



SUBMISSION TO THE LAW AMENDMENTS COMMITTEE

Re: Bill 112, Changes to the Children and Family Services Act

On Behalf of
The Transition House Association of Nova Scotia

Pamela Harrison
November 16, 2015

Bill No. 112 Children and Family Services Act (As Amended)

Good afternoon, Minister Whelan, and Members of the Law Amendments Committee:

My name is Pamela Harrison, Provincial Coordinator for the Transition House Association of Nova Scotia. Our member Organizations provide crisis, shelter and transitional services for women experiencing violence and abuse, at thirteen locations across the province. We have worked collaboratively with Government and other community organizations to advance progressive legislation for women in NS for over twenty-five years.

Thank you so much for your willingness to amend this legislation in order to provide more support for women and their children fleeing violence and abuse. We particularly want to acknowledge your willingness to hear concerns from those organizations in the community that work directly with those impacted by this Act.

The THANS Management Committee, which includes the executive directors of all our organizations, have asked me to present the following points and perspectives to your Committee, as you determine the final language in the Amended Children and Family Services Act.

Section 12 AGENTS

Section (12A) expands the authority of Child Protection Staff beyond what is currently available, and gives the Staff the authority “...regardless of whether the social worker has the consent of a parent or guardian of the child.” The changes could potentially allow Child Protection Staff to “...attend any other place frequented by the child...” (one of our shelters for example) and interview and examine the child, interview any parent or guardian of the child, interview any person who cares for or has an opportunity to observe the child (our service users, residents and our staff as examples) and gather any evidence that the social worker considers necessary or advisable to complete the investigation (our files and case notes, for example.)

This section of Bill 112 also assumes that there is no collaborative or mutually acceptable way to obtain such information, and infers an unwillingness, and/or a lack of responsibility on the part of those who support victims of intimate partner violence, and their children, to report such relevant information ourselves. In a collaborative relationship with Child Protection, it would be possible to work together to establish what “evidence” might be required. In stark contrast to this new authority for Child Protection Staff, Policing Services in this province require documentation from the Court(s), a warrant for example, to have this kind of access. We would expect this section to have a number of challenges in the Courts.

We operate and provide confidential services to women and their children experiencing violence or abuse. Part of the success of our interventions is our commitment to privacy and confidentiality of our service user records, which we own, and to which our service users have access. We have and will continue to provide required documentation to the Courts, if deemed appropriate. In cases where we identify a need for women to report to Child Protection Services, we prepare them to make an informed decision, and if they are unwilling to report themselves, then we do it for them, as the appropriate response to the children who are always our primary clients.

The Transition House Association of Nova Scotia respectfully requests the removal Section 12(a) and its overly broad authority to investigate, with little or no evidence.

Section 22 The Duty to Report

We would like to acknowledge the suggested changes in language from the Department of Community Services around the duty to report all service users age 16 to 18. The challenges to service providers in that clause were great, and we appreciate your understanding and response to our concerns.

However, other new language in Section 22, particularly Section 22.2.i, continues to make the responsibility for the safety and well-being of children the sole responsibility of the non-offending parent, in cases of intimate partner violence, and holds the Victim wholly accountable for her victimization, and that of her children.

In many jurisdictions, in both Canada and the United States, Child Protection Services and Domestic Violence Services have recognized not only the unfairness of this position, but also the need to hold the offending parent accountable.

From the Montana Protocols for Use when Partner or Family Member assault/domestic violence is present or suspected in Cases of Child Maltreatment:

“The preferred way to protect children in most cases involving partner or family violence/domestic violence is two-pronged: joining with non-offending parents in safety planning; empowering them to protect both themselves and their children; and working with perpetrators in a manner that holds them accountable for their abusive behavior with the aim of improving their ability to parent.”¹

Ottawa Child Protection and Domestic Violence organizations are jointly guided by the following Principles:

“Protecting Abused Women helps protect their children;

Supporting Women in the identification of the various options available to them may help them in protecting and caring for their children;

Respecting a woman’s right to direct her own life is fundamental; the alleged perpetrator, not the victim, should be held accountable for the abusive behaviour.”²

In the revised language of Section 22.2.i it states that a Duty to Report exists when:

“the child had been exposed to, or made aware of, violence by or towards a parent or guardian or other person residing with the child, and the parent or guardian fails or refuses to obtain services or treatment, or take other measures, to remedy or alleviate the violence”

¹ State of Montana Summary of Protocols for Use when Partner or Family Member Assault/Domestic Violence is Present or suspected in Cases of Child Maltreatment - <https://dphhs.mt.gov/Portals/85/cfsd/documents/cfsdmanual/domesticviolence.pdf>,

² Collaboration Agreement for the Children’s And Societies and Violence Against Women’s Agencies of Ottawa, March 2004

This language does not reflect the responsibility of Child Protection and Domestic Violence Agencies in *"...determining which parent is the predominant initiator of the abuse in order to appropriately assess the dangerousness of the offending parent, the safety of the children and to preserve the family unit as much as possible."*³ The reality for the non-offending parent/guardian, is that they have been, and with this new language, will continue to be held, accountable for the actions of the abusive parent.

In other jurisdictional protocols and agreements this Duty to Report *"...may not be construed to hold a victim responsible for failing to prevent the crime against the victim."*⁴

In the Framework for Action against Family Violence 2001 Review conducted in Nova Scotia, the participants noted that abuse victims who seek help expose themselves to charges of failing to protect their children and risk having their children removed from their care. That perception has not changed.

Experience has shown that women in this province, in cases of intimate partner violence, receive the message from a significant number of child protection workers, that they should have known better, should have known the negative impact the abuse would have on their children and should have known or found out the solutions to these issues, and immediately have left their partner.

We challenge these assumptions, and request language that does not hold the victim solely accountable, but rather supports the victim in safety planning, the identification of services or options available to them, and requires safety planning with the offending parent, so that the Victim and their children are afforded the safety they are due. In the Courts, child Custody and access now requires the consideration of domestic violence as a factor in the best interests of the child, and as stewards of these vulnerable women and children, we, too, have an obligation to consider it.

The Transition House Association of Nova Scotia respectfully requests that language be added to reflect the differential position of the victimized parent in these cases. We also request, as part of the Regulations of this Legislation, that a Provincial Protocol be developed with Child Protection Services and our Association, that would create Terms of Reference for how we individually, and jointly will act, in the best interests, not only of the children, but of the Primary Victim of domestic/intimate partner violence, and which would clarify how our actions will create safety and appropriate conditions for children with their primary caretaker, as well as issues of custody and access with the offending partner.

Section 88 Advisory Committee

While we are pleased that the Department of Community Services has reconsidered the removal of Section 88, we are concerned that the new language will not allow for regular and independent formal reviews of the Act.

"Providing for" a formal review every four years is not the same as mandating a regular review. We are also concerned that the Review of the Act is the sole responsibility of the Minister, and that there is no language that allows an independent Review of the Act. We want to make clear that these concerns do not reflect a lack of faith in the ability of the Minister, or Department of Community Services or Justice

³ <https://dphhs.mt.gov/Portals/85/cfsd/documents/cfsdmanual/domesticviolence.pdf>

⁴ IBID

Staff, but rather a need to have an independent professional examination of legislation that protects our most vulnerable citizens, and could, in no way, be construed as having any bias or conflict of interest.

The Transition House Association of Nova Scotia respectfully requests changes to Section 88 that would Require an External Review of the Children and Family Services Act, its Regulations and a review of Child Protection Services every four years, at a minimum.

Thank you for hearing our comments, concerns and suggestions, and we wish you well in your deliberations.

Additional Reference Material

<http://www.yrvawcc.ca/PDFs/4eChapterCASVAWServicesCollaboration.pdf>

CAS/VAW Integrated Services - Recommendations: Moving Forward
Mandy Faulkner & Linda Osmond 6/24/2013

Final Integrated Services Project Evaluation August 2013