



**Legal  
Services  
Society**

British Columbia  
[www.legalaid.bc.ca](http://www.legalaid.bc.ca)

Community  
...Education  
...Information  
...Engagement



# 35 Legal Aid Offices

Abbotsford

Kelowna

Quesnel

Burns Lake

Langley

Richmond

Campbell River

Nanaimo

Salmon Arm

Chilliwack

Nelson

Smithers

Courtenay

New Westminster

Surrey

Cranbrook

North Vancouver

Terrace

Dawson Creek

Penticton

Vancouver

Duncan

Port Alberni

Vanderhoof

Fort St. James

Port Coquitlam

Vernon

Fort St. John

Port Hardy

Victoria

Hazelton

Prince George

Williams Lake

Kamloops

Prince Rupert



# How many...



# Community Partners?

# Community Partner Locations



100 Mile House

North Vancouver

Abbotsford

Old Massett

Bella Coola

Penticton

Boston Bar

Powell River

Burns Lake

Prince George

Canim Lake

Seabird Island

Chilliwack

Sechelt

Hazelton

Skidegate

Keremeos

Trail

Maple Ridge

Merritt

Nelson

Vernon



[Home](#) [Legal aid](#) [Lawyers](#) [Community workers](#) [Aboriginal](#) [Media](#) [About us](#)


#### Search our site


Google™ Custom Search 

#### I'm looking for...

- [Legal help](#)
- [A lawyer to take my case](#)
- [A legal aid office](#)
- [Publications](#)
- [News releases](#)
- [Career opportunities](#)
- [Lawyer e-services](#)

 [Our locations](#)

 [Our services](#)

 [Our publications](#)

#### We're here to help

Welcome to the Legal Services Society (LSS), the organization that provides [legal aid](#) in BC.

If you have a legal problem and can't afford a lawyer, we can help. Join the thousands who use the self-help information on our [Family Law in BC](#) website or who read our free [legal information publications](#). You may also qualify for some [legal advice](#) from a lawyer or even for a [lawyer to take your case](#).

Find out more about [legal aid](#) and [LSS](#).



#### I am a...

- [Person who needs legal help](#)
- [Lawyer](#)
- [Community worker](#)
- [Aboriginal person](#)
- [Reporter](#)

#### I want to...

- [Apply for legal aid](#)
- [Contact LSS](#)
- [Get help with my family law problem](#)
- [Find family law court forms](#)

**MyLawBC.com**  
project proposal

**Gladue**  
report  
training  
Starts  
Jan 7





Home Legal aid Lawyers Community workers Aboriginal Media About us

#### Search our site

Google™ Custom Search

#### Featured publications



**Defending Yourself: Breach of a Court Order**  
Describes how to defend yourself if you are charged with breach of a court order. Includes what the prosecutor must prove to find you guilty, sentenci...



**Family Law in BC: Quick Reference Tool**  
This set of postcards introduces the reader to the basics of family law in BC. It covers one area of family law: separation, such as: which laws apply,...



**Living Together or Living Apart**  
Common-Law Relationships, Marriage, Separation, and Divorce Explains the basics of family law in BC. Includes information about: being married or in...



**Parents' Rights, Kids' Rights**  
A Parent's Guide to Child Protection Law in BC Explains what happens if the director of Child Welfare has concerns about a child's safety or plans to...



**Understanding Child Protection Mediation for Aboriginal Families**  
This fact sheet has information...



I want to find a publication by subject



- Aboriginal people
- Abuse & family violence
- Crimes & offences
- Debt
- Families & children
- Gays, lesbians, trans, & bisexuals
- Housing & tenancy
- Immigrants & refugees
- Legal help & lawyers
- Legal system & courts
- Pensions, benefits, & welfare
- Staying out of court
- Wills, estates, & life planning
- Women



I want to find a publication by language



I want to find a publication by title



I want to get a publication



**Pick up single copies** of publications at your local legal aid office.

#### Order online from Crown Publications

Place your order on the [Crown Publications](#) website. This will help to reduce costs so that we can continue to offer this free service to the public. You will receive your order usually within 5 business days.

To order **single copies** of our publications online:

- Go to [Crown Publications](#) website. Under Quick Links to Publications, click Legal Services Society.
- Search the list to find the publication.
- Click on its title to see the publication description and information.



## Customer Account Application Form

To order:

- Fill in the form online, then e-mail it to Legal Services Society; or
- Print out and fill in the form, then fax it to Legal Services Society

If you plan to order multiple copies of a publication or place regular orders, then you can apply for a customer account. Please fill in the information below and return this form to Legal Services Society by email at [distribution@lss.bc.ca](mailto:distribution@lss.bc.ca) or by fax at 604-682-0965. We will contact you after we have reviewed your application. You will receive your customer number and your pre-approved order quantity if your application is accepted.

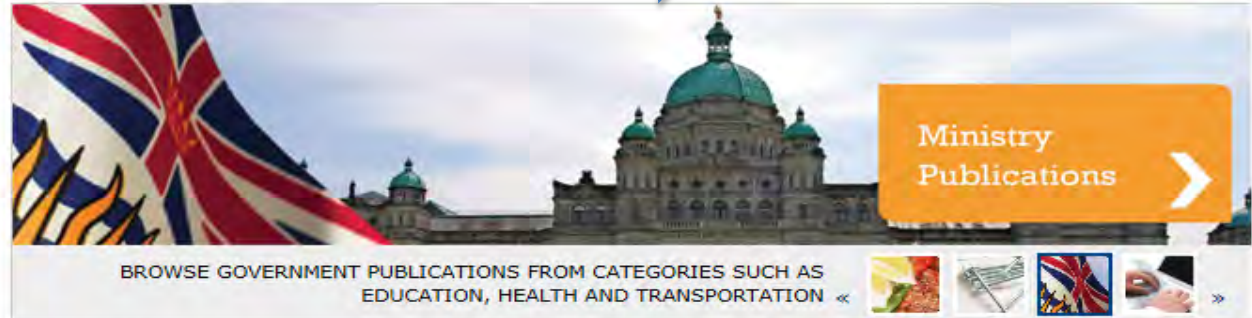
Does your organization already have an approved Crown Publications customer number? Yes ☐ No ☐

Organization name:			
Contact person:	Title: _____		
Mailing address:			
Phone:	Fax: _____		
Email:	Website: _____		
Order requirements:	Maximum number of copies _____	Estimated frequency of orders _____	
Preferred languages:			
Area of law:	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Civil <input type="checkbox"/> Criminal <input type="checkbox"/> Family <input type="checkbox"/> Immigration <input type="checkbox"/> Legal aid		
Type of organization:	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Community group <input type="checkbox"/> Government <input type="checkbox"/> Library <input type="checkbox"/> Legal organization <input type="checkbox"/> Medical <input type="checkbox"/> Police/RCMP <input type="checkbox"/> School/College <input type="checkbox"/> Victim services <input type="checkbox"/> Other		
Demographics:	<input type="checkbox"/> Aboriginal <input type="checkbox"/> Children and youth <input type="checkbox"/> Community workers/Advocates (Groups/individuals you serve) <input type="checkbox"/> Gay/Lesbian/Bisexual/Transgender <input type="checkbox"/> Immigrants/Refugees <input type="checkbox"/> Police/RCMP <input type="checkbox"/> Seniors/Elders <input type="checkbox"/> Victims <input type="checkbox"/> Women <input type="checkbox"/> Other		
Services:	<input type="checkbox"/> Advocacy services <input type="checkbox"/> Counselling/Support Group <input type="checkbox"/> Crisis line (Type of service offered) <input type="checkbox"/> ESL/Literacy training <input type="checkbox"/> Legal advice <input type="checkbox"/> Legal representation <input type="checkbox"/> Mediation and conflict resolution <input type="checkbox"/> Pro bono legal services <input type="checkbox"/> Restorative justice <input type="checkbox"/> Other		

### Disclaimer

LSS collects and uses personal information solely to operate its business and provide legal aid in BC. LSS does not sell the personal information it collects and will not disclose an individual's personal information to a third party unless the disclosure is authorized under FOIPPA and/or in writing by the individual.



[Login](#)**Browse By**[Categories](#)[Ministry](#)[Other Organizations](#)**Quick Links**[BC Trades](#)[Alberta Trades](#)[BC Legislation](#)[BC Gazette](#)[FOODSAFE](#)[Legal Services Society](#)[BC Codes & Construction  
Publications](#)[Contact Us](#)**Related Sites**[BC Codes](#)[BC Budget](#)[BC Auction](#)[BC Bid](#)[BC Laws](#)[CivixSuite XML Authoring Tool](#)[Government House](#)[Legislative Assembly](#)[OpenSchool BC](#)[QP LegalEze](#)[Vehicle Safety and Inspection  
Standards](#)

Welcome to the new Crown Publications Website! This visually-appealing site, with enhanced features, makes it easier to navigate, search for publications and order online.

Government and public sector account customers have special added features that allow you to save orders, create order templates for items you order on a regular basis. If you'd like more information on these features or have feedback please feel free to contact our office.

**AVAILABLE FOR A LIMITED TIME ONLY!**

*These make great Christmas gifts!*

**Order yours today, while quantities last!**

**Standard Edition**

Retail Price \$79.95

Sale Price \$19.95

[Click here for more information on Standard Edition](#)**Collector's Edition**

Retail Price \$295.00

Sale Price \$149.95

# Audience & accessibility

## **LSS Publication Readability**

### **How much legal understanding is needed?**

#### **Level 1 — None needed.**

No legal understanding required. Outline or “first step” information, written in clear language for those with no previous knowledge or experience with the law.

#### **Level 2 — Some helpful.**

Some understanding helpful but not essential. Offers all basic information on a topic, meant for those who are reasonably comfortable reading and who may have a general sense of some legal concepts.

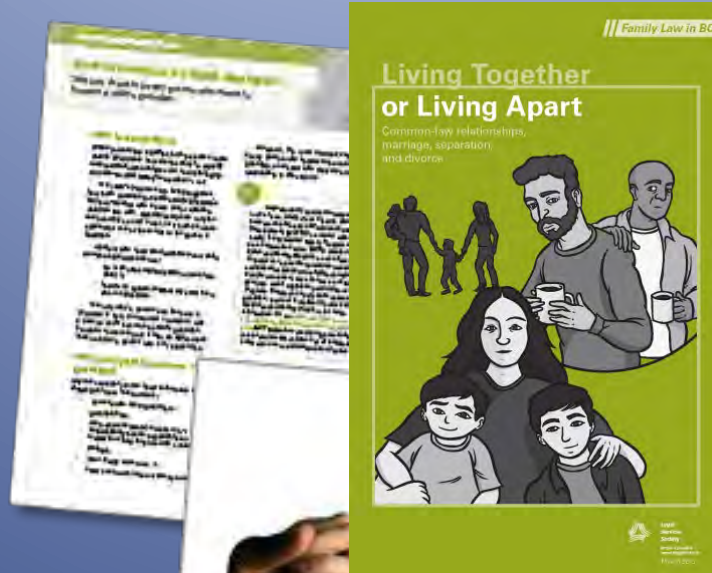
#### **Level 3 — Some needed.**

Basic familiarity assumed. Detailed material, written primarily as a reference for the advocate/intermediary audience, although accessible to members of the public with adequate literacy skills.

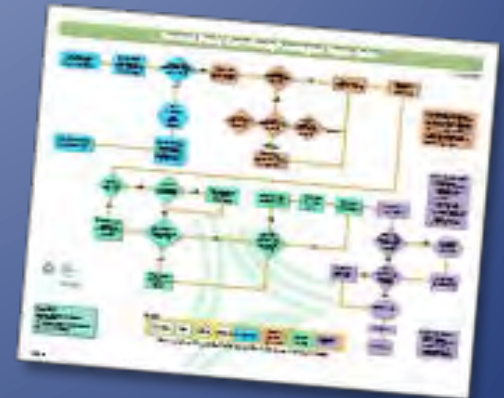
# Family law publications

## Level 2

### Level 1



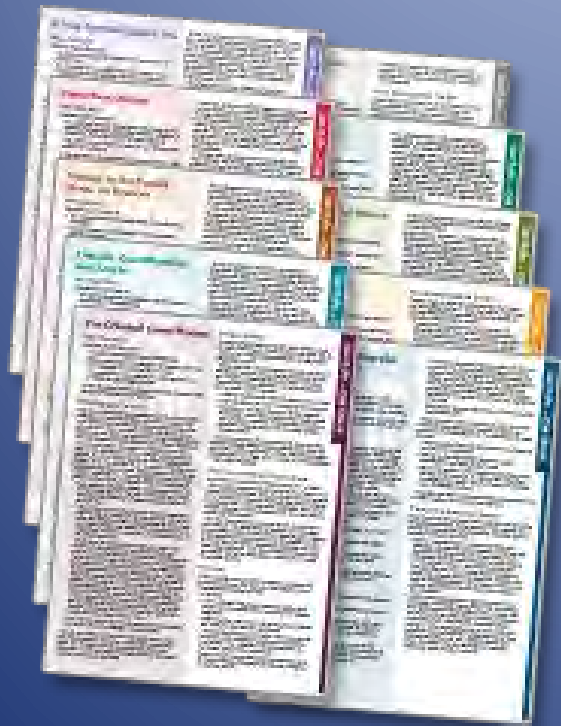
### Level 3





# Family violence

Level 1



Level 2

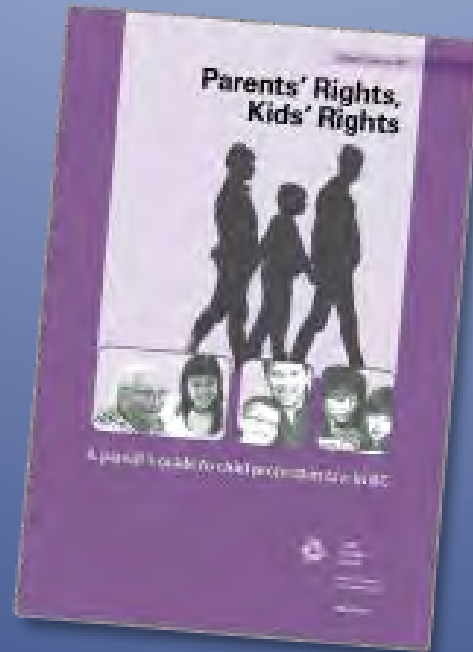


# Child protection and Aboriginal

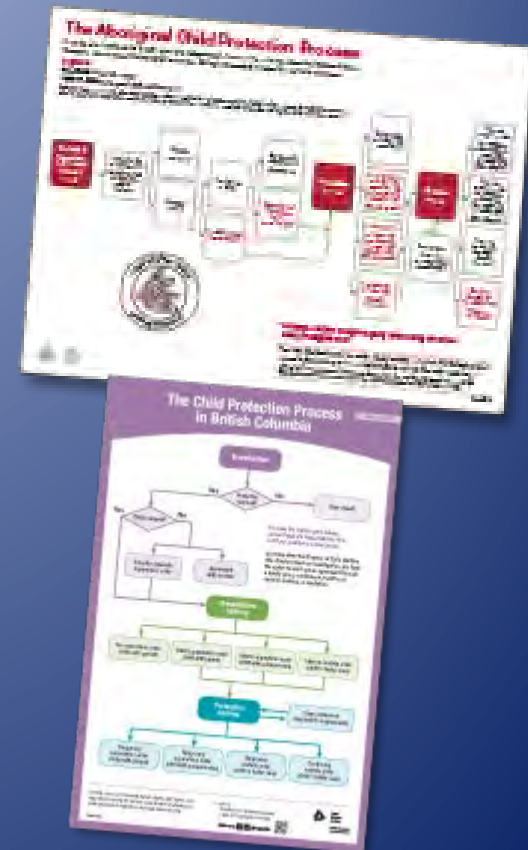
Level 1



Level 2



Level 3



# Criminal Publications & Aboriginal

Level 1

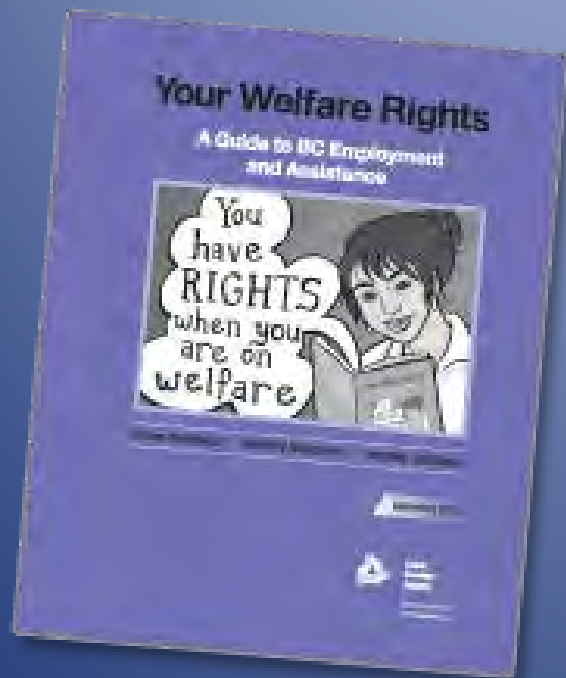
Level 2





# Civil publications

## Level 2



# Keeping up



## Tweets



**Legal Aid BC** @legalaidbc · 4h

Birth registration forms have been updated to accommodate the Family Law Act - [ow.ly/towNR](https://ow.ly/towNR)

Expand



**Legal Aid BC** @legalaidbc · Feb 6

Law students are waiting to answer your family law questions until 5pm today. Click the green Live Help button - [ow.ly/tmzw7](https://ow.ly/tmzw7)

Expand

facebook



# Family Law

in British Columbia



Text Size: [A](#) [A](#) [A](#) [f](#) [t](#)

- Your legal issue
- Your community
- Your FAQ
- Legal system
- Staying out of court
- 



- Shortcuts**
- [Self-help guides](#)
  - [Fact sheets](#)
  - [Who can help](#)
  - [Publications](#)
  - [Legislation / Court rules](#)
  - [Court forms](#)
  - [Definitions](#)
  - [Videos](#)
  - [Multilingual](#)

- What's new in family law**
- [Frequently asked questions about the new BC Family Law Act](#)
  - Find out about the [latest changes](#) to family law

**Live Help**  
Available

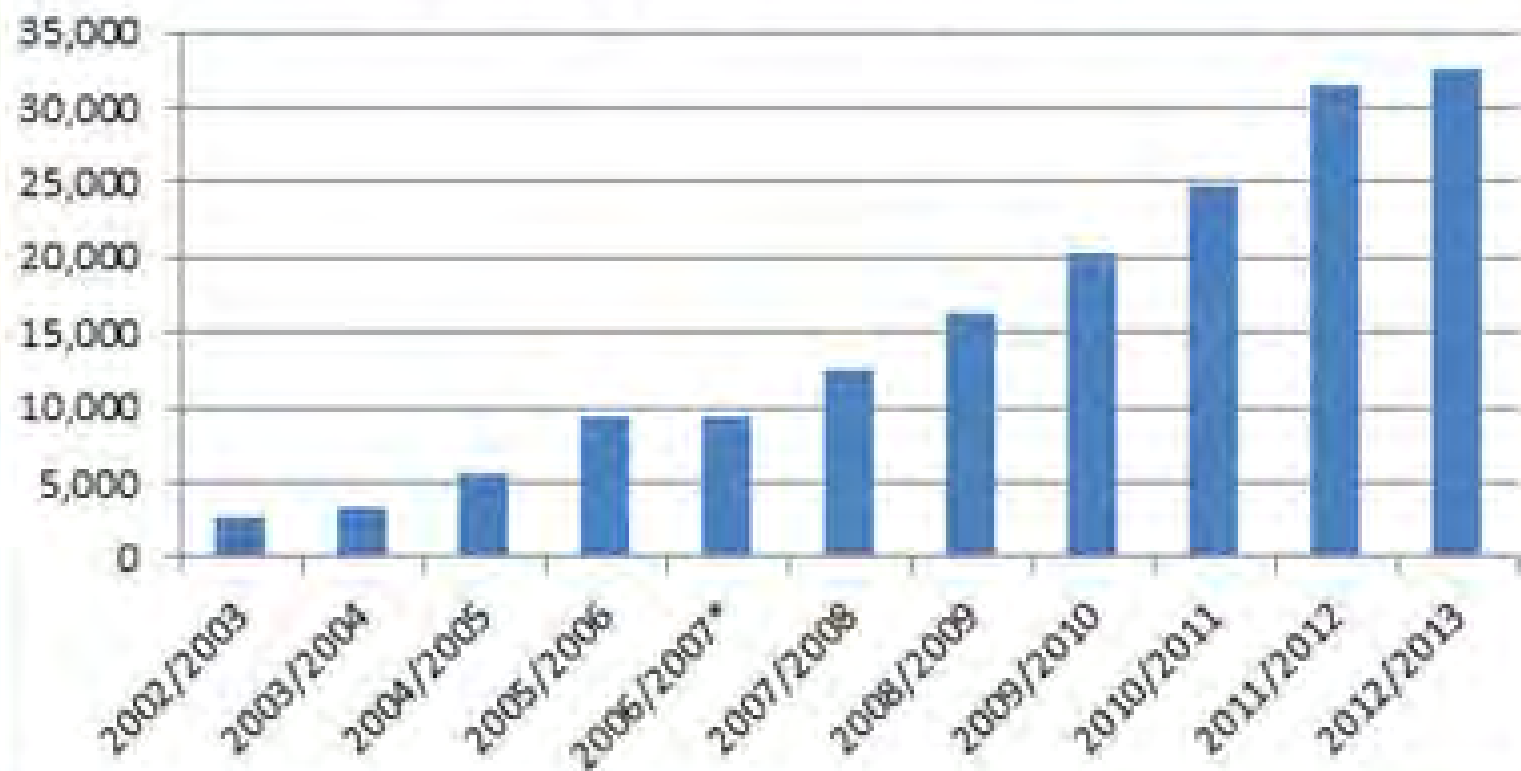
British Columbia's [Legal Services Society](#) maintains this site. If you're having a family problem, you may qualify for a lawyer to advise you or take your case. Contact [legal aid](#) to find out.

Live Chat by [LivePerson](#)  
★★★★☆

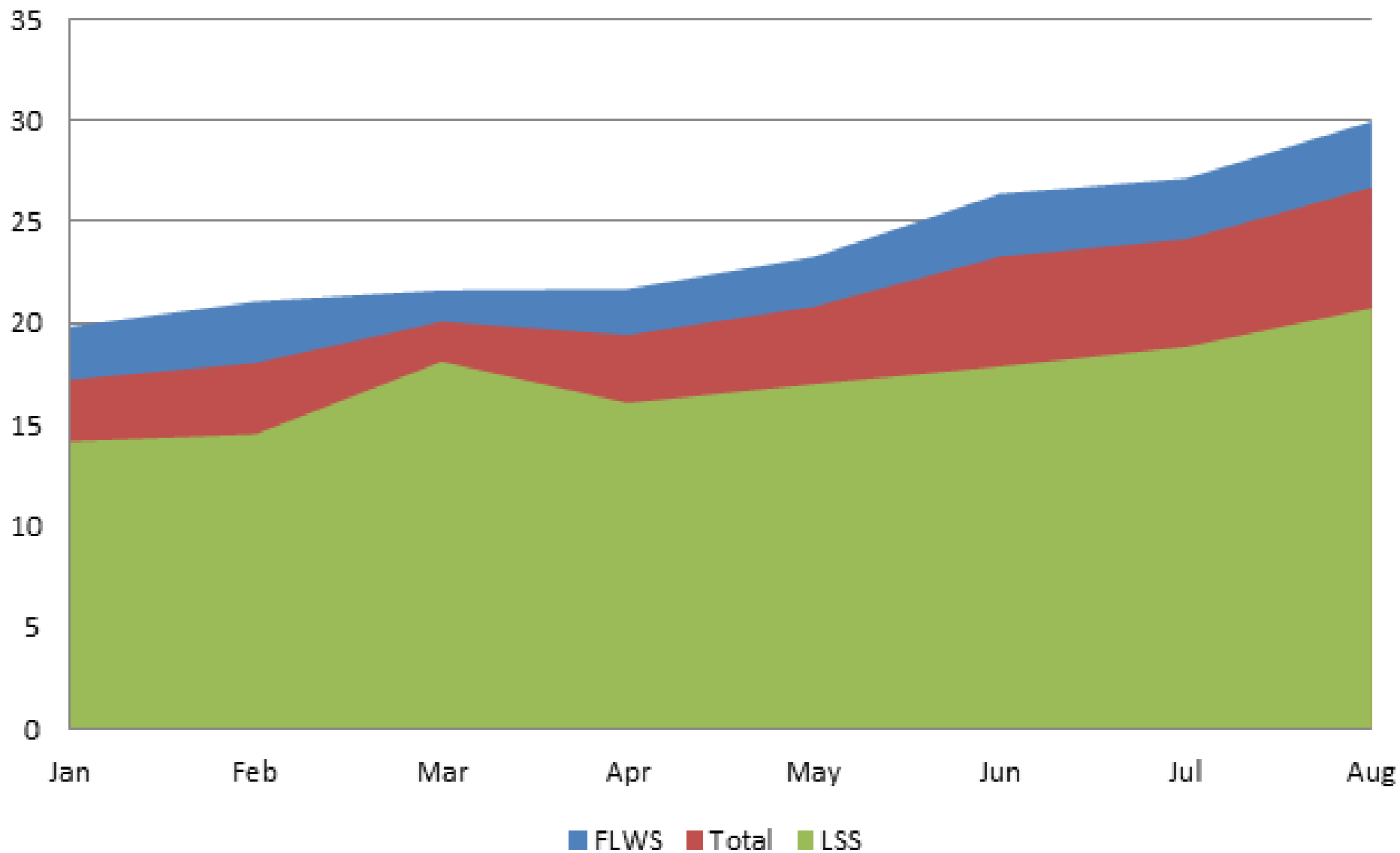
**feedback**



## Average monthly visits



# Percentage of mobile visits to LSS websites in 2013





*GORDON WILLIAMS  
PEGUIS FIRST NATION*

**GORDON ATTENDED THE BIRTLE  
INDIAN RESIDENTIAL SCHOOL.  
OUT OF A CLASS OF 39 FIRST  
NATION STUDENTS, HE WAS THE  
ONLY ONE TO GRADUATE.**

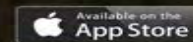
**TO HAVE GORDON TELL YOU HIS  
STORY, JUST FOLLOW THE TWO  
STEPS BELOW.**

**To make Gordon come alive:**

**Step 1: Download the free Layar App for iPhone or Android.**

**[www.layar.com/download](http://www.layar.com/download)**

**Step 2: Open App. Point at page. Tap Scan. Enjoy!**





# Thank You

**John Simpson**

**Manager Community and Publishing Services**

**john.simpson@lss.bc.ca | 604.601.6099**



**Legal  
Services  
Society**

British Columbia  
[www.legalaid.bc.ca](http://www.legalaid.bc.ca)

**October 2013**



# Working Together with LSS Intake



**February 12, 2014**

**Gillian Bennewith**  
**Reciprocal Coordinator, Intake Vancouver**  
**Tel: 604-601-6210**

# There are two ways to apply for legal aid:

## 1. **Call** the LSS Provincial Call Centre:

- Vancouver: 604-408-2172 or
- North America: Toll free 1-866-577-2525
- Hours: 9:00-4:00 on week days (Wednesdays 9:00-2:30)



## 2. **Visit** one of our Legal Aid offices (contact information available on our website [www.legalaid.bc.ca](http://www.legalaid.bc.ca))



# Who qualifies?

Child  
Protection



Refugee



Family Law



Criminal Law

# How does a person qualify for legal aid?

The following two criteria must be met:

1. The legal problem must be an issue covered by LSS

AND

2. An Applicant must qualify financially according to the LSS guidelines

# COVERABLE ISSUES



## ➤ Criminal applications:

- Serious charges and a likelihood of jail
- Serious physical or mental disability barrier(s)
- Immigration complications as a result of the charges that may result in deportation



## ➤ Family Law:

Serious family law problems with:

- . Protection issues
- . Continuous denial of parenting time or contact
- . Parenting arrangements and/or guardianship
- . Permanent relocation issues
- . FMEP maintenance enforcement committal hearing proceedings



## ➤ Child protection:

- BC Director of Child Protection has removed or threatened to remove the child(ren)
- Custody and access issues for children in government care
- Pregnant mothers threatened with removal of the child when the child is born

Applicants must qualify financially.





## ➤ Immigration issues:

- Applicants who wish to claim refugee status
- Immigration proceedings that may result in removal from Canada



## ➤ Reciprocal applications:

- An applicant in BC has a family matter in another province or territory
- An applicant resides outside of BC and has family issues in BC



# Financial Eligibility

## Income chart (All case types)

Household Size	Monthly Net Income
1	\$1,480
2	\$2,070
3	\$2,670
4	\$3,260
5	\$3,850
6	\$4,450
7 or more	\$5,040

# Financial Eligibility

Personal Property cap (All case types)

Household Size	Exemption
1	\$2,000
2	\$4,000
3	\$4,500
4	\$5,000
5	\$5,500
6	\$6,000
7 or more	\$6,000



# Appealing a refusal decision

- ▶ **If a client is refused legal aid, they have the right to appeal the decision:**
  - Appeals must be submitted in writing.
  - The client should note the reason(s) for disagreeing with the refusal.
  - The client should include any supporting documents.
- ▶ **Appeals must be submitted within 30 days of the refusal. Mail or fax to:**

Provincial Supervisor  
Vancouver Regional Centre  
400 – 510 Burrard Street  
Vancouver, BC V6C 3A8

Fax: 604-682-0787

# Family Law Line

If a person does not qualify for legal aid, is low income, and has a family law issue in BC, they may be eligible for free family legal advice with a lawyer over the telephone.

Call the Vancouver Call Centre and ask for the Law Line.

- ▶ 604-408-2172 (Vancouver)
- ▶ 1-866-577-2525 (Toll Free – North America)
- ▶ Hours of Operation: Mondays to Fridays 9:30–3:00 (Wednesdays 9:30 – 2:30)

# Working Together

## How you can help your clients with the Legal Aid process:

- ▶ Understand the intake process
- ▶ Prepare your client for the interview
- ▶ Help them organize their documentation
- ▶ Make sure they follow up and provide LSS Intake with all requested information
- ▶ Provide your client with public legal information, education, and information materials

# For More information

- ▶ Legal Services Society [www.legalaid.bc.ca](http://www.legalaid.bc.ca)
- ▶ Family Law in BC [www.familylaw.lss.bc.ca](http://www.familylaw.lss.bc.ca)
- ▶ QR mobile website link

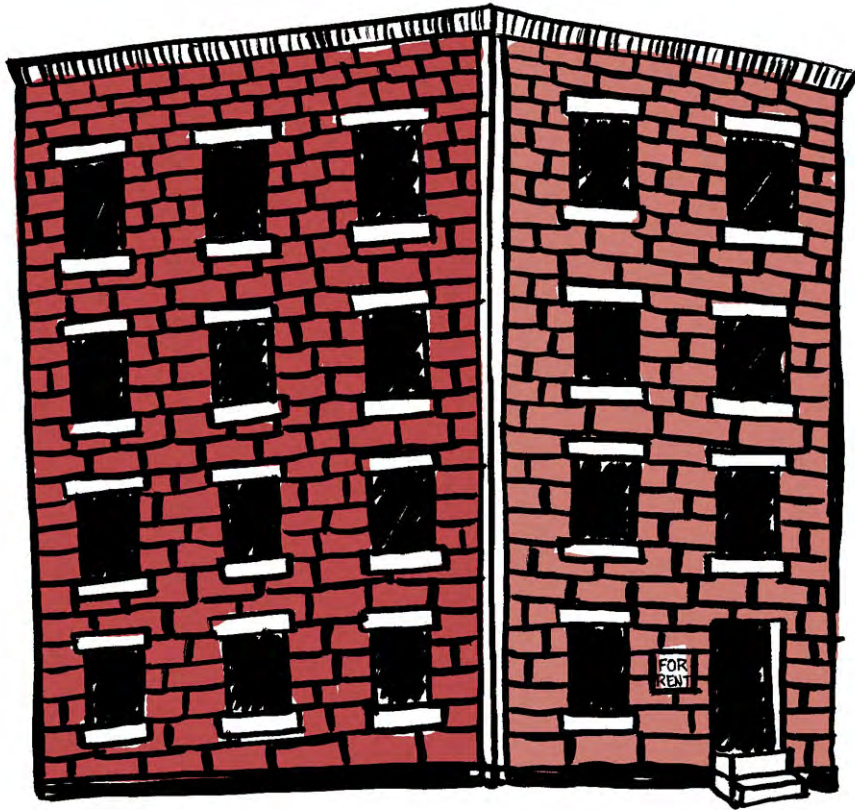




## Presenter: Gillian Bennewith Reciprocal Coordinator, Intake Vancouver

- ▶ Direct Phone: 604-601-6210
- ▶ Reciprocal Fax: 604-601-6288
- ▶ Intake Fax: 604-681-2719
- ▶ Email: [gillian.bennewith@lss.bc.ca](mailto:gillian.bennewith@lss.bc.ca)

# Residential Tenancy Law in British Columbia



**Legal information  
on rights and  
responsibilities  
for tenants and  
landlords**

# Tenant Resource & Advisory Centre

- TRAC provides free legal information for tenants living in British Columbia.
  - Legal Education Workshops + Advocate Training
    - In-person
    - Webinars
  - Phone Service
    - Monday-Friday (8am-4pm)
  - Website: [www.tenants.bc.ca](http://www.tenants.bc.ca)
  - Twitter and Facebook



# TRAC Resources

- Tenant Survival Guide
- Landlord Guide
- Tenant Info Pamphlet
- Template Letters
- Fact Sheets
- Publications in multiple languages





# TRAC Contact Info

## TRAC

- Website: [www.tenants.bc.ca](http://www.tenants.bc.ca)
- Email: [info@tenants.bc.ca](mailto:info@tenants.bc.ca)
- Telephone:
  - 604-255-0546
  - 1-800-665-1185



@TRAC\_BC



“TRAC Tenant Resource & Advisory Centre”



Calling the  
Tenant Infoline

8am - 4pm  
Vancouver Area  
604.255.0546

Outside the  
Lower Mainland  
1.800.665.1185



Videos



Join TRAC

TRAC Tenant Resource & Advisory Centre

Site Map | Links | Donate | Contact | Font Size

Printer Friendly Version

search Search

Home About TRAC Information for Tenants Publications Media Housing Issues Taking Action



Tips  
& Help

- Dispute Resolution  
- Finding an Advocate  
- Finding Housing / Shelter /  
Rental Assistance  
- Pets  
- Bed Bugs (and other pests)



Frequently Asked  
Questions

- What if I am being evicted?  
- I have mold! What do I do?  
- Can friends stay overnight?  
- Do I have to make repairs?  
- What's the rent increase cap?  
- How do I get my deposit?



Your Tenant  
Guidebook

The *Tenant Survival Guide* is  
one of BC's most popular  
legal publications. Make sure  
you know your rights and  
responsibilities as a tenant.



Donate Online  
Now



more >

more >

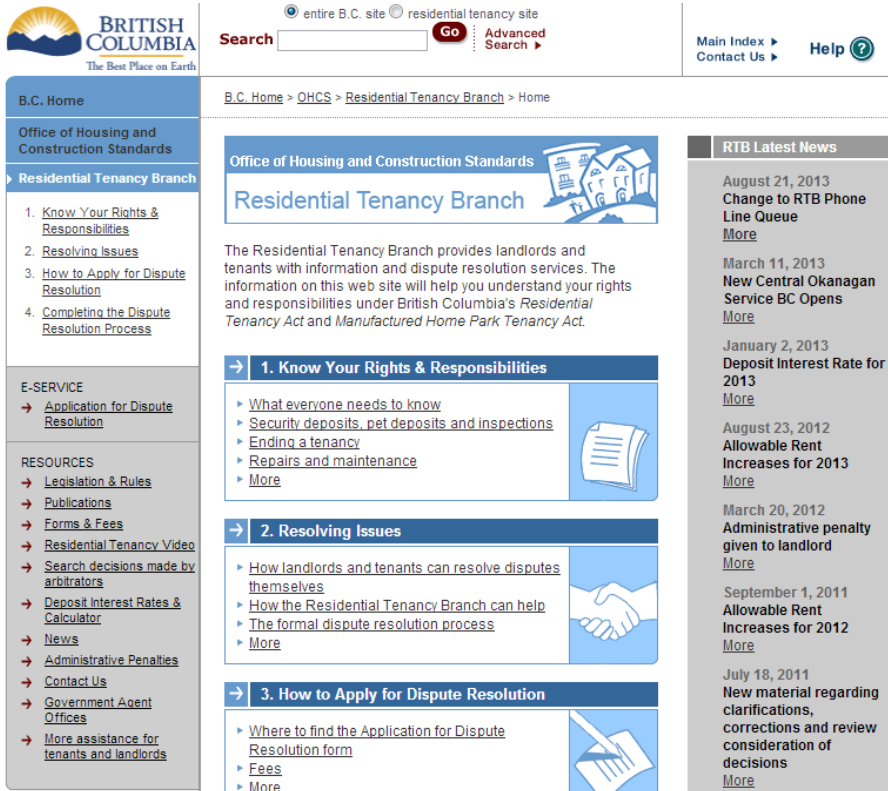
more >



# Residential Tenancy Branch

- Government department in charge of residential tenancy law.
  - Phone service
  - Website
  - Resources
    - forms, fact sheets, policy guidelines, videos
  - Dispute Resolution
- Service BC Centres (extension of RTB).

# RTB Contact Info



The screenshot shows the British Columbia Residential Tenancy Branch website. At the top left is the British Columbia logo with the tagline 'The Best Place on Earth'. Below it is a navigation menu with 'B.C. Home', 'Office of Housing and Construction Standards', and 'Residential Tenancy Branch'. The 'Residential Tenancy Branch' section is expanded, showing a list of links: '1. Know Your Rights & Responsibilities', '2. Resolving Issues', '3. How to Apply for Dispute Resolution', and '4. Completing the Dispute Resolution Process'. Below this is an 'E-SERVICE' section with a link to 'Application for Dispute Resolution'. A 'RESOURCES' section lists various links including 'Legislation & Rules', 'Publications', 'Forms & Fees', 'Residential Tenancy Video', 'Search decisions made by arbitrators', 'Deposit Interest Rates & Calculator', 'News', 'Administrative Penalties', 'Contact Us', 'Government Agent Offices', and 'More assistance for tenants and landlords'. The main content area features a search bar with radio buttons for 'entire B.C. site' and 'residential tenancy site', a 'Go' button, and an 'Advanced Search' link. Below the search bar is a breadcrumb trail: 'B.C. Home > OHCS > Residential Tenancy Branch > Home'. The 'Office of Housing and Construction Standards' section is highlighted, with a sub-section for 'Residential Tenancy Branch'. A paragraph explains that the branch provides landlords and tenants with information and dispute resolution services. To the right, there is a 'RTB Latest News' section with three news items: 'August 21, 2013 Change to RTB Phone Line Queue', 'March 11, 2013 New Central Okanagan Service BC Opens', and 'January 2, 2013 Deposit Interest Rate for 2013'. Each news item has a 'More' link. Below the news section, there are three main categories: '1. Know Your Rights & Responsibilities', '2. Resolving Issues', and '3. How to Apply for Dispute Resolution'. Each category has a list of links and an icon. For example, '1. Know Your Rights & Responsibilities' includes links for 'What everyone needs to know', 'Security deposits, pet deposits and inspections', 'Ending a tenancy', 'Repairs and maintenance', and 'More'. The '2. Resolving Issues' section includes links for 'How landlords and tenants can resolve disputes themselves', 'How the Residential Tenancy Branch can help', 'The formal dispute resolution process', and 'More'. The '3. How to Apply for Dispute Resolution' section includes links for 'Where to find the Application for Dispute Resolution form', 'Fees', and 'More'.

## Residential Tenancy Branch

- Website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)
- Email: [HSRTO@gov.bc.ca](mailto:HSRTO@gov.bc.ca)
- Telephone:
  - 604-660-1020
  - 1-800-665-8779
- Offices:
  - 400 – 5021 Kingsway Ave, Burnaby
  - 390 Main St. (at Hastings), Vancouver\*
  - 518 Richards St., Vancouver\*
  - 101 – 3350 Douglas St., Victoria
- Service BC Centres
  - [www.servicebc.gov.bc.ca/locations/](http://www.servicebc.gov.bc.ca/locations/)

# What is Residential Tenancy Law?

- *Residential Tenancy Act*
- Tenant and landlord rights and responsibilities.
- Tenancy laws in BC are different than tenancy laws in other countries and Canadian Provinces.
- Cannot avoid or contract out of the RTA.



# When does Residential Tenancy Law Apply?


- Not everyone who rents their home is a “tenant” under residential tenancy law.
- You are **NOT** a “tenant” if you:
  - Share a kitchen or bathroom with the **OWNER** of the property
    - For example: home stay program
  - Live in co-operative housing
  - Live in student housing provided by your school
  - Live in an emergency shelter or transitional housing

# Dispute Resolution

- Tenant and landlord disputes (arguments).
- Similar to court, but done over the phone.
- Arbitrator (similar to a Judge) makes a decision.
- Need evidence (not allegations):
  - Monetary Order Worksheet, photographs, receipts, witnesses, letters, affidavits.
- \$50 fee
  - Fee may be waived for low income applicants.

# Tenancy Agreement

- A legal agreement (contract) between tenant and landlord.
- Landlord's contact information:
  - phone number
  - Address

 **Office of Housing and Construction Standards**

**Residential Tenancy Agreement**

**Important Notes:** #RTB-1  
The Residential Tenancy Branch (RTB) is of the opinion that this Residential Tenancy Agreement accurately reflects the Residential Tenancy Act (RTA) and accompanying regulations. The RTB makes no representations or warranties regarding the use of this Agreement. A landlord and tenant may wish to obtain independent advice regarding whether this agreement satisfies their own personal or business needs. For the rental of a manufactured home and a manufactured home site under a single tenancy agreement, use this agreement form. For the rental of a manufactured home site use the Manufactured Home Site Tenancy Agreement.

The words **tenant** and **landlord** in this tenancy agreement have the same meaning as in the Residential Tenancy Act (RTA), and the singular of these words includes the plural. In this tenancy agreement, the words **residential property** have the same meaning as in the RTA. **Residential property** means a building, a part of a building or related group of buildings, in which one or more rental units or common areas are located; the parcel or parcels on which the building, related group of buildings or common areas are located; the rental unit and common areas and any other structure located on the parcel or parcels.

**HOW TO COMPLETE THIS FORM ELECTRONICALLY:** If you are accessing this agreement form from the B.C. Government Web site, it can be printed and completed by hand (print clearly, using dark ink) or filled out white at the computer workstation—simply type your responses in the boxes. If you cannot complete all the sections at the computer right away, you can print off what you have completed and fill in the remaining fields by hand. Note, you cannot save the completed form to your computer, therefore, after you complete the form, make sure you review the form for accuracy and print the number of copies you require before you leave the document or shut down the program/computer.

IF ADDITIONAL SPACE IS REQUIRED TO LIST ALL PARTIES, complete and attach Schedule of Parties (#RTB-2c) ☐ RTB-2c used & attached: ☐

**RESIDENTIAL TENANCY AGREEMENT between:** (use full, correct legal names)

the **LANDLORD(S)**: (if entry for landlord is a business name, use the 'last name' field box to enter the full legal business name)

last name first and middle name(s)

last name first and middle name(s)

and the **TENANT(S)**:

last name first and middle name(s)

last name first and middle name(s)

**ADDRESS OF PLACE BEING RENTED TO TENANT(S)** (called the 'rental unit' in this agreement):

unit address city province postal code

**ADDRESS FOR SERVICE of the** ☐ landlord ☐ landlord's agent:

unit address city province postal code

daytime phone number other phone number fax number for service

#RTB-1 (2007/05) page 1 of 6 pages

# Tenancy Agreement

- Month-to-month or fixed-term?
- How much is rent?
- What is included in your rent?
  - Electricity?
  - Appliances?
  - Parking?

**2. LENGTH OF TENANCY** (please fill in the dates and times in the spaces provided)

This tenancy starts on:  day  month  year

Length of tenancy: (please check a, b or c and provide additional information as requested)

This tenancy is:

☐ a) on a month-to-month basis

☐ b) for a fixed length of time:  length of time ending on:  day  month  year

At the end of this fixed length of time: (please check one option, i or ii)

☐ i) the tenancy may continue on a month-to-month basis or another fixed length of time

☐ ii) the tenancy ends and the tenant must move out of the residential unit  
If you choose this option, both the landlord and tenant must initial in the boxes to the right.

☐ c) other periodic tenancy as indicated below:  
☐ weekly ☐ bi-weekly ☐ other:

Landlord's Initials:  Tenant's Initials:

**3. RENT** (please fill in the information in the spaces provided)

a) **Payment of Rent:**  
The tenant will pay the rent of \$  each (check one) ☐ day ☐ week ☐ month to the landlord on the first day of the rental period which falls on the (due date, e.g., 1st, 2nd, 3rd, .... 31st)  day of each (check one) ☐ day ☐ week ☐ month subject to rent increases given in accordance with the RTA.

The tenant must pay the rent on time. If the rent is late, the landlord may issue a Notice to End Tenancy to the tenant, which may take effect not earlier than 10 days after the date the notice is given.

b) **What is included in the rent:** (Check only those that are included and provide additional information, if needed.)  
The landlord must not terminate, or restrict a service or facility that is essential to the tenant's use of the rental unit as living accommodation, or that is a material term of the tenancy agreement.

☐ Water ☐ Stove and Oven ☐ Window Coverings ☐ Storage

☐ Electricity ☐ Dishwasher ☐ Cablevision ☐ Garbage Collection

☐ Heat ☐ Refrigerator ☐ Laundry (free) ☐ Parking for  vehicle(s)

☐ Furniture ☐ Carpets ☐ Sheets and Towels ☐ Other:

☐ Additional Information:



# Disclosure of Personal Information

- Guidelines from the Office of the Information and Privacy Commissioner of BC:
  - A landlord should not require that tenants provide their Social Insurance Number (SIN)
  - A landlord should not demand a tenant's banking information.
  - A landlord cannot request a tenant's credit card information as a condition of renting a property
  - A landlord can only ask for a driver's license as photo ID.
  - Requiring a criminal records check is not reasonably necessary.

# Discrimination

- Section 10 of the *BC Human Rights Code*-  
Landlords can't discriminate based on:
  - Race, color, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age (if over 19), lawful source of income

# Roommates

- Co-Tenants
  - Same tenancy agreement
  - Jointly responsible
- Tenants in Common
  - Different tenancy agreements
  - Individually responsible
- Both a tenant and a landlord?


# Deposits and Fees

- Security Deposit: ½ month's rent.
- Pet Deposit: ½ month's rent.
- No application fees.
- No guest fees (but be reasonable).



# Condition Inspection Report

- Tenant and Landlord must do an inspection of the rental unit together:
  - Move-in
  - Move-out

 **Office of Housing and Construction Standards**

## Condition Inspection Report

SEE INSTRUCTIONS FOR COMPLETING FORM ON LAST PAGE #RTB - 27

**A. LEGAL NAME OF LANDLORD** (If entry is a business name, enter the full legal business name) **E. POSSESSION DATE**  
 Last name, first & middle names day month year

**B. LANDLORD'S ADDRESS FOR SERVICE** **F. MOVE-IN INSPECTION DATE**  
 Unit # street address city province postal code day month year

**C. LEGAL NAME OF TENANT** **G. MOVE-OUT DATE**  
 Last name, first & middle names day month year

**D. ADDRESS OF RENTAL UNIT** **H. MOVE-OUT INSPECTION DATE**  
 Unit # street address city province postal code day month year

**I. LEGAL NAME OF TENANT'S AGENT** (If applicable)  
 On Move-In On Move-Out

Condition Codes:		Condition at Beginning of Tenancy		Condition at End of Tenancy	
		COMMENT	CODE	COMMENT	CODE
✓ = Good F = Fair P = Poor M = Missing	D = Damaged S = Scratched B = Broken DT = Dirty ST = Stained				
<b>J. ENTRY</b>	Walls and Trim Ceilings Closets Lighting Fixtures/Ceiling Fans/Bulbs Windows/Coverings/Screen Electrical Outlets Floor Carpet				
<b>K. KITCHEN</b>	Ceiling Walls and Trim Floor/Carpet Countertop Cabinets and Doors Stove/Stove Top Oven Exhaust Hood and Fan Sinks, Stairs and Stoppers Refrigerator Dishwasher Freezer Door/Extension Closet(s) Dishwasher Lighting Fixtures/Bulbs Windows/Coverings/Screen Electrical Outlets				
<b>L. LIVING ROOM</b>	Ceiling Walls and Trim Floor/Carpet Air Conditioner/Cover Fireplace TV Cabinet/Adapter Closet(s) Lighting Fixtures/Ceiling Fans/Bulbs Windows/Coverings/Screen Electrical Outlets				

#RTB-27 (2007/07) page 1 of 4 pages

# Quiet Enjoyment

- Freedom from unreasonable disturbances.
  - For example: smoke and noise.



# Quiet Enjoyment

- Freedom from Illegal Landlord Entry.
- 24 hours written notice:
  - Date
  - Time
  - Reasonable reason
  - Between 8am and 9pm



# Quiet Enjoyment

- Landlord emergency entry
  - Necessary to protect life or property.
    - For example: flood, fire, water leak, etc.



# Quiet Enjoyment



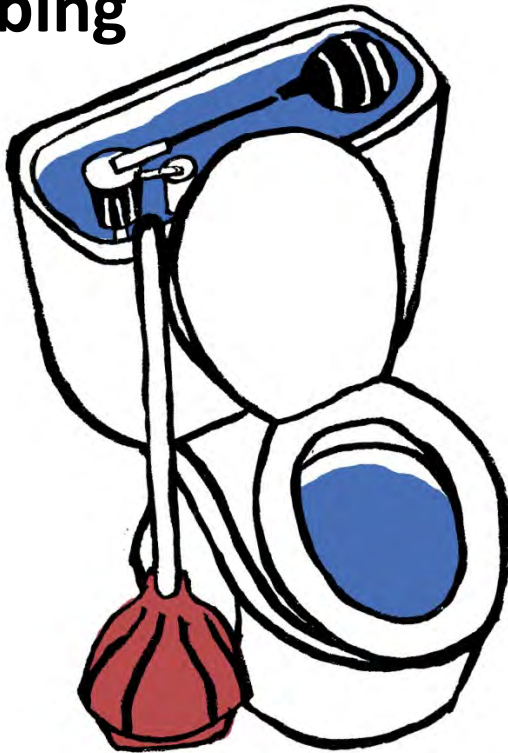
- Freedom from intimidation and harassment.



# Repairs

- Landlord is generally responsible for making repairs to the tenant's rental unit.

**Plumbing**



**Heat**



# Repairs

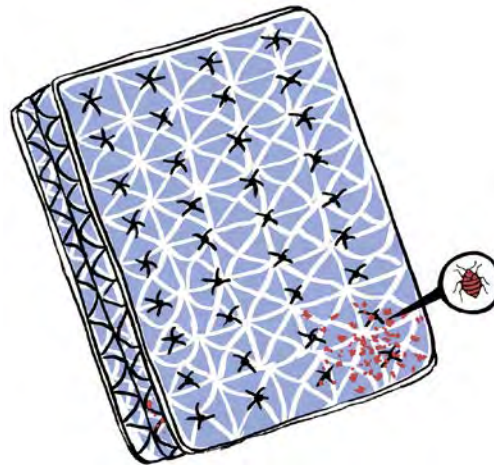
**Ceilings**



**Elevators**



**Bed Bugs**



# Repairs

- Tenant should inform landlord immediately (in writing) when something needs to be repaired.
  - TRAC Template Letter – Repairs
- If tenant delays and the problem gets worse, they could be held responsible.
- If a tenant breaks something, they may have to pay for it.

# Essential Services

- A landlord must not terminate a service or facility that is essential to the tenant's use of the rental unit.
  - For example: heat, hot water, elevator in multi-storey apartment.

# Rent Increases

- Landlords can raise rent once every 12 months.
- How much?
  - Check TRAC website or RTB website.
  - 2014: 2.2%
- 3 months written notice on government form.



# Ending a Month-to-Month Tenancy

- One **FULL** month written notice.
- Give notice at the **END** of the month:
  - 28th, 29th, 30th, 31st
- Tenancy ends at 1pm on last day of agreement.

# Ending a Month-to-Month Tenancy

AUGUST						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31 GIVE NOTICE	


SEPTEMBER						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30 MOVE OUT

# Ending a Fixed-Term Tenancy

- Breaking a lease:
  - If tenant moves out early, may owe landlord money
    - Loss of rental income
    - Liquidated Damages
  - Landlord has duty to mitigate loss
    - Show the rental unit to prospective tenants, advertise at a reasonable rent, etc.
- What happens when the fixed-term tenancy ends? Vacate clause?

# Ending a Fixed-Term Tenancy

- Mutual Agreement to End Tenancy
- Assignment
- Sublet
- RTA Section 45(3)
  - “Material Term”

 **Mutual Agreement to End a Tenancy**

**FORM DIRECTIONS:** If you are accessing this form from the B.C. Government Web site, it can be filled out at the computer workstation. It can also be printed and completed by hand. If completing sections by hand, please *print clearly, using dark ink*. If you are completing this form at a computer, simply type in your response where required. It's important to note that you **cannot save** the completed form to your computer, therefore, after you complete the form, make sure you review the form for accuracy and print the number of copies you require **before** you leave the document or shut down the program/computer.

**#RTB-8**

**THIS IS A MUTUAL AGREEMENT BETWEEN**

**LANDLORD:**

**Full name of Landlord or Landlord's Agent** (if entry is a business name, use "last name" field box to enter the full legal business name)

last name first name middle name(s)

**Address of Landlord or Landlord's Agent**

suite or site number street number street name city province postal code

home phone business phone

**AND**

**TENANT:**

**Full name(s) of Tenant(s):**

last name first name middle name(s)

last name first name middle name(s)

**Address of Tenant(s) ... ADDRESS TO BE VACATED UNDER THIS AGREEMENT:**

suite or site number street number street name city province postal code

home phone business phone

The tenant(s) hereby agrees to vacate the above-named premises/site at:

☐ a.m. ☐ p.m., on the  day of , 20 .

The parties recognize that the tenancy agreement between them will legally terminate and come to an end at this time. It is also understood and agreed that this agreement is in accordance with the Residential Tenancy Act and the Manufactured Home Park Tenancy Act which states: "The landlord and tenant agree in writing to end the tenancy."

**DATED THIS DAY OF**, 20

**SIGNED BY:**

Landlord or Landlord's Agent Tenant Tenant

**FOR MORE INFORMATION . . .**

RTB website: [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca)

Public Information Lines: 1-800-665-8779 (toll free) 604-660-1020 250-387-1602

#RTB-08 (2011/03) Residential Tenancy Branch Office of Housing and Construction Standards Ministry of Energy and Mines

# Returning Deposits

1. Tenant gives forwarding address in writing within one year of the end of the tenancy.
2. Landlord has 15 days to:
  - a) return deposit to tenant; OR
  - b) ask RTB for permission to keep deposit.
3. If landlord does not do one of those two things, tenant can apply to the RTB for double the deposit.



# Eviction

- A landlord can give a tenant an eviction notice (also known as a Notice to End Tenancy) when they want the tenant to move out.
- There are different types of evictions.



# Eviction – 10 Day Notice for Non-Payment of Rent

OCTOBER						
S	M	T	W	T	F	S
<del>1</del>	<del>2</del>	<del>3</del>	<del>4</del>	<del>5</del>	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				



- A landlord can give this notice the day after rent is due if the tenant did not pay the full rent.

# Eviction – 10 Day Notice for Non-Payment of Rent

- The tenant has 5 days to pay the rent and cancel the notice.
  - Not allowed to do this every month.
- If tenant does not pay within 5 days, must move out by the 10<sup>th</sup> day.

# Eviction – One Month Notice for Cause

- Unreasonable disturbance.
- Too many occupants.
- Illegal activity .
- Reasonable noise is okay.
  - For example: children playing during the day.



# Eviction – Two Month Notice for Landlord Use of Property



- A tenant may get this notice if the landlord or their close family decide to move in.
- “Close family”=
  - Landlord’s spouse
  - Parents or children of the landlord or the landlord’s spouse



# Eviction – Two Month Notice for Landlord Use of Property

- Demolition
- Conversion
- Extensive renovations



# Eviction – Two Month Notice for Landlord Use of Property

- If a tenant receives a Two Month Notice for Landlord Use of Property, they get compensated for one month of rent.
- For example: they can live there free for one month.

# Disputing an Eviction Notice

- If a tenant does not think they deserve to be evicted, they can dispute the eviction notice.
  - 10 Day Notice = 5 days to dispute
  - One Month Notice = 10 days to dispute
  - Two Month Notice = 15 days to dispute
- If they have evidence that they were not given a two month notice for landlord's use of property in "good faith" they can apply for compensation.
  - 2 months' rent

# Illegal Eviction

- A Landlord may try to illegally remove a tenant from their rental unit.
- In order to legally remove a tenant, a landlord must obtain:
  - RTB Order of Possession
  - Supreme Court Writ of Possession
  - Services of a Court Bailiff

# Summary

- Communication with landlord should be in writing.
  - TRAC has template letters.
  - Letters are better than emails and text messages.
- Always remember to think about evidence.
  - photographs, get witnesses, keep receipts.
- Contact TRAC or the RTB for help!



Questions?



# WELFARE (Income Assistance)

Overview and  
Recent Updates

---

# Regular Income Assistance

- \$375 Shelter Allowance
- \$235 Support Allowance
- For a total of \$610 per month
- \$200 earning exemption
- To qualify for Regular Income Assistance you must:
  - Be 19 years or older
  - Live in BC
  - Meet Citizenship Requirements\*

# Other Requirements

- Meet Income/Asset test\* (i.e. savings, vehicles)
- Meet 2 year independence \*
- Meet Work Search Requirements\*
  - 5 week for first time applicants
  - 3 week for returning applicants

# Hardship Assistance

- 19 years or older
- Live in BC
- Citizenship Requirements met
- Meet at least one of the following categories:
  - Sponsorship breakdown
  - Waiting on Identification Documents
  - Waiting on Money from another source (i.e. Employment Insurance)



- On Strike/Lock Out
- Do not meet income/asset test and have a dependent child to support, but can't access monies to pay for shelter/support

# Ineligible for Income Assistance

- Full Time Students
- Don't meet Citizenship Requirements
- On Strike/Lock out (Though may be eligible for hardship assistance)
- Quit Job or was Fired\*
- Outstanding Warrant
- Welfare Fraud Conviction (Ban for Life)

# Persons with Persistent Multiple Barriers to Employment (PPMB)

- Have been in receipt of Income Assistance for 12 out of the last 15 months
- Scores at least 15 on the Employability Screen
- Has a medical condition (not addictions) that a medical practitioner states has continued for one year and is likely to continue for 2 years or more
- In the opinion of the Minister has a medical condition that precludes them from searching, accepting and continuing in employment

# Approval of PPMB

- Client receives \$47.92 more a month
- Has a \$500 earning exemption per month
- Some Medical Benefits

# Persons with Disabilities (PWD)

- 18 years or older (Can apply at 17, but won't receive until 18 if approved)
- A medical practitioner confirms:
  - that you have either a severe physical or mental condition
  - that your medical condition(s) is likely to last for 2 years or more from today
  - That restricts your ability to perform your Daily Living Activities without the assistance of another person, assistive device or assistive animal



# Approval of PWD

- \$292.42 more per month
- \$800 earning exemption
- Dental Coverage (\$1000 over a 2 year period)
- Medical Benefits

# PWD: Other Benefits

- Clients who get accepted for PWD benefits MAY be eligible for:
  - Diet Allowances
  - Monthly Nutritional Supplement
  - Disposable medical/surgical supplies
  - Extra chiropractic, massage therapy, physiotherapy and podiatry visits (not including user fees)
  - Medical equipment and devices
  - Medical Transportation
  - Transportation allowance
  - Special Transportation Subsidy

# Other MSDSI benefits

- Moving costs/security deposits
- Supplements
  - Crisis (Food, Clothing, hydro/gas disconnection, shelter, bed)
  - School Start up
  - Natal
  - Special Transportation subsidy
  - Moving Costs

- 
- Security Deposits
  - Christmas Supplement
  - Guide Animal Supplement
  - Job Supplement

# Recent Changes to Welfare

- Earning exemption increases
  - For Regular recipients from \$0 to \$200 per month
  - For PWD recipients from \$500 to \$800 per month
- No more 24 month time limit for being on Welfare

- School start up supplement increase
  - Ages 5-11 from \$84 to \$100
  - Ages 12- over from \$116 to \$175
- Income Tax returns exempt, though it is now mandatory to complete income taxes
- Some WCB payments exempt(Temporary Wage loss)
- Coverage restored for some medical devices/needs
- Vehicle Asset Limits from \$5000 to \$10,000
- Asset Limits Increase
  - PWD (single person) from \$3000 to \$5000
  - Regular Welfare (Single person) from \$1500 to \$2000



- ◉ More Assistance for teenage parents living at home.
- ◉ Dental benefits for children on Hardship Assistance
- ◉ BC Family Bonus Top-up Supplement increased

# Resources

Your Welfare Rights: A Guide to BC  
Employment and Assistance (Legal Services  
Society)

[http://resources.lss.bc.ca/pdfs/pubs/Your-  
Welfare-Rights-eng.pdf](http://resources.lss.bc.ca/pdfs/pubs/Your-Welfare-Rights-eng.pdf)

BC Coalition for Persons with Disabilities

<http://www.bcccpd.bc.ca/>

# Presenter Info:

**Kim Kirkpatrick**

**Abbotsford Community Services**

**604-702-2907**

[kim.kirkpatrick@AbbotsfordCommunityServices.com](mailto:kim.kirkpatrick@AbbotsfordCommunityServices.com)

# IMPROVING LEGAL SERVICES FOR ABORIGINAL PEOPLES



Trish Kumpf  
Manager of Aboriginal Services

Lynn McBride  
Community Engagement Coordinator

January 2014



# ABORIGINAL PEOPLES



4.5% OF BC'S POPULATION

# LEGACY OF COLONIALIST HISTORY

- RACIAL DISCRIMINATION IN GOVERNMENT POLICIES & PRACTICES
- INDIAN RESIDENTIAL SCHOOL GENERATIONAL IMPACT
- ABORIGINAL CHILD APPREHENSION
- ILLITERACY
- POVERTY
- FASD
- SEXUAL ABUSE





# ABORIGINAL PEOPLE IN PRISONS

22 % of the  
prison population

17% community supervision\*



*\*A Profile of B.C. Corrections, Ministry of Public Safety and Solicitor General,  
January 2010*

# ABORIGINAL CHILDREN



**Over 50% of the children in care in BC are Aboriginal**



# Manager of Aboriginal Services for Legal Services Society



Mandate is to improve access to justice  
for Aboriginal peoples



# “ABORIGINAL” defined inclusively



- ❖ FIRST NATIONS (INDIAN)
  - ◆ STATUS
  - ◆ NON-STATUS
  - ◆ ON & OFF RESERVE
- ❖ MÉTIS
- ❖ INUIT



# ABORIGINAL LEGAL SERVICES



- ❖ PUBLICATIONS
- ❖ ABORIGINAL COMMUNITY LEGAL WORKER (ACLW)
- ❖ EXPANDED DUTY COUNSEL
- ❖ GLADUE INITIATIVE



+



**Search our site**

Google™ Custom Search



- Aboriginal legal issues
- Aboriginal Gladue rights
- First Nations Court
- Aboriginal publications
- Who can help

**Native Courtworker and  
Counselling Association of  
BC**

Clicklaw

Below are links to all of our Aboriginal publications.





# ABORIGINAL CHILD PROTECTION PUBLICATIONS

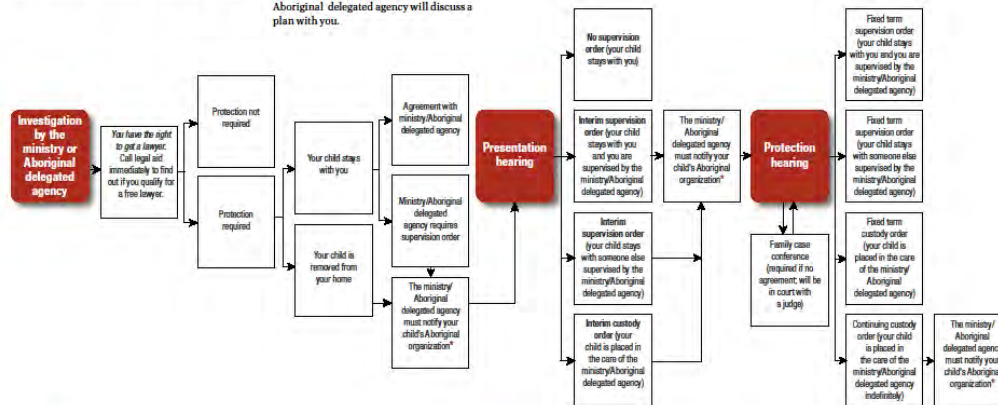
## The Aboriginal child protection process: Information for Aboriginal parents and communities

### Child protection laws and what they mean for Aboriginal families

It is very important for Aboriginal children to be able to spend time with their extended families and communities. Child protection laws in BC recognize the importance of Aboriginal family ties to Aboriginal children.

If the ministry or Aboriginal delegated agency decides that your child needs protection, you can:

- ask for a **family group conference**. A facilitator will organize the conference. The conference is *not* in court and a judge is *not* involved. Your family members, friends, and other people who help to care for your child can be involved, as well as your lawyer and advocate. At the conference, a social worker from the ministry or Aboriginal delegated agency will discuss a plan with you.
- ask the ministry or Aboriginal delegated agency to use **traditional decision making**. Your community leaders and family members can take part in working out a plan.
- ask for a **mediator** (someone who will help work out an agreement between you and the ministry/Aboriginal delegated agency).



#### \* Note

Your child's Aboriginal organization may be a band, friendship centre, treaty first nation, Aboriginal community, Aboriginal organization as listed in the Child and Family Service Act regulations, or a Nisga'a Lisims government. Talk to your lawyer to make sure the right people in your child's Aboriginal organization are informed at the appropriate time of decisions that affect your child.

#### Legal aid

604-468-2172 (in the Lower Mainland)  
1-866-577-2525 (no charge, outside the Lower Mainland)

October 2009



- ❖ Aboriginal Child Protection poster
- ❖ 1-Page Fact Sheets
- ❖ Right to Counsel Cards
- ❖ Mediation

# EARLY INTERVENTION



Asserting legal rights

# Aboriginal Community Legal Worker (ACLW)

First Nations Court

Expanded  
Duty Counsel

<http://www.legalaid.bc.ca/aboriginal/>





# Expanded Duty Counsel

## Legal Advice Before Court Date



1-877-601-6066





# Expanded Duty Counsel

- ❖ Port Hardy
- ❖ Williams Lake
- ❖ Sheway/Fir Square
- ❖ First Nations Court



Legal Advice Clinics



## *GLADUE* IN A NUTSHELL

Instructs judges at sentencing (or at bail hearing) to recognize the overrepresentation of Aboriginal people in prison, to take notice of the unique circumstances of Aboriginal offenders, and to consider all available sanctions...

... other than imprisonment





*Gladue* reports  
paint a picture of the defendant



for the court

# *What are Gladue reports for?*

Sentencing

Bail



Restorative Justice

# IMPROVING LEGAL SERVICES FOR ABORIGINAL PEOPLES



**Trish Kumpf**

Manager of Aboriginal Services

[trish.kumpf@lss.bc.ca](mailto:trish.kumpf@lss.bc.ca)

604.601.6298

**Lynn McBride**

Community Engagement Coordinator

[lynn.mcbride@lss.bc.ca](mailto:lynn.mcbride@lss.bc.ca)

604.601.6021

# First Nations and the Justice System

Rob Dhanu  
Legal Services Society (Abbotsford and Chilliwack)  
February 13, 2014





# Office of the Correctional Investigator – Howard Sapers

Spirit Matters: Aboriginal People and the  
Corrections and Conditional Release Act

<http://www.oci-bec.gc.ca>

Sections 81 and 84 of the Corrections and  
Conditional Release Act

# Spirit Matters: Disturbing Numbers

- Nearly 1 in 4 federal inmates (21.5%) claim Aboriginal ancestry.
- However – account for only 4% of the national population.
- Serve disproportionately more of their sentence behind bars before first release.
- Under-represented in community supervision populations and over-represented in maximum security institutions.
- More likely to return to prison on revocation of parole.
- Disproportionately involved in institutional security incidents, use of force interventions, segregation placements and self-injurious behaviour.



# Spirit Matters: Disturbing Numbers

- **Women:** 31.9% of all federally incarcerated women
  - An increase of 85.7% over the last decade
- **Prairie Regions: Federal Institutions:** More than 55% of the total inmate population at the Saskatchewan Penitentiary and more than 60% at Stony Mountain Penitentiary
- **Prairie Regions: Provincial Institutions:** In 2005 Aboriginal people in Saskatchewan represented 14.9% of the total population but accounted for 81% of those admitted to provincial custody and 76% of youth admitted to custody
- From 2001-02 to 2010-11 the Aboriginal inmate population increased by 35% for men (from 2,129 to 2,875) and 86% for women (from 98 to 182)

# Spirit Matters: Disturbing Numbers

- Aboriginal population is much younger and growing much faster compared with the rest of the Canadian population
- As a consequence, proportionally more Aboriginal people either in or about to enter "at risk" of conflict with the law age groups (18 to 25-year-old men and women)
- It is anticipated that the current Aboriginal "baby boom" will cause the number of Aboriginal offenders to rise even further over time
- For example, in Saskatchewan, by 2017 the proportion of Aboriginal young adults in that province is expected to double from 17% in 2001 to 30% in 2017

# Bill C-10: Safe Streets and Communities Act

# Bill C-10: New Mandatory Minimums (as of Nov.20, 2012)

- Sexual Interference (s.151 of the CC)
- Invitation to Sexual Touching (s.152 of the CC)
- Sexual Exploitation (s.153 of the CC)
- Incest (s.155 of the CC)
- Bestiality (s.160 of the CC)
- Child Pornography (s.163.1 of the CC)
- Parent or Guardian Procuring Sexual Activity (s.170 of the CC)
- Householder Permitting Sexual Activity (s.171 of the CC)

# Bill C-10: New Mandatory Minimums

- Making Sexually Explicit Material Available to a Child (s.171.1 of the CC – new offence)
- Luring a Child (s.172.1 of the CC)
- Agreement or Arrangement – Sexual Offence Against a Child (s.172.1 of the CC - new offence)
- Sexual Assault (s.271 of the CC)
- Sexual Assault with a Weapon or Causing Bodily Harm (s.272 of the CC)
- Aggravated Sexual Assault (s.273 of the CC)

# Bill C-10: New Mandatory Minimums

- **Minimum 1 Year Imprisonment**
- Trafficking/PPT in Schedule I or Schedule II above 3 kilograms (section 5 of the CDSA)
  - Offence committed for benefit, at direction or association of criminal organization
  - Used or threatened to use violence in committing offence
  - Carried, used or threatened to use a weapon in committing the offence
  - Person convicted of a designated substance offence or had served a term of imprisonment for a designated substance offence within the previous 10 years



# Bill C-10: New Mandatory Minimums

- **Minimum 2 Year Imprisonment**
- Trafficking/PPT in Schedule I or Schedule II above 3 kilograms (section 5 of the CDSA)
  - Offence committed in or near a school, on or near school grounds or in any other public place usually frequented by persons under the age of 18 years
  - The person committed the offence in a prison or on its grounds
  - The person used the services of a person under the age of 18 years or involved such a person in committing the offence

# Bill C-10: New Mandatory Minimums

- Importing (section 6 of the CDSA)
  - Minimum 1 Year Imprisonment for 1 kg or Less (Schedule I & II)
  - Minimum 2 Years Imprisonment for 1 kg or More (Schedule I)

# Bill C-10: New Mandatory Minimums

- Production (s.7 of the CDSA)
- Schedule I: Minimum 2 – 3 years depending on applicability of certain enumerated factors
- Schedule II:
  - 6 months if more than 5 plants and less than 201 (can increase to 9 months if certain enumerated factors apply)
  - 1 year if more than 200 and less than 501 can increase to 18 months if certain enumerated factors apply)
  - 2 years if more than 500 plants (can increase to 3 years if certain enumerated factors apply)

# Bill C-10: New Mandatory Minimums

- Applicable Enumerated Factors
  - Rental property
  - Production constituted a danger to persons under 18 years of age
  - Production constituted a potential public safety hazard in a residential area
  - Person set up a trap or device likely to cause death or bodily harm

# Bill C-10: New Mandatory Minimums

- CSO No Longer Available For:
- Offence prosecuted by way of indictment, for which the maximum term of imprisonment is 14 years or life;
- Offence prosecuted by way of indictment, for which the maximum term of imprisonment is 10 years, that
  - (i) resulted in bodily harm,
  - (ii) involved the import, export, trafficking or production of drugs, or
  - (iii) involved the use of a weapon

# Bill C-10: New Mandatory Minimums

- CSO No Longer Available For:
- Offence prosecuted by way of indictment, under any of the following provisions:
  - (i) [section 144](#) (prison breach),
  - (ii) [section 264](#) (criminal harassment),
  - (iii) [section 271](#) (sexual assault),
  - (iv) [section 279](#) (kidnapping),
  - (v) [section 279.02](#) (trafficking in persons — material benefit),
  - (vi) [section 281](#) (abduction of person under fourteen),
  - (vii) [section 333.1](#) (motor vehicle theft),
  - (viii) [paragraph 334\(a\)](#) (theft over \$5000),
  - (ix) [paragraph 348\(1\)\(e\)](#) (breaking and entering a place other than a dwelling-house),
  - (x) [section 349](#) (being unlawfully in a dwelling-house), and
  - (xi) [section 435](#) (arson for fraudulent purpose).



# Purpose and Principles of Sentencing

# Purpose and Principles of Sentencing

- **S.718:** The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:
  - (d): to assist in rehabilitating offenders
- **S.718.1:** A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender

# Purpose and Principles of Sentencing

- **Other Sentencing Principles**
- **S.718.2(d)**: an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and
- **S.718.2(e)**: all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of **aboriginal offenders**

# R. v. Ipeelee (2012)

## (Supreme Court of Canada)

# R. v. Ipeelee (2012 SCC 13)

- Aboriginal persons sadly overrepresented
- Para.59: Section 718.2(e):
  - Designed to ameliorate overrepresentation in prison
  - Encourages restorative approach to sentencing
  - Calls upon judges to use different method of analysis in determining fit sentence for Aboriginal offenders
- When sentencing an Aboriginal offender, a judge must consider:
  - (a) unique systemic or background factors; and
  - (b) the types of sentencing procedures and sanctions which may be appropriate in the circumstances

# R. v. Ipeelee: Judicial Notice

- Para.60: Courts must take judicial notice of such matters as the history of colonialism, displacement, and residential schools and how that history continues to translate into lower educational attainment, lower incomes, higher unemployment, higher rates of substance abuse and suicide, and of course higher levels of incarceration for Aboriginal peoples.



# R. v. Ipeelee: Express Waiver

- Para.60: Counsel have a duty to bring that individualized information before the court in every case, unless the offender expressly waives his right to have it considered

# R. v. Ipeelee: No Causal Link Required

- Para.81: Aboriginal offenders do not have to establish a causal link between background factors and the commission of the current offence before being entitled to have those matters considered by the sentencing judge

# R. v. Ipeelee: Serious or Violent Offences

- Para.84-87: The sentencing judge has a statutory duty, imposed by s.718.2(e) of the Criminal Code, to consider the unique circumstances of Aboriginal offenders.
- Failure to apply *Gladue* in any case involving an Aboriginal offender runs afoul of this statutory obligation.

# Gladue Reports: Real Life Examples

# Case Study #1

- Multi-count information from B.C. – including theft of a motor vehicle, obstruction, fleeing from the scene of an accident, dangerous driving
- 48 charges from Manitoba waived to B.C.
  - Mostly a combination of car thefts and related property crime
- Lengthy record dating back to 1975
- Manitoba Crown seeking 8 year global sentence
- B.C. Crown seeking 5 year sentence
- Total 13 year sentence being sought

# Case Study #1 continued

- 55 years old
- History of physical and emotional abuse from non-Aboriginal step-father including racial slurs
- Alcohol abuse in the household
- Began running away at the age of 13
- Addiction issues
- Never had the benefit of a Gladue report
- Defence sought 41-48 month sentence minus 17 months time served
- Sentence – 48 months minus 17 months time served



# Case Study #2

- Charged with break and enter into a dwelling house
- Lengthy criminal record dating back to 1979 including 31 prior B & E's
- Crown seeking 3 plus year federal sentence

# Case Study #2 continued

- 47 years of age
- History of physical, mental and sexual abuse at Indian residential school
- Sent to Oakalla prison at early age where sexually abused by corrections staff
- Completely institutionalized
- Never had a Gladue report
- Accused sought and was granted a lengthy conditional sentence order followed by 3 years probation

# Case Study #3

- 5 separate sets of charges from various dates:
  - Attempted robbery
  - Uttering threats
  - Production of marijuana
  - Aggravated assault
  - Assault with a weapon
- Crown agreed to a GP for the lesser included offence of assault causing bodily harm for agg assault matter
- Crown seeking 18 month global jail sentence

# Case Study #3

- 28 years old
- No adult record
- History of physical, emotional and sexual abuse
- Drug addiction – crystal methamphetamine
- History of racism and other bullying
- On bail for 4 of 5 charges until bail finally revoked
- In custody for 10 months
- Sentence – 3 month conditional sentence order in addition to credit for time served

# Gladue and Bail

# Gladue and Bail

- R. v. Gladue
  - Para.65: “It is clear that sentencing innovation by itself cannot remove the causes of aboriginal offending and the greater problem of aboriginal alienation from the criminal justice system. The unbalanced ratio of imprisonment for aboriginal offenders flows from a number of sources, including poverty, substance abuse, lack of education, and the lack of employment opportunities for aboriginal people. **It arises also from bias against aboriginal people and from an unfortunate institutional approach that is more inclined to refuse bail and to impose more and longer prison terms for aboriginal offenders.**”



# Gladue and Bail

- R. v. Wesley (2002 BCPC 717)
  - Break and enter and unlawful confinement
  - Para.7: Court satisfied that bail hearing must also be guided by principles in Gladue
- R. v. Joe Jr. (Dec 18, 2009 / Van SC Docket #25214)
  - Para.40: “...I agree with the view that the principles of the *Gladue* decision should be considered in a bail hearing.”
- R. v. Heward (Dec 1, 2010 / Chilli Docket #57291-1)
  - “In my view, it is also important to consider the principles of *Gladue* as I have said in R. v. Joe in a bail review like this.”

# Gladue and Bail

- R. v. Silversmith (2008 OJ No.4646) (Supreme Court)
  - Principles in *Gladue* alter the method of analysis in determining whether detention is justified
  - The court must look at whether the sureties offered, in the context of the aboriginal culture, can control behavior
  - The court must also look at whether detention of the aboriginal accused has a disproportionately negative impact on the accused and whether that impact could be alleviated by strict bail conditions
  - Finally, the court must look at whether aboriginal law and customs provide the assurances of attendance in court and protection of the public that are required for release
  - A broader analysis is required where the accused is an aboriginal

# Youth Criminal Justice Act

# YCJA: Rehabilitation

- Section 3(b): The youth criminal justice system must be: i) separate from adults; ii) based on a principle of diminished moral blameworthiness; and iii) emphasize the following:
  - Rehabilitation and reintegration;
  - Fair and proportionate accountability consistent with greater dependency and reduced level of maturity;
  - Enhanced procedural protections; and
  - Timely intervention.

# YCJA: Aboriginal Young Persons

- Section 3(c): Measures taken against young persons who commit offences should:
  - Reinforce respect for societal values;
  - Encourage the repair of harm done to victims and the community;
  - Be meaningful for the individual given his or her needs and level of development and, where appropriate, involve the parents, the extended family, the community and social or other agencies in the young person's rehabilitation and reintegration; and
  - Respect gender, ethnic, cultural and linguistic differences and respond to the need of aboriginal young persons and of young persons with special requirements.

# YCJA: Extrajudicial Measures

- Extrajudicial measures should be designed to:
  - Encourage young persons to acknowledge and repair the harm caused to the victim and the community;
  - Encourage families of young persons — including extended families where appropriate — and the community to become involved in the design and implementation of those measures; and
  - Provide an opportunity for victims to participate in decisions related to the measures selected and to receive reparation



# YCJA: Notice to Parents

- Section 26(1): If a young person is arrested and detained in custody pending his or her appearance in court, the officer in charge shall, as soon as possible, give oral or written notice to a parent of the young person stating the place of detention and the reason for the arrest
- Section 26(2): If a summons, appearance notice, undertaking, recognizance or promise to appear is issued in respect of a young person, the officer in charge, shall, as soon as possible, give written notice to a parent of the young person
- Section 27(1): If a parent does not attend proceedings, the court may, if in its opinion the presence of the parent is necessary or in the best interests of the young person, require the parent to attend at any stage of the proceedings

# YCJA: Bail

- Section 29(1): A youth justice court judge or a justice shall not detain a young person in custody prior to being sentenced as a substitute for appropriate child protection, mental health or other social measures
- Section 29(2)(b): The judge or justice is satisfied, on a balance of probabilities,
  - (i) there is a substantial likelihood that the young person will not appear in court,
  - (ii) that detention is necessary for the protection or safety of the public, including a substantial likelihood that the young person will, if released from custody, commit a serious offence, or
  - (iii) in the case where the young person has been charged with a serious offence and detention is not justified under subparagraph (i) or (ii), that there are exceptional circumstances that warrant detention and that detention is necessary to maintain confidence in the administration of justice

# YCJA: Bail

- Section 29(3): Onus is on the Attorney General
- Section 31(1): A young person who has been arrested may be placed in the care of a responsible person instead of being detained in custody if a youth justice is satisfied that
  - (a) the young person would, but for this subsection, be detained;
  - (b) the person is willing and able to take care of and exercise control over the young person; and
  - (c) the young person is willing to be placed in the care of that person.
- Section 31(2): If a young person would, in the absence of a responsible person, be detained in custody, the youth justice court or the justice shall inquire as to the availability of a responsible person and whether the young person is willing to be placed in that person's care.

# Fetal Alcohol Spectrum Disorder

# Definition

- Describes the range of effects that can occur when a mother drinks alcohol during pregnancy
- Effects are lifelong and may include physical, mental and behavioural problems, learning disabilities and other social/emotional implications
- Impacts on the brain are expressed in unique and individual ways

# FASD and the Criminal Justice System

- Many youth and adults have not been diagnosed making it difficult to identify them within the justice system
- 1997 study in B.C. revealed 23.3% of youths remanded for a psychiatric/psychological assessment had FASD (Fast, Conry & Looock, 1999)
- 35% of people with FASD have been in jail or prison with 50% having been in trouble with the law (Anne Streissguth, 1996)



# Mistakes Lawyers Make (David Boulding)

- Assuming FASD clients can be helped by probation order conditions
- Assuming FASD clients can demonstrate remorse to the sentencing judge
- Assuming FASD clients understand the notion of consequences (e.g. you'll go to jail if you steal cars)
- Assuming FASD clients understand the notion of time (e.g. 3 days in jail is not the same as 3 months in jail)
- Assuming FASD clients will be able to express themselves appropriately for pre-sentence reports

# Mistakes Lawyers Make (David Boulding)

- Failing to give clients the same advice over and over again
- Failing to consider a psychological or neurological assessment
- Failing to ask Social Services for family records
- Failing to realize client was manipulated into committing the offence (e.g. often 2<sup>nd</sup> or 3<sup>rd</sup> person charged)
- Failure to notice that constant supervision within family and community corresponded to a lack of crime

# R. v. T.J.J. (2011 BCPC 155)

- Where FASD diagnosed, failing to take it into account during sentencing works an injustice to both the offender and society at large
- The offender is failed because he is held to a standard that he cannot possibly attain
- It is manifestly unfair to make an individual pay for their disability with their freedom
- Society is failed because a sentence calculated for a “normal” offender cannot serve the same ends when imposed on an offender with FASD

# The Asante Centre

(Unit 103-22356 McIntosh Ave., Maple Ridge)

- Diagnosis and assessment
- Family support
- Counseling and therapy groups
- Speech and language services
- Education, training and mentoring
- Community development
- Research activities
- Province will pay for youth
- \$5,000+ for adult diagnosis

# Alternative Measures for Adult Offenders

# Crown Policy Manual

- Alternative measures should be considered for any case where the successful completion of an alternative measures program can achieve the most important objectives of a court prosecution
- The Criminal Justice Branch supports the use of alternative measures programs, and recognizes that they can be the most appropriate and effective way to address harm done to the community and to allow offenders to be rehabilitated and accept responsibility for their criminal conduct



# Crown Policy Manual

- This specifically includes programs based on restorative justice principles, such as family group conferencing, community accountability panels, aboriginal justice programs and victim/offender reconciliation processes.
- The Branch also supports other restorative justice programs which do not involve the alternative measures process.
- The Branch supports the use of alternative measures programs which recognize the circumstances of aboriginal offenders.

# Excluded Offences

The following offences must not be considered for alternative measures:

- first and second degree murder
- conspiracy to commit murder
- attempted murder
- manslaughter
- criminal negligence causing death
- any other offence for which causing death is a legal ingredient of the offence
- aggravated assault or aggravated sexual assault
- criminal negligence causing bodily harm
- discharging a firearm with intent
- hostage taking
- kidnapping

Using a firearm in the commission of any indictable offence for which there is a minimum sentence, including section 85 of the Criminal Code or any of the following:

- Criminal negligence causing death
- Manslaughter
- Attempted murder
- Discharging a firearm with intent
- Sexual assault with a weapon
- Aggravated sexual assault
- Kidnapping
- Hostage taking
- Robbery
- Extortion

# Approval of Regional or Deputy Regional Crown Counsel Required

Only where exceptional circumstances:

- arson
- breaking and entering a dwelling house
- child abduction in contravention of a custody order or without a custody order
- child pornography
- crimes against children and vulnerable youth
- criminal harassment
- driving offences under the Criminal Code, including impaired driving,
- driving over 80 milligrams, fail to comply with demand
- extortion
- hate motivated and hate propaganda offences
- offences involving a fatality which are not listed above
- property offences involving a breach of trust
- robbery
- sexual offences against adults
- any other offence for which there is a mandatory minimum term of imprisonment

# Domestic Assault

# Alternative Measures

- Generally in public interest to continue with prosecution where victim is vulnerable person such as spouse
- Alternative measures should not be considered without careful consideration of the concerns of the victim and should be pursued only if:
  - There is no significant physical injury
  - There is no indication of a history of spousal violence
  - There is not a significant risk of further offences which could result in serious harm
  - Use of alternative measures is not inconsistent with the protection of society

# Peace Bonds

- Section 810: Reasonable grounds for fear
- Not guilty or innocence
- Facts may be contested
- Conditions may or may not include no contact order
- Counselling before and after peace bond



# Conditional Discharge

Legal Test:

- In the interests of the accused; and
- Not contrary to the interests of the community
- No criminal record at conclusion of discharge period

# First Nations Courts



# First Nations Court Locations

- New Westminster
- North Vancouver
- Kamloops
- Duncan

# FNC: Eligibility

- The courts handle:
  - Bail hearings,
  - Sentencing hearings, and
  - Related child protection matters.
- You may be able to have your case transferred to a First Nations Court if:
  - You self-identify as Aboriginal,
  - You're pleading guilty to a criminal offence, and
  - You are willing to comply with your sentence, healing plan and expectations of the court.

# FNC: Restorative Justice

- First Nations Court takes a restorative justice approach to sentencing.
- A restorative justice approach to sentencing means that:
  - The judge will work with you and your community to come up with your sentence.
  - The goal of your sentence will be to strengthen and heal both you and your community.
- To come up with a healing plan that works for you, you and your lawyer will work with:
  - the judge,
  - Crown counsel,
  - Aboriginal community members, and
  - your family.

# FNC: Availability of Resources

- Before deciding on your sentence, the judge will consider:
  - your background,
  - your current needs, and
  - what resources are available to help you.



# FNC: Healing Plan

- First Nations Court focuses on making sure everyone involved in the case has a chance to be heard, including:
  - you,
  - your lawyer,
  - your family,
  - members of your community,
  - the victim, and
  - the victim's family.
- Everyone will be invited to sit around a table to talk about the case. Each person will be given a chance to speak. After each person has spoken, the judge will work with everyone at the table to come up with a healing plan.

# FNC: Healing Plan

A healing plan:

- focuses on helping you, your community, and the victims of your crime to heal and move on; and
- will help you to address the problems that got you into trouble with the law in the first place. For example, you may have to participate in drug or alcohol counselling.

You will be asked to:

- take responsibility for your actions,
- work on addressing the issues that got you into trouble with the law in the first place, and
- return several times to the court, so the judge can see your progress with your healing plan.

# FNC: Limitations

- Only available in limited jurisdictions (although file may be waived)
- Court only sits 1 day per month
- Do not accept most serious offences
- Do not deal with most serious offenders

# Dealing with Law Enforcement

# Aboriginal Culture Versus Western Justice

- Avoidance of confrontation
- Desire for community harmony
- Acceptance of responsibility
- Respect for authority/elders

# Know Your Rights

- Right to not speak to police
- Right to counsel immediately upon detention or arrest
- Police cannot search your vehicle if no grounds to arrest
- Any search of vehicle must be related to grounds to arrest
- Police cannot arrest you inside your home without a search warrant
- Police cannot search your home without a search warrant





# Thank-you

Rob Dhanu

Legal Services Society – Abbotsford & Chilliwack

Dhanu Dhaliwal Law Corporation

33821 South Fraser Way

Abbotsford, B.C.

Tel: 604-746-3330

[rob@ddlwa.ca](mailto:rob@ddlwa.ca)



# CHILD PROTECTION IN THE ABORIGINAL COMMUNITIES



*Presented By:*

Uphar  
Dhalwal

[uphar@ddlaw.ca](mailto:uphar@ddlaw.ca)

604.746.3330

February 13,  
2014

# SOCIAL WORKER CONTACTS YOU

- Has a social worker contacted you about your children?
- Call Legal Aid
- 604-408-2172 (Greater Vancouver)
- 1-866-577-2525 (no charge outside Greater Vancouver)
- [www.legalaid.bc.ca](http://www.legalaid.bc.ca)

# IT'S NOT YOUR MOTHER-IN-LAW

You cannot ignore the phone



# GET A LAWYER

- If a social worker from the Ministry of Children and Family Development (or an Aboriginal delegated agency) contacts you or visits your home, you have the right to get a lawyer.
- The social worker may take your child from your home.
- Call Legal Aid immediately to find out if you qualify for a free lawyer.



# **CHILD, FAMILY AND COMMUNITY SERVICE ACT**

**CFCSA applies to Aboriginal Children both  
on and off the reserve**

# WHEN DOES A CHILD NEED PROTECTION

A child needs protection in the following circumstances:

- (a) if the child has been, or is likely to be, physically harmed by the child's parent;
- (b) if the child has been, or is likely to be, sexually abused or exploited by the child's parent;

# WHEN DOES A CHILD NEED PROTECTION

- (c) if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child;
- (d) if the child has been, or is likely to be, physically harmed because of neglect by the child's parent;
- (e) if the child is emotionally harmed by the parent's conduct;

# WHEN DOES A CHILD NEED PROTECTION

- (f) if the child is deprived of necessary health care;
- (g) if the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;
- (h) if the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;

# WHEN DOES A CHILD NEED PROTECTION

- (i) if the child is or has been absent from home in circumstances that endanger the child's safety or well-being;
- (j) if the child's parent is dead and adequate provision has not been made for the child's care;
- (k) if the child has been abandoned and adequate provision has not been made for the child's care;
- (l) if the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force.

# WHEN DOES A CHILD NEED PROTECTION

- (1.1) For the purpose of subsection (1) (b) and (c) but without limiting the meaning of "sexually abused" or "sexually exploited", a child has been or is likely to be sexually abused or sexually exploited if the child has been, or is likely to be,
  - (a) encouraged or helped to engage in prostitution, or
  - (b) coerced or inveigled into engaging in prostitution.



# WHEN DOES A CHILD NEED PROTECTION

**(2) For the purpose of subsection (1) (e), a child is emotionally harmed if the child demonstrates severe**

- **(a) anxiety,**
- **(b) depression,**
- **(c) withdrawal, or**
- **(d) self-destructive or aggressive behaviour.**

# 10 DAYS TO GET TO COURT

- **Timing and notice of presentation hearing about application for supervision order**
- **33.1** (1) No later than 10 days after the date of applying under section 29.1 for a supervision order, the director must attend court for a presentation hearing unless the court is notified that the director does not intend to proceed with the application.
- (2) At least 7 days before the date set for the presentation hearing, notice of the date, time and place of the hearing must be served on
  - (a) the child, if 12 years of age or over, and
  - (b) the person with care of the child.
- (3) The notice must be in the form of a written report described in section 33.2 (1).
- (4) In addition, the director must, if practicable, inform the following of the date, time and place of the presentation hearing:
  - (a) each parent, if not already served under subsection (2);
  - (b) the Public Guardian and Trustee, if the parent entitled to custody of the child is under 19 years of age;
  - (c) the applicable aboriginal organization prescribed in the regulations for the purposes of this section, if the child is an aboriginal child, other than a Nisga'a child or a treaty first nation child;
  - (d) the Nisga'a Lisims Government, if the child is a Nisga'a child, and
  - (e) the treaty first nation, if the child is a treaty first nation child.
- (5) The director need not inform a person under subsection (4) if that would, in the director's opinion, cause physical or emotional harm to any person or endanger the child's safety.

# CHILDREN CAN GET LAWYERS TOO

Children – 12 years of age or older

Tell the Social Worker that you want a lawyer for your child

Ask the court to make an order that a lawyer be provided for your child too.

# **CHILD INTERVIEW**

**Section 211 – views of the children**

**Make an application under the FLA  
(Family Law Act)**

# **AGREEMENTS DO NOT LIMIT COURT'S POWER**

**An agreement does not limit the court's power to hear an application and make an order about a child.**

# HOW LONG UNTIL A JUDGE HEARS MY APPLICATION?

**6 months or more  
for a one day hearing**





# MEDIATION

Get on Track Fast

Get a Lawyer and go to Mediation

You don't have to pay

