



CHILD PROTECTION AND THE CHILD'S RIGHT TO HUMAN MILK

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Introduction

Toolkit Use

We developed this toolkit to provide information for parents, guardians, lawyers, doulas, and support people to understand how a child's right to breastfeed impacts child protection cases. We outline the health and social benefits of breast and chestfeeding, what it means to protect the "best interests of the child", legal rights, and considerations for Indigenous peoples.

Language

Many of the articles cited in this toolkit use gendered language such as "mother" and "breastfeeding". Our toolkit avoids this language; providing human milk is not gender-exclusive.

The term 'Child Protection Services' is used to refer broadly to governmental systems intended to safeguard children from harm. Provincial systems may use different names such as Child Welfare Services or Children's Aid. Dr. Dorothy Roberts refers to this system as the family regulation system and family policing system, recognizing the harm caused to families from surveillance and child removal (Roberts, 2023).

Support

Navigating the child protection system is challenging and stressful. You can [access more information about legal aid programs in Canada by clicking here](#). For emotional support, [these mental wellness resources may help](#).

Benefits of Human Milk

The best interests of the child are a primary consideration in child protection cases. Access to human milk is in the best interests of the child and the lactating parent. Human milk provides optimal nutrition and promotes healthy development. Children who receive human milk have a significantly decreased risk for sudden infant death syndrome (SIDS), gastrointestinal infections, and respiratory tract infections (Dieterich et al., 2013). Breast and chestfeeding promotes bonding and attachment. It also carries physical and emotional benefits for the parent which reduce the risk of postpartum depression and type 2 diabetes. Promoting access to human milk is in the best interests of children and their parents.

Resources



Breastfeeding a Baby

A resource for parents about the benefits of breast and chestfeeding for both parent and child. There is also information on resources to assist with lactation.

NOTES: This resource is written in plain language for the general public and uses gendered language such as "mother".

[Access via the Government of Canada by clicking here.](#)



Breastfeeding in the 21st Century

An academic overview about the health benefits of lactation for parents and children which also discusses social and demographic factors that impact breast and chestfeeding.

NOTES: This is an academic paper, and uses complex language at times.

[Access via The Lancet by clicking here.](#)

Best Interests of the Child

The [United Nations Convention on the Rights of the Child](#) (UNCRC) is an international human rights treaty which outlines the rights of every person under the age of 18. Article 3 states that in all actions concerning child protection, the best interests of the child shall be a primary consideration. Article 24 states that the right of the child includes achieving the “highest attainable standard of health”, which includes human milk. Access to human milk must thus be considered in all child protection cases.

Resources



Rights of Children in Relation to Breastfeeding in Child Protection Cases

An academic paper intended for social workers which discusses the right to breastfeed and outlines two court cases. The authors provide important recommendations for child protection authorities to promote breast and chestfeeding.

NOTES: Complex language is used at times.

[Access via Oxford Academic by clicking here.](#)



Clinical Opinion Letters Regarding Breastfeeding and Neonatal Abstinence Syndrome for Child Apprehension Family Court Proceedings

A guide on the writing of clinical opinion letters in family court matters, especially in cases of newborn withdrawal from opioids, which includes information about barriers to breast and chestfeeding and the relevance of human milk in child protection cases.

NOTES: This article is directed toward clinicians such as doctors and nurses; as such, the author uses medical terminology and complex language.

[Access the PDF by clicking here.](#)

Legal Rights

The UN Convention on the Rights of the Child solidifies a child's right to health, including human milk. A Canadian court case, [Inglis v. British Columbia](#), is a landmark example of the Supreme Court supporting a parent's right to be with their child.

Inglis v. BC concerns the closure of a mother-child program which allowed children to stay with their incarcerated parents. The program was developed to continue bonding, breast and chestfeeding, and parental relationships.

The BC Supreme Court deemed this closure unconstitutional, citing the best interests of the child. The case was decided on the [Charter of Rights and Freedoms](#) Section 7: Right to Life, Liberty, and Security of the Person, as well as Section 15: Equality and Rights. The importance of human milk was upheld as a significant factor in child health and wellbeing.

More information about Inglis v. British Columbia

[News Article about the Court Decision and its Impact](#)

NOTES: This is written in plain language for the general public.

[Inglis v. BC Legal Documentation](#)

NOTES: This is a legal document and contains complex language.

[Inglis v. BC Case Summary](#)

NOTES: This is a plain language summary of the Inglis v. BC legal documentation.

Legal Resources

Understanding the legal rights of parent and child is essential in child protection cases. The following resources provide an overview of these legal rights in the context of human milk, and in a more general context.

More province-specific resources can be found on page 10.



Information for Families Involved in the Ontario Child Welfare System

This website, compiled by the Ontario Association of Children's Aid Societies, provides resources for families for an understanding of the child welfare system. Its expansive resources can be helpful to all Canadians, though this is not a substitute for legal advice.

NOTES: This resource is written for the general public.

[Access the website by clicking here.](#)



Promoting Access to Breastfeeding in Child Welfare Matters

A joint report by the Ministry of Children and Family Development and the Representative for Children and Youth. It includes a background on child protection services and parent-child support services in Alberta and BC. Considerations for Indigenous Peoples are discussed, and special circumstances for breast and chestfeeding are considered.

[Access the PDF by clicking here.](#)

Indigenous Families

Child protection services continue the genocidal impacts of residential schools, and disproportionately impact Indigenous families. In 2021, 54% of children under 14 in the foster care system were Indigenous, while Indigenous people represented 8% of the population. The Truth and Reconciliation Commission's first Call to Action addresses the overrepresentation of Indigenous children in the foster system.

First Call to Action

- 1. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:
 - i. Monitoring and assessing neglect investigations.
 - ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
 - iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.
 - iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.
 - v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.

(Truth and Reconciliation Commission of Canada, 2015, p. 1)

[Click here for the Assembly of First Nations report denouncing overrepresentation of First Nations children in Canadian Child Welfare](#)

Resources for Indigenous Peoples

INDIGENOUS CHILDREN AND THE CHILD WELFARE SYSTEM IN CANADA

An overview of the different welfare systems for Inuit, Métis, and First Nations families, on and off reserve. The authors outline culturally relevant services, and the role the government plays in each service. The authors also discuss the structural issues which contribute to Indigenous overrepresentation in child welfare systems.

[Access the PDF by clicking here.](#)

FAMILY LAW MATTERS

A short guide by Legal Aid Nova Scotia. Topics discussed consist of customary adoption, and Indigenous child protection services including the Mi'kmaw Family and Children's Services. The Indian Act and how it impacts the child welfare process is also discussed.

[Access the PDF by clicking here.](#)

KEEPING ABORIGINAL KIDS SAFE

The authors of this booklet provide information about the role of mediators and delegated Aboriginal agencies to work with families and the government. Important resources expand on court processes to understand Indigenous legal rights in BC.

[Access the PDF by clicking here.](#)

Additional Resources



**You are not
alone.**

**Support is
available for
you and your
family.**

The following are additional resources to help parents navigate the child protection system, including those who do not qualify for [legal aid](#).

Alberta: [I have been contacted by Children's Services \[PDF\]](#).

British Columbia: [Parents' Rights, Kids' Rights \[PDF\]](#).

Manitoba: [Fearless R2W \[Website\]](#).

New Brunswick: [What Parents Should Know About Child Protection \[Website\]](#).

Newfoundland: [An Introduction to Child Protection In Newfoundland and Labrador \[PDF\]](#).

Northwest Territory: [Child Protection \[PDF\]](#).

Nova Scotia: [Child Protection \[Website\]](#).

Nunavut: [Child Protection \[PDF\]](#).

Ontario: [Information for families involved in the Ontario child welfare system \[Website\]](#).

PEI: [Parents: Rights & Responsibilities \[PDF\]](#).

Québec: [Youth Services \[Website\]](#).

Saskatchewan: [Child Protection \[Website\]](#).

Yukon: [Child Protection \[PDF\]](#).

Conclusion

In all child protection cases, the best interests of the child is the priority. Access to human milk is an important component of health for child and parent. By understanding how the health benefits of human milk intersect with the rights of the child, we hope that parents are empowered as they navigate the Canadian child protection system.

We hope that the information and resources provided in this toolkit have been helpful. If you wish to see specific resources included, or if any links or resources become outdated, please let us know at the contact below.

Contact

Wellness Within
6579 Edinburgh Street
Halifax, NS
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<https://wellnesswithinns.org/>
womenswellnesswithinns@gmail.com



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RIGHTS TO HUMAN MILK

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