

**ADMINISTRATIVE PROCEDURES:
ALTERNATIVE DISPUTE RESOLUTION AND COURT
PROCEEDINGS UNDER THE CHILD, FAMILY AND
COMMUNITY SERVICE ACT**

Reference Guide



Ministry of Children and Family Development

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Contents

Introduction	1
Variation in court practice throughout the province	1
1. Family Conferencing, Mediation and Other Alternative Dispute Resolution Mechanisms	2
1.1 Arranging for cooperative planning and alternative dispute resolution mechanisms	2
2. Preparing for Court Hearings	4
2.1 Presentation hearings	4
2.2 Protection hearings and subsequent hearings	7
2.3 Continuing custody hearings	9
2.4 Hearings for other types of orders	11
3. Preparing for Consent Orders	17
3.1 Planning for orders by consent	17
3.2 Making application to dispense with required consents	18
Appendix A: Informing and Serving Notice	20
Appendix B: Informing and Serving the Aboriginal Community	24
Appendix C: Making a Child a Party to the Proceedings	26
Appendix D: Court Forms	27

Introduction

This reference guide replaces *Court Procedures for Child Protection* (amended in November 1999), and provides information on the administrative procedures associated with family conferencing, mediation, other alternative dispute resolution mechanisms, and court proceedings under the Child, Family and Community Service Act (CFCSA).

The guide describes the steps and procedures required to fulfill legislative and policy requirements once a decision has been made about what action to take or process to follow. It does not provide policy direction on these decisions. Throughout the guide, reference is made to legislation, standards, policy and other reference guides. These resources should be reviewed where decisions are required about the use of cooperative planning and alternative dispute resolution mechanisms or court proceedings.

When disputes arise in planning for the care and protection of a child, cooperative planning and alternative dispute resolution mechanisms should be offered and promoted. These are preferable to court-ordered hearings and decisions, which can discourage and limit family and community involvement in decision making, cause delays in planning and be adversarial in nature. If it becomes necessary to initiate court proceedings to ensure a child's safety, the use of alternative dispute resolution mechanisms should continue to be offered and promoted to resolve as many issues as possible.

Note: The word “child” in this guide means a person under 19 years of age and includes a youth.

Variation in court practice throughout the province

While the [CFCSA](#) and [Provincial Court \(Child, Family and Community Service Act\) Rules](#) (court rules) standardize most procedures associated with child protection hearings and applications, court practice varies to some degree from community to community. Consult with contract legal counsel about specific local practices that may include requirements not addressed in this document.

Action	Steps to be taken	Reference material
	<p>whether a mediator is available to mediate in the child's community. If a mediator is not listed for that community, contact a mediator on the roster from the nearest community.</p> <ol style="list-style-type: none"> 3. Agree on a mediator with everyone who will be involved in mediation, and contact him or her. 4. Enter into an agreement to mediate with participants in the process. All the parties to the mediation, including the delegated worker, sign the agreement. 	<p>cases, see the Attorney General's Dispute Resolution Office Web site: http://www.ag.gov.bc.ca/dro/child-protection/index.htm</p>
<p>Adjourning court proceedings to hold family conferences, mediation or other alternative dispute resolution mechanisms</p>	<p>In consultation with contract legal counsel, determine whether it is necessary to apply to the court to adjourn the proceedings where:</p> <ul style="list-style-type: none"> • the process may produce agreement about an issue or court order, and • it is necessary to adjourn the proceedings so that the process can proceed. 	<p>Child, Family and Community Service Act (CFCSA): s.23, s.60(6)</p>
<p>Formalizing a plan or agreement reached as a result of a family conference, mediation or other alternative dispute resolution mechanism</p>	<p>The facilitator of the process completes the plan or agreement.</p> <p>In the case of mediation, all parties sign an agreement prepared by the mediator.</p>	<p>Note: Mediators provide a form called "An Agreement Reached in Mediation."</p>
<p>Filing an agreement in court</p>	<p>If the disputed issue is before the court, contact contract legal counsel to arrange for the agreement to be filed in court, and determine whether the application before the court can be resolved by way of a consent order as a result of the agreement obtained. If so, refer to 3. Preparing for Consent Orders.</p>	<p>CFCSA: s.23(3), s.60</p>
<p>Paying for a person to facilitate traditional and alternative dispute resolution processes, including family conferences</p>	<ol style="list-style-type: none"> 1. If required, negotiate payment with the person facilitating the traditional or alternative dispute resolution process. 2. Establish a Standard Service Contract (OPC4118) and make payment through the appropriate chart of account coding. 3. When an invoice is received, attach a completed Coding Block (S2094) to it. 5. Send the approved invoice and Coding Block to Financial Services Branch. 	

2. Preparing for Court Hearings

This section provides information on the procedures and forms that are required when preparing for court hearings under the CFCSA. Before applying for an order, obtain a time, date and place for the hearing from the provincial court registry, or contract legal counsel. See Appendix A for general information on informing and serving, including providing proof of service at court hearings or when planning for a consent order. Appendix D contains copies of the prescribed forms required for court and referred to throughout this guide.

2.1 Presentation hearings

Order sought	Forms	Informing/Service Requirements
Supervision order without removal (s.29.1, s.33.1, s.33.2)	Form 1 Form F Form 9	<p>At least 7 days before the hearing, serve notice on:</p> <ul style="list-style-type: none"> • the child (12 or over) and • the person with care of the child. <p>Inform, if practicable, and unless it would cause physical or emotional harm to any person or endanger the child's safety:</p> <ul style="list-style-type: none"> • each parent • the Public Trustee, if the parent is under 19, and • the representative of the child's Aboriginal community, or the Nisga'a Lisims government if the child is a Nisga'a child. <p>Additional information Serve Form 1 and Form F.</p> <p>Complete and file with the court Form 1, an interim plan of care documented in Form F, and Form 9.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.29.1, s.33.1, s.33.2 • Court Rules
Interim supervision order following s.30 removal (s.35[2][b])	Form 1 Form A	<p>Time for informing is not specified.</p> <p>Inform, if practicable:</p> <ul style="list-style-type: none"> • the child (12 or over) • each parent • the Public Trustee, if the parent is under 19, and

		<ul style="list-style-type: none"> the representative of the child's Aboriginal community, or the Nisga'a Lisims government if the child is a Nisga'a child. <p>Additional information</p> <p>Complete and file with the court Form 1 and an interim plan of care documented in Form A.</p> <p>References:</p> <ul style="list-style-type: none"> CFCSA: s.35(2)(b) Court Rules
Interim supervision order following removal; child placed in custody of person other than parent (s.35 [2][d])	Form 1 Form A Form 11	<p>Time for informing is not specified.</p> <p>Inform, if practicable:</p> <ul style="list-style-type: none"> the child (12 or over) each parent the Public Trustee, if the parent is under 19, and the representative of the child's Aboriginal community, or the Nisga'a Lisims government if the child is a Nisga'a child. <p>Additional information</p> <p>Complete and file with the court Form 1 and an interim plan of care documented in Form A. As the court can only make this order with the consent of the person who is granted custody, obtain a written consent (Form 11) from the person, or alternatively, advise the person to attend court.</p> <p>References:</p> <ul style="list-style-type: none"> CFCSA: s. 35(2)(d) Court Rules
Interim order following removal when an interim supervision order no longer protects or is breached (s.36)	Form 1 Form A	<p>Time required for informing is not specified.</p> <p>Inform, if practicable, and unless it would cause physical or emotional harm to any person or endanger the child's safety:</p> <ul style="list-style-type: none"> the child (12 or over) each parent any person made a party under s.39(4) the Public Trustee, if the parent is under 19, and the representative of the child's Aboriginal community, or the Nisga'a Lisims government if the child is a Nisga'a child.

		<p>Additional information Complete and file with the court Form 1 and an interim plan of care documented in Form A.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA s. 36 • Court Rules
Interim order following removal when a supervision order no longer protects or is breached (s.42.1)	Form 1 Form A	<p>Time required to inform is not specified.</p> <p>Inform, if practicable:</p> <ul style="list-style-type: none"> • the parent or other person who, at the time of the removal, had custody of the child under supervision • the child (12 or over), and • those entitled to notice under s.39(4). <p>Also inform, if practicable, and unless it would cause physical or emotional harm to any person or endanger the child's safety:</p> <ul style="list-style-type: none"> • each parent • the Public Trustee, if the parent is under 19, and • the representative of the child's Aboriginal community, or the Nisga'a Lisims government if the child is a Nisga'a child. <p>Additional information Complete and file with the court Form 1 and an interim plan of care documented in Form A.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.42.1 • Court Rules
Interim custody order (35 [2][a])	Form 1 Form A	<p>Time required to inform is not specified.</p> <p>Inform, if practicable:</p> <ul style="list-style-type: none"> • the child (12 or over) • each parent • the Public Trustee, if the parent is under 19, and • the representative of the child's Aboriginal community, or the Nisga'a Lisims government if the child is a Nisga'a child. <p>Additional information Complete and file with the court Form 1 and an interim plan of care documented in Form A.</p>

		<p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.35(2)(a) • Court Rules
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2.2 Protection hearings and subsequent hearings

Order sought	Forms	Informing/Service requirements
<p>Child to be placed with the parent under the director's supervision (s.41[1][a])</p>	<p>Form 2 Form 9 Court Plan of Care (CF2593)</p>	<p>At least 10 days before the hearing, serve:</p> <ul style="list-style-type: none"> • the child (12 or over) • each parent • if the child is registered or entitled to be registered as a member of an Indian band, a designated representative of the band • if the child is a Nisga'a child, a designated representative of the Nisga'a Lisims government • if the child is not a Nisga'a child, and is not registered or not entitled to be registered as a member of an Indian band but is an Aboriginal child, on a designated representative of an Aboriginal community that has been identified by: <ul style="list-style-type: none"> – the child, if 12 or over, or – the parent who at the time of the child's removal was apparently entitled to custody, if the child is under 12 • any other party to the proceeding, and • any other person the court directs. <p>Additional Information Serve Form 2 and the plan of care.</p> <p>Complete and file with the court Form 2, the plan of care and Form 9.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.41(1)(a) • Court Rules
<p>Child to be placed with a person other than the parent under the director's supervision (s.41[1][b])</p>	<p>See above</p>	<p>See above</p>

Child to remain or be placed in the custody of the director (s.41[1][c])	See above	See above
Child to be placed under the director's supervision after being in the custody of the director or other person (i.e., a "stacked" order") (s.41[1.1])	See above	See above
Child to be placed in the continuing custody of the director (s.41[1][d])	See above	See above
Custody and/or supervision order following removal of a child under a supervision order (s.42.2)	See above	See above
Extension of supervision and temporary custody orders (s.44)	See above	See above
Access order (s.55)	See above	See above
Change or cancel the supervision, temporary custody or access order (s.57)	Form 3	<p>At least 10 days before the hearing, serve:</p> <ul style="list-style-type: none"> • the child (12 or over) • the director, and • the Public Guardian and Trustee (if there is a s.58 order). <p>If the application is for an access order and is made before the protection hearing, also serve notice on:</p> <ul style="list-style-type: none"> • each parent and • the representative of the child's Aboriginal community. <p>If the application is for a supervision, temporary custody or access order made after a protection hearing, in addition to those listed above, also serve:</p> <ul style="list-style-type: none"> • any party to the proceeding and • any other person directed by the court.

		<p>Additional information Serve Form 3 and the plan of care.</p> <p>Complete and file with the court Form 3, the plan of care and Form 9.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.57, s.58 • Court Rules
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2.3 Continuing custody hearings

Order sought	Forms	Informing/Service requirements
Continuing custody order (s.49)	Form 2 Form 9 Court Plan of Care (CF2593)	<p>At least 10 days before the hearing, serve notice on:</p> <ul style="list-style-type: none"> • the child (12 or over) • each parent • if the child is registered or entitled to be registered as a member of an Indian band, the designated representative of the band • if the child is a Nisga'a child, a designated representative of the Nisga'a Lisims government • if the child is not a Nisga'a child and is not registered or entitled to be registered, but is Aboriginal, the designated representative of the Aboriginal community • the Public Trustee (if appointed guardian of the child's estate under s.58) • any person who has been made a party under s.39(4), and • any person who has custody under s.41(1)(b) or s.42.2(4)(c). <p>Additional information Serve Form 2 and the plan of care.</p> <p>Complete and file with the court Form 2, the plan of care and Form 9.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.49, s.58, s.39(4), s.41(1)(b), s.42.2(4)(c)

<p>Permission to cancel a continuing custody order (s.54)</p>	<p>Form 3 Form 9 Court Plan of Care (CF2593)</p>	<p>At least 10 days before the hearing, serve notice on:</p> <ul style="list-style-type: none"> • the child (12 or over) • persons under s. 49(3) entitled to notice • the Public Guardian and Trustee • the parties to the proceeding in which the continuing custody order was granted, and • the director. <p>Additional information Serve Form 3.</p> <p>Complete and file with the court Form 2, the plan of care and Form 9.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.54, s.49(3) • Court Rules
<p>Access to a child in continuing custody (s.56)</p>	<p>Form 2 Form 9 Court Plan of Care (CF2593)</p>	<p>At least 10 days before the hearing, serve notice on:</p> <ul style="list-style-type: none"> • the child (12 or over) • the director, and • the parties to the proceeding in which the continuing custody order was made. <p>Additional information Serve Form 2 and the plan of care.</p> <p>Complete and file with the court Form 2, the plan of care and Form 9.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.56
<p>Transfer of custody to a person who is not a parent (s. 54.1)</p>	<p>Form 3 Form 9 Court Plan of Care (CF2593)</p>	<p>At least 10 days before the hearing, serve notice on:</p> <ul style="list-style-type: none"> • each person to whom the court is being requested to transfer custody • the representative of the child's Aboriginal community, or the Nisga'a Lisims government if the child is a Nisga'a child • if the child is not a Nisga'a child and is not registered or entitled to be registered, but is Aboriginal, the designated representative of the Aboriginal community identified by either the child (12 or over) or the parent (if child is under 12) • the Public Guardian and Trustee, and • each person with access to the child under

		<p>s.56(3).</p> <p>Additional information Serve Form 3.</p> <p>Complete and file with the court Form 3, the plan of care and Form 9.</p> <p>Obtain and file with the court written consents from:</p> <ul style="list-style-type: none"> • the person to whom custody will be transferred • the child, if 12 years of age or older, and • the Public Trustee. <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.54.1, s.56(3)
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2.4 Hearings for other types of orders

Order sought	Forms	Informing/Service requirements
Order for access to a child for investigative purposes (s.17)	Form 2	<p>No informing or notice of hearing is required.</p> <p>Additional information If a judge is not available, an application for this order may be made by telephone. In most cases, telephone orders are made through contract legal counsel.</p> <p>File Form 2 with the court.</p> <p>Request the following terms in an order, if appropriate:</p> <ul style="list-style-type: none"> • enter specific premises or vehicle, or board a specific vessel • require a person to disclose the child's location • interview or examine the child in the child's home • authorize a medical examination • authorize taking the child out of his or her home for the purpose of interviewing or medically examining the child. <p>Consult with contract legal counsel about making an application to have the person arrested (s.18 order) if the person does not comply with an access order.</p>

		<p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.17, s.18 • Court Rules: Rule 6
Order to secure records or certified copy of records (s.65)	Form 2 Form 9	<p>At least 2 days before the hearing, serve notice on the person or organization who has custody or control of the record, and, if the records sought pertain to a party, serve notice on the party.</p> <p>Additional information If a judge is not available, an application for this order may be made by telephone. In most cases, telephone orders are made through contract legal counsel.</p> <p>Serve Form 2.</p> <p>Complete and file with the court Form 2 and Form 9.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.65 • Court Rules: Rule 6
Order for necessary health care (s.29)	Form 2 Form 9	<p>At least 2 days before the hearing, serve notice on:</p> <ul style="list-style-type: none"> • each parent • the child, if capable of consenting to health care, and • any other person the court directs. <p>If a judge is not available, an application for this order may be made by telephone. In most cases, telephone applications are made through contract legal counsel.</p> <p>Additional information Serve Form 2.</p> <p>Complete and file with the court Form 2 and Form 9.</p> <p>Note: When applying, obtain written confirmation from two medical practitioners that treatment is necessary to preserve the child's life or prevent serious or permanent impairment of the child's health.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.29 • Court Rules • <i>Practice Guidelines for Managing Critical Health</i>

		<i>Care Decisions Including Advance Directives</i>
Order that a child or parent undergo a medical, psychiatric, or other exam (s.59)	Form 2 Form 9	<p>Serve notice at least 2 days before the hearing.</p> <p>For examination of the parent, serve notice on the parent.</p> <p>For examination of the child, serve notice on:</p> <ul style="list-style-type: none"> the child (12 or over) and the parent entitled to custody at time of removal. <p>Additional information Serve Form 2.</p> <p>Complete and file with the court Form 2 and Form 9.</p> <p>Payment for examination: Establish a Standard Service Contract (OPC44118) with the person completing the examination and make payment through the appropriate chart of account coding.</p> <p>References:</p> <ul style="list-style-type: none"> CFCSA: s.59 Court Rules
Order to shorten a notice requirement or dispense with service (s.69)	Form 2	<p>Applications are done ex parte (no one being served).</p> <p>Additional information Complete Form 2 and file with the court.</p> <p>If a judge is not available, an application for this order may be made by telephone. In most cases, telephone orders are made through contract legal counsel.</p> <p>References:</p> <ul style="list-style-type: none"> CFCSA: s. 69 Court Rules
Protective intervention order (s.28)	Form 2 Form 9	<p>Serve notice at least 2 days before the hearing.</p> <p>Serve notice on:</p> <ul style="list-style-type: none"> the child, if the child is 12 years of age or older the person against whom the order is sought, and the person with care of the child. <p>Inform each parent (if not already served), unless informing would cause physical or emotional harm</p>

		<p>to any person or endanger the child’s safety.</p> <p>Additional information Serve Form 2.</p> <p>Complete and file with the court Form 2 and Form 9.</p> <p>If a judge is not available, an application for this order may be made by telephone. In most cases, telephone orders are made through contract legal counsel.</p> <p>If required, consult with contract legal counsel and apply to the court for a warrant authorizing police to enter any dwelling to make an arrest, following agreement with police that such action is necessary to ensure the safety of the child or others.</p> <p>Note: Possible terms to be included in the order:</p> <ul style="list-style-type: none"> • “that prohibited contact between the child and the person include telephone or electronic contact, or contact by mail, or that the person be prohibited from attending at a certain place or area” • “authorization of a police officer to, arrest without a warrant, the person against whom the order is made if the police has reasonable grounds to believe that the person has contravened or is contravening the order” <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.28 • Court Rules
<p>Restraining order (s.98)</p>	<p>Form 2 Form 9</p>	<p>Serve notice at least 2 days before the hearing.</p> <p>Serve notice on:</p> <ul style="list-style-type: none"> • the child, if the child is 12 years of age or older, and • the person against whom the order is sought. <p>Additional information Serve Form 2.</p> <p>Complete and file with the court Form 2 and Form 9.</p> <p>If a judge is not available, an application for this order may be made by telephone. In most cases, telephone orders are made through contract legal counsel.</p>

		<p>If required, consult with contract legal counsel and apply to the court for a warrant authorizing police to enter any dwelling to make an arrest, following agreement with police that such action is necessary to ensure the safety of the child or others.</p> <p>Note: Possible terms to be included in the order:</p> <ul style="list-style-type: none"> • “that prohibited contact between the child and the person include telephone or electronic contact, or contact by mail, or that the person be prohibited from attending at a certain place or area” • “authorization of a police officer to, arrest without a warrant, the person against whom the order is made if the police has reasonable grounds to believe that the person has contravened or is contravening the order”. <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.98 • Court Rules
<p>Order to change or cancel a protective intervention (s.28) or restraining order (s.98)</p>	<p>Form 3 Form 9</p>	<p>Serve notice at least 2 days before the hearing.</p> <p>Serve notice on:</p> <ul style="list-style-type: none"> • the other parties • person against whom the order is sought. <p>Additional information Serve Form 3.</p> <p>Complete and file with court Form 3 and Form 9.</p> <p>If a judge is not available, an application for this order may be made by telephone. In most cases, telephone orders are made through contract legal counsel.</p> <p>Note: The court may, under s.69(2), make this order without a party or the person against whom the order is sought having been served.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.28, s.98 • Court Rules
<p>Order appointing the Public Trustee as guardian of the child’s estate (s.58)</p>	<p>Form 2 Form 9</p>	<p>Serve notice at least 10 days before the hearing.</p> <p>Serve notice on:</p> <ul style="list-style-type: none"> • the Public Trustee • the child (12 or over)

		<ul style="list-style-type: none"> • anyone entitled to notice under s.39. <p>Additional information Serve Form 2.</p> <p>Complete and file with the court Form 2 and Form 9.</p> <p>Application restricted to children under temporary custody orders</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s.58 • Court Rules
Maintenance order (s.97)	Form 2 Form 9	<p>Serve notice at least 10 days before the hearing.</p> <p>Serve notice on the person against whom the order is sought.</p> <p>Additional information Serve Form 2.</p> <p>Complete and file with the court Form 2 and Form 9.</p> <p>References:</p> <ul style="list-style-type: none"> • CFCSA: s. 97 • Court Rules

3. Preparing for Consent Orders

After a presentation hearing, the court may make any order by consent, including supervision and custody orders, when there is written consent by everyone who is required to provide consent.

3.1 Planning for orders by consent

Action	Steps to be taken	Reference material
Determining who must provide consent according to legislation	Ensure that all the necessary people are identified when seeking an order by consent.	<p>CFCSA: s.60</p> <p>Note: Generally, the following people must provide consent:</p> <ul style="list-style-type: none"> • the director • the child, if 12 years of age or over • each parent of the child • if the child is to be placed for a specified period in the custody of a person other than a director, that person • any person who has been made a party under s.39(4) • if the child is Aboriginal, the designated representative of the Aboriginal band or community entitled to notice of a protection hearing under s.38(1)(c) and (d)
Meeting with each person whose consent is required	<ol style="list-style-type: none"> 1. Discuss the proposed consent order with each person. 2. Assess whether the person understands the nature and the consequences of the consent, and is giving voluntary consent. 3. Advise the person to consult with independent legal counsel before signing the consent. 4. Provide the person with a Form 11 (Written Consent). 	CFCSA: s.60

Obtaining consent of each person other than a child	<ol style="list-style-type: none"> 1. Complete Form 11. 2. Ensure that the person's consent is witnessed, preferably by someone other than the person taking the consent. 	
Addressing concerns about a person's capacity to consent or if inappropriate to obtain consent	<ol style="list-style-type: none"> 1. Contact contract legal counsel. 2. Determine whether to apply to dispense with the person's consent. 	
Obtaining consent of a child 12 years or older	<ol style="list-style-type: none"> 1. Arrange for independent legal advice for the child by choosing a lawyer from the roster of Legal Services Society lawyers available in the community. 2. Make an appointment for the child to see the lawyer. 3. Send the lawyer: <ul style="list-style-type: none"> – the Certificate of Authorization – any recordings or documents relevant to the case – a blank Form 11 for use if the child decides to consent. 4. If necessary, prepare the child to attend court and inform the court in person of the child's intention to consent or not consent to the order if the child does not wish to speak with a lawyer. 	<p>Note: For the Roster of Legal Services Society Lawyers, see http://icw.mcf.gov.bc.ca/manuals/man_cfcs_mediators.htm</p>
Preparing documentation	<ol style="list-style-type: none"> 1. Complete Form 11. 2. Complete Form 12 (Application for a Consent Order), including a description of the order, and indicate whether all required consents have been obtained. 3. Forward Form 11 and Form 12 to contract legal counsel. 	<p>Note: If all required consents have been obtained, contract counsel will file Form 12 and the completed Form 11.</p>

3.2 Making application to dispense with required consents

Dispensing with consents	<ol style="list-style-type: none"> 1. Ensure that all persons whose consent is required have been served with Form 12 and/or signed written consents. 2. Contact contract legal counsel if seeking to dispense with consent of any person whose consent is required. 	CFCSA: s.60(3)
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	<ol style="list-style-type: none">3. Contact contract legal counsel to determine whether the person has filed a Form 13 (Objection to a Consent Order) or a completed Form 11.4. File a Form 9 (Certificate of Service) and a Form 2 (Application for an Order) to dispense with the required consent of a person if the person has not filed either of these forms with the court registry.5. Discuss with contract legal counsel whether preparation of an affidavit is necessary, and if so, complete an affidavit and provide to counsel for filing.6. File the forms with the court registry.	
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APPENDIX A: Informing and Serving Notice

This appendix contains general information on how to inform those individuals or organizations entitled to notice and service requirements under the CFCSA.

1. Serving notice and informing under the act

Action	Steps to be taken	Reference material
Determining the timeframes for serving notice	<ol style="list-style-type: none"> 1. Determine the minimum number of days notice must be served on the person before the hearing. <p>Note: Do not count the day of the hearing or the day of service as days.</p> <ol style="list-style-type: none"> 2. Serve notice as required. 	
Informing	Inform persons as required under the act and in writing where specified.	CFCSA: s.29.1, s.33.1, s.33(2), s.35, s.36, s.42.1
Applying for an order to vary a notice requirement or dispense with service	<ol style="list-style-type: none"> 1. Obtain a time, date and place for the hearing from the provincial court registry or contract legal counsel. 2. Complete and file Form 2 (Application for an Order) with the provincial court registry. 3. Serve notice as required by the court order. 	CFCSA: s.69 Court Rules 6(4) and 6(8) Appendix 1 <p>Note: If an order is made to dispense with service, it does not apply to subsequent hearings unless a dispense order “on all future child protection proceedings” has been made.</p>

2. Methods of providing service and proof of service

Action	Steps to be taken	Reference material
PERSONAL SERVICE		
Serving notice in person	Meet with the person entitled to notice and provide a copy of the notice. Use a process server if required.	
NON-PERSONAL SERVICE		
Serving notice by facsimile	If serving notice by facsimile is appropriate: 1. Obtain and confirm the facsimile number of the party entitled to be served. 2. Keep a copy of the facsimile confirmation report for court purposes.	Court Rules: Rule 6, Service and Proving Service
Serving notice when a person who is a party or an organization that is entitled to notice has filed an address for service	Serve notice by registered mail or by fax.	
Serving notice when a person who is a party that is entitled to notice cannot be served personally and has a lawyer of record	1. Serve notice through a lawyer's office. 2. Provide the lawyer's office with a copy (by fax). 3. Keep a copy of the facsimile confirmation report for court purposes.	
OTHER APPROVED METHODS OF SERVICE		
Serving notice when unable to use personal or the methods of service described above	1. Contact contract legal counsel. 2. Apply under Court Rule 6(10) for permission to vary the method of providing notice, or apply to dispense with the requirement for service. 3. Request that the court dispense with the requirement to include a plan of care when applying for permission to use a method of service that cannot be relied upon as confidential. 4. Follow any order made by the court in relation to substitutional service.	CFCSA: s.69(1)(b) Court Rules: Rule 6(10)
Serving notice by newspaper advertisement	1. Unless otherwise directed by the court, include the following in the advertisement: • initials of the child • child's birth date	Sample newspaper notice: George Watson this is your official notice that at 9:30 am on March 12, 1998 at Vancouver Family Court at 800 Hornby Street,

	<ul style="list-style-type: none"> • date, time and place of the hearing • order being requested, and • worker contact name and telephone number. <p>2. Make necessary arrangements, including payment.</p>	<p>Vancouver, British Columbia, the Director of Child, Family and Community Services will make an application for a Continuing Custody Order, pursuant to Section 49(5)(b) of the Child, Family and Community Service Act in connection with your child, EJW, born November 19, 1987. You have the right to be present and to be represented by legal counsel. George Watson, or anyone knowing his present whereabouts, please contact Joan Grey, Social Worker, Ministry for Children and Families, 2nd Floor - 666 East Hastings, Vancouver, British Columbia V6A 1R1. Telephone: (604) 775-1300.</p>
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DOCUMENTING PROOF OF SERVICE

<p>Documenting proof of service</p>	<p>Complete and send Form 9 (Certificate of Service) and other documents to contract legal counsel.</p>	<p>Methods of documenting proof of service</p> <ol style="list-style-type: none"> 1. Personal service – Certificate of Service 2. Fax – Certificate of Service and fax confirmation sheet 3. Registered mail – Certificate of Service with proof of service: <ul style="list-style-type: none"> • Copy (fax/ photocopy) of the signature obtained by Canada Post at time of delivery • Print-out of delivery confirmation on Internet by Canada Post 4. Personal service by lawyer – Copy of document signed by lawyer, articled student, partner or firm employee
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3. Serving notice in and for other jurisdictions

Action	Steps to be taken	Reference material
SERVING NOTICE OUTSIDE BRITISH COLUMBIA		
Serving notice in jurisdictions outside the province	<ol style="list-style-type: none"> 1. Contact the local child welfare authority and provide information about: <ul style="list-style-type: none"> – the name, address, and phone number of the person to be served – any contact with the person about the hearing, including whether the person is willing to receive service – the nature of the hearing and the order being requested – the date by which service must occur. 2. Arrange to send the child welfare authority: <ul style="list-style-type: none"> – the notice of hearing – Form 9 (Certificate of Service) – information about how to complete Form 9. 	<p>Note: A child welfare authority will typically not charge for this service.</p>
SERVING NOTICE FOR OTHER JURISDICTIONS		
Serving notice for jurisdictions outside the province	<p>The other province will direct the steps they require.</p> <p>When a child welfare authority from another jurisdiction requires the swearing and attachment of an affidavit to the notice of hearing, complete the documents with the assistance of either contract legal counsel or a notary public.</p>	<p>Note: A child welfare authority is not charged for this service.</p>

APPENDIX B: Informing and Serving the Aboriginal Community

From initial contact and throughout the period of involvement with an Aboriginal child and family, the Aboriginal community and, where appropriate, the identified delegated Aboriginal agency are involved in planning and decision making to ensure the safety and well-being of an Aboriginal child. The following outlines the required procedures for serving and informing members from Aboriginal agencies, Aboriginal communities including Aboriginal organizations prescribed in regulations for informing about presentation hearings, and, if the child is a Nisga'a child, the Nisga'a Lisims government, when it is necessary to proceed with court actions.

Action	Steps to be taken	Reference material
SERVING AND INFORMING FOR PRESENTATION HEARINGS		
Confirming the address and related information for the applicable Aboriginal organization for notification purposes	<ol style="list-style-type: none"> 1. Refer to Aboriginal Band Addresses and related information, Aboriginal Schedule 1 (CFCS Regs): Band Designate, and Schedule 2 (CFCS Regs): Community Designate, on CFCSLIST (http://icw.mcf.gov.bc.ca/manuals/man_general.htm#) 2. If the child is a Nisga'a child, contact the Nisga'a Lisims government. 	Regulations: Schedules 1 and 2
Confirming that a delegated agency provides service to the child's or family's band or community	<ol style="list-style-type: none"> 1. Confirm contact information for delegated agency on CFCSLIST: Aboriginal Delegated Child and Family Service Agencies (http://icw.mcf.gov.bc.ca/manuals/man_general.htm#cfcs). 2. Contact the identified delegated Aboriginal agency to determine the agency's involvement. If practicable, inform verbally or in writing as specified in Appendix A of this guide. 	
Serving and informing for a presentation hearing where a protocol exists between the band or Aboriginal community and identified delegated Aboriginal agency	Follow local protocols regarding informing and serving notice where a delegated Aboriginal agency has involvement with the child's or family's band.	

SERVING NOTICE FOR OTHER HEARINGS		
Serving notice for a protection or continuing custody hearing for an Aboriginal child	Serve the designated representative of the band or Aboriginal community, or if the child is a Nisga'a child, the Nisga'a Lisims government, with notice of the time, date and place of hearing at least 10 days before the date.	Regulations: Schedules 1 and 2
Serving notice of an enforcement, extension, permission for cancellation, access, variation or guardian of the estate hearing	Serve the designated representative of the band or Aboriginal community, or if the child is a Nisga'a child, the Nisga'a Lisims government, with notice of the time, date and place of hearing at least 10 days before the date.	Regulations: Schedules 1 and 2
Serving notice of a proceeding	Follow local protocols regarding informing and serving notice where a delegated Aboriginal agency has involvement with the child's band.	CFCSA: s.38, s.39, s.49 Appendix 1

APPENDIX C: Making a Child a Party to the Proceedings

In most circumstances, it is not necessary for a child to become a party to the proceedings. In exceptional circumstances, a child with capacity may apply to become a party where the child disagrees with the proposed plan of care, disagrees with the orders being requested, or wishes to have full disclosure of the director's information. The following outlines the procedures to follow when a child requests to become a party.

Action	Steps to be taken	Reference material
Applying for an order for the child to become a party to the hearing	<ol style="list-style-type: none"> 1. Ensure that contract legal counsel has consulted with Legal Services Branch (LSB), Ministry of Attorney General, before making an application. Contract legal counsel must fax a copy of the completed request form. LSB has been authorized to approve a plan to apply under s.39(4) to make a child a party. 2. Obtain a time, date and place for the hearing from the provincial court registry or contract legal counsel. 3. Complete and file Form 2 with the provincial court registry. 4. Serve notice as required (see Appendix A). 5. Arrange legal representation for the child once the court makes an order for the child to be made a party to the hearing. Contract legal counsel must fax the request form and a copy of the order to LSB. The lawyer appointed to represent the child will contact the child's delegated worker in order to arrange for contact with the child. 	CFCSA: s.39(4) Court Rules: Rule 6

APPENDIX D: Court Forms

Form 1: Presentation Form

Form 2: Application for an Order

Form 3: Application to Change or Cancel an Order

Form 9: Certificate of Service

Form 11: Written Consent

Form A: Report to the Provincial Court of British Columbia

Form F: Report to the Provincial Court of British Columbia

(Forms begin on next page.)



PRESENTATION FORM

In the Provincial Court of British Columbia
Under the Child, Family and Community Service Act

Court File Number:
Court Location:

In the matter of the child:	
Name(s): john doe	Date(s) of Birth (day/mo/yr)

This information is filed on behalf of a director by:			
Name(s)			
Address Court Address		City	
Province British Columbia	Postal Code	Phone	Fax

The child remains in the parent's care and the director applies for supervision under

s. 29.1 (a director has reasonable grounds to believe the child needs protection and a supervision order would be adequate to protect the child.)

The child was removed under the authority of the *Child, Family and Community Service Act*, under

s. 30 (a director has reasonable grounds to believe the child needs protection AND

- the child's health or safety is in immediate danger, OR
- no less disruptive available measure is adequate to protect the child)

s. 36(1) (a director has reason to believe that an order made under s. 33.2(2) or 35(2)(b) or 36(3) no longer protects the child or a person has not complied with a term or condition of the order and the director is required to remove the child)

s. 42 (a director has reason to believe that an order made under s. 41(1)(a) or (b), 41(1.1) or (2.1), 42.2(4)(a) or (c), 46(3) or 49(8) or an interim order made under s. 42.1 no longer protects the child or a person has not complied with a term or condition of the order and the director is required to remove the child.)

The child has, or has not been returned to the parent.

Date: _____ Time: _____
 A hearing will take place on: _____ at: _____ am pm

Court Location:
 at:

The following are either:

- attached to this form, OR
- will be available at the presentation hearing;
 - Form A, OR
 - Form F

The child is aboriginal: Yes No

Previous proceedings involving the child or siblings: Yes No

Details

Signature

Dated _____

Name: Lawyer for the director is:



APPLICATION FOR AN ORDER

In the Provincial Court of British Columbia
Under the *Child, Family and Community Service Act*

Court File Number:
Court Location:

In the matter of the child:	
Name(s): Child's Name	Date(s) of Birth (day/mo/yr):

This application is filed by:			
Name(s): Social Worker's name			
Address:		City:	
Province: British Columbia	Postal Code:	Phone:	Fax:

Notice to:			
Name(s):	Address(es):	Phone:	Fax:
Names of persons served			

The child is aboriginal: Yes No

I will apply to this court on:	Date: Hearing Date	at:	Time: <input type="checkbox"/> am <input type="checkbox"/> pm
Court Location: at: Court house physical address			
For:			
<input type="checkbox"/> a temporary custody order (under <input type="checkbox"/> s. 41(1)(c), <input type="checkbox"/> s. 42.2(4)(b), or <input type="checkbox"/> s. 49(7)(b))			
<input type="checkbox"/> a supervision order (under <input type="checkbox"/> s. 41(1)(a), <input type="checkbox"/> s. 41(2.1), or s. 42.2(4)(a))			
<input type="checkbox"/> a continuing custody order <input type="checkbox"/> s. 41(1)(d), <input type="checkbox"/> s. 42.2(4)(d), or <input type="checkbox"/> s. 49(4), (5) or (10)) (under			
<input type="checkbox"/> an order permitting use of another service method, as set out below (Rule 6(8) or 6(10))			
<input type="checkbox"/> extension of a temporary order (s. 44)			
<input type="checkbox"/> a supervision order after expiry of a temporary custody order (s. 46)			
<input type="checkbox"/> an order for access to a child (s. 55)			
<input type="checkbox"/> an order for access to a child, in continuing custody (s. 56)			
<input type="checkbox"/> an order to changes to supervision, temporary custody and access orders (s. 57)			
<input type="checkbox"/> an order that a child or parent undergo a medical or other examination (s. 59)			
<input type="checkbox"/> an order varying notice requirements (s. 69)			
<input type="checkbox"/> An order as set out below			
Details of the order requested and the section of the Act or Rule relied upon:			

Signature of Applicant or Agent

Dated

Address for service if different from Applicant's:			
Address:		City:	
Province:	Postal Code:	Phone:	Fax:



APPLICATION TO CHANGE OR CANCEL AN ORDER

In the Provincial Court of British Columbia
Under the Child, Family and Community Service Act

Court File Number:
Court Location:

In the matter of the child:	
Name(s): Subject child's Name	Date(s) of Birth (day/mo/yr)

This Application is filed by:	Name	Social Worker's name	
Address	District Office address	City	British Columbia
Postal Code		Phone	Fax

Notice to:			
Name(s):	Address(es) (include Tel. & Fax # if applicable)	TEL:	FAX:
Those person's served			

The child is aboriginal: Yes No

I will apply to this court on:	Date	Time	<input type="checkbox"/> am <input type="checkbox"/> pm
	date of hearing	at:	
	Court Location		
at: court house address			
FOR AN ORDER THAT:			
<input type="checkbox"/> the attached order be cancelled; OR			
<input type="checkbox"/> the attached order be changed to do the following:			
 <input type="checkbox"/> Since the order was made, circumstances have changed significantly as follows: OR			
<input type="checkbox"/> (if the application is under Rule 8(6)) The reason for changing or cancelling the order is:			
I make this application under <input type="checkbox"/> s.28 <input type="checkbox"/> s.54 <input type="checkbox"/> s.57 <input type="checkbox"/> s.98 <input type="checkbox"/> Rule 8(6) <input type="checkbox"/> s. _____			

Signature of Applicant or Agent	Dated:
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Address for service if different from Applicant's:			
Address:	City:	British Columbia	
Postal Code:	Phone:	Fax:	



CERTIFICATE OF SERVICE

In the Provincial Court of British Columbia
Under the *Child, Family and Community Service Act*

Court File Number:
Court Location:

In the matter of the child:	
Name(s):	Date(s) of Birth (day/mo/yr):
Subject Child's name	

I certify that I, **Name of Person who served notice**

of **Name of Person who served notice** City: _____ Prov: **British Columbia**

Served Name of person served: _____

on: Date: _____

at: Address: _____

with a copy of: *(List each document served)*

by leaving the copy with him or her personally;

by mailing the copy to him or her by registered mail. Attached and marked as an exhibit to this certificate is:

the original acknowledgment of receipt card, marked Exhibit “ ”; or

the unopened envelope returned by Canada Post, marked Exhibit “ ”.

by sending the copy by facsimile transmission. Attached and marked as Exhibit “ ” to this certificate is a transmission report generated by the sending machine, confirming transmission to _____ Number _____ which is the facsimile number of _____ Name _____

Signature Dated _____

WRITTEN CONSENT

Form 11

In the Provincial Court of British Columbia
Under the *Child, Family and Community Service Act*

Court File Number: _____

Court Location: _____

In the matter of the child:

Name(s)

Date(s) of Birth (day/mo/yr)

I, Name of Person providing consent

Name

of

Address

City

Prov.

consent to the making of a Consent Order under section 60 with reference to section (reference the relevant section[s] of the CFCSA) .

Details of the consent order including any terms or conditions:

I am:

- the director.
- the child, 12 years of age and older.
- the child(ren)'s parent.
- a person who has custody of the child(ren) under section 41(1)(b) of the Act.
- an Indian band, an Aboriginal community or the Nisga'a Lisims Government.
- a party appointed under section 39(4) of the Act.

- I have been advised by the Director to consult with independent legal counsel before signing this consent.
- I understand the nature and the consequences of this consent.
- My consent to the order is voluntary.

Signature

Dated

Witness Signature

Witness Name

Dated



**Child, Family and Community Service Act
Report to the Provincial Court of British Columbia
Form A**

Court File No.: _____
Court Location: _____

I, **Social Worker's name** , as a delegate of the director under section 92 of the *Child, Family and Community Service Act*, present this written report to the court.

The child listed below is under the age of nineteen years, and is the subject of this report:

Child's name	Birthdate	Sex
Subject child's name		

The following is the parent of the child:

Parent's name	Relationship to child	Address	Phone (home)	Phone (work)

If the child is aboriginal, the name of the child's aboriginal community or of the band that the child is registered or entitled to be registered as a member of, is:

Child's name	Community or band name

Facts of Removal

The child was removed on the following date and at the following location:

Date and time	Location

By and in the presence of:

(first list the person removing the child and then any other person(s) present at the time of the removal)

Name

The circumstances that caused the director to remove the child are as follows:

--

Statutory Authority for Removal

The child was removed in accordance with the following:

- section 30 of the *Child, Family and Community Service Act* in the following circumstance(s) as described by section 13 of the Act:
 - a) *the child has been, or is likely to be, physically harmed by the child's parent*
 - b) *the child has been, or is likely to be, sexually abused or exploited by the child's parent*
 - c) *the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and the child's parent is unwilling or unable to protect the child*

- d) *the child has been, or is likely to be, physically harmed because of neglect by the child's parent*
- e) *the child is emotionally harmed by the parent's conduct*
- f) *the child is deprived of necessary health care*
- g) *the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment*
- h) *the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care*
- i) *the child is or has been absent from home in circumstances that endanger the child's safety or well-being*
- j) *the child's parent is dead and adequate provision has not been made for the child's care*
- k) *the child has been abandoned and adequate provision has not been made for the child's care*
- l) *the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force*

section 36 (1) of the *Act*, which requires the director to remove the child if the director has reasonable grounds to believe that either or both of the following apply:

- (i) an order made under section 33.2 (2), 35 (2) (b) or 36 (3) no longer protects the child, or
- (ii) a person has not complied with a term or condition of an order under section 33.2 (2), 35 (2) (b) or 36 (3) and the director is required by that order to remove the child in the event of non-compliance.

section 42 (1) of the *Act*, which requires the director to remove the child if the director has reasonable grounds to believe either or both of the following apply:

- (i) that a supervision order made under section 41(1) (a) or (b), (1.1) or (2.1), 42.2 (4) (a) or (c), 46 (3) or 49 (8) or an interim order made under section 42.1 no longer protects the child, or
- (ii) a person has not complied with a term or condition of the supervision or interim order and the director is required by that order to remove the child in the event of non-compliance.

Less Disruptive Measures

If the child was removed under section 30, the following less disruptive measures were considered by the director before removing the child:

Interim Plan of Care

The child's current living arrangement is as follows:

Steps taken to preserve the child's aboriginal identity are:

- not applicable
- as follows:

The child's views on the interim plan of care:

- have been considered
- have not been considered

The parent:

- has
- has not

been involved in the development of the plan.

Director's Recommendations About Care and Supervision and Access

The director recommends the following with regard to care and supervision of the child and access by any person to the child:

Signature of the Director's delegate: _____

Business address of Director's delegate: **British Columbia** _____

Business phone number of Director's delegate: _____

After-hours emergency phone number: _____

Date: _____

Facts of Application

The grounds for the director's belief that the child needs protection are as follows:

The grounds for the director's belief that the supervision order would be adequate to protect the child are as follows:

Interim Plan of Care

The current living arrangement for the child is as follows:
(Include information about any steps taken to preserve the child's aboriginal identity, if applicable.)

The child's views on the interim plan of care:

- have been considered
 have not been considered.

The parent

- has
 has not

been involved in the development of the plan.

If the child is aboriginal, the applicable aboriginal organization

- has
 has not

been notified of the director's application.

Director's Recommendations About Terms and Conditions

The director recommends the following terms and conditions be included in the supervision order:

Signature of the director's delegate: _____

Business address of director's delegate: _____

British Columbia

Business phone number of director's delegate: _____

After-hours emergency phone number: _____

Date: _____