



## BACKGROUNDER

### Part X - Child, Youth and Family Services Act, 2017

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- Part X was acclaimed on April 30, 2018; it comes into effect January 01, 2020.
- Part X seeks to strengthen privacy rights of those involved with the foster care system.
- It is a step in the right direction, but more work needs to be done.
- Part X does not define an access period to children's files; thus, files are searchable and accessible to child welfare staff indefinitely. This exposes foster children in ways the general public will rarely comprehend.
- After age-out, youth files ought to be sealed, names ought to be redacted in related documents, and third-party access after age-out ought to go through the courts if consent was not obtained.

#### Fighting to protect our records

- A lack of audit functionality has been an ongoing issue with the Child Protection Information Network (CPIN), the digital record-keeping system in development for use by the province's children's aid societies, and related software solutions.
- Ontario's Information and Privacy Commissioner (IPC) Brian Beamish said his position continues to be that CPIN must be changed so access to child protection records is audited in the same way as health records. He feels strongly about this and will continue to raise the issue with the Ministry of Children, Community and Social Services until there is a change.

#### Our records, our choice

- We agree with the Information and Privacy Commissioner's position that if child protection records are going to be shared with other service providers, young people in the child welfare system should provide their permission. Receiving services is not reason enough to disclose without consent.
- There are many horror stories of former youth-in-care having extreme difficulty accessing their own child protection records. Child welfare agencies or other service providers must respond to an individual making a request for his or her own records within a reasonable timeframe of 30 days (with the possibility of extension due to the scope).

- If the individual has not provided sufficient information for the records to be located, the obligation is on the service provider to follow up and request more details.
- We do not need to provide any reason for wanting to access our records and we are entitled to receive copies of our documentation.
- We are particularly concerned about the exception that would allow the children's aid society to not disclose and/or redact the records where there may be the risk of serious harm to an individual if the records are disclosed. This includes risk of serious harm to any individual, not only the requesting individual, and could include a children's aid society case worker. Alarming, it is not necessary to prove that harm would occur. We are closely monitoring how often this exception is relied on to refuse or limit requests for our own records.
- We are also concerned about the imbalance of power in the long and arduous complaints process involving our records, particularly because current and former foster children may not have the means or knowledge to make a complaint and continue through the potentially complicated and expensive process.

### Accountability

- We want to ensure the IPC annual reports that children's aid societies are obliged to contribute to on child protection record requests and corrections as of 2021 are made public.
- This would ensure children's aid societies are held accountable and to help identify any potential loopholes or gaps to ensure this important legislation works as intended -- to protect our privacy and allow us to access our own records.
- Part X ought to be further strengthened to protect the privacy rights of those who have aged out of care.

### Supplementary Reading

1. **Globe and Mail, Apr 9, 2019:** As a Crown Ward, apparently I have no right to my own story, by Meaghan Martin, Child Welfare PAC - <https://www.theglobeandmail.com/opinion/article-as-a-crown-ward-apparently-i-have-no-right-to-my-own-story/>
2. **The Toronto Star, Jul 7, 2018:** Protect the privacy rights of foster children, by Jane Kovarikova, Child Welfare PAC - <https://www.thestar.com/opinion/2018/07/07/protect-privacy-of-foster-children.html>

### What is the Child Welfare PAC:

The Child Welfare PAC is a federal not-for-profit that represents the interests of children raised by the government. The advisory board consists of professionals from academia, law, business, advocacy and public service who have lived experience in child protection systems. The complete advocacy agenda may be reviewed here: [www.childwelfarepac.com](http://www.childwelfarepac.com)