

Child Protection Proceedings In Saskatchewan

Provincial Court and Court of King's Bench

The Child Protection Process:

Apprehension

When the Ministry of Social Services (MSS) or a designated First Nation 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 that may lead to an apprehension include: 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**.

This will outline the location, date, and time of the first court appearance, as well as the order that the MSS or the Agency is asking the court to make.

If you have any questions, contact:
Family Law Information Centre
1-888-218-2822 (ext. 2) or 306-787-5837
familylaw@gov.sk.ca

For Parents

If you have had a child apprehended, speak to the protection worker responsible for your child as soon as possible. You can contact MSS or the Agency (depending on who 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 make positive changes. This may include parenting classes, counseling, treatment, and/or participating in an assessment. If you agree, you can enter into a case plan or a section 9 agreement.

If you are not in agreement, you should come to court at the location, date and time stated in the Notice of Protection Hearing.

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 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.

First Court Appearance

In Saskatoon, Regina, and Prince Albert, child protection matters are also called “Family Services” or “FSM” matters and take place at the Court of King’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 docket court.

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.

If you have made an agreement with the worker or lawyer acting for MSS or the Agency, the matter may be concluded that day. If you don’t come to an agreement ahead of time, you can still speak to the MSS/Agency lawyer in court. You may be able to come to an agreement with the lawyer.

Before the first court appearance, you can contact a lawyer to act for you on that date. If you have not been able to speak to a lawyer before the first court date, the judge may give you a new date to allow you to speak with 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. Your lawyer will need to get information about your case from MSS or the Agency (this information is called “disclosure”) before giving you advice about what to do next.

Your child may also 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.

Further Court Appearances

Further adjournments may be necessary for you to discuss your case with your lawyer, for the court to receive more information, or if you would like to continue to try to negotiate an agreement with the MSS or Agency.

If an agreement is not possible, the court will schedule a **pre-trial conference**. You (and your lawyer, if you have one) and the other parent will meet with a judge, the child protection worker, and the lawyer for the MSS or Agency. Often an agreement can be reached at the pre-trial stage. If there is still 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.

The orders that might be made are:

- Supervision Orders;
- Temporary Orders- usually 3 to 6 months;
- Person of Sufficient Interest (PSI) Orders- designation of a non-parent as a PSI and/or placing the child in the care of the PSI;
- Long Term Orders- placing the child in the care of MSS or the Agency until the age of 18; or,
- Permanent Orders- place the child in the care of the MSS or agency permanently and make the child eligible to be adopted.

A court order by a judge may be **appealed** within 30 days of being issued.