

This Act is current to December 27, 2023

See the [Tables of Legislative Changes](#) for this Act's legislative history, including any changes not in force.

CHILD, FAMILY AND COMMUNITY SERVICE ACT

[RSBC 1996] CHAPTER 46

Contents

Part 1 — Introductory Provisions

- 1 Definitions and interpretation
- 2 Guiding principles
- 3 Service delivery principles
- 4 Best interests of child

Part 1.1 — Introductory Provisions Relating to Indigenous Laws and Indigenous Children

- 4.1 Self-government principles
- 4.2 Indigenous laws prevail in relation to Indigenous child and family services
- 4.3 Duties respecting Indigenous children
- 4.4 Considerations in relation to duties and the provision of services
- 4.5 Disputes relating to Indigenous laws

Part 2 — Voluntary Services or Support for Families

- 5 Services or support for families
- 6 Voluntary care agreements
- 7 Special needs agreements
- 8 Agreements with child's kin and others
- 9-10 Not in force. Repealed.
- 11 Capacity to make agreements and enforceability of agreements
- 12 Agreements do not limit court's power

Part 2.1 — Youth and Adult Support Services and Agreements

- 12.1 Support services for youth
- 12.2 Agreements with youth
- 12.3 Agreements with adults

Part 3 — Child Protection

Division 1 — Responding to Reports

- 13 When protection is needed
- 14 Duty to report need for protection
- 15 If a young child breaks the law
- 16 Finding out if a child needs protection
- 17 If director is denied access to child
- 18 If location of child is not disclosed
- 19 Orders for access or warrants may be obtained by telephone

Division 2 — Cooperative Planning and Dispute Resolution

- 20 Family conference
- 21 Plan of care
- 22 Mediation or other alternative dispute resolution mechanisms
- 23 Effect of family conference, mediation or other alternative dispute resolution mechanisms on court proceeding
- 24 Confidentiality of information

Division 3 — How Children are Protected

- 25 Unattended child
- 26 Lost or runaway child
- 27 Child in immediate danger
- 28 Child who needs to be protected from contact with someone
- 29 Child who needs necessary health care
- 29.1 If a supervision order is needed
- 30 Removal of child
- 31 Parents to be notified of child's removal
- 32 Care of child if child removed
- 33 Returning the child before an order is made at the presentation hearing
- 33.01 Withdrawing before an order is made at the presentation hearing if agreement protects

Division 4 — Child Protection Hearings and Orders

- 33.1 Timing and notice of presentation hearing about application for supervision order
- 33.2 Presentation hearing about application for supervision order
- 33.3 Nature of presentation hearing
- 34 Duty to attend and inform others of presentation hearing
- 35 Presentation hearing and orders
- 36 If an interim supervision order no longer protects the child
- 37 Arranging a subsequent hearing
- 38 Notice of protection hearing
- 39 Parties to proceeding
- 40 Protection hearing
- 41 Orders made at protection hearing
- 41.1 Content of supervision orders
- 42 Enforcement of supervision order after the protection hearing
- 42.1 Presentation hearing about enforcement of the supervision order
- 42.2 Subsequent hearing about enforcement of supervision order
- 43 Time limits for temporary custody orders
- 44 Extension of supervision orders and temporary orders
- 44.1 Extension of temporary custody order if permanent transfer of custody planned
- 45 Total period of temporary custody
- 46 Supervision of child after temporary custody order ends
- 47 Effect of interim or temporary custody order
- 48 Withdrawing from a proceeding after the presentation hearing

Division 5 — Continuing Custody Hearings and Orders

- 49 Continuing custody hearing and orders
- 50 Effect of continuing custody order
- 50.01 Planning for Indigenous child after continuing custody order

50.02- Not in force

50.05

50.06 Before placement of Indigenous child for adoption

50.1 Placement of child for adoption

51 Role of Public Guardian and Trustee

52 Director's duty to notify Public Guardian and Trustee

53 When continuing custody order ends

54 Cancellation of continuing custody order

Division 5.1 — Permanent Transfers of Custody

54.01 Permanent transfer of custody before continuing custody order

54.1 Permanent transfer of custody after continuing custody order

54.2 Effect of a permanent transfer of custody

Division 6 — Related Orders

55 Access to child in interim or temporary custody of director or other person

56 Access to child in continuing custody of director

57 Changes to supervision, temporary custody and access orders

57.01 Access orders if application made under section 54.01

57.1 Access orders if application made under section 54.1

58 If child needs assistance of Public Guardian and Trustee

59 Psychiatric or medical examination orders

60 Consent orders

61 Custody of child during adjournments

62 Suspension of order transferring care or custody from director

63 Enforcement of custody order

Division 7 — Procedure and Evidence

64 Full disclosure to parties

65 If director is denied access to record

66 Hearings civil in nature and may be informal

67 Court may exclude child and decide how child's evidence is received

68 Evidence of others

69 Power to vary notice requirements and to make orders without notice

Part 4 — Children in Care

70 Rights of children in care

71 Out-of-home living arrangements

72 Repealed

Part 5 — Freedom of Information and Protection of Privacy

73 Definition

74 *Freedom of Information and Protection of Privacy Act*

75 Disclosure of information restricted

75.1 Limitation on application — Indigenous authority

76 Who can act for a child

77 Exceptions to access rights

78 Repealed

79 Disclosure without consent

79.1 Repealed

79.2 Disclosing information to Indigenous authority

80 Repealed

Part 6 — Appeals and Reviews

81 Appeal to Supreme Court

82 Appeal to Court of Appeal

83-88 Repealed

89 Repealed

Part 7 — Administration

Division 1 — Agreements Respecting the *Declaration on the Rights of Indigenous Peoples Act*

89.1 Definitions for this Division

89.2 Agreements in relation to the *Declaration on the Rights of Indigenous Peoples Act*

89.3 Required conditions in agreements

89.4 Effect of agreements

Division 2 — Other Authorities for Minister's Agreements

90 Minister's authority to enter into agreements

90.1 Agreements in relation to federal Act

Division 3 — Agreements Relating to the Nisga'a Nation and Treaty First Nations

90.2 Definitions for this Division

90.3 Purpose for this Division

90.4 Negotiation

90.5 Indigenous laws — force of law

90.6 Effective date

90.7 No limit upon lawmaking

90.8 Conflict or inconsistency

Division 4 — Matters Relating to Directors

91 Designation of directors

92 Director's power to delegate

92.1 Director may make agreements respecting Indigenous children

93 Other powers and duties of directors

93.1 Administrative reviews

93.2 Reviews relating to services

94 Agreements with caregivers

94.1 Agreements with prospective adoptive parents

95 Repealed

95.1 Transfer to another director

96 Director's right to information

96.1 Transfer of director's records

Part 8 — Miscellaneous Provisions

97 Agreements and orders for child support

97.1 Intervention in *Family Law Act* proceedings

98 Restraining orders

99 Supreme Court jurisdiction

100 Out-of-Province orders and agreements

101 Immunity from legal proceedings

[101.1 No reprisals because of review](#)

[102 Offences and penalties](#)

[103 Power to make regulations](#)

[104 Community tribunals](#)

Part 9 — Transitional Provisions

[105 Transition from former Act — general rule](#)

[106 Proceedings begun under the former Act](#)

[107 Orders made under the former Act](#)

[108 Agreements made under the former Act or *Child Paternity and Support Act*](#)

Part 1 — Introductory Provisions

Definitions and interpretation

1 (1) In this Act:

"care", when used in relation to the care of a child by a director or another person, means physical care and control of the child;

"caregiver" means a person with whom a child is placed by a director and who, by agreement with the director, is authorized to carry out the rights and responsibilities, under the agreement, of the director;

"child" means a person under 19 years of age and includes a youth;

"child in care" means a child who is in the custody, care or guardianship of a director or a director of adoption;

"continuing custody order" means an order under section 41 (1) (d), 42.2 (4) (d) or (7) or 49 (4), (5) or (10) (a) placing a child in the continuing custody of a director;

"court" means the Provincial Court except where this Act provides otherwise;

"custody" includes care and guardianship of a child;

"designated representative", when used in relation to a First Nation, the Nisga'a Lisims Government, a Treaty First Nation or another Indigenous community, means a representative designated in accordance with the regulations;

"director" means a person designated by the minister under section 91;

"director of adoption" means a person designated by the minister under the [Adoption Act](#) as a director of adoption;

"dwelling" means all or part of any premises, vehicle or vessel that is kept or occupied as a permanent or temporary residence;

"family conference" means a conference convened under section 20;

"family conference coordinator" means a person designated by a director for the purpose of convening family conferences;

"federal Act" means *An Act respecting First Nations, Inuit and Métis children, youth and families* (Canada);

"First Nation child" means a child

- (a) who is a member or is entitled to be a member of a First Nation, or
- (b) who an Indigenous authority confirms, by advising a director, is a child belonging to a First Nation;

"former Act" means the *Family and Child Service Act*, S.B.C. 1980, c. 11;

"guardianship" includes all the rights, duties and responsibilities of a parent;

"health care" means anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health related purpose, and includes a course of health care;

"health care provider" includes a person licensed, certified or registered in British Columbia or in another province or state to provide health care;

"Indigenous authority" means a body or entity, including an Indigenous governing body, that is authorized by an Indigenous governing body to provide Indigenous child and family services under Indigenous law;

"Indigenous child" means a child

- (a) who is a First Nation child,
- (b) who is a Nisga'a child,
- (c) who is a Treaty First Nation child,
- (d) who is under 12 years of age and has a biological parent who
 - (i) is of Indigenous ancestry, including Métis and Inuit, and
 - (ii) considers themselves to be an Indigenous person,
- (e) who is 12 years of age or over, of Indigenous ancestry, including Métis and Inuit, and considers themselves to be an Indigenous person, or
- (f) who an Indigenous authority confirms, by advising a director, is a child belonging to an Indigenous community;

"Indigenous child and family services" means services provided by an Indigenous authority to support Indigenous children and families, including prevention services, early intervention services and child protection services;

"Indigenous governing body" has the same meaning as in the *Declaration on the Rights of Indigenous Peoples Act*;

"Indigenous law" means a law in relation to Indigenous child and family services that is made in respect of Indigenous children and families by an Indigenous governing body in accordance with the law-making authority of the Indigenous governing body;

"interim order" means an order made under section 28 (5.1), 33.2 (2), 35 (2) (a), (b) or (d), 36 (3) (a) or (b), 42.1 (6) or 98 (7.1);

"parent" includes

- (a) a person to whom guardianship or custody of a child has been granted by a court of competent jurisdiction or by an agreement, and
- (b) a person with whom a child resides and who stands in place of the child's parent or guardian,

but does not include a caregiver, prospective adoptive parent or director;

"place of confinement" means

- (a) a correctional centre, youth custody centre or other lawful place of confinement, or
- (b) a Provincial mental health facility or psychiatric unit under the [Mental Health Act](#);

"plan for independence" means a plan relating to a youth that

- (a) contains the information required under section 12.2, and
- (b) is prepared in accordance with the regulations;

"plan of care" means a plan relating to a child that

- (a) contains the information required under the regulations, and
- (b) is prepared in accordance with the regulations;

"police officer" means a person who

- (a) under the [Police Act](#) is a provincial constable or municipal constable or has the powers of a provincial constable or municipal constable, or
- (b) is a member of the military police of the Canadian Armed Forces;

"presentation hearing" means a hearing that a director is required by section 33.1 (1), 34 (1), 36 (2) (b) or 42.1 (1) to attend;

"prospective adoptive parent" means a person with whom a child is placed for adoption under section 4 (2) of the [Adoption Act](#) and who, by agreement with a director, is authorized to carry out the rights and responsibilities, under the agreement, of the director;

"protective intervention order" means an order made under section 28;

"remove" means to take a child into the care of a director under section 30, 36 or 42;

"residential service" means accommodation and associated supervision provided for a child in a foster home or other place away from the home of the child's parent;

"restraining order" means an order made under section 98;

"supervision order" means an order made under section 33.2 (2), 35 (2) (b) or (d), 36 (3) (b) (i), 41 (1) (a) or (b), (1.1) or (2.1), 42.2 (4) (a) or (c), 46 (3), 49 (8) or 54.01 (10) requiring a director to supervise a child's care, and includes any extension of or change to that order;

"temporary custody order" means an order made under section 41 (1) (b) or (c), 42.2 (4) (b) or (c), 49 (7) (b) or (c) or 54.01 (9) (b) or (c) placing a child for a specified period in the custody of a director or another person, and includes any extension of or change to that order;

"Treaty First Nation", in relation to a Treaty First Nation child, means the Treaty First Nation of which the child is a Treaty First Nation child;

"youth" means a person who is 16 years of age or over but is under 19 years of age.

(2) A reference in this Act to an order made under a provision of this Act includes a reference to the corresponding order made by consent under section 60.

Guiding principles

- 2 This Act must be interpreted and administered so that the safety and well-being of children are the paramount considerations and in accordance with the following principles:
 - (a) children are entitled to be protected from abuse, neglect and harm or threat of harm;
 - (b) a family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with the parents;
 - (b.1) Indigenous families and Indigenous communities share responsibility for the upbringing and well-being of Indigenous children;
 - (c) if, with available support services, a family can provide a safe and nurturing environment for a child, support services should be provided;
 - (d) the child's views should be taken into account when decisions relating to a child are made;
 - (e) kinship ties and a child's attachment to the extended family should be preserved if possible;
 - (f) Indigenous children are entitled to
 - (i) learn about and practise their Indigenous traditions, customs and languages, and
 - (ii) belong to their Indigenous communities;
 - (g) decisions relating to children should be made and implemented in a timely manner.

Service delivery principles

- 3 The following principles apply to the provision of services under this Act:

- (a) families and children should be informed of the services available to them and encouraged to participate in decisions that affect them;
- (b) in the planning and delivery of services to Indigenous children and families, there should be consultation and cooperation with Indigenous peoples and Indigenous governing bodies;
- (b.1) services should be planned and provided in ways that prevent discrimination prohibited by the [Human Rights Code](#) and that promote substantive equality, respect for rights and culture and, in the case of Indigenous children, cultural continuity;
- (c) services should be planned and provided in ways that are sensitive to the needs and the cultural, racial and religious heritage of those receiving the services;
- (c.1) the impact of residential schools on Indigenous children, families and communities should be considered in the planning and delivery of services to Indigenous children and families;
- (d) services should be integrated, wherever possible and appropriate, with services provided by government ministries, community agencies and Community Living British Columbia established under the [Community Living Authority Act](#);
- (d.1) services to Indigenous children and families should be provided in a coordinated manner with Indigenous child and family services provided by Indigenous authorities;
- (e) the community should be involved, wherever possible and appropriate, in the planning and delivery of services, including preventive and support services to families and children.

Best interests of child

- 4 (1) Where there is a reference in this Act to the best interests of a child, all relevant factors must be considered in determining the child's best interests, including for example:
- (a) the child's safety;
 - (b) the child's physical and emotional needs and level of development;
 - (c) the importance of continuity in the child's care;
 - (d) the quality of the relationship the child has with a parent or other person and the effect of maintaining that relationship;
 - (e) the child's cultural, racial, linguistic and religious heritage;
 - (f) the child's views;
 - (g) the effect on the child if there is delay in making a decision.
- (2) If the child is an Indigenous child, in addition to the relevant factors that must be considered under subsection (1), the following factors must be considered in

determining the child's best interests:

- (a) the importance of the child being able to learn about and practise the child's Indigenous traditions, customs and language;
- (b) the importance of the child belonging to the child's Indigenous community.

Part 1.1 — Introductory Provisions Relating to Indigenous Laws and Indigenous Children

Self-government principles

4.1 This Act must be interpreted and administered in accordance with the following principles:

- (a) Indigenous peoples have an inherent right of self-government, including self-determination, that is recognized and affirmed by section 35 of the *Constitution Act, 1982* and by the *United Nations Declaration on the Rights of Indigenous Peoples*;
- (b) the inherent right of self-government includes jurisdiction in relation to Indigenous child and family services, law-making authority in relation to those services and authority to administer and enforce laws made under that law-making authority;
- (c) Indigenous laws have the force of law in British Columbia.

Indigenous laws prevail in relation to Indigenous child and family services

4.2 Subject to sections 4.3 (4) and 4.4 (1) and (2), if there is a conflict or inconsistency between this Act and an Indigenous law in a circumstance where an Indigenous authority is providing, or intending to provide, Indigenous child and family services under the Indigenous law, the Indigenous law prevails to the extent of the conflict or inconsistency.

Duties respecting Indigenous children

- 4.3** (1) When exercising powers and performing duties under this Act, a director must promptly take all reasonable steps to confirm whether a child is an Indigenous child.
- (2) If a child is an Indigenous child, a director must promptly take all reasonable steps to obtain information about and confirm whether there is
- (a) an Indigenous authority with jurisdiction for Indigenous child and family services in relation to the child, and
 - (b) an applicable Indigenous law in relation to the child.
- (3) If there is an applicable Indigenous law in relation to an Indigenous child, a director must promptly take steps when an Indigenous authority is to provide

Indigenous child and family services in relation to the child, including by

- (a) referring a report in accordance with section 16,
 - (b)-(c) Not in force.
- (4) If a director provides services under this Act in relation to an Indigenous child to whom an Indigenous law applies, the director must provide the services as follows, as applicable:
- (a) subject to section 4.4 (2) and (3), in a manner that is consistent with the Indigenous law,
 - (i) if the Indigenous law is provided in writing to the director, or
 - (ii) if the Indigenous law is not provided in writing to the director, in accordance with an agreement referred to in paragraph (b) of this subsection;
 - (b) in accordance with an agreement
 - (i) entered into under this Act, or
 - (ii) referred to in Division 1 of Part 7.

Considerations in relation to duties and the provision of services

- 4.4** (1) An Indigenous law does not have the effect of imposing specific duties or restrictions on a director, or requiring that specific services be provided or not provided by a director, unless an applicable agreement referred to in section 4.3 (4) (b) has that effect.
- (2) When providing services in a manner described in section 4.3 (4) (a), a director remains subject to this Act and must act in accordance with applicable laws, including the federal Act and the [*Canadian Charter of Rights and Freedoms*](#).
- (3) If a director considers that it is not possible to act in accordance with applicable laws as described in subsection (2), the director must notify the Indigenous authority and, if requested by the Indigenous authority, provide written reasons to the Indigenous authority.

Disputes relating to Indigenous laws

- 4.5** In the event of a dispute under this Act about the application of an Indigenous law or whether a director's provision of service is consistent with an Indigenous law,
- (a) a director must ensure that the dispute does not disrupt the provision of services under this Act while the dispute is being resolved, and
 - (b) the director must consult and cooperate with Indigenous authorities to resolve the dispute in a timely manner and must give due consideration to the Indigenous laws, or the Indigenous customs, practices and traditions, of the Indigenous peoples or communities.

Part 2 — Voluntary Services or Support for Families

Services or support for families

- 5** (1) A director may make a written agreement with the parent of a child for the provision of services or support to assist the family to care for the child.
- (1.1) If a director makes an agreement under subsection (1) respecting an Indigenous child, the following may be included as a party to the agreement:
- (a) if the child is a First Nation child, the First Nation;
 - (b) if the child is a Nisga'a child, the Nisga'a Nation or the child's Nisga'a Village;
 - (c) if the child is a Treaty First Nation child, the Treaty First Nation;
 - (d) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, the legal entity representing the child's Indigenous community.
- (1.2) If, under subsection (1.1), a party is included in an agreement,
- (a) the agreement must include
 - (i) a description of the party's role in the agreement, and
 - (ii) conditions on the use, disclosure and security of information provided under the agreement to the party, and
 - (b) a withdrawal from the agreement by the party does not have the effect of terminating the agreement.
- (2) The services may include, but are not limited to, the following:
- (a) services for children and youth;
 - (b) counselling;
 - (c) in-home support;
 - (d) respite care;
 - (e) parenting programs;
 - (f) services to support children who witness domestic violence.
- (3) The initial term of the agreement must not exceed 6 months, but the agreement may be renewed for terms of up to 6 months each.

Voluntary care agreements

- 6** (1) A director may make a written agreement with a parent who has custody of a child and is temporarily unable to look after the child in the home.
- (2) Under the agreement, the parent may give the care of the child to the director and delegate to the director as much of the parent's authority as the child's guardian as is required to give effect to the agreement.
- (2.1) If a director makes an agreement under subsection (1) respecting an Indigenous child, the following may be included as a party to the agreement:
- (a) if the child is a First Nation child, the First Nation;

- (b) if the child is a Nisga'a child, the Nisga'a Nation or the child's Nisga'a Village;
 - (c) if the child is a Treaty First Nation child, the Treaty First Nation;
 - (d) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, the legal entity representing the child's Indigenous community.
- (2.2) If, under subsection (2.1), a party is included in an agreement, a withdrawal from the agreement by the party does not have the effect of terminating the agreement.
- (3) If possible, the director must
 - (a) find out the child's views about the agreement and take them into account, and
 - (b) explain the effect of the agreement to the child before the agreement is signed.
- (4) Before making the agreement, the director must
 - (a) consider whether a less disruptive way of assisting the parent to look after the child, such as by providing available services in the child's own home, is appropriate in the circumstances, and
 - (b) consider whether the agreement is in the child's best interests.
- (5) The agreement must include the following:
 - (a) a description of the plan of care for the child, including where the child will be placed;
 - (b) a promise by the director to keep the parent informed of the child's progress and to involve the parent in decisions affecting the child;
 - (c) a promise by the parent to maintain contact with the child, including the details of the contact;
 - (d) if, under subsection (2.1), a party is included in an agreement,
 - (i) a description of the party's role in the agreement, and
 - (ii) conditions on the use, disclosure and security of information provided under the agreement to the party.
- (6) The initial term of the agreement must not exceed
 - (a) 3 months, if the child is under 5 years of age on the date the agreement is signed, or
 - (b) 6 months, in any other case.
- (7) The agreement may be renewed but the total duration of all consecutive agreements with all directors, and all renewals to all agreements, relating to the same child must not exceed, from the date the first agreement was signed,

- (a) 12 months, if the child or the youngest child who is the subject of the agreement was under 5 years of age on that date,
 - (b) 18 months, if the child or the youngest child who is the subject of the agreement was 5 years of age or over but under 12 years of age on that date, or
 - (c) 24 months, if the child or the youngest child who is the subject of the agreement was 12 years of age or over on that date.
- (8) If the parent does not resume care of the child when the agreement ends, the term of the agreement is extended for 30 days despite subsections (6) and (7).

Special needs agreements

- 7** (1) A director may make a written agreement with a parent who has custody of a child with special needs.
- (2) Under the agreement, the parent may give the care of the child to the director and delegate to the director as much of the parent's authority as the child's guardian as is required to give effect to the agreement.
- (2.1) If a director makes an agreement under subsection (1) respecting an Indigenous child, the following may be included as a party to the agreement:
- (a) if the child is a First Nation child, the First Nation;
 - (b) if the child is a Nisga'a child, the Nisga'a Nation or the child's Nisga'a Village;
 - (c) if the child is a Treaty First Nation child, the Treaty First Nation;
 - (d) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, the legal entity representing the child's Indigenous community.
- (2.2) If, under subsection (2.1), a party is included in an agreement, a withdrawal from the agreement by the party does not have the effect of terminating the agreement.
- (3) Section 6 (3) to (5) and (8) applies to an agreement under this section.
- (4) The initial term of the agreement must not exceed 6 months, but the agreement may be renewed for terms of up to 12 months each.

Agreements with child's kin and others

- 8** (1) A director may make a written agreement with a person who
- (a) has established a relationship with a child or has a cultural or traditional responsibility toward a child, and
 - (b) is given care of the child by the child's parent.
- (2) The agreement may provide for the director to contribute to the child's support while the child is in the care of the person referred to in subsection (1).

(3) If a director makes an agreement under subsection (1), the following may be included as a party to the agreement:

- (a) the child's parent;
- (b) in the case of the child being an Indigenous child,
 - (i) if the child is a First Nation child, the First Nation,
 - (ii) if the child is a Nisga'a child, the Nisga'a Nation or the child's Nisga'a Village,
 - (iii) if the child is a Treaty First Nation child, the Treaty First Nation, or
 - (iv) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, the legal entity representing the child's Indigenous community.

(4) If, under subsection (3), a party is included in an agreement,

- (a) the agreement must include
 - (i) a description of the party's role in the agreement, and
 - (ii) in the case of a party referred to in subsection (3) (b), conditions on the use, disclosure and security of information provided under the agreement to the party, and
- (b) a withdrawal from the agreement by the party does not have the effect of terminating the agreement.

Not in force. Repealed.

9-10 [Not in force. Repealed 1999-26-37.]

Capacity to make agreements and enforceability of agreements

- 11** (1) A parent under 19 years of age may make an agreement under section 5, 6 or 7 with a director.
- (2) An agreement made by a director under section 5, 6 or 7 with a person under 19 years of age is enforceable against that person.

Agreements do not limit court's power

- 12** An agreement does not limit the court's power to hear an application and make an order about a child.

Part 2.1 — Youth and Adult Support Services and Agreements

Support services for youth

- 12.1** A director may establish support services for youth, including but not limited to safe houses, outreach services and supported living arrangements.

Agreements with youth

- 12.2** (1) Subject to the regulations, a director may make a written agreement with a youth who needs assistance and who
- (a) cannot, in the director's opinion, be re-established in the youth's family, or
 - (b) has no parent or other person willing or able to assist the youth.
- (2) The agreement may provide for one or more of the following:
- (a) residential, educational or other support services;
 - (b) financial assistance.
- (2.1) If a director makes an agreement under subsection (1) respecting a youth who is an Indigenous child, the following may be included as a party to the agreement:
- (a) if the youth is a First Nation child, the First Nation;
 - (b) if the youth is a Nisga'a child, the Nisga'a Nation or the youth's Nisga'a Village;
 - (c) if the youth is a Treaty First Nation child, the Treaty First Nation;
 - (d) if the youth is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, the legal entity representing the youth's Indigenous community.
- (2.2) If, under subsection (2.1), a party is included in an agreement,
- (a) the agreement must include
 - (i) a description of the party's role in the agreement, and
 - (ii) conditions on the use, disclosure and security of information provided under the agreement to the party, and
 - (b) a withdrawal from the agreement by the party does not have the effect of terminating the agreement.
- (3) The agreement must include a plan for independence that contains
- (a) a description of the support services or financial assistance, or both, that are to be provided by the director,
 - (b) the goals to be met by the youth, and
 - (c) any other contents specified by regulation.
- (4) Before making the agreement, the director must
- (a) consider whether the agreement is in the youth's best interests, and
 - (b) recommend that the youth seek advice from an independent third party.
- (5) The initial term of the agreement must not exceed 3 months, but the agreement may be renewed for terms of up to 6 months each.
- (6) No agreement under this section continues beyond the youth's nineteenth birthday.

- (7) An agreement made by a director under this section with a youth is enforceable against the youth.
- (8) An agreement made by a director under this section with a youth does not limit the court's power to hear an application and make an order about the youth.
- (9) For the purpose of this section, **"youth"** includes a person who
 - (a) is under 16 years of age, and
 - (b) is married or is a parent or expectant parent.

Agreements with adults

- 12.3** (1) Subject to the regulations, a director may make a written agreement with a person 19 years or older who, before the person's nineteenth birthday, was
- (a) a child in care,
 - (b) the subject of an order for custody under this Act, other than as described in paragraph (a), or
 - (c) the subject of, or a party to, an agreement under this Act.
- (2) The agreement may provide for support services or financial assistance, or both, to assist the person while
- (a) enrolled in an educational or vocational training program, or
 - (b) taking part in a life skills or rehabilitative program.
- (3) Subject to the regulations, the agreement may be renewed or, after an interval, another agreement under this section may be made.

Part 3 — Child Protection

Division 1 — Responding to Reports

When protection is needed

- 13** (1) A child needs protection in the following circumstances:
- (a) if the child has been, or is likely to be, physically harmed by the child's parent;
 - (b) if the child has been, or is likely to be, sexually abused or exploited by the child's parent;
 - (c) if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child;
 - (d) if the child has been, or is likely to be, physically harmed because of neglect by the child's parent;
 - (e) if the child is emotionally harmed by

- (i) the parent's conduct, or
 - (ii) living in a situation where there is domestic violence by or towards a person with whom the child resides;
 - (f) if the child is deprived of necessary health care;
 - (g) if the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;
 - (h) if the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;
 - (i) if the child is or has been absent from home in circumstances that endanger the child's safety or well-being;
 - (j) if the child's parent is dead and adequate provision has not been made for the child's care;
 - (k) if the child has been abandoned and adequate provision has not been made for the child's care;
 - (l) if the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force.
- (1.1) For the purpose of subsection (1) (b) and (c) but without limiting the meaning of "sexually abused" or "sexually exploited", a child has been or is likely to be sexually abused or sexually exploited if the child has been, or is likely to be,
- (a) encouraged or helped to engage in prostitution, or
 - (b) coerced or inveigled into engaging in prostitution.
- (1.2) For the purpose of subsection (1) (a) and (c) but without limiting the circumstances that may increase the likelihood of physical harm to a child, the likelihood of physical harm to a child increases when the child is living in a situation where there is domestic violence by or towards a person with whom the child resides.
- (2) For the purpose of subsection (1) (e), a child is emotionally harmed if the child demonstrates severe
- (a) anxiety,
 - (b) depression,
 - (c) withdrawal, or
 - (d) self-destructive or aggressive behaviour.
- (3) For certainty, a child does not need protection in the circumstances described in subsection (1) (d) or (h) solely on the basis of socioeconomic conditions, including the following:
- (a) poverty;
 - (b) the lack of adequate housing or infrastructure;

(c) the state of health of a parent of the child.

Duty to report need for protection

- 14** (1) Subject to subsection (1.1), a person who has reason to believe that a child, including an Indigenous child, needs protection under section 13 must promptly report the matter to a director or a person designated by a director.
- (1.1) A person who has reason to believe that an Indigenous child needs protection under section 13 and who reports the matter to an Indigenous authority is not required to report the matter to a director, or a person designated by a director, under subsection (1) of this section if the Indigenous authority confirms to the person that the Indigenous authority will assess the information in the report.
- (2) Subsection (1) applies even if the information on which the belief is based
- (a) is privileged, except as a result of a solicitor-client relationship, or
 - (b) is confidential and its disclosure is prohibited under another Act.
- (3) A person who contravenes subsection (1) commits an offence.
- (4) A person who knowingly reports to a director, or a person designated by a director, false information that a child needs protection commits an offence.
- (5) No action for damages may be brought against a person for reporting information under this section unless the person knowingly reported false information.
- (6) A person who commits an offence under this section is liable to a fine of up to \$10 000 or to imprisonment for up to 6 months, or to both.
- (7) The limitation period governing the commencement of a proceeding under the [Offence Act](#) does not apply to a proceeding relating to an offence under this section.

If a young child breaks the law

- 15** (1) A police officer may take charge of a child and deliver [the child](#) to a parent if the police officer considers that the child
- (a) is under 12 years of age, and
 - (b) has acted in a manner prohibited by law or has failed or refused to act in a manner required by law.
- (2) If the child has killed, assaulted or endangered another person, the police officer must report the circumstances to a director, and, in any other case, may report the circumstances to a director.

Finding out if a child needs protection

- 16** (1) On receiving a report about a child under section 14, 15 or 27, a director must determine whether to refer the report
- (a) to another director, or

- (b) if the child is an Indigenous child, to an applicable Indigenous authority.
- (1.1) The director must not make a determination to refer the report as set out in subsection (1) (b) unless the Indigenous authority confirms that an Indigenous law applies to the child and that the Indigenous authority will assess the information in the report.
- (1.2) If the director makes a determination to refer the report as set out in subsection (1),
- (a) the director must refer the report promptly,
 - (b) in the case of a referral to another director, the other director must assess the information in the report, and
 - (c) in the case of a referral to an Indigenous authority, the director must inform the person who made the report that the director has referred the report to the Indigenous authority.
- (1.3) If the director refers the report as set out in subsection (1) (b), the director ceases to have the obligation to assess the information in the report.
- (1.4) If the director makes a determination under subsection (1) not to refer the report, the director must assess the information in the report.
- (2) After the assessment under subsection (1.2) (b) or (1.4), the director may
- (a) offer support services and agreements to the child and family,
 - (b) refer the child and family to any of the following:
 - (i) a community agency;
 - (ii) in the case of an Indigenous child, an Indigenous authority or,
 - (A) if the child is a First Nation child, the First Nation,
 - (B) if the child is a Nisga'a child, the Nisga'a Nation,
 - (C) if the child is a Treaty First Nation child, the Treaty First Nation, or
 - (D) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, the child's Indigenous community;
 - (iii) any person the director considers appropriate,
 - (b.1) conduct an assessment of the family respecting
 - (i) the child's safety, and
 - (ii) whether it is necessary to provide to the family available services to
 - (A) support and assist the family to care for the child, and
 - (B) make the family safe for the child,
 - (c) investigate the child's need for protection, or
 - (d) refer the report, in the case of an Indigenous child, to the applicable Indigenous authority.

- (2.1) The director must not refer the report to an Indigenous authority as set out in subsection (2) (d) unless the Indigenous authority confirms that
- (a) an Indigenous law applies to the child, and
 - (b) the Indigenous authority will assess the information in the report.
- (2.2) If the director refers the report to an Indigenous authority as set out in subsection (2) (d), the director must inform the person who made the report that the director has referred the report to the Indigenous authority.
- (2.3) If the director refers the report as set out in subsection (2) (d), the director ceases, with respect to the report, to have the obligation to commence, continue or conclude an assessment as set out in subsection (2) (b.1) or an investigation as set out in subsection (2) (c), as applicable.
- (2.4) If a director makes an agreement under section 92.1 (2) (a) (ii) or (iii) with a First Nation, the Nisga'a Nation, a Treaty First Nation or a legal entity representing another Indigenous community, the director must, with respect to an Indigenous child of the First Nation, Nisga'a Nation, Treaty First Nation or Indigenous community, conduct an assessment under subsection (2) (b.1) of this section or investigate under subsection (2) (c) of this section in accordance with the agreement.
- (3) The director must make all reasonable efforts to report the result of the assessment under subsection (2) (b.1) or investigation under subsection (2) (c) to
- (a) the parent apparently entitled to custody of the child,
 - (b) the person who reported the information that led to the assessment or investigation,
 - (b.1) if the director conducts the assessment or investigates as set out in subsection (2.4) of this section, the First Nation, Nisga'a Nation, Treaty First Nation or legal entity representing the Indigenous community who is a party to the agreement made under section 92.1 (2) (a) (ii) or (iii), and
 - (c) any other person or community agency if the director determines this is necessary to ensure the child's safety or well-being.
- (4) In addition, the director may report the result of the assessment or investigation to the child if [the child](#) is capable of understanding the information.
- (5) Subsections (3) and (4) do not apply
- (a) if reporting the result of the assessment or investigation would, in the opinion of the director, cause physical or emotional harm to any person or endanger the child's safety, or
 - (b) if a criminal investigation into the matter is underway or contemplated.

If director is denied access to child

17 (1) On application by a director, the court may make an order under this section if

- (a) there are reasonable grounds to believe a child needs protection,
 - (b) a person refuses
 - (i) to give a director access to the child, or
 - (ii) to provide a director with all the information known to the person that may assist the director in locating the child, and
 - (c) access to the child is necessary to determine if the child needs protection.
- (2) In an order under this section, the court may do one or more of the following:
- (a) authorize the director, a police officer or a person specified in the order to, by force if necessary, enter the premises or vehicle or board the vessel specified in the order and to search for the child;
 - (b) require a person to disclose all the information known to the person that may assist the director in locating the child;
 - (c) require a person to allow the director or another person to interview or to visually examine the child, or to do both;
 - (d) authorize the director to take the child away from the premises, vehicle or vessel for an interview or medical examination;
 - (e) authorize a medical practitioner or other health care provider to examine the child.
- (3) The court may attach any terms or conditions to an order under this section.
- (4) If the child is taken away from the premises, vehicle or vessel for an interview or medical examination, the director must return the child to the parent when the interview or medical examination is completed unless the director proceeds under section 30.
- (5) At the request of a director, a police officer must assist in enforcing an order made under subsection (2).

If location of child is not disclosed

- 18** (1) If a person does not comply with an order under section 17 (2) (b) or (c), the court may issue a warrant for the person's arrest to bring the person before the court to explain why the order should not be enforced.
- (2) Unless the court is satisfied when the person appears before the court that the person is for valid reasons unable to comply with the order, the court may order that the person be imprisoned for the shorter of the following periods:
- (a) until the person complies with the order;
 - (b) 30 days.

Orders for access or warrants may be obtained by telephone

- 19** (1) A director may apply to a judge of the court in person, by telephone or by any other means of telecommunication for an order under section 17 or 63.
- (2) If a judge of the court is not available,
- (a) a director may apply in person, by telephone or by any other means of telecommunication to a justice of the peace, designated for the purpose by the chief judge of the court, for an order under section 17 or 63, and
 - (b) the justice may make the order or issue the warrant.

Division 2 — Cooperative Planning and Dispute Resolution

Family conference

- 20** (1) The purpose of a family conference is to enable and assist the family to develop a plan of care that will
- (a) protect the child from harm,
 - (b) serve the best interests of the child,
 - (c) take into account the wishes, needs and role of the family, and
 - (d) take into account the child's culture and community.
- (2) If a director concludes after
- (a) an assessment under section 16 (2) (b.1) that it is necessary to provide services, or
 - (b) an investigation under section 16 (2) (c) that the child needs protection,
- the director may offer to refer the parent or, if the parent is unavailable, another family member to a family conference coordinator.
- (3) Subsection (2) applies whether or not the child has been removed.
- (4) If the offer is accepted, the family conference coordinator may, after talking to the parent or other family member, convene a family conference.

Plan of care

- 21** (1) The plan of care developed by means of a family conference must include the director's consent and may include provision for services to support and assist the family and to make the family safe for the child.
- (2) The plan of care may include provision for one or more of the following:
- (a) the child to reside in the home of a relative or other person;
 - (b) a person, including a parent, to reside outside the child's home;
 - (c) the director to have access to the child.
- (3) If the child is 12 years of age or over, the director must before agreeing to the plan of care
- (a) explain the plan of care to the child, and

- (b) take the child's views into account.
- (4) A plan of care may only be made for a specified period of up to 6 months, but may be extended for one or more periods,
 - (a) with the agreement of the director and the persons who developed the plan of care, and
 - (b) if the total period of all consecutive plans of care with all directors relating to the same child, including all extensions, is not more than 18 months.

Mediation or other alternative dispute resolution mechanisms

- 22** (1) If a director and any person are unable to resolve an issue relating to the child or a plan of care, the director and the person may agree to mediation or other alternative dispute resolution mechanisms as a means of resolving the issue.
- (2) If a person and any other person, including a director or an Indigenous authority, are unable to resolve a dispute about whether an Indigenous law applies to a matter under this Act, the persons may agree to mediation or other alternative dispute resolution mechanisms as a means of resolving the dispute.

Effect of family conference, mediation or other alternative dispute resolution mechanisms on court proceeding

- 23** (1) On application the court may adjourn a proceeding under this Part one or more times, for a total period of up to 3 months, so that a family conference, mediation or other alternative dispute resolution mechanism can proceed.
- (2) If the proceeding is adjourned, any time limit applicable to the proceeding is suspended.
- (3) If, as a result of a family conference, mediation or other alternative dispute resolution mechanism, a written agreement is made after a proceeding is commenced to determine if the child needs protection, the director may file the agreement with the court.

Confidentiality of information

- 24** (1) A person must not disclose, or be compelled to disclose, information obtained in a family conference, mediation or other alternative dispute resolution mechanism, except
- (a) with the consent of everyone who participated in the family conference or mediation,
 - (b) to the extent necessary to make or implement an agreement about the child,
 - (c) if the information is disclosed in an agreement filed under section 23, or
 - (d) if the disclosure is necessary for a child's safety or for the safety of a person other than a child, or is required under section 14.

- (2) This section applies despite sections 79 and 79.2 of this Act and despite any provision, other than section 44 (1) (b), (2), (2.1) and (3), of the *Freedom of Information and Protection of Privacy Act*.
- (2.1) For the purposes of this section, a person does not disclose information merely by participating in a family conference, mediation or other alternative dispute resolution mechanism by means of electronic communication, including by telephone or video.
- (3) Subsection (2) does not apply to personal information, as defined in the *Freedom of Information and Protection of Privacy Act*, that has been in existence for at least 100 years or to other information that has been in existence for at least 50 years.

Division 3 — How Children are Protected

Unattended child

- 25** (1) If a child is found without adequate supervision when any premises or vehicle is entered or when a vessel is boarded under this Act, a director may do any of the following:
- (a) take the child to a safe place and arrange for someone to look after the child for up to 72 hours;
 - (b) remain on the premises, in the vehicle or on the vessel;
 - (c) arrange for homemaker services to be provided for the shorter of the following periods:
 - (i) until other adequate supervision is available for the child;
 - (ii) 72 hours.
- (2) If homemaker services are provided, the homemaker may enter the premises, vehicle or vessel where the child is and look after the child.
- (3) The director must make all reasonable efforts to notify the child's parent of any steps taken by the director under subsection (1).
- (4) The director may
- (a) authorize a health care provider to examine the child, and
 - (b) consent to necessary health care for the child if, in the opinion of a health care provider, the health care should be provided without delay.
- (5) Subsection (4) does not affect a child's right under section 17 of the *Infants Act* to consent to health care.

Lost or runaway child

- 26** (1) A director may take charge of a child for a period of up to 72 hours if it appears to the director that the child is lost or has run away.
- (2) On taking charge of the child, the director

- (a) must make all reasonable efforts to locate a parent, guardian or other person responsible for the child, and
 - (b) may take the child to a safe place or arrange for someone to look after the child.
- (3) If the person responsible for the child is located, the director may
 - (a) return the child or facilitate the child's return to that person, or
 - (b) place the child with another person at the request of the person responsible for the child and with the consent of the other person.
- (4) Section 25 (4) and (5) applies to the child while in the charge of the director.
- (5) If the person responsible for the child is not located by the end of the 72 hour period, the director no longer has charge of the child.

Child in immediate danger

- 27** (1) A police officer may, without a court order, take charge of a child if the police officer has reasonable grounds to believe that the child's health or safety is in immediate danger.
- (2) A police officer may, without a court order and by force if necessary, enter any premises or vehicle or board any vessel for the purpose of taking charge of a child under subsection (1) if
- (a) the police officer has reasonable grounds to believe that the child's health or safety is in immediate danger, and
 - (b) a person denies the police officer access to the child or no one is available to provide access.
- (3) On taking charge of the child, the police officer must immediately report the circumstances to a director and
- (a) take the child to a director or to a person or place designated by a director, or
 - (b) with the approval of a director, return the child to the child's parent or take the child to a person designated by the parent.
- (4) If the child is taken to a director or to a person or place designated by a director, the director may take charge of the child for up to 24 hours and must
- (a) immediately make all reasonable efforts to notify the child's parent,
 - (b) investigate the circumstances, and
 - (c) look after the child while in the director's charge.
- (5) The director must as soon as possible
- (a) return the child to the parent, or
 - (b) place the child with a person at the request of the parent and with the consent of the other person,

unless the director proceeds under section 30.

(6) Section 25 (4) and (5) applies to the child while in the charge of the director.

Child who needs to be protected from contact with someone

28 (1) If there are reasonable grounds to believe that contact between a child and another person would cause the child to need protection under section 13 (1) (a) to (e) or (i), a director may apply to the court for a protective intervention order.

(2) At least 2 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on the following:

- (a) the person against whom the order is sought;
- (b) the child, if 12 years of age or over;
- (c) the person with care of the child.

(2.1) The director must, if practicable, inform each parent of the time, date and place of the hearing unless

- (a) the parent has already been served under subsection (2), or
- (b) informing the parent would, in the director's opinion, cause physical or emotional harm to any person or endanger the child's safety.

(2.2) If a person referred to in subsection (2) (a) or (c) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.

(3) If satisfied that there are reasonable grounds to believe that contact between the child and another person would cause the child to need protection under section 13 (1) (a) to (e) or (i), the court may, in the child's best interests, do one or more of the following:

- (a) prohibit the other person for a period of up to 6 months from contacting or interfering with or trying to contact or interfere with the child or from entering any premises or vehicle or boarding any vessel the child attends;
- (b) prohibit the other person for a period of up to 6 months from residing with the child or from entering any premises or vehicle, or boarding any vessel, where the child resides, including any premises, vehicle or vessel that the other person owns or has a right to occupy;
- (c) if the court thinks the other person may not comply with an order under paragraph (a) or (b), order that person to
 - (i) enter into a recognizance, with or without sureties, in an amount the court thinks necessary and reasonable,
 - (ii) report to the court, or to a person named by the court, for the period of time and at the times and places the court thinks necessary and reasonable, or
 - (iii) produce to the court, or to a person named by the court, any documents the court thinks fit;

- (d) include any terms necessary to implement an order under paragraph (a), (b) or (c).

(3.1) to (3.6) [Repealed 2011-25-290.]

- (4) Before the protective intervention order expires, the director or the person against whom the order was made may apply to the court and the court may do one or more of the following:

- (a) change the order;

- (a.1) [Repealed 2011-25-290.]

- (b) cancel the order;

- (c) shorten the term of the order;

- (d) extend the term of the order for one period of up to 6 months.

- (5) At the request of a director, a police officer must assist in enforcing a protective intervention order.

- (5.1) If a director has applied to a court for a protective intervention order under subsection (1) and the court has ordered an adjournment of the hearing, the court may make an interim order

- (a) for the purposes described in subsection (3), and

- (b) for the period from the adjournment of the hearing until the conclusion of the hearing.

- (6) A protective intervention order may be made at any time, including before, at or after a presentation hearing or other hearing.

- (7) In this section, "**court**" means the Supreme Court or the Provincial Court.

Child who needs necessary health care

- 29** (1) If a child or a parent of a child refuses to give consent to health care that, in the opinion of 2 medical practitioners, is necessary to preserve the child's life or to prevent serious or permanent impairment of the child's health, a director may apply to the court for an order under this section.

- (2) At least 2 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on

- (a) each parent,

- (b) the child, if capable of consenting to health care, and

- (c) any other person the court directs.

- (2.1) If a person referred to in subsection (2) (a) or (b) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.

- (3) If satisfied that the health care is necessary to preserve the child's life or to prevent serious or permanent impairment of the child's health, the court may make an order

- (a) authorizing the health care,
 - (b) prohibiting any person from obstructing the provision of the health care,
 - (c) requiring a parent or another person to deliver the child to the place where the health care will be provided, and
 - (d) including any other terms, including the duration of the order, that the court considers necessary.
- (4) In this section, "**child**" includes a child in care.
- (5) This section does not limit a director's power to remove the child under section 30 or to take any other steps authorized by this Act to protect the child.

If a supervision order is needed

- 29.1** (1) A director may apply to the court for an order that the director supervise a child's care if the director has reasonable grounds to believe that
- (a) the child needs protection, and
 - (b) a supervision order would be adequate to protect the child.
- (2) Notice of the time, date and place of the presentation hearing relating to an application under this section must be served in accordance with section 33.1 (1), (2) and (3).

Removal of child

- 30** (1) A director may, without a court order, remove a child if the director has reasonable grounds to believe that the child needs protection and that
- (a) the child's health or safety is in immediate danger, or
 - (b) no other less disruptive measure that is available is adequate to protect the child.
- (2) A director may, without a court order and by force if necessary, enter any premises or vehicle or board any vessel for the purpose of removing a child under subsection (1) if
- (a) the director has reasonable grounds to believe that the child is in the premises or vehicle or on the vessel, and
 - (b) a person denies the director access to the child or no one is available to allow access to the child.
- (3) If requested by a director, a police officer must accompany and assist the director in exercising the authority given by this section.
- (4) A director's authority or duty under this Act to remove a child applies whether or not
- (a) a family conference, mediation or other alternative dispute resolution mechanism is scheduled or in progress,
 - (b) a date is set for hearing an application under section 29.1, or

(c) any other steps have been taken under this Act
with respect to the child.

Parents to be notified of child's removal

- 31** (1) A director who removes a child must promptly make all reasonable efforts to notify each parent of the child's removal.
- (2) The notice must if practicable be in writing and must include a statement of the reasons for removing the child.

Care of child if child removed

- 32** (1) If a child is removed under section 30, 36 or 42, the director has care of the child until
- (a) the child is returned by the director under section 33 (1) or (1.1),
 - (a.1) the director withdraws from a presentation hearing under section 33.01 (1),
 - (b) the court makes an interim order about the child under section 35 (2), 36 (3) or 42.1 (6), or
 - (c) the child is returned by the court under section 35 (2) (c),
 - (d) [Repealed 1999-26-13.]

whichever happens first.

- (2) While the child is in the director's care, the director may
- (a) authorize a health care provider to examine the child, and
 - (b) consent to necessary health care for the child if, in the opinion of a health care provider, the health care should be provided without delay.
- (3) On consenting to health care for the child, the director must, if practicable, notify the parent who at the time of the child's removal was apparently entitled to custody.
- (4) Subsection (2) does not affect a child's right under section 17 of the *Infants Act* to consent to health care.
- (5) While the child is in the director's care, the director may consent to the child's participation in routine school, social or recreational activities.

Returning the child before an order is made at the presentation hearing

- 33** (1) Before a presentation hearing, or before the conclusion of a presentation hearing, relating to the removal of a child under section 30, the director may return the child to the parent apparently entitled to custody if
- (a) the director makes an agreement with the parent that the director considers adequate to protect the child,

- (b) the director considers that circumstances have changed so that the child no longer needs protection,
 - (c) the director receives information that causes the director to believe the child does not need protection, or
 - (d) a less disruptive means of protecting the child becomes available.
- (1.1) Before a presentation hearing, or before the conclusion of a presentation hearing, relating to the removal of a child under section 36 or 42, the director may return the child to the parent or other person who, at the time of the removal, was caring for the child under a director's supervision, if
- (a) the director is satisfied that circumstances have changed so that the order in force at the time of the removal is adequate to protect the child, or
 - (b) the director is, as a result of new information received after the removal, satisfied that the order in force at the time of the removal is adequate to protect the child.
- (2) When a child is returned, the director must inform the parent in writing whether the director intends to withdraw from a proceeding under this Part or to take further steps under this Part.
- (3) If the director does not intend to take further steps under this Part, the director must promptly
- (a) present to the court a written report on the director's reasons for removing and returning the child, and
 - (b) provide a copy of the report to the child's parent and any person notified of the presentation hearing.
- (4) If a director returns a child under subsection (1.1) and withdraws from a hearing referred to in that subsection, the order that was in force when the child was removed continues to apply.

Withdrawing before an order is made at the presentation hearing if agreement protects

- 33.01** (1) Before a presentation hearing, or before the conclusion of a presentation hearing, relating to the removal of a child under section 30, 36 or 42, the director may withdraw from the hearing if
- (a) the child is an Indigenous child and the parent apparently entitled to custody makes an agreement, that the director considers adequate to protect the child, with,
 - (i) if the child is a First Nation child, the First Nation,
 - (ii) if the child is a Nisga'a child, the Nisga'a Nation or the child's Nisga'a Village,
 - (iii) if the child is a Treaty First Nation child, the Treaty First Nation, or

- (iv) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, the legal entity representing the child's Indigenous community,
 - (b) the parent apparently entitled to custody is not a resident of British Columbia and the director makes an agreement, that the director considers adequate to protect the child, with the government or child welfare agency of the jurisdiction where the parent apparently entitled to custody resides, or
 - (c) the director makes an agreement under section 8 respecting the child.
- (2) A director who withdraws from a hearing under subsection (1) must promptly
- (a) present to the court a written report on the director's reasons for removing the child and for considering that an agreement referred to in subsection (1) is adequate to protect the child, and
 - (b) provide a copy of the report to the child's parent and any person informed under section 34 (3), 36 (2.1) or 42.1 (3) of the presentation hearing.
- (3) If a director withdraws from a hearing under subsection (1), any interim order, supervision order, temporary custody order or order under section 97 (5) that is in effect when the director withdraws is cancelled.
- (4) If an order under section 97 (5) is cancelled under subsection (3) of this section, any arrears owing in respect of that order are not cancelled.

Division 4 — Child Protection Hearings and Orders

Timing and notice of presentation hearing about application for supervision order

- 33.1** (1) No later than 10 days after the date of applying under section 29.1 for a supervision order, the director must attend court for a presentation hearing unless the court is notified that the director does not intend to proceed with the application.
- (2) At least 7 days before the date set for the presentation hearing, notice of the date, time and place of the hearing must be served on
- (a) the child, if 12 years of age or over, and
 - (b) the person with care of the child.
- (3) The notice must be in the form of a written report described in section 33.2 (1).
- (4) In addition, the director must, if practicable, inform the following of the date, time and place of the presentation hearing:
- (a) each parent, if not already served under subsection (2);
 - (b) the Public Guardian and Trustee, if the parent entitled to custody of the child is under 19 years of age;

- (c) the applicable Indigenous organization prescribed in the regulations for the purposes of this section, if the child is an Indigenous child, other than a Nisga'a child or a Treaty First Nation child;
 - (d) the Nisga'a Lisims Government, if the child is a Nisga'a child;
 - (e) the Treaty First Nation, if the child is a Treaty First Nation child.
- (5) The director need not inform a person under subsection (4) if that would, in the director's opinion, cause physical or emotional harm to any person or endanger the child's safety.
- (6) If a person referred to in subsection (2) (b) or (4) (a) or (c) to (e) appears at the commencement of the presentation hearing, that person is entitled to be a party at the hearing.

Presentation hearing about application for supervision order

- 33.2** (1) At a presentation hearing relating to an application under section 29.1 for a supervision order, the director must present to the court a written report that includes
- (a) the grounds for making the application, and
 - (b) an interim plan of care for the child, including the director's recommendations about the terms and conditions to be included in the supervision order.
- (2) If satisfied that there are reasonable grounds to support the director's concerns regarding the child, the court must make at the conclusion of the presentation hearing an interim order that the director supervise the child's care.

Nature of presentation hearing

- 33.3** A presentation hearing is a summary hearing and must be concluded as soon as possible.

Duty to attend and inform others of presentation hearing

- 34** (1) No later than 7 days after the day a child is removed under section 30, the director must attend the court for a presentation hearing.
- (2) Subsection (1) does not apply if the director has withdrawn under section 33 or 33.01 from the presentation hearing.
- (3) The director must, if practicable, inform the following of the time, date and place of the hearing:
- (a) the child, if 12 years of age or over;
 - (b) each parent;
 - (c) the Public Guardian and Trustee, if the parent apparently entitled to custody of the child is under 19 years of age;

- (d) the applicable Indigenous organization prescribed in the regulations for the purpose of this section, if the child is an Indigenous child, other than a Nisga'a child or a Treaty First Nation child;
 - (e) the Nisga'a Lisims Government, if the child is a Nisga'a child;
 - (f) the Treaty First Nation, if the child is a Treaty First Nation child.
- (4) If a person referred to in subsection (3) (b) or (d) to (f) appears at the commencement of the presentation hearing, that person is entitled to be a party at the hearing.

Presentation hearing and orders

35 (1) At a presentation hearing relating to the removal of a child under section 30, the director must present to the court a written report that includes

- (a) the circumstances that caused the director to remove the child,
- (b) an interim plan of care for the child, including, in the case of an Indigenous child, the steps to be taken to support the child to learn about and practise the child's Indigenous traditions, customs and language and to belong to the child's Indigenous community, and
- (c) information about any less disruptive measures considered by the director before removing the child.

(2) At the conclusion of the hearing, the court must make

- (a) an interim order that the child be in the custody of the director,
- (b) an interim order that the child be returned to or remain with the parent apparently entitled to custody, under the supervision of the director,
- (c) an order that the child be returned to or remain with the parent apparently entitled to custody, or
- (d) an interim order that the child be placed in the custody of a person other than a parent with the consent of the other person and under the director's supervision.

(3) and (4) [Repealed 1997-46-9 (b).]

If an interim supervision order no longer protects the child

36 (1) A director must, without any further court order, remove a child who is the subject of an interim order under section 33.2 (2), 35 (2) (b) or (d) or subsection (3) of this section if either or both of the following apply:

- (a) the director has reasonable grounds to believe that the order no longer protects the child;
- (b) the director has reasonable grounds to believe that a person has not complied with a term or condition of the order and a director is required by that order to remove the child if the person does not comply with that term or condition.

(2) The following provisions apply for the purposes of this section:

- (a) section 30 (2) and (3) (entry powers and power to require assistance of police officer);
- (b) section 34 (1) and (2) (duty to attend presentation hearing).
- (c) [Repealed 1999-26-14.]

(2.1) The director must, if practicable, inform the following of the time, date and place of the presentation hearing relating to the child's removal under subsection (1):

- (a) the child, if 12 years of age or over;
- (b) each parent;
- (c) any person made a party under section 39 (4);
- (d) the Public Guardian and Trustee, if the parent apparently entitled to custody is under 19 years of age;
- (e) the applicable Indigenous organization prescribed in the regulations for the purpose of this section, if the child is an Indigenous child, other than a Nisga'a child or a Treaty First Nation child;
- (f) the Nisga'a Lisims Government, if the child is a Nisga'a child;
- (g) the Treaty First Nation, if the child is a Treaty First Nation child.

(2.2) The director need not inform a person under subsection (2.1) if that would, in the director's opinion, cause physical or emotional harm to any person or endanger the child's safety.

(2.3) If a person referred to in subsection (2.1) (b), (c) or (e) to (g) appears at the commencement of the presentation hearing, that person is entitled to be a party at the hearing.

(3) At the conclusion of the presentation hearing relating to the child's removal under subsection (1), the court must, as follows:

- (a) if the court is not satisfied that the child was removed in accordance with this section, make an interim order
 - (i) that the child be returned to or remain with the parent or other person who, at the time of the removal, was caring for the child under a director's supervision, and
 - (ii) that the order in force at the time of the removal continue to apply, or
- (b) if the court is satisfied that the child was removed in accordance with this section, make an interim order
 - (i) that the child be returned to or remain with the parent or other person who, at the time of the removal, was caring for the child under a director's supervision and that the child be under the director's supervision, or
 - (ii) that the child be in the custody of the director.

Arranging a subsequent hearing

- 37** (1) At the conclusion of a presentation hearing under section 33.2, 35 or 36 (2), the court must set the earliest possible date for a hearing to determine if the child needs protection, or confirm any date previously set for the protection hearing, unless the court has made
- (a) no order under section 33.2 (2),
 - (b) an order under section 35 (2) (c), or
 - (c) a consent order under section 60.
- (2) The date set under subsection (1) for commencing the hearing must not be more than 45 days after the conclusion of the presentation hearing, and the hearing must be concluded as soon as possible.

Notice of protection hearing

- 38** (1) At least 10 days before the date set for a protection hearing, notice of the time, date and place of the hearing must be served as follows:
- (a) on the child, if 12 years of age or over;
 - (b) on each parent;
 - (c) if the child is a First Nation child, on a designated representative of the First Nation;
 - (c.1) if the child is a Nisga'a child, on a designated representative of the Nisga'a Lisims Government;
 - (c.2) if the child is a Treaty First Nation child, on a designated representative of the Treaty First Nation;
 - (d) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child but is an Indigenous child, on a designated representative of another Indigenous community that has been identified by
 - (i) the child, if 12 years of age or over, or
 - (ii) the parent who at the time of the child's removal was apparently entitled to custody, if the child is under 12 years of age;
 - (d.1) on any party to the proceeding in which the court made the existing order about the child;
 - (d.2) on a person who has an interim order for custody of the child under section 35 (2) (d);
 - (e) on any other person the court considers appropriate.
- (2) The notice must specify the orders the director intends to request and include a copy of any plan of care the director intends to present to the court, unless the parent and any other person entitled to notice agree to wait until a later date for that information.

Parties to proceeding

- 39** (1) If the following persons appear at the commencement of the protection hearing, they are entitled to be parties at the hearing:
- (a) each parent of the child;
 - (b) the director;
 - (c) if the child is an Indigenous child, other than a Nisga'a child or a Treaty First Nation child, the designated representative of the First Nation or other Indigenous community who was served with notice of the hearing;
 - (d) if the child is a Nisga'a child, the designated representative of the Nisga'a Lisims Government who was served with notice of the hearing;
 - (d.1) if the child is a Treaty First Nation child, the designated representative of the Treaty First Nation who was served with notice of the hearing;
 - (e) a person who has an interim order for custody of the child under section 35 (2) (d).
- (2) If a person referred to in subsection (1) (a), (b), (c), (d) or (d.1) appears at the commencement of a protection hearing or a person becomes a party under subsection (4), that person is entitled
- (a) to notice of a hearing under section 42.1, 42.2, 44, 44.1, 46, 49, 55, 57 or 58 relating to the child, and
 - (b) if the person appears at the commencement of the hearing, to be a party at that hearing.
- (3) If the court orders under section 41 (1) (b) that the child be placed in the custody of a person other than the parent or a director, that person is entitled
- (a) to notice of a hearing under section 42.1, 42.2, 44, 44.1, 46, 49, 54.01, 55, 57 or 58 relating to the child, and
 - (b) if the person appears at the commencement of the hearing, to be a party at that hearing.
- (4) The court may order that a person be a party at any hearing.

Protection hearing

- 40** (1) At the protection hearing the court must determine whether the child needs protection.
- (2) If the court finds that the child does not need protection, it must
- (a) if the child was removed, order the director to return the child as soon as possible to the parent apparently entitled to custody unless the child has already been returned, and
 - (b) terminate any interim order made under sections 33.2 (2), 35 (2) and 36 (3).
- (3) If the court finds that the child needs protection, it

- (a) must consider the plan of care presented by the director, and
- (b) may hear any more evidence the court considers necessary to help it determine which order should be made under section 41.

Orders made at protection hearing

41 (1) Subject to subsection (2.1), if the court finds that the child needs protection, it must make one of the following orders in the child's best interests:

- (a) that the child be returned to or remain in the custody of the parent apparently entitled to custody and be under the director's supervision for a specified period of up to 6 months;
- (b) that the child be placed in the custody of a person other than a parent with the consent of the other person and under the director's supervision, for a specified period in accordance with section 43;
- (c) that the child remain or be placed in the custody of the director for a specified period in accordance with section 43;
- (d) that the child be placed in the continuing custody of the director.

(1.1) When an order is made under subsection (1) (b) or (c), the court may order that on the expiry of the order under subsection (1) (b) or (c) the child

- (a) be returned to the parent, and
- (b) be under the director's supervision for a specified period of up to 6 months.

(2) The court must not order under subsection (1) (d) that the child be placed in the continuing custody of the director unless

- (a) the identity or location of a parent of the child has not been found after a diligent search and is not likely to be found,
- (b) a parent is unable or unwilling to resume custody of the child, or
- (c) the nature and extent of the harm the child has suffered or the likelihood that the child will suffer harm is such that there is little prospect it would be in the child's best interests to be returned to the parent.

(2.1) If an order was made under section 33.2 (2), the child has not been removed since that order was made and the court finds that the child needs protection, the court must order that the director supervise the child's care for a specified period of up to 6 months.

(3) The court may attach to an order under this section any terms or conditions recommended by the director to implement a plan of care.

Content of supervision orders

41.1 The court may attach to a supervision order terms and conditions recommended by the director to implement the plan of care, including

- (a) services for the child's parent or another person in the child's home,
- (b) daycare or respite care,
- (c) the director's right to visit the child, and
- (d) the requirement that the director remove the child if a person does not comply with one or more specified terms or conditions of the order.

Enforcement of supervision order after the protection hearing

42 (1) A director must, without any further court order, remove a child who is the subject of a supervision order made under section 41 (1) (a) or (b), (1.1) or (2.1), 42.2 (4) (a) or (c), 46 (3), 49 (8) or 54.01 (10) or an interim order made under section 42.1, if either or both of the following apply:

- (a) the director has reasonable grounds to believe that the supervision order or interim order no longer protects the child;
- (b) the director has reasonable grounds to believe that a person has not complied with a term or condition of the supervision order or interim order and a director is required by that order to remove the child if the person does not comply with that term or condition.

(2) The entry powers given by section 30 (2) apply for the purpose of removing a child under this section and section 30 (3) applies.

Presentation hearing about enforcement of the supervision order

42.1 (1) No later than 7 days after the day a child is removed under section 42, the director must attend court for a presentation hearing.

(2) Subsection (1) does not apply if the director returns the child under section 33 (1.1) and withdraws from the presentation hearing.

(3) The director must inform the following of the date, time and place of the presentation hearing:

- (a) the parent or other person who, at the time of the removal, had custody of the child under a director's supervision;
- (b) the child, if 12 years of age or over;
- (c) if practicable, the persons referred to in section 34 (3) (b), (c), (d), (e) and (f);
- (d) any person made a party under section 39 (4).

(4) The director need not inform a person referred to in section 34 (3) (b), (c), (d), (e) or (f) if that would, in the director's opinion, cause physical or emotional harm to any person or endanger the child's safety.

(4.1) If a person referred to in subsection (3) (a), (c) or (d) appears at the commencement of the presentation hearing, that person is entitled to be a party at the hearing.

- (5) At the presentation hearing, the director must present to the court a written report that includes
- (a) the circumstances that caused the director to remove the child, and
 - (b) an interim plan of care for the child, including, in the case of an Indigenous child, the steps to be taken to support the child to learn about and practise the child's Indigenous traditions, customs and language and to belong to the child's Indigenous community.
- (6) At the conclusion of the presentation hearing, the court must make
- (a) an interim order that the child be in the custody of the director, or
 - (b) an interim order
 - (i) that the child be returned to or remain with the parent or other person who, at the time of the removal, had custody of the child under a director's supervision, and
 - (ii) that the order in force at the time of the removal continue to apply.
- (7) When an interim order is made under subsection (6), the court must set a date, not more than 45 days after the conclusion of the presentation hearing, for a hearing to determine if the child was removed in accordance with section 42.

Subsequent hearing about enforcement of supervision order

- 42.2** (1) At least 10 days before the date set under section 42.1 (7), notice of the time, date and place of the hearing must be served on the following:
- (a) the child, if 12 years of age or over;
 - (b) subject to paragraph (c), the persons who under section 39 are entitled to notice;
 - (c) if the supervision order was made under section 49 (8), the persons who under section 49 (3) are entitled to notice;
 - (c.1) if the supervision order was made under section 54.01 (10), the persons who under section 54.01 (4) are entitled to notice;
 - (d) unless already served under paragraph (b), (c) or (c.1), a person referred to in section 42.1 (3) (a).
- (2) If a person referred to in subsection (1) (b) to (d) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.
- (3) If not satisfied at the hearing that the child was removed in accordance with section 42, the court must order
- (a) that the child be returned to or remain with the parent or other person who, at the time of the removal, had custody of the child under a director's supervision, and

- (b) that the supervision order in force at the time of the removal continue to apply.
- (4) Subject to subsection (7), if satisfied at the hearing that the child was removed in accordance with section 42 (1), the court must make one of the following orders in the child's best interests:
 - (a) that for a specified period in accordance with subsection (5) the child
 - (i) be returned to or remain with the parent or other person who, at the time of the removal, had custody of the child under a director's supervision, and
 - (ii) be under the director's supervision;
 - (b) that the child remain or be placed in the custody of the director for a specified period in accordance with section 43;
 - (c) that the child be placed in the custody of a person other than a person referred to in paragraph (a) for a specified period in accordance with section 43 and be under the director's supervision;
 - (d) that the child be placed in the continuing custody of the director unless that conflicts with section 41 (2).
- (5) The total of the following periods must not exceed 12 months:
 - (a) the period during which the child is under a director's supervision before the child is removed under section 42 (1);
 - (b) the period specified in the order under subsection (4) (a) (ii).
- (6) Subsection (5) does not apply to a supervision order made in respect of a child in the custody of a person other than the parent.
- (7) If the court is satisfied at the hearing that the child
 - (a) was the subject of a supervision order under section 49 (8), and
 - (b) was removed in accordance with section 42 (1),the court must consider the child's need for finality in determining custody, and in the child's best interests, order one of the following:
 - (c) that the child be placed in the continuing custody of the director if there is no significant likelihood that
 - (i) the circumstances that led to the child's removal will improve within a reasonable time, or
 - (ii) the parent will be able to meet the child's needs;
 - (d) an order referred to in subsection (4) (a), (b) or (c).
- (8) The director may include in the evidence presented at a hearing under this section the transcript of a hearing held under section 49 with respect to the child.

Time limits for temporary custody orders

43 If a temporary custody order is made, the term of the order must not exceed

- (a) 3 months, if the child or the youngest child who is the subject of the hearing is under 5 years of age when the order is made,
- (b) 6 months, if the child or the youngest child who is the subject of the hearing is 5 years of age or over but under 12 years of age when the order is made, or
- (c) 12 months, if the child or the youngest child who is the subject of the hearing is 12 years of age or over when the order is made.

Extension of supervision orders and temporary orders

44 (1) If the circumstances that caused the child to need protection are likely to improve within a reasonable time, the director may, before the order expires, apply to the court for an extension of

- (a) a supervision order other than one made at a continuing custody hearing, or
- (b) a temporary custody order.

(2) At least 10 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on

- (a) the child, if 12 years of age or over,
- (b) the persons who under section 39 are entitled to notice,
- (c) the Public Guardian and Trustee, if appointed as the child's property guardian under section 58, and
- (d) if the application is for an extension of a temporary custody order, the persons listed in section 38 (1) (b) to (d) who are not already entitled to notice under paragraph (b) of this subsection.

(2.1) If a person referred to in subsection (2) (d) appears at the commencement of the hearing, that person is entitled to

- (a) be a party at the hearing, and
- (b) notice of a hearing under section 44.1, 46 or 57 (1) (b) relating to the child.

(3) If satisfied that the circumstances that caused the child to need protection are likely to improve within a reasonable time, the court may, in the child's best interests,

- (a) extend the term of the supervision order specified in subsection (1) (a), but not beyond the period permitted under subsection (3.1), or
- (b) extend the term of the temporary custody order, but not beyond the period permitted under section 45.

(3.1) The total period during which a child is under a director's supervision must not exceed 12 months, including the periods, if any, during which the child was under

a director's supervision before being removed under section 42 (1).

- (4) The time limit imposed under subsections (3) (a) and (3.1) does not apply to a supervision order made in respect of a child in the custody of a person other than a parent.

Extension of temporary custody order if permanent transfer of custody planned

- 44.1** (1) A director may, before a temporary custody order expires, apply to the court for an extension of the temporary custody order if
- (a) the child is in the custody of a person other than the child's parent under the temporary custody order,
 - (b) the director's plan of care is to apply under section 54.01 (1) to transfer custody of the child to the person other than the parent after the residency requirement referred to in section 54.01 (5) (c) has been met, and
 - (c) the purpose of the extension is to meet the residency requirement referred to in section 54.01 (5) (c).
- (2) At least 10 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on
- (a) the child, if 12 years of age or over,
 - (b) the persons who under section 39 are entitled to notice,
 - (c) the person who has custody of the child under the temporary custody order,
 - (d) the Public Guardian and Trustee, if appointed the child's property guardian under section 58, and
 - (e) the persons listed in section 38 (1) (b) to (d) who are not already entitled to notice under paragraph (b) of this subsection.
- (2.1) If a person referred to in subsection (2) (e) appears at the commencement of the hearing, that person is entitled to
- (a) be a party at the hearing, and
 - (b) notice of a hearing under section 46 or 57 (1) (b) relating to the child.
- (3) The court may, in the child's best interests, extend the temporary custody order for a period of time that, at a minimum, meets the residency requirement referred to in section 54.01 (5) (c), but that is not beyond the period permitted under section 45.

Total period of temporary custody

- 45** (1) The total period during which a child is in the temporary custody of a director or a person other than the child's parent must not exceed, from the date of the initial order until the child is returned to the parent, an order transferring custody of the child under section 54.01 (5) is made or a continuing custody order is made,

- (a) 12 months, if the child or the youngest child who was the subject of the initial order was under 5 years of age on the date of that order,
 - (b) 18 months, if the child or the youngest child who was the subject of the initial order was 5 years of age or over but under 12 years of age on the date of that order, and
 - (c) 24 months, if the child or the youngest child who was the subject of the initial order was 12 years of age or over on the date of that order.
- (1.1) On application the court may extend, by a specified period, a time limit in subsection (1) if the court considers it in the child's best interests to do so.
- (2) In this section, "**initial order**" means a temporary custody order made under section 41 (1) (b) or (c) or 42.2 (4) (b) or (c).

Supervision of child after temporary custody order ends

- 46** (1) Before a temporary custody order expires, the director may apply to the court for an order that the director supervise the child's care for a specified period of up to 6 months after the child is returned to the parent entitled to custody.
- (2) At least 10 days before the date set for hearing the application, notice of the hearing must be served on the following:
- (a) the child, if 12 years of age or over;
 - (b) the persons who under section 39 are entitled to notice;
 - (c) any person who has custody of the child under the temporary custody order;
 - (d) any party to the proceeding in which the court made the temporary custody order;
 - (e) any person listed in section 38 (1) (b) to (d) who is not already entitled to notice under paragraph (b) or (d) of this subsection.
- (2.1) If a person referred to in subsection (2) (d) or (e) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.
- (3) The court may, in the child's best interests, order the director to supervise the child's care for a specified period of up to 6 months.

Effect of interim or temporary custody order

- 47** (1) A director who has custody of a child under an interim order or temporary custody order has the following rights and responsibilities unless they are limited by the court under subsection (3) of this section:
- (a) to consent to health care for the child;
 - (b) to make necessary decisions about the child's education and religious upbringing;

- (c) to exercise any other rights and to carry out any other responsibilities of a personal guardian of the child, except the right to consent to the child's adoption.
- (2) Any other person who has custody of a child under an interim order or a temporary custody order has the same rights and responsibilities that a director has under subsection (1) unless they are limited by the court under subsection (3).
- (3) When an interim order is made under section 35 (2) (a) or (d) or 42.1 (6) or a temporary custody order is made, the court may, in the child's best interests, order that the parent retain either or both of the following rights:
 - (a) to consent to health care for the child;
 - (b) to make necessary decisions about the child's education and religious upbringing.
- (4) Neither subsection (1) (a) nor an order under subsection (3) (a) affects a child's right under section 17 of the *Infants Act* to consent to health care.
- (5) No order may be made under subsection (3) (a) if the parent's failure to consent to health care was a reason for removing the child or for finding that the child needed protection.
- (6) If a parent who retains the right to consent to health care for a child is unavailable or unable to consent to health care that is essential to preserve the child's life or to prevent serious or permanent impairment of the child's health, the director may consent instead of the parent.

Withdrawing from a proceeding after the presentation hearing

- 48** (1) At any time after the presentation hearing, the director may return a child to the parent apparently entitled to custody and withdraw from a proceeding if the director
- (a) makes an agreement with the parent that the director considers adequate to protect the child, or
 - (b) considers that circumstances have changed so that the child no longer needs protection.
- (1.1) At any time after the presentation hearing, the director may withdraw from a proceeding if
- (a) the child is an Indigenous child and the parent apparently entitled to custody makes an agreement, that the director considers adequate to protect the child, with,
 - (i) if the child is a First Nation child, the First Nation,
 - (ii) if the child is a Nisga'a child, the Nisga'a Nation or the child's Nisga'a Village,
 - (iii) if the child is a Treaty First Nation child, the Treaty First Nation, or

- (iv) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, the legal entity representing the child's Indigenous community,
 - (b) the parent apparently entitled to custody is not a resident of British Columbia and the director makes an agreement, that the director considers adequate to protect the child, with the government or child welfare agency of the jurisdiction where the parent apparently entitled to custody resides, or
 - (c) the director makes an agreement under section 8 respecting the child.
- (2) A director who withdraws from a proceeding must present to the court a written report on the director's reasons, as applicable, for
 - (a) returning the child under subsection (1), or
 - (b) considering that an agreement referred to in subsection (1.1) is adequate to protect the child.
- (3) When a director withdraws from a proceeding under subsection (1) or (1.1), the proceeding ends without an order being made.
- (4) If a director withdraws from a proceeding under subsection (1.1), any interim order, supervision order, temporary custody order or order under section 97 (5) that is in effect when the director withdraws is cancelled.
- (5) If an order under section 97 (5) is cancelled under subsection (4) of this section, any arrears owing in respect of that order are not cancelled.

Division 5 — Continuing Custody Hearings and Orders

Continuing custody hearing and orders

- 49** (1) Not sooner than 60 days before a temporary custody order expires, the director may apply to the court for a continuing custody order.
- (2) At least 10 days before the date set for hearing the application, notice of the time, date and place of the continuing custody hearing must be served as follows:
- (a) on the child, if 12 years of age or over;
 - (b) on each parent;
 - (c) if the child is a First Nation child, on a designated representative of the First Nation;
 - (c.1) if the child is a Nisga'a child, on a designated representative of the Nisga'a Lisims Government;
 - (c.2) if the child is a Treaty First Nation child, on a designated representative of the Treaty First Nation;
 - (d) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child but is an Indigenous child, on a designated representative of another Indigenous community that has been identified by

- (i) the child, if 12 years of age or over, or
 - (ii) the parent, if the child is under 12 years of age;
 - (d.1) any person who has been made a party under section 39 (4);
 - (d.2) any person who has custody of the child under section 41 (1) (b), 42.2 (4) (c), 54.01 (9) (b) or subsection (7) (b) of this section;
 - (e) on the Public Guardian and Trustee, if appointed as the child's property guardian under section 58.
- (3) If a person referred to in subsection (2) (b) to (d.2) appears at the commencement of the continuing custody hearing, that person is entitled
- (a) to be a party at the hearing, and
 - (b) to notice of a hearing under section 42.2, 54, 56 or 57 and, if the person appears at the commencement of the hearing, to be a party at that hearing.
- (4) The court must order that the child be placed in the continuing custody of the director if
- (a) the identity or location of a parent of the child has not been found after a diligent search and is not likely to be found, or
 - (b) a parent is unable or unwilling to resume custody of the child.
- (5) The court may order that the child be placed in the continuing custody of the director if there is no significant likelihood that
- (a) the circumstances that led to the child's removal will improve within a reasonable time, or
 - (b) the parent will be able to meet the child's needs.
- (6) Before making a continuing custody order under subsection (5), the court must consider
- (a) the past conduct of the parent towards any child who is or was in the parent's care,
 - (b) the plan of care, and
 - (c) the child's best interests.
- (7) If the court does not make a continuing custody order, it must make one of the following orders:
- (a) that the child be returned to the custody of the parent apparently entitled to custody;
 - (b) that the child remain in the temporary custody of a person other than the parent for a specified period of up to 6 months;
 - (c) that the child remain or be placed in the temporary custody of the director for a specified period of up to 6 months.

- (8) If the court orders that the child be returned to the parent's custody or remain in the custody of a person other than the parent, it may order that the director supervise the child's care for a specified period of up to 6 months.
- (9) Not sooner than 60 days before a temporary custody order under subsection (7) (b) or (c) expires, the director may apply to the court for a continuing custody order.
- (10) If the director applies under subsection (9), the court after considering the factors in subsection (6) must make one of the following orders:
 - (a) that the child be placed in the continuing custody of the director;
 - (b) that the child be returned to the parent apparently entitled to custody.

Effect of continuing custody order

- 50** (1) When an order is made placing a child in the continuing custody of a director,
- (a) the director becomes the sole personal guardian of the child and may consent to the child's adoption,
 - (b) the Public Guardian and Trustee becomes the sole property guardian of the child, and
 - (c) the order does not affect the child's rights respecting inheritance or succession to property.
- (2) At least 30 days before consenting under section 13 (3) of the [Adoption Act](#) to the child's adoption, the director must inform any person who, under section 56 of this Act, has been given access to the child of the director's intention to consent to the adoption.
- (3) Subsection (1) (c) does not affect the operation of the [Adoption Act](#).
- (4) The director must send a copy of the continuing custody order to the following:
- (a) the Public Guardian and Trustee;
 - (b) if the child is a First Nation child, the designated representative of the First Nation;
 - (c) if the child is a Nisga'a child, the designated representative of the Nisga'a Lisims Government;
 - (d) if the child is a Treaty First Nation child, the designated representative of the Treaty First Nation;
 - (e) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child but is an Indigenous child, the designated representative of another Indigenous community that has been identified by
 - (i) the child, if 12 years of age or over, or
 - (ii) the parent, if the child is under 12 years of age.

Planning for Indigenous child after continuing custody order

50.01 A director, in respect of planning for the needs of an Indigenous child in the continuing custody of the director, must,

- (a) if the director makes an agreement under section 92.1 (2) (a) (v), conduct the planning in accordance with the agreement, or
- (b) if there is no agreement as referred to in paragraph (a), make reasonable efforts to involve, at least on an annual basis, the following:
 - (i) if the child is a First Nation child, the designated representative of the First Nation;
 - (ii) if the child is a Nisga'a child, the designated representative of the Nisga'a Lisims Government;
 - (iii) if the child is a Treaty First Nation child, the designated representative of the Treaty First Nation;
 - (iv) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, the designated representative of another Indigenous community that has been identified by
 - (A) the child, if 12 years of age or over, or
 - (B) the parent, if the child is under 12 years of age.

Not in force

50.02-50.05 [Not in force.]

Before placement of Indigenous child for adoption

50.06 Before requesting placement of an Indigenous child for adoption, a director must consult and cooperate with the following, as applicable:

- (a) if the child is a First Nation child, a designated representative of the First Nation;
- (b) if the child is a Nisga'a child, a designated representative of the Nisga'a Lisims Government;
- (c) if the child is a Treaty First Nation child, a designated representative of the Treaty First Nation;
- (d) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, a designated representative of an Indigenous community that has been identified by
 - (i) the child, if 12 years of age or over, or
 - (ii) the parent, if the child is under 12 years of age;
- (e) any other applicable Indigenous governing body.

Placement of child for adoption

50.1 (1) Subject to section 50.06, a director may request a director of adoption to place a child for adoption if

- (a) the child is in the continuing custody of the director, or

(b) the director is the child's personal guardian under section 51 of the *Infants Act*.

(2) A request under subsection (1) (a) must not be made unless

- (a) the continuing custody order was made by consent,
- (b) the time limit under section 81 (2) in relation to the continuing custody order has expired and no extension under section 81 (8) has been granted, or
- (c) all appeals related to the continuing custody order have been heard and the continuing custody order has been upheld.

Role of Public Guardian and Trustee

51 If the Public Guardian and Trustee is the child's property guardian under this Act, the Public Guardian and Trustee has the duties and powers with respect to the management of the child's property and the protection of the child's legal interests that are given by law to the Public Guardian and Trustee, including the duties and powers given by section 7 of the *Public Guardian and Trustee Act* and sections 12, 14 and 16 of the *Infants Act*.

Director's duty to notify Public Guardian and Trustee

52 (1) When a child is in the custody of a director under a continuing custody order or a director is a child's personal guardian under another Act, the director must notify the Public Guardian and Trustee if the director consents to

- (a) the child's adoption, or
- (b) the child's residence being outside British Columbia.

(2) Subject to section 53, the Public Guardian and Trustee continues to be the property guardian of a child referred to in subsection (1) even though the child resides outside British Columbia.

When continuing custody order ends

53 (1) A continuing custody order terminates when

- (a) the child reaches 19 years of age,
- (b) the child is adopted,
- (c) the child marries,
- (d) the court cancels the continuing custody order, or
- (e) custody of the child is transferred under section 54.1.

(2) When the continuing custody order terminates,

- (a) the director ceases to be the child's personal guardian, and
- (b) the Public Guardian and Trustee ceases to be the child's property guardian.

Cancellation of continuing custody order

54 (1) With the permission of the court, a director or a party to a proceeding in which a continuing custody order was made may apply to the court for the cancellation of the order if the circumstances that caused the court to make the order have changed significantly.

(2) At least 10 days before the date set for hearing the application for permission to apply for cancellation of the continuing custody order, notice of the application must be served on the following:

- (a) the child, if 12 years of age or over;
- (b) the persons who under section 49 (3) are entitled to notice;
- (c) the Public Guardian and Trustee;
- (d) the director;
- (e) the parties to the proceeding in which the continuing custody order was made;
- (f) any person listed in section 49 (2) (b) to (d) who is not already entitled to notice under paragraph (b) or (e) of this subsection.

(2.1) If a person referred to in subsection (2) (d) to (f) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.

(3) If permission is granted, the court must set a date for hearing the application for cancellation of the continuing custody order.

(4) After considering the importance of continuity in the child's care and the effect of maintaining a relationship the child has with any person, the court may cancel the continuing custody order, but only if it is satisfied that

- (a) the circumstances that caused the court to make the order have changed significantly, and
- (b) cancelling the order is in the child's best interests.

Division 5.1 — Permanent Transfers of Custody**Permanent transfer of custody before continuing custody order**

54.01 (1) If a child is in the care or custody of a person other than the child's parent under

- (a) an agreement made under section 8, or
- (b) a temporary custody order made under section 41 (1) (b), 42.2 (4) (c), 49 (7) (b) or subsection (9) (b) of this section,

a director may, before the agreement or order expires, apply to the court to permanently transfer custody of the child to that person.

(2) At least 30 days before the date set for hearing the application, notice of the hearing must be served on each person who has access to the child under an order made under section 55 (4) or (5).

- (3) At least 10 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on the following:
- (a) the child, if 12 years of age or over;
 - (b) each parent;
 - (c) if the child is a First Nation child, a designated representative of the First Nation;
 - (d) if the child is a Nisga'a child, a designated representative of the Nisga'a Lisims Government;
 - (e) if the child is a Treaty First Nation child, a designated representative of the Treaty First Nation;
 - (f) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child but is an Indigenous child, a designated representative of another Indigenous community that has been identified by
 - (i) the child, if 12 years of age or over, or
 - (ii) the parent, if the child is under 12 years of age;
 - (g) any person who has been made a party under section 39 (4);
 - (h) the person to whom the court has been requested under subsection (1) of this section to transfer custody;
 - (i) the Public Guardian and Trustee, if appointed the child's property guardian under section 58.
- (4) If a person referred to in subsection (3) (b) to (h) appears at the commencement of the hearing, that person is entitled
- (a) to be a party at the hearing, and
 - (b) to notice of a hearing under section 42.2 or 57 and, if the person appears at the commencement of the hearing, to be a party at that hearing.
- (5) A court may make an order permanently transferring custody of a child to the person other than the child's parent referred to in subsection (1) if
- (a) there is no significant likelihood that
 - (i) the circumstances that led to the making of the agreement under section 8 or to the child's removal, as applicable, will improve within a reasonable time, or
 - (ii) the parent will be able to meet the child's needs,
 - (b) in respect of a child in the care or custody of a person other than the child's parent under
 - (i) an agreement made under section 8, the persons referred to in subsection (3) (a), (b) and (h) of this section have consented to the transfer of custody, or

- (ii) a temporary custody order referred to in subsection (1) (b), the persons referred to in subsection (3) (a), (h) and (i) have consented to the transfer of custody, and
 - (c) the child has been residing with the person referred to in subsection (3) (h) under the agreement referred to in subsection (1) (a) or the temporary custody order referred to in subsection (1) (b) for at least 6 consecutive months immediately before the application under subsection (1).
- (6) Before making an order transferring custody under subsection (5), the court must consider
 - (a) the past conduct of the parent towards any child who is or was in the parent's care,
 - (b) the plan of care, and
 - (c) the child's best interests.
- (7) A court may rely on the consent given under subsection (5) (b) (i) or (ii) by persons referred to in subsection (3) (a) and (h) if the court is satisfied that each person
 - (a) has been advised to consult with independent legal counsel before signing the consent,
 - (b) understands the nature and consequences of the consent, and
 - (c) has given voluntary consent to the order transferring custody under this section.
- (8) The court may dispense with the residency requirement set out in subsection (5) (c) if the court determines it is in the child's best interests to do so.
- (9) If, with respect to a child who is the subject of a temporary custody order referred to in subsection (1) (b), the court does not make an order under subsection (5), the court must make one of the following orders:
 - (a) that the child be returned to the custody of the parent apparently entitled to custody;
 - (b) that the child remain in the temporary custody of the person other than the parent for a specified period of up to 6 months, but not beyond the period permitted under section 45;
 - (c) that the child be placed in the custody of the director for a specified period of up to 6 months, but not beyond the period permitted under section 45.
- (10) If the court makes an order under subsection (9) (a) or (b), it may order that the director supervise the child's care for a specified period of up to 6 months.

Permanent transfer of custody after continuing custody order

54.1 (1) Subject to subsection (1.1), a director may apply to the court to permanently transfer the custody of a child who is in the custody of the director under a continuing custody order to a person other than the child's parent.

(1.1) An application under subsection (1) must not be made unless

- (a) the continuing custody order was made by consent,
- (b) the time limit under section 81 (2) in relation to the continuing custody order has expired and no extension under section 81 (8) has been granted, or
- (c) all appeals related to the continuing custody order have been heard and the continuing custody order has been upheld.

(2) At least 10 days before the date set for hearing the application, notice of the hearing must be served on the following:

- (a) each person to whom the court has been requested under subsection (1) to transfer custody;
- (b) the child, if 12 years of age or over;
- (c) if the child is a First Nation child, a designated representative of the First Nation;
- (d) if the child is a Nisga'a child, a designated representative of the Nisga'a Lisims Government;
- (d.1) if the child is a Treaty First Nation child, a designated representative of the Treaty First Nation;
- (e) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child but is an Indigenous child, a designated representative of another Indigenous community that has been identified by
 - (i) the child, if 12 years of age or over, or
 - (ii) the parent, if the child is under 12 years of age;
- (f) the Public Guardian and Trustee;
- (g) each person who has access to the child under an order made under section 56 (3).

(2.1) If a person referred to in subsection (2) (a) or (c) to (e) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.

(3) Subject to subsection (4), a court may permanently transfer custody of a child from the director to a person other than the child's parent if

- (a) the persons referred to in subsection (2) (a), (b) and (f) have consented to the transfer of custody, and
- (b) the court is satisfied that it is in the child's best interests.

(4) A court may rely on the consent given under subsection (3) by persons referred to in subsection (2) (a) and (b) if the court is satisfied that each person

- (a) has been advised to consult with independent legal counsel before signing the consent,
- (b) understands the nature and consequences of the consent, and
- (c) has given voluntary consent to the order transferring custody under this section.

Effect of a permanent transfer of custody

54.2 (1) When an order is made transferring custody of a child under section 54.01 (5) or 54.1,

- (a) the individual to whom custody is transferred becomes the child's guardian, and
- (b) the order does not affect the child's rights respecting inheritance or succession to property.

(2) A custody order made under section 54.01 (5) or 54.1 is not

- (a) enforceable under this Act, and
- (b) capable of being confirmed, modified or cancelled under this Act.

(2.1) On custody of a child being transferred under section 54.01 (5), an order under section 57.01 permitting access to the child automatically

- (a) becomes an access order that is solely between the person who is granted custody and the person who is granted access under that order, and
- (b) ceases to be an access order that is capable of being confirmed, modified or cancelled under this Act.

(3) On custody of a child being transferred under section 54.1, an order under section 56 permitting access to the child, including any changes to that order, automatically

- (a) becomes an access order that is solely between the person who is granted custody and the person who is granted access under that order, and
- (b) ceases to be an access order that is capable of being confirmed, modified or cancelled under this Act.

(4) The director must send to the Public Guardian and Trustee a copy of an order transferring custody of a child to a person other than a parent if

- (a) the order is made under section 54.01 (5) and the Public Guardian and Trustee is the child's property guardian under section 58 at the time the order is made, or
- (b) the order is made under section 54.1.

Division 6 — Related Orders

Access to child in interim or temporary custody of director or other person

- 55** (1) At the time an order, other than a continuing custody order or an order made under section 54.01 (5) or 54.1, is made under this Part, the parent who had custody when the child was removed may apply to the court for access to the child.
- (2) After an order, other than a continuing custody order or an order made under section 54.01 (5) or 54.1, is made under this Part, any person may apply to the court for access to the child.
- (3) At least 10 days before the date set for hearing an application under subsection (2), notice of the hearing must be served on
- (a) the child, if 12 years of age or over,
 - (b) the director, and
 - (c) in addition
 - (i) if the application is made before the protection hearing, the persons mentioned in section 34 (3) (b), (d), (e) and (f), and
 - (ii) if the application is made after the protection hearing, the persons who under section 39 are entitled to notice.
- (3.1) If a person referred to in subsection (3) (b) and (c) (i) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.
- (4) If the parent who had custody when the child was removed applies under subsection (1) or (2), the court must order that the parent be given access to the child unless the court is satisfied access is not in the child's best interests.
- (5) If a person, other than the parent who had custody when the child was removed, applies under subsection (2), the court may order that the person be given access to the child unless the court is satisfied access is not in the child's best interests.
- (6) The court may attach to an access order under this section or section 56 any reasonable terms or conditions.

Access to child in continuing custody of director

- 56** (1) If a continuing custody order is in effect, a parent or any other person may apply to the court for access to the child.
- (2) At least 10 days before the date set for hearing the application, notice of the hearing must be served on
- (a) the child, if 12 years of age or over,
 - (b) the director, and
 - (c) the parties to the proceeding in which the continuing custody order was made.
- (2.1) If a person referred to in subsection (2) (b) or (c) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.

- (3) The court may order that the applicant be given access to the child if access
- (a) is in the child's best interests,
 - (b) is consistent with the plan of care, and
 - (c) is consistent with the wishes of the child, if 12 years of age or over.

Changes to supervision, temporary custody and access orders

57 (1) If circumstances have changed significantly since the order was made, any party may apply to the court for a change to

- (a) a supervision order other than one that is an interim order,
- (b) a temporary custody order, or
- (c) an access order, except an order made under section 57.01 (3).

(2) At least 10 days before the date set for hearing the application, notice of the hearing must be served on

- (a) the child, if 12 years of age or over,
- (b) the director,
- (c) the Public Guardian and Trustee, if the order is a temporary custody order and the Public Guardian and Trustee has been appointed as the child's property guardian under section 58, and
- (d) in addition,
 - (i) if the application is for an access order and is made before the protection hearing, the persons mentioned in section 34 (3) (b), (d), (e) and (f),
 - (ii) if the application is for any order referred to in subsection (1) of this section and is made after the protection hearing, the persons who under section 39, 49 (3) or 54.01 (4) are entitled to notice, and
 - (iii) if the application is for a change to a temporary custody order, the persons listed in section 38 (1) (b) to (d) who are not already entitled to notice under subparagraph (ii) of this paragraph.

(2.1) If a person referred to in subsection (2) (b) or (d) (i) or (iii) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.

(3) If the court finds that circumstances have changed significantly since the order was made, the court, in the child's best interests, may cancel the order and make no other order or may cancel the order and do one of the following:

- (a) if the order was made under section 42.2, 44, 46 or 54.01 (9) (b) or (c) or (10), make an order under section 41;
- (b) in any other case, make any order provided for at the hearing where the order was made.

(4) If the court finds that circumstances have not changed significantly since the order was made, the court may confirm the order.

- (5) This section does not apply if the change of circumstances relates to an application to transfer custody under section 54.01 (1) or 54.1, whether or not custody is transferred under section 54.01 (5) or 54.1, as applicable.

Access orders if application made under section 54.01

- 57.01** (1) If an application is made to transfer custody of a child under section 54.01 (1),
- (a) a person may apply to the court for access to the child, or
 - (b) a party to an order for access to the child under section 55 may apply to the court to confirm or change the access order.
- (2) At least 10 days before the date set for hearing the application referred to in subsection (1) (a) or (b), notice of the hearing must be served on
- (a) the child, if 12 years of age or over,
 - (b) the director,
 - (c) each person to whom the court has been requested to transfer custody under section 54.01 (1), and
 - (d) the parties to the proceeding in which an access order was made under section 55, if applicable.
- (2.1) If a person referred to in subsection (2) (b) to (d) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.
- (3) On an application under this section, the court may make an order
- (a) with respect to an application under subsection (1) (a), that the person be given access to the child, or
 - (b) with respect to an application under subsection (1) (b),
 - (i) confirming the terms of the existing access order,
 - (ii) changing the terms of the existing access order, or
 - (iii) cancelling the access order and making no other order,
- if the court determines that the order
- (c) is in the child's best interests,
 - (d) is consistent with the plan of care, and
 - (e) is consistent with the wishes of the child, if 12 years of age or over.
- (4) The court may attach to an access order under this section any reasonable terms or conditions.
- (5) An order made under subsection (3) (a) or (b) (i) or (ii) takes effect, in accordance with section 54.2 (2.1), on custody of the child being transferred under section 54.01 (5).

Access orders if application made under section 54.1

- 57.1** (1) If an application is made to transfer custody of a child under section 54.1, a party to an order for access to the child under section 56 may apply to the court for a change of the access order.
- (2) At least 10 days before the date set for hearing the application to change the access order under subsection (1), notice of the hearing must be served on
- (a) the child, if 12 years of age or over,
 - (b) the director,
 - (c) each person to whom the court has been requested to transfer custody under section 54.1 (1), and
 - (d) the parties to the proceeding in which an access order was made under section 56.
- (2.1) If a person referred to in subsection (2) (b) to (d) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.
- (3) On an application under this section, the court may, if it is in the child's best interests,
- (a) confirm the terms of the existing access order,
 - (b) change the terms of the existing access order, or
 - (c) cancel the access order and make no other order.
- (4) The court may attach to an access order under this section any reasonable terms or conditions.
- (5) An order made under this section for access to a child takes effect, in accordance with section 54.2 (3), on custody of the child being transferred under section 54.1.

If child needs assistance of Public Guardian and Trustee

- 58** (1) When a temporary custody order is made or at any time during the term of that order, the director may apply to the court for an order appointing the Public Guardian and Trustee as the child's property guardian.
- (2) At least 10 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on
- (a) the Public Guardian and Trustee,
 - (b) the child, if 12 years of age or over, and
 - (c) the persons who under section 39 are entitled to notice.
- (3) The court may appoint the Public Guardian and Trustee as the child's property guardian for all or part of the term of the temporary custody order if
- (a) a financial or legal interest of the child must be dealt with during the term of the temporary custody order, and
 - (b) the interests of a parent conflict or may conflict with the child's interests.

- (4) The director must provide the Public Guardian and Trustee with a copy of any order made under this section.

Psychiatric or medical examination orders

- 59** (1) On application the court may order that a child or a parent of a child undergo a medical, psychiatric or other examination if the court considers the examination is likely to assist it
- (a) in determining whether the child needs protection, or
 - (b) in making an order relating to the child.
- (2) At least 2 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on the following:
- (a) for the examination of a parent, the parent;
 - (b) for the examination of a child, both the child, if 12 years of age or over, and the parent who at the time of the child's removal was apparently entitled to custody.
- (2.1) If a person referred to in subsection (2) (a) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.
- (3) The applicant must pay the cost of an examination ordered under this section and of any report made on the results of the examination.

Consent orders

- 60** (1) With the written consent of the following, the court may, at any time after a presentation hearing, make any custody or supervision order that is provided for in this Part, other than a transfer of custody under section 54.1, but including an order transferring custody of a child under section 54.01 (5) and a continuing custody order:
- (a) the director;
 - (b) the child, if 12 years of age or over;
 - (c) each parent of the child;
 - (d) if the child is to be placed for a specified period in the custody of a person other than a director, that person;
- (d.1) any person who has been made a party under section 39 (4);
- (e) if the child is an Indigenous child, the person who is or would have been entitled under section 38 (1) (c), (c.1), (c.2) or (d) to notice of any protection hearing concerning the child.
- (1.1) Despite subsection (1), if a child is in the care of a person other than the child's parent under an agreement made under section 8, the court may, with the written consent of the persons referred to in subsection (1) of this section, make an order under section 54.01 (5) transferring custody of the child to the person other than the child's parent.

- (2) Despite any other provision of this Act, the court may make an order under this section without a hearing, the completion of a hearing or the giving of evidence, but it must be satisfied that each person whose consent is required, other than those mentioned in subsection (1) (a) and (e)
 - (a) has been advised to consult with independent legal counsel before signing the consent,
 - (b) understands the nature and consequences of the consent, and
 - (c) has given voluntary consent to the order sought.
- (3) The court may dispense with any consent required under subsections (1) and (6), if the court considers it in the child's best interests to do so.
- (4) An order may be made under this section without the court finding that the child needs protection.
- (5) A consent by a parent to an order under this section is not an admission by the parent of any grounds alleged by a director for removing the child.
- (6) In addition to its powers under subsection (1) and subject to subsection (7), the court may, with the written consent of the parties, make any other order mentioned in this Act, including a transfer of custody under section 54.1.
- (7) An order under subsection (6) to transfer custody under section 54.1 must not be made unless
 - (a) the continuing custody order was made by consent,
 - (b) the time limit under section 81 (2) in relation to the continuing custody order has expired and no extension under section 81 (8) has been granted, or
 - (c) all appeals related to the continuing custody order have been heard and the continuing custody order has been upheld.

Custody of child during adjournments

- 61** (1) If a child is in the custody of a director or another person under a temporary custody order and an application for an extension of that order, for an order to transfer custody under section 54.01 (5), for a continuing custody order or for a supervision order under section 46 is adjourned,
- (a) the child remains in the custody of the director or other person under the temporary custody order, and
 - (b) the terms and conditions of the temporary custody order continue to apply
- until the court disposes of the application, even though the temporary custody order expires during the adjournment.
- (2) This section does not operate to extend a limit set by section 45 (1) or by an order under section 45 (1.1) respecting the total period during which the child may be in

the temporary custody of a director or another person.

- (3) If an application for an extension of a supervision order is adjourned, the terms and conditions of the supervision order continue to apply until the court disposes of the application even though the supervision order expires during the adjournment.
- (4) Subsection (3) is subject to section 44.

Suspension of order transferring care or custody from director

- 62** (1) If an order made under this Part or Part 6 has the effect of transferring the care or custody of a child from a director to another person, the order is suspended
- (a) for a period of 10 days, and
 - (b) if an appeal is brought during the 10 day period, until the appeal is heard.
- (2) If an appeal is brought, any party to the proceeding in which the order under appeal was made may apply to the court hearing the appeal, and it may order that care or custody of the child be transferred in accordance with the order under appeal.

Enforcement of custody order

- 63** (1) If
- (a) a director has care of a child under this Act, or a director or another person has custody of a child under an order made and enforceable under this Act, and
 - (b) the director or the other person is denied care or custody, as the case may be,
- a court, on application, may order that a police officer take charge of the child and take the child to the director or other person who is entitled to the care or custody of the child under this Act.
- (2) A person must not prevent a police officer from enforcing an order made under this section.

Division 7 — Procedure and Evidence

Full disclosure to parties

- 64** (1) If requested, a party to a proceeding under this Part, including a director, must disclose fully and in a timely manner to another party to the proceeding
- (a) the orders the party intends to request,
 - (b) the reasons for requesting those orders, and
 - (c) the party's intended evidence.
- (2) The duty to disclose under subsection (1) is subject to any claim of privilege.

- (3) Evidence may be excluded from a hearing under this Part if no reasonable effort was made to disclose the evidence in accordance with this section.

If director is denied access to record

- 65** (1) On application at any time by a director, the court may order a person or organization to produce a record, or a certified copy of the record, for inspection by the director if
- (a) there are reasonable grounds to believe the record contains information necessary for determining whether the child needs protection,
 - (b) there are reasonable grounds to believe the person or organization has custody or control of the record, and
 - (c) the person or organization has neglected or refused to produce the record to the director.
- (2) At least 2 days before the date set for hearing the application, notice of the time, date and place of the hearing must be served on the person or organization against which the order is sought.

Hearings civil in nature and may be informal

- 66** (1) A hearing under this Act
- (a) is civil in nature,
 - (b) may be as informal as a judge may allow, and
 - (c) must be held at a different time or at a different place from the usual time or place for sittings of the court relating to criminal matters.
- (2) No order under this Act may be set aside because of any informality at the hearing or for any other technical reason not affecting the merits of the case.

Court may exclude child and decide how child's evidence is received

- 67** At a hearing under this Act, the court may, having regard to the child's best interests, do one or more of the following:
- (a) exclude the child from the courtroom, despite the [Provincial Court Act](#);
 - (b) admit any hearsay evidence of the child that it considers reliable;
 - (c) give any other direction concerning the receipt of the child's evidence that it considers just.

Evidence of others

- 68** (1) Before ordering that a child be placed in or returned to the custody of a person other than a director, the court may consider the person's past conduct toward any child who is or was in that person's care.
- (2) In a proceeding under this Act, the court may admit as evidence
- (a) any hearsay evidence that the court considers reliable, or

- (b) any oral or written statement or report the court considers relevant, including a transcript, exhibit or finding in an earlier civil or criminal proceeding.

Power to vary notice requirements and to make orders without notice

- 69** (1) The Supreme Court or the Provincial Court may
- (a) shorten the time period for serving a notice under this Act or extend the period even though it has expired, or
 - (b) dispense with a requirement that notice of a proceeding or of all proceedings in relation to a child be served on a party or other person.
- (2) The Supreme Court or the Provincial Court may make an order, including a protective intervention order or restraining order, without a party or the person against whom the order is made having been served with notice of the application.
- (3) The Supreme Court or Provincial Court may include in an order made in accordance with subsection (2) any terms relating to service and review of the order that the court considers just.

Part 4 — Children in Care

Rights of children in care

- 70** (1) Children in care have the following rights:
- (a) to be fed, clothed and nurtured according to community standards and to be given the same quality of care as other children in the placement;
 - (b) to be informed about their plans of care;
 - (c) to be consulted and to express their views, according to their abilities, about significant decisions affecting them;
 - (d) to reasonable privacy and to possession of their personal belongings;
 - (e) to be free from corporal punishment;
 - (f) to be informed of the standard of behaviour expected by their caregivers or prospective adoptive parents and of the consequences of not meeting the expectations of their caregivers or prospective adoptive parents, as applicable;
 - (g) to receive medical and dental care when required;
 - (h) to participate in social and recreational activities if available and appropriate and according to their abilities and interests;
 - (i) to receive the religious instruction and to participate in the religious activities of their choice;

- (j) to receive guidance and encouragement to maintain their cultural heritage;
 - (k) to be provided with an interpreter if language or disability is a barrier to consulting with them on decisions affecting their custody or care;
 - (l) to privacy during discussions with members of their families, subject to subsection (2);
 - (m) to privacy during discussions with a lawyer, the representative or a person employed or retained by the representative under the [Representative for Children and Youth Act](#), the Ombudsperson, a member of the Legislative Assembly or a member of Parliament;
 - (n) to be informed about and to be assisted in contacting the representative under the [Representative for Children and Youth Act](#), or the Ombudsperson;
 - (o) to be informed of their rights, and the procedures available for enforcing their rights, under
 - (i) this Act, or
 - (ii) the [Freedom of Information and Protection of Privacy Act](#).
- (1.1) In addition to the rights set out in subsection (1), Indigenous children have the right to
- (a) receive guidance, encouragement and support to learn about and practise their Indigenous traditions, customs and languages, and
 - (b) belong to their Indigenous communities.
- (2) A child who is removed under Part 3 is entitled to exercise the right in subsection (1) (l), subject to any court order made after the court has had an opportunity to consider the question of access to the child.
- (3) This section, except with respect to the Representative for Children and Youth as set out in subsection (1) (m) and (n), does not apply to a child who is in a place of confinement.

Out-of-home living arrangements

- 71** (1) When deciding where to place a child, the director must consider the child's best interests.
- (2) The director must give priority to placing the child with a relative or, if that is not consistent with the child's best interests, placing the child as follows:
- (a) in a location where the child can maintain contact with relatives and friends;
 - (b) in the same family unit as the child's [siblings](#);
 - (c) in a location that will allow the child to continue in the same school.

(3) If the child is an Indigenous child, the director must give priority to placing the child as follows:

- (a) with the child's extended family or within the child's Indigenous community;
- (b) with another Indigenous family, if the child cannot be safely placed under paragraph (a);
- (c) in accordance with subsection (2), if the child cannot be safely placed under paragraph (a) or (b) of this subsection.

Repealed

72 [Repealed 1999-26-28.]

Part 5 — Freedom of Information and Protection of Privacy

Definition

73 In this Part, "**record**" means a record as defined in the [Freedom of Information and Protection of Privacy Act](#) that is made under this Act and is in the custody or control of a director.

Freedom of Information and Protection of Privacy Act

74 (1) Sections 74 to 79 apply despite the [Freedom of Information and Protection of Privacy Act](#).

(2) For the purpose of its application to this Act, the [Freedom of Information and Protection of Privacy Act](#) is deemed to be modified as follows:

- (a) a reference to "head", except in section 71, includes, with respect to a record, the director who has custody or control;
- (b) a reference to "public body", where a power, function or duty is not conferred on the head of the same public body, includes, with respect to a record, the director who has custody or control;
- (c) the authority for a public body to collect personal information indirectly under section 27 (1) (b) includes the authority to collect personal information indirectly when the information may be disclosed to the public body under section 79 of this Act;
- (d) the authority for a public body to use personal information under section 32 (c) includes the authority to use personal information for a purpose for which that information may be disclosed to the public body under section 79 of this Act;
- (e) the only provisions of section 33 that apply to a director are the following:
 - (i) section 33 (2) (a) *[in accordance with Part 2]*;

- (ii) section 33 (2) (c) *[individual consent]*;
 - (iii) section 33 (2) (j) *[evaluating program or activity]*;
 - (iv) section 33 (2) (k) *[common or integrated program or activity]*;
 - (v) section 33 (2) (p) *[payment to government or a public body]*;
 - (v.1) section 33 (2) (x) *[Indigenous governing entity]*;
 - (vi) section 33 (3) (b) *[domestic violence]*;
 - (vii) section 33 (3) (g) *[to archives for archival purposes]*;
 - (viii) section 33 (3) (h) *[research purposes]*;
 - (ix) section 33 (4) *[by archives for archival or historical purposes]*;
 - (x) section 33 (8) *[identity management services]*, except that the reference to "any other provision of this section" is to be read as a reference to any provision referred to in subparagraph (i) to (vi) and (viii) to (x) of this paragraph;
- (e.1) the authority for a public body to disclose personal information under section 33 (2) (r) or (w) or 33.3 does not include the authority to disclose information that could reasonably be expected to reveal that
- (i) a child is a child in care, or
 - (ii) an individual is an individual who has made a report under section 14 of this Act;
- (f) the powers of the commissioner apply to
- (i) a request from a person under the *Freedom of Information and Protection of Privacy Act* that the commissioner review any decision, act or omission of a director in respect of section 76 or 77 of this Act,
 - (ii) a complaint by a person that information has been disclosed in contravention of section 75 of this Act, and
 - (iii) the exercise of a director's powers, duties and functions under the *Freedom of Information and Protection of Privacy Act*.

Disclosure of information restricted

75 A person must not disclose information obtained under this Act, except in accordance with

- (a) an agreement made under section 5, 6, 7, 8, 12.2 or 92.1, if the agreement includes conditions on the use, disclosure and security of information provided under the agreement,
- (a.1) section 24 or 79 of this Act, or
- (b) the *Freedom of Information and Protection of Privacy Act*, subject to section 74 of this Act.

Limitation on application — Indigenous authority

75.1 Section 75 does not apply to information that is disclosed to the following:

- (a) an Indigenous governing entity in accordance with section 74 (2) (e) (v.1);
- (b) an Indigenous authority;
- (c) an Indigenous governing body.

Who can act for a child

76 (1) A person, other than a director, who has legal care of a child under 12 years of age may, on behalf of the child, exercise the child's rights under the *Freedom of Information and Protection of Privacy Act*

- (a) to be given access to information about the child in a record,
- (b) to consent to the disclosure of that information, and
- (c) to request the correction of that information.

(2) A person, other than a director, who has legal care of a child 12 years of age or older may, on behalf of the child, exercise the child's rights under the *Freedom of Information and Protection of Privacy Act*

- (a) to be given access to information about the child in a record,
- (b) to consent to the disclosure of that information, and
- (c) to request correction of that information

if the child is incapable of exercising those rights.

Exceptions to access rights

77 (1) A director must refuse to disclose information in a record to a person who has a right of access to the record under the *Freedom of Information and Protection of Privacy Act* if the disclosure could reasonably be expected to reveal the identity of a person who has made a report under section 14 of this Act and who has not consented to the disclosure.

(2) A director may refuse to disclose information in a record to a person who has a right of access to the record under the *Freedom of Information and Protection of Privacy Act* if

- (a) the disclosure could reasonably be expected to jeopardize an investigation under section 16 or a criminal investigation that is underway or contemplated, or
- (b) the information was supplied in confidence, during an assessment under section 16 (2) (b.1) or an investigation under section 16 (2) (c), by a person who was not acting on behalf of or under the direction of a director.

Repealed

78 [Repealed 2004-60-84.]

Disclosure without consent

79 A director may, without the consent of any person, disclose information obtained under this Act if the disclosure is

- (a) necessary to ensure the safety or well-being of a child,
 - (a.1) necessary to ensure the safety of a person, other than a child,
 - (a.2) intended to facilitate or support, with respect to an Indigenous child,
 - (i) the child learning and practising the child's Indigenous traditions, customs or language, or
 - (ii) the child belonging to the child's Indigenous community,
 - (a.3) made in accordance with an agreement made under this Act, or referred to in Division 1 of Part 7 of this Act, that authorizes or requires the disclosure,
- (b) required by section 64 or by order of a court in Canada to be made to a party to a proceeding,
- (c) authorized by the *Youth Criminal Justice Act* (Canada),
- (d) required by an enactment,
- (e) necessary for a family conference, mediation under section 22 or other alternative dispute resolution mechanism,
- (f) made when giving or when validly compelled to give evidence in a proceeding,
- (g) [Repealed 1997-11-32.]
 - (g.1) necessary to conduct a review under section 93.2,
 - (g.2) made in order to release a report, or part of a report, finalized under section 93.2 (2) (b), in accordance with a regulation made under section 103 (2) (r.1) (ii),
- (h) necessary to enable the Public Guardian and Trustee to perform duties and exercise powers as a child's property guardian under this Act,
 - (h.1) made to another director,
 - (h.2) made to a director of adoption to facilitate the adoption of a child if
 - (i) the child is in the continuing custody of a director, or
 - (ii) a director is the child's personal guardian under section 51 of the *Infants Act*,
- (i) made to a director's legal counsel,
- (j) made to caregivers or prospective adoptive parents and the information relates to children in their care, or
- (k) necessary for the administration of this Act or the federal Act.
- (l) [Repealed 2004-60-85.]

Repealed

79.1 [Repealed 2022-40-44.]

Disclosing information to Indigenous authority

- 79.2** (1) In this section, "**public body**" has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.
- (2) A public body or director must, on request by an Indigenous authority, disclose to the Indigenous authority information that is
- (a) in the custody or control of the public body or the director, and
 - (b) necessary for the provision of Indigenous child and family services under an Indigenous law to an Indigenous child or family.
- (3) This section applies despite any other enactment but is subject to a claim of privilege based on a solicitor-client relationship.

Repealed

80 [Repealed 2004-60-86.]

Part 6 — Appeals and Reviews

Appeal to Supreme Court

- 81** (1) A party may appeal to the Supreme Court from an order of the Provincial Court made under this Act.
- (2) The time limit for bringing an appeal under subsection (1) is 30 days, beginning on the day after the order of the Provincial Court is made.
- (3) An appeal is brought by
- (a) filing a notice of appeal in a registry of the Supreme Court, and
 - (b) serving a copy of the notice of appeal on
 - (i) the parties to the proceeding in which the order of the Provincial Court was made, and
 - (ii) the Public Guardian and Trustee, if the child's property guardian.
- (4) The Supreme Court Civil Rules apply to an appeal under subsection (1) to the extent that they are consistent with this section.
- (5) On application the Supreme Court may suspend the order under appeal for the period and subject to the conditions it thinks appropriate.
- (6) If the order under appeal is suspended under section 62, the Supreme Court may continue or cancel the suspension.
- (7) After hearing the appeal, the Supreme Court may do one or more of the following:
- (a) confirm the order of the Provincial Court;

- (b) set aside the order of the Provincial Court;
 - (c) make any order that the Provincial Court could have made;
 - (d) direct the Provincial Court to conduct a new hearing.
- (8) On application, the Supreme Court may extend the time limit for bringing an appeal.

Appeal to Court of Appeal

- 82** With leave of the Court of Appeal, a party may appeal to that court on a question of law from an order of the Supreme Court made by it on an appeal under this Act.

Repealed

83-88 [Repealed 1997-11-32.]

Repealed

89 [Repealed 2004-60-86.]

Part 7 — Administration

Division 1 — Agreements Respecting the *Declaration on the Rights of Indigenous Peoples Act*

Definitions for this Division

89.1 In this Division:

"decision-making agreement" means an agreement negotiated and entered into under section 7 of the *Declaration on the Rights of Indigenous Peoples Act* relating to statutory powers of decision under this Act;

"statutory power" has the same meaning as in section 1 of the *Judicial Review Procedure Act*, but does not include a power or right conferred by this Act to exercise a statutory power of decision;

"statutory power agreement" means an agreement entered into under section 6 of the *Declaration on the Rights of Indigenous Peoples Act* relating to one or both of the following:

- (a) the exercise of a statutory power under this Act jointly by
 - (i) the Indigenous governing body, and
 - (ii) a director or another decision-maker;
- (b) the consent of an Indigenous governing body before the exercise of a statutory power under this Act;

"statutory power of decision" has the same meaning as in section 1 of the *Judicial Review Procedure Act*.

Agreements in relation to the *Declaration on the Rights of Indigenous Peoples Act*

- 89.2** (1) For the purposes of this Act, a statutory power agreement may only be entered into in accordance with subsections (2) and (3).
- (2) For the purposes of this Act, the Lieutenant Governor in Council may authorize the minister, on behalf of the government, to negotiate and enter into a statutory power agreement with an Indigenous governing body.
- (3) Section 7 (2) to (5) of the *Declaration on the Rights of Indigenous Peoples Act* applies to a statutory power agreement.
- (4) A single agreement may contain both a decision-making agreement and a statutory power agreement.

Required conditions in agreements

- 89.3** A decision-making agreement or a statutory power agreement must include conditions on the use, disclosure and security of information that is provided under the agreement to an Indigenous governing body.

Effect of agreements

- 89.4** If a decision-making agreement or a statutory power agreement has been entered into,
- (a) the statutory power of decision or the statutory power, as applicable, must be exercised in accordance with the agreement,
 - (b) a reference under this Act to that statutory power of decision or that statutory power is to be read as a reference to the statutory power of decision or the statutory power as made in accordance with the agreement, and
 - (c) the following terms of an agreement have the force of law:
 - (i) terms identifying the person who is exercising, or providing consent in relation to, a statutory power of decision or a statutory power in accordance with an agreement;
 - (ii) terms relating to the criteria or procedures for the exercise of, or consent in relation to, a statutory power of decision or a statutory power in accordance with an agreement.

Division 2 — Other Authorities for Minister's Agreements**Minister's authority to enter into agreements**

- 90** (1) For the purposes of this Act, the minister may enter into an agreement with any of the following:
- (a) a First Nation;
 - (b) the Nisga'a Nation or a Nisga'a Village;
 - (c) a Treaty First Nation;

- (d) a legal entity representing an Indigenous community;
- (e) an Indigenous governing body;
- (f) the government of Canada, the government of a province of Canada or the government of a jurisdiction outside Canada, or an official or agency of any of those governments;
- (g) Community Living British Columbia established under the *Community Living Authority Act*;
- (h) any person or group of persons.

(2) An agreement entered into under subsection (1) may provide for the manner in which a director must exercise powers and perform duties and functions.

Agreements in relation to federal Act

90.1 (1) The minister may, on behalf of the government, enter into an agreement contemplated by any of the following provisions of the federal Act:

- (a) section 20 (2) [*coordination agreement*];
- (b) section 28 [*agreements — information*].

(2) An agreement made under subsection (1) (a)

- (a) must include conditions on the use, disclosure and security of information that is provided under the agreement to an Indigenous governing body, and
- (b) may include the purposes described in section 92.1 (2) (a) or (c).

Division 3 — Agreements Relating to the Nisga'a Nation and Treaty First Nations

Definitions for this Division

90.2 In this Division:

"amending agreement" means an agreement made in accordance with section 90.5 (2) (a) that sets out amendments to the Nisga'a Final Agreement or the final agreement of a Treaty First Nation, as applicable, to include the law-making authority for making an Indigenous law with application in British Columbia,

- (a) in the case of the Nisga'a Nation, outside the Nisga'a Lands, or
- (b) in the case of the Treaty First Nation, outside the treaty lands of the Treaty First Nation;

"enabling agreement" means an agreement made in accordance with section 90.5 (2) (b) in relation to the recognition of the law-making authority of the Nisga'a Nation or a Treaty First Nation to make an Indigenous law with application in British Columbia,

- (a) in the case of the Nisga'a Nation, outside the Nisga'a Lands, or

- (b) in the case of the Treaty First Nation, outside the treaty lands of the Treaty First Nation.

Purpose for this Division

90.3 The purpose of this Division is to set out processes to enable the Nisga'a Nation and Treaty First Nations to exercise law-making authority in British Columbia in relation to the following, in addition to the authority in the Nisga'a Final Agreement or the final agreements of Treaty First Nations:

- (a) in the case of an Indigenous law of the Nisga'a Nation, in relation to Indigenous child and family services provided outside the Nisga'a Lands;
- (b) in the case of Indigenous laws of the Treaty First Nations, in relation to Indigenous child and family services provided outside the treaty lands of the Treaty First Nations.

Negotiation

90.4 After a request from the Nisga'a Nation or a Treaty First Nation to enter into an agreement under this Division, the government must make all reasonable efforts to negotiate and attempt to reach agreement with the Nisga'a Nation or the Treaty First Nation.

Indigenous laws — force of law

90.5 (1) Subject to subsection (2), an Indigenous law of the Nisga'a Nation or a Treaty First Nation, as applicable, has the force of law and applies,

- (a) in the case of the Indigenous law of the Nisga'a Nation, to Indigenous child and family services provided outside Nisga'a Lands, and
- (b) in the case of the Indigenous law of the Treaty First Nation, to Indigenous child and family services provided outside treaty lands of the Treaty First Nation.

(2) Subsection (1) applies to the Nisga'a Nation or a Treaty First Nation, as applicable, if,

- (a) in the case of an amending agreement,
 - (i) the Nisga'a Nation or the Treaty First Nation enters into the amending agreement with
 - (A) the government, and
 - (B) the government of Canada, and
 - (ii) the following requirements are met in respect of the amendment of the Nisga'a Final Agreement or the final agreement of the Treaty First Nation, as applicable:
 - (A) a resolution consenting to the amendment is passed by the Legislative Assembly;
 - (B) the amending agreement includes an effective date of the amendment that is on or before the date of the consent to

the amendment by the government of Canada by order of the Governor General in Council;

(C) the terms and conditions of the amending agreement are complied with, or

(b) in the case of an enabling agreement,

(i) the Nisga'a Nation or the Treaty First Nation enters into the enabling agreement

(A) with the government, and

(B) if the enabling agreement includes recognition of an inherent right, with the government of Canada,

(ii) the enabling agreement is published in the Gazette, and

(iii) the terms and conditions of the enabling agreement are complied with.

Effective date

90.6 The law-making authority described in section 90.5 (1) may be exercised by the Nisga'a Nation or a Treaty First Nation, as applicable,

(a) in the case of an amending agreement, from the date that is the latest of the following dates:

(i) the date that the Nisga'a Nation or the Treaty First Nation consents to the amendment of the Nisga'a Final Agreement or the final agreement of the Treaty First Nation;

(ii) the date of the resolution referred to in section 90.5 (2) (a) (ii) (A) being passed by the Legislative Assembly;

(iii) a date set out in the amending agreement that is later than the dates referred to in subparagraphs (i) and (ii) of this paragraph, and

(b) in the case of an enabling agreement, from the date of publication in the Gazette under section 90.5 (2) (b) (ii) or a later date set out in the enabling agreement.

No limit upon lawmaking

90.7 The application of this Division in respect of an amending agreement or an enabling agreement entered into by the Nisga'a Nation or a Treaty First Nation does not limit or otherwise abrogate or derogate from the law-making authority under the Nisga'a Final Agreement or the final agreement of the Treaty First Nation, as applicable.

Conflict or inconsistency

90.8 To the extent of any conflict or inconsistency between this Division and a provision that sets out the prevailing nature of the Nisga'a Final Agreement or the final agreement of a Treaty First Nation, or of the relevant settlement legislation, this Division applies despite that provision if the Nisga'a Nation or the Treaty First Nation,

as applicable, has entered into an agreement under this Division, until such time as the Nisga'a Final Agreement or the final agreement of the Treaty First Nation provides for the authority described in section 90.5 (1) (a) or (b).

Division 4 — Matters Relating to Directors

Designation of directors

- 91** (1) Subject to the regulations, the minister may designate one or more persons as directors for the purposes of
- (a) any or all of the provisions of this Act, or
 - (b) a provision of another Act that contains a reference to a director under this Act.
- (2) A designation under subsection (1) must be in writing and may include any terms or conditions the minister considers advisable.
- (3) A director referred to in subsection (1) has jurisdiction throughout British Columbia in the exercise of the powers and the performance of the duties and functions conferred on a director under this Act.
- (4) A reference to "a director" or "the director" in an order made under this Act or under the *Infants Act* authorizes any director to fulfill the powers, duties and functions referred to in the order as the circumstances require, but does not result in a transfer under section 95.1 of this Act.

Director's power to delegate

- 92** (1) Subject to the regulations, a director may delegate to any person or class of person any or all of the director's powers, duties or functions under this Act.
- (2) A delegation of the powers, duties or functions of a director must be in writing and may include any terms or conditions the director considers advisable.

Director may make agreements respecting Indigenous children

- 92.1** (1) [Repealed 2022-40-53.]
- (2) A director may make an agreement with a First Nation, the Nisga'a Nation, a Treaty First Nation or a legal entity representing another Indigenous community for one or more of the following purposes:
- (a) to consult and cooperate with the First Nation, Nisga'a Nation, Treaty First Nation or Indigenous community about one or more of the following:
 - (i) the development of plans of independence for youth who are Indigenous children of the First Nation, Nisga'a Nation, Treaty First Nation or Indigenous community;
 - (ii) assessments under section 16 (2) (b.1) respecting the Indigenous families of the First Nation, Nisga'a Nation, Treaty First Nation or

- Indigenous community;
- (iii) investigations under section 16 (2) (c) respecting the Indigenous children of the First Nation, Nisga'a Nation, Treaty First Nation or Indigenous community;
 - (iv) the development of plans of care for the Indigenous children of the First Nation, Nisga'a Nation, Treaty First Nation or Indigenous community;
 - (v) planning for the needs of the Indigenous children of the First Nation, Nisga'a Nation, Treaty First Nation or Indigenous community who are in the custody, care or guardianship of a director;
 - (vi) placement decisions under section 71 respecting the Indigenous children of the First Nation, Nisga'a Nation, Treaty First Nation or Indigenous community;
- (b) for the First Nation, Nisga'a Nation, Treaty First Nation or Indigenous community to provide services;
- (c) for any other purpose as prescribed by regulation.
- (3) Subject to any regulations made under section 103 (2) (q.2), an agreement made under this section with a First Nation, the Nisga'a Nation, a Treaty First Nation or another Indigenous community must include conditions on the use, disclosure and security of information provided under the agreement to the First Nation, Nisga'a Nation, Treaty First Nation or Indigenous community.
- (4) Subject to any regulations made under section 103 (2) (q.2), if a director makes an agreement under this section, the agreement applies to all directors.
- (5) Subsections (3) and (4) do not apply to an agreement, or a part of an agreement, made under subsection (2) (b).

Other powers and duties of directors

93 (1) A director may do one or more of the following:

- (a) provide preventive and support services for families to promote the purposes of this Act;
- (b) make payments to a parent, or other person who has care of a child with special needs, to assist the parent or other person to purchase support services, other than health and medical benefits, so that the child can reside at home;
- (c) [Repealed 1999-26-32.]
- (d) establish residential services for children and youths;
- (e) establish services to assist in the resolution of family disputes;
- (f) establish services to assist communities to strengthen their ability to care for and protect their children;

- (g) make agreements, including but not limited to agreements
 - (i) with any person for the provision of residential or other services,
 - (ii) with a person who has custody by an interim order or a temporary custody order under Part 3 or by an order made under section 54.01 (5) or 54.1, for contributions to the child's support,
 - (iii) [Repealed 2018-27-46.]
 - (iv) with the government of Canada, the government of a province of Canada or the government of a jurisdiction outside Canada, or an official or agency of any of those governments, to promote the purposes of this Act,
 - (v) with any ministry of the government or any community agency if an agreement is necessary to integrate the planning and delivery of preventive and support services to families and children,
 - (vi) with other directors, and
 - (vii) with a person who is an employer of one or more persons to whom a director has delegated under section 92 any or all of the director's powers, duties or functions;
- (h) promote and encourage the participation of the community in the planning, development and delivery of services.

(2) A director is authorized to receive any authority that

- (a) is delegated to the director by a government or child welfare authority, and
- (b) relates to a child in the custody or under the guardianship of that government or child welfare authority.

(3) and (4) [Repealed 2007-5-3.]

Administrative reviews

93.1 A director must, in accordance with the regulations,

- (a) establish an administrative procedure for reviewing the exercise of a director's powers, duties and functions under this Act, and
- (b) ensure that information about the administrative review procedure is available to any person on request.

Reviews relating to services

93.2 (1) Subject to the regulations and in accordance with subsection (3), a director may conduct a review on any matter relating to the provision of a service under this Act for any of the following purposes:

- (a) to monitor a director's performance in the provision of the service;
- (b) to monitor the performance of any person or agency in the provision of the service;

- (c) to improve the provision of the service;
 - (d) for public accountability.
- (2) If a director conducts a review under subsection (1),
- (a) the director must prepare a written report of the review,
 - (b) a director must finalize the report prepared under paragraph (a) of this subsection, and
 - (c) the review is not complete until the report is finalized under paragraph (b).
- (3) Respecting reviews under subsection (1), a director may establish
- (a) different types of reviews for different types of matters, and
 - (b) different processes, time limits and types of reports for different types of reviews.

Agreements with caregivers

- 94** A director may, by agreement, authorize a caregiver to carry out any of the director's rights and responsibilities with respect to the care, custody or guardianship of a child placed with the caregiver.

Agreements with prospective adoptive parents

- 94.1** A director may, by agreement, authorize a prospective adoptive parent to carry out any of the director's rights and responsibilities with respect to the care, custody or guardianship of a child placed for adoption with the prospective adoptive parent.

Repealed

- 95** [Repealed 2002-21-26.]

Transfer to another director

- 95.1** (1) Despite any provision of this Act, and subject to the regulations and to an agreement, a director may transfer to another director, with the consent of that director,
- (a) supervision, care, custody or guardianship of a child, or
 - (b) any other right, power, duty, responsibility or function under this Act.
- (2) If a transfer occurs under subsection (1),
- (a) the other director has the same rights, powers, duties, responsibilities and functions as the director who made the transfer, and
 - (b) the director who made the transfer ceases to have the rights, powers, duties, responsibilities and functions that the director transferred.
- (3) If a transfer occurs under subsection (1), a reference to "the director" in any provision of this Act or in any subsisting order made under this Act or under the

Infants Act is deemed to be a reference to the director who receives the transfer.

Director's right to information

- 96** (1) A director has the right to any information that
- (a) is in the custody or control of a public body as defined in the *Freedom of Information and Protection of Privacy Act*, and
 - (b) is necessary to enable the director to exercise powers or perform duties or functions under this Act.
- (2) A public body that has custody or control of information to which a director is entitled under subsection (1) must disclose that information to the director.
- (2.1) A director may collect from a person any information that is necessary to enable the director to exercise powers or perform duties or functions under this Act.
- (3) This section applies despite any other enactment but is subject to a claim of privilege based on a solicitor-client relationship.

Transfer of director's records

- 96.1** (1) Despite sections 10 and 11 of the *Information Management Act* and subject to the regulations, a director, in writing, may transfer records to another director.
- (2) On the effective date of a transfer under subsection (1), the records are transferred to and become the records of the other director.
- (3) Records may be identified by name, class or description in a transfer under subsection (1).

Part 8 — Miscellaneous Provisions

Agreements and orders for child support

- 97** (1) A parent remains responsible to contribute to the maintenance of
- (a) a child in care unless the child in care is under a continuing custody order,
 - (b) a child in the custody of a person other than a parent under an interim order or a temporary custody order,
 - (c) a youth who has made an agreement with a director under section 12.2, and
 - (d) a child about whom an agreement is made under section 8 (1).
- (2) A director may make a written agreement with a parent for contributions by the parent to the maintenance of the following, as applicable:
- (a) a child in care unless the child in care is under a continuing custody order;
 - (b) a youth referred to in subsection (1) (c);

- (c) a child referred to in subsection (1) (d).
- (3) A director may file an agreement made under subsection (2) in the court.
- (4) The agreement, if filed, has the same effect and may be enforced, changed or cancelled in the same manner and on the same basis as an order respecting child support made under the *Family Law Act*.
- (5) On application by a director, the court may order a parent who is responsible to contribute under subsection (1) to pay to the director or to a person designated in the order an amount the court considers reasonable for the maintenance of a child or youth.
- (6) At least 10 days before the date set for hearing an application for an order under subsection (5), notice of the time, date and place of the hearing must be served on the parent against whom the order is sought.
- (7) In making an order under subsection (5), the court must take the following into account:
- (a) the needs, means, capacity and economic circumstances of the parent;
 - (b) the needs, means and circumstances of the child or youth;
 - (c) any legal right of the child or youth to receive support from another source;
 - (d) any other circumstance the court considers relevant.
- (8) An order made under subsection (5) may provide for one or more of the following:
- (a) that payments be made periodically, annually or otherwise, for an indefinite or limited period or until a specified event occurs;
 - (b) that payment of a lump sum be made, directly or in trust;
 - (c) that a charge be registered against specific property to secure payment;
 - (d) that maintenance be paid respecting any period of time before the date the application for the order is made.
- (9) An order made under subsection (5) may be enforced, changed or cancelled in the same manner and on the same basis as an order made under the *Family Law Act*.

Intervention in *Family Law Act* proceedings

- 97.1** A director may apply under section 204 (2) of the *Family Law Act* to the court, as defined in that Act, for leave to intervene in a proceeding under that Act if the director considers it is in the best interests of a child to do so.

Restraining orders

- 98** (1) On application, the court may make a restraining order if there are reasonable grounds to believe that a person
- (a) has encouraged or helped, or is likely to encourage or help, any of the following to engage in prostitution:

- (i) a child in care;
 - (ii) a child in the custody of a person under a temporary custody order;
 - (iii) a youth who has made an agreement with a director under section 12.2,
 - (b) has inveigled or coerced, or is likely to inveigle or coerce, a child or youth mentioned in subparagraph (i), (ii) or (iii) of paragraph (a) into engaging in prostitution, or
 - (c) has otherwise exploited, abused or intimidated, or is likely to otherwise exploit, abuse or intimidate, a child or youth mentioned in subparagraph (i), (ii) or (iii) of paragraph (a).
- (2) In a restraining order under subsection (1), the court may do one or more of the following:
- (a) prohibit the person for a period of up to 6 months from contacting or interfering with or trying to contact or interfere with the child or youth or from entering any premises or vehicle or boarding any vessel that the child or youth attends;
 - (b) prohibit the person for a period of up to 6 months from residing with the child or youth or from entering any premises or vehicle, or boarding any vessel, where the child or youth resides, including any premises, vehicle or vessel that the person owns or has a right to occupy;
 - (c) if the court thinks that the person may not comply with an order under paragraph (a) or (b), order that person to
 - (i) enter into a recognizance, with or without sureties, in an amount the court thinks necessary and reasonable,
 - (ii) report to the court, or to a person named by the court, for the period of time and at the times and places the court thinks necessary and reasonable, or
 - (iii) produce to the court, or to a person named by the court, any documents the court thinks fit.
- (3) On application, the court may make a restraining order if there are reasonable grounds to believe that a person is likely to molest, harass or annoy
- (a) a caregiver,
 - (a.1) a prospective adoptive parent,
 - (b) a person who has custody of a child under a temporary custody order,
 - (c) a director or any person to whom the director has delegated under section 92 any or all of the director's powers, duties or functions, or
 - (d) a person providing residential, educational or other support services to the child or youth.

(4) In a restraining order under subsection (3), the court may

- (a) prohibit for a period of up to 6 months the person against whom the order is made from contacting or interfering with, or trying to contact or interfere with, the person in whose favour the order is made, and
- (b) if the court thinks that the person against whom the order is made may not comply with an order under paragraph (a), order that person to do anything referred to in subsection (2) (c).

(4.1) to (4.6) [Repealed 2011-25-290.]

(5) The court may include in a restraining order any terms or conditions needed to implement the order.

(6) At least 2 days before the date set for hearing an application for a restraining order, notice of the time, date and place of the hearing must be served on the following:

- (a) the person against whom the order is sought;
- (b) the child, if the child is 12 years of age or over;
- (c) the director.

(6.01) If a person referred to in subsection (6) (a) or (c) appears at the commencement of the hearing, that person is entitled to be a party at the hearing.

(6.1) Before a restraining order expires, the person who applied for the order, the person against whom the order was made or the director may apply to the court and the court may do one or more of the following:

- (a) change the order;
- (b) [Repealed 2011-25-290.]
- (c) cancel the order;
- (d) shorten the term of the order;
- (e) extend the term of the order.

(7) At the request of a director, a police officer must assist in enforcing a restraining order.

(7.1) If a director or another person has applied for a restraining order under subsection (1) or (3) and the court has ordered an adjournment of the hearing, the court may make an interim order

- (a) for the purposes described in subsection (1) or (3), as the case may be, and
- (b) for the period from the adjournment of the hearing until the conclusion of the hearing.

(8) In this section, "**court**" means the Supreme Court or the Provincial Court.

Supreme Court jurisdiction

99 Nothing in this Act limits the parens patriae jurisdiction of the Supreme Court.

Out-of-Province orders and agreements

100 (1) This section applies to

- (a) an order made by a court in another jurisdiction, or
 - (b) an agreement for care made under child welfare legislation of another jurisdiction.
- (2) An order or agreement that is certified as being valid and subsisting by a court or other appropriate authority in another jurisdiction has, to the extent that the order or agreement is consistent with this Act, the same effect in British Columbia as if it had been made under this Act.

Immunity from legal proceedings

101 (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against a person because of anything done or omitted

- (a) in the exercise or intended exercise of a power under this Act, or
 - (b) in the performance or intended performance of a duty under this Act.
- (2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted in bad faith.
- (3) Subsection (1) does not absolve the government or an Indigenous governing body from vicarious liability arising out of anything done or omitted by a person referred to in that subsection for which the government or the Indigenous governing body would be vicariously liable if this section were not in force.

No reprisals because of review

101.1 (1) A person must not intimidate, coerce, discipline or otherwise discriminate against a child because the child

- (a) has requested a review under the administrative procedure established under section 93.1, or
 - (b) is the subject of, or has given information or otherwise assisted in, a review under section 93.1 or 93.2.
- (2) A person must not discharge, suspend, expel, intimidate, coerce, evict or impose a financial or other penalty on, or otherwise discriminate against, a person other than a child because the person
- (a) has requested a review under the administrative procedure established under section 93.1, or
 - (b) has given information or otherwise assisted in a review under section 93.1 or 93.2.

Offences and penalties

102 (1) A person who contravenes any of the following commits an offence:

- (a) [Repealed 2011-25-290.]
- (b) an access order under section 55 or 56;
- (c) section 63 (2);
- (d) an order under section 65 for production of a record;
- (d.1) section 75;
- (e) [Repealed 2011-25-290.]
- (f) section 101.1 (1) or (2).

(1.1) and (2) [Repealed 2011-25-290.]

(2.1) A person who commits an offence under subsection (1) (b), (c), (d), (d.1) or (f) or (1.1) is liable to a fine of not more than \$10 000 or to imprisonment for not more than 6 months or to both.

(3) Section 5 of the *Offence Act* does not apply to this Act.

Power to make regulations

103 (1) The Lieutenant Governor in Council may make regulations as authorized by section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) prescribing First Nations for the purposes of the definition of "First Nation";
- (a.1) prescribing the functions of family conference coordinators;
- (b) respecting family conferences and mediation;
- (c) governing agreements under sections 12.2 and 12.3;
- (c.1) respecting the renewal and maximum duration of agreements under section 12.3;
- (d) prescribing terms and conditions to be included in agreements made under this Act, including, without limitation, agreements referred to in paragraph (c);
- (d.1) prescribing First Nations, the Nisga'a Nation or Treaty First Nations for the purposes of referring reports under section 16 (1) (b) or (2) (d);
- (e) respecting the content and preparation of plans of care and plans for independence;
- (f) prescribing Indigenous organizations for the purposes of presentation hearings;
- (g) designating, by name or position, those representatives of the Nisga'a Lisims Government, the government of a Treaty First Nation, First

Nations and other Indigenous communities who are entitled to notice under Part 3;

- (h) respecting the standards for foster homes and residential services;
 - (i) to (l) [Repealed 1997-11-32.]
 - (m) to (o) [Repealed 2004-60-94.]
 - (p) respecting the prerequisites for the designation of directors and the standards to be met by directors;
 - (q) respecting the delegation of the powers, duties and functions of directors, including regulations authorizing the minister to restrict a director's power to delegate;
 - (q.1) prescribing purposes in respect of which a director may make an agreement under section 92.1 (2) (c);
 - (q.2) exempting an agreement made under section 92.1 (2) (c) from the requirements set out in section 92.1 (3) or (4);
 - (r) governing reviews under section 93.1;
 - (r.1) respecting reviews conducted, and reports prepared and finalized, under section 93.2, including, without limiting this,
 - (i) specifying the criteria a director must apply in exercising [the director's](#) discretion to conduct a review, and
 - (ii) specifying the criteria, rules or requirements that must be applied or followed by a director for the purposes of releasing a finalized report or part of a finalized report under section 79 (g.2);
 - (s) defining any word or expression used but not defined in this Act;
 - (t) respecting any matters that are not provided for in sections 105 to 108 and that are necessary for the orderly transition from the application of the former Act in respect of proceedings begun and orders made under that Act to the application of this Act in respect of those proceedings and orders;
 - (u) [Repealed RS1996 (Supp)-46-3.]
 - (v) respecting a transfer made under section 95.1;
 - (w) respecting a transfer of records under section 96.1.
- (3) [Repealed RS1996 (Supp)-46-3.]

Community tribunals

104 The Lieutenant Governor in Council may make regulations

- (a) for the purpose of establishing, as a pilot project, a tribunal in a prescribed area of British Columbia and enabling the tribunal to act under this Act in that area in place of the court,

- (b) governing the powers, duties, functions and rules of procedure of the tribunal and the effect of its decisions,
- (c) governing appeals from the tribunal's decisions, and
- (d) modifying, or making an exception to, any requirement of this Act to the extent necessary to enable the tribunal to act under this Act in place of the court.

Part 9 — Transitional Provisions

Transition from former Act — general rule

105 Subject to sections 106 to 108 of this Act and any regulations made under section 103 (2) (t), sections 35 and 36 (1) of the [Interpretation Act](#) apply to all matters affected by the repeal of the former Act and its replacement by this Act.

Proceedings begun under the former Act

- 106** (1) The definition of "in need of protection" in section 1 of the former Act continues to apply in relation to a child apprehended under that Act, even if provisions of this Act apply in respect of the child.
- (2) If a child has been apprehended under section 9 (1) of the former Act but no report has been presented under section 11 (1) of the former Act before the repeal of that Act, section 33 of this Act applies as if the child had been removed under section 30 of this Act.
- (3) If a report has been presented to the court under section 11 of the former Act but no order has been made under that section before the repeal of that Act,
- (a) section 11 of the former Act continues to apply in respect of the child until an order is made under that section, and
 - (b) the provisions of this Act apply to any subsequent proceeding relating to the child.
- (4) If a hearing under section 12 of the former Act has been commenced to determine whether a child is in need of protection but no order has been made under section 13 (1) of the former Act before the repeal of that Act,
- (a) sections 12 and 13 (1) to (3) of the former Act continue to apply in respect of the child until an order is made under section 13 of the former Act, and
 - (b) the provisions of this Act apply to any subsequent proceeding relating to the child.
- (5) If an application has been made for an order under section 14 of the former Act but no order has been made before the repeal of that Act,
- (a) section 14 of the former Act continues to apply in respect of the child until the application is disposed of, and

(b) the provisions of this Act apply to any subsequent proceeding relating to the child.

(6) Any proceeding begun under the former Act by the Superintendent of Family and Child Service may be continued under this Act in the name of a director designated by the minister for the purpose of this section.

(7) Section 64 of this Act applies for the purposes of a proceeding under a provision of the former Act that is continued under this section.

Orders made under the former Act

107 (1) This section applies to

(a) an order that was in effect on January 26, 1996 and that was made under the former Act before the repeal of that Act, and

(b) an order that, by the operation of section 106 of this Act, is made under the former Act after the repeal of that Act.

(2) An order made under a provision of the former Act referred to in column 1 of the following Table is deemed to have been made under the provision of this Act referred to in the opposite column:

Former Act	This Act
11 (2) (a)	35 (2) (c)
11 (2) (b)	35 (2) (c)
11 (2) (c)	35 (2) (a)
13 (1) (a)	41 (1) (a)
13 (1) (b)	41 (1) (a)
13 (1) (c) (custody of a child)	41 (1) (c)
13 (1) (d)	41 (1) (d)
13 (1) (c) and (3) (access to a child)	55
13 (4)	97
13 (5)	58
14	49

(3) An order made under section 11 (2) (d) of the former Act is deemed to have been made under section 41 (1) (d) of this Act unless

(a) by January 29, 1996, 6 months had elapsed from the date the order was made, or

(b) the application for the order was not opposed,

and in either of those cases the order is deemed to have been made under section 49 of this Act.

(4) A reference in an order made under the former Act to the Superintendent of Family and Child Service is deemed to be a reference to a director designated by the minister for the purposes of this section.

- (5) The time limits in section 43 of this Act do not apply in respect of an order made under the former Act.
- (6) If an application is made under section 54 of this Act for permission to apply for cancellation of an order that relates to an Indigenous child and that is deemed under this section to be a continuing custody order, notice of the application must be served on the persons who would have been entitled to notice under section 49 (2) (c), (c.1), (c.2) or (d) if the child had been removed under this Act.
- (7) If a person referred to in subsection (6) appears at the hearing of an application under section 54, the person is entitled to be a party.

Agreements made under the former Act or *Child Paternity and Support Act*

- 108** (1) An agreement made under the former Act may be renewed under this Act.
- (2) An agreement made under section 4 or 5 of the former Act that contains a provision respecting the payment of maintenance is deemed to have been made under section 97 of this Act.
 - (3) A reference in an agreement made under the former Act or under section 20 of the *Child, Paternity and Support Act*, R.S.B.C. 1979, c. 49, to the Superintendent of Family and Child Service is deemed to be a reference to a director designated by the minister for the purposes of this section.