

# Publication Ban Regulation

Report submitted to the Standing Committee on Families and Communities on recommendations to inform the draft regulations as it pertains the removal of Publication Bans in the *Child, Youth and Family Enhancement Act* as a result of recent proclamation.

Rhonda Barraclough, BSW, M Ed., RSW

Executive Director, Alberta Association of Services for Children and Families



Alberta Association  
of Services for  
Children and Families

August 20, 2014

## Introduction

The Alberta Association of Service for Children and Families (AASCF) is a membership based organization dedicated to promoting the attitudes, practices and conditions that contribute to quality services for vulnerable children and families. We work to strengthen social policy and develop professional practices for service excellence.

Since January 2014 there has been much public discussion about the publication ban that existed in the *Child, Youth and Family Enhancement Act*. The AASCF understands that the publication ban was restrictive and encouraged the Ministry of Human Services to consider alternatives to its restrictive nature. At the same time, the AASCF is cautiously optimistic about a total lift of the publication ban. The caution comes as it does create an arena that can encourage others (media, disgruntled citizens, etc.) to make assumptions about the system as a whole rather than focusing on one child and one families needs at the time of death of that child. We have encouraged a more cautious approach to lifting the publication ban.

In July 2014, Bill 11 was proclaimed into law. The legal process currently in place for any family with children in care to apply for a publication ban with the courts if they wish remained in effect pending new regulations. The Standing Committee on Families and Communities - an all-party committee, has been asked to review the proposed regulation. They unanimously decided to hear directly from Albertans who would be affected by the rules, including families, caregivers, journalists and other stakeholders. Normally, regulations are drafted and enacted behind closed doors; this is the first time

government allowed for committee oversight. This submission is a response to this call for feedback from stakeholders.

### **Positive Developments**

Some of the positive aspects associated with the *Act* and the draft regulations are:

- The forms are relatively simple to complete and can be completed by the family without the need of a lawyer (including their costs and time);
- The activity can and will be held in Provincial Court allowing easier access ( this is relative as court is an anxiety raising activity regardless) for families to get the order they desire heard;

### **Concerning developments**

- Transparency of the child welfare system seems to be of utmost importance in the discussion of late. This is concerning given that many children who have died also have siblings in care, or other situations and they have a right to remain protected. Ensuring that the public are aware of the trends in child welfare is important but we must be extremely careful.
- The media has driven this change, and they do not have a regulatory body to ensure they are reporting in an ethical, competent and complete manner. This can encourage or allow for nasty journalism and fault finding exercises rather than a system that learns from each incident.
- Why does a family have to go to court? This model seems to have the onus on the grieving family, if there had to be due diligence on the part of the Statutory

Director (this was the AASCF original recommendation) in each case then they could go to court, on behalf of the family, for a publication ban.

- Why don't the media have to ask permission from the family to report on the situation? If we are truly concerned about a family's ability to grieve then it seems they should have to request the parents' permission.
- What happens when there are divergent opinions in a situation? For example, one parent doesn't agree with the other, or a First Nations community takes one position and the family another, or a family doesn't want media involvement and asked for a ban for that reason. How does a Judge make this decision? Judicial discretion can be very difficult and it is unclear if judges have been given guidelines or will set that course over time.
- Is there room for partial publication bans, where a family member or the Statutory Director can outline specific conditions that information can be released? Including what information can be released or not.
- How does one who has a literacy or language problem navigate the Provincial Court system to complete these forms in a timely manner? Is there a way to notify the media that an application is in process so they do not publish pending a family request to the court?

## **Conclusion**

The AASCF thanks the Standing Committee on Families and Communities for asking for a public review and offering to hear feedback from stakeholders. This is an example of government transparency for the sake of children and families in Alberta. If the

Committee is interested in hearing from us in an oral presentation we would be happy to do so. We can be contacted at [RBarracclough@aascf.com](mailto:RBarracclough@aascf.com).

We do encourage the Provincial Government and the Ministry of Human Services to consider the rights of children in care, their special circumstances as to why they came into care and the need to allow them to die with dignity. They are the primary person in all situations. While families need to grieve and we all need to learn lessons from situations where there may have been things done differently it still is about the child. We cannot have a system that fails children at the benefit of the media or the politics of the day.