

CARE AS A COVER: REFORM TO ADDRESS FACTITIOUS DISORDER IMPOSED ON ANOTHER IN CANADIAN LAW

Andie Hidlebaugh
J.D. Candidate 2026
College of Law, University of Saskatchewan



INTRODUCTION

Factitious Disorder Imposed on Another (FDIA) is a form of medical child abuse in which a caregiver deliberately fabricates, exaggerates, or induces illness in a dependent person. The abuse is driven by deception, not external gain.

Canadian law does not explicitly recognize FDIA. Courts and child protection agencies must force these cases into general categories of abuse that were not designed for medical fabrication.

The result is doctrinal instability, evidentiary difficulty, and inconsistent protection for children.

Canada requires explicit criminal and child protection reform, along with a coordinated medical-legal framework, to address this hidden and dangerous form of abuse.



WHAT IS FDIA?

Factitious Disorder Imposed on Another (FDIA), previously known as Munchausen Syndrome by Proxy, is a DSM-5 recognized psychiatric disorder in which a caregiver:

- Falsifies, exaggerates, or induces illness in a dependent person
- Presents the victim as ill or impaired
- Acts deceptively without obvious external reward
- Is not better explained by another mental disorder

The diagnosis attaches to the perpetrator, not the child. The child is typically categorized under general abuse labels (physical, psychological, neglect).

- Canadian prevalence is unknown due to deception, but FDIA is considered rare.
- In hospital settings estimates show ~1% of patients/caregivers meet factitious criteria.
- **6-10% victim mortality rate**
- **~97%** of perpetrators are female; **~96%** of victims are their children.
- Mean age of presentation: ~27 years.
- Many perpetrators have or claim health-related occupations.
- **17-50%** re-abuse upon reunification

METHODOLOGY

CLINICAL LITERATURE REVIEW - DSM-5 diagnostic criteria and peer-reviewed psychiatric scholarship (published case reports and clinical commentary), within Canada and abroad.

CASE LAW REVIEW - Publicly Available Canadian decisions from the past ~25 years referencing FDIA or Munchausen by proxy. Jurisprudence addressing criminal negligence, bodily harm, causation, privacy, Charter considerations, and evidentiary standards.

CRIMINAL CODE ANALYSIS - Statutory interpretation of Criminal Code to assess how deception-based medical harm fits within existing offences.

CHILD PROTECTION LEGISLATION - All Provinces and Territories. Compared definitions of physical harm, emotional harm, neglect, and assessment powers to identify statutory gaps.

PSYCHIATRIST INTERVIEW - Semi-structured consultation with a practicing psychiatrist to clarify diagnostic thresholds, documentation practices, and treatment realities.

MEDICAL-LEGAL TENSION

DIAGNOSIS & STRUCTURAL LIMITS

- FDIA is rarely confirmed through a single incident. Diagnosis depends on pattern.
- Clinicians track discrepancies between caregiver reports and objective findings across repeated admissions.

Separation from caregiver

- Symptoms frequently resolve when contact is restricted.
- Separation functions as a diagnostic test.
- Child Protection statutes need to be invoked for any substantial separation

Covert Video Surveillance (CVS)

- Used in high-risk cases.
- Confirmed abuse in 56% of suspected cases

CANADIAN LEGAL BARRIERS

- CVS engages s. 8 Charter privacy protections.
- Hospital rooms attract a high expectation of privacy
- Authorization requires a general warrant under s. 487.01 Criminal Code. Investigators must show reasonable grounds that a specific Criminal Code offence is being committed.
- The Criminal Code contains no standalone offence for medical child abuse.
- Where harm arises through deception rather than direct force, meeting this threshold becomes difficult.

DUTY TO REPORT

All provinces and territories impose a statutory duty to report when a child may be in need of protection. Health professionals must report reasonable grounds to suspect abuse or neglect. The difficulty in FDIA cases is classification.

- Most reporting provisions focus on physician, sexual and emotional abuse, or failure to provide adequate care.
- Clinicians may recognize medical inconsistency but remain uncertain whether the threshold for reporting has been met.
- Uncertainty about whether FDIA fits within statutory definitions can delay reporting, especially in early-stage cases where proof is incomplete.

CHILD PROTECTION GAP

Provincial statutes define a “child in need of protection.” Across provinces and territories, that definition typically includes situations where:

- A caregiver fails to provide necessary medical treatment
- A child suffers physical harm caused by neglect
- A child faces risk because of inadequate supervision
- A caregiver is unwilling or unable to meet basic needs

The statutory architecture assumes harm arises from lack of care. FDIA does not fit that model. The caregiver is not failing to obtain treatment. The caregiver is manufacturing symptoms and actively pursuing medical intervention. The harm flows from induced illness and unnecessary treatment.

In *S(B) v Director of Child, Family and Community Services*, the court accepted that medical interference could satisfy the statutory definition of harm. The child’s condition improved after separation. The statute did not expressly contemplate fabricated illness. The court reached the result through inference and expert evidence.

LIMITED AUTHORITY TO COMPEL PSYCHOLOGICAL ASSESSMENT

- Only four provinces explicitly authorize courts to order psychological assessment of a caregiver in protection proceedings.
- Most jurisdictions provide no clear authority to compel early assessment, even though caregiver behaviour is central in FDIA cases.
- Authority is inconsistent, unclear, or reactive rather than embedded in statute.
- This inconsistency undermines uniform child protection across provinces.

CRIMINAL LAW GAP

The Criminal Code contains no offence that directly addresses medical child abuse.

When FDIA involves clear physical act, such as suffocation, poisoning, or force, existing provisions apply:

- Assault (s. 265)
- Aggravated assault (s. 268)
- Administering a noxious substance (s. 245)

Many FDIA cases involve no direct physical contact. The caregiver fabricates symptoms. The medical system becomes the instrument of harm. In these cases:

- No direct application of force
- No direct administration of a substance by caregiver
- No obvious violent act

Prosecutors must rely on criminal negligence (s. 219) combined with the duty to provide necessities of life (s. 215).

R v JF - Criminal negligence requires a marked and substantial departure from the standard of care.

Unnecessary medical testing, performed by licensed professionals in controlled settings, may not clearly meet the statutory threshold of “bodily harm.”

Deception → Medical decision → Risk to child.

The law was not drafted for harm that flows through medical manipulation rather than physical violence.

CONSEQUENCES OF THE GAP

- Uncertain charging decisions
- Inconsistent verdicts
- Conduct reduced to “carelessness”
- No clear legal recognition of medical deception

Without a named offence, the law cannot fully express the wrongdoing.

PROPOSED LEGISLATIVE AMENDMENTS

FEDERAL REFORM - CRIMINAL CODE

Create a distinct offence of Medical Child Abuse (Factitious Disorder Imposed on Another). The offence should criminalize knowingly fabricating, exaggerating, or inducing illness in a child, including deception that results in unnecessary medical assessment or treatment. “Harm” should expressly include exposure to medical intervention and foreseeable medical risk created through misrepresentation.

CHILD PROTECTION LEGISLATION REFORM

Amend provincial statutes to expressly include fabricated or induced illness within definitions of a child in need of protection. The definition should recognize harm arising from unnecessary medical treatment and risk created through caregiver deception.

STATUTORY AUTHORITY FOR PSYCHIATRIC ASSESSMENTS

Provide clear legislative authority to order caregiver psychological assessments where medical child abuse is alleged. The statute should permit assessments where necessary to determine whether the child faces ongoing risk.

REPORTING CLARIFICATION

Amend reporting provisions to expressly include fabricated or induced illness as a reportable category of harm. Statutory language should clarify that deception creating medical risk triggers the duty to report.



Please Scan QR Code for References

