

LEGAL AID BC NORTH WEST TRAINING VIRTUAL CONFERENCE

February 2nd - 4th, 2021

Conference Materials

Legal Aid BC

Support when you need it





Overview of Parent Legal Centres and Child Protection

Speaker: Judith Kenacan - Managing Lawyer, Terrace Regional Centre and PLC Terrace

Page 4 - 95

Overview of Family Law

Speaker: Meghan Wallace - Lawyer, Meghan A. Wallace Barrister & Solicitor

Page 96 - 124

Legal Aid Update & Resources

Speakers: Deneen Garrett - Provincial Supervisor, Legal Aid BC;
Adam Fraser - Publications Production Coordinator, Legal Aid BC

Page 125 - 192

Understanding Gladue & Gladue Principles

Speaker: Joleen Steininger - Gladue Coordinator, Indigenous Services - Legal Aid BC

Page 193 - 211

CHECK OUT OUR WEBSITES:

Family Law in BC: family.legalaid.bc.ca

Aboriginal Legal Aid in BC: aboriginal.legalaid.bc.ca

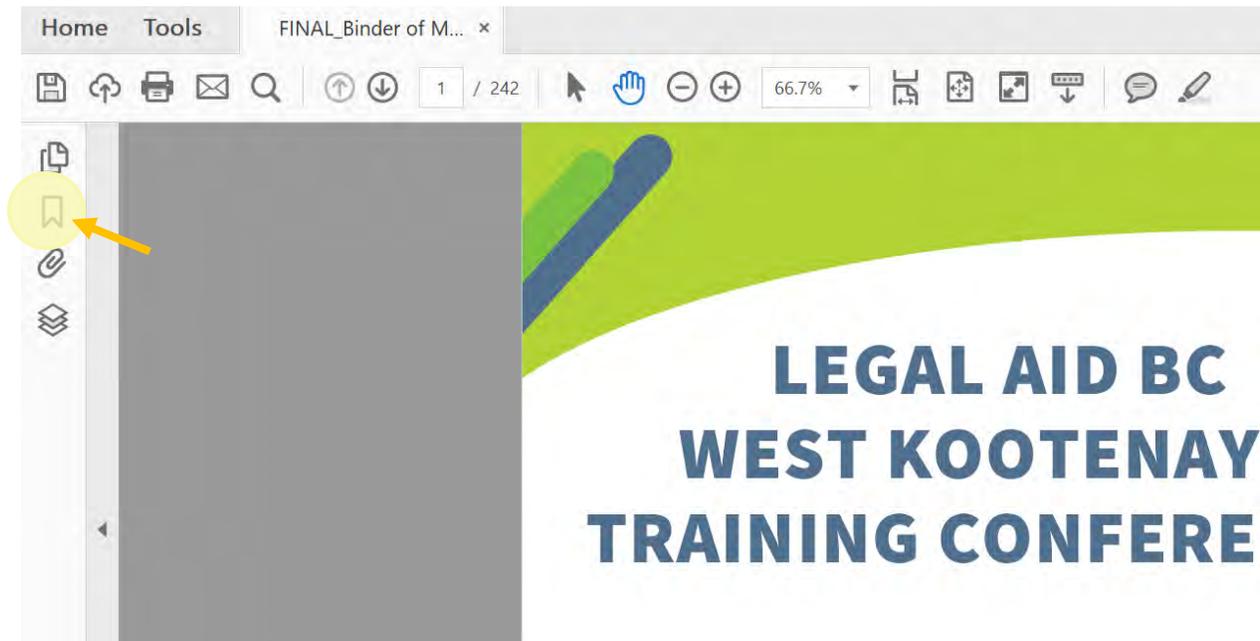
MyLawBC: mylawbc.com

FIND US ON SOCIAL MEDIA:

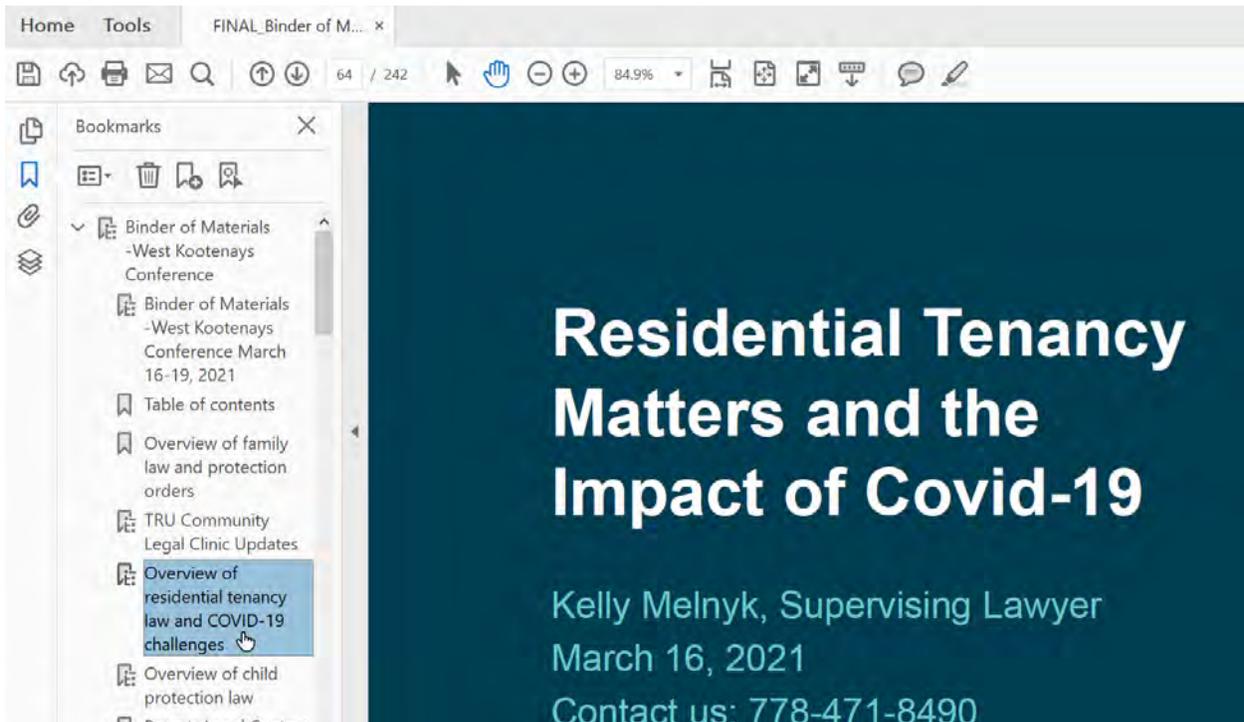


How to use bookmarks

- 1) Open up the document bookmarks by clicking on this icon on the left of the screen



- 2) Now you can go straight to the presentation's materials you would like to view by clicking on the bookmark title of the presentation.



Parents Legal Centre

*Legal Aid Services for Child
Protection Matters*



Parents Legal Centre

Terrace Parents Legal Centre

- Terrace
- Kitimat
- Prince Rupert

Legal Aid Services for Child Protection Matters



Parents Legal Centre helped Anna get her son back



Legal Aid



What does the Terrace Parents Legal Centre (PLC) Offer?



One Lawyer: Judith Kenacan
Advocate: vacant
Admin Intake Assistant: Elisa

Office located at:
207 – 3228 Kalum Street
Terrace, BC

Assisting clients in Terrace, Kitimat,
Nisga'a, Kitsumkalum, Kitselas, Haisla
Territories and Prince Rupert



What does the Smithers Parents Legal Centre (PLC) Offer?



Two Lawyers: Megan Olson and
Dawn McConnell

Advocate: Jacquie Bowes

Admin Intake Assistant: Kayla

Office located at:

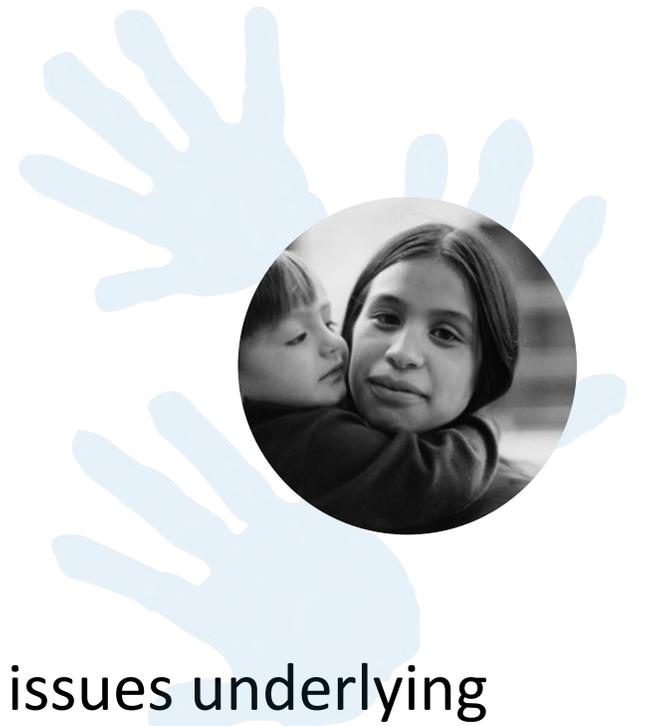
1242 Main Street, Smithers, BC

Assisting clients in Smithers, Hazelton,
Houston and Burns Lake



Rationale for the PLC

- To engage with parents and provide services and advocacy prior to and during their involvement with MCFD.
- To take a holistic approach, assisting parents to address issues underlying child protection concerns while also addressing the legal matter.
- To provide support before a matter escalates, and attempt to achieve a solution that keeps a family together and addresses the child protection concerns.



Indigenous Services Division

PLC focuses on Indigenous clients as part of Legal Aid BC's response to:

- The Truth and Reconciliation Commission's Calls to Action and Principles; and
- The recommendations in Grand Chief Ed John's 2016 report



British Columbia

- 6,263 Children in care
- 6.76% of population of children in BC

BC Child Protection Reports Fiscal 2019/20



New Protection Reports¹

Fiscal 2019/20

[Copy](#) [CSV](#) [Excel](#)

Service Delivery Area	Total	Total Indigenous	Total Non-Indigenous	MCFD Indigenous	MCFD Non-Indigenous	DAA
Coast/North Shore	1,725	568	1,157	554	1,157	14
East Fraser	4,080	2,100	1,980	267	1,980	1,833
Kootenays	1,474	595	879	295	879	300
North Central	2,349	1,322	1,027	1,320	1,027	*
North Fraser	3,688	802	2,886	802	2,886	*
North Vancouver Island	4,553	2,133	2,420	1,455	2,420	678
Northeast	939	468	471	468	471	*
Northwest	1,658	1,324	334	1,103	334	221
Okanagan	2,749	918	1,831	918	1,831	*
South Fraser	6,213	1,494	4,719	1,079	4,719	415
South Vancouver Island	4,639	1,447	3,192	1,133	3,192	314
Thompson Cariboo Shuswap	3,055	1,686	1,369	727	1,369	959
Vancouver/Richmond ²	17,777	3,663	14,114	3,104	14,114	559
British Columbia	54,899	18,520	36,379	13,225	36,379	5,295

¹ "*" indicates less than 10 protection reports.

² The Vancouver/Richmond Service Delivery Area houses the ministry's 24/7 Centralized Screening Team. This team handles protection reports from across the province. The total count of new protection reports includes 13,724 protection reports that were safely dealt with by Centralized Screening. These calls are reflected in Vancouver/Richmond but these calls come from all over the province.



Director of Child Welfare through family reunification, adoption or permanent transfer of custody under the *Child, Family & Community Service Act (CFCSA)*.

Children & Youth in Care (CYIC) Caseload^{1,2}

As at June 30, 2020

[Copy](#) [CSV](#) [Excel](#)

Service Delivery Area	↑	All	Indigenous (All)	Non-Indigenous (All)	Indigenous (MCFD Office)	Non-Indigenous (MCFD Office)	DAA
Coast/North Shore		205	141	64	93	64	48
East Fraser		628	446	182	35	182	411
Kootenays		132	82	50	27	50	55
North Central		495	401	94	280	94	121
North Fraser		268	130	138	130	138	-
North Vancouver Island		795	575	220	340	220	235
Northeast		95	73	22	73	22	-
Northwest		247	240	*	141	*	99
Okanagan		339	148	191	148	191	-
South Fraser		549	264	285	186	285	78
South Vancouver Island		649	415	234	181	234	234
Thompson Cariboo Shuswap		496	358	138	117	138	241
Vancouver/Richmond		690	468	222	81	222	387
British Columbia		5,588	3,741	1,847	1,832	1,847	1,909

How is the PLC different?

Legal Aid Representation in Child Protection:

- In the past, only lawyers in private practice were contracted by Legal Aid BC
- No Early Intervention; the child was removed or MCFD was asking for a supervision order
- Court process initiated
- The lawyer was able to help with related issues but did not provide advocate assistance to speak to social workers or give support in dealing with risk issues



What does the PLC Offer?



Parent Supported early by PLC team

Early Intervention –

before children are even born

before children are removed by ministry

Parents don't have to have a court case pending

Outreach -

Service may be able to be provided off-site at community locations, PLC community advice clinics



What does the PLC Offer?



PLC lawyer can provide immediate advice
(like duty counsel)

PLC lawyer will represent clients at

- Mediations
- Family Case Conferences
- Other collaborative meetings
- And at court (other than trial)



What does the PLC Offer?



The Advocate:

- helps parents connect with services
- addresses the underlying child protection concerns that Ministry has noted, e.g., housing; addictions recovery; counselling;
- speaks with social workers on parents' behalf;
- accompanies client to various meetings and appointments, including with social worker
- works with other community advocates and agencies to provide best support to the client



PLC Model:



Client agrees to participate in collaborative dispute resolution processes (no hearing or trials)



Client meets financial eligibility criteria



Financial Eligibility - House hold size and Income Chart – effective April 1, 2020

Table of net household monthly income (for representation services)*		
Household size	Standard cases	CFCSA, Criminal Early Resolution, and Family Limited Representation cases
1	\$1,660	\$2,660
2	\$2,320	\$3,320
3	\$2,990	\$3,990
4	\$3,650	\$4,650
5	\$4,310	\$5,310
6	\$4,980	\$5,980
7 or more	\$5,640	\$6,640



PLC model:

If the matter cannot be resolved through collaborative processes

- the client will be referred to a private lawyer contracted by Legal Aid BC who can take the case to trial.

If there is a *legal conflict*

- the client will be referred to apply for a private lawyer through Legal Aid BC Local Agent or Call Centre



Why the PLC works



Clients engage with the PLC team early

- **Clients have a fuller understanding of their rights and obligations:**
 - Before problems escalate
 - Views less likely to become entrenched
 - Reduce risk of communication breakdown between parent and social worker
 - understanding of MCFD expectations and how to meet them
- **Engaging with clients in communities means:**
 - early advice and support
 - reducing anxiety and
 - Can avoid separating children from families



Why the PLC works



Services provided by highly skilled and experienced lawyers and advocate

- Clients feel empowered by having the support of a team
- Advocate's support in assisting parents makes a difference
- PLC team assists client to understand protection concerns and how to address them in a meaningful way



Why the PLC works



The PLC helps clients engage collaboratively to resolve child protection concerns

- More parents engage in collaborative processes
- PLC achieves positive results that move matters forward even though child protection issues are lengthy and difficult to achieve “resolution”

The PLC enhances the ability for all service providers to work cooperatively and more effectively to support parents and families



Why the PLC works



PLC clients have fewer and more effective court appearances

- Immediate access of the PLC in court reduces adjournments required to find a lawyer
- PLC clients come to court with direction also resulting in fewer adjournments



Parents Legal Centre (PLC)

Locations and Geographical Areas they cover

PLC	Geographical Location
Campbell River	Campbell River, Courtenay, Port Alberni, Port Hardy
Duncan	Duncan, Nanaimo, Parksville
Kamloops	Kamloops, Merritt, Clearwater, Lillooet
Prince George	Prince George, Quesnel, Vanderhoof, Fort St. James
Smithers	Smithers, Hazelton, Houston, Burns Lake
Terrace	Terrace, Kitimat, Prince Rupert
Vancouver	Vancouver
Victoria	Victoria, Colwood
Williams Lake	Williams Lake, 100 Mile House

We have **10 PLCs** across the Province, who deal with clients in the city they are located in, as well as other geographical locations



Why we are here?



To talk about PLC Services

We want to hear from you:

- Situation of community
- Needs regarding child protection
- Discuss how we can better meet the specific needs of your community

Questions?



Thank you!

Let's stay in touch!

Contact us:

Terrace Parents Legal Centre

207- 3228 Kalum Street

Terrace, BC V8G 2N1

Phone: 778-271-9437

Fax: 778-505-2206

Email: PLCTerrace@legalaid.bc.ca



Judith Kenacan, QC

Terrace Parents Legal Centre



IF A SOCIAL WORKER CALLS

ALLIE HEARS THAT SHE NEEDS TO TAKE ACTION IF A SOCIAL WORKER IS INVESTIGATING HER CHILDREN





Call a Parents Legal Centre

Terrace – 778-271-9437

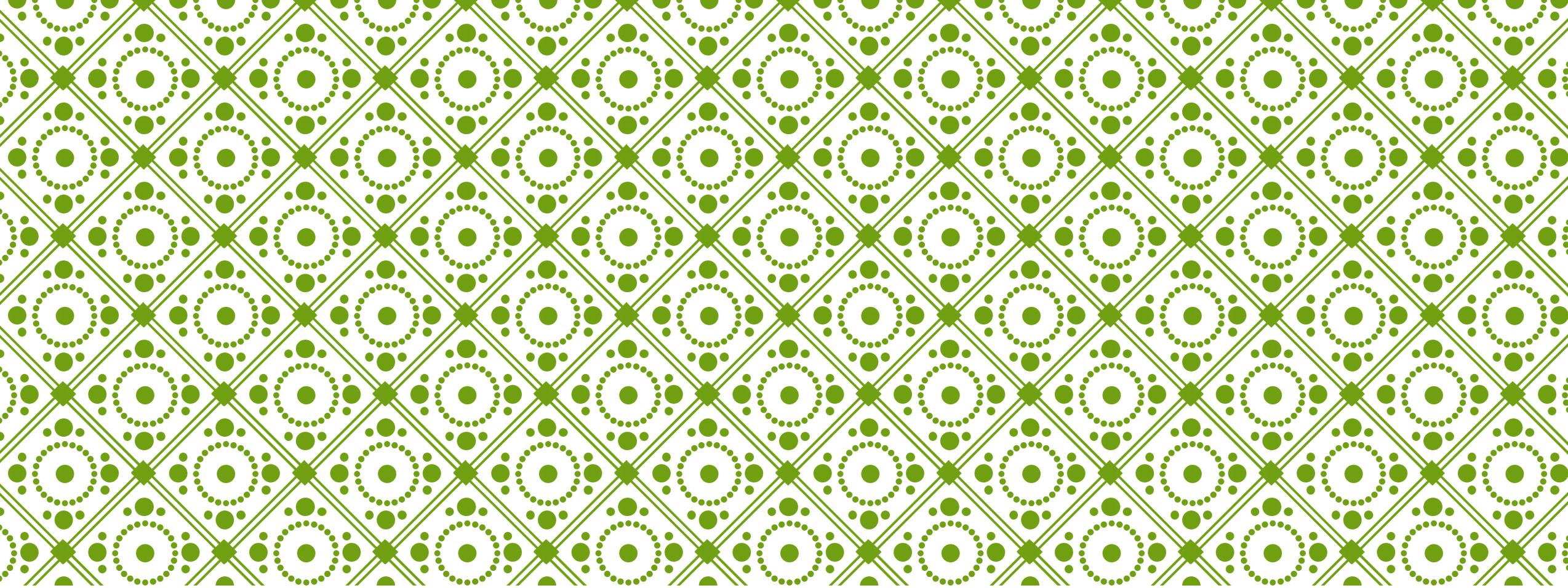
Smithers – 250-847-9088











OVERVIEW OF CHILD PROTECTION LAW

Credit to **Karen Tse** of
Rockies Law Corporation
in Fernie, British Columbia

BC FAMILY AND PARENTING LEGISLATION

Child, Family and Community Service Act (CFCSA)

- The law in British Columbia which outlines the standard that parents and guardians must meet
- Explains what the Ministry can do if those parents and guardians cannot adequately care for a child

Family Law Act (FLA)

- The law in British Columbia which outlines what happens when parents disagree or are going through a separation
- Covers a large number of topics including parenting time, guardianship, child support, spousal support, property division and protection against violence

HIGHLIGHTS OF THIS PRESENTATION

This presentation will provide an overview of child protection law

There will also be Case Studies which explore things to consider when working with a client who is involved with the Ministry

- The case studies are based on actual situations I have encountered, but names and facts have been changed to protect client confidentiality

A REPORT IS MADE

Anyone who believes a child has been (or is likely to be) abused or neglected, must report it

- The Director cannot release the names of a person who reports child abuse

Who investigates

- Child protection workers (sometimes called social workers) investigate
- Sometimes people make false reports – the Director looks at all available information
- Some Aboriginal communities have Aboriginal delegated agencies

INVESTIGATION

Child protection worker

- Makes assessment by asking questions and gathering information
- Some cases close after short assessment if child does not need protection
- Referral to services
 - Home support, counselling, parenting classes
- May speak with the child alone and with people who knows the child
- Parents should explain their views and work with Ministry from early stage to protect the child and make the situation better

INVESTIGATION

- Child protection worker will decide:
 - If the child needs or does not need protection
 - If protection required, child may or may not be removed

CASE STUDY — DRINKING AND NEGLECT

Background

- The Ministry social workers have received reports that Janet has been out partying and leaving her young children alone at home. The Ministry believes the children are in need of protection
- Janet belongs to the Sto:lo Nation. She lives in the same community as her sister, mother and several aunts and uncles
- Janet has passed out twice this month after binge drinking while caring for the children
- Janet's family is willing to help her and the kids

COLLABORATIVE DECISION MAKING

- The family has the right to be involved in decisions about the children's care
 - Parents and a child protection worker will negotiate to reach an agreement about what's best for the children
 - A neutral person (someone who is not involved in making decisions about the child's protection) guides participants through a process that lets each person share their story and be a part of the decision making

WHEN CAN FAMILIES USE COLLABORATIVE DECISION MAKING?

At almost any time in the child protection process

- Parents can negotiate with Ministry to make a plan or agreement about the children's care
- As soon as the Ministry raises concerns about the children's safety, parents can talk with the child protection worker to figure out what is best for the children
- Even if the case is already in court, parents can try to resolve the issues out of court – social workers and parents can come up with a Safety Plan which is a plan about how the children will be cared for during a child protection investigation

SAFETY PLAN

- Identifies key safety people who the children can contact
- Identifies people to assist the parents and monitor children's safety
- Identifies people who will help out if parents are ill or under stress
- Makes arrangements in situations (like celebrations) when the parents may use alcohol
- Makes arrangements about others who might visit the family
- Addresses how long the safety plan will be in place for

A COLLABORATIVE DECISION

By working with the child protection worker, parents may be able to resolve issues faster than going to court and in ways that best suit the family. Issues that can be dealt with using shared decision making might include:

- Where the children will live
- How to keep the children safe
- What services the family's needs
- Plans for the children to return home
- How the family and community will support parents and the children

OPTIONS:

Collaborative planning and decision-making options include:

- A family case planning conference
- A family group conference
- Traditional decision making if your child is Aboriginal
- Mediation

FAMILY CASE PLANNING CONFERENCE

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

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

A TYPE OF COLLABORATIVE DECISION MAKING: FAMILY GROUP CONFERENCES

- Child's parents, relatives, close friends, or other community members meet about how to keep the child safe. This works well if there are supportive extended family or community
- Questions to ask:
 - What are we worried about?
 - What is going well? How do we help the children grow up well?
 - What do we need to do?
 - Janet will be sober during visits. Janet is going to attend AA sessions
 - Janet will ensure that there is no drinking when she is caring for the kids
 - Janet's family will supervise some visits to begin with. They will also speak up if they notice Janet is not doing well. Social worker may drop in to check

FAMILY GROUP CONFERENCES

How to get started

- Once the Ministry decides that the child needs protection, the child protection worker can offer to refer the family to a family group conference coordinator. Parents can also ask the child protection worker for a referral as well.
- The coordinator is trained and works for the Ministry.

How does a family group conference work?

- Parents work with the family group conference coordinator to decide who will participate.
- The coordinator meets with the participants before the conference to prepare them for the meeting.

FAMILY GROUP CONFERENCES

At a family group conference

- Everyone will gather to talk about the reason for the meeting — the need for a family plan that deals with specific concerns about the child's safety
- A coordinator organizes the meeting and helps everyone stay focused
- Parents can get help to work through issues and learn about how the family can get support services
- Next, the invited community members and professionals will leave the room. The family will have private time to discuss a plan for the child's protection
- The family will develop a plan for child's safety and well-being
- A child protection worker will look the plan over to make sure it addresses child's safety concerns and speak with the family

TRADITIONAL DECISION MAKING

Traditional decision making

- Similar to a family group conference
- Includes the indigenous community the child belongs to
- Parents can invite Elders and other community members
- Allows the family to make decisions based on cultural traditions and values

AGREEMENTS USING COLLABORATIVE DECISION MAKING

Plan of Care

- Plan for how to meet the child's needs while the Ministry is involved with the family; for example, where the child will live while the case is in court

Access Agreement

- Agreement about when and where parents can visit with the child if the Ministry has removed the child from the home

TIPS ABOUT MAKING AGREEMENTS FOR CHILD'S CARE

Independent Legal Advice

- Speak with lawyer before and after the meeting
- Lawyer can also attend meetings with parents, explain their rights, or help parents negotiate with the Ministry
- Before parents sign a written agreement, they can request to have a lawyer look over it

TIPS ABOUT MAKING AGREEMENTS FOR CHILD'S CARE

Be a part of the decision making process

- Make the plan fit the needs of the parent and child. For example, if a parent has a drug or alcohol problem, the Ministry might ask that parent to go to drug counselling. Parents should ensure they select a counselling program that is workable
- If a parent agrees to place a child in the Ministry's care, parents should ensure that the child have visits with them as well as other important people
- Make the agreement for the shortest possible time
- Ask the Director to be clear about what services or programs will be provided to the parents and the extended family

TIPS FOR MAKING AGREEMENTS FOR CHILD'S CARE

Be realistic

- Understand what is agreed to
- Agree only to what the parent knows is helpful. Always put the child's best interests first
- Be clear about expectations
- If a parent cannot follow through with parts of the agreement, there could be serious consequences. Ask the Ministry what will happen if a parent cannot complete everything that is required, and include this in the written agreement

TIPS FOR MAKING AGREEMENTS FOR CHILD'S CARE

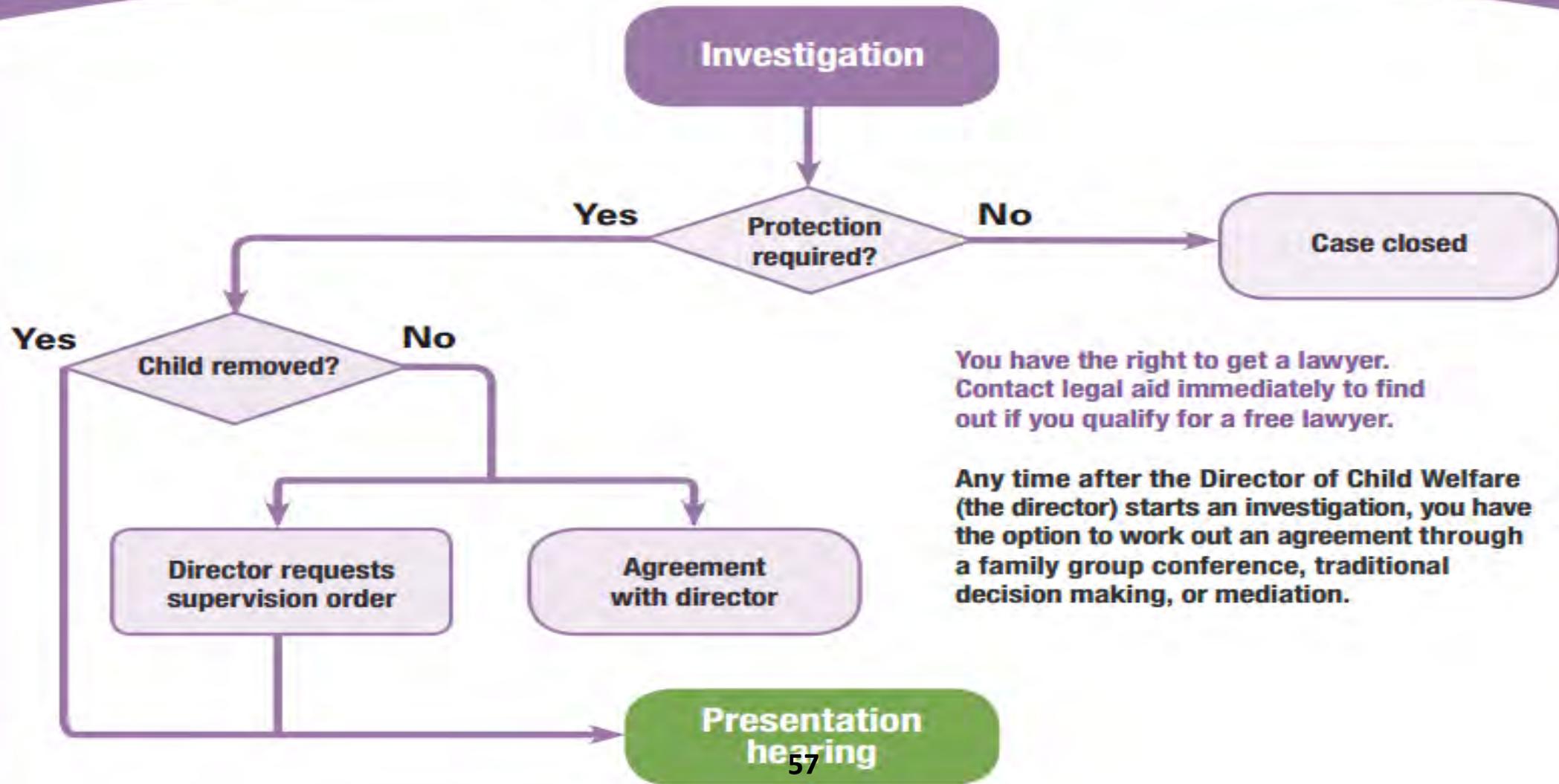
Check time limits

- Be sure the agreement gives the parents enough time to make the changes required
- Check that programs and counselors can meet the timelines in the agreement
- Request flexible time limits

Keep notes

- Keep notes of meetings with the social worker, advocate, and lawyer. Write down what people say they will do and what the parents agree to do
- Keep track of all important dates — such as meetings, court dates, and deadlines
- Parents should keep notes and papers sorted so that everything is in one place

The Child Protection Process in British Columbia



WHAT HAPPENS IN COURT

When a child has been removed from the home, or the child protection worker applies for a supervision order without removal, the next step is to go to court.

The court process usually has two stages:

- **Stage 1) Presentation stage**
- **Stage 2) Protection stage**

THE PRESENTATION STAGE

If the children were removal

- Director presents a report to the court within seven days. This starts the court process for the Presentation Hearing

Without removal

- If the child protection worker applies for a supervision order without removal, the Presentation Hearing will be held within 10 days after the application date and the parents receive a copy of the application

WHAT'S IN THE REPORT TO COURT?

The Report to Court should include this information:

- Why the Director decided to remove the child or ask for a supervision order
- What other steps the Director tried before taking that action
- The date, time, and place of the action
- Who was there at the time
- What terms the Director wants in a supervision order without removal
- How the Director plans to care for the child — called an Interim Plan of Care
 - Children who are 12 years and older have the right to have this plan explained to them, and to tell the Judge what they want. Under special circumstances, the Judge can also say that the child may have his or her own free lawyer

TIPS FOR PARENTS AT THE PRESENTATION HEARING

- Attend and be on time
- Can have lawyer present
- If the parent cannot be present, can request to participate by phone
- If child is Aboriginal, the Director must tell the child's community (such as the band) if the Director removes the child from a home, even if the child does not live on reserve. Someone from the community can then come to the Presentation Hearing
- Family Duty Counsel can be available to assist the Parent with legal advice on the process. The Presentation Hearing can also be put over (adjourned) for a few weeks to enable a Parent to receive legal advice.

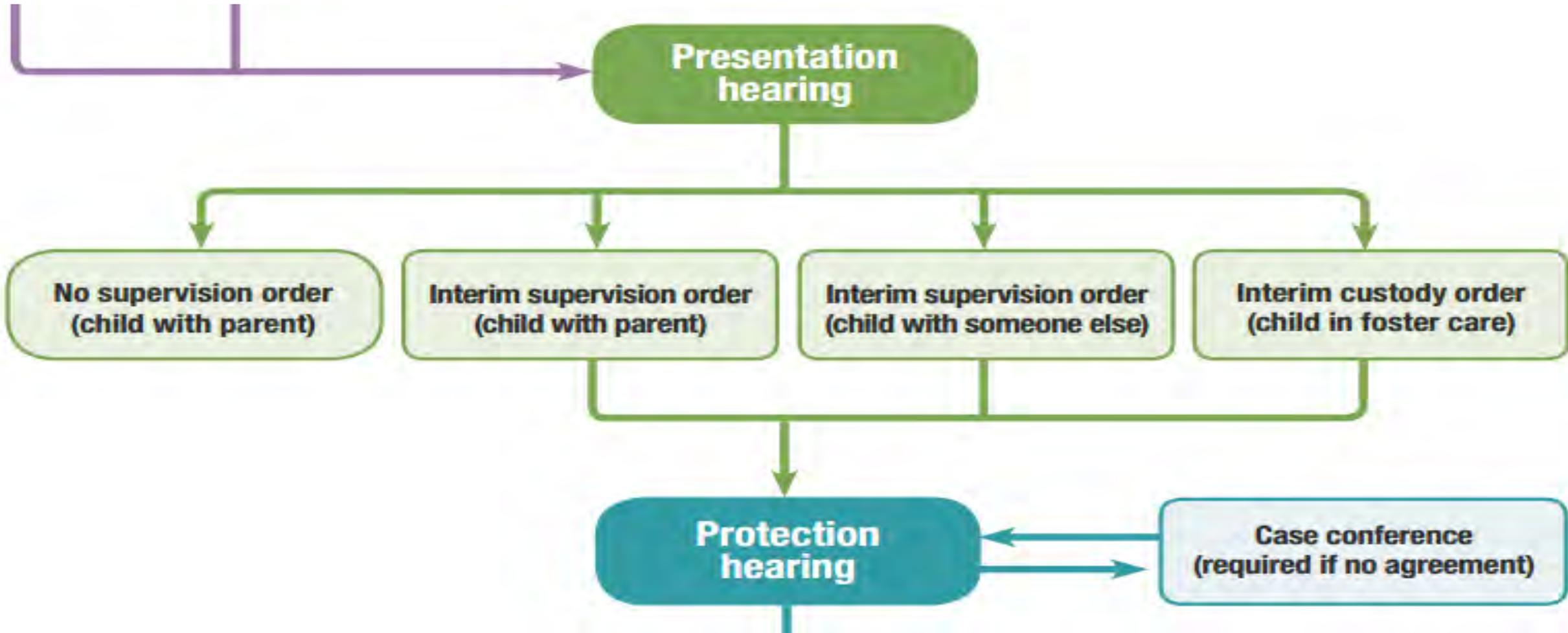
AT THE PRESENTATION HEARING

- Before or at the Presentation Hearing, the parents will receive a copy of the child protection worker's document called the Report to Court
- Judge will ask whether they agree with what the Director wants to do in the Report to Court.
 - If the parents agree, the Judge will make an order right away. That will be the end of the Presentation Hearing.
 - If the parents don't agree, the Judge will schedule another day for the Presentation Hearing to learn more about the case. It's usually two to six weeks later. These hearings usually take half a day, but they could take longer

JUDGE MAKES AN INTERIM ORDER

At the Presentation Hearing, the Judge may

- Make an Interim Order which says how child will be cared for
 - Order stays in place until Protection Hearing is complete, or another order is made
 - Each order will also have the date and time of the start of the Protection Hearing
 - The Protection Hearing must be scheduled within 45 days of when the Presentation Hearing ends



FOUR TYPES OF INTERIM ORDERS

No supervision order (child with parent)

- Parents demonstrated they are able to care for the child, and a Protection Hearing isn't needed. The Judge will return the child to live with the parents without supervision. This will end the court process
- This could happen if the parents have worked out an agreement with the Director, and/or if the parents have made changes that the child protection worker suggested

Interim supervision order (child with parent)

- Child will live with the parents, and the Director will supervise the care the parents give. This order will include conditions the parents must follow

Interim supervision order (child with someone else)

- Child will live with another person who is able to care for the child under the Director's supervision. This order will set out how the child will be cared for and may set out when and how the parents can visit

Interim custody order (child in foster care)

- Child will stay in the care of the Director (foster care). This order may set out when and how visits will occur

TIPS FOR PARENTS AFTER REMOVAL

- Attend court hearings
- Ask for access visits, which can also be by phone or video conference
- Ask the child protection worker to plan visits – if refused, make a request for access in court
- Try to see the child as often as possible – show that the parents care
- Be on time. Give notice for cancellations
- Director may request supervised access. Parents should plan which adult will supervise. If no agreement, may go to mediation

Ask for case information

- Can ask to see child protection worker's notes
- Can ask to see reports (e.g. Suspected child abuse and neglect (SCAN) report)

THE PROTECTION STAGE

The Judge will decide whether the child needs protection and who will care for the child in the future. The Judge makes this decision at the Protection Hearing

- The Protection Hearing must start no more than 45 days after the Presentation Hearing ends
 - The whole process can last up to several months. Or it can end on the same day that it starts, depending on the details of the case and when the courtroom is free
- At least 10 days before the Protection Hearing, the Director must provide an application that explains the order sought and a plan of care that says how the Director wants the child to be looked after

CASE CONFERENCE AT THE PROTECTION STAGE

- A case conference is a lot like mediation, except the Judge is in charge instead of a mediator
- It's a meeting between the parents, lawyers or advocates, the child protection worker, the Director's lawyer, and the Judge
- The Judge may ask the child to be there if the child is more than 12 years old, other family members, or people involved with taking care of the child
- When there is an Indigenous child, a representative of the Indigenous community may also be there

CASE CONFERENCE

- Parents should be prepared to speak for themselves at a case conference. Judges usually want to hear directly from the parents
 - Discuss what to say with a lawyer beforehand
 - The Director can't use what the parents say at the case conference against them in court (all discussions are on a 'without prejudice basis')
 - However, the Director can try to use what the parents say to find out more information to use at a hearing
- Supervision orders or custody orders can't be made at the case conference unless everyone agrees
 - If parents work out an agreement with the Director in the case conference, then the Judge can make a consent order and that ends the Protection Hearing

CASE CONFERENCE

Things to keep in mind

- If the parents and the Director cannot agree at the case conference, they will then set a date to complete the Protection Hearing and have a Judge decide what will happen
- How long it takes to finish the Protection Hearing will depend on the length of the trial and available court dates

WHAT A CONSENT ORDER MEANS

If the parents and the Ministry agree on a plan of care but disagree whether the child needs protection, they can make a written agreement

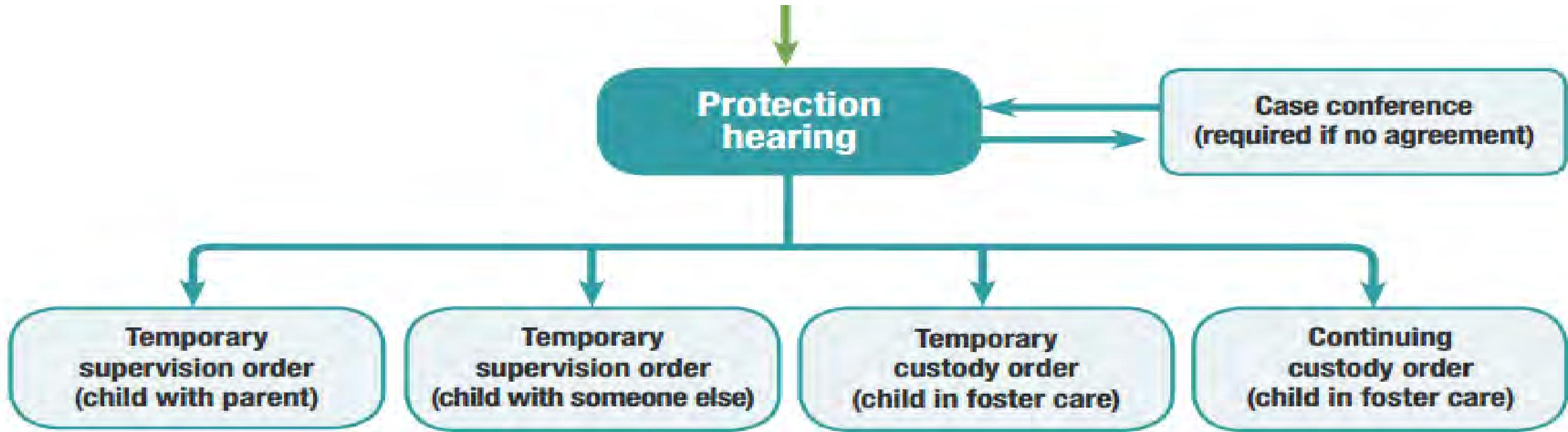
- The Judge may then make what's called a Consent Order and doesn't have to decide that the child needs protection
- In most cases, both parents have to agree before the Judge can make a Consent Order

IF NO CONSENT AT THE CASE CONFERENCE: PROTECTION HEARING

Protection Hearing

Before the Judge can decide whether to make the order the child protection worker applied for, the Judge must first decide whether the child needs protection

- If the parents agree that the child needs protection, the Judge can make that decision at the start of the Protection Hearing
- If the parents don't agree that the child needs protection, then a hearing, with evidence and witnesses, must be held before the Judge can make (or refuse to make) that decision



JUDGE MAKES A TEMPORARY ORDER

If the Judge decides the child needs protection, the Judge will make one of the following orders at a Protection Hearing and will decide how long the order will last:

- **Temporary supervision order (child with parent):** child will live with parents, and the Director will supervise the care the parents give
- **Temporary supervision order (child with someone else):** child will live with another person who can care for the child under the Director's supervision
- **Temporary custody order (child in foster care):** child will stay in the care of the Director (foster care).
- **Continuing custody order (child in foster care):** If there's a serious problem that can't be fixed within the time the court allows, the Judge might make this order. It means the child will stay in the care of the Director (foster care) without limits on how long this will last. The Judge makes this order in very rare cases.

The Judge will include terms and conditions in the supervision order and an order of access if the child will stay with another person.

CASE STUDY — MINISTRY APPLYING FOR PERMANENT TRANSFER

Background

- Your client, Vanessa, has been struggling with severe drug addiction for many years
- The Ministry has been involved for six years. There has been many supervision orders
- Vanessa's sister, Rhonda, has been caring for Vanessa's children. This was arranged through the Ministry
- When Vanessa's condition continued to deteriorate, the Ministry applied for a "Permanent Transfer of Custody"
- If the Ministry is successful, Vanessa will no longer be a guardian
- Vanessa knows that the Ministry is likely to be successful
- Rhonda and Vanessa do not always get along, and Vanessa is worried she might not see the children after a permanent transfer of guardianship.

HOW CAN AN FLA ORDER HELP VANESSA?

Goal

- Ensure that Vanessa gets a minimum amount of contact with the Children if the Permanent Transfer of Custody occurs

FLA Consent Order

- It is possible to negotiate a **Consent Order between the sisters**, Vanessa and Rhonda
- This Consent Order will cover that **Vanessa will get contact time with the Children**, and will be filed immediately after the CFCSA Order is entered into
- Contact time can be specified: every other weekend, from Friday at 3 p.m. to Sunday at 7 p.m.

MEDIATION IN CHILD PROTECTION CASES

What is mediation?

- Mediation is an option of collaborative (shared) decision making where someone with special training (a mediator) helps people solve problems
- Mediators are neutral & cannot provide legal advice
- Mediators work to help both sides listen to and understand each other and then together come up with a solution that feels fair. Mediators aren't Judges and they don't take sides. They won't tell any party what to do
- Under the CFCSA, parents, children and child protection workers or anyone directly involved in a child protection case can suggest mediation to help solve various problems. Both sides have to agree to try mediation for it to go ahead

MEDIATION

- Mediation can help parents deal with issues such as:
 - What do they want to have happen
 - What does the child protection worker want to have happen
 - What are they expected to do (or not do) to get the child back
 - What services can be provided for them and their child
 - How long will the child stay in care
 - Where will the child live temporarily
 - How and when can they or others have access to the child
 - What terms and conditions should be put in a supervision order
- What does mediation cost?
 - Free. The Ministry may also pay for some of the parents' costs so they can be at the mediation sessions, such as day care, meals, and transportation. Make sure the parents ask for that help

HOW DOES MEDIATION WORK?

The mediator's job is to help balance the power between the sides

- That is hard when one side is a large government Ministry, and the other is a single parent or child. Parents may have to remind the mediator about that and how it feels for them
- Speak up clearly if the parents think the mediator is taking sides or acting unfairly in any way
- Parents should state their needs, opinions, and suggestions clearly and honestly. It's the mediator's job to help them do that
- They can ask to have a private session with the mediator at any time during the mediation process if they have concerns
- Parents should only agree to what is fair and fits the family

HOW DOES MEDIATION WORK?

Things to Keep in Mind

- Be willing to hear and understand the child protection worker's concerns
- At any point, the parents have the right to talk to a lawyer before making a final decision
 - The parents may be able to have their lawyer come to the mediation (sometimes to wait in a separate space)
- Parents have the right to stop mediation if they find it's not working

CASE STUDY - FAMILY VIOLENCE & USING FLA TO RESOLVE MATTERS

Background

- Amy is your client. Amy and Jeff are married with three children
- Recently, they went through a tumultuous separation
- The police were called to the home during an instance where Jeff hit Amy in front of the children. Jeff had been drinking. The police officers alerted the Ministry. They also charged Jeff and put him on conditions not to contact Amy or be at the home
- The Ministry has protection concerns due to the children witnessing violence
- The Ministry's position is that unless Amy demonstrates she can protect the children, the children will be removed

CLIENT GOALS

Goals

- Demonstrate to the Ministry that Amy is willing to protect the children
- Amy wants to ensure that the children are not removed from her
- Amy wants to obtain some legal advice, but she has a limited budget

LEGAL AID

The Legal Services Society can provide the following types of referrals:

- CFCSA file
- FLA file, or
- Both
- If a client obtains only a CFCSA referral, the lawyer will still have 7 hours to work on an ancillary FLA application
- Parents Legal Centre (PLC) is Legal Aid first referral for CFCSA.

DOESN'T QUALIFY FOR A FULL LEGAL AID FILE

Alternatives

- **Family LawLINE**

- Those with low income experiencing a family law issue may be eligible for free legal advice over the telephone from a family lawyer. Call 604.408.2172 in Greater Vancouver; 1.866.577.2525 no charge, elsewhere in BC

- **Duty Counsel**

- Inquire with the Registry when Duty Counsel might be available in the area

- **Canadian Bar Association Lawyer Referral Service**

- Call 604.687.3221 or 1.800.663.1919. Once the area of law is determined the operator will provide the client with the name and telephone number of a lawyer in the geographical area. Clients are entitled to up to a half hour consultation for \$25 plus taxes

HOW CAN AN FLA APPLICATION HELP AMY?

Make the following applications under the FLA

- Supervised parenting time for Jeff
 - possible supervisors: Jeff's siblings/mother
- Condition that Jeff must abstain from alcohol in the 12 hours preceding and during all parenting time
- Protection Order:
 - Jeff not attend the home
 - Jeff may only communicate with Amy via text message for the purposes of discussing the children
 - Why is a Protection Order needed in an FLA order when there are police undertakings? Because Crown may decide to stay charges in the future, in which case the protection there may be lost

TIPS FOR THE APPLICATION

Some helpful tips

- If the matter is urgent, the client can prepare, along with the Application, a [Notice of Motion and an Affidavit](#)
- A request can be made that the matter is urgent, and the usual 30 day waiting period should not apply

EVIDENCE FOR FLA FILE

MCFD might ask your client to take steps to protect the Children

- But how does this translate to your client having evidence to present in the FLA file?

Suggestions

- Write the MCFD office team leader and the social worker. Ask for MCFD's written position on "whether or not the other parent's parenting time should be supervised"
- If there is a hearing, the social worker can be subpoenaed as a witness
- Provide copies of Applications/ Motions filed by client to MCFD (to establish client has tried to take steps)
- Request for access into the MCFD file – this is known as a disclosure request
- Request the Police file

OBTAINING MINISTRY DISCLOSURE FOR AN FLA FILE

If there is an ongoing FLA file, and your client is interested in using information contained in the CFCSA file to help the Judge determine issues, your client can **apply to the Court for the Ministry to disclose its file.**

The Disclosure Process

- Your client will need to file an Application and Notice of Motion under the FLA file for disclosure. **The Ministry's Victoria head office and opposing party must be served**
- A Ministry lawyer will contact your client with terms the Ministry is comfortable with:
 - For example, the Order will have set terms protecting the identity of informants, etc.
- If opposing party (the other parent) disagrees with disclosing the materials, all parties will have to appear before the Judge to explain why the disclosure is necessary and relevant to the triable issues in the FLA file & how that disclosure will be used

CASE STUDY — PARENT NEEDS REHAB

Background

- Wendy is a single mother with two children. She has struggled with depression for several years. Recently, she has been abusing prescription medication
- Recently, she came to the realization that she wants to change her life
- She really wants to go to rehab. The best program for her is a live-in treatment centre in Vancouver, and she needs someone to look after the children while she is gone for six weeks.

VOLUNTARY CARE AGREEMENT

Ministry might offer

- to place the child in foster care on a voluntary and temporary basis.
- In this case, parents sign a Voluntary Care Agreement with the Ministry.
 - A written agreement proposed when parents face a crisis that leaves parents temporarily unable to care for child at home.
- For example, sole parent who needs to enter the hospital or a treatment program.
- Worker makes sure situation meets the conditions for agreement and explores all other options first

VOLUNTARY CARE AGREEMENT

Contents of the Agreement

- Prepare plan for the earliest possible return and for any support the parents might need
- The initial term for least amount of time needed to recover from crisis.
 - Three months or less for children under five years old, and six months or less for older children.
- Agreement can be renewed for a limited number of months based on the age of the child involved.
- The Ministry's goal is to reunite children and families as soon as possible.
- If possible, parents contribute to the care of the child based on income

EXTENDED FAMILY PROGRAM

If a social worker takes the children from the home because the parent is temporarily unable to take care of them, that parent can ask the social worker to place them in the care of:

- a family member,
- a friend who has an important relationship with them, or
- someone who has a cultural or traditional connection to them

Instead of going into foster care the children will stay with someone they know

- The program's goal is to return the children to the parents when possible

EXTENDED FAMILY PROGRAM AGREEMENTS

An Extended Family Program Agreement:

- sets out the best way to meet the child's needs, and
- how long the child will stay with the caregiver.

Requires:

- social worker, caregiver and parent work as a team to come up with a plan for child's care. The plan will include the services and supports the child needs.

Parent must deal with the issues that led to them being unable to take care of the child. This is so that the Ministry can return the child when the agreement ends.

EXTENDED FAMILY PROGRAM AGREEMENTS

The social worker must screen the caregiver suggested

The social worker will:

- review the caregiver's CFCSA records;
- do a criminal record check;
- check personal references; and
- check their home.

THE LATEST: BILL 26

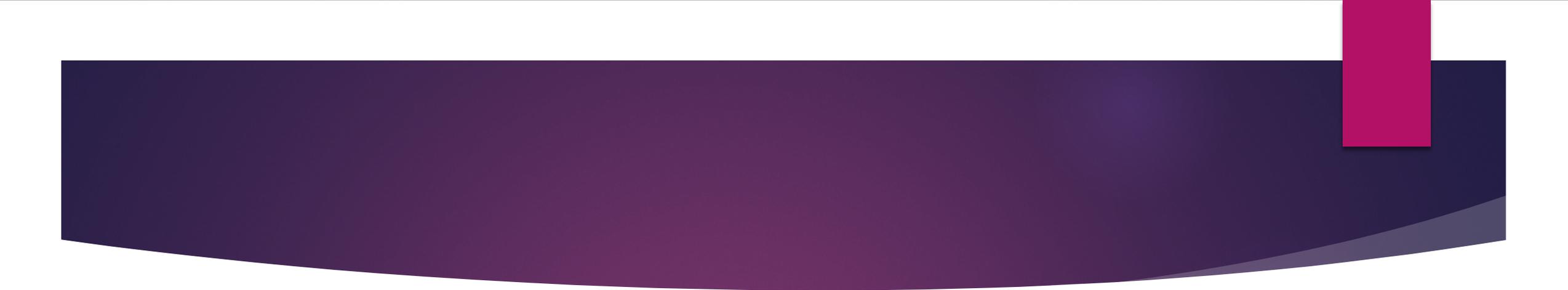
- This bill will give Indigenous communities greater involvement in child-welfare decisions to help keep their children out of care, safe in their home communities and connected to their cultures
- The previous law required the ministry to notify an Indigenous child's community after the child is removed. Now, the ministry can choose to involve the community earlier on, before a child is removed from their family
- Now when a child is removed, the Ministry can step back if the community and the parents can come up with a plan "that the Director considers adequate to protect the child."



Family law and protection orders

A PRESENTATION FOR COMMUNITY PARTNERS

(HAIDA GWAI, PRINCE RUPERT, TERRACE, KITIMAT, HAZELTON, AND SMITHERS)



I WOULD LIKE TO ACKNOWLEDGE THAT I AM PRESENTING
FROM AND RESIDE ON THE UNCEDED TERRITORY OF THE HAIDA
PEOPLE.

I AM GRATEFUL TO BE PRESENTING ON THESE ISSUES FROM THIS
TERRITORY AND I WILL ALSO ACKNOWLEDGE THE MANY OTHER
TERRITORIES THAT OUR ATTENDEES ARE LISTENING FROM.

Presentation Outline

- 1) How we as community partners can assist our clients that are faced with a family law issue
- 2) A brief review of some topics of note (selected by our participants)
- 3) Polling questions and some interesting cases throughout
- 4) Please feel free to ask questions and raise new topics

What are we talking about when we say “family law”?

- ▶ guardianship, parenting time, parenting responsibilities
- ▶ court or non court
- ▶ A stand-alone issue of family violence
- ▶ When the protection of a child through the Ministry of Children and Family Development or a designated agency is involved, this is separate from family law - however often these matters overlap
- ▶ Child support
- ▶ Spousal support
- ▶ Division of assets
- ▶ Exclusive occupation of the family home (on or off reserve)
- ▶ Divorce
- ▶ Appointment of guardian in the event of death

Case of Note – Crook v. Director of Child Family and Community Services

Father permitted his children to ride the bus alone.

MCFD told him not to do this and Father signed a safety plan.

Court of appeal found that MCFD can't make long standing orders about how parent's parent their children.

This decision of MCFD was an order and was not reasonable in the circumstances



Polling Question

TEST YOUR KNOWLEDGE OF FAMILY LAW

Where do I start in trying to help someone access family legal services?

- ▶ Many of our advocates are specifically trained in this area and generally deferring to the advocacy groups/nearest legal aid office is going to be your best starting point to get a proper referral or assistance.
- ▶ There are times where those groups aren't available or where they can't help.
- ▶ lawyers and advocates are trained to identify and recognize issues. If you have *some* knowledge of family law – it is best not to give that as advice to the people you are helping. Family law advice should only come from a lawyer or, in some cases someone supervised by a lawyer. The best thing you can do is assist someone in completing the instructions given by the lawyer or advocate.

You can start with the Local Services



Haida Gwaii Legal Project Society

Not family law advocates but can assist in making referrals on family law matter



Prince Rupert local agent office

Can assist with referrals to family law legal aid



Terrace Regional office

Full service legal aid office and parents legal centre (for CFCSA)

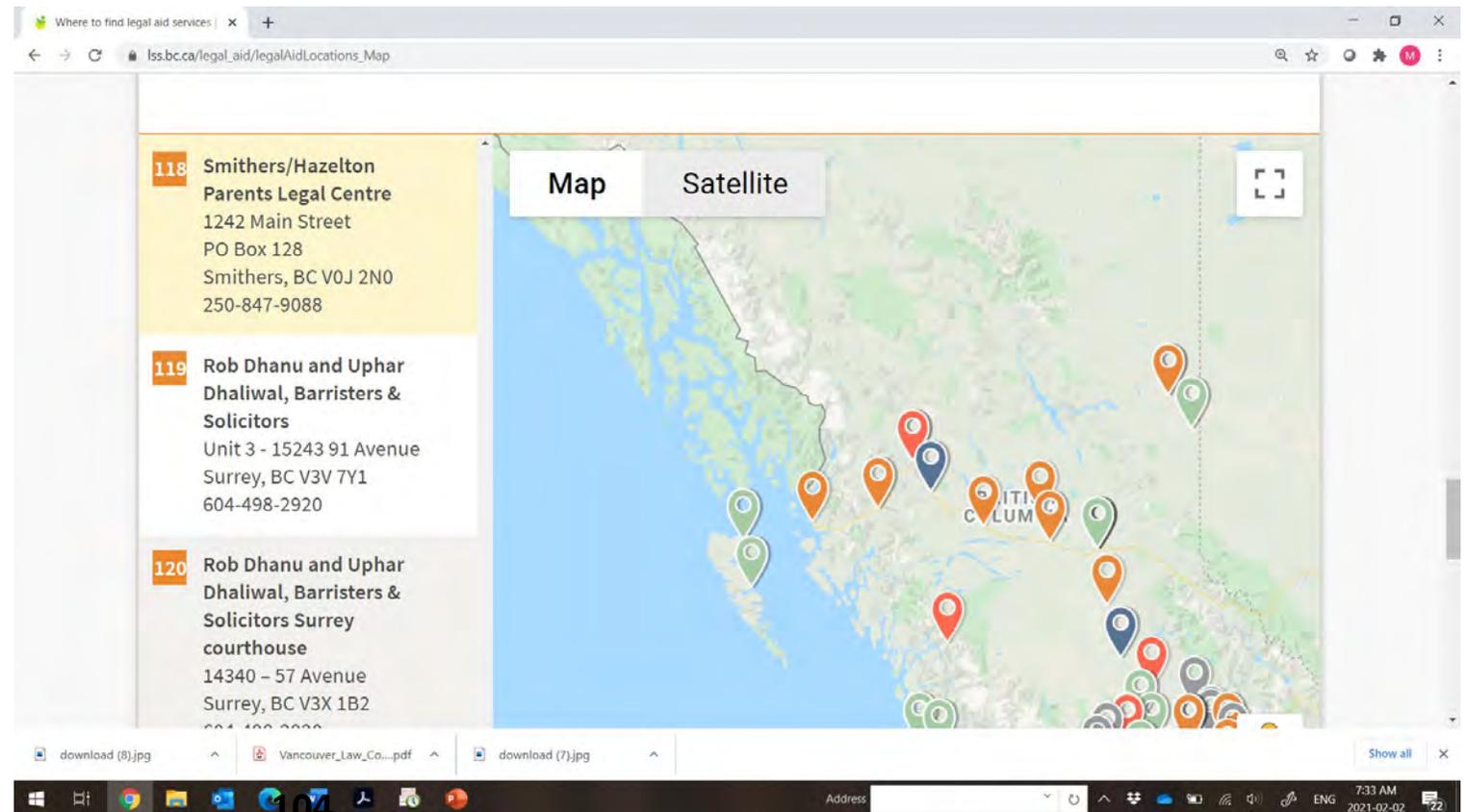
You can start with the Local Services

LEGAL SERVICES SOCIETY (LOCAL AGENT) SERVICES
LAW FOUNDATION SERVICES
U.S.C.L.A.S. PRIVATE SERVICES
[Click here for more information](#)

Upper Skeena
Counselling and
Legal Assistance

Local agent office

No family law advocates



Legal Aid Intake

When in doubt you can always contact the main legal aid number

604-601-6000

1-866-577-2525

Their starting point may be to refer the person you are trying to help to the Family Law Line

Family Law Line

- ▶ Often the quickest way for the person you are trying to help to speak with a lawyer.
- ▶ Even with the knowledge you have, the best thing you can do is to put this person in touch with a lawyer
- ▶ Benefits:
 - ▶ Its quick – client will be able to speak with a lawyer immediately
 - ▶ Lawyer can identify major limitation issues, give tasks for the person to complete
 - ▶ Lawyer can refer to legal aid
 - ▶ There are interpreters in any language possible
- ▶ Downsides
 - ▶ It is time limited
 - ▶ If the client doesn't have access to a computer, printer, email it can be hard for the lawyer and the client
 - ▶ It is more instructive: the lawyer will tell the client to do something
- ▶ How to make the best use of this program
 - ▶ If the lawyer tells the client to do something you as the person assisting the client can ensure they do the task

Other Services – non local



Society of Children and Youth of BC

Provides legal advice and representation to Children.



Rise Women's Legal Clinic

Assist women with family law matters. These are generally women that earn too much to qualify for Legal Aid.



Online Services

Courthouse websites

<https://lss.bc.ca/>

Courthouse library (research assistant)

Legal Aid – full or limited representation referral

- ▶ If the client can or could qualify for Legal Aid – **always** refer them to that service.
- ▶ This is by far the best service available for clients, it gives them a lawyer that can actually meet with them, attend court for them, etc.
- ▶ A client should be referred to this service even if it appears their legal issues are easily solvable.
- ▶ Full legal aid referrals – still time limited
- ▶ Limited referral (protection orders)
- ▶ Limited referral (other issues) – this is relatively new. It is meant to assist people that are outside of the income eligibility and outside of the “coverable issues”

Polling Question

TEST YOUR KNOWLEDGE OF FAMILY LAW

Polling Question

TEST YOUR KNOWLEDGE OF FAMILY LAW

Specific Issues in Family Law 1



Limitation Periods



Canada Child Benefit



Appointment of guardian on death

Specific Issues in Family Law 2



Protection Orders



New Court Rules



Covid 19 and the courts

Limitation Periods in Family Law

- ▶ *Advice on limitation periods should always come from a lawyer
- ▶ S.198 of the Family Law Act
 - ▶ 2 years to start claim for property division, pension division, spousal support from separation
 - ▶ Or 2 years from the date of divorce
 - ▶ Under the divorce act, these time limits don't apply
- ▶ S.147(4)
 - ▶ Child support from a step-parent
 - ▶ One year from the last time they supported the child

Limitation Periods in Family Law 2

- ▶ Michael v. Graydon 2020 SCC 24
 - ▶ Child support obligations arise upon a child's birth or the separation of their parents. Retroactive awards are a recognized way to enforce such pre-existing, free-standing obligations and to recover monies owed but yet unpaid. Such a debt is a continuing obligation which does not evaporate or fade into history upon a child's 18th or 19th birthday or their graduation from university."
 - ▶ allowing recipient parents to make claims for historical child support is in the best interests of children and promotes equality and access to justice for all."
- ▶ Suspended limitation periods (Covid 19)
 - ▶ Effectively for family court actions in Provincial court, Supreme, and the Court of Appeal the limitation to bring an action was suspended from March 26, 2020 to March 25, 2021.

Canada Child Benefit

- ▶ Formerly the Child Tax Benefit
- ▶ CRA is not bound by agreement or court order
- ▶ Don't split this on your own, that is tax fraud
- ▶ Interesting policies: You may get the CCB if you live with and care for a child under a kinship or close relationship program, as long as CSA are not payable for that child.
- ▶ Changes in custody can sometimes be temporary.
- ▶ Fortin v. The Queen 2014 TCC 2009

Form 2 Designation of Standby Guardian

Form 2 appointment of Standby or Testamentary Guardian is a regulation to the Family Law Act

This can and should be prepared for client's especially if they are the only guardian and especially if they don't think the other parent is capable of being the guardian

This form can be used in place of a will but actually the idea of "standby guardian" goes above and beyond what a will can do.

Protection Orders

- ▶ Lower level protection order is called a conduct order. S. 222, s.225 (communication), 226 (residence), s.227 (security)
- ▶ Why do we always consider these first? When a person breaches a protection order they can be charged criminally.
- ▶ With a conduct order, when breached a person can be subject to s.228 (fines)
- ▶ Occasionally it seems there is a reluctance from a court to make a protection order particularly without notice.
- ▶ That is why it is important to go through the process of safety planning and other options available to your client.

Protection Orders – 2

- Shocking how often breaches aren't reported, either because the complainant doesn't follow through or the RCMP isn't following through.
- The idea that the orders are only made for one year is extremely difficult on complainants 184 (4). Request them to be longer than a year – although again courts are reluctant to do this.
- What is your experience with protection orders?

Polling Question

TEST YOUR KNOWLEDGE OF FAMILY LAW

Polling Question

TEST YOUR KNOWLEDGE OF FAMILY LAW

New Provincial Family Court Rules

- ▶ Come into force May 17, 2021
- ▶ early resolution services through assessment, referral, education and in some cases, mediation, will help families resolve their disputes in a more sustainable and holistic way.
- ▶ New court forms have been redesigned to use plain language and a conversational, question-and-answer approach that will be easier for court users to use and understand.
- ▶ Wholistic approach. Early resolution identifies legal and non-legal needs and then makes referrals.
- ▶ Where appropriate dispute resolution with opposing party
- ▶ Family management conferences
- ▶ Simplifying the process for submitting consent orders, less signatures on forms, able to submit unsworn affidavits.



New Provincial Family Court Rules 2

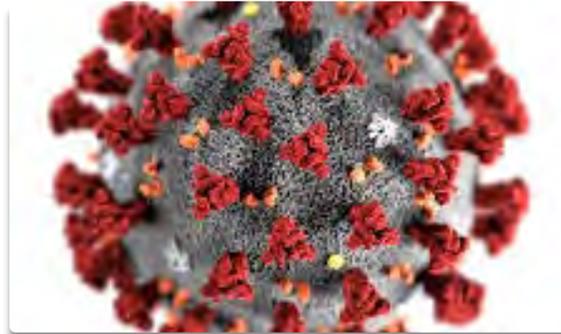
- Informal Trial 2022
- Acknowledging Children's rights
- Family Justice Managers could replace Family Court Judges for the purposes of Family Management Conferences

Covid cases of note



Buckman v. Wyckham

Dad living part time with new partner
Court ruled that they were not
breaching any of the provincial health
orders



Ribiero v. Wright

Earliest case in March, 2020



V.C.S. v.T.S.

Travelling to see Children during
pandemic

Legal Aid BC Updates & Resources

- Overview of Legal Aid BC Intake and services (Video) <https://youtu.be/mYgYIPNzJSc>
- Overview of Legal Aid BC publications and resources (Video) <https://youtu.be/aOygwLNlmzA>
- Legal Aid BC current publication list <https://lss.bc.ca/publications>
- Form to request a new Customer Account to order multiple copies of free publications: <https://lss.bc.ca/publications/signup.php>



Working With Legal Aid BC Intake



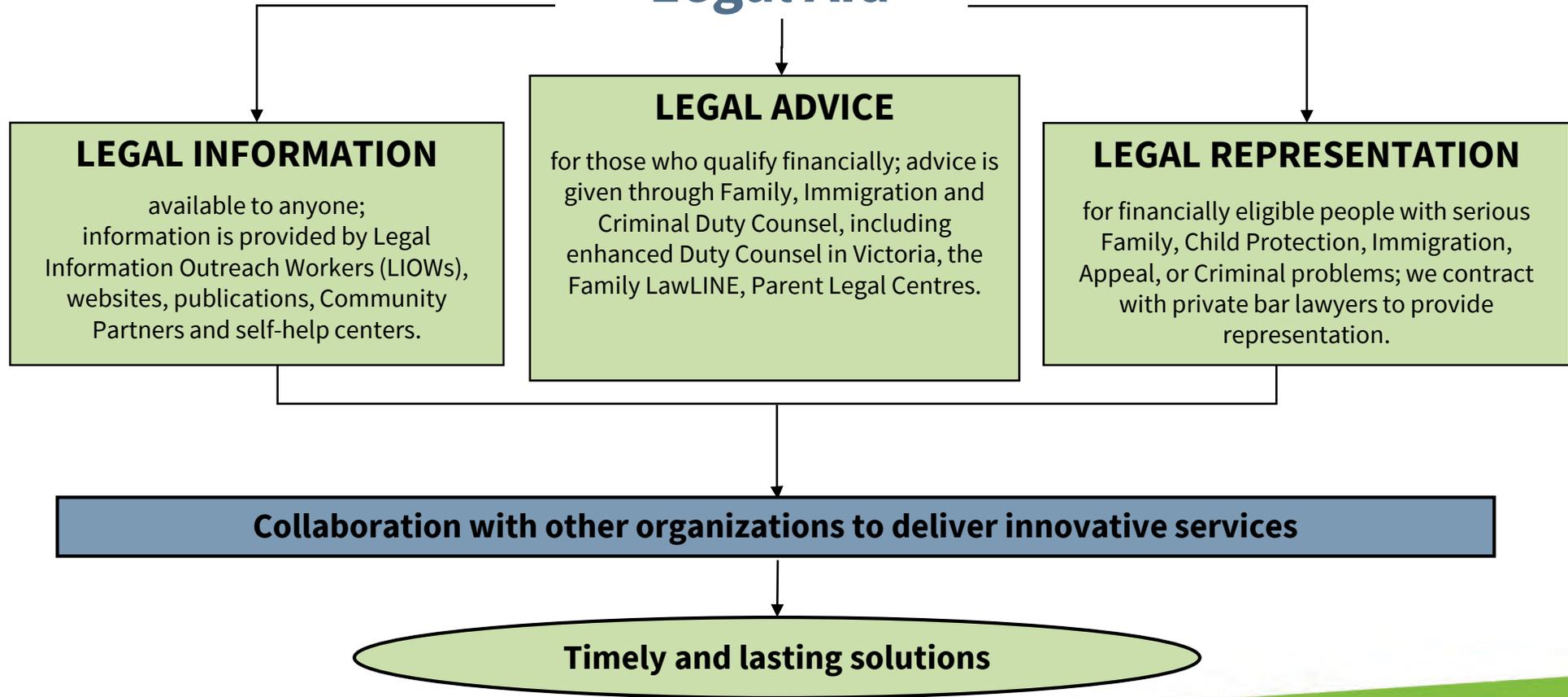
Deneen, Provincial Supervisors, Legal Aid Applications
February, 2021

Legal Aid BC
Support when you need it



Services Overview

Legal Aid



Community Partners

We have 26 community partners providing services in 33 communities around the province.

Clients can:

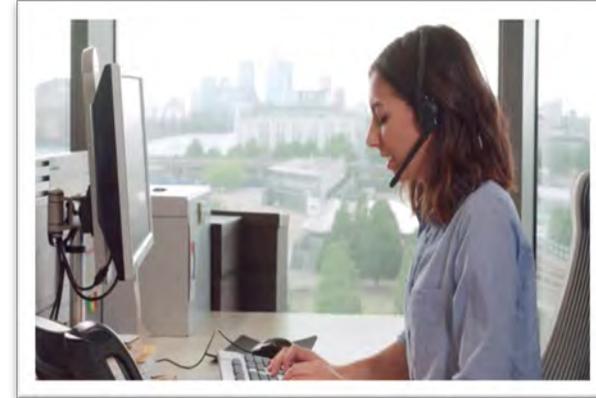
- get free legal information;
- call Legal Aid;
- find nearest Legal Aid office;
- get legal help online; and
- connect with people who can help.



Legal Advice

Family LawLINE

The Family Law Line is staffed by lawyers who give legal advice over the telephone for Family Law and Child Protection issues.



Duty Counsel

Duty Counsel provides in-person legal advice in the following areas of law:

- Immigration Law (if in detention)
- Family/Child Protection Law
- Criminal Law



Parents Legal Centre (PLC)

Locations and Geographical Areas they cover

PLC	Geographical Location
Campbell River	Campbell River, Courtenay, Port Alberni, Port Hardy
Duncan	Duncan, Nanaimo
Kamloops	Kamloops, Clearwater, Lillooet, Merritt
Prince George	Prince George, Fort St. James, Quesnel, Vanderhoof
Smithers/Hazelton	Smithers, Hazelton, Burns Lake, Houston
Surrey	Surrey
Terrace	Terrace, Kitimat, Prince Rupert
Vancouver	Vancouver
Victoria	Victoria, Colwood
Williams Lake	Williams Lake, 100 Mile House

We have 10 PLCs across the Province, who deal with clients in the city they are located in, as well as other geographical locations.



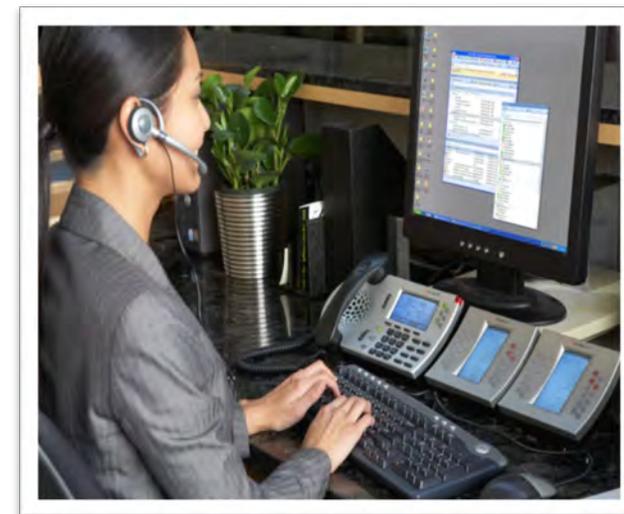
Applying for Legal Aid

In Person or Over the Phone

Come into one of our 33 **Legal Aid offices** to apply for legal aid and to obtain legal information. Contact information is available on our website www.legalaid.bc.ca. *Cranbrook and Nelson offices are currently closed.*

Call the **Legal Aid BC Provincial Call Centre** at 604-408-2172 in Greater Vancouver or 1-866-577-2525 (toll free).

Clients applying for Immigration matters can call the Legal Aid BC **Immigration Line** at 604-601-6076 or 1-888-601-6076 (toll free).



We also have a designated line for clients who are in custody.



What Legal Problems Are Eligible For Coverage?



Clients applying for legal aid must qualify both financially and their legal issue must be something we cover.

Criminal

- We provide Standard Contracts where charges are serious and there is a likelihood of jail.
- **Criminal Early Resolution Contracts (CERC's)** - Where there is no likelihood of jail, or the client is over our Standard financial guidelines but within \$1,000 of our standard financial guidelines, or both. In the past, if clients did not have a likelihood of jail or were over our Standard financial guidelines, they would have been refused.
- Exceptions to the “likelihood of jail” rule.

Family Law

Serious family situations (Standard Coverage) regarding parenting issues (guardianship, parenting arrangements or custody/access), protection orders, child support, and more, depending on the issues. And the issues need to be addressed immediately to ensure the safety of the children and/or the client, as well as the parent/child bond. There are exceptions to these guidelines, that we can address under what we call an Exception Review.

For clients that don't fit within the above guidelines we now have **Limited Representation Contracts** that provide support for issues that we don't consider as serious or urgent as our Standard coverage guidelines. Like Criminal, clients approved for this service would have been refused in the past.



CFCSA (Child Protection and Removal)

Where the Ministry of Children and Family Development (MCFD) or a Designated Agency has removed a child(ren) or where there is a risk or **threat** of a child(ren) being removed. This could also include custody and/or access issues arising from a child in care.



Reciprocals - Where the client lives in one province and their Family or CFCSA matter is in another province.



Immigration - Where the client wants to make a claim for refugee status or where the client faces an immigration proceeding that may result in their removal from Canada.

Call Centre Immigration Line:
604-601-6076 for 1-888-601-6076



Financial Eligibility

Representation Income Chart (Monthly Net Income)

Household Size	Standard Cases	CFCSA, CERC's & Limited Rep's.
1	\$1,660	\$2,660
2	\$2,320	\$3,320
3	\$2,990	\$3,990
4	\$3,650	\$4,650
5	\$4,310	\$5,310
6	\$4,980	\$5,980
7 or more	\$5,640	\$6,640

Effective: April 1, 2020



Financial Eligibility

Personal Property (All case types)

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

Effective: April 1, 2020



Financial Eligibility

Legal Advice Guidelines

Household Size	Monthly Net Income
1 - 4	\$3,650
5	\$4,320
6	\$5,010
7 or more	\$5,670

Effective: April 1, 2020



Financial Discretionary Coverage

Legal Representation – Criminal, Family, Immigration, and Appeal Cases

- A file can be sent for a **Discretionary Coverage Review** if an applicant is over the financial eligibility guidelines on income by approximately \$100 – \$200 for **Criminal** (if a client has a Trial or Pre-Trial set and wouldn't qualify for a CERC), **Family** (if a client's issues are coverable under our Standard guidelines), **Immigration**, and **Appeal cases**, or on assets by \$500 for all areas of law, including CFCSA cases, and the matter is a serious and complex case and there is available budget.
- There is no Income Discretionary Coverage Reviews on CFCSA cases as all CFCSA clients are already allowed an additional \$1,000 per month for income.



Requesting a Review of a Denial of Legal Aid

A client can request a review of a denial for legal aid

- This request must be in writing.
- The client should state why they disagree with the denial and explain why they believe they should get legal aid.
- The client should include any supporting documents.

Coverage and **Financial Eligibility** Reviews must be submitted within **30 days** of the denial of legal aid to:



Provincial Supervisor
Vancouver Regional Centre
425 – 510 Burrard Street
Vancouver, BC V6C 3A8
Fax: 604-682-0787

Email: provincialsupervisors@legalaid.bc.ca

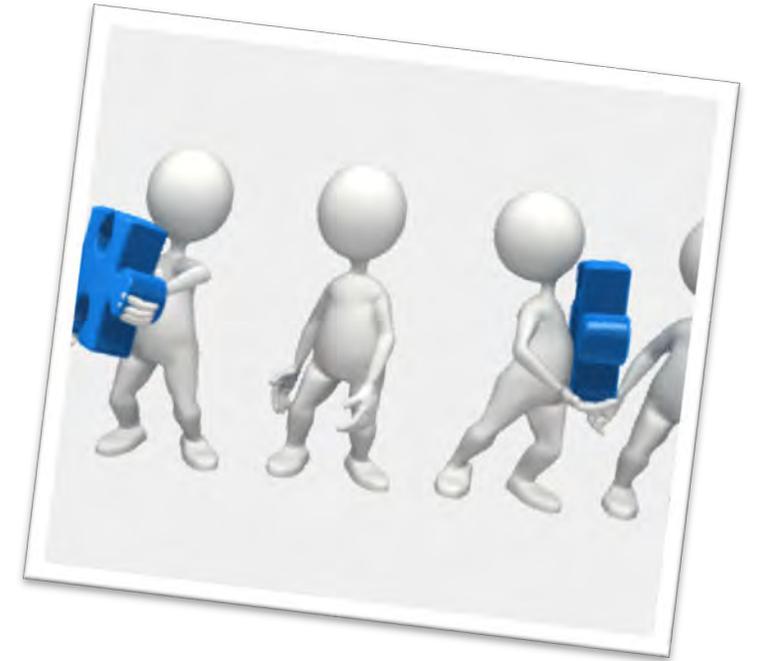
Legal Aid BC



Working Together

Hopefully this presentation was beneficial and will assist you in helping your clients:

- Understand the intake process
- Prepare for the interview
- Organize documentation
- Make sure they follow up on the status of their file and provide Intake staff with requested information

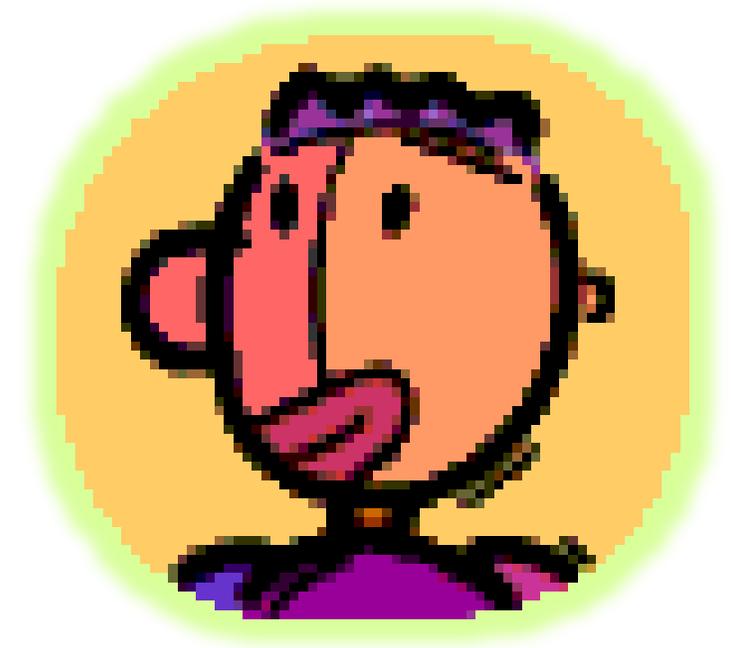


Presenter: Deneen
Provincial Supervisor, Legal Aid Applications

Phone: 604-601-6217

Fax: 604-682-0787

E-Mail: deneen.vancouver@legalaid.bc.ca



Overview of Legal Aid BC Coverage Guidelines

Criminal Coverage Guidelines

General

To qualify for legal representation, an applicant must:

- ❖ be financially eligible, except for specified exceptions, and
- ❖ have a Criminal law problem covered by the Criminal Coverage guidelines.

An applicant is covered for Standard Coverage if he or she:

- ❖ faces a Criminal proceeding,
- ❖ is charged with a Criminal offence, and
- ❖ if convicted, faces a risk of jail (includes house arrest).

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal representation.

Exception

If an applicant has been charged with spousal assault (summary or indictable offence) where:

- ❖ there's no risk of jail if convicted,

AND

- ❖ they have a contract for a Family or CFCSA issue that might be negatively affected by the spousal assault charge,

the file is sent to the Provincial Supervisor, Legal Aid Applications, for an Exception Review (see "Exception Reviews Guidelines" on pages 10/11 at the end of this document).

Additional grounds for coverage

Less serious summary offences may be covered for adult applicants in very limited circumstances.

An applicant who does not necessarily face a risk of jail may be covered for a Standard Contract if he or she:

- ❖ faces a loss of livelihood upon conviction,
- ❖ has a mental or physical disability,
- ❖ faces Immigration complications that may result in deportation, or
- ❖ is charged with a Hunting and/or Fishing offence and who self-identifies as Aboriginal.

Criminal Early Resolution Contracts (CERC's)

Criminal Early Resolution Contracts (CERC's) provide non-trial resolution services, including summary advice and assistance to clients not eligible for a Standard Representation Contract. Criminal Early Resolution Contracts can be issued to any lawyer who takes Criminal law contracts.

Overview of Legal Aid BC Coverage Guidelines

An applicant may be covered if they:

- ❖ have a Criminal charge proceeding in Provincial or Supreme Court, and
- ❖ meet the expanded Eligibility guidelines for a Criminal Early Resolution Contract, which are over the Standard Criminal guidelines by \$1000 on net monthly income.

NOTE: The applicant doesn't need to face a risk of jail upon conviction to be eligible for a Criminal Early Resolution Contract (CERC).

A Criminal Early Resolution Contract:

- ❖ is a 6-month contract that focuses on resolution services but does not include going to trial,
- ❖ is eligible for Travel authorization, and
- ❖ is eligible for a change of counsel in limited circumstances. All change of counsel requests must be reviewed by a Provincial Supervisor.

An applicant **isn't** eligible for a Criminal Early Resolution Contract if:

- ❖ the applicant is a Youth,
- ❖ the applicant is detained in custody after a bail hearing,
- ❖ the applicant has a trial or preliminary hearing date set, or
- ❖ the applicant has an open Criminal Standard Representation Contract.

With a CERC contract, the lawyer will provide services to try to achieve early resolution of cases, such as:

- ❖ meeting with the client and reviewing Particulars,
- ❖ providing summary advice including procedural advice on self-represented trials,
- ❖ determining if resolution should be pursued,
- ❖ engaging with Crown to seek non-trial resolution,
- ❖ appearing in court for disposition/resolution as appropriate, and
- ❖ if not suited for resolution, terminate service with direction to the client on next steps to self-represent.

NOTE: Criminal Early Resolution Contracts do not allow for representation at trials or preliminary hearings.

Aboriginal hunting and fishing rights

An applicant is covered for a Standard Contract if:

- ❖ they are Aboriginal, and
- ❖ the alleged offence:
 - occurred in a geographic area the applicant claims is his or her traditional territory, or
 - involves a traditional right; or
 - occurred outside the applicant's traditional territory, but involves the exercise of an existing Aboriginal right extended to the individual by:
 - a traditional Aboriginal law or custom,
 - a Band bylaw, or
 - Aboriginal government legislation.
- ❖ the applicant does not have to face a risk of jail if convicted.

NOTE: If a client does not qualify financially for legal aid they may be able to go to court and make a "Rowbotham" application. Before a client can apply for a "Rowbotham" application the client must apply for legal aid. They must be refused by the Legal Aid BC intake worker, then they must ask, in writing, for that decision to be reviewed. If the review is also denied, the client will be sent a letter along with our booklet "If You Can't Get Legal Aid for Your Criminal Trial" or a link to the booklet, which explains how to apply to the courts for a court appointed lawyer to assist them with their matter.

Overview of Legal Aid BC Coverage Guidelines

Youths

Anyone under the age of 18 is covered for a Standard Contract for all Criminal Code and other charges under Federal legislation (such as drug charges). They do not have to be financially eligible or meet Legal Aid BC Criminal coverage guidelines.

Youths under age 18 charged with Provincial offences, such as Motor Vehicle Act offences, offences under the Schools Act, etc., must be financially eligible and the case must meet criminal coverage guidelines.

Over age 18, facing Youth Criminal Justice Act charges

Applicants over the age of 18 who face Youth Criminal Justice Act charges are covered under our Youth Coverage guidelines until the end of the case.

Exception

Youths who are temporary or permanent wards of the Ministry of Children and Family Development (MCFD) are not eligible for legal aid representation. In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

Family coverage

General

To qualify for legal aid representation, an applicant must:

- ❖ be financially eligible, and
- ❖ have a Family law problem covered by the Family Coverage guidelines who:
 - need an initial, or a change to the current, guardianship or parenting arrangement order if there is a risk of harm or violence to the client or their child or children;
 - have guardianship/custody of a child/children who have been unlawfully held by the access parent/party;
 - have been permanently or repeatedly denied contact or parenting time with a child;
 - need a Family law protection order or other legal assistance to protect themselves or their children from harm or violence;
 - need an order to prevent the other parent from permanently relocating their child or children out of the Province. The threat must be real and imminent, and involve a permanent change of residence;
 - is a respondent in a maintenance enforcement committal proceeding; or
- ❖ be eligible for coverage provided through the Exception Review process (see "Exception Reviews Guidelines" on pages 10/11 at the end of this document), or
- ❖ be eligible for Limited Representation.

Exception

Relocation within the province:

When the risk of relocation is within the province but is a significant distance from the applicant's home and/or would significantly impact one party's ability to have parenting time/access to their child(ren), the file can be sent for an Exception Review.

Overview of Legal Aid BC Coverage Guidelines

Who is covered?

When the legal issue involves children, an applicant must be:

- ❖ a parent,
- ❖ a member of the children's immediate or extended family,
- ❖ a relative or individual who has lived with the children in a parental or custodial relationship, or
- ❖ a member of the community who has a cultural or traditional responsibility towards the children.

An applicant, with or without children, may be eligible for legal aid if their physical safety is at risk.

An applicant who's in jail may qualify for legal representation. Application would be sent for an Exception Review.

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal aid representation.

Exception

Youth who are temporary or permanent wards of the Ministry of Children and Family Development (MCFD) are not eligible for legal aid representation. In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

Limited Representation Contracts

A client may be eligible for a Limited Representation contract when they don't meet the Coverage or Financial guidelines for a full representation (Family Standard) contract. They do not necessarily face a risk of harm or violence and have some ability to self-represent. These contracts are intended to provide clients with the assistance necessary to prepare for mediation, negotiate a settlement or represent themselves.

A Limited Representation contract:

- ❖ covers any Family law issue **except**:
 - Divorce (if it is the only issue);
 - Child Support (initial application and variations) if the recipient is on social assistance or the other party's income is under \$14,000; or
 - Spousal Support (initial application and variations) if the recipient is on social assistance or the other party's income is under \$20,000; or
 - Adoption.
- ❖ offers 8 hours of general preparation time to prepare court applications, provide legal advice, mediation support, and/or legal research and analysis; prepare and review documents; negotiate settlements including separation agreements;
- ❖ offers 3 hours to allow the lawyer to attend Provincial or Supreme court for case conferences or for brief uncontested hearings or speaking to Consent Orders, but not contested hearings or trials;
- ❖ must meet the expanded Eligibility guidelines for a Limited Representation contract, which are over the Standard Family guidelines by \$1,000 on net monthly income;
- ❖ is not eligible for Extended Family Services;
- ❖ is not eligible for Travel authorization (the lawyer must be local or willing to provide services remotely); and
- ❖ is not eligible for changes of counsel other than in exceptional circumstances (in such cases, request a change of counsel assessment by a Provincial Supervisor).

Overview of Legal Aid BC Coverage Guidelines

CFCSA

General

To qualify for legal representation, an applicant must:

- ❖ be financially eligible; and
- ❖ have a CFCSA problem covered by the CFCSA coverage guidelines.

An applicant must be:

- ❖ a parent, or
- ❖ a party to the proceeding who is a:
 - member of the children's immediate family,
 - relative or individual who has lived with the children in a parent or custodial relationship, or
 - member of the community who has a cultural or traditional responsibility towards the children.

Where an applicant is financially eligible and his or her children have been removed or are at risk of being removed, coverage is provided.

Where the child isn't born yet and there is a risk of removal at birth, coverage is provided.

Where the CFCSA director has filed an application to obtain a Continuing Custody Order (CCO), coverage is provided.

Where the client is the applicant or respondent to an application to cancel a CCO, or an applicant wanting to obtain access to his or her children after a CCO, coverage is discretionary.

Where the CFCSA Director has filed an application to permanently transfer custody of a child, who's in the temporary care or custody of a person other than the child's parent or MCFD, to a person other than the child's parent(s), coverage is provided.

Where the CFCSA Director has filed an application to permanently transfer custody of a child who's in the continuing care (CCO) of MCFD to a person other than the child's parent(s), and the director's application puts the parental relationship with the child at risk, coverage is discretionary.

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal representation.

NOTE: An applicant who's in jail and who is a parent or a party to the proceeding qualifies for legal representation, whether or not they're served with notice of the CFCSA proceeding.

Exception

Youth who are temporary or permanent wards of the Ministry of Children and Family Development (MCFD) are not eligible for legal aid representation. In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

Overview of Legal Aid BC Coverage Guidelines

Third party (non-parent) applicant who is not a party to the proceeding

An applicant may be covered if:

- ❖ they're:
 - the child's relative (such as sibling, grandparent, step-grandparent, aunt, uncle), or
 - a member of the child's community who has a cultural or traditional responsibility towards the child.
- AND:
 - they want to become a non-custodial or custodial caregiver for a child who is at risk of removal, has been removed, or is in the care MCFD.

An applicant is not covered if:

- ❖ there is a final CFCSA order regarding the child (there can be ongoing court proceedings, but no Continuing Custody Order or Permanent Transfer of Custody Order under s.54.01 or 54.1), or
- ❖ they only want access to a child who's in the care of MCFD.

If an applicant satisfies the guidelines above, the application is sent for an Exception Review.

NOTE: The decision to approve a representation contract for a Third Party applicant who is not a party to the proceeding is a discretionary decision made by the Manager, Family Law Services or their delegate.

NOTE: Clients making third party applications do not get sent to the Parents Legal Centres (PLC). If approved, the Intake staff issue the contract to Legal Aid BC's Tariff Bar.

Independent legal advice for a child or third party who may be receiving permanent custody of a child

An applicant isn't covered for independent legal advice for a child, or a third party who may be receiving permanent custody of a child with the consent of the Director of the Ministry of Children and Family Development (MCFD). Instead, MCFD has contracted with Legal Aid BC to provide an applicant with a lawyer's services. Legal Aid BC has a province-wide roster of lawyers who provide independent legal advice to:

- ❖ **children over 12** who are:
 - the subject of proposed consent orders, or
 - wards of MCFD, and are
 - consenting to adoption, or
 - being permanently transferred to the custody of a person who isn't their parent.

OR

- ❖ **third parties who may be receiving permanent custody of a child with MCFD's consent.**

The applicant must contact the child's social worker, who will arrange an appointment with a lawyer from the Legal Aid BC roster and provide that lawyer with a billing form.

NOTE: If a client does not qualify financially for legal aid they may be able to go to court and make a "JG" application. Before a client can apply for a "JG" application the client must apply for legal aid. They must be refused by the Legal Aid BC Intake worker, then they must ask, in writing, for that decision to be reviewed. If the review is also denied, the client will be sent a letter along with our booklet "If You Can't Get Legal Aid for Your Child Protection Case" or a link to the booklet, which explains how to apply to the courts for a court-appointed lawyer to assist them with their matter.

Choice of Indigenous Counsel for Indigenous Clients with Family or CFCSA Cases (Pilot Project)

If an Indigenous client with a Family or CFCSA case requests Indigenous counsel and no local Indigenous counsel is available, Legal Aid BC will try to find non-local Indigenous counsel who is available to accept the contract, and will pay this lawyer Travel costs.

Parents Legal Centres

A Parents Legal Centre (PLC) provides advice and limited representation services to parents facing child protection issues to support early, collaborative resolution outside of contested hearings. Legal Aid BC has 10 PLC's around the Province - in Campbell River, Duncan, Kamloops, Prince George, Smithers/Hazelton, Surrey, Terrace, Vancouver (at the Provincial Courthouse at Robson Square), Victoria, and Williams Lake. Each location, other than Surrey and Vancouver, also has other geographical locations that they service.

If a client:

- ❖ is a parent, or a party to the proceeding with whom the child resides and who stands in place of the child's parent or guardian, and
- ❖ has a child protection matter that is in or would be heard in Provincial Court in one of the cities the PLCs are located in, or in one of the geographical locations they cover, and
- ❖ meets the Financial Eligibility guidelines for a CFCSA Representation Contract.

Then the PLC will provide:

- ❖ information and advice on options for resolving child protection issues out-of-court;
- ❖ legal advice and representation, where appropriate, at collaborative processes such as mediation and Family case planning conferences;
- ❖ information and advice on court processes;
- ❖ legal advice and representation at uncontested hearings; and
- ❖ referrals to other services, including online resources and other public agencies.

All eligible applicants will be referred to the PLC instead of receiving a CFCSA representation contract under the *CFCSA Tariff*. If the issues cannot be resolved collaboratively and the applicant meets Coverage and Financial Eligibility guidelines for a CFCSA representation contract, Legal Aid BC may appoint a lawyer to complete the case.

NOTE: Clients making Third Party applications do not get sent to the Parents Legal Centres (PLC). If approved, the Legal Aid BC Intake staff issue contracts to Legal Aid BC's Tariff Bar.

Overview of Legal Aid BC Coverage Guidelines

Immigration Coverage Guidelines (Only the Vancouver Legal Aid office deals with Immigration cases)

General

To qualify for legal aid representation, an applicant must:

- ❖ be financially eligible, and
- ❖ have an Immigration law problem covered by the Legal Aid BC Immigration Coverage guidelines.

An applicant is covered if he or she:

- ❖ is making a refugee claim in Canada, or
- ❖ faces an Immigration proceeding and it could result in deportation from Canada to a country where his or her life is in danger or if he or she has other compelling reasons for not returning to his or her country.

Legal Aid BC screens Immigration cases for merit to determine whether the applicant has a reasonable chance of being successful in his or her case.

Refugee claims

Contracts for refugee and protected persons claims made in Canada include:

- ❖ preparation of a Basis of Claim form, and
- ❖ preparation for and representation at Refugee hearings before the Refugee Protection Division (RPD) of the Immigration and Refugee Board.

Other immigration cases

The following types of cases will be referred to the Legal Aid BC Judicial Appeals Section at the Vancouver Regional Centre. The Judicial Appeals Section screens these cases for merit and issues contracts if they determine that the applicant has a reasonable chance of being successful in his or her case:

- ❖ an appeal of a Refugee claim refusal to the Refugee Appeal Division;
- ❖ admissibility hearings before the Immigration and Refugee Board Adjudication Division;
- ❖ judicial Review applications to the Federal Court of Canada, and appeals to the Federal Court of Appeal or the Supreme Court of Canada to review an order of the Immigration and Refugee Board or an immigration officer;
- ❖ applications to stay a removal from Canada made to the Federal Court of Canada;
- ❖ applications to reopen or reinstate proceedings before the Immigration and Refugee Board;
- ❖ Permanent Resident (Landed Immigrant) deportation appeals to the Immigration Appeal Division (IAD) of the Immigration and Refugee Board;
- ❖ Pre-Removal Risk Assessment (PPRA) submissions to Citizenship and Immigration Canada;
- ❖ Humanitarian and Compassionate (H&C) submissions to Citizenship and Immigration Canada;
- ❖ applications by people detained by Immigration who cannot access duty counsel;
- ❖ applications by spouses or partners with [conditional permanent residence](#) who are leaving the relationship before the end of the two-year conditional cohabitation period; and
- ❖ Sponsorship appeals to the Immigration Appeal Division of the Immigration and Refugee Board where the applicant is in Canada and faces a risk of removal.

Overview of Legal Aid BC Coverage Guidelines

Family LawLINE

The Family LawLINE is a telephone advice service that provides brief next-step help for people representing themselves, as well as provides options for resolving legal issues outside of court, and referrals to online resources and other agencies. Clients with a Family law or CFCSA issue can access this service through the Legal Aid BC Provincial Call Centre, engage with a lawyer over the telephone, and share documents by email or fax. Lawyers work from their own offices across the Province and engage with clients through a free remote access telephone system.

The Family LawLINE will provide the following:

- ❖ Up to 6 hours of service for each current legal matter;
- ❖ Appointments so that one lawyer and client can work together throughout their legal matter;
- ❖ Interpreters if clients need services in languages other than English;
- ❖ Information and advice on court processes, both Provincial and Supreme Court;
- ❖ Information and advice on options for resolving legal issues out-of-court;
- ❖ Referrals to other services, including online resources and other public agencies;
- ❖ Assistance with preparing documents for court or other legal processes; and
- ❖ Coaching to help people who are representing themselves through all stages of court and other collaborative processes;
 - Coaching will help the client understand the law relevant to their particular case, make more effective court appearances, present evidence properly, prepare for negotiation and settlement, and use Public Legal Education and Information (PLEI) tools.

To qualify for the Family LawLINE service, a client must:

- ❖ Qualify financially
- ❖ Have an eligible Family law issue
- ❖ Not have a lawyer already working for them

To access the Family LawLINE service:

- ❖ To find out if a client is eligible for this service, they must call the Legal Aid BC Provincial Call Centre at 604-408-2172 (for Greater Vancouver) or toll free 1-866-577-2525 Monday to Friday from 9:00 am to 3:00 pm (Wednesday to 2:30 pm).

Expanded Family Duty Counsel (Victoria)

Expanded Family Duty Counsel at the Victoria Justice Access Centre (JAC) will provide up to six hours of service per legal matter, set appointments so that clients can work with the same lawyer throughout their legal matter, and introduce legal coaching to help clients represent themselves in court.

These services are in addition to regular Family Duty Counsel services (information and advice on Family law issues, court processes, and options for resolving legal issues outside of court; help with document preparation and preparation for court appearances; representation in court on brief uncontested issues; and referrals to online resources and other agencies).

Overview of Legal Aid BC Coverage Guidelines

Reciprocals

As of **September 4th 2018**, clients who wish to apply for legal aid Family/CFCSA services in another province may now apply to the corresponding province directly. This means that clients from other provinces may apply for services in BC directly and vice versa.

If a BC client is dealing with a matter in another province and they are unable to find contact information for that province they can contact the Legal Aid BC Provincial Call Centre at 1-866-577-2525 to get that information.

Each province will still have a Reciprocal Coordinator in case clients have trouble contacting the other provinces. Courtesy applications may be sent to the other provinces by the Reciprocal Coordinator in these cases. You may contact our Reciprocal Coordinator at reciprocity@lss.bc.ca to see if he can assist.

Exception Review Guidelines

Exception Review merit considerations for all cases:

The decision to approve a case on exception review is a discretionary decision made by a Provincial Supervisor, Legal Aid Applications, and is based on established guidelines, a merit test, and available budget.

Merit considerations include:

- ❖ the applicant's issue is significant;
- ❖ the outcome will benefit the applicant and/or his/her children if the case is successful;
- ❖ the applicant has a reasonable likelihood of success;
- ❖ a reasonable person of modest means would themselves pay to pursue the case;
- ❖ the applicant does not have other viable options, other than legal representation, to deal with the issue;
- and
- ❖ there is remaining LSS budget available to fund the case.

Family cases

An application dealing with a matter under the Family Law Act can be sent for an Exception Review if:

- ❖ the applicant has recently been denied extended family services (within the past year);
- ❖ the applicant has received prior contracts in relation to the same children or parties;
- ❖ the emergency services policy is unduly harsh in the particular circumstances of an applicant's case or the circumstances are unusual and complex;
- ❖ the applicant has a mental or physical disability and is unable to represent him or herself (there must be a significant barrier that will create an injustice if the applicant is not represented);
- ❖ a significant injustice can only be avoided by appointing counsel;
- ❖ the applicant is so traumatized by past abuse that he/she is unable to represent him/herself;
- ❖ there is references in court documents to sexual, physical, emotional abuse; or
- ❖ the applicant is the subject of litigation harassment.

Overview of Legal Aid BC Coverage Guidelines

Criminal cases

If a policy is unduly harsh in the particular circumstances of an applicant's case or the circumstances are unusual and complex.

If an applicant has been charged with spousal assault (summary or indictable offence) where:

- ❖ there is no risk of jail if convicted; and
- ❖ he or she has a contract for a Family or CFCSA issue that might be negatively affected by the spousal assault charge.

Discretionary Coverage

Criminal cases

If an applicant has a Trial or Preliminary Hearing set and is only marginally over the Financial Eligibility guidelines by up to \$200 on income or \$500 on assets, and it's a serious and complex case and there is available budget, the Intake worker can send the file for a Discretionary Coverage Review. However, if the case would be covered by a CERC because there's no Trial or Preliminary Hearing set yet, then the Intake worker would send a CERC to the client's lawyer instead of sending the matter for a Discretionary Coverage Review. If, after reviewing the file with the client, the lawyer feels the client should have a Standard Contract and go to Trial even though they are marginally over the Standard Criminal financial guidelines, they can send in a Conversion Request to the Provincial Supervisors, who will then determine if a Discretionary Coverage Review is appropriate. If so, the file will be forwarded to the Criminal Law Team for review.

Family cases

If an applicant is only marginally over the Financial Eligibility guidelines by up to \$200 on income or \$500 on assets, and the matter is serious and there is available budget, the Intake worker can send the file for a Discretionary Coverage Review.

Immigration and Appeal cases

If an applicant is only marginally over the Financial Eligibility guidelines by up to \$200 on income or \$500 on assets, and the matter is serious and there is available budget, the Intake worker can send the file for a Discretionary Coverage Review.

CFCSA and Parents Legal Centres

There is no Income Discretionary Coverage for CFCSA or Parents Legal Centre matters as the Financial Eligibility income guidelines for CFCSA and the Parents Legal Centres are already \$1,000 over our regular Financial Eligibility guidelines. There is Asset Discretionary Coverage for CFCSA files if the assets are up to \$500 over the Financial Eligibility guidelines for Assets. If a client is over the Financial Eligibility guidelines for CFCSA or the Parents Legal Centres, they are refused on the basis of financial eligibility and provided with a JG Application.

Overview of Legal Aid BC Coverage Guidelines

Denial of Legal Aid

If a client is denied legal aid they can request a review of the decision. They must submit a written request within 30 days of the date of the decision. They should state why they disagree with the refusal and explain why they believe they should get legal aid. They also need to include any documents that might support their request for a review.

The request for review can be sent to:

Provincial Supervisor, Legal Aid Applications
Legal Aid BC
Vancouver Regional Centre
400 – 510 Burrard Street
Vancouver, BC
V6C 3A8
Fax: 604-682-0787
Email: provincialsupervisors@lss.bc.ca

Legal Aid Print & Online Resources

Information and services to help navigate the legal system and solve legal issues

Legal Aid BC
Support when you need it



Outline

- Publications
- Websites
- Guided Pathways
- Getting updates from Legal Aid BC



How can you help people with legal information?



Recognize the legal issue



Find ways to stay out of court and resolve problems early



Find options for help

FREE

Publications

COVID-19: Legal Aid BC now takes... and the legal help you need.

- Overview
- Resources
- Client services
- Workshops & conferences
- Free publications
- Our newsletters
- Training videos

We're here helping COVID-19

We provide legal aid in... but not everyone can afford a lawyer. We can help you with your legal issue.

Apply by phone in your community.

Or call 1-866-577-2525 / 604-408-2172 (Greater Vancouver)

- Our locations
- Our services
- Our publications
- Contact us



LEGALAID.BC.CA

Legal Aid BC



Legal Aid Publication Readability

Level 1 — No legal knowledge is needed.

Publications are in clear language for people who don't know about the law

Level 2 — Some legal knowledge is helpful.

Publications for people who are comfortable reading and may have some legal knowledge

Level 3 — Some legal knowledge is needed.

Publications for people who are familiar with legal concepts

Abuse and Family Violence

Level 1



Level 2

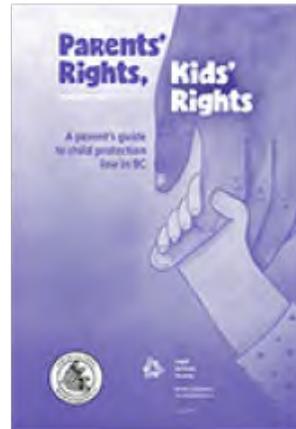


Child Protection

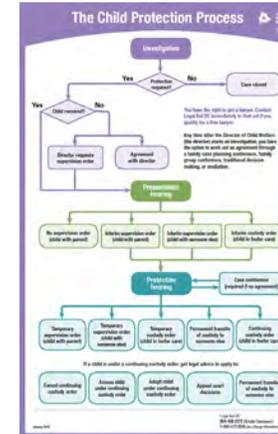
Level 1



Level 2



Level 3

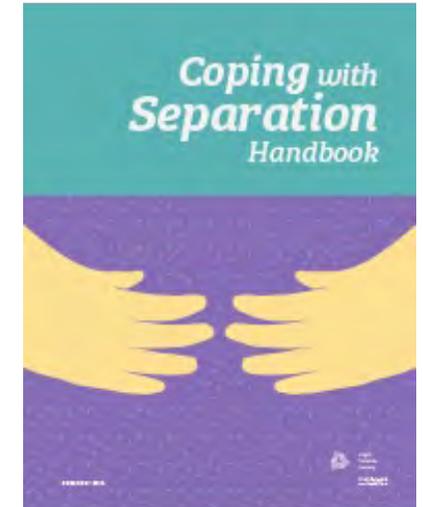
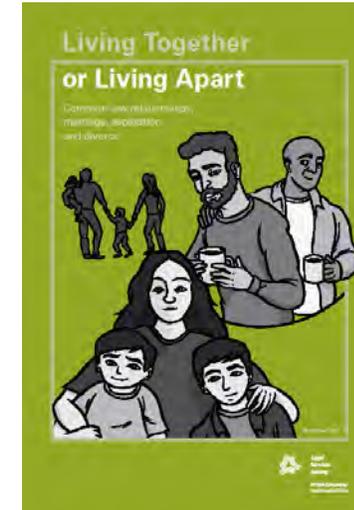


Family Law

Level 1

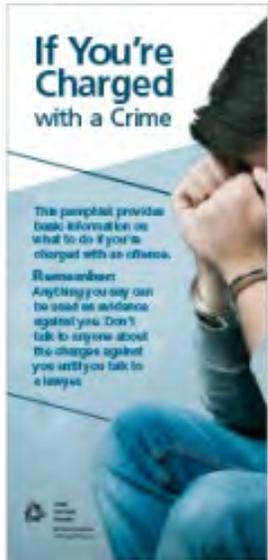


Level 2

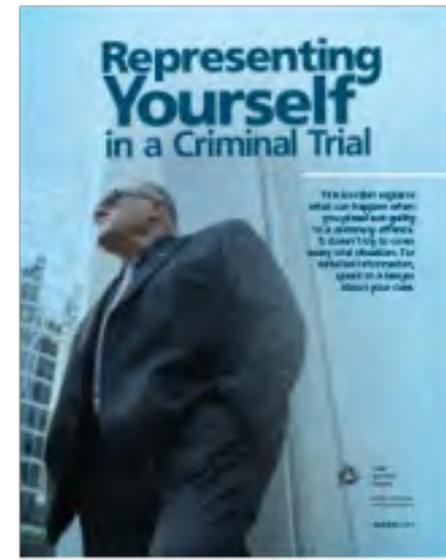


Criminal Law

Level 1

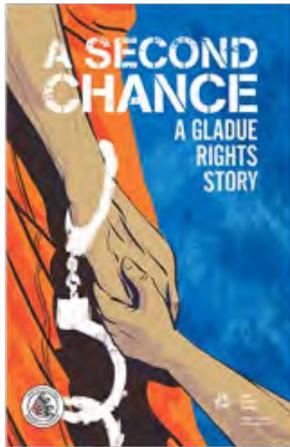


Level 2

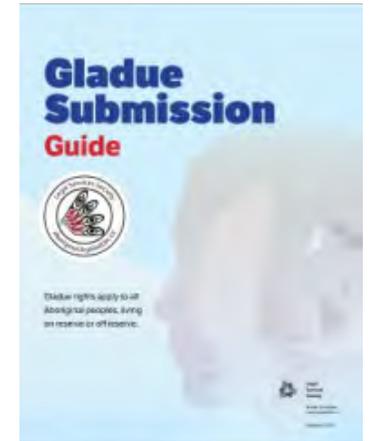
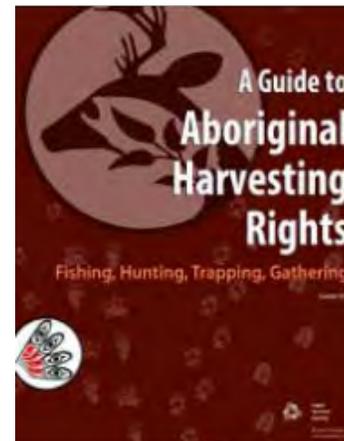
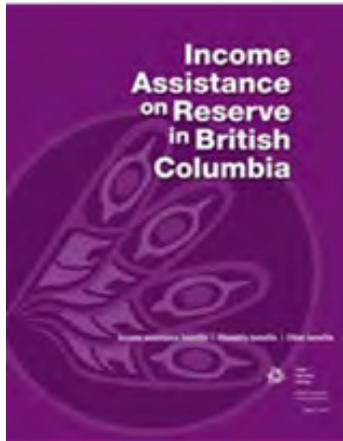


Indigenous & Reserve Law

Level 1



Level 2



We provide  legal aid in BC. The law is complicated, but not everyone can afford a lawyer. We can help you with your legal issue.

Apply by phone [in your community](#).

Or call 1-866-577-2525;604-408-2172 (Greater Vancouver)



Family



Children/MCF



Criminal



Immigration

 [Our services](#)

 [Our publications](#)

 [Contact us](#)



LEGALAID.BC.CA

Legal Aid BC



COVID-19: Legal Aid BC now takes... and the legal help you need.

- Overview
- Resources
- Client services
- Workshops & conferences
- Free publications
- Our newsletters
- Training videos

We're here helping COVID-19

We provide legal aid in... but not everyone can afford a lawyer. We can help you with your legal issue.

Apply by phone in your community.

Or call 1-866-577-2525 / 604-408-2172 (Greater Vancouver)

- Our locations
- Our services
- Our publications
- Contact us



LEGALAID.BC.CA

Legal Aid BC





Financial Statements in Provincial Court and BCSC (Nov. 3, 2020)

[1:33:07] Detailed information about how to complete financial statements in both the Provincial Court and BC Supreme Court.



Self Care: Understanding the value of boundaries for advocates (Nov. 23, 2020)

[1:37:49] A webinar focused on the connection between boundaries and self care and burn-out prevention.



Kinship Care and associated benefits (Nov. 19, 2020)



Prepping for Social Security Tribunal (SST) (Nov. 19, 2020)



LEGALAID.BC.CA





Animation ▶ PLAY ALL



1:14

Clear Skies Trailer

Legal Aid BC
132 views • 5 years ago
CC



15:02

Clear Skies

Legal Aid BC
1.9K views • 5 years ago



20:37

Emily's Choice

Legal Aid BC
1.2K views • 4 years ago



1:12

Emily's Choice Trailer

Legal Aid BC
231 views • 4 years ago

Popular uploads ▶ PLAY ALL



8:31

An Inside Look at Family Mediation

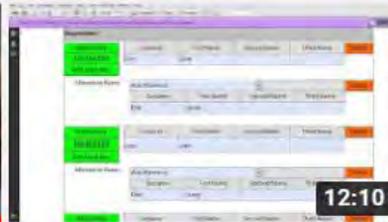
5.7K views • 7 years ago



4:31

Making Your Will with MyLawBC (Dec 2016)

4.5K views • 1 year ago



12:10

How to Use the New Supreme Court Family Forms

4.4K views • 9 years ago



5:26

Questioning witnesses in a BC Supreme Court trial

3.9K views • 5 years ago



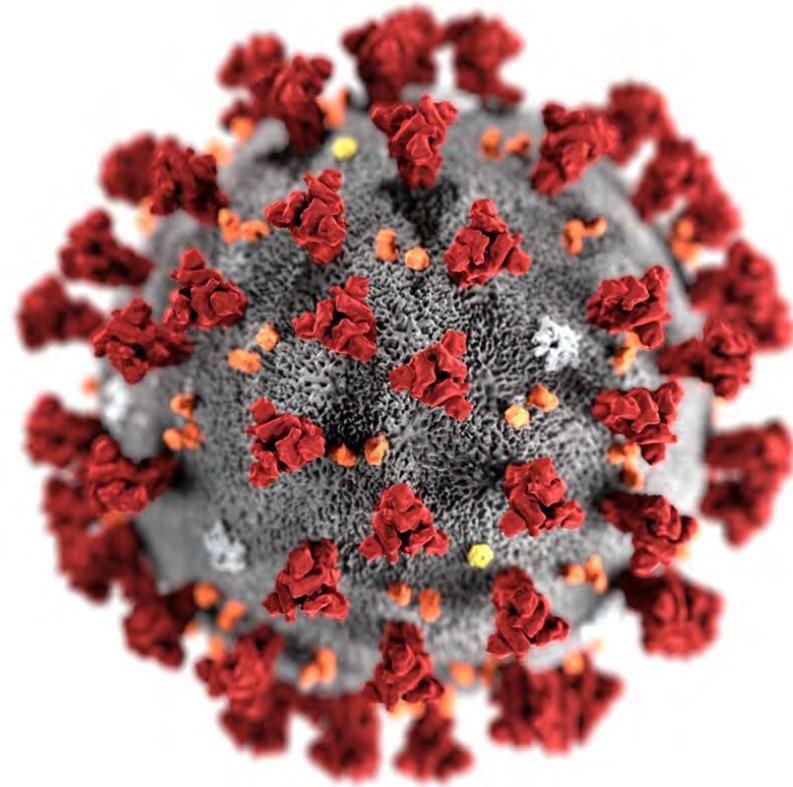
11:25

Needed for Divorce: Your Marriage Certificate

2.1K views • 9 years ago



COVID-19 UPDATES



Our other sites



MyLawBC

Quickly get a plan to help you resolve your legal problem.



Family Law in BC

Find complete information about family law, use self-help guides, and get the court forms you need.



Aboriginal Legal Aid in BC

Find out about your rights as an Aboriginal person in BC, and connect with the people who can help you.

Updates

LABC and Native Courtworker and Counselling Association of BC sign MOU

LABC signed a memorandum of understanding with the Native Courtworker and Counselling Association of British Columbia today to formalize their commitment to work together on Indigenous justice services initiatives.

 **News** December 17, 2020

Making connections that count

LABC's Intake staff were able to make a big impact on the life of someone who had a housing issue during the pandemic.

 **Stories** September 15, 2020

 **More news** →



COVID-19 and the [legal system](#). Your questions [answered](#).

Are you Aboriginal? Do you have a legal issue?
**Learn your rights and what
you can do.**



Aboriginal.legalaid.bc.ca



LIVED EXPERIENCES

- Using lived experiences to educate
- Videos
- Graphic novels



Clear Skies - A family violence story

Marnie and her kids live with family violence. But with the support of her community, and by learning about her legal options, Marnie is able to leave an abusive relationship. *Clear Skies* is Marnie's story.

[LEARN MORE >](#)





Anna, a young Aboriginal mother, tells how a Parents Legal Centre helped her to get her son back from ministry care. Find out [more information](#) about this video.

Child and family rights

Learn about your rights and what you can do to protect your children.

What do you need help with?



Has the ministry taken your children from your home?

Learn your rights and what you can do.

LEARN MORE >



Do you or your children feel unsafe at home?

Abuse is a crime. Get help to access safety for your family.

LEARN MORE >



Are you breaking up with the other parent of your children?

What to know about separation, divorce, and childcare.

LEARN MORE >



Parents Legal Centres can help keep your family together

Learn how to solve your child protection matters early.

LEARN MORE >





COVID-19 and the [legal system](#). Your questions [answered](#).



[Home](#) / [Courts & criminal cases](#)

Courts and criminal cases

Learn what you can do if you've been accused of a crime.

What do you need help with?



What is a healing plan?

Learn about sentencing other than jail and First Nations Court.

[LEARN MORE](#) >



Where are First Nations Courts?

BC has several First Nations Courts. Find the locations here.

[LEARN MORE](#) >



You have the right to harvest

Learn more about your rights to fish, trap, hunt, or gather.

[LEARN MORE](#) >



Legal issues on reserve

Some laws are different if you live on reserve.

What do you need help with?



Do you need help making ends meet?

You might qualify for income assistance. Find out more and how to apply.



How do wills and estates work on reserve?

What to do if a relative passes away on reserve.



Who's allowed to live in your home?

The laws have changed. Learn who's allowed to live in your home on reserve.





FamilyLaw ●

Legal help for people in BC



Familylaw.lss.bc.ca

Legal Aid BC



FAMILY LAW IN BC

- Divorce
- Parenting
- Support and finances
- Abuse and family violence
- Using the court system
- Related legal issues

LSS Family Law

Welcome to Family Law in BC
Find the answers to your family law issue

Separation & Divorce

If you're ending a marriage or common-law relationship, we can help you figure out what to do. You don't always have to go to court. Our step-by-step guides can help.

Children

Your child's wellbeing is what matters most. We can help you figure out parenting time and guardianship after separation or divorce. Has a social worker contacted you about your children? Learn your rights.

Finances & Support

It's important that your family stays financially secure after you've separated. Find out more about spousal or child support, and dividing property and debt.

Abuse & Family Violence

Abuse is never okay. If your partner's actions make you feel unsafe or controlled, you can get help.

BC Legal System

Confused by the BC legal system? We can help you understand the different courts, how to apply for or respond to a court order, and what forms you'll need.

GUIDES

- Step-by-step guides to complex legal processes
- Help people save time and money

Separation & Divorce

[Thinking about leaving?](#)

[Going through separation](#)

Getting a divorce

How do you get a divorce if your home country doesn't recognize your same-sex marriage?

[Getting a copy of your marriage certificate](#)

[Common questions about marriages, divorces, and annulments inside and outside Canada SHELL](#)

Do your own uncontested divorce

[Sole application for an uncontested divorce](#)

[Joint application for an uncontested divorce](#)

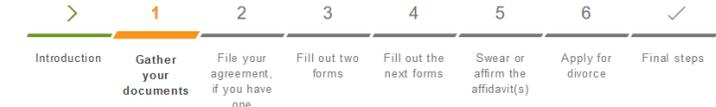
[Making mediation happen in a family law case in Supreme Court SHELL](#)

[What is the Online Divorce Assistant? SHELL](#)

[Common-law couples](#)

Joint application for an uncontested divorce

 Print |  Forms |  Glossary |  Email



Step 1: Gather your documents

You'll need

- The money to order your marriage certificate, if you need to
 - A translator to translate it into English, if you need to
- A copy of your separation agreement or court order(s)
- Your change of name certificate, if required

Your marriage certificate

To get a divorce, you need an original marriage certificate or registration of marriage. The court won't accept the certificate you received from the church or other venue where you got married.

If you got married:

- **in BC**, see [Marriage Certificates](#)  to find out what BC marriage certificates look like, and how to order one from the BC government's Vital Statistics Agency
- **in another province**, contact the office equivalent to Vital Statistics in that province (see [Vital Statistics contacts](#) )
- **in another country**, contact the office responsible for marriage records in the country where you were married

Ask to have your original marriage certificate or a certified copy sent to you. There is usually a fee for this service. In BC, it costs \$27 to order your marriage certificate from the [Vital Statistics Agency](#) .

[If you can't get a copy of your marriage certificate](#) 

[If your marriage certificate isn't in English](#) 

Your separation agreement or court order

You need your [separation agreement](#) or Provincial Court [order\(s\)](#) to show what you've agreed to or what the court has already ordered about [parenting](#), [child support](#), or spousal support.

You'll file your agreement with the Supreme Court to open a family law case.

 To make a separation agreement, contact a family justice counsellor, mediator, or family law lawyer for help. You can also use our step-by-step guide [Write your own separation agreement](#).

Quick Links

- [Go to the Online Divorce Assistant](#)

Wellness

Whatever you feel as you work through this guide is normal and okay.



My problem. My solution.

RESOLUTION TOOLS



Dialogue Tool

Mediation Tool



MyLawBC.com

Legal Aid BC



GUIDED PATHWAYS

- Answer questions about your situation
- Get a step-by-step plan to take action
- Only the info you need when you need it

The screenshot displays the MY LAW - BC website interface. At the top, there is a navigation bar with the text "RESOLUTION TOOLS" and two buttons: "Dialogue Tool" and "Mediation Tool". The main header features the MY LAW - BC logo and the tagline "My problem. My solution." Below this, a woman is shown smiling and holding a tablet. A prominent purple banner contains the text: "Get an action plan for your legal issue. Choose a pathway, answer questions, and get your action plan." The main content area includes a list of legal topics with right-pointing arrows: "Separation, divorce, & the law", "Abuse & family violence", "Missed mortgage payments", and "Wills & personal planning". To the right, there are three additional buttons: "Donate" (with a heart icon), "Our publications" (with a book icon), and "Our other sites" (with a dropdown arrow icon). The footer contains the page number "183" and navigation links for "HOME", "ABOUT US", and "DEVELOPED BY".

Guided pathways available

- Make a separation plan
- Get family orders
- I've been served with a court document
- Make a safety plan
- Find out if you can keep your home
- Make a will
- Plan for the future



ODR SERVICES

- Online dispute resolution
- Separation agreements
- Parenting plans
- Child support
- Free



Resolution services

Find the right resolution service for you.

Get help with your parenting and separation issues.

COVID-19: Legal Aid BC now takes **phone-only applications**. Your questions **answered**.



Remote Child Support Mediation

Change or make new child support agreements or orders with help from a professional mediator

Remote Child Support Mediation is for you if:

- your income has changed because of COVID-19 and you want to temporarily change your child support payments, or
- you and the other parent have separated and you need to make a child support agreement or order.

You and the other parent will get help from a professional family law mediator for up to five hours, at no cost to you, if one of you lives in BC.

Before you begin

In some unhealthy relationships, one person has more power than the other. This can affect how well you communicate and cooperate as you separate. And it can show up as abusive behaviours. **Your and your family's safety may be at risk.**

If you're worried about a power imbalance, go through our [Make a safety plan pathway](#) first.

OTHER RESOURCES

Get help with your parenting issues

Find professionals who can help

Our other sites

DIALOGUE TOOL

- Helps you make a separation agreement
- Platform for online negotiation
- Great for people who can work together



FAMILY RESOLUTION CENTRE

- Platform for creating parenting plans
- Work together for what's best for your children
- Get a free mediator to help



Select an option below.

Work with a free professional mediator if you need help.

Get started

Is this your first time here? Before you create an account or log in, you can get started by answering some questions about your situation to see if MyLawBC's Family Resolution Centre can help you.



Can the Family Resolution Centre help?

Find out if we can help you and the other parent make a parenting plan.

[Can I make a parenting plan?](#)

187

Make a parenting plan

Use the Family Resolution Centre to work with a free professional mediator to make a parenting plan.



Create an account

Not yet registered? Create an account first.

[Register](#)

[Terms of use](#)



Returning users

Already have an account? Log in to continue working on your parenting plan.

[Log in](#)

Who can use the Family Resolution Centre?

- Only deals with parenting issues
 - Doesn't include child support
- No financial eligibility requirements
- Screening for appropriateness for online mediation
 - No cases with family violence

FREE MEDIATION

- Uses the Family Resolution Centre platform
- Up to 5 hours of free mediation
- Qualified under the Family Law Act

The screenshot shows the MyLawBC website interface for Family Mediation. At the top, there is a navigation bar with 'RESOLUTION TOOLS' and two buttons: 'Dialogue Tool' and 'Mediation Tool'. The main header features the 'MY LAW - BC -' logo, the text 'My problem. My solution.', and the title 'Family Mediation' with the subtitle 'Work on your parenting plan'. Below this is a purple banner with the text 'Select an option below. Work with a free professional mediator if you need help.' The main content area is divided into two columns. The left column is titled 'Get started' and contains a paragraph: 'Is this your first time here? Before you create an account or log in, you can get started by answering some questions about your situation to see if MyLawBC's Family Resolution Centre can help you.' Below this is a circular image of a person at a computer, followed by the heading 'Can the Family Resolution Centre help?' and the text 'Find out if we can help you and the other parent make a parenting plan.' A button labeled 'Can I make a parenting plan?' is positioned below the text. The right column is titled 'Make a parenting plan' and contains the text: 'Use the Family Resolution Centre to work with a free professional mediator to make a parenting plan.' Below this is a heading 'Create an account' with the text 'Not yet registered? Create an account first.' and two buttons: 'Register' and 'Terms of use'. At the bottom of this column is a heading 'Returning users' with the text 'Already have an account? Log in to continue working on your parenting plan.' and a 'Log in' button.

RESOLUTION TOOLS Dialogue Tool Mediation Tool

MY LAW - BC -

My problem. My solution.

Family Mediation

Work on your parenting plan

Select an option below.

Work with a free professional mediator if you need help.

Get started

Is this your first time here? Before you create an account or log in, you can get started by answering some questions about your situation to see if MyLawBC's Family Resolution Centre can help you.



Can the Family Resolution Centre help?

Find out if we can help you and the other parent make a parenting plan.

Can I make a parenting plan?

189

Make a parenting plan

Use the Family Resolution Centre to work with a free professional mediator to make a parenting plan.



Create an account

Not yet registered? Create an account first.

Register Terms of use



Returning users

Already have an account? Log in to continue working on your parenting plan.

Log in

Why online mediation?

- Parenting issues are some of the hardest to resolve
- Help people who can't afford these services
- Mediation helps preserve relationships
- Reduce stress for users

REMOTE CHILD SUPPORT MEDIATION

- Remote mediation for child support issues
- Up to 5 hours of free mediation
- For parents who've had income affected by COVID or who have just split up

The screenshot shows the Legal Aid BC website interface. At the top left, the 'Legal Aid BC' logo is visible. In the center, there is a circular logo with the text 'MY LAW - BC -'. Below this, the slogan 'My problem. My solution.' is displayed. On the right side, the text 'Remote Child Support Mediation' is prominently featured. A dark purple banner across the middle contains the text 'Select an option below.' and 'Work with a free professional mediator to change or make new child support orders.' Below this banner, a light pink bar contains the text 'Coronavirus: Legal Aid BC now takes phone-only applications. Your questions answered.' The main content area is divided into two columns. The left column is titled 'Change your child support agreement or order' and lists three conditions for getting a free professional mediator: 1) 'Your or the other parent's income has changed because of COVID-19', 2) 'You want to change your child support payments temporarily', and 3) 'You and the other parent want a mediator's help'. Below these conditions, the number '191' is displayed, followed by the text 'If you're not sure how to approach the other parent, the mediator will help you.' The right column is titled 'Get started' and features an icon of an envelope with a checkmark inside, indicating a successful action or confirmation.

Legal Aid BC

RESOLUTION SERVICES

Find the service for you

MY LAW - BC -

My problem. My solution.

Remote Child Support Mediation

Select an option below.

Work with a free professional mediator to change or make new child support orders.

Coronavirus: Legal Aid BC now takes **phone-only applications**. Your questions **answered**.

Change your child support agreement or order

Get a free professional mediator if:

- Your or the other parent's income has changed because of COVID-19
- You want to change your child support payments temporarily
- You and the other parent want a mediator's help

191

If you're not sure how to approach the other parent, the mediator will help you.

Get started



THANK YOU

adam.fraser@legalaid.bc.ca



Legal Aid BC





Understanding Gladue & Gladue Principles

Joleen Steininger
Gladue Coordinator (on contract)
Legal Aid BC
February 4, 2021



What Is Gladue?

- ▶ In 1995 Jamie Gladue, a young Indigenous woman was celebrating her 19th birthday. She suspected that her common-law husband was cheating on her. She fatally stabbed him.
- ▶ In 1997 she plead guilty to manslaughter and was sentenced to 3 years jail.
- ▶ She appealed the matter in BC Court of Appeal which was further appealed to the Supreme Court of Canada.
- ▶ In 1999 the Supreme Court of Canada dismissed the appeal but agreed that the lower courts failed to consider her Indigenous history at sentencing.



The Criminal Code of Canada

718.2 A court that imposes a sentence shall also take into consideration the following principles:

- (e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, **with particular attention to the circumstances of Aboriginal offenders.**



Why does it matter?

- ▶ **Unique circumstances → Unique approach**
- ▶ Statistics Canada:
 - ▶ 2007-2008 Indigenous people accounted for 20% of all people in custody in Canada (2006 total Indigenous population in Canada was 3.8%)
 - ▶ 2017-2018 Indigenous people accounted for 32% of all people in custody in Canada (2016 total Indigenous population in Canada was 4.9%)
- ▶ Statistics show that simply sending Indigenous people to jail doesn't work. Considering their unique circumstances and tailoring a unique approach has better results.



Gladue Factors

Unique circumstances = Gladue factors

What are some Gladue factors?

- ▶ Lower employment and education
- ▶ Higher incidence of drug and alcohol dependency
- ▶ Children removed from the care of their parents
- ▶ Racism



Making the Connection

- ▶ How to consider an Indigenous person's unique circumstances:
 - ▶ A Pre-sentence Report written by a Probation Officer
 - ▶ An oral Gladue submission made in court by a lawyer, courtworker, advocate or the defendant
 - ▶ A written Gladue report



How the Connection Is Made

Over the course of preparing this report, a number of Gladue factors became apparent, including that:

- ▶ George is a member of the Meadow River First Nation.
- ▶ He has expressed a willingness to address the underlying factors that have contributed to matters before the court
- ▶ George is an Indigenous offender who attended Indian Residential School, which requires a consideration of available rehabilitation and reintegration.



How the Connection Is Made

- ▶ A number of adverse Gladue factors that affect Indigenous people in general are present in George's personal life, including:
 - ▶ **Forced attendance (for him personally and for family members, including his father and siblings) in the Indian Residential School system.**
 - ▶ **Sexual abuse** (George reported that he was sexually abused at the residential school and while living with his grandparents)
 - ▶ **Witnessing alcohol abuse** (George and his sister experienced alcohol abuse by their parents and grandparents as young children)
 - ▶ **Death of close family members** (George reported that he lost four family members to suicide as a result of alcohol abuse)



How the Connection Is Made

- ▶ **Familial dislocation:** George and his sister Jackie both reported that they had no stability and structure during their formative years, as their parents abused alcohol at home and George took care of the younger siblings
- ▶ **Substance abuse:** George started abusing alcohol at the age of 15 and continued for 40 years; he reported that he witnessed alcohol abuse in the home at an early age, leading him to believe that drinking was a normal way of life.
- ▶ **Low educational achievement:** George dropped out of school at the grade 8 level.
- ▶ **Social issues affecting his home community:** Elder Harris reported that child molestation is a huge issue in the community.



How the Connection Is Made

- ▶ **Background**: Indigenous man who is connected to his cultural and practices. Lives in Fort St. John, has two daughters and a wife. He is close to his wife, children and his sister. He provides for his family and some Elders in the community.
- ▶ Identified some of his challenges as:
 - ▶ Witnessing alcohol abuse as a child;
 - ▶ Personal alcohol abuse;
 - ▶ Trauma (personally and within the family);
 - ▶ Attendance at Residential School



Options for the Court

- ▶ **North Winds Wellness Centre:** 45 day culturally based residential treatment program located north of Dawson Creek. Includes Indigenous ceremonies and traditional culture each day. Incorporates individual and group counselling to deal with trauma and addictions;
- ▶ **Fort St. John Friendship Society:** Offers an Addictions Counsellor that provides client centred, confidential assessments, one on one counselling and referral services to individuals and families concerned with the effects of alcohol/drugs in their lives.
- ▶ **Sentencing circle:** An Elder in his community offered to arrange a circle where the victim and the family members would meet. This would allow George to address the community and deal harm that he has caused.



Options for the Court

Indigenous Legal Traditions

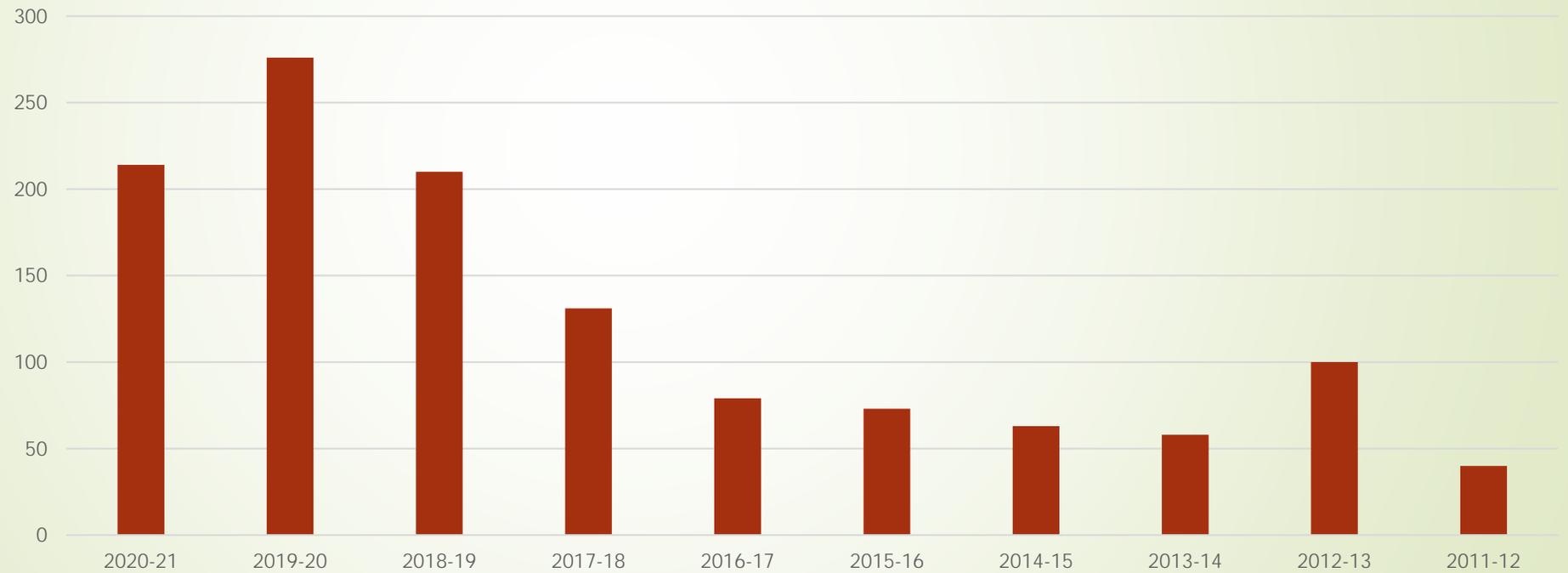
Cree legal principles were considered in a Gladue report (R v Kawapit):

“The participants, all Crees, wish to promote an holistic approach which is part of their cultural heritage in their response to crime:

- The response to crime should encourage the restoration balance;
- The rehabilitation of the offender and rebuilding his links with the community are vital;
- Reparation to the community and victim is essential;
- The objective of dissuasion is more likely to be achieved through a process such as the Circle, where the individual has to face the people affected by his actions, be accountable, be active in finding ways to repair the damage he has done and ways to prevent such event to reoccur.”

LABC Gladue Program

Number of LABC Gladue Reports





Your Work

Agencies you work with:

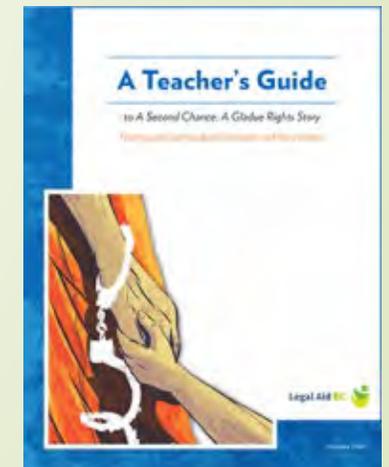
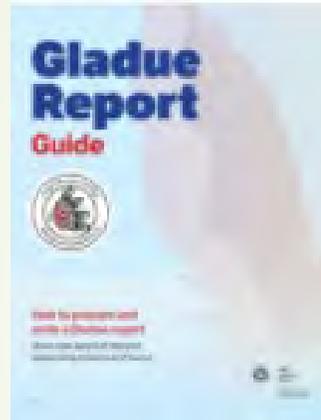
- ▶ Child and family services
- ▶ Counselling and legal assistance
- ▶ Indigenous Nations
- ▶ Health services
- ▶ Organizations working directly with Indigenous women
- ▶ Transition houses
- ▶ Libraries
- ▶ Schools
- ▶ Justice organizations
- ▶ RCMP
- ▶ Employment agencies
- ▶ Literacy agencies
- ▶ Friendship Centres



Help Your Clients with LABC Publications

- ▶ Help share information you learned about Gladue.
- ▶ Preparing a Gladue Submission - take a look at the ***Gladue Submission Guide***.
- ▶ Explain Gladue simply - ***Your Gladue Rights*** is a booklet that uses simple language to help people understand what Gladue is and how it is used.
- ▶ Explain Gladue to young adults - ***A Second Chance*** is an graphic novel (comic book) that tells the story of a woman Myra who learns about Gladue and follows her journey.
- ▶ If you are a teacher, take a look at ***A Teacher's Guide to a Second Chance: A Gladue Rights Story***

LABC Publications





How Does Gladue Apply To Your Work?

- ▶ **What is the spirit of Gladue?**
 - ▶ Understand the person in front of you likely has Gladue factors that impact how they interact with people.
 - ▶ Gladue factors probably also impacted his/her mother, father, siblings, grandparents, great-grand parents and many others in their community.
 - ▶ It may have been difficult to reach out for help from you
 - ▶ They may do things differently than you expect



How Does Gladue Apply To Your Work?

- ▶ **What can you do?**
 - ▶ Be aware, be considerate, kind and listen attentively
 - ▶ Think of ways to help your Indigenous clients overcome barriers they face
 - ▶ Consider taking cultural competency training to better understand Indigenous people
 - ▶ Read to become familiar with Indigenous culture and traditions

Questions or Comments?

Contact me at

E: gladue.coordinator@legalaid.bc.ca

P: 604.601.6240