

# A Guide to Single Mothers' Rights



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# Single Mothers' Rights

- Topics that will be addressed:
  - Mothers' rights with respect to the father
  - Mothers' rights with respect to Children's Aid
  - Available recourse



# Mothers' Rights with Respect to the Father

- Questions that will be answered:
  - What rights does the mother have if child accuses the father of physical or sexual abuse? Does she have the right to deny access until the allegations are cleared?
  - Can the mother deny access if the father is engaging in inappropriate behaviour during his visitation with the child?
  - Can the mother deny access if she is concerned that the father is neglecting the child?
  - If the father is not paying child support, can the mother deny access?

# Suspected Abuse

- Forms of abuse:
  - Physical
  - Sexual
    - Verbal, physical or both (including inappropriate touching)
  - Emotional



# Signs of Abuse – MAY include but are not limited to the following

- Unexplained visible wounds, bruises or other injuries
  - Child tells you he/she has been abused
  - Child may be unusually angry or upset
  - Child is extremely withdrawn
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- *\*\*Remember* simply because your child is displaying one or more of these symptoms it does not necessarily follow that he/she is being abused.

# Denying Access



- In order to deny access on the grounds of suspected physical abuse you must have proof of the abuse
  - Seek medical treatment immediately! (doctor, hospital or medical clinic)
  - Get medical documentation (your doctor will know the documentation that is needed)
  - Seek professional counselling for your child (therapist, psychologist, psychiatrist)
  - Contact a lawyer
  - In an emergency you may get a temporary restraining order from the court.

# Denying Access - continued

- If you fear the abuse will continue
  - Call the police
  - Go to a shelter with your child

# Inappropriate Behaviour

- Forms of inappropriate behaviour include but are not limited to the following:
  - Father is under the influence of drugs and/or alcohol during visits
  - Father has parties or unwanted visitors present during visitation
  - Father is suicidal
  - Father is a flight risk
    - You suspect the father may take off with the children

# Drugs and/or Alcohol



- If the father picks up the child while under the influence:
  - Have a witness present when you drop off and pick up your child (friend, family member or neighbour who is RELIABLE)
  - Keep a journal
    - Write down the dates and times of the visits
    - Write down what you saw
    - Ask your child what happened during the visit
  - You may request supervised access if behaviour can be confirmed.

# Partying/Unwanted Visitors

- You may request supervised access
- Proof
  - Child's account, father's neighbours
  - If you suspect illegal activity call the police

# Father is Suicidal

- Two situations:
  - Father has already had psychiatric treatment
    - In this case you will need to bring a motion for psychiatric records
  - Father has not been treated
    - Bring a motion to have father undergo psychiatric assessment
- Contact a lawyer, social services or Children's Aid Society
- You will want to set up supervised visitations

# Father is a Flight Risk

- Tape the phone calls between yourself and the father
  - The phone call must be intact and continuous
  - A transcript of the calls can be made and presented as evidence in court
- Emergency situations:
  - You can get a judge's order within 24 hours to prevent the children from being moved

# Suspected Neglect

- What is neglect?
  - Not meeting the child's physical and/or emotional needs
  - Physical neglect:
    - Improper diet (child is continuously hungry)
    - Child not properly clothed (inappropriately dressed for weather)
    - Not providing proper shelter/housing for the child
    - Not providing adequate medical care
    - Not protecting child from harm (child is often left alone)

# Suspected Neglect – continued

- Emotional Neglect:
  - Treating the child coldly
  - Blatant and outright rejection of the child
  - Lack of attentiveness



# Denying Access on the Grounds of Suspected Neglect:

- Proof that father is not meeting your child's physical and/or emotional needs
- Child reports he/she is being neglected
  - Often the child won't use the word "neglect"
    - Key things to listen for: "Daddy ignores me", "Daddy doesn't love me, he doesn't pay attention to me", "Daddy doesn't even know I'm there," "Dad never has any food in the house."
      - Remember, just because your child says something like this do not immediately jump to the conclusion that he/she is being neglected
- If child appears undernourished seek a medical opinion
- Have a witness present when you pick up your child
- Take your child to see a therapist or counsellor. They will document child's report.
- Keep a journal of child's behaviour after he/she returns from a visit

# Child Support



- If the father is not paying child support:
  - Mother can get a court order for the payment of child support
  - Child support is paid to the mother through the Family Responsibilities Office (FRO)
  - Father pays FRO and then money is transferred to the mother
  - If child support is not being paid, FRO will take steps to obtain the money from the father
    - Speaking to his employer, suspending his driver's license
  - Generally speaking the mother cannot deny access to the father if he is not making child support payments.

# Children's Aid

- Topics that will be addressed:
  - Introduction to CAS and Intervention by CAS
  - CAS Investigations
  - The Legal Process
  - Conflicts with CAS
  - Supervised Visitations

# Introduction to Children's Aid

- The Children's Aid Society (CAS) encourages families to contact them before their problem escalates. The CAS helps families and can connect you with the proper programs and services in the community to meet your needs

# Intervention by CAS

- The CAS will intervene when there is suspected:
  - Physical abuse
  - Sexual abuse
  - Emotional abuse
  - Neglect

# Intervention

- The CAS believes that it is almost always better for children to live with their parents their first priority is to try and keep families together while providing counseling or support services.
- If the CAS believes the children are at risk, they will seek a court order for:
  - Supervision by the CAS at mother's home, or
  - The CAS may place the children in the substitute care of friends, relatives, foster families or under CAS care.

# A CAS Investigation

- When a referral or complaint is made to the CAS, and the situation meets the requirements of an investigation, the CAS will interview:
  - Parents and caretakers of the child
  - The child and his or her siblings
  - Relatives, neighbours and community professional who may have information regarding the child's needs

# The Legal Process



- If the CAS has filed charges against you, they may or may not have removed the children from your care
- If the CAS has removed your child, they must bring the matter before the court within 5 days to provide evidence to justify their actions.
- If they do not do so, they MUST return the child to the custodial parent.

# The Legal Process - continued

- Documentation:
  - In the event that your child has been removed from your care, the CAS will provide you with the proper documentation required for court
  - FORM 8B: Application – This form will tell you:
    - The date and time of your court case
    - The address of the courthouse
    - The names of the children they are seeking to remove from your custody
    - The names of the people who must be involved in the case
    - What the CAS is asking the judge to do
    - Why the CAS is seeking to remove the children from your care

# The Legal Process - continued

- Documentation:
  - Form 14: Notice of Motion
    - this form is a request for the court to make a temporary order. It may or may not be included in the documents
  - Form 14A: Affidavit
    - Sworn statement(s) the CAS is relying on as evidence in the court hearing. It may or may not be included.
  - Form 33B1: Answer and Plan of Care
    - Extremely important document. It will likely be included in the documentation. If it is not you may obtain one at the courthouse.
    - Fill this document out with your lawyer. You have 30 days after receiving the documentation from CAS to fill this out.
    - The judge will use this information when making short and long term care decisions.

# The Legal Process - continued

- The First Court Date:
  - At this time the judge will read over all the relevant papers. You may be allowed to speak, but generally the judge only looks at the written evidence at this time.
  - A decision will be made regarding temporary custody of your child.
  - The judge will also decide the terms and conditions of parental access.
  - Another court date will be set as well as recommendations for any counseling, medical, social or psychological assessments.

# Legal Process - continued



- First Court Date:
  - The judge may order the Office of the Children’s Lawyer to appoint a lawyer to represent your child.
  - It is unlikely that a decision will be made on the first court date. The judge will generally place the child in temporary care of the CAS until the next court date without prejudice.
    - **at the same time the lawyer for the mother (or the mother herself) will ask for a date to be scheduled to argue temporary care, and by the time the date comes up the mother will have to have affidavit evidence ready to argue the children be returned if they have been apprehended and are not already in the parents’ care.**

# Plan of Action

- Contact a lawyer!
- You and your lawyer should consider forming a parenting plan immediately – be proactive
- Provide evidence demonstrating why your child should be returned to your custody

# Plan of Action

- Plan of action may include
  - Attending parenting groups, counseling, self-help programmes, or employment skills upgrading
  - Alternative placement for the child with friends or relatives if the mother is undergoing residential treatment
  - Request that the court grant a supervision order instead of taking your child into custody.

# Conflicts with Children's Aid

- It is important to maintain a positive relationship with your case worker.
  - Will enable you to communicate your goals and wishes with respect to your child's options more clearly
  - If you are experiencing difficulties with your case worker, the CAS has outlined the following steps to take.

# Conflicts with Children's Aid



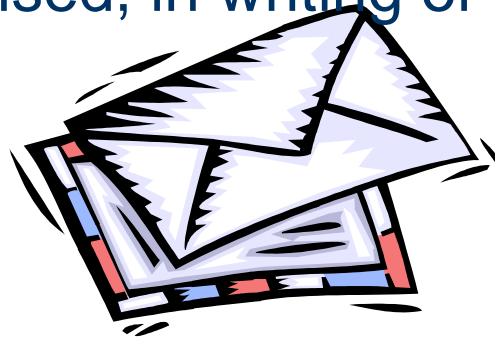
- Step One:
  - Discuss the complaint directly with the staff person involved to determine if there is an explanation or remedy.
- Step Two:
  - If the problem remains unresolved discuss the situation with the case worker's supervisor, or write a letter.
  - The supervisor will then speak with your case worker.
  - If the issue cannot be resolved, the supervisor will meet with you and the worker.
  - A decision will be mailed to you regarding your situation within 2 weeks time.

# Conflicts with Children's Aid

- Step Three:
  - If you are still dissatisfied with the decision that has been reached write a letter to the Department Director outlining your complaint.
  - Within two weeks the Director will arrange to meet with you.
  - You may bring a support person with you (friend, family member, lawyer)
  - The supervisor and case worker may also be present
  - Result of the meeting will be forwarded to you within 2 weeks time.

# Conflicts with Children's Aid

- Step Four:
  - If you still feel the matter is not resolved you may ask the Department Director to forward your complaint to the Executive Director.
  - The Executive Director will arrange for a meeting within the first two weeks, and in another two weeks you will be advised, in writing of the decision made.



# Conflicts with Children's Aid

- Step Five:
  - Last form of recourse is to ask the Executive Director to present your written complaint to the appropriate committee of the Board of Directors. Alternatively you may request a meeting with the committee.
  - The meeting will be scheduled within 30 days of your request.
  - You may bring one support person.
  - Within two weeks you will be notified in writing of the decision.

## Conflicts - continued

- If your complaint has not been resolved at this point, the letter from the committee will inform you of your rights under the *Child and Family Services Act*. It will also advise you of the process for arrange for a further review.
- The *Act* allows your complaint to be further reviewed by a Director appointed by the Minister of Community, Family and Children's Services.

# Conflicts – A Final Word

- If your complaint pertains to the conduct of your case worker, you must express the specific professional misconduct, incompetence or incapacity of the worker in a letter to the Complaints Committee.
- The complaint may not be “*frivolous, vexatious, or an abuse of process.*”

# Supervised Visitation



- If your child has been removed from your custody the judge may order supervised visitation.
- Supervised Visitation may occur at Children's Aid, a foster home, or with an independent service such as Merrymount Children's Centre in London, Ontario.

# Supervised Visitation

- Children's Aid:
  - Supervised visits at Children's Aid are arranged through the case worker.
  - Parents are able to visit their children while supervisors make notes regarding the parent-child interaction.
  - Visits may take place in meetings rooms, play rooms or in the playground at Children's Aid.

# Supervised Visitation

- Foster Home:
  - Supervised visits at foster homes allow the parent greater flexibility in timing visits, and may in some cases be conducive to more frequent and longer visits.
  - Visits are nevertheless supervised.

# Supervised Visitation

- Merrymount
  - The court may order supervised “access” to occur at an off-site campus called Merrymount
  - You may also request that supervised access take place here
  - Merrymount will arrange for a pick-up/drop-off arrangement that suits your needs and the other parties needs as best as possible.
  - For more information
    - 1064 Colborne Street, London, ON N6A 4B3
    - Phone: 519.434.6848

# Mothers' Rights – A Synopsis/Summary

- As soon as a problem arises you should contact your lawyer, case worker or the police as the case may be.
- Don't wait until a problem escalates. Be proactive.
- Emergency court hearings can be held on very short notice if need be but it is best to deal with problems before they arise.

# Mothers' Rights – A Synopsis/Summary

- You have the right to:
  - A lawyer
  - A fair and impartial hearing
  - Know the case against you
  - Protect your child

# Disclaimer

- Pro Bono Students Canada at the University of Western Ontario, Faculty of Law regrets that it cannot provide legal advice. This document contains a general discussion of certain legal and related issues only. Please consult with a lawyer for assistance with specific legal problems.

