

# Non-Smokers' Rights Association Smoking and Health Action Foundation

March 2008

## Child Protection, Foster Care and Second-hand Smoke

It is widely documented that children exposed to second-hand smoke (SHS) are at an increased risk for sudden infant death syndrome (SIDS), ear problems, acute respiratory infections, and the onset and worsening of asthma.<sup>1,2</sup> Over 350,000 Canadian children under the age of 12 continue to be regularly exposed to SHS.<sup>3</sup> The latest U.S. Surgeon General's report on SHS states that, "*the dominant site of exposure for children is the home...*"<sup>4</sup>

<sup>1</sup> U.S. Department of Health and Human Services. *The health consequences of involuntary exposure to tobacco smoke- A report of the Surgeon General*, 2006.

<sup>2</sup> California Environmental Protection Agency. *Proposed identification of environmental tobacco smoke as a toxic air contaminant*, 2005.

<sup>3</sup> Canadian Tobacco Use Monitoring Survey. *Summary of annual results for 2006*.

<sup>4</sup> U.S. Department of Health and Human Services. *The health consequences of involuntary exposure to tobacco smoke- A report of*

Children's exposure to SHS in foster care is an emerging and controversial issue. Foster children (at last count 76,000 Canadians<sup>5</sup>) are wards of the state, and provincial and territorial governments have a responsibility to ensure that they are placed into safe and healthy foster care environments. The rights of smokers need to be balanced against the rights of children, many of whom come into care with neglected or impaired health but who have the right to be healthy.<sup>6</sup> A smoke-free foster home means that smoking is only permitted outside, versus a non-smoking home where no-one smokes. Smoke-free foster home laws and policies protect

*the Surgeon General*, 2006, p.135.

<sup>5</sup> Canadian Foster Family Association, 2008.

<sup>6</sup> The Fostering Network (UK). *Foster carers and smoking policy paper* 2007. [www.fostering.net/resources/documents/health/smoking\\_policy\\_june07.pdf](http://www.fostering.net/resources/documents/health/smoking_policy_june07.pdf).

children who can't advocate for themselves and who have little or no control over their environments. Such measures are also in line with other smoke-free laws pertaining to the public care of children. Protection should be consistent, regardless of the circumstance—daycare, institutional care, residential care, foster care or adoption. Indeed, smoke-free foster care is also consistent with the health messaging in existing smoke-free workplace and public place legislation across Canada. Rules preventing smoking around foster children also encourage positive role modeling. Studies on the impact of parental smoking have demonstrated a significant increased risk of adolescent smoking.<sup>7</sup>

<sup>7</sup> Tyas SL, Pederson LL. Psychosocial factors related to adolescent smoking: a critical review of the

Some organizations have also correctly identified that fostering agencies need to recognize the risk of potential legal action if a child develops health problems related to SHS while in foster care.

There are currently no laws in Canada that protect foster children from SHS. Jurisdictions including Arizona<sup>8</sup>, Illinois<sup>9</sup>, Maine<sup>10</sup>, Montana<sup>11</sup>, New Jersey<sup>12</sup>, North Dakota<sup>13</sup>, Oregon<sup>14</sup>, Texas<sup>15</sup> and Washington<sup>16</sup> have laws requiring smoke-free foster homes and vehicles. Of particular interest are Washington State and Illinois, which recognize a private foster care home as a public place and a workplace, respectively. A handful of other U.S.

---

literature. *Tobacco Control* 1998;7:409-420.

<sup>8</sup> Arizona Admin.Code. 6-5-7465 (2006).

<sup>9</sup> Smoke-free Illinois Act, 2008.

<sup>10</sup> Code of Maine Rules. 10-148 Ch. 16, S. 9 (2004).

<sup>11</sup> Admin. Rules of Montana. 37-51-825 (13) (2006).

<sup>12</sup> New Jersey Admin. Code. 10-122C-7.2(a)3 (2006).

<sup>13</sup> North Dakota Admin. Code. 75-03-14-04 (2007).

<sup>14</sup> Oregon Admin. Rules. 413-200-0335, 7(a), (b) (2001).

<sup>15</sup> Texas Admin. Code. 40-749-2931 (2007).

<sup>16</sup> Washington Revised Code. *Smoking in public places act*. 70-160-011 (2005).

jurisdictions have various regulations requiring some level of smoking restriction. In Canada, only Alberta<sup>17</sup> and New Brunswick<sup>18</sup> have provincial-level written policies in place that require smoke-free foster homes and vehicles. A checklist used in the Yukon<sup>19</sup> asks if foster parents smoke outside their home and vehicle, but this is an assessment tool only. Similar tools used in other Canadian jurisdictions are very likely employed. In Ontario, the Frontenac Children's Aid Society has passed the most progressive policy in the country. Children of any age are placed in smoke-free or non-smoking homes, but children under 2 and those with medical conditions exacerbated by SHS are placed only in non-smoking homes.<sup>20</sup> New recommendations from the British Association for Adoption and Fostering advise that

---

<sup>17</sup> Alberta Children's Services. *Foster care policy*. (2005).

<sup>18</sup> Department of Family and Community Services. *Family foster care standards*. (2005).

<sup>19</sup> Yukon Health and Social Services. *Foster home health and safety checklist*.

<sup>20</sup> Frontenac Children's Aid Society. *Policy # FC 3.26* (2007).

children under the age of 5 not be placed with non-related foster parents who smoke. This makes sense, due to young children's heightened vulnerability to SHS and the fact that they spend most of their time physically close to those who care for them. In addition, children with disabilities who are physically unable to play outside, and those with asthma or other health conditions made worse by exposure to SHS, should never be placed with families where smoking occurs.<sup>21</sup>

The NSRA supports smoke-free laws that protect children in foster care. In the absence of such laws, all fostering agencies in Canada should adopt policies to protect children from SHS in their care. Anecdotal reports indicate that such laws and policies have not resulted in a decrease in the number of available foster homes. Smokers should not be denied the opportunity to foster outright, but children's health should always be a primary concern when placement decisions are being made.

---

<sup>21</sup> British Association for Adoption and Fostering. *Practice Note 51*. (2007)