



15th Legislative Assembly of the Northwest Territories

Standing Committee on Social Programs

Report on Matters Related to
Family and Social Services Act

Chair: Ms. Sandy Lee

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SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Social Programs is pleased to provide its Report on Matters Related to the *Family and Social Services Act* and commends it to the House.

Sandy Lee, MLA
Chairperson

**STANDING COMMITTEE ON
SOCIAL PROGRAMS**

**REPORT ON MATTERS
RELATED TO THE
*FAMILY AND SOCIAL SERVICES ACT***

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**STANDING COMMITTEE ON
SOCIAL PROGRAMS**

**REPORT ON MATTERS
RELATED TO THE
*FAMILY AND SOCIAL SERVICES ACT***

BACKGROUND

During the Standing Committee on Social Program's review of Bill 5: *An Act to Amend the Child and Family Services Act*, Members heard from a number of northerners who expressed concerns about the current *Act* and its application.

We would like to thank all of the presenters in the communities of Yellowknife, Inuvik, Tuktoyaktuk, Ulukhaktok, Colville Lake and Behchoko who took the time to make their concerns known to Committee.

In addition to the feedback during the hearings on Bill 5, Committee Members, in meeting the day-to-day needs of their constituents, regularly deal with families whose lives are being dictated by provisions of the *Child and Family Services Act*.

There is nothing in this Report, by way of recommendation, that will detract from the primary task of the Child Protection Worker, which is to protect our children from physical, emotional and sexual abuse.

The recommendations and discussions in this Report focus on strengthening existing child protection practices and ensuring that all provisions contained in the *Child and Family Services Act* are implemented and utilized in all communities in the Northwest Territories.

**NEED FOR CONSISTENCY IN
UTILIZING TRANSLATION SERVICES**

The Committee understands that the primary consideration is the safety of the child and that it may not always be possible to have translation available when removing a child from a dangerous situation. The Committee is not suggesting any delay in removing a child from a dangerous situation because of the availability of a translator.

During our Hearings in Yellowknife on Bill 5, we heard from Mr. Brad Enge, a lawyer in private practice, who expressed his concern about people who come into contact with a Child Protection Worker not always having access to

translators and sometimes signing documents, like plan of care agreements, without really understanding what they are signing.

Mr. Yakeleya also had recent experience with a constituent whose dealings regarding her child's apprehension were exacerbated by her limited English skills and not having access to translation during crucial stages of the apprehension process.

Just after the introduction of Bill 5 by the Minister of Health and Social Services, Mr. Yakeleya had the opportunity to question Minister Roland about the need to make sure that parents understand and have the process explained to them in their own language. Minister Roland replied that the offer is made to the parents whenever the Department gets involved.

What may be missing from the process is some understanding of the cultural and emotional factors that may lead someone to decline translation services, when in fact they do need such services.

The development of local Child and Family Services Committees would be a valuable resource for Child Protection Workers in making sure that parents understand the process and what is expected of them when they sign a plan of care agreement. This will be commented on later in this Report.

The Committee would like assurances from the Department that Child Protection Workers are trained to be sensitive to the emotional state, and also be aware of the cultural factors, that may lead a person to decline needed translation services, and wherever there is doubt, err on the side of caution and provide translation services.

Recommendation

The Committee recommends that the existing practice of offering translation services be continued, and that Child Protection Workers be required to take into account the emotional state and the cultural background of a person being offered translation services, and, when there is any doubt, provide the necessary translation services as a matter of course.

USE OF NON-CUSTODIAL PARENT IN CARING FOR APPREHENDED CHILD

This was another issue raised by Mr. Enge during his presentation on Bill 5. Mr. Enge pointed out that after a child is apprehended, a non-custodial parent must gain custody rights through family court before they would be considered as a care provider for their biological child. Mr. Enge believes that, in cases where the custodial parent is proven an unfit parent, the Child Protection Workers need the discretionary power to place the child with the non-custodial parent, on a temporary or permanent basis, if they are suitable.

As it stands now, the *Act* only contemplates returning a child who has been apprehended to the parent (defined as the person with legal custody) or to the person who had care of the child at the time of the apprehension. There is no specific mention of non-custodial parents.

The Member for Monfwi is dealing with a constituent, working at one of the Mines on a two-week in / two-week out rotation, facing a similar situation. The constituent, whose child was apprehended and placed in foster care outside of the home community, was not afforded the opportunity to arrange care for his own biological child.

There is, of course, the assumption that the child has a relationship with the non-custodial parent before the Child Protection Worker should consider such a placement as a priority over foster care within the community.

Recommendation

The Committee recommends that the Minister examine the issue of involving non-custodial parents in caring for apprehended children, and if necessary, make the required legislative and regulatory changes, to allow Child Protection Workers the discretionary powers to place apprehended children with the non-custodial parent on a temporary basis, providing that it is in the best interest of the child.

ROLE OF THE EXTENDED FAMILY IN CHILD PROTECTION MATTERS

The Committee is appreciative that one of the results of the passage of Bill 5 will be the inclusion of a new clause in the Preamble of the *Child and Family Services Act* that states “And Whereas a child’s extended family can often provide important supports in meeting the best interests of the child;”.

A Preamble to an Act is important in that the Preamble sets out the principles that will guide the application of the Act.

Recognizing the role of the extended family in child protection matters is an important step and now we need to take the next steps to ensure that this important sentiment continues to be reflected in the day-to-day practices of the Child Protection Workers.

During our hearing on Bill 5, in the community of Behchoko, we heard from Chief Leon Lafferty and his disappointment that Bill 5 did not specifically address the role of aboriginal families and did not take into account aboriginal traditions.

We also heard from elders, Mrs. Vernick Erasmus and Mr. Phillip Husky, on the need to keep apprehended aboriginal children in their home communities, with their extended families, wherever possible.

Many Members of the Social Programs Committee have heard from constituents concerned about the placement of aboriginal children with non-aboriginal foster families, both in and outside of the community. Many of these constituents have pointed out that there are members of the child’s extended families that are suitable and prepared to offer the child a stable and loving environment.

It is understood by the Committee that the Child Protection Worker already has the discretionary power to place an apprehended child with a member of the child's extended family and that this does occur in many cases.

Members were made aware of cases where this has not occurred. It is recognized that there are valid reasons, like a late night apprehension or the need to run background checks on members of the extended family, and that this sometimes means a child is placed in temporary foster care, outside of the extended family.

However, in cases where a child is unlikely to be returned to the custodial parent, and where there is no suitable non-custodial parent, there should be an onus on the Child Protection Worker to place the child with a suitable member of the child's extended family in the child's home community, before any consideration is given to removing the child from the home community or placing an aboriginal child with a non-aboriginal foster parent.

Recommendation

The Committee recommends the Minister issue a directive reinforcing the use of extended families in the placement of apprehended children and that every effort be made to place children with extended family within the child's home community, before a Child Protection Worker considers placement in a foster home, in or outside of the child's home community.

CHILD AND FAMILY SERVICES COMMITTEES IN THE COMMUNITY

It is a sad commentary that only the community of Fort McPherson has taken advantage of provisions of the *Child and Family Services Act*, that allow for the community agreements and the formation of a Child and Family Services Committee.

A community agreement allows a community corporation to establish their own community standards, which, as long as they meet the minimum standards set out in the regulations, reflect the realities of life in the community and the standard of care for apprehended children. They can also establish community standards to reflect whether a child is in need of protection under all of the reasons outlined in Section 7(3).

For example, young children out late at night unsupervised in Yellowknife would be of concern to a Child Protection Worker and the Yellowknife Child and Family

Services Committee, if one existed. The same level of concern may not exist for the Child Protection Worker and the Child and Family Services Committee in a smaller, isolated community, and they would be able to establish their own standards to deal with such circumstances.

A Community Child and Family Services Committee, as previously referenced in this Report, would be a valuable resource in helping Child Protection Workers, who may not be familiar with the local customs and families, in placing apprehended children with suitable members of the child's extended family within the child's home community.

There are also provisions for a member of the Child and Family Services Committee to sit on each child's individual Plan of Care Committee and provide their input to reflect community standards and culture. In addition, if the Child Protection Worker is unable to get a Plan of Care Agreement in place, they can turn to the Chairperson of the Committee for assistance. This allows greater opportunity for an agreement to be reached.

There are also provisions that the Chairperson of the Committee could be delegated the powers of a Child Protection Worker and be allowed to apprehend a child in need of protection. Committee thought that, while not ideal, this may be a power that will encourage a community without a Child Protection Worker or an RCMP presence to consider forming a Child and Family Services Committee.

In questioning witnesses like Ms. Alana Mero and Ms. Denise Kurszewski, who appeared before Committee during the hearings on Bill 5, it became apparent to Members that there was a buy-in on the child's individual Plan of Care Committee and a general recognition that this works well in ensuring that the needs of the child are met and that parents are represented in the process.

However, there seemed to be little knowledge of the ability of a community to enter into agreements and establish Community Child and Family Service Committees. This was also reflected in the comments we heard in Behchoko.

All Members of this House are approached by communities and asked to help empower them to deal with their own problems. We can point to Community Justices Committees as an example of community empowerment. The role of the Community Justice Committees in delivering services and dispensing justice is evolving, and is being recognized through increased supports and funding by the Department of Justice.

The Social Programs Committee pressed hard over the life of this Assembly to secure increased funding and supports for the Community Justice Committees. While that battle is far from over, it is apparent that the issue of funding and supporting Community Justice Committees is at least on the radar of the Department of Justice.

Committee Members are convinced that the Department of Health and Social Services, and its Authorities, could be doing more to promote the formation of Child and Family Services Committees in the communities and that a more coordinated approach should be undertaken.

In reviewing material provided by the Minister, there appeared to be a push in 2003 to establish Child and Family Services Committees, with three communities expressing interest. Of those three communities, only the community of Fort McPherson went past the initial presentation and consultation and formed a Child and Family Services Committee in conjunction with the Tl'oondih Healing Society.

Since that time there have been expressions of interest in the northern part of territory, and information has been supplied to the community of Paulatuk and to the Sahtu Health and Social Services Authority.

Members also wondered if, because the responsibility for administering the *Child and Family Services Act* is with the Regional Health and Social Services Authorities, there might be some reluctance on their part to promote a process that may end up contributing to the overall debt that many of our Health Authorities face.

Regardless of any speculation on the part of Committee as to the reasons there has been no uptake at the community level for forming Child and Family Services Committees, it is important to note that, as the Minister outlined in briefing notes provided to Committee, the ability of communities to participate directly in decision-making regarding the protection of children is unique to the Northwest Territories. As far as the Department knows, no other jurisdiction in the world allows community input in child protection matters.

The tools exist in legislation and regulation. It is clear to the Committee that there is a need for the Department and the Authorities to allocate resources to develop and foster community empowerment through the development of Child and Family Services Committees.

Recommendation

The Committee recommends the Minister direct the Department and Authorities to continue with on-going activities and to design an adequately resourced plan to develop Child and Family Services Committees in the communities and that this plan be presented to the Standing Committee on Social Programs as part of the 2009-2010 Business Plan Review.

DEVELOPMENT AND SUPPORT OF FOSTER FAMILIES

The Committee is very appreciative of the role that foster parents play in ensuring that children can grow and prosper in a caring environment. Enough cannot be said about the people that are willing to take children into their homes on a moment's notice. They are a vital part in the delivery of social services in the Northwest Territories and need to be recognized and supported as such.

Part of Supplementary Appropriation No. 1, 2007-2008 is \$1,011,000 for increases to the Basic Maintenance Rate and to increase the Age of Child Rate. This will result in increases of up to \$18.00 per day in some communities for the Basic Maintenance Rate, and for the Age of Child Amount \$4.00 for children up to the age of 5, \$3.00 for children up to the age of 12 and \$5.00 for children up to the age of 18.

These increases recognize the cost of living in our communities and also recognize the different costs associated with children of different ages.

The Committee is sure that these increases will help cover the costs for existing foster families and possibly encourage some families who could not afford to continue at the existing rates.

It is not clear that there will be any effect on the number of foster homes in the NWT.

Recommendation

The Committee recommends the Department work towards increasing the number of foster homes in the NWT and that a Plan, complete with numbers of existing foster homes, targeted increases and required resources be presented to the Standing Committee on Social Programs as part of the 2009-2010 Business Plans.

CONCLUSION

The Committee would like to thank all those who spoke at our hearings and raised their concerns with the application of the *Child and Family Services Act*. We look forward to the Government's response to this report.

Recommendation

The Standing Committee on Social Programs recommends the Government provide a comprehensive response to this report within 120 days.