



Public Legal Education  
and Information Service  
of New Brunswick

Who's Minding the Kids?

# A Sitter's Guide



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*This pamphlet does not contain a complete statement of the law on this topic and laws change from time to time. If you need specific legal advice, consult a lawyer.*

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This pamphlet deals with some legal concerns about caring for children. The focus of this pamphlet is the teenage babysitter. It is intended to make a young person think and ask questions before they take a babysitting job. The pamphlet looks at the rights and responsibilities of sitters when they care for children. Other pamphlets on this subject are **Homecare Guide** and **A Parent's Guide**.

### **How can I prepare myself for a babysitting job?**

Before you stay alone with someone's children you should know and understand what the parents expect of you. Ask any questions you have about their instructions. Talk about things like rate of pay, disciplining of children and how to get in contact with the parents. Before the parents leave the house know how to deal with any problems which may arise. Find out about any special needs the children may have (such as medication). Prepare yourself to provide the best care possible.

If the children you are babysitting are using computers and surfing the Internet, it is also important to ask the parents if there are specific instructions on Internet usage. This includes what games they are allowed to play, websites or chatrooms they can visit, and use of instant messages. Check out resources like the RCMP's online toolkit **[www.Internet101.ca](http://www.Internet101.ca)** which offers safety tips that help shield children from adult sites, pornography and other dangers on the Internet.

Babysitting courses can be very helpful to prepare you for the responsibility of caring for children.

### **When am I old enough to babysit?**

The *Family Services Act* of New Brunswick says that a child under the age of twelve years cannot be left alone. This means that if you are under the age of twelve you are too young to babysit someone's children. Other than this, the law does not say who may babysit and at what age.

However, the law does say that children must be left under reasonable care, supervision and control. Parents must leave their children in the care of a person who can properly look after them. Your ability to care for children depends on things like your age and maturity, your training and experience, the number of children and their ages, the length of time you will be alone with the children and any special needs they may have.

### **Should I be paid minimum wage?**

Provincial labour laws relating to age and minimum wages do not apply to babysitters. Each babysitting job you take is a contract with the parents. You must come to an agreement with them on the terms of the contract, such as pay. Find out the going rate in the community and negotiate your pay before the parents leave the house.

### **What are my responsibilities?**

When you care for children you have certain legal responsibilities. These include:

- You must supervise and care for the children in your charge and protect them from harm.
- You must never do any physical or emotional harm to the child.
- You must make sure the children in your care do not cause harm to others.
- You must take care not to damage any of the parent's property.

If you intend to drive with children in the car the *Motor Vehicle Act* says you **MUST** make sure that all passengers under the age of sixteen are properly buckled up. Infants and younger children must be properly secured in a child seating and restraint system as required by law.

If the children in your care are riding bicycles, they must be wearing proper bicycle helmets with the chin straps fastened.

## **What happens if something goes wrong?**

Even an experienced babysitter can run into problems when left alone with children. These are often minor injuries or property damage. Sitters can usually settle such problems by talking them over with the parents. If serious damage or injury does occur parents and sitters may find themselves involved with the legal system.

Parents could sue a babysitter for damage caused by an '**intentional wrong**'. A babysitter guilty of an **intentional wrong** would have to pay for any losses and expenses that he or she caused. An example of an intentional wrong would be deliberately

harming the child in your care or damaging the parents' property.

Parents can also sue for damages for harm caused by a babysitter's '**negligence**'.

**Negligence** is the failure to take reasonable care. For example, if you neglect your duty to supervise children in your care and they are harmed because of this, you could be sued for negligence. Also, if you carelessly damage the parents' property (such as starting a fire by smoking) you may have to pay for the damages that result.

When a court decides whether or not a young person is negligent, it asks whether that person acted properly for his or her age, maturity and experience. If you did not act according to that standard, you could be found negligent by a court. If you take **reasonable care** not to damage anything or injure anyone then you are not likely to be found negligent if there is an accident.

### **Are my parents responsible for my actions?**

In most cases you will be fully responsible for any intentional or negligent wrongs you may do. But if your parents allowed you to babysit knowing you could not handle the responsibility, then they could be responsible for your actions. In other words they will only be responsible if they are negligent.

### **Am I responsible for the children's actions?**

As a babysitter you stand in the place of a parent. If you do not supervise the children you would be negligent. If the children caused damage or harm to someone because

you did not take care, then you may be held responsible. You could be made to pay for the damages.

### **What do I do when the children misbehave?**

From time to time you may have to discipline children to properly control and supervise them. It is **never** advisable to strike a child in your care. Even if you did not injure the child you could be charged criminally or sued.

Ask the parents about potential behaviour problems and how they want you to deal with them.

### **Is there anything else I should know?**

If you think a child in your care may be abused discuss it with your parents or another responsible adult. Children depend on their parents and care givers to look after them and protect them from harm. The law says that anyone with reason to believe that a child is being abused or abandoned must report this. Failure to do this is an offence. Abuse should be reported to the local Child Protection Branch of the **Department of Social Development**. The number to call is **1-888-99-ABUSE**.