

Section 72. (1) of the Child and Family Services Act (CFSA)

Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall forthwith report the suspicion and the information on which it is based to a Children's Aid Society:

1. 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.
2. 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.
3. The child has been sexually molested 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 molestation or sexual exploitation and fails to protect the child.
4. There is a risk that the child is likely to be sexually molested or sexually exploited as described in paragraph 3.
5. The child requires medical 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, or refuses or is unavailable or unable to consent to, the treatment.
6. 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.
7. The child has suffered emotional harm of the kind described in subparagraph (i), (ii), (iii), (iv) or (v)

of paragraph 6 and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.

8. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph (i), (ii), (iii), (iv) or (v) of paragraph 6 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.
9. There is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph (i), (ii), (iii), (iv) or (v) of paragraph 6 and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to prevent the harm.
10. 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, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.
11. The child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights 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.
12. The child is less than 12 years old 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, or refuses or is unavailable or unable to consent to, those services or treatment.
13. The child is less than 12 years old 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.

What happens when I call a Children's Aid Society (continued)?

Private consultations are available to callers. A consultation allows a caller to anonymously give non-identifying information about a child(ren) or family and a brief scenario on why they are calling CAS. Through the private consultation process, CAS can recommend whether or not a caller should report their concerns.

Once a report has been made and all of the information has been recorded, a Child Protection Worker will assess the information provided. CAS workers have the responsibility and authority to investigate allegations and to protect children. The workers may, as part of the investigation and plan to protect a child, involve the police and other community agencies.

How do I contact the Hamilton CAS?

The Children's Aid Society of Hamilton can be contacted at 905-522-1121.

Emergency after hours services are available after regular business hours by calling 905-522-8053.

This brochure summarizes reporting responsibilities under Ontario's Child and Family Services Act. It is not meant to give specific legal advice. If you have questions about a given situation, you should consult a lawyer or your local Children's Aid Society.



The Children's Aid Society
OF HAMILTON

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P.O. Box 1170, Depot 1 (26 Arrowsmith Rd)
Hamilton ON L8N 4B9
Phone: 905-522-1121
Emergency After Hours: 905-522-8053
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The Children's Aid Society
OF HAMILTON

What is Your Duty to Report Abuse?





Understanding the Child and Family Services Act of Ontario

We all share a responsibility to protect children from harm.

Ontario's Child and Family Services Act (CFSA) provides for a broad range of services for families and children. The principal purpose of the Act is to promote the best interests, protection and well-being of children.

The Act states clearly that members of the public, including professionals who work with children, have an obligation to report promptly to a Children's Aid Society (CAS) if they fear a child is unsafe or being harmed. Unsafe refers to a child who is or who appears to be suffering from abuse and/or neglect. This includes physical, sexual and emotional abuse, neglect and risk of harm.

What is the age of the children to whom the "duty to report" applies?

The duty to report applies to any child who is, or appears to be, under the age of 16 years old. It also applies to children subject to a child protection order, who are 16 and 17 years old.

Individuals may also call the Society prior to a child's birth to consult a Child Protection Worker regarding prenatal concerns.

Who is responsible for reporting a child in need of protection?

Anyone who has reasonable grounds to suspect that a child is or may be in need of protection must promptly report the suspicion and the information upon which it is based, to a Children's Aid Society. CFSA Section 72 (1) describes the specific circumstances that must be reported.

What are "reasonable grounds" to suspect child abuse or neglect?

"Reasonable grounds" refers to the information that an average person, exercising normal and honest judgment, would need in order to make a decision to report. It is not necessary to be certain a child has been harmed.

What does the Act mean when it says a person has an "ongoing duty to report" child abuse or neglect?

Even if a report has already been made about a child, you must make a further report to the Children's Aid Society if there are additional reasonable grounds to suspect that the child is or may be in need of protection.

Can someone else report on my behalf?

No. If you have reasonable grounds to suspect a child is or may be in need of protection, you must report directly to a CAS. You must not rely on anyone else to report on your behalf.

Will I be protected from liability if I make a report?

Yes. If a civil action is brought against you for making a report, you will be protected unless you acted maliciously or without reasonable grounds for the suspicion.

Do professionals and officials have any special responsibilities to report?

Professionals and officials have the same duty as any other member of the public to report their suspicion that a child is in need of protection. However, the Act recognizes that people working closely with children have a special awareness of the signs of child abuse and neglect, and a particular responsibility to report their suspicions.

Any professional or official who fails to report a suspicion that a child is or may be in need of protection, where the information on which that suspicion is based was obtained in the course of his or her professional or official duties, is liable on conviction to a fine of up to \$1,000.

Who does the Act consider a professional or official?

People who perform professional or official duties with respect to children include:

- health care professionals, including physicians, nurses, dentists, pharmacists and psychologists;
- teachers and school principals;
- social workers and family counsellors;
- priests, rabbis and other clergy members;
- operators or employees of day nurseries;
- youth and recreation workers (not volunteers);
- peace officers and coroners;
- solicitors;
- service providers and employees of service providers, and;
- any other person who performs professional or official duties with respect to a child.

The list sets out examples only. A person not listed above who does work that involves children may still be considered to perform professional or official duties under the duty to report requirements of the Act. If you are unsure whether you are considered to be a professional with the duty to report, ask your local CAS, professional association or regulatory body.

What about professional confidentiality?

A professional must report that a child is or may be in need of protection, even when the information is otherwise confidential or privileged. The duty to report overrides the provisions of any other provincial statute, and specifically overrides any provisions that would otherwise prohibit someone from making a disclosure. Only solicitors may not divulge "privileged" information about their clients.

What happens when I call a Children's Aid Society?

When a call is received by a Children's Aid Society, a Child Protection Worker will ask the following information from the caller:

- family name, address and phone number;
- the name of the child(ren) of concern;
- the relationship of the caller to the family;
- the information the caller has - what the cause of concern is;
- how the caller knows the information causing concern (ie. first or second hand);
- how long the issue has been a concern;
- any family strengths (ie. communication, problem-solving skills, ability to accept support, community and family ties, spirituality);
- any information regarding other agency or community involvement with the family;
- any history of domestic violence;
- any relevant background information;
- where the child is at the time of the call (eg. school, day care, home).

CAS records are confidential. The Children's Aid Society of Hamilton must keep accurate records of all contacts with children and families to document our activity and collect important information to help the children and families we serve. All records are confidential and disclosure of their contents is strictly regulated.