integral (Bill C-92, 2019, para. 10). It lays out factors to be considered when attempting to ascertain the best interests of the child which include: the child's needs and age; the type of relationship with their caregiver; the cultural, linguistic, and spiritual upbringing; the views of the child and the importance of preserving their cultural identity according to their wishes; history of violence and the impacts on the child; any court proceedings that may be of relevance; and plans for the care of the child (Bill C-92, 2019, ss. 10). When CFS assistance is provided to an Indigenous child, the legislation states that it must encourage substantive equality, center the needs and culture of the child, and allow the child to be familiar with their family origins (Bill C-92, 2019, ss. 11).


The *Act* stipulates that before taking any significant measure in the interest of the child, CFS must inform the caregiver(s), parents, community, and governing body of the measure (Bill C-92, 2019, ss. 12.1). It outlines priority of preventative care and prenatal care, and states that a child may not be removed from the family due only to socio-economic conditions, such as poverty (Bill C-92, 2019, ss. 14-15). The *Act* states that reasonable efforts must be made to have the child stay with their family, except if the best interest of the child is apprehension (Bill C-92, 2019, ss. 15.1).

Placement of Indigenous children should be within their best interests with the parent(s), an adult member of the family, another adult in the same Indigenous community, an adult in a different Indigenous community, or another adult, in that order (Bill C-92, 2019, ss. 16.1). Any placement of the child must consider traditions and customs of the Indigenous community to which the child belongs. If a child is removed, CFS must have continuous assessment to review if it would be in the child's best interest for them to live with the parent(s), or if not, another adult within their family (Bill C-92, 2019, ss. 16.3).

If there is a conflict between a law of an Indigenous community and a measure of CFS, the Indigenous group's law will take precedence, assuming the child's preferences have been taken into account (Bill C-92, 2019, ss. 22.3). If conflicts occur between Indigenous law and federal law, Indigenous law will mainly take precedence (Bill C-92, 2019, ss. 22.1). Exceptions include the *Canadian Human Rights Act*, *Canadian Charter of Rights and Freedoms*, and ss. 10-15 within Bill C-92 (Bill C-92, 2019, ss. 19, 22.1).

What law prevails if there's a "conflict or inconsistency" between laws?		
Federal Rules in C-92: ss. 10-15	Canadian Human Rights Act	Charter of Rights and Freedoms
Indigenous Law (if recognized in C-92)		
Federal Rules in C-92 ss. 16-17	Other Federal Laws (if any are relevant)	
Provincial or Territorial Law		

Image 2: Adapted from *A roadmap to C-92, the Federal Child Welfare Law* (Rae, 2019).



There have been criticisms of the *Act*. Many CFS workers have stated that it was “written by people who do not work in CFS and do not understand the context,” and that the additional legislation may be yet just another bureaucratic barrier for Indigenous communities (Native Women’s Association of Canada, n.d., p. 12). Another issue is that since childcare disproportionately falls upon Indigenous women, they will be the ones who will be trying to navigate the legislation (Native Women’s Association of Canada, n.d.). There are concerns that funding will be lacking and without proper funding the worry is that communities will be set up to fail (Native Women’s Association of Canada, n.d.). Another concern is the use of non-disclosure agreements between Indigenous governing bodies and governments (Native Women’s Association of Canada, n.d.). Forcing Indigenous governing bodies to sign non-disclosure agreements may negatively impact the transparency of the coordination agreement process, which is counterproductive to the success of the creation of new CFS frameworks and of other coordination agreements (Native Women’s Association of Canada, n.d.).

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Alberta Child Welfare Summary

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Child Protection Services in Alberta

In the Province of Alberta child protection falls under the mandate of the Ministry of Children’s Services within the Government of Alberta. Service delivery is delegated to government employees in seven Children’s Services Regions as well as to staff employed by Delegated First Nations Agencies (19) who carry out the intent of the *Child, Youth and Family Enhancement Act* ([CYFEA], 2000). The child intervention workforce is made up of staff with a variety of educational backgrounds supplemented by mandatory training provided by the employer. Their work is supported by other related pieces of legislation relative to the safety of children and families they are involved with and through partnerships and contracts with a variety of community agencies. Further, contractual agreements with hundreds of community agencies and government services provide a continuum of services to children and families that address prevention, intervention and reunification.

The determination of involvement is initiated by a report from the community that is screened by a delegated worker to determine if the concerns meet the threshold of risk under the CYFEA. Based on the level of risk, information can either be documented on the provincial electronic record system only or moved forward for further assessment/investigation after which a decision will be made to open an ongoing case file, close at assessment and/or refer the family to community resources. Decisions about opening an ongoing file include determining if risk and safety can be managed with the children residing in the home. If not, children are placed in alternative care which include: kinship care, foster care, group care, and residential treatment.

As of December 31, 2023 in the province of Alberta there were an average of 9,566 children involved with the child intervention system as a result of substantiated maltreatment (Government of Alberta [GOA], 2023). Indigenous children (First Nations, Inuit and Métis) make up 68% of those involved with child intervention in Alberta (GOA, 2023). As of December 2022, Indigenous children represent 74% of children who are placed in government care (GOA, 2023). In comparison to the population of Alberta, Indigenous children make up approximately 10% (GOA, 2023).

Of the total number of children receiving services, 7245 were residing in alternate care, defined as those children placed in a formal out of home placement by the Ministry of Children’s Services – see Table 1.

PLACEMENT TYPE	# OF CHILDREN	PERCENTAGE
At home or other non-in care setting	2321	24.3
Kinship care	3132	32.7
Foster care	3118	32.6

Permanency – Pre-adoption placement	133	1.4
Group/residential care	862	9.0
Total number of children receiving services	9566	100%

Table 1 – Children in Care by Placement Type (April - December 2022-2023)

Determination of Child Maltreatment

Section 1(2)(a) through 1(2)(h) of the CYFEA (2000) defines the need for intervention as follows:

1(2) For the purposes of this Act, a child is in need of intervention if there are reasonable and probable grounds to believe that the safety, security or development of the child is endangered because of any of the following:

- (a) the child has been abandoned or lost;
- (b) the guardian is dead and the child has no other guardian;
- (c) the child has been neglected by the guardian;
- (d) the child has been or there is substantial risk that the child will be physically injured or sexually abused by the guardian of the child;
- (e) the guardian of the child is unable or unwilling to protect the child from physical injury or sexual abuse;
- (f) the child has been emotionally injured by the guardian of the child;
- (g) the guardian of the child is unable or unwilling to protect the child from emotional injury;
- (h) the guardian of the child has subjected the child to or is unable or unwilling to protect the child from cruel and unusual treatment or punishment.

Protection of children against the impacts of family violence falls under a subsection 1(2)(f) and/or 1(12)(g) which sets out the criteria to assess if a child has been emotionally injured as a result of exposure to family violence or severe domestic disharmony (CYFEA, 2000). The following is an excerpt from the section of the Act that further defines emotionally injuring and its' connection to family violence:

- (3)** For the purposes of this Act,
 - (a) a child is emotionally injured.
 - (i) if there is impairment of the child's mental or emotional functioning or development, and
 - (ii) if there are reasonable and probable grounds to believe that the emotional injury is the result of
 - (A) rejection,
 - (A.1) emotional, social, cognitive, or physiological neglect,
 - (A) deprivation of affection or cognitive stimulation,
 - (C) **exposure to family violence or severe domestic disharmony,**
 - (D) inappropriate criticism, threats, humiliation, accusations, or expectations of or toward the child,
 - (E) the mental or emotional condition of the guardian of the child or of anyone living in the same residence as the child;
 - (F) chronic alcohol or drug abuse by the guardian or by anyone living in the same residence as the child

In 2017 the Ministerial Panel on Child Intervention was appointed by the Government of Alberta to review the child intervention system, legislation, policies, and practices. To inform their work, panel heard both expert and lived experience presentations concluding with their final recommendations to the Government of Alberta in March of 2018 (Ministerial Panel, 2018). Government responded through a document entitled *A Stronger, Safer Tomorrow - A Public Action Plan for the Ministerial Panel on Child Intervention's Final Recommendations* (GOA, 2018). A number of the recommendations focused on the “embedding of Indigenous world view in legislation, policy and programs (GOA, 2018, p. 9)”. With a shift in political leadership since the panel’s submissions and the evolving nature of work related to Bill C-92 it is unclear what further uptake of recommendations has occurred.

Prior to Bill C-92 services to Indigenous children and families were provided under the CYFEA in two ways. First, with authority given to regional service delivery offices to respond to concerns related to Indigenous children and families living off-reserve. Second, authority was given to Delegated First Nation’s Agencies who are responsible to carry out the requirements of the CYFEA on-reserve. Where an agreement is not in place with a DFNA the responsibility reverts to government staff taking this responsibility under the Act.

Bill C-92 in Alberta

As of 2022, four Indigenous governing bodies have provided the ISC notice of their intent to create their own child and family services (CFS) laws. The bodies are Mikisew Cree Nation, Enoch Cree Nation, Ermineskin Cree Nation, and Little Red River Cree Nation (Government of Canada; Indigenous Services Canada, 2022). Additionally, numerous bodies have requested to enter into coordination agreements. The Manitoba Métis Federation, Whitefish Lake First nation #459, Kee Tas Kee Now Council (KTC), Inuvialuit Regional Corporation have all submitted requests (Government of Canada; Indigenous Services Canada, 2022).

Louis Bull First Nation’s *AMO Law – Asikiw Mostos O’pikinawaiwn Society* went into force on October 10th, 2021. AMO law asserts that *Awasisahk* (a child or youth under 18) are gifts and under the domain of the community, and notes that the purpose of the law is to ensure safety, wellbeing, culture, values, and traditions are maintained (Louis Bull First Nation, 2021). Additionally, the importance of the parents and family in protecting *Awasisahk* is a fundamental principle of the law, and that supporting parents and families in their role of keeping *Awasisahk* safe is preferred (Louis Bull First Nation, 2021). *Awasisahk* will be removed from their family only if that is in their best interests (Louis Bull First Nation, 2021). Continued contact between the family and *Awasisahk* would be supported (Louis Bull First Nation, 2021). *AMO Law* also acknowledges that *Awasisahk* have a right to a stable, secure, and safe home that is free of violence (Louis Bull First Nation, 2021).

Prevention of Family Violence Strategy in Alberta

The prevention of family violence and bullying strategy was re-launched in Alberta in 2004 following the completion of a roundtable that resulted in a report titled *Finding Solutions Together* (GOA, 2004). As a result, a single cross sector leadership team was created with representatives from multiple government ministries and led by the Ministry of Children’s Services. Five objectives were established namely, social change; provincial leadership; a collaborative, co-ordinated community response; services and supports; and accountability (GOA, 2004). Since this time, Children’s Services has continued to lead the prevention of family violence initiatives on behalf of the government.

Key legislation supports this work. The CYFEA (2000), as noted earlier has a small section devoted to family violence. It is important to note that the data collection under the area of emotional injury is marred by the number of contributors to emotional injury and therefore getting an accurate picture of when family violence is a primary or secondary reason for referral or further involvement is unable to be confidently separated out.

Family Violence Prevention and Intervention Legislation in Alberta

There are two pieces of legislation that specifically focus on family violence in addition to the CYFEA. The first and most prominent piece of legislation, The Protection Against Family Violence Act (PAFVA) was originally proclaimed in 1999 at which time it was directed primarily at protection orders for victims of family violence. Further amendments to the legislation have increased available remedies or protections to include: an emergency protection order, a longer-term order allowing for the victim and children to reside in the family home, financial compensation, counselling for children, and counselling for the abuser. The most current amendments occurred in 2018 (GOA).

In April 2021, complementary legislation, *Disclosure to Protect Against Domestic Violence Act* (Clare's Law), was proclaimed. Clare's Law allows an individual who is concerned about their safety to obtain information about prior violence or abuse committed by their partner.

In addition, the Residential Tenancies Act (2004) was amended in 2016 to include a section titled Safer Spaces for Victims of Domestic Violence allowing victims to terminate their tenancy without financial penalty when specific conditions related to domestic violence are met.

For over two decades, the Prevention of Family Violence and Bullying Branch of the Alberta Government was located within the Ministry of Children's Services. During this time the Ministry provided strategic leadership working with other involved ministries, community partners, supporting the overall approach when intervening with and supporting children, victims and perpetrators of family violence. The Prevention of Family Violence and Abuse Branch of the Government of Alberta moved is now situated in and led by the Ministry of Community and Social Services. As well, the Ministry supports the Secretariat for the Family Violence Death Review Committee by bringing together community partners and experts based on the nature of each tragedy related to family violence to explore learnings that can be employed to prevent future tragedies.

Family Violence Deaths in Alberta

The Family Violence Death Review Committee completes a report annually. The most recent report (2020-2021) provides information about the deaths as a result of family violence over the past ten years (GOA, 2021). Between 2011 and 2021 there have been 165 deaths and that number includes both victims and perpetrator deaths. In the fiscal year 2020-2021 there were 18 family violence related deaths in Alberta. Of the 18 individuals 15 were victims and 3 were perpetrators. The perpetrators were current partners in 73% of homicides, 68% of perpetrators were male, 29% were female and 7% were undetermined as of the writing of the death review report. The age of the majority of victims and perpetrators fell between ages 20-39. Two victims were between the ages of 0-19.



Family Violence Awareness in Alberta

Beginning in 2012 the Government of Alberta began administering a bi-ennial survey to explore the knowledge of Albertans in relation to family violence. The survey is administered by an identified Canadian market research company. The last publicly available results are from a survey of 1603 Albertans age 18 to 65+ (GOA, 2018). The results were reported in the 2018 Albertans' Perceptions of Bullying, Family Violence and Elder Abuse report delivered by Community and Social Services in April 2018. The survey results indicate that Albertans recall seeing increased information about bullying, family violence and elder abuse. They do not have increased confidence that they could help - meaning that the responses were stable when compared to the previous survey data. Information about if or when another survey would be completed was not readily available.

In Process

The Government of Alberta with the help of funders and researchers has turned their attention toward a prevention framework. The work known as Impact, will develop a primary prevention strategy that recognizes and attends to the root causes of family and sexual violence (Wells et al, 2023). Recommendations and a guide for program design should help to inform the Government of Alberta of next steps in relation to violence prevention.

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Saskatchewan Child Welfare Summary

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Child Protection Services in Saskatchewan

The Ministry of Social Services (MSS) in Saskatchewan provides services to support families and protect children (under the age of 16 years and in some cases children under the age of 18 years) (Fast et al., 2014). The MSS receives its mandate from *The Child and Family Services Act* (CFSA) (1989-90). Across the province there are 19 child protection offices, with three service areas that assist off-reserve children: Prince Albert (North), Saskatoon (Centre), and Regina (South) (Fast et al., 2014). These agencies receive direct reports of suspected or disclosed child abuse (Government of Saskatchewan, 2019). Additionally, local police or RCMP receive direct reports and then determine whether to inform a child protection worker. Reports of physical and sexual abuse are also reported to police (Government of Saskatchewan, 2019).

The First Nations Child and Family Services agencies (FNCFS) provides child protection services (CPS) to on-reserve children and families and in some cases off-reserve children and families (Fast et al., 2014). Across the province there are 19 FNCFS agencies providing these services of which three also serve off-reserve communities (Government of Saskatchewan, 2022). The FNCFS agencies have the legal authority to enforce the CFSA, conduct child welfare investigations, through signed agreements with the provincial government (Fast et al., 2014). Like the Child Protection offices, the FNCFS agencies receive direct reports of suspected or disclosed child abuse and local police or RCMP receive direct reports and then determine whether to inform a child protection worker (Government of Saskatchewan, 2019).

FNCFS agencies follow the same policy and legislative frameworks as provincial agencies (Kozlowski et al., 2012). Unique to Saskatchewan is the Indian Child Welfare and Support Act (ICWSA) developed by the Federation of Saskatchewan Indian Nations. The ICWSA sets out general standards for the FNCFS agencies and allows individual agencies to develop their own standards. The ICWSA has not received Royal Assent, but its standards are recognized by the MSS because it is consistent with established provincial legislation (Kozlowski et al., 2012).

Bill C-92

In Saskatchewan after Bill C-92 passed, Pasqua First Nation, Fishing Lake First Nation, Whitecap Dakota First Nation, and George Gordon First Nation provided notice of their intent to create their own child and family service (CFS) laws (Government of Canada; Indigenous Services Canada, 2022). The Manitoba Métis Federation and Muskeg Lake Cree Nation have requested to enter into a coordination agreement with the Canadian government, although what these laws include and when they come into force are still to be determined (Government of Canada; Indigenous Services Canada, 2022). In 2020 the Cowessess First Nation, located in Saskatchewan, passed the *Miyo Pimatisowin Act (MPA)*, which affirms their rights and jurisdictions over their child welfare system, establishes their agency, Chief Red Bear Lodge, to provide child and families services, and sets out the various principles and components required to do so.

Cowessess First Nation's provides services to its citizens whether they reside on or off-reserve. Additionally, Cowessess First Nation has a tri-lateral coordination agreement with the provincial and federal governments to assist with the transition of service provisions to ensure it is in the best interests of service users (Government of Saskatchewan, 2021). Currently no information exists on the number of children in care, their exposure to violence in the home, or on whether there are programs and services specifically for children who have been exposed to violence. The Chief Red Bear Lodge is still in the early stages of development, and this information may be available from them in the future. Cowessess First Nation defines when a child is in need of intervention in the *MPA*.

81. Defining when a child is in need of intervention

For the purposes of this Act, a Child is in need of intervention if there are reasonable and probable grounds to believe that the safety, security or development of the Child is endangered because of any of the following:

- (a) the Child has been abandoned or lost;
 - (b) the Parent of the Child is deceased, and the Child has no other Parent;
 - (c) the Child is neglected by the Parent;
 - (d) the Child has been or there is substantial risk that the Child will be physically injured or sexually abused by the Parent of the Child;
 - (e) the Parent of the Child is unable or unwilling to protect the Child from physical injury or sexual abuse;
 - (f) the Child has been emotionally injured by the Parent of the Child;**
 - (g) the Parent of the Child is unable or unwilling to protect the Child from emotional injury;**
 - (h) the Parent of the Child has subjected the Child to or is unable or unwilling to protect the Child from cruel and unusual treatment or punishment.
- (*Miyo Pimatisowin Act [MPA]*)

The *MPA* defines what emotional injury entails as well.

8.3 Definition of emotional injury

For the purposes of this Act,

- (a) a Child is emotionally injured
 - I. if there is impairment of the Child's mental or emotional functioning or development, and
 - II. if there are reasonable and probable grounds to believe that the emotional injury is the result of
 - (b) rejection,
 - (c) emotional, social, cognitive or physiological neglect,
 - (d) deprivation of affection or cognitive stimulation,
 - (e) exposure to family violence or severe domestic disharmony,**
 - (f) inappropriate criticism, threats, humiliation, accusations or expectations of or toward the Child,
 - (g) the mental or emotional condition of the Parent of the Child or of anyone living in the same residence as the Child;
 - (h) exposure to criminal behaviour.
- (*Miyo Pimatisowin Act [MPA]*)

Additionally, *MPA* also considers the impacts of direct and indirect exposure to family violence in

determining what is in the best interests of the child (Section 6.2 of *MPA*).

6.2 Factors to be Considered

To determine the best interests of a Child, all factors related to the circumstances of the Child must be considered, including:

- (a) the Child's cultural, linguistic, religious and spiritual upbringing and heritage;
- (b) the Child's needs, given the Child's age and stage of development, such as the Child's need for stability;
- (c) the nature and strength of the Child's relationship with the Child's Parent, the Care Provider and any Family member who plays an important role in the Child's life;
- (d) the importance to the Child of preserving the Child's cultural identity and connections to the language and territory of the First Nation or people to which the Child belongs;
- (e) the Child's views and preferences, giving due weight to the Child's age and maturity, unless they cannot be ascertained;
- (f) any plans for the Child's care, including care in accordance with the customs or traditions of the First Nation or people to which the Child belongs;
- (g) any family violence and its impact on the Child, including whether the Child is directly or indirectly exposed to the family violence as well as the physical, emotional and psychological harm or risk of harm to the Child;
- (h) any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the Child.

Saskatchewan's Child Welfare System as a Threshold System

Saskatchewan's child welfare system is a threshold system, whereas other provinces utilize a Differential Response model which offers various levels of services that fit the needs of the children and families (Saskatchewan Child Welfare Review, 2010). In Saskatchewan the threshold system only provides prevention and support services for children and families who meet a certain level of abuse or neglect, which means families "are often not able to get help through the child welfare system until issues become crises" (Saskatchewan Child Welfare Review, 2010, p. 23). There has been no fundamental change to the current model of the child welfare system, the threshold system, only incremental changes have occurred. (Saskatchewan Child Welfare Review, 2010).

Review of Saskatchewan's Child Welfare System

In 2009, the MSS called for a review of Saskatchewan's child welfare system, and the review report was released the following year (Saskatchewan Child Welfare Review, 2010). The review identified and examined the services available to support children and families, critical issues relevant to service provision, over representation of First Nations and Métis children and youth in care. Further, the review examined options to address these critical issues, over-representation, and to improve outcomes for all service users of the child welfare system (Saskatchewan Child Welfare Review, 2010).

Based on the review 12 recommendations were made, which would guide the development of the province's child welfare system into the future (Saskatchewan Child Welfare Review, 2010). Number seven of the recommendations recognized family violence as a problem and proposed a solution; "establish family violence, mental health, and substance abuse services, available without delay, for families receiving child welfare and preventive family support services" (Saskatchewan Child Welfare Review, 2010, p. 39). To achieve this, as it relates to family

violence, the review recommended “establishing inter-ministry and community planning groups” (Saskatchewan Child Welfare Review, 2010, p. 39) to improve access to family violence services and increase staff knowledge of family violence. Additional recommendations include client outreach teams, prevention services staff training, improved referral and priority protocols, MSS support for public education on family violence, and “[consideration of] policies and methods, which may allow abusers to be removed from the home rather than the victim in cases of family violence” (Saskatchewan Child Welfare Review, 2010, p. 39). Since the review, various programs and initiatives have been implemented such as the Integrated Practice approach, formerly called Flexible Response, Intensive In-Home Supports, Positive Parenting Program, and Traditions of caring.

In November of 2022, the Government of Saskatchewan announced the proposed *The Child and Family Services Amendment Act* (Government of Saskatchewan, November 14, 2022). This Act aims to improve care, and important changes includes expanding information-sharing, increasing services for youth up to 18, and altering language to strengthen cultural and familial connections for children (Government of Saskatchewan, November 14, 2022). As of writing, this Act has not yet been passed.

Children in Care in Saskatchewan

In order to better understand child welfare in Saskatchewan, it is important to identify the number of children in care. The most recent census data showed that there were 223,115 children under the age of 14 in Saskatchewan (Statistics Canada, 2022). As of March 31, 2023, there were 3,814 children in care, including those who are wards of the state and those who have been apprehended (Government of Saskatchewan, n.d.-c). There are an additional 2,097 children who are not wards of the state but have been moved to the custody of a designated Person of Sufficient Interest based on a court order (Government of Saskatchewan, n.d.-c).

The most recent research in puts the number of Indigenous children in care at 2,926, out of 3,412 children in care, meaning that 86% of children in care were Indigenous (McMillan, 2020). Interestingly, these numbers do not accurately reflect the number of children in care on-reserve. In 2019, there were 244,476 children under the age of 16 in Saskatchewan (Saint-Girons et al., 2020). The estimated total number of children in care when including children in care on-reserve was 4,546, and 6,620 when including children place with a person of sufficient interest (Saint-Girons et al., 2020). There is no estimated data for the number of Indigenous children in care 2020, 2021, or 2022.

Children’s Exposure to Violence in the Home

The CFSA’s statutory definition of a child in need of protection includes exposure to interpersonal violence or severe domestic disharmony (Part III of CFSA, c C-7.2).

Child in need of protection

11 A child is in need of protection if:

- (a) as a result of action or omission by the child’s parent:
 - (i) the child has suffered or is likely to suffer physical harm;

- (ii) the child has suffered or is likely to suffer a serious impairment of mental or emotional functioning;
- (iii) the child has been or is likely to be:
 - (A) exposed or subjected to harmful interaction for a sexual purpose, including sexual contact, activity or behaviour; or
 - (B) sexually exploited by another person, including conduct that may amount to an offence within the meaning of the Criminal Code;
- (iv) medical, surgical or other recognized remedial care or treatment that is considered essential by a duly qualified medical practitioner has not been or is not likely to be provided to the child;
- (v) the child's development is likely to be seriously impaired by failure to remedy a mental, emotional or developmental condition; or
- (vi) the child has been exposed to interpersonal violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child;
- (b) there is no adult person who is able and willing to provide for the child's needs, and physical or emotional harm to the child has occurred or is likely to occur; or
- (c) the child is less than 12 years of age and:
 - (i) there are reasonable and probable grounds to believe that:
 - (A) the child has committed an act that, if the child were 12 years of age or more, would constitute an offence under:
 - (I) the Criminal Code;
 - (II) the Controlled Drugs and Substances Act (Canada); or
 - (III) the Cannabis Act (Canada); and
 - (B) family services are necessary to prevent a recurrence; and
 - (ii) the child's parent is unable or unwilling to provide for the child's needs.

STRUCTURED DECISION MAKING

The Structured Decision Making® System for Child Protective Services: Policy and Procedures Manual (SDM) intake assessment screening criteria for allegations of child maltreatment consider children's exposure to violence. The SDM is a type of child protection assessment model that allows for a more objective and consistent assessment and planning of child protection cases (Children's Research Center, 2020). The SDM's intake assessment considers a child's proximity to domestic violence, where the child maybe be injured during instances of domestic violence due to proximity to the violence and the type of violence. This falls under allegations of physical abuse. Also considered is a child's exposure to domestic violence, where the child has witnessed or is aware of domestic violence. This falls under allegations of emotional abuse. Based upon the intake assessment the allegations may meet the criteria for further investigation (Children's Research Center, 2020). This demonstrates that children's exposure to violence is considered and follows the same policies and procedures as other allegations of abuse and neglect.

CHILDREN EXPOSED TO VIOLENCE PROGRAM

Since 1993, Saskatchewan has offered the Children Exposed to Violence Program (Victim Services Branch, 2010). In 2010, standards of practice were developed for these programs which offer a guide for working with children in these programs, service provision measurement, and an outline for work (Victim Services Branch, 2010). The program goals are assisting children or youth exposed to interpersonal violence or abuse and prevention of their future

perpetration of this violence or abuse (Government of Saskatchewan, n.d.-a). The programs are offered through various community agencies throughout Saskatchewan and the Saskatchewan Health Authority (Government of Saskatchewan, n.d.-a). Additionally, the province offers compensation for counselling services for children who witness domestic violence (Government of Saskatchewan, n.d.-b)

Domestic Violence Policy in Saskatchewan

In addition to the CFSA, Saskatchewan has passed civil legislation to protect victims of interpersonal and domestic violence. *The Victims of Interpersonal Violence Act* (2015), formerly *The Victims of Domestic Violence Act* (1994), protects victims by granting emergency intervention orders, victim assistance orders, and warrants permitting entry. The purpose of these orders is to provide additional means to help victims. The emergency intervention order may include provisions for supervised removal of victims belongings from the home or allowing the victim exclusive use of the residences. The orders may also call for the removal of the respondent from the home, limiting their contact, and restraining the respondent from going to locations attended by the victim and family members. The victim's assistance order may include provisions from an emergency intervention order along with additional provisions such as requiring the respondent to pay compensation for monetary losses suffered by the victims as a direct result of the interpersonal violence. Such losses can include loss of earning or support, medical and dental expenses, losses for injuries, and moving and legal expenses. The warrants permitting entry allow for a person, such as a police officer, to the residence where it is believed a victim of interpersonal violence will be found after access to the residence has been refused. The victim may be assisted, examined, or removed from the residence if necessary.

NEW DOMESTIC VIOLENCE POLICY AND LEGISLATION IN SASKATCHEWAN

Within the past few years new legislation in Saskatchewan has passed to further assist victims of interpersonal and domestic violence. Amendments were made to *The Saskatchewan Employment Act* in 2017 and 2019. *The Saskatchewan Employment (Interpersonal Violence Leave) Amendment Act* (2017) introduced the option for victims of interpersonal violence to take 10 days of unpaid leave per year either continuously or intermittently. The purpose of the leave must be to seek medical attention for injury or disability resulting from the violence, access victim services or counselling, temporary or permanent relocation, and/or legal or law enforcement assistance. Then in 2019 *The Saskatchewan Employment (Paid Interpersonal Violence and Sexual Violence Leave) Amendment Act* amended the previous Act changing the 10 days of unpaid leave to include five days of paid leave and 5 days of unpaid leave.

The Interpersonal Violence Disclosure Protocol (Clare's Law) Act (2019) was also recently introduced to assist victims of interpersonal and domestic violence by focusing on prevention. The purpose of *Clare's Law* (2019) is to protect potential victims of intimate partner violence (IPV) by allowing police to disclose information about an individual's intimate partner's past violent or abusive behaviour. The applications for disclosure follow a "right-to-ask" and "right-to-know" model whereby information is disclosed to applicants who believe they are at risk and to individuals police identify as being at risk (Government of Saskatchewan, 2020).

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Manitoba Child Welfare Summary

Jamie Pfau, Erin Gobert, Kendra Nixon, & Marlyn Bennett

Child Protection Services in Manitoba

Child and Family Services (CFS) in Manitoba provides services and support to families and ensures the protection of children (under the age of 18 years). CFS operates under the Department of Family Services and is delivered under *The Child and Family Services Act* (1985). In November 2022 sections 20 and 52 have been repealed and replaced with a new section 20, *Application for order not to contact child*. The new section allows agencies to apply for no contact orders if the agency believes that contact between a child and a certain person will cause or is likely to cause that child to need protection. There are four child welfare authorities in Manitoba that provide services and supports to families across the province: the General Child and Family Services Authority, the First Nations Authority of Northern Manitoba, the First Nations Authority of Southern Manitoba, and the Métis Authority. *The Child and Family Services Authorities Act* (2003) was enacted after the devolution of child welfare took place, creating these four new child welfare authorities.

The current structure of the child welfare system in Manitoba emerged from the Aboriginal Justice Inquiry – Child Welfare Initiative, sometimes referred to in Manitoba as the “devolution” of the CFS system. To address inequities and inadequacies within the child welfare system, services were restructured to include off-reserve authority for First Nations (Aboriginal Justice Implementation Commission, 1999). The Authorities were created as part of the Provincial NDP government’s efforts to reform child welfare and consider some of the recommendations from the Aboriginal Justice Inquiry (Aboriginal Justice Implementation Commission, 1999; Hudson & McKenzie, 2003).

The devolution was intended to provide culturally appropriate services to children (and their families) who were involved in child welfare. Indeed, over 90% of all children in care are Indigenous, which is a significant overrepresentation (Government of Manitoba, 2022). Based on the 2021 census, there were 7,100 Indigenous children living in private foster homes in Manitoba, in comparison to 915 non-Indigenous children (Statistics Canada, 2022b). According to the latest data, 14% of First Nation children in Manitoba were in care compared to 2.0% of non-Indigenous children (Assembly of Manitoba Chiefs First Nations Family Advocate, 2017; Chartier, et al., 2017). As of March 31, 2022, there were 9,196 children in provincial care (Government of Manitoba, 2022). This is a reduction in the number of children under the provincial mandate from years prior, mainly due to the creation of an Indigenous CFS law that when into effect in January 2022 (Government of Manitoba, 2022).

Bill C-92 in Manitoba

When Bill C-92 was introduced in 2019, it created new implications for Indigenous self-governance in relation to CFS. There is currently one Indigenous community in Manitoba that has created its own CFS law. The community of Peguis First Nation created *Honouring Our Children, Families and Nation Act* in January of 2021, which entered into force January 2022, and coordination agreement signed January 2023. Numerous other Indigenous governing bodies have provided notices to Indigenous Services Canada of their intent to create their own CFS laws or have entered into coordination agreements with the federal government

(Government of Canada; Indigenous Services Canada, 2023). Some of these communities include Sioux Valley Dakota Nation, First Nations in Treaty 2 Territory, Fisher River Cree First Nation, Island Lake Anishinew Okimawin, Manitoba Métis Federation, Opaskwayak Cree Nation Pimicikamak Okimawin, Misipawistik Cree Nation, Poplar River First Nation, and Lake Manitoba First Nation (Government of Canada; Indigenous Services Canada, 2023).

Manitoba’s Four Child Welfare Authorities

To respond to the needs of Indigenous families three (of the four authorities) are Indigenous-centered. They include the First Nations Authority of Northern Manitoba, the First Nations Authority of Southern Manitoba, and the Métis Authority. Although the fourth, the General Authority, is not culturally focused, it still provides supports and services to racially diverse families, including Indigenous families. All four authorities oversee all services to families as well as dispensing funds and providing culturally appropriate services (Milne et al., 2014).

Manitoba’s Child Welfare Agencies

The four authorities in Manitoba are comprised of 28 different child welfare agencies that service urban, rural, and Northern communities (Government of Manitoba, n.d.-a). Like the authorities, the child welfare agencies attempt to meet the cultural needs of Indigenous children. Thus, 20 out of the 28 agencies are specifically focused on First Nations children and their families (Government of Manitoba, n.d.-a). Along with the First Nations Agencies, there are two Métis agencies and the Department of Family Services (Government of Manitoba, n.d.-a).

Further, among the 157 child welfare agency offices, 75 of them are considered Designated Intake Agencies (DIAs) which are spread throughout the province. DIAs act as a central intake service that are open 24/7. DIAs conduct initial interviews and transfer cases to the CFS authority that will provide ongoing child welfare services (Government of Manitoba, n.d.-a). One of the General Authority’s agencies, the Rural Northern Child and Family Service Division provides services to non-urban areas including Flin Flon, The Pas, Thompson, Beausejour, Dauphin, Gimli, Pine Falls, Selkirk, St. Pierre-Jolys, Ste. Anne, Steinbach, Stonewall and Swan River. To ensure access to services that are culturally and spiritually relevant, families may choose which authority to receive service from regardless of where they live (Milne et al., 2023). This is a unique feature of Manitoba CFS (Milne et al., 2023).

Service Providers (Authorities)	Number of Agencies	Number of Offices	Number of DIA’s
First Nations of Northern Manitoba Child and Family Services Authority	7	50	30
Southern First Nations Network of Care	11	58	31
Métis Authority	2	11	1
General Child and Family Services Authority	8	38	13
Total	28	157	75

Table 1: Authority and Agency breakdown (Government of Manitoba, n.d.-a)

Children in Care in Manitoba

To better understand child welfare in Manitoba, it is important to identify the number of children in care. Children in care are children who have been deemed in need of protection, requiring intervention, as determined by *The Child and Family Services Act*, or are voluntarily placed in care by agreement between parent (or guardian) and an agency. A child is considered “in care” when placed by a child and family services agency in substitute care; whose legal status is defined as a permanent ward, temporary ward, under a voluntary surrender of guardianship, under a voluntary placement agreement or under apprehension; who is under the age of 18, and whose care needs are financially supported by government (Government of Manitoba, 2021). In some cases, children are voluntarily placed into care by their parents or guardians.

Seventy-two percent of children in care are permanent wards, and 24% are living under a temporary court order where reunification with families is the primary goal (Government of Manitoba, 2022). The remaining 4% are living under a voluntary placement agreement with their guardians for a temporary period (Government of Manitoba, 2022). Manitoba has the highest percentage of children in care at 2%, which is four times the national average (Statistics Canada, 2022a). Manitoba also had one of the highest rates of children in care in the world (Brownell & das McMurtry, 2015; das McMurtry, 2018).

Service Providers (Authorities)	Total CIC	Percent of CIC
First Nations of Northern Manitoba Child and Family Services Authority	2,920	26%
Southern First Nations Network of Care	4,257	45%
Métis Authority	1,093	16%
General Child and Family Services Authority	926	13%
Total	9,196	100%

Table 2: The numbers of children in care based on each authority as of March 31, 2022 (Government of Manitoba, 2022)

Children’s Exposure to Violence in the Home

Currently Manitoba does not include children’s exposure to violence in the home in its statutory definition of a child in need of protection within its *Child & Family Services Act (CFSA)*. Despite this, Manitoba CFS authorities intervene in such cases through the CFSA’s definition of a child in need of protection (Part III of CFSA C.C.S.M. c. C80).

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 a 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.

Although Manitoba CFS authorities intervene in cases of children's exposure to intimate partner violence (IPV), it is unclear how many cases of children's exposure to violence in the home are investigated by Manitoba CFS since this information is not gathered or documented. Further, it is unclear what specific policies or protocols have been implemented by Manitoba CFS agencies to respond to cases of children's exposure to violence in the home. However, in 2015, one of the four CFS Authorities, the General Authority, adopted the Safe and Together™ practice model to improve their response to families who were experiencing IPV (Safe & Together Institute, 2020).

Safe and Together Practice Model

This domestic violence intervention model was developed in the United States with the goal of making systemic change that will lead to the safety and well-being of families. The model focuses on building on the strengths of the primary caregiver and works to hold the offender accountable while educating the offender on the impact to their family and their parenting (General Child & Family Services Authority, 2018). This model helps to shift the culture, and the lens through which child welfare professionals view IPV related cases in terms of how they investigate, document, and intervene (Heward-Belle et al., 2020). Domestic violence involves both parental and child safety, and by focusing on the safety of the child, their needs, and healing, we also can avoid blaming the survivor. Principles of the model include patterns of control, focusing on the non-offending parent's actions of protection, and examining the role

additional factors can have on violence (Dagg, 2017).

Domestic violence is not about anger issues but about control and power, and patterns of violence develop over time. These patterns are not only marked by physical violence, but other forms of control such as isolation, name calling, threats or financial control. Additionally, Safe and Together promotes shifting language from victim blaming and tackles common negative language to attempting to understand what the relationship was like prior to the patterns of control (Dagg, 2017). The model aims to focus on the patterns of those who caused harm rather than those that "failed to protect" (Dagg, 2017).

There are multiple layers that factor into the victim's decision making. If a victim gives a police statement at a hospital about them and their child being harmed by the perpetrator, they have protected the child. However, it is deemed that the victim "failed to protect" if they later drop the charges. Safe and Together questions if both decisions were made to protect the child (Dagg, 2017). If the perpetrator goes to jail, they may lose their house, or the perpetrator may threaten to harm them further. Protection involves multiple levels, and can look like calming the perpetrator, not leaving the child alone, or removing the children from the violence. Questions must be asked in a way that fosters partnership with the victim, as they may be protecting their child in ways we are not aware of. Focusing on the mutual objective of child safety should be the starting point.

The Safe and Together framework can aid in safety assessment by identifying "the impact of the perpetrator's behaviours on the child" (Dagg, 2017, p.13). It is important to label exactly what the child sees. Rather than "child witnessed DV", centering the perpetrator's actions is crucial, "father chose to expose child to violence, by slapping Mom in the face" (Dagg, 2017, p. 9). Conversations with the child, victim, perpetrator, and others can help us glean patterns, assess the risk and impacts on the child.

Focusing on the adverse impact violence may have on the child behaviourally, socially, emotionally, and physically is central to Safe and Together model (Dagg, 2017). One of the principles of Safe and Together is "keeping the child Safe and Together with non-offending parent when possible" (Dagg, 2017, p. 23). Removal is the last step, as it is best for the child to stay with their parents. It may be necessary if they are in immediate danger which cannot be eased through other strategies.

It is important to understand how external elements are involved in domestic violence. Mental health, substance use, culture or other socio-economic factors, like poverty should all be examined when working with those involved in domestic violence (Dagg, 2017). While these elements are not the cause of violence, they can be interrelated.

Domestic Violence Policy in Manitoba

In 2020, the Government of Manitoba created a new framework for addressing gender-based violence. The new framework is made of three objectives: prevention, support, and intervention (Manitoba Status of Women Secretariat, 2020). As part of prevention, the root causes and systemic factors of gender-based violence will be addressed (Manitoba Status of Women Secretariat, 2020). This may look like raising awareness, trauma-based mental healthcare and addiction services, supporting youth, children, and Indigenous communities (Manitoba Status of Women Secretariat, 2020). Additionally, the framework outlines multiple initiatives to involve men in gender-based violence prevention, including education, workshops, and supports for

men who have been either victims or perpetrators (Manitoba Status of Women Secretariat, 2020). Prevention must be central to the government of Manitoba's response to gender-based violence (Manitoba Status of Women Secretariat, 2020).

Support means providing assistance to survivors and victims of gender-based violence (Manitoba Status of Women Secretariat, 2020). Various supports are necessary for survivors to heal and rebuild their lives (Manitoba Status of Women Secretariat, 2020). Supports include making support service information more available and accessible, increasing services for victims of gender-based violence in rural and northern Manitoba, supporting families experiencing violence, cross-cultural collaboration of services, and addressing the calls for justice from the National Inquiry into MMIWG (Manitoba Status of Women Secretariat, 2020). Intervention focuses on the perpetrators of gender-based violence in order to end the cycles of violence (Manitoba Status of Women Secretariat, 2020). Measures to aid intervention include providing support and frameworks to reduce recidivism, such as healthy relationship programs for perpetrators, and strengthening restorative justice practices (Manitoba Status of Women Secretariat, 2020).

In 2018, the Government of Manitoba created a protocol for the duty to report to CFS by women's shelters regarding violence in the home. Shelters provide women and their children support and safe accommodation after experiencing violence and abuse. If the children staying at the shelter are believed to be in need of protection, shelter staff are obligated to report (Government of Manitoba, 2018). Shelter staff will document only factual information, and include dates, times, and signatures (Government of Manitoba, 2018). Information provided by children must be recorded in their own words (Government of Manitoba, 2018). Shelter staff must contact the director of the shelter and the local CFS agency or DIA, and the shelter staff will be included in the mother's care plan (Government of Manitoba, 2018). If it is necessary to apprehend a child from a mother residing at a shelter, CFS and the shelter must collaborate to do so sensitively and professionally (Government of Manitoba, 2018). If the care plan states that CFS will be contacted if the mother leaves the shelter with her child, this must be clear to the mother (Government of Manitoba, 2018).

The Domestic Violence and Stalking Amendment Act

In addition to the *CFSA*, Manitoba has passed civil domestic violence legislation as a means to protect victims. Bill 11, *The Domestic Violence and Stalking Amendment Act* was introduced in 2015. The legislation has two intentions, first to create a less challenging process for the survivor to apply for a protection order against his or her assailant; and second, to provide more protection to the survivor after an order of protection is granted by controlling the possession of firearms by assailants. A protection order can also be obtained by an adult on behalf of a child. A court-appointed committee or substitute decision maker can apply on behalf of someone who is not mentally competent if the court has granted this authority. Anyone applying for the protection order will have to provide evidence under oath about the stalking or domestic violence (Government of Manitoba, n.d).

Prior to Bill 11, *The Domestic Violence and Stalking Prevention, Protection and Compensation Act* was passed in 1999, known as Bill 40. The provisions of this bill range from prohibiting the assailant from the survivor's residence or place of employment to sole occupation of family residence or payment of compensation for monetary losses due to domestic violence or stalking. The impetus for the passing of this Bill was after several women in Manitoba were seriously injured or killed by their stalkers in the 1990s. In addition, the legislation was in

response to extreme violent injuries and death caused by domestic abusers. While Bill 40 was being enacted, it was estimated that 30% of women in Manitoba had experienced at least one violent episode by their domestic partner (Day, 2017).

The Domestic Violence and Stalking Amendment Act (2015) CCSM C93 differs from other province's laws in two important ways. First, Manitoba's legislation gives the survivors of stalking increased protection. Second, Manitoba's legislation creates the reverse onus on the assailant, requiring them to respond to the order. If the respondent does not, the order will remain in force.

Similar to the circumstances surrounding Bill 40, Bill 11 was introduced as a result of the murder of two young women in 2015. Both victims were killed by former domestic partners. One victim was denied a protection order because she was not considered to be in imminent danger. The other victim had a protection order; however, her abuser had breached the order 22 times within a year (Day, 2017). Another indication of a need for more legislation was the almost 60% dismissal rate of protective order applications. Thus, it was clear Manitoba needed to strengthen the legislation.

The amended legislation makes granting protection orders more consistent as it requires the consideration of risk factors that may not be otherwise raised. In addition, another provision includes a requirement for the justice of the peace to consider any relevant criminal or family law proceedings. Another significant change includes alerting the chief firearms officer of protection orders, which will ensure notification if an assailant attempts to obtain or sell a firearm (Day, 2017).

PROPOSED LEGISLATION


Following the lead of Saskatchewan and other provinces, Manitoba is working to pass its own *Clare's Law*, as Bill 43. Manitoba's proposed *Clare's Law* will be unique, as it will be the first to include not only domestic violence, but sexual and family violence also (*News Releases: Manitoba Government introduces Clare's law*, May 30, 2022). As of December 2022, Bill 43 is waiting upon proclamation, but the Families Minister stated it should be in effect within the next 12 months (*News Releases: Manitoba Government introduces Clare's law*, May 30, 2022).

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Ontario Child Welfare Summary

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Child Protection Services in Ontario

The *Child, Youth and Family Services Act* (CYFSA) governs child welfare in Ontario. The CYFSA was created in 2017 and replaced the 1990 *Child and Family Services Act*. The Act outlines that services should be preventative, child-centered, and continue connections to community if possible (Child, Youth and Family Services Act, 2017). Children's mental healthcare, adoption, and justice are also governed by the CYFSA. The CYFSA outlines the rights of children, including the right to be consulted about the services being provided to them, to express their opinions safely, and to be engaged in the decision-making process in an age-appropriate manner. Children who are in care have the right for their opinions to be heard as part of the decision-making process, to be informed about a residential placement, and to speak privately with family members or those representing them (Child, Youth and Family Services Act, 2017). If a child is in extended society care, they do not have the right to speak with family members unless an openness order is in place (Child, Youth and Family Services Act, 2017). Openness orders are put in place by the court to maintain a relationship between the child and their family member(s) or community (Child, Youth and Family Services Act, 2017).

Ontario's Children's Aid Societies

In Ontario there are currently 50 Children's Aid Societies (CAS), which are non-profit organizations that are independently run by elected boards or band councils. Of these 50, 13 are Indigenous Child and Family Well-Being Agencies (Ontario Children's Aid Societies, 2022). Additionally, three CAS are religious with one Jewish agency, and other two Catholic (Ontario Children's Aid Societies, 2022). CAS handle adoption and child protection services, including investigations, counselling, prevention of mistreatment, providing necessary care and supervision (Child, Youth and Family Services Act, 2017).

First Nations, Inuit or Métis Child and Family Services authorities must be designated by Indigenous bands (Child, Youth and Family Services Act, 2017). First Nations, Inuit and Métis child and family services (CFS) is outlined in part IV of the CYFSA (2017). Under the CYFSA (2017) anyone, whether an individual or entity, who is providing services or care for an Indigenous child must have regular consultations with the child's band and/or their community. There must be consultation when any family support services are occurring, when preparing for or placing a child in safe temporary or residential care, adoption or any society agreements with 16- or 17-year-olds.

The child welfare system in Ontario is currently undergoing a redesign. The new strategy aims to have more permanent homes for youth in care, prevention and early intervention (Ministry of Children, Community and Social Services, 2021). The outcomes of the redesign will achieve safety for children while using the least intrusive means, keeping children connected to their

family and community (Ministry of Children, Community and Social Services, 2021). Reducing overrepresentation of marginalized groups, including First Nations, Inuit, and Métis children is another goal of the redesign (Ministry of Children, Community and Social Services, 2021). The redesign includes five new pillars, which include community-based prevention, increased youth support, sustainability and accountability, higher residential standards, and aiding youths in creating secure relationships across the lifespan (Ministry of Children, Community and Social Services, 2021).

Children in Care in Ontario

There are over 8,500 children in care in Ontario (Ontario Children's Aid Societies, 2022). Indigenous children are overrepresented in Ontario's foster care system, as they make up about 30% of the children under 15 in foster care, even though they are four per cent of children under 15 in Ontario (Children, Community and Social Services, 2022). The Ontario Incidence Study of Reported Child Abuse and Neglect (OIS) is published every 5 years and details information about child welfare investigations. A First Nations review of the most recent OIS report showed that the families of First Nations children were three times more likely to be investigated for maltreatment than non-Indigenous families (Crowe et al., 2021). The largest reason for the investigations was due to a risk of future maltreatment (Crowe et al., 2021). Other major reasons were allegations of exposure to intimate partner violence (IPV), physical abuse, and neglect (Crowe et al., 2021).

In Ontario, youth under 18-years-old can receive protection services and eligible 16- and 17-year-olds can enter voluntary youth service agreements (Government of Ontario, 2021). For voluntary agreements, the youth can end the arrangement at any time (Government of Ontario, 2021). As with other arrangements, youth who are 16 or 17 and Indigenous will have band or community involvement (Government of Ontario, 2021). For 18- to 21-year-olds, Ontario also provides support, both financial and non-financial, through the Continued Care and Support for Youth Program (Government of Ontario, 2021). Youth are eligible for the Continued Care and Support for Youth Program if on their 18th birthday they are in a voluntary youth services agreement (Government of Ontario, 2021).

In the CYFSA (2017) a child in need of protection is defined in section 74(2). Children in need of protection may have been physically harmed, have been neglected or sexually exploited, or there is a risk of any of these occurring.

74(2) A child is in need of protection where,

- (a) the child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person's,
 - i. failure to adequately care for, provide for, supervise or protect the child, or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child;
- (b) there is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's,
 - i. failure to adequately care for, provide for, supervise or protect the child, or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child;
- (c) the child has been sexually abused or sexually exploited, by the person having charge of the child or by another person where the person having charge of the

- child knows or should know of the possibility of sexual abuse or sexual exploitation and fails to protect the child;
- (d) there is a risk that the child is likely to be sexually abused or sexually exploited as described in clause (c);
 - (d.1) the child has been sexually exploited as a result of being subjected to child sex trafficking;
 - (d.2) there is a risk that the child is likely to be sexually exploited as a result of being subjected to child sex trafficking;

In addition, if necessary, healthcare is not provided for the child by the caregiver, the child may be in need of protection. If the child is experiencing severe emotional harm, or there is a risk of the child experiencing emotional harm due to actions or inactions of the caregiver, the child is in need of protection.

- (e) the child requires treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or, where the child is incapable of consenting to the treatment under the *Health Care Consent Act*, 1996 and the parent is a substitute decision-maker for the child, the parent refuses or is unavailable or unable to consent to the treatment on the child's behalf;
- (f) the child has suffered emotional harm, demonstrated by serious,
 - i. anxiety,
 - ii. depression,
 - iii. withdrawal,
 - iv. self-destructive or aggressive behaviour, or
 - v. delayed development,and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child;
- (g) the child has suffered emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act*, 1996, refuses or is unavailable or unable to consent to the treatment to remedy or alleviate the harm;
- (h) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child;
- (i) there is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) (i), (ii), (iii), (iv) or (v) and that the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act*, 1996, refuses or is unavailable or unable to consent to treatment to prevent the harm;
- (j) the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide treatment or access to treatment, or where the child is incapable of consenting to treatment under the *Health Care Consent Act*, 1996, refuses or is unavailable or unable to consent to the treatment to remedy or alleviate the condition;

A child is in need of protection if the parent is not able or unwilling to care for the child but has not arranged for other care. If the parent has encouraged a child under 12 while committing deviant or illegal acts, the child is in need of protection.

- (k) the child's parent has died or is unavailable to exercise the rights of custody over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody;
- (l) (i) the child is younger than 12 and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the Health Care Consent Act, 1996, refuses or is unavailable or unable to consent to treatment;
- (m) the child is younger than 12 and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately;
- (n) the child's parent is unable to care for the child and the child is brought before the court with the parent's consent and, where the child is 12 or older, with the child's consent, for the matter to be dealt with under this Part; or
- (o) the child is 16 or 17 and a prescribed circumstance or condition exists. 2017, c. 14, Sched. 1, s. 74 (2); 2020, c. 25, Sched. 1, s. 26 (1); 2021, c. 21, Sched. 3, s. 1 (2).

Indigenous Child Welfare (Bill C-92) in Ontario

Ten Indigenous communities in Ontario have sent in notification of their intent to create their own CFS (Child and Family Services) laws. As of writing, Fort William First Nation, Bearskin Lake First Nation, Eagle Lake First Nation, Mishkeegogamang First Nation, Pikangikum First Nation, Cat Lake First Nation, North Caribou Lake First Nation, Ojibway Nation of Saugeen, Moose Cree First Nation, Animakee Wa Zhing 37 First Nation have sent notification to the government (Government of Canada; Indigenous Services Canada, 2022). To date, the Manitoba Métis Federation and Kitchenuhmaykoosib Inninuwug's requests for coordination agreements have been received by the Canadian government and Indigenous Services Canada (Government of Canada; Indigenous Services Canada, 2022). Wabaseemoong Independent Nations is the only community who has created their own CFS laws in Ontario at this time. The *Wabaseemoong Independent Nations Customary Care Code* went into effect January 2021 (Government of Canada; Indigenous Services Canada, 2022). Lac Seul First Nation, in Northwestern Ontario, are also developing their own laws in relation to Bill C-92 (Lac Seul First Nation, 2022).

Eligibility Spectrum

The *Eligibility Spectrum* is a screening tool that was developed to increase consistent decision-making about the often-complex child welfare situations (Ontario Association of Children's Aid Societies [OACAS], 2021). The *Spectrum* is used by the CAS to interpret reports and determine

legal requirements for first and continuing interventions (e.g., if an investigation is required) (OACAS, 2021). Using the Spectrum, a staff member will make decisions in three steps. Matching the situation of the referral with a reason for service under the SECTION heading is the first step. The reasons for service under SECTION include caregiver capacity, emotional harm, physical/sexual harm by commission, harm by omission, and separation from parent or caregiver (OACAS, 2021). In the second step, the suitable SCALE will be selected. The type of service required, or the severity will be selected in the third step. The types of services include volunteer services, youth services, personal information, family-based care, counselling and adoption (OACAS, 2021).

After the steps are complete, one of the four levels of severity will be selected based on what is outlined in the *Child, Youth and Family Services Act*. Between the “moderately severe” and “minimally severe” levels of severity is where the Child Protection Entry Point lies (OACAS, 2021). This “entry point” is when the CAS must intervene. If the incident reported is rated below the intervention line, protection intervention is usually not necessary. However, if there are reasonable grounds based on other factors that the child may need protection, an investigation is required (OACAS, 2021).

Eligibility Spectrum (2021)					
Level of Severity					
SECTION	SCALE	Extremely	Moderately	Minimally	Not Severe
<u>SECTION 1</u> Physical/Sexual Harm by Commission	1. Physical Force and/or Maltreatment	A, B, C, D, E	F, G, H, I, J	K, L	M
	2. Cruel/inappropriate Treatment	A	B	C	D
	3. Abusive Sexual Activity	A, B, C, D, E, F	G, H, I, J, K, L	M, N	O
	4. Threat of Harm	A	B, C	D	E
	5. Child Fatality	A, B, C, D, E, F	G, H, I, J, K, L	M, N	O, P
<u>SECTION 2</u> Harm by Omission	1. Inadequate Supervision	A	B	C	D
	2. Neglect of Child’s Basic Physical Needs	A	B	C	D
	3. Caregiver Response to Child’s Physical Health	A, B	C	D	E
	4. Caregiver Response to Child’s Mental, Emotional, and Developmental Condition	A	B	C	D
	5. Caregiver Response to Child Under 12 Who Has Committed a Serious Act	A	B	C	D

SECTION 3 Emotional Harm	1. Caregiver Causes and/or Caregiver Response to Child's Emotional Harm or Risk of Emotional Harm	A	B, C	D	E
	2. Child Exposure to Adult Conflict	A, B, C, D	E, F, G	H	I
	3. Child Exposure to Partner Violence	A, B, C, D, E	F, G, H	I	J
SECTION 4 Separation from Parent/Caregiver	1. Orphaned Child or Parent/Caregiver Unavailable	A, B, C	D	E, F	G
	2. Caregiver-Child Conflict/Child Behaviour	A, B	C, D	E	F
SECTION 5 Caregiver Capacity	1. Caregiver Has History of Abusing/Neglecting/Exploiting	A, B, C, D, E, F	G, H	I, J	K
	2. Caregiver Inability to Protect	A, B	C	D	E
	3. Caregiver with Problem	A	B	C	D
	4. Caregiving Skills	A	B	C	D
Section	Scale	Unranked Choices			
SECTION 6 Request for Counselling		A, B, C, D, E, F, G			
SECTION 7 Request for Adoption Services	1. Adoption Services for Potential Adoptive Families 2. Adoption Disclosure 3. Services for Birth Parent(s) Considering Placing Child for Adoption 4. Adoption Probation Services 5. Post Adoption Services	Scale 1: A, B, C, D, E, F, G Scale 2: A, B, C Scale 3: A, B, C Scale 4: A, B, C Scale 5: A, B, C, D, E, F, G, H			
SECTION 8 Family Based Care	1. Foster Care Services 2. Kinship Services for Child Who Has Been or Will Be Living With Kinship Service Provider(s) 3. Kinship Service for Children and/or Youth in the Care of a Society 4. Customary Care	Scale 1: A, B, C, D, E Scale 2: A, B, C, D, E, F, G, H, I Scale 3: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P Scale 4: A, B, C, D, E, F, G, H, I, J, K			

	5. Custodial Parents – Application, Approval, Placement 6. Custodial Parents – Post Placement Services 7. Licensed Services to residential Care (OPI/OPR)	Scale 5: A, B, C, D, E, F Scale 6: A, B, C, D, E, F, G Scale 7: A, B
<u>SECTION 9</u> Volunteer Services		A, B, C, D
<u>SECTION 10</u> Request for Assistance		A, B, C, D, E, F, G, H, I, J, K
<u>SECTION 11</u> Request for Youth Services		A, C
<u>SECTION 12</u> Personal Information	1. Record Check 2. Individual Rights to Access and Correction 3. Use and Disclosure 4. Breaches 5. Complaints	Scale 1: A, B, C Scale 2: A, B Scale 3: A, B, C, D, E, F, G Scale 4: A, B, C, D, E, F Scale 5: A, B, C, D

Table 1: The Eligibility Spectrum, Ontario Child Welfare, 2021. Bill C-92 in Ontario

Children’s Exposure to Violence in the Home

As outlined in the *Child, Youth and Family Services Act* (2017) a child is in need of protection if, due to the actions of the caregiver, the child has suffered serious emotional harm or is at risk of suffering harm (CYFSA, 2017, 74(2)). Some children who witness violence in the home exhibit mental health conditions, aggressive or high-risk behaviours (Ontario Child Welfare, 2021). Based on the *Eligibility Spectrum* (Ontario Child Welfare, 2021) a child who is exposed to violence in the home that has a negative emotional effect on them is in need of protection. Not all children experience serious emotional harm after experiencing violence in the home, and it is often dependent on the amount, length, and severity of the violence, as well as any protective factors or supports that help the child (Ontario Child Welfare, 2021).

As per the *Child, Youth and Family Services Act* any individual must report if they suspect a child needs protection (Ontario Child Welfare, 2021). This includes children’s aid society workers as well as all other members of the community. The *Eligibility Spectrum’s* intervention line for child exposure to partner violence is between moderately severe and minimally severe. Moderately severe includes a risk of neglect, mental or physical harm to the child (Ontario Child Welfare, 2021). Minimally severe is when there is no evidence that the child has been negatively affected, but either confirmed or alleged conflict between partners without violence (Ontario Child Welfare, 2021). Recent reports show there were 27,567 investigations due to allegations of exposure to IPV, with 17,051 of those being substantiated (Crowe et al., 2021; Fallon et al., 2020). Of the total 27,567 investigations, 2,026 of them were related to First Nations children (Crowe et al., 2021).

Domestic Violence Policy in Ontario

Ontario is one of the two provinces that do not have special civil legislation regarding family violence (Department of Justice, 2022). Therefore, in Ontario, any family violence would fall under the federal Canadian *Criminal Code*. Based on the CYFSA (2017), anyone who believes that a child may be in need of protection must report to CAS. This includes police or any women's shelter workers. All of Ontario's court jurisdictions have a Domestic Violence Court Program, which offer Partner Assault Response (PAR) programs (Heslop et al., 2016).
The Ontario Network of Sexual Assault/Domestic Violence Treatment Centres

The Ontario Network of Sexual Assault/Domestic Violence Treatment Centres provides treatment, counselling and support for victims in the province. During the COVID-19 pandemic they created a Provincial Navigation Line to provide information and direct individuals to their closest treatment centre (Ontario Network of Sexual Assault/Domestic Violence Treatment Centres, 2022). The Network has also launched a database to streamline patient information between treatment centres (Ontario Network of Sexual Assault/Domestic Violence Treatment Centres, 2022). The Network also provides education for nurses and social workers for working with victims, including trauma informed care (Ontario Network of Sexual Assault/Domestic Violence Treatment Centres, 2022). The Network website also provides information for victims including a map of treatment centres (Ontario Network of Sexual Assault/Domestic Violence Treatment Centres, 2022).

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