

Preparing for Court

The Child Protection Worker must ensure that all materials required for a court appearance are prepared in accordance with the *Child and Family Services Act*.

REFERENCE

NWT *Child and Family Services Act* sections 25, 29, 88

PURPOSE

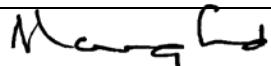
- To ensure the Child Protection Worker is prepared for court and is able to proceed in a timely and efficient manner.

PROCEDURES

1. Review the decision to apply to court for a child or youth protection order to ensure that it is the right decision for the child or youth and family.
2. Gather written information such as case notes, emails, other correspondences as well as reports from the counsellor, school, hospital, RCMP, treatment centres etc.
3. Determine the most appropriate court for the matter and the last possible date the matter can be heard in court.
4. Contact the Clerk of the Territorial Court or the Justice of the Peace, whichever is appropriate, to arrange a court date.
5. Review the information on the child or youth and family to determine what order(s) (Supervision - Child Protection Court only, Temporary, Permanent or Youth Protection) are appropriate and under what section(s) of the *Child and Family Services Act* will be sought.
6. Decide the length and time the court order should be (no longer than a year, except in the case of a permanent custody order) to allow for the changes necessary to eliminate the child protection concern(s).
7. Complete an *Originating Notice court document* for the first court appearance and a *Notice of Motion court document* for subsequent appearances, extension, variation or termination of an order as well as the *Affidavit court document*.
8. Request two (2) certified copies (one (1) for the court file and one (1) for the child or youth's file) of the *Registration of Live Birth form* for each child or youth you believe

Effective Date:
April 1, 2016

Director of Child and Family Services



to be in need of protection from Vital Statistics, if a copy is not already on the child or youth's file.

9. File the *Originating Notice or Notice of Motion and Affidavit court documents* with either the Territorial Court or the Justice of the Peace.
10. Serve the documents to the following people, at least ten (10) calendar days before the court date:
 - Court – Originating Notice / Notice of Motion and Affidavit
 - Parent(s) and/or guardians - Originating Notice / Notice of Motion and Affidavit
 - Youth for Youth Protection Court - Originating Notice / Notice of Motion and Affidavit
 - Child over 12 years of age - Originating Notice / Notice of Motion and Affidavit
 - Director of Child and Family Services – Originating Notice / Notice of Motion
 - Aboriginal organization(s) – Originating Notice / Notice of Motion
11. Complete the *Affidavit(s) of Service and/or Affidavit(s) of Attempted Service court documents*.
12. Complete the *Case Plan Report* prior to the court date and provide a copy five (5) days prior to court, to the parent(s) and/or guardian(s), youth (youth protection court), child over 12 years of age and legal counsel(s) and to other people.
13. Prepare a draft order if it is expected the Case Plan Report or will be agreed to by all parties involved.
14. Ensure the parent(s) and/or guardian(s) and youth sign the Case Plan Report.
15. Present the child protection matter to the Judge or Justice of the Peace on the court date as per the *Child Protection Hearing and Youth Protection Hearing Presentation Outline tool*.
16. Consult with Supervisor to determine if there is a need to retain legal counsel when the parent(s) and/or guardian(s), youth and the child over 12 years of age disagree about concerns or with the proposed Case Plan Report.
17. Provide legal counsel with all legal documentation as soon as possible as per the Standard on Obtaining Legal Counsel.
18. Provide legal counsel with a complete copy of the child or youth's file, a list of people who can provide specific information and the type of information they will be able to provide.
19. Attend court with the retained legal counsel.

20. Draft an order (if not already completed), to be reviewed by all parties involved if the matter is settled by the court granting the order or withdrawing the application.
21. Provide a drafted copy of the order to the presiding Judge who made the order for signature.
22. Provide certified copies of the order to the following people:
 - Parent(s) and/or Guardians
 - Youth for Youth Protection Court
 - Child over 12 years of age
 - A person having actual care of the youth at the time of the application for Youth Protection Order
 - Director of Child and Family Services
 - Legal counsel(s)
 - Aboriginal organization(s) – Permanent Custody Orders only
23. Inform the Supervisor of any appeals of the Child Protection Order and/or Youth Protection Order.
24. Consult the Supervisor immediately if it's believed that the order granted is not in the child or youth's best interest.
25. Retain legal counsel as per the Standard on Obtaining Legal Counsel to defend or oppose the appeal within 30 days of the order, if the Supervisor is in agreement with your decision.
26. Inform the Director of Child and Family Services of the pending appeal.

FORMS

- None

TOOLS

- Supervision Order Applications Guidelines
- Temporary Custody Order Applications Guidelines
- Permanent Custody Order Applications Guidelines

COURT DOCUMENTS

- Originating Notice Application for Supervision, Temporary and Permanent

Custody

- Originating Notice Application for Medical Care or Treatment for a Child and Dispensing with Parental Consent
- Notice of Motion Application to Extend, Vary or Discharge a Supervision or Temporary Custody Order
- Notice of Motion Application to Extend a Temporary or Permanent Custody Order Beyond 16 Years of Age or to Discharge a Permanent Custody Order
- Affidavit Used With An Application for Supervision, Temporary and Permanent Custody
- Affidavit Used With An Application to Extend, Vary or Discharge a Supervision or Temporary Custody Order
- Affidavit Used With An Application to Extend a Temporary or Permanent Custody Order Beyond 16 Years of Age or to Discharge a Permanent Custody Order
- Affidavit Used with an Application for Medical Care or Treatment for a Child and Dispensing with Parental Consent
- Supplementary Affidavit
- Registration of Live Birth (Certified)
- Affidavit of Service
- Affidavit of Attempted Service
- Affidavit (Receiving a Fax)
- **Case Plan Report**
- Order for Supervision, Temporary and Permanent Custody, Access or Maintenance
- Order for Permanent Custody for Adoption
- Order for Extension of Supervision, Temporary and Permanent Custody or to Discharge a Permanent Custody Order
- Order for Medical Care and Treatment of a Child
- Adjournment Order