

This brochure explains what you can do if the director of Child, Family and Community Service (the director) removes your child or plans to remove your child from your home. It describes what the law says, what you can do, and what happens in court. It also tells you where you can go to get the help you need.

## What the law says

The director is required by law to investigate all reports of children being abused or neglected, or who are in danger. If the director believes a child isn't safe, the law says the director must do something about it and, if necessary, may have the child removed. Removed children remain in care (often in a foster home) until a judge decides what's best for them.

The director (or someone who works for the director) must present a written report to the court within seven days of the date of removal to explain why your child was removed. You have a right to tell the judge what you want for your child.

## What you can do

Here are some things you can do.

### Talk to a lawyer as soon as possible

If the director removes your child from your home or you think this may happen, *get a lawyer immediately*. If you can't afford a lawyer, you may be able to ask legal aid to appoint a lawyer for you. A lawyer can help you negotiate with the director's staff, work out an agreement, review any documents you're asked to sign, and represent you in court. See the back of this brochure for the phone numbers of legal aid offices.

### Ask for access

If your child is removed, ask for access immediately, so you can visit your child while he or she is in care. Ask the social worker who removes your child for access, and if the social worker refuses, ask the judge at the first court appearance. Access is very important for you and your child.

### Get more information

Ask the legal aid office for a free copy of the booklet, *Parents' Rights, Kids' Rights: A Parent's Guide to Child Protection Law in BC*. Also find out if there are advocates in your community who can provide information and support. Make sure the director gives you a copy of the **Report to Court** and all other relevant documents.

### Think about mediation or shared decision-making options

Any time after the director begins an investigation, you have the option to work out an agreement through mediation, traditional decision-making, or a family group conference. Mediation is a process in which a neutral person with special training (a mediator) helps you resolve disputes. Traditional decision-making is a process in which you follow your community or cultural traditions to solve family problems. A family group conference is a meeting where you and your family members come together to develop a plan for your child.

### Go to every court hearing and case conference

A **court hearing** is a hearing in court before a judge. A **case conference** is a less formal meeting with a judge at the courthouse. It's important that you go to every court hearing and case conference to show the judge that you care about your child. This also gives you the chance to tell the judge what you want

for your child. If you haven't had a chance to get a lawyer, you can ask the judge to **adjourn** (postpone) the hearing for a week.

## What happens when you go to court

You need to have a lawyer for your court appearances. The issues are complex, so it's a good idea to have legal help to make sure that the judge hears your side of the case.

There are two stages in the court process: the **presentation stage** and the **protection stage**.

### The presentation stage

The director's Report to Court must include why your child was removed, what other options were considered first, and what the director's plan is for your child. The presentation of this report to the court must be within seven days of your child being removed; this starts the presentation hearing. The director must tell you the date, time, and place of this hearing as soon as possible, and give you a copy of the report if you appear at the court.

### The presentation hearing

Once the judge sees the Report to Court, he or she must make an interim (temporary) order that says one of the following:

- your child is returned to you without supervision,
- your child is returned to you under the director's supervision,
- your child remains in the director's care, or
- your child is placed in the care of a third party under the director's supervision,

until a court determines if your child needs protection.

If you aren't in court, the judge can rely entirely on the information in the Report to Court and make the interim order. If you are in court and object to the requested interim order, the judge can require that you and the director both give evidence before making the order. Hearing evidence will take time and usually must happen at a later date. If the interim order is that your child won't be returned to you, it should also include arrangements for you to have access to your child.

### The protection stage

The protection hearing must commence (begin) within 45 days of the interim order. Ten days before this **commencement date**, the director must give you a copy of the **Application** for the order he or she wants the judge to make. This Application must also include a copy of the **plan of care** for your child, which outlines how your child will be cared for. The director will also ask the judge to decide that your child needs protection. It's very important that you be in court that day.

### The commencement date

On the day the protection hearing begins, if you're in court, you can say whether you agree or disagree with the director about the court order being applied for. If you disagree, the judge must schedule a family case conference, which must be completed before a full protection hearing can be scheduled.

### The family case conference, or Rule 2 conference

When the family case conference is scheduled, both the director and the parents *must* attend with their lawyers. A judge will lead the case

conference and try to resolve the issues without having to hear evidence. Everyone will sit around a table and be asked to talk about what they want for your child. If your child is Aboriginal, you can ask for a representative from your Aboriginal community to be there. If the case conference doesn't settle matters, you will have a protection hearing in court.

### The protection hearing

There may be many or very few witnesses called at the protection hearing. Once the evidence is presented, the judge must first decide whether your child was in need of protection when he or she was removed. If the judge decides your child wasn't in need of protection, then your child must be returned to you. If the judge decides your child was in need of protection, then he or she must decide whether to return your child to your care, with or without the director's supervision, or make an **order** that your child is in the custody of the director or a third person. If you disagree with the judge's order, talk to your lawyer right away. There are time limits to appeal, so it's important to act quickly.

### How to contact legal aid

Here's a list of the offices in BC that can take applications for legal aid. Call the office nearest you for more information.

If your area doesn't have a legal aid office, call the **Legal Services Society Call Centre** at 604-408-2172 (in Greater Vancouver) or 1-866-577-2525 (call no charge, outside Greater Vancouver).

Abbotsford.....	604-852-2141
Campbell River.....	250-287-9521
Chilliwack.....	604-793-7243
Courtenay.....	250-897-1400
Cranbrook.....	250-426-4066
(call no charge) .....	1-877-426-4066
Dawson Creek.....	250-782-7366
Duncan .....	250-753-4396
Fort St. James .....	250-996-6999
(call no charge) .....	1-866-614-6999
Fort St. John .....	250-785-8089
Hazelton .....	250-842-5218
(call no charge) .....	1-877-842-5218
Kamloops .....	250-314-1900
Kelowna.....	250-763-8613
Langley.....	604-532-8898
Nanaimo .....	250-753-4396
Nelson (call no charge).....	1-877-426-4066
New Westminster .....	604-585-6595
North Vancouver.....	604-980-7000
Penticton .....	250-493-7164
Port Alberni .....	250-724-5137
(call no charge) .....	1-877-724-0111
Port Coquitlam.....	604-472-0634
Port Hardy.....	250-949-8125
Prince George .....	250-564-9717
Prince Rupert.....	250-624-7701
Quesnel.....	250-992-8387

Richmond.....	604-273-9311
Salmon Arm.....	250-545-3666
Smithers (call no charge) .....	1-877-842-5218
Surrey.....	604-585-6595
Terrace .....	250-635-2133
(call no charge) .....	1-800-787-2511
Vancouver.....	604-601-6206
Vanderhoof.....	250-567-2800
(call no charge) .....	1-866-614-6999
Vernon .....	250-545-3666
Victoria .....	250-388-4516
Williams Lake .....	250-398-7359

### For more information

Go to the **Family Law in BC website** at [www.familylaw.lss.bc.ca](http://www.familylaw.lss.bc.ca) (click "Your legal issue," then "Child protection/removal").

Call the **Legal Services Society Call Centre** at 604-408-2172 (in Greater Vancouver) or 1-866-577-2525 (call no charge, outside Greater Vancouver).

This brochure explains the law in general. It is not intended to give you legal advice on your particular problem.



# If Your Child is Taken

## Your Rights As a Parent