

Ministry of Children and Youth Services
Bill 117: *The Provincial Advocate for Children and Youth Amendment Act, 2015*

Question and Answers
June 6, 2016

1. What is the role of the Provincial Advocate for Children and Youth (PACY)?

In Ontario, PACY is accountable directly to the Legislature and governed by the [*Provincial Advocate for Children and Youth Act, 2007*](#) (PACY Act). The PACY Act gives PACY the authority to provide advocacy services, including advocacy to children and youth who are seeking or receiving approved services under the *Child and Family Services Act* (CFSA) and to children who are pupils of provincial schools for the deaf, schools for the blind or demonstration schools under the *Education Act*. Under the PACY Act, PACY's office also has the authority to investigate matters relating to services provided by Children's Aid Societies and Indigenous Societies (societies) and residential licensees where a society is the placing agency.

2. How does *Bill 117: Provincial Advocate for Children and Youth Amendment Act, 2015*, amend the PACY Act?

Bill 117 amends the PACY Act, to include an obligation on service providers, to:

- a. inform PACY in writing and without unreasonable delay after they become aware of the death of, or serious bodily harm incurred by, a child or youth, where the child or youth, or the child or youth's family, has sought or received services from a society, within 12 months of the death or incurrence of harm;
- b. provide PACY with a summary of the circumstances surrounding the death or serious bodily harm when reporting the death or serious bodily harm;
- c. inform the parents of a child or youth that has died or suffered serious bodily harm about PACY's office and provide PACY's contact information; and
- d. inform a child or youth who has suffered serious bodily harm about PACY's office and provide PACY's contact information.

3. Who will be impacted by the new amendments to the PACY Act?

The amendments to the PACY Act impact all services providers as defined under the *Child and Family Services Act* (CFSA):

A "service provider" is defined under the CFSA to mean:

- (a) the Minister,
- (b) an approved agency,
- (c) a society,
- (d) a licensee, or

(e) a person who provides an approved service or provides a service purchased by the Minister or an approved agency,

but does not include a foster parent.

This includes all the Ministry of Children and Youth Services funded and/or licensed agencies as well as the staff in directly-operated facilities (Child and Parent Resource Institute (CPRI) and Youth Justice) and Probation Services.

4. What is the process for reporting a child death or serious bodily harm to PACY?

PACY must be informed without unreasonable delay after becoming aware of the incident of serious bodily harm or a child death. Service providers must report the death of a child or incurrence of serious bodily harm to PACY's office using the corresponding reporting template form created by PACY's Investigative Unit and located on the following webpage:

<http://provincialadvocate.on.ca/main/en/investigations/dsbh/>.

For more details on what to include when making a report, PACY's suggested definition of "serious bodily harm" and more general information on the amendments to the PACY Act, visit the following website:

<http://provincialadvocate.on.ca/main/en/investigations/dsbh/>, or contact: Diana Cooke, Director of Investigations, PACY at: diana.cooke@provincialadvocate.on.ca or (416) 325-9781, or Savas Kyriacou, Manager of Investigations, PACY at: savas.kyriacou@provincialadvocate.on.ca or (416) 325-9463.

Youth Justice Services Division ministry staff requiring more details are to seek advice from their manager.

5. What information should be provided to children or youth and parents or their legal guardians, regarding services provided by PACY's office?

Service providers should follow direction from PACY's office on what information to provide to children or youth and parents or legal guardians following a child death or incurrence of serious bodily harm. PACY's office has developed a script for service providers to follow when speaking with children and parents as well as contact cards for distribution which are available for request on PACY's website at:

<http://provincialadvocate.on.ca/main/en/investigations/dsbh/>.

6. What is the definition of "serious bodily harm"?

PACY's office has developed a definition of "serious bodily harm" and a list of FAQ which can be found on their website at the following link:

<http://provincialadvocate.on.ca/main/en/investigations/dsbh/>.

7. If a death or an incident of serious bodily harm has occurred prior to June 10, 2016, should it be reported to PACY's office?

Only those incidents that come to the service providers' attention from June 10, 2016 and onwards will have to be reported to PACY's office. For example, if a service provider becomes aware of a child death or serious bodily harm in July 2016 and the incident occurred during the calendar year of 2015, the service provider would be required to report this information to PACY's office as long as the child or his/her family had sought or received a society service within 12 months of the date of the death or incurrence of harm.

8. What privacy provisions apply when reporting and providing information to PACY's office?

Existing privacy provisions outlined in section 20 of the PACY Act will continue to apply to PACY's collection, use and disclosure of personal information. Section 20 requires that PACY obtain the consent of the individual or person who is authorized to consent on behalf of the individual when collecting personal information indirectly from an agency or service provider, unless PACY is conducting an investigation.

In addition, service providers must still comply with all other privacy legislation, where applicable, such as the *Freedom of Information and Protection of Privacy Act, 2004*, *Personal Health Information Protection Act, 2004* and the *Youth Criminal Justice Act*.

9. Will the amendments replace existing ministry requirements to submit Serious and/or Enhanced Serious Occurrence Reports (SOR/ESORs) or Employee/Other Information Reports?

No, ministry requirements will not change.

Service providers will be required to continue providing SOR/ESORs to the ministry within 24 hours of becoming aware of an incident or within 3 hours of becoming aware of an incident in the case of an ESOR.

Youth Justice Service Division (YJSD) service providers will be required to continue to following existing Serious Occurrence Reporting standards, policies and procedures in the Youth Justice Services Manual (YJSM). Please note, that YJSD will review relevant standards, policies and procedures in the YJSM to identify where revisions may be needed to further support this new requirement.

10. Will the amendments replace existing ministry requirements under the Joint Directive on Child Death Reporting and Review?

No. The requirements as established under the Joint Directive on Child Death Reporting and Review (Joint Directive) will remain unchanged.

11. Does reporting a child death or incident of serious bodily harm to PACY's office nullify an agency or service providers' legal duty to report a suspicion of child abuse and/or neglect under section 72 of the CFSA?

No. Everyone, including professionals who work closely with children and youth, has a legal duty to report suspected cases of child abuse and/or neglect directly to a society. For more information on recognizing the signs of, and reporting, child abuse and neglect, and for contact information of all Ontario societies, please visit the Ministry of Children and Youth Services' website at:
<http://www.ontario.ca/stopchildabuse>.

12. How does PACY's new investigative authority relate to the new reporting requirements under Bill 117 – the *Provincial Advocate for Children and Youth Amendment Act, 2015*?

In December 2014, the Legislature passed the *Public Sector and MPP Accountability and Transparency Act, 2014* (Bill 8) to strengthen political accountability, enhance oversight, and increase transparency across government and the Broader Public Sector. This Act amended the PACY Act to provide PACY's office with new authority and powers, similar to those of the Ontario Ombudsman, to investigate certain services provided to children receiving services from a society or a residential licensee where a society is the placing agency.

13. How will compliance be monitored?

PACY's office plans to educate and increase awareness among services providers of their new reporting responsibilities. At this time, it is not the intention of PACY to initiate prosecutions under the offence provisions for service providers that are non-compliant. Service providers will be required to identify in their Serious Occurrence Reports (SORs) that they have notified PACY's office of the incident.