

## ***The Missing Persons and Presumption of Death Act***

*The Missing Persons and Presumption of Death Act* establishes how the property of a missing person is administered, adopts a presumption of death provision, and delineates how family members and law enforcement can access information about a missing person.

A missing person is defined as a person who has been missing for at least three months who has not been heard from and whose whereabouts are unknown, or who has been missing for less than three months where a Court has made an order declaring that the person is missing.

A family member, other interested person, or the Public Guardian and Trustee may apply to the Court of Queen's Bench for an order declaring a person as missing and for the appointment of a property guardian for the estate of the missing person.

Within six months of appointment, the property guardian must provide the Court and the Public Guardian and Trustee with an inventory of the missing person's estate. The Public Guardian and Trustee may carry out an investigation to ensure the accuracy of the inventory.

A property guardian has the power to do anything respecting the estate of the missing person except:

- Make a will;
- Change an election or designation made by the missing person; or
- Sell, lease or dispose of the missing person's property without authorization by the Court.

The property guardian may be removed by the Court on application if he or she is no longer able to fulfill the requirements of the Act.

The persons authorized to apply for the order declaring a person to be missing may also apply for an order declaring that the missing person is presumed to be dead. The Court may make an order that an individual is presumed dead for all purposes or for only specified purposes. In either case, the Act does not apply to *The Marriage Act, 1995* or *The Saskatchewan Insurance Act*.

Every property guardian is a trustee and must provide an annual accounting to the Court and the Public Guardian and Trustee and, within six months after an order of presumption of death is made, a final accounting.

If a person presumed to be dead is later found to be alive, the Court may then make an order returning the property or provide any other direction regarding the property.

The Act also includes provisions to allow law enforcement agencies to make application to the Court to access the information of a person who cannot be located, as well as access the information of a third party who is believed to be in the company of a missing minor or vulnerable person. This information includes financial information, telephone and communication records, global positioning system tracking records, health information, photographs and any other information that a judge considers appropriate in the circumstances. When certain criteria are met in exigent circumstances, officers can make emergency demands for information without a court order. Officers are required to comply with reporting requirements to ensure transparency.