



Agenda:

1. Introduction

- Parent Support Services Society of BC
- Grandparents Raising Grandchildren Support Line

2. Kinship Caregiving

- Who is a kinship caregiver?
- How do children come into kinship care?

3. Kinship Care Arrangements

- The Extended Family Program and Customary Care
- Interim and Temporary Custody to Other Orders
- Restricted Foster Care
- Permanent Kinship Care
- Guardianship under the *Family Law Act*

4. Benefits Table

- Availability of Provincial and Federal Benefits





Christina Campbell, MSW
Advocate-Social Worker

Christina Campbell is a UBC graduate with a Masters in Social Work who has practiced community development internationally and has, as a long serving support line advocate, become highly knowledgeable about caregiver experiences navigating kinship care law and policy.



Caity Goerke, JD

Caity is sole practitioner and contract lawyer focusing on family, child protection, and Indigenous legal issues.

Caity was the Advocate-Lawyer at PSS from January 2019 – October 2020.

About us:

As advocates, we work for **Parent Support Services Society of BC (PSS)**. The society’s mission is to protect the safety and well-being of children and promote the health of families by providing support, education, advocacy, research and resources to those in a parenting role.

In addition to the Support Line, PSS provides **Support Circles** to parents and kinship caregivers.



**Parent Support Services
Society of BC**

Grandparents Raising Grandchildren Support Line

The GRG Support line is open:
Monday, Tuesday, Thursday and Friday from 10 AM to 2 PM.

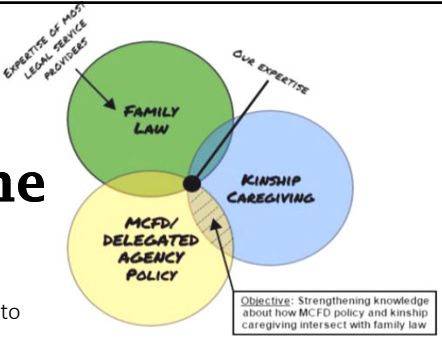
The GRG Support Line provides support, advocacy and resource information to **kinship caregivers, service providers and allies.**

The Support Line expertise lies in the **intersection** of child protection policy, family law, and kinship care.

As advocates we practice **cross-disciplinary collaboration**. Drawing on different professional backgrounds (social work and law), we help kinship caregivers across the province to overcome information barriers and better navigate government systems.

We apply a shared approach and knowledge base to calls and we operate the GRG Support Line through a job-share model.

We do **not** give out legal advice on the line.



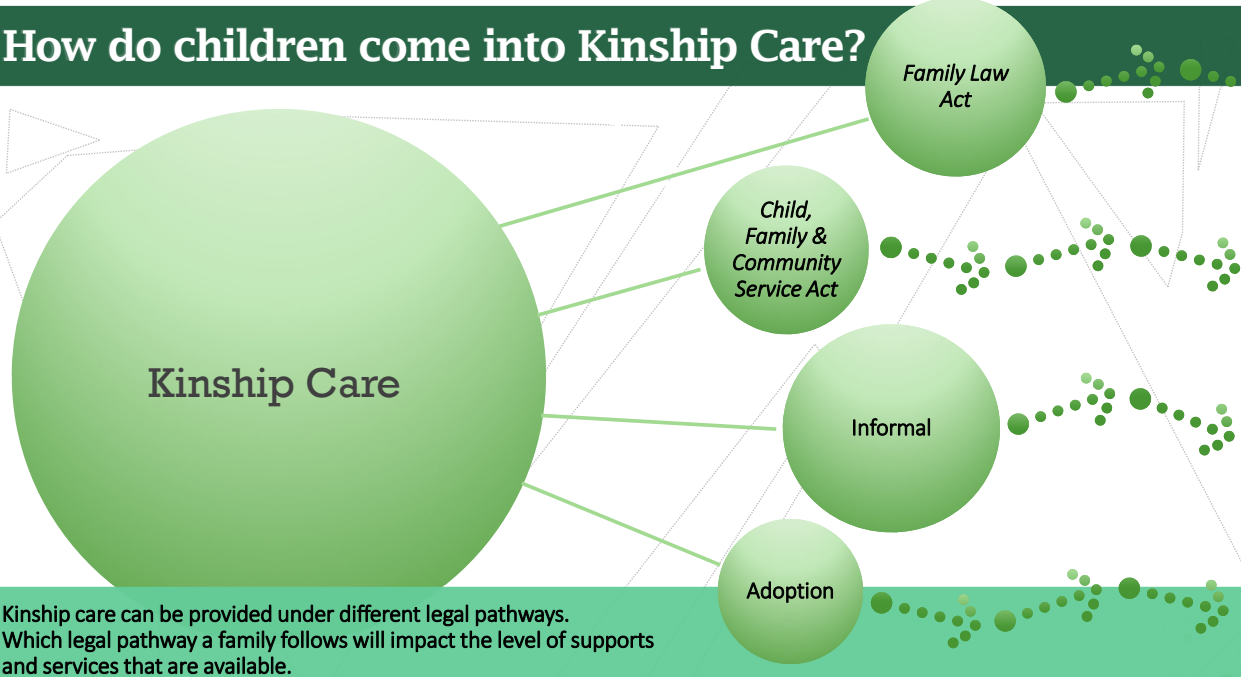
604-558-4740
1-855-474-9777
grgline@parentsupportbc.ca

Who is a Kinship Caregiver?




A kinship caregiver is someone with a family or a cultural connection to or a strong relationship with a child in need, who cares for that child full-time, on either a temporary or a permanent basis.

How do children come into Kinship Care?




Kinship care can be provided under different legal pathways. Which legal pathway a family follows will impact the level of supports and services that are available.

The Extended Family Program (EFP)



Families can access the Extended Family Program when circumstances **temporarily** prevent a parent from caring for their child and a kinship caregiver is available and willing to provide care.



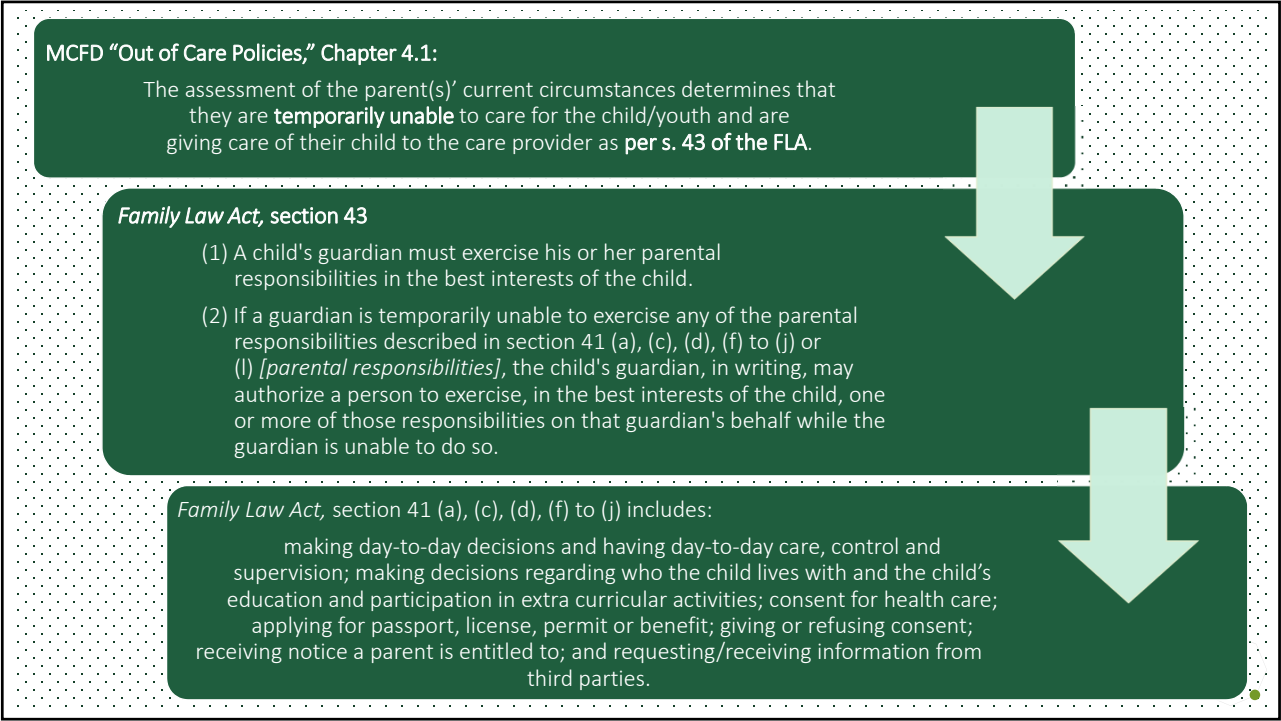
Under an EFP agreement, **legal guardianship** remains with the parents and the ultimate goal of the program is family **reunification**.


For the purposes of accessing an EFP agreement, MCFD policy defines “caregiver” as including, “**extended family**, or other individual(s) who have a relationship with or a cultural or traditional responsibility to the child/youth.”

MCFD “Out of Care Policies,” Chapter 4.1





If the parent(s) are Indigenous, explain to them that an EFP Agreement may be used to financially support a **customary care arrangement** when they have given care of their child to a care provider in accordance with their customary practices.





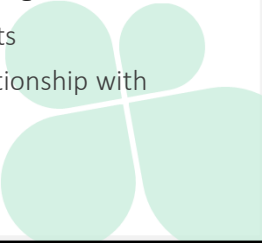
Interim & Temporary Custody to Other Orders

- Placements under *CFCSA* s. 35(2)(d); 41(1)(b); 42.2(4)(c) & 49(7)(b)
- Interim order placing a child in the custody of a person other than a parent with the consent of the other person and under the director's supervision
- Temporary transfer of custody (pre CCO)



Restricted Foster Care/ Restricted Family Care Home

- Legally equivalent to foster care placements
- Where the foster parent has a kinship relationship with the child placed in their care



Permanent Kinship Care

Section 54.01 Agreements

- Permanent transfer of custody **before** a continuing custody order to a person other than the child's parent

Section 54.1 Agreements

- Permanent transfer of custody **after** a continuing custody order to a person other than the child's parent



Guardianship under the *Family Law Act*

- Under section 51(1) of the *FLA*, a court can appoint a person guardianship or terminate a person's existing guardianship
- A court will terminate guardianship only as a last resort, and if there's no other way to protect the child's best interests
- Kinship caregivers are usually added as guardians **in addition to** the child's existing guardians
 - This can often lead to ongoing family law litigation and other significant consequences such as creating child support obligations on kinship caregivers
- Kinship caregivers become guardians like any other parents/guardians in BC – there is no special category of "kinship caregiver" under the *FLA*
- No financial support available through MCFD
- Ends MCFD involvement



| Programs | Maintenance Payment | BASIC Medical (MSP) | Extended Medical | Dental & Optical | Child Care Subsidy & Surcharge | Canada Child Benefit & Child Disability Benefit | Tuition Waiver |
|---|---|---------------------|------------------|------------------|--|---|----------------|
| Extended Family Program Agreement Age 0 to 11 Age 12 to 19 | YES (Not income tested) \$1005.32 \$1107.96 | YES | YES | YES | YES | YES | YES |
| Interim & Temporary Custody to Others Age 0 to 11 Age 12 to 19 | YES (Not income tested) \$1005.32 \$1107.96 | YES | YES | * | YES | Not eligible | YES |
| s. 54.01 & 54.1 Agreements Age 0 to 11 Age 12 to 19 | YES (Not income tested) \$1005.32 \$1107.96 | Not eligible | Not eligible | Not eligible | YES | Not eligible | YES |
| Family Law Act | \$0 | Not eligible | Not eligible | Not eligible | YES Income-tested Subsidy only | YES | Not eligible |
| Restricted Foster Care Agreement Age 0 to 11 Age 12 to 19 | YES (Not income tested) \$1005.32 \$1107.96 | YES | YES | YES | YES Subsidy only | Not eligible | YES |
| Post Adoption Assistance Age 0 to 11 Age 12 to 19 | Income & Asset tested \$807.78 \$926.03 | Not eligible | Not eligible | Not eligible | YES Income-tested Subsidy only | YES | YES |

| When Returning to the Parent is Not an Option: Pathways to Guardianship for Children/Youth Involved with MCFD | | | | |
|--|---|---|--|--|
| | Section 54.01 Permanent Transfer of Custody (before the child/youth is in the permanent care of the government) | Section 54.1 Permanent Transfer of Custody (after the child/youth is in the permanent care of the government) | Adoption of Child/Youth (after the child/youth is in the permanent care of the government) | Family Law Act (FLA) A person can apply for guardianship/custody of a child/youth who is in the care of the government (temporary or permanent) <i>Note: The Social Workers cannot give any legal advice on whether you should or should not apply for guardianship under the FLA.</i> |
| MCFD regular financial support: child/youth regular maintenance reviewed every 2 years | Yes, not income tested and not transferrable to another person in the event of death | Yes, not income tested and not transferrable to another person in the event of death | Yes, income and asset tested every two years and transferrable to another person in the event of death if outlined in a legal will | No |
| MCFD regular financial support: child/youth regular maintenance reviewed every 2 years | Yes, not income tested and not transferrable to another person in the event of death | Yes, not income tested and not transferrable to another person in the event of death | Yes, income and asset tested every two years and transferrable to another person in the event of death if outlined in a legal will | No |
| Post-secondary education money: Youth eligible to apply for Youth Education Assistance Fund (YEAFF) | No | Youth education Assistance (YEAFF) may be available | Yes | no |
| Child Care Subsidy and Surcharge by MCFD | Yes with no income test | Yes with no income test | No unless eligible through PAA to meet the child's needs, not for employment | No |
| Guardian can apply to the court to change the child's name at the time of order | No | No | Yes, consent is needed from a child/youth 12 years of age and older. | No |

Also:

- Home Visits
- Child Welfare Check (Prior-Involvement Check)
- Criminal Record Check
- Residency Period
- References
- Cultural Safety Agreement
- Court Orders
- Social Worker Involvement
- Guardian Responsibilities
- Inheritance Rights/Estates
- Agreements with Young Adults
- Community Living BC



**When Returning to the Parent is Not an Option:
Pathways to Guardianship for Children/Youth Involved with MCFD**

| | Section 54.01 Permanent Transfer of Custody (<u>before</u> the child/youth is in the permanent care of the government) | Section 54.1 Permanent Transfer of Custody (<u>after</u> the child/youth is in the permanent care of the government) | Adoption of Child/Youth (<u>after</u> the child/youth is in the permanent care of the government) | Family Law Act (FLA) A person can apply for guardianship/custody of a child/youth who is in the care of the government (temporary or permanent) <i>Note: The Social Workers cannot give any legal advice on whether you should or should not apply for guardianship under the FLA.</i> |
|---|---|---|--|---|
| Home visit(s): <i>Visits to the proposed guardian(s)' home and interviews with them and all other individuals living in the home</i> | Yes with a written evaluation that the applicant sees | Yes with a written evaluation that the applicant sees | Yes with a written evaluation that the applicant sees | Yes, but no written evaluation that the applicant sees |
| Child welfare check: <i>conduct a check of any previous child welfare involvement on any individual 18 years of age or over</i> | Yes | Yes | Yes | yes |
| Criminal Record Check (CRC): <i>CRC done on proposed guardian(s) and on any individual 18 years of age and over who lives in the home or who may have significant and unsupervised access to the child/youth</i> | Yes | Yes | Yes | Yes |

| | Section 54.01 Permanent Transfer of Custody (<u>before</u> the child/youth is in the permanent care of the government) | Section 54.1 Permanent Transfer of Custody (<u>after</u> the child/youth is in the permanent care of the government) | Adoption of Child/Youth (<u>after</u> the child/youth is in the permanent care of the government) | Family Law Act (FLA) A person can apply for guardianship/custody of a child/youth who is in the care of the government (temporary or permanent) <i>Note: The Social Workers cannot give any legal advice on whether you should or should not apply for guardianship under the FLA.</i> |
|---|---|---|---|---|
| References: <i>reference completed by people who know the applicant well including a family member</i> | Yes, 3 required | Yes, 3 required | Yes, 4 required and if the applicant has adult children, they are each required to provide a separate reference whenever possible | Yes, 3 required |
| Medical reference: <i>a reference completed by each applicant's physician</i> | In some cases | Yes | Yes | In some cases |
| Training | No | No | Yes. Applicants are required to attend an online training called Adoption Education program (AEP). This is a 15 week course which will take applicants approx. 5 hours per week to complete. In addition to the online work, there are 2 live discussions by phone which are mandatory. If there are two applicants, both must individually participate and complete the training. | No |
| Residency period: <i>The child/youth has to live with the proposed guardian(s) for at least six consecutive months before the application for the order</i> | Yes | Yes | Yes | No |

| | Section 54.01 Permanent Transfer of Custody (before the child/youth is in the permanent care of the government) | Section 54.1 Permanent Transfer of Custody (after the child/youth is in the permanent care of the government) | Adoption of Child/Youth (after the child/youth is in the permanent care of the government) | Family Law Act (FLA) A person can apply for guardianship/custody of a child/youth who is in the care of the government (temporary or permanent) <i>Note: The Social Workers cannot give any legal advice on whether you should or should not apply for guardianship under the FLA.</i> |
|--|--|---|--|---|
| Cultural Safety Agreement: A Cultural Safety Agreement is required if the proposed guardian(s) is non-Aboriginal or not of the same Aboriginal heritage as the child/youth. | Yes | Yes | Yes | No |
| Applying for court order: A social worker makes the application to court and submits all required paperwork MCFD pays required fees | Yes | yes | yes | No: FLA application must be made by the person who wants guardianship. Any costs are the responsibility of the applicant. |
| Changing the order: An order can be changed or cancelled by the birth parent after the order is granted. There is no legal support available through MCFD. | Yes, through the Family Law Act. A person who previously had access or is related to the child can apply for an access order (visits) under the family law act. There is no financial support from MCFD for these court proceedings. | Yes, through Family Law Act. A person who previously had access or is related to the child can apply for an access order (visits) under the family law act. There is no financial support from MCFD for these court proceedings. | No A person who previously had access to or is related to the child can apply for an access order (visits) under the family law act. There is no financial support from MCFD for these court proceedings. | Yes, through Family Law Act A person who previously had access or is related to to the child can apply for an access order (visits) under the family law act. There is no financial support from MCFD for these court proceedings. |

| | Section 54.01 Permanent Transfer of Custody (<u>before</u> the child/youth is in the permanent care of the government) | Section 54.1 Permanent Transfer of Custody (<u>after</u> the child/youth is in the permanent care of the government) | Adoption of Child/Youth (<u>after</u> the child/youth is in the permanent care of the government) | Family Law Act (FLA) A person can apply for guardianship/custody of a child/youth who is in the care of the government (temporary or permanent) <i>Note: The Social Workers cannot give any legal advice on whether you should or should not apply for guardianship under the FLA.</i> |
|---|---|---|---|---|
| Access Order: A person who previously had access or is related to the child can apply for access. There is no financial support from MCFD for these proceedings. | Yes | Yes | Yes | Yes |
| Social worker involvement: Ongoing MCFD social worker involved after the order is granted | No | No | No | No |
| Guardian/adoptive parent's responsibilities: Full range of parental rights and responsibilities. | Yes | Yes | Yes | yes |
| MCFD regular financial support: child/youth regular maintenance reviewed every 2 years | Yes, not income tested and not transferrable to another person in the event of death | Yes, not income tested and not transferrable to another person in the event of death | Yes, income and asset tested every two years and transferrable to another person in the event of death if outlined in a legal will | No |

| | Section 54.01 Permanent Transfer of Custody (before the child/youth is in the permanent care of the government) | Section 54.1 Permanent Transfer of Custody (after the child/youth is in the permanent care of the government) | Adoption of Child/Youth (after the child/youth is in the permanent care of the government) | Family Law Act (FLA) A person can apply for guardianship/custody of a child/youth who is in the care of the government (temporary or permanent) <i>Note: The Social Workers cannot give any legal advice on whether you should or should not apply for guardianship under the FLA.</i> |
|---|---|---|--|---|
| MCFD financial support: special services funding to meet the child/youth's needs- as needed | No | No | Yes, some funding for services available, asset tested every two years. | No |
| Does order affect inheritance from birth family | No | No | Yes, the child/youth does not have a right to inherit property from their birth family, unless specified in the birth family member's legal will If an Aboriginal child/youth who is registered under the <i>Indian Act</i> is adopted by parents who are not registered themselves, the child/youth does not lose their status as a registered Aboriginal person | No |
| Does order affect child's right to the estate of the guardian | No unless specified in the guardian's legal will | No unless specified in the guardian's legal will | Yes, the child/youth has full inheritance rights | No unless specified in the guardian's legal will |
| Post-secondary education money: <i>Youth eligible to apply for Youth Education Assistance Fund (YEAf)</i> | No | Youth education Assistance (YEAf) may be available | Yes | no |
| Agreements with Young Adults (AYA) | No | No | No | No |
| Child Care Subsidy | Yes with no income test | Yes with no income test | No unless eligible through PAA to meet | No |

| | Section 54.01 Permanent Transfer of Custody (<u>before</u> the child/youth is in the permanent care of the government) | Section 54.1 Permanent Transfer of Custody (<u>after</u> the child/youth is in the permanent care of the government) | Adoption of Child/Youth (<u>after</u> the child/youth is in the permanent care of the government) | Family Law Act (FLA) A person can apply for guardianship/custody of a child/youth who is in the care of the government (temporary or permanent) <i>Note: The Social Workers cannot give any legal advice on whether you should or should not apply for guardianship under the FLA.</i> |
|---|---|---|--|---|
| and Surcharge by MCFD | | | the child's needs, not for employment | |
| Community Living BC (CLBC) <i>eligible to be prioritized for CLBC Home Share services</i> | No | Yes | No | no |
| Federal Government Supports: <i>Guardian can claim the child as a benefit on income tax and collect Canada Child Benefit or Disability Benefit</i> | No | No | Yes. Child tax/disability tax benefits are based on income | Yes. Child tax/disability tax benefits are based on income |
| Guardian can apply to the court to change the child's name at the time of order | No | No | Yes, consent is needed from a child/youth 12 years of age and older. | No |