
CHILD, FAMILY AND COMMUNITY SERVICE ACT

CHAPTER 46

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PART 1 – INTRODUCTORY PROVISIONS**Definitions**

1 In this Act:

“**aboriginal child**” means a child

- (a) who is registered under the *Indian Act* (Canada),
- (b) who has a biological parent who is registered under the *Indian Act* (Canada),
- (c) who is under 12 years of age and has a biological parent who
 - (i) is of aboriginal ancestry, and
 - (ii) considers himself or herself to be aboriginal, or
- (d) who is 12 years of age or over, of aboriginal ancestry and considers himself or herself to be aboriginal;

“**aboriginal community**” means an aboriginal community designated by the minister;

“**board**” means the Child and Family Review Board established under section 83;

“**care**”, when used in relation to the care of a child by a director or another person, means physical care and control of the child;

“**caregiver**” means a person with whom a child is placed by a director and who, by agreement with the director, has assumed responsibility for the child’s day-to-day care;

“**child**” means a person under 19 years of age and includes a youth;

“**child in care**” means a child who is in the custody, care or guardianship of a director or the director of adoption;

“**continuing custody order**” means an order under section 41 (1) (d), 42 (3) (b), 49 (4) or (5) or 60 placing a child in the continuing custody of a director;

“**court**” means the Provincial Court except where this Act provides otherwise;

“**custody**” includes care and guardianship of a child;

“**designated representative**”, when used in relation to an Indian band or aboriginal community, means a representative designated in accordance with the regulations;

“**director**” means a person designated by the minister under section 91 and includes for the purposes of sections 84 to 86 the director of adoption;

“**director of adoption**” means the person designated by the minister under the *Adoption Act* as director of adoption;

“**family conference**” means a conference convened under section 20;

“**family conference coordinator**” means a person designated by a director for the purpose of convening family conferences;

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- “former Act”** means the *Family and Child Service Act*, S.B.C. 1980, c. 11;
- “guardianship”** includes all the rights, duties and responsibilities of a parent;
- “health care”** means anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health related purpose, and includes a course of health care;
- “health care provider”** includes a person licensed, certified or registered in British Columbia or in another province or state to provide health care;
- “Indian band”** means a band as defined in the *Indian Act* (Canada) and includes a band council;
- “interim order”** means an order made under section 35 (2) (a) or (b);
- “parent”** means
- (a) the mother of a child,
 - (b) the father of a child,
 - (c) a person to whom custody of a child has been granted by a court of competent jurisdiction or by an agreement, or
 - (d) a person with whom a child resides and who stands in place of the child’s mother or father
- but does not include a caregiver or director;
- “place of confinement”** means
- (a) a correctional centre, youth containment centre or other lawful place of confinement, or
 - (b) a Provincial mental health facility or psychiatric unit under the *Mental Health Act*;
- “plan of care”** means a plan prepared in accordance with the regulations;
- “police officer”** means a person who
- (a) under the *Police Act* is a provincial constable or municipal constable or has the powers of a provincial constable or municipal constable, or
 - (b) is a member of the military police of the Canadian Armed Forces;
- “presentation hearing”** means a hearing that a director is required by section 34 to attend after the removal of a child;
- “protective intervention order”** means an order made under section 28;
- “remove”** means to take a child into the care of a director under section 30, 35 (3) (b), 36 (1) or 42 (1) (d);
- “residential service”** means accommodation and associated supervision provided for a child in a foster home or other place away from the home of the child’s parent;
- “restraining order”** means an order made under section 98;
-

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“supervision order” means an order made under section 41 (1) (a) or (b), 49 (8) or 60 requiring a director to supervise a child’s care, and includes any extension of or change to that order;

“temporary custody order” means an order made under section 41 (1) (b) or (c), 42 (3) (a) or 60 placing a child for a specified period in the custody of a director or another person, and includes any extension of or change to that order;

“youth” means a person who is 16 years of age or over but is under 19 years of age.

Guiding principles

2 This Act must be interpreted and administered so that the safety and well-being of children are the paramount considerations and in accordance with the following principles:

- (a) children are entitled to be protected from abuse, neglect and harm or threat of harm;
- (b) a family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with the parents;
- (c) if, with available support services, a family can provide a safe and nurturing environment for a child, support services should be provided;
- (d) the child’s views should be taken into account when decisions relating to a child are made;
- (e) kinship ties and a child’s attachment to the extended family should be preserved if possible;
- (f) the cultural identity of aboriginal children should be preserved;
- (g) decisions relating to children should be made and implemented in a timely manner.

Service delivery principles

3 The following principles apply to the provision of services under this Act:

- (a) families and children should be informed of the services available to them and encouraged to participate in decisions that affect them;
- (b) aboriginal people should be involved in the planning and delivery of services to aboriginal families and their children;
- (c) services should be planned and provided in ways that are sensitive to the needs and the cultural, racial and religious heritage of those receiving the services;
- (d) the community should be involved, if possible and appropriate, in the planning and delivery of services to families and children.

Best interests of child

- 4 (1) Where there is a reference in this Act to the best interests of a child, all relevant factors must be considered in determining the child's best interests, including for example:
- (a) the child's safety;
 - (b) the child's physical and emotional needs and level of development;
 - (c) the importance of continuity in the child's care;
 - (d) the quality of the relationship the child has with a parent or other person and the effect of maintaining that relationship;
 - (e) the child's cultural, racial, linguistic and religious heritage;
 - (f) the child's views;
 - (g) the effect on the child if there is delay in making a decision.
- (2) If the child is an aboriginal child, the importance of preserving the child's cultural identity must be considered in determining the child's best interests.

PART 2 – SUPPORT SERVICES AND AGREEMENTS**Support services for families**

- 5 (1) A director may make a written agreement with a parent to provide, or to assist the parent to purchase, services to support and assist a family to care for a child.
- (2) The services may include, but are not limited to, the following:
- (a) services for children and youth;
 - (b) counselling;
 - (c) in-home support;
 - (d) respite care;
 - (e) parenting programs;
 - (f) services to support children who witness family violence.
- (3) The initial term of the agreement must not exceed 6 months, but the agreement may be renewed for terms of up to 6 months each.

Voluntary care agreements

- 6 (1) A director may make a written agreement with a parent who has custody of a child and is temporarily unable to look after the child in the home.
- (2) Under the agreement, the parent may give the care of the child to the director and delegate to the director as much of the parent's authority as guardian of the child's person as is required to give effect to the agreement.
- (3) If possible, the director must

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- (a) find out the child's views about the agreement and take them into account, and
 - (b) explain the effect of the agreement to the child before the agreement is signed.
- (4) Before making the agreement, the director must
- (a) consider whether a less disruptive way of assisting the parent to look after the child, such as by providing available services in the child's own home, is appropriate in the circumstances, and
 - (b) consider whether the agreement is in the child's best interests.
- (5) The agreement must include the following:
- (a) a description of the plan of care for the child, including where the child will be placed;
 - (b) a promise by the director to keep the parent informed of the child's progress and to involve the parent in decisions affecting the child;
 - (c) a promise by the parent to maintain contact with the child, including the details of the contact.
- (6) The initial term of the agreement must not exceed
- (a) 3 months, if the child is under 5 years of age on the date the agreement is signed, or
 - (b) 6 months, in any other case.
- (7) The agreement may be renewed, but the total duration of the agreement and all renewals must not exceed, from the date the first agreement was signed,
- (a) 12 months, if the child or the youngest child who is the subject of the agreement was under 5 years of age on that date,
 - (b) 18 months, if the child or the youngest child who is the subject of the agreement was 5 years of age or over but under 12 years of age on that date, or
 - (c) 24 months, if the child or the youngest child who is the subject of the agreement was 12 years of age or over on that date.
- (8) If the parent does not resume care of the child when the agreement ends, the term of the agreement is extended for 30 days despite subsections (6) and (7).

Special needs agreements

- 7
- (1) A director may make a written agreement with a parent who has custody of a child with special needs.
 - (2) Under the agreement, the parent may give the care of the child to the director and delegate to the director as much of the parent's authority as guardian of the child's person as is required to give effect to the agreement.
 - (3) Section 6 (3) to (5) and (8) applies to an agreement under this section.

(4) The initial term of the agreement must not exceed 6 months, but the agreement may be renewed for terms of up to 12 months each.

8 [Section Not In Force, see Supplement].

9 [Section Not In Force, see Supplement].

10 [Section Not In Force, see Supplement].

Capacity to make agreements and enforceability of agreements

11 (1) A parent under 19 years of age may make an agreement under section 5, 6 or 7 with a director.

(2) An agreement made by a director under section 5, 6, 7 or 9 with a person under 19 years of age is enforceable against that person.

Agreements do not limit court's power

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

PART 3 – CHILD PROTECTION

Division 1 – Responding to Reports

When protection is needed

- 13 (1) A child needs protection in the following circumstances:
- (a) if the child has been, or is likely to be, physically harmed by the child's parent;
 - (b) if the child has been, or is likely to be, sexually abused or exploited by the child's parent;
 - (c) if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child;
 - (d) if the child has been, or is likely to be, physically harmed because of neglect by the child's parent;
 - (e) if the child is emotionally harmed by the parent's conduct;
 - (f) if the child is deprived of necessary health care;
 - (g) if the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;
 - (h) if the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;

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- (i) if the child is or has been absent from home in circumstances that endanger the child's safety or well-being;
 - (j) if the child's parent is dead and adequate provision has not been made for the child's care;
 - (k) if the child has been abandoned and adequate provision has not been made for the child's care;
 - (l) if the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force.
- (2) For the purpose of subsection (1) (e), a child is emotionally harmed if the child demonstrates severe
- (a) anxiety,
 - (b) depression,
 - (c) withdrawal, or
 - (d) self-destructive or aggressive behaviour.

Duty to report need for protection

- 14** (1) A person who has reason to believe that a child
- (a) has been, or is likely to be, physically harmed, sexually abused or sexually exploited by a parent or other person, or
 - (b) needs protection under section 13 (1) (e) to (k)
- must promptly report the matter to a director or a person designated by a director.
- (2) Subsection (1) applies even if the information on which the belief is based
- (a) is privileged, except as a result of a solicitor-client relationship, or
 - (b) is confidential and its disclosure is prohibited under another Act.
- (3) A person who contravenes subsection (1) commits an offence.
- (4) A person who knowingly reports to a director, or a person designated by a director, false information that a child needs protection commits an offence.
- (5) No action for damages may be brought against a person for reporting information under this section unless the person knowingly reported false information.
- (6) A person who commits an offence under this section is liable to a fine of up to \$10 000 or to imprisonment for up to 6 months, or to both.
- (7) The limitation period governing the commencement of a proceeding under the *Offence Act* does not apply to a proceeding relating to an offence under this section.

If a young child breaks the law

- 15** (1) A police officer may take charge of a child and deliver him or her to a parent if the police officer considers that the child

- (a) is under 12 years of age, and
 - (b) has acted in a manner prohibited by law or has failed or refused to act in a manner required by law.
- (2) If the child has killed, assaulted or endangered another person, the police officer must report the circumstances to a director, and, in any other case, may report the circumstances to a director.

Finding out if a child needs protection

- 16**
- (1) On receiving a report about a child under section 14, 15 or 27, a director must assess the information in the report.
 - (2) After the assessment, the director may
 - (a) offer support services to the child and family,
 - (b) refer the child and family to a community agency, or
 - (c) investigate the child's need for protection.
 - (3) The director must make all reasonable efforts to report the result of the investigation under subsection (2) (c) to
 - (a) the parent apparently entitled to custody of the child, and
 - (b) the person who reported the information that led to the investigation.
 - (4) In addition, the director may report the result of the investigation to the child if he or she is capable of understanding the information.
 - (5) Subsections (3) and (4) do not apply
 - (a) if reporting the result of the investigation would, in the opinion of the director, cause physical and emotional harm to any person or endanger the child's safety, or
 - (b) if a criminal investigation into the matter is under way or contemplated.

If director is denied access to child

- 17**
- (1) On application by a director, the court may make an order under this section if
 - (a) there are reasonable grounds to believe a child needs protection,
 - (b) a person refuses to give the director access to the child, and
 - (c) access to the child is necessary to determine if the child needs protection.
 - (2) In an order under this section, the court may do one or more of the following:
 - (a) authorize the director or a person specified in the order to enter specified premises by force if necessary and to search for the child;
 - (b) require a person to disclose the location of the child;
 - (c) require a person to allow the director or another person to interview or to visually examine the child, or to do both;

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- (d) authorize the director to take the child away from the premises for an interview or medical examination;
 - (e) authorize a medical practitioner or other health care provider to examine the child.
- (3) The court may attach any terms or conditions to an order under this section.
 - (4) If the child is taken away from the premises for an interview or medical examination, the director must return the child to the parent when the interview or medical examination is completed unless the director proceeds under section 30.
 - (5) At the request of a director, a police officer must assist in enforcing an order made under subsection (2).

If location of child is not disclosed

- 18 (1) If a person does not comply with an order under section 17 requiring the person to disclose the location of a child, the court may issue a warrant for the person's arrest to bring him or her before the court to explain why the order should not be enforced.
- (2) Unless the court is satisfied when the person appears before the court that he or she is for valid reasons unable to comply with the order, the court may order that the person be imprisoned for the shorter of the following periods:
 - (a) until the person complies with the order;
 - (b) 30 days.

Orders for access by director may be obtained by telephone

- 19 (1) A director may apply to a judge of the court in person, by telephone or by any other means of telecommunication for an order under section 17.
- (2) If a judge of the court is not available, a director may apply to a justice of the peace in person, by telephone or by other means of telecommunication for an order under section 17 and the justice may make the order in place of a judge.

Division 2 – Cooperative Planning and Dispute Resolution

20 [Section Not In Force, see Supplement].

21 [Section Not In Force, see Supplement].

Mediation

- 22 If a director and any person are unable to resolve an issue relating to the child or a plan of care, the director and the person may agree to mediation or other alternative dispute resolution mechanisms as a means of resolving the issue.

Effect of family conference or mediation on court proceeding

- 23 (1) On application the court may adjourn a proceeding under this Part one or more times, for a total period of up to 3 months, so that a family conference or mediation can proceed.
- (2) If the proceeding is adjourned, any time limit applicable to the proceeding is suspended.
- (3) If, as a result of a family conference or mediation, a written agreement is made after a proceeding is commenced to determine if the child needs protection, a director may file the agreement with the court.

Confidentiality of information

- 24 (1) A person must not disclose, or be compelled to disclose, information obtained in a family conference or mediation, except
- (a) with the consent of everyone who participated in the family conference or mediation,
 - (b) to the extent necessary to make or implement an agreement about the child,
 - (c) if the information is disclosed in an agreement filed under section 23, or
 - (d) if the disclosure is necessary for a child's safety or is required under section 14.
- (2) This section applies despite sections 76, 78 and 79.

Division 3 – How Children are Protected**Unattended child**

- 25 (1) If a child is found without adequate supervision when premises are entered under this Act, a director may do any of the following:
- (a) take the child to a safe place and arrange for someone to look after the child for up to 72 hours;
 - (b) remain on the premises;
 - (c) arrange for homemaker services to be provided for the shorter of the following periods:
 - (i) until other adequate supervision is available for the child;
 - (ii) 72 hours.
- (2) If homemaker services are provided, the homemaker may enter the premises where the child is and look after the child.
- (3) The director must make all reasonable efforts to notify the child's parent of any steps taken by the director under subsection (1).

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- (4) The director may
 - (a) authorize a health care provider to examine the child, and
 - (b) consent to necessary health care for the child if, in the opinion of a health care provider, the health care should be provided without delay.
- (5) Subsection (4) does not affect a child's right under section 17 of the *Infants Act* to consent to health care.

Lost or runaway child

- 26
- (1) A director may take charge of a child for a period of up to 72 hours if it appears to the director that the child is lost or has run away.
 - (2) On taking charge of the child, the director
 - (a) must make all reasonable efforts to locate a parent, guardian or other person responsible for the child, and
 - (b) may take the child to a safe place or arrange for someone to look after the child.
 - (3) If the person responsible for the child is located, the director may
 - (a) return the child or facilitate the child's return to that person, or
 - (b) place the child with another person at the request of the person responsible for the child and with the consent of the other person.
 - (4) Section 25 (4) and (5) applies to the child while in the charge of the director.
 - (5) If the person responsible for the child is not located by the end of the 72 hour period, the director no longer has charge of the child.

Child in immediate danger

- 27
- (1) A police officer may, without a court order, take charge of a child if the police officer has reasonable grounds to believe that the child's health or safety is in immediate danger.
 - (2) A police officer may, without a court order and by force if necessary, enter any premises or vehicle or board any vessel for the purpose of taking charge of a child under subsection (1) if
 - (a) the police officer has reasonable grounds to believe that the child's health or safety is in immediate danger, and
 - (b) a person denies the police officer access to the child or no one is available to provide access.
 - (3) On taking charge of the child, the police officer must immediately report the circumstances to a director and
 - (a) take the child to the director or to a person or place designated by the director, or

- (b) with the approval of the director, return the child to the child's parent or take the child to a person designated by the parent.
- (4) If the child is taken to a director or to a person or place designated by a director, the director may take charge of the child for up to 24 hours and must
 - (a) immediately make all reasonable efforts to notify the child's parent,
 - (b) investigate the circumstances, and
 - (c) look after the child while in the director's charge.
- (5) The director must as soon as possible
 - (a) return the child to the parent, or
 - (b) place the child with a person at the request of the parent and with the consent of the other person,unless the director proceeds under section 30.
- (6) Section 25 (4) and (5) applies to the child while in the charge of the director.

Child who needs to be protected from contact with someone

- 28**
- (1) If there are reasonable grounds to believe that contact between a child and another person would cause the child to need protection under section 13 (1) (a) to (e), a director may apply to the court for a protective intervention order.
 - (2) At least 2 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on the following:
 - (a) the person against whom the order is sought;
 - (b) the child, if 12 years of age or over;
 - (c) the person with care of the child.
 - (3) If satisfied that there are reasonable grounds to believe that contact between the child and another person would cause the child to need protection under section 13 (1) (a) to (e), the court may, in the child's best interests, do one or more of the following:
 - (a) prohibit the other person for a period of up to 6 months from contacting or interfering with or trying to contact or interfere with the child or from entering any premises the child attends;
 - (b) prohibit the other person for a period of up to 6 months from residing with the child or entering any premises where the child resides, including premises that the other person owns or has a right to occupy;
 - (c) if the court thinks the other person may not comply with an order under paragraph (a) or (b), order that person to
 - (i) enter into a recognizance, with or without sureties, in an amount the court thinks necessary and reasonable,

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- (ii) report to the court, or to a person named by the court, for the period of time and at the times and places the court thinks necessary and reasonable, or
 - (iii) produce to the court, or to a person named by the court, any documents the court thinks fit;
 - (d) include any terms necessary to implement an order under paragraph (a), (b) or (c).
- (4) Before the protective intervention order expires, the director or any person named in the order may apply to the court and the court may do one or more of the following:
 - (a) change the order;
 - (b) cancel the order;
 - (c) shorten the term of the order;
 - (d) extend the term of the order for one period of up to 6 months.
- (5) At the request of a director, a police officer must assist in enforcing a protective intervention order.
- (6) A protective intervention order may be made at any time, including before, at or after a presentation hearing or other hearing.
- (7) In this section, “**court**” means the Supreme Court or the Provincial Court.

Child who needs essential health care

- 29**
- (1) If a child or a parent of a child refuses to give consent to health care that, in the opinion of 2 medical practitioners, is necessary to preserve the child’s life or to prevent serious or permanent impairment of the child’s health, a director may apply to the court for an order under this section.
 - (2) At least 2 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on
 - (a) each parent,
 - (b) the child, if capable of consenting to health care, and
 - (c) any other person the court directs.
 - (3) If satisfied that the health care is necessary to preserve the child’s life or to prevent serious or permanent impairment of the child’s health, the court may make an order
 - (a) authorizing the health care,
 - (b) prohibiting any person from obstructing the provision of the health care,
 - (c) requiring a parent or another person to deliver the child to the place where the health care will be provided, and
 - (d) including any other terms, including the duration of the order, that the court considers necessary.

- (4) In this section, “**child**” includes a child in care.
- (5) This section does not limit the director’s power to remove the child under section 30 or to take any other steps authorized by this Act to protect the child.

Removal of child

- 30**
- (1) A director may, without a court order, remove a child if the director has reasonable grounds to believe that the child needs protection and that
 - (a) the child’s health or safety is in immediate danger, or
 - (b) no other less disruptive measure that is available is adequate to protect the child.
 - (2) A director may, without a court order and by force if necessary, enter any premises or vehicle or board any vessel for the purpose of removing a child under subsection (1) if
 - (a) the director has reasonable grounds to believe that the child is in the premises or vehicle or on the vessel, and
 - (b) a person denies the director access to the child or no one is available to allow access to the child.
 - (3) If requested by a director, a police officer must accompany and assist the director in exercising the authority given by this section.
 - (4) This section applies whether or not a family conference or mediation is scheduled or in progress under section 20 or 22 with respect to the child.

Parents to be notified of child’s removal

- 31**
- (1) A director who removes a child must promptly make all reasonable efforts to notify each parent of the child’s removal.
 - (2) The notice must if practicable be in writing and must include a statement of the reasons for removing the child.

Care of child until an order is made at the presentation hearing

- 32**
- (1) If a child is removed under section 30, a director has care of the child until
 - (a) the child is returned under section 33 to the parent apparently entitled to custody, or
 - (b) the court makes an order under section 35 about the child,whichever happens first.
 - (2) While the child is in the director’s care, the director may
 - (a) authorize a health care provider to examine the child, and
 - (b) consent to necessary health care for the child if, in the opinion of a health care provider, the health care should be provided without delay.

Section 33

- (3) On consenting to health care for the child, the director must, if practicable, notify the parent who at the time of the child's removal was apparently entitled to custody.
- (4) Subsection (2) does not affect a child's right under section 17 of the *Infants Act* to consent to health care.
- (5) While the child is in the director's care, the director may consent to the child's participation in routine school, social or recreational activities.

Returning the child before the presentation hearing

- 33**
- (1) Before the presentation hearing, a director may return a child to the parent apparently entitled to custody if
 - (a) the director makes an agreement with the parent that the director considers adequate to protect the child,
 - (b) the director considers that circumstances have changed so that the child no longer needs protection,
 - (c) the director receives information that causes the director to believe the child does not need protection, or
 - (d) a less disruptive means of protecting the child becomes available.
 - (2) When a child is returned, the director must inform the parent in writing whether the director intends to withdraw from a proceeding under this Part or to take further steps under this Part.
 - (3) If the director does not intend to take further steps under this Part, the director must, within 7 days after the child's removal,
 - (a) present to the court a written report on the director's reasons for removing and returning the child, and
 - (b) provide a copy of the report to the child's parent and any person notified of the presentation hearing.

Division 4 – Child Protection Hearings and Orders**Duty to attend and inform others of presentation hearing**

- 34**
- (1) No later than 7 days after the day a child is removed under section 30, a director must attend the court for a presentation hearing.
 - (2) Subsection (1) does not apply if a director has returned the child under section 33 and withdrawn from the presentation hearing.
 - (3) The director must, if practicable, inform the following of the time, date and place of the hearing:
 - (a) the child, if 12 years of age or over;
 - (b) each parent;

- (c) the Public Trustee, if the parent apparently entitled to custody of the child is under 19 years of age;
- (d) the applicable aboriginal organization prescribed in the regulations for the purpose of this section, if the child is an aboriginal child.

Presentation hearing and orders

- 35** (1) At the presentation hearing the director must present to the court the following:
- (a) a written report on the circumstances that caused the director to remove the child;
 - (b) information about any less disruptive measures considered by the director before removing the child;
 - (c) an interim plan of care for the child that includes, in the case of an aboriginal child, the steps to be taken to preserve the child's aboriginal identity.
- (2) At the conclusion of the hearing, the court must make
- (a) an interim order that the child be in the custody of the director,
 - (b) an interim order that the child be returned to or remain with the parent under the supervision of the director, or
 - (c) an order that the child be returned to or remain with the parent.
- (3) If an interim order is made under subsection (2) (b), the court may
- (a) include any terms or conditions that may be included in a supervision order under section 42, and
 - (b) order the director to remove the child if the parent does not comply with a term or condition included in the interim order.
- (4) A presentation hearing is a summary hearing and must be concluded as soon as practicable in the circumstances.

If interim order no longer protects the child

- 36** (1) If the director has reason to believe that an interim order under section 35 (2) (b) no longer protects the child, the director must remove the child.
- (2) If the child is removed under subsection (1) or because the parent or another person has not complied with a term or condition of an interim order, the director must, within 7 days after the child's removal, present to the court a written report on the circumstances that caused the director to remove the child.
- (3) The director must, if practicable, inform the persons mentioned in section 34 (3) of the time, date and place set for presenting the report and must provide them with a copy of the report.
- (4) If the director satisfies the court that the child was removed in accordance with subsection (1) or the interim order, the court may make an interim order under section 35 (2) (a).

Section 37

- (5) If the director does not satisfy the court that the child was removed in accordance with subsection (1) or the interim order, the court may make another interim order under section 35 (2) (b).

Arranging a protection hearing

- 37 (1) When an interim order is made under section 35 (2) (a) or (b), the court must set the earliest possible date for a hearing to determine if the child needs protection.
- (2) The date for commencing the protection hearing must not be more than 45 days after the conclusion of the presentation hearing, and the protection hearing must be concluded as soon as possible.

Notice of protection hearing

- 38 (1) At least 10 days before the date set for a protection hearing, notice of the time, date and place of the hearing must be served as follows:
- (a) on the child, if 12 years of age or over;
 - (b) on each parent;
 - (c) if the child is registered or entitled to be registered as a member of an Indian band, on a designated representative of the band;
 - (d) if the child is not registered or not entitled to be registered as a member of an Indian band but is an aboriginal child, on a designated representative of an aboriginal community that has been identified by
 - (i) the child, if 12 years of age or over, or
 - (ii) the parent who at the time of the child's removal was apparently entitled to custody, if the child is under 12 years of age;
 - (e) on any other person the court considers appropriate.
- (2) The notice must specify the orders the director intends to request and include a copy of any plan of care the director intends to present to the court, unless the parent and any other person entitled to notice agree to wait until a later date for that information.

Parties to proceeding

- 39 (1) If the following persons appear at the commencement of the protection hearing, they are entitled to be parties at the hearing:
- (a) each parent of the child;
 - (b) a director;
 - (c) if the child is an aboriginal child, a representative of an Indian band or aboriginal community served with notice of the hearing.
- (2) If a person referred to in subsection (1) appears at the commencement of a protection hearing or becomes a party under subsection (4), that person is entitled

- (a) to notice of a hearing under section 42, 44, 46, 55, 57, 58 or 97 relating to the child, and
 - (b) to be a party at the hearing if the person appears.
- (3) If the court orders under section 41 (1) (b) that the child be placed in the custody of a person other than the parent or a director, that person is entitled
- (a) to notice of a hearing under section 42, 44, 46, 55, 57, 58 or 97 relating to the child, and
 - (b) to be a party at the hearing if the person appears.
- (4) The court may order that a person be a party at any hearing.

Protection hearing

- 40**
- (1) At the protection hearing the court must determine whether the child needs protection.
 - (2) If the court finds that the child does not need protection, it must order the director to return the child as soon as possible to the parent apparently entitled to custody unless the child has already been returned.
 - (3) If the court finds that the child needs protection, it
 - (a) must consider the plan of care presented by the director, and
 - (b) may hear any more evidence the court considers necessary to help it determine which order should be made under section 41.

Orders made at protection hearing

- 41**
- (1) If the court finds that the child needs protection, it must make one of the following orders in the child's best interests:
 - (a) that the child be returned to or remain in the custody of the parent and be under the director's supervision for a specified period of up to 6 months;
 - (b) that the child be placed in the custody of a person other than the parent with the consent of the other person and under the director's supervision, for a specified period in accordance with section 43;
 - (c) that the child remain or be placed in the custody of the director for a specified period in accordance with section 43;
 - (d) that the child be placed in the continuing custody of the director.
 - (1.1) When an order is made under subsection (1) (b) or (c), the court may order that on the expiry of the order under subsection (1) (b) or (c) the child
 - (a) be returned to the parent, and
 - (b) be under the director's supervision for a specified period of up to 6 months.
 - (2) The court must not order that the child be placed in the continuing custody of the director unless

Section 42

- (a) the identity or location of a parent of the child has not been found after a diligent search and is not likely to be found,
 - (b) a parent is unable or unwilling to resume custody of the child, or
 - (c) the nature and extent of the harm the child has suffered or the likelihood that the child will suffer harm is such that there is little prospect it would be in the child's best interests to be returned to the parent.
- (3) The court may attach to an order under this section any terms or conditions recommended by the director to implement a plan of care.

Content and enforcement of supervision order

- 42** (1) If a supervision order is made, the court may attach terms or conditions recommended by the director to implement the plan of care for a child, including the following:
- (a) services for the child's parent or for another person in the child's home;
 - (b) daycare or respite care;
 - (c) the director's right to visit the child;
 - (d) the director's duty to remove the child if the person with custody of the child or if another person does not comply with the order.
- (2) If the child is removed because a person has not complied with the supervision order, the director must
- (a) apply to the court within 7 days after the removal for a hearing to determine whether the child was removed in accordance with the supervision order, and
 - (b) serve notice of the hearing on the persons who under section 39 or 49 (3) are entitled to notice or, if the supervision order was made under section 60, on the parties who consented to the order.
- (3) If the director satisfies the court that the child was removed in accordance with the supervision order, the court may do as follows:
- (a) if the supervision order was made under section 41 (1) (a) or (b) or 60, order that the child remain in the custody of the director for a specified period in accordance with section 43;
 - (b) if the supervision order was made under section 49 (8), order that the child be placed in the continuing custody of the director.
- (4) If the director does not satisfy the court that the child was removed in accordance with the supervision order, the court may order that
- (a) the child be returned to the person who had custody of the child when the child was removed under the supervision order, and
 - (b) any order that was in force when the child was removed continue to apply.

Time limits for temporary custody orders

- 43** If a temporary custody order is made, the term of the order must not exceed
- (a) 3 months, if the child or the youngest child who is the subject of the hearing is under 5 years of age when the order is made,
 - (b) 6 months, if the child or the youngest child who is the subject of the hearing is 5 years of age or over but under 12 years of age when the order is made, or
 - (c) 12 months, if the child or the youngest child who is the subject of the hearing is 12 years of age or over when the order is made.

Extension of supervision orders and temporary orders

- 44**
- (1) Before a supervision order or temporary custody order expires, the director may apply to the court for an extension of the order if the circumstances that led to the child being removed are likely to improve within a reasonable time.
 - (2) At least 10 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on
 - (a) the child, if 12 years of age or over,
 - (b) the persons who under section 39 are entitled to notice, and
 - (c) the Public Trustee, if appointed guardian of the child's estate under section 58.
 - (3) If satisfied that the circumstances that led to the child being removed are likely to improve within a reasonable time, the court may, in the child's best interests,
 - (a) extend the term of the supervision order, but not beyond 6 months from the date the supervision order was made, or
 - (b) extend the term of the temporary custody order, but not beyond the period permitted under section 45.
 - (4) The time limit in subsection (3) (a) does not apply to a supervision order made under section 41 (1) (b).

Total period of temporary custody

- 45**
- (1) The total period during which a child is in the temporary custody of the director or a person other than the child's parent must not exceed, from the date of the initial order until the child is returned to the parent or a continuing custody order is made,
 - (a) 12 months, if the child or the youngest child who was the subject of the initial order was under 5 years of age on the date of that order,
 - (b) 18 months, if the child or the youngest child who was the subject of the initial order was 5 years of age or over but under 12 years of age on the date of that order, and
 - (c) 24 months, if the child or the youngest child who was the subject of the initial order was 12 years of age or over on the date of that order.

Section 46

- (1.1) On application the court may extend, by a specified period, a time limit in subsection (1) if the court considers it in the child's best interests to do so.
- (2) In this section, "**initial order**" means a temporary custody order made under section 41 (1) (b) or (c) or made after the child is removed in accordance with a supervision order.

Supervision of child after temporary custody order ends

- 46**
- (1) Before a temporary custody order expires, the director may apply to the court for an order that the director supervise the child's care for a specified period of up to 6 months after the child is returned to the parent entitled to custody.
 - (2) At least 10 days before the date set for hearing the application, notice of the hearing must be served on the following:
 - (a) the child, if 12 years of age or over;
 - (b) the persons who under section 39 are entitled to notice.
 - (3) The court may, in the child's best interests, order the director to supervise the child's care for a specified period of up to 6 months.

Effect of interim or temporary custody order

- 47**
- (1) A director who has custody of a child under an interim order or temporary custody order or when a child is removed under section 35 (3) (b), 36 (1) or 42 (1) (d) has the following rights and responsibilities unless they are limited by the court under subsection (3) of this section:
 - (a) to consent to health care for the child;
 - (b) to make necessary decisions about the child's education and religious upbringing;
 - (c) to exercise any other rights and to carry out any other responsibilities of a guardian of the child's person, except the right to consent to the child's adoption.
 - (2) Any other person who has custody of a child under a temporary custody order has the same rights and responsibilities that a director has under subsection (1) unless they are limited by the court under subsection (3).
 - (3) When an interim order is made under section 35 (2) (a) or a temporary custody order is made, the court may, in the child's best interests, order that the parent retain either or both of the following rights:
 - (a) to consent to health care for the child;
 - (b) to make necessary decisions about the child's education and religious upbringing.
 - (4) Neither subsection (1) (a) nor an order under subsection (3) (a) affects a child's right under section 17 of the *Infants Act* to consent to health care.

- (5) No order may be made under subsection (3) (a) if the parent's failure to consent to health care was a reason for removing the child or for finding that the child needed protection.
- (6) If a parent who retains the right to consent to health care for a child is unavailable or unable to consent to health care that is essential to preserve the child's life or to prevent serious or permanent impairment of the child's health, the director may consent instead of the parent.

Withdrawing from a proceeding after the presentation hearing

- 48
- (1) At any time after the presentation hearing, a director may return a child to the parent apparently entitled to custody and withdraw from a proceeding if the director
 - (a) makes an agreement with the parent that the director considers adequate to protect the child, or
 - (b) considers that circumstances have changed so that the child no longer needs protection.
 - (2) A director who withdraws from a proceeding must present to the court a written report on the director's reasons for returning the child.
 - (3) When a director withdraws from a proceeding, the proceeding ends without an order being made.

Division 5 – Continuing Custody Hearings and Orders

Continuing custody hearing and orders

- 49
- (1) Not sooner than 30 days before a temporary custody order expires, the director may apply to the court for a continuing custody order.
 - (2) At least 10 days before the date set for hearing the application, notice of the time, date and place of the continuing custody hearing must be served as follows:
 - (a) on the child, if 12 years of age or over;
 - (b) on each parent;
 - (c) if the child is registered or entitled to be registered as a member of an Indian band, on a designated representative of the band;
 - (d) if the child is not registered or not entitled to be registered as a member of an Indian band but is an aboriginal child, on a designated representative of an aboriginal community that has been identified by
 - (i) the child, if 12 years of age or over, or
 - (ii) the parent, if the child is under 12 years of age;
 - (e) on the Public Trustee, if appointed guardian of the child's estate under section 58.

Section 49

- (3) If the persons referred to in subsection (2) (b) to (d) appear at the continuing custody hearing, they are entitled
 - (a) to be parties at the hearing, and
 - (b) to notice of a hearing under section 42 (2), 54, 56 or 57 and, if they appear at the hearing, to be a party at that hearing.
- (4) The court must order that the child be placed in the continuing custody of the director if
 - (a) the identity or location of a parent of the child has not been found after a diligent search and is not likely to be found, or
 - (b) a parent is unable or unwilling to resume custody of the child.
- (5) The court may order that the child be placed in the continuing custody of the director if there is no significant likelihood that
 - (a) the circumstances that led to the child's removal will improve within a reasonable time, or
 - (b) the parent will be able to meet the child's needs.
- (6) Before making a continuing custody order under subsection (5), the court must consider
 - (a) the past conduct of the parent towards any child who is or was in the parent's care,
 - (b) the plan of care, and
 - (c) the child's best interests.
- (7) If the court does not make a continuing custody order, it must make one of the following orders:
 - (a) that the child be returned to the custody of the parent apparently entitled to custody;
 - (b) that the child remain in the temporary custody of the director or a person other than the parent for a specified period of up to 6 months.
- (8) If the court orders that the child be returned to the parent's custody or remain in the custody of a person other than the parent, it may order that the director supervise the child's care for a specified period of up to 6 months.
- (9) Not sooner than 30 days before a temporary custody order under subsection (7) (b) expires, the director may apply to the court for a continuing custody order.
- (10) If the director applies under subsection (9), the court after considering the factors in subsection (6) must make one of the following orders:
 - (a) that the child be placed in the continuing custody of the director;
 - (b) that the child be returned to the parent apparently entitled to custody.

Effect of continuing custody order

- 50** (1) When an order is made under section 41, 49 (4) or (5) or 60 placing a child in the continuing custody of a director,
- (a) the director becomes the sole guardian of the person of the child and may consent to the child's adoption,
 - (b) the Public Trustee becomes the sole guardian of the estate of the child, and
 - (c) the order does not affect the child's rights respecting inheritance or succession to property.
- (2) At least 30 days before consenting under section 13 (3) of the *Adoption Act* to the child's adoption, the director must inform any person who, under section 56 of this Act, has been given access to the child of the director's intention to consent to the adoption.
- (3) Subsection (1) (c) does not affect the operation of the *Adoption Act*.
- (4) The director must send a copy of the continuing custody order to the Public Trustee.

Role of Public Trustee

- 51** If the Public Trustee is the guardian of a child's estate under this Act, the Public Trustee has the duties and powers with respect to the management of the child's property and the protection of the child's legal interests that are given by law to the Public Trustee, including the duties and powers given by section 7 of the *Public Guardian and Trustee Act* and sections 12, 14 and 16 of the *Infants Act*.

Director's duty to notify Public Trustee

- 52** (1) When a child is in the custody of a director under a continuing custody order or a director is guardian of the person of a child under another Act, the director must notify the Public Trustee if the director consents to
- (a) the child's adoption, or
 - (b) the child's residence being outside British Columbia.
- (2) Subject to section 53, the Public Trustee continues to be the guardian of the estate of a child referred to in subsection (1) even though the child resides outside British Columbia.

When continuing custody order ends

- 53** (1) A continuing custody order terminates when
- (a) the child reaches 19 years of age,
 - (b) the child is adopted,
 - (c) the child marries, or
 - (d) the court cancels the continuing custody order.

- (2) When the continuing custody order terminates, the director ceases to be the guardian of the child's person and the Public Trustee ceases to be the guardian of the child's estate.

Cancellation of continuing custody order

- 54** (1) With the permission of the court, a party to a proceeding in which a continuing custody order was made may apply to the court for the cancellation of the order if the circumstances that caused the court to make the order have changed significantly.
- (2) At least 10 days before the date set for hearing the application for permission to apply for cancellation of the continuing custody order, notice of the application must be served on the following:
- (a) the child, if 12 years of age or over;
 - (b) the persons who under section 49 (3) are entitled to notice;
 - (c) the Public Trustee;
 - (d) the director.
- (3) If permission is granted, the court must set a date for hearing the application for cancellation of the continuing custody order.
- (4) After considering the importance of continuity in the child's care and the effect of maintaining a relationship the child has with any person, the court may cancel the continuing custody order, but only if it is satisfied that
- (a) the circumstances that caused the court to make the order have changed significantly, and
 - (b) cancelling the order is in the child's best interests.

Division 6 – Related Orders

Access to child in interim or temporary custody of director or other person

- 55** (1) At the time an order, other than a continuing custody order, is made under this Part, the parent who had custody when the child was removed may apply to the court for access to the child.
- (2) After an order, other than a continuing custody order, is made under this Part, any person may apply to the court for access to the child.
- (3) At least 10 days before the date set for hearing an application under subsection (2), notice of the hearing must be served on
- (a) the child, if 12 years of age or over,
 - (b) the director, and
 - (c) in addition
 - (i) if the application is made before the protection hearing, the persons mentioned in section 34 (3) (b) and (d), and

- (ii) if the application is made after the protection hearing, the persons who under section 39 are entitled to notice.
- (4) If the parent who had custody when the child was removed applies under subsection (1) or (2), the court must order that the parent be given access to the child unless the court is satisfied access is not in the child's best interests.
- (5) If a person, other than the parent who had custody when the child was removed, applies under subsection (2), the court may order that the person be given access to the child unless the court is satisfied access is not in the child's best interests.
- (6) The court may attach to an access order under this section or section 56 any reasonable terms or conditions.

Access to child in continuing custody of director

- 56**
- (1) After a continuing custody order is made, a parent or any other person may apply to the court for access to the child.
 - (2) At least 10 days before the date set for hearing the application, notice of the hearing must be served on
 - (a) the child, if 12 years of age or over,
 - (b) the director, and
 - (c) the persons who under section 49 (3) are entitled to notice.
 - (3) The court may order that the applicant be given access to the child if access
 - (a) is in the child's best interests,
 - (b) is consistent with the plan of care, and
 - (c) is consistent with the wishes of the child, if 12 years of age or over.

Changes to supervision, temporary custody and access orders

- 57**
- (1) Any party may apply to the court for a change to a supervision order, temporary custody order or access order if circumstances have changed significantly since the order was made.
 - (2) At least 10 days before the date set for hearing the application, notice of the hearing must be served on the following:
 - (a) the child, if 12 years of age or over;
 - (b) the persons who under section 39 or 49 (3) are entitled to notice;
 - (c) the Public Trustee, if the order is a temporary custody order and the Public Trustee has been appointed guardian of the child's estate under section 58.
 - (3) If the court finds that circumstances have changed significantly since the order was made, the court may, in the child's best interests, do either or both of the following:

Section 58

- (a) cancel the order;
 - (b) make any order that it could have made at the hearing in which the order was made.
- (4) If the court finds that circumstances have not changed significantly since the order was made, the court may confirm the order.

If child needs assistance of Public Trustee

- 58
- (1) When a temporary custody order is made or at any time during the term of that order, a director may apply to the court for an order appointing the Public Trustee as guardian of the child's estate.
 - (2) At least 10 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on
 - (a) the Public Trustee,
 - (b) the child, if 12 years of age or over, and
 - (c) the persons who under section 39 are entitled to notice.
 - (3) The court may appoint the Public Trustee as guardian of the child's estate for all or part of the term of the temporary custody order if
 - (a) a financial or legal interest of the child must be dealt with during the term of the temporary custody order, and
 - (b) the interests of a parent conflict or may conflict with the child's interests.
 - (4) The director must provide the Public Trustee with a copy of any order made under this section.

Psychiatric or medical examination orders

- 59
- (1) On application the court may order that a child or a parent of a child undergo a medical, psychiatric or other examination if the court considers the examination is likely to assist it
 - (a) in determining whether the child needs protection, or
 - (b) in making an order relating to the child.
 - (2) At least 2 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on the following:
 - (a) for the examination of a parent, the parent;
 - (b) for the examination of a child, both the child, if 12 years of age or over, and the parent who at the time of the child's removal was apparently entitled to custody.
 - (3) The applicant must pay the cost of an examination ordered under this section and of any report made on the results of the examination.

Consent orders

- 60** (1) With the written consent of the following, the court may, at any time after the presentation hearing, make any custody or supervision order that is provided for in this Part, including a continuing custody order:
- (a) the director;
 - (b) the child, if 12 years of age or over;
 - (c) each parent of the child;
 - (d) if the child is to be placed for a specified period in the custody of a person other than a director, that person;
 - (e) if the child is an aboriginal child, the person who is or would have been entitled under section 38 (1) (c) or (d) to notice of any protection hearing concerning the child.
- (2) Despite any other provision of this Act, the court may make an order under subsection (1) without a hearing, the completion of a hearing or the giving of evidence, but it must be satisfied that each person whose consent is required under subsection (1) (b) to (d)
- (a) has been advised to consult with independent legal counsel before signing the consent,
 - (b) understands the nature and consequences of the consent, and
 - (c) has given voluntary consent to the order sought.
- (3) The court may dispense with a consent required under subsection (2) as follows:
- (a) with the consent of the child, if the court considers it in the child's best interests to do so;
 - (b) with the consent of a parent, if the parent cannot be found after a diligent search or is incapable of giving consent;
 - (c) with the consent of a person mentioned in subsection (1) (e), if the person has been served with notice of an application for a consent order but has not filed an objection with the court within 10 days after being served.
- (4) An order may be made under this section without the court finding that the child needs protection.
- (5) A consent by a parent to an order under this section is not an admission by the parent of any grounds alleged by a director for removing the child.
- (6) In addition to its powers under subsection (1), the court may, with the written consent of the parties, make any other order mentioned in this Act.

Custody of child during adjournments

- 61** (1) If a child is in the custody of a director or another person under a temporary custody order and an application for an extension of that order or for a continuing custody order is adjourned,

Section 62

- (a) the child remains in the custody of the director or other person under the temporary custody order, and
 - (b) the terms and conditions of the temporary custody order continue to apply until the court disposes of the application, even though the temporary custody order expires during the adjournment.
- (2) This section does not operate to extend a limit set by section 45 (1) or by an order under section 45 (1.1) respecting the total period during which the child may be in the temporary custody of the director or another person.

Suspension of order transferring custody from director

- 62
- (1) If an order made under this Part or Part 6 has the effect of transferring the custody of a child from a director to another person, the order is suspended
 - (a) for a period of 10 days, and
 - (b) if an appeal is brought during the 10 day period, until the appeal is heard.
 - (2) If an appeal is brought, any party to the proceeding in which the order under appeal was made may apply to the court hearing the appeal, and it may order that custody of the child be transferred in accordance with the order under appeal.

Enforcement of custody order

- 63
- (1) If custody of a child is given to a director or another person by an order made or enforceable under this Act and the director or other person is denied custody of the child, a court may, on application, order that a police officer take charge of the child and take the child to the person entitled to custody under the order.
 - (2) A person must not prevent a police officer from enforcing an order made under this section.

Division 7 – Procedure and Evidence**Full disclosure to parties**

- 64
- (1) If requested, a party to a proceeding under this Part, including a director, must disclose fully and in a timely manner to another party to the proceeding
 - (a) the orders the party intends to request,
 - (b) the reasons for requesting those orders, and
 - (c) the party's intended evidence.
 - (2) The duty to disclose under subsection (1) is subject to any claim of privilege.
 - (3) Evidence may be excluded from a hearing under this Part if no reasonable effort was made to disclose the evidence in accordance with this section.

If director is denied access to record

- 65 (1) On application at any time by a director, the court may order a person or organization to produce a record, or a certified copy of the record, for inspection by the director if
- (a) there are reasonable grounds to believe the record contains information necessary for determining whether the child needs protection,
 - (b) there are reasonable grounds to believe the person or organization has custody or control of the record, and
 - (c) the person or organization has neglected or refused to produce the record to the director.
- (2) At least 2 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on the person or organization against which the order is sought.

Hearings civil in nature and may be informal

- 66 (1) A hearing under this Act
- (a) is civil in nature;
 - (b) may be as informal as a judge may allow, and
 - (c) must be held at a different time or at a different place from the usual time or place for sittings of the court relating to criminal matters.
- (2) No order under this Act may be set aside because of any informality at the hearing or for any other technical reason not affecting the merits of the case.

Court may exclude child and decide how child's evidence is received

- 67 At a hearing under this Act, the court may, having regard to the child's best interests, do one or more of the following:
- (a) exclude the child from the courtroom, despite the *Provincial Court Act*;
 - (b) admit any hearsay evidence of the child that it considers reliable;
 - (c) give any other direction concerning the receipt of the child's evidence that it considers just.

Evidence of others

- 68 (1) Before ordering that a child be placed in or returned to the custody of a person other than a director, the court may consider the person's past conduct toward any child who is or was in that person's care.
- (2) In a proceeding under this Act, the court may admit as evidence
- (a) any hearsay evidence that the court considers reliable, or
 - (b) any oral or written statement or report the court considers relevant, including a transcript, exhibit or finding in an earlier civil or criminal proceeding.

Power to vary notice requirements and to make orders without notice

- 69** (1) The Supreme Court or the Provincial Court may
- (a) shorten the time period for serving a notice under this Act or extend the period even though it has expired, or
 - (b) dispense with a requirement that notice of a proceeding or of all proceedings in relation to a child be served on a party or other person.
- (2) The Supreme Court or the Provincial Court may make an order, including a protective intervention order or restraining order, without a party or the person against whom the order is made having been served with notice of the application.
- (3) The Supreme Court or Provincial Court may include in an order made in accordance with subsection (2) any terms relating to service and review of the order that the court considers just.

PART 4 – CHILDREN IN CARE**Rights of children in care**

- 70** (1) Children in care have the following rights:
- (a) to be fed, clothed and nurtured according to community standards and to be given the same quality of care as other children in the placement;
 - (b) to be informed about their plans of care;
 - (c) to be consulted and to express their views, according to their abilities, about significant decisions affecting them;
 - (d) to reasonable privacy and to possession of their personal belongings;
 - (e) to be free from corporal punishment;
 - (f) to be informed of the standard of behaviour expected by their caregivers and of the consequences of not meeting their caregivers' expectations;
 - (g) to receive medical and dental care when required;
 - (h) to participate in social and recreational activities if available and appropriate and according to their abilities and interests;
 - (i) to receive the religious instruction and to participate in the religious activities of their choice;
 - (j) to receive guidance and encouragement to maintain their cultural heritage;
 - (k) to be provided with an interpreter if language or disability is a barrier to consulting with them on decisions affecting their custody or care;
 - (l) to privacy during discussions with members of their families, subject to subsection (2);

- (m) to privacy during discussions with a lawyer, the Child, Youth and Family Advocate, the Ombudsman, a member of the Legislative Assembly or a member of Parliament;
 - (n) to be informed about and to be assisted in contacting the Child, Youth and Family Advocate;
 - (o) to be informed of their rights under this Act and the procedures available for enforcing their rights.
- (2) A child who is removed under Part 3 is entitled to exercise the right in subsection (1) (l), subject to any court order made after the court has had an opportunity to consider the question of access to the child.
- (3) This section does not apply to a child who is in a place of confinement.

Out-of-home living arrangements

- 71
- (1) When deciding where to place a child, a director must consider the child's best interests.
 - (2) The director must give priority to placing the child with a relative or, if that is not consistent with the child's best interests, placing the child as follows:
 - (a) in a location where the child can maintain contact with relatives and friends;
 - (b) in the same family unit as the child's brothers and sisters;
 - (c) in a location that will allow the child to continue in the same school.
 - (3) If the child is an aboriginal child, the director must give priority to placing the child as follows:
 - (a) with the child's extended family or within the child's aboriginal cultural community;
 - (b) with another aboriginal family, if the child cannot be safely placed under paragraph (a);
 - (c) in accordance with subsection (2), if the child cannot be safely placed under paragraph (a) or (b) of this subsection.

Agreements with young people who were in care

- 72
- (1) A director may make a written agreement with a person who until the person's 19th birthday was
 - (a) in the continuing custody of the director,
 - (b) in the permanent custody of the Superintendent of Family and Child Service,
 - (c) in the guardianship of the director of adoption, or
 - (d) in the guardianship of a director under section 29 (3) of the *Family Relations Act*.

Section 73

- (2) The agreement may provide for support and for services to assist the person while enrolled in an educational or vocational training program or while taking part in a rehabilitative program.
- (3) The term of the agreement must not
 - (a) exceed 24 months, or
 - (b) extend beyond the person's 24th birthday.

PART 5 – CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

Definition

- 73 In this Part, “**record**” means a record as defined in the *Freedom of Information and Protection of Privacy Act* that
- (a) is made under this Act on or after January 29, 1996, and
 - (b) is in the custody or control of a director.

Freedom of Information and Protection of Privacy Act

- 74 Except as provided in this Part, the *Freedom of Information and Protection of Privacy Act* does not apply to a record made under this Act or to information in that record.

Confidentiality of information

- 75 A person must not disclose information obtained under this Act except
- (a) in accordance with section 76 to a person who has a right of access to a record,
 - (b) in accordance with section 78 or 79, or
 - (c) in a report or a summary of a report published under section 87 (2), but only to the extent necessary in the public interest.

Right of access and right to consent to disclosure

- 76 (1) A person has the right
- (a) to be given access to a record containing information about the person, and
 - (b) to consent, in the prescribed manner, to the disclosure of that information.
- (2) A person has the right
- (a) to be given access to a record containing information about a child who is under 12 years of age and is in the person's legal care, and
 - (b) to consent, in the prescribed manner, to the disclosure of that information.
- (3) The right to be given access to a record and to consent to the disclosure of information in the record does not extend to information excepted from disclosure under section 77.

- (4) If information excepted under section 77 can reasonably be severed from a record, a person referred to in subsection (1) or (2) has the right of access to and the right to consent to the disclosure of information in the remainder of the record.
- (5) A person who is given access to a record under this section has the following rights:
 - (a) to examine the record or obtain a copy of the record;
 - (b) to request that the record be corrected.

Exceptions to access rights

- 77
- (1) A director must refuse to disclose information to a person who has a right of access under section 76 if the disclosure
 - (a) would be an unreasonable invasion of a third party's personal privacy; or
 - (b) could reasonably be expected to reveal the identity of a person who has made a report under section 14 and who has not consented to the disclosure.
 - (2) A director may refuse to disclose information to a person who has a right of access under section 76 if
 - (a) there are reasonable grounds to believe that the disclosure might result in physical or emotional harm to that person or to another person,
 - (b) the disclosure could reasonably be expected to jeopardize an investigation under section 16 or a criminal investigation that is under way or contemplated, or
 - (c) the information was supplied in confidence, during an investigation under section 16, by a person who was not acting on behalf of or under the direction of a director.
 - (3) Section 22 (2) to (4) of the *Freedom of Information and Protection of Privacy Act* applies for the purpose of determining whether a disclosure of information is an unreasonable invasion of a third party's personal privacy.

Disclosure with consent

- 78
- A director may disclose information obtained under this Act if a person who under section 76 has a right of access to a record containing that information has consented in the prescribed manner to its disclosure.

Disclosure without consent

- 79
- A director may, without the consent of any person, disclose information obtained under this Act if the disclosure is
- (a) necessary to ensure the safety or well-being of a child,
 - (b) required by section 64 or by order of a court to be made to a party to a proceeding,
 - (c) permitted by the *Young Offenders Act* (Canada),

- (d) required by an enactment,
- (e) necessary for a family conference or for mediation under section 22,
- (f) made when giving or when validly compelled to give evidence in a proceeding,
- (g) required by the board in the exercise of its powers under section 83 (6) or 85,
- (h) necessary to enable the Public Trustee to perform duties and exercise powers as guardian of a child's estate under this Act,
- (i) made to the director's legal counsel,
- (j) made to caregivers and the information relates to children in their care,
- (k) necessary for the administration of this Act, or
- (l) for research purposes in accordance with section 35 of the *Freedom of Information and Protection of Privacy Act*.

Accuracy, protection and retention of information

- 80** Sections 28, 30 and 31 of the *Freedom of Information and Protection of Privacy Act* apply to a director.

PART 6 – APPEALS AND REVIEWS**Appeal to Supreme Court**

- 81**
- (1) A party may appeal to the Supreme Court from an order of the Provincial Court made under this Act.
 - (2) The time limit for bringing an appeal under subsection (1) is 30 days, beginning on the day after the order of the Provincial Court is made.
 - (3) An appeal is brought by
 - (a) filing a notice of appeal in a registry of the Supreme Court, and
 - (b) serving a copy of the notice of appeal on
 - (i) the parties to the proceeding in which the order of the Provincial Court was made, and
 - (ii) the Public Trustee, if guardian of the child's estate.
 - (4) The Rules of Court apply to an appeal under subsection (1) to the extent that they are consistent with this section.
 - (5) On application the Supreme Court may suspend the order under appeal for the period and subject to the conditions it thinks appropriate.
 - (6) If the order under appeal is suspended under section 62, the Supreme Court may continue or cancel the suspension.

-
- (7) After hearing the appeal, the Supreme Court may do one or more of the following:
- (a) confirm the order of the Provincial Court;
 - (b) set aside the order of the Provincial Court;
 - (c) make any order that the Provincial Court could have made;
 - (d) direct the Provincial Court to conduct a new hearing.
- (8) On application, the Supreme Court may extend the time limit for bringing an appeal.

Appeal to Court of Appeal

- 82** With leave of the Court of Appeal, a party may appeal to that court on a question of law from an order of the Supreme Court made by it on an appeal under this Act.

Child and Family Review Board

- 83** (1) The minister must establish a Child and Family Review Board to review
- (a) complaints of any breach of the rights given by section 70 to children in care,
 - (b) any matter referred by the minister, and
 - (c) other matters that may be specified by regulation.
- (2) The minister may
- (a) appoint as members of the board up to 15 persons who meet the criteria in the regulations, and
 - (b) designate one member as chair.
- (3) A member of the board may be appointed for a term of up to 3 years and may be reappointed for successive terms.
- (4) The chair of the board
- (a) must organize the board into panels, each consisting of up to 3 members,
 - (b) may, for each review, designate the member or members and the chair of a panel, and
 - (c) may assign to a panel any complaints or other matters that are to be reviewed by the board.
- (5) In matters assigned to a panel by the chair of the board, the panel has the power and authority of the board and an order or decision of the panel is an order of the board.
- (6) For the purpose of a review, the board has the protection, power and authority of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.

Section 84

Request for review

- 84** (1) Any of the following may request the board to review a complaint of a breach of child's rights under section 70:
- (a) the child;
 - (b) the child's parent;
 - (c) any other person representing the child;
 - (d) the Child, Youth and Family Advocate.
- (2) The board must, in writing, notify the director caring for the child that the board has been requested to review the complaint.
- (3) When notified of the request, the director may attempt to resolve the complaint.

Review of complaint of breach of child's rights

- 85** (1) If a complaint under section 84 is not resolved within 30 days after the director is notified by the board, the board may review the complaint.
- (2) The review must be conducted in accordance with the regulations.

Outcome of review

- 86** (1) If the board determines after reviewing a complaint that a child's rights under section 70 have been breached, the board may order the director
- (a) to ensure that the breach does not continue, and
 - (b) to report back to the board on the steps taken by the director to comply with the board's order.
- (2) The board must provide a copy of its decision and of any order made on a review to the following:
- (a) the child;
 - (b) the person who requested the review;
 - (c) the director.
- (3) If an order is made by the board under subsection (1), the director must promptly perform any duty or use any power or function of the director under this Act to ensure that the breach of the child's rights does not continue.

Review requested by minister

- 87** (1) If the minister refers a matter to the board for a review, the board may conduct an investigation and must report its findings and recommendations to the minister.
- (2) The minister may publish the board's report or a summary of the report.

Annual report

- 88** The chair of the board must submit to the minister an annual report on the work of the board.

Review by Information and Privacy Commissioner

- 89**
- (1) A person who requests access to a record or correction of a record may ask the Information and Privacy Commissioner to review any decision, act or omission of a director that relates to the request.
 - (2) A person may ask the Information and Privacy Commissioner to review a complaint that information relating to the person has been disclosed in contravention of section 75.
 - (3) To ask for a review, a written request must be delivered to the Information and Privacy Commissioner.
 - (4) If the request is for review of a director's decision, the request must be delivered within 30 days after the person asking for the review is notified of the decision.
 - (5) Sections 44 to 49, 54 to 57, 58 (1), (2) and (3) (d) and 59 of the *Freedom of Information and Protection of Privacy Act* apply in respect of a review requested under this section except that a reference to a public body is to be read as a reference to a director.
 - (6) If a complaint that a director has disclosed information in contravention of section 75 is reviewed, the Information and Privacy Commissioner may order the director to stop disclosing that information.

PART 7 – ADMINISTRATION**Minister's authority to make agreements**

- 90** For the purposes of this Act, the minister may make an agreement with any of the following:
- (a) an Indian band or a legal entity representing an aboriginal community;
 - (b) the government of Canada, the government of a province of Canada or the government of a jurisdiction outside Canada, or an official or agency of any of those governments;
 - (c) any person or group of persons.

Designation of directors

- 91**
- (1) Subject to the regulations, the minister may designate one or more persons as directors for the purposes of Parts 1 to 8.
 - (2) A designation under subsection (1) must be in writing and may include any terms or conditions the minister considers advisable.
 - (3) A person who has been designated under subsection (1) may be designated by the minister for the purposes of Part 9 or for the purposes of a provision of another Act that contains a reference to a director under this Act.

Section 92

- (4) Despite section 15 of the *Constitution Act*, the minister may not delegate the power to designate a director.

Director's power to delegate

- 92 (1) Subject to the regulations, a director may delegate to any person or class of person any or all of the director's powers, duties or functions under this Act.
- (2) A delegation of the powers, duties or functions of a director must be in writing and may include any terms or conditions the director considers advisable.

Other powers and duties of directors

- 93 (1) A director may do one or more of the following:
- (a) provide preventive and support services for families to promote the purposes of this Act;
 - (b) make payments to a parent, or other person who has care of a child with special needs, to assist the parent or other person to purchase support services, other than health and medical benefits, so that the child can reside at home;
 - (c) establish support services for youths, including but not limited to safe houses, outreach services and supported living arrangements;
 - (d) establish residential services for children and youths;
 - (e) establish services to assist in the resolution of family disputes;
 - (f) establish services to assist communities to strengthen their ability to care for and protect their children;
 - (g) make agreements, including but not limited to agreements
 - (i) with any person for the provision of residential or other services,
 - (ii) with a person who by an order under Part 3 has temporary custody of a child, for contributions to the child's support,
 - (iii) with an Indian band or a legal entity representing an aboriginal community for the provision of services, and
 - (iv) with the government of Canada, the government of a province of Canada or the government of a jurisdiction outside Canada, or an official or agency of any of those governments, to promote the purposes of this Act;
 - (h) promote and encourage the participation of the community in the planning, development and delivery of services.
- (2) A director is authorized to receive any authority that
- (a) is delegated to the director by a government or child welfare authority, and
 - (b) relates to a child in the custody or under the guardianship of that government or child welfare authority.

- (3) A director must, in accordance with the regulations,
 - (a) establish a procedure for reviewing the exercise of the director's powers, duties and functions under this Act, and
 - (b) ensure that information about the review procedure is available to any person on request.

Agreements with caregivers

- 94 A director may, by agreement, authorize a caregiver to carry out any of the director's rights and responsibilities with respect to the care, custody or guardianship of a child.

Transfer of guardianship or supervision between directors

- 95
- (1) A director who has supervision of a child or custody of a child under a temporary custody order or continuing custody order may transfer supervision or custody to another director with the written consent of
 - (a) the other director, and
 - (b) the child's parent, unless the child is in the continuing custody of the director.
 - (2) If a consent is withheld, the director may apply to the court, and it may, in the child's best interests, order that the supervision or custody of the child be transferred to the other director.
 - (3) If the continuing custody of a child is transferred by one director to another,
 - (a) the other director becomes the guardian of the child's person with the same rights and responsibilities as the director who transferred custody, and
 - (b) the director who transferred custody ceases to be the guardian of the child's person.
 - (4) A director who transfers supervision or custody of a child by consent under this section must file a copy of the consent with the court.
 - (5) When a copy of the consent is filed, the court may change the supervision order, temporary custody order or continuing custody order to make it accord with the transfer of supervision or custody.

Director's right to information

- 96
- (1) A director has the right to any information that
 - (a) is in the custody or control of a public body as defined in the *Freedom of Information and Protection of Privacy Act*, and
 - (b) is necessary to enable the director to exercise his or her powers or perform the duties or functions under this Act.
 - (2) A public body that has custody or control of information to which a director is entitled under subsection (1) must disclose that information to the director.

- (3) This section applies despite any other enactment but is subject to a claim of privilege based on a solicitor-client relationship.

PART 8 – MISCELLANEOUS PROVISIONS

Maintenance agreements and orders

- 97 (1) A parent remains responsible to contribute to the maintenance of
- (a) a child in care unless the child is in care under a continuing custody order, and
 - (b) a child in the custody of a person other than the parent under a temporary custody order.
- (2) A director may make a written agreement with a parent for contributions by the parent to the maintenance of a child in care.
- (3) A director may file an agreement made under subsection (2) in the court.
- (4) The agreement, if filed, has the same effect and may be enforced, changed or cancelled in the same manner and on the same basis as a maintenance order made under the *Family Relations Act*.
- (5) On application by a director, the court may order a parent who is responsible to contribute under subsection (1) to pay to the director or to a person designated in the order an amount the court considers reasonable for the maintenance of a child.
- (6) At least 10 days before the date set for hearing an application for a maintenance order, notice of the time, date and place of the hearing must be served on the persons who under section 39 are entitled to notice.
- (7) In making a maintenance order, the court must take the following into account:
- (a) the needs, means, capacity and economic circumstances of the parent;
 - (b) the needs, means and circumstances of the child;
 - (c) any legal right of the child to receive support from another source;
 - (d) any other circumstance the court considers relevant.
- (8) A maintenance order made under this section may
- (a) include one or more of the terms mentioned in section 93 (3) of the *Family Relations Act*, and
 - (b) be enforced, changed or cancelled in the same manner and on the same basis as an order made under that Act.

Restraining orders

- 98 (1) The court may make a restraining order if there are reasonable grounds to believe that a person is likely to exploit, abuse or intimidate any of the following:

- (a) a child in care;
 - (b) a child in the custody of a person under a temporary custody order;
 - (c) a youth who has made an agreement with a director under section 9.
- (2) In a restraining order under subsection (1), the court may prohibit the person for a specified period from contacting or interfering with, or attempting to contact or interfere with, the child or youth.
- (3) The court may make a restraining order if there are reasonable grounds to believe that a person is likely to molest, harass or annoy
- (a) a caregiver, or
 - (b) a person who has custody of a child under a temporary custody order.
- (4) In a restraining order under subsection (3), the court may prohibit the person for a specified period from contacting or interfering with, or attempting to contact or interfere with, the caregiver or the person who has custody of the child.
- (5) The court may include in a restraining order any terms or conditions needed to implement the order.
- (6) At least 2 days before the date set for hearing an application for a restraining order, notice of the time, date and place of the hearing must be served on the person against whom the order is sought.
- (7) At the request of a director, a police officer must assist in enforcing a restraining order.

Supreme Court jurisdiction

99 Nothing in this Act limits the *parens patriae* jurisdiction of the Supreme Court.

Out-of-Province orders and agreements

- 100** (1) This section applies to
- (a) an order made by a court in another jurisdiction, or
 - (b) an agreement for care made under child welfare legislation of another jurisdiction.
- (2) An order or agreement that is certified as being valid and subsisting by a court or other appropriate authority in another jurisdiction has, to the extent that the order or agreement is consistent with this Act, the same effect in British Columbia as if it had been made under this Act.

Protection from liability

101 No person is personally liable for anything done or omitted in good faith in the exercise or performance or intended exercise or performance of

Section 102

- (a) a power, duty or function conferred by or under this Act; or
- (b) a power, duty or function on behalf of or under the direction of a person on whom the power, duty or function is conferred by or under this Act.

Offences and penalties

- 102** (1) A person who contravenes any of the following commits an offence:
- (a) a protective intervention order;
 - (b) an access order under section 55 or 56;
 - (c) section 63 (2);
 - (d) an order under section 65 for production of a record;
 - (e) a restraining order.
- (2) A person who commits an offence under this section is liable to a fine of up to \$10 000 or to imprisonment for up to 6 months, or to both.
- (3) Section 5 of the *Offence Act* does not apply to this Act.

Power to make regulations

- 103** (1) The Lieutenant Governor in Council may make regulations as authorized by section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) prescribing the functions of family conference coordinators;
 - (b) respecting family conferences and mediation;
 - (c) governing agreements with youth;
 - (d) prescribing terms and conditions to be included in agreements made under this Act;
 - (e) respecting the content of plans of care;
 - (f) prescribing aboriginal organizations for the purposes of section 34;
 - (g) designating, by name or position, those representatives of Indian bands and aboriginal communities who are entitled to notice under Part 3;
 - (h) respecting the standards for foster homes and residential services;
 - (i) respecting the criteria for the appointment of members of the board and providing for their remuneration and expenses;
 - (j) specifying additional matters that may be reviewed by the board and the persons entitled to request a review of those matters;
 - (k) respecting the powers and duties of the board relating to matters specified under paragraph (j);
 - (l) respecting the procedure for reviews by the board;

- (m) specifying for the purposes of section 76 (1) or (2) how and by whom rights relating to access to records may be exercised on behalf of persons who are incapable of exercising those rights for themselves;
 - (n) respecting the procedure for notifying third parties before access is given to records containing information about them;
 - (o) specifying for the purposes of section 76 (5) the duties of a director with respect to correction of information;
 - (p) respecting the prerequisites for the designation of directors and the standards to be met by directors;
 - (q) respecting the delegation of the powers, duties and functions of directors, including regulations authorizing the minister to restrict a director's power to delegate;
 - (r) governing reviews under section 93 (3);
 - (s) defining any word or expression used but not defined in this Act;
 - (t) respecting any matters that are not provided for in sections 105 to 108 and that are necessary for the orderly transition from the application of the former Act in respect of proceedings begun and orders made under that Act to the application of this Act in respect of those proceedings and orders;
 - (u) respecting practice, evidence and procedure in the court in proceedings under this Act.
- (3) If a rule made under the *Court Rules Act* is inconsistent or in conflict with a regulation made under subsection (2) (u), the regulation prevails.

Community tribunals

- 104** The Lieutenant Governor in Council may make regulations
- (a) for the purpose of establishing, as a pilot project, a tribunal in a prescribed area of British Columbia and enabling the tribunal to act under this Act in that area in place of the court,
 - (b) governing the powers, duties, functions and rules of procedure of the tribunal and the effect of its decisions,
 - (c) governing appeals from the tribunal's decisions, and
 - (d) modifying, or making an exception to, any requirement of this Act to the extent necessary to enable the tribunal to act under this Act in place of the court.

PART 9 – TRANSITIONAL PROVISIONS

Transition from former Act – general rule

- 105** Subject to sections 106 to 108 of this Act and any regulations made under section 103 (2) (t), sections 35 and 36 (1) of the *Interpretation Act* apply to all matters affected by the repeal of the former Act and its replacement by this Act.

Proceedings begun under the former Act

- 106** (1) The definition of "in need of protection" in section 1 of the former Act continues to apply in relation to a child apprehended under that Act, even if provisions of this Act apply in respect of the child.
- (2) If a child has been apprehended under section 9 (1) of the former Act but no report has been presented under section 11 (1) of the former Act before the repeal of that Act, section 33 of this Act applies as if the child had been removed under section 30 of this Act.
- (3) If a report has been presented to the court under section 11 of the former Act but no order has been made under that section before the repeal of that Act,
- (a) section 11 of the former Act continues to apply in respect of the child until an order is made under that section, and
 - (b) the provisions of this Act apply to any subsequent proceeding relating to the child.
- (4) If a hearing under section 12 of the former Act has been commenced to determine whether a child is in need of protection but no order has been made under section 13 (1) of the former Act before the repeal of that Act,
- (a) sections 12 and 13 (1) to (3) of the former Act continue to apply in respect of the child until an order is made under section 13 of the former Act, and
 - (b) the provisions of this Act apply to any subsequent proceeding relating to the child.
- (5) If an application has been made for an order under section 14 of the former Act but no order has been made before the repeal of that Act,
- (a) section 14 of the former Act continues to apply in respect of the child until the application is disposed of, and
 - (b) the provisions of this Act apply to any subsequent proceeding relating to the child.
- (6) Any proceeding begun under the former Act by the Superintendent of Family and Child Service may be continued under this Act in the name of the director designated by the minister for the purpose of this section.
- (7) Section 64 of this Act applies for the purposes of a proceeding under a provision of the former Act that is continued under this section.

Orders made under the former Act

- 107** (1) This section applies to
- (a) an order that was in effect on January 26, 1996 and that was made under the former Act before the repeal of that Act, and
 - (b) an order that, by the operation of section 106 of this Act, is made under the former Act after the repeal of that Act.

- (2) An order made under a provision of the former Act referred to in column 1 of the following Table is deemed to have been made under the provision of this Act referred to in the opposite column:

Former Act	This Act
11 (2) (a)	35 (2) (c)
11 (2) (b)	35 (2) (c)
11 (2) (c)	35 (2) (a)
13 (1) (a)	41 (1) (a)
13 (1) (b)	41 (1) (a)
13 (1) (c) (custody of a child)	41 (1) (c)
13 (1) (d)	41 (1) (d)
13 (1) (c) and (3) (access to a child)	55
13 (4)	97
13 (5)	58
14	49

- (3) An order made under section 11 (2) (d) of the former Act is deemed to have been made under section 41 (1) (d) of this Act unless
- by January 29, 1996, 6 months had elapsed from the date the order was made, or
 - the application for the order was not opposed,
- and in either of those cases the order is deemed to have been made under section 49 of this Act.
- (4) A reference in an order made under the former Act to the Superintendent of Family and Child Service is deemed to be a reference to the director designated by the minister for the purposes of this section.
- (5) The time limits in section 43 of this Act do not apply in respect of an order made under the former Act.
- (6) If an application is made under section 54 of this Act for permission to apply for cancellation of an order that relates to an aboriginal child and that is deemed under this section to be a continuing custody order, notice of the application must be served on the persons who would have been entitled to notice under section 49 (2) (c) or (d) if the child had been removed under this Act.

- (7) If a person referred to in subsection (6) appears at the hearing of an application under section 54, the person is entitled to be a party.

Agreements made under the former Act or *Child Paternity and Support Act*

- 108** (1) An agreement made under the former Act may be renewed under this Act.
- (2) An agreement made under section 4 or 5 of the former Act that contains a provision respecting the payment of maintenance is deemed to have been made under section 97 of this Act.
- (3) A reference in an agreement made under the former Act or under section 20 of the *Child, Paternity and Support Act*, R.S.B.C. 1979, c. 49, to the Superintendent of Family and Child Service is deemed to be a reference to the director designated by the minister for the purposes of this section.

CHILD, FAMILY AND COMMUNITY SERVICE — HISTORICAL TABLE

Amendments Not in Force

CHILD, FAMILY AND COMMUNITY SERVICE ACT

RSBC 1996, chapter 46

Section	Citation
8	RS1996 (Supp) -46-1; 1994-27-8; 1995-19-4.
9	RS1996 (Supp) -46-1; 1994-27-9; 1996-6-28.
10	RS1996 (Supp) -46-1; 1994-27-10; 1995-19-4.
20	RS1996 (Supp) -46-2; 1994-27-20.
21	RS1996 (Supp) -46-2; 1994-27-21.
103	RS1996 (Supp) -46-3; 1994-27-103 (4).

Legislative History

CHILD, FAMILY AND COMMUNITY SERVICE ACT

RSBC 1996, chapter 46

Section	History
1	1994-27-1; 1995-19-1.
2	1994-27-2; 1995-19-2.
3	1994-27-3.
4	1994-27-4.
5	1994-27-5; 1996-6-27.
6	1994-27-6; 1995-19-3.
7	1994-27-7; 1995-19-4.
8	[Section Not In Force, see Supplement].
9	[Section Not In Force, see Supplement].
10	[Section Not In Force, see Supplement].
11	1994-27-11; 1995-19-5.
12	1994-27-12.
13	1994-27-13.
14	1994-27-14; 1995-19-6.
15	1994-27-15.
16	1994-27-16.
17	1994-27-17.
18	1994-27-18.
19	1994-27-19.
20	[Section Not In Force, see Supplement].
21	[Section Not In Force, see Supplement].
22	1994-27-22.
23	1994-27-23.
24	1994-27-24.
25	1994-27-25.
26	1994-27-26.
27	1994-27-27; 1995-19-7.
28	1994-27-28.
29	1994-27-29; 1995-19-8.
30	1994-27-30.
31	1994-27-31.
32	1994-27-32.
33	1994-27-33.
34	1994-27-34.
35	1994-27-35.
36	1994-27-36.
37	1994-27-37.
38	1994-27-38.
39	1994-27-39.

Legislative History — Continued**CHILD, FAMILY AND COMMUNITY SERVICE ACT**

RSBC 1996, chapter 46

Section	History
40.....	1994-27-40.
41.....	1994-27-41; 1995-19-9,10.
42.....	1994-27-42.
43.....	1994-27-43.
44.....	1994-27-44.
45.....	1994-27-45; 1995-19-11.
46.....	1994-27-46.
47.....	1994-27-47.
48.....	1994-27-48.
49.....	1994-27-49; 1995-19-12.
50.....	1994-27-50.
51.....	1994-27-51,123.
52.....	1994-27-52.
53.....	1994-27-53.
54.....	1994-27-54; 1995-19-13.
55.....	1994-27-55.
56.....	1994-27-56.
57.....	1994-27-57.
58.....	1994-27-58.
59.....	1994-27-59.
60.....	1994-27-60.
61.....	1994-27-61; 1995-19-14.
62.....	1994-27-62.
63.....	1994-27-63.
64.....	1994-27-64; 1995-19-15.
65.....	1994-27-65.
66.....	1994-27-66.
67.....	1994-27-67.
68.....	1994-27-68.
69.....	1994-27-69.
70.....	1994-27-70.
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86.....	1994-27-86.
87.....	1994-27-87.
88.....	1994-27-88.
89.....	1994-27-89.
90.....	1994-27-90.
91.....	1994-27-91.
92.....	1994-27-92.

Legislative History — Continued**CHILD, FAMILY AND COMMUNITY SERVICE ACT**

RSBC 1996, chapter 46

Section	History
93.....	1994-27-93; 1995-19-16; 1996-6-29.
94.....	1994-27-94.
95.....	1994-27-95.
96.....	1994-27-96.
97.....	1994-27-97.
98.....	1994-27-98.
99.....	1994-27-99.
100.....	1994-27-100.
101.....	1994-27-101.
102.....	1994-27-102.
103.....	1994-27-103; 1995-19-17; 1996-6-30.
104.....	1994-27-104.
105.....	1994-27-105.
106.....	1994-27-106.
107.....	1994-27-107; 1995-19-18.
108.....	1994-27-108.

EXPLANATORY NOTE

Amendments Not in Force: If there are any legislative changes to the Act that are not in force as of December 31, 1996, these are identified in *italics* at the beginning of the historical table. The "Section" column identifies the affected provisions of the Act. The "Citation" column identifies the amending legislation by its citation in the 1996 Statute Revision Supplement.

Legislative History: The second part of the table provides a legislative history of each section of the Act between the 1979 Statute Revision and the 1996 Statute Revision. The "Section" column identifies all sections of the Act in force on December 31, 1996. The "History" column for each section begins with the citation of the section immediately before the 1996 Statute Revision. This is followed by a list of citations for the legislation that enacted or amended the section between the 1979 Statute Revision and the 1996 Statute Revision (if a section was repealed and replaced during that period, these last citations begin at the most recent replacement).

Legislative citations have the format of "year-chapter-section".

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