



Family Law Act
FAMILY LAW ACT REGULATION
B.C. Reg. 347/2012

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Consolidated Regulations of British Columbia

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This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

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Family Law Act

FAMILY LAW ACT REGULATION

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Family Law Act

FAMILY LAW ACT REGULATION

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PART 1 – INTERPRETATION

Definitions

- 1** In this regulation:
- “**Act**”, except in Part 4, means the *Family Law Act*;
 - “**child support guidelines**” mean the child support guidelines established under Part 4.

PART 2 – FAMILY JUSTICE COUNSELLORS

Prescribed process for section 10 of the Act

- 1.1** Consensual dispute resolution under rule 10 of the Provincial Court Family Rules is a prescribed process for the purposes of section 10 (2.1) of the Act.
[en. B.C. Reg. 75/2019, s. 1; am. B.C. Reg. 23/2021, App. 5, s. 1.]

Prescribed classes of persons for sections 11 and 12 of the Act

- 2** For the purposes of section 11 (1) (b) and 12 (1) (b) of the Act, the following classes of employees of the Family Justice Services Division of the Ministry of Attorney General are prescribed:
- (a) child support officers;
 - (b) administrative support staff;
 - (c) justice interviewers;
 - (d) local managers;
 - (e) regional managers;
 - (f) Provincial executive directors.
- [am. B.C. Reg. 99/2018, Sch. 2, s. 7.]

PART 2.1 – PERMITTED DISCLOSURE OF CONFIDENTIAL INFORMATION

Interpretation

- 3** (1) In this Part:
- “**confidential information**” means the following:
- (a) information that a family justice counsellor obtains in the course of providing assistance under section 10 (2) of the Act;
 - (b) information that a person who assists a family justice counsellor obtains from, or in the course of assisting, a family justice counsellor;

“person who assists a family justice counsellor” means a person within a class of persons prescribed for the purposes of sections 11 (1) (b) and 12 (1) (b) of the Act, acting in the course of assisting a family justice counsellor;

“personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

- (2) For greater certainty, nothing in any provision of this Part limits the authority of a family justice counsellor and a person who assists a family justice counsellor to disclose confidential information under any other provision of this Part.

[en. B.C. Reg. 23/2021, App. 1, s. 1.]

Disclosure generally

- 3.1** (1) A family justice counsellor and a person who assists a family justice counsellor may disclose confidential information that has been in existence for at least
- (a) 50 years, if the information is not personal information, or
 - (b) 100 years, if the information is personal information.
- (2) A family justice counsellor and a person who assists a family justice counsellor may disclose confidential information in relation to a civil or administrative proceeding to which the family justice counsellor is a party.

[en. B.C. Reg. 23/2021, App. 1, s. 1.]

Disclosure of particular types of confidential information

- 3.2** A family justice counsellor and a person who assists a family justice counsellor may disclose the following types of confidential information:
- (a) a written agreement to mediate;
 - (b) a written agreement that resolves one or more issues in a family law dispute;
 - (c) information obtained from a child in the course of providing assistance under section 10 (2) of the Act, if
 - (i) the child first indicates that child’s approval to the disclosure, and
 - (ii) the information is disclosed only to the person or persons receiving assistance under section 10 (2) of the Act;
 - (d) confirmation that a person met with a family justice counsellor in relation to a matter described under section 10 (2) of the Act, if that person requests the confirmation.

[en. B.C. Reg. 23/2021, App. 1, s. 1.]

Disclosure for particular purposes

- 3.3** (1) A family justice counsellor and a person who assists a family justice counsellor may disclose confidential information for any of the following purposes:
- (a) to comply with requirements under the applicable Rules of Court or the *Child, Family and Community Service Act*;

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- (b) to protect a person or property, if the person making the disclosure reasonably believes that there is a risk of imminent and serious harm;
 - (c) to provide evidence for the purposes of an application made to the court to set aside an agreement that
 - (i) was negotiated with the assistance of a family justice counsellor under section 10 (2) of the Act, and
 - (ii) is made in respect of division of property under Part 5 of the Act or the payment of spousal support under Part 7 of the Act;
 - (d) for research purposes, if the confidential information is disclosed in accordance with section 33.1 (1) (s) of the *Freedom of Information and Protection of Privacy Act*.
- (2) A family justice counsellor and a person who assists a family justice counsellor may disclose confidential information to a service provider or agency if both of the following conditions are met:
- (a) the disclosure is made in conjunction with a referral of a person to that service provider or agency;
 - (b) the person being referred has consented to both the referral and the disclosure.

[en. B.C. Reg. 23/2021, App. 1, s. 1.]

Disclosure for Court Rules purposes

3.4 (1) Repealed. [B.C. Reg. 23/2021, App. 5, s. 2 (a).]

- (2) A family justice counsellor may disclose to the court the following types of confidential information, if that information was obtained in the course of assisting parties to meet the requirements described in rule 10 [*early resolution requirements*] of the Provincial Court Family Rules:
- (a) if a needs assessment was completed and, if so, the date of completion;
 - (b) if a parenting education program was completed and, if so, the date of completion;
 - (c) if consensual dispute resolution was completed and, if so, the date of completion;
 - (d) if it was determined that consensual dispute resolution was not able to be accessed or was not appropriate;
 - (e) the kinds of family law matters addressed during consensual dispute resolution;
 - (f) the kinds of family law matters that are outstanding.
- (3) For the purposes of subsection (2), the words and expressions used in that subsection have the same meanings as they have in the Provincial Court Family Rules.

[en. B.C. Reg. 23/2021, App. 1, s. 1; am. B.C. Reg. 23/2021, App. 5, s. 2.]

Disclosure to persons receiving assistance

- 3.5** (1) This section applies to confidential information obtained from a person who is
- (a) receiving assistance under section 10 (2) of the Act, or
 - (b) relevant to the matter in respect of which assistance is being provided to another person under section 10 (2) of the Act.
- (2) A family justice counsellor and a person who assists a family justice counsellor may disclose confidential information described in subsection (1) to another person receiving assistance in respect of the same matter if both of the following conditions are met:
- (a) the purpose of the disclosure is to provide assistance to the other person;
 - (b) the person from whom the confidential information is obtained has consented to the disclosure.
- [en. B.C. Reg. 23/2021, App. 1, s. 1.]

PART 3 – FAMILY DISPUTE RESOLUTION PROFESSIONALS**Family law mediators**

- 4** (1) Only a mediator who is qualified as a family dispute resolution professional may conduct a mediation in relation to a family law dispute.
- (2) A mediator is qualified as a family dispute resolution professional if the mediator is
- (a) a member in good standing of the Law Society of British Columbia and meets all of the training and practice requirements set for family law mediators by the Law Society of British Columbia,
 - (b) a member in good standing of the Mediate BC Family Roster,
 - (c) a member in good standing of, and a certified mediator with, Family Mediation Canada and meets the training and practice requirements of Family Mediation Canada, or
 - (d) an individual to whom all of the following apply:
 - (i) the individual has at least 2 years experience in family-related practice, including in law, psychology, social work, clinical counselling, teaching or nursing;
 - (ii) the individual has completed at least 21 hours of family law training provided by the Justice Institute of British Columbia or by the Continuing Legal Education Society of British Columbia or equivalent training provided by any other training provider that is recognized as providing high quality training in that field;
 - (iii) the individual has completed at least 80 hours of mediation theory and skills training, provided by the Justice Institute of British Columbia, by the Continuing Legal Education Society of British

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Columbia or by any other training provider that is recognized as providing high quality training in that field, that includes at least

- (A) 21 hours of training focusing on issues relating to family dynamics in separation and divorce,
 - (B) 7 hours of training focusing on financial issues relating to separation, divorce and family reorganization,
 - (C) 7 hours of training focusing on ethical issues relating to the mediation process, and
 - (D) 7 hours of training focusing on drafting memoranda of understanding;
- (iv) the individual has completed at least 14 hours of family violence training, including training on identifying, assessing and managing family violence and power dynamics in relation to dispute resolution process design, provided by the Justice Institute of British Columbia, by the Continuing Legal Education Society of British Columbia or by any other training provider that is recognized as providing high quality training in that field;
 - (v) each year the individual completes at least 10 hours of continuing professional development applicable to family dispute resolution practice, at least 7 hours of which must be in the form of a course provided by the Justice Institute of British Columbia, by the Continuing Legal Education Society of British Columbia or by any other training provider that is recognized as providing high quality training in that field;
 - (vi) the individual maintains professional liability insurance that provides coverage for the individual's practice of mediation.
- (3) The following practice standards apply to a family dispute resolution professional who wishes to engage in mediation in relation to a family law dispute:
- (a) before initiating mediation, the mediator must enter into a written agreement to mediate with the parties to the family law dispute;
 - (b) before initiating mediation, the mediator must provide written confirmation to the parties to the family law dispute that the mediator meets the professional requirements set out in subsection (2).

[am. B.C. Reg. 64/2021, ss. 2, 3 and 8.]

Family law arbitrators

- 5**
- (1) Only an arbitrator who is qualified as a family dispute resolution professional may conduct an arbitration in relation to a family law dispute.
 - (2) An arbitrator is qualified as a family dispute resolution professional if
 - (a) the arbitrator is a member in good standing of the Law Society of British Columbia and meets all of the training and practice requirements set for family law arbitrators by the Law Society of British Columbia, or

- (b) subject to subsection (3), the arbitrator is an individual to whom all of the following apply:
 - (i) the individual is a member in good standing of the College of Psychologists of British Columbia or the British Columbia College of Social Workers;
 - (ii) the individual has at least 10 years experience in family-related practice;
 - (iii) the individual has completed at least 40 hours of training in arbitration theory and skills provided by a training provider that is recognized as providing high quality training in that field, which training must include training in relation to
 - (A) the statutory context applicable to arbitration,
 - (B) conducting arbitration hearings,
 - (C) rules of evidence and principles of natural justice,
 - (D) the writing of agreements, awards and decisions, and
 - (E) family dynamics;
 - (iv) the individual has completed at least 30 hours of family law training, including training on the child support guidelines, provided by the Justice Institute of British Columbia, by the Continuing Legal Education Society of British Columbia or by any other training provider that is recognized as providing high quality training in that field;
 - (v) the individual has completed at least 14 hours of family violence training, including training on identifying, assessing and managing family violence and power dynamics in relation to dispute resolution process design, provided by the Justice Institute of British Columbia, by the Continuing Legal Education Society of British Columbia or by any other training provider that is recognized as providing high quality training in that field;
 - (vi) each year the individual completes at least 10 hours of continuing professional development applicable to family dispute resolution practice, at least 7 hours of which must be in the form of a course provided by the Justice Institute of British Columbia, by the Continuing Legal Education Society of British Columbia or by any other training provider that is recognized as providing high quality training in that field;
 - (vii) the individual maintains professional liability insurance that provides coverage for the individual's practice of arbitration.
- (3) An arbitrator referred to in subsection (2) (b) is qualified as a family dispute resolution professional to conduct arbitrations in relation to family law disputes relating to one or more of the following only:

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- (a) parenting arrangements;
- (b) contact with a child;
- (c) child support to which all of the following apply:
 - (i) all children in relation to whom support is sought are under 19 years of age;
 - (ii) none of the payor's income is self-employment income or partnership income;
 - (iii) the payor's annual income is not more than \$150 000;
 - (iv) the applicable table to the child support guidelines is being relied on to calculate the basic child support amount;
 - (v) if special or extraordinary expenses under section 7 of the child support guidelines are at issue in the family law dispute, the determination of what those expenses are and how they are to be calculated is straightforward.
- (4) The following practice standards apply to a family dispute resolution professional who wishes to engage in arbitration in relation to a family law dispute:
 - (a) before initiating arbitration, the arbitrator must enter into a written agreement to arbitrate with the parties to the family law dispute;
 - (b) before initiating arbitration, the arbitrator must provide written confirmation to the parties to the family law dispute that the arbitrator meets the professional requirements set out in subsection (2).

[am. B.C. Reg. 64/2021, ss. 2, 3 and 8.]

Parenting coordinators

- 6** (1) A person may act as a parenting coordinator if
- (a) the person is a member in good standing of
 - (i) the Law Society of British Columbia,
 - (ii) the College of Psychologists of British Columbia,
 - (iii) the British Columbia College of Social Workers,
 - (iv) the BC Association of Clinical Counsellors,
 - (v) Family Mediation Canada,
 - (vi) the Mediate BC Family Roster, or
 - (vii) the BC Parenting Coordinators Roster Society,
 - (b) one of the following applies:
 - (i) the person is a member in good standing of the Law Society of British Columbia and meets all of the training and practice requirements set for parenting coordinators by the Law Society of British Columbia;
 - (ii) the person is not a member of the Law Society of British Columbia and all of the following apply:

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- (A) the person meets the training requirements of, and is eligible for membership in, the Mediate BC Family Roster or Family Mediation Canada;
 - (B) the person has at least 10 years experience in family-related practice;
 - (C) the person has completed at least 40 hours of training in parenting coordination provided by a training provider that is recognized as providing high quality training in that field, which training must include training in relation to the role and responsibilities of a parenting coordinator, arbitration and decision making, communication skills development, the effects of separation and divorce on parents and children, high conflict family dynamics and child development and developmental needs;
 - (D) the person has completed at least 21 hours of family law training provided by the Justice Institute of British Columbia, by the Continuing Legal Education Society of British Columbia or by any other training provider that is recognized as providing high quality training in that field;
 - (E) the person has completed at least 14 hours of family violence training, including training on identifying, assessing and managing family violence and power dynamics in relation to dispute resolution process design, provided by the Justice Institute of British Columbia, by the Continuing Legal Education Society of British Columbia or by any other training provider that is recognized as providing high quality training in that field;
 - (F) each year the person completes at least 10 hours of continuing professional development applicable to family dispute resolution practice, at least 7 hours of which must be in the form of a course provided by the Justice Institute of British Columbia, by the Continuing Legal Education Society of British Columbia or by any other training provider that is recognized as providing high quality training in that field, and
- (c) the person maintains professional liability insurance that provides coverage for the person's practice as a parenting coordinator.
- (2) The following practice standards apply to a parenting coordinator:
- (a) before assisting the parties to a family law dispute in the capacity of a parenting coordinator, the parenting coordinator must enter into a written agreement to provide parenting coordination services with the parties to the family law dispute;

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- (b) before assisting the parties to a family law dispute in the capacity of a parenting coordinator, the parenting coordinator must provide written confirmation to the parties to the family law dispute that the parenting coordinator meets the professional requirements set out in subsection (1).
- (3) The following are the matters in respect of which a parenting coordinator may make determinations:
 - (a) parenting arrangements;
 - (b) contact with a child.
- (4) For the purposes of subsection (3), a parenting coordinator
 - (a) may make determinations in respect of
 - (i) a child's daily routine, including a child's schedule in relation to parenting time or contact with the child,
 - (ii) the education of a child, including in relation to the child's special needs,
 - (iii) the participation of a child in extracurricular activities and special events,
 - (iv) the temporary care of a child by a person other than
 - (A) the child's guardian, or
 - (B) a person who has contact with the child under an agreement or order,
 - (v) the provision of routine medical, dental or other health care to a child,
 - (vi) the discipline of a child,
 - (vii) the transportation and exchange of a child for the purposes of exercising parenting time or contact with the child,
 - (viii) parenting time or contact with a child during vacations and special occasions, and
 - (ix) any other matters, other than matters referred to in paragraph (b), that are agreed on by the parties and the parenting coordinator, and
 - (b) must not make determinations in respect of
 - (i) a change to the guardianship of a child,
 - (ii) a change to the allocation of parental responsibilities,
 - (iii) giving parenting time or contact with a child to a person who does not have parenting time or contact with the child,
 - (iv) a substantial change to the parenting time or contact with a child, or
 - (v) the relocation of a child.

(5) Repealed. [B.C. Reg. 347/2012, s. 2 (b).]

[am. B.C. Regs. 347/2012, s. 2 (b); 64/2021, ss. 2, 3 and 8.]

PART 4 – CHILD SUPPORT GUIDELINES**Definitions**

7 In this Part:

“**Federal Child Support Guidelines**” means the Federal Child Support Guidelines established under section 26.1 of the *Divorce Act* (Canada);

“**Federal guidelines**” means the Federal Child Support Guidelines as they apply for the purposes of this regulation.

Establishment of child support guidelines

8 For the purposes of sections 1, 247 and 249 (5) and (6) of the *Family Law Act*, the Federal Child Support Guidelines, except sections 2 (1) and (4) (c.1), 21 (5), 26 and 27 of those guidelines, are adopted and established as child support guidelines in accordance with this Part.

[am. B.C. Reg. 23/2021, App. 4, s. 1.]

Application of federal child support guidelines

- 9 (1) For the purposes of section 8 of this regulation, a reference in the Federal Child Support Guidelines
- (a) to “the Act” is to be read as a reference to “the *Family Law Act*”,
 - (b) to “the age of majority” is to be read as a reference to “19 years of age”,
 - (c) to a “child” is to be read as a reference to child as defined by the *Family Law Act*,
 - (d) to a “child support order” is to be read as a reference to an order, including an interim order, respecting child support made under Part 7 of the *Family Law Act*,
 - (e) to “income” is to be read as a reference to the annual income determined under sections 15 to 20 of the Federal guidelines,
 - (f) to the “*Income Tax Act*” is and remains a reference to the “*Income Tax Act* (Canada)”,
 - (g) to “order assignee” is to be read as a reference to the minister to whom maintenance rights are assigned under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*, as applicable, and includes any other person, province, state or political subdivision, and any official agency of any other person, province, state or political subdivision, to which an assignment of one or more maintenance rights is made in accordance with legislation in that jurisdiction,
 - (h) to a “spouse”, except in section 5 of the Federal guidelines, is to be read as a reference to a “parent” as defined in section 1 of the *Family Law Act* or to a “guardian” as defined in section 146 of the *Family Law Act*,
 - (i) to a “spouse” in section 5 of the Federal guidelines is to be read as a reference to a “person”,

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- (j) to “other spouse” in sections 22, 24 (d) and 25 (2) of the Federal guidelines is deemed to include, without limiting paragraph (h) or (i) of this subsection, an order assignee,
 - (k) to a “table” is to be read as a reference to a federal child support table set out in Schedule I to the Federal guidelines,
 - (l) to a “universal child care benefit” is to be read as a reference to a benefit provided under section 4 of the *Universal Child Care Benefit Act* (Canada), and
 - (m) to a “variation order in respect of a child support order” is to be read as a reference to an order changing, suspending or terminating an order respecting child support.
- (2) For the purposes of section 8 of this regulation, a reference
- (a) in section 2 (4) (a) of the Federal guidelines to “interim orders under subsections 15.1(2), 18.1(12) and 19(10) of the Act” is to be read as a reference to interim orders for child support under section 216 or 217 of the *Family Law Act* or under section 10 (2) (c), 13 (1) (b), 30 (2) (c) or 32 (1) (b) of the *Interjurisdictional Support Orders Act*,
 - (b) in section 2 (4) (b) of the Federal guidelines to “orders varying a child support order” is to be read as a reference to “orders changing, suspending or terminating an order respecting child support”,
 - (c) in section 2 (4) (c) of the Federal guidelines to “orders referred to in subsections 18.1(15) or 19(13) of the Act” is to be read as a reference to “orders under section 13 (1) (a) or 32 (1) (a) of the *Interjurisdictional Support Orders Act*”,
 - (d) in section 2 (4) (d) of the Federal guidelines to “recalculations of the amount of child support orders under subsection 25.1(1) of the Act” is to be read as a reference to “recalculations under section 154 (2) (b) of the *Family Law Act*”,
 - (d.1) in section 2 (5) of the Federal guidelines to “calculations or recalculations by a provincial child support service under subsection 25.01(1) or 25.1(1) of the Act” is to be read as a reference to “recalculations under section 154 (2) (b) of the *Family Law Act*”,
 - (e) in section 3 (3) (a) (i) and (b) of the Federal guidelines to “a variation order in respect of the child support order” is to be read as a reference to “an order changing, suspending or terminating an order respecting child support”,
 - (f) in section 3 (3) (a.1) and (b) of the Federal guidelines to “calculation or recalculation under subsection 25.01(1) or 25.1 of the Act” is to be read as a reference to “recalculation under Division 3 of Part 7 of the *Family Law Act*”,
 - (f.1) in section 3 (3) (a.1) and (b) of the Federal guidelines to “calculated or recalculated under subsection 25.01(1) or 25.1 of the Act” is to be read as a

reference to “recalculated under Division 3 of Part 7 of the *Family Law Act*”,

- (g) in section 7 (1) (a) of the Federal guidelines to “the spouse who has the majority of parenting time” is to be read as a reference to “a guardian”,
- (h) in section 8 of the Federal guidelines to “spouse” is to be read as a reference to “guardian”,
- (i) Repealed. [B.C. Reg. 23/2021, App. 4, s. 2 (h).]
- (j) in section 9 (b) of the Federal guidelines to “shared parenting time arrangements” is to be read as a reference to “the parenting arrangements”,
- (k) in section 10 (2) (b) of the Federal guidelines to “parenting time with a child” is to be read as a reference to “parenting time, or contact, with a child”,
- (l) in section 10 (2) (c) of the Federal guidelines to a “written separation agreement” is to be read as a reference to a “written agreement referred to in section 6 of the *Family Law Act*”,
- (m) in section 10 (2) (d) of the Federal guidelines to a “child of the marriage” is to be read as a reference to a “child of the parents who are the parties to the application”,
- (n) in section 14 of the Federal guidelines to “subsection 17(4) of the Act” is to be read as a reference to “section 152 (2) (a) of the *Family Law Act*”,
- (o) in section 14 (c) of the Federal guidelines to “an order made before May 1, 1997, the coming into force of section 15.1 of the Act, enacted by section 2 of chapter 1 of the Statutes of Canada, (1997)” is to be read as a reference to “an order made before April 14, 1998, the coming into force of section 93 of the *Family Relations Act*, enacted by section 18 of the *Family Relations Amendment Act, 1997*, S.B.C. 1997 c. 20”,
- (p) in section 19 (1) (a) of the Federal guidelines to “child of the marriage or any child under the age of majority” is to be read as a reference to “child”, and
- (q) in sections 22 (2), 24 (d) and 25 (7) (a) of the Federal guidelines to “costs” is to be read as a reference to “costs and expenses”.

[am. B.C. Reg. 23/2021, App. 4, s. 2.]

Application of federal child support guidelines to courts and court rules

- 10** (1) Nothing in this regulation extends the jurisdiction of the Provincial Court, and, in particular, the power of a court to award costs under sections 22 (2), 24 (d) and 25 (7) (a) of the Federal guidelines is a power exercisable by the Supreme Court only.
- (2) These guidelines are in addition to and not in substitution for any court rules prescribed under the *Court Rules Act*, but if there is a conflict between these guidelines and any court rules, these guidelines prevail.

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- (3) For the purposes of subsection (2) of this section, it is not a conflict between these guidelines and court rules merely because the court rules
- (a) require a person to provide information that is additional to the information that the person would be required to provide under these guidelines,
 - (b) require that certain information that is required by the court rules but not by these guidelines be presented in a manner or form that is different from the manner or form in which information required under these guidelines is to be presented, or
 - (c) require the provision, in one manner or form, of information some or all of which is required under these guidelines to be provided in a different manner or form.

PART 5 – CHILD SUPPORT RECALCULATION**Definitions**

11 In this Part:

“**party**” means a payor or recipient;

“**registry**” means a court registry prescribed under section 13.

Prescribed court registry

12 The Kelowna Provincial (Family) Court Registry is prescribed for the purposes of sections 155 (1) (a) (ii) and (b) and (5) and 158 (1) (b) of the Act.

Income information to be provided to child support service

- 13** (1) On request by the child support service, a person described in section 158 (1) of the Act must provide the child support service with
- (a) a copy of the personal income tax return filed for the most recent taxation year by the person specified in the request, and
 - (b) a copy of every notice of assessment and reassessment issued to the person for the most recent taxation year.
- (2) A person described in section 158 (1) of the Act must provide the income information requested under subsection (1) of this section no later than 30 days after the date the person is deemed, under section 20 of this regulation, to have received the request.
- (3) If a person described in section 158 (1) of the Act does not provide information under subsection (1) of this section within the time period required by subsection (2) of this section, the child support service may, for the purposes of section 158 (2) of the Act, recalculate the amount of child support by applying a 10% increase to the income of that person that had been used to determine the current child support.

Contact information

- 14** (1) On request by the child support service, a party must provide the child support service with the party's address, email address, telephone number and fax number.
- (2) A party must notify the child support service, in writing, of a change in the contact information provided under subsection (1) no later than 30 days after the change occurs.
- (3) If a party does not provide notification of the change in contact information required under subsection (2) within the period required by subsection (2), the child support service may recalculate the amount of child support without any further notice to the party.

Authorization to release income tax information

- 15** Form 1 of Appendix A is prescribed for the purposes of authorizing the release of income tax information under section 158 (3) of the Act.

Prescribed difference for the purposes of section 155 (4) of the Act

- 16** The prescribed difference for the purposes of section 155 (4) of the Act is \$5 more or \$5 less per month than the current child support.

Notification of recalculated amount

- 17** (1) Subject to section 14 (3) of this regulation, the child support service must notify each party in writing of the recalculated amount.
- (2) Notification under subsection (1) of this section may be sent by regular mail to the last known address of the party in the records of the child support service.

Child support service must decline recalculation

- 18** The child support service must decline to recalculate a child support amount
- (a) if the child support amount was established in an order made in accordance with
 - (i) section 3 (2), 4 (b), 5, 9, 10, 17 or 19 (1) (a) or (c) to (i) of the child support guidelines, or
 - (ii) the *Interjurisdictional Support Orders Act*, or
 - (b) if all or a part of the income used to determine the child support amount is self-employment income or partnership income.

Requirements for recalculation under child support agreements

- 19** In order for the child support service to recalculate child support established under an agreement respecting child support, the agreement must include the following provisions:

FAMILY LAW ACT REGULATIONPart 5 – Child Support Recalculation

- (a) agreement by the parties that the child support service may recalculate the child support amount annually, based on the parties' income information provided under Division 3 of Part 7 of the Act;
- (b) agreement that the parties will notify the child support service, in writing, of a change in address, email address, phone number or fax number, no later than 30 days after the change;
- (c) acknowledgement by the parties that
 - (i) each party is required to provide income information to the child support service no later than 30 days after the date the party is deemed, under section 20 of this regulation, to have received a written request for the information from the child support service, and
 - (ii) if they fail to provide the income information within the required time period, the child support service may recalculate and increase the child support amount, in accordance with the Act and the regulations.

Deemed receipt

- 20** A notice or other record required to be given or delivered to a person under this Part or Division 3 of Part 7 of the Act is deemed to have been received by the person 5 days after the date on which it was sent.

Correction to statement of recalculation

- 21** A payor or recipient may make a request under section 156 (2) (b) of the Act by telephone, fax or email.

[en. B.C. Reg. 23/2021, App. 1, s. 2.]

Application respecting recalculated amount

- 22** (1) The period prescribed for the purposes of section 157 (3) (c) of the Act is the period of 60 days following the date on which the materials in support of the application under section 157 (1) of the Act were filed in the applicable court registry.
- (2) For the purposes of section 157 (3) (c) of the Act, the following steps are prescribed:
- (a) serving the respondent to the application with the materials filed in support of the application under section 157 (1) of the Act;
 - (b) if the respondent to the application cannot be located, submitting to the applicable court registry a written request to a search officer for information referred to in section 237 (1) of the Act;
 - (c) completing a parenting after separation program if required under the applicable Rules of Court or by a judge.

PART 6 – PRESCRIBED INFORMATION, FORMS AND FEES**Form for appointment of testamentary or standby guardian**

- 23** The form prescribed for the purposes of sections 53 (1) (b) and 55 (2) (a) of the Act is Form 2 of Appendix A.

Small property

- 24** (1) For the purposes of determining the value of property delivered to a child or guardian under section 178 of the Act, the value of the property is the value that the property had at the date of its receipt by the child or guardian.
- (2) The amount prescribed for the purposes of section 178 (1) (b) and (4) of the Act is \$10 000.
- (3) The form prescribed for the purposes of section 178 (2) (b) of the Act is
- (a) Form 3 of Appendix A of this regulation, if the property referred to in that section is delivered to a guardian, or
 - (b) Form 4 of Appendix A of this regulation, if the property referred to in that section is delivered to a child.

Person to whom searchable information may be disclosed

- 25** A police officer is a prescribed person for the purposes of section 240 (1) (g) of the Act.

Prescribed processes for section 198 of the Act

- 25.1** The early resolution requirements described in rule 10 (a), (c), (d) and (e) of the Provincial Court Family Rules are prescribed processes for the purposes of section 198 (5) (b) of the Act.

[en. B.C. Reg. 75/2019, s. 2; am. B.C. Reg. 23/2021, App. 5, s. 3.]

Fee for filing a notice of agreement in land title office

- 26** The prescribed fee for the purposes of section 99 (2) of the Act is \$5.

Guardianship application consent

- 26.1** To request the child protection record check required for an application for guardianship under the Rules of Court, the applicant must complete and swear a Consent for Child Protection Record Check in Form 5 of Appendix A.

[en. B.C. Reg. 42/2013, s. 1 (a).]

Forms

- 27** The forms in Appendix A must be used if applicable, with variations as the circumstances require, and each of those forms must be completed by including the information required by that form in accordance with any instructions included on the form.

APPENDIX A

FORM 1 (FAMILY LAW ACT REGULATION, SECTION 15)

[am. B.C. Regs. 99/2018, Sch. 2, s. 8; 23/2021, App. 5, s. 4.]

**Ministry of Attorney
General**

**Child Support
Recalculation
Service**

**RELEASE OF INFORMATION
(Canada Revenue Agency)**

The personal information requested on this form is collected under the authority of the *Family Law Act* and the Family Law Act Regulation. The information will be used for the purpose of administering the Child Support Recalculation Service. Your Social Insurance Number is collected to ensure the accurate identification of your tax record held by the Canada Revenue Agency. The collection, use and disclosure of personal information are subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. Any questions about this information should be directed to the Child Support Recalculation Service.

Court File No.

Location of Court

Level of Court

CSRS File No.

My Current Contact Information:

Full Legal Name:

Address:

City/Municipality/Town: Postal Code:

Telephone Number:

Email Address:

Fax Number:

TO THE CANADA REVENUE AGENCY:

My name is:[full legal name]

My address as shown on the latest tax record is:

My social insurance number is:

I consent to the release of income and expense information about me by the Canada Revenue Agency to the Child Support Recalculation Service, to be used, disclosed or made available only for the purposes and to the persons or in the manner set out below. The information will be taken from the Canada Revenue Agency assessment of the most recent income tax return filed by me or on my behalf. It is understood that when the information is no longer needed, it will be disposed of in accordance with the requirements of the *Document Disposal Act*.

The *Family Law Act*, the Family Law Act Regulation, the Supreme Court Family Rules and the Provincial Court Family Rules require the release of income tax information for

- recalculation of child support,
- application to vary support, or
- any other purpose ordered by the court.

The information will be used only for a purpose noted above. I understand that the information may become part of the court file and, as permitted by the *Family Law Act* and the Supreme Court Family Rules and the Provincial Court Family Rules, may be accessed by the parties, lawyers, family justice counsellors or persons authorized by a judge.

Date: [mmm/dd/yyyy]

.....
Signature of person releasing information

FORM 2 (FAMILY LAW ACT REGULATION, SECTION 23)

APPOINTMENT OF STANDBY OR TESTAMENTARY GUARDIAN

- 1 I, [name], of [address],
am the guardian of [name(s) of child(ren)]
born [birthdate(s) of child(ren) - mmm/dd/yyyy].
- 2 After considering the best interests of the child(ren) referred to in section 1, I appoint
..... [name], of [address],
to be the guardian of the child(ren) and

[Check one or both of the following boxes as applicable and provide any required information.]

[] this appointment takes effect on my death

FAMILY LAW ACT REGULATION

Appendix A

[] I am facing terminal illness or permanent mental incapacity and this appointment takes effect when, as a result of that illness or incapacity, I am unable to care for the child(ren), [add, if applicable, as certified by [name or official title]]. The appointed guardian must consult with me to the fullest possible extent regarding the care and upbringing of the child(ren).

- 3 On this appointment taking effect, the appointed guardian has the same parental responsibilities that I currently have [add, if applicable, subject to the following conditions and restrictions: [specify]]

Date: [mmm/dd/yyyy]

.....
Signature of appointing guardian

This appointment was signed in the presence of

WITNESSES [The witnesses to this appointment must be at least 19 years of age and must not be the person appointed as guardian.]

Name: Signature of witness

Address: Signature of witness

Occupation:

Name: Signature of witness

Address: Signature of witness

Occupation:

FORM 3 (FAMILY LAW ACT REGULATION, SECTION 24)

[am. B.C. Reg. 64/2021, ss. 3 and 4.]

GUARDIAN'S ACKNOWLEDGMENT - CHILDREN'S PROPERTY

- 1 I, [name], of [address], [occupation], am the guardian of [name of child] born [birthdate of child - mmm/dd/yyyy].
- 2 I have the parental responsibility to make day-to-day decisions affecting the child.
- 3 I request [name of person or organization] to deliver to me, to hold as trustee for the child, money or other property of a total value of

Appendix A

\$ that [name of person or organization]
has a duty to deliver to the child.

- 4 I confirm that when I receive the money or other property referred to in section 3, the total value of money and property that I will have received to hold as trustee for the child under section 178 of the *Family Law Act* will not exceed the amount prescribed by section 24 of the Family Law Act Regulation. [Note: the amount prescribed as at March 18, 2013 is \$10,000]
- 5 I will hold the money or other property in trust for the child.
- 6 I will keep the child's money or other property separate from my own.
- 7 I will expend the money or other property for the sole benefit of the child.
- 8 I will not profit from my role as trustee of the child's money or other property.
- 9 I will account to the child at any time that the child requests and when the child reaches 19 years of age I will account to the child and transfer the balance of the money or other property remaining at that time and all interest earned on it to the child.

Date:[mmm/dd/yyyy]

.....
Signature of guardian

This acknowledgement was signed in the presence of

WITNESS [The witness to this acknowledgement must be at least 19 years of age.]

Name:

.....

Address:

Signature of witness

Occupation:

IMPORTANT INFORMATION

A guardian who holds money or other property for a child as a trustee under section 178 of the *Family Law Act* must comply with section 15.2 of the *Trustee Act* which states that "a trustee must exercise the care, skill, diligence and judgment that a prudent investor would exercise in making investments".

Money or other property held by the guardian belongs to the child. The guardian holds and protects it and cannot personally benefit from it. The guardian cannot borrow any of the money or other property and lend it to anyone else. The guardian cannot give it to anybody else to hold as a trustee other than to the person replacing the guardian as guardian.

FAMILY LAW ACT REGULATION

Appendix A

When the guardian invests a child's money or other property, the guardian must ensure that the investment is registered in the name of the trust or on behalf of the child. A bank, credit union or trust company can assist the guardian in setting up a trust account.

Only the guardian can make a decision about whether to spend any of the income or capital or both. The money or other property can only be used for the sole benefit of the child.

The guardian is accountable for the guardian's management of the money or other property and must keep a record of all transactions, including all financial statements detailing income earned by the money or other property and a record of all money spent.

FORM 4 (FAMILY LAW ACT REGULATION, SECTION 24)

CHILD'S ACKNOWLEDGMENT – CHILDREN'S PROPERTY

- 1 I, [name], of [address], request that [name of person or organization] deliver to me money or other property of a total value of \$ that [name of person or organization] has a duty to deliver to me.
- 2 I confirm that when I receive the money or other property, the total value of money and property that I will have received under section 178 of the *Family Law Act* will not exceed the amount prescribed by section 24 of the Family Law Act Regulation. [Note: the amount prescribed as at March 18, 2013 is \$10,000]
- 3 I am able to receive the property or money under section 178 (2) (a) of the *Family Law Act* because I have a duty to support another person.

Date:.....[mmm/dd/yyyy]

.....
Signature

This acknowledgment was signed in the presence of

WITNESS [The witness to this acknowledgement must be at least 19 years of age.]

Name: Signature of witness

Address: Signature of witness

Occupation:

FORM 5 (FAMILY LAW ACT REGULATION, SECTION 26.1)

[en. B.C. Reg. 42/2013, s. 1 (b); am. B.C. Reg. 23/2021, App. 5, s. 4.]

CONSENT FOR CHILD PROTECTION RECORD CHECK

NOTE: This form must be completed by any person applying for guardianship of one or more children, and must be provided to the court registry at which the materials in support of that guardianship application have been filed.

SECTION 1 IDENTIFICATION OF PERSON SEEKING CHILD PROTECTION RECORD CHECK

Name:
[first name] [middle name(s)] [last name]

Other names used (include maiden name):

Address: City:

Province: Postal Code: Phone No.:

Date of Birth: Gender: M ☐ F ☐

Primary ID (Type and No.): Second ID (Type and No.):

SECTION 2 CHILD PROTECTION RECORD CHECK

A Child Protection Record Check (CPRC) is a report of prior contact entries in the records collected under the *Child, Family and Community Service Act* (CFCSA) or its predecessor legislation regarding child protection concerns, if any, relating to a person (the “applicant”) who is applying for guardianship of a child under the *Family Law Act* (FLA). A CPRC is prepared by a delegated child welfare worker at the Provincial After Hours Programs of the Ministry of Children and Family Development (MCFD). The CPRC reflects a search of records pertaining to the applicant as an adult or parent and does not reflect a search of records pertaining to the applicant as a child and non-parent. A CPRC documents only those child protection reports that required an investigation or an assessment and does not reflect services that may have been provided to the applicant on a voluntary basis under the CFCSA or its predecessor legislation.

[Check whichever of the following statements is correct and provide any required information.]

☐ I have not been involved at any time in the past, as an adult or parent, with child protection services.

☐ I have been involved in the past, as an adult or parent, with child protection services, with my first involvement occurring in[year]..... .

SECTION 3 REASON FOR REQUESTING A CPRC

Section 51 (2) of the FLA requires an applicant to provide evidence to the court, in accordance with the Supreme Court Family Rules or the Provincial Court Family Rules, respecting the best interests of the child. An applicant must submit a CPRC to the court to assist the court in determining the best interests of the child.

FAMILY LAW ACT REGULATION

Appendix A

I am applying in the Registry of the [] Supreme Court [] Provincial Court under Action No.: for guardianship of:

[Complete one line for each child for which guardianship is sought. Add additional lines if required.]

Name of child	Child's date of birth	Child's place of residence [Check the correct box.]
		<input type="checkbox"/> this child currently resides with me <input type="checkbox"/> this child does not currently reside with me but will be coming to live with me
		<input type="checkbox"/> this child currently resides with me <input type="checkbox"/> this child does not currently reside with me but will be coming to live with me
		<input type="checkbox"/> this child currently resides with me <input type="checkbox"/> this child does not currently reside with me but will be coming to live with me

SECTION 4 POSSIBLE CONSEQUENCES OF A CPRC

A CPRC may result in any of the following:

- 1 If a CPRC indicates that there is reason to believe that a child who is currently in, or about to come into, the applicant's care may need protection under section 13 of the CFCSA, the delegated child welfare worker conducting the CPRC will make a report to a local child welfare worker for further assessment under the CFCSA.
- 2 If a CPRC indicates that the applicant currently has an open child protection file, the delegated child welfare worker conducting the CPRC will notify the child welfare worker with conduct of the open file that the applicant is seeking guardianship under the FLA.
- 3 In response to a CPRC, a judge may order that records under the CFCSA or predecessor legislation be provided to the court.
- 4 In response to a CPRC, a judge may order an assessment of the applicant's ability and willingness to satisfy the needs of the child under section 211 of the FLA.
- 5 The director of the CFCSA may apply for leave to intervene in the guardianship proceedings under the FLA if the director considers it in the best interests of a child to do so.

SECTION 5 CONSENT

I have read and completed sections 1 to 4 and understand what a CPRC will entail, why a CPRC is required for my guardianship application and the possible consequences of a CPRC. I consent to a delegated child welfare worker from MCFD conducting and completing a CPRC for me to submit to the court as evidence in my guardianship application. This consent is valid for one year from the date of signature.

Appendix A

Date:[mmm/dd/yyyy]

.....
Signature

[The applicant signing this consent must also swear the following declaration if this form is provided to the court registry by a person other than the applicant. The applicant need not swear the following declaration if the applicant personally presents this consent to the court registry and provides the evidence of identity required by the registry staff.]

I SWEAR (OR AFFIRM) THAT I am the person referred to in section 1 of this consent, that the information in sections 1 and 3 of this consent is true and complete and that I have signed section 5 of this consent.

SWORN (OR AFFIRMED) BEFORE)

ME at, British Columbia)

on[dd/mm/yyyy].....)

.....

.....)

A commissioner for taking)

affidavits for British Columbia)

....[print name or affix stamp of commissioner]....