

Protection against traffic in, sale of and other forms of abuse against women and minors, including sexual abuse, in Saskatchewan

TRAFFIC IN, SALE OF AND OTHER FORMS OF ABUSE OF WOMEN AND MINORS, INCLUDING SEXUAL ABUSE

Trafficking in Persons

Canada's criminal laws prohibit trafficking in persons. The federal Parliament has exclusive jurisdiction to make criminal laws.

Depending on the circumstances of the abuse, there are several criminal charges which may apply. These include assault, assault with a weapon, assault causing bodily harm, uttering threats, sexual assault, etc. In recent years, Saskatchewan has created specialized Domestic Violence Courts to deal with domestic violence related criminal charges. These courts tend to emphasize treatment and rehabilitation of the offender. For more information, http://www.sasklawcourts.ca/default.asp?pg=pc_div_domestic_violence_court

See questionnaire completed by the government of Canada for further information about criminal offences related to trafficking.

Child Protection

The Child and Family Services Act addresses child protection in Saskatchewan. A "child" means, except where the act expresses a contrary intention, an unmarried person actually or apparently under 16 years of age.

A child is in need of protection where as a result of action or omission by the child's parent:

- the child has suffered or is likely to suffer physical harm;
- the child has suffered or is likely to suffer a serious impairment of mental or emotional functioning;
- the child has been or is likely to be exposed to harmful interaction for a sexual purpose, including conduct that may amount to an offence within the meaning of the *Criminal Code*;
- medical, surgical or other recognized remedial care or treatment that is considered essential by duly qualified medical practitioner has not been or is not likely to be provided to the child;
- the child's development is likely to be seriously impaired by failure to remedy a mental, emotional or developmental condition; or
- the child has been exposed to domestic violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child;
- 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
- the child is under 12, and there are reasonable and probable grounds to believe that the child has committed an act that would be criminal if he or she were over 12, services are necessary to prevent recurrence and the child's parent is unwilling

or unable to act.

Under *The Child and Family Services Act*, an officer (a peace officer, or a child protection officer approved by the Minister of Social Services) may take physical custody of a child in the following circumstances:

- Where a child is without a parent or guardian and needs assistance to return.
- Where a child has been wrongfully taken from their parent or guardian.
- Where a child under 12 committed an act that would be criminal if the child were over 12.
- Where a parent or guardian is unable to care for the child. In those circumstances, a parent may agree to have residential services provided for the child. If the child is over 12, the agreement must be explained to the child and where possible, consider the child's views.
- Where a child is not safe in the parental home.

Once it is determined a child is in need of protection, there are several options for the child. Decisions about these options are made based on the best interests of the child.

- An officer informs the parent or guardian of family services available. If the parent or guardian agrees, the family would receive the necessary services.
- A child may be placed into the care of the Minister of Social Services (ie. foster care) if the parent voluntarily consents. The child must be at least three days old. A parent under the age of 18 years can consent to the voluntary committal of his or her child. Once a child is in the care of the Minister, the Minister has all rights and responsibilities of the parent and is the guardian of the child.
- A temporary order may be issued to protect the best interests of the child which may include limiting the parent or guardian's contact with the child.
- A court may order the child to remain with his or her parent(s) or to be placed in the custody of someone with a close relationship to the child, such as member of the child's extended family. The court may order custody of the child be with the Minister of Social Services, either temporarily or permanently with a provision for parents or guardians to visit the child.

Youth aged 16 and 17 may be in need of protection in situations, for example, where:

- they are being abused and remaining in that situation would result in serious risk of personal injury;
- the youth's parents, guardians or caregivers are refusing to provide and care for the youth;
- the youth and his/her parent(s) are in high conflict situations and the family is no longer a resource;
- the youth has serious emotional or physical health concerns, and remaining in the situation would pose a risk to the youth or others, and no other family members are available to meet the youth's needs.

Where a youth could be found in need of protection, he/she may be eligible for support or residential services or financial assistance. Whenever possible the youth's family should provide support and guidance. Work with the youth's family may be required to help the

family function better. Providing youth with residential services should not interfere with efforts to reunite the family.

The Emergency Protection for Victims of Child Sexual Abuse and Exploitation Act recognizes that children and youth involved in prostitution are victims. The Act focuses on targeting and deterring offenders, and preventing offenders or potential offenders from contacting or communicating with the child victim. The Act:

- Allows for applications for Emergency Protection Intervention Orders to be made in emergency situations and after hours, and via telecommunications;
- Dispenses with the usual notice provisions and court process;
- Allows for substitutional service on the offender if he cannot be served personally;
- Allows for immediate enforcement;
- Relaxes rules of evidence: evidence is based on a balance of probabilities.

Additionally, there is a greater emphasis on outreach, prevention, and intervention services.

Domestic Violence

The Victims of Domestic Violence Act 1994, S.S. 1994 c. V- 6.02. The Act protects any victims who are subject to domestic violence by another cohabitant. Where domestic violence has occurred and the situation is very serious, an emergency intervention order (EIO) can be granted immediately by a Justice of the Peace to provide for the immediate protection of the victim. An EIO is most commonly used to have an abusive spouse removed from the family home for a specific period of time (30 or 60 or 90 days), but may also be used to allow the victim of abuse who has fled to return to the home, accompanied by a police officer, to collect personal belongings for herself and any children with her. Ordinarily, EIO's will also include conditions that an abusive spouse not contact the victim or attend at her workplace. An application can be made by a victim or any other person on behalf of the victim to a Justice of the Peace or court. The people who can help a victim apply are: police officers, mobile crisis workers, or victim service coordinators.

A victim's assistance order (VAO) can be granted where the situation is not urgent. The victim's assistance order can have the same conditions as the emergency order but can have other conditions such as ordering the cohabitant to pay the victim compensation for losses suffered by the victim and any child of the victim. Only the victim or her/his lawyer can apply to court for a VAO.

If the Justice of the Peace is satisfied that a police officer has been refused access to the premises, and a cohabitant who may be a victim will be found there, a warrant can be issued to search the residence (warrant of entry). If the search finds that a cohabitant is a victim, that person can be removed from the residence to assist or examine them.

Other Remedies for Domestic Violence or Harassment

All of the *Queen's Bench Act*, *Children's Law Act*, and the *Family Property Act* give

courts the authority to order that one spouse not contact an applicant directly or indirectly, or otherwise engage in harassing behaviours. The respondent may be ordered to not attend the family home or the applicant's place of work.