

Parents' Rights, Kids' Rights

A parent's guide to child protection law in BC



February 2004



Legal
Services
Society

British Columbia
<http://www.lss.bc.ca>

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1st edition: 1997, reprinted 1998

3rd edition: 2004

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This publication explains the law in general. It is not intended to give you legal advice on your particular problem. Because each person's case is different, you may need to get legal help.

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This booklet is a publication of the Legal Services Society (LSS). LSS is a non-government organization that provides legal aid to low-income British Columbians. LSS is funded by the provincial government, the Law Foundation, the Notary Foundation, and, indirectly, the federal government.

National Library of Canadian Cataloguing in Publication Data

Reid, Gayla.

Parents' rights, kids' rights : a parent's guide to child protection law in B.C. -- 3rd ed.

"Writer, Gayla Reid. Editor: Jacqueline Wood."--P.

ISBN 0-7726-5163-9

1. Guardian and ward -- British Columbia - Popular works. 2. Children - Legal status, laws, etc. - British Columbia - Popular works. 3. Child welfare - Government policy - British Columbia. 4. Parent and child (Law) - British Columbia - Popular works. I. Wood, Jacqueline. II. Legal Services Society of British Columbia. III. Title.

KEB208. R44 2004

346. 71101'8

C2004-960051-6

KF553. Z9R44 2004

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Who this booklet is for

This booklet is for parents or guardians of a child. It's written to help you if the BC Ministry of Children and Family Development (the ministry) removes your child from your home or tells you it has concerns about your child's safety and well-being. If this happens, you'll likely feel afraid, or angry, or confused, or judged.

This booklet explains what your legal rights and responsibilities are, what the court process is like, and where you can get legal help. Other family members and advocates in your community may also find this booklet useful.

When this booklet uses the word **parent**, it means a person who is responsible for a child's care. This could be the child's mother or father, or another relative the child lives with, or a guardian. A **guardian** is any person who has been given legal authority to act as a parent.

What this booklet is about

There are three parts to this booklet:

Part 1 deals with what happens when the ministry has concerns about a child. It explains —

- what the law says parents must provide for children,
- what your rights are when a social worker investigates,
- what an agreement with the ministry is, and
- how to make an agreement.

Part 2 deals with what happens when the ministry removes a child. It explains —

- what happens in court,

- what happens in a case conference,
- what court orders the judge can make, and
- what you can do to appeal or change a court order.

Part 3 explains —

- what you can do if you have a complaint about your child's foster care,
- what you can do if you have a complaint about a social worker, and
- how to get more legal information and advice.

Note: This booklet explains what the law says in BC. The way things work in practice may be a little different from place to place in the province.

Getting legal help

Here are some people you can go to for legal help.

Lawyers

If the Ministry of Children and Family Development removes your child from your home, or says it's planning to, you need a lawyer. If you can't pay a lawyer, contact legal aid (see page 35). You can get legal aid if your income is below the legal aid income guidelines and —

- you have good reasons to believe that the ministry is about to take your child away from you;
- the ministry has told you that it will apply for a supervision order about your child (see pages 13 and 29 for more information about supervision orders);
- your child has been taken by the ministry;
- your child is in the care of the ministry and you're applying for or trying to change custody or access; or

- you've worked with the ministry on a Plan of Care (a written agreement) for your child and you're being asked to sign a voluntary agreement.

Here are some of the things a lawyer might do to help you:

- Tell you what your rights are.
- Explain legal language.
- Tell you about the court process, including time limits, and tell you what your legal choices are.
- Go with you to court or the case conference and represent you (speak for you).
- Help you make a written agreement with the ministry.
- Give you advice about a Plan of Care (the part of the written agreement with the ministry that says how your child will be cared for) before you sign it.

It's important to tell your lawyer everything he or she needs to know to represent you properly. Lawyers can help you with the legal aspects of what you're going through. See Part 3 for more information about how to get a lawyer. For emotional and practical support, contact an advocate.

Note: If your child is 12 years old or over, he or she may need his or her own lawyer. You or your child can ask your social worker about this.

Advocates

When the ministry investigates a report about your child's safety, you can get help from an advocate. An advocate is a person who can help you understand what your rights are, offer emotional and practical support, provide any information you need about services, and help make sure

you're listened to. Advocates aren't lawyers, and their services are usually free.

Here are some of the things an advocate might do to help you:

- Tell you how to find a lawyer or get legal aid.
- Offer support and answer questions. You can ask the advocate about what things mean, what to expect, and what may happen next.
- Tell you about what choices are available to you.
- Make sure that you're listened to.
- Tell you how to keep informed about the process, including time limits.
- Explain social work language.
- Help you work out possible solutions with the ministry.
- Help you draft a written agreement with the ministry.
- Go with you to court (although you'll also need a lawyer for this).

Advocates are counsellors and other people who work at places like women's centres, immigrant services or multicultural agencies, and Native Friendship Centres.

Advocates aren't available in all communities. Ask around to see if there's an advocacy centre in your community. Ask at your local information centre, community centre, or public library, or see Part 3 for more information about how to find an advocate.

PART 1

What happens when the ministry thinks a child isn't safe?

What the law says parents must provide

Children are protected by laws. In BC, the main law protecting children is the Child, Family and Community Service Act. Under BC law, “children” means everyone under 19 years old.

The law says that parents must make sure that children —

- are kept safe,
- have their physical and emotional needs met,
- have necessary health care,
- aren't abandoned or neglected, and
- are protected from physical or emotional harm and sexual abuse or exploitation.

What happens if someone reports that children aren't getting adequate care?

Parents sometimes have problems that may put a child at risk of being physically harmed, neglected, or sexually abused, such as —

- alcohol or drug abuse,
- uncontrolled anger,
- serious depression, or
- lack of parenting skills.

Anyone who believes that a child has been or is likely to be harmed or neglected must report it to the Ministry of Children and Family Development.

The ministry has a legal duty to look into all reports about children who have been or are in danger of being abused or neglected. In some Aboriginal communities, Aboriginal child and family service agencies are responsible for looking into such reports.

What happens when the ministry investigates a report?

When the Ministry of Children and Family Development gets a report about a child who may be abused or neglected, the following things will happen:

- A social worker from the ministry will look into any case of possible abuse. The social worker may talk to you and your child, and may also check with teachers, neighbours, or other people who have contact with your child.
- The social worker may find that —
 - there's no risk to your child (If that happens, the ministry will send you a letter saying that it won't take any further action.)

OR

- your child isn't safe (The social worker may suggest you get some help. For example, if you can't control your temper, you may agree to go to a counsellor who you think will help you.)

When decisions are made about the care and safety of children, the law says that —

- the child's safety must always come first;

- the child’s family is usually the best place for the child to be;
- the child’s views are important;
- Aboriginal children must remain in their communities, if possible;
- decisions about the child’s care should be made as quickly as possible; and
- a child who is 12 years old or over has the right to a lawyer.

Your rights when a social worker visits

When the social worker visits, you have a right —

- to have someone, such as a family member, friend, or advocate, with you at all times;
- to ask the social worker any questions you may have;
- to ask the social worker to give answers in writing;
- to get the social worker’s name, office address, and telephone number in writing;
- to get the name of the social worker’s supervisor;
- to be told what action the ministry can take;
- to tell the social worker your side of the story;
- to find out what services are available to you;
- to give the social worker the names of other people to talk to;
- to get a copy of the social worker’s report when it’s done;
- to get legal advice from a lawyer; and
- to tell the social worker whether or not you want the Aboriginal community involved (if your child is of Aboriginal origin).

After the interview, you can phone the social worker if you forgot to mention anything or you want something explained.

Note: The social worker will talk to your child, usually without anyone else present. This is standard procedure.

It's a good idea to have an advocate, a friend, or a family member with you when the social worker visits. You may be feeling frightened or angry, and it may be hard to remember everything the social worker says. Your advocate or friend or family member can ask the social worker questions, and make a note of the answers.

If you have a complaint about a social worker, you have the right to talk to his or her supervisor. If you ask the social worker for the name of his or her supervisor, he or she must give you this information. If you're still not satisfied after talking to the supervisor, you can contact the Board of Registration for Social Workers of BC. See Part 3 for more information.

If you moved to Canada from another country

If you moved here from another country, your culture and traditions may be quite different from those of the social worker who comes to see you. The social worker may have very different ideas than you have about how you should raise your child. Keep this in mind, and if you think your social worker does not understand you, ask an advocate from an immigrant services or multicultural agency to help you speak to the social worker. See Part 3 for how to find your local immigrant services or multicultural agency.

What happens if the ministry decides your child isn't safe?

- The social worker may ask you to make a written **agreement** with the ministry to ensure the safety and well-being of your child.
- The social worker may ask you to place your child with other family members or in care (such as a foster home) temporarily while you work on making changes.
- If you're in an Aboriginal family, the social worker will try to involve the Aboriginal community, unless you ask him or her not to. In some communities, it may be the Aboriginal child and family service agency, instead of the ministry, that you make an agreement with.

- The social worker may apply to court for a supervision order if he or she decides that just getting such an order would be enough to protect your child.
- If the problem can't be easily or quickly resolved and/or if your child is at risk, the social worker may remove your child from your home.
- If the ministry investigates and believes that physical or sexual abuse has taken place, the ministry must tell the police.

Agreements between you and the ministry

The social worker may want you to make an agreement. An agreement describes what you and the ministry are going to do to ensure your child's safety and well-being.

An agreement is in writing, and it is a legal document. *It is very important to take an agreement seriously. If you don't do what you've agreed to, the ministry may remove your child.*

A lot of different arrangements can be in an agreement — from keeping your child in your home while you make changes, to placing your child in care. The agreement can say —

- what services the ministry will provide to help you care for your child,
- what services the ministry will provide to help you make changes,
- what you plan to do to help yourself care for your child, and
- what you plan to do to make changes.

For example, the agreement may say that you're going to attend parenting programs, and that the ministry is going

to pay for your transportation costs to get to the programs.

You can make an agreement at any time during the investigation of a report of child abuse or neglect.

Tips about making agreements

Get help from an advocate or lawyer

It's a good idea to get help from an advocate or lawyer when you're working with the social worker on an agreement. An advocate or a lawyer can be with you when you're talking to the social worker. To find an advocate or a lawyer, see pages 35 and 37.

Review the agreement with an advocate or lawyer

If you can't get an advocate or a lawyer to prepare the agreement with you, get a lawyer to check the agreement once it's prepared and *before* you sign it. He or she can go over the terms of the agreement and explain them to you. To find a lawyer (or legal aid) or advocate, see Part 3.

Your child also has the right to have a say in the agreement. A child 12 years old or over has the right to a free lawyer to get advice about an agreement. The social worker will arrange for your child to see the lawyer.

Take an active part

It's very important that you take an active part in preparing the agreement. For example, if you have a drug or alcohol problem, you can choose a drug or alcohol counsellor you think will help. You can also ask your advocate to help you choose a counsellor.

Watch for these things in an agreement

Is the agreement practical? For example, if the agreement says you're going to get help from a particular program, you need to know that you can get into the program. Ask the social worker how you can get there, if there's a long waiting list, how much it costs, what the hours are, and what you have to do to pass. Ask if you have to register in the program yourself or if the social worker will register you.

Is the agreement realistic? Can you do all the things in the agreement? For example, maybe you could do three of the things in the agreement but not eight. Or maybe you can do two things now and two more later. Don't be afraid to suggest changes like this. You can say which parts of the agreement you can do and which are too much. You're responsible for doing what you agree to, so it's important to agree only to those things you think you can manage. Ask if other parents are expected to do similar things.

Be clear about how you and the ministry will decide when something is done and whether it's adequate.

Are the time limits reasonable? The agreement will usually include time limits. For example, you may agree to get help with a problem by a certain time. Make sure this time limit is possible for you. Ask for the agreement to be flexible. Families need their own time-frame to make changes.

Keep your own notes

Keep notes of what the social worker says and what you say to the social worker. Note the dates. If you have an advocate or lawyer, keep notes of what you say to the advocate or lawyer and what they say. This will help you be clear about what you said and when you said it.

What if you feel pressured to make an agreement?

By law, agreements are voluntary. But you may feel you have to agree to something because you're afraid that if you don't, the social worker will take away your child. If you have an advocate or lawyer, talk to him or her about this.

If you don't want to agree to something, think about whether or not it *relates directly to your child's health or safety*.

If the social worker asks you to do things that relate directly to your child's health and safety, you need to do them. You can find a counselling service or program that works for you, but you may have to convince the social worker that it's appropriate and meets the ministry's concerns.

What happens when the ministry asks for a supervision order but doesn't take your child away?

Sometimes the ministry decides that a child will need protection if the parent doesn't follow a certain plan, but the child will be safe if the parent does follow the plan. In this case, the ministry will apply to court for a **supervision order without a removal**.

To go to court, the ministry must say that your child will need protection unless the supervision order is put in place. Sometimes the ministry does not give parents proper notice in these cases. You'll still be asked to agree to an interim supervision order at the first hearing, and may be told that your child will be removed if you don't agree. If this happens to you, make sure that the

conditions of the supervision order are realistic and you can follow them. If you think you can't, you may want to consider making other arrangements to satisfy the ministry that your child is safe, such as —

- sending your child to stay with a relative for a while,
or
- making a written temporary agreement with the ministry about your child's care.

If you get an application for a supervision order without a removal, *see a lawyer right away*, so he or she can come to court with you for the first hearing.

Your right to see documents

Once court proceedings begin, the law says that parents have the right to see the information the Ministry of Children and Family Development has about their case. This includes all reports or letters written about the investigation, except for the identity of the person who reported the possible abuse or neglect. The ministry is required by law to keep this person's identity a secret.

You can also ask to see the notes kept in the individual social worker's files, but this information may be difficult to get.

If you're not involved in court proceedings, talk to an advocate. If you need to, you can apply to get some information under a law called the Freedom of Information Act. For more information about the Freedom of Information Act, call the Office of the Information and Privacy Commissioner for British Columbia:

In Victoria: (250) 387-5629

OR

For toll-free access in BC, call Enquiry BC at:

In Vancouver: (604) 660-2421

In Victoria: (250) 387-6121

In the rest of BC: 1-800-663-7867

and ask to be transferred to (250) 387-5629.

PART 2

If the ministry removes your child from your home

Here are some of the things you can do if the ministry removes your child:

Get legal help as soon as you can

If the Ministry of Children and Family Development removes your child from your home, or tells you they want to remove your child, *talk to a lawyer as soon as you can.*

If you know a lawyer, you can ask that lawyer to represent you, or to recommend a lawyer who could deal with your case.

If you can't afford a lawyer and need legal aid, go to the nearest legal aid office for help (see "Where to go for legal help" in Part 3). Ask for a lawyer who has experience in child removal or **child apprehension** cases.

You may also be able to get help from lawyers known as family duty counsel. Duty counsel can provide you with brief advice about your legal rights and options (see page 36).

Keep talking with the social workers and with your advocate, if you have one. You may be able to come to an agreement at any time during this legal process. (See Part 1 for information about agreements.)

Go to the court hearings

It's very important that you go to all of the court hearings and case conferences. Going to court shows the judge that you care about your child. If you don't go to court or send someone else to speak for you, the judge may make an order against you in your absence. Depending on which court appearances you miss, it can also mean that you may not get any notices of further court applications.

What your rights are

You have the right to have a say in decisions about your child

Tell your lawyer what you want the judge to know about you and your child. Your lawyer can explain to the judge what you think should happen while your child is in care.

You can say, for example, that you want your child —

- to live close by, with family or friends;
- to stay at the same school;
- to not be separated from a sister or brother;
- to remain within your extended family, culture, and community;
- to have a certain kind of diet;
- to have certain kinds of medical care;
- to be with a family that is positive about lesbian and gay relationships; or
- to be placed in a family with a particular religion.

In court, the judge will decide if your child should be returned to you, go into care, or be placed with a relative. The judge makes this decision based on your child's best interests. The judge has to keep in mind that the law says

the best place for a child is usually with his or her family. Depending on your child's age, the judge will consider your child's views about who he or she wants to live with.

If the judge makes a decision that you feel does not respect your wishes, talk to your lawyer.

Note: You or your lawyer will not always have an opportunity to speak to the judge in detail every time you're in court. For example, on the first day of any hearing where another court date is to be fixed, you or your lawyer will generally not have an opportunity for detailed explanations of your case.

You have a right to ask for visits with your child

If your child will be in care (such as a foster home), make sure that you or your lawyer ask that you be allowed to visit. This is called having **access**. Ask to visit at times and places that are convenient to you and good for your child.

It's extremely important to have regular contact with your child. It shows the judge you care. If there's another court hearing, the judge may look at whether you've made an effort to stay in regular contact with your child.

You have a better chance of getting regular access if you show up on time for your visits, call (in advance) if you have to cancel for any reason,

and tell the social worker about anything you've done to address the ministry's concerns.

Keep your own records of when you've contacted your child (telephone calls, visits) in case there's a dispute between what you tell the judge and what the ministry tells the judge.

If for any reason you can't see your child (no money, you're ill, etc.), keep a record of all the efforts you've made to contact your child by telephone. If you're having problems with the cost of transportation to see your child, explain this to your social worker.

You have a right to see the documents about you and your child

You have the right to see the social worker's written reports about your child and other documents about the case before you go to court. Talk to your advocate or lawyer about how to ask for all the documents.

Be sure to keep a copy of all your own papers, including those that say what happened in court.

The court process

Child apprehension proceedings usually (though not always) take place in two stages: the presentation stage and the protection stage. At each stage, you'll be asked to go to court at least twice: once to set a date and once for a full hearing. If you agree with the ministry's application at the first court date, there won't be a full hearing. Here are descriptions of these two stages:

1. Presentation stage — The presentation hearing

If the Ministry of Children and Family Development removes your child, you'll have to go to court within *seven days* for a hearing (sometimes called a *fix date*), where the date of the full **presentation hearing** will be decided.

Your social worker will tell you the date for this first court appearance. When you go to court, your social worker or lawyer will give you a copy of the Report to Court (if the social worker hasn't given it to you already).

The Ministry of Children and Family Development is required to prepare a Report to Court for the presentation hearing. It will say —

- Why the ministry removed your child from your home.
- What other things it tried before removing your child.
- How it plans to care for your child until the protection hearing.

At this first hearing, the judge will ask you whether or not you agree to having an interim order made. (See page 28 for a description of interim custody orders and page 29 for a description of interim supervision orders.) If you agree, the judge will make the order and set a date for the protection hearing. If you don't agree, and you don't want a case conference (see page 24), then the judge will “fix” a date for the full presentation hearing. If you ask for more time to think about it, you'll have to come back at a later date.

If your child is Aboriginal, the law says that the ministry must tell your community that your child has been removed from your home. Someone from your

community can come to the presentation hearing. If you don't want your community involved, tell the judge at your first court appearance.

At the full presentation hearing, the judge will hear evidence directly from the witnesses, who may be cross-examined. The judge will also make decisions about the following things and put them into the interim order:

- Where your child will stay until the next court hearing (at home, with relatives, or in care, such as a foster home).
- Whether or not you can visit, if your child is in care, and whether or not those visits will be supervised (If the visits are supervised, this means that a person approved by the ministry will be with you when you're with your child.)
- Whether or not there will be a protection hearing, and when it will be. (If the judge decides to return your child to your home without a supervision order after the presentation hearing, your case will not go to the protection hearing stage.)

The law says that, when making any of these decisions, the judge must consider the child's views.

If you aren't in court for the presentation hearing, the ministry should notify you of the time and place of the commencement date for the protection hearing (the second stage). If your child is 12 years old or over, he or she should also be told about — and may be at — the hearing.

What you can do at the presentation hearing

- **Go to the presentation hearing.** If you don't go, the judge will assume that you don't care. This is your best chance to have a say in what will happen to your child.
- **If you disagree with the ministry's decision to remove your child, get a lawyer.** Ask your lawyer to explain your reasons to the judge.
- **If you haven't had a chance to speak with a lawyer, you can ask the court to postpone** ("adjourn") the presentation hearing until you do, but in the meantime, your child will be kept in care (such as a foster home).
- **Ask for access now.** If the judge says your child will be in care, ask if you can visit your child. This is called access. You can ask to see your child at a time and place that is convenient for you. The ministry is responsible for looking after your child's transportation.

If you don't ask for access at the presentation hearing, you may have to wait weeks before you can ask for access in court. If you don't ask for access or if you didn't go to court, you'll need a lawyer to help you get access.

2. Protection stage

The issues considered at a protection hearing are quite complex, but the hearing is basically about whether or not your child needs protection.

The law says that the protection hearing must happen within 45 days after the interim order was made at the presentation hearing. This hearing begins on what's called a commencement date.

Ten days before the commencement date, the ministry should send you an application that says what kind of order it will ask the judge for, and a Plan of Care that says how it wants your child to be looked after in future.

Commencement date

At the commencement date, you and someone for the ministry can say if you agree or disagree about what kind of court order should be made or if you need more time.

If you agree, a consent order can be made and the protection hearing ends on the commencement date. If you can't agree to the ministry's terms, you must attend a case conference (see below), before the protection hearing.

The social worker may tell you that the interim order that was made at the presentation hearing only lasts for 45 days. Although this is true, the interim order will be automatically extended if you go to the commencement date and can't agree to the ministry's terms (what they put in the Plan of Care). The interim order can sometimes be extended for as long as six months before the protection hearing takes place.

The case conference

A case conference or mediation can happen at any time after your child has been removed from your home. The judge must order a case conference if, at the commencement date (beginning of the protection hearing), you tell the court that you don't agree with the order that the ministry is asking for. But a case conference can also be ordered by a judge at any other stage of the case.

A case conference is a meeting between you, your lawyer or advocate, the ministry social worker, the ministry lawyer, and a judge. At this meeting, the judge will try to get the parents and the ministry to work out a solution fairly quickly. The case conference is usually held in a courthouse conference room and is conducted by a provincial court judge. You must attend.

Be prepared to speak on your own behalf at a case conference, as judges usually want to hear directly from the parents. You may want to discuss what to say with your lawyer beforehand. Whatever you say at the case conference can't be used as evidence at a hearing, but the ministry can try and use what you say to find out more information to use at a hearing. You and your lawyer should be well-prepared — the outcome of your case will depend on it.

No court orders can be made at the case conference unless everyone agrees. If you don't agree with the order that is suggested, you're entitled to say you want a formal hearing about your case. In fact, if anyone disagrees with the order being suggested at the case conference, there will be a full hearing.

The judge may ask your child to be at the conference, as well as other family members or people involved with your child. If your child is Aboriginal, a representative of the Aboriginal community may also be present, unless you've told the judge you don't want this.

During a case conference, the judge may also ask the parents and the ministry to go to a **mediation** to work out some issues. A mediation is a meeting conducted by a mediator (rather than the judge) who helps everyone come to an agreement.

What you can do to prepare for a case conference

- Talk with your lawyer about the issues that might come up.

Before a case conference, you have a right to see all the information about what the ministry wants to do and its reasons, and a summary of the information its witnesses will provide. You or your lawyer should write a request for this information. When the judge orders a case conference, he or she will order the ministry to give you any of this information that you don't already have.

- Be prepared to be actively involved. Most judges require parents to speak directly to them. Plan what you want to say to the judge, even if you have a lawyer.

If you and the ministry can't come to an agreement in the case conference, or if there are still some things that need to be decided, your case will go to a protection hearing.

Protection hearing

You need a lawyer for the protection hearing. See Part 3 for information about how to find a lawyer. You'll need legal help to make sure that the judge knows your side of the story. Talk to your lawyer and to your advocate or native courtworker about what the important issues will be at the protection hearing for your child.

At the protection hearing, the judge will make a **custody order** about your child. An order is an instruction from the judge that says what must happen to your child. **Custody** means the legal right to live with your child and

give daily care to your child. The next section explains what kinds of custody orders a judge can make.

If you don't agree with the order, talk to your lawyer, advocate, or native courtworker right away about appealing the order. To appeal means to ask the court to reconsider the order. *Do not wait!* There are time limits for appealing an order. After the deadline, you may not have the right to appeal.

What you need to know about custody orders

The law says the judge must make a custody order that is in the best interests of the child. At the court hearings, your lawyer will make recommendations to the judge about what kind of order you think will be best for your child.

You and the Ministry of Children and Family Development may disagree about what is really in the best interests of your child. In court, it's up to the judge to decide.

In general, the judge's order will say that —

- the child will remain with the parent, sometimes with conditions (see “Supervision,” on page 29) or return to the parent,

OR

- the child will remain in the custody of the Ministry of Children and Family Development.

In some cases, the order will say that your child should live with someone else, such as another family member. Children who are 12 years old or over have the

right to take part in making the decision. They can tell the judge what they think should happen, and if the judge thinks it's necessary, a child may have his or her own lawyer.

There are three types of custody orders a judge can make; the main difference among them is how long they last:

- Interim custody orders
- Temporary custody orders
- Continuing custody orders

Interim custody orders

An **interim custody order** is made at the presentation hearing. This order says where your child will be cared for until the protection hearing.

Temporary custody orders

A **temporary custody order** is made at the protection hearing. This order says where your child will live, who will be responsible for your child, and how long the order lasts.

The order could say that:

- Your child will be returned to you on the condition you do certain things, such as get help with any problems that affect your parenting (for example, anger management, or counselling for drug or alcohol problems). This is an example of a supervision order. It may have a time limit of up to six months.

OR

- Your child will be placed in care (a foster home). This order may have a time limit of 3, 6, or 12 months.

A judge can extend a temporary order, but only a certain number of times. (Ask your lawyer or advocate about the time limits.)

Continuing custody orders

A judge can make this type of order at the protection hearing. A **continuing custody order** is made when the judge decides that your child can't be safely returned to your home. The judge would make this order only if there's a serious problem that can't be fixed within the time the court allows.

Parent's right to make decisions about the child

Even if the judge makes an order to place your child in the ministry's care, the order can still give you the right to make decisions about your child's health care, education, and religion. *Tell your lawyer what you want.*

What other orders can the court make?

The court can make one of the following kinds of orders.

Supervision

There are different kinds of requirements a judge can put in an order. For example, the order might say your child can remain at home on the condition that you co-operate with a social worker to make sure your child continues to be safe. This kind of arrangement is sometimes called **supervision**. This is called a **supervision order**.

The social worker is responsible for making sure you meet the conditions of a supervision order. If you don't do what the order says, the ministry will remove your

child from your home. The conditions in a supervision order could include requiring you to go for counselling or to a parenting course.

Access

You can apply for access (the right to visit your child) when a custody order is made or at any time after that. However, it's better to apply earlier, since you'll have to go to court for a separate hearing. The judge will usually give a parent access, unless it isn't in the child's best interests.

Parents can be given access under any kind of custody order.

There may be conditions attached to an access order. For example, if the judge is convinced that your child isn't safe, the order may say that the access must be supervised. If the order says this, don't agree to it until you've spoken to your lawyer.

Consent orders

In some cases, the parents and the Ministry of Children and Family Development may come to an agreement about what is best for the child. If they file the agreement with the court, the judge can make an order, called a **consent order**, without having a full hearing. In most cases, both parents have to agree before the judge makes a consent order. The parents and the ministry should get legal advice before signing the agreement.

If your child is 12 years old or over, he or she must also agree to the decision. *Your child should get legal advice before agreeing, and has the right to a free lawyer.* The social worker must help your child get a lawyer (the social

worker, not the legal aid office, makes the appointment with a lawyer).

Changing custody orders

To change a custody order, you need to either appeal the order or apply to change it.

Appealing an order

If you disagree with an order, talk to a lawyer. You may be able to **appeal** the order. To appeal means to ask another judge to reconsider the order.

You need a lawyer to appeal an order. Talk to your lawyer as soon as possible because there are time limits about when you can appeal.

The judge may say that the order will stay the same, or may set aside the order. The judge can then make a new order, or say there should be a new hearing.

Changing an order

You can apply to change an order if circumstances significantly change in your life. (This isn't the same as appealing an order.) For example, you may have had counselling that has helped you get your life together.

You can apply to change an order at any time after the order has been made. A judge will consider your application and decide whether to make a new order or leave the order the way it is.

You need to talk to a lawyer about changing an order.

PART 3

Dealing with problems and where to go for legal help

What if you have a complaint about your child's foster care?

If your child is in care (a foster home) and you have concerns about the way your child is being treated, phone the Office for Children and Youth, which can help you find a solution to the problem or help you get the information you need. The telephone number is (250) 356-0831 (in Victoria), or 1-800-476-3933 (toll free, elsewhere in BC).

You can also make a complaint to the Child and Family Review Board. This board looks at complaints about children in care. The telephone number is (250) 356-8963 (in Victoria).

Talk to your advocate or lawyer if you have concerns about your child in care. They may be able to help you get some changes made.

What if you have a complaint about the social worker?

If you have concerns about the social worker, you may be able to solve the problem by talking to his or her supervisor. If this does not work, find out if the social worker is registered with the Board of Registration for Social Workers of BC. The telephone number is (604) 737-4916 (in Vancouver). If the social worker is

registered, you can ask for information about complaint procedures.

Another thing you can do is use the complaint procedure of the Ministry for Children and Family Development itself. Here are some suggestions:

- Get help from an advocate. An advocate may be able to help you work out a solution with the social worker.
- Ask to meet with the social worker's supervisor with your advocate present.
- Write a letter about your concern to the social worker and ask for a review of the action or decision you disagree with. You can also send copies of the letter to the supervisor and the area manager. If that does not resolve the problem, you can write to the Minister for Children and Family Development.
- Ask for help from the office of your MLA (Member of the Legislative Assembly of BC). Your MLA has an office (called a constituency office) and the staff who work there can help people who are having problems with other government offices. To find out who your local MLA is, look in the blue pages of your telephone book under "British Columbia — Members of the Legislative Assembly." In that section, look for your community. The MLA's name and the address and telephone number of his or her constituency office is listed there.
- Ask your Ombudsman for help. If you have a complaint against a provincial government office, and you've tried all other options, the Ombudsman may be able to help you. Contact the office of the Ombudsman at (250) 387-5855 (in Victoria); or 1-800-567-3247 (toll free, elsewhere in BC).

Where to go for legal help

Here are some places to go for legal help and information.

If you need a lawyer

Legal Aid

Legal aid is a provincial service that provides legal help for people who have serious legal problems and can't afford to pay a lawyer.

To get a legal aid lawyer to represent you in court, you have to meet some financial eligibility rules and have certain kinds of legal problems. You can get a legal aid lawyer to deal with the following family law problems:

- The Ministry of Children and Family Development has taken or is threatening to take your children away from you.
- You need a court order to protect yourself or your children because your partner has threatened or hurt you or your children and you are afraid of further harm.
- You need a court order because the other parent has threatened to take your children out of the province permanently.

Note: There are exceptions to family law coverage. Ask your local legal aid worker if your particular situation is eligible for an exception review.

To find a legal aid office, look in the white pages of your phone book under “Legal Aid — Legal Services Society” or in the yellow pages under “Lawyers — Legal Aid — Legal Services Society.” You can also call the LSS Call Centre at:

Lower Mainland: (604) 408-2172

Elsewhere in BC: 1-866-577-2525

If your hearing is impaired, you can call a province-wide toll-free number to be connected to a teletypewriter (TTY): 1-877-991-2299.

Family duty counsel

The Legal Services Society provides lawyers (known as duty counsel) at provincial courts to help unrepresented people with their family court appearances. Duty counsel provide brief advice about a client's legal rights and options, as well as information about court procedures. They also speak in court for people on some matters. To find out when duty counsel will be at your court, call your nearest provincial court (see the blue pages of your phone book under "British Columbia — Court Services") or legal aid office (see page 35).

Lawyer Referral Service

If you don't know a lawyer, try calling the Lawyer Referral Service. It will give you the name of a lawyer you can call for a half-hour appointment that costs \$10.

Lawyer Referral gives you a lawyer's name and you make the appointment. If the first referral doesn't work out, you can call Lawyer Referral back and get another name. The lawyer can give you some idea of what's involved in solving your problem, and you can decide if you want to hire this lawyer. Ask the lawyer how much it will cost and how he or she wants you to pay. Call (604) 687-3221 (in the Lower Mainland); or 1-800-663-1919 (toll free, elsewhere in BC). Ask to be referred to a lawyer who has experience with child protection issues. (Note that this service isn't available in all areas of the province).

For other legal help

Advocates

An advocate is someone who can help you defend your rights and appeal government decisions. To find an advocate in your area, visit <http://www.povnet.org> and click on “Find an Advocate” in the left-hand column to see a map of advocates in BC, or contact your local library to find a community group that can help you. Be sure to ask the advocate if he or she is familiar with child apprehension issues.

BC Association for Community Living (for people with disabilities)

This organization works with people who have developmental disabilities and their families. They can help you find support in your community. They may also be able to help you find a lawyer who has experience helping parents with exceptional learning needs in child protection cases. Call the association’s advocacy co-ordinator at (604) 875-1119 (in Vancouver).

LawLINE

LawLINE is a toll-free telephone service that provides general legal information and, in some cases, advice about legal issues. It is a service for people who cannot afford a lawyer but do not qualify for legal aid.

LawLINE is staffed with lawyers and paralegals, and can arrange immediate access to telephone interpreters as needed.

Lower Mainland: (604) 408-2171

Elsewhere in BC: 1-866-577-2525 (toll free)

After dialing the telephone number, press “7” to connect to LawLINE.

Hours: 9:00 a.m. to 4:00 p.m., Monday, Tuesday, Thursday, and Friday;
9:00 a.m. to 2:30 p.m., Wednesday

Native courtworkers, native family advocates, and Native Friendship Centres

If you're an Aboriginal person, you can get legal information and help from a native courtworker or a native family advocate. To find the one nearest to you, call the Native Courtworkers and Counselling Association in North Vancouver at (604) 985-5355.

You can also get information and support at a Native Friendship Centre. Call your local band office, band social worker, information centre, or community centre to find the one nearest you.

For legal information

Family law website

The Family Law in British Columbia website is a service of the Legal Services Society (LSS). It provides legal information and self-help materials to help people resolve family law problems. For help with child protection matters, look under “Online self-help kits” and “Family law A – Z.”

Website: <http://www.familylaw.lss.bc.ca>

LawLINK

LawLINK is a program of the Legal Services Society that provides low-income people with the tools they need to find plain language legal information and self-help resources on the Internet. The service has two parts —

- A website (<http://www.lawlink.bc.ca>) with links to information on legal topics, including family and legal help. The LawLINK website is available from any computer with Internet access.
- Free public access computers in a variety of locations across BC, including all LSS regional centres. You can use these computers to search for legal information on the Internet. At these locations there is also direct telephone access to LawLINE and free legal information booklets and other materials.

People's Law School

The People's Law School provides free classes and produces booklets on this subject in languages other than English. It produced the following booklet:

Caring for Children: Parents' rights and responsibilities

This free booklet for parents and legal guardians of children explains what the law in BC says about the rights and responsibilities of parents and children. It covers abuse, neglect, discipline, child protection, and where to get parenting and legal help. *Caring for Children* is available in Chinese, English, Punjabi, and Spanish.

Copies of the booklet can be found online at the People's Law School website at <http://www.publiclegaled.bc.ca>.

**Copies of *Parents' Rights, Kids' Rights*
are available for free from:**

Distribution

Legal Services Society

1500 – 1140 W. Pender Street

Vancouver, BC V6E 4G1

Phone: (604) 601-6075

Fax: (604) 682-0965

E-mail: distribution@lss.bc.ca

LSS website: <http://www.lss.bc.ca>

LSS legal information publications are available on our website at <http://www.lss.bc.ca>. If you can, please download the publications from the website or read them online. If you can't download them or read them online, some publications are available in print. See ordering information above.