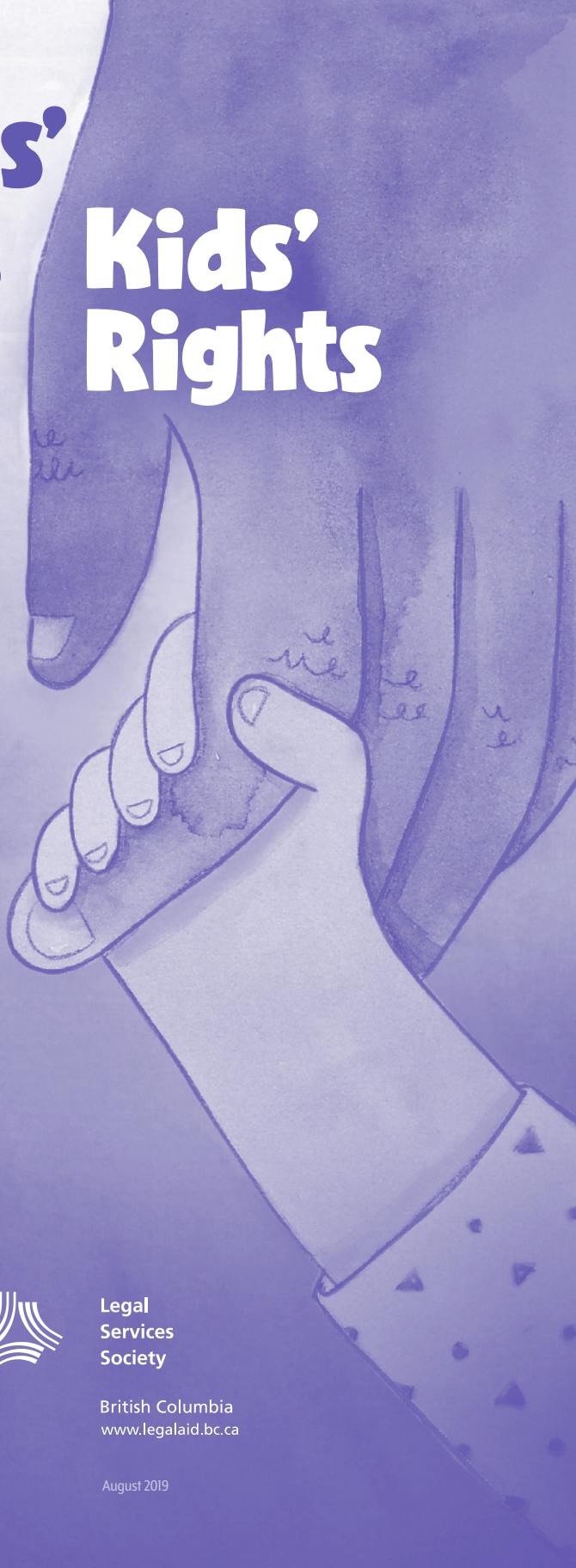


Parents' Rights,

Kids' Rights

A parent's guide
to child protection
law in BC



Legal
Services
Society

British Columbia
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This booklet explains the law in general. It isn't intended to give you legal advice on your particular problem. Because each person's case is different, you might need to get legal help. The information in this booklet is up to date as of August 2019.

See the back cover for how to get free LSS (Legal Aid BC) publications.

Contents

Keeping Children Safe: The Law in BC 1

What parents must do	2
What's abuse?	2
What's neglect?	3
Duty to report child abuse	3
Who investigates	4
Where to get legal help	4

What Happens during an Investigation 5

What social workers can do	6
Their powers	6
Their guidelines	6
Delegated Aboriginal agencies	7
When a social worker contacts you	8
Get information about the complaint	8
Explain your views	9
Get services to help	9
Get contact information	10
Get legal help and other support	10
Make a safety plan	11
What the social worker might decide	12
If your child doesn't need protection	12
If your child needs protection	13
Child not removed – protection required	13
Child removed – protection required	14

Staying out of Court

15

Collaborative planning and decision making	16
Family case planning conference	17
Family group conference	17
Traditional decision making for Indigenous families	18
Mediation	18
What an agreement can cover	18
Extended Family Program agreement	19
Voluntary care agreement	19
Foster care in your community	20
Tips about making agreements	21
Get help from a lawyer and/or an advocate	21
Be part of making decisions	21
Be realistic about what you agree to	21
Check time limits	22
Put everything you agree to in writing	22
Keep notes	22

If the Director Removes Your Child

23

Get legal help as soon as you can	24
Go to the court hearings	24
Ask for visits with your child	24
Ask for your case information	25
Work out a plan of care for your child	26

What Happens at Court

27

Presentation hearing	27
Plan to go to the presentation hearing	28
Get legal help	28
At the presentation hearing	29

The Report to Court	29
Interim order	30
What you can do	31
Protection hearing	32
Get legal help	32
At the protection hearing	33
Case conference	33
Consent order	34
Protection hearing with witnesses and evidence	34
Continuing custody order	35
<u>The Child Protection Process (flow chart)</u>	<u>36</u>
<u>If You Have a Complaint</u>	<u>38</u>
<u>Legal Help</u>	<u>39</u>
Legal Aid BC	39
Legal aid lawyer	39
How to apply for legal aid	40
Family duty counsel	40
Free lawyer for children	40
Pro bono (free) legal clinics	41
How to work well with a lawyer	41
Advocates or community workers	42
Where to find an advocate	42
<u>Services and More Information</u>	<u>43</u>
Services	43
Publications	50
Websites	51
<u>Definitions</u>	<u>52</u>

About This Booklet

This booklet explains child protection law. It gives you an overview of what happens when someone makes a report about your family to the **Director of Child Protection** (the director). What happens and how long things take might be different – depending on where you live in BC – because of court access and local support.

This booklet can help you if:

- you're currently dealing with the director,
- the director is worried about your child's safety or well-being,
- you think the ministry might contact you, or
- you want to ask the ministry about support services.

This booklet is for parents, extended family, **advocates**, and members of the community who need to know about the rights of parents and children during the child protection process.

In this booklet, we use the term Indigenous instead of **Aboriginal**. This reflects recent changes in child protection law. An **Indigenous child** has been defined in child protection law in BC to include children who are First Nations, Nisga'a, Treaty First Nations, Métis, Inuit, under 12 of a biological parent of Indigenous ancestry and considers themselves Indigenous, or over 12 of Indigenous ancestry and considers themselves Indigenous.

Call Legal Aid BC

Social workers have the power to **remove** (take) children from their home. They don't need a **court order** to do that. If a social worker contacts you or visits your home, you have the right to get legal advice. Call Legal Aid BC immediately to find out if you qualify for a free lawyer.

604-408-2172 (Greater Vancouver)

1-866-577-2525 (elsewhere in BC)

- When you call, ask about **Parents Legal Centres**. This Legal Aid BC service helps parents with their child protection matters early on (see page 47).
- If you're pregnant and worried the ministry might get involved because of your current circumstances or history with them, get legal advice as soon as possible. You can apply for a free Legal Aid BC lawyer at any time before your baby is born.

Words in **bold** are explained in the text or in the Definitions starting on page 52.



Keeping Children Safe: The Law in BC

We use the term **Indigenous** instead of **Aboriginal** to reflect recent changes in the law.

In BC, a law called the Child, Family and Community Service Act protects children. This law includes these **principles** (rules) to keep children safe and well cared for:

- Children have a right to be protected from abuse, neglect, and harm or threat of harm.
- The best place for children to live is usually with their families.
- Indigenous families and Indigenous communities share responsibility for the upbringing and well-being of Indigenous children.
- Indigenous children should stay in their cultural communities, if possible.
- Parents are mainly responsible for protecting their children.
- If parents need help to care for their children, the social worker should provide support services.
- Children's opinions should be taken into account when people or agencies are making decisions about them.
- Children's ties to family, including to the extended family, should be kept, if possible.
- Indigenous children should have the opportunity to learn about and practise their Indigenous traditions, cultures, and languages, and belong to their community.
- Decisions about children's care should be made and acted on as quickly as possible.

What parents must do

In BC, a **child** is anyone younger than 19. A **parent** is a person responsible for a child's care. They could be a child's mother or father, a person given custody or guardianship of a child by court order or **agreement**, a relative or friend the child lives with, or an appointed **guardian**.

The law says parents must:

- keep their children safe;
- take care of their children's physical and emotional needs;
- get medical care for their children; and
- protect their children from physical, sexual, and emotional **abuse**.

The law also says parents must not **neglect** their children.

What's abuse?

Child abuse includes physical harm, sexual abuse, and emotional abuse.

- **Physical abuse** can be shaking, punching, or hitting a child. Any action that hurts a child or leaves a mark can be abuse. It also includes punishments such as locking a child in a room without food, water, or a toilet for a long time.
- **Sexual abuse** is anything sexual that happens between a child and an adult — or a much older child. It also includes when an adult threatens to have sex with a child. You can't take sexual photographs or videos of a child. You can't force or permit a child to watch **pornography** (movies or photographs about sex) or watch actual people having sex. It's also illegal to let people have sex with a child.
- **Emotional abuse** is when parents hurt a child by often ignoring, criticizing, or yelling at them. Such abuse can make children feel very sad, nervous, and alone, or even make them want to hurt themselves. Sometimes, children live in a home where they aren't physically hurt, but their parents hurt each other. This can also make children feel afraid, which could be emotional abuse.

If you experience family violence, you can get help from groups such as VictimLinkBC (see page 49). You can also read the Legal Aid BC fact sheets *Live Safe, End Abuse*. See the back cover of this booklet for where to get free copies.

If the social worker believes you can't protect your child from being abused or from witnessing abuse, they can remove your child from your home and your care.

What's neglect?

Neglect is when parents don't give their child enough food, clothes, or medical care, or if a child doesn't have a safe place to live. Other examples of neglect are when parents are drunk and drive with their child, or when they leave their child with someone who's drunk or drugged, or let the child use drugs or alcohol. Neglect can also be when they leave their young child alone at home or in a car.

The law doesn't say exactly how old a child must be to stay alone. But the court has said a child eight years old is too young to be left home alone. In general, young children shouldn't be left alone. If your child is between 10 and 12, think about these things when you decide if you can leave your child alone:

- How mature is your child?
- Where will your child be?
- Are responsible adults nearby if your child needs help?
- How much does your child have to do (for example, cook or care for others)?
- Does your child know what to do in an emergency?
- What time of day will your child be alone, and for how long?

If you decide to leave your children alone, make sure they can contact you right away if necessary. Give them a phone number where they can call you.

Duty to report child abuse

The law in BC says anyone who believes a child has been abused or neglected, or is likely to be abused or neglected, *must* report it to the ministry or a delegated Aboriginal agency. There are serious penalties for people who know about abuse but don't report it. This includes everyone who knows a child.

Sometimes people **make false reports** (lie) about abuse or neglect. The social worker thinks about that when looking into a report. They should look at all available information and decide whether someone has made a false report.

If you believe someone made a false report, you should tell the social worker. If the social worker refuses to investigate your concern about a false report, don't argue. Get advice from an advocate or lawyer as soon as possible about how to make a record of your concern and the social worker's response to you. See page 39 for how to get legal help.

Social workers can't tell anyone the name of someone who reports child abuse. This is so people won't be afraid to report child abuse when they think a child is being harmed in some way.

Who investigates

Social workers investigate complaints of child abuse or neglect.

Some Indigenous communities have **delegated Aboriginal agencies**. They only work with Indigenous families, and might investigate reports of abuse. See page 7 for information about delegated Aboriginal agencies.

The director also has staff who work to help Indigenous families. If you want your community involved in the investigation, this staff can help you.

If a child's safety is at risk, the ministry or delegated Aboriginal agency must:

- try to work with the parent to make sure the child is no longer at risk, or
- remove the child from their home, and
- protect the child's Indigenous cultural ties and identity when making plans for the child's care.

Where to get legal help

If you're dealing with child protection issues, you have the right to get legal advice.

- If your income is below a certain amount, you might get a free lawyer from Legal Aid BC to work on your case (see page 39).
- If you're an Indigenous parent, ask for a band or community representative to support you, during the investigation and in court (see page 23).
- If you need a lawyer right away and you don't have one, you can get free legal help from **family duty counsel** (family lawyers) at a courthouse (see page 40).
- An advocate might also be able to help you. An advocate is someone who knows about certain issues and laws, and uses their experience to help other people. An advocate can explain the legal process to you and might help you present your point of view to the director (see page 42).
- The Parents Legal Centre (see page 47) helps parents with their child protection matters early on and collaboratively (everyone works together). You have to meet certain requirements for the services.



What Happens during an Investigation

We use the term **Indigenous** instead of **Aboriginal** to reflect recent changes in the law.

When the social worker gets a report your child is being abused or neglected, or might be abused or neglected, they make an **assessment** of the case within a few days. This means they ask questions, gather information, and decide if they need to keep looking into the report. The time this takes depends on the situation.

- Some cases end after a short assessment. The social worker might decide there's no problem, and your child doesn't need protection. They might not take action. Instead, they might refer your family to community support or offer voluntary support services.
- The social worker might decide a protection response is necessary. They might provide a **family development response** or conduct a child protection investigation. The family development response might include developing a **family plan** that says what help the director or community services can provide.
- The social worker might refer the case of an Indigenous child to their First Nation, depending on whether the First Nation has an agreement with the ministry.
- If the social worker decides your child might not be safe, they have to investigate.

If a social worker investigates:

- they gather information, think about everything, and then decide about the best way to keep your child safe; and
- you can explain your situation to the social worker. This is the time to respond to their concerns about your child's safety and share how you can make sure your child is safe.

It often helps to write a plan with the social worker to set out what you want to do to make things better for your child. This is often called a **safety plan** (see page 11). Review the safety plan with the social worker.

What social workers can do

The law gives social workers certain powers when they investigate. They also have to follow rules and policies about how to do their work and how to make decisions.

See page 38 for what to do if you have a complaint about a social worker.

Their powers

The social worker might first phone you or visit you at home. During investigations, social workers can do certain things.

- They can talk to you about your family and your child's safety.
- They can talk to your child alone (without you). Sometimes, the social worker talks to your child at school or somewhere else outside of your home without telling you.
- They can talk to people who know your child. These could be teachers, counsellors, relatives, family members, childcare workers, doctors, neighbours, police, friends, or religious leaders.
- They can look at any paperwork, such as medical records, school reports, and court documents, for information about your child.
- They can come to your home at any time and ask to see your child. If you don't let them see your child, they might decide to remove your child from your home. For this reason, it's best to work things out with the social worker if you can. If you're worried about your child talking to the social worker alone, you could ask if someone you trust can be there during the interview.
- They can remove your child from your home without warning, if they think your child needs protection. They don't need a court order before they remove your child.

Their guidelines

At all times, social workers need to keep these things in mind:

- The child's safety always comes first.
- The best place for children is usually with their families.
- Indigenous children should stay in their communities, if possible.

- Indigenous children should have the opportunity to learn about and practise their Indigenous traditions, cultures, and languages.
- The child's opinion should be considered when deciding what should happen.
- If support services are going to help parents care for their child, the social worker should help get these services for the parents. Examples are home support, counselling, and parenting classes.
- Decisions about the child's care and safety should be made as quickly as possible.
- The social worker must investigate any complaint in the least disruptive way possible to the child's family.

Social workers are supposed to be guided by the principle that keeping families together is a good thing. They aren't supposed to remove a child unless the child's health or safety is in immediate danger and this is the best way to protect them.

The law says if a social worker believes your child has been physically or sexually abused, they must tell the police.

Delegated Aboriginal agencies

If a social worker contacts you or visits your home to ask questions about your Indigenous child, they might be working for a delegated Aboriginal agency. Delegated Aboriginal agencies have an agreement with the ministry to provide certain child protection services to Indigenous communities. Some delegated Aboriginal agencies have the same powers as ministry offices. Some provide only limited services to families.

Delegated Aboriginal agencies might offer the following services:

- support services for the whole family
- help with preparing **voluntary care agreements** (see page 19)
- help with writing, monitoring, and reviewing your child's **plan of care** (see page 26)
- help with writing special needs agreements for your child if your child has special needs
- monitoring how your child is doing if they're in foster care
- help for youth moving toward independence

Some delegated Aboriginal agencies also have the following powers:

- get and investigate reports of child abuse and neglect
- remove your child from your home
- place your child in a relative's care (such as with an aunt, uncle, grandparent, community member, or family friend)
- get supervision orders to make sure your child is safe and healthy
- deal with guardianship social workers to place a child for adoption

Delegated Aboriginal agencies work with families living on reserve and off reserve across BC.

- If you live on reserve, your band might already be involved with a delegated Aboriginal agency.
- If you live off reserve, your local city or town's Indigenous organization might also have a delegated Aboriginal agency.

See page 53 for how to find and contact a delegated Aboriginal agency.

If the ministry is investigating you and a delegated Aboriginal agency represents your band or community, you can ask the ministry to tell the delegated Aboriginal agency. The delegated Aboriginal agency might be able to give culturally appropriate help. For example, some delegated Aboriginal agencies get your entire family involved in your child's care, and some have Indigenous mediators.

When a social worker contacts you

A social worker might contact you by letter, email, or phone, and ask to meet with you. Or they might visit your home. If that happens, you can:

Get information about the complaint

Ask for as much information as possible about why the social worker is investigating you.

- Ask the social worker to answer your questions, explain what might happen, and write out important information for you.
- Take notes about what the social worker tells you. You might be nervous during the meeting and not remember everything afterward. Notes help you to keep track of what you want to find out and have to do. Your notes are also an important record of your contact with the social worker. Save your notes to help remember what you and the social worker said.

Explain your views

Tell the social worker your views about the safety concerns raised for your child.

- Give the social worker the names of trusted people who know you and your child. They can help explain your views about what's best for your child.
- Tell the social worker if your child is Indigenous.
- If you agree the report is true, share your plan to keep your child safe.
- If you believe the report is false, explain what you're doing to make sure your child is safe.

Having a social worker contact you is stressful. If you disagree with the report, don't argue with the social worker.

Instead, ask questions about the report and say how you can make sure your child is safe. Remember, the social worker wants to make sure your child is safe. The best thing you can do is focus on how to make sure your child is safe.

If you believe the report is false, keep in mind the social worker has already looked at the report and decided to investigate. The social worker might disagree with you that the report is false.

Keep a copy of everything that can help you prove what you say to the social worker. This could be notes about meetings with them, drug test results, contact information for people who can **confirm** (back up) what you say, and letters of support.

Get services to help

Find out what services can help you and your child.

- If your child is Indigenous and you want an Indigenous community to be involved, tell the social worker.
- Ask for an interpreter if you have trouble understanding or speaking English. The social worker gets you an interpreter if there's one in your area. If an interpreter isn't available, you could ask someone you know to interpret for you. If you ask a trusted friend or family member to help you, make sure they understand they're there to interpret, not to defend you or speak for you. Your interpreter should always stay calm when talking with the social worker.
- Ask for someone to interpret into sign language if you need that.

- If you think you aren't being understood because you're from another country and have different beliefs about raising children, tell the social worker. You might be able to get help from an immigrant-serving agency to explain your situation or ask about things that aren't clear to you. See page 43 for where to get help.

Get contact information

It's important to know how to contact the social worker who's investigating your child's safety.

- Ask the social worker for their business card. If they don't have one, ask them to write down their name, office address, and phone number. This makes it easier for you to give new information, tell them about anything you forgot, or ask questions.
- Write down the name and phone number of the social worker's **supervisor** or **team leader** (their boss).
- If a social worker phones you, it's very important to find out their name so you can phone back if you need to. If you're too upset to talk when the social worker phones, ask if you can phone back. If the answer is yes, be sure to phone back as soon as you can. You can also ask to meet in person.
- If you can't reach the social worker or don't have their phone number, phone the ministry office nearest you (see page 46). Or ask an advocate for help.

Get legal help and other support

You have the right to get legal advice as soon as the social worker contacts you. An advocate or community worker can also help you.

- If you're an Indigenous parent, ask for a band or community Indigenous representative to take part in the process (see page 23). Your Indigenous community, band, or First Nation might already have a written agreement with the local ministry office or delegated Aboriginal agency to set out how your band or First Nation is involved in your child protection matter.
- Contact Legal Aid BC immediately to find out if you can get a free lawyer. You can apply for legal aid when a social worker starts an investigation, or you learn you're being investigated. See page 39 for how to get legal help.
- If you're an Indigenous parent, ask the social worker (or your lawyer) about getting an Indigenous child protection mediator to help with your case.

- Ask an advocate or community worker to go with you to a meeting with the social worker. Advocates and community workers can explain how things work. They can help you decide how to explain your situation, take notes for you, or help you find legal help. You have the right to have an advocate with you at all face-to-face meetings, if you want an advocate to be there. See page 42 for how to find an advocate.
- If you don't have an advocate or a community worker, a trusted friend or family member might be able to support you or take notes.
- It's important to be on time for all your meetings. Call the social worker ahead of time if you can't go to a meeting, or if you might be late. The social worker keeps track of when you're late or miss an appointment.

All social workers have lawyers who represent them. *Their lawyers don't represent you and can't give you legal advice.* You have the right to talk to your own lawyer who can give you legal advice. They have experience and knowledge about child protection law and court processes. Having your own lawyer can be very helpful for you. See page 39 for how to get legal help.

Make a safety plan

While the social worker is investigating, you can give your ideas about how to take better care of your child, or how others can help you. This is called a safety plan.

Making a good safety plan is one of the best ways to meet your child's needs. It could show the social worker your child is safe in your home, and they might decide not to remove your child. Making a safety plan after the social worker removes your child might help to get your child back sooner.

When you make your safety plan, think about:

- why the ministry is worried about your child's safety
- what's best for your child
- what you really can do
- how much time it will take you to make changes (be realistic)
- what your child wants (especially if your child is 12 or older)
- what help you might need
- what you'll do if you have to wait for help

It's good to tell the social worker:

- ways you can make your situation better
- what you did in the past that helped
- what support you used or plan to use
- what you've already done to deal with the current problem
- if you need help to find a doctor, food, counselling, family therapy, childcare, or a safe place to live
- what you'd like the social worker to do to help you
- which family members and friends can help you
- the names of trusted people who might let your child live with them for some time, if that's needed
- how your child can help (if they're old enough)
- if your child is Indigenous, how they could be involved with their Indigenous community
- how your child's school or teachers could be involved

What the social worker might decide

After investigating, the social worker might decide:

- your child doesn't need protection, or
- your child needs protection.

Any time after the social worker starts an investigation, you can work out an agreement through collaborative planning and decision making options. Get information about each option before you agree to one (see page 16).

If your child doesn't need protection

If the social worker decides your child doesn't need protection, they might close your file and not do anything else. If this happens, ask the social worker for a letter saying your file is closed.

The social worker might decide your child doesn't need protection but might:

- offer to give you support services or refer you to support services you need, or
- suggest you ask your community support services for help.

If your child needs protection

If the social worker decides your child needs protection, they have to take action to make sure your child is safe and well cared for. The social worker might decide to take different actions, including:

- not to remove your child from your home but ask you to make certain changes to your home or your life, or
- to remove your child from your home.

Child not removed – protection required

The social worker might decide your child needs protection and might ask you to agree to follow a certain plan. What the social worker wants you to do is written in a **supervision order without removal**.

- If you agree to do what's asked of you in the supervision order without removal, your child can stay with you. If the social worker applies for this order, get legal advice as soon as possible.
- Only the court can make orders. The social worker must apply to court for a supervision order without removal at what's called a presentation hearing (see page 27). To get the order, the social worker gives the court documents that must include their concerns for your child's safety and changes you're asked to make.
- You or your lawyer can also tell the judge why you agree or disagree with the information in the court documents and the order the social worker wants. The supervision conditions are in the application and are part of the order.

You might feel pressured to agree to a supervision order without removal. You might think – or even be told – the ministry will remove your child if you don't agree to the supervision order. If you're in this situation, get help from a lawyer right away.

A lawyer can try to **negotiate** (work out) some or all of the supervision order on your behalf. If you have a court date, it's very important you attend court. Get help from a lawyer as soon as you know about the court date.

Contact Legal Aid BC, or find out when family duty counsel is available at your local courthouse (see page 40). The sooner you speak to a lawyer the better, so they can answer all your questions or concerns. See page 39 for how to get legal help.

Child removed – protection required

The social worker might decide to remove your child from your home if they believe your child needs immediate protection.

- If the social worker removes your child, you have to go to court to work out with a judge what happens next.
- If you have to go to court and you don't have a lawyer, get one as soon as you can. A lawyer can try to negotiate with the social worker for the return of your child. See page 39 for how to get legal help.
- You can also speak to family duty counsel if you can't get a lawyer right away (see page 40).

Going to court

If you have to go to court, a judge decides what happens next. See page 24 for what to do if you have to go to court.

You might get a free lawyer through Legal Aid BC. Any time after the social worker starts an investigation, or if someone says you're being investigated, you can apply for legal aid. See page 39 for how to get legal aid.



Staying out of Court

We use the term **Indigenous** instead of **Aboriginal** to reflect recent changes in the law.

You and your family have a right to be involved in deciding about your child's care. Whenever possible, and at any time during the process, the director will work with parents or guardians rather than take a case to court. The director tries to negotiate with you to decide what's best for your child.

If you can negotiate an agreement or a plan with the director, that can be less stressful and faster than if you go to court. You can work out an agreement for free through **collaborative** (shared) planning and decision making (see the next pages).

Negotiating with the director could help you keep your child safe in your home, or at a trusted friend or family member's home, until you can have your child back home.

You can negotiate an agreement at almost any time, such as:

- after the social worker tells you there are concerns about your child's safety
- when your case is going to court
- when a judge's order has ended

The social worker might say the ministry will remove your child if you don't sign an agreement.

- Ask for time to find a lawyer. Get a lawyer as soon as you can.
- You can also ask for mediation or other services.
- If you don't have time to talk to a lawyer, you might decide to sign an agreement to keep the ministry from removing your child.
- Talk to a lawyer right after you sign the agreement to find out what to do next.

Collaborative planning and decision making

When the director makes a decision about protecting a child, everyone in the family is affected. In the past, parents weren't allowed to help decide about their child's care.

The director now agrees it's good to get parents involved to decide how to care for their children. The ministry has a policy called **presumption in favour**. This policy says when there's a disagreement about plans for a child's safety, it's best for the social worker and parents to use **collaborative planning and decision making** to reach agreements.

This means you and the social worker talk together to understand your child's needs. Then you and the social worker can make the best plan together for your child's safety in a way that suits your family.

If the social worker doesn't suggest using collaborative planning and decision making, you can ask for it.

Collaborative planning and decision making can help you:

- involve other family and community members to make a plan for your child's care
- reach an agreement with the social worker about support services your child needs
- decide where your child will live and how to keep your child safe
- choose what services your family needs
- plan for your child to return home
- decide how your family and community will support you and your child

As a parent, you can use options that are part of collaborative planning and decision making to reach agreements with the social worker for your child's care.

The goal is for you to be involved in making decisions about your child's care.

Collaborative options include:

- a family case planning conference
- a family group conference
- traditional decision making for Indigenous families
- mediation

The director strongly supports the collaborative approach. Many parents who used one of the collaborative planning and decision-making options said it was a positive experience. They said the director listened to them.

You can choose to use collaborative planning and decision making at any time to make a plan with the social worker for your child's care. It's a good idea to have a lawyer to help you. See page 39 for how to get legal help.

Family case planning conference

You can ask for a family case planning conference for a fast response to the situation. The conference normally lasts no longer than 90 minutes. It focuses on immediate concerns, next steps to keep your child safe, and how to move the plan forward for your child's care.

- You meet with a trained facilitator.
- You can invite your family and support people to attend.
- Everyone who attends gets a copy of the written plan at the end of the conference.

Family group conference

You can ask for a family group conference, sometimes called family group decision making, at any time during the agreement process.

You meet with family members and other people involved in caring for your child. If you don't have a lawyer and your extended family is available, a family group conference is useful to develop a plan of care (see page 26). You can also ask your lawyer, advocate, or friends to take part.

- A person called a family group conference coordinator organizes the conference and might be there.
- You meet in a place where everyone feels comfortable.
- The people you invite talk over concerns about your family and how to deal with them.
- You and your family members who take part in the conference make the decision about how best to care for your child.
- A social worker reviews your decision and discusses it with you.

Traditional decision making for Indigenous families

If you're an Indigenous parent, you can choose traditional decision making to help develop a plan of care for your child (see page 26). The meetings are like family group conferences. Traditional decision making also involves your community.

- Your extended family can come to the meetings. Your community's leaders might be there.
- You can make decisions based on your cultural traditions and values.
- You can ask to use traditional decision making at any time when you deal with a social worker.

Mediation

Any time you don't agree with the social worker, you can ask for mediation to help you work things out. A **mediator** is a specially trained person who doesn't take sides. The mediator meets with you, the social worker, and anyone else involved in the case who you want at the meeting.

If you have a lawyer and the social worker has a lawyer, the mediator sits with you, the social worker, and both lawyers to develop a plan of care for your child (see page 26).

You can ask for mediation at any time, including:

- when you're trying to work out an agreement, a safety plan, or a plan of care with the social worker
- any time you don't agree with what the social worker wants, or you want to request an agreement
- after the court hearings have already happened

If you're an Indigenous parent, you can ask about getting an Indigenous mediator to help with your case.

What an agreement can cover

An agreement with the director can include:

- support services the director can give you to help you take care of your child. This is called a **service agreement**. It can include counselling, in-home support, respite care, parenting programs, and services to support children who witness family violence;

- the safety plan you and the social worker make about how you'll care for your child during the investigation (see page 11);
- which friends or family members can care for your child for a while, called an Extended Family Program agreement (see below);
- how the director will care for your child for a limited time, called a voluntary care agreement (see below);
- a plan of care you and the social worker make about how to meet your child's needs; for example, who'll take care of your child while your case is in court (see page 26);
- an **access agreement** about when and where you can visit with your child if the social worker removed your child from your home. For example, an access agreement might say how often you can visit your child, how long each visit is, and if you can be alone with your child; and
- any other arrangement you and the social worker want to make during the investigation or court process, or even after you've been to court.

Extended Family Program agreement

If the social worker removes your child from your home, you can ask to have your child placed to live with a friend or family member under an **Extended Family Program agreement**.

- You remain the legal guardian of your child.
- The person caring for your child gets money and support services from the ministry to care for your child.

Voluntary care agreement

If you think the ministry *might* remove your child from your home, you can ask about a voluntary care agreement.

- You volunteer to place your child in foster care, usually for a short time. For example, if you're a single parent and have to go to the hospital or a treatment program, you can ask for your child to be placed in foster care until you return home.
- You work with the social worker to make a plan for the earliest possible return of your child and for any support needed to help you care for your child. Your child's Indigenous community could also be involved in making this agreement. The goal is to reunite children with their families as soon as possible.

- The initial term of a voluntary care agreement is usually for the least time you need to get over your crisis and depends on your child's age. If you can't care for your child after this initial time, the agreement can be renewed for a limited number of months based on your child's age.

Foster care in your community

It's helpful to have someone in your community approved as a foster care parent. If the ministry removes your child, your child can stay in foster care in their own community. Having foster parents in an Indigenous community can help keep children in their own communities, and sometimes in their schools and daycares. Several steps are involved for someone to become a foster parent. They must:

- complete an application and a criminal record check (everyone over 18 in the home must complete a criminal record check),
- get a medical assessment,
- provide reference letters,
- attend a foster parent orientation, and
- participate in a home study.

There's a high need for Indigenous foster parents. Support services are available from the Federation of Aboriginal Foster Parents (see page 45). You can get more information from your delegated Aboriginal agency (see page 44) or local ministry office (see page 46).

Placement after the ministry removes your child

If the ministry removes your child from your home, and a family member or family friend would like to care for them, you can speak to the social worker. You should also speak to a lawyer to get legal advice about different agreements to care for your child, even after your child has been placed in a ministry foster care home.

Your family member or friend might be able to care for your child under an **out-of-care order**. This means the social worker places your child with them instead of in foster care. This is called **out-of-care placement**. The social worker does their own assessment of your family member or friend. The assessment will likely include:

- police and ministry history checks,
- a request for reference letters,
- visits to your family member or friend's home, and
- personal interviews.

If your family member or friend are approved for out-of-care placement, they:

- care for your child for a fixed period of time,
- get financial support to care for your child, and
- can get legal advice from family duty counsel at their local courthouse.

Tips about making agreements

If you're thinking about making an agreement with the social worker, or if you're in the process of making an agreement, keep these tips in mind.

Get help from a lawyer and/or an advocate

- If possible, get help from a lawyer and/or an advocate when you try to reach an agreement with the social worker. The lawyer or advocate can go with you to meetings, help explain your rights, or help negotiate with the social worker.
- If you can't get a lawyer or an advocate to help you understand and write the agreement, get a lawyer to check the agreement once it's written — before you sign it, or even after you signed it (if you signed without getting advice).

See pages 39 – 42 for how to get legal help aid for yourself or your child.

Be part of making decisions

- It's important that you're part of making the agreement. For example, if you have a drug or alcohol problem, you might decide to work with a counsellor to help you deal with it. Be sure the agreement lets you choose a counsellor or program you think you can work with.
- It's also important to let the social worker know if there's a reason the agreement stops working for you (for example, your situation changes).

Be realistic about what you agree to

- Ask the social worker to be clear about what services or programs you and your family will get.
- Only agree to do something you clearly understand, or you think you can do. If you don't do what you agree to, you might have serious problems later.
- Ask the social worker to say exactly what you have to do and what happens if you don't meet all the terms. Get this included in your written agreement.

- The agreement should be clear about how the social worker decides when you've done something — and if you've done it well enough. For example, if the social worker says you have to take a parenting course, do you have to go to every class and prove you did, or is it enough for the person giving the course to say you finished it?

Check time limits

- Be sure the agreement gives you enough time to make the changes you have to make. If you agree to do something by a certain date, make sure that's possible for you. The social worker might take serious action if you don't follow the agreement.
- Check that programs and people you're going to rely on will work within the time limits in the agreement.
- When you negotiate, think about how your situation could change. Ask for flexible time limits. It isn't easy to make changes within a family. Your agreement should allow for that fact.

Put everything you agree to in writing

- Make sure everything you agree to do and everything the social worker agrees to do is put in writing. It's very important the written agreement says exactly what you and the social worker are expected to do.
- You can refer to the document to make sure both you and the social worker meet your responsibilities. Keep a copy handy to remind yourself of what everyone agreed to.

Keep notes

- Always keep notes when you speak to or meet with the social worker, your community worker, advocate, or lawyer. This helps you keep track of what everyone said they'd do and what you agreed to do.
- Also keep track of all important dates, such as court dates, meetings, and deadlines. Mark the dates on your calendar.
- It's best to use one notebook for all your notes, records, and timelines. That way, all of your papers are in one place.



If the Director Removes Your Child

We use the term **Indigenous** instead of **Aboriginal** to reflect recent changes in the law.

If you and the social worker can't reach an agreement that says your child can stay with you or a family member or someone you trust, the director might decide to remove your child from your home.

If that happens and you're an Indigenous parent, it's very important to tell the social worker right away if your child is Indigenous, even if they don't belong to a band or First Nation. The ministry or delegated Aboriginal agency *must*:

- notify your child's **Indigenous organization** (might be a band, friendship centre, Treaty First Nation, Indigenous community, Indigenous organization as listed in the Child, Family and Community Service Act regulations, or the Nisga'a Lisims government) as soon as possible;
- protect your child's family ties and Indigenous identity;
- support your child to learn about and practise their Indigenous traditions, customs, and languages; and
- consider your child's family ties and Indigenous identity when choosing a foster home.

A representative of your child's band or Indigenous community can also be involved in the process. The representative has a right to:

- receive all records and information,
- attend court,
- take part in any mediation (see page 18), and
- ask about ways to get help for you.

Get legal help as soon as you can

If the social worker removes your child from your home or tells you about plans to do this:

- talk to a lawyer as soon as you can
- if you can't pay for a lawyer, find out about getting free legal aid or other services

See page 39 for how to get legal help.

Go to the court hearings

It's very important for you to go to all the court hearings and case conference, or send a lawyer to court to speak for you.

- Going to court shows the judge you care about your child's safety and well-being.
- If you don't go to court and don't send a lawyer to speak for you, the judge has to make a decision without hearing what you have to say. That decision could be more serious than if you'd gone to court to speak for yourself.

Ask for visits with your child

If your child goes into care, such as in a foster home, make sure you or your lawyer asks for visits with your child as soon as possible. These are often called **access visits**.

Keep these things in mind about access visits with your child.

- If you can't visit your child for some reason, ask if you can phone and/or use the Internet to contact your child.
- Ask the social worker to help you plan visits with your child. If this isn't possible, as soon as you go to court, ask for visits with your child.
- Try to see your child as often as you can. Access visits are important to your child. Your visits also show the social worker and judge you care about your child. If there's another court hearing, the judge might want to see you made an effort to stay in touch with your child.
- If you're on time for your visits, you have a better chance to get regular access. If you have to cancel a visit, it's important to call beforehand.

- It helps to ask for visits at times and places that are easy for you and your child to get to.
- The social worker might say you can't see your child alone, and you have to have **supervised visits**. This means a social worker or access supervisor is at your visit with your child. You might not get to see your child as often, because social workers who supervise visits aren't always available. If that happens, you could ask for a change to let you see your child alone. You can suggest other adults you know who could supervise your visits. If the social worker still doesn't agree, you could ask to go to mediation (see page 18).
- Keep your own records of when you contacted your child by in-person visits, phone calls, or the Internet, so you can tell the judge.

Ask for your case information

You have a right to see the information that's gathered about your case.

- When the court process starts, the law says the social worker has to show you the information they have about your case. What information the social worker gives you depends on where your case is at in the court process. You *can* ask to see information about why the social worker removed your child. You *can't* ask for the name of the person who reported the possible abuse or neglect.
- You can also ask to see the notes the social worker kept about your case. These notes might be more difficult for you to get.
- If your case isn't in court, you could apply to the Office of the Information and Privacy Commissioner for BC to get some information under a law called the Freedom of Information and Protection of Privacy Act. It's best to ask in writing for the information you want, so you can prove you asked for it. See page 47 for contact information.

If you believe the social worker put wrong information in your file, you have the right to ask for this to be fixed. Ask your advocate, community worker, or lawyer how to do this.

Work out a plan of care for your child

When your case goes to court, the social worker must present a plan of care. This is a plan of how your child will be cared for during the court process and possibly after the court process is over.

The social worker might not ask you what you think should be in the plan of care. But you can offer your opinion at any time. Your lawyer can help you to talk to the social worker about what you think the plan should say.

For example, you can say you want your child cared for in these ways:

- stay at the same school
- not be separated from a sister or brother
- stay within your extended family, culture, and/or community
- make sure your cultural practices are known and respected
- have a certain diet
- have certain kinds of medical care
- be with a family of a particular religion
- be with a family who's positive about lesbian and gay relationships

It's also important to keep the social worker up to date about any changes you make in your life that could affect your ability to care for your child. See page 11 for more about a safety plan and examples of the kind of information you could pass on to the social worker.

Children 12 and older can be involved in making a plan of care that affects them. Sometimes, they can get help from a lawyer of their own. See page 40 for legal help for children.



What Happens at Court

We use the term Indigenous instead of Aboriginal to reflect recent changes in the law.

When the social worker removes your child from your home, or the social worker applies for a supervision order without removal, the next step is to go to court.

The court process usually has two hearings:

- presentation hearing
- protection hearing

At any point during the court process, you can try to negotiate an agreement with the social worker (see page 18).

It's very important for you to go to all the court hearings and be on time for them. If you aren't there, the judge might think you aren't interested in what happens, and the judge could do what the social worker asks — without getting your opinion.

Presentation hearing

If the social worker removes your child from your home, they have to present a **Report to Court** within seven days of removing your child (see page 29). This starts the court process for the **presentation hearing**. The presentation hearing is the first time you go to court.

If the social worker applies for a supervision order without removal, the presentation hearing is held within 10 days after the application date. You get a copy of the application.

The social worker must make an effort to tell you when the presentation hearing will be held. They might tell you in person or phone you.

Plan to go to the presentation hearing

It's very important for you to go to the presentation hearing and be on time.

- You can have your own lawyer at the presentation hearing. See page 39 for how to get legal help.
- The social worker is at the presentation hearing with their lawyer.
- If your child is 12 or older, the social worker tells your child the date of the presentation hearing too. See page 40 for how to get free legal help for children.
- If you can't get to the presentation hearing because you live in a remote area, or don't have a way to get to the court, ask if you can participate by phone.
- If you live in a remote area without quick access to a court, the director might **adjourn** (delay) the presentation hearing to another day in the court nearest to you. The social worker then has to present the Report to Court within seven days (see page 29).

If you, your child, or your child's other parent are Indigenous, it's important to let the social worker know. The social worker should tell your child's community (such as the band) they removed your child from your home and about any future court proceedings. Someone from the Indigenous community can come to the hearing.

Get legal help

You need to have a lawyer when you go to court. The issues are complicated. You want to make sure the judge hears your side of the case.

- If you don't have a lawyer, get one immediately – you can apply for legal aid. If possible, do this before your court date. If you can't do it before your court date, do it as soon as you can. See page 39 for how to get legal aid.
- If you haven't had a chance to speak with a lawyer, you can ask the court to adjourn the presentation hearing until you can find one. You can also speak to family duty counsel at your local family court (see page 40).

At the presentation hearing

Before or at the presentation hearing, you receive a copy of the social worker's document called the Report to Court. At the start of the hearing, the judge asks if you agree or don't agree with what the social worker wants to do in the Report to Court.

- If you agree, the judge makes an order right away. That's the end of the presentation hearing.
- If you don't agree with what's in the report, the judge schedules another day for the presentation hearing to learn more about your case. It's usually two to six weeks later. In many cases, it could be more than six weeks later. It depends on how busy the court is in your area. These hearings usually take half a day. But they could take longer.

If you don't go to the presentation hearing, the judge will probably make the order the social worker asks for, without hearing from you.

The Report to Court

The Report to Court should include this information:

- why the social worker decided to remove your child or ask for a supervision order
- what other steps the social worker tried before taking that action
- the date, time, and place of the removal
- who was there at the time
- what terms the social worker wants in a supervision order without removal (see page 13)
- how your child will be cared for until the case is decided (called an **interim plan of care**)

Children who are 12 and older have the right to have this plan explained to them, and to tell the judge what they want. See page 26 for more about plans of care.

It's important for both you and your child to be part of making the interim plan of care. It says how your child will be cared for until your case is decided, which could take several months. If there are parts of the Report to Court you don't agree with, tell your lawyer or the judge.

Interim order

After talking about the Report to Court and interim plan of care at the presentation hearing, the social worker asks the judge for an **interim order**.

This order says how your child will be cared for and stays in place until the protection hearing is complete, or until the judge makes another order.

As soon as you get the application for a supervision order, read the terms and conditions. If you have questions, discuss them with your lawyer or the social worker before you go to court.

The judge can make four types of orders at a presentation hearing. An interim supervision order has **terms and conditions of supervision**.

- **No supervision order (child with parent):** If you can show you're able to care for your child, and a protection hearing isn't needed, the judge returns your child to live with you without supervision. This ends the court process for you and your child. This could happen if you've worked out an agreement with the social worker, and/or if you've made changes the social worker suggested.
- **Interim supervision order (child with parent):** Your child lives with you, and the director supervises the care you give your child. This order includes conditions you must follow.
- **Interim supervision order (child with someone else):** Your child lives with another person who's able to care for your child under the director's supervision. This order set outs how your child will be cared for and might set out when and how you can visit your child.
- **Interim custody order (child in foster care):** Your child stays in the care of the director (foster care). This order might set out when and how you can visit your child.

Each interim order has the date and time of the start of the protection hearing. The protection hearing must be scheduled within 45 days of when the presentation hearing ends. See page 32 for the protection hearing.

If you and the social worker don't agree on what's in the interim order, the judge schedules another day for the hearing. At that hearing, the judge listens to the social worker, you, and other witnesses speak about how to make sure your child is safe and cared for until the protection hearing ends.

It's very important you ask the social worker what they'll do if you don't agree to the supervision order. If you don't agree to certain terms and conditions in the supervision order, the social worker might say they'll remove your child.

If the social worker applied for a supervision order without removal, only two things can happen at the presentation hearing — the judge either makes a supervision order or refuses to make one. The judge can't make a custody order or an order to have your child put in someone else's care.

What you can do

You can ask for the following things at the presentation hearing.

Ask for access

If the ministry removed your child, the first time you go to court for the presentation hearing might be the first chance you have to arrange access visits with your child. Ask for access at the presentation hearing. If you don't ask then, you might have to wait several weeks before you get another chance to ask the judge for it.

The law says if you ask the judge for access, you should be given the access order, unless the judge decides it's not in your child's best interest to have you visit.

Ask for an adjournment

If you want more time to think about the interim order or apply for legal aid, you can ask for an **adjournment** (delay). Although this means you have to come back to court on another day, an adjournment might give you more time to work out an agreement with the social worker.

When you're deciding how long an adjournment to ask for, think about how often court is in your area. In bigger cities, court is usually once every week. But in some smaller communities, court is often less frequent.

If the judge adjourns the hearing, ask about access while you're still in court. An adjournment can last for several weeks. You need to know when you can visit your child during that time.

You can also ask the social worker what happens between the court dates.

Protection hearing

The judge decides at the **protection hearing** if your child needs protection or not, and who will care for your child in the future.

- The protection hearing must start no more than 45 days after the presentation hearing ends.
- At least 10 days before the protection hearing, the social worker must give you an application that says what kind of order they'll ask the judge for and a plan of care that says how your child will be looked after.
- Sometimes, the social worker might ask you to sign a form to go to court before the 10-day notice period is over. Get legal advice before you sign or agree to this.

If you didn't go to court for the presentation hearing, the judge might have made an interim custody order you don't know about. The social worker must tell you about the order and must tell your child if they're 12 or older.

Any order made at the presentation hearing stays in place until the protection hearing is over.

Get legal help

You need a lawyer when you go to the protection hearing to present your case. See page 39 for how to get legal help.

- Before you go to court, your lawyer can explain what's likely to happen. Be sure you and your lawyer clearly understand what you want to ask the judge for.
- The social worker can apply for one of four types of orders (see page 34). If the social worker gave you an application for a supervision order, read the terms and conditions. If you have any questions about the terms and conditions, ask your lawyer or the social worker before you go to court. If you don't have a lawyer, you can also discuss your questions with family duty counsel at court (see page 40).

Any time during the process, you have the option to work out an agreement with the social worker, for free, through collaborative planning and decision making (see page 16).

At the protection hearing

Before the judge can decide about the order the social worker applied for, the judge must first decide if your child needs protection or not.

- If you and the social worker both give written **consent** (agreement) about what happens at the protection hearing, then the judge doesn't have to decide your child needs protection. This is very important. Speak to a lawyer about giving your written consent. The supervision or custody order can be made that day if everyone gives their consent.
- If you don't agree with the application the social worker makes at the protection hearing, you can tell the judge you don't agree. The next step is to have a case conference.

Case conference

If you can't reach an agreement with the social worker by the protection hearing, the judge orders you to go to a case conference. If you (or your lawyer) ask in writing to see information from the director's files, you should get that information before the case conference.

- A case conference is a lot like mediation (see page 18), except the judge is in charge instead of a mediator. It's a meeting with you, your lawyer or advocate, the social worker and their lawyer, and the judge. If your child is Indigenous, a representative of the Indigenous community might also be there.
- Be prepared to speak for yourself at a case conference. Judges usually want to hear directly from the parents. You might want to discuss what to say with your lawyer beforehand. The social worker can't use what you say at the case conference against you in court. However, the social worker can try to use what you say to find out more information to use at a hearing.

Supervision orders or custody orders can't be made at the case conference unless everyone agrees. If you work out an agreement with the social worker in the case conference, the judge can make a **consent order** (see page 34). That ends the protection hearing.

You can make a consent order with the social worker after a case conference or at any time during the protection hearing process.

Consent order

If you and the social worker agree on a plan of care for your child, you can make a written agreement for one of the orders the judge might make. The judge then makes a consent order and doesn't have to decide your child needs protection.

- The court won't have in its records that you couldn't care for your child or your child needed protection.
- If your child is 12 or older, they have the right to be part of the discussion about a consent order. If possible, get legal advice for your child. See page 40 for how to get legal help for children.

In most cases, both parents have to agree before the judge can make a consent order. Get legal advice before you agree to a consent order.

Protection hearing with witnesses and evidence

If you weren't able to come to an agreement with the social worker at the case conference, the judge arranges for a protection hearing. The hearing will likely take a day or more to complete.

At the hearing, the judge must hear evidence and witnesses before making (or refusing to make) the application the social worker asked for. The judge decides if your child needs protection, makes one of the following orders, and decides how long the order lasts.

- **Temporary supervision order (child with parent):** Your child lives with you, and the director supervises the care you give your child.
- **Temporary supervision order (child with someone else):** Your child lives with another person who can care for your child under the director's supervision.
- **Temporary custody order (child in foster care):** Your child stays in the care of the director (foster care).
- **Permanent transfer of custody to someone else:** Your child stays in the permanent care of another person.
- **Continuing custody order (child in foster care):** If a serious problem exists and can't be fixed within the time the court allows, the judge might make this order. It means your child stays in the care of the director (foster care) without limits on how long this lasts. The judge makes this order in very rare cases.

The judge includes terms and conditions in the supervision order, and whether you get an access order and what's in the access order if your child isn't with you.

Length of time for orders

Supervision orders and custody orders are made for a specific time, called a **fixed term**. The length of the fixed term is based on your child's age at the time of the removal, or the youngest child's age if there's more than one child. If your child is:

- under five, the order can last for up to three months;
- five to under 12, the order can last for up to six months; or
- 12 or older, the order can last for up to 12 months.

Continuing custody order

If a child is under a continuing custody order, get legal advice to:

- have the order cancelled,
- get access to the child,
- have the child adopted,
- appeal court decisions (see below), or
- permanently transfer custody of the child to someone else.

See page 39 for how to get legal help.

How to appeal an order

You might be able to **appeal** a custody order if you think it's unfair — that is, you can ask another judge to decide if the order is fair.

If you want to appeal a decision, get legal advice immediately because you have only 30 days after a protection hearing to appeal an order. These time limits are very strict.

How to change or cancel an order

You can also apply to change an order if you make big changes in your life. This is different from appealing an order. For example, you might have had counselling that helped you with an anger problem or an addiction. Or you might have changed your housing or left an abusive relationship. If you made a life change, you can ask to change an order any time after the judge makes it. Get a lawyer's help to do this.

A judge considers your application and decides whether to make a new order or leave it the way it is.

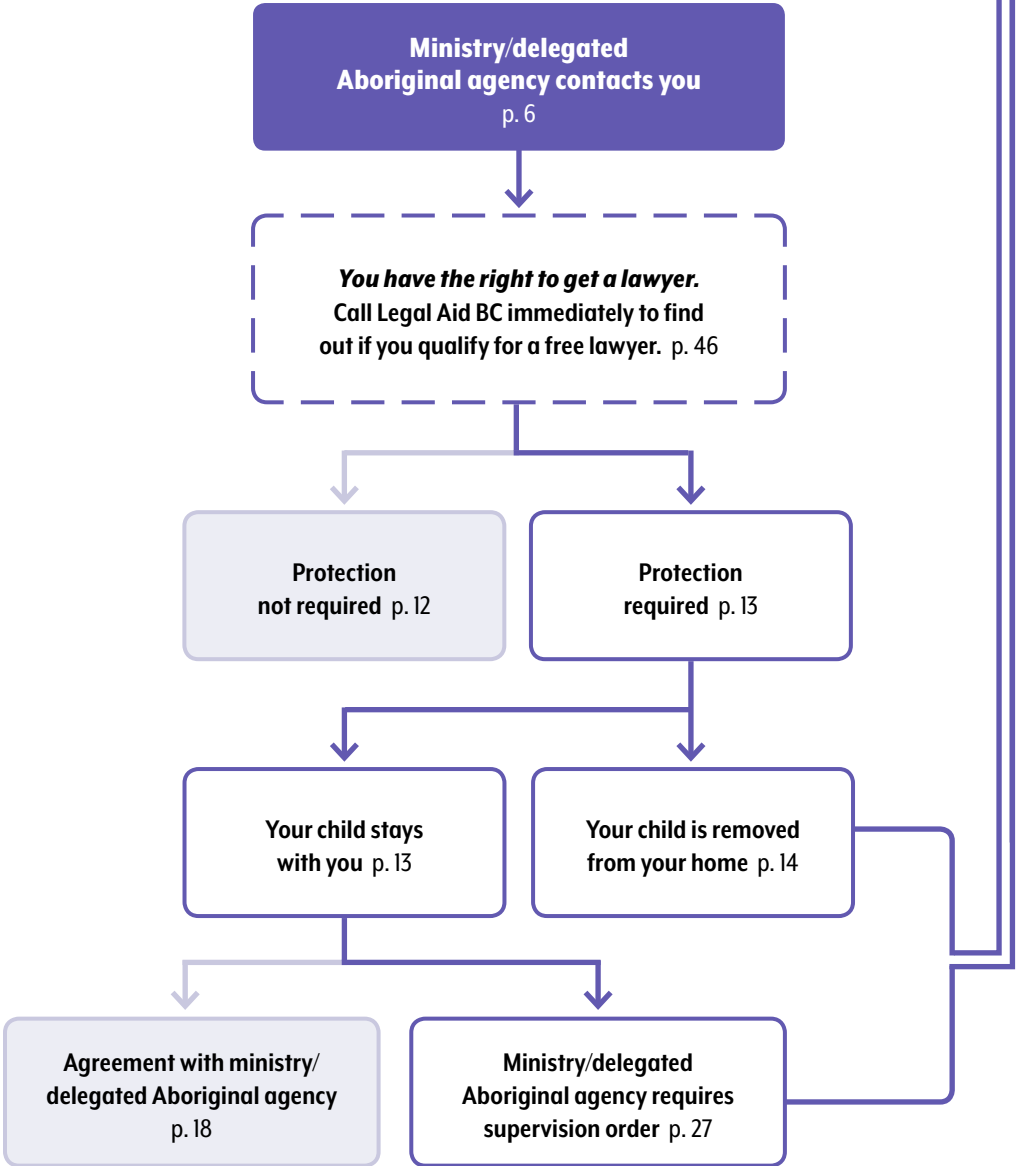
The Child Protection Process

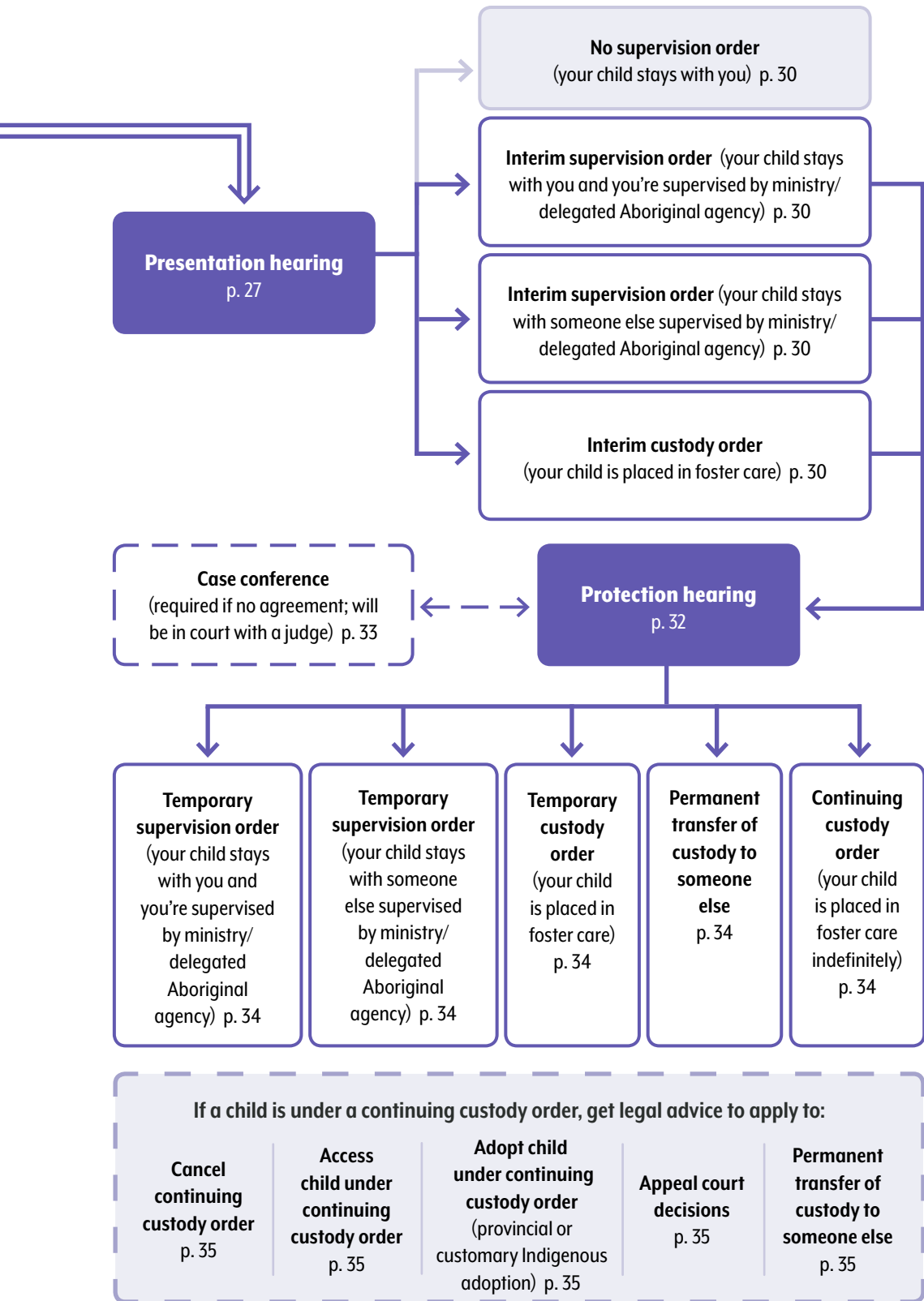


Ask your lawyer or social worker about getting a mediator at any time during the child protection process. If your child is Indigenous, you can ask about getting an Indigenous mediator.

If your child is Indigenous, the ministry/delegated Aboriginal agency must notify your child's Indigenous organization about the:

- presentation hearing, if practical
- protection hearing





If You Have a Complaint

If you have a complaint about a social worker you're dealing with, or if you have trouble contacting them, you can do a number of things to solve the situation.

- Talk to their supervisor (boss). Ask the social worker for their supervisor's name and phone number. The social worker's boss is sometimes also called their team leader.
- Write a letter about your concern to your social worker. In the letter, ask your social worker to think again about the decision or action you don't like. If you write a letter, make sure you keep a copy of it. You can send a copy to your social worker's supervisor.
- The ministry has its own complaint resolution process. A **dispute resolution consultant** talks to you about your concerns and explains what can be done. You can call and ask for the consultant in your area.

1-877-387-7027

- If this doesn't solve the problem, call the BC College of Social Workers. If the social worker is registered with the college, you can file a complaint with it.

604-737-4916

- Some people ask for help from their elected representative or **MLA** (Member of the Legislative Assembly). You can call or write to your MLA. To find out who your MLA is, see the website, or call Elections BC at the number below.

leg.bc.ca (under Members, click Members)

1-800-661-8683

- If no one else can help you, contact the **BC Ombudsperson**.

bcombudsperson.ca

250-387-5855 (Victoria)

1-800-567-3247 (elsewhere in BC)

If your child is in care (a foster home) and you have concerns about the way your child is being treated there, you can contact:

Representative for Children and Youth (see page 48)

rcybc.ca

1-800-476-3933

Legal Help

Get help from a lawyer and/or an advocate as soon as a social worker contacts you or visits your home. You have the right to get legal advice.

Legal Aid BC

Legal Aid BC provides free help for people in BC who have serious legal problems and can't pay for a lawyer. Legal aid can be legal information, advice, or **representation** (having a lawyer work on your case).

Legal aid lawyer

If your income is below a certain amount, you might be able to get a legal aid lawyer to help in these situations.

- You believe the social worker is investigating you.
- You believe the social worker is about to take your child away from you.
- The social worker removed your child from your home.
- You're trying to work out an agreement with the social worker and you need advice from a lawyer about what to do.
- You need a lawyer to help you at a meeting with the social worker.
- You worked out an agreement with the social worker and they want you to sign it.
- You must go to court.
- The social worker plans to apply for a supervision order for your child.
- Your child is in foster care and you're trying to visit your child or increase your visits (access).
- You want to get permission to bring your child back home.
- A court ruled the director will care for your child (foster care) for the long term, and you just learned the director is trying to give custody of your child to someone else from now on.
- You're pregnant and concerned the director might be involved when your child is born. You might be concerned because you dealt with the director about another child. Or the director told you they're concerned about your unborn child.

How to apply for legal aid

To find out if you qualify for a legal aid lawyer and what help you can get:

- Phone the Legal Services Society (Legal Aid BC) Call Centre.
- Visit a legal aid location.

See page 46 for contact information.

Family duty counsel

Legal Aid BC provides free lawyers, called family duty counsel. They can help if you don't have a lawyer, or don't qualify for a regular legal aid lawyer.

- Family duty counsel have offices in Provincial Courts and in some Supreme Courts. They can give you brief advice about your legal rights and options, and information about court procedures.
- They can also speak for you in court sometimes. But they don't represent you.

See page 45 for how to find family duty counsel.

Free lawyer for children

Children 12 or older might have the right to have their own lawyer in these situations:

- Your child and the social worker don't agree about your child's care.
- Your child has questions about the court process a lawyer could explain.
- You're signing a consent order that affects your child.
- The social worker is making a final decision about where your child will live.

Your child can also be added as a **party** to the case. A party is a person involved in the court case and can speak directly to the judge or have a lawyer speak for them. The judge must consider all parties' views. You, your child, or the social worker can ask the judge for your child to be made a party.

Once a child is made a party, it's easier for the social worker to ask the judge to appoint a lawyer for your child. Your child can have a lawyer even if the judge hasn't made them a party to the proceeding.

If you have questions about getting your child a lawyer, ask an advocate, community worker, lawyer, or family duty counsel for help.

Pro bono (free) legal clinics

If your income is too high for you to qualify for a legal aid lawyer, you might be able to get help from lawyers at **pro bono** (free) legal clinics in BC. See the page number for contact information.

Access Pro Bono Society of British Columbia gives free legal advice to people who can't pay for a lawyer. Their lawyers help you prepare to go to court, but they don't write your documents or go to court for you. You can meet with a lawyer for free for half an hour at their legal clinics throughout BC (see page 43).

The Law Centre (University of Victoria) gives free advice, assistance, and representation in their student-staffed free legal clinic to people living in the Capital Regional District who can't pay for a lawyer (see page 46).

TRU (Thompson Rivers University) Community Legal Clinic gives free legal help and advice at the student-staffed legal clinic in Kamloops (see page 48).

UBC Indigenous Community Legal Clinic gives free legal help to Indigenous people in Vancouver's Downtown Eastside (see page 48).

UBC Law Students' Legal Advice Program runs free legal advice clinics throughout Greater Vancouver (see page 49).

How to work well with a lawyer

A lawyer can:

- tell you what your rights are when you deal with the director
- tell you about the legal process and explain your options
- tell you about other ways to do things besides going to court, such as mediation and case conferences, and help you prepare for them
- give you legal advice about a written agreement with the director before you sign it, or help you to make a written agreement with the director
- go with you to court or the case conference and speak for you, according to what you decide to do

To make the best use of your time with any lawyer, you can:

- before you meet, write out what happened and when, what you would like to have happen, and questions you have for the lawyer or the social worker
- show your lawyer all the papers you received from the social worker
- tell your lawyer everything they need to know to represent you

Advocates or community workers

When a social worker investigates a report about your child's safety, you might be able to get help from an advocate or community worker. An advocate isn't a lawyer, and their services are usually free.

An advocate or community worker might help you

- find a lawyer or get legal aid
- answer questions about how the legal process works
- explain the choices you have
- go to meetings with you and help explain your side of the story
- work out solutions with the social worker
- support you when you go to court with your lawyer

Where to find an advocate

- Advocates work at places such as Parents Legal Centres, transition houses, women's centres, immigrant or cultural agencies, Indigenous friendship centres, or Indigenous family centres.
- Victims' assistance program staff often know about the child protection process and can be helpful.
- Some Indigenous communities have staff to help with child protection issues.
- If your community doesn't have these services, ask at a local information centre or public library for where you might get help.
- You can find names of advocates on the PovNet website (see page 51).

Sometimes you might also want to have a trusted friend, family member, church minister, or other supportive person help you to ask questions and keep track of information. This person is called an **informal advocate**. They might go with you to court, conferences with the social worker, and meetings with your lawyer. Your informal advocate might also speak for you if you ask for that.

Be sure to ask any advocates you contact if they know about child protection law. If they don't know, ask where you could get help from someone who does know.

Services and More Information

This section tells you about services that might help in your situation. It also lists useful publications and websites. See page 39 for legal help information.

Services

Access Pro Bono Society of British Columbia

accessprobono.ca

604-878-7400 (Greater Vancouver)

1-877-762-6664 (elsewhere in BC)

If you can't pay for a lawyer or can't get legal aid, you can meet with a lawyer for free for half an hour at legal clinics in many locations around BC.

Affiliation of Multicultural Society and Services Agencies of BC

amssa.org

604-718-2780 (Greater Vancouver)

1-888-355-5560 (elsewhere in BC)

This organization provides information about agencies that serve immigrants (newcomers) to Canada.

BC211

bc211.ca

211 (24 hours every day)

BC211 is an information and referral service. You can call or text the free, confidential help line, available in many languages in Greater Vancouver, Fraser Valley, Squamish-Lillooet, and Sunshine Coast Regional Districts.

Children Who Witness Abuse Counselling Programs

victimlinkbc.ca

1-800-563-0808

These programs counsel children ages three to 18 who have witnessed violence in the home.

Delegated Aboriginal agencies

www2.gov.bc.ca (in the search bar, type delegated Aboriginal agencies)

If you're an Indigenous parent or a non-Indigenous parent of an Indigenous child who needs protection services, you might work with a delegated Aboriginal agency instead of the Director of Child Protection. These agencies have an agreement with the ministry to provide certain child protection services to Indigenous communities. Your band office or government agent office in your community has the name of the delegated Aboriginal agency in your area. You can also check a full list of delegated Aboriginal agencies on the above BC government website. Ask at your local library or friendship centre for help to view the list.

Or call the numbers below to find out if your band or community is involved.

Métis Family Services (Surrey)

metisfamilyservices.ca

604-584-6621

Surrounded by Cedar Child and Family Services (Victoria)

surroundedbycedar.com

250-383-2990 (Victoria)

1-855-383-2990 (elsewhere in BC)

Vancouver Aboriginal Child and Family Services Society

vacfss.com

604-872-6723 (Greater Vancouver)

1-877-982-2377 (elsewhere in BC)

Family justice counsellors

gov.bc.ca/familyjustice

604-660-2421 (Greater Vancouver)

250-387-6121 (Victoria)

1-800-663-7867 (elsewhere in BC)

Counsellors specially trained to help families with child custody, guardianship, access, and support issues are available at Family Justice Centres across BC and at the Nanaimo, Vancouver, and Victoria Justice Access Centres. Call Service BC at the above numbers and ask to be connected to the centre in your area.

Family advice lawyers**legalaid.bc.ca**

(click Our services — Advice; under Family law, click Advice lawyers)

Legal Aid BC provides free legal advice to parents with low incomes who are working with a family law advice lawyer to try and reach an agreement in a separation or divorce. See the Legal Aid BC website to find a family advice lawyer.

Family duty counsel**legalaid.bc.ca**

(click Our services — Advice; under Family law, click Duty counsel)

For legal help with simple family matters, you can meet with lawyers for free in most Provincial (Family) Courts. To find out when family duty counsel is at your court, call your local courthouse or see the Legal Aid BC website.

Family LawLINE**604-408-2172** (Greater Vancouver)**1-866-577-2525** (elsewhere in BC)

You can get free legal advice over the phone from a legal aid family lawyer. Family LawLINE lawyers give brief “next step” advice about parenting arrangements, custody, access, contact with a child, guardianship, child and spousal support, property division, family agreements, adoption, and court procedures to callers who don’t qualify for other services. An intake worker asks you questions about your financial situation and legal issue. If you qualify, you’re transferred to an available Family LawLINE lawyer.

Federation of Aboriginal Foster Parents**fafp.ca****250-368-9797**

This organization provides support and services for Indigenous foster parents. You can go to their website or call them to learn about becoming a foster parent.

The Law Centre (University of Victoria)

thelawcentre.ca

250-385-1221

If you live in the Capital Regional District and can't afford a lawyer, you can get free legal advice, assistance, and representation from The Law Centre in Victoria.

Lawyer Referral Service

accessprobono.ca/lawyer-referral-service

604-687-3221 (Greater Vancouver)

1-800-663-1919 (elsewhere in BC)

When you call, the service gives you the name and contact information of a local lawyer. You must call the lawyer to ask for a meeting. In this meeting, you briefly describe your issue. Then the lawyer tells you whether they can help you. This service is free for up to a half hour. If you need more help, the lawyer can tell you their normal rate for service. Be sure to ask for an estimate of the total fees before you agree to hire the lawyer. You might want to interview more than one lawyer before you choose one to work on your case.

Legal Aid BC (Legal Services Society)

legalaid.bc.ca (click Our locations)

604-408-2172 (Greater Vancouver)

1-866-577-2525 (elsewhere in BC)

See page 39 for when you can get a legal aid lawyer. To ask for a legal aid lawyer, call the above numbers. Ask for an interpreter if you have trouble speaking or understanding English. If there's a legal aid location in your area, you can apply in person. See the Legal Aid BC website for locations to apply for legal aid.

Ministry of Children and Family Development

www2.gov.bc.ca (in the search bar, type child protection)

604-660-2421 (Greater Vancouver)

250-387-6121 (Victoria)

1-800-663-7867 (elsewhere in BC)

604-775-0303 (for hearing impaired, Greater Vancouver)

1-800-661-8773 (for hearing impaired, elsewhere in BC)

Child protection services and a number of delegated Aboriginal agencies are provided through ministry offices across BC. Call Service BC at the above numbers and ask to be connected to the office in your area.

Native Courtworker and Counselling Association of BC**nccabc.ca****604-985-5355** (Greater Vancouver)**1-877-811-1190** (elsewhere in BC)

If you're Indigenous, this association might be able to help you get legal information and a lawyer. They can also tell you about any delegated Aboriginal agencies in your area.

Office of the Information and Privacy Commissioner for BC**oipc.bc.ca****604-660-2421** (Greater Vancouver)**250-387-5629** (Victoria)**1-800-663-7867** (elsewhere in BC)

PO Box 9038 Stn Prov Govt

Victoria, BC V8W 9A4

You can apply to this office for information about your case if it isn't in court. Call the above numbers and ask to be connected to the office. It's best to ask in writing for the information you want, so you can prove you asked for it. Make sure you keep a copy of any letter you send.

Parent Support Services Society of BC**parentsupportbc.ca****1-877-345-9777** (all services)**1-855-474-9777** (support line for grandparents raising grandchildren)

This organization provides information, support, and resources to parents, grandparents, and caregivers. They can also help with your application for the Extended Family Program.

Parents Legal Centre**legalaid.bc.ca** (click Our locations)**604-408-2172** (Greater Vancouver)**1-866-577-2525** (elsewhere in BC)

This Legal Aid BC service is available to help parents in select locations who are dealing with child protection issues. To find out if you're eligible for this service, visit your legal aid location or call Legal Aid BC at the above numbers. For more information about the Parents Legal Centre, see the Legal Aid in BC website at **legalaid.bc.ca/legal_aid/childProtection**.

Representative for Children and Youth

rcybc.ca

250-356-6710 (Victoria)

1-800-476-3933 (elsewhere in BC)

If you, your child, or anyone else in your family needs help in dealing with the child welfare system, you can contact this independent office of the BC government.

The representative can help you to speak on your own behalf, or find an advocate to help you when you meet with social workers. The representative serves all BC children and youth from birth to 19, especially children in government care, foster homes, group homes, or youth custody.

Service BC

www2.gov.bc.ca (in the search bar, type Service BC)

604-660-2421 (Greater Vancouver)

250-387-6121 (Victoria)

1-800-663-7867 (elsewhere in BC)

604-775-0303 (for hearing impaired, Greater Vancouver)

1-800-661-8773 (for hearing impaired, elsewhere in BC)

The BC government provides many services online, by phone, and at Service Centres throughout BC.

TRU Community Legal Clinic, Kamloops

tru.ca/law/students/outreach/Legal_Clinic.html

778-471-8490

Thompson Rivers University law students give free legal help and advice at the clinic in Kamloops.

UBC Indigenous Community Legal Clinic

allard.ubc.ca/iclc/indigenous-community-legal-clinic

604-684-7334 (Greater Vancouver)

1-888-684-7874 (elsewhere in BC)

University of BC law students give free legal help to Indigenous peoples in Vancouver's Downtown Eastside.

UBC Law Students' Legal Advice Program**lslap.bc.ca****604-822-5791****604-684-1628** (Chinese language appointment)

University of BC law students run free legal advice clinics throughout Greater Vancouver. Call the above numbers to make an appointment.

Vancouver Native Health Society**vnhs.net****604-254-9949**

This organization delivers medical, counselling, and social services, with an emphasis on providing care to the Indigenous community. All programs are free for people living in Vancouver's Downtown Eastside.

VictimLinkBC**victimlinkbc.ca****1-800-563-0808****604-875-0885** (for hearing impaired, Greater Vancouver)**711** (Telus Relay Service collect for hearing impaired, elsewhere in BC)

If you or members of your family are being abused in any way, you can phone this free help line, 24 hours every day. Staff answer your call and give information about crimes of violence, including sexual assault, violence in a relationship, elder abuse, and adults surviving physical or sexual abuse. They tell you about victim services in your community, such as transition houses and counselling. They can also explain about the court system, government laws and programs, crime prevention, safety planning, the Protection Order Registry, and other resources. VictimLinkBC gives information in more than 110 languages, including 17 North American Indigenous languages.

Publications

Booklets about family law

Legal Aid BC has free publications about family law and child protection issues. If you have Internet access (also available at public libraries), you can download publications, or order them free from Crown Publications. See the back cover of this booklet for how to order. You can also get free publications at your local legal aid location (see legalaid.bc.ca — Our locations). Free Legal Aid BC booklets about child protection are described here.

Emily's Choice — A Child Protection Story

This graphic novel introduces your legal rights through engaging storytelling and artwork. Emily is struggling with addiction and an unhealthy relationship. She loves her son, Greg, but can't always take care of him. When Greg goes into foster care, Emily gets legal help and the support of her family to get Greg back. *Emily's Choice* is Emily's story.

If You Can't Get Legal Aid for Your Child Protection Case

This booklet is for people facing a complicated child protection hearing who've been denied legal aid but can't afford a lawyer. It explains that you can ask for a court-appointed lawyer and how to apply. This step-by-step guide about how to make a JG application includes forms and what to say to the judge in court. Also available in French (online only).

Keeping Aboriginal Kids Safe — Your Family's Rights

This easy-to-understand, illustrated booklet explains the child protection process for Indigenous children and families. It includes what you and your community can do if the ministry or a delegated Aboriginal agency takes your child from your home, how mediation can help you stay out of court, what's involved in the court process, and how the Extended Family Program can help you take care of your child.

Child Protection in BC

peopleslawschool.ca (click Publications)

604-331-5400

Child Protection in BC is a free booklet from the People's Law School (in Vancouver). The booklet explains the law in BC, including abuse, neglect, discipline, child protection, and where to get parenting and legal help.

Websites

Aboriginal Legal Aid in BC

aboriginal.legalaid.bc.ca

This Legal Aid BC website has information and videos about legal issues important to Indigenous peoples. Information includes what to do if your child goes into foster care, First Nations/Indigenous Court, Gladue rights, and help from Parents Legal Centres and other Legal Aid BC services.

Clicklaw

clicklaw.bc.ca

Many legal organizations provide information to this website that educates British Columbians about the law and helps solve their legal problems.

Family Law in British Columbia

familylaw.iss.bc.ca (click Children — Child protection)

On this Legal Aid BC website, you can find step-by-step family law guides and information about child protection.

MyLawBC

mylawbc.com

This Legal Aid BC website has question and answer pathways to help you find solutions to your legal problem, including separation and divorce, abuse and family violence, foreclosure, and wills and personal planning.

National Aboriginal Circle Against Family Violence

nacafv.ca

This website has information about programs and services to help reduce family violence in indigenous communities.

PovNet

povnet.org (click Find an Advocate)

This website has information about housing and welfare issues and where to find an advocate in your area.

Victimsinfo.ca

If you're a victim of crime, or have witnessed a crime in BC, you can get help through this website.

Definitions

These definitions are for terms used in this booklet. See the page number given after some definitions to read more about the term.

Aboriginal

Includes status Indians, non-status Indians, Métis, and Inuit peoples. Status Indians are also known as First Nations.

abuse

Any action that hurts a child, and includes physical, sexual, and/or emotional harm. See page 2.

access

Visits arranged by the social worker for you to see your child in care, such as in a foster home. See page 24.

adjournment

When the court process is delayed to another date. Reasons for an adjournment include giving time for all parties to get more information, get legal advice, or work out an agreement for a child's care. See page 31.

advocate

A person who knows about certain issues and laws, and uses their experience to help other people. See page 42.

agreement

A legal document made in writing you sign when you agree with the social worker about how to arrange for your child's safety. See page 15.

case conference

A meeting ordered by the judge for you, the social worker, and lawyers to try to make an agreement about your child's care. You can speak directly to the judge, who acts as the mediator at the conference. See page 33.

child

In BC, under the Child, Family and Community Service Act, anyone younger than 19.

Child, Family and Community Service Act

The law in BC that provides for the protection of children (everyone under 19) and describes the powers and responsibilities of the Director of Child Protection. See page 1.

child in foster care

A child in the custody, care, control, or guardianship of the ministry.

collaborative planning and decision making

A ministry program you can participate in to help make decisions about your child's safety. This can include a family case planning conference, family group conference, traditional decision making, and mediation. Each collaborative option has its own procedures. See page 16.

court order

A written document that records the judge's decision, filed at the court registry after the judge makes the decision, and can include custody, access, and supervision orders (supervision orders include terms and conditions). See pages 30, 34, and 35.

delegated Aboriginal agency

An agency that has an agreement with the Ministry of Children and Family Development to provide certain child protection services for Indigenous communities. They might have the same powers as the Director of Child Protection. These agencies involve Indigenous communities in the protection and support of Indigenous children. See page 7.

Director of Child Protection (the director)

A person appointed under the Child, Family and Community Service Act by the Ministry of Children and Family Development to make sure children are kept safe and well cared for. The Director of Child Protection has the power to investigate reports of child abuse and remove children from their families.

family duty counsel

Lawyers paid by Legal Aid BC, located in family courts throughout BC, who give you free advice and speak on your behalf in court on family matters. See page 40.

guardian

A person who can legally act as a parent.

Indigenous child

Includes children who are First Nations, Nisga'a, Treaty First Nations, Métis, Inuit, under 12 of a biological parent of Indigenous ancestry and considers themselves Indigenous, or over 12 of Indigenous ancestry and considers themselves Indigenous.

informal advocate

A trusted friend, family member, church minister, or other supportive person you might ask to help you during the child protection process. See page 42.

mediator

A specially trained person who doesn't take sides and helps others to work things out. See page 18.

ministry

BC Ministry of Children and Family Development that has the legal duty to investigate all reports about children who are abused or neglected.

neglect

A type of abuse a child might experience when parents don't provide basic needs like food, clothes, medical care, and a safe home. See page 3.

parent

A person who is responsible for a child's care — could include the child's mother or father, or a person given custody or guardianship of a child by a court order or agreement, a relative or friend the child lives with, or an appointed guardian.

party

A person involved in a court case whose view the judge must consider. See page 40.

plan of care

A written document presented by the social worker when a case goes to court that describes how a child will be cared for during the court process and possibly after the court process is over. See pages 26 and 29 (interim plan of care).

presentation hearing

The first court process that happens after the ministry removes a child from their home, or the social worker applies for a supervision order without removal. The social worker presents a Report to Court during the presentation hearing. The judge might make an interim order to make sure your child is safe until a protection hearing is completed. See page 27.

presumption in favour

Ministry policy that says the social worker must use collaborative planning and decision making, unless there's a specific reason not to, to find solutions for your child's protection. See page 16.

protection hearing

The court process that follows the presentation hearing when the judge decides whether your child needs protection and which order to make. See page 32.

Report to Court

A written document with details about how and why the director removed your child and sets out what the director would like to see in the interim order. See page 29.

safety plan

A way for you to present your ideas in writing to the director about how you'll take proper care of your child. See page 11.

social worker

A person qualified and licenced as a social worker. A social worker has the authority to carry out the responsibilities of the Director of Child Protection to provide child welfare services under the Child, Family and Community Service Act. Social workers look into complaints about child abuse and have the power to remove children from their home. See page 6.

support services

Might include home support, counselling, and parenting classes, which the director can provide for you if you need help to care for your child.

Details for Your Child Protection Case

Date the ministry started investigating

Name of social worker or delegated Aboriginal agency

Date you called Legal Aid BC for a lawyer

Lawyer's name

Lawyer's phone number

Lawyer's address

Date the ministry removed your child

First Nation, band, or friendship centre

Name

Address

Phone number

Visit the Aboriginal Legal Aid in BC website to learn more about your child protection rights

Read about child protection

aboriginal.legalaid.bc.ca/child-family-rights/child-protection

The Aboriginal Legal Aid in BC website has basic, plain language information about child protection, including:

- what child protection means
- what you can do if a social worker takes your child from your home
- how your Indigenous community representative can help
- where to get legal help and support from various organizations

The website also addresses other legal issues Indigenous people might face and features Legal Aid BC publications and videos about child protection.



The screenshot shows the website's header with the logo and navigation menu. The main content area features a large image of a young child and a woman, followed by the heading "Child protection" and a sub-heading "Has a social worker contacted you about your children?". Below this is a paragraph of text explaining the child protection process and the rights of Indigenous families.

Aboriginal Legal Aid in BC Legal Aid for Aboriginal people in BC

604-408-2172 (Greater Vancouver)
1-866-577-2525 (elsewhere in BC)

HOME CHILD & FAMILY RIGHTS COURTS & CRIMINAL CASES LEGAL ISSUES ON RESERVE LEGAL AID CAN HELP RESOURCES ISSUES & UPDATES ABOUT US

Home / Child & family rights / Child protection

Child protection

Has a social worker contacted you about your children?

If a social worker from the Ministry of Children and Family Development [L](#), or a [delegated Aboriginal agency](#) contacts you or visits your home, they might think your child is at risk (isn't safe). This is part of the child protection process (also called an investigation.) An investigation is serious. The social worker might take your child from your home.

You, your family, and your community have rights. The law says the ministry must respect your child's family ties and Aboriginal identity.

Watch *Emily's Choice: A Child Protection Story*

aboriginal.legalaid.bc.ca/child-family-rights/child-protection

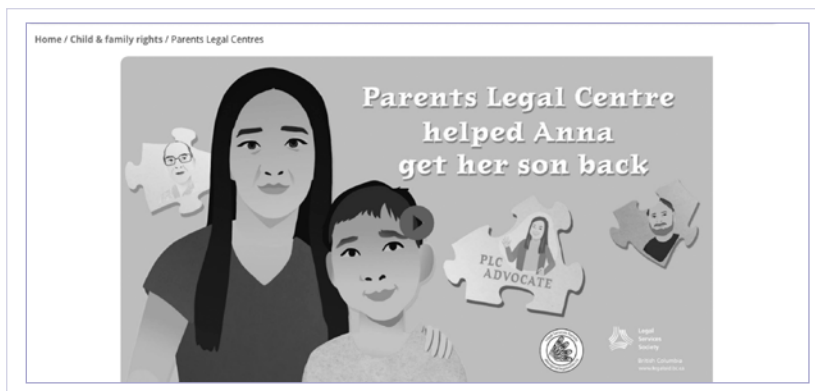
The animated version of the Legal Aid BC graphic novel, *Emily's Choice: A Child Protection Story*, is available on the Aboriginal Legal Aid in BC website. The novel and video tell Emily's story – how she was able to get her son back from foster care, with the help of Legal Aid BC and her family's support.



Watch Anna's story about the Parents Legal Centre

aboriginal.legalaid.bc.ca/child-family-rights/PLC

The Parents Legal Centre is a Legal Aid BC service where parents get help with child protection matters. This animated video on the Aboriginal Legal Aid in BC website shows how Anna, a young Indigenous mother, receives help from a Parents Legal Centre to get her son back from foster care. Find out if there's a Parents Legal Centre near you from the map below the video.



Visit the Family Law in BC website for more information about child protection

familylaw.iss.bc.ca/children/child-protection

See the Children section of this Legal Aid BC website for in-depth information about child protection. In easy-to-understand language, information includes:

- where to get legal help
- what delegated Aboriginal agencies do
- your responsibilities as a parent
- what happens if you have to go to court
- where to get parenting help
- agreements you can make to take care of your child
- tips to keep healthy while you cope with the process
- benefits for caregivers raising grandchildren

This website also has information about other family law issues, like divorce and separation, as well as quick links to Legal Aid BC publications and videos about child protection.

FamilyLaw
Legal help for people in BC

Get more help: CALL VISIT CHAT

Separation & Divorce | Children | Finances & Support | Abuse & Family Violence | BC Legal System

Children

Parenting & guardianship
Adoption
Child protection
Information for children & teens

Children

Being a parent includes making decisions that are best for your children.

If you and your spouse have dependent children, you'll have to make arrangements to take care of them when you separate.

If you're worried about your child's safety, you can get help.

Parenting & guardianship
Everything you need to know about parenting and guardianship.

Adoption
Find resources about adoption in BC.

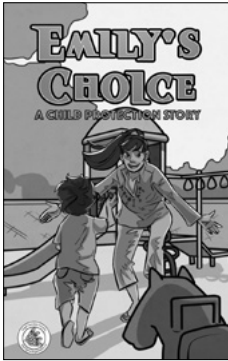
Child protection
Learn your rights if a social worker contacts you about your children.

Information for children & teens

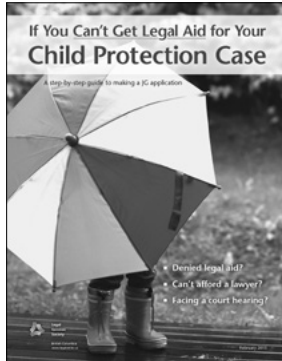
Common questions

- What's a delegated Aboriginal agency?
- At what age can children choose which parent they get to live with?

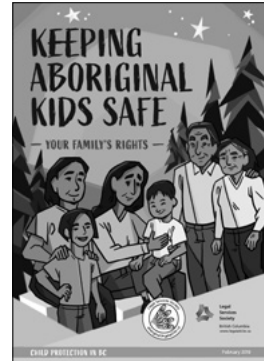
Free Legal Aid BC publications with child protection information



Emily's Choice



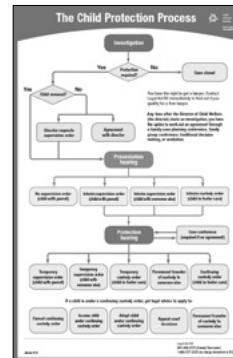
If You Can't Get Legal Aid for Your Child Protection Case



Keeping Aboriginal Kids Safe



The Aboriginal Child Protection Process (flow chart)



The Child Protection Process (flow chart)



Aboriginal Legal Aid BC

To learn more about the law, see aboriginal.legalaid.bc.ca.

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