

Service and Notice Requirements for Seeking MCFD Disclosure By Way Of A Court Order

All applications related to the disclosure of the Ministry of Children and Family Development (“MCFD”) records with respect to the Director under the *Child, Family and Community Service Act* (the “Director”), must be served on the provincial government in accordance with s.8 of the *Crown Proceeding Act* and the applicable rules of court, as follows:

Service

The legal requirements for properly effecting service on a ministry of the provincial government are set out in section 8 of the *Crown Proceeding Act*.

Service on government

8 A document to be served on the government

- (a) must be served on the Attorney General at the Ministry of Attorney General in the City of Victoria, and
- (b) is sufficiently served if
 - (i) left there during office hours with a solicitor on the staff of the Attorney General at Victoria, or
 - (ii) mailed by registered mail to the Deputy Attorney General at Victoria.

IMPORTANT: If service is being in effected in person, please note that the process server must let the security guard(s) know that they are delivering documents via personal service. The security guard(s) will then contact duty counsel to come and accept service of documents in person. Our security guards do not accept service on behalf of the Attorney General.

The AGBC address for service is:

Attention: Duty Counsel
Ministry of Attorney General
Legal Services Branch
PO Box 9280 STN PROV GOVT
1001 Douglas Street
Victoria, BC V8W 9J7

Notice

Applications filed in Provincial Court:

Provincial Court (Family) Rules state that notice should be given at least 7 days before the date set for the hearing.

Applications filed in Supreme Court:

Supreme Court Civil Rules and the *Supreme Court Family Rules* respectively, state that notice should be given at least 8 business days before the date set for the hearing of the application, and please note that for some applications seeking final Orders the notice period may be greater.

Consent Orders:

In the event that an Applicant intends to bring an application by consent, the service and notice requirements are treated as being the same as applications being set for a hearing.

Draft Consent Orders must be served on the provincial government in accordance with s.8 of the *Crown Proceeding Act* and the applicable rules of court prior to filing with the court registry.

For consent orders set to be filed in Provincial Court, the Applicant(s) must effect service on the provincial government of the draft Order setting out all the terms that the Applicant(s) will be seeking, and any other relevant application materials at least 7 days prior to the Applicant(s) submitting their application materials to court.

For consent orders set to be filed in Supreme Court, the applicant must effect service on the provincial government of the draft Order setting out all the terms that the Applicant(s) will be seeking, and any other relevant application materials no less than 8 business days prior to the Applicant(s) submitting their application materials to court.

When serving the Ministry of Attorney General with the draft Order, the Applicant(s) must advise of the date on which they intend to submit their application materials.

Terms of Order

There are standard terms that must be included in any proposed order for production of the Director's records. Please see the attached directions on the said standard terms.