

**What You Should Know About**



**Child Protection  
Court Cases**

## Introduction

This booklet provides information to parents and other people who are involved in a child protection court case. The information is intended to help you through the court process. This booklet gives you information about:

- The court documents you have been given and what you need to do;
- Your rights and responsibilities;
- How to get legal help;
- The first court hearing; and
- Next steps in the court case.

**This booklet is not legal advice. You should speak to a lawyer as soon as possible. Only a lawyer can give you legal advice.**

## What has happened?

The Children's Aid Society (CAS) has started a court case against you. They may have removed your child from your care. The documents you have received explain why the CAS has done this. You will have a chance to tell the court your side of the story but you must follow certain rules and steps to do this.

The law allows the CAS to remove children from their families and to ask a judge to make a court order to protect children. If the CAS has removed your child from your care, the CAS must take the case to court within 5 days.

The name of the law is the *Child and Family Services Act*. Your lawyer will know this law.

If you want to read the *Child and Family Services Act* yourself, you can find it on the Internet at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca) or you can buy a copy by calling Publications Ontario toll-free at: 1-800-668-9938.

## What are the papers the CAS gave me?

The papers are legal documents that begin a court case against you. These papers are very important.

- ✓ Read them carefully and keep them in a safe place.
- ✓ Take all of them with you when you go to see your lawyer.
- ✓ You and your lawyer, or your lawyer alone, must attend the court at the time and place stated in the papers.

In these papers you will find:

**Form 8B: Application** - This form tells you:

- The date and time when the court will hear the case;
- The address of the court;
- The names of the children in the case;
- The names of the people who have to be involved in the case (if your child is Native or Indian, the law says the CAS must tell the child's band);
- What the CAS is asking the judge to do (paragraph 2); and
- Why the CAS is going to court (paragraph 6).

The papers might also include:

**Form 14: Notice of Motion** - This form often is a request for the court to make a temporary order.

**Form 14A: Affidavit** - An affidavit is a sworn statement that is used as evidence in court.

**Form 33B.1: Answer and Plan of Care** - This form is filled out by you, with your lawyer's help.

## What do I do?

Plan to attend court.

Speak to a lawyer right away. These cases can move quickly and can be complicated. Your lawyer will help you prepare and file your own papers. Even if you agree with what the CAS is asking for, you should still speak to a lawyer.

If you are not able to find a lawyer before the court date, a lawyer called a Duty Counsel is usually at the court house to give you basic help on that day.

## What if I can't afford a lawyer?

You can apply for legal aid.

You will have to give Legal Aid Ontario information about your income and any property you own. If you qualify, Legal Aid Ontario will give you a certificate to pay for, or help pay for, a lawyer.

Your local Legal Aid Ontario office is listed in the white pages of your phone book under *Legal Aid Ontario*. When you call, make sure you tell them you are calling about a child protection case. Ask what you need to bring to apply for legal aid.

## How do I find a lawyer?

You can:

- ✓ Ask the Legal Aid Ontario office to give you a list of lawyers who could work for you.
- ✓ Speak to family or friends. Can they recommend a lawyer?
- ✓ Call the Lawyer Referral Service toll-free at 1-800-268-8326. When you call, make sure you tell them you are calling about a child protection case.

Spend a few minutes talking with the lawyer you contact.

- ✓ Do you think the lawyer understands your situation?
- ✓ Does the lawyer have experience doing child protection cases?
- ✓ If you have a legal aid certificate, does the lawyer accept legal aid work?

## What happens on the first court date?

The judge will read the court papers.

You might be able to speak to the judge but usually the judge only looks at written evidence (affidavits).

The judge will decide who will have temporary custody of your child until the next court date: you, the CAS or another person.

The judge will also decide what needs to happen before the case can go any further and will set another court date.

The judge might order the Office of the Children's Lawyer to provide a lawyer for your child. (This is a government office that acts on behalf of children in family cases.)

It is not likely that a final decision will be made on the first court date.

## What do I do next?

- ✓ If you do not have a lawyer yet, get a lawyer.
- ✓ Fill out **Form 33B.1: Answer and Plan of Care**. A blank copy of this form should be attached to the CAS court papers. You can also get a blank form from the court house.
- ✓ You should ask your lawyer to help you complete this form.



You have only **30 days** after you get the CAS court papers to file the **Form 33B.1: Answer and Plan of Care** and give copies of it to the people involved in the court case. If you do not do this, the judge might make decisions without your input.

## How can I help my lawyer prepare my case?

- ✓ Make sure your lawyer has all the court papers you have been given.
- ✓ Tell your lawyer everything you know about the case.
- ✓ Go to all the court hearings and meetings. Make sure you tell your lawyer if you cannot go.
- ✓ Keep in touch. Tell your lawyer if anything changes, especially your address or telephone number.

## What are the next steps?

It depends. There are many possible steps in a child protection court case. You may have to go to court many times. Each case is different. Make sure your lawyer explains each step of your case.

Cases can be resolved if everyone involved agrees about what to do. The agreement has to be approved by the judge. If everyone cannot agree, a judge will decide.

## Finding more information about...

### **Family Courts**

For the location of the family court in your community, look in the Blue pages of your telephone directory under *Courts* in the *Index-Government Listings*. If you have access to the Internet, visit [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca) (under *Services* choose *Court Addresses*).

### **Family Law Information Centres (FLICs)**

A FLIC is an area in the court house where you can get information and help about family law matters. For details about services provided, contact your local court or visit the Web site at [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca) (under *Services* choose *Family Justice* then choose *Family Law Information Centres*).

### **Office of the Children's Lawyer**

Call 416-314-8000 or visit [www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca) (under *Services* choose *Family Justice* then choose *The Office of the Children's Lawyer*).

### **Legal Aid**

For more information about legal aid, contact your local Legal Aid Ontario office. Look in the white pages of your phone book under *Legal Aid Ontario* or visit Legal Aid Ontario's Web site at [www.legalaid.on.ca](http://www.legalaid.on.ca).

### **Children's Aid Society (CAS)**

There are information pamphlets at the CAS about your rights and your child's rights. To find your local CAS go to [www.oacas.org](http://www.oacas.org). This Web site lists all of the Children's Aid Societies in Ontario.

**This booklet contains information about the law as it was at the time it was written. The law can change. Check the Government of Ontario Web site at [www.gov.on.ca](http://www.gov.on.ca) for current information.**

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