

April 3rd, 2013



VIA EMAIL

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Dear Party Leaders:

Re: Supporting BC's Low Income Children

Since 2002, the BC government has been clawing back every dollar of child support paid to families on social assistance. We call on you to commit to immediately create a \$300 exemption for child support payments received by social assistance recipients if you are elected and form government this May.

BC's child poverty crisis

First Call's 2012 Child Poverty Report Card for BC, which analyzes Statistics Canada data, shows that 119,000 children in BC – one out of every seven kids – are living in poverty. Nearly 20,000 of these children live with lone-parent mothers. In fact, the poverty rate for children living in families headed by lone-parent mothers was 21.5%, one of the highest poverty rates of any family type in the province.

It is a fundamental principle of family law that children have a right to support from their parents. The right to support endures any breakdown in the child's parents' relationship, and a child of separated parents has a right to receive child support from their non-custodial parent. Importantly, the Supreme Court of Canada has affirmed that the right to child support is the right of the child, not the parent.¹ **However, the provincial government is depriving children of their right to child support by taking that money away from children who live in low income single parent families – some of the most vulnerable children in the province.**

This is an issue of fairness; it is also an issue of equality. Children live in poverty primarily because their mothers live in poverty, which makes children's poverty a women's issue as well. Mothers make up the vast majority of custodial parents in Canada, and are much more likely to

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receive child support than fathers.² This reflects single mothers' challenges in maintaining paid work while also caring for their children, the fact that they may only be able to work part time, and the difficulties they may have finding affordable child care. Additionally, women tend to be paid less than men, and are more likely to be economically disadvantaged by the breakdown of a marriage.³

In addition, too many women in BC face the impossible choice of remaining in relationships characterized by violence and abuse, or leaving with their children to face poverty, insecure and unaffordable housing, and a lack of accessible child care. Meager social assistance rates place these lone-parent families well below the poverty line, and government policy preventing them from receiving child support helps keep them there. This untenable situation must be immediately addressed.

History of child support exemptions

Prior to 2002, lone parents on income assistance could receive up to \$100 per month in child support without impacting their assistance. The idea was that a limited exemption would create an incentive for parents to obtain a child support order against their ex-spouse, and to take steps to enforce that order. In 2002, that limited exemption for child support was eliminated and, since then, every penny of child support received by a parent on income assistance has been deducted from their assistance dollar for dollar.

A small cost saver for the Ministry has a big impact for families on income assistance

People on income assistance in BC already live far below the poverty line. In 2010, a lone-parent family with one 2-year old child received \$17,121 in assistance, which is \$11,061 below the Statistics Canada poverty line. The poverty rate for BC children living in families headed by lone-parent mothers is one of the highest poverty rates among any family type in BC, at 21.5%.

In January 2013, almost 18,000 single parent families received income assistance in BC. Seventy percent of those families received temporary income assistance (the category of assistance with the lowest rates – the base rate for a single parent with one child is \$945.58). According to the Ministry of Social Development, approximately 4,000 of these families received child support payments that were clawed back from their income assistance payments dollar for dollar.

The Ministry has said that it claws back approximately \$15 million dollars in child support payments from income assistance recipients each year. This represents less than 1% of the Ministry's total budget for income assistance. However, if divided equally between the 4,000 affected families, this would add \$3,750 to their annual budget, a significant amount to a family in poverty.

Claw back discourages payment

It is not difficult to see how the complete claw back of child support payments would discourage non-custodial parents – usually fathers – from making those payments, given that any payment made goes directly to government and results in no net increase in financial support for the children. As confirmed by the recent report of the Commission for the Review of Social Assistance in Ontario⁴, paying child support so that the government can save some money is hardly a great incentive. The Ministry of Social Development requires child support recipients to

“assign” their maintenance rights to the government as a condition of receiving income assistance. Thus, the government is empowered to pursue unpaid amounts from the payor through the Family Maintenance Enforcement Program. Registration in the Family Maintenance Enforcement Program is voluntary for all other parents who are not receiving income assistance.

Pursuit of unpaid child support can have dangerous consequences for women who have fled abusive relationships. It can trigger retaliatory behaviours on the part of the payor, including physical violence, threats, and emotional abuse. Family Maintenance Enforcement workers have discretion to delay enforcement action if the recipient or worker believes that it will precipitate violence or the threat of harm, but women may not be prepared to report the potential for abuse. The Commission for the Review of Social Assistance in Ontario recently recommended that social assistance recipients, like other parents, be able to choose whether or not to pursue child support, based on their individual family circumstances.

The Ministry doesn't pay the majority of child benefits

A look at how Ministry welfare rates work illustrates the unfairness of clawing back child support payments: most of the financial support many recipients receive for their children comes from the federal National Child Benefit program, not the Ministry of Social Development.

The Ministry provides a portion of monthly assistance for shelter costs, and that amount is based on the number of people in the family, regardless of age. A single person gets \$375 per month for shelter costs, a two person family gets \$570, a three person family gets \$660, and so on. The shelter amount continues to increase by \$35-\$50 per additional family member. So in terms of shelter benefits, the Ministry is providing some financial assistance for children in a family unit, simply because the family unit is larger. The amount of that assistance depends on how many people are in the family, but regardless of family size, the shelter rates are radically insufficient to meet the costs of housing in Vancouver in particular, as well as across the province.

The larger issue involves the second portion of monthly assistance provided by the Ministry, which is intended to cover basic living necessities. This portion does not increase based on the number of children in the family. A single person gets \$235.00, and a single person with any number of children gets \$375.58. Beyond the increase for simply being a single-parent family with children, **there is no additional monthly assistance paid by the Ministry for the children.**

Most families receive much of the support for their children through the federal National Child Benefit program and other federal benefits. Federal payments to families more than doubled over the last two decades, while provincial payments declined significantly.

Long story short, many families are getting only minimal or partial financial support for their children via the Ministry of Social Development, yet the Ministry deducts child support from the benefits it pays out, regardless of the amount of that support.

The bottom line

The shocking level of child poverty in BC is well known. While the remedy to that problem may be multi-faceted, one thing seems certain: families with children in receipt of income assistance

are living well below the poverty line. Tens of thousands of BC children are living in poverty, and the claw back of child support from parents on income assistance is part of the problem. As long as welfare rates remain so low, reintroducing an exemption for child support payments would allow struggling lone parent families on income assistance to use the support payments for their intended use – to financially support children.

Essentially, the Ministry treats child support payments as income to the parent, and deducts it accordingly. In 2012, the BC government restored a number of other earnings exemptions that were cancelled in 2002. A government backgrounder said that this “common sense change” would give recipients a better opportunity to provide for their families while receiving assistance. The same logic ought to be applied to child support payments.

We call on you to commit to amending the *Employment and Assistance Regulation* and the *Employment and Assistance for Persons with Disabilities Regulation* to add an unearned income exemption for child support payments up to \$300 per family unit per month.

Thank you for your attention to this urgent matter for BC children and families. We would be pleased to meet with you to discuss implementation of this recommendation.

Yours truly,



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First Call: BC Child and Youth Advocacy Coalition



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¹ *D.B.S. v. S.R.G.* 2006 SCC 37 at para. 38.

² Lorne D. Bertrand et al., Phase 2 of the Survey of Child Support Awards: Final Report (Department of Justice, 2005).

³ See Women's Legal Education and Action Fund, “Equality Rights in Family Law: Spousal and Child Support” online: <<http://leaf.ca/education/documents/FamilyLawBook.pdf>>.

⁴ Brighter Prospects: Transforming Social Assistance in Ontario at page 93, online: <<http://www.socialassistancereview.ca/final-report>>