

# CHILD PROTECTION PROCEEDINGS IN SASKATCHEWAN

## PROVINCIAL AND QUEENS BENCH COURT

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### THE CHILD PROTECTION PROCESS:

#### APPREHENSION

- When the Ministry of Social Services (MSS) or a designated First Nations Child and Family Services Agency (Agency) takes a child into their care because of a concern regarding the safety or well-being of that child, the process is called an **Apprehension**.
- An apprehension is usually done by a child protection worker, possibly with help from the police.
- An apprehension is based on section 11 of *The Child and Family Services Act (CFSA)*. Section 11 sets out several situations where a child may be in need of protection. Common challenges for parents or caregivers are addiction, mental health issues, domestic violence, and lack of housing.
- If an apprehended child is not returned within 48 hours, the parent or legal caregiver of the child will be given a document called a **Notice of Protection Hearing**, which outlines the location, date and time of the first court appearance, as well as the order MSS or the Agency is asking the court to make.
- The orders that might be made are:
  - **supervision orders**
  - **temporary orders**, usually for 3 or 6 months;
  - **person of sufficient interest (PSI) orders**, where the child would live with the PSI;
  - **long-term orders** where the child would stay in the care of MSS or the Agency until they are 18 years of age;
  - **permanent orders**, where the child could be adopted.

### FOR PARENTS

- If you have had a child or children apprehended, speak to the protection worker responsible for your child as soon as possible. You can contact MSS (if they apprehended the child) or the Agency (if the Agency apprehended the child), provide them with your name and contact information, and confirm the name and telephone number of the assigned worker. Find out what issues they want you to address.
- Usually MSS or the Agency will ask you to take programming to assist in making positive changes. Programming may include parenting classes, counselling, treatment, and/or participating in an assessment. If you agree, you can enter into an agreement (case plan) or temporary order to allow that to happen.
- **If you are not in agreement, you should come to court at the location, date and time stated in the Notice of Protection Hearing.**

#### FIRST COURT APPEARANCE

- In Saskatoon, Regina and Prince Albert, child protection matters (also called “Family Services” or “FSM” matters) take place at the Court of Queen’s Bench. The first court appearance takes place in a room called “chambers.”
- In other communities in Saskatchewan, child protection matters take place in Provincial Court. The first court appearance takes place at the “docket.”
- The purpose of the first court appearance is to ensure parties are provided with information about why the child was apprehended, and given an opportunity to seek legal advice.

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- If you have made an agreement with the worker or the agency lawyer, the matter may be concluded that day. If you didn't come to an agreement with MSS or the Agency, you can ask to speak to their lawyer in court. You may be able to come to an agreement with the lawyer.
- If you are still not able to reach an agreement, you can contact a lawyer to act for you. If you have not been able to speak to a lawyer before the first court date, the judge will give you a new date to allow you to talk to a lawyer.
- You can hire a private lawyer, apply to Legal Aid, ask the court to appoint you a lawyer, or apply to Pro Bono Law Saskatchewan. If you intend to get a lawyer, do it as soon as possible.
- If you just got a lawyer, he or she will need to get information about your case from MSS (this information is called **disclosure**) before giving you advice about what to do next.
- Your child may benefit from having a lawyer. You or your child can contact the Counsel for Children program, or you can ask the judge to appoint a lawyer for your child.
- While it is not necessary to get a lawyer, it is usually beneficial to have some guidance and support throughout the court process.
- If you still aren't able to come to an agreement, the court will schedule a **pre-trial conference**. You and the other parent will meet with a judge, the child protection worker, the lawyer for the MSS or Agency, and your lawyer if you have one. Often, an agreement can be reached at the pre-trial stage.
- If there is no agreement, a hearing or **trial** will be set for evidence to be heard to allow a judge to make a decision about what order should be made.
- A court order by a judge may be **appealed** within 30 days of it being issued. Depending where the order was issued, either the Court of Queen's Bench or Court of Appeal will be the place to file an appeal.

### ACCESS

- Children and parents have a right to see one another. This is referred to as **access**. Usually the child protection workers will set out an access schedule.
- Access may include regular visits, either supervised or unsupervised, in specific places, at specific times, and for scheduled lengths of time. If you have questions or concerns about the access, you should ask the worker. If your concerns are not addressed, speak to your lawyer.
- It may be possible to change the access arrangements if you are willing to case plan.

### FURTHER COURT APPEARANCES

- Further adjournments may be necessary for you to discuss your case with your lawyer. The court may also need more information, or if you and the MSS or Agency tell the court you would like to negotiate an agreement an adjournment may be requested.