

Grandparents Raising Grandchildren: A Legal Guide



Grandparents Raising Grandchildren: a legal guide

© Parent Support Services Society of BC and the University of Victoria School of Social Work, March 2009

Do not use this guide for legal advice. It provides information only, and that information only applies to British Columbian law, services, and benefits. Consult with a lawyer for advice related to your specific situation.

Laws, benefits, policies, and procedures are always changing. This book was up to date when it was printed, but always double-check the information you intend to rely on with the appropriate agency or with your lawyer.

Indigenous people's traditions and customary laws are outside the scope of this guide; however, we want to acknowledge those customs and traditions and emphasize that nothing in this guide should be misinterpreted as superseding or taking away from them.

Co-chairs of the legal project and of this legal guide:

Carol Ross, Executive Director for Parent Support Services Society of BC

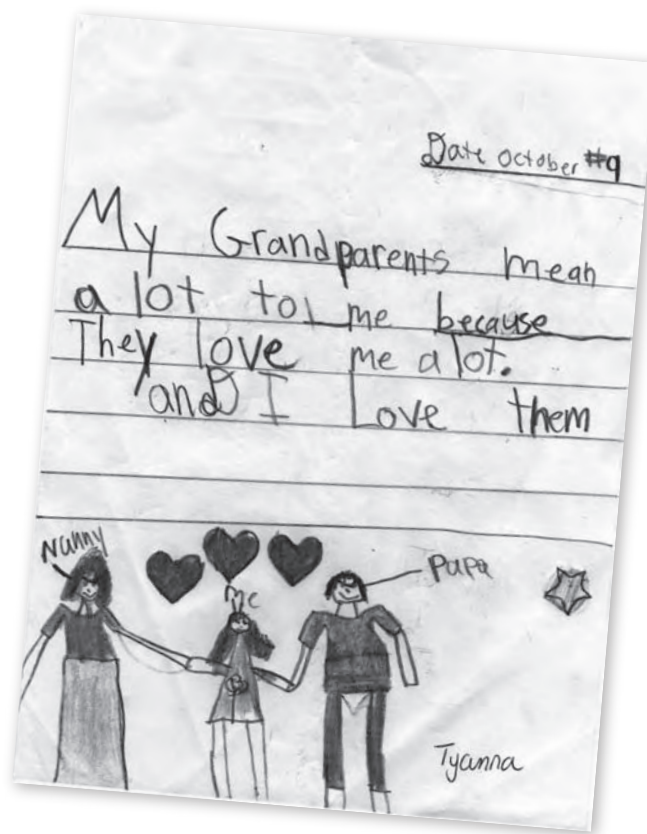
Barbara Whittington, Professor of the University of Victoria School of Social Work



The cover photograph was taken by Henny Schnare; it depicts grandparents and grandchildren at the Grandmother tree on Galiano Island. You can view her website at www.henny.ca

Dedication

This work is dedicated to the thousands of deeply committed grandparents and other relatives who give so much love—and plain hard work—so that the children they raise may live safely and develop a sense of belonging—and a sense of family.



Acknowledgements

This book is the outcome of a legal issues project supported primarily by the Law Foundation of BC. We hope it will be used by grandparents, as well as by the social and legal service providers that support them. It is a joint venture between the University of Victoria School of Social Work and Parent Support Services Society of BC. The project team took their direction from the many grandparents and grandrelatives with whom they met. These people contributed their experience as well as their questions, concerns, and needs. A more complete description of the project's history follows the introduction.

The cover photograph of this guide was taken at the Grandmother tree on Galiano Island by Henny Schnare. This guide and the first *Grandparents Raising Grandchildren Resource Booklet* (2007) were enlivened by Henny's fine photography and her generous spirit. You can view her website at www.henny.ca.

We would also like to thank Mary Mohr for contributing her wonderful photographs of grandparents and grandchildren enjoying the day at Galiano Island.

The project advisory team, comprised of honorary grandparents, lawyers, educators, and social workers, met every month for the last two years to direct the development of this project. In addition to the project advisory team and the honorary grandparents noted below, many others added their voices and efforts so that we finally have this book.

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Thanks also goes to all of the community organizations from Abbotsford, Campbell River, Courtenay, Duncan, Nanaimo, New Westminster, North Vancouver, Parksville, Port Alberni, Prince George, Surrey, Vancouver, and Victoria—including First Nations agencies, the Intercultural Association, and many others that have met with us to produce this guide.

The biggest thanks goes to the grandparents and other grandrelatives who are raising their grandchildren with patience, courage, and determination.

Thank you to the traditional keepers of this land. As guests, we appreciate living and working here. The role of grandparents raising grandchildren has long been valued by the indigenous cultures of the West Coast, and this has helped this project as it has grown, changed, and developed.



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my grandmother means a lot
to me because we watch the
news together. Play cards,
traveling and best of all
cuddling in bed. -Thomas, 7 years old

Introduction

The first thing you might notice is that this guide has a lot of information. It is possible that you will want to read the whole thing, and we encourage you to do so. But to make it easier to get started, we have put together four general scenarios—stories that you might recognize if you are a grandparent raising a grandchild. Below those, we have written in suggestions for which parts of this guide might be the most helpful to read if you find yourself in that situation.



We wrote this guide after talking to nearly 200 grandparents across the province who have had to deal with the same issues you face every day. Their help was instrumental in shaping this resource. We urge you to seek out support groups in your area with others who face the same challenges—not only will you gain emotional support, you can also learn a lot of useful tips about resources in your community. There are also people called advocates who can guide you through different processes, such as going to court or dealing with a child protection investigation. Their help is free, and they might be a good first source of information if anything in this guide is unclear to you or needs more explanation. See page 96 to find one.

In addition, there are many useful, free resources available if you need more legal information. Many of these resources provided the material for this legal guide, and could provide you with more detailed information about the topics in this guide. See pages 180–181 for a list of the extremely useful online resources we used to write this guide. You might want to get copies of the 2007 edition of the *Supporting Grandparents Raising Grandchildren* resource booklet (from Parent Support Services and the University of Victoria School of Social Work, the same organizations that brought you this legal guide), the *BC Senior's Guide* (published by the provincial government) for more information on benefits, as well as some publications from the Legal Services Society on different topics: *Parents' Rights*, *Kids Rights* (about child protection); *Your Welfare Rights* (about benefits that might be available to you and your grandchild); and *When I'm 64* (about benefits for people over age 60). Visit your library to find them, or see page 181 to find out where to download a copy from the web.

At the end of this guide, there is a glossary which is just like a dictionary of terms used either in law or by the Ministry of Children and Family Development. If you see a word you don't quite understand, it is likely to be explained in the glossary.

It is important to realize that this guide provides legal information only. Before you make a legal decision that affects you or your grandchild, you should speak with a lawyer to get legal advice that is specific to your unique situation. Sometimes this help is free. See the section "Getting legal help" on page 88 for more information.

In this guide, we use the generic terms “grandparent” and “grandchild” (or sometimes “grandchildren”) to refer to the person who is raising a relative’s child (be it an actual grandparent or an aunt, cousin, sibling, or other relative) and the child or children he or she is raising. We also use the generic term “parents” to make it easier to discuss the child’s former or current caregiver(s). We have chosen these terms just to be brief and clear, and we do not mean to exclude families that might not fit into these particular categories.

We also use the adjectives “Aboriginal” and “indigenous” in this guide to refer to children and adults who are members of First Nations, Métis peoples, and Inuit peoples. Our intention is to be inclusive and not to offend with either term, but also not to cause confusion by using a different term from the one used in a given law.

A note on using the web

There is a great deal of information available to grandparents on the web. However, the sheer amount of it might be overwhelming, or you might need help finding just what you need. Please keep in mind that websites change on a regular basis, so some of the links you see published in this guide might not be up to date. For help using the web or finding information that has moved, you can visit your local library, where a librarian can help you locate the information you need—as well as many resources you might not yet know about. You can also try typing in just the first part of the web address—the part that ends in “.ca,” “.org,” or “.com”—and then using the menus and the search box on the website to find the new location of the information.

If your grandchild is Aboriginal

Although Aboriginal children have the same basic rights as every child in BC, there are also specific laws for them when it comes to issues such as child protection, inheritance, and some government benefits. We have made a note of some of these instances in this guide. As a general note, you should also be aware that your Aboriginal grandchild may or may not have status under the Indian Act, band membership, and/or treaty rights. Each of these designations has its own distinct set of rights, and each one of them could provide you and your grandchild with important forms of support—everything from getting secondary school costs paid for to receiving money at the age of 19.

It is a good idea to contact your local friendship centre or **Indian and Northern Affairs Canada (INAC)** to investigate which rights your grandchild might be entitled to, and how to apply for these rights on his or her behalf. There might be important forms of support that you and your grandchild can seek out as a result. See the next page for contact information.

INAC

British Columbia Region
Lower Mainland: **604-775-5100**
Elsewhere in BC: **1-800-567-9604** (toll-free)
Website: **www.ainc-inac.gc.ca**

BC Association of Aboriginal Friendship Centres

Phone: **250-388-5522**
Website: **www.bcaafc.com**

History of this guide

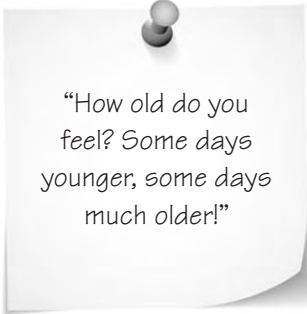
This guide builds on research and projects that span eight years.

We began with a three-year grant in 2001 from the Social Science and Humanities Research Council to the University of Victoria's School of Social Work. We wanted to find out, first, about grandmothers raising their grandchildren. We spoke to both Aboriginal and non-Aboriginal grandparents. We asked them what their lives were like, and how they came to be raising their grandchildren. We found that isolation was common, and the need for support networks high: Not one of the non-Aboriginal grandparents interviewed knew a single other grandparent who was raising a grandchild.

The researchers (Marilyn Callahan, Leslie Brown, Pat Mackenzie, and Barbara Whittington) also talked to service providers and policy makers about improving the policies that related to grandparents raising their grandchildren. Through publications in the local and national press, articles in academic journals, and conference presentations, interest in the topic grew.

That interest led to the next phase of the Grandparents Raising Grandchildren project: The University of Victoria School of Social Work research group joined with Parent Support Services Society of BC (PSS). Together, we further developed the services available to grandparents and published two versions of a resource book for BC grandparents and their service providers, called *Supporting Grandparents Raising Grandchildren*. That work was funded through the Queen Alexandra Foundation.

PSS had offered a Grandparents Raising Grandchildren support group in Victoria, but there were not many other such groups in the province. So the individuals involved in the project worked to establish support groups to serve other communities. Building on the past work of the PSS provincial programs and the research from the School of Social Work, we first published the Supporting Grandparents Raising Grandchildren resource book in 2006 and then revised it in 2007. We posted the book on the PSS website and sent it free of charge to grandparents who requested it. So many grandparents and agencies across Canada—and even internationally—have requested copies that we have had to reprint many times.



"How old do you feel? Some days younger, some days much older!"

We have also held two well-attended grandparent/grandchild gatherings—one in 2006, and the other in 2008. These conferences linked grandparents and their grandchildren, providing opportunities for learning and sharing. One boy said, “I love it here; they’re just like me!”

Another of our objectives of the latest phase of the project was to raise the awareness amongst public policy makers about the important role grandparents play in the lives of their grandchildren. In BC, for example, there are more children being raised by their grandparents than there are children in foster care (according to the 2006 census). Although the public and the policy makers seem to be more aware and understanding of the plight of grandparents raising grandchildren than they were when the project began in 2001, resources are still scarce and the number of grandparents in need of help is still growing. Clearly, more needed to happen in the legal and policy arenas to support these families.

This guide is an attempt to fill that void. It not only provides information that grandparents said was difficult to find and to understand. It also identifies areas ripe for change in the complex legal and policy maze that grandparents have to navigate. It is interesting that many of the resources included are not specifically geared to grandparents raising grandchildren—until now, this group has been called “the silent demographic.” However, with grandparents leading, the voices speaking for the grandchildren are no longer silent, and service providers, researchers, and policy makers will be listening.



Scenario A: Grandparent supports the parents so that they can continue to raise their children

"We have helped our daughter through some tough times before. Now she has two kids, both with behavioural disabilities, and she is having a hard time meeting their needs by herself. As a result, the ministry has begun an investigation. We truly believe our daughter wants what is best for her children, and with a bit of training, she would be able to deal with their behavioural issues. We want to know how we can support her so that the kids can stay with her."

Sections to read

Support for raising children and youth

Are you looking for resources to help your grandchild's parents become even better parents? Is your teenage grandchild in trouble with the law, and would you like to know how you can help? See the list of *family service agencies* on page 186 and the section on *Youth and the law* on page 47.

Learn more about the Ministry of Children and Family Development

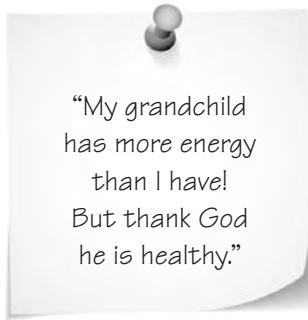
Does the Ministry of Children and Family Development have a file open to provide support for your grandchild and the parents? If so, the section on *Child protection and the ministry* on page 22 may help you understand what the ministry can offer. If, despite your best efforts, you have reason to believe that your grandchild is in danger or is not having the basic needs for food, shelter, and supervision met, you must report this to the ministry. When you do so, a social worker will investigate your concern. After looking into it, the social worker may decide that your grandchild can stay in the parental home with support services provided by the ministry, or may remove the child from the parental home. See *Child protection and the ministry* on page 22.



Scenario B:

Grandparent and parents cooperate so the grandchild can live with the grandparent.

"I know my grandson Raul needs a more stable home than his dad can provide. Raul's mother lives in Winnipeg now and his dad is having trouble recovering from his alcohol addiction. Raul's parents and I have all agreed that the best thing for Raul is for him to live with me, probably for at least a few years."



Cooperation is best

Whenever possible, the best thing for children is for their parents and grandparents to cooperate with each other to decide what is best for them. Cooperation means more support for the children and better communication for everyone. If the Ministry of Children and Family Development investigates a complaint, you should also know that the social worker may work only with the parents at first, and may favour the parents' views if there is a disagreement between a grandparent and parent. For this reason, it is best to try to make plans for your grandchild with the support and involvement of the parents.

Sections to read

Legal rights

If you are raising your grandchild full-time, you can set up certain types of legal relationships so that you have clearly defined rights. This could mean anything from adoption to getting a court to make you your grandchild's legal guardian. See *If you want your grandchild to live with you* on page 34 as well as Chapters 3, 4, and 7.

Alternatives to court

If you and the parents agree to make a legal agreement for you to raise your grandchild, you might be able to do so without going to court for a full trial. See *Alternatives to court* on page 79.

Getting legal help

It is always important to get legal advice before making a legal agreement regarding a child. For help finding a lawyer, applying for legal aid, or finding a legal advocate to help you through your legal issues, see *Getting legal help* on page 88.

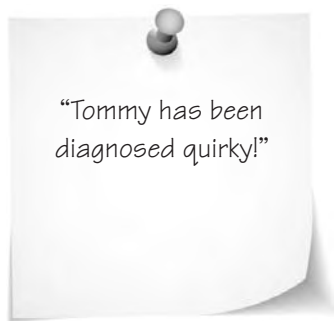
Arranging your affairs

You can learn about the financial benefits that are available, how to plan for your grandchild in the case of your illness or death, and what documents you need to have if you are legally responsible for your grandchild. See *Arranging your affairs* on page 137.

Scenario C:

The Ministry of Children and Family Development is investigating a complaint

"I heard from a family member that the ministry is investigating what's going on in my grandchildren's home. I want to help and I am willing to raise the kids, but the ministry's child protection process is confusing and I don't know what my role is as a grandparent."



Cooperation is best

Whenever possible, the best thing for children is for their parents and grandparents to cooperate with each other to decide what is best for them. Cooperation means more support for the children and better communication for everyone. If the Ministry of Children and Family Development investigates a complaint, you should also know that they may work only with the parents at first, and they may favour the parents' views if there is a disagreement between a grandparent and parent. For this reason, it is best to make plans for your grandchild with the support and involvement of the parents.

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The child protection process and the ministry

If you want to learn more about what the ministry does and how you can be involved in planning for your grandchild's care, see *Child protection and the ministry* on page 22.

Alternatives to court

If you and the parents agree to make a legal agreement for you to raise your grandchild, you might be able to do so without going to court for a full trial. See *Alternatives to court* on page 79.

Getting legal help

It is always important to get legal advice before making a legal agreement regarding a child. For help finding a lawyer, applying for legal aid, or finding a legal advocate to help you through your legal issues, see *Getting legal help* on page 88.

Using the courts

Maybe you had hoped your legal issue would stay out of court, but it did not work out that way. For information about what court to apply to or how to prepare for court, see *Using the courts* on page 104.

Scenario D:

Grandparent is raising the grandchild

"I have taken in my grandchildren at different times and in different ways. One grandchild was placed with me by the ministry after an investigation, one has been with me since she was born, and the third grandchild just arrived at my door. I need to know what should be done to ensure that the children's best interests are met, as well as how to proceed with raising them."

Sections to read

Legal rights

If you are raising your grandchild full-time, you can set up certain types of legal relationships so that you have clearly defined rights. This could mean anything from adoption to getting a court to make you your grandchild's legal guardian. See *If you want your grandchild to live with you* on page 34, as well as Chapters 3, 4, and 7.

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If you and the parents agree to make a legal agreement for you to raise your grandchild, you might be able to do so without going to court for a full trial. See *Alternatives to court* on page 79.

Getting legal help

It is always important to get legal advice before making a legal agreement regarding a child. For help finding a lawyer, applying for legal aid, or finding a legal advocate to help you through your legal issues, see *Getting legal help* on page 88.

Using the courts

Maybe you had hoped your legal issue would stay out of court, but it did not work out that way. For information about what court to apply to or how to prepare for court, see *Using the courts* on page 104.

Arranging your affairs

You can learn about the financial benefits that are available, how to plan for your grandchild in the case of your illness or death, and what documents you need to have if you are legally responsible for your grandchild. See *Arranging your affairs* on page 137.

Finding support for yourself

To find support and inspiration from other grandparents raising grandchildren, see Appendix 2 on page 157 to connect with national and international groups.

“What has helped on your journey as a grandparent raising grandchildren?”

Support group,
government agencies,
family, Centre for Ability,
other grandparents,
daycare and school
staff, MLAs, neighbors,
naturopath, counsellor,
Canada Mental Health,
all of my friends.”

Keeping records

For a variety of reasons, it is important to keep records on issues related to the grandchildren in your care. This is especially important if you have not yet applied for custody rights, since the following documentation can really support your case. Keeping a record of your expenses in relation to your grandchild may also help to show a judge or social worker the amount of financial assistance you need.

What to document

- Whenever you bring your grandchild to the doctor or dentist, have the doctor make a note in your grandchild's file along the lines of "child brought in by grandparent."
- Keep a file with bills and receipts for medical expenses you pay.
- Ask the child's teacher to note in the education file information such as "School conference attended by grandparent."
- Keep a file with receipts for school clothes and educational expenses you pay.
- Document all lessons (piano, karate, ballet, etc.) for which you pay.
- Keep receipts for groceries, rent, and anything that contributes to the child's care.
- Keep a journal of the parents' involvement, or lack of involvement, with the child.
- Keep a journal of your grandchild's development, and any significant issues you notice.
- Record important events, such as birthdays, school events, etc.
- Make a note when you have contact with social workers, making sure to include the date, the person's name, and the issue discussed.
- You may wish to keep a journal on a tape recorder and in written form (see below).

Tips for journals

- Use a bound journal rather than a loose-leaf notebook.
- Write the date of each entry.
- Note when parents visit and what happens during each visit.
- Log when parents telephone their child and comment on the child's reaction.
- Log phone calls the parents make to you. Does the parent ask about the child?
- Record the parents' behaviour when they visit or call.
- Note any broken promises the parents make.
- Include photographs of family events and list who participates.
- Write about the child's behaviour before, during, and after a parental visit.

- Document what the parents do and do not do; for example, failing to remember a birthday or holiday.
- Write what you observe when the child comes back from a parental visit, such as bruises, bed-wetting, thumb-sucking, etc.
- Record what the child says about visits with the parents.
- You should probably consult with a lawyer or advocate about what to write in your journal. It is possible that whatever you write could become public, especially if you were involved in a court case.

Wise words: tips from grandparents who have raised grandchildren

After speaking with nearly 200 grandparents across BC, we have heard many good tips on how to raise your grandchild. Below is a list of handy suggestions to ensure that your grandparent tool kit is well stocked.

"By far the best people to learn from are other grandparents raising grandchildren. Call up Parent Support Services (1-800-655-6880; toll-free) and get connected with other grandparents in your community."

"Ask for business cards from everyone you meet: social workers, lawyers, school counsellors, you name it. Keep them together in an envelope. You never know when you'll need to call someone up."

"Your grandchild's mental health worker, school counsellor, or therapist can be your biggest ally. They can be a consistent adult in your grandchild's life and keep a record of your grandchild's development. Build a good relationship with this person."

"Keep a journal of the parents' involvement, or lack thereof, with the child. Also record your grandchild's reaction to spending time with his or her parents. You may need to use this as evidence later."

"Make a note every time you talk to a government person. Write down who they are, what ministry they work for, and what date and time you spoke with them... even if you just left a voicemail."

"The best thing I did was find a lawyer who had experience working with family law issues. I shopped around a bit and found someone who really understood my needs and my grandchild's needs."

"Keep all your receipts! Any time you spend money on your grandchild, be it lunch money or dental work, file the receipts. You may need to show a record of your expenses later on."

Chapter 1

Child protection and the ministry

The resource *Parents' Rights, Kids' Rights: A parent's guide to child protection law in BC*, published by the Legal Services Society of BC, provided the bulk of the material for this section (except where noted). To get a free copy of this publication or to view it online, go to www.familylaw.lss.bc.ca and type the title into the search box on the right.

Parents' responsibilities under the law

The law says that parents must do the following for their children:

- keep them safe,
- take care of their physical and emotional needs,
- get them medical care, and
- protect them from physical, emotional, and sexual abuse.

The law also says that a parent must not abandon or neglect his or her child. It is the law in BC that anyone who has reason to believe a child has been abused or neglected—or is likely to be abused or neglected—*must* report it to the ministry or the appropriate Aboriginal delegated authority.

What is neglect?

Neglect is when parents do not provide what a child needs to be safe and healthy, such as proper food, clothes, medical care, and a safe home.

Other examples of neglect include driving drunk with a child in the car, leaving a child with someone who is too drunk or drugged to take care of them, or letting a child use drugs or alcohol. Neglect can also include leaving a young child alone at home or in a car. In general, the courts say that children under 10 should not be left alone.


What is abuse?

Child abuse can take the following forms:

Physical abuse is any physical action that results in injury to a child. It includes unreasonable punishments, such as locking a child in a room without food, water, or a toilet for a long time.

Sexual abuse is *anything* sexual that happens between a child and an adult—or a much older child. This includes sexual touching, sexual threats, making sexual photographs or videos of a child, or making a child watch sexual acts.

Emotional abuse is when an adult's behaviour or words hurt a child. This includes ignoring, rejecting, criticizing, or yelling at a child. Sometimes children live in a home where they are not physically abused, but the people in the home hurt each other. This can make a child very afraid, and it can be emotional abuse. The CFCSA says that a child is emotionally harmed if they show severe anxiety, depression, withdrawal, or behaviour that is self-destructive or aggressive.



"The ministry
came to court
on my behalf."

The ministry and Aboriginal agencies have employees called social workers who investigate complaints of child neglect or abuse very soon after they are made. (Some Aboriginal communities have agencies, called delegated authorities, that only work with Aboriginal families and may investigate reports of abuse.)

The ministry also has options in how it responds to child protection concerns. Instead of a child protection investigation, social workers can choose one of the following:

Family development response

The family development response is a way to keep kids safe with their families. If a child is at risk, a social worker will decide if the risk can be managed through support services to strengthen the family, instead of removing the child from the home.

Youth service response

The youth service response is a way for the ministry to support youth who need help through short-term services, such as youth-family mediation, mentoring, safe housing, and outreach services.

The ministry's responsibilities

The Ministry of Children and Family Development is the provincial ministry responsible for ensuring that all children, young people, and families are healthy and safe. (In this guide, we refer to it as “the ministry,” though you might also hear it called **MCFD**.) If someone has reason to believe that your grandchild is being abused or neglected, that person is legally required to report those concerns to the ministry, which will then send a social worker to investigate.

The ministry's general responsibilities include handling:

- child protection and family development
- adoption
- foster care
- early childhood development and child care
- child and youth mental health services
- youth justice and youth services
- special needs education for children and young people

The ministry says that it has three key goals:

- To make sure children and youth with special needs can and will achieve their full potential, participate in, and contribute to their communities.
- To make sure children and youth are healthy and safe in their families and communities.
- To provide a community-based service delivery system that is effectively supported and monitored.

Child protection: the basics

Nearly half the grandparents raising grandchildren that we surveyed when writing this guide had their grandchild in their home as the result of a child protection investigation by the Ministry of Children and Family Development. This section will explain the child protection process and what your options are if you want your grandchild to live with you. It will also explain how you can visit with a grandchild who has been placed in a foster home. It is important to keep in mind the following:

Get legal advice.

If the ministry becomes involved in protecting your grandchild, get legal advice. A lawyer can give you the information and confidence you will need to negotiate with a ministry social worker, if necessary. It is also important to seek the help of an advocate. Advocates can help you navigate the system, which can be intimidating and confusing without help.

Connect with other grandparents.

You can learn a great deal from other grandparents raising their grandchildren. They can tell you about services for children and youth—such as education, mental health services, or recreation—that are not provided by the ministry but instead through other community outlets.

Cooperate with the parents.


It is in the best interests of the children for grandparents and parents to cooperate with one another whenever possible. Not only does this result in more support and better communication for everyone, but in the case of a child protection investigation, the ministry may work exclusively with the parents, at least at first, and may favour the parents' views if there is a disagreement between a grandparent and parent. For this reason, it is best to plan for your grandchild's care with the support and involvement of the parents.

Work cooperatively with the social worker.

Ideally, the ministry social worker and the parents and/or grandparent work as a team to create a plan of care for the child at risk. However, this does not always work out. A good idea is to be proactive and create a clear and well thought-out plan for your grandchild's care to present to the social worker. Parents and grandparents will always know more about the child than the social worker will—the parents and grandparents are the real experts in many ways, and they have a lot to contribute to the planning process.

If you have a poor history with the ministry, work to restore the relationship.

Grandparents may have been involved with the ministry when they were parenting their own children. This past history may have a negative effect on everyone's efforts to make sure the grandchild's needs are met. It is important to show the ministry how you and your circumstances have changed. A good way to do so is to get letters from professionals who have witnessed your development, such as counsellors or therapists. Remember, if the ministry is involved in your grandchild's life, having a good relationship with the social worker is in your grandchild's best interests.



*"I received help
from the ministry
as to what
I could do and
couldn't do."*

If your grandchild is Aboriginal, keep him or her connected to the community.

If your grandchild is Aboriginal, the law and policy in BC is designed to make sure Aboriginal grandchildren remain connected with their extended family, community, and culture if they are removed from the parental home. Many First Nations are working with the ministry to provide child protection services for their own people. Contact your band office to find out more about how the ministry works with your community. More information about this is provided on pages 28–30.

Your role as a grandparent



Usually, grandparents can tell their children are not coping well as parents. Grandparents describe this time as the “waiting, watching, worrying” phase. You can have a big role to play at this point in your grandchild’s life, and the ministry is increasingly recognizing the importance of the grandparents’ role.

One of the ministry’s top priorities when finding a safe home for a child is to preserve family ties. If the child is Aboriginal, preserving the child’s cultural identity is also really important. If a child is about to be removed from the parents’ home, a social worker has to consider the least disruptive measures *first*. Sometimes this means a social worker will call family members, like grandparents, to ask if they can take care of the child.

We have heard from many grandparents that after they agree to take in their grandchild, the ministry offered no further support. If you need help, this should not happen. It is in the best interests of all children for them to receive the support they need to lead healthy lives and become full participants in society. If you need additional resources to meet your grandchild’s needs, talk about this with your grandchild’s social worker. For instance, if your grandchild needs counselling, the ministry should provide it.

If you can tell that your grandchild’s parents are not coping, here are some suggestions to make sure you are involved in the planning process for your grandchild’s care, should the ministry become involved:

- **Whenever possible, stay in touch** with your grandchild, the parents, and your grandchild’s social worker. The ministry has no obligation to contact grandparents when a child protection investigation begins, although they may do so to learn more about your grandchild’s well-being. If you want to contact your grandchild’s social worker, call the ministry office nearest you or ask an advocate for help.
- **Ask to attend meetings with the social worker.** If the parents agree, you can attend all meetings with the social worker, because the social worker is responsible for making a plan of care for your grandchild.
- **Learn how you can create a permanent home for your grandchild.** If it does not seem like the children will return to the parent, ask the social worker what your options are for the child to live with you, such as restricted foster care (page 36) or a kith and kin agreement (page 36).

- **Get legal advice.** If possible, seek help from a lawyer or advocate when trying to reach an agreement with the ministry. They can tell you your options according to the facts of your situation.

The law that governs child protection

In BC, the Child, Family, and Community Service Act (CFCSA) provides rules about how to protect children. This act is a guide for ministry social workers, lawyers, and judges to help them make sure that children are safe. It gives seven principles for these people to follow when making decisions that will affect children:

- Children are entitled to be protected from abuse, neglect, and harm or threat of harm.
- Parents are responsible for making sure their children are safe, first and foremost, and a family is the preferred environment for the care and upbringing of children.
- If available support services would help a family provide a safe and nurturing environment for a child, the government should provide the family with those services.
- Children’s views should be taken into account when decisions relating to them are made.
- Kinship ties and children’s attachment to their extended family should be preserved if possible.
- The cultural identity of Aboriginal children should be preserved.
- Decisions relating to children should be made and implemented in a timely manner.

Although these principles are a good starting place for making decisions about children’s lives, the law says that children’s safety and well-being must remain the *number one* priority when there is a concern about their care. That means that, although it is important to try to keep children with their families, for example, the court can take them away from their parents if there is a risk that they would be neglected or harmed if they were to stay at home.

The law that governs child protection says that the court must consider children’s best interests in the following situations:

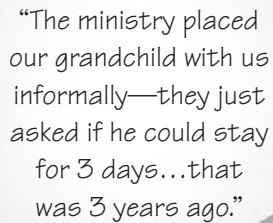
- at the protection hearing
- before making a continuing custody order
- when deciding whether to grant parents access to children who are in the temporary custody of the ministry (these orders are usually granted unless the court is satisfied that access is not in the children’s best interests)

For more information on what the court considers when deciding what is in children’s best interests, see the next page.



The best interests of the child

The law in Canada requires that courts and social workers place the **best interests of the child** above every other consideration whenever they have to resolve a dispute involving a child. In the past, the law treated children as the property of their birth parents, but now the focus is on what is best for the child. This means that the court and the ministry will consider the wishes of parents and others, but those wishes must be set aside if they conflict with the child's best interests.



"The ministry placed our grandchild with us informally—they just asked if he could stay for 3 days...that was 3 years ago."

The ministry and the court decide what is in the child's best interests by first looking at the child's needs and circumstances, and then considering the parents' (or grandparents') ability to meet those needs. This process is very fact-specific, meaning that each case is decided on its own set of facts.

Different laws regarding children define what is in a child's best interests in different ways. There is a law called the BC Family Relations Act (FRA), which deals with custody, guardianship, and access, among other things. It says that when a court makes, changes, or cancels a court order that involves a child, it must give *top* consideration to the best interests of the child.

Section 24 of the FRA has a list of factors that judges must consider when deciding what is in a child's best interests:

- the child's physical and emotional well-being, including any special needs for care and treatment;
- the love, affection, and similar ties that exist between the child and other people (relatives and non-relatives alike);
- the child's views (if appropriate);
- education and training for the child; and
- the ability of each person who has guardianship, custody, or access rights to exercise those rights adequately.

The act also says that, if someone is seeking custody, guardianship, or access, the court should only look at that person's "conduct" if it relates to his or her ability to care for the child or provide the child with a safe home.

The FRA recognizes that some factors will be more important than others, depending on the child's needs and circumstances. It recognizes a grandparent's role in the best interests of a child in two ways:

- the connection between a child and other people, including grandparents, and
- the ability of a person, including grandparents, to care for a child.

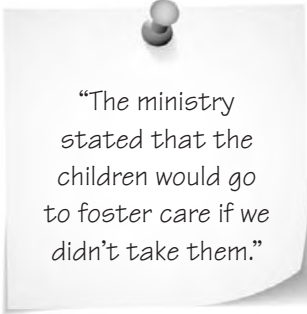
When the Ministry of Children and Family Development investigates a report of child neglect or abuse, the law that guides the process is the BC Child, Family, and Community Service Act (CFCSA). This act does not always prioritize a child's best interests in the same way as the FRA. It says instead that a child's safety and well-being must be given top consideration. However, in certain circumstances the CFCSA is just like the FRA, and it says the court must consider the child's best interests first, with the child's safety

considered as one of several factors that help a court determine what a child's best interests might be.

Best interests of Aboriginal children

In BC, both the Adoption Act and the CFCSA specifically say that “the importance of preserving a child's cultural identity” is one of the factors that a court must keep in mind when deciding what is in an Aboriginal child's best interests. The law considers this especially important when children are adopted and when a child is placed in another home removed from the parental home because of a concern for their safety. The courts have ruled that when someone who is not Aboriginal applies to adopt or gain custody of an Aboriginal child, the law has to find a balance between honouring the bond that exists between the child and the non-Aboriginal person and preserving the child's cultural identity.

What this means is that it can sometimes be difficult for non-Aboriginal grandparents to adopt their Aboriginal grandchildren, or to gain custody of them. If you find yourself in this situation, talk to an advocate for help. See page 95 for more information on advocates.



“The ministry stated that the children would go to foster care if we didn't take them.”

Child protection and Aboriginal communities

The LSS publication *Aboriginal People and the Law in BC* provided most of the source material for this section, and parts of it are taken directly from that resource. To get a free copy or to view it online, go to www.lss.bc.ca and type the title into the search box.

First, it is important to acknowledge that indigenous families have suffered the removal of their children for generations. Child removal and the residential school system are seen by many as an attempt by the federal government to destroy indigenous culture. The negative effect of these policies can still be seen in the high percentages of Aboriginal children in the government's care.

In BC, the Ministry of Children and Family Development has tried in recent years to get more indigenous community input in the child protection process. It is the law in BC that the ministry should make it a priority to place Aboriginal children in care with Aboriginal foster families, ideally with a family from the child's own band. Non-Aboriginal foster families are only asked to foster Aboriginal children if an Aboriginal home is not available.

According to the Child, Family, and Community Service Act, the provincial law that governs child protection:

- Preserving cultural identity is part of an Aboriginal child's safety and well-being, is in the best interests of the child, and is a necessary consideration in a plan of care for the child.
- Aboriginal communities should be involved in the planning and delivery of services to Aboriginal families and their children.
- Appropriate Aboriginal organizations must be notified of child protection proceedings involving Aboriginal children.

- Designated representatives of Indian bands, Aboriginal communities, and the Nisga'a Lisims government are entitled to be parties to a child protection hearing for a child from their community.

It is also the law that the ministry must keep a child's Aboriginal community and band involved and informed when it carries out a child protection investigation and if it schedules a hearing.

The law also says that, if a child is removed from the home, the ministry has to notify a certain representative of the child's Aboriginal community, band council, or tribal organization (check schedule 2 of the CFCSA to find out who will be notified in your grandchild's particular case). If the representative decides to participate, he or she has a special status when it comes to the hearing, and he or she has a right to:

- receive all records and information
- speak at the hearing
- call witnesses and question other witnesses
- participate in any mediation
- propose support for the child's parents or suggest another culturally appropriate plan for the care of the child.

Delegated authority

In addition, several bands now provide child protection services for their communities themselves through a **delegated authority**. These community-based indigenous agencies share authority with the ministry to oversee child protection services. The amount of responsibility each agency has varies. It is determined by negotiations between the ministry, the federal government, and the indigenous community.

Currently, Aboriginal children make up more than half of all children in care in BC, even though Aboriginal people are only 12% of the province's population. Many people believe that the government's historical interference in indigenous families is to blame. Delegated authority is a way to break the cycle and return the traditional responsibility for child care to indigenous communities, so that children can be protected *within* their extended family, community, and culture, instead of being removed from it.

According to the ministry, as of March 2009, there are 24 delegated agencies with various levels of responsibility. They handle child protection for the children in 156 of the 198 First Nation bands in BC that either have delegation agreements with the ministry or are actively planning them. A list of bands with delegated authority and their contact information can be found at: www.mcf.gov.bc.ca/about_us/aboriginal/delegated/pdf/agency_list.pdf

To find out more about delegated authority for your family or your community, call the ministry's Aboriginal Regional Support Services at 250-387-7073.



If your grandchild is Aboriginal

Social workers who work for indigenous agencies know their communities well and work within the community to support children and families. You may want to get in touch with the child services agency in your (or your grandchild's) community to see what level of responsibility it has for protection and support services.

Although services will differ from one delegated authority to the next, most agencies provide services that are culturally based to make sure children who are at risk stay connected to their indigenous communities. If you are an indigenous person yourself, you may be familiar with the agency in your community. If you are not, but your grandchild is Aboriginal, you can call or stop by the agency to get to know the people who work there.

Investigations

When social workers first get a report of child neglect or abuse, they do something called an **assessment** within a few days. The social worker will ask questions, gather information, and make a decision about whether the ministry needs to keep looking into the reported concerns.

The actual time it takes depends on the situation. Some cases end after a short assessment. The social worker may decide there is no problem, or that the parents would be able to manage any problems with a bit of help from the ministry and the child can stay at home. (The ministry calls this a **family development response**.) Occasionally, people make a report because of a simple mistake or because they just want to get the parents in trouble, not because there is a real problem in the home. If the social worker finds that the child is actually at risk, however, the ministry must investigate.

If you need to contact the ministry, use one of the phone numbers below.

The Ministry of Children and Family Development

General inquiries

In Victoria: **250-387-7027**

Elsewhere in BC: **1-877-387-7027** (toll-free).

Website: **www.gov.bc.ca/mcf**

Email: **MCF.CorrespondenceManagement@gov.bc.ca**

After-hours emergency line

For emergencies outside of office hours, you can call the ministry anytime at: Vancouver, North Shore, and Richmond: **604-660-4927**

Lower Mainland from Burnaby and Delta in the west to Maple Ridge and Langley in the east: **604-660-8180**

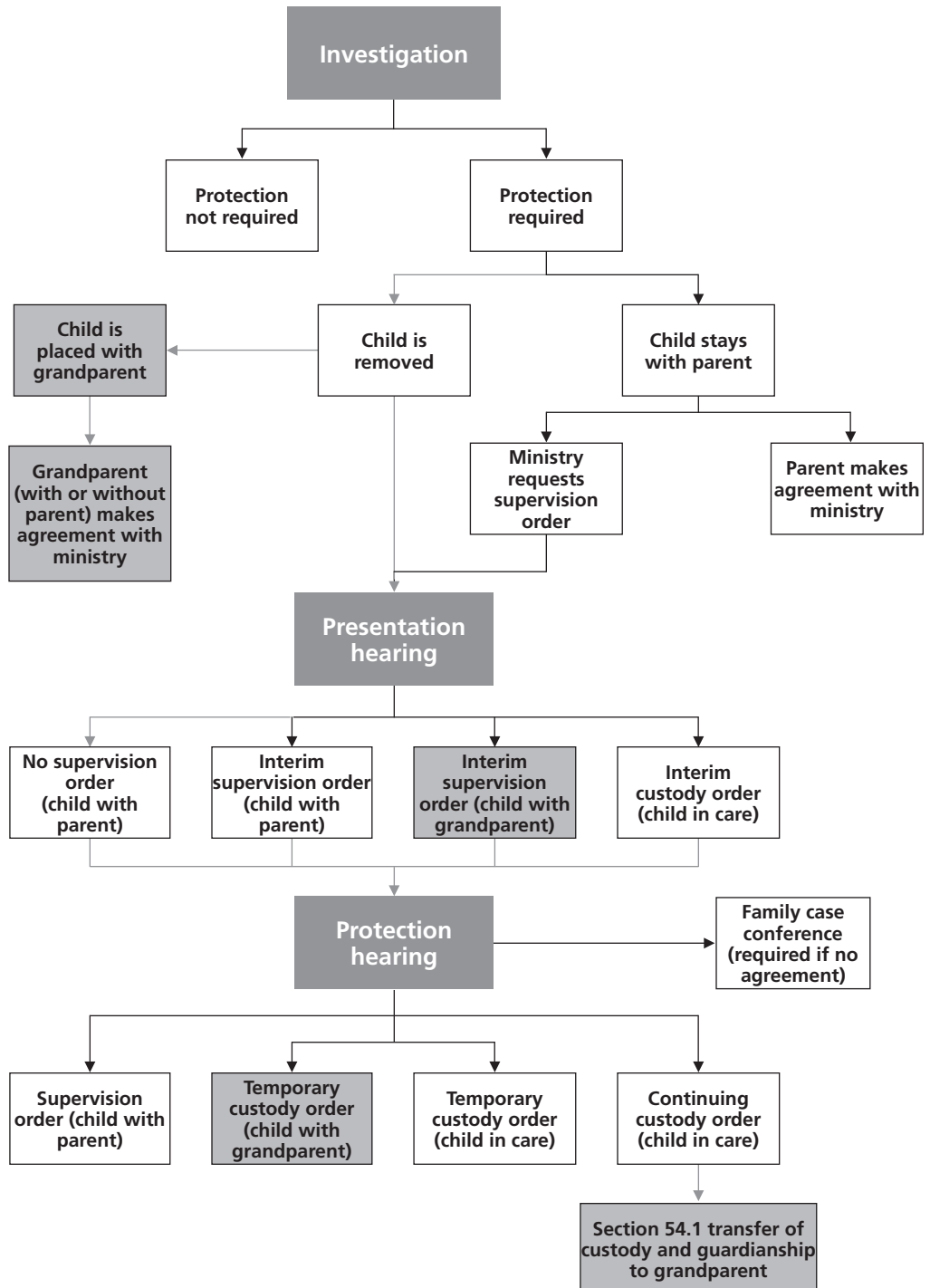
Elsewhere in BC: **1-800-663-9122** (toll-free)

Child Care Programs and Services Call Centre: **1-888-338-6622** (toll-free)

Aboriginal Regional Support Services: **250-387-7073**


Flow chart of the child protection process

The CFCSA is the law that is followed when an investigation begins and when a child protection case goes to court. That means that any order a judge makes regarding a child protection case brought by the ministry will be made according to this act. The flow chart below is from the LSS publication *Parents' Rights, Kids' Rights*, and has been modified to show where grandparents can play a part (see darkened boxes). It gives you an overview of the process that is set in motion by an investigation. This process is explained in much more detail in the chapter *Child protection and the court process*, which starts on page 73.



Powers of social workers

The law gives social workers certain powers when they investigate a report of child neglect or abuse. During an investigation, the social worker talks to your grandchild and people who know your grandchild, such as teachers, day care workers, etc. The social worker will review any paper work, like school reports, that might provide information about your grandchild's safety. A social worker can also go to the child's home at any time and ask to see the child.



"The parents agreed to place the child in our care."

If a social worker has reason to believe a child is in immediate danger, he or she can remove the child without warning. However, before taking this step, the ministry must consider any less disruptive ways in which it could act to make sure the child is safe. If the case goes to court, the judge will ask the social worker to explain the reasons for removing the child.

If you, the grandparent, are involved in the investigation, here are some things you might do to be helpful:

- Try to cooperate with ministry staff. Be as calm and respectful as possible when presenting your information and suggestions.
- Come up with a reasonable and workable plan that is least disruptive for your grandchild during the investigation, and suggest the plan to the social worker.
- Gather and preserve evidence to support your plan or case. Make notes of all meetings and events. Try to think ahead about what evidence you will need to support your case, and do not let it be lost. (For example, if you need to prove that you or someone else was drug-free over a period of time, take regular samples of hair for testing or get regular drug tests.)
- Be honest. Your credibility will be important if the case goes to court. It will also be important when it comes to future dealings with the social worker.
- Avoid telling the social worker more than you need to. Find the emotional support you might need from friends, advocates, or other social service agency personnel.
- Contact a lawyer to get legal advice as soon as you can. Each situation is different, so it is important to know your rights and options. More information about lawyers and legal aid is provided on page 88.
- Connect with community advocacy and support groups as soon as possible.
- Keep a journal of events, dates, times, and social workers' names.

It is a good idea to tell the social worker that you want to attend all meetings about your grandchild, and to exchange contact information. However, you can only participate in the meetings if the parents agree to let you do so. Social workers will generally consider it most important to work with parents, because the goal is to support parents and children so that children are safe in their families.

For this reason, it is really important to have a good relationship with your grandchild's parent. If you know your grandchild has a social worker in the ministry, you should be able to leave your contact information with that person so that you can have input into your grandchild's care. Tips on how to work well with your grandchild's social worker can be found later in this chapter.

Guidelines for social workers

Social workers must follow these guidelines:

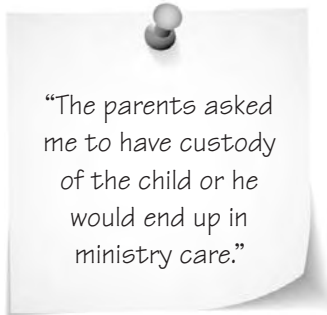
- The child's safety must always come first.
- The best place for children is usually with their family.
- Aboriginal children should stay in their communities whenever possible.
- If appropriate, the child's opinions should be considered when deciding what should happen.
- If support services would help a caregiver take care of a child, the ministry should provide those services whenever possible. Examples are child care, counselling, and parenting classes.

Possible outcomes of an investigation

At the end of an investigation, the social worker may decide one of three things:

- **Your grandchild does not need protection.** If this happens, the file may be closed and the ministry will not do anything more. Maybe your grandchild is safe, but the family would do better with support services, such as counselling. In this case, a social worker should offer to provide or refer the family to support services (see page 86 for more information). Be sure the child's parents keep a copy of the letter the ministry sends telling them that the file is closed.
- **Your grandchild needs protection, but is not in immediate danger and can stay with the parent.** If this happens, the social worker will make a written agreement with the parents that outlines what changes have to be made to keep the child safe at home. The ministry can also ask for a supervision order to keep an eye on the parents and child. It would do this at a presentation hearing (see page 73). The supervision order may include conditions the parents must follow to keep the child at home.
- **Your grandchild needs protection and must be removed from the parental home.** If this happens, you can make an agreement with the ministry for you to care for your grandchild. You can do so without going to court. If your grandchild's case has already proceeded to court, the judge may award you custody if you ask for it and it is in the child's best interests. For much more information on these options, see the chapters on child protection and the court process (starting on page 73) and alternatives to court (starting on page 79).

When children must be removed from the parental home and cannot be placed with a relative, the ministry places them in a regular foster home. If this is the case, be sure to ask the social worker for visits with your



grandchild. It is also important to encourage the parents to visit the child, in order to keep a positive connection. It may prove to the court that the parents are committed to making the necessary changes and learning to provide a good home for the child.

If you want your grandchild to live with you

It is helpful to have an overview of a few different ways that the ministry can place your grandchild with you if it is investigating concerns about your grandchild’s home life. The rest of this chapter gives more information on the following options. If you want your grandchild to live with you, you can:

Make an agreement with the ministry (see page 34)	Ask for custody at the child protection hearings (see page 73–77)	Apply for custody under the Family Relations Act (see page 55)
<ul style="list-style-type: none"> the ministry will close their file; you can apply for CIHR benefits you can make a kith and kin agreement you can become a restricted foster parent you can sign another type of written agreement that gives you custody <p>Note: the parent will usually need to be involved in an agreement.</p>	<ul style="list-style-type: none"> you can get interim custody at the presentation hearing you can get temporary custody at the protection hearing if your grandchild is in the continuing custody of the ministry, you can apply to have custody and guardianship transferred to you <p>Note: the above orders are made under the CFCSA.</p>	<p>If you want custody but you do not want the ministry involved, you can apply under the FRA while a child protection hearing is ongoing. A family court judge will hear both the FRA application and the child protection proceeding at the same time.</p>

Agreements with the ministry

You can make an agreement with the ministry for you to care for your grandchild after you have been notified that the ministry is concerned for your grandchild’s safety or when the child protection case has already gone to court. Social workers are supposed to work with you to reach an agreement rather than take a case to court. If you can reach an agreement, your case will end much faster. Grandparents are able to negotiate with social workers to create a plan that works best for them and their grandchild. Before signing any agreement, make sure you speak with a lawyer or legal advocate. If your grandchild has special needs, be sure to see the next section as well

(starting on page 39) for information on the different support services the ministry might provide you with if it places your grandchild with you.

There are a few different ways that grandparents can arrange for their grandchild to live with them. Each approach has its own benefits and drawbacks. Under the ministry's current policy, there is room for social workers to be creative when making agreements for children to live with grandparents. Here are a few possibilities:

- get the ministry to close the investigation file and place your grandchild with you informally
- negotiate a kith and kin agreement
- become a restricted foster parent

Close the file (and apply for CIHR)

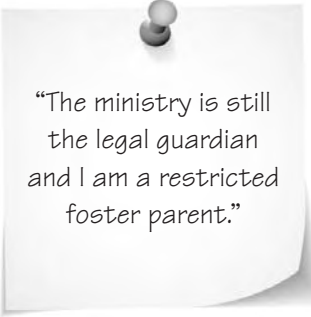
The social worker may decide that once the child is placed with you, the child is safe and the ministry no longer needs to be involved. If you need financial help, the social worker might refer you to the **Child in the Home of a Relative (CIHR or relative benefits)** payment, provided by the Ministry of Housing and Social Development (MHSD). To get CIHR, the parents must agree for the child to live with you. For Aboriginal families who live on reserve, there is a benefit you can get instead of CIHR called Guardian Financial Assistance. For more information, see page 121.

If you decide to apply for this benefit, the social worker will probably close the investigation file. The positive outcome would be that the ministry will no longer be involved with your family. However, the monthly CIHR payments are much less than foster care payments, and they may not be enough to cover the extra costs of raising your grandchild. Once the file is closed, the ministry is no longer responsible for giving you support services to take care of your grandchild (beyond the CIHR payment that you receive from the other ministry). See page 119 for more information about CIHR benefits—who can get the benefit, how to apply for it, and how much money it would provide your family with each month. There is a new screening process in place that you need to know about before you choose this option.

Just to clarify, there are also service delivery files that a social worker can open during or after an investigation. An investigation file may be closed, but a service delivery file may be opened at the request of the grandparent. The service delivery file is just for the delivery of services, such as counselling and child care.

If you return your grandchild to the parents after the ministry has placed the child in your home, you may risk losing credibility with the ministry. It is important to speak with a social worker about the circumstances in which you are allowed to return your grandchild to the parents before the file is closed.

See page 119 for more information on the monthly rates available under CIHR and how to apply.



"The ministry is still the legal guardian and I am a restricted foster parent."

Sign a kith and kin agreement

A kith and kin agreement is made between a social worker and a child's relative to allow that relative to care for the child. Agreements can also be made with non-relatives who are close to the child or who have a cultural or traditional responsibility for the child. Under a kith and kin agreement, the child is not in the ministry's care; the parents keep legal guardianship, and day-to-day care of the child is transferred to the person named in the agreement. Kith and kin agreements are designed to be short-term, but they can be renewed if needed.

The ministry introduced kith and kin agreements in 2003 as a way to keep at-risk children with their families and communities, instead of placing them in foster care. This creates less disruption for the child and preserves the child's connection to extended family and community. Kith and kin agreements are known by a few different names, such as "kinship care agreements" or "section 8 agreements" (this last name refers to the part of the law, the CFCSA, which makes the agreement possible).

Kith and kin agreements are only temporary. They do not last more than a year, and the ministry usually makes them with a relative when it plans to return the child to the parent. Agreements can be renewed for periods of up to a year. Although your grandchild will not be in the ministry's care, a social worker may supervise the agreement to make sure your grandchild's needs are being met. To be eligible to care for a child under this kind of agreement, you must undergo a criminal record check and a home assessment.

Not all social workers have experience with kith and kin agreements. Nevertheless, you should ask about one if you think this is the right option for your family.


A kith and kin agreement may work well for you if:

- you prefer that the parents keep legal guardianship of your grandchild;
- you hope your grandchild can return to the parents in the short term;
- you want to encourage the parents to remain in contact with your grandchild and be involved in planning for your grandchild's care; and
- you are prepared to negotiate with the ministry to get the right support services to make sure your grandchild's needs are met.

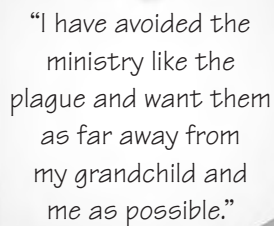
The amount of financial help and the extent of support services grandparents get to care for their grandchildren under a kith and kin agreement is less than what foster parents get. See page 123 for more information about the financial support available under these agreements.

Become a restricted foster parent (family home care agreement)

Restricted foster care is like regular foster care, except the foster parent is related or known to the child. If you become a restricted foster parent, your foster agreement is "restricted" to your grandchild. This means the ministry will not ask you to foster other children, only your grandchild.



"The ministry took a long time, but eventually came through."



“I have avoided the ministry like the plague and want them as far away from my grandchild and me as possible.”

You get the same financial assistance and support services as regular foster parents. When you agree to become a restricted foster parent, you enter into something called a **family home care agreement** with the ministry.

Restricted foster care can be temporary at first, but it is generally more permanent than a kith and kin agreement. Restricted foster care is a long-term option, often used when a child is in the continuing custody of the ministry (see page 76 for a definition of continuing custody). With restricted and regular foster care, the ministry holds legal custody and guardianship of the child, and day-to-day care of the child is transferred to you. This means the social worker has the legal authority to make major decisions about your grandchild’s education, healthcare, and upbringing. This also means that while your grandchild is in restricted foster care, the ministry’s Director of Adoption can consent to place your grandchild for adoption—with you or with someone you do not know.

You can become your grandchild’s foster parent at any stage of the child protection process. To become a restricted foster parent, you might have to go through the same orientation, home assessment, and approval process as regular foster parents. The length of this process varies, but you might get approval much more quickly than a regular foster parent.

A restricted foster care agreement may work well for you if:

- You want to give the child’s parents a break from caring for their child, or you want to care for your grandchild on a temporary basis, and you need a certain amount of financial assistance and support services to be able to do so.
- There is little chance that the parents will be able to care for the child again and the court has ordered that the child be placed in the continuing custody of the ministry (in this case, the foster care you provide will be more permanent.)
- You prefer for your grandchild be raised by family members instead of regular foster parents.
- You are willing to accept the ministry’s involvement in your family’s life so that you can get financial support and access to services.
- You will need the support of other caregivers who care for at-risk children, such as the BC Federation of Foster Parents or the Federation of Aboriginal Foster Parents.

One advantage of having a restricted foster care agreement with the ministry is that you receive monthly payments and have access to a wide range of established support services. Unlike kith and kin agreements, foster care in BC has been around for a long time and social workers are very familiar with the services and options available to you. The obvious downside is that you have no legal authority to make major decisions for your grandchild, except for those which you are able to make with the social worker.

See page 123 for more information on the support rates available under a foster care agreement.



Transition to legal custody

If you enter into one of these agreements and you decide later on that you want to take care of your grandchild on a more permanent basis, you can usually apply for legal custody under the Family Relations Act. (However, if the ministry starts a child protection court case and tries to get a continuing custody order, your options could become limited. If they succeed in getting the continuing custody order, you will only be able to change your mind and get custody later if the ministry agrees, or if you were a party to the original court case.)

If you get custody later under the FRA, the ministry will no longer provide the support services that you received during the child protection process unless you make another agreement to receive them.

If your grandchild is in the continuing custody of the ministry (long-term regular or restricted foster care) and you decide that you want custody, you can ask the social worker to transfer custody to you under section 54.1 of the Child, Family, and Community Service Act. If the ministry agrees, you will then have full custody and guardianship rights of your grandchild.

Ways to reach an agreement

If you are in the meetings with your grandchild's social worker, anytime during the process you can suggest that the social worker arrange the following:

- a family group conference
- mediation
- traditional decision-making (for Aboriginal communities and other cultures)

Much more information about agreements and how to reach them can be found in the chapter *Alternatives to court* on page 79. If you reach an agreement through one of these methods, you do not have to go to court. If your case has already gone to court, you can still suggest any of the above alternatives. If everyone is able to come to an agreement, the court proceeding will end because the judge will make a consent order that reflects the agreement you reached.

If your case has already gone to court, you also have a fourth option, a family case conference. You can request one of these, or the Provincial Court judge may order you, the social worker, and the parents to attend one of these, an informal one- to two-hour meeting with the judge to see which issues you can agree on. Before you attend the meeting, write up a plan about what to do to make sure the best interests of your grandchild are served. This will help to focus your thoughts.

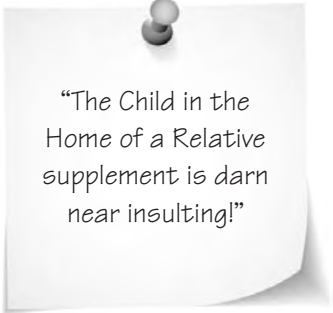
Services the ministry provides to children with special needs

If the ministry places your grandchild with you and he or she has special needs, the ministry is supposed to provide support services to help you take care of those needs. Children under age six normally receive these services directly from the ministry, unless your grandchild has a developmental disability. In that case, and for children over age six, an independent organization called Community Living BC will provide the planning support and family support services (funded by the government) for children with developmental disabilities (including Autism Spectrum Disorder) who require life-long support.

Following is a list of services provided to make you aware of what you can and should ask for to meet your grandchild's needs. Remember: the ministry has a responsibility to provide for the children it places in your care. We have been told by many grandparents that these services can be difficult to access, but we advise you to be persistent. Of course, not every community will have every service.

Developmental services

- Infant Development Program and the Aboriginal Infant Development Program: provides home-based services to families with infants up to age three who are at risk of developmental delay or who have a developmental delay
- Supported Child Development: helps fund the extra supports children with special needs require to participate in pre-school and child care settings
- Early Intervention Services: provides community pediatric speech/language pathology, occupational therapy, and physiotherapy services
- Early Intervention for Children with Autism Spectrum Disorder (ASD): intervention and treatment programs for children under age six diagnosed with ASD. Includes programs delivered by agencies and through direct funding
- Extended Autism Intervention: direct funding for families of school-aged children with ASD, to purchase autism intervention services for out-of-school hours
- Behavioural Support for Children with Autism: determines behavioural goals, develops plans and the systematic use of Applied Behavioural Analysis procedures. May also include services targeted to a child's specific needs and follow-up with families and caregivers
- Summer Program for the Deaf/Blind: provides services to ensure deaf/blind students maintain skills gained through the school year
- School-Aged Therapy Services: provides some school-based occupational therapy and physical therapy services to school-aged children with special needs



"The Child in the Home of a Relative supplement is darn near insulting!"

- Community Brain Injury Program: plans, co-ordinates, and funds short-term, acute rehabilitation services for children with acquired brain injuries when no other funding is available; also facilitates their re-entry to communities throughout BC as they leave acute care facilities

Support services



- The At Home Program: provides medical and/or respite benefits for families of children with severe disabilities and/or complex health needs and who are cared for at home
- Respite Services: offer families some relief from daily care of children with special needs. Services may include recruitment, training, and/or monitoring of respite caregivers, matching families and caregivers, and the provision of respite services
- The Associate Family Program: secures community-based, quality family living for children with multiple disabilities. The program matches associate care-giving families (who are trained, supported, and paid to provide full- or part-time care) with children with multiple disabilities and complex needs whose natural families are unable to assume their ongoing care
- Nursing Support Services: a provincial program that supports children and youth with special health care needs and their parents by providing comprehensive nursing services in their home, school, and child care settings. These services include assessment, planning, intervention, coordination, and evaluation of care
- Children and Youth Care Worker Services: provides children and families with a specialized child care worker who helps the child learn social and life skills, and/or helps the family to learn parenting/child management skills
- Homemaker/Home Support Worker Program: provides household management or child care services for families of children with special needs or families requiring support to become/remain independent
- Parent Support for Families: provides a range of community-based services, including parent support groups, parent skills training, and counselling
- Professional Support Services for Children with Special Needs: specialized assessment and planning to help families, service providers, and ministry staff provide effective services for children with special needs
- Provincial Programs for the Deaf/Blind: provides a variety of direct and contracted services to children, youth, and their families. Key programs include family and community development services for deaf, deaf/blind, and hard of hearing clients, and services for blind or visually impaired children and their families.

If the ministry removes your grandchild

If the ministry removes your grandchild from the parental home, here are some things you can do:

- **Get legal help.** Talk to a lawyer or advocate as soon as you can. If you cannot afford a lawyer, you might qualify for legal aid. See page 88 for more information and contacts.
- **Be involved in creating a plan of care for your grandchild.** When your grandchild's case goes to court (at the protection hearing stage), the social worker must present what is called a **plan of care**—that is, a plan for how your grandchild will be cared for during the court process and possibly after. Sometimes the parents help create the plan. As a grandparent, you can ask to be involved too.
- **Go to the court hearings.** It is important to go to court to show the judge you care about your grandchildren and that you are able to provide care for them.

If you go to the hearing and you want to speak to the court, ask the court to make you a “party to the proceeding.” It means you can speak and ask questions in court, and you can also present any evidence you think is important. Duty counsel can help you with this. (They are lawyers who work at most courthouses who are available to give you free legal advice, assist with paperwork, and sometimes speak for you in court. However, their help is informal and they do not take on cases long-term.)

- **Ask for visits with your grandchild.** If your grandchild will be in foster care during the court process, ask the social worker for visits with your grandchild. This is called **access**. It is important to your grandchild that you visit during this time, and will show the social worker and judge that you care about your grandchild's well-being.

If your grandchild is in interim or temporary custody of the ministry, you can apply for access under section 55 of the CFCSA. Discuss this with the social worker or a lawyer.

Keep your own records of when you have talked to or spent time with your grandchild. This is to show a judge that you've remained connected to your grandchild, and it will help if you want custody of your grandchild later on.

- **Consider getting legal help for your grandchild if they are 12–18 years old.** Children this age are asked whether they agree with a court order about where they will live and who will look after them. The court order is based on the plan of care the social worker makes for your grandchild. Children age 12–18 have the right to speak with a lawyer for free before consenting to a court order. You or your grandchild can ask a social worker to set up an appointment for your grandchild to get legal advice if your grandchild's voice is not being heard.

Tips to help you work well with the social worker

- **Bring someone with you** to meetings with the social worker who can provide you with support. This could be a trained child protection advocate, a friend, a relative, a member of your cultural or religious community, or your grandchild's school counsellor or teacher. If this person is an adult with a consistent presence in your grandchild's life, it will help to show the social worker that your grandchild has a support network. Keep in mind that the person who comes with you may play a big role in planning for your grandchild, so choose wisely.

An advocate can teach you about the child protection process, and also help you to advocate for your grandchild's needs. These services are free. See page 96 for more information about how to find an advocate.



"The ministry needs training for social workers to recognize GRG who have never been in the system and need help to navigate it. When we found a good social worker, she was a treasure and we were thankful."

- **Learn about the support services that are available.** There is a lot of help available out there, but it can be a challenge for a social worker to research everything and set it up for you. To make sure you are getting all of the help you can, look at the ministry's website so that you know what to ask for: www.mcf.gov.bc.ca.

Usually grandparents get support from other places too, such as their grandchild's school, the public library, recreation centres, mental health centres, or other government ministries. The best way to find out about available services is to learn from other parents and grandparents. Sign up for a grandparent support circle or a parenting course to learn more. Call Parent Support Services for more information: **1-800-665-6880** (toll-free), or find them on the web at www.parentsupportbc.ca.

- **"It's in my grandchild's best interests."** It is important to use this phrase whenever you speak to people at the ministry, since your grandchild's best interests are also a top priority for them. Using this phrase will build common ground with the social worker and others who make decisions for your grandchild.
- **Be persistent.** The very best way to make progress with the ministry and their social workers is to be persistent. Keep trying with a positive attitude. Remember that if what you are asking for is in your grandchild's best interests, you have a winning argument.
- **Ask to speak to the team leader or supervisor.** All social workers work under a team leader. If a social worker cannot answer some of your questions or if you are not happy with how this person is handling your file, ask to speak to the team leader. Be sure to do this respectfully, since you will most likely have to continue working with the social worker in the future.
- **Keep a record.** Always make a note of whom you spoke with and when, as well as what was discussed and agreed upon. This will help you remember details, and if you need to file a complaint, your notes will come in handy. Many people find it useful to keep all of their notes in a single notebook or binder.

- **File a complaint.** The ministry has a very helpful complaint process. Many grandparents have been successful in getting what they need by filing a complaint. More information about the complaint process is provided in the next section.
- **Get help from the Representative for Children and Youth.** The representative's office can be an important advocate for your grandchild if you are not receiving what you need from the ministry. This help is free. See below for more information.

Common goals of grandparents and social workers

One final and important tip is to look for common ground with the social worker. Below is a list of common goals and experiences of grandparents and social workers.

Common ground:

- the grandchild's best interests are a top priority for both grandparents and social workers;
- both want the grandchild to be safe and happy;
- both want the grandchild to have a loving home;
- both believe in keeping families together;
- the system wears out both grandparents and social workers;
- when children are removed from the home it is emotionally painful for both.

Complaints about the ministry



If you disagree with a decision or action of the Ministry of Children and Family Development, you can file a complaint. This is an option whether you feel a decision was unfair or you think you were treated unfairly. The following section has an overview of the steps to take if you have a complaint with the ministry or one of its service providers.

Please note that more detailed information can be found on the ministry's website at: www.mcf.gov.bc.ca/complaints/index.htm

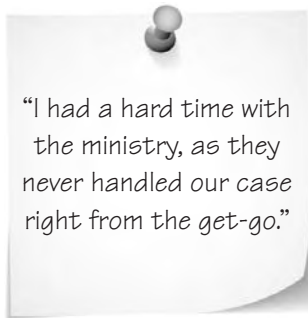
You can make a complaint if you are:

- A child or youth receiving or entitled to receive services
- A family member or caregiver complaining about their own treatment or their family member's treatment
- A foster parent complaining on behalf of a foster child
- A person acting on behalf of a child or trying to get services for a child (such as a teacher, doctor, or foster family)

Complaints can be made if you feel the social worker or the ministry:

- did not treat you with respect, dignity, and fairness
- was insensitive to your culture, or your grandchild's cultural heritage

- unfairly denied you services
- provided services that were of low quality
- did not tell you what to expect in your dealings with them
- did not involve you in case planning and decision-making about a child in care, but should have
- did not respect the rights of a child in their care (see the booklet *Your Life—Your Rights*, published by the Federation of BC Youth in Care Networks, available online at www.fbcyicn.ca/_resources_and_links/119/your-life-your-rights).



Generally speaking, when you have a complaint, the first step is to try to talk it over with the ministry social worker or the service provider. You can phone, fax, or go in person to the ministry office to discuss your concerns and try to solve the problem. Be sure to take notes about what happened. Write down the date and time, the person's name, what you requested, what they said, and what, if anything, they did to help you. If that does not work, you can try talking to the person's supervisor. If you choose not to pursue this option, or if you still are not satisfied with the result, you can file a formal complaint with the ministry.

If your complaint is with a contracted service provider, you should first try to go through the agency's own internal complaint resolution process. If you are not satisfied with the result, you can contact the ministry and make a formal complaint. The service provider is required to give you information about the ministry's complaint process, or you can contact the ministry on your own.

Formal complaint process

Step 1: Start the complaint

The first step is to contact your local ministry office by phone, letter, fax, or in person and let them know that you want to make a formal complaint. You can also contact the Complaints Manager for your region. To get the name and contact information, either ask at the ministry office or call the **MCFD Client Relations Branch** in Victoria at **250-387-7027**, or toll-free at **1-877-387-7027** from elsewhere in the province. The complaints manager does not have a direct connection to the staff or services that you are complaining about.

Step 2: Provide information

It will take less time to resolve the complaint if the information you give is clear. It is helpful to include key facts and events when describing your concerns to the complaints manager. If you did not first try to solve the problem by talking it over with the staff person responsible for the decision, the complaints manager may suggest that you try that first before making a formal complaint.

Step 3: Seek out advocacy and support

The ministry encourages you to work with a support person when you make a complaint. This person could be a language interpreter, relative, friend,

advocate, counsellor, or anyone else who can attend meetings with you and help you communicate. You can choose whomever you would like to support you through this process, or to make the complaint on your behalf. It is a good idea to choose a person you trust who is also a good listener.

Step 4: The complaint will be investigated

The complaints manager will talk to the worker and/or supervisor involved and then might look at your file, if you have one. The complaints manager may also talk to other people, including anyone you might suggest who can help the manager understand your complaint better.

Step 5: Complaints manager's response

You will then receive a letter from the complaints manager to let you know that your concerns were heard and to explain what will happen next. You should then get a written decision from the complaints manager in the mail within 30 working days. If you have not received a letter within 30 working days, you can ask the Office of the Ombudsman for an independent review (see below for more information).

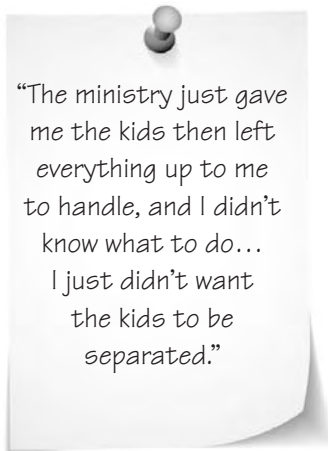
Possible outcomes

The letter from the complaints manager will include the decision and the reasons for that decision. There are many different possibilities, including:

- an apology from the person who treated you inappropriately
- a change in the original ministry decision that you challenged (for instance, if you were denied a service, the complaints manager could direct the ministry to give you that service)
- changes in the way the ministry operates in areas such as policy, practice, staff training, or supervision, or
- no changes because the complaints manager finds that the decision or action you complained about was reasonable and fair

While making a complaint does not always mean that a ministry action or decision will be changed in your favour, it does mean that the ministry will review its actions.

The letter will also give you contact information for the Office of the Ombudsman in case you want an independent review (see next page). You can also ask to meet with the complaints manager to discuss your complaint or the decision.



"The ministry just gave me the kids then left everything up to me to handle, and I didn't know what to do... I just didn't want the kids to be separated."

Resources outside the ministry that can help with complaints

Independent review (Ombudsman)

If you think that either the decision or the complaint review process itself has not been fair or proper, you can request an independent review from the BC Ombudsman.

Office of the Ombudsman

Phone: **1-800-567-3247** (toll-free)

TTY (for the hearing impaired): **1-800-667-1303** (toll-free)

The Representative for Children and Youth

If you think that the ministry has not handled your grandchild's case properly, and you are not satisfied with the outcome of filing a complaint, you can contact the office of the Representative for Children and Youth, sometimes referred to as "the Child and Youth Officer." This office is independent of the ministry, so it can sometimes take your side if there is a disagreement.

According to the office's website, "Responsibilities of the Representative" include advocating for children and youth, protecting their rights, and improving the system for the protection and support of children and youth, particularly those who are most vulnerable.

The Representative serves all British Columbians from the ages of birth to 19, and is particularly concerned that young people in government care—such as those in foster homes, group homes or youth custody—do well. These children and youth face greater challenges than those in the general population, especially [in the areas] of health and education, incarceration, and dependence on income assistance."

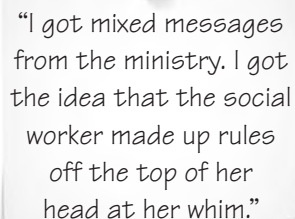
Representative for Children and Youth

In Victoria: **250-356-6710**

In the Lower Mainland: **604-775-3213**

Elsewhere in BC: **1-800-476-3933** (toll-free)

Website: **www.rcybc.ca**



"I got mixed messages from the ministry. I got the idea that the social worker made up rules off the top of her head at her whim."

Chapter 2

Youth and the law

Having a grandchild who is in trouble with the law can be a stressful and confusing experience. The best thing that you can do for your grandchild is to *seek professional legal advice immediately*. There are many resources available in the community to help you, many of them free. See page 88 for where to get help.

This section provides a general overview of issues and resources relating to youth justice in British Columbia. You will also find brief responses to a few frequently asked questions.

The *Supporting Grandparents Raising Grandchildren Resource Booklet* provides excellent information for caregivers about youth and the tough issues they face, such as drugs, sex, gangs, and violence. You can find this booklet online at www.parentsupportbc.ca/GRG_2nd_Mar16_07.pdf.

Or call for a copy:

Parent Support Services

Lower Mainland: 604-669-1616

Elsewhere in BC: 1-800-665-6880 (toll-free)

If your grandchild is in trouble

There are many things that you can do to help if your grandchild is involved in a court proceeding:

- Give them emotional support and encouragement.
- Make sure they have access to legal advice from an experienced criminal lawyer *as soon as possible*. (It is important to remember that your grandchild's lawyer will work for your grandchild, not for you, even if you are paying the fees. The lawyer cannot reveal any information about the case to you without your grandchild's consent.)
- Learn how the youth justice system works and what role you can play at various stages (read the next section for more information on the basics of youth justice).
- Find out how certain decisions can affect your grandchild both in the short and long term.
- Make sure your grandchild is aware of the possible consequences of the situation and encourage him or her to ask questions.
- Stay informed about what is happening to your grandchild.

For more detailed descriptions of what you can do, see the following resource by the Federal Department of Justice: canada.justice.gc.ca/eng/pi/yj-jj/information/child-enf.html

For more general information, see: canada.justice.gc.ca/eng/pi/yj-jj/information/information.html

Youth justice in Canada

In Canada, the federal government makes the laws about what is and is not a crime, and each province is responsible for enforcing those laws. The Criminal Code of Canada applies to everyone in Canada. Young people (those under 18) can be charged with a crime under the code, as well as under the Youth Criminal Justice Act and the Controlled Drugs and Substances Act. The Youth Criminal Justice Act sets out how a young person should be prosecuted, sentenced (punished), and if necessary, detained (kept in jail). Under this act, “youth” means people who have had their 12th birthday but have not yet had their 18th birthday when the incident they are accused of committing took place.

For more information, see the website **www.courtprep.ca**. It is written to help young people and their parents or guardians prepare for court. It has general information about how things work and what a young person can expect when he or she is accused of a crime. The website includes information about being a witness to or victim of a crime, what happens when you report a crime, as well as information on the court process, including details on investigations and arrests, bail, pleas, hearings, judgements, and appeals.

Youth justice in British Columbia

In British Columbia, several ministries are involved in youth justice. The Ministry of Children and Family Development has a Youth Justice Services division that provides community youth justice services and youth custody services to people aged 12 to 17. Information is available online at: **www.mcf.gov.bc.ca/youth_justice/index.htm**

The Ministry of Attorney General has designated child and youth officers who deal with matters relating to youth court. By law, if a person 12–17 years old is charged with breaking the law, that person’s parent or guardian must be notified. It is important for the young person to have a lawyer. Children may qualify for free representation through legal aid (see page 88 for more information). It is also important for the parent or guardian to attend court with them. The following website has additional information on the Youth Justice Court in British Columbia:

www.ag.gov.bc.ca/courts/criminal/info/youth_court.htm

The Ministry of Public Safety and Solicitor General provides victim services and is responsible for policing and community safety. This ministry also provides funding to support the development of volunteer-based community accountability programs that embrace the principles of restorative justice. See their website at **www.mcf.gov.bc.ca/youth_justice/index.htm**.

If you think that your grandchild has not been treated fairly, you can contact the following office:

Representative for Children and Youth

In Victoria: 250-356-6710
In the Lower Mainland: 604-775-3213
Elsewhere in BC: 1-800-476-3933 (toll-free)
Website: www.rcybc.ca

The following websites have more general information about youth justice:

www.youthjusticebc.ca/overview_of_youth_justice/index.cfm

www.cba.org/BC/public_media/youth/225.aspx

Aboriginal youth and the justice system

Native courtworkers can be a great resource if your grandchild is Aboriginal and is charged with a crime. They can help with information about your grandchild's rights, responsibilities, and options under the law, including whether there are alternative justice processes available to them. Courtworkers can also refer your grandchild to other resources to help address any underlying problems that might have caused his or her legal difficulties. They can be found in about 70% of the courthouses in the province. The organization below can put you in touch with a native courtworker.

Native Courtworker and Counselling Association of BC (NCCABC)

Phone: 604-985-5355
Website: www.nccabc.ca
Email: nccabc@nccabc.ne

Frequently asked questions

What should I do if the grandchild I am raising runs away?

First, call any friends or other family members who may have information about where your grandchild is. If you have done so and you still cannot locate your grandchild, report their disappearance to the authorities by calling 9-1-1. You will probably want to file a missing persons report so that the police will help you look for your grandchild and contact you right away if he or she is found.

What should I do if my grandchild is arrested?

If your grandchild is arrested, the police are supposed to try to contact an adult to let them know where the child is. The police may rely on information the child provides when deciding whom to contact, and they will probably leave it to the adult they contact to get in touch with everyone else. This means that they might not contact you directly if they arrest your grandchild.

If you get in touch with them, the police will be able to provide information about what is going to happen next and who can be called for more information. If your grandchild is being charged with an offence, the police may choose either to keep the child in custody until the court appearance or release the child on a promise to appear in court on a set date. There are legal consequences if your grandchild does not appear in court.

What should I do if my grandchild is on probation?

If your grandchild is released on certain terms and conditions, both a lawyer and the probation officer can explain what this means. The probation officer can also help you get support services for your grandchild, including counselling, mediation, and mentoring services, as well as community support and community work programs. In the event there is a need for temporary alternative housing or for long-term planning, the probation officer can make referrals to respite homes or emergency beds for youth. You should get to know your grandchild's probation officer, since that person can be an important ally in getting your grandchild back on track.

Will my grandchild's record automatically disappear at the age of 18?

Whether a youth record remains open past the age of 18 or is closed at that point depends on factors such as the type of offence, the type of sentence, and whether the youth commits another offence while the record is still open. A youth record may affect your grandchild's ability to apply to college or university, to get certain jobs, and to travel to other countries. You can ask a lawyer about the possibility of getting the record **sealed** (closed).

If your grandchild is the victim of a crime

If you or your grandchild is a victim of crime, there are resources available to help you.

VictimLINK

This telephone service is available province-wide 24 hours a day, 7 days a week. It is also accessible by TDD (Telecommunication Device for the Deaf) and provides interpretation services for all of the major languages spoken in British Columbia. The VictimLINK operators provide information and referral services to all victims of crime, as well as immediate crisis support to victims of family and sexual violence.

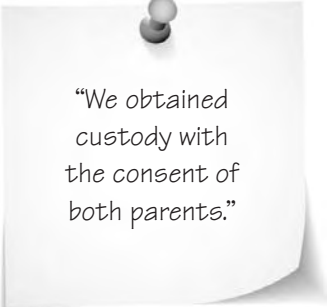
Phone: 1-800-563-0808 (toll-free)
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Crime Victim Assistance Program

Victims, immediate family members, and some witnesses to crimes may be eligible for financial assistance or benefits from this program. Application forms are available from any community- or police-based victim assistance program in the province, as well as online at www.youthjusticebc.ca/forms_for_victims_of_crime/index.cfm

Chapter 3

Custody and guardianship



"We obtained custody with the consent of both parents."

Many of the grandparents we spoke with expressed anxiety over not knowing what it meant to have legal custody or guardianship of their grandchildren. For many, no one ever explained to them what these words mean, or what rights and responsibilities come along with them. This chapter will explain some of the different legal relationships you can have with your grandchild. Later chapters have information about other arrangements, such as adoption and access (the right of a child to visit with important people in his or her life).

Custody means the physical day-to-day care and control of a child, and the rights and responsibilities of a parent to the child in their care. Generally, the parent(s) with whom the child lives most of the time are considered to have custody. It can cause confusion, but the law often uses the word “custody” in two ways:

- the day-to-day care of a child
- the authority to make big decisions for a child

When used to refer to day-to-day care, “custody” means the right to have the child live with you. This includes the right to the physical care and control of the child, such as letting a child attend a school field trip or teaching a child to help around the house.

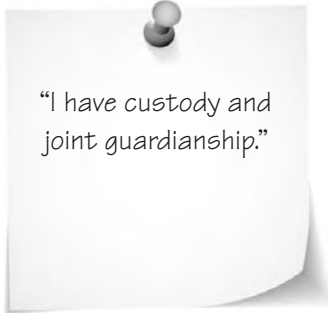
The word “custody” is also used in a broader sense to mean the authority to make big decisions for a child, such as decisions about what sort of education, healthcare, or religious training a child will receive. These rights are sometimes referred to as the “full bundle of rights” over another person. Usually, when a court gives someone custody, it includes both day-to-day care of a child *and* the authority to make big decisions.

It is important to note that “custody” has a particular legal meaning. The Family Relations Act says that parents have legal custody of their children unless a court order or written agreement gives custody to someone else. For a grandparent, just having the child live with you does not mean you have custody—you have to get a court order from a judge for that. For example, when Sara’s parents travel to another country to visit a relative, Sara will stay with her grandpa. This does not mean that he has legal custody of Sara; the parents keep all of their rights concerning Sara while they are away.

Types of custody arrangements

There are two types of custody: **sole** (exclusive) custody and **joint** (shared) custody.

- A person has sole custody of a child when the child lives only with that person. If you have sole custody of your grandchild, you also get to make all of the decisions when it comes to how to raise him or her.
- You can say that people have shared or joint custody in two cases: when a child lives with the grandparent and the parent(s) equally, or when the child lives mostly with one person, but the grandparent and parent(s) have agreed to share the decision-making responsibilities for the child. If the grandchild lives mostly with the grandparent, the court may say that the grandparent's home will be the child's "primary residence."



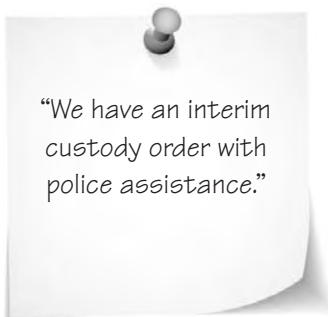
Custody orders usually say whether you have sole or joint custody. However, you may come across the terms "split custody" and "shared custody." These terms are part of the federal Child Support Guidelines and could show up in your custody order. **Split** and **shared custody** are ways of describing how often a child lives with each parent or guardian in a joint custody arrangement, and these terms are important when the court calculates child support.

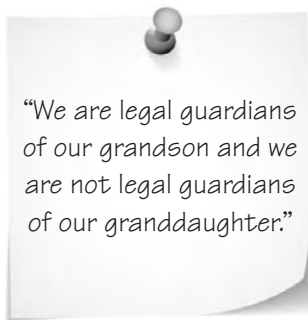
The relationship between custody and guardianship

Guardianship is made up of two parts. It means the right to make major decisions affecting the child's well-being, including decisions about education, healthcare, and religion. This is formally called "guardianship of the person of the child," and generally means the right to contribute to decisions about how the child will be brought up.

Guardianship also means the responsibility for managing anything the child may own, such as property or money. This is formally called "guardianship of the estate of the child." In a nutshell, guardianship means the whole bundle of rights associated with caring for a child.

Custody and guardianship appear to mean the same thing—the right and responsibility to make important decisions for a child. However, they are not exactly the same, and one of the laws that governs custody and access, the Family Relations Act, treats them differently. It is a murky area of the law that would be difficult to explain here, but what you need to know is that, if you have custody because a court has awarded it to you, you also have guardianship. But even if the children live with you and no one else, you may share guardianship with another person (called **joint guardianship**—see below). That means the other person, such as one of the parents, might need to be consulted when it comes to making important decisions for your grandchild.





Joint guardianship

Guardianship can be shared even if custody is not. A court can decide that a child will live with one person, but other relatives might also get a say in how the child is raised. You may share guardianship rights and responsibilities of your grandchild with any number of people: the child's parents, other grandparents, or other relatives. This is called joint guardianship.

Judges may award joint guardianship if they are worried that, otherwise, the child's caregiver would leave someone important out of the decision-making for the child. An important part of joint guardianship is that, if one of the guardians dies, the surviving guardian becomes the sole guardian.

However, it is common for courts to say in a custody or guardianship order that one of the guardians gets the final say in decisions when there is a disagreement. If you are seeking custody or guardianship of your grandchild, you should talk to your lawyer or advocate about getting this status for yourself, particularly if you are raising your grandchild.

Possible custody and guardianship arrangements

The following is a general look at how custody and guardianship can be arranged. Custody or guardianship can be shared between you (the grandparent) and the child's parents or other relatives. You can have:

- Joint custody and joint guardianship
- Sole custody and joint guardianship
- Sole custody and sole guardianship

Note: It is *not* possible for someone to have custody without having joint or sole guardianship.

How to apply for custody



You should speak with a lawyer if you want to get custody or guardianship of your grandchild. A lawyer will listen to your story and explain your options to you.

One of the biggest legal issues facing grandparents who seek custody of their grandchildren is that the court tends to favour the wishes of the birth parents. Although top consideration must be given to the best interests of the child, the court will generally assume that the parents are able to decide what is in the child's best interests. If you want custody of your grandchild, you will have to prove that this is not true. This means grandparents may have a tough case to make, especially if both parents are still in the picture.

Do not be discouraged! Many grandparents have successfully been awarded custody of their grandchildren, who are now leading happy and secure lives. Remember, the chances of success depend entirely upon the facts of each case.

Below is a brief description of the law that applies to custody, followed by brief sections on the different legal options available to grandparents if they want to arrange to have their grandchild live with them, with or without

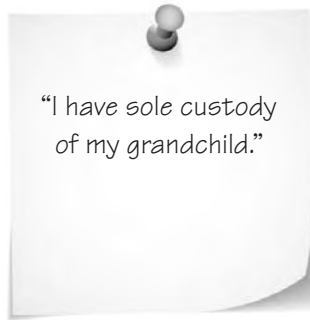
the consent of the child's parents. The options are different depending on whether the Ministry of Children and Family Development is involved (about half the grandparents we surveyed had their grandchild placed with them by the ministry). Some of these options require that your grandchild's parents cooperate with you.

There is a table at the end of this chapter that sets out the different options, how to pursue them, and which laws apply to them.

Laws governing custody

Most of this section came directly from JP Boyd's Family Law Resource (www.bcfamilylawresource.com).

Each of the following laws has rules about when a grandparent can apply for custody of the grandchild in court. There is a table at the end of this section that illustrates which law might apply to your particular situation, with more information about getting custody in the next section.



Divorce Act

If your grandchild's parents are in court getting a divorce, the Divorce Act says the court can award custody on application to "any other person." However, as a non-parent, you would have to get the court's permission before you can make such an application. Ask a lawyer or duty counsel for help with this. (Duty counsel are lawyers who work at most courthouses; they are available to give you free legal advice, assist with paperwork, and sometimes speak for you in court. However, their help is informal and they do not take on cases long-term.)

A grandparent cannot begin a legal **action** (court case) under the Divorce Act, since the act only applies to disputes between married people. You must instead ask to be "joined" to an action that is already in progress, such as the parents' divorce case. You may also have to go through this extra step if the grandchild's parents have a divorce order and you want to apply for custody of a child named in the order after the order has been made.

In practice, it seems you can apply to the Provincial Court for custody under the Family Relations Act, and a judge will review your application on its own. However, you may need to apply to join your custody application with the parents' divorce action. With the two actions joined, the Supreme Court will look at both actions together.

Seek the advice of a lawyer before you file your application. There are different valid legal opinions on which approach you should use to get custody.

Family Relations Act

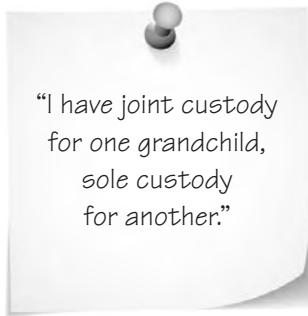
The Family Relations Act says that "persons" can have custody of a child, not just parents. A grandparent can apply for custody of a grandchild under the FRA at any time; you do not have to wait for the child's parents to begin an action.

If a child's parents are involved in a family law proceeding, the FRA allows grandparents to apply to court to "intervene" in the matter. That would

allow you to present an argument to the court to say why the court should or should not make a particular order, such as giving the father unsupervised visits or awarding custody to the mother.

Child, Family, and Community Service Act

If the ministry believes your grandchild is in danger of abuse or neglect, social workers will remove the child from the parental home and place him or her in foster care. Whenever this happens, a presentation hearing will be scheduled no more than seven days after the child is removed. You can attend the presentation hearing and ask to be made a “party” to the **proceeding** (hearing), which would mean that you could speak and ask questions in court, and present any evidence you think is important. (Duty counsel can help you ask for this status. They are lawyers who work at most courthouses who are available to give you free legal advice, assist with paperwork, and sometimes speak for you in court. However, their help is informal and they do not take on cases long-term).




Which laws apply to custody, guardianship, and access

<i>Situation</i>	<i>Relevant law</i>
Child's parents are married/ common law	The laws regarding custody and access to a child are the federal Divorce Act and the BC Family Relations Act (FRA).
Child's parents are unmarried	The law regarding custody, guardianship, and access to a child is the FRA.
The ministry is involved due to a child safety concern	<p>If the ministry has an open child protection investigation regarding your grandchild's care, the BC Child, Family, and Community Service Act (CFCSA) will govern any proceeding regarding custody, guardianship, and access.</p> <p>(It is possible for a grandparent to apply for custody under the FRA while a child protection court case is going on. A family court judge will hear both the FRA application and the child protection proceeding at the same time. If grandparents want to get custody and end the ministry's involvement, this is the application they make.)</p>

Custody under the Family Relations Act

It is important to seek legal advice before beginning an application for custody of your grandchild. More information about how to find a lawyer or apply for legal aid is provided on page 88.

You can ask a court for custody of your grandchild at almost any time under the Family Relations Act, even if the ministry has begun child protection proceedings. The only time you cannot apply under the FRA is if your grandchild's parents are in the middle of a divorce.



"The adoption is
still in process."

A custody order under the FRA may give the parents guardianship and access rights, or it may give you sole guardianship rights. If you are given guardianship, you may or may not also have custody of the child. However, most people apply for both custody *and* guardianship rights to be very clear about who has the final say when it comes to raising the child.

Custody orders can be made by both provincial and supreme courts, and they can be temporary or final. However, it is important to note that final orders for custody are never really final. A parent or other relative can always ask the court to change them if there is a significant change in circumstances. For more information about the court system, court orders, and how to apply for custody, see the chapter *Using the courts* on page 104.

Custody through a written agreement

Parents can formally give custody and/or guardianship rights to a grandparent through a written agreement. There are many different ways agreements can be written. Page 53 has a list of all of the possible custody and guardianship arrangements.

The agreement can also spell out access arrangements, which means how often someone, such as a parent, can visit the child and whether the person can do so without supervision. Agreements can also include ground rules for how it will be lived out. The written agreement can be filed in court and have the strength of a court order when it comes to custody and access rights. You can file a written agreement at your local court registry office.

Consent custody orders

If you and the parents agree about who should have custody and guardianship rights, you can make the arrangement formal by filing a written agreement with a court—or you can sign a consent custody order.

The easiest way to get a consent order is by using a **desk order**. No one has to appear in court: your lawyer just prepares the papers, everyone involved signs them, and then they go to a judge's desk for the judge to review. You can get a desk order at both the Provincial and Supreme Court.

You can also get a consent order if one or all of the parties appear in front of a judge and agree to the terms of the order. This can also be done in a more informal way through a family case conference. These conferences are quite common in Provincial Court; see page 81 for more information on them.

You can get help with your consent order from family duty counsel (that is, lawyers who give brief advice for free to those who qualify). See page 89 for more information on family duty counsel.

Unopposed custody orders

Sometimes custody orders are made without everyone's consent but without anyone fighting them; for example, the parents might not show up in court, or maybe they cannot be located at all. If this is the case, an **unopposed custody order** is made in their absence.

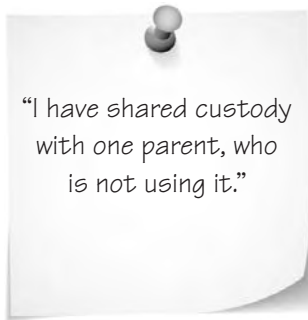
This kind of order is a little more difficult to get, because the courts are more comfortable when the parents agree to give up their rights. However, these orders are also quite common. To get one, you go to court in much the same way as you would for a consent custody order, and you have a hearing.

Custody orders after litigation

Judges can also make custody orders after a court hearing or trial if the parents will not agree to give up their rights. Because it can take time for the trial to run its course, people often get temporary orders that last until the trial is over. Once the trial is over, a final order is made. It is important to remember that final orders for custody are never really final. A parent or other relative can always ask the court to change the order if there is a significant change in circumstances. To learn more about going to court, turn to page 104.

Custody through a will

Under the Infants Act, parents with sole guardianship can name a grandparent to take over guardianship rights and custody of their children in their will. If the other parent is no longer alive or no longer has custody or guardianship, you can get custody of your grandchild in this way.



Custody through adoption

Grandparents can legally adopt their grandchildren. When you do so, you become their legal parent and you get all the same rights and responsibilities as a birth parent. More information about adoption is provided in the chapter on adoption, starting on page 66.

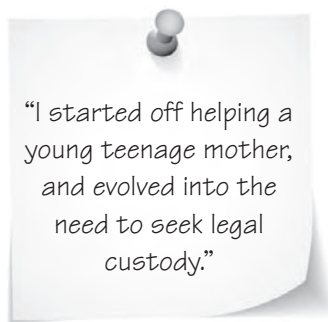
Custody orders from other provinces

Custody and access orders from another province, called **extra-provincial orders**, can be tricky. You can apply on your own to ask the BC court to recognize a custody or access order made by another province's Provincial Court (see www.ag.gov.bc.ca/courts/forms/pfa/pfa809.pdf for the application). However, for the most part, if you or the other party does not live in BC, then normal family laws do not apply and you will need to see a lawyer for advice. Information on how to find a lawyer or get legal advice is provided in the chapter *Getting legal help* on page 88.

How custody orders are enforced

There are times when a parent will turn up at a grandparent's home and take the children, despite the fact that the grandparents were awarded custody by a judge. If a judge awards you custody, guardianship, or access and someone prevents you from exercising those rights, there are serious legal consequences. In fact, you can call the police and they can issue a Canada-wide warrant for the person's arrest.

Both the Family Relations Act (FRA) and the Criminal Code say that interfering with court-ordered custody of a child is an offence. Section 36 of

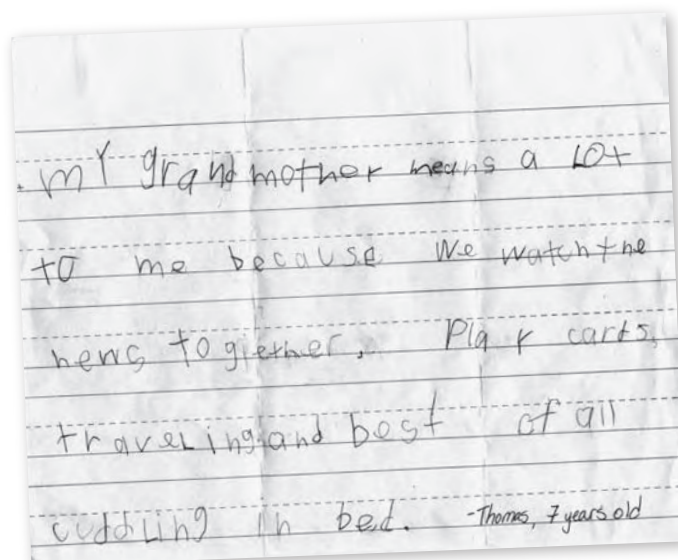


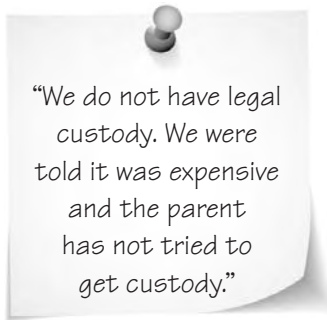
the FRA also says that if a judge awards you custody of your grandchild and someone prevents you from exercising those rights, you can apply to get an order that the grandchild be removed by a police officer and returned to you (court form 21). A grandparent can make this application without letting the other party know.

A police officer has the authority to enter and search any place where there is a reason to believe the child may be. If someone else knows where your grandchild is, the court may also order the person to give that information to the police so that your grandchild can be returned to you. If someone disobeys a court order, the judge has the power to send that person to jail until he or she cooperates.

Legal options when the ministry is *not* involved

Legal option	Law	More information
Written agreement with parent	Family Relations Act (FRA) sections 34, 121, and 122	page 80
Consent custody order	FRA, section 35	page 56
Unopposed custody order	FRA, section 35	page 56
Custody order after litigation	FRA, section 35	page 57
Custody awarded to grandparent in parents' divorce order	Divorce Act (Canada), section 16	page 54
Appointment of guardianship to grandparent under a will	Infants Act, section 50	page 57
Adoption	Adoption Act, entire act	page 66





Legal options when ministry *is* involved due to a child safety concern


Legal option	Law	More information
Ministry places child with grandparent; ministry no longer involved.	–	page 35
Grandparent becomes a restricted foster parent	CFCSA, various sections	page 36
Ministry places child with grandparent under a kith and kin agreement Note: the parents keep guardianship rights.	Child, Family, and Community Service Act (CFCSA), section 8	page 36
Ministry places child with grandparent under a voluntary care agreement	CFCSA, various sections	page 87
Apply for custody under FRA (CFCSA and FRA hearings are joined)	FRA, section 35	page 55
Interim supervision order (grandparent has custody of child until next hearing)	CFCSA, section 35(d)	page 74
Temporary custody order (expires on a specified date)	CFCSA, section 41(b)	page 76
Transfer of custody from ministry to grandparent (permanency option)	FRA, section 30.1 and CFCSA, section 54.1	page 77
Adoption	Adoption Act, entire act	page 66

To find out more about the child protection process and where grandparents fit into it, see the chapter *Child protection and the ministry* on page 22.



Chapter 4

Access and safety




"The mother is responsible for arranging visits, but since court has failed to do so."

Access is a legal term that means the right of any person (a parent, grandparent, other relative, or non-relative) to spend time with a child for the purpose of maintaining a meaningful relationship. Often people associate access with the rights of a child's parents or relatives to see the child, but it is better understood as the right of the child to have a relationship with another person. This chapter will explain access—how to get it if you want it, how to try to block another person's access if you think it is not in your grandchild's best interests, and how to go about arranging supervision for visits. There is also information for those who need protection from someone in the child's life (see page 64 for information on restraining orders).

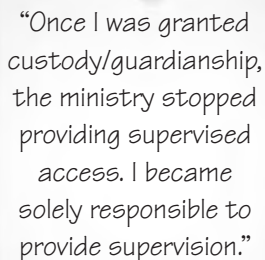
Access and custody are usually dealt with at the same time, either in a written agreement between you and others, such as the parents, or in court. For example, if you and the parents come to an agreement to give you custody, this same agreement will likely include an agreement about when and how they can visit with the child.

If you are raising your grandchild, getting access is not really an issue for you. However, other people, like the child's parents, other grandparents, relatives, and other important people have the right to apply for visits. This does not mean that the applicant will automatically get this right. It is up to a judge to decide if it is in the child's best interests to allow visits. Remember, access rights are for the benefit of children first, and parents and others second.



"I have control and the mother hasn't wanted to see him since the adoption."

Having someone apply to the court to spend time with their grandchildren can be worrisome for some grandparents, who may not want certain people visiting and upsetting the children. Other grandparents may be happy to arrange visits that work for everyone. It is important to remember that the visits are for the good of the child, and that the law actually recognizes this idea when it looks at what is in the child's best interests. Your ability to help your grandchild maintain important relationships by making these visits possible is actually a factor that a judge might consider when making decisions about custody. This section will discuss different ways that access rights can be arranged.

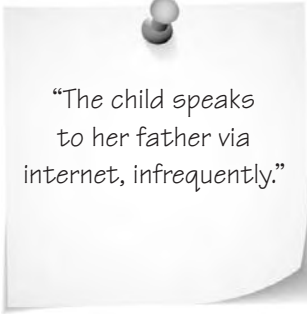


"Once I was granted custody/guardianship, the ministry stopped providing supervised access. I became solely responsible to provide supervision."

As with other areas of the law, it is almost always better to come to an agreement about access without going to court. If you can work together, file your written agreement at your local court registry office and it will have the force of a court order. Take a look at the information under the next heading to get some ideas about how visits can be planned.

Sometimes coming to an agreement with the parents or other persons is difficult or unsafe. If this is the situation, you may need a judge to hear your case, after which the judge may make an access order. It is always a good idea to find a lawyer to help you when you have to go to court.

Access orders



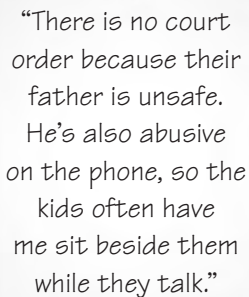
"The child speaks to her father via internet, infrequently."

If you have custody of your grandchild, a person can apply for an access order to visit the child by filling out an application and filing it at the local court registry office. (Likewise, if you do not have custody, you can apply for access to your grandchild.) However, conditions for access to a child would most likely be included in the terms of a custody order. If a judge decides it is in the child's best interests to grant access, then the judge will make an access order. Often, this order will specify terms and conditions of the access, such as whether the visits must be supervised and where they can take place.

After the access order is granted, the amount of time that someone can spend with your grandchild is usually up to you and the other person to decide. It is common for people to agree on guidelines such as "reasonable" or "generous" access, leaving the details about time and place to be decided informally.

Specified access

For some families, broad guidelines are not enough and clear rules are needed. In this case, an access order may also include what is called **specified access**. This means that specific guidelines are included in the court order, such as "the child's father can visit every Saturday from 2–6 p.m., at such-and-such a location..." Specified access arrangements may also set out when the parents or relatives seeking access will see the children on special occasions and holidays.



"There is no court order because their father is unsafe. He's also abusive on the phone, so the kids often have me sit beside them while they talk."

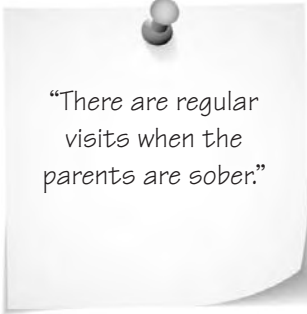
Conditional access

A judge may also make an order for conditional access. In this case, conditions to access may be included in the order, such as:

- the access parent or relative cannot consume alcohol when the children are with him or her, or
- the access parent must complete a parenting skills course before overnight access is allowed.

If you, the custodial grandparent, request that conditions be placed on a parent or relative's right to access your grandchild, it will be up to you to show the court that the conditions are in the child's best interests.


If your circumstances have changed and the access order no longer suits your family's needs, you can apply to change the order, with or without the consent of both parties. If your circumstances have *not* changed, but you still want to change the order, then you must appeal it. Information about how to change or appeal a court order is on pages 113–114.



"There are regular visits when the parents are sober."

Supervised access

The court or the ministry may say that visits between your grandchild and the child's parents need to be supervised. Sometimes the parents' and/or the child's behaviour is unpredictable or harmful. If this is the case, a supervisor will have to be present during any visits. The supervisor may be you, another



"The parents are responsible for arranging access."

family member or friend, your social worker, or someone from an agency that provides this service.

Some grandparents do not want to be the supervisor during parental visits because of the poor relationships between the parent, child, and grandparent. If this is the case, it is important to know how to find a supervisor and what sort of costs are involved.

Find a supervisor

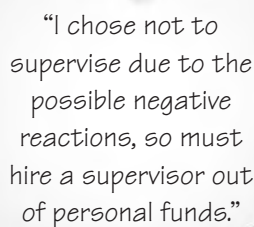
There are a few ways you might be able to arrange for someone to supervise visits with your grandchild (although in parts of the province, some of these services might be difficult to access):

- You can ask a neutral family member or a friend (if the ministry is investigating your grandchild's home life, the social worker must approve this person).
- If your grandchild has a file with the ministry, the social worker may supervise the visits or may refer you to someone else who can.
- If you live nearby, you can call a **Family Justice Centre** (a service of the Ministry of Attorney General) and ask for referrals to family visit supervisors. To find a centre, call:

Family Justice Info Line

In the Lower Mainland: 604-660-2192 Elsewhere in BC: 1-800-668-3637 (toll-free)
--

Remember: it is important to make sure that you are following the terms of an access order, so if another approved supervisor is not available, you will have to provide the supervision.



"I chose not to supervise due to the possible negative reactions, so must hire a supervisor out of personal funds."

Costs for a supervisor

If your grandchild has a file open with the ministry, then the ministry should cover all costs associated with visits. That would include the cost of a supervisor and transport to and from the visit. You may have to be persistent in asking for this support, but if it is in the best interests of your grandchild to have the visits, the ministry should pay for it.

If you have not been involved with the ministry, it is unlikely that you will be able to get funding for a supervisor.

Access for Aboriginal families


When a person seeks access rights to Aboriginal children, the law encourages judges to keep in mind the ancestry of the children *and* of the people seeking access to them when deciding what is in the children's best interests. If a relative provides a unique link to the children's Aboriginal heritage, a judge might be more inclined to give that person frequent access. The existence of that link could also affect the circumstances under which the relative is given access, including where the visits take place.

The band council has the right to keep non-band members from entering the reserve, which means that, in rare cases, an access order might have to include the right to take the child off the reserve for visits.

Access to information

If you have custody and/or guardianship of your grandchild, you are the legal keeper of your grandchild's personal information. Your grandchild's parents or other relatives may want information about your grandchild, but the law only requires you to give it to them if:

- the parents or other person asking for information holds joint custody or joint guardianship with you, in which case that person is entitled to information about the child's health, education, and well-being.
- your grandchild's parents have a divorce order, and in that order the court awarded access rights to the parents or another person.




"My grandchildren do not see their father or his family anymore."

However, if the parents or other person has been awarded access rights under the Family Relations Act (i.e., not during a divorce), they do not have the right to get information about the child if you do not want to communicate with them. The parent or other person asking for information would need a guardianship order in addition to the access order to have this right. Of course, information can be shared willingly if you and the child are comfortable with the person knowing about the child's life, and if the child's rights are protected.

If you want to fight an application for access

If you have a custody order for your grandchildren and someone applies for access to them, a copy of the application will be delivered to you. This delivery will include a blank reply form. Here you can state your reply to the application—that is, whether you agree to the access order or not.

You must file this reply form, along with three copies of it, at the same court registry where the application for access was filed. You must do this *within 30 days* of receiving the application. There is no fee to file a reply. If you disagree with the application, you will have to make your argument before a judge, either in a family case conference or in a court. This can be a stressful and confusing process, so it is a good idea to seek legal advice. There are services that can help you, some of them free. Turn to page 88 to find them.

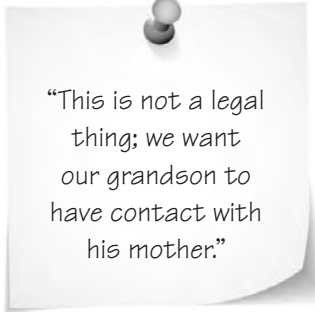


"The other set of grandparents supervise the visits."

If you want access to your grandchild

Normally there are two situations when you would have to ask for access to your grandchild:

- when your grandchild is in the care of the Ministry of Children and Family Development, or
- when your grandchild's parents or guardians will not let you spend time with your grandchild.



"This is not a legal thing; we want our grandson to have contact with his mother."

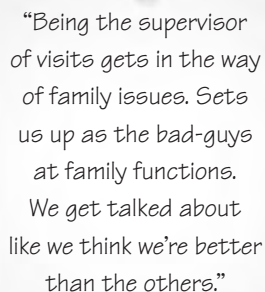
If your grandchild is in the care of the ministry, speak to your grandchild's social worker about applying for access. If the social worker is not helpful, you can always ask to speak to the team leader.

If your grandchild is not in the ministry's care, you can apply for access in two ways:

- by filing an application with the Provincial Court that cites the Family Relations Act (section 35), or
- by filing an application with the Supreme Court if your grandchild is the subject of a divorce order. Your application would cite section 16(1) of the Divorce Act.

The judge may attach terms or conditions to the order if it is granted. Always remember: the court will make decisions according to what it decides is in the child's best interests, which may conflict with what you think is best for your grandchild. The law in this area is very fact-specific, which has sometimes made it difficult for grandparents to get access.

Safety concerns and restraining orders



"Being the supervisor of visits gets in the way of family issues. Sets us up as the bad-guys at family functions. We get talked about like we think we're better than the others."

The information in this section was taken largely from the Family Law website. Go to www.familylaw.lss.bc.ca to view the original, as well as to find more information about restraining orders.

Sometimes, the problems in a family are more serious than mere disagreements. If you fear for the safety of yourself or your grandchildren, one way to protect yourselves is with a **restraining order**.

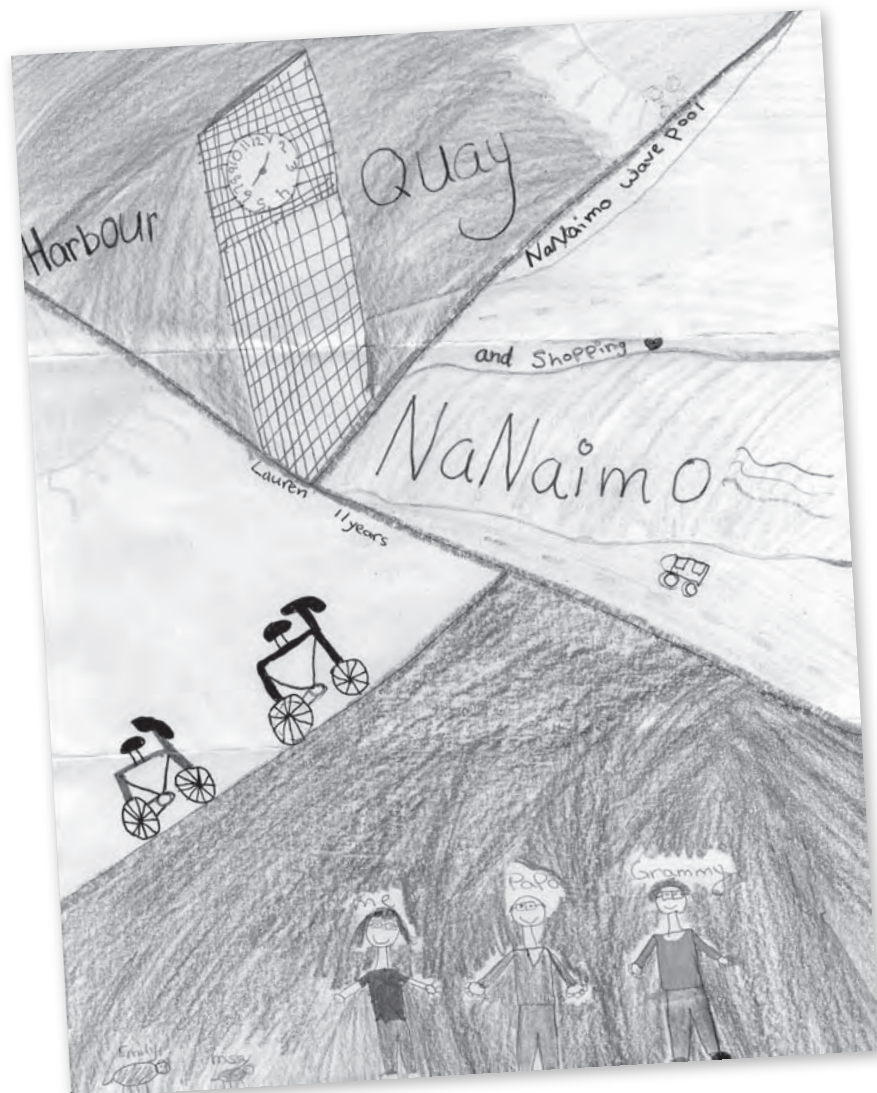
A restraining order is also called a **protection order**. A judge will make this order to protect someone (and/or the children who live with that person) from another. If the person named in the order comes near you or calls you on the phone, he or she risks arrest, and could be fined or put in jail. You can apply for a restraining order if you are afraid for your safety. You can also ask for an order to resolve less serious problems, such as getting someone to stop showing up uninvited at your grandchild's school. You may apply for a restraining order with or without a lawyer. The hearing will be held in family (Provincial) court.

"I supervise because otherwise I have to pay someone to do it."

Aside from the typical restraining order described above, there are also a few different ways a judge can insert an order for restraint within other orders. For example, a condition that keeps one person from contacting another may be included in a probation order. Or the victim of an alleged crime can ask for a protective order before and during a trial.

To find out how to request a restraining order for yourself or your grandchild, go to the Family Law website at www.familylaw.lss.bc.ca and click on "Abuse" on the left side of the screen. You can ask your grandchild's social worker for help, talk to family duty counsel at the courthouse (see page 89 for more information), or seek out an advocate (see page 95).

If the person named in the restraining order comes near you or tries to contact you, call the police right away by dialling 9-1-1. If your community does not have 9-1-1 services, it is a good idea to look for the local police emergency phone number on the first page of your phone book under "Emergency" *before* you need to call, and to write this number on or near your phone.



Chapter 5

Adoption



Creating a stable home for their grandchildren is a priority for many grandparents. The most permanent way to do so is through adoption.

Adoption is a process by which a court creates a new parent-child relationship between a child and an adult who is not the child's birth parent. Through the process of adoption, all legal rights and responsibilities of a child's birth parents are terminated, and new rights and responsibilities are created between the child and the adoptive parent.

Once the adoption is final, there is no legal difference between the rights you have as an adoptive parent and the rights you would have if you were the birth parent of that child. For that reason, this is the most legally secure relationship you can have with a child you are raising.

The two main laws that govern adoption in BC are the Adoption Act, which sets out rules to follow regarding most adoptions in BC, and the Child, Family, and Community Service Act (CFCSA), which sets out rules for the adoption of children who are in the care of the Ministry of Children and Family Development.

An adoption is made official through a court order under the Adoption Act. A judge is required by law to decide whether the adoption is in the child's best interests. A few things that a judge might consider when making that decision are:

- the child's safety
- the child's physical and emotional needs and level of development
- the importance of continuity in the child's care
- the child's cultural, racial, linguistic, and religious heritage
- the child's views

Aboriginal children and adoption

The Adoption Act says that if a child is Aboriginal, the judge must also consider the importance of preserving the child's cultural identity when determining what is in the child's best interests. This issue arises when the people who apply to adopt an Aboriginal child are not Aboriginal themselves. In such cases, the judge tries to find a balance between the importance of keeping the child connected to his or her cultural heritage and the degree to which the child has bonded with the adoptive parents.

If a child with status under the Indian Act is adopted by non-Aboriginal parents, the child keeps that status. Whether or not an Aboriginal child keeps band membership and treaty rights depends upon the particular band's by-laws, treaties, and other laws. The best source of information about what will happen to band membership and treaty rights upon adoption is the band itself.

Customary adoption

Many indigenous communities have traditions of adopting children by custom that were in place before the Canadian legal system was established. BC courts recognize these **customary adoptions** (also called **custom adoptions**) as legal under the Adoption Act. The Ministry of Children and Family Development supports customary adoptions as a way to make sure Aboriginal children in care are raised with Aboriginal families whenever possible. Customary adoption is a way for Aboriginal families, organizations, and communities to share in the planning for Aboriginal children.

If the Aboriginal child is in the care of the ministry, a customary adoption proceeds when custody of the child is transferred to the prospective adoptive parents under section 54.1 of the Child, Family, and Community Service Act (CFCSA). To find out more about customary adoption, visit:

www.mcf.gov.bc.ca/adoption/custom_adoption.htm. You can also call LawLINE: 1-866-577-2525 (toll-free).

Open adoption

Although birth parents' rights and responsibilities to their children end once the children are adopted, everyone agrees that it is best for children if they remain connected to their parents in some way. This is called **open adoption**. It means that some sort of contact—anything from yearly letters to regular visits—is kept between the birth parents (sometimes including their extended families) and the adoptive family.

For example, the adoptive parent can make an **openness agreement** with your grandchild's father that he will visit once a month. Openness agreements are not legally binding, but they are a good way to ensure that other family members remain involved in the child's life.

If your grandchild is up for adoption to another family

If your grandchild is in the continuing custody of the Ministry of Children and Family Development, such as long-term foster care, he or she can be placed for adoption with another family, and you can lose your ability to visit. The ministry's Director of Adoption must consent to the placement, and the director must also inform any person who has been given access rights to the child (such as a grandparent) of the likely adoption.

Discovering that your grandchild in foster care will be placed for adoption may come as quite a shock for grandparents. An adoption legally changes who the child's parents are, so when it goes through, the grandparents' legal ties with the grandchild also end. Remember, however, that the judge should not grant an adoption order unless it is in your grandchild's best interests.

If you have received notice that your grandchildren in foster care will be placed for adoption, the first thing to do is contact the social worker to discuss your options. It is best to work cooperatively with the ministry. If you do not agree with the social worker, or have a question that he or she cannot answer, you can ask to speak with the team leader. If possible, speak with a lawyer.

If your grandchildren are in the continuing custody of the ministry and you do not want them to be adopted by another family, you can ask the ministry to permanently transfer custody and guardianship rights to you under section 54.1 of the Child, Family, and Community Service Act. This way, you become legally responsible for your grandchildren's care, without going so far as to adopt them, and the ministry no longer has a say in where your grandchildren live or who adopts them. More information about this sort of transfer of custody is on page 77.

If you are unhappy with how the ministry has handled your family's case, you can file a complaint. See page 43 for more information.

Deciding whether to adopt

You may be wondering how to know whether adoption is right for you and your grandchild. It is wise to speak with other grandparents or parents who have adopted to get a better idea about what adoption would mean for your family. It is also best to speak with a lawyer before making such a big decision. Adoption may be the best option for you and your grandchild if:

- it is clear that the child will not be able to return to the parents' care;
- you want permanent responsibility for your grandchild, without legal interference by the child's birth parents;
- you are prepared to support your grandchild, both emotionally and financially, until the child becomes an adult;
- you are willing to do without financial help. Many benefits end when you adopt, such as child support from the parents and Child in the Home of a Relative.

Concerns about age

Many grandparents are concerned about their age when it comes to adopting their grandchildren. Grandparents will be happy to know there is no legal age restriction for adoptive parents. The only legal requirements in BC are that you be a resident of BC who is more than 19 years of age.

Many loving families have been created for grandchildren by adoptive grandparents of all ages. It is important to remember, however, that the judge will consider your age when deciding what is in the child's best interests—but only *if* your age would affect your ability to care for the child.

How to adopt

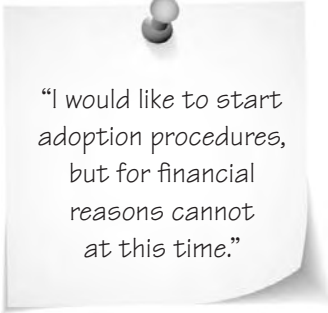
A great deal of the information in this section was taken from the section on adoption on the ministry's website. Go to www.mcf.gov.bc.ca/adoption to read the original and to get other useful information about adoption.

The route you take to adopt your grandchild will be very different depending on whether the child is in the care of the ministry.

Adoption through the ministry

If you want to adopt a child who is in the continuing custody of the ministry, the following people must consent to the adoption:

- the ministry's Director of Adoption and
- the child, if 12 or older.



"I would like to start adoption procedures, but for financial reasons cannot at this time."

Because the ministry holds custody and guardianship rights in relation to the child, the parents' consent is not necessary.

To adopt a child in the care of the ministry, you will need to go through the following steps:

- Meet with your grandchild's social worker to discuss the adoption process.
- The social worker will look at your home (a process called **home study**) in order to see whether you can care for your grandchild. This study may be followed by pre-placement visits with your grandchild, supervised by the social worker. After that, the social worker will make a decision about whether it would be in the child's best interests to live with you.
- If the pre-placement visits go well, your grandchild will be placed in your home. You will fill out a Notice of Placement. For 6 months, the social worker will continue to visit to ensure that you are taking good care of your grandchild. After that, your social worker will apply for an adoption order for you.
- For children between the ages of 7 and 12, the social worker has to conduct an interview to ensure that they understand the meaning of adoption and to find out what their views are on being adopted. The records or notes of this interview will be included in the adoption order application and will be filed with the court.
- Children who are 12 or older must consent to the adoption and any name change that you request. Children can change their minds about the adoption at any time before the adoption order is granted.
- Remember, the best interests of the child guide the judge's decision, including such factors as cultural heritage and bonding.

Adoption without the ministry

If the child is *not* in the ministry's care, the following people must agree to the adoption before it can take place:

- the child, if 12 or older;
- the birth mother;
- the father (as outlined in the Adoption Act); and
- any person appointed as the child's guardian.

Even parents who are under 19 years of age can still give legally valid consent to the adoption (which means that their parents do not need to consent too). If the adopted child is 7–12 years old, his or her views must be

included in a written report. If one or both of the parents will not consent, you must prove to the court that it is in the child's best interest not to require their consent. The court may also decide that the consent of one or more parents is not required if:

- the parent is not mentally or physically capable of giving informed consent;
- you have made reasonable efforts to locate the parents to get consent, but you cannot find them;
- the parents have abandoned the child, not made reasonable efforts to meet their responsibility to the child, or are not capable of caring for the child; or
- other reasons that the court thinks are appropriate.

If your grandchild is not in the care of the ministry, the adoption process is very different:

- You must apply to the BC Supreme Court for an adoption order. You can contact your local BC Supreme Court Registry (to find it, call Enquiry BC using the phone number on page 183) to find out more about filing an application and the supporting documents that are required, such as consent forms. Once your application is filed, a hearing date will be set.
- Children who are 7–12 years old must be interviewed in private to find out if they understand the meaning of what is about to happen and whether they have any views on the proposed adoption. The interview can be conducted by either a registered psychologist/psychiatrist or by a registered social worker. At the end of the interview, he or she will submit a report on it to the court. The BC College of Social Workers can help you locate someone to write the report. Call **604-737-4916** or visit **www.brsw.bc.ca**.
- The ministry does not have a role in private relative adoptions; however, the court can order the ministry to review any aspect of the application and file a report.
- Children who are 12 or older must consent to the adoption and any name change that you request. They can change their mind about the adoption at any time before the adoption order is granted.
- Lastly, you must attend an adoption hearing, which is a session in court when the judge reviews your case. The judge will review all of the evidence (the documents that support your application) and then make an adoption order if it is in the child's best interests to do so.
- Remember, the best interests of the child guide the judge's decision, including such factors as cultural heritage and bonding.

For more information, see the ministry's website:
www.mcf.gov.bc.ca/adoption.

Do you need a lawyer to adopt?

It is possible to go through the adoption process without a lawyer. Some Supreme Court registries in BC provide information packages for families to complete the adoption application on their own. You may wish to use one of these packages if the adoption is straightforward and everyone agrees. However, in most cases, it is highly recommended to get the help of a lawyer. If you decide to get a lawyer, look for one with experience handling adoptions. More information about finding and working with a lawyer is provided on page 91.

Costs of adopting

It is difficult to say for sure how much an adoption will cost, since every case is different. If the adoption is straightforward and everyone consents, you may not need a lawyer, so the cost will be low. However, you may wish to get at least some legal advice on your application even if you decide to file it yourself at the BC Supreme Court. You could take advantage of some of the free or low-cost options in your community; see page 100 for more information.

If you decide to have a lawyer help you through the entire process, be sure to discuss the costs at the very beginning. Legal fees vary depending on the facts of each case. Some things that will influence the costs are:

- the number of adoptive parents, birth parents, and/or guardians involved (because this affects the number of consents or affidavits the lawyer will need to prepare),
- whether the child is over 12 years of age,
- whether either of the birth parents need to be found, and
- whether you will have to ask the court to go forward without the consent of one or more people, since this will mean extra work for the lawyer.

If the ministry or another government agency is giving you financial help to care for your grandchildren, this assistance will stop once you adopt. However, you are not totally on your own, financially speaking, once the adoption goes through. There are several other sources of financial help that you can ask for from the provincial and federal governments, such as **post-adoption assistance**. For more information about the benefits available to you and how you can apply for them, see *Financial assistance and benefits* on page 116.

Support services for adoptive families

Adopting a child—even one you are related to—can be quite a challenge for you and your family. Below are a few organizations who offer support, as well as a list of books about adoption that may be helpful to you.

The Society of Special Needs Adoptive Parents (SNAP)

According to their website, SNAP is a charity that “helps families with challenges through mutual support, information, sharing, and advocacy. We offer services to a wide range of families, professionals, and others who are interested in family-related, adoption, and special needs issues.”

Phone: 604-687-3114 Website: www.snap.bc.ca Email: info@snap.bc.ca

Adoptive Families Association of BC (AFABC)

According to their website, “The Adoptive Families Association of BC has supported adoption and adoptive families since 1977. Our province-wide family services ensure that people considering adoption (and those who have already adopted) are educated, connected, and supported.” AFABC has a contract with the Ministry of Children and Family Development. They also run workshops and support groups and have a library of helpful books and resources. A list of toll-free numbers for provincial office staff can be found on their website.

Phone: 604-320-7330 Website: www.bcadoption.com
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Aboriginal community services for children and families

Many aboriginal communities across BC provide support services for Aboriginal families who are creating permanent homes for children. On page 178, there is a list of these community groups and agencies, along with their contact information.

Chapter 6

Child protection and the court process



If the social worker investigates your grandchild's home and finds that there are concerns over the child's safety or well-being, you can try to make one of the agreements described in the chapter before this one. If you do not find out about the ministry's concerns early enough, or if you do not succeed in getting an agreement with the ministry, the social worker might decide one of two things:

- that your grandchild's care needs to be supervised by the ministry, or
- that your grandchild must be removed from the parental home.

If the social worker decides either of these things, your family will have to go to court.

The court process usually takes place in two stages:

- the presentation hearing and
- the protection hearing.

The law gives clear deadlines for when everything must happen, but in reality there are often delays and extra steps that can draw a case out for much longer. However, keep in mind that you can still try to work things out with the ministry by negotiating an agreement at any point during the court process, perhaps with the help of mediation or a family group conference (explained on page 79).

Presentation hearing

When the ministry removes children from their homes, a social worker must go to court within seven days to explain why at something called the **presentation hearing**, a court hearing that is usually quite short. The ministry is not required to let grandparents know the date, time, or place of the hearing. The best you can do is try to stay in touch with your grandchild and the parents. Remind your grandchild to call you, or have an adult call you, if the ministry removes him or her from the parental home.

You can also call the courthouse to find out what day family cases are heard, then go to the courthouse and check the schedule (called the **docket**) to see if your grandchild's case will be heard that day. Go to the presentation hearing if you can, and ask the judge to make you a **party** to the hearing so that you can participate.

At the presentation hearing, the judge can make four possible decisions (the flow chart on page 31 helps illustrate this process). The chart on the next page details those decisions.

Possible outcomes of a presentation hearing

No supervision order (child stays with parent)	It is safe for the child to return to the parent without any supervision by the ministry. The court case ends.
Interim supervision order (child stays with parent)	The child can return to the parent, but there are concerns about the child's safety, so the judge gives the ministry power to supervise the parents using an interim supervision order. The case continues to a protection hearing.
Interim supervision order (child with grandparent)	The child is placed with someone other than a parent, such as a grandparent, through an interim supervision order. This means the grandparent has custody of the child until further notice, and the ministry can supervise the grandparent and child. The case goes to a protection hearing.
Interim custody order (child in care)	The child stays in or is placed in the care of the ministry (such as foster care), through an interim (temporary) custody order. The case goes to a protection hearing.

Interim supervision order

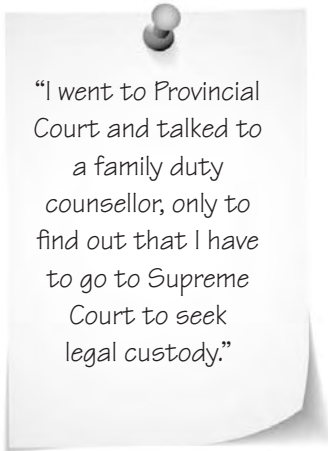
An **interim supervision order** is an order that courts make to allow a social worker to visit the child to ensure that everything is alright. This type of order can be used to supervise parents when they regain custody of their children, or to supervise the care of children when they are placed in the custody of someone else, such as a grandparent. If the judge places your grandchild with you through an interim supervision order, you have the following rights and responsibilities:

- to provide day-to-day care for your grandchild
- to make healthcare decisions for your grandchild (sometimes with the consent of the parents)
- to make necessary decisions about your grandchild's education and religious upbringing

If the court finds it is in the child's best interests, it may order that the parents keep either or both of the following rights:

- to make joint healthcare decisions for the child
- to make necessary decisions about the child's education and religious upbringing

An interim supervision order may also require that parents take steps to address the ministry's concerns about the child's safety or well-being. It is "interim" because it only lasts until a judge makes another order at the protection hearing.



"I went to Provincial Court and talked to a family duty counsellor, only to find out that I have to go to Supreme Court to seek legal custody."

Interim custody order

The judge could also decide that your grandchild must be placed in the custody of the ministry until the protection hearing is over, in which case they will issue an **interim custody order**. That would mean that your grandchild will be placed with a foster family. You can ask your grandchild's social worker about the possibility of becoming a restricted foster parent (see page 36) if you are able to take care of your grandchild for as long as a few months. You can also ask for access (visits with your grandchild) if he or she is placed with another family (see page 64).

Protection hearing

The protection hearing takes place within 45 days of the presentation hearing. Sometimes, everyone involved can reach an agreement—the social worker, the parent, the child if he or she is 12 or older, and you. This kind of agreement can be filed with the court and the judge will make a consent order. There will not have to be a protection hearing.

If you cannot agree, the judge may direct everyone to attend a family case conference. The social worker, parent, or grandparent (if you are a party to the case) can also ask for a case conference. If no agreement is reached at the case conference, the case will go to a protection hearing.

At the end of the protection hearing, the judge has four choices, listed below. See the flow chart on page 31 for help visualizing the process.

Possible outcomes of a protection hearing

Supervision order (child with parent)	The child can return to the parent, but there are concerns about the child's safety. A supervision order is awarded to the ministry to supervise the parent and child for a certain amount of time.
Temporary custody order (child with grandparent)	The child is placed with someone other than a parent, like a grandparent, through a temporary custody order. The ministry keeps supervising the grandparent and child. The temporary custody order has time limits (see the next page).
Temporary custody order (child in care)	The child stays in or is placed in the temporary custody of the ministry (such as foster care). Temporary custody orders have time limits (see the next page).
Continuing custody order (child in care)	The child is placed in the custody of the ministry on a long-term basis. The ministry can place the child for adoption.

Temporary custody order

A **temporary custody order** is similar to an interim custody order. Both types of custody come with the same rights and responsibilities. The difference is interim custody is awarded at the end of a presentation hearing. It is meant to give everyone guidelines for the child's care until the protection hearing. However, a temporary custody order is awarded at the end of the protection hearing and expires on a certain date.

There are time limits to temporary custody that depend on the age of your grandchild. If you are taking care of more than one grandchild, the age of the youngest child is used to decide when the custody order expires. A social worker can ask the court to extend this order, but the *total time* that a child can be in temporary custody is:

- 12 months, if the child was under 5 years old on the date of the order,
- 18 months, if the child was 5–12 years old on the date of the order, and
- 24 months, if the child was 12 years old or older on the date of the order.

You can ask the court to extend the time limit by a certain amount. You will have to convince the judge that it is in the child's best interests to do so.

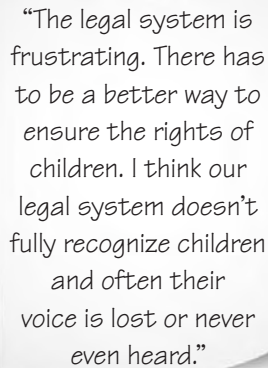
Continuing custody order

A **continuing custody order** puts a child in the care of the ministry on a much more long-term basis, sometimes permanently. With a continuing custody order, the ministry becomes the child's sole guardian, the Public Trustee becomes the guardian of anything the child may own or be entitled to receive, and the ministry can place the child for adoption.

This is very different from temporary custody. A continuing custody order is made when a temporary custody order is about to end and the circumstances that led to the removal of the child have not changed. It is rare for a child to return to the parent once a continuing custody order is made. These orders end when:

- the child turns 19
- the child is adopted
- the child marries
- the court cancels or changes the continuing custody order (see below), or
- custody of the child is given to someone other than a parent (under section 54.1 of the CFCSA)

If the parents' circumstances change significantly, the people involved in the court proceeding can apply to change or cancel the order. (If you did not take part in the original court case, you cannot make this kind of application.) A judge will consider the facts and decide whether to cancel the order, make a new one, or leave it the way it is. A judge will consider the child's best interests when making this decision.



"The legal system is frustrating. There has to be a better way to ensure the rights of children. I think our legal system doesn't fully recognize children and often their voice is lost or never even heard."

Transferring custody from the ministry to a grandparent

If your grandchild is in the continuing custody of the ministry, you may ask the social worker to apply to the court to transfer custody to you permanently (under section 54.1 of the CFCSA). If the judge decides it is in the best interests of the child, then your grandchild will no longer be in the ministry's care and you will have both custody and guardianship rights.

The purpose of transferring custody and guardianship to grandparents is to give children a sense of having a permanent home when adoption may not be an option. This might be the case when children have an ongoing attachment to their parents and placing the children for adoption would not be in their best interests, or when adoption would go against the children's or guardians' cultural practices. You will need to ask the social worker to make the application to transfer custody.

If it is clear that your grandchild will not return to the parents, you may think about adoption. You can try to adopt before, during, or after a child protection investigation, and it is important to get legal advice before going ahead. See page 66 for more information about adoption.

When the Public Guardian and Trustee becomes involved

The Public Guardian and Trustee (referred to simply as "the public trustee") of British Columbia is charged with protecting the legal rights and financial interests of children and youth. The available services to fall into the following four areas:

- **Infant settlement reviews**

When a child is injured by another person's negligence, the public trustee looks at the compensation offered to make sure it is fair for the child.

- **Trust management**

If a child inherits or earns money and has no other legal guardian, the public trustee can hold that money in a trust until the child is old enough to be in charge of it.

- **Guardian of estate**

When a child is in the ministry's care and a continuing custody order has been made by the court, the public trustee and the ministry become the child's guardians (see the next page for more information). That means that they make decisions about what happens to any money the child inherits.

- **Other protective services**

The public trustee also makes sure the interests of children and youth are protected when it comes to wills, money, contracts, and property sales.

The public trustee becomes involved in the child protection process under certain circumstances.

- If the parent of a child who is removed is under 19 years of age.
- When a child is in the continuing custody of the ministry, the public trustee becomes the guardian of the child's estate—that means managing anything the child might own or be entitled to.
- When a child is in the continuing custody of the ministry, the public trustee is responsible for protecting the child's legal interests. This includes starting or defending lawsuits on behalf of children in care.

If a child is in the continuing custody of the ministry and that custody is transferred to another person, the public trustee is no longer the guardian of the child's estate. When custody is transferred, the person who has custody takes over financial decision-making for the child.

Aboriginal children, inheritance, and band distributions

If your Aboriginal grandchild is entitled to property or band distributions, it is possible that Indian and Northern Affairs Canada (INAC) could manage the property or money until the child comes of age. They usually become involved when a band asks them to in order to manage a child's band distributions. Different bands will have different guidelines as to when they ask for that involvement.



Alternatives to court

Using the courts to settle family disputes can often add to everyone's pain and frustration. Some grandparents feel like their lives are no longer under their control when they have to leave major decisions to a judge. Whether you have had to file a case yourself or the ministry has become involved in your grandchild's care and you are trying to resolve the situation, you should know that there are alternatives that can help you to resolve family issues without going through the entire court process. In most cases, a mediator or another neutral third party can help the parent and grandparent (and the ministry, if it is involved) find a way to agree on what is best for your grandchild.

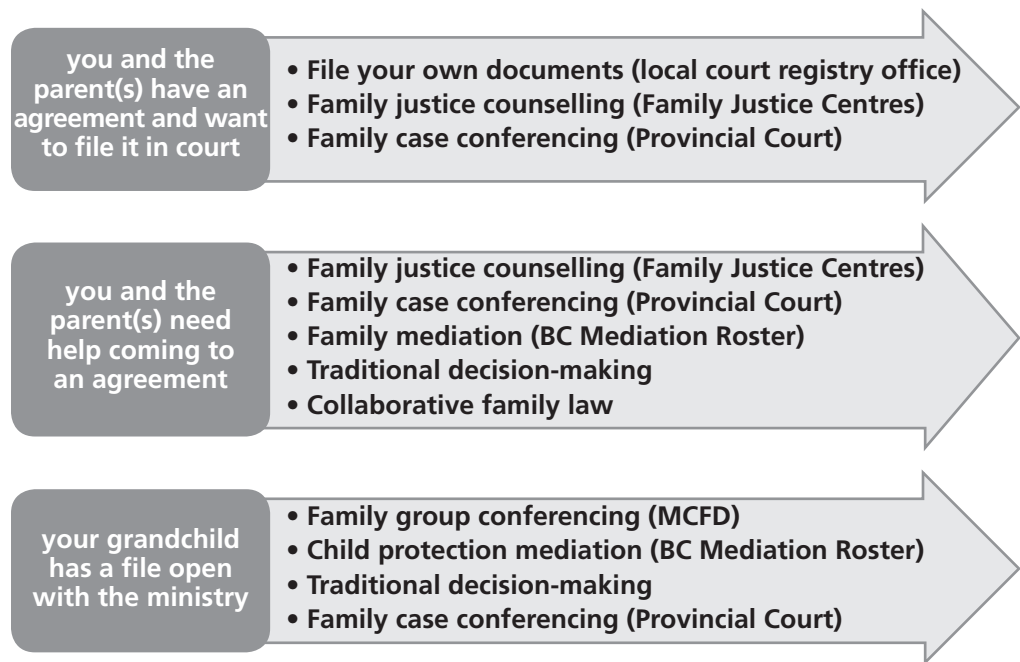
Coming to an agreement outside of court has many possible advantages:

- you can actively participate in the decision-making process
- problems are usually settled faster
- it is not as hard on a family, and relationships between family members are preserved when you work together
- alternatives to court can be much less costly
- the atmosphere is informal
- there is a better chance of reaching an agreement that meets everyone's needs

Keep in mind that sometimes, despite everyone's best efforts, you will have to go to court to settle your disagreements. But if you try one of the approaches below first, you may successfully limit your emotional and financial costs in the long run.

This chapter tells you about alternative ways to resolve family issues, like family case conferences and family mediation. The chart on the next page tells you about the options available to you, depending on your situation. It makes a big difference if the ministry is investigating your grandchild's care, because you will have to negotiate with them as well as with the parents.





Agreements you can file yourself

One simple way to avoid using the courts is to file your own applications and documents at the Provincial Court Registry Office. This can only be done if both you and the parents agree about such things as custody, guardianship, and access, and if the ministry is not involved in your case. There are two ways to file your own documents.

Written agreement

Parents can formally transfer custody and/or guardianship rights to a grandparent through a written agreement. You and the parents agree to the terms and write them up yourselves. There are many different ways agreements can be written to reflect your unique situation, such as joint custody and guardianship between the parent and grandparent, with the child's primary residence with the grandparent. The agreement can also spell out access arrangements and ground rules for how the agreement will be lived out.

Once you have written up the agreement, it can be filed at the Provincial Court Registry and have the strength of a court order when it comes to custody, guardianship, and access.

A family justice counsellor can help you through this process free of charge. Read the next section for more information.

Consent order

Another option is for you and the parents to write up something called a **consent order**. Once you agree on the terms and write up the order, everyone involved signs it, then a judge reviews the order outside of court. This way, you do not ever have to appear in court.

You can also finalize a consent order by having everyone involved go to court and agree in front of a judge to the terms of the order. A more informal way to do this is through a family case conference (see below). You can find out more about consent orders at your local Court Registry Office. A family justice counsellor can help you through this process for free (see page 83).

Collaborative family law

Collaborative family law is a relatively new concept. It is a process for resolving family disputes where everyone agrees to work together to reach an outcome that works for both parties, *without* going to court. This means that while you are involved in the collaborative process, neither you nor the other person will start or continue a court application. Trained lawyers take you through the process and charge fees.

At the first meeting, you and the parents—and your lawyers—sign a participation agreement saying that you commit to resolving the problem in a respectful way and to reaching an agreement that meets everyone’s needs.

In addition to collaborative lawyers, other professionals may participate, such as counsellors, child specialists, and psychologists. What they are trying to do is reach a solution that is best for everyone, especially the children. Once a solution is reached, lawyers help you to draft a written agreement. To find out more about collaborative family law, visit:

www.cba.org/BC/public_media/family/111.aspx

To find a collaborative family lawyer, call the **Lawyer Referral Service: 604-687-3221 or 1-800-663-1919** toll free.

Family case conference

If you read some of the previous chapters, you know that a family case conference is a private, informal, one- or two-hour-long meeting with a Provincial Court judge, the other people involved in a family court case (such as the parents), and your lawyer (if you have one). The purpose of the meeting is to resolve issues about custody, guardianship, and access *without* having to go to court for a full hearing.

If you apply for an order for custody, guardianship, or access in Provincial Court that the parents do not agree to, a judge may ask you to attend one of these conferences before you can have a court hearing. You can also request a case conference yourself, just as the parents or the ministry can (if the ministry is involved in the case), and you will all be required to attend.

During the conference, the judge will lead a discussion around a table about what is best for the child. The judge can do the following:

- mediate any issues you disagree on, meaning ask everyone involved to consider possible resolutions for the issues
- decide or make rulings on any issues that do not require evidence, and
- make consent orders.

The judge may also make any other order or give any direction that seems appropriate. Any of these outcomes are possible whether everyone attends the case conference or not. Therefore, make sure you can attend so that decisions are made with your input.

If you reach an agreement, the judge can make an order reflecting the agreement you reached. The judge's order will be binding on everyone involved. It will usually be drawn up into a formal court order by the court clerk and mailed to you.

If you cannot agree during the case conference, the judge can set a date for trial. If there are disagreements about serious issues, the case conference is not the place for the judge to make decisions about them.

The Legal Services Society of BC has a family case conference checklist to help you prepare if you must attend one. You can find it at: www.familylaw.lss.bc.ca/resources/fact_sheets/familyCaseConferenceChecklist.asp

If you would like to learn more about family case conferences or request one to settle your legal dispute, ask at your local Provincial Court Registry Office.

Family group conference

A **family group conference** provides a chance for a family to get together, talk about their options, and try to come up with a plan to make sure children have the care and support they need. A neutral person runs the meeting, and the family makes the decisions. This option is available for families who receive services from the Ministry of Children and Family Development, and it is free as long as the family's file with the ministry stays open. This is different from a family case conference, which is something you might go to if your family is involved in a child protection case or a Provincial Court case regarding custody, access, or support.

If you think this would be a good option for your family, you can ask the social worker for a family group conference referral. You can also find more information at www.mcf.gov.bc.ca/child_protection/mediation.htm.

Here is a general idea of the typical steps involved in the family group conference process:

- Your grandchild's social worker decides whether it is best to have a family group conference to reach an agreement. If so, the social worker will set one up with a conference coordinator.
- The conference coordinator will ask the family which other important adults should attend the conference, such as your grandchild's aunts or uncles, teachers, counsellors, or close family friends. The conference may also include your grandchild, but this depends on the family's wishes and the grandchild's maturity level. Some children who do not attend still express their views with pictures or writing.

- Before the family group conference begins, the coordinator contacts everyone who is involved to make sure they understand what the meeting is about. This takes 3–6 weeks. At the family group conference, the coordinator makes sure everyone feels comfortable and explains that the information shared in the conference must remain confidential.
- First, everyone discusses what support services are available to strengthen the family. Then non-family members leave the conference and the family has private time to develop a plan for the child (called a **plan of care**). The social worker has to approve this plan of care. Once that is done, everyone who was at the conference gets a copy and promises to follow the plan.

Although a family group conference is a good way to avoid having to go to court, it does not produce a legally binding agreement. Even if everyone cooperates during the meetings, the parents could later decide to go to court to get a different legal arrangement. Also, the social worker has a lot of power in this process because they decide whether to set up the family group conference and whether to approve the plan of care.

Family justice counsellors

Family justice counsellors can be found at Family Justice Centres across the province. The goal of counselling is to assist families to resolve their conflicts *without* going to court.

However, the process only works for families in which everyone is able to make decisions on their own. If someone in your family cannot do so because of problems such as addiction or mental illness, a family justice counsellor will refer you to other services, such as legal aid, to solve your problem.

There are four types of agreements that justice counsellors can help you make. Some of them are **legally binding**, meaning they are backed up by the power of the court and the people involved can be made to follow them.

- Informal agreement (not legally binding)
- Memorandum of understanding (not legally binding)
- Written agreements (filed in court and legally binding)
- Consent order (filed in court and legally binding)

To find a family justice counsellor, you can visit www.ag.bc.ca/family-justice/ for a list of Family Justice Centres across the province, or call the number below between 8:00 a.m. and 5:00 p.m., Monday to Friday, and ask to be transferred to the nearest centre:

Enquiry BC

<p>In Greater Victoria: 250-387-6121 In Greater Vancouver: 604-660-2421 Elsewhere in BC: 1-800-663-7867 (toll-free)</p>
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Mediation

Mediation is another process that tries to help people come to an agreement outside of court when they have a legal dispute. Instead of a judge, the person who runs the session is a mediator—someone who does not represent one side or the other, or decide who is right or wrong. Instead, mediators are neutral and work with people on both sides to find a solution that best meets everyone’s needs, *without* going to court.

Family mediators

Family mediators are usually lawyers or counsellors who are informed about family law and trained in mediation. You can use a family mediator and still seek the advice of a lawyer at the same time. If mediation helps everyone come to an agreement, your mediator can help you draw up that agreement in writing.

Mediators charge a fee for their services. This fee will vary depending on the mediator’s training and experience and the complexity of the issues involved. You can find a family mediator on the BC Mediator Roster (see below for contact information).

Child protection mediators

Child protection mediators help resolve disputes relating to a child in the care of the ministry. Like a family mediator, a child protection mediator is a neutral person who helps you and other family members make a plan of care that is best for the child. Mediation is an option that may be tried at any time when there are concerns about a child’s safety, even before the child is removed or after a court hearing.

Child protection mediators are listed on the BC Mediator Roster. They must satisfy stricter requirements than regular mediators. The BC Dispute Resolution Office and the ministry set guidelines for these special mediators, whose services are free. Ask your family’s social worker for more information.

Find a mediator

The **BC Mediator Roster Society** can give you a directory of trained mediators.

They also have a Mediator Consultation Program, which can put you in touch with family mediators who will give you a half-hour consultation for a fee of \$10.

To reach the society:

In Victoria: 250-356-8147 Elsewhere in BC: 1-888-713-0433 (toll-free) Website: www.mediator-roster.bc.ca Email: mediators@mediator-roster.bc.ca
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Traditional decision-making

Traditional decision-making is a way of settling disputes by following cultural practices. This method of decision-making can apply to many different cultural groups with extended families and close community ties. For some communities, using traditional decision-making to resolve family problems is a more effective and culturally appropriate solution to the problem. The term “traditional decision-making” is quite broad, and different areas of the province have different practices depending on the communities involved and what they are able to offer.

In the past, concerns about confidentiality meant that extended family members were not included in the discussion about what was best for children whose homes the ministry was investigating. This has changed over the past 20 years, and now, based on increasingly positive outcomes, the ministry welcomes the involvement of extended family members, especially grandparents, as well as the child’s larger cultural community.

Traditional decision-making is particularly important because of the high number of Aboriginal child welfare cases. The ministry is attempting to return some of the responsibility for child protection and family support back to the First Nations community, where by tradition it has always been.

Traditional decision-making in practice

The phrase “traditional decision-making” is not the most accurate description, since a lot of the power to make final decisions still rests with the ministry. This kind of decision-making involves a family group conference, as described above, except more people are invited to attend—not just the extended family, but also the wider community. It is still up to the parent to decide who will attend, and parents can choose not to invite community members.

The ministry has said that a family- and community-driven approach to developing a plan of care for a child is one of their priorities. If you believe your grandchild’s plan of care could benefit from the wisdom of community members, discuss this with your social worker.



Working out an agreement with the ministry

The social worker can make several types of agreements to ensure that your grandchild is cared for. Sometimes, signing an agreement will help bring the ministry's investigation to an end. In other cases, an investigation might not be necessary. More information about agreements starts on page 34; the ones described in this section are usually made when the investigation is no longer ongoing.

If your grandchild is Aboriginal, the Aboriginal community or delegated Aboriginal agency may be involved in planning the following agreements, unless the parent or child objects to the involvement or the community or if the agency is unable to be involved.

Special needs agreement

A social worker can make an agreement with someone who has custody of a child with special needs (such as physical, mental, emotional, behavioural, or communication difficulties). This agreement places the child in a foster home *temporarily* so they can get proper support services. Before the ministry agrees to the placement, the child's views must be considered as much as possible. You must also have a medical professional assess the child and certify that the child has needs that meet the criteria. The first term of the agreement cannot be longer than 6 months, but it can be renewed for terms of up to 12 months each.

For more information on the services usually available to children with special needs through the ministry, see page 39.

Support service agreement

A social worker can make a support service agreement with a parent or other person, such as a grandparent, who has custody of a child. The agreement will say that the ministry will either pay for or help the parent pay for services that will help care for the child. The child stays in that person's custody, and the parent or grandparent keeps all rights to the child.

Some examples of these services are:

- services for children and youth
- counselling
- in-home support
- respite care (having a caregiver come to the home to give you some time off if your grandchild has special needs)
- parenting programs
- services to support children and youth who witness family violence

These agreements last for six months at a time and can be renewed.

Voluntary care agreement

A social worker can make a voluntary care agreement with someone who has custody of a child and is temporarily unable to look after a child in their home. Under a voluntary care agreement, the child is placed in foster care on a temporary basis. The length of the agreement's first term depends on the child's age, but the agreement can be renewed to meet the family's needs—however, this type of agreement does still have time limits. See page 76 for more information.

If the ministry decides that a child needs protection, a voluntary care agreement can be made as a way to keep the child safe while the parent and social worker set up a plan of care.

Youth agreement

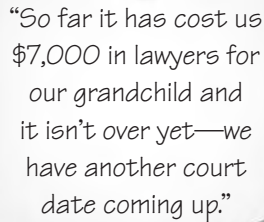
Someone who is 16–19 years old and does not want to live with their family can make a youth agreement with the ministry. This sort of agreement helps youths—particularly those who have unsafe homes—to become independent, return to school, and/or gain work experience and life skills. These agreements are for youths who do not have a parent or other person willing to take responsibility for them, or for those whose homes are considered unsafe.

If your grandchild is 16–19 years old and you are unable to care for them, you can suggest a youth agreement as a way for them to become independent. Your grandchild will need to discuss this with a social worker to see if they qualify.



Chapter 8

Getting legal help



"So far it has cost us \$7,000 in lawyers for our grandchild and it isn't over yet—we have another court date coming up."

Decisions you make about legal issues are very important, and a lawyer can help you understand your options and risks, as well as how your choices will affect your family. It is always a good idea to consult with a lawyer before making a major legal decision. Sometimes, you can qualify for free help from a lawyer through legal aid.

It is also important to know there are other people who may be able to help you through your legal matter, such as legal advocates. This section of the guide will provide information about the following:

Lawyers


- What are some tips to help me work best with my lawyer?
- What can I expect from my lawyer?
- How can I find the right lawyer for me?

Legal aid

- What is legal aid?
- Do I qualify for legal aid?
- If I do not qualify, what other free legal resources are available to me?

Advocates

- What is an advocate?
- How can I find a legal advocate?
- How can I advocate for my grandchild myself?




"Thank goodness for legal aid."

If your family and/or your grandchild is Aboriginal, you can also look at the end of this section for resources that can help with the particular legal and cultural issues that your family might face.

Legal aid

A significant amount of the information in this section was taken from the website of the Legal Services Society of BC. Go to www.lss.bc.ca or www.legalaid.bc.ca to learn more about legal aid.



"I had to fight for legal aid."

Legal aid could be a good place for you to start your search for legal help. All of the services are free, and even if you do not qualify for a lawyer's services, you may be eligible for other forms of help, such as free legal advice or free information. This advice and information could help you represent yourself, or it could help you get the most out of the services of a lawyer you hire yourself.

In British Columbia, legal aid is provided by the Legal Services Society (LSS), an independent, non-profit organization with a range of free services. Even if you do not think you qualify for legal aid, LSS encourages you to apply anyway.

Free legal aid services include:

- **legal information** from legal information outreach workers and LawLINE staff, as well as publications in many languages and the Family Law in BC website (www.familylaw.lss.bc.ca). Legal information is free for everyone, no matter what your income is.

"I found duty counsel to be very helpful."

- **legal advice** from family advice lawyers at several family justice centres, the lawyers and paralegals on LawLINE, and duty counsel. (Duty counsel are lawyers who work at most courthouses; they are available to give you free legal advice, assist with paperwork, and they can sometimes speak for you in court. However, their help is informal and they do not take on cases long-term.)
- **legal representation** from a lawyer—for those who qualify and have serious family, child protection, or criminal law issues. For advice on how to work with a lawyer, see page 91.

"Require legal advice?
Oh yes! We spent
\$40,000 in legal fees
to fight MCFD."

Free legal *representation*

To have a legal aid lawyer represent you, your net household income and assets must be at or below the levels in the table below. These guidelines apply to all types of cases, including appeals.

Your income might be lower than you think, since some income does not count, such as most child support. Only a trained legal intake assistant can really figure out whether you are financially eligible, so do apply.

Income limits for getting legal representation (a lawyer)

Household size (number of family members)	Net monthly income (after taxes and other deductions)
1	\$1,400
2	\$1,950
3	\$2,500
4	\$3,050
5	\$3,600
6	\$4,160
7 or more	\$4,715

This table is current as of July 2008, and could change.

"I saw lawyers two times, inquiring about getting legal guardianship. Saw lawyers several times and applied to legal aid for getting help with access. Legal aid turned me down because they said they don't handle that type of case."

Keep in mind that the amount of time you will get with the lawyer will be limited. In your first meeting, try to find ways in which you can maximize this time, such as working with an advocate (see page 95) or helping with the case yourself. For more information on making the most of your lawyer's time, see page 94.

Free legal *advice*

If you do not qualify for legal representation by a legal aid lawyer, you may still be eligible for free legal advice services from:

- **duty counsel** at most courthouses,
- **family advice lawyers** (you will need a referral from a family justice counsellor or a child support officer), and

"I used my savings to pay for legal costs for my grandchild."

- **LawLINE**, a free phone service that helps people with legal issues who do not qualify for legal representation. Information and referral services are free to everyone, while advice services are free for people with low incomes (see the table for the income rules).

Lower Mainland: **604-408-2172**

Elsewhere in BC: **1-866-577-2525** (toll-free)

Hours: 9:00 a.m.–4:00 p.m. Monday, Tuesday, Thursday, and Friday

9:00 a.m.–2:30 p.m. Wednesday

Website: **www.lss.bc.ca/general/LawLINE.asp**

To be eligible for most legal advice services from LSS, your net monthly household income must be below the levels shown in the table.

Income limits for getting legal advice

Household size (number of family members)	Net monthly income (after taxes)
1-4 or fewer	\$3,085
5	\$3,625
6	\$4,200
7 or more	\$4,750

This table is current as of July 2008, and could change.

"I re-mortgaged my house in order to pay for legal costs for my grandchildren."

Free legal information

If your income is slightly higher than the limits shown in the previous sections, there is a chance you might still qualify for the services described there. You should contact LSS to see what you are eligible for.

If you do not qualify for any of those services, you can still access free legal information from LSS via:

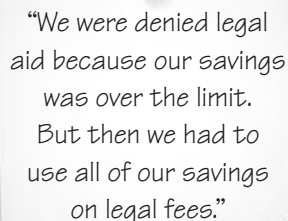
- **Legal information outreach workers** who provide help in person. To contact one, call the LawLINE or the legal aid office closest to you.
- **LawLINE** (see above).
- **The Family Law website:** **www.familylaw.lss.bc.ca**, which has a great deal of useful information about family law, the courts, and legal procedures. It also has links to court forms and legislation.
- **LawLINK:** **www.lawlink.bc.ca**, a website that can link you to other reliable sources of legal information.

Look at the end of this chapter for a list of other very useful sources of legal information.

How to apply for legal aid

If you would like to apply for legal aid, visit a legal aid office or call the LSS Call Centre (see below for contact information). It is helpful if you have all your financial and court information on hand when you phone. You can apply in person or over the phone.

"I haven't applied yet for legal aid, but I am going to look into it as I have exhausted my resources."



"We were denied legal aid because our savings was over the limit. But then we had to use all of our savings on legal fees."

You will need to provide:

- at least two recent pay stubs,
- a recent welfare stub, or
- a recent income tax return or bank records (if you are self-employed or seasonally employed).

The legal intake assistant may ask for more information to figure out whether you qualify.

You will also need to bring:

- proof of the value of your assets—like a car, boat, home, or RRSP, and
- any papers you have regarding your matter—like court orders or papers related to your family.

Working with a lawyer



"We have seen many lawyers, but very few know anything about our rights as GRG. It is always something unusual and unfamiliar for them."

Some of the information in this section comes from the Family Law in BC website. To read more, go to www.familylaw.lss.bc.ca and click on "Who can help" on the left side of the screen. Other useful sources for further reading (which also contributed to this section) can be found at www.thelawcentre.ca/first_interview and www.lawsociety.bc.ca/public/working_lawyer.html.

How to find a lawyer

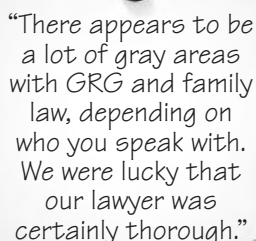
Keep in mind that your first meeting with a lawyer does not commit you to staying with that lawyer—if you are paying the legal fees, it is common to shop around to find the right fit. This may be impossible with legal aid, since in some communities there is only one lawyer who takes legal aid cases. When you apply for legal aid, ask about what can happen if you want to change lawyers.

(Occasionally, there is a problem when the person on the other side of your court case has already consulted with many lawyers in your area to keep you from being able to hire any of them. Legal aid has some policies in place to deal with this situation, but private lawyers might not be able to consider taking your case. If you find yourself in this situation, try to find an advocate for help—see page 95 for more information on advocates.)

Whether you qualify for services from a legal aid lawyer or hire a lawyer yourself, it is important that you find someone who works well with you. You will need a lawyer who is right for your situation, because grandparent caregivers often have unique legal problems. You will want to look for a family lawyer who has experience in areas such as guardianship and adoption.

In many smaller communities across the province, there may be few or no family or legal aid lawyers. This makes choice limited and representation more difficult if it must be long-distance. If there are advocates in your community, they might be of help in finding a lawyer or helping you to navigate the system (see page 95 for more information).

A good way to find a lawyer is to get a personal recommendation from family, friends, co-workers, and local community agencies or counselling



"There appears to be a lot of gray areas with GRG and family law, depending on who you speak with. We were lucky that our lawyer was certainly thorough."

services. Also, if you belong to a support group, other members may have names of lawyers who regularly work with the particular issues you face.

If you do not know anyone in your community you could ask, you can call the Lawyer Referral Service. It is a free program that can put you in touch with lawyers who have experience in the field of law that relates to your problem. Through this service, you can get a consultation with a lawyer for up to 30 minutes for a fee of only \$25, plus taxes.

Lawyer Referral Service

Lower Mainland: **604-687-3221**

Elsewhere in BC: **1-800-663-1919** (toll-free)

Hours: 8:30 a.m.–4:30 p.m., Monday through Friday.

Website: **www.cba.org/**



“Lawyer Referral Services was very helpful in finding us a lawyer.”

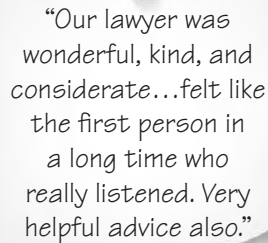
If you know the name of a lawyer you would like to consult but do not have their contact information, you can use the **Lawyer Lookup** service of the Law Society of BC. Go to **www.lawsociety.bc.ca** and click on “Lawyer Lookup” on the right-hand side.

What to expect from your lawyer


People usually need a lawyer during the most emotional times of their lives. You may feel helpless, overwhelmed, angry, or frustrated by having to go through a family crisis and navigate the court system at the same time. For that reason, it is helpful to know a few tips on how to get the most out of the time you spend with your lawyer. There are some different tips depending on whether you are eligible for a legal aid lawyer or you must hire a lawyer yourself.

The information below applies not just to a lawyer you hire yourself, but also to legal aid lawyers.

- A lawyer’s job is to explain the law and your legal options to you. Lawyers do not make decisions for you; they review your situation and offer suggestions on what you can do.
- Lawyers act on behalf of their clients. They should listen to what you say, and do what you decide to do. Remember that the lawyer is working for *you*.
- Anything you tell your lawyer is confidential and your lawyer cannot share your information without your consent. This includes *any* information you share, both for the purpose of getting legal advice and for other purposes.
- There is one exception to this rule about confidentiality: if you tell your lawyer that you believe a child or adult will be abused in the future, he may report this for the protection of the other person.
- Your lawyer can help with legal advice only. If you need emotional support, you may want to talk to a friend, an advocate, or a counsellor.



“Our lawyer was wonderful, kind, and considerate...felt like the first person in a long time who really listened. Very helpful advice also.”



“Our lawyer was not aggressive enough for the cause!”

- Legal aid lawyers have limits to how much time they can spend on your case and what expenses are covered. Ask for information about those limits at the very beginning.

How to prepare for your appointment

A lawyer will need information about you and your situation in order to give you proper legal advice. If you have arranged to meet with a lawyer, you need to:

- Bring with you all court documents you have relating to your case, such as a custody order or any new application.
- Take a list of questions, extra paper, and a pen so that you can write down the answers to the questions that you have.
- Have an idea of what outcome you would like to reach at the end of your meeting.
- Organize and bring any documents you think may help. If possible, bring a copy for the lawyer to keep, since that will save time and money.

Also try to have the following with you:

- identification with your full name and address (tell the lawyer if you do not want this information given to anyone else)
- full names, birth dates, and current addresses of your child and grandchild
- information about your income and everything you know about your grandchild's parents' income
- a list of incidents that explain any need for a protection or custody order (for example, specific dates, times, and places of physical or mental abuse, child abuse, or neglect)

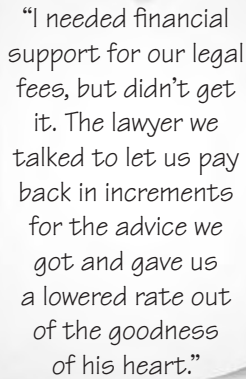
Questions to ask the lawyer

- *If your lawyer's services have been provided by legal aid:* **What are the time and cost limits?**
- *If you have hired the lawyer yourself:* **How much will it cost, and when will I have to pay?** In the first interview, ask the lawyer how much your bill will be and if there will be any additional expenses. Tell your lawyer you want to be kept informed about costs as the case goes on. You are entitled to get a detailed bill before you pay. Some lawyers will agree to wait until your case ends before getting payment from you. How and when you pay can be negotiated. If you think your lawyer charged you too much, you can have a District Registrar review the bill (see page 95 for more information).
- **What do I need to support my case?** Ask what evidence you will need to gather to support your case. For example, you may need to get receipts from a daycare centre or statements from witnesses.

"Our lawyer did not prepare us enough for court."

"My lawyer better be 'adequate' at that price!"

"In order to apply and gain custody, I spent about \$10,000."




"I needed financial support for our legal fees, but didn't get it. The lawyer we talked to let us pay back in increments for the advice we got and gave us a lowered rate out of the goodness of his heart."

- **What can you help with?** Ask your lawyer to explain what help he or she can provide and what steps are involved. For example, you may want the lawyer's help to draft your affidavit or to reply to a court order application.
- **How long will it take?** Ask if there might be delays and how these can be avoided or reduced.
- **What are my chances of success?**
- **Can I have copies for my own files?** Keep copies of all documents and correspondence relating to your case, and keep them on hand in your own file. Ask how much copies will cost.
- **How and when will I hear back from you?** Find out when and how often your lawyer will be in touch to inform you about how your case is progressing.


Make the most of your lawyer's time

Whether you hired the lawyer yourself or you have to keep within the legal aid time limits, these strategies will help you to make the most out of the time you get with your lawyer.



"These lawyers don't seem to know much about grandparents' rights."

- Think ahead of time about how you will describe your problem. It is best if you have a clear idea of the history of the situation before you see your lawyer. The appointment may be time-limited, so you need to tell your story in a way that is clear and quick. Write down basic details of your legal matter ahead of time, setting out the facts in chronological order. Bring a copy for the lawyer to keep.
- The lawyer is not there to judge you and can only give you advice based on the information you provide. If you leave out important information, the advice the lawyer gives may be wrong for your situation. You might have wasted time, money, and perhaps even made your situation worse.
- Before each meeting, be prepared. Make sure you have all your documents in order and that you have read over anything your lawyer has sent you.
- Keep your communications to the point, and be organized. Do not spend time discussing issues unrelated to your legal matter. Remember, the lawyer will bill you for phone calls as well as the time it takes to read notes and documents.
- After you have explained your problem, ask the lawyer to tell you about your options. If you do not understand something, ask. Take the time to think things over while you are there to make sure you leave with a clear understanding of what your options are.
- Get to know your lawyer's assistants. If a secretary, paralegal, articling student, or junior lawyer can help you, contact that person instead of the most senior lawyer—their time is less expensive.
- Find out if your expectations are reasonable. Ask your lawyer for an opinion concerning your chances of success, and find out about your options and alternatives. Make sure you and your lawyer agree on



"The only legal costs I have had are minor filing fees and time off work."

your plans and priorities and that your choices are likely to lead to the outcome you want.

- Ask your lawyer to make suggestions about what you can do to save time and money. You may be able to prepare parts of the case on your own or with the help of a legal advocate (see page 95 for information on advocates).

If a lawyer overcharges you

If you believe your lawyer overcharged you by a lot, you can have your bill assessed by a third party and potentially reduced. This is called **taxation** of the lawyer's bill. You must apply to have this done within 12 months of receiving the bill if you have not paid it, or within 3 months of paying the bill. However, you should only pursue this option if the amount of the overcharge is fairly high. You can be forced to pay the lawyer's costs to defend against the taxation if the bill is reduced by less than one-sixth (or less than about 17%).

The master or district registrar at your nearest Supreme Court provides this service. (To find the court closest to you, look in the blue pages of your phone book.) The first step is to go to the courthouse and pick up a complaint form, called an appointment form (Form 24). Fill it out and return it to the clerk, along with a filing fee before the deadline. The clerk will give you a court-stamped appointment form with the date and time for the hearing to serve to your lawyer. You will have to attend a hearing, but it will be casual, and you can represent yourself. The district registrar will hear both sides and make a decision, usually pretty quickly, about whether the bill is fair. If the registrar decides to reduce the lawyer's bill, he or she will issue a legally binding judgement and, if the bill is reduced by at least one-sixth, you will either get a refund or not have to pay as much. If the bill is reduced by less than one-sixth or not reduced at all, you will have to pay your lawyer for the time he or she spent preparing for and attending the taxation hearing.

For more information, read or listen to Dial-A-Law script #438:

Dial-A-Law

Lower Mainland: 604-687-4680

Elsewhere in BC: 1-800-565-5297 (toll-free)

Website: www.dialalaw.org

Working with an advocate

Advocates are people who are trained to help you through a complicated situation. Like lawyers, they can explain the system to you and tell you about your legal options. Unlike lawyers, they work for free no matter what your income is, and they can help you in different ways, such as finding support services in your community or going with you to appointments.

A legal advocate is a person who has special training and experience in certain areas of law, such as poverty, child protection, or family disputes. Legal advocates usually work for a non-profit community agency and may have a background in areas such as social work, law, or mediation. Some

lawyers appreciate working with an advocate, especially if you are receiving legal aid. The advocate can save you and your lawyer much time and money by assisting with the case.

Some advocates can help you only by phone; some can see you in person. Some advocates can come with you to appointments; some cannot. Advocates differ depending on their training and where they work. All advocates will help define and clarify the problems you are facing, give you information, offer support, and connect you with resources and services. An advocate may also teach you how to advocate for yourself, how to communicate clearly, and how to solve and prevent problems. An advocate may help you find the right lawyer; accompany you to appointments with lawyers, teachers, or social workers; work with you to develop an action plan; help you write letters; help you prepare for court; and help you prepare and complete all of the steps involved in a formal complaint.

Some advocates can help you to change the system itself. They may find others with a similar issue and help you form an action or lobby group. In that case, they might do the necessary publicity and recruitment of participants and allies. They might teach media skills, petition writing, and organizing strategies. They may connect you with provincial or national organizations who share the same concerns or who are already working on changes.

Much of the advice in the section before on working with a lawyer is useful when working with an advocate. Many advocates work to teach you the skills you will need to advocate for yourself and your family so that you can become more independent. Following are some more tips for working with an advocate.

- Make sure the advocate has access to legal supervision.
- Be aware that conversations with an advocate are not confidential the way that your conversations with your lawyer are. Discuss limits to confidentiality with your advocate in detail, in case what you tell the advocate could impact your court case.
- Some advocates are also trained counsellors. They may be able to assist in ways that are broader than resolving your legal problem.

How to find a legal advocate

When you contact a potential advocate, ask about the person's credentials, experience, philosophy, and approach. Find out exactly what he or she can do for you and what time is available. Look for advocates with experience in your legal situation and a good reputation within the legal and ministry systems.

To find an advocate near you, ask for recommendations from another grandparent, a counsellor, or your lawyer. If you do not get a recommendation, ask at one of the following organizations.

- Your **local legal aid provider**. Legal information outreach workers at the nearest legal aid office can connect you with an advocate in your community. Call and ask to be transferred to the office nearest you:

Legal Services Society Call Centre

Lower Mainland: 604-408-2172
Elsewhere in BC: 1-866-577-2525 (toll-free)

- **PovNet**, an online resource that connects people to registered advocates in their communities.

Phone: **604-876-8638**
Website: **www.povnet.org/find_an_advocate**
(click on the map to find an advocate)
Email: **info@povnet.org**

- The **BC Coalition of People with Disabilities' Advocacy Access Program**.

Lower Mainland: **604-872-1278**
Elsewhere in BC: **1-800-663-1278** (toll-free)
Website: **www.bccpd.bc.ca**

- **VictimLINK** to find victim advocacy services near you.

Phone: **1-800-563-0808** (toll-free)

You might have to be creative about finding an advocate if your community does not have a formal advocacy service. Check the front (and yellow pages) of your phone book and look for a women's centre, family service agency, crisis line, or mental health service and ask for contacts for advocates. You can also search the internet for "advocacy services bc" or "bc advocate" and you will find many suggestions. You might also come into contact with workers at different agencies who do not define themselves as advocates, but may still help you.

For more information about advocates, go to **www.familylaw.lss.bc.ca** and click on "Who can help" on the left side of the screen.

Tips to help you advocate for your grandchild yourself



Often, grandparents must be advocates for themselves, their grandchildren, and even their adult child. Here are some general tips to consider when you are advocating for your rights and for what is best for your family. You may be involved with any number of systems and individuals, including the ministry and its social workers, welfare officials, school personnel, doctors, therapists, and lawyers.

It is a good idea to keep in mind that we all communicate differently. Whether English is not a person's first language, or their upbringing, culture,

and beliefs influence how they interpret another person's words and actions, it is wise to try to look past these differences and find common ground. What is perfectly respectful to one person may be seen as disrespectful to another. Try to summon as much patience as you can: understanding is the goal of all communication, and it can take time.

In this section, you will find tips from an experienced advocate in how to advocate for yourself, first and foremost. You can also see page 159 of the appendix for a sample of a letter that you can send to an agency or government ministry if you need to ask for services or benefits.

Do your homework

Find out as much as possible about the service, agency, or person you are seeking out ahead of time and learn what is possible under their rules. Learn what the service or government **mandate** (purpose) is and what to expect. You can learn this by checking websites, brochures, and also by talking to others who have been involved with the service or system, especially those who have had success. If you cannot get this information ahead of time, ask for it in your very first questions.

Make an appointment

Meeting in person usually works best. Make an appointment to show that you are serious, and that you respect the agency's time and your own. When you make the appointment, let the other party know what you want to discuss or learn and whether anyone will come with you (such as an advocate, friend, relative, or child). Find out how much time will be available and then come prepared to be brief and to the point. If you need the person to read material beforehand, make sure to send a copy ahead of time.

Plan ahead

Think about what you want and how you will explain it—briefly—to the person you are meeting. You should also plan an explanation of how your request will help your grandchild and fit with a long-term plan that is in the child's best interests. Bring any documents that explain or support your request (such as quotes from the ministry's own legislation or policy, or a doctor's reports). Write out reminders for yourself so that you make sure to cover everything in the meeting.

If your grandchild is old enough to speak in a meeting, plan out ahead of time how best to do that. If children must attend, make sure the words and tone of the discussion will be alright for them to hear. If the children are not there, bring a picture of them to remind everyone involved to stay focused on the children and their best interests.

Take notes

Keep a record of all communication in one book or folder. Date every contact and list what you requested, who was present, what they refused or promised to do, and when they agreed to do it. Sometimes it is worth it

to write up a summary of the meeting and give a copy to the other parties. Always keep copies of any material you or they provide. Get all decisions in writing.

Respectfully assert your rights

Be assertive, not aggressive. Be honest and forthright. Do not exaggerate. Be respectful in all of your dealings. Be prepared to listen well, and expect the same in return. Ask questions and clarify to make sure you fully understand. Be patient and persistent. Stay on track. Learn all that you can about your rights. If you make a mistake, simply admit it and move on. Be responsible for your own words and actions. Work towards positive, productive relationships that will support you and your grandchild. Relationship-building takes time and effort. If you do not agree with a decision, ask to appeal it.

Work cooperatively

Work with the service provider to identify all the issues, concerns, and related facts. Be clear about what is known and what information is missing. Explain or review everything that has been done or tried so far. Work together to identify what you and your grandchild need. Brainstorm for all possible solutions, resources, and strategies. Look at the benefits, problems, and costs for each of these solutions in the long and short term. Get more information or professional advice if you need it. Choose the best solution for your grandchild. Make an agreement about who will do what—and get it in writing. Always get legal advice before you agree to anything that will be legally binding.

Find help to solve conflicts

If there is a conflict or personality clash with the worker or other person at the agency, ask for help to sort that out. Start by finding an advocate or clear-headed friend or family member to analyze the problem with you. Gather any additional information that will help, then meet again with the person in question and take along your advocate. If you are still not successful, request an interview with the person's supervisor. If that does not work, you can ask to make a formal complaint. Most agencies and services have a formal complaint procedure (and some of these procedures are described in this guide). Always go through the agency's complaints process first. If this system or person is going to be in your or your grandchild's life in the future, your goal should be to try to find a way to solve the problem respectfully and positively together.

If you find that you are still unsuccessful after your attempts to address your concerns using the agency's own complaint procedure, you might be able to appeal to an authority that oversees the agency in question, such as the Ombudsman, the Employment and Assistance Appeal Tribunal, or the Public Guardian and Trustee, depending on the problem. This guide has more information about your various appeal options in the sections that deal with the specific benefit (for instance, the section on CIHR benefits tells you where you can appeal decisions about CIHR). You can also consult **Dial-A-Law**, a

series of audio scripts on different legal topics, including how to complain. You can read or listen to them at www.dialalaw.org, or call 1-800-565-5297 (toll-free).

Make some actions last resorts

You may feel tempted to go to the media to share your conflict or story. However, trying to publicize your problem in the media should always be the last resort when all other attempts for a fair resolution have failed. Involving the media could only serve to escalate the situation, and actually end up working against you. It could also have an adverse affect on the children, especially if they are old enough to see news reports or read newspapers.

Other last resort strategies may include writing to your MLA or MP, starting a petition, and forming or joining a protest or advocacy group to change an unfair law or policy. Another approach that you should look at as a last resort would be to sue the ministry, which is hard to do because of special protections it has under the law.

Other sources of free legal help

In addition to legal aid, there are other programs in the province that can help you with free legal advice, information, and referrals.

Access Justice

Access Justice is a non-profit society of lawyers who offer pro bono (free) legal services to people who cannot get legal aid but also cannot afford a lawyer (half of the people of BC fit into this category). Access Justice clinics are located across the province and work out of community agencies.

Lower Mainland: **604-482-3195**
Elsewhere in BC: **1-877-762-6664** (toll-free)
Website: www.accessjustice.ca
Email: help@accessjustice.ca

The BC Courthouse Library Society

The BC Courthouse Library Society is a non-profit organization providing access to legal information resources and services to British Columbians. A lot of this information is available on their website.

Lower Mainland: **604-660-2841**
Elsewhere in BC: **1-800-665-2570** (toll-free)
Website: www.bccls.bc.ca
Email: bccls@bccls.bc.ca

Dial-A-Law

Dial-A-Law is a library of audio scripts prepared by lawyers. It offers general information on a variety of topics on BC law.

Lower Mainland: **604-687-4680**
Elsewhere in BC: **1-800-565-5297** (toll-free)
Website: **www.dialalaw.org**

Electronic Law Library

The Electronic Law Library provides links to a wide range of information on federal and provincial law, court decisions, and specific areas of law.

Website: **www.bclibrary.ca/ell**

The Law Centre

The Law Centre is a service of the University of Victoria law school. It provides advice, assistance, and representation to clients who qualify and who live in the Capital Regional District (Victoria). The Law Centre provides many different services, so it is best to call them up to see what they can do for you.

Phone: **250-385-1221**
Website: **www.thelawcentre.ca**
Email: **reception@thelawcentre.ca**

The Law Courts Education Society

The Law Courts Education Society (LCES) has a lot of information on their website, such as guides to how the legal system works, how to represent yourself in court, and Aboriginal community resources.

Phone: **604-660-9870** (if you are outside the Lower Mainland, call and ask for contact information for the office in your region)
Website: **www.lawcourtsed.ca**
Email: **info@lawcourtsed.ca**

The People's Law School

The People's Law School is a non-profit society that provides free and impartial legal information to British Columbians. They have many helpful publications on different legal topics that are free and accessible from their website.

Phone: **604-331-5400**
Website: **www.publiclegaled.bc.ca**

The 2006–2007 Public Legal Education and Information Resource Catalogue

This catalogue lists all of the public legal education and information resource providers in BC. You can find it, along with the latest updates, by typing “resource catalogue” into the search box on their website.

Website: **www.lss.bc.ca**

Legal resources for Aboriginal families

If you are an Aboriginal person in need of legal assistance, all of the ordinary channels are open to you, such as legal aid and hiring a lawyer. However, there are some organizations that offer legal services for Aboriginal people specifically. The following organizations can refer you to *family* law services. However, there are also many organizations that serve individual First Nations, so you can also ask at your local Native Friendship Centre or band office for help finding a lawyer.

BC Association of Aboriginal Friendship Centres

To find your local friendship centre, call or visit this agency's website.

Phone: 250-388-5522
Website: www.bcaafc.com

Native Courtworker and Counselling Association of BC

The NCCABC provides all sorts of legal and counselling services, as well as specific services for families, such as the Native Youth and Family Advocate Program. Their advocates can help when your grandchild is the subject of a ministry investigation, with court appearances, and with family separation.

Phone: 604-985-5355
Website: www.nccabc.ca
Email: nccabc@nccabc.net

Indian Residential School Survivors Society

According to their website, "The IRSSS mandate is to recognize the generational effects of residential schools and empower First Peoples of BC by supporting research, promoting awareness, establishing partnerships, and advocating for justice and healing."

Lower Mainland: 604-925-4464
Elsewhere in BC: 1-800-721-0066 (toll-free)
Website: www.irsss.ca

Interior Métis Child and Family Services

This organization offers support for parents who are at risk of having their children removed, as well as helping families through the court process.

Phone: 250-544-9486
Website: www.imcfs.bc.ca

Northern Native Public Legal Education Program

This program offers help to Aboriginal youth who are in trouble with the law, as well as career ideas for those interested in working in the justice system. They can do educational presentations for groups on subjects such as how the criminal and civil legal systems work, restorative justice, and other topics.

Phone: 250-614-2736

Website: www.lces.ca/Northern_Native_Public_Legal_Education/

Email: northern@lawcourtsed.ca

Northern Rockies Aboriginal Women Society

Based in Fort Nelson, this organization offers services including a women's shelter program, Urban Aboriginal Early Childhood Education Program, Canada Prenatal Nutrition Program, and Urban Aboriginal Legal Advocate Program.

Phone: 250-233-8920

Email: ed.nraws@northwestel.net

YWCA Crabtree Corner

The YWCA Crabtree Corner has a legal educator on staff who provides a wide range of legal support to women and families in the Downtown Eastside and answers questions regarding legal issues. The legal educator is not a lawyer, but offers legal information.

Phone: 604-734-5517, ext. 2235

Website: www.ywcavan.org

Email: avollans@ywcavan.org



Chapter 9

Using the courts

Much of the information in this section comes from the resources available on the Family Law in BC website (www.familylaw.lss.bc.ca) and the BC Ministry of Attorney General's website (www.gov.bc.ca/ag).

Some grandparents get custody and guardianship of their grandchildren easily, with helpful advice and direction from family lawyers and legal advocates. Other grandparents have frustrating experiences, receiving little help or sympathy, and have to return to court many times before their issues are resolved.

One of the biggest legal issues facing grandparents who seek custody of their grandchildren is that the court tends to favour the wishes of the birth parent. Although top consideration must be given to the best interests of the child, the court will generally presume the parents are able to determine what is in the child's best interests, and it will be the grandparent's task to disprove this. This means grandparents may have a tough case to make, especially if both parents are still in the picture.

Do not be discouraged! Many grandparents have successfully been awarded custody of their grandchildren. Remember, the chances of success depend entirely on the facts of each case. Remember that it is important to seek legal advice before going forward with a court application. Turn to the chapter *Getting legal help* on page 88 for more resources.

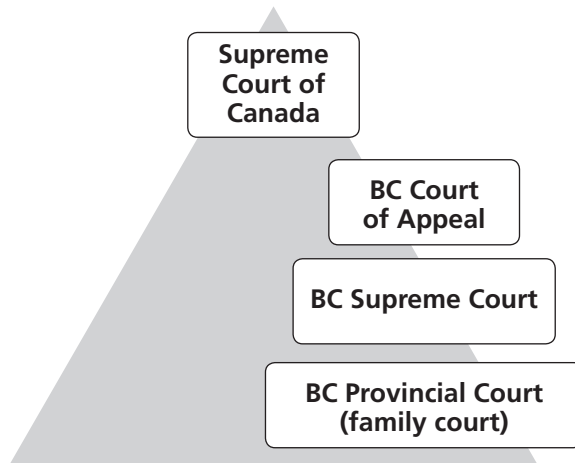
This section will explain how the courts work and how you can prepare yourself.

Choosing a court

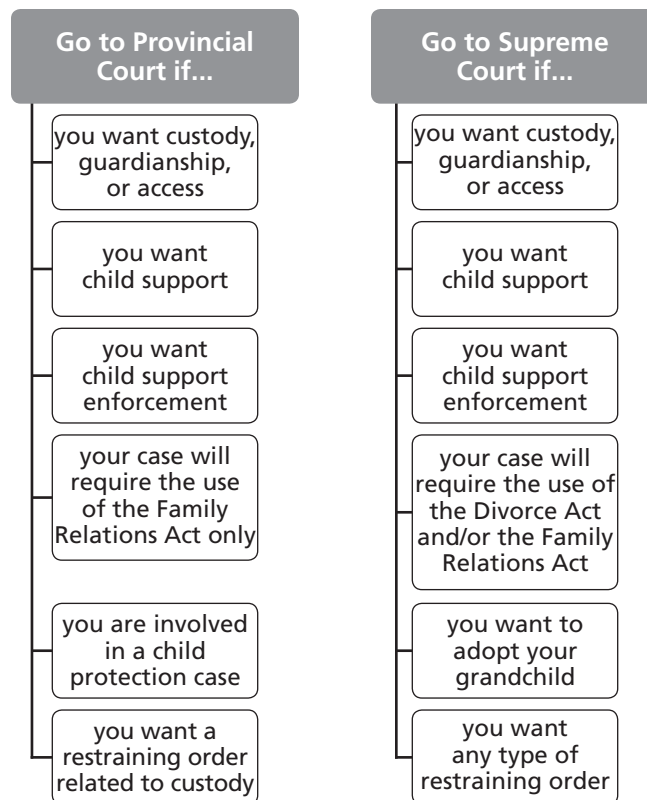
There are three levels of court in BC: the Provincial Court, the Supreme Court, and the Court of Appeal. You can think of the courts in terms of lowest to highest, with the Provincial Court at the bottom and the Court of Appeal at the top. (To **appeal** something means to ask that a decision be reviewed, either because the judge did not apply the law properly in the first case or, in some limited cases such as custody orders, because the circumstances have changed. See page 114 for more information about appeals.) This means that a decision of the Provincial Court is appealed to the Supreme Court, and a decision of the Supreme Court is appealed to the Court of Appeal.

There is also the Supreme Court of Canada, which is sometimes confused with the Supreme Court of BC. The Supreme Court of Canada is the highest court in the country. It is located in Ottawa and hears appeals from every province's Court of Appeal, including the BC Court of Appeal. The Provincial Court (often called family court) handles most grandparents' custody, guardianship, and access issues.

Levels of court



Figuring out which court you should go to is an important first step in any family law process. In BC, the Supreme Court and the Provincial Court handle some of the same types of cases, but procedures, timelines, costs, and the kinds of orders you can get are different. This graphic sets out which court might be better for your situation. (It was adapted from a chart on the Family Law website, which has a series of materials on how to choose a court. For more information on the subject, go to www.familylaw.lss.bc.ca and type “Choosing a court” into the search box.)



Provincial Court has a more informal atmosphere, more court locations, less paperwork, fewer rules, no filing or trial fees, and it is more common for people to represent themselves there.

Supreme Court has a formal atmosphere, fewer court locations, more paperwork, more rules, significant filing and trial fees, and lawyers usually represent clients.

The Provincial Court handles most grandparent-raising-grandchildren issues. The times when a grandparent would be *required* to go to the Supreme Court to get custody or guardianship of their grandchild would likely be:

- to appeal a Provincial Court order
- to arrange custody, guardianship, or access rights during the divorce of a grandchild's parents
- to adopt a grandchild

If you go to Supreme Court, a master may hear your case instead of a judge. A master has the same powers as a judge to make interim orders for custody, guardianship, access, and support, but cannot make final orders or divorce orders.

If your grandchild's parents have a divorce order

If your grandchild's parents have a divorce order from the Supreme Court and you want to obtain custody of your grandchild after they get divorced, you should ask a lawyer how to proceed because it is not obvious which court you should go to.

The different types of court orders

Final order

A **final order** is an order that a judge makes at the end of a trial. The order contains directions that are legally binding on both parties for the foreseeable future. Final orders are never completely final. If the circumstances change significantly, you or the other person can apply to change the order.

Because Provincial Court procedures are mostly designed for people to give their evidence out loud in front of a judge, you may get a final order as a result of your first appearance or application to the court. But to get a final order in Supreme Court, you generally have to return to court for trial after the first application.

Interim order

An **interim order** is an order made by a judge or master that is binding on both parties only temporarily—that is, it only lasts until a final order is made at the end of the trial. This type of court order may also be described as **interlocutory** or **temporary**.

Because the courts are very busy, it often takes several months to a year—or more—to go to trial after you apply for a trial date. The interim order fills the

gap by giving everyone rules to follow in the meantime. Interim orders might deal with procedure, like ordering someone to produce a financial statement, but can also deal with weightier matters, like custody.

An interim order is based on limited evidence and arguments presented when the order is first requested. The interim order itself will not usually have a time limit or expiry date. It will last until you go to trial, whether that is six months or several years later.

Without notice (ex parte) order

A **without notice order** (also called an **ex parte order**) is when a judge makes a decision without letting the person named in the order know that such a decision will be made. The person named in the order does not appear in court, but gets a copy of the court order after it is made.

A without notice order is only available if urgent or special circumstances exist, and can be used if you and/or your grandchild need protection. In this case, a judge can make an order without notice that the person you need protection from cannot contact you.

How to apply for a court order

You can apply for a court order by filling out a court form. Provincial Court forms and instructions are available free of charge from any Provincial Court Registry.

If you want to begin or change custody, access, guardianship, or support arrangements, you might have to go to the Supreme Court. Unlike the Provincial Court, the Supreme Court charges court fees. However, if you cannot afford them, you can apply for an **indigency order**, which excuses you from paying court fees.

To find out more about indigency orders, see the Family Law in BC website: www.familylaw.lss.bc.ca/guides

Help to fill out court forms

The material in this section came from the Family law website's fact sheet on the subject. To read the whole fact sheet, go to www.familylaw.lss.bc.ca and type "help with forms" into the search box.

If you cannot afford a lawyer but you need help filling out court forms, there are several ways to get help. You will have to provide all the necessary information, but there are people who can sit with you while you fill out the forms. They can also check your completed forms to make sure you filled them out correctly. To get in touch with any of the first three resources, call the Legal Services Society Call Centre (see page 97 for the phone number).

- **Family justice counsellors** (in Family Justice Centres across BC)
- **Family advice lawyers** (in family justice counsellors' offices in Kamloops, Kelowna, Prince George, Surrey, Vancouver, and Victoria)

- **Family duty counsel** (in Provincial Courts and some Supreme Courts)
- **BC Supreme Court Self-Help Information Centre** (a drop-in resource located in Vancouver only) www.supremecourtselfhelp.bc.ca
- **Free (pro bono) legal clinics** across BC (see the listings starting on page 191 to reach them):
 - ◆ Salvation Army Pro Bono Lawyer Consultant Program
 - ◆ UBC Law Students' Legal Advice Program
 - ◆ Western Canada Society to Access Justice legal clinics

When you fill out a court form, you will have to identify as either the **applicant** or the **respondent**. In Family Court, the applicant is the person applying for the court order, and the respondent is the person who responds to the application. In other courts, you may be called the **plaintiff** instead of the applicant, and the **defendant** instead of the respondent.

Family court forms

Here is a list of a few family court forms you may need when using the courts:

- Form 1** Application to obtain an order
- Form 2** Application to change/cancel an order
- Form 3** Reply (to an application)
- Form 4** Financial statement
- Form 15** Subpoena (to call a witness)
- Form 17** Affidavit
- Form 18** Request
- Form 19** Consent (to an order or to change)
- Form 21** Application to enforce a custody order

You can find a link to any of these forms on the Family Law in BC website: www.familylaw.lss.bc.ca. Look on the right-hand side under "Shortcuts" for the section on "Court forms."

Family justice registry

If you live in Vancouver, Surrey, Rossland, Nelson, or Castlegar and you file a family law application, the process will be different from other places in the province. When you file your application with the court registry, it will actually be filed in something called a **family justice registry**. This means that, before a clerk can set a date for your first appearance in court, the clerk must refer both you and the parents to a family justice counsellor for a meeting. (See page 83 for more information about family justice counsellors.)

Remember that anyone can request the help of a family justice counsellor before filing an application.

Case conference before trial

Both the Provincial Court and the Supreme Court hold case conferences. In Provincial Court, the conference is called a family case conference (see page 81 for more information), and in Supreme Court, it is called a judicial case conference. The procedures for each are different, but the purpose is the same: to try to settle the case more quickly, without a full trial.

At a case conference, the judge will identify your family's issues and discuss different ways to resolve them. The meeting is confidential and informal. A case conference can save you time, money, and stress, especially if it helps you to settle your case more quickly.

Depending on your situation, you may be required to go to a case conference before your case goes to trial. If you live far away from the courthouse, you can participate by telephone.

If you have questions about case conferences, Family Justice Centres provide free information and can help you learn about the process. To find a Family Justice Centre near you, call Enquiry BC and ask to be transferred.

Court interpreters

If you do not speak or understand English very well, you may need an interpreter to help you understand questions in court and to make sure the court understands your responses. If you need a court interpreter, tell the court a long time before the court date. Phone the court registry where your case is being held and explain the situation. In larger cities there will be an interpreter clerk to give you information.

You will have to pay the interpreter fees yourself, at least on the day of the hearing. If the court rules in your favour and orders the other party to pay your legal costs, they will have to pay you back for the fees.

How to represent yourself in court

Many grandparents use either the Provincial Court or a family case conference to establish a legal agreement. This section will teach you about rules and procedures in Provincial Court so that you can prepare to represent yourself.

A court process usually begins with what is called a **first appearance hearing**, where you introduce your issue to the judge. To prepare for your first hearing, or any other hearing, the following suggestions from the Ministry of Attorney General may be helpful (for more information on representing yourself, go to www.supremecourtselfhelp.bc.ca).

Before the hearing

- Re-read all the documents that you or the parent filed at the court registry as part of your application to Provincial Court.
- To help organize your thoughts, write down:
 - ◆ why you are going to court
 - ◆ a list of the issues you hope to settle
 - ◆ your position on each issue
 - ◆ what you want the judge to order
- Prepare a detailed outline of what you think the judge needs to know to come to a good and fair decision. (This is just for you. You will not be able to give your notes to the judge or read them out as part of your evidence. However, if you forget what you want to say, you may ask the judge if you can refer to your notes.)
- Collect any other documents you think you may need in court. For example, if you are going to court to gain custody or access, you should bring any relevant documents, such as a Parenting After Separation certificate. Make *three copies* of all the documents you want judge to see: one for you, one for the parent, and one for the judge.
- If you are not comfortable speaking in English, or you communicate only in sign language, ask court staff to arrange for an interpreter *well in advance* of your court date.

Calling witnesses

You cannot call witnesses for a first appearance hearing. However, if the judge decides your case should go to a trial, you may want to call witnesses to speak on your behalf. If you do so, make sure you notify them of the court date well in advance, or ask court staff about how to arrange for a subpoena (summons to appear) if necessary.

On the day of the hearing

- Make sure you have all the documents you need (and copies) in one neat folder or envelope.
- Dress neatly—this is one of the most important times to make a good impression.
- Bring a paper and pen so you can write down notes or questions as they occur to you.
- Arrive early—at least 15 minutes before your court appearance is scheduled.
- Find out which courtroom your case will be heard in and wait outside the door. (To find your courtroom, check the daily list posted in the lobby of the courthouse, the court registry office, or at the information desk, if there is one.)

- Turn off your cell phone or beeper, take off your hat, and throw away any chewing gum before you enter the courtroom.

Court etiquette

How to address the other people in the courtroom:

- Call the judge “Your Honour”
- Refer to the court clerk as “Mr. or Madam Clerk”
- Refer to the other party (the parent) as Mr., Mrs., or Ms., followed by their surname (last name).

How to act while in court:

- Be on time. Once you are inside the court room, take a seat at the back. The court may hear several cases in one session, so you may have to wait for your case to be called.
- Stand up when the judge enters the courtroom and remain standing until the judge sits down.
- Stand whenever you are asked to speak and whenever the judge speaks to you.
- Be brief and to the point. Even though you may be emotional, try to speak calmly.
- Do not interrupt the judge or anyone else while they are speaking.
- Do not argue with the judge.
- If you do not understand a part of the proceeding, ask the judge and they will explain the procedure.

Information to present in court

The Legal Services Society of BC has a checklist of items to include in an affidavit (a written statement used in Supreme Court) or to present aloud (in Family Court) that we thought would be useful to include here. (What follows is an excerpt; the complete resource can be found at www.familylaw.lss.bc.ca. Click on “Fact sheets” on the right-hand side, then look under “Legal system & courts.”)

The following suggestions should serve as a starting point or general overview of the kind of information that needs to be given to a judge/master who is hearing a family case. You will need to adjust them to your particular circumstances.

- **Background information** of both you and the other party, like age, current job, and address, etc.
- **Role of each** party throughout your relationship. Include a summary of important responsibilities, jobs, and/or contributions of both you and the other person to the child.

- **The child's needs.** Include details about your grandchild, such as whether he or she has problems at school, diagnosed special needs, etc.
If you want custody, be sure to say that you are able to take custody of the child, and explain why *you* should be awarded it instead of the parent.
- **Parental responsibilities.** Include details about who did what in relation to your grandchild's care, like who made sure the child had good food to eat, who took the child to the doctor, and who the child is closest with. Give reasons for each detail.
- **Extended family.** It may also be important to describe how you will help your grandchild maintain relationships with other family members, especially if your grandchild is Aboriginal.
- **Finances.** Include financial details if you are applying for child support.
- **Family dynamics.** Include a summary of how well you and the other party communicate, if there have been incidents of physical or emotional abuse, and if your grandchild has been exposed to that abuse.
- **Access.** If either party is applying for access, include details about how you would like to see access arranged.
- **Other information.** Include other details important to your grandchild's upbringing, such as religious or cultural ties and values.

If you are applying for or responding to an application for custody or access, you may want to ask friends, neighbours, or family members to speak to the court as witnesses to support your case. In Provincial Court, you call your own witnesses.

If you reach an agreement before the court date

If you and the parent are able to reach an agreement before your court date, you can file either a written agreement or a consent order with the court. Once the agreement is filed, the court can enforce your agreement about custody, guardianship, access, and child support.

If you and the other party reach an agreement but you already applied for an interim order, advise the judge that you both intend for the order to be final. In this case, the order can be made final by consent. If you have any questions about written agreements or consent orders, ask the staff at your local court registry office.

Likely outcomes of a first appearance

The judge has a number of options to choose from at a first appearance hearing:

- **Family case conference:** The judge might order you and the other party to attend a family case conference.
- **Adjournment:** The judge might choose to adjourn (postpone) your case to a later date, so that you and/or the other party can consult further with your lawyers, attend a Parenting After Separation course (see page 113 for more information), or try mediation.

- **Consent order:** The judge might make a consent order if you and the other person agree on the application, or if you come to an agreement at the first appearance hearing or through a family case conference.
- **Interim order:** The judge might make an interim order, a short-term court order that temporarily settles issues such as custody and guardianship until a final order is made.
- **Order:** The judge might make any of a number of other court orders, ranging from an order asking one of you to produce additional documents to a final order that settles your matter (see page 106 for more information).
- **Trial preparation conference:** The judge might order you and the other party (and your lawyers, if you have them) to attend a trial preparation conference. Similar to a family case conference, this is also an informal meeting before the judge, but this time the judge will focus on making sure you and the other person are ready to present your cases at a trial.
- **Trial:** The judge might send your case to trial—either directly, without a family case conference or trial preparation conference, or after them.

How to change or cancel a court order

When it comes to cases that involve a child, no final order is ever permanent. Either party may go back to court to ask for a final order to be changed—but only if the situation has changed significantly. If you disagree with the court order but the circumstances have not changed, you should instead appeal it (see the next page), or apply to cancel it. To change or cancel a court order, first get legal advice about how to proceed. Be aware that there are important time limits for filing an appeal.

The Parenting After Separation course

A Parenting After Separation course is a free, three-hour information session. The purpose of the course is to help parents make informed choices about separation from their children and to take into account the best interests of their children. Although the course is designed for parents, it is available to *all* adults who are dealing with issues of child custody, access, guardianship, and child support, including grandparents. Many grandparents who have gone to the course said they learned a lot about the impact that family separation can have on their grandchildren.

In many BC communities, parents and grandparents have to attend a Parenting After Separation course before going to court to settle matters such as custody and access. This also includes changing an existing order. The court registry where you file your application can tell you whether you have to attend.

You can be excused from attending the course if you have attended one in the past two years, or if you and the other party are filing a consent order. You may also be excused if your safety or the safety of your grandchildren is

at risk, if you have a serious health problem, or if you live a long way from where the course is being held.

If Parenting After Separation courses are not available in your community, you can call the nearest Family Justice Centre and ask them to send a home study package to you. It has a lot of helpful information about separation, using the courts, and other legal issues. To find a Family Justice Centre, call Enquiry BC (see the list on the next page for their phone number).

How to appeal

The Attorney General's website provided the source material for this section. To read more about appeals, go to www.ag.gov.bc.ca, click on "Family Justice" on the left side, and type in "how to appeal" in the search box at the top.

An appeal is when a higher court reviews a lower court's decision to see whether the trial judge applied the law correctly when deciding a case. In other words, the appeal court does not make a decision about the facts of the case, but about whether there was a mistake in how the first judge used the law. It is not enough to appeal a decision if you are simply unhappy with it; your appeal must be based on the incorrect application of the law to your case. (It is rare, but you can also sometimes appeal because new evidence has come to light, or because the circumstances surrounding the original order have changed—but courts seldom allow it.)

Where you can appeal a court order depends on which court made the original order. See the chart below to figure out whether you can appeal your order, and if so, where the appeal will be heard.

Type of order	Where to appeal
Provincial Court, interim order	Under FRA: cannot appeal Under CFCSA: Supreme Court
Provincial Court, final order	Supreme Court
Supreme Court, final or interim order	Court of Appeal
Court of Appeal	Supreme Court of Canada (with permission)

If the appeal judge finds that the first judge who made the order made an error that affected the final result in your case, they may set aside (cancel) the order, make a new order, or send the case back to the first court for another hearing. If the appeal judge finds that the first judge did not make an error, the original order remains in place. Most often, the original court order also remains in effect while your appeal is being heard, though there are exceptions, and you can ask a lawyer about whether they would apply to your case.

You should be aware that an appeal can be complicated, time consuming, and expensive, and there is no guarantee that the judge will decide in your favour. Before you begin an appeal, you should talk to a lawyer to find out if it is worth the time and money it will take.

Important time limits

There are important time limits for appeals and you must file your appeal before the time limit expires. If you decide that you want to appeal an order, do not wait until the last minute. There are strict rules about how the days are counted for these time limits. You should get legal advice as soon as you can.

Useful resources

The Family Law website, operated by the Legal Services Society of BC

www.familylaw.lss.bc.ca

Family Justice Centres and Counsellors (Ministry of Attorney General)

www.ag.gov.bc.ca/family-justice/index.htm

JP Boyd's BC Family Law Resource

www.bcfamilylawresource.com

The Law Courts Education Society

Provides resource guides on how to represent yourself in court.

www.lawcourtsed.ca

Ministry of Attorney General (Family Justice)

www.ag.gov.bc.ca/family-justice/

Enquiry BC

Call Enquiry BC to find out more about the services mentioned in this chapter. You can also ask to be transferred to another BC government service provider if you do not know the number or to avoid having to pay long distance charges for the call.

In Victoria: **250-387-6121**
In Vancouver: **604-660-2421**
Elsewhere in BC: **1-800-663-7867** (toll-free)
Website: www.servicebc.gov.bc.ca

Dial-A-Law

Listen to a series of audio clips on different legal topics, including how to represent yourself in court.

Phone: **1-800-565-5297** (toll-free)
Website: www.dialalaw.org

Chapter 10

Financial assistance and benefits

Parts of this section were taken from the Family Law in BC Website, created by the Legal Services Society. You can find it online at www.familylaw.lss.bc.ca.

"I would need financial assistance, but I will not qualify as my income is too great. They do not consider debt load."

If you are raising a grandchild or a relative's child, you may be entitled to government benefits. The amount of help you can get to pay for the child's needs depends on whether you have a custody order, an adoption order, or are a foster parent (meaning the ministry has placed the child with you). It will also depend on whether your grandchild has been diagnosed with special needs (for specific information, see page 133).

The first table on the next page is a good start if you are trying to figure out which benefits may be available to you. Be aware that there are financial and other eligibility requirements for most of them. An interactive version of this table, complete with links to more information, can be found online at www.familylaw.lss.bc.ca/resources/fact_sheets/grandparents_benefits.asp.

Once you know which benefits you want to pursue, look at the next section for more specific information on the eligibility requirements and dollar amounts available per month or year.

After the benefits, there is a section in this chapter on child support, which you might be entitled to (see page 127). You may also be eligible for help to pay medical expenses (see page 126), and for tax breaks or refunds (see page 132).

Finally, at the end of the chapter, you will find some useful tips for how to deal with the government workers at the agencies that give out these benefits.

Note: Many of the benefits listed in the table are available to non-relatives as well as relatives. Double-check with the appropriate agency to find out exactly what is available.



Table of available benefits

Benefit	Adoption	Custody order	Foster care (placement by the ministry)	See page
Child in the Home of a Relative Benefits and GFA	No	Yes**	No	119
Foster parent payments and benefits	No, but there are some exceptions (like post-adoption assistance).	No	Yes	123
Regular income assistance benefits (including PPMB and PWD benefits)	Yes, the child is considered part of your family unit under that legislation.	Not on behalf of the child, who is eligible instead for the Child in the Home of a Relative benefits (see above), which pays more than income assistance. The caregiver remains eligible for income assistance benefits for him or herself.**	No, but receipt of basic family foster care rate does not affect the caregiver's own eligibility for income assistance benefits.	124
Child support from the biological parents of the children	No	Yes** (but is deducted from Child in the Home of a Relative Benefits)	No (Any maintenance payments go to the Ministry of Child and Family Development).	127
Child Care Subsidy (for parents with low incomes or if recommended by the Ministry of Child and Family Development)	Yes	Yes**	Yes	129
EI Family Supplement	Yes	Yes**	No	130
Canada Pension Plan (CPP) children's benefits (based on disability or death of a parent or other person who had care and control of the child and had contributed to CPP)	No	Yes**	No. Benefits go to the Public Trustee to be held for the child.	130
Canada Child Tax Benefit	Yes	Yes**	No	132
Universal Child Care Benefit (for children under 6)	Yes	Yes**	Yes	132

Benefit	Adoption	Custody order	Foster care (placement by the ministry)	See page
BC's Adoption Expense Tax Credit	Yes	No	No	133
Child Disability Benefit	Yes	Yes**	No	133
Income tax deduction for dependants with disabilities	Yes	Yes**	No	N/A
BC's Children's Education Fund	Yes (if the child was born after January 1, 2007 and adopted by parents who live in BC, and the child later goes to post-secondary school in BC).	Yes** (if the child was born after January 1, 2007 to biological parents who lived in BC, and the child later goes to post-secondary school in BC).	Yes (if the child was born after January 1, 2007 to biological parents who live in BC, and the child later goes to post-secondary school in BC).	N/A

**These benefits may also be available to caregivers who do not have a custody order.

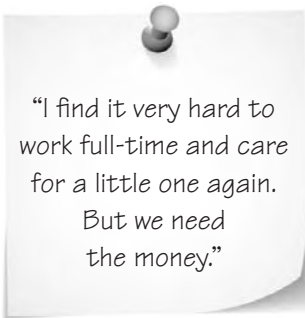
Note: This table provides general information only and does not cover social benefits in particular situations. Rules change and there are exceptions, so always double-check whether this information applies to you.

How *your* benefits are affected

It is important to speak to a social worker and a lawyer before you get a custody order, sign an agreement to provide foster care, or adopt a child. They can provide accurate information on options and how your benefits will be affected by different legal arrangements.

For some grandparents, the immediate changes that occur when they start to raise their grandchild have a significant impact on their employment or retirement situation. Some working grandparents have to leave their jobs because of the age or special needs of the child in their care. If you need employment or income assistance, contact the Ministry of Housing and Social Development (see page 185 for contact information). You can also look on page 124 for more information about extra benefits available to families on income assistance when they have dependent children.

The publication *Your Welfare Rights*, available from the Legal Services Society, is a good resource to learn about income assistance, Persons with Disabilities assistance, and Children in the Home of a Relative benefits. The same organization also has a publication called *When I'm 64* that tells you about all of the different retirement benefits available to people over 60 in BC. For a free copy, see the Family Law website at www.familylaw.lss.bc.ca or call the LSS Call Centre (see page 97 for the phone number).



Child in the Home of a Relative (CIHR) benefits

If the ministry has placed your grandchild with you, the social worker might refer you to the Child in the Home of a Relative (CIHR, or relative benefits) payment, provided by the Ministry of Housing and Social Development (MHSD), the ministry that handles welfare.

For Aboriginal families who live on reserve, there is a benefit you can get instead of CIHR called Guardian Financial Assistance (for more information, see page 121).

Eligibility for CIHR

You can get CIHR assistance regardless of what you own and what your income is. Receiving CIHR will not affect your own benefits if you are on income assistance—CIHR does not count as income in these situations. If you receive CIHR payments, you may also be eligible for health and school start-up supplements for the child in your care (see page 125 for more information).

Your grandchild may be eligible for CIHR if *all* of the following apply:

- The child lives with you
- The child’s parents placed the child with you
- Neither of the child’s parents lives with you
- The Ministry of Children and Family Development (MCFD) screens your home and determines there is no evidence of risk to the child
- You do not have a kith and kin agreement with MCFD (in which case you can get other forms of government support to raise your grandchild)

Note: If one of the parents is not available to sign the CIHR application, other proof of placement may be accepted.

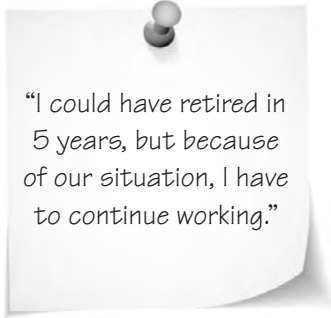
If you are an adoptive grandparent or you are raising your grandchild under a restricted foster care arrangement, you are not eligible for CIHR benefits.

Monthly CIHR payments are much less than foster care payments, and once your grandchild’s file with the ministry is closed, the ministry is no longer responsible for giving you support services to take care of your grandchild.

The amount of the monthly payment depends on the age of the child:

Age group	Monthly CIHR rate
Birth to 5 years	\$257.46
6 to 9 years	\$271.59
10 to 11 years	314.31
12 to 13 years	\$357.82
14 to 17 years	\$402.70
18 years	\$454.32

(The rates shown above are as of August 2008; they can change at any time. Check with an advocate for current rates.)



Monthly reports

To receive ongoing assistance, you will have to submit a Monthly report form to the ministry informing them of any changes in the child's circumstances. If the parents give you support money, you will have to declare that income on the report and it will be deducted from the CIHR amount paid.

To apply for CIHR

The CIHR benefit is not provided by the ministry that handles child protection (MCFD), but ministry staff do help to screen people who receive the benefit to make sure their homes are safe for children.

To get this benefit, MCFD will check their own records to see if they have ever investigated you for child protection concerns. They will also do a criminal records check on you and on anyone 18 or older who lives in your home. Everyone in the home has to give their consent for this check, or you cannot get the benefit.

If there are any potential risks that come up as a result of these checks, a social worker will interview you and others in your home and do a home safety check. The ministry may then decide to approve or reject you for CIHR benefits. This is similar to a child protection investigation, but it is *not* the same thing. The review process can take a while, and while you are waiting for the results, no benefits are paid.

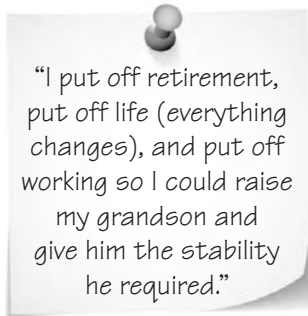
This new procedure started in 2007, when the Representative for Children and Youth suggested the change in light of concerns over children's safety in homes that receive CIHR. As a result, in December of that year, the ministry began to screen applicants to make sure there was no evidence of risk to children.

Some grandparents are alarmed by this policy. However, the ministry has said that you will not have your application denied just because you have been investigated in the past, or just because you or another person in your house has a criminal record. Your application might be delayed if either of these is the case, but *the ministry will not automatically deny you the benefit as long as your past does not prevent you from caring for your grandchild right now.*

Once MCFD approves you to get CIHR, it will actually be paid to you by another ministry, MHSD, which handles income assistance. (It is possible that this could change in the near future.)

If your application for CIHR is denied or if your payments are discontinued, you can request something called a **reconsideration** from MHSD. That ministry will take another look at your application and any information gathered during the screening process.

If you have questions, you can contact an advocate who deals with welfare issues. Find one on PovNet's website: www.povnet.org (click on the map to find an advocate in your area).



Or call **MCFD's After-Hours and Emergency Line:**

Vancouver: 604-660-4927 Elsewhere in the Lower Mainland: 604-660-8180 Elsewhere in the province: 1-800-663-9122 (toll-free)
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If you still do not get the benefit after the reconsideration, you can appeal to the Employment and Assistance Appeal Tribunal (EAAT). More information on reconsiderations and appeals can be found in the LSS publication *Your Welfare Rights* (see page 181 for how to order or download a free copy). Many advocates across the province can help with appeals.

Guardian Financial Assistance

Guardian Financial Assistance (GFA) is a program similar to CIHR, but meant exclusively for people whose homes are on reserve. It is administered by MHSD, the same ministry that handles income assistance. The same screening processes that apply to families receiving CIHR (see the previous section) were supposed to be phased in for homes receiving GFA. However, this screening will not be done by MCFD, but by Indian and Northern Affairs Canada (INAC), the agency that handles the GFA benefit. The screening may or may not be in place when you apply for the benefit.

You can get GFA only if the parents agree to place their child in your home on reserve. You are eligible whether you are employed or not, and regardless of what your income may be.

You may qualify for GFA if *all* of the following are true:

- the child you are caring for is not your own
- you and the child live in the same house on reserve
- the child's parents agree (in writing) that the child can live with you.

and if any *one* of the following situations in this list is true:

- the child's parents are attending treatment or are unable to care for the child due to a mental or physical disability,
- there are child protection concerns or a recommendation from MCFD or a First Nations Child and Family Services agency that the child not live with the parents, or
- the ministry or family services agency believes it is in the best interests of the child.

When you apply for GFA, a social worker will check the income of the child's parents. If the parents have more income than they would get if they were on social assistance, they will be asked to pay that extra income to you. The amount you get from GFA will then be reduced by the amount that you receive from the parents.

If you have legal (court-ordered) custody of the child, you may be eligible for GFA without the written consent of the child's parents, if all other sources of maintenance have been explored and if you meet the criteria. If you are

denied GFA but are receiving social assistance, you can include the child as a dependant and therefore collect benefits at the higher rate for a larger family unit.

You may also apply for the Canada Child Tax Benefit for the child in your care. This benefit will not affect your GFA rates or be deducted from your income assistance (see page 132 for more information about tax benefits).

If you qualify for GFA, you will be paid the following amount for each relative's child per month:

Child's age	Monthly GFA rate
Birth to 5 years	\$257.46
6 to 9 years	\$271.59
10 to 11 years	\$314.31
12 to 13 years	\$357.82
14 to 17 years	\$402.70
18 years	\$454.32

Note: These rates can change. Please consult your worker or advocate for current rates.

For more information on GFA, contact the agency below:

First Nations Social Development Society

In the Lower Mainland: **604-926-4184**
Elsewhere in BC: **1-800-991-7099** (toll-free)
TTY: **1-877-985-5565**
Website: **www.fnsds.org**

Benefits based on other agreements with the ministry

If you have one of the following agreements with the ministry, you could be paid according to the foster care rates:

- a voluntary care agreement
- an interim or temporary agreement
- a kith and kin agreement
- a restricted foster care agreement

When you make the agreement, you and the social worker will make a list of your grandchild's needs. Be sure that the agreement includes enough financial assistance and support services for you to meet those needs. This can be difficult, because the amount and type of support you get is largely up to the social worker to decide, unless you have a restricted foster care agreement. Remember that you have a greater chance of getting what you need if you always say that what you are asking for is in the best interests of your grandchild. Tips on how to work well with your grandchild's social worker are provided on page 42.

Foster care rates

Child's age group	Monthly foster care rate
Per child age 11 and under	\$803.82
Per child age 12–19	\$909.95

The rates shown above are accurate for 2009 and could change at any time.

The ministry also provides relief/respite rates that range between \$35 to \$40 per day if you need to hire a babysitter or put your grandchild in daycare. Contact your social worker to learn the specific rate that applies to your grandchild.

To learn more about foster parent services, contact the BC Federation of Foster Parent Associations toll-free at **1-800-663-9999**, or visit their website at **www.fosterbc.ca/index.php**; or the Federation of Aboriginal Foster Parents Association at **1-866-291-7091**; or a local MCFD office.

In addition, the ministry should pay for the following expenses: medical, dental, medical equipment, assessment and development services, and mental health services. For more information, see page 126.

You can also get details on these services from the ministry at:

www.mcf.gov.bc.ca/foster/pdf/health_supports_cic.pdf

Note: If you enter into a foster care agreement with the ministry, you must be kept informed (and included as a party to any legal proceedings) regarding any decisions the court makes about continuing care. If the court decides it is not in the child's best interests to return to their family, you and the ministry will need to make choices regarding on-going restricted foster care supports or longer-term legal custody arrangements under the Family Relations Act.

It is a good idea to seek legal advice to know your options. See the chapter *Getting legal help* on page 88.



Benefits available to adoptive families

When you adopt a child, you become the child's legal parent. As a result, you take on the responsibility for providing for the child, including financially. As a result, you will no longer be eligible for most of the government benefits you might have been receiving up until this point. However, you will become eligible for a lot of new benefits. The benefits listed below are available to adoptive families. Read the information in the rest of this chapter to learn more about them and how to apply for them.

Federal assistance

- Income tax deduction for dependants (grandchildren)
- Child Disability Benefit
- Canada Child Tax Benefit
- Universal Child Care Benefit (for children under 6)
- EI Family Supplement
- Adoption Expense Tax Credit

Provincial assistance

- Child Care Subsidy (if you have a low income or if the Ministry of Children and Family Development recommends you)
- BC's Children's Education Fund
- BC's Adoption Expense Tax Credit (harmonized with the federal Expense Tax Credit)
- Post-Adoption Assistance Program (see below for more information)

Other assistance

- your employer must provide the same health benefits for your adopted grandchild as it provides for birth children of employees
- your adopted grandchild has the same inheritance rights as a birth child

Assistance for children with special needs

Post-adoption assistance, also known as supported adoption, is available for families who adopt children with special needs through the Ministry of Children and Family Development. If a ministry social worker says you are eligible, you can get services such as respite care, counselling, psychotherapy, and special equipment.

If you are considering adopting your grandchild through the ministry, *ask for this assistance*. The ministry may not simply offer it to you. You will need to sign a written agreement with the ministry that outlines the post-adoption assistance your family will get. In some cases, this program will also give maintenance funding to families who are in financial need. To find out more, ask at your local ministry office.

Benefits available to those on income assistance

If you are collecting income assistance, you may be eligible for more benefits because the number of dependent children in your care will have increased. As you know, the amount you get in benefits depends on the number of dependants you have in your family unit. You should speak to your grandchild's social worker and an advocate to find out what different types of assistance you and your grandchild might be eligible for—everything from subsidized bus passes to medical care or a little extra money at Christmas. Following are some of the supplements and benefits you can ask about.

Family bonus top-up supplement

If you are receiving income assistance, a temporary family bonus top-up supplement may also be available as an advance for a delayed, cancelled, or suspended family bonus payment (see page 132 for more information on the family bonus). Any retroactive child tax benefit or family bonus payments received from the federal government will be deducted from the income assistance cheque in the month it is received. If you get CIHR, you are not eligible to receive a family bonus top-up or adjustment. (Up to \$123.50 per calendar month.)

Health supplements

If you are receiving income assistance, you may also be eligible to get various health supplements to cover the cost of your grandchild's health care needs. If you are receiving CIHR payments, you may be eligible for health supplements if the child's parents do not pay for these needs. Health supplements include supplements such as medical equipment and supplies; medical therapies; optical, dental, dietary, and drug/alcohol treatment coverage.

School start-up supplement

The ministry may give you extra money if you are on income assistance and caring for a dependent child. If you are receiving CIHR payments, you may also be eligible for this supplement if the child is attending school full-time. (Up to \$116 per calendar year.)

Hardship assistance

If you are not eligible for income assistance or Persons with Disabilities (PWD) benefits, hardship assistance may be available to help your family meet their essential needs for food and shelter. Different rates apply depending on whether your family includes someone who is disabled. For the rates, see the links below.

Hardship Support Rate Table (as of April 1, 2007):

www.eia.gov.bc.ca/mhr/hardship.htm

Hardship Support Rate Table for Persons with Disabilities (as of January 1, 2005): **www.eia.gov.bc.ca/mhr/hardship_pwd.htm**

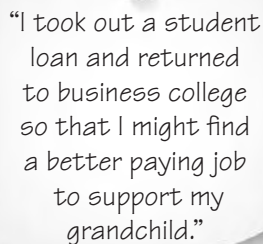
Income and exemptions

It is a good idea to review the MHSD "Income and Exemptions" webpage or the publication *Your Welfare Rights* from the Legal Services Society (see page 181 for how to get a free copy) to learn more about earned/unearned income, as well as any exemptions you may be eligible for if you want to apply for income assistance but you are worried that your income is too high.

For instance, the CIHR payment is not considered earned income. Neither are Child Tax or Child Disability Benefits. However, within this section there may be certain earned family unit income that is taxable, but where portions of it are considered exempt. For example, if both grandparents are earning employment income but have a designated disability, they may be eligible to deduct \$750/month per person from their net income for tax purposes.

You can access the ministry's online resource at:

www.gov.bc.ca/meia/online_resource/verification_and_eligibility/incandex/policy.html#30



"I took out a student loan and returned to business college so that I might find a better paying job to support my grandchild."

Housing assistance

For detailed information on housing assistance—both for homeowners and for renters—see the LSS publication *When I'm 64* (see page 181 for how to get a free copy) or the provincial government's *BC Seniors Guide* (available for free at your local library or MLA's office). There are many programs out there to help you—to pay your rent, to make repairs to your home, or to find a home—if you are 55 or older.

In addition, regardless of age, BC Housing helps more than 55,700 households with low to moderate incomes by providing them with subsidized housing. For information on their housing registry, visit www.bchousing.org/providers/registry or contact:

BC Housing: Housing Services branch

Lower Mainland: 604-433-2218

Elsewhere in BC: 1-800-257-7756 (toll-free)

Medical benefits

Healthy Kids Program

MHSD (the ministry in charge of welfare) offers the Healthy Kids Program, which extends basic dental and vision care to children up to 18 years of age who are from low-income and modest-income families. Families qualify for this program if they are receiving full or partial MSP premium assistance. For more information, contact MHSD by calling 1-866-866-0800 (toll-free; press 4 and then 2).

Medical benefits and CIHR

Children who qualify for CIHR are eligible to have all of their medical needs covered by the same ministry that provides the CIHR benefit, MHSD. Your grandchild should be eligible for this coverage no matter what your income may be, but only if the child's parents cannot afford to pay for medical expenses. Ask your grandchild's social worker or an advocate about accessing these benefits. You can also consult the publication *Your Welfare Rights*, available for free from the Legal Services Society (see page 181 to get a copy).

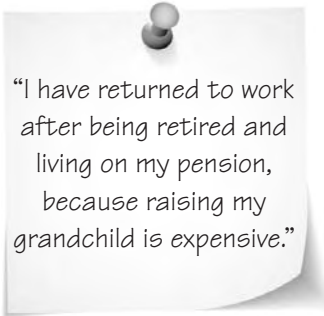


Child support

Much of the information in this section comes from JP Boyd's Family Law Resource, available online at www.bcfamilylawresource.com.

There are generally five questions a court will consider when you apply for child support (also called **maintenance**):

1. Does the person seeking the order have a right to child support?
 - *Yes.* Grandparents who have legal guardianship of their grandchildren are “parents” under the Family Relations Act, and therefore have a right to make an application for child support.
 - Also, you can make a claim for child support on behalf of the child even if you do not have legal guardianship (under the Family Relations Act, section 91(3)). Child support is something the *child* is legally entitled to, even though the parent pays it to the person caring for the child. Talk to an advocate or a lawyer for more information (see page 91 or page 95 to find one).
2. Is the child eligible for child support?
 - *Probably.* According to the FRA, children under the age of 19 whose parents have separated or divorced are eligible for support, as well as children over the age of 19 who require continued support because of a disability (see the Family Relations Act, Section 1(1) and Section 87). In addition, children over 19 who attend school full-time are often still eligible.
3. Who must pay the child support?
 - The only people obligated to pay child support are: parents, guardians, and step-parents (if they contributed to the support and maintenance of the child for one year). See the FRA, section 1(1), for more information.
4. How long should the child receive support payments?
 - Typically, support will end when a child turns 19, unless the child stays in school full-time. Sometimes, a court has also allowed an “adult child” to receive support, which means a person over 19 who is still dependent on their parents due to illness, disability, or another cause. How the courts address this situation varies from case to case.
5. How much support should the child receive?
 - Generally, child support in Canada is calculated by the federal Child Support Guidelines, which look at a person’s income and the number of children that person is supporting in order to determine the amount of support. The guidelines apply to all parents who are not together, whether they were married, lived in an opposite- or same-sex common-law relationship, or never lived together at all.



How to apply for child support

Grandparents raising their grandchildren do have a claim to make for child support, because parents still have a legal responsibility to provide for their children, whether they raise them or not. However, because child support is usually money that one parent pays to another at the end of a relationship, the law is not written with anyone but a parent in mind. For that reason, it can be more complex for grandparents to make their case for child support. That means you will most likely need professional legal advice from a lawyer and/or an advocate to get support.

One of the most common ways for grandparents to seek support is for them to ask a court to change an already existing order. For instance, there might already be a court order saying that a child's father has to pay the child's mother a certain amount of support money each month. If the grandparent is actually providing the child's care, the grandparent can ask the court to change the order so that the father pays the support money to the grandparent instead.

However, you should know that if you go this route, the court may look into your grandchild's current legal arrangements and make changes that you would not like—for instance, the father could ask for custody. A lawyer will be able to consider this possibility and other issues to help you determine the best course for pursuing child support.

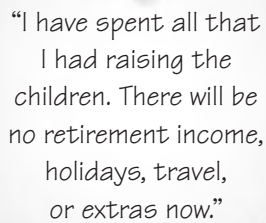
It is also possible that you will not need to go to court to get child support payments. If the parents agree, you may be able to get support payments that one parent used to pay to the other redirected to you by filing a consent order at the court registry, which means you will not have to have a court hearing. For more information on redirecting support payments, contact the BC Child Support Infoline (see below). If either parent does not agree, you may have to go to court after all.

As a grandparent, you will not be able to make an application under the Divorce Act for child support, since you are not a spouse. Instead, you must use the Family Relations Act, which can be found at: www.qp.gov.bc.ca/statreg/stat/f/96128_01.htm.

To read the Child Support Guidelines, see the following website: www.justice.gc.ca/eng/pi/sup-pen/index.html, or visit the Ministry of Attorney General's website on the topic: www.ag.gov.bc.ca/family-justice/law/child/index.htm.

Child support and taxes

If you are a grandparent receiving child support payments from one or both of your grandchild's parents, you do *not* have to report the child support payments as income. This means you do not have to pay tax on the child support payments. For more information, see the Attorney General's website at: www.ag.gov.bc.ca/family-justice/law/child/guidelines.htm.



"I have spent all that I had raising the children. There will be no retirement income, holidays, travel, or extras now."

Collecting child support

The agency below can answer your questions about getting support payments redirected to you. You should be aware that this support money will be deducted from any CIHR benefits you receive.

BC Child Support Infoline:

Lower Mainland: 604-660-2192
Elsewhere in BC: 1-888-216-2211

In addition, this agency might be able to help you if the parents stop honouring an agreement or a court order to provide support:

Family Maintenance Enforcement Program

Lower Mainland: 604-775-0796
Greater Victoria: 250-356-5995
Elsewhere in BC: 1-800-668-3637 (toll-free)
website: <https://www.fmep.gov.bc.ca/resources/>

Child Care Subsidy

The Child Care Subsidy is a monthly payment from the provincial government that helps families with low incomes pay for some of the costs of child care. You may be eligible for the program if you:

1. are working and earning a low wage
2. are looking for work
3. are attending school or a job training program
4. have child care recommended by the ministry
5. have a medical condition that interferes with your ability to care for the child, or
6. are caring for a child attending a licensed preschool

To apply for the Child Care Subsidy, ask your grandchild's social worker or another staff member at the ministry. You can also phone Enquiry BC (see page 183 for contact information).

Further information on the Child Care Subsidy Program is available on the ministry's website: www.mcf.gov.bc.ca.

Service Canada

Service Canada has agents ready to inform you about various federal government supplements and benefits you may be entitled to while raising your grandchild. For more information:

Telephone: **1-800-O-Canada (1-800-622-6232)**

TTY: **1-800-926-9105**

Services are available from 8:00 a.m.–8:00 p.m., Monday through Friday.

Or visit your local Service Canada Centre. To find the location online, go to:

www1.servicecanada.gc.ca/en/gateways/where_you_live/menu.shtml

Employment Insurance

The Employment Insurance (EI) program has a number of programs that you might be eligible for if your employment situation is disrupted by caring for your grandchild.

For more information on EI benefits, contact Service Canada at the number above.

Maternity/paternity benefits

If you are employed and must decrease your weekly earnings by more than 40 percent to care for your newborn, newly adopted, or hospitalized grandchild and have worked 600 insured hours within the last year (or since your last EI claim), you may be eligible for these benefits. You can receive them for a maximum of 50 weeks. Options are available for you and/or your spouse to claim these benefits, and may include reduced hours as opposed to full-time leave.

Complaints process

If you disagree with an EI-related decision, you have the right to appeal under the Employment Insurance Act. Information on how to file and prepare for an appeal can be found at **www.ei-ae.gc.ca/eng/home.shtml**.

Advocates may be available to assist with your appeal. See page 95 for more information, or to find an advocate.

Canada Pension Plan

The Canada Pension Plan has a number of benefits that you and your grandchild might be entitled to. For more information on CPP benefits, contact Service Canada at the number at the top of the page.

Survivor benefits

If your grandchild has a parent who is deceased, he or she might be entitled to collect that parent's CPP benefits as a survivor. The parent has to have made contributions for the minimum qualifying period. To be eligible, the child must be under 18, or 18–25 years old and attending a recognized educational institution. This benefit is paid at a flat rate; as of 2008, it was \$208.77 per month.

Disability benefits

If one of your grandchild's parents is disabled and receiving CPP disability, your grandchild might also be eligible for payments under the same program. The conditions and flat rate are the same as for survivor benefits (see the previous section).

Likewise, when you have contributed enough to CPP, if you were to experience a severe and/or prolonged condition that impacted your ability to work and you submit an application before your death, your grandchild could receive CPP survivor benefits on *your* behalf.

You should speak directly to a Service Canada agent to learn more about the benefits that may apply to your situation. Service Canada has a condition that a child may receive no more than two of the children's benefits—so for example, they could only receive survivor benefits from two relatives, or survivor benefits from one relative and disability benefits from another. See the previous page for Service Canada's contact information.

Early retirement plans

If you find that you need to retire early because you have taken on your grandchild's primary care, consult with Service Canada to learn about your monthly pension allotment and future employment plans if you intend to return to work. Those who apply and receive their CPP retirement pension can later return to work, but can no longer contribute to CPP.

Retirement contributions while caring for children

CPP has a "drop-out provision" you may want to explore further with Service Canada. Months of low or zero earnings while caring for a dependent child under the age of 7 may be excluded from the contributory period. This provision means that, if you were unable to contribute as much as usual because you were caring for your grandchild, your later CPP benefits will not be lowered as a result. The provision applies to the person who received a family allowance benefit or those who are eligible for the Child Tax Benefit. If a person continues to work and contribute to CPP after turning 65 and has higher earnings than previously, those earnings can be substituted for similar periods of earnings before the age of 65 (during child-rearing years). It will be important for you to have tracked your earnings and CPP contributions, so be sure to keep copies of your pay stubs and other documents.



Tax credits and federal benefits

Canada Child Tax Benefit

For more information on the credits described below, contact the Canada Revenue Agency (CRA) by calling Service Canada (see page 130 for their number).

You can apply for the Canada Child Tax Benefit (CCTB) through the Canada Revenue Agency; if you are eligible, you automatically get the BC Family Bonus and BC Earned Income Benefit. While these payments must be declared on the CIHR Monthly Report, they do not affect CIHR payments.

To apply, complete an application form and send it to the CRA. You can download a copy of the application form from the CRA website at www.cra-arc.gc.ca/menu-e.html or get one from a CRA office.

When you are ready to submit your application, you will need to show your passport and/or your Permanent Resident Card, Record of Landing (IMM 1000), or Confirmation of Permanent Residence (IMM 5292).

For information on how to apply for the Canada Child Tax Benefit, see www.cra-arc.gc.ca/benefits/cctb/menu-e.html or call 1-800-387-1193.

When you apply, you should bring (or send copies of) the following.

- proof of the child's age, such as a birth certificate, baptismal record, or school document.
- proof of your relationship to the child. In many cases, the caseworker who handles your application can get this information from public records, but it is a good idea to bring in any documents you have. For example, if you have a birth certificate for the child showing his or her parents' names, then you just need to establish your relation to one of the parents.

BC Family Bonus

This benefit is a tax-free payment to moderate-income families with dependent children. You get it *automatically* (without needing to apply) as part of the Canada Child Tax Benefit payment, which is calculated using the previous year's income tax return. If you are receiving income assistance but have not yet gotten the family bonus, a temporary family bonus top-up supplement may also be available from MHSD.

Family Supplement

This program provides additional benefits for low-income families with children. If you are eligible for the Canada Child Tax Benefit through the Canada Revenue Agency, then you are eligible for this supplement. It makes sure your net family income is no less than \$25,921 per year.

Universal Child Care Benefit

This benefit is meant to help families pay for child care for children under the age of 6, and it is paid in instalments of \$100 per month per child. To get it, you must first apply for the Canada Child Tax Benefit; for more information





about that benefit or to apply online, call Service Canada at the number on page 130 or go to www.cra-arc.gc.ca/cctb.

BC Adoption Expense Tax Credit

If you adopt a child who is under 18, you can claim a tax credit of up to \$10,445 for eligible expenses related to the adoption. This can include the legal, travel, and administrative costs you paid during the adoption process, but only during the tax year in which the adoption was finalized. To learn more, go to www.cra.gc.ca and type “adoption expense tax credit” into the search box.

Other tax credits

If you find you have moved into a lower income bracket as a result of the changes in your life relating to caring for your grandchild, there may be other tax credits that you are now eligible for, such as GST/HST refunds and the new BC Low Income Climate Action Tax Credit. You might want to talk to a financial professional to take full advantage of all of the financial benefits, supplements, and credits that come with the complexities of raising your grandchild.

Benefits for children with special needs

Child Disability Benefit

If you care for a child under age 18 with a severe and prolonged physical or mental impairment, you are probably eligible for a tax-free payment of up to \$2,395 per year (\$199.58 per month) from the federal government. To learn more about this benefit and whether the grandchild you are raising may be eligible, call 1-800-387-1193 or go their webpage at www.cra-arc.gc.ca/bnfts/fq_cdb-eng.html#q1.

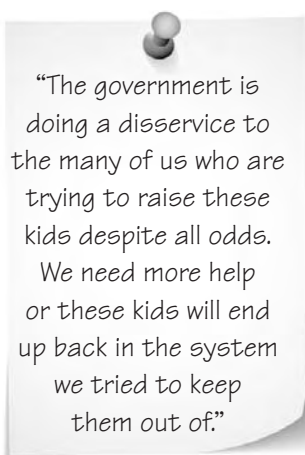
Post-Adoption Assistance

The Adoptive Families Association of BC provides policy information about financial assistance. Their “Foster to Adopt” section (www.bcadoption.com/site_page.asp?pageid=22#WhatIsFTA) provides the following information:

Once you adopt, you are legally responsible for your grandchild in every way, including financially. You are only eligible for Post-Adoption Assistance if your grandchild has been diagnosed with special needs and your family has an income below a certain level.

This program has three parts:

- specific service payments—to purchase services for the child or the family. This can include counselling, specialized training, medical equipment, and other services related to the child’s special needs.
- direct service support—access to ministry services to address the child’s or the family’s needs, including such things as respite care, child care, or parenting classes.



- maintenance—similar to foster care maintenance, but continuing after adoption (see page 123 for the foster care rates).

To get the assistance, you must negotiate an agreement with the ministry every two years until the child turns 19. For more information, see the Adoptive Families Association of BC's website: www.bcadoption.com.

Special Needs Supplement

The Special Needs Supplement assists caregivers with the cost of securing a child care space (up to \$150) if their income is below a certain level. MHSD provides this benefit along with the Child Care Subsidy.

Additional supports and resources may be available to help children with special needs succeed in child care settings—ask your grandchild's social worker or an advocate for more information.

Supported Child Care

Supported Child Care (SCC) agencies contract with the ministry to provide a range of consulting and support services so that children with special needs from birth to 12 years of age can be included in regular child care settings.

When there is a lack of other community options for social inclusion, youth from 13–18 years of age may also receive SCC services on a case-by-case basis.

Approach the local SCC agency directly, or contact the local ministry office for information about additional resources. Further information is available on the government website www.mcf.gov.bc.ca/supported_child_care/index.htm.

How to interact with agencies that provide benefits

It can be intimidating to ask for benefits, even when you are entitled to receive the assistance. Here are a few tips to help you navigate the system and get the help that you and your family need.

- Be patient. You may encounter long waits on the phone or in person. Many agencies do not have the staff to take your calls immediately. The programs you need to deal with may have automated answering systems or answering machines.
- Save time when applying for any type of benefit by calling first and getting a list of all the information and papers you will need. Ask how long you may have to wait, so you can plan your time.
- Call during low-volume phone times. The volume and type of calls each agency receives will differ. It is often easier to get through to help lines during the early morning hours on Tuesdays, Wednesdays, and Thursdays. The busiest phone times appear to be during lunch hours (11:00 a.m.–1:00 p.m.) and on Mondays and Fridays.
- Keep a log. Always write down the name, title, and phone number of the person to whom you speak, and the name, address, and business hours of the agency. Record the time and date of your call or visit and the

important details of your conversation for future reference (see below).

- If you make an appointment with an agency, plan to arrive 15 minutes before your meeting to fill out any forms they might need. Once the appointment is over, ask what the next step in the process will be and how soon you can expect a decision.
- It is difficult to get some services. Keep trying or ask for another place to try for a similar service.
- Work cooperatively with your caseworker. If difficulties arise that you cannot settle with the worker, ask to speak with the supervisor.
- If it is necessary, file a grievance. Most agencies have complaint procedures for difficult situations.
- Navigating the system can be exhausting and time consuming. Take a break to recharge yourself or ask for help from someone in your community, or from an advocate.



Each social service agency you deal with probably will have a different requirement and process, so you should expect to provide different kinds of information to each one when you first apply. To make the process as smooth as possible, prepare a list of questions before you contact an organization (see the sample below). Record the questions and the information you receive in a notebook so you can refer to it in the future.

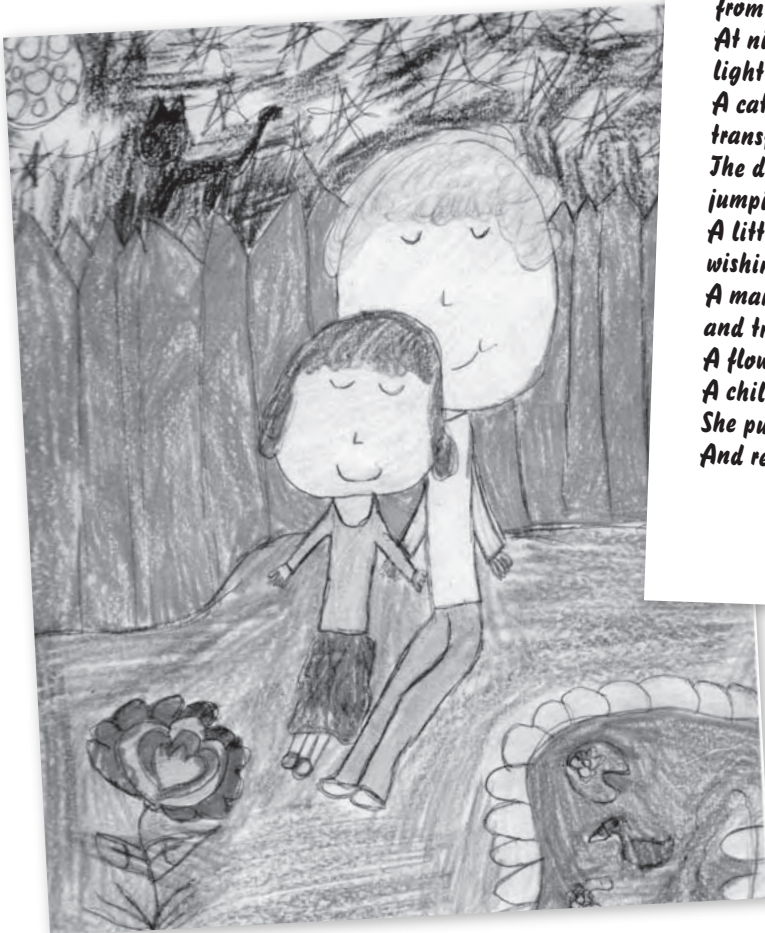
A typical conversation might begin something like this: "Hello, I am raising my grandchild. I would like some information about programs that can help me provide him/her with _____ (this can be any type of assistance you need, such as help with meals, medical care, transportation, etc.). Can you please answer some questions for me?"

For a sample request letter, see the appendix, page 159.

Sample questions for government agencies

- What types of services do you provide?
- How do I get an application?
- If I cannot complete the application by myself, can someone at your agency help me? If not, where can I go for help?
- What documents will you need to verify my identity? (driver's licence, Social Insurance Card, etc.)
- What documents will you need to verify my income (paycheque stubs, pension forms, OAS cheque stubs, etc.)?
- If I do not have the proof I need to verify my identity or income, can I give it to you later?
- If I do not have the documents, can someone at your agency help me get them?
- What documents will you need to verify my child's identity (birth certificate, Social Insurance Number, etc.), and do they need to be originals?

- Will all of my documents be returned to me?
- What records are kept on file?
- Once I have completed the application, will I need to schedule an appointment to have it reviewed?
- How long can I expect to wait for my benefits to start?
- Can the application be done online?
- What is the name and number of someone to contact if questions come up?



The Meadow

*In the meadow sang the birds
 The lake shining so bright
 The grass blew back and forth
 Little boys and girls playing
 in the light of the sun
 A bumble bee gathering nectar from a flower
 A little mouse hiding under a mushroom
 from the rain
 At night the moon shines so bright and stars
 light up the sky
 A caterpillar wraps up in a cocoon and
 transforms into a butterfly
 The dogs running through the meadow
 jumping so high
 A little girl looking up at the sky and
 wishing she could fly
 A man playing the flute listens to the wind
 and trees rustling
 A flower blooms once a year
 A child picks it and gives it to her Mother
 She puts the flower into a vase
 And remembers that day.*

*By Amanda Max, Age 9
 December 2006*

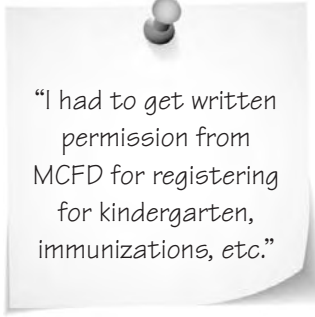
Chapter 11

Arranging your affairs

Your grandchild is living with you now and you have a few things to sort out. This section will walk you through how to get a hold of important documents and what documents you will need to travel. There is also a section on how to arrange your affairs to provide for your grandchild in case you become ill or die.

In many ways, the law has not caught up to the particular case of what happens to grandchildren when their grandparent-guardian becomes ill or dies, but there are still a few ways you can legally plan for your grandchild.

Important documents



"I had to get written permission from MCFD for registering for kindergarten, immunizations, etc."

It is important to have certain papers and documents so that you can apply for benefits, register your grandchild for school, and go on trips. Read below for information on how to get copies of important documents.

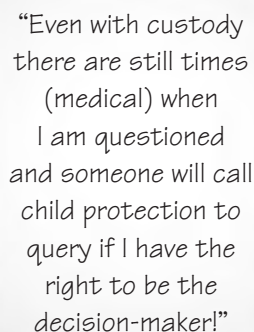
Birth certificates

Contact the **Vital Statistics Agency**:

Greater Vancouver: **604-660-2937**

Greater Victoria: **250-952-2681**

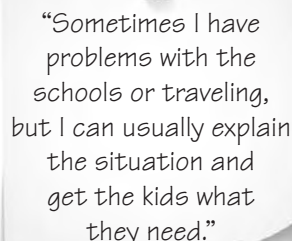
Elsewhere in BC: **1-800-663-8328** (toll-free)



"Even with custody there are still times (medical) when I am questioned and someone will call child protection to query if I have the right to be the decision-maker!"

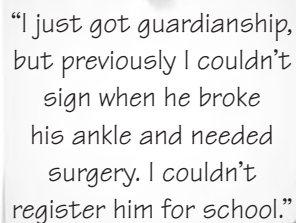
You can get more information about birth certificates and download an application form from their website at www.vs.gov.bc.ca. The following is required in order to complete the application:

- name of the child;
- child's date of birth;
- child's place of birth;
- father's full name and place of birth;
- mother's full name and place of birth;
- full name, mailing address, phone number and signature of person making the request; and
- payment of the processing fee.



"Sometimes I have problems with the schools or traveling, but I can usually explain the situation and get the kids what they need."

Only certain people are allowed to apply for birth certificates. See the application form itself for the requirements. If you do not meet them, contact the Vital Statistics office for help.



"I just got guardianship, but previously I couldn't sign when he broke his ankle and needed surgery. I couldn't register him for school."

Social Insurance Numbers

Legal guardians can apply for a Social Insurance Number (SIN) for a child under the age of 12 by completing an application form and providing the required identification documents. Legal guardians must also provide proof of legal guardianship (a court order) in order to apply for the card.

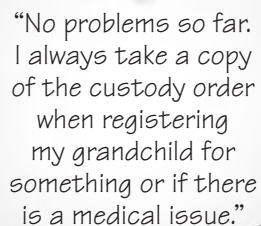
The SIN application form can be obtained from a local Social Development Canada office or by downloading it from the SDC website: www.sdc.gc.ca. Applicants are encouraged to apply in person at a local SDC office since the process is faster and easier. To find an office or to ask for more information on obtaining a SIN card, call the Regional Call Centre for Employment Insurance and Social Insurance Numbers at **1-800-206-7218** (toll-free).

Medical records

If you have not been the primary caregiver for your grandchild since birth, your doctor may not have all your grandchild's medical records. If so, your doctor can send a request to any previous physicians and request that they send the grandchild's records so that you have a more complete medical history on file. Likewise, immunization records can be forwarded to your doctor since this information is typically tracked by local health authorities.

If you are concerned that the medical files available are incomplete, you can help your doctor reconstruct the child's medical history by making a list of all the illnesses and conditions you can verify that the child has had. Also list any information regarding the medical history of the birth parents, including any medical conditions, substance abuse, or mental health problems the mother may have experienced during pregnancy.

Whenever you bring your grandchild to the doctor or dentist, have the person make a note in your grandchild's file, along the lines of "child brought in by grandparent." It can be helpful later on to be able to prove that you were taking care of your grandchild's needs.



"No problems so far. I always take a copy of the custody order when registering my grandchild for something or if there is a medical issue."

Secure Certificate of Indian Status (status card)

The Secure Certificate of Indian Status (SCIS) is an identity document issued by Indian and Northern Affairs Canada (INAC) that confirms that the cardholder is registered as a status Indian under the Indian Act. Once a person gets this card, they can access a range of entitlements, programs, and services.

INAC is in the process of updating the status cards to make them more secure over the course of this year (2009). More information can be found at www.ainc-inac.gc.ca/pr/pub/ywtk/ifk-eng.asp.

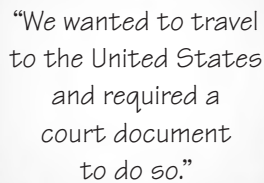
In the meantime, you can get information and an application for a status card by contacting the office in your region.

Indian and Northern Affairs Canada

British Columbia Region
Lower Mainland: **604-775-5100**
Elsewhere in BC: **1-800-567-9604** (toll-free)
Website: **www.ainc-inac.gc.ca**

Contact information for other regional offices is available online at **www.ainc-inac.gc.ca/pr/pub/ywtk/cont-eng.asp** or by calling the toll-free number above.

Documents required for travel



"We wanted to travel to the United States and required a court document to do so."

It is extremely important for you to have certain important papers with you when you take your grandchild travelling. If you do not have certain papers, your vacation to Disneyland may look like child abduction to the authorities.

International travel

Before you travel internationally with a child, you should contact the embassy or consulate of all countries the child will be visiting to ask about entry requirements. Whether travelling alone or with an adult, each child (regardless of age) who travels abroad must have a valid passport and may also need supporting documentation. Generally, anyone younger than 18 is considered a child.

You can find general tips for travelling with children at **www.voyage.gc.ca/main/pubs/PDF/child-travel-en.pdf**.

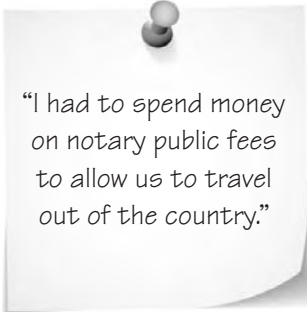
Because grandparents raising their grandchildren are in a unique legal situation, it is a good idea to talk with your lawyer or call the Consular Affairs Bureau before you leave: **1-800-267-6788** (toll-free).

You will need the following documents to travel internationally with your grandchild:

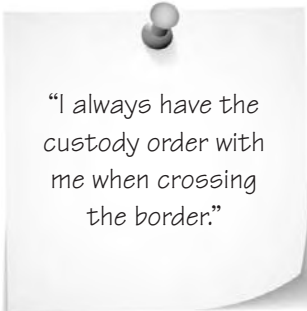
- ☐ Your own valid passport and supporting documents
- ☐ Your grandchild's valid passport

Information about passports can be found at **www.pptc.gc.ca/cdn/16.aspx**, or call Passport Canada: **1-800-567-6868** (toll-free)

- ☐ Your grandchild's birth certificate showing the parents' names
- ☐ Any legal documents pertaining to custody and/or guardianship
- ☐ Status document from Citizenship and Immigration Canada if your grandchild has immigrated to Canada
- ☐ A death certificate if one of the parents or legal guardians is deceased
- ☐ Any additional documents required by the country you are visiting (check with the embassy or consulate of each destination country to find out what their requirements are)



"I had to spend money on notary public fees to allow us to travel out of the country."



"I always have the custody order with me when crossing the border."

- A parental consent letter (see the next page for a sample)

If you have sole custody of your grandchild, you may only have to show a parental consent letter if the parents have visitation rights. If you have joint custody and/or joint guardianship, the other custodial and non-custodial parents and legal guardians will have to provide a consent letter. Be sure to bring any legal documents that explain your situation and call the Consular Affairs Bureau before you leave for further advice.

The letter on the next page is from the online resource for Foreign Affairs and International Trade Canada. You can download a copy in Microsoft Word, PDF, or Word Perfect format from www.voyage.gc.ca/preparation_information/consent-letter_lettre-consentement-eng.asp.

You should adjust this sample to meet your specific situation and requirements.



Sample consent letter

To Whom It May Concern:

I (We), _____ (full name(s) of custodial and/or non-custodial parent(s)/ legal guardian(s)), am (are) the _____ (lawful custodial parent and/or non-custodial parent(s) or legal guardian(s)) of

Child's full name: _____

Date of birth (DD/MM/YY): _____

Place of birth: _____

Canadian passport number: _____

Date of issuance of Canadian passport (DD/MM/YY): _____

Place of issuance of Canadian passport: _____

_____ (child's full name), has my (our) consent to travel with

Full name of accompanying person: _____

Canadian or foreign passport number: _____

Date of issuance of passport (DD/MM/YY): _____

Place of issuance of passport: _____

to visit _____ (name of foreign country) during the period of _____ (dates of travel: departure and return). During that period, _____ (child's full name) will be residing with _____ (name of person where child will be residing in foreign country) at the following address:

Number/street address and apartment number: _____

City, province/state, country: _____

Telephone and fax numbers (work and residence): _____

Any questions regarding this consent letter can be directed to the undersigned at:

Number/street address and apartment number: _____

City, province/state, country: _____

Telephone and fax numbers (work and residence): _____

Signature(s): _____ Date: _____

(Full name(s) and signature(s) of custodial parent, and/or non-custodial parent(s) or legal guardian(s))

Signed before me, _____ (name of witness),
this _____ (date) at _____ (name of location).

Signature: _____ (name of witness)

Travel within Canada

As you may know, you do not have to have a passport when you travel within Canada. However, if you are travelling with your grandchild, Air Canada has suggestions about the documents you may want to have with you:

- ☐ A birth certificate or non-government-issued ID, such as a student card
- ☐ A parental consent letter (see page 141)
- ☐ A death certificate if one of the parents or legal guardians is deceased

You can find more information at
www.aircanada.com/en/travelinfo/before/traveldoc.html.

Children travelling alone

If your grandchild is travelling alone by plane, you should arrange in advance with the airline for an escort to supervise your child from check-in through arrival. Double-check with your airline regarding their restrictions for unaccompanied minors (such as minimum ages and requirements for them to take non-stop flights only).

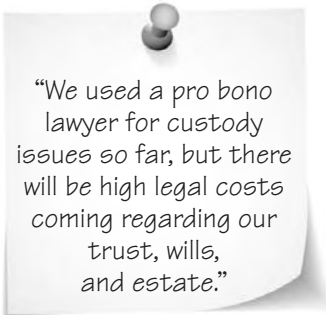
Note that airlines require a parent or guardian to stay at the airport until the flight has departed. The person greeting the child at the destination must have appropriate identification and authorization; otherwise, seeking to pick up the child could be interpreted as child abduction.

Wills

Creating a valid, clear, and easy to understand will is a big help to those you will leave behind when you die. A lawyer can translate your wishes and desires into language that a court will understand and correctly carry out. Find a lawyer who practices in the area of wills and estates or elder law. It is likely that a friend of yours can recommend one, so it is a good idea to ask around. You can also call the Lawyer Referral Service, and they will try to set you up with a lawyer in your area or suggest places to look: **1-800-663-1919** (toll-free), 8:00 a.m. to 4:30 p.m., Monday to Friday.

To minimize your costs, you can plan out your thoughts and ideas before seeing a lawyer. That way, the lawyer will simply help you translate your wishes into legal wording, as opposed to starting from scratch.

There is also the option of going to see a notary public, a different sort of legal professional who can help you create a valid will, and usually at a lower price. To find a notary public in your area, you can look in the yellow pages or visit this website: www.notaries.bc.ca.



Steps to making a valid will

If you decide to make your own will, be sure to follow the legal requirements set out in this section and to keep it in a safe place.

Generally, wills must satisfy the following requirements:

- Wills must be in writing. You need to be mentally capable of managing your own affairs, and you need to agree with the contents of a will at the time that you write it. If you are misled by someone or pressured when you put together the will, the courts may not consider it to be legal.
- The writer of the will, formally known as a **testator**, must sign at the end of the document. In addition, wills are often initialled on each page in order to show that you have read it and agree to the terms written there. If you are too sick or unable to sign the will, you can ask someone else to sign it in your name while you are present. This must be by your request.
- Your signature must be witnessed by two people besides yourself, both of whom must be over the age of 19. The two witnesses must sign the will in front of you and in front of each other.

These two witnesses cannot benefit from the will. If you have someone witness your will who is named to inherit something from you, the law will not recognize that part of your will as legal, and that person will not be able to inherit anything from you.

- You should put a date on your will so that it is clear which version is the most recent.
- You should not have multiple wills. Each time you write a new one, it will cancel out any that have come before and replace them entirely.

After you have made a will, it is possible to change it or make a new one at any time. You can create an entirely new will (for clarity's sake, it is useful to say in your new will that you revoke all of your old wills), or create something called a **codicil**, which is a document that alters some parts of your current will. To be legal, a codicil has to meet the same requirements as a will, although you do not have to use the same two witnesses as you did in your will and you must refer to the will you are changing (be sure to include the date the will was written on).

For more information on writing your own will, consult Dial-A-Law at www.dialalaw.org (or by calling 604-687-4680 in the Lower Mainland or 1-800-565-5297 elsewhere in BC) or the LawLINK website at www.lawlink.bc.ca. You can also learn from the People's Law School; look at their website at www.publiclegaled.bc.ca or call them at 604-331-5400.

What to include in a will

Wills do not have to follow a specific format in order to be legal, but they generally have instructions on the following topics:

- **Executor:** A will should name an **executor**, someone who will handle your affairs on your behalf after you die. That person is responsible for carrying out the instructions you write in your will. Choose someone to be executor whom you trust to look after your affairs—someone you expect to live longer than you.
- **Estate:** Write down what you want to have happen to everything you own when you die. Altogether, these things are called your **estate**. This includes your property, your possessions, your RRSPs, and anything you would like to pass on to your **beneficiaries** (people who will get something under your will).

It is important to try to divide your estate up entirely, but you do not have to know exact figures. It is fine to say things like, “My bank account will go to...” without knowing exactly how much money it will have in it when you die.

- **Guardianship:** If you are the legal parent of your grandchild (i.e., the adoptive parent), you should name someone who will become the guardian for your grandchild in your will. (If you are not the legal parent of your grandchild, BC does not allow you to appoint a guardian for your grandchild in your will. For more information, see page 146.)
- **Funeral desires:** If you have a specific request about how you would like your funeral or burial to be, a will is a good place to lay these requests out. However, be aware that in many cases a will is not looked at until after a funeral has taken place. So you make your requests known to your family and community as well.

Where to store a will

Keep your will in a place where it will stay safe for a long time—where fire, water, and time cannot damage it and where no one can tamper with it. Often people keep their wills in safety deposit boxes in banks or at their lawyer’s office. If you plan to keep your will at home, it is a good idea to put it in a brightly coloured envelope marked “WILL,” along with other important documents, so that your executor or family can easily find it when you die.

You can also register your will with the British Columbian Department of Vital Statistics to formally make it known that you have made a will. This is known as a “Wills Notice” and it identifies that a will has been registered, describes the person who has made the will, where the will is located, and the date of the will. This is not required by law, but it is a good idea. To find the nearest Vital Statistics office, look in the blue pages that come after the white pages of your telephone book under “Government of British Columbia—Vital Statistics.” If you have any questions, the Vital Statistics website is helpful: www.vs.gov.bc.ca/wills/index.html.

If a person dies without a will

If you die without a will, there is a law called the Estate Administration Act that says who will get your property. However, it does so in a very impersonal way that does not take into account your family members' individual needs and your wishes. Also, it could create a lot of trouble for your family if you do not leave a will. They might have to request that the court administer your estate, or they might have to go to court if they do not want your property to be distributed the way the law says it should be. If there is no one who can administer the estate, then the Public Guardian and Trustee will assume responsibility over any dependent children and take over the distribution of your assets. For all of these reasons, it is best to write your own will so there is no question about what your wishes might have been.

Trusts

Creating a **trust** is a way to leave money or other property for someone who cannot manage it themselves. Trusts are usually created to ensure that children or disabled individuals can benefit under a will. For example, if you want to leave your house to a grandchild who is a minor, you write in your will that you, the **settlor** (the person creating the trust) ask either a certain company or someone you trust (called a **trustee**) to take charge of the property on behalf of your grandchild (called the **beneficiary**) until he or she reaches the appropriate age (a **contingency age**).

It is essential to get legal advice if you are thinking of establishing a trust in your will. It is best to find a lawyer who specializes in trusts, or a company that administers them. Several companies operating in British Columbia are listed on this website: www.fic.gov.bc.ca/FICOMListings/TrustCompanies.aspx.

At the very least, these companies can advise you about where to begin if you want to create a trust.

If you are thinking about creating a trust for the benefit of a disabled grandchild, be sure to ask the lawyer or trust company you consult with about how the money you leave your grandchild will affect his or her eligibility for Persons with Disabilities (PWD) benefits. As of January 2009, your grandchild could have a trust worth \$200,000 and still qualify for benefits.

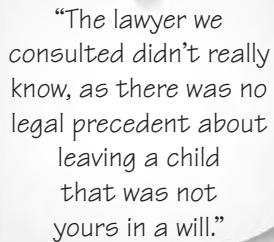
In addition, the government created a new savings tool called a Registered Disability Savings Plan. It is similar to an RRSP, very easy to open, and currently has no maximum limit for those receiving PWD benefits. Ask about this option at your bank.

You could also look into something called a **discretionary trust**. This kind of trust will not change your grandchild's eligibility for disability benefits.

Your lawyer or trust company can advise you about your options. You can also look at the Ministry of Housing and Social Development's website for more information on the issue: www.eia.gov.bc.ca/PUBLICAT/bcea/trusts.htm.

Guardianship and wills

Right now in BC, only the legal parents of a child can appoint a guardian for that child in their will. This means that if a court awarded you guardianship of your grandchild but chose not to adopt, you cannot appoint someone to be guardian of your grandchild upon your death. You can only do so if you are the adoptive parent of your grandchild. Many argue that this restriction is not justified and there is a movement to reform the law in BC on this issue.



“The lawyer we consulted didn’t really know, as there was no legal precedent about leaving a child that was not yours in a will.”

Until the law changes, you may wish to include your intention for your grandchild’s care in a document attached to your will. For example, if another family member often helps you with child care, you may wish to list this person as a suitable guardian in the event of your death. If the circumstances that caused the parent to be unable to care for the child have not changed, you may also wish to note that in your will. However, there is no guarantee that your wishes will be carried out.

To ensure that your grandchild is cared for in the event of your death, you can apply to the court to have another person (such as the grandchild’s aunt or uncle) named as the child’s joint guardian. Then, if you die, the other guardian automatically becomes the sole guardian of the child. It is possible to have more than two joint guardians. For example: you can share guardianship with your grandchild’s aunt *and* uncle.

Some grandparents do not like the idea of having joint guardianship and having to share decision-making power with someone else. But they still want to make sure that, if they become unable to care for their grandchildren because of illness or senility, there will be someone else who can take over those responsibilities. Lawyers and legal scholars have proposed something called **stand-by guardianship** to fill this need. This option does not yet exist in law, but efforts are underway to create it.

The purpose of stand-by guardianship would be to plan for the grandchild’s care *before* the grandparent’s health creates a crisis. It is different from joint guardianship in that the rights do not go into effect at the time the order is made (as they do with joint guardianship), but a stand-by guardian “stands by” until a triggering event occurs, such as the mental or physical incapacitation of the grandparent.

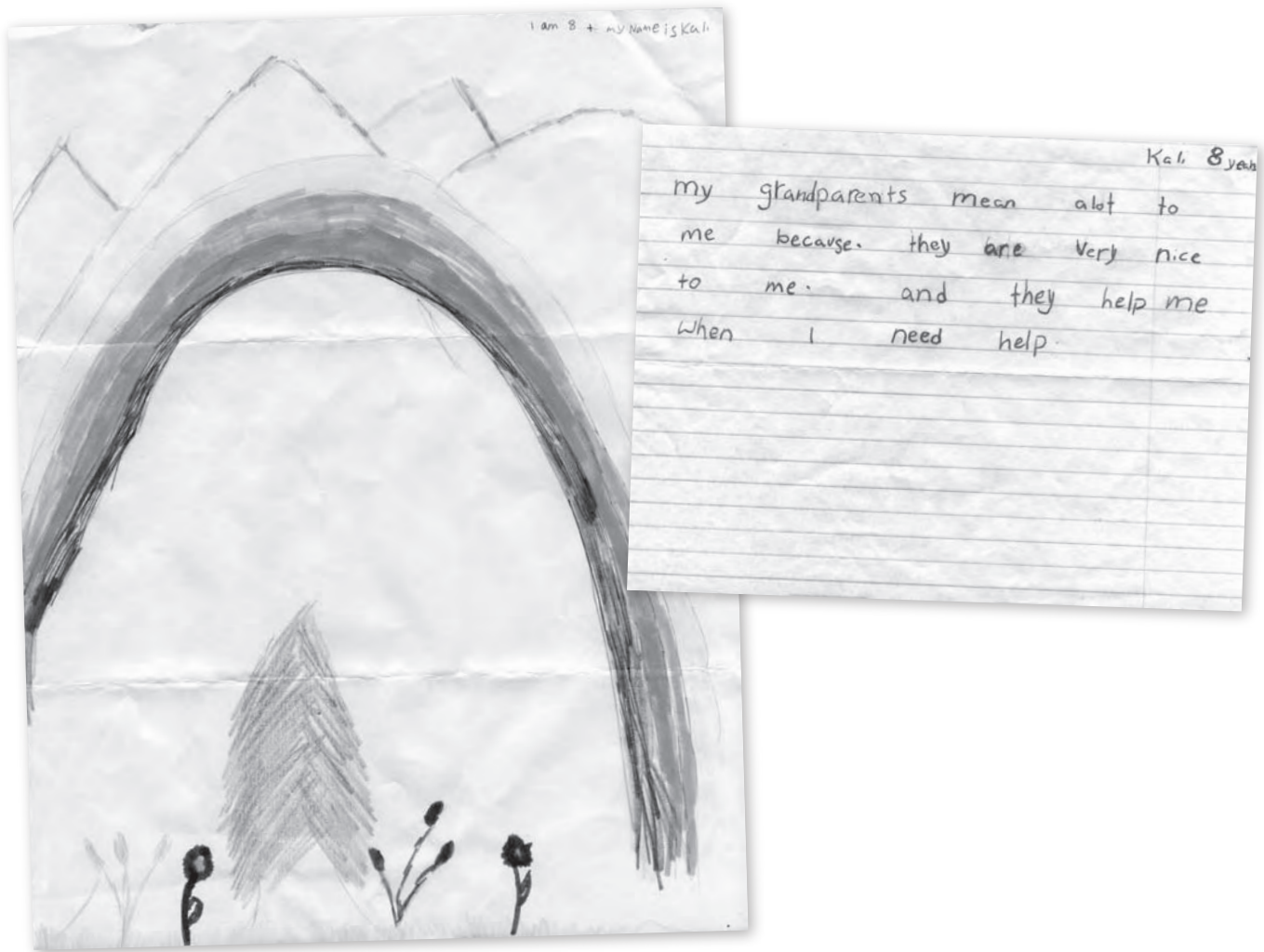
If you want to know more about this proposed type of guardianship, you can read the “Report on Appointing a Guardian and Standby Guardianship” of the British Columbia Law Institute. See www.bcli.org/sites/default/files/Appoint-Guardian.pdf.

Temporary guardianship

If you are unable to care for your grandchild for a short period of time—because of a hospital stay, for instance—you can arrange for another person to have **temporary guardianship**. That person can then make arrangements for your grandchild’s temporary care, education, and financial support.

However, the law only allows this kind of arrangement if you go to a lawyer and write up a **representation agreement**. In addition, the lawyer needs to sign a special Consultation Certificate which says that you understand the agreement.

For more information, look at the online resource called the Nidus Personal Planning Resource Centre and Registry. It has an online guide on how to make and register a representation agreement. You will still need to see a lawyer, but this resource will help you to get the most out of the lawyers' time by helping you figure out what an agreement can do and how you want your agreement to be set out. Nidus also operates BC's only registry of representation agreements. You can reach them and ask questions at 604-408-7474. Their website can be found at: www.nidus.ca.



Appendix 1

Glossary

Legal terms

- access:** the time that children spend with relatives—such as parents and grandparents—who do not have custody of them. The child has a right to see relatives with whom they share a close relationship, and these relatives can be given the right to schedule visits by a court. The word access also refers to these rights themselves.
- affidavit:** a written statement, sworn under oath or affirmed in front of a person allowed by law to witness affidavits (called a commissioner). Commissioners can be lawyers, notaries public, or court registry staff members. An affidavit is legally binding and can be used as evidence in court. You can be prosecuted for perjury if you swear a false affidavit.
- adoption:** a process by which an adult becomes a child's legal parent. There are two kinds of adoption: open and closed. An open adoption does not affect the child's right to maintain a relationship with relatives from their birth family, or the rights of those relatives to apply for access. In a closed adoption, the child has no contact with birth parents or family.
- age of majority:** the age at which a person legally becomes an adult, which means they can do such things as vote and enter into a binding contract. In BC, the age of majority is 19.
- agreement:** a mutual understanding between two people about a particular issue, such as who will have custody of children or how child support will be paid. Both verbal and written agreements are legally binding (enforceable by a court), but a written agreement can be used as proof of what you both agreed to do.
- applicant:** the person who initiates a court proceeding or other action, such as the person who files a lawsuit or an application for an order).
- arrears:** past support payments that were due but have not been paid.
- child support** (also called *maintenance*): the amount a parent must pay to the person raising their children after a separation, divorce, or other breakup of the family. Parents have a legal responsibility to financially support their children, whether they live together as a family or not.
- child support order/agreement:** a written document that says how much a person will need to pay in child support. It may be a separate order or agreement, or may form part of a larger divorce order, separation agreement, or child custody agreement.
- collaborative law:** a process where everyone involved in a potential court case and their lawyers make a formal commitment to resolve disagreements outside the court process.
- consent order:** a court order made by a judge, usually without a court hearing, when both you and the other person involved (such as the parent) agree to the terms of the order.
- consent to adoption:** a legal process in which a birth parent or guardian voluntarily places a child for adoption.
- court order:** a document with directions given by a judge in court. An order tells the people named in it what they have to do about issues such as custody, access, and child support. There are legal consequences for disobeying a court order.

custody: a set of rights given to a person who provides the daily care for a child. Custody gives them the responsibility to provide this care and the authority to make decisions for the child. A parent living with a child usually has custody unless it is transferred by an agreement or a court order; however, grandparents can apply for custody rights.

sole custody: the right to be solely responsible for a child's daily care. If you have sole custody of a child, you are the only person who needs to be consulted about their healthcare, education, and upbringing.

joint/shared custody: a situation in which more than one person shares the responsibility to care for a child. Joint guardians also share the right to make decisions about the child's healthcare, education, and upbringing, but have to come to these decisions together. Having joint custody can mean that your grandchild lives part of the time with you and part of the time with one of the parents, or with both of you at the same time, or any number of other arrangements.

custody and access assessment/report: a document, often called a section 15 report, that helps the court determine what living situation will best meet the needs of a child. The report is made by a family justice counsellor, social worker, psychologist, or other person approved by the court.

defendant (also called a *respondent*; see also *plaintiff*): the person who has to defend against a certain court proceeding. If you filed a case in Supreme Court to get custody of your grandchild, you would be called the *plaintiff* and the parents would be called the defendants. (In Provincial Court, you would be called the *applicant* and the parent would be called the *respondent*.)

disclosure: the process of exchanging necessary information (for example, financial statements) with the other party in a court proceeding.

Divorce Act: a federal law that says how the Supreme Court should grant divorces and settle matters related to child and spousal support, custody, and access.

duty counsel: a lawyer you can consult with briefly for free about family law and child protection cases. They are available at most Provincial Courts, as well as some Supreme Courts, and their services are provided by the Legal Services Society. Duty counsel help people who do not have a lawyer by giving brief legal advice about rights and options, information about court procedures, and assistance with paperwork. They can also speak in court for you on some matters, and can also sometimes attend case conferences. However, they do not offer long-term legal representation.

family case conference: a private, informal, one- or two-hour-long meeting with a Provincial Court judge, the other people involved in a family court case (such as the parents), and your lawyer (if you have one). The purpose of the meeting is to resolve issues about custody, guardianship, and access without having to go to court for a full hearing. These conferences are often required when child protection cases end up in court.

family justice counsellors: accredited family mediators specially trained to help families resolve issues about custody, guardianship, access, support, and the division of property. Family justice counsellors work out of Family Justice Centres across the province.

family law proceeding: a legal action that is brought to settle family law issues, such as custody, guardianship, access, support, and the division of property.

Family Maintenance Enforcement Act: a BC law that covers procedures for enforcing spousal and child support orders, and outlines the powers and responsibilities of the Family Maintenance Enforcement Program to monitor, collect, and enforce agreements about child support payments. Grandparents with custody have the right to collect support payments from their grandchild's parents.

family order: a court order for child support, spousal support, custody, guardianship, and/or access.

Family Relations Act: a BC law that covers child custody, guardianship, access, spousal and child support, and the division of property.

guardianship: the responsibility for making major decisions for children regarding their education, healthcare, religious training, travel, and assets (such as property or money). When a family lives together, both parents share guardianship rights. After separation, divorce, or other family breakups, guardianship can be given to just one parent, or a grandparent can seek to become a child's guardian by petitioning the court.

interim order: a short-term court order granted before a trial or before the court makes a final order. Interim orders (about such issues as custody or support) remain in effect until the court makes a final decision, or until you and the other party reach an agreement.

judicial case conference (JCC): a confidential meeting that everyone involved in a Supreme Court case usually has to attend before any court application can go forward. In a case conference, everyone involved meets with the judge or master to clearly identify the issues to be decided, review different ways to resolve the issues (such as settlement conferences, mediation, or other ways), and manage the flow of the case in court (for example, the timing of court hearings and exchanges of information).

kith and kin agreement (also known as a **kinship care agreement**): an agreement the ministry makes with a child's relative or close family friend to provide financial and other direct support services so the person can care for the child when the parents cannot. *Kith* means "friends or neighbours who serve as surrogate family members," and *kin* is another word for "relatives." The ministry may require the child's parent to contribute to care costs if they have the means.

litigation: refers to the process of going to the courts for the judge to listen to all sides and then make a legal ruling

maintenance: financial support that parents must pay to grandparents or other relatives caring for their children under a court order or agreement. This is usually financial support for food and shelter. Also called *support*, *family support*, or *child support*.

master: someone who hears cases in Supreme Court. A master has the same powers as a judge to make interim (temporary) orders for custody, access, guardianship, and support, but masters cannot make final orders.

mediation: an approach to solving problems in which a neutral person helps two opposing parties settle a problem. Usually mediators are specially trained to help people reach agreements. They may have a specialty, such as custody and access or property division. Some mediators are also lawyers.

no contact order: a court order that prohibits a person from contacting someone else (usually a former partner or spouse). It is a criminal offence to do anything forbidden by the no contact order. A no contact order may be a condition of release from jail before trial, a condition of probation, a criminal peace bond, or a civil restraining order.

notary public: a professional legal or public officer (includes all lawyers) with the authority to administer or commission oaths and affirmations, certify affidavits, declarations, or other documents, take acknowledgements, take depositions or testimony, commission Affidavits of Service, and prepare wills, mortgages, and other legal documents. Notaries public also officially witness signatures; certify documents as true copies; provide affidavits of lost documents, name changes, and notarial certificates; and duplicate original notarizations.

order: a document that records the decision of a judge/master and is entered at the court registry.

party (or parties): a participant in a given court case, contract, or other legal matter; can be an individual, a corporation, or other entity.

payor: the person paying maintenance (child support).

plaintiff (see also *defendant*): the person who starts a proceeding in Supreme Court to settle such issues as custody, guardianship, access, support, or division of property.

pre-trial conference: a meeting before a Supreme Court judge or master to make sure you and the parents of the grandchild you are raising are ready to present your case at trial. This conference also may give directions about how the trial will be conducted. (In Provincial Court, this meeting is called a *trial preparation conference*.)

protection order: an order (either a peace bond or a restraining order) made by a judge to protect one person from another. The order lists certain conditions the person named in it must follow—usually that they cannot have direct or indirect contact with the other person. If the person named in the order disobeys the conditions, they may face significant consequences, including a fine and/or jail.

Provincial Court: the system of courts that enforces British Columbia’s laws. The Provincial Court is divided into several divisions, each dealing with a different aspect of the law, such as small claims or traffic. The family division of the Provincial Court (often called *family court*) grants court orders for custody, guardianship, access, and support.

recipient: the person receiving maintenance payments (child support).

special/extraordinary expenses: extra expenses for a child over and above the regular cost of living. Special expenses include such things as child care costs, medical and dental insurance premiums specifically for the child, health-related expenses that exceed insurance reimbursement by at least \$100 in one year, and expenses for post-secondary education. Extraordinary expenses are expenses for education, programs, or extracurricular activities that meet the child’s needs, such as tutoring or private school, or for other activities in which the child excels and is shown to be particularly gifted.

Statement of Claim: a document that, along with the Writ of Summons, gets filed in order to start a family law proceeding in Supreme Court. In the Statement of Claim, the person filing the case provides background information about who they are, their relationship to the defendant, and what they are asking the court to decide—for example, whether to grant custody or order the payment of support.

summary trial: a quicker alternative to a full trial which takes place in Supreme Court, using written affidavits only instead of witnesses.

summons: a court order that requires a person to appear in court at a specific time.

supervised access: the right to visit a child, but only when an approved supervisor is present.

supervision order: a court order returning or placing a child in the custody of a parent or other person under specific conditions, usually involving the ministry’s supervision to make sure those conditions are met.

support: see *maintenance*. Also called *child support* and *family support*.

support order or agreement: the legal document that requires a parent to pay a certain amount of money to the person caring for their child. It may be a separate order or agreement, or may form part of a larger agreement.

Supreme Court: the system of courts that enforces federal and provincial law, including both criminal and civil matters. Supreme Courts also hear appeals on Provincial Court cases. If you need a divorce, want to use the Divorce Act for your case, want to divide property, or want to adopt, you must go to the Supreme Court. Just as you can in Provincial Court, you can also ask for custody, access, and support in Supreme Court.

trial: a hearing in which the people on both sides of a court case appear with their witnesses before a judge and give their evidence out loud under oath. They are then cross-examined by the other party or his or her lawyer. A trial is also sometimes called a hearing, especially in Provincial Court.

undue hardship: circumstances that allow a payor to avoid paying the full amount of child support under the child support guidelines. The payor must prove that the payments would be “undue”—meaning exceptional, excessive, or disproportionate.

Writ of Summons: the first step in starting a family law proceeding in Supreme Court. It is the official notice the plaintiff gives to the defendant, stating that they have started a family law proceeding in the Supreme Court. The writ also tells the defendant what they need to do next.

Ministry terms

Aboriginal child: someone who:

- is under 12 years old and has a biological parent who is registered under the Indian Act,
- is 12–19 years of age or over and considers him/herself to be Aboriginal or indigenous,
- has a biological parent who is registered under the Indian Act,
- is a Nisga’a child, or
- is of Aboriginal/indigenous ancestry and considers him/herself to be Aboriginal or indigenous.

Aboriginal community: the indigenous community to which a child has a connection through culture, heritage, or descent. It includes the community or communities with which the child identifies. (Note: The ministry defines the term more broadly than the law does.)

assessment: the process of collecting information on children and families in order to make informed decisions. The ministry might make different programs and services available to a family depending on the outcome of an assessment.

care provider: a person who cares for a child under one of the out-of-care living arrangements available under the law (specifically, the CFCSA).

caregiver: a person with whom a child is placed by a director and who, by agreement with the director, has assumed responsibility for the child’s day-to-day care.

case conference: meeting involving a variety of service providers, possibly including the child or family, to assess service needs and develop plans of care or service plans.

case management: systemic approach to providing services to children and to families including the coordination, monitoring, and assessment of services provided to the child and family.

child: a person under 19 years of age.

child in care: any child under 19 years old living under the care or guardianship of the ministry.

child with capacity: a child who is capable of understanding issues that affect him or her and who is able to give or refuse informed consent. An assessment of a child’s capacity is based on the child’s:

- age
- developmental level and maturity, and
- ability to understand the nature, complexity, and effect of the decision or course of action.

delegated agencies: Aboriginal agencies with delegated authority to handle child welfare issues in their community under the law.

director: a high-level official at the ministry who can exercise the minister's powers and duties, such as placing a child for adoption or making exceptions to policy standards.

discrimination against a child: when a child experiences prejudice or is harmed on the basis of gender, sexual orientation, physical or developmental disability, culture, ethnicity, religion, or race.

extended family: includes relatives related by blood or marriage and includes second and third generations. Extended family also includes people who have a meaningful relationship to a child or adult but are not related by blood or marriage, such as godparents or people the child refers to as "aunt" or "uncle." *Family or extended family* in Aboriginal cultures includes relations and community members involved in raising a child and the people with whom the child was raised. It is defined by a connection to the elders and the ancestors.

family conference: dispute resolution meeting where members of a child's immediate and extended family, and other persons involved in their care, develop a plan to ensure the child's safety and well-being.

family conference plan of care: plans developed through a family conference that will protect the child from harm; serve the best interests of the child; take into account the wishes, needs, and roles of the child's family, culture, and community.

family development response: an approach to child protection in which the ministry decides that it would be better to give a family support services to help them care for their children than to continue a child protection investigation.

family home care agreement: the contract that makes you a restricted foster parent.

formal and informal kinship care: an arrangement in which a child is cared for by relatives.

formal kinship care: a living arrangement in which the ministry places children in care (by court order or agreement) with relatives—often grandparents.

informal kinship care: all out-of-home living arrangements not included in formal kinship care, such as

- children who are placed with relatives and supported with funds from the Child in the Home of a Relative program
- kith and kin agreements
- court orders placing a child in the interim or temporary custody of someone other than the parent under the director's supervision.

high-risk youth: children 12–19 years old who are sexually exploited, drug- or alcohol- addicted, living on the street, or have mental health problems.

open family service file: a term used when the ministry has a file open on a child and family; in other words, when a social worker is involved with the family in some way.

parent: the mother of a child, the father of a child, a person who has legal custody of a child, or a person with whom a child resides and who stands in place of the child's mother or father.

plan of care: a plan for how a child will be cared for, based on assessments of the child's evolving needs and the outcomes of previous decisions and actions. Care plans are completed by the child's social worker with the involvement of the child, the family, the extended family and Aboriginal community if the child is Aboriginal, the caregiver, service providers, and significant people in the child's life.

presentation hearing: initial court hearing after a child is removed; it must be held within seven days of the child's removal.

protection hearing: hearing to determine whether a child needs protection and, if so, who will care for the child in the long term. By law, this hearing is supposed to start within 45 days of the conclusion of the presentation hearing, but it can often be delayed for a much longer time.

Public Guardian and Trustee: a public official who:

- protects the legal rights of people with mental disabilities,
- takes care of the estates (money, property, and other assets) of missing persons and of people who have died, usually when the deceased left no will and has no family members in the province willing or able to administer the estate, and
- protects the rights and interests of children and youth.

relative: someone related to another person by birth or adoption.

restricted foster family: a family that becomes designated as a foster home for the sake of caring for only one specific child (such as a grandchild).

risk reduction plan: the part of a service plan that outlines how specific risks to the child will be addressed and reduced.

service plan: a plan that details what services the ministry will provide to a child and to their family including specific objectives and the time frames for meeting the objectives. May also detail the family's responsibilities.

special needs child: a child with documented significant impairment associated with an ongoing physical, cognitive, communicative, and/or emotional/behavioural condition that requires specialized care and support. There is often additional support for children with special needs, including educational and financial assistance.

youth: a person who is 16–19 years of age.

youth in care: a person who is 16–19 years of age, under the care of the ministry, and living in a group home or foster home.

youth service response: one of the responses the ministry can make to a child protection complain that does not involve an investigation. Instead, the family and/or youth is offered support services, such as youth-family mediation, mentorship, safe housing, and outreach services.

Note: If you are looking for a definition that is not on this list or you would like more information, check the following websites:

The Family Law in BC website (created by LSS):

www.familylaw.lss.bc.ca/resources/definitions.asp

The Ministry of Attorney General:

www.ag.gov.bc.ca/family-justice/resources/legal_terms/index.htm

MCFD: **www.mcf.gov.bc.ca/glossary.htm**

Acronyms

AHS	Aboriginal Head Start
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
ADR	Alternate Dispute Resolution
AG	Attorney General
BCFB	British Columbia Family Bonus
BCBB	British Columbia Baby Bonus
CCTB	Canada Child Tax Benefit
CCO	continuing custody order
CFS	Child and Family Services
CFCSA	Child, Family, and Community Service Act
CHILD	Consortium for Health, Intervention, Learning, and Development
CIHR	Child in the Home of a Relative
CMCSS	Canadian Motor Vehicle Safety Standards
CMHA	Canadian Mortgage and Housing
COA	Children of Alcoholics
CPP	Canadian Pension Plan
CPPD	Canada Pension Plan Disability
CPR	cardiopulmonary resuscitation
CRA	Canada Revenue Agency
CRN	Community Response Network
DRO	Dispute Resolution Office
EAW	employment assistance worker
FAS	Fetal Alcohol Syndrome
FAE	Fetal Alcohol Effects
FCHA	family care home agreement
FGC	family group conferencing
FMC	Family Mediation Canada
FMEP	Family Maintenance Enforcement Program
FRA	Family Relations Act
GFA	Guardian Financial Assistance (restricted to on-reserve families)
GIS	Guaranteed Income Supplement
GRG	grandparents raising grandchildren
IEP	Individual Education Plan
INAC	Indian and Northern Affairs Canada
LD	learning disabilities

LSS	Legal Services Society
MCAWS	Ministry of Community Aboriginal and Women's Services
MCFD	Ministry of Children and Family Development
MHSD	Ministry of Housing and Social Development (formerly MEIA)
MSP	Medical Services Plan
NACI	National Advisory Committee on Immunization
NCBS	National Child Benefit Supplement
OAS	Old Age Security
PWD	Person(s) with Disabilities (benefit)
SIN	Social Insurance Number
TCO	temporary custody order

Important legislation

1. Child, Family, and Community Service Act (CFCSA)
2. Family Relations Act (FRA)
3. Adoption Act
4. Employment and Assistance Act and Regulations
 - a. Child in the Home of a Relative
 - b. Income Assistance Rates
 - c. Healthy Kids Program (basic dental and vision care)

You can find an unofficial consolidation of the Child, Family, and Community Service Act online at [**www.cfcsa-unofficial-consolidation_2006-01-16.pdf**](#).



Appendix 2

National and international connections for GRG

There are many organizations around the world that can offer GRG support, information, and ideas. Here are a few that you might want to look into.

American Association of Retired Persons (AARP)

This American website has interesting and useful information for grandparents raising grandchildren.

Website: www.aarp.org/families/grandparenting

Cangrands

This website can connect you to GRG all over Canada; it has lots of resources to assist you.

In Ontario: 613-474-0035

Website: www.cangrands.com.grgtips.htm

Email: grandma@cangrands.com

Canadian Association of Retired Persons (CARP)

A voice at all levels of government providing the 50+ population with opportunities to join forces against social/political/economic challenges and to be informed about relevant issues. Have a look at their advocacy report entitled “Beyond Loving: CARP fights for grandparent’s rights to access and compensation for raising grandchildren.”

Phone: 416-363-8748

Website: www.carp.ca

Generations United

This website has interesting and useful information for GRG.

Website: www.gu.org

Grandparents for Children’s Rights

This American website has a great resources section.

Website: www.grandparentsforchildren.org

Grandparents Raising Grandchildren

This American website has parenting tips and stories, as well as information on dealing with stress, healthy living and wellness, mental health disorders, helping children, and internet resources.

Website: www.raisingyourgrandchildren.com

Grandparents Raising Grandchildren Trust

This group from New Zealand is interested in hearing from Canadian grandparents raising grandchildren. Their website has lots of information and stories to share.

Mailing Address:
Diane Vivian
PO Box 34 892
Birkenhead
North Shore City, New Zealand
Website: www.raisinggrandchildren.org.nz
Email: parenting2@xtra.co.nz

Grandparents Support Centre for Kinship Caregivers

This is a grandparents centre in Washington state that has many ongoing projects and resources for grandparents raising grandchildren, including a legal book for caregivers living in the United States. This agency also published a book entitled “Relative as Parents Program: A Resource Guide for Relatives Raising Children in Washington State”. Look for up-to-date resources on their informative website or contact Hilari Hauptman in the Aging and Adult Services Administration at the Department of Social and Health Services.

Phone for Hilari Hauptman: 360-725-2556
Email for Hilari Hauptman: haupthp@dshs.wa.gov
Website: www.grandsplace.org/gp8/wa.html
Email: kathy@grandsplace.org

Proud Grandparents Co.

This group has articles covering the difficult topics of “Parental visitation” and “Explaining a parent’s inability to care for the grandchild,” among others.

Website: www.proudgrandparents.co.uk

Through the Eyes of a Child: Grandparents Raising Grandchildren

This set of fact sheets was published through the University of Wisconsin.

Website: www.uwex.edu/relationships

University of Victoria, School of Social Work

Ongoing research projects relating to grandparents raising grandchildren. To find these projects on the website, look for Research and then at the Projects section.

Phone: 250-721-8036
Website: www.socialwork.uvic.ca
Email: bwhittin@uvic.ca

Appendix 3

Sample advocacy letter

Following are some guidelines on how to write a letter to ask for services related to your grandchild's care from the ministry or another agency.

The letter should be brief and direct: it should be no longer than two pages, with short sentences. Be sure to keep a copy.

Date

Person's name

Their title

The organization, ministry, and department

Complete address

Dear _____:

Re: *state the issue or problem in just a few words; for example, "respite care for Jane Brown"*

I am writing to request _____ (for example, "an appointment to apply for respite care for my granddaughter Jane").

or to express my concern about _____.

Provide a clear and brief (three- to four-sentence) summary, using background information and facts to describe what led up to the current situation. For example, "I have taken care of Jane full-time on my own since October 2007. As you know, she has many health problems that require constant care and frequent medical appointments. I have not had a day off since she first started living with me."

State clearly why your request is important, how it will help your grandchild, and what you understand your grandchild's and your rights to be. Welcome other resources and suggestions for solutions to your problem. For example: "It is very important for Jane's health and well-being that I remain able to care for her. Respite care would provide the support we both need. I understand from your website that respite care is available in situations such as ours. In addition to respite, I welcome your suggestions for other resources for Jane and me."

Set a time limit for a reply, such as "Please call me at the number below before Friday to set a time to talk or meet."

Be positive. For instance, "I am looking forward to working with you to find safe, affordable solutions for my granddaughter and me. Her health and happiness are of the greatest importance."

Sincerely,

Your signature

Your name

Your address

Your phone number

Your email address, if available

Legal Issues Facing Grandparents Raising Grandchildren Research Project: a draft summary

Kristen Holten, Legal researcher
Barb Whittington, Project co-chair
2008

1. Introduction

The main purposes of the Legal Issues Facing Grandparents Raising Grandchildren Legal Research Project are to identify the common legal issues faced by grandparents raising grandchildren (GRG) in BC and to publish a resource guide that will empower GRG to make informed decisions about legal matters that impact their families. Since January 2008, the legal research team has met with approximately 200 grandparents all over BC, but primarily in the regions of Vancouver Island, Greater Vancouver, and central BC. In addition, the team has collected nearly 100 surveys submitted by GRG from the same regions. The experiences these grandparents have shared with the legal researchers has helped the team to identify several overarching legal issues faced by all GRG.

2. Key themes

Some of the key legal issues identified to date are as follows:

Legal aid and assistance

- There is strong consensus among grandparents that, although they are not eligible for legal aid because their combined savings, assets, and income exceed the eligibility requirements, they are not exactly in a position to pay legal fees. Many are living on, or about to transition to, fixed incomes.
- Despite the aforementioned financial constraints, the majority of grandparents who have required legal services have spent between \$2,000 and \$10,000. Some grandparents have reported legal expenses exceeding \$20,000 in relation to securing permanency for their grandchildren (through adoption and gaining custody, for instance).
- Grandparents raised concerns over the lack of legal information tailored to their situation which they were able to access when they were first confronted with the prospect of raising their grandchild(ren). This is critical for two reasons:
 - 1) Nearly all grandparents who participated in our data gathering became their grandchildren's caregivers as the result of a crisis.
 - 2) The majority of grandparents have represented themselves in legal proceedings.
- Some grandparents have said that lawyers are not knowledgeable about the issues they face and that the courts are insensitive to the demands of their familial role.
- According to the survey, GRG needed legal assistance most when it came to obtaining custody, access, and/or guardianship rights.

Visits with parents

- Many GRG feel that they should not have had to bear the anxiety and financial costs of visits (sometimes requiring supervision) between their grandchild(ren) and the parents when this service would have been covered if they had been foster parents (see the next two bullets for related information).

The Ministry of Children and Family Development (“the ministry”)

- Many grandparents reported that the ministry did a very poor job of informing them about their legal rights and options when placing children with them. They reported that ministry social workers who removed child(ren) due to safety concerns and informally placed them with grandparents did not tell the grandparents about their legal options. When an agreement was made, the grandparents did not know what it was called, what services they were eligible for, or what their rights were.
- Grandparents have the impression that the ministry is trying to “off-load” children in care onto relatives without providing them with adequate financial assistance. Several grandparents said that ministry social workers did not inform them of the existence of restricted foster care agreements, which many feel would have best suited their initial needs.
- Grandparents said they are afraid to ask the ministry for help (e.g. respite care, counselling for the grandchild(ren), behavioural assessments) because they may appear incompetent and risk losing custody of the grandchild(ren).
- Many grandparents feel their relationship with the ministry social worker is adversarial. One grandparent reported being treated with contempt. Grandparents do recognize that social workers’ caseloads are too high, resulting in ineffective service delivery and high staff turnover.
- Many grandparents reported that ministry social workers gave them ultimatums, such as “you must take the children now or risk losing them to foster care.” This practice led to grandparents making hurried decisions that were often uninformed.
- Many grandparents feel that the ministry prioritizes the parents’ rights over the rights of the child, and that it fails to recognize that some parents are incapable of raising their children. This approach undermines grandparent efforts to protect their grandchild(ren).

Adoption

- Many grandparents have the impression that if they adopt, they will be completely cut off from services or financial support. As a result, they are hesitant to consider this option.
- Several grandparents said that ministry social workers contacted them with further ultimatums in the form of deadlines to adopt or “lose the children to the system.” Most often, this situation took place with grandchildren under 5 years of age, but several grandparents who had been raising their grandchildren long-term were also given this ultimatum, leaving them feeling threatened and confused.

Financial assistance

- Grandparents feel it is **unjust** that they do not receive equivalent financial support to caregivers of children in care despite having legal custody of their grandchildren. Grandparents believe this puts them in a difficult position, wherein they have to decide whether to wait for the ministry to step in just to guarantee that they will receive adequate financial support. The situation is particularly acute when it comes to grandchildren with special needs. For example, a caregiver for a child in a 'level 3' foster home would receive \$1,785.75/month for her care, but if she were in her grandparent's custody, the grandchild would not receive the 'level 3' distinction and the family would therefore not get the additional funds to assist with her care.
- Many grandparents said that although the **Child in the Home of a Relative (CIHR)** program (administered by the Ministry of Housing and Social Development) is a good resource, it does not provide enough funds to cover the cost of raising a child. Furthermore, the CIHR application process is restrictive and tedious, requiring a safety audit, criminal record checks, monthly reports, and reapplications. GRG are further concerned about the increased involvement of MCFD in the CIHR application process.
- Grandparents expressed concern over covering the cost of clothing, bedding, personal hygiene, etc. when the grandchild(ren) first came into their care. The survey revealed that 81% of the participants had used their savings to pay for expenses related to raising their grandchildren.

Public Trustee

- Several grandparents expressed concern and confusion over the role of the Public Guardian and Trustee. Many were unsure of what would happen if the parent died while the grandchild was in the grandparent's care.

Frontline services

- Some grandparents expressed anxiety over accessing services for their grandchild(ren), such as emergency medical services, optical or dental services, or dealing with police, perhaps because GRG do not have the proper documentation (i.e. proof of guardianship) to be treated as the equivalent of parents.

Accessing support services

- GRG reported that necessary services such as respite care, behaviour assessments, and therapy for children with emotional, mental, or physical barriers were usually only provided if the grandchild(ren) were in the care of the ministry. GRG argue that they are entitled to these services regardless of their legal arrangement because if the grandchild(ren) were in foster care, these services would be provided. A possible solution would be to guarantee that GRG under a kith and kin agreement receive funds and services equivalent to those given to foster parents.

Raising Aboriginal grandchildren

- The survey results reveal that only 9.4% of the participants identify as indigenous, but 41.5% of the participants are raising grandchildren of indigenous ancestry. This has complex legal implications, given the different policies and approaches to care for Aboriginal and non-Aboriginal children, including the need for these children to stay connected to their community and its traditions.

3. Grandparents' priorities

One of the survey questions asked grandparents to identify the top five issues they see as important from a list of 20 items. The top five are:

- Increases to Child in the Home of the Relative benefits (67.9%)
- Easy access to plain-language information about legal policies and options specific to GRG families (61.7%)
- New legislation that recognizes the equivalency between what GRG provide and what foster parents provide (51.9%)
- Guaranteed daycare and access to respite services for grandparents, regardless of employment situation (43.2%)

Three items tied as fifth in importance:

- Financial support for more respite services for grandchildren with special needs, physical disabilities, FASD, HIV / AIDS, etc. (40.7%)
- Legal aid or financial support for court costs for GRG seeking custody, guardianship, child protection, and foster care status (40.7%)
- Legal advocacy and representation for broad GRG family legal issues (40.7%)

4. Future steps

As we reflect on the research conducted to date, two shortcomings are clear:

- The research lacks the perspectives of northern and interior BC GRG.
- The research also lacks the perspective of Aboriginal GRG (approximately 10% of participants in discussion groups and survey submissions have identified as Aboriginal) especially grandparents living on reserve.

To rectify these shortcomings, our future efforts will be aimed at connecting with GRG in these underrepresented groups.

In addition to publishing this legal guide,, the project team is also committed to advocating on behalf of grandparents raising grandchildren. We also aim to provide GRG with the tools they need to promote recognition of their needs and to reform policy to reflect those needs.

Recommendations for the Ministry of Children and Family Development

Legal Issues Facing Grandparents Raising Grandchildren Legal Research Project

What grandparents have told us is in the best interests of their grandchildren

Prepared by: Professor Barbara Whittington, Project co-chair
and Kristen Holten, Legal researcher

Written in consultation with the Project Advisory Team

January 2009

The overall recommendation for the Ministry of Children and Family Development arising from our project is that grandparents (or other relatives) need acknowledgement and support if they are to create a permanent, life-long home for their grandchildren. Over 9,940 BC grandparents have said “Yes, of course” to parenting again, and they deserve our support.

1. **Recognize the crucial role grandparents raising grandchildren perform and provide support services and financial assistance in line with what foster parents receive.** This includes suitable financial support, appropriate medical and extended benefits for all levels of care, legal support, and recognition of the commitment and expertise of grandparents.

Rationale: An underground child welfare system exists for over 9,000 BC grandchildren. Serving the best interests of children raised by grandparents should certainly mean access to the same services and opportunities that foster children have. The Child, Family, and Community Services Act seems committed to involving family members in children’s care wherever possible, but the government provides little support for that care. Grandparents consistently express the need for respite care, daycare, counselling, and legal support for their families. It is important that the legal support not be means-tested, as grandparents often fall between the cracks—they do not qualify for legal aid, but they also cannot afford high legal costs on fixed incomes.

2. **Appoint a Grandparent Navigator/Liaison** in the ministry to provide consistent, up-to-date information and support to ministry social workers, grandparents (indigenous and non-indigenous), and the public.

Rationale: In Washington state, such a person is called a Navigator, and the office has proven helpful to social workers, other service providers, policy makers and grandparents. Grandparents reported that there is great confusion about the services available to them, as well as inconsistencies in the way services are delivered. A Navigator could not only help grandparents access services, but also promote greater inter-ministerial collaboration and coordination. Perhaps this person could also work with community agencies to help meet the urgent needs grandparents can have when their grandchildren, often without warning, suddenly live with them as the result of a ministry placement or family crisis. Grandparents say that, in the first weeks, they needed immediate, relevant advice and information—as well as cribs, clothes, and car seats.

3. **Ensure that ministry social workers are adequately trained** to serve the needs of grandparents raising grandchildren. This training could be assisted by providing fact sheets containing checklists with questions and answers to all regional offices. That way, all ministry social workers would be informed of grandparents' possible questions and of the legal, financial, and service assistance they might need to access. Training in cultural sensitivity would also be essential. Grandparents have told us that workers are often unskilled in cross-cultural social work.

Rationale: Grandparents have consistently reported that social workers have a lack of knowledge of their own policies, and that there is high staff turnover. This breakdown in training meant that few social workers mentioned kinship care policies, family development response possibilities, or alternative dispute resolution options (such as family group conferencing or mediation) to the family.

The situations facing grandparents raising their grandchildren are complex and varied in nature. There is a need for specific and ongoing social work training so that those who work with families in crisis better understand the family development needs that arise when parents can't parent and grandparents have to step in. The parents of the children involved would also benefit from better informed and more sensitive service providers who understand these complex family issues.

4. **Review the Child in the Home of a Relative (CIHR) program** to re-assess the benefit levels, success of the program, and application process to ensure that it is clear and accessible for grandparents.

Rationale: Grandparents tell us that what they like about CIHR is the simplicity and lack of stigma they experience with the program. The benefit amounts, however, are insufficient in most cases. The ministry's recent attempts to make improvements to CIHR have inadvertently made the process more difficult for grandparents to access in a timely fashion. Grandparents are very worried that delegating the screening process to MCFD will put more barriers in the way of their receiving financial help. In addition, there are different benefit amounts paid based on whether families live on or off federal reserves, which is unfair.

If the ministry makes changes in the way this program is administered, it will be important to keep it simple, quickly accessible, and stigma-free.

5. **Create a Grandparent Advisory Committee** to assist in reviewing ministry policy and practice.

Rationale: Child welfare policies were not designed with grandparents raising grandchildren in mind. An advisory committee like the MCFD's Elders Council would ensure that proposed policy is first seen through the eyes of a culturally representative group of grandparents. This would help to establish collaborative relationships between grandparents and the ministry, and it would contribute to best practices. The Legal Issues Research Project could assist in locating grandparents who might be able to participate in such a committee. One member of our advisory team, Audrey Lundquist, also served on the Elders Council and can see such a committee helping.

NOTE: Many of these recommendations could be implemented with very little cost. It would take a small shift in thinking to see grandparents raising grandchildren as a group that could assist the ministry in their ongoing effort to develop collaborative and best practices. Grandparents have told us that they want to work cooperatively with the ministry in every way they can, both to improve present possibilities and future opportunities for their grandchildren.

Appendix 6

GRG survey, February–December 2008

Grandparents Raising Grandchildren Legal Issues Project

This data helps us understand the challenges faced by grandparents raising grandchildren on their own. All of the questions are optional. We thank you for your generous contribution. If you have questions about this survey, please call the Project Coordinator, Carrie Wright-Donaldson (contact information below).

A) This first section asks questions about you:

- 1) Please circle your gender:
a) Male b) Female c) Other
- 2) Marital status:
a) Married/ Common-law b) Widowed c) Single
- 3) What is your relationship to the grandchild you are raising?
a) Biological Grandparent b) Step Grandparent c) Godparent
d) Aunt or Uncle e) Cousin f) Family friend
g) Other (Comment):
- 4) Is the parent of the grandchild you are raising your son or daughter?
a) Son b) Daughter
- 5) Please state your age: _____ How old do you feel today? _____
- 6) How would you describe your health?:
a) Excellent b) Good c) Fair d) Poor
- 7) When referring to Grandparents Raising Grandchildren (GRG) families, we are referring to situations where only the grandchild(ren) permanently reside in your home. Their biological parents do not permanently reside in the same home or may be deceased. How many grandchildren are you raising? _____
- 8) Do the grandchild(ren) you are raising primarily reside in your home?
a) Yes b) Intermittently
c) No d) Comment:
- 9) Please state the age(s) of the grandchild(ren) you are presently raising:

10) Since 1998, how long have the grandchild(ren) you are raising resided in your home?

- a) 0-6 months b) 6-12 months c) 1-2 years
d) 2-5 years e) 5-10 years f) Comments:

11) How would you describe your community?:

- a) Urban b) Rural

12) What geographical area do you live in (approximately)?

- a) South Vancouver Island b) Mid-Vancouver Island c) North Vancouver Island
d) Greater Vancouver e) Central / Northern BC f) BC Interior

13) How does the size or location of your community limit the services you can access?

- a) Significantly b) Fairly
c) Not at all d) Don't use services

B) This section asks questions to get a picture of how experiences and legal issues differ across groups.

14) Please circle those that apply. I am:

- a) Indigenous b) Canadian citizen c) Landed Immigrant
d) Refugee e) Other _____

15) If you circled 'refugee' or 'landed immigrant', what is your country of origin? _____

16) If you circled 'Indigenous', are you a 'Status Indian'?

- a) Yes b) No

17) If you circled 'Indigenous', do you live on or off reserve?

- a) On reserve b) Off reserve

18) Are you raising grandchild(ren) of Indigenous ancestry?

- a) Yes b) No c) Comment: _____

19) If yes, does your grandchild(ren) have access to cultural teachings/knowledge?

- a) Yes b) No

C) This section asks questions about your grandkids

20) Does your grandchild(ren) have physical, mental, emotional or behavioral challenges?

a) Yes

b) No

c) If more than one is affected, how many grandkids? _____

Please explain: _____

21) Has this challenge been diagnosed by a professional?

a) Yes

b) No

c) Comments: _____

22) If you answered 'yes' to the previous question, does the diagnosis fall within any of these categories?

a) Fetal Alcohol Syndrome

b) Attention Deficit and Disorder

c) Depression or other long-term emotional ailments

d) Anger management difficulties

e) Mental or physical disability

f) Attachment disorder

g) Other:

23) Have you looked for help for your grandchild(ren)'s physical, mental, emotional or behavioral challenge(s)?

a) Yes

b) No

c) Comments: _____

24) Who has been of help to you in your journey as a GRG? Please circle all that apply:

a) Other family members

d) Community agency

c) Neighbors

d) Food Bank

e) Church

g) Government agencies

h) Healthcare system

i) Education system

k) MCFD

l) Other (Comment) _____

25) How would you describe your relationship with the biological parent of the grandchild(ren) you are raising (if not deceased)?

a) Excellent

b) Good

c) Fair

d) Poor

e) Comment: _____

D) This section asks questions about your financial situation

26) In addition to raising your grandchild(ren), are you employed?

- a) Yes (full-time)
- b) Yes (part-time)
- c) Yes (casual/seasonal)
- d) Yes (both myself and my partner are employed)
- e) No (my partner or another relative in the home is employed)
- f) Not working (retired)
- g) Presently unemployed
- h) Other (Comment): _____

27) How has raising your grandchild(ren) affected your employment situation?

- a) Work less hours
- b) Return(ed) to work
- c) Found new work
- d) Put off retirement
- e) Comment: _____

28) What is the approximate annual (gross) income of your household?

- a) \$10,000 to \$20,000
- b) \$20,000 to \$30,000
- c) \$30,000 to \$40,000
- d) \$40,000 to \$50,000
- e) \$50,000 to \$60,000
- f) \$60,000+

29) Did you need to change your housing situation so that you could raise your grandchildren?

- a) Yes
- b) No
- c) Comment: _____

30) Have you used your savings to pay for expenses in relation to raising your grandchild(ren)?

- a) Yes
- b) No
- c) Comment: _____

31) Please circle the following services that you need or have needed financial assistance to help pay for:

- a) Counseling
- b) Tutoring
- c) Medical needs
- d) Dental work / braces
- e) Daycare
- f) Respite care
- g) Other: _____

32) Were you successful in obtaining financial assistance?

- a) Yes
- b) No
- c) Comments _____

33) Do the biological parent(s) to the grandchildren you are raising contribute to the living costs associated with their care?

- a) Yes (continuously)
- b) Yes (intermittently)
- c) No
- d) Deceased

34) If yes, is this a legal agreement?

- a) Yes
- b) No
- c) Comment: _____

E) This section asks questions about legal assistance.

35) Have you ever required legal advice in relation to raising your grandchild(ren)?

a) Yes b) No c) Comments: _____

36) If yes, did you need financial assistance in order to afford the legal costs?

a) Yes b) No c) Comments: _____

37) If you applied for legal aid, were you successful in your application?

a) Yes b) No c) Comments: _____

38) If you were denied legal aid, what were the reasons you were given?

39) Did you find that your lawyer or the legal advice you received was adequate and/or knowledgeable?

a) Yes b) No c) Comments: _____

40) Have you represented yourself in legal proceedings?

a) Yes b) No c) Comments: _____

41) Please provide an approximate amount you have spent so far in legal expenses associated with raising your grandchild(ren):

a) Up to \$2,000 b) \$2,000 -- \$5,000 c) \$2,000 -- \$10,000
d) \$10,000 -- \$20,000 e) More than \$20,000 f) Comments: _____

42) As a GRG, have you been involved with any of the following?

a) BC Supreme Court b) Provincial Court (family and youth court)
c) Family conference d) Mediation e) Human Rights Tribunal
f) All g) None h) Other (Comment): _____

43) Approximately how many legal proceedings have you been involved in within the last 5-10 years relating to your role as GRG?

a) 1-2 b) 2-5 c) 5-10
d) 10-20 e) 20+ f) Comments: _____

44) What is the most significant legal issue pertaining to your grandchildren that you have required assistance and support for?

a) Criminal charges b) Sexual assault c) Family violence
d) Child removal (apprehension) e) Custody / Access
f) Guardianship g) Restraining order h) Adoption
i) Civil proceeding j) Child protection investigation
k) Other (Comment): _____

45) There are several free legal services available to you. Please identify those you are familiar with:

- a) Dial-A-Law (1-800-565-5297 or www.dialalaw.org)
- b) LawLINE (1-866-577-2525)
- c) LawLINK (www.lawlink.bc.ca)
- d) The Legal Services Society (familylaw.lss.bc.ca)
- e) Other: _____

For online information, Legal Services Society provides detailed information and referral for situations where the grandchild(ren) are being raised by the grandparent under: (a) custody order; (b) adoption; or (c) Foster Placement arrangements.

www.familylaw.lss.bc.ca/resources/fact_sheets/grandparents_benefits.asp

**F) This section asks questions about policies related to
GRG families. Only answer those that apply.**

CUSTODY AND GUARDIANSHIP DATA:

46) Are you the legal guardian of the grandchild(ren) you are raising?

- a) Yes
- b) No
- c) Yes, to some but not all. If so how many? _____

47) Was the grandchild(ren) placed with you through the Ministry of Children and Families (MCFD)?

- a) Yes
- b) No
- c) Some were, but not all. If so how many? _____

48) If you are presently the legal guardian, how was this established? Circle all that apply:

- a) Restricted Foster Placement
- b) Kin Care Agreement
- c) Court Order (uncontested: mediation, family conference, lawyer, etc.)
- d) Court Order (Contested and/or fought for by GRG)
- e) Standby Guardianship arrangement
- f) Adoption
- g) Other (Comment): _____

49) Did you become a GRG through a crisis situation (example: violence, neglect, abandonment, abuse)?

- a) Yes
- b) No
- c) Comment: _____

50) In your journey as a GRG, when did (or do) you need legal assistance?

- a) Prior to raising your grandchild(ren)
- b) When considering guardianship
- c) Still need assistance
- d) During process of Adoption
- e) All
- f) Didn't (don't) need legal assistance

51) If you are not the legal guardian, how has this had an impact on you as a GRG? (Example: Bringing your grandkid(s) to the hospital, crossing the border, registering grandkid(s) for school, etc.)

ACCESS AND SUPERVISION

52) If there are supervised access visits (phone, internet, or in person) who is responsible for arranging them?

- [illegible]

c) Or: _____

53) Who is responsible to act as 'supervisor' during these visits?

- [illegible]

c) Or: _____

54) If you are the supervisor, are you comfortable with this responsibility?

- a) Yes b) Somewhat

c) No

d) Comments: _____

SCHOOL / EDUCATIONAL:

55) In your experience with the educational system, have you felt equally recognized as the 'parent-equivalent' when it comes to your grandchild(ren)'s education?

- a) Yes (Consistently) b) Yes (Intermittently) c) Yes (Infrequently) d) No

e) Comments: _____

HEALTHCARE:

56) Have you ever had any difficulty accessing medical attention, prescriptions and/or records for the grandchild(ren) you are raising?

- [illegible]

57) Have you ever had any difficulty accessing dental care for the grandchild(ren) you are raising?

- [illegible]

58) If your grandchild(ren) required additional medical supports for any physical/mental/emotional needs, did you experience any difficulty accessing the assistance you needed?

- [illegible]

59) In your experience as GRG within the healthcare system, have you felt equally recognized as the 'parent-equivalent' when it comes to healthcare for your grandchild(ren)?

- a) Yes (Consistently) b) Yes (Intermittently) c) Yes (Infrequently) d) No

e) Comments: _____

RESPIRE AND CHILD CARE SERVICES:

60) Have you ever wanted/needed respite (temporary relief, babysitter, etc.) to assist in the responsibilities associated with grandchild(ren) you are raising?

- a) Yes b) No c) Comments _____

61) If yes, were you successful in obtaining what you were looking for?

- a) Yes b) Somewhat
c) No d) Comments _____

62) Have you ever wanted/needed daycare to assist in the responsibilities associated with raising your grandchild(ren)?

- a) Yes b) No c) Comments _____

63) If yes, were you successful in obtaining daycare?

- a) Yes b) Somewhat
c) No d) Comments: _____

BENEFITS AND SUBSIDY DATA

64) Depending on the circumstances of your GRG situation, there are certain benefits you may be eligible for. Please identify those that you are familiar with (continued next page):

- a) Child in the Home of a Relative
- b) Canada Pension Plan (CPP) Children's Benefits: based on disability or death of a parent or other person who had care and control of the child and had contributed to CPP
- c) Income tax deduction for dependents with disabilities
- d) Child Disability Benefit
- e) Canada Child Tax Benefit
- f) Universal Child Care Benefit (for children under 6)
- g) EI Family Supplement
- h) Child Care Subsidy (for parents with low incomes or if recommended by the Ministry of Child and Family Development)
- i) Regular Income Assistance Benefits
- j) Foster parent payments
- k) Maintenance (child support) from the biological parents of the children

- l) BC's Adoption Expense Tax Credit
- m) BC's Children's Education Fund

65) How did you learn of what financial assistance may be available to you?

- a) Related service provider b) Social or Ministry worker
- c) GRG Support Circle d) Legal Advocate/Lawyer/Courts
- e) Family/friend/Church/Community Centre f) Other: _____

66) If you applied for any of the above forms of assistance, were you successful in obtaining it?

- a) Yes b) Somewhat
- c) No d) Comments: _____

67) If you were not successful upon applying for any of the benefits listed above, could you please identify which one(s) and why your application was rejected?

G) The last section asks open questions:

68) Of the following, please circle the top 5 issues that you see as important (continued next page).

Public Awareness and Legal Resources:

- a) The wider community should know about the legal challenges GRG families face
- b) Easy access to plain-language information about legal policies, options and responsibilities specific to GRG families
- c) Adoption information for GRG families seeking permanency arrangements

Financial Resources and Assistance:

- d) Financial support for more respite services for grandchild(ren) with special needs, physical disabilities, FASD, HIV/AIDS, etc.
- e) Legal aid or financial support for court costs for GRG regarding custody, guardianship, child protection, and foster care placement
- f) Guaranteed child care subsidy, respite and supports under the Kin Care Agreement policy
- g) Increases to the Child in the Home of the Relative supplement
- h) Guaranteed daycare and respite access to services for grandparents, regardless of employment situation
- i) Counseling services for GRG family members

Advocacy and Assistance:

- j) Mediated/advocate assistance to GRG who feel vulnerable or fearful of the child welfare 'system' due to previous history/involvement with MCFD
- k) Legal advocacy and representation for broad GRG family legal issues
- l) Legal advocacy information for GRG to know how best to advocate for themselves

- m) New legislation that recognizes the 'foster parent' equivalent services grandparents provide to children under the legal guardianship of MCFD.
- n) Agencies or Ministries support to provide a neutral person for supervision access visits
- o) Ministry/police protection for GRG families experiencing family disputes/violence
- p) Increased assistance and support from healthcare providers, teachers, police and emergency personnel for GRG who are parent-equivalents to a grandchild.
- q) Other (Comment):

The main objectives of this legal research project are:

- a) to raise awareness of the 9,940 children being raised by Grandparents in British Columbia
- b) to identify the legal issues GRG families face
- c) to create a resource booklet to assist GRG

Is there anything else that you wished we had asked you?

OPTIONAL: If you would like to be included on our distribution lists for future upcoming events and project updates, please let us know:

Name: _____

Mailing address: _____

Email address: _____

If you prefer *not* to disclose your personal contact information on this survey, but would still like to be included in our distribution lists, please call us at **1.800.377.0212** (toll-free) or **250.507.7747** (Greater Victoria) to speak directly with Project Coordinator, Carrie Wright-Donaldson or email her at **grg@parentsupportbc.ca**.

Your questions/comments about the survey and/or project itself are most welcome!

Appendix 7

Grandparents Raising Grandchildren in BC survey results: a snapshot

As part of the Grandparents Raising Grandchildren (GRG) Legal Issues Project, 126 grandparents completed the preceding survey.** Following is a snapshot that looks at who the participating grandparents were and which issues they think are important for their families. Because it is sketched in numbers, this summary cannot replace the stories they told, but it can shed light on the larger picture of challenges facing GRG in BC.

Ancestry

Of the grandparents surveyed, 10% were Aboriginal and 90% were not, but 43% of the total participants were raising Aboriginal grandchildren. That means that one-third of those surveyed were raising Aboriginal grandchildren but were not Aboriginal themselves. In the Aboriginal group, 95% lived off reserve.

Location

The GRG respondents came from many areas of the province: 58% from Vancouver Island, 27% from the Greater Vancouver and Fraser Valley Region, 8% from the Cariboo and Northern region, and the remaining participants in the Interior. Two-thirds were from areas less urban than Victoria and Vancouver.

Gender and age

Most respondents were grandmothers (85%), and some 66% of all the grandparents surveyed were raising their daughter's child(ren). Grandparents ranged in age from 40 to 80; however, 45% were between 55 and 65, with 31% below 55 and 25% above age 65. We asked them just for fun how old they FELT they were, and by far, most (73%) said they felt younger or relatively equal to their age.

The grandchildren

How many grandchildren were these grandparents raising? In total, they were collectively raising 195 children. Most (62%) were raising one grandchild, 29% were raising two grandchildren, 7% three, 2% four kids and one busy grandparent was raising more than 6!

Of those surveyed, 49% are taking care of children aged 6 and younger; 37% have children between 7 and 10, and 46% have teens or preteens living with them (those percentages add up to more than 100 because many grandparents are raising more than one grandchild). Some have kids they are raising in all these age groups too. Raising grandchildren doesn't appear to be a short-term job, but instead is a life-long commitment: 78% have been raising these children for more than 2 years, and of those, 46% have been dedicated caregivers for more than 5 years.

The children

A huge number (some 88% of the grandkids) came to live with their grandparent through a crisis situation—including family violence; neglect; abandonment; parental incapacity; and physical, sexual, and emotional abuse. It shouldn't be a surprise, then, that grandparents said 67% of the children they care for have challenges to deal with: emotional, behavioural, mental, or physical. In addition, 91% of the grandparents said they had sought help for these difficulties.

The absent parents

Where there are grandparents and grandchildren, there is also the generation in between—the grandchildren’s biological parents and the children of the grandparents. These relationships are complicated, grandparents tell us. Of the grandparents, 60% say their relationship with the biological parents is fair or poor, and only 40% said relations were good or excellent. Grandparents commented that it often depends on the day, the parents’ state, or the issue at hand. In 82% of the families, the biological parents were unable to help—either financially or in other ways.

Financial help and other forms of assistance

Finances are a crucial issue identified by the grandparents. Most household incomes fall under \$30,000 per year and 82.3% of the grandparents said that they had used their savings to pay for expenses in relation to raising their grandchildren. While one-third of the grandparents were employed, 45% said they had put off retirement because of the costs associated with raising their grandchildren.

When we asked what the grandparents needed, here is what they said: 66% said they needed financial assistance—in particular, an increase in Child in the Home of a Relative (CIHR) benefit levels. At a modest \$280 per month for a younger child, the grandparents said that it helps—but that it should help more. Other needs expressed included 58% saying they needed plain language legal assistance, 57% mentioned foster parent equivalent payments, 48% day care and respite care, 45% legal aid, and 43% financial help for kids with special needs.

When they were asked a follow up question about what services they needed the financial help to pay for, the top 6 were day care (55%), dental care (49%), other medical help (40%), counselling (37%), respite care (32%), and tutoring (26%).

Specific legal issues facing grandparents

More than three-quarters—77%—said they needed or still need legal advice. Of those who needed help and applied for legal aid, 74% reported they did not receive help. More than half the grandparents (53%) reported that they had represented themselves in legal proceedings. The approximate amount they have spent so far varies a great deal, with 38% spending less than \$2,000 and 45% spending somewhere between \$2,000 and \$10,000.

More specifically, 71% were involved in Provincial Court proceedings, with 60% of those involved in more than 2 legal actions and some in as many as 20, but most somewhere between 2 and 10. It is interesting that 78% of the grandparents responding had been involved with either mediation or family group conferences. What legal issues were involved? 70% said custody/access, 59% guardianship, and 22% child apprehension.

The ministry placed 52% of the grandchildren with their grandparents, with 75% of grandparents now being the legal guardian. When we asked grandparents how they learned of assistance that might be available to them, the vast majority heard about it through community contacts and 43% heard through their ministry social worker.

In summary, grandparents said that they need assistance in various forms: legal and financial as well as support and health care services for their grandchildren. Remember: 88% of grandparents raising a grandchild came to be involved through a crisis situation.

****** For the complete results, or for a copy of the survey, see the preceding chapter or contact the University of Victoria School of Social Work, Professor Barbara Whittington via email at bwhittin@uvic.ca or go to Parent Support Services’ website at www.parentsupportbc.ca.

Appendix 8

Aboriginal resources in BC

BC Association of Aboriginal Friendship Centres

To find your local friendship centre, call or visit this agency's website.

Phone: 250-388-5522

Website: www.bcaafc.com

INAC (Indian and Northern Affairs Canada)

British Columbia Region

Lower Mainland: 604-775-5100

Elsewhere in BC: 1-800-567-9604 (toll-free)

Website: www.ainc-inac.gc.ca

Indian Residential School Survivors Society

911 – 100 Park Royal South

West Vancouver, BC V7T 1A2

In the Lower Mainland: 604-925-4464

Elsewhere in BC: 1-800-721-0066 (toll-free)

24 Hour Survivor Line: 1-866-925-4419 (toll-free)

Fax: 604-925-0020

Website: www.irsss.ca

Interior Métis Child and Family Services (formerly Kamloops Métis Family Services)

E3 – 750 Cottonwood Avenue

Kamloops, BC V2B 3X2

Phone: 250-544-9486

Fax: 250-554-9487

Website: www.imcfs.bc.ca

Ktunaxa Nation Council

7468 Mission Road

Cranbrook, BC V1C 7E5

Phone: 250-489-2464

Fax: 250-489-5760

Website: www.ktunaxa.org

Email: info@ktunaxa.org

Ku we Gahn Aboriginal Justice Program

Mailing address: PO Box 59

Telegraph Creek, BC V0J 2W0

Phone: 250-235-3276

Fax: 250-235-3115

Laxgalts'ap Village Government

416 North Road

Mailing address: PO Box 200

Greenville, BC V0J 1X0

In Northern BC: 250-621-3212

Elsewhere in BC: 1-877-447-0077 (toll-free)

Fax: 250-621-3320

Website: www.geocities.com/laxgaltsap2004

Namgis First Nation Health Centre

48 School Road

Mailing Address: PO Box 290

Alert Bay, BC V0N 1A0

Phone: 250-974-5522

Fax: 250-974-2736

Website: www.namgis.org

Native Courtworker and Counselling Association of BC

The NCCABC provides all sorts of legal and counselling services, as well as specific services for families, such as the Native Youth and Family Advocate Program. Their advocates can help when your grandchild is the subject of a ministry investigation, with court appearances, and with family separation.

Phone: 604-985-5355

Website: www.nccabc.ca

Email: nccabc@nccabc.net

Native Court Worker (Bulkley Valley)

3 – 205 Beaver Road

Smithers, BC V0J 2N1

In Northern BC: 250-847-2133

Elsewhere in BC: 1-800-881-1218 (toll-free)

Fax: 250-877-5097

Website: www.nccabc.ca

Affiliations: Moricetown Band Office/Native Courtworker and Counselling Association of BC

Northern Native Public Legal Education Program

c/o Law Courts Education Society of BC
1046 – 250-George Street
Prince George, BC V2L 5S2
Phone: **250-614-2736**
Fax: **250-614-2798**
Website: **www.lawcourtsed.ca**
Email: **northern@lawcourtsed.ca**

Northern Rockies Aboriginal Women Society

4916 – 50th Avenue North, Suite 2B
Mailing Address: PO Box 3190
Fort Nelson, BC V0C 1R0
Phone: **250-233-8920**
Fax: **250-233-8921**
Email: **ed.nraws@northwestel.net**

Seabird Island Band

2895 Chowat Road
Mailing Address: PO Box 650
Agassiz, BC V0M 1A0
In the Agassiz area: **604-796-2177**
Elsewhere in BC: **1-800-788-0322** (toll-free)
Fax: **604-796-3729**
Website: **www.seabirdisland.ca**
Email: **reception@seabirdisland.ca**

Upper Skeena Counselling and Legal Assistance Society

4305 Field Street
Mailing Address: PO Box 130
Hazelton, BC V0J 1Y0
In the Hazelton area: **250-842-5218**
Elsewhere in BC: **1-877-842-5218** (toll-free)
Fax: **250-842-5987**
Website: **www.usclas.com**

YWCA Crabtree Corner

533 East Hastings Street
Vancouver, BC V6A 1P9
Phone: **604-216-1650**
Fax: **604-216-1665**
Website: **www.ywcavan.org**

Appendix 9

Bibliography

The following resources were extremely valuable in the development of this guide. We encourage you to look them up for additional information.

BC Ministry of Children and Family Development

Website: www.gov.bc.ca/mcf

Reports and publications: www.mcf.gov.bc.ca/reports_publications.htm

Helpful links:

- Adoption: www.mcf.gov.bc.ca/adoption
- Child protection: www.mcf.gov.bc.ca/child_protection
- Youth justice: www.mcf.gov.bc.ca/youth_justice

BC Ministry of Attorney General (AG)

Website: www.gov.bc.ca/ag

AG's family law website: www.ag.gov.bc.ca/family-justice/

Helpful links:

- Basics of Family Law: www.ag.gov.bc.ca/family-justice/law/index.htm
- The Best Option for You: www.ag.gov.bc.ca/family-justice/options/index.htm
- Who Can Help?: www.ag.gov.bc.ca/family-justice/help/index.htm
- Other Resources: www.ag.gov.bc.ca/family-justice/resources/index.htm

Family Law Sourcebook for British Columbia

Published by the Continuing Legal Education Society of British Columbia.

People who represent themselves in court proceedings will find this 918-page book very helpful; however, it is quite costly. We recommend that you reference the copy at your nearest courthouse library.

JP Boyd's BC Family Law Resource

Website: www.bcfamilylawresource.com

The Law Courts Education Society

Website: www.lces.ca

Suggestions: go to "self-help," "family," and "resources."

Legal Services Society of BC (LSS)

Family Law website: www.familylaw.lss.bc.ca

The LSS website (access all publications here): www.lss.bc.ca

LawLINK (links to legal information online): www.lawlink.bc.ca

Publications:

- *Aboriginal People and the Law in BC*
www.lss.bc.ca/assets/pubs/aboriginalpeopleandlaw.pdf
- *Parents' Rights, Kids' Rights: A Parent's Guide to Child Protection Law in BC*
www.lss.bc.ca/assets/pubs/parentsRightsKidsRights.pdf
- *Your Welfare Rights: A Guide to BC Employment and Assistance*
www.lss.bc.ca/assets/pubs/yourWelfareRights.pdf

You can order publications for free from the Legal Services Society. To find out how, visit one of the first two websites listed above.

People's Law School

Website: www.publiclegaled.bc.ca

Click on "Publications" or read the list on the homepage of new publications.



Appendix 10

Resources

There are many organizations across the province that can help you raise your grandchild. Most of their services are free. See the next few sections for information on general services, as well as where to find family service agencies, legal help, and assistance for children with disabilities.

General resources

411 Seniors Centre

This centre has seniors' counsellors who can provide information to seniors about the services and benefits they may be eligible for. Staff may be able to help you apply for benefits or appeal decisions. The centre has counselors who speak various languages. They can also refer you to other seniors' counsellors in BC.

Lower Mainland: **604-684-8171**

Website: **www.411seniors.bc.ca**

Email: **s411@411seniors.bc.ca**

BC Bus Pass Program

If your income is below a certain level and you are a senior or a person with a disability, you can get a bus pass for \$45 per year if you apply to this program.

Phone: **1-866-866-0800** (toll-free)

Website: **www.bctransit.com/regions/vic/fares/bcbuspass.cfm**

BC Centre for Elder Advocacy and Support (BC CEAS)

This group operates a legal advocacy telephone line and provides information, referrals, and legal advocacy to seniors and the people who work with seniors, province-wide.

Lower Mainland: **604-437-1940**

Elsewhere in BC: **1-866-437-1940** (toll-free)

Website: **www.bcceas.ca**

Email: **ceas@telus.net**

BC Drug and Poison Control Centre

Call this 24-hour hotline if you have questions about a substance that you or your grandchild has come into contact with or ingested.

Phone: **1-800-567-8911** (toll-free)

Website: **www.dpic.org**

BC Housing

Offers subsidized housing for families, seniors aged 55 years and older, and people with disabilities.

Greater Victoria: **250-475-7550**

Lower Mainland: **604-433-2218**

Elsewhere in BC: **1-866-465-6873** or

1-800-257-7756 (toll-free)

Website: **www.bchousing.org**

BC Human Rights Commission

If you believe your or your grandchild's human rights have been violated according to the BC Human Rights Code, you can file a complaint with the BC Human Rights Tribunal. The tribunal is an independent body that screens, mediates, and adjudicates human rights complaints in the province. The tribunal has published a number of guides and information sheets to explain the process. You can also ask for help from tribunal staff. For more information about the tribunal, see "Guide 1: The BC Human Rights Code and Tribunal" at the website listed below.

Lower Mainland: **604-775-2000**

Elsewhere in BC: **1-888-440-8844** (toll-free)

TDD (Teletype Device for the Deaf): **604-775-2021**

Website: **www.bchrt.bc.ca**

Email: **BCHumanRightsTribunal@gov.bc.ca**

BC Ministry of Healthy Living and Sport

This ministry publishes the BC Seniors Guide. Download it for free, or ask at your local library for a copy. The guide is available in English, Chinese, French, and Punjabi.

Phone: **1-800-465-4911**

Website: **www.gov.bc.ca/seniors**

BC Seniors Online

This website has links to programs, services, and other online resources.

Website: **www.mcaws.gov.bc.ca/seniors**

Canada Child Tax Benefit

You can apply for the Canada Child Tax Benefit (CCTB) through the Canada Revenue Agency; if you are eligible, you automatically get the BC Family Bonus and BC Earned Income Benefit. While these payments must be declared on the CIHR Monthly Report, they do not affect CIHR payments.

To apply, complete an application form and send it to the CRA. You can download a copy of the application form from the CRA website at **www.cra-arc.gc.ca/menu-e.html** or get one from a CRA office.

Phone: **1-800-387-1193** (toll-free)

Website:

www.cra-arc.gc.ca/benefits/cctb/menu-e.html

Canada Pension Plan

To find out general information about your CPP, as well as benefit information (including retirement pension, disability benefits, survivor benefits, and children's benefits), payment information (including rates, payment dates, direct deposits, tax forms, and canceling benefits), frequently asked questions, fact sheets and forms, and to find a Service Canada Centre near you, call CPP or go to their informative website.

Phone: **1-800-277-9914** (toll-free)

Website:

www.hrsdc.gc.ca/eng/isp/cpp/cpptoc.shtml

Caregivers Association of BC

A caregiver is anyone who provides unpaid care and support to an adult friend or neighbour, partner, parent, adult child, or other family member. This association provides caregiver support groups, online support groups, information on taking care of yourself, useful websites, events for caregivers, information about the Caregivers Association of BC, and answers to many complicated questions.

Lower Mainland: **604-734-4812**

Elsewhere in BC: **1-800-833-1733**

Website: **www.caregiverbc.ca**

Email: **info@caregiverbc.ca**

Dial-A-Dietitian

You can get free nutrition information from this service.

Lower Mainland: **604-732-9191**

Elsewhere BC: **1-800-667-3438** (toll-free)

Website: **www.dialadietitian.org**

Enquiry BC

This provincial government service has operators who can give you the phone number of the local office of a provincial government program or service. If the number you have to call is long distance, ask the operator to put you through to the nearest office, and you will not have to pay the long distance charges.

Lower Mainland: **604-660-2421**

Greater Victoria: **250-387-6121**

Elsewhere in BC: **1-800-663-7867** (toll-free)

TDD in the Lower Mainland: **604-775-0303**

TDD elsewhere in BC: **1-800-661-8773** (toll-free)

Website: **www.servicebc.gov.bc.ca**

Federal Government of Canada—General information from Service Canada

For information about any federal government program or service, call Service Canada. Be prepared for a tape-recorded response that will direct you to choose from a menu by pressing numbers on your telephone. Services are available from 8:00 a.m.–8:00 p.m., Monday through Friday.

Phone: **1-800-622-6232 (1-800-O-Canada; toll-free)**
TDD: **1-800-926-9105**
Website: **www.servicecanada.gc.ca**

Health and Seniors' Information Line

This helpline gives BC residents answers to their questions on health-related topics, as well as information for seniors on government programs and services. Open from 8:30 a.m.–4:30 p.m., Monday to Friday. Interpreter services are available in 130 languages.

Greater Victoria: **250-952-1742**
Elsewhere in BC: **1-800-465-4911 (toll-free)**
Website: **www.health.gov.bc.ca/hcc/infoline.html**

HealthLink BC

HealthLink BC provides round-the-clock access to non-emergency health information and services in BC: nurses, pharmacists, dieticians, and health representatives.

Phone: **811** (toll-free anywhere in BC)
Website: **www.healthlinkbc.ca**

Helpline for Children

Please see *Family service agencies* on page 188.

Medical Services Plan (MSP)

This is the healthcare service in BC. If your income is low enough, you may get help to pay some or all of the monthly premium for the program. Applications are available upon request or can be downloaded from the website below.

Phone: **1-800-663-7100 (toll-free)**
Website: **www.hibc.gov.bc.ca**

Ministry of Attorney General

Please see the listing on page 193.

Ministry of Children and Family Development (MCFD)

This ministry offers services related to adoption, children with special needs, child and youth mental health, child protection, family support, infant development, training of foster parents, and probation and community justice programs. It also runs an emergency line for help outside of office

hours, as well as a child care call centre and an Aboriginal-specific support service line.

The ministry also publishes a handbook for youth and runs other services, such as the Young Adults program, the Youth Education Assistance Fund, and the Kinnections mentorship program. *Your Life, Your Rights: a Handbook for Youth* is for young people 12–19 who are involved in BC's child welfare system. It is designed to help them become stronger self-advocates and successfully transition into adulthood.

MCFD general inquiries
Greater Victoria: **250-387-7027**
Elsewhere in BC: **1-877-387-7027 (toll-free)**

MCFD after-hours emergency lines
Vancouver, North Shore, and Richmond:
604-660-4927

Lower Mainland from Burnaby and Delta in the west to Maple Ridge and Langley in the east:
604-660-8180
Elsewhere in BC: **1-800-663-9122 (toll-free)**

MCFD Child Care Programs and Services Call Centre:
1-888-338-6622 (toll-free)

MCFD Aboriginal Regional Support Services:
250-387-7073

MCFD websites
General information: **www.gov.bc.ca/mcf**
Website for the handbook: **www.fbcyicn.ca**
Web link to services for youth in BC:
www.strongsafesupported.com/EN/for_youth
Reports and publications:
www.mcf.gov.bc.ca/reports_publications.htm
Adoption: **www.mcf.gov.bc.ca/adoption**
Child protection:
www.mcf.gov.bc.ca/child_protection
Youth justice: **www.mcf.gov.bc.ca/youth_justice**

Ministry of Community Services

This ministry funds the Community Living services, as well as services for seniors and women, and offers an online women's services directory.

Website: **www.gov.bc.ca/csenv**
Community Living Website:
www.communitylivingbc.ca

Seniors and Women's Issues:

www.cserv.gov.bc.ca/wss/

Women's Services Directory:

www.cd.gov.bc.ca/women/directory

Ministry of Housing and Social Development (MHSD)

This ministry handles income assistance, the CIHR benefit, rental assistance, and the subsidized yearly bus pass program.

Phone: **1-866-866-0800** (toll-free)

Website: www.gov.bc.ca/eia

Ministry of Public Safety and Solicitor General

This ministry provides funding and support to police-based and community-based victim service programs throughout BC. It also administers the Crime Victim Assistance Program that provides financial assistance and/or benefits to victims injured as a result of certain crimes, their immediate family members, and witnesses.

Website: www.gov.bc.ca/pssg

Victim Services and Crime Prevention Division

Lower Mainland: **604-660-5199**

Website: www.pssg.gov.bc.ca/victim_services

Email: vsdvictimsservices@gov.bc.ca

Office of the Ombudsman

This independent office investigates complaints regarding provincial government ministries, crown agencies, boards or commissions, schools and school boards, hospitals, universities and colleges, professional bodies, and local governments. The Ombudsman has the power to make a full and impartial investigation into any complaint and to recommend making fair policies and practices.

Phone: **1-800-567-3247** (toll-free)

Website: www.ombud.gov.bc.ca

Passport Canada

Information about passports can be found online or by phone.

Phone: **1-800-567-6868** (toll-free)

Website: www.pptc.gc.ca

Problem Gambling Information and Referral

This service offers help and information about problem gambling. Referrals include counselling services for adults and youth, prevention services, self-help groups, and other community services.

Phone: **1-888-795-6111** (toll-free)

Public Guardian and Trustee of British Columbia

Please see the listing on page 193.

Representative for Children and Youth

Please see the listing on page 190.

Seniors Services Society

This organization provides information on housing options, referrals, and outreach services for seniors who are homeless or at risk of being homeless, as well as advocacy on housing issues.

Phone: **604-520-6621**

Website: www.seniorshousing.bc.ca

Email: info@seniorshousing.bc.ca

Seniors Network BC

This is an organization of seniors; groups in BC that acts together to present their concerns to all levels of government.

Phone: **604-682-3269, ext. 1705**

Website: www.vcn.bc.ca/srsnetbc

Email: srsnetbc@vcn.bc.ca

Service Canada

See *Federal Government of Canada* on page 183.

Social Development Canada

To get a SIN, you will need to apply at a Social Development Canada. To find one or to ask for more information on obtaining a SIN card, call the number below.

Phone: **1-800-206-7218** (toll-free)

Website: **www.sdc.gc.ca**

Tenants Resource and Advisory Centre (TRAC)

Please see the listing on page 194.

Family service agencies

Adoptive Families Association of BC (AFABC)

According to their website, “The Adoptive Families Association of BC has supported adoption and adoptive families since 1977. Our province-wide family services ensure that people considering adoption (and those who have already adopted) are educated, connected, and supported.” AFABC has a contract with the Ministry of Children and Family Development. They also run workshops and support groups and have a library of helpful books and resources.

Phone: **604-320-7330**

A list of toll-free numbers for provincial office staff can be found on the website.

Website: **www.bcadoption.com**

Al-Anon Family Groups

Available across the province families and friends of alcoholics to share their experiences, strength, and hope, in order to solve common problems. There are also Alateen meetings available. These groups have meetings daily and weekly, follow the 12-step program, and have discussions on chosen topics.

Phone: **1-888-4AL-ANON** (meeting/info line, toll-free)

Website: **www.bcyukon-al-anon.org**

Email: **alanonbc@vcn.bc.ca**

Vital Statistics Agency

This agency can give you information about birth certificates. To find the nearest Vital Statistics office, look in the blue pages of your telephone book under “Government of British Columbia—Vital Statistics.”

Lower Mainland: **604-660-2937**

Greater Victoria: **250-952-2681**

Elsewhere in BC: **1-800-663-8328** (toll-free)

Website: **www.vs.gov.bc.ca**

BC Aboriginal Child Care Society

This society assists Aboriginal communities in developing high-quality, integrated, community-based child care services that are based in the children’s culture, language, and history. These services promote healthy growth and development among Aboriginal children. This society is seeking to build an Aboriginal child care network by way of research, development, advocacy, and supporting communities in the development of their own resources.

Phone: **604-913-9128**

Website: **www.acc-society.bc.ca**

BC Aboriginal Infant Development Programs (AIDP)

These programs are offered throughout BC to give support to the families of infants who are at risk of or have been diagnosed with a developmental delay. Participation in an AIDP is voluntary, family-centered, and primarily focused on children from birth to three years of age. The AIDP consultant offers home visits, play groups, family support, and parent-to-parent links. Developmental and family needs assessments are culturally sensitive and meaningful. A program may offer a lending library that includes books/videos, journals, toys, and adaptive equipment. Consultants refer families to other community resources as necessary.

Main Office, Greater Victoria: **250-388-5593**

Website: **www.aidp.bc.ca**

To find a program in your area, go to:

www.aidp.bc.cacommunity_program_info.html

BC Association of Family Resource Programs

This is a provincial organization dedicated to raising awareness about the importance of community-based family resource programs, such as those found at the family place down the street, the neighbourhood house around the corner, and the parent place drop-in at your community/family centre.

This organization has a directory of family services across the province, as well as resources and listings of news and events.

Phone: **604-738-0068**

Website: **www.frbpc.ca**

Email: **info@frpbc.ca**

BC Bereavement Helpline

This organization is dedicated to healthy and wholesome recovery for individuals experiencing grief over the loss of someone close to them. They provide the information on how to seek help for yourself or someone you know who is in need of assistance through the grieving process. Some services include a helpline for referral and support, a community network of support and information, and a brochure of available support throughout BC.

Lower Mainland: **604-738-9950**

Elsewhere in BC: **1-877-779-2223** (toll-free)

Website: **www.bcbereavementhelpline.com**

Email: **bcbh@telus.net**

BC Child Care Subsidy Program

Information on child care assistance is available from the BC Ministry of Children and Family Development.

Phone: **1-888-338-6622** (toll-free)

Website: **www.mcf.gov.bc.cachildcare/subsidy_promo.htm**

BC Council for Families

Leadership through education, training, advocacy, and research for the healthy development of families.

Website: **www.bccf.bc.ca**

BC Families in Transition

Please see the listing on page 191.

BC Federation of Foster Parents

This organization offers services and information to foster parents, including child and youth program listings, upcoming events updates, news items, website links, and resources.

Lower Mainland: **604-466-7487**

Elsewhere in BC: **1-800-663-9999** (toll-free)

Website: **www.bcfosterparents.ca**

Email: **bcffpa@istar.ca**

BC Schizophrenia Society

This society provides support, education, and advocacy for people with serious and persistent mental illnesses. There are also programs, including support services, for families and friends.

Lower Mainland: **604-270-7841**

Elsewhere in BC: **1-888-888-0029** (toll-free)

Website: **www.bcass.org**

Email: **bcass.prov@telus.net**

BC Stepparents Association

This group of stepparents support each other and work together to benefit their children. They are volunteers who work together with different organizations to create communities where all children and their families are nurtured, valued, and safe.

Website: **www3.telus.net/here/bcstepparents**

Big Brothers/Big Sisters of Canada

This agency's goal is to provide the friendship, guidance, and support of an adult volunteer to eligible children and youth. Programs include In-School Mentoring, Aboriginal Mentoring, and the Big Bunch.

Phone: **1-800-263-9133** (toll-free)

Website: **www.bigbrothersbigsisters.ca**

Boys and Girls Clubs of British Columbia

This agency offers social, educational, and recreational programs to families across the province. The youth and family support programs assist parents in developing and practicing skills

to improve their family relationships. The mutual-help/support programs focus on two main areas: the Parents Together program for parents of teens (13–19), and the Parenting Without Power Struggles program for parents of preteens (10–13).

Website: www.boysandgirlsclubsbc.ca

The Canada Prenatal Nutrition Program (CPNP)

The CPNP provides food supplements, nutritional counselling, support, education, referrals, and counseling on health and lifestyle issues to mothers-to-be. To find a program near you, go to the website directory.

Website: www.phac-aspc.gc.ca/dea/programs-mes/cpnp_main-eng.php

Centre of Excellence for Child Welfare

This is a national organization funded by the Public Health Agency of Canada. Their mission is to foster research and disseminate knowledge on child welfare and prevention of child abuse and neglect.

Website: www.cecw-cepb.ca

The ministry's Child Abuse Prevention website

A section of the Ministry of Children and Family Development's website that provides links to help-line numbers, parent resource sites, and resources for teens.

Website: www.safekidsbc.ca

Child and Youth Mental Health Services Agency

Please see the listing on page 195.

Crisis Intervention & Suicide Prevention Centre of BC

This centre provides suicide prevention workshops in high schools Lower Mainland: www.youthinbc.com, as well as a 24-hour distress line with access to interpreters in many languages.

Phone: 604-872-3311

Suicide hotline: 1-800-SUICIDE (toll-free)

Website: www.crisiscentre.bc.ca

Email: info@crisiscentre.bc.ca

Eureka Outdoor Camp

Please see *Children with disabilities resource list* on page 196.

FASD Support Network of British Columbia

Please see the listing on page 196.

First Call—BC Child and Youth Advocacy Coalition

This coalition supports BC's children and youth through public education, community mobilization, and public policy advocacy. Contact them for information on child and youth programs near you, as well as advocacy resources.

Lower Mainland: 604-873-8437

Elsewhere in BC: 1-800-307-1212 (toll-free)

Website: www.firstcallbc.org

Email: info@firstcallbc.org

Healthy Kids Program

Run through the Ministry of Housing and Social Development (MHSD), this program helps low-income families pay for basic dental care and prescription glasses for their children. Dependant children under 19 in families that get premium assistance from the Medical Services Plan (MSP) are automatically registered with this program. Show the child's BC CareCard to the dentist or eye specialist before you get the services, and they will confirm your child's eligibility for the Healthy Kids Program. Then BC will pay the dentist and eye specialist directly for their services. For more information, contact MHSD using one of the methods below.

Phone: 1-866-866-0800 (toll-free; press 4 and then 2)

Website: www.HIBC.gov.bc.ca

Online information: www.eia.gov.bc.ca/publicat/bcea/Healthykids.htm

HealthLink BC

Please see *General resources* on page 184.

Helpline for Children

This 24-hour, toll-free service is for children who are experiencing bullying, abuse, and/or neglect, as well as parents who are having difficulty

dealing with their children. You can call for free from a pay phone or anywhere in the province.

Phone: **310-1234** (no area code needed; to call from a payphone, first dial 0 for the operator and ask to be connected for free)

TDD: **1-866-660-0505** (toll-free)

In Your Grasp

This site has a regional and provincial database of available community resources designed for BC families. It was developed as a partnership between the BC Federation of Foster Parent Associations, the Adoptive Families Association of BC, and the Federation of Aboriginal Foster Parents.

Website: **www.inyourgrasp.bc.ca**

John Howard Society of BC

This society provides a wide range of programs, activities, and services to people in conflict with the law or at risk of involvement in the justice system. It serves youth and adults.

Phone: **604-872-5651**

Website: **www.johnhowardbc.ca**

Email: **jhsed@jhslmbc.ca**

Mental Health Information Line

Provides information about mental health disorders and support groups.

Phone: **1-800-661-2121** (toll-free)

Ministry of Children and Family Development (MCFD)

This ministry offers services related to adoption, children with special needs, child and youth mental health, child protection, family support, infant development, training of foster parents, and probation and community justice programs. It also runs an emergency line for help outside of office hours, as well as a child care call centre and an Aboriginal-specific support service line.

The ministry also publishes a handbook for youth and runs other services, such as the Young Adults program, the Youth Education Assistance Fund, and the Kinnections mentorship program. Your Life, Your Rights: a Handbook for Youth is for young people 12–19 who are involved in BC's

child welfare system. It is designed to help them become stronger self-advocates and successfully transition into adulthood.

MCFD general inquiries

Greater Victoria: **250-387-7027**

Elsewhere in BC: **1-877-387-7027** (toll-free)

MCFD after-hours emergency lines

Vancouver, North Shore, and Richmond:

604-660-4927

Lower Mainland from Burnaby and Delta in the west to Maple Ridge and Langley in the east:

604-660-8180

Elsewhere in BC: **1-800-663-9122** (toll-free)

MCFD Child Care Programs and Services Call Centre:

1-888-338-6622 (toll-free)

MCFD Aboriginal Regional Support Services:

250-387-7073

MCFD websites

General information: **www.gov.bc.ca/mcf**

Website for the handbook: **www.fbcyicn.ca**

Web link to services for youth in BC:

www.strongsafesupported.com/EN/for_youth

Reports and publications:

www.mcf.gov.bc.ca/reports_publications.htm

Adoption: **www.mcf.gov.bc.ca/adoption**

Child protection:

www.mcf.gov.bc.ca/child_protection

Youth justice: **www.mcf.gov.bc.ca/youth_justice**

Parent Support Services Society of BC (PSS)

PSS has been providing Parent Support Circles and parenting resources in the province since 1974. The Circles are designed to be a safe, confidential, non judgmental space to share stories, learn new parenting skills, discover community resources, discuss strategies to prevent or solve problems and to celebrate success.

The Support Circles are facilitated by two trained volunteers using a self help model. Volunteers are supported by regional coordinators and often also by a Steering Committee of community based “experts”.

Grandparents Raising Grandchildren Support Circles try to meet the unique needs of grandparents and may differ across the province. Some meet weekly; some only once a month. Some

focus on activities that are fun or educational;
some focus on exploring obstacles and solutions.

For information on resources or programs near
you phone **1-800-665-6880** (toll-free).

Metro Vancouver: **604-669-1616**

Greater Victoria: **250-384-8042**

Mid/North Island: **250-468-9658**

Prince George: **250-561-0607**

Website: **www.parentsupportbc.ca**

Email: **office@parentsupportbc.ca**

Representative for Children and Youth

This independent government office provides
province-wide support for children, youth, and
families who need help dealing with the child
welfare system. Also advocates for changes to the
system itself.

Lower Mainland: **604-775-3213**

Greater Victoria: **250-356-6710**

Elsewhere in BC: **1-800-476-3933** (toll-free)

Website: **www.rcybc.ca**

Email: **rcy@rcybc.ca**

Rainbows

This national, non-profit organization offers free
grief support groups for children and parents
who have dealt with a significant loss in their
family via separation, death, divorce, or other
experiences. You can register for weekly programs.
Services are available for children, youth, adults,
and groups. Programs are offered through
community groups in most locations across BC.

Greater Victoria: **250-751-7888**

Elsewhere in BC: **1-877-403-2733** (toll-free)

Website: **www.rainbows.ca**

Email: **rainbowsnanaimo@hotmail.com**

Society of Special Needs Adoptive Parents (SNAP)

According to their website, SNAP is a charity that
“helps families with challenges through mutual
support, information, sharing, and advocacy.
We offer services to a wide range of families,
professionals, and others who are interested
in family-related, adoption, and special needs
issues.”

Phone: **604-687-3114**

Website: **www.snap.bc.ca**

Email: **info@snap.bc.ca**

Strong Start Program

Free, drop-in early learning programs for
preschool-aged children accompanied by a parent
or caregiver. For a list of communities served and
contact numbers, see their website.

Website: **[www.bced.gov.bc.ca/early_learning/
pdfs/strong_start_contacts.pdf](http://www.bced.gov.bc.ca/early_learning/pdfs/strong_start_contacts.pdf)**

Victim Services and Community Programs Division

Please see the listing on page 194.

VictimLINK

Please see the listing on page 194.

YMCA/YWCA of British Columbia

The YMCA offers community development
programs and events, health and fitness facilities
and programs, education and employment
training programs, financial support, and many
other services.

Website: **www.ymca.ca**

For a list of services and community information
in your area, visit:

www.ymca.ca/eng_findy_bc.htm

Legal help and information

BC Centre for Elder Advocacy and Support (BC CEAS)

This group operates a legal advocacy telephone line and provides information, referrals, and legal advocacy to seniors and the people who work with seniors, province-wide.

Lower Mainland: 604-437-1940

Elsewhere in BC: 1-866-437-1940 (toll-free)

Website: www.bcceas.ca

Email: ceas@telus.net

BC Child Support Info-line

Lower Mainland: 604-660-2192

Elsewhere in BC: 1-888-216-2211

BC Coalition of People with Disabilities' Advocacy Access Program

Lower Mainland: 604-872-1278

Elsewhere in BC: 1-800-663-1278 (toll-free)

Website: www.bccpd.bc.ca

The BC Courthouse Library Society

This is a non-profit organization providing access to legal information, resources, and services to British Columbians. A lot of information is available on their website.

Lower Mainland: 604-660-2841

Elsewhere in BC: 1-800-665-2570 (toll-free)

Website: www.bccls.bc.ca

Email: bccls@bccls.bc.ca

BC Families in Transition

This is a non-profit organization located in Victoria that provides a free legal hotline for all of BC on Tuesdays and Thursdays, as well as counselling, emotional support, legal information, and referral services in relation to separation, divorce, and family re-organization.

Greater Victoria: 250-386-4331

Elsewhere in BC: 1-877-386-4333 (toll-free)

(Tuesdays & Thursdays 8:30 a.m.–4:30 p.m.)

Website: www.separationdivorce.bc.ca

Email: info@separationdivorce.bc.ca

BC legislation

Current BC legislation and regulations are available online for free on the following two websites.

Website: www.bclaws.ca

Website: www.canlii.org

BC Mediator Roster Society

This society can give you a directory of trained mediators. They also have a Mediator Consultation Program, which can put you in touch with family mediators who will give you a half-hour consultation for a fee of \$10.

Greater Victoria: 250-356-8147

Elsewhere in BC: 1-888-713-0433 (toll-free)

Website: www.mediator-roster.bc.ca

Email: mediators@mediator-roster.bc.ca

Dial-A-Law

This service is provided by the Canadian Bar Association. When you call, you can listen to a library of audio scripts prepared by lawyers. These scripts give general legal information on a wide variety of topics on BC law and are available in English and Chinese, 24 hours a day, 7 days a week. The same scripts are available online in English, Chinese, and Punjabi.

Lower Mainland: 604-687-4680

Elsewhere in BC: 1-800-565-5297 (toll-free)

Website: www.dialalaw.org

Electronic Law Library

This site provides links to a wide range of information on federal and provincial law, court decisions, and specific areas of law.

Website: www.bclibrary.ca/ell/

Enquiry BC

Please see the listing on page 183.

Family Justice Services

The BC Attorney General sponsors these services, which can offer you information and counselling around legal issues such as access, custody,

guardianship, child support or other legal assistance.

Greater Victoria: **250-387-6121**

Lower Mainland: **604-660-2421**

Elsewhere in BC: **1-800-663-7867** (toll-free)

Website: **www.ag.gov.bc.ca/family-justice**

List of Family Justice Offices: **www.ag.gov.bc.ca/justice-services/divisions/fjsd.htm**

Family Maintenance Enforcement Program

This program is responsible for monitoring and enforcing all maintenance orders and agreements that are filed with a court. They calculate, receive, record, and forward payments to the person receiving maintenance. They can also help you when required maintenance payments are not made.

Phone: **1-800-663-3455** (toll-free)

Info-Line: **1-800-356-5995** (toll-free)

Website: **www.fmep.gov.bc.ca**

Families Change

This website has information and guides written for children on separation and divorce.

Website: **www.familieschange.ca**

JP Boyd's BC Family Law Resource

This private website has a great deal of free legal information for the public on various areas of family law.

Website: **www.bcfamilylawresource.com**

The Law Centre

This service of the University of Victoria Law School provides advice, assistance, and representation to clients who qualify and who live in the Victoria Capital Regional District. The Law Centre provides many different services, so it is best to call them up to see what they can do for you.

Phone: **250-385-1221**

Website: **www.thelawcentre.ca**

Email: **reception@thelawcentre.ca**

The Law Courts Education Society (LCES)

This society's website has a lot of information, such as guides on how the legal system works,

how to represent yourself in court, and how to access Aboriginal community resources.

Phone: **604-660-9870** (if you are outside the Lower Mainland, call this number and ask for contact information for the office in your region)

Website: **www.lawcourtsed.ca**

Email: **info@lawcourtsed.ca**

LawLINE

This free phone service from the Legal Services Society can give you legal information, referrals to other information, and, in some cases, advice about legal issues from lawyers or paralegals. Interpreters are available.

Lower Mainland: **604-408-2172**

Elsewhere in BC: **1-866-577-2525** (toll-free)

LawLINK

This website has links to plain language legal information on a variety of legal topics.

Website: **www.lawlink.bc.ca**

Lawyer Referral Service

This service helps you find a lawyer in the area of specialty that you need. They will give you a lawyer's name and then you contact the lawyer to make an appointment. You can always call back for another referral if the first lawyer does not work out. Lawyers who are registered on the program provide consultations for \$25 for up to 30 minutes.

Lower Mainland: **604-687-3221**

Elsewhere in BC: **1-800-663-1919** (toll-free)

Website: **www.cba.org/bc/initiatives/main/lawyer_referral.aspx**

Email: **lawyerreferral@bccba.org**

Legal Services Society of BC (LSS)

This society provides legal aid in BC. Legal aid services are free and include information, advice, and representation (by a lawyer).

LSS provides free legal information to everyone, no matter what your income is. This help can be in the form of booklets, fact sheets, self-help guides, referrals, and information about how to fill in forms. Look on their websites to get these materials for free.

LSS also provides lawyers called duty counsel for criminal, youth, and family cases at provincial courts. Duty counsel provide brief legal advice about legal rights and options, as well as information about court procedures. They may also speak in court for you on some matters.

Lower Mainland: **604-408-2172**

Elsewhere in BC: **1-866-577-2525** (toll-free)

Website: **www.lss.bc.ca**

Family Law Website: **www.familylaw.lss.bc.ca**

Ministry of Attorney General

This ministry funds the Family Justice Centres across BC that assist families undergoing separation or divorce with issues related to child custody, access, guardianship, and child or spousal support.

General website: **www.gov.bc.ca/ag**

AG's family law website:

www.ag.gov.bc.ca/family-justice

The Best Option for You: **www.ag.gov.bc.ca/family-justice/options/index.htm**

Who Can Help?: **www.ag.gov.bc.ca/family-justice/help/index.htm**

Other Resources: **www.ag.gov.bc.ca/family-justice/resources/index.htm**

Office of the Ombudsman

This independent office investigates complaints regarding provincial government ministries, crown agencies, boards or commissions, schools and school boards, hospitals, universities and colleges, professional bodies, and local governments. The Ombudsman has the power to make a full and impartial investigation into any complaint and to recommend making fair policies and practices.

Phone: **1-800-567-3247** (toll-free)

Website: **www.ombud.gov.bc.ca**

People's Law School

The People's Law School is a non-profit society that provides free and impartial legal information to British Columbians. They have many helpful publications on different legal topics that are free and accessible from their website.

Phone: **604-331-5400**

Website: **www.publiclegaled.bc.ca**

PovNet

This website provides current information on low-income issues, legal resources and legislation, and community resources and agencies. The site can help you find an advocate in your community.

Phone: **604-876-8638**

Website: **www.povnet.org**

Email: **info@povnet.org**

Pro Bono Legal Services

Some community groups may offer pro bono (free) legal services to people who cannot qualify for legal aid. Pro Bono Law of BC maintains a list of groups that offer these service.

Phone: **604-893-8932**

Website: **www.pblbc.bc.ca**

Public Guardian and Trustee of British Columbia

Appointed to safeguard and uphold legal and financial interests of children; to manage the legal, financial, and personal care interests of adults needing assistance in decision-making; and to administer the estates of deceased and missing persons.

Phone: **604-660-4444**

Website: **www.trustee.bc.ca**

Email: **mail@trustee.bc.ca**

The 2006–2007 Public Legal Education and Information Resource Catalogue

This catalogue lists all of the public legal education and information resource providers in BC. You can find it, along with the latest updates, on the LSS website. Type "resource catalogue" into the search box.

Website: **www.lss.bc.ca**

Representative for Children and Youth

Please see the listing on page 190.

Seniors Gateway

This is a website with online legal information and resources relevant to BC seniors.

Website: **www.seniorsgateway.vcn.bc.ca**

Tenants Resource and Advisory Centre (TRAC)

This centre offers a tenants' information hotline, legal information for tenants, and a *Tenant's Survival Guide* that you can download or have mailed to you upon request. English, Mandarin, and Cantonese are spoken on the hotline.

Phone: **1-800-665-1185** (toll-free)

Website: **www.tenants.bc.ca**

Email: **info@tenants.bc.ca**

UBC Law Students Legal Advice Program

This program provides free legal advice and representation at clinics throughout the Lower Mainland.

Phone: **604-822-5791**

VictimLINK

Provides 24-hour, toll-free, multilingual assistance 7 days a week to people throughout BC and the Yukon who have been victims of crimes, including sexual assault, violence in relationships, criminal harassment, elder abuse, and adult survivors of physical or sexual abuse. Callers can access crisis support and information, and referral is provided to local victim services, community, social, health, justice, and government resources.

Phone: **1-800-563-0808** (toll-free)

Email: **inform@communityinfo.bc.ca**

Victim Services and Community Programs Division

Works in partnership with communities to develop crime prevention programs and initiatives, as well as community safety projects and strategies, including youth services, school initiatives, and support to victims of crime.

General information: **1-866-668-2137** (toll-free)

Youth Against Violence Line: **1-800-680-4264** (toll-free)

Western Canada Society to Access Justice (Access Justice)

This is a non-profit society of lawyers who offer free legal services to people who cannot get legal aid but also cannot afford a lawyer (half of the people of BC fit into this category). Access Justice clinics are located across the province and work out of community agencies.

Lower Mainland: **604-482-3195**

Elsewhere in BC: **1-877-762-6664** (toll-free)

Website: **www.accessjustice.ca**

Email: **help@accessjustice.ca**

YWCA Crabtree Corner

This organization has a legal educator on staff who provides a wide range of legal information and support to women and families in the Downtown Eastside and answers questions regarding legal issues.

Phone: **604-734-5517, ext. 2235**

Website: **www.ywcavan.org**

Email: **avollans@ywcavan.org**

Children with disabilities resource list

This section has a list of resources for children with disabilities. For more general information about child care and development, see the Supporting Grandparents Raising Grandchildren Resource Booklet. Download a copy for free at **www.parentsupportbc.ca/GRG_2nd_Mar16_07.pdf**, or contact Parent Support Services Society of BC at **604-669-1616** or toll free: **1-800-665-6880** to order a free copy.

There is a large network of support services for children living with disabilities and their families across BC. To find a local program or information in your community or on a particular topic, you may want to visit this website first:

In Your Grasp

This site has a regional and provincial database of available community resources designed for BC families. The website lets you search by subject, location, or community to help you find the most comprehensive list of services for your family's particular needs. It was developed as a partnership between the BC Federation of Foster Parent Associations, the Adoptive Families Association of BC, and the Federation of Aboriginal Foster Parents.

Website: www.inyourgrasp.bc.ca

You can also take a look at the following list of province-wide resources if you are taking care of a child with disabilities.

British Columbia Aboriginal Network on Disability Society (BCANDS)

BCANDS advocates on behalf of Aboriginal people with disabilities and provides networking opportunities. The organization also operates a library of both print and non-print resources located in Victoria, but the materials can be shipped elsewhere in Canada to people of Aboriginal/First Nations descent.

Phone: 1-888-815-5511 (toll-free)

Website: www.bcands.bc.ca

British Columbia Association for Community Living (BCACL)

BCACL is working toward change for children with disabilities, and their website contains both in the form links and publications on various topics.

Phone: 1-800-618-1119 (toll-free)

Website: www.bcacl.org

British Columbia Coalition for People with Disabilities (BCCPD)

Although not generally oriented toward children with disabilities, the BCCPD is a great resource if you are trying to help someone living with a disability. They have some self-help resources, including guides for how to apply for disability benefits, available on their website.

Phone: 1-800-663-1278 (toll-free)

Website: www.bccpd.bc.ca

British Columbia Community Options

This organization provides respite services for families with a disabled child in the Greater Victoria area.

Phone: 250-380-6363

Website: www.communityoptions.bc.ca

British Columbia Family Net

Family Net is similar to BCCPD in that they advocate for change and awareness for children with disabilities. They may be a good resource to vent your concerns about current systems, and their website contains many useful links on topics related to disabilities and youth.

Website: www.bcfamilynet.org

BC Schizophrenia Society

Please see the listing on page 187.

Child and Youth Mental Health Services Agency

This free service provides assessment, treatment, and consultation services to children under 19 and families experiencing serious mental, emotional, or behavioural problems.

Phone: 250-356-1123

Website: www.mcf.gov.bc.ca/mental_health

For a list of children and youth mental health services across BC, visit: www.mcf.gov.bc.ca/mental_health/pdf/services.pdf

Email: MCF.ChildYouthMentalHealth@gov.bc.ca

Child Disability Benefit

If you care for a child under 18 with a severe and prolonged physical or mental impairment, you are probably eligible for a tax-free payment of up to \$2,395 per year (\$199.58 per month) from the federal government.

Phone: 1-800-387-1193 (toll-free)

Website: www.cra-arc.gc.ca/bnfts/fq_cdb-eng.html

Community Living BC (CLBC)

This agency provides services for eligible children with special needs including respite care, child care workers, behavioural supports, some

professional supports, and residential services for children in care.

Website: www.communitylivingbc.ca

Eureka Outdoor Camp

This is a summer camp for children aged 8–18 who have invisible disabilities. There are subsidies available for families who cannot afford the costs of camp. The camp dates and locations vary from year to year.

Phone: 604-520-1155

Website: www.eurekacamp.ca

Email: info@eurekacamp.ca

FASD Support Network of British Columbia

This network provides information, support, prevention, and education for families when it comes to alcohol-related birth defects, Fetal Alcohol Spectrum Disorder, and other disabilities caused by drug or alcohol use during pregnancy.

Website: www.fetalalcohol.com

Family Support Institute

The mission of the Family Support Institute is “to strengthen and support families faced with the extraordinary circumstances that come with having a family member who has a disability,” according to their website. This organization has several useful research tools, including a new publication called *Dual Diagnosis—A Guide for Families of a Child with an Intellectual/Developmental Disability and a Mental Disorder*. They also have a library of resources in their New Westminster location.

Address: 227 6th Street, New Westminster, BC

Phone: 1-800-441-5403 (toll-free)

Website: www.familysupportbc.com

The FORCE

This agency holds monthly parent networking and support groups for those whose children and youth struggle with mental health issues such as ADHD, anxiety, and bipolar disorders. The FORCE also offers an email alert list, as well as referrals to programs that deal with children’s mental health issues.

Lower Mainland: 604-878-3400

In Greater Victoria: 250-479-1192

Elsewhere in BC: 1-800-661-2121

Website: www.bckidsmentalhealth.org

Email: theforce@bckidsmentalhealth.org

Mental Health Information Line

Provides information about mental health disorders and support groups.

Phone: 1-800-661-2121 (toll-free)

Ministry of Children and Family Development: Children and Youth with Special Needs

Website: www.strongsafesupported.com/EN/special_needs

my grandmother means a lot
to me because we watch the
news together, play cards,
traveling and best of all
cuddling in bed. -Thomas, 7 years old

my grandparents mean a lot to
me because they are very nice
to me and they help me
when I need help.

Kali, 8 years

My grandparent means a lot to
me because she loves and
enjoys me.



Victoria
Lynn
Dobson
Sydney
Tamarra
Robinson
8 years
Taylor
Rae
Robinson
1 1/2 year old

The Meadow

In the meadow sang the birds
The lake shining so bright
The grass blew back and forth
Little boys and girls playing
in the light of the sun
A bumble bee gathering nectar from a flower
A little mouse hiding under a mushroom
from the rain
At night the moon shines so bright and stars
light up the sky
A caterpillar wraps up in a cocoon and
transforms into a butterfly
The dogs running through the meadow
jumping so high
A little girl looking up at the sky and
wishing she could fly
A man playing the flute listens to the wind
and trees rustling
A flower blooms once a year
A child picks it and gives it to her Mother
She puts the flower into a vase
And remembers that day.

By Amanda Max, Age 9
December 2006

Date October #9

My Grandparents mean
a lot to me because
They love me a lot.
and I Love them



Tyanna