

Information on the publication ban and protecting the privacy of children receiving child intervention services

The need to protect the privacy of vulnerable people is balanced with our responsibility to be open and accountable about the work we do and how we do it.

To help ensure the privacy of children and their parents or guardians, the *Child, Youth and Family Enhancement Act* and the *Protection of Sexually Exploited Children Act* prohibit the publication of specific identifying information in a manner that reveals the child's involvement with the child intervention system.

What does the publication ban cover?

The *Child, Youth and Family Enhancement Act*, section 126.2(1), prohibits the publication of the name and photograph of a child, or the child's parent or guardian, if the publication reveals that the child is receiving, or has received, intervention services.

The Act contains a definition of intervention services. These services include, but are not limited to, foster care, secure services, and enhancement services provided to a family in their home. For further clarification on what constitutes an intervention service, see s.1(1)(m.1) of the *Child, Youth and Family Enhancement Act*.

The *Protection of Sexually Exploited Children Act*, section 6.3(1), includes a similar publication ban. Under this legislation, help is available to children who are sexually exploited through prostitution.

Are there any exceptions to the publication ban?

There are circumstances in which the name or photograph of a child, parent or guardian can be published:

- The Director of Child, Youth and Family Enhancement believes it is in the best interests of the child or necessary for the proper administration of justice and consents to the publication.
- The child is 16 years of age or older and consents to the publication of his or her information. (Note: the child cannot consent to publication of the parent/guardian's information.)

- The court grants permission, upon application by an interested party, to publish the name or photograph of the child or parent/guardian on the basis that publication is in the child's best interests or in the public interest.
- The child is deceased. (Note: publication of the parent/guardian's information is not permitted)

The publication ban provisions do not prevent a parent from discussing their child's particular situation with the media; however, the consent of the Director, or an order of the Court, is needed to publish the name and/or photograph of their child in a manner that reveals the child is receiving or has received intervention services.

What is the penalty for breaching the publication ban?

The penalty for breaching the publication ban is a fine of up to \$10,000, or in default of payment, imprisonment for a term of up to 6 months.

If you are unclear about whether a story breaches the publication ban, you are encouraged to seek legal advice.

What does the legislation say?

- The legislation states specifically what information is captured by the ban: the name and/or photograph of the child or the child's parent or guardian, both of which cannot be published.
- The legislation clarifies which children are protected by the ban: a child who is receiving, or has received, intervention services.
- Interested parties, such as the media, may apply to the court for permission to publish protected information on the basis that publication is in the child's best interests or the public interest.
- A child 16 or older may consent to the publication of his or her information.

A child in care is missing.

- The name and/or photograph of child can be published as long as the child is not described as receiving child intervention services (i.e. a foster child or child in care).
- The child's residence cannot be referenced as "foster home" if the name and/or photograph of the child are used.
- Publication of a child's or parent/guardian's identity is only a breach when there is reference that the child is receiving, or has received, child intervention services.
- If it is important to the case that the child be identified as a foster child, consent must be obtained by the Director of Child, Youth and Family Enhancement prior to the name and/or photograph being published.

A youth in care is charged with a crime.

- Youth under the age of 18 charged with a crime cannot be identified under the *Young Offender's Act*.
- The youth may be referenced as receiving or having received child intervention services if their name and/or photograph, or the name and/or photograph of their parent/guardian, are not published.

A child in care is involved in an accident that is being publicly reported.

- The name and/or photograph of child can be published as long as the child is not identified as a foster child or child in care.
- Other people involved in the accident cannot be referenced as "foster parent, foster sibling" if the name and/or photograph of the child are used.

A foster parent is charged with a crime.

- The publication ban does not apply to caregivers who are not the parents/guardians of a child in care.
- The name and/or photograph of the foster parent may be published along with references to being a foster parent.

A family receiving child intervention services is profiled for their successful work at keeping their family together.

- The name and/or photograph of the parents or children cannot be published, however it is possible for the family to be interviewed and photographed in a non-identifying way (i.e. use pseudonyms or first names only).
- A child 16 or older may consent to the publication of his or her information, however the child cannot consent to publication of the parent/guardian's information.

A family wants to share their concerns about their involvement with child intervention services publicly.

- The Act does not prevent a non-custodial parent from discussing their child's particular situation publicly, but the name and/or photograph of the child receiving child intervention services or their parent/guardian's name and/or photograph cannot be published.
- Publication of a child's or parent/guardian's identity is only a breach when there is reference that the child is receiving, or has received, child intervention services.

A community program serving children and/or youth in care is being profiled publicly.

- If the program is described in a manner that does not identify it as providing services to children and/or youth in care or receiving child intervention services, names and/or photographs of the children can be used.
- The name and/or photograph of children receiving services from the program cannot be published if the program is described as providing services to children and/or youth in care.

A youth in care is graduating high school.

- A youth aged 16 or older can consent to have their name and/or photograph published along with information about the youth receiving child intervention services (i.e. referenced as a foster child or being in care).

A child receiving or having formerly received child intervention services has won a public award.

- The name and/or photograph of child can be published as long as the child is not identified as a foster child, child in care or having received child intervention services.