

Private
Guardianship
Self Help
Guide

Private Guardianship Self Help Guide
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Every effort has been made to ensure the information in this document is accurate and up to date. If there is content within this guide that requires updating or correction, please notify Adoption Services at CS.AdoptionServices@gov.ab.ca

NOTE: The guide is not legal advice, and it should not be used in place of seeking independent legal advice. It is not intended to provide a comprehensive overview or understanding of the legislation, regulations and policy that inform private guardianship court process.

Should I Use This Guide?



Use This Self Help Guide If:

- You know the child is currently in the care of Alberta Children's Services;
- You have discussed your wish to apply for private guardianship of the child with the child's caseworker (director's delegate); and
 1. You know the child's caseworker does not agree with your application for private guardianship, and you want to apply for private guardianship even without the director's consent; or
 2. The child's caseworker will not be applying for private guardianship on your behalf, and has advised that you can apply your own.



Do Not Use This Self Help Guide If:

- The child is not currently in the care of Alberta Children's Services; or
- The child is in the care of Alberta Children's Services and the plan is for Children's Services (the director) to apply for private guardianship of the child on your behalf.



I Need More Information:

If you are not sure if this guide is for you, call or email Adoption Services. This office will:

- Answer general questions you may have about the private guardianship application process; and
- Take your contact information so that, if the child is receiving Child Intervention services and/or is in the care of Alberta Children's Services, the child's caseworker can connect with you to talk about planning for the child.

Adoption Services: [780-422-0178](tel:780-422-0178)
(toll-free in Alberta by dialing 310-0000 first)

Email: CS.AdoptionServices@gov.ab.ca

Adoption Services Mailing Address:
Adoption Services
10th floor, Sterling Place
9940 – 106 Street
Edmonton, AB T5K 2N2

Child, Youth and Family Enhancement Act (CYFEA) Policy And Legislation

What Is In This Guide?

This *Private Guardianship Self Help Guide* has been developed to assist persons who wish to make an application for private guardianship of a child who is currently in care of Alberta Children's Services, and where the director (Children's Services delegated staff) will not be consenting to the application. In this circumstance, you will be applying on your own. To support you in this exercise, this guide includes:

- Answers to common questions;
- Instructions on how to prepare, file and serve your private guardianship application;
- A copy of the private guardianship section of the *Child, Youth and Family Enhancement Act*;
- Links to Provincial Court of Alberta information and supports;
- A list of private licensed agencies in Alberta that can be retained to assist you with this process;
- A list of agencies that can complete your home study report or addendum, if you do not already have one;
- Instructions on how to obtain a Home Study Report prepared by a director, if the child is the subject of a Permanent Guardianship Order (PGO) or Permanent Guardianship Agreement (PGA);
- Information on the process to follow if you will be making a request to have a Home Study Report or addendum prepared by a director, along with links to the necessary forms;
- Blank copies of the *regulated forms* you need to complete, file and serve to support your private guardianship application before the court; and
- Copies of all of the forms that will be needed for your application, with instructions on when each is required and how to complete them.

Frequently Asked Questions

Who Is This Guide For?

This guide is for **any adult** applying for private guardianship of a child who is currently “in care” of Alberta Children’s Services, which means there is an agreement or order that gives the director custody or guardianship of a child.

This guide was developed to assist those persons applying on their own for private guardianship of a child who is in the care of Alberta Children’s Services. The application process should be undertaken only after the child’s caseworker has been made aware of the person’s plan to apply, AND:

1. You know the child’s caseworker does not agree with your application for private guardianship, and you will apply for private guardianship on your own, without the director’s consent; OR
2. The child’s caseworker is not opposed (or is taking no position) to your application for private guardianship, but will not be applying on your behalf.

When Is A Child Considered “In Care” Of Children’s Services?

The following is a list of the agreements and orders where a child will be considered to be “in care” of Alberta Children’s Services (this is also known as their “in-care legal status”):

- Custody Agreement with Guardian (CAwG);
- Custody Agreement with Youth (CAwY);
- Apprehension Order;
- Custody Order (Interim or Initial);
- Temporary Guardianship Order (TGO);
- Permanent Guardianship Order (PGO); or
- Permanent Guardianship Agreement (PGA).

How Can I Find Out If The Child Is In Care And Get In Contact With Their Caseworker?

If a child is receiving Child Intervention services and/or is in care of Alberta Children's Services, their case is managed by a *caseworker*. The caseworker is responsible for planning for the child.

If you are not sure if the child you want to apply for private guardianship of is in care, and/or you have not had an opportunity to talk to their caseworker about wanting to apply for private guardianship, this is the very **first step**. Please call or email Adoption Services if you need assistance with this. Adoption Services will take your contact information, and if it is confirmed that the child is in care of Alberta Children's Services, will connect you with the child's caseworker.

Adoption Services: [780-422-0178](tel:780-422-0178)
(toll-free in Alberta by dialing 310-0000 first)

Adoption Services Email: CS.AdoptionServices@gov.ab.ca

Helpful information to have when you contact Adoption Services for assistance:

- The child's full name and date of birth;
- Your relationship to the child; and
- Whether the child is living with you or not.

How Does Private Guardianship Happen?

The *Child, Youth and Family Enhancement Act* is the legislation (law) that governs all private guardianship applications and orders for children who are in the custody, temporary care, or permanent care of Alberta Children's Services.

Any person who wants to become a child's private guardian must apply to the court. You apply to the court by completing an application, submitting the required documents, and filing these with the court. The application itself is titled *Notice and Application for a Private Guardianship Order*, and the person applying is called the *applicant*.

When you have completed the application and have all required documents, you are ready to file your application with the court. If your application package is complete, the Court Clerk will file it and set a hearing date, place and time.

Once you have filed your application, you must give a copy of the notice of hearing to certain parties. This is called “service.” Once the parties are served, you must complete and swear an “affidavit of service.” These affidavits need to be filed at court before the hearing date.

On the hearing date, you will attend court, and the judge will review the matter and determine what should happen next. The judge can grant the application, refuse the application, or adjourn to seek further information.

How Long Will It Take For My Private Guardianship Application To Be Heard In Court?

How long it will take to have your application heard in court cannot be predicted. The time frame will depend on a number of factors, which may include:

- How long it takes you to prepare and file your application and serve all parties with notice of the application and hearing;
- Whether or not you have a Home Study Report already prepared (which is a requirement of any application);
- The decision of the judge as to what further steps may be needed;
- When the court can schedule a hearing; and/or
- Whether others (respondents) disagree with your application.

Are There Costs To Applying For Private Guardianship?

If you make all the arrangements yourself, you can expect to pay:

- charges for photocopying documents;
- fees to obtain some of the documents, including fees for your criminal record check and medical reference;
- fees to *file* the documents with the court;
- costs to *serve* the documents;
- any necessary travel costs associated with the application or court; and/or

- costs to have a Home Study Report or addendum prepared (if you do not already have one or Children’s Services will not be completing one for you).

If you choose to get assistance with the private guardianship application process, additional costs may include:

- costs of hiring a lawyer; or
- costs of hiring the services of a private licensed agency to assist you in the process.

What Happens If The [Director Agrees With My Application](#) For Private Guardianship Of The Child?

If the director (also known as the child’s Children’s Services caseworker or “director’s delegate”) is in agreement with you applying for private guardianship of the child, the child’s caseworker can apply on your behalf. In this scenario, the director is responsible for the application process and its requirements. This application confirms for the court that the director believes it is in the child’s best interests that you be appointed as a guardian of the child.



If the director is in agreement with you seeking private guardianship of the child, **do not** complete the process outlined in this guide, and contact the child’s caseworker for direction. The caseworker can initiate the process on your behalf if they are supportive of you being appointed as the guardian to the child.

What Do I Do If The [Director Does Not Agree With My Application](#) For Private Guardianship Of The Child?



If the director (also known as the child’s Children’s Services caseworker or “director’s delegate”) is **NOT** in support of you applying for private guardianship of the child, you have the legal right to apply anyway. In these cases, you become responsible to apply on your own and satisfy all of the requirements. As part of this application, you may be asking the court for an order dispensing with the consent of the director. At the private guardianship hearing, the judge will decide whether to grant the application, despite Children’s Services objection.

The application form to be used in these situations is:

[Notice and Application for a Private Guardianship Order \(CS0458\)](#)

This guide is intended to assist you through the steps and requirements of applying for private guardianship under the *Child Youth and Family Enhancement Act*. The guide, however, does not relieve you from your responsibility to make sure your private guardianship application is

prepared according to the law. Do not rely solely on this guide, as it is simply a tool and not a legal resource.

For legal questions, you should consult with a lawyer and review the provisions of the *Child Youth and Family Enhancement Act* (CYFEA). You may also consider hiring a lawyer or a private licensed adoption agency to assist you with the process.

How Will The Court Know Whether The Director Supports Or Does Not Support My Application?

When you have filed your application for private guardianship with the court and have served the director with a filed copy of the *Notice and Application for a Private Guardianship Order*, the director will then complete a *Director's Response to a Notice and Application for a Private Guardianship Order*. The director files this form with the court, and then is required to serve you with a filed copy of it.

The form indicates the position the director is taking to your application, and provides the judge who will hear the case with information needed to understand the positions of the parties. Providing you with a filed copy ensures that everyone has the same information about the director's position. A sample copy of this form is provided in Appendix H.

Do I Need A Home Study Report To Apply For Private Guardianship?

Yes. It is a **legal requirement** that an application for private guardianship includes a Home Study Report (HSR). HSRs must contain specific information as required in the regulations of CYFEA, and must be prepared either by a director (Children's Services) or by a "qualified person."

If the child you are applying for private guardianship of is in care of the director but **is NOT the subject of a permanent guardianship order (PGO) or agreement (PGA)**, the HSR can be prepared by a "qualified person." This means that your HSR does not have to be prepared by a director (i.e. Children's Services) to be legally valid and accepted by the court.

If the child you are applying for private guardianship of **IS the subject of a permanent guardianship order (PGO) or agreement (PGA)**, the HSR must be prepared by a "director." This means that the HSR you submit with your application must be prepared by Children's Services to be legally valid and accepted by the court.

For further direction on Home Study Report matters, refer to the *Home Study Report: An Application Requirement* section of this guide.

Is A Plan A Requirement Of My Application? — An Indigenous Child

IF the child you are applying for private guardianship of is Indigenous, your application must include a completed Plan (CS4028). The Plan, formerly known as a Cultural Connection Plan, is a legal requirement under section 52(1.2) of the *Child, Youth and Family Enhancement Act* (CYFEA).

An Indigenous child is one who is identified as First Nation, Inuit or Métis as set out in the *Child, Youth and Family Enhancement Act*. The Plan is intended to address how the child's Indigenous identity, culture, heritage, spirituality, language and traditions will be respected, supported and preserved. As per section 57.01(a) of CYFEA, it is expected that as a guardian of the child, you will take reasonable steps to comply with the Plan.

The Plan needs to be detailed, specific, individualized, developed in a collaborative manner, and agreed to by all persons who are party to it. It must address how the child's cultural connections will be respected, supported and preserved over the long term.

NOTE: The Plan (CS4028) is a regulated form, but another form or template can be used and submitted, so long as it includes **at least** the information that is required in the regulated form.

When Am I Required To Serve Notice To A Band Of My Application?

It is a **legal requirement** that an applicant serve notice of a private guardianship hearing, at least 30 days before the date set for the hearing, if the child is a **First Nation Individual** or a member of a band (section 53(1.1) of CYFEA).

A child is a First Nation Individual if they are registered as an "Indian" under the *Indian Act*, or they are eligible for registration as an "Indian" under this Act. In these cases, your application must include a completed *Notice to Band of Private Guardianship Application* (CS12166), which has been served on the band or bands of which the child is a member or is entitled to be a member. The child's caseworker will be able to tell you if the child is a First Nation Individual, and if so, provide you with the necessary contact information for the relevant band or bands.

What Is Giving Notice Of A Significant Measure And Am I Responsible For This?

On January 1, 2020, *An Act respecting First Nations, Inuit and Métis children, youth and families* was passed. This federal legislation places an obligation on Children's Services, as a "service provider" to Indigenous children, to meet "minimum standards" as set out in the Act. One of these is the requirement to provide notice of a "significant measure" being taken relative to an Indigenous child.

For the purposes of Alberta Children's Services, all court applications are considered a "significant measure." As such, Children's Services is responsible for giving notice of any court application on the child's parents, their care provider, and their Indigenous governing body (i.e. the child's First Nation Band(s) or Métis Settlement). This requirement applies unless providing notice before the significant measure (court application) would not be in the child's best interests.

This is to say that when the director is served with a *Notice and Application for a Private Guardianship Order*, this federal Act now requires the director to give notice of this significant measure to the noted parties. As the applicant you continue to be responsible for all processes outlined in this guide, but it is important to know and understand the processes the director must follow.

Those who have been given notice of the significant measure (private guardianship application) will have an opportunity to attend the court hearing and be given "party status," which means the judge will hear and consider what they have to say about your application.

For key highlights of the Act go to:

<https://www.sac-isc.gc.ca/eng/1579468554846/1579468577638>

Can I Apply For Guardianship Under The *Family Law Act* (FLA)?

If the child you want to apply for guardianship of is currently in care of Alberta Children's Services, you **cannot** apply under the *Family Law Act* (FLA).

Helpful To Know When Applying

Contacting Alberta Children's Services

Finding an Alberta Children's Services Office in My Area:

For a list and contact information for local and regional Children's Services' offices in Alberta, visit: <https://www.alberta.ca/childrens-services-offices.aspx>

For Assistance in Connecting on a Case-Specific Matter:

For assistance in getting in contact with a child's caseworker, when it has been confirmed that the child has Child Intervention involvement and/or is in the care of Alberta Children's Services, please call or email Adoption Services:

Adoption Services: 780-422-0178
(toll-free in Alberta by dialing 310-0000 first)

Adoption Services Email: CS.AdoptionServices@gov.ab.ca

Who Is A Guardian And Why Is This Important?

If you are initiating a private guardianship application, you will need to serve all current guardians to the child with a copy of your application. A guardian could be the child's parents, a court appointed guardian, a testamentary guardian, or a director under the *Child, Youth and Family Enhancement Act* (CYFEA).

Guardianship refers to the legal relationship an adult has with a child and the rights and responsibilities of the adult with respect to that child.

In most cases, the biological parent of a child is automatically a guardian to the child.

If a person is the biological parent of a child and claiming they are a guardian, you should serve them. If there are questions concerning guardianship and who is a guardian, they can be determined by the court.

If a person who is **not** the biological parent of a child claims to be a guardian of the child, ask that they produce a copy of the order or document that appoints them as a guardian.

For a child who is the subject of a Temporary Guardianship Order (TGO), the director becomes the child's temporary guardian, along with the child's other legal guardians. For a child who is the subject of a Permanent Guardianship Order (PGO), or a Permanent Guardianship Agreement

(PGA), the director becomes the child's sole guardian and there are no other guardians to the child.

If you have any questions or concerns about any individual's status as guardian, consult with a lawyer.

Completing Service And Providing Notice

The rules and procedures for completing service, and counting days for service can be complicated and vary by the nature of required service and the application in question. For guidance, refer to the *Alberta Rules of Court* or check with your lawyer if you have one. To access the *Alberta Rules of Court* available through the Alberta Queen's Printer, visit:

http://www.qp.alberta.ca/documents/rules2010/Rules_vol_1.pdf

Home Study Report: An Application Requirement

As per legislation, **every** application for private guardianship made under CYFEA requires that a Home Study Report (HSR) be included as part of the application package filed with the court.

This section of the guide will:

- answer some frequently asked questions about the Home Study Report as a requirement of an application for private guardianship;
- identify the four scenarios where applications for private guardianship will be made;
- review the circumstances where a Home Study Report should already have been completed, as well as when and how it can be used for your application for private guardianship; and
- outline the circumstances when a “qualified person” may prepare the Home Study Report and when a director must prepare it.

Frequently Asked Questions: The Home Study Report (HSR)

In what circumstances would I already have a HSR prepared by a director?

1. If the child is **already** living with you because you are that child’s foster or kinship caregiver, you should have an existing HSR which approved you to provide either foster or kinship care to that child or others.
2. If you are an approved foster or kinship caregiver, but the child you wish to apply for private guardianship of is not currently living with you, you should have an existing HSR that approved you as a caregiver.
3. If the child was only recently placed with you, your HSR may not yet be completed. The director (Children’s Services) is responsible for ensuring one is undertaken to formally approve you as that child’s caregiver. You should have a HSR completed within a short time of the child’s placement in your care.

4. If you are currently an approved and waiting adoptive family, either through the government or a private licensed agency.

What if I have had a HSR completed but do not have a copy of it?

If you have had a HSR completed, you should have received a copy of it to keep for your own records, and you may use this to submit to court as part of your application for private guardianship. If you have misplaced your copy or did not receive one, you can ask the child's caseworker for another copy.

Who is a “qualified person” needed to prepare a HSR?

According to the *Child, Youth and Family Enhancement Act* regulations (AB Reg 160/2004), a qualified person is:

- an individual registered in the general register category of the regulated members registry of the Alberta College of Social Workers (ACSW); or
- a person who, in the opinion of the Minister, is qualified because of the person's education and experience.

What is the difference between a HSR “prepared by a director” and one “prepared by a qualified person”?

All HSRs are completed by a “qualified person,” who is responsible for the assessment process and writing the report.

When a HSR is “prepared by a director,” it means that the decision to approve or not approve the applicants is made by Children's Services. The director (or director's delegate) reviews the completed HSR and will consider the recommendation made by the home study writer to approve the applicants or not approve them, but the final decision of whether to approve or not is made by the director. In these cases, the HSR is not considered complete until this decision by the director has been made and included in the HSR.

When a HSR is prepared by a “qualified person,” the same regulated assessment process is undertaken but Children's Services (the director) does not make the decision to approve or not approve the applicant(s). The HSR in these circumstances is considered complete when the “qualified person” who completed the report has signed it.

Is an addendum to my existing HSR required?

If you will be using, as part of your application, an existing HSR that was previously prepared by a director approving you for foster care, kinship care, adoption or private guardianship, the court may require updated information to your HSR in the form of an addendum (sometimes also referred to as an “update”).

An addendum will update the information found in your previously prepared HSR to reflect current circumstances. In having an addendum completed, the court will be better able to understand your current situation and make a decision without delay.

As with the HSR requirement, if the child is subject of a PGO or PGA, the addendum must be prepared by a director. If the child is **not** the subject of a PGO or PGA, the addendum can be prepared by a **qualified person**.

The *Addendum to Home Assessment Report (Child Specific Legal Permanency)* (ADOP12108) is the template to be used, as the information it covers meets the requirements of the CYFEA Regulation.

How can I find a “qualified person” to prepare my HSR or addendum?

To find a “qualified person”, you can:

- call the Alberta College of Social Workers (ACSW) to enquire about registered members who are contracted to complete Home Study Reports as independent home study practitioners; or
- approach one of the private licensed adoption agencies or community agencies in Alberta who employ or contract “qualified persons” who are willing and able to complete Home Study Reports.

(A list of private licensed adoption agencies and community agencies who may be able to complete Home Study Reports is included in Appendices A and B of this guide).

What if my HSR or addendum is prepared by a director and it is not approved?

Legislation does not specify that when a director prepares your HSR, and you are submitting it to court as part of your private guardianship application package, that it must also be approved by a director to be considered valid. The requirement is only that it has been **prepared** by a director.

Whether your Home Study Report is approved by a director or not, you are entitled to a copy of it and you may submit this to the court to meet the Home Study Report requirement of your application. The information contained in the report, and the reasons a director has cited for not approving you will be included in the report and will be considered by the court in its decision on whether to grant the Private Guardianship Order or not.

What if I cannot afford to pay for a HSR to be completed by a “qualified person”?

Having a HSR completed by a qualified person can cost several thousand dollars. If you cannot afford the costs of having a qualified person complete your HSR, you have the option of asking the director to prepare one for you. Making a request does not guarantee the director will prepare one for you, but your request will be evaluated and a decision will be made to either grant or deny your request. For more direction, refer to the *Making A Request To Have A Director Prepare Your Home Study Report Or Addendum: Forms And Process* section of this guide.

Meeting The Requirements For A Home Study Report (HSR), By Case Type

Four Case Types

Applications for private guardianship of a child who is in the care of Children’s Services can usually be divided into one of four different situations. The situation you and the child are in will determine the process you must follow to meet the HSR requirement of your application.

The four typical situations are as follows:

1. The child is in the care of Children’s Services, is the subject of a PGO or PGA, and you are their current caregiver (the child is living with you);
2. The child is in the care of Children’s Services, is the subject of a PGO or PGA, and you are NOT their current caregiver (the child is not living with you);
3. The child is in the care of Children’s Services but is NOT the subject of a PGO or PGA, and you are their current caregiver (the child is living with you); and
4. The child is in the care of Children’s Services but is NOT the subject of a PGO or PGA, and you are NOT their current caregiver (the child is not living with you).

Table: HSR Requirement by Case Type

	Child is PGO/PGA You are their current caregiver	Child is PGO/PGA You are NOT their current caregiver	Child is NOT PGO/PGA You are their current caregiver	Child is NOT PGO/PGA You are NOT their current caregiver
HSR Required?	Yes	Yes	Yes	Yes
HSR: Prepared by a Director or Qualified Person?	Must be prepared by a Director	Must be prepared by a Director	Can be prepared by a Director OR Qualified Person	Can be prepared by a Director OR Qualified Person
Will I <u>Usually</u> Already Have a HSR Prepared by a Director?	Yes	No	Yes	No
What Are My Next Steps?	<p>a) If you have the required HSR, you can proceed with your application, OR</p> <p>b) If you have the required HSR, you can request that the director prepare an addendum to submit to court with your HSR**</p>	<p>a) If you do not have the required HSR, you will need to make a request to have the director prepare your HSR**</p>	<p>a) If you have the required HSR, you can proceed with your application, OR</p> <p>b) If you have the required HSR, you can have a qualified person prepare an addendum to your HSR, OR</p> <p>c) If you cannot afford to pay a qualified person to prepare an addendum to your HSR, you can make a request to the director to prepare one for you**</p>	<p>a) If you do not have the required HSR, you can have a qualified person prepare one for you, OR</p> <p>b) If you cannot afford to pay a qualified person to prepare your HSR, you can make a request to the director to prepare one for you**</p>

** To request a HSR or addendum be prepared by a director, please follow the process outlined in the *Making A Request To Have A Director Prepare Your Home Study Report Or Addendum: Forms And Process* section of this guide.

Making A Request To Have A Director Prepare Your Home Study Report Or Addendum: Forms And Process

The Process For Making A Request

The process for making a request to have a director prepare your Home Study Report or addendum, and how the request is evaluated, is as follows:

1. You have had direct contact with the child's caseworker to let them know of your wish to apply for private guardianship. Children's Services does not agree with your application and will not be supporting it.
2. You have reviewed this guide, and you have:
 - confirmed that you require a Home Study Report to meet the requirements of the application; OR
 - reviewed this guide, and feel that your existing Home Study Report should be updated to be current.
3. You are making a request because:
 - the child is the subject of a PGO or PGA, and a director **MUST** prepare the Home Study Report or addendum. To have either completed, you **MUST** make a request to have the director prepare it for you; OR
 - the child is **NOT** the subject of a PGO or PGA, but you cannot afford to pay a qualified person to prepare it. To have either the HSR or addendum completed, you can request the director have it prepared.
4. You have connected with the child's caseworker to complete the screening processes and forms that the caseworker and casework team will use to evaluate your request. Screening processes and completed forms include:
 - three personal references for each applicant;
 - a medical reference for each applicant;

- a Criminal Record Check (CRC) for each applicant and any other adults residing with the applicant(s); and
 - an Intervention Record Check (IRC) for each applicant and any other adults residing with the applicant(s).
5. The caseworker and the casework team evaluate the information that these screening processes and forms contain, and make a decision to either grant or deny the request to complete a HSR or an addendum.

Evaluating A Request

A request does not guarantee the director will agree to complete a Home Study Report or addendum on your behalf. If your request is denied, the caseworker will let you know the reasons in writing. Reasons why a director may not agree to complete a HSR or addendum for you may include, but are not limited to:

- there is a case plan for the child that involves an expected return to the care of their birth parent(s) or former guardian(s);
- the child is not in agreement with your application;
- the evaluation of available information shows that you may not be a suitable caregiver for the child; and/or
- information from the screening processes and/or forms (see below), shows that you may not be a suitable caregiver for the child.

If your request is approved, the caseworker will be responsible for making arrangements for completion of a Home Study Report or addendum.

Request Forms And How To Complete Them

In making a request for the director to prepare a Home Study Report or addendum on your behalf, follow the processes outlined below. The forms for each of the four required processes are:

- Personal Reference (CS0013)
- Medical Reference (CS0046)
- Criminal Record Check (CS1800)

- Intervention Record Check (CS2687)

Each of the noted forms are shown on the following pages, with instructions on how these forms and processes are to be completed. With the exception of the Intervention Record Check form, which is only available in hard copy from a Children's Services office, the forms can be downloaded by following the links provided in Appendix F at the end of this guide.

Personal Reference (CS0013)

To fulfill the requirement of submitting three (3) personal references per applicant:

1. Advise the child's caseworker that you need to have personal references completed for each applicant;
2. Provide the child's caseworker with the names and addresses of three personal references per applicant (the same person can be a reference for each applicant, if they know each applicant);
3. Ensure one of the three references is a relative of that particular applicant; and
4. Ensure that each reference has known the applicant for at least three years.

The caseworker will send a Personal Reference (CS0013) form to each identified reference, along with a return envelope, so that the references may send the completed forms back to the caseworker. Follow-up contact between the caseworker and references may take place to discuss the information provided.

The Personal Reference (CS0013) form can be downloaded from the link in Appendix F of this guide.

An Example of the Form – can be downloaded from the link in Appendix F.


Personal Reference

The information you provide on this form is collected under the authority of the *Child, Youth and Family Enhancement Act* and is managed in compliance with the *Freedom of Information and Protection of Privacy Act*. The information will be used to process the application for the identified persons (applicants) to become either a foster parent, kinship care provider, adoptive parent or private guardian. If you have any questions regarding the collection or use of your personal information, please contact your caseworker.

1 Addresses

To: _____ From: _____

name of reference caseworker

_____ _____

address worksite

_____ _____

_____ address

_____ _____

2 Request for reference

Regarding the application by _____ to become _____.

The applicant(s) named you as a personal reference. Please answer the reference questions on the back of this form.

When people apply to be approved by this Ministry we need to determine how able they are to be effective caregivers. I am sure you can understand that we need to have accurate information about all applicants. Some of our most important information comes from references like you. We need your help to make important decisions about what is best for a child. The information that you provide to us will be kept in confidence. We will make every effort to ensure that the applicants do not become aware of the source of our information.

Please complete all reference questions as fully as you can. **If you need more room, attach a separate sheet of paper.** If you have a question about anything on the form, please call me.

When you finish, please send this form back to me in the enclosed, self-addressed envelope. After I get it, I may call you to discuss your answers.

Thank you for your help

Signature of Caseworker

date (yyyy/mm/dd)

phone number

For Office Use Only

Date Returned (yyyy/mm/dd)	Date of follow-up interview (yyyy/mm/dd)	Facility ID#

CS 0013 (2012/06)

IF YOU WISH TO PROVIDE ADDITIONAL INFORMATION, PLEASE ATTACH A SEPARATE SHEET

What is your occupation?	Are you a parent? Yes <input type="checkbox"/> No <input type="checkbox"/>
How long have you known the applicant(s)?	In what way do you know them? (social, business, etc.)

Describe their personalities, interests, strengths, weaknesses, reason for wanting to foster or adopt, values and methods of discipline.

█

Describe their abilities to meet children's emotional, social, physical and intellectual needs.

█

Describe situations where you have seen them with children.

█

Describe ways that they relate to their own children.

█

Describe ways that they relate to other children.

█

How comfortable would you be leaving your child with them for a long time?

█

Describe any personal problems that they have such as financial, marital, alcohol, drug or family violence.

█

Describe how they deal with stress or crises. Include whether they deal with problems alone or by using a support system such as friends, relatives or a church.

█

If they have other children, describe how you think their children would respond to another child coming into the family.

█

Do you recommend that we place a child in their home? Describe any concerns you have about placing a child in their home.

█

Add anything that you think could help us make the best decision.

█

Signature of Reference	date (yyyy/mm/dd)	Home Phone	Business Phone
█	█	█	█

CS 0013 (2012/06)

Medical Reference (CS0046)

To fulfill the requirement of submitting a medical reference per applicant:

1. Ask the child's caseworker to provide you with a medical reference form for each applicant;
2. Ensure that the pertinent sections in parts 1 and 2 of the form have been duly completed and signed by the child's caseworker;
3. Ensure each applicant signs and fills in their own required information in part 3 of the form;
4. Take the form to your physician and ask that they complete the physician name and address section in part 1 of the form and all of the information in part 4; and
5. Submit the completed medical reference form(s) to the child's caseworker for review. Further medical, psychiatric or psychological reports may be requested, as deemed necessary. The cost to have these completed may be your responsibility.

The Medical Reference (CS0046) form can be downloaded from the link in Appendix F of this guide.

4 To be completed by a registered physician (If you need more room, attach further information to this form)

How long have you known the applicant _____ . Date of last examination _____
years/months date (yyyy-mm-dd)

Describe anything medical that could affect the applicant's ability to be an effective parent.

Has the applicant ever had an emotional, nervous, or psychiatric condition? No Yes if yes, please describe below

Are you aware of any substance abuse /addiction condition? No Yes if yes, please describe below

Describe anything else that could affect the applicant's ability to be an effective parent or that might prevent the applicant from handling the additional demands of adopting or fostering.]

name of physician

address

address

province postal code

area of practice phone number

date (yyyy-mm-dd) Signature

Criminal Record Check (CS1800)

The results of a criminal record check, including a vulnerable sector search, are required to ensure that an applicant (and any adult residing with them) who intends to apply for private guardianship does not have an existing criminal record that would affect the safety and/or well-being of a child.

To understand how the casework team evaluates the results of a criminal record check, including a vulnerable sector search, refer to section 1.2 *Criminal Record Check* of the CYFEA policy manual.

To get a criminal record check completed, each applicant (and any adult residing with them) is to fill out the form below (CS1800) and, as applicable to your regional process, take it to your local RCMP detachment or police station for processing. Refer to Part 3 of the form for further instructions.

The Criminal Record Check (CS1800) form can be downloaded from the link in Appendix F of this guide.

An Example of the Form – can be downloaded from the link in Appendix F.



Criminal Record Check

The information you provide on this form is collected under the authority of the *Child, Youth and Family Enhancement Act* and is managed in compliance with the *Freedom of Information and Protection of Privacy Act*. The information will be used to process the application to foster, become a kinship care provider, adopt or become a private guardian. If you have any questions or concerns in regards to the collection or use of the information provided please contact your caseworker.

1 Regarding the application by _____
name of applicant
maiden name (if applicable)

to become a foster parent kinship care provider adoptive parent private guardian _____
date (yyyy-mm-dd)

To: name and address of person to be checked

Contact Person:

_____ caseworker
 _____ worksite
 _____ address
 _____ city
 _____ phone number

2 Police Information

This person has applied to become one of the above. Due to the vulnerability of children, a security clearance is a vital part of our approval process. Therefore, we are asking you to complete a thorough and detailed search including:

1. Criminal records and/or convictions of any kind that relate to the person to be checked (named above);
2. Vulnerable Sector Search;
3. Warrants of any kind that relate to the person to be checked; and
4. Police files from any law enforcement agency in Canada or otherwise, that relate to the person to be checked.

If you want to discuss this Criminal Record Check, please contact the caseworker indicated above as the contact person.

3 Record Check

Why do you want a criminal record check from me?

When a family application is submitted to become a kinship care provider, adopt, or become a private guardian we need to make sure that any child in that home will be safe and well cared for. One piece of information we consider is whether any adult in the home has a criminal record, so we ask every adult to give us the results of a criminal record check done by the police.

What if I have been pardoned?

If you have been pardoned, and your pardon has not been revoked, the police will normally show that you have no record and you may legitimately tell us that you have no record. However, if you were pardoned for a sexual offense, the Solicitor General of Canada may still disclose information about your conviction.

What if I have a criminal record?

We will not necessarily refuse to approve your home. We will consider what type of offense you committed, the circumstances at the time and whether it affects your home's suitability.

How do I get the check done?

Go to your local police service and ask for a criminal record check. If your municipality does not have a police department, go to the local RCMP detachment. Make sure to take this form and your identification with you.

If the police find no record, they will provide you with a certificate that says no record exists.

If the police find a record, they might ask you to give fingerprints to make sure that you are the person with the record. If you choose not to give fingerprints, we will not be able to approve your home.

If the police find that you have a record, they will provide you with a copy of it.

What do I do with the certificate or record?

Once you get the results from the police, call us for an appointment to view them. We will not keep your original copy; but simply make notes about the results. We will not give out the information to anyone except Ministry staff who need to know.

For Office Use Only		
Caseworker's Signature	Date criminal record check results submitted <small>(yyyy-mm-dd)</small>	Facility ID#

CS1800 (2012/12)

[Reset Form](#)
_____ Worksite Facility File
_____ Applicant
[Save form](#)
[Print Form](#)

Intervention Record Check (CS2687)

The results of an intervention record check are required to ensure that an applicant (and any adult residing with them) who intends to apply for private guardianship does not have an Intervention Services record that would affect the safety and/or well-being of a child.

To understand how the casework team evaluates the results of an intervention record check, refer to section 1.1 *Intervention Record Check* of the CYFEA policy manual.

To get an intervention record check completed, each applicant (and any adult residing with them) is to bring two pieces of identification, one being a government-issued photo identification, to an Alberta Children's Services office convenient to them. Indicate that you need to have an intervention record check completed, and an Intervention Record Check (CS2687) form will be provided to you to fill out and submit to that office. The completed intervention record check will be mailed to you.

NOTE: If an applicant, or any adult residing with them, has lived somewhere other than Alberta in the past five years, the applicant will also need to provide the results of an intervention record check from that jurisdiction.

Once you have received the results of your intervention record check, provide it to the child's caseworker or casework team.

The Intervention Record Check (CS2687) is only available in hard copy from an Alberta Children's Services office. To find the office closest to you, visit:

<https://www.alberta.ca/childrens-services-offices.aspx>

An Example of the Form – only available in hard copy from Children’s Services.

Government of Alberta ■ **Intervention Record Check**

The information you provide on this form is collected under the authority of the *Child, Youth and Family Enhancement Act* and managed in compliance with the *Freedom of Information and Protection of Privacy Act*. The information will be used to search for an intervention record check about you. We will not release this information for any other purpose. We will not release this information to anyone but you. If you have any questions about the collection of this information, you may ask the staff member who completed this form for you.

Alberta Children and Youth Ministry cannot ensure that the information on this form is reliable for screening an applicant for employment. The Ministry assumes no liability arising from using this information. Anyone using the information does so at their own risk and must consider all the information provided on the back of this form.

1 Personal Information

My name is _____ legal name of person requesting a record check. My birthdate is _____ date (yyyy/mm/dd)

My address is _____ full mailing address (including city and postal code)

I am male female. My phone number is _____ home phone number _____ work phone number

All other names I have used are: _____ other first, surname and maiden names used

Names and birthdates of all my children and children for whom I have acted as a parent are (not foster children):

Name of Child (if now an adult, give the full name when a child)	Gender	Birthdate (yyyy/mm/dd)
_____	M F	_____

attach a separate sheet if needed

Signature of Requesting Person _____ date (y/mm/dd)

2 Request for a Record Check

I am applying to work directly with children in a school, organization(s), and I want to know about any record of my being involved with Intervention Services in Alberta which indicates that I might have caused a child to need intervention.

organization _____ type of position _____ organization _____ type of position _____

organization _____ type of position _____ organization _____ type of position _____

I am applying for a residential care or to work in a Child and Youth Facility as defined in the *Child, Youth and Family Enhancement Act*. I want to know about any record of my being involved with Intervention Services which indicates that I might have caused a child to need intervention. In the last five years I have resided in Alberta and _____ name of any other province, jurisdiction or country if applicable

I reside in _____ who is applying to provide care to a child who is in the care or custody of a Director as defined in the *Child, Youth and Family Enhancement Act*. I want to know about any record of my being involved with Intervention Services which indicates that I might have caused a child to need intervention. In the last five years I have resided in Alberta and _____ name of any other province, jurisdiction or country if applicable

I am planning to become a kinship care provider, foster care provider, or adoptive parent to a child. I want to know about any record of my being involved with intervention services which indicates that I might have caused a child to need intervention. In the past five years I have resided in Alberta and _____ name of any province, jurisdiction or country if applicable

I had a previous Intervention Record Check completed _____ date (yyyy/mm/dd)

I hereby consent to having an Intervention Record Check completed in Alberta and any other province that I have listed above.

Signature of Requesting Person _____ date (yyyy/mm/dd)

FOR OFFICE USE ONLY

3 Results of Record Check

Using the names and birthdates you supplied:

As of today, I can find no Intervention Services record in Alberta indicating that you might have caused a child to need intervention.

As of today, I can find no Intervention Services record in Alberta or any other province listed above indicating that you might have caused a child to need intervention.

There is an Intervention Services record in Alberta indicating that you might have caused a child to need intervention.

There is an Intervention Services record in _____ name of province indicating that you might have caused a child to need intervention. Below is a summary of your involvement up to today.

4 Summary of Involvement

attach a separate sheet if needed

name of person who completed Record Check (please PRINT) _____ date (yyyy/mm/dd) _____ name of work site _____

office telephone number _____ work site address _____

Signature _____ city/province _____ postal code _____

CS2687 (01/1/09)

Private Guardianship Application: Forms And Process

You are responsible for completing and filing with the court any forms required as part of your private guardianship application package. This section of the *Private Guardianship Self Help Guide* identifies the more common court forms that are part of the application package, the circumstances in which each is required, and provides instructions on how to complete them.

Private Guardianship Application Forms

Each of these forms can be downloaded from links provided in Appendix E at the end of this guide:

1. Notice and Application for a Private Guardianship Order (CS0458)
2. Consent by a Guardian (CS1613)
3. Consent by a Child 12 Years of Age or Older (CS1612)
4. Plan (CS4028)
5. Notice to Band of Private Guardianship Application (CS12166)
6. Affidavit of Service by Registered Mail (CS1638)
7. Affidavit of Service (page 4 of CS0458)

Tips For Ensuring Your Forms Are Filled Out Correctly

- Do not fill out the forms by hand unless absolutely necessary. If you cannot fill out the forms online, ensure they are legible.
- Always type out the full name of the month when giving a date, unless the form requires otherwise.
- Do not alter or change any of the forms after you have sworn and filed them.
- When giving the child's name, include their full name and capitalize the surname to avoid confusion.

- If the form involves more than one child, all of the children's names must be on the form.
- If the form involves more than one applicant, all of the applicants' names must be on the form.
- Have someone review your forms for accuracy before filing them.
- If you make a mistake, or need to make any changes to a form that has already been filed, inform the clerk of the court, your agency or your lawyer (if you have retained one) to ensure that the correction or change is made in a timely manner.

Notice and Application for a Private Guardianship Order (CS0458)

Docket Number

Protected B (when completed)

Notice and Application for a Private Guardianship Order

In the Provincial Court of Alberta
In the Matter of an Application under Section 52
of the *Child, Youth and Family Enhancement Act*.
Regarding the child(ren)

A , born: Year Month Day

B My name is Name of Applicant. My birthdate is: Year Month Day

My address is Address

My telephone number is Home Phone Number, Work Phone Number

2. Notice

I(we) am(are) applying to the Court for a private guardianship order regarding the child(ren). I(we) will ask the Court to make me(us) a private guardian(s) to the child(ren).

The Court hearing will be at Address

C on Date yyyy-mm-dd.

The Judge will hear my application as soon as possible after Time, in Courtroom number Number.

If you want to speak to the Judge about my application, you must attend the hearing.
At the end of the hearing, the Judge may make the order. The Judge may make an order different from what I apply for. If you do not attend the Court hearing, the Judge may still make an order.

3. Application

I(we) am(are) applying for a private guardianship order regarding the child(ren).

I(we) am(are) applying for:

D an order terminating the guardianship of Name(s)

E custody to be granted to Name(s)

F an order of contact to be granted to Name(s)

G an order to dispense with the consent of Name(s)

H an order to dispense with the consent of the director.

Attached to this application are (choose those that apply):

I a copy of the home study report. **J** a copy of addendum to home study report.

K a copy of the plan, if the child(ren) is(are) Indigenous. other

For Office Use Only		
Name of Caseworker	Worksite Number	Worksite Name
Child's ID Number(s)		

File Section 5
CRFR-21
Page 1 of 4

CSD458 Rev. 2019-12 Court Director of CYFE Act or Delegate Guardians Child Applicant

4. Affidavit

In support of the application, I(we) make oath and say

The child(ren) is(are) in the custody of a director or the subject of a temporary guardianship order or a permanent guardianship order or agreement.

M

The child(ren) has(have) been in my(our) continuous care since -

Date yyyy-mm-dd

I(we) am(are) suitable, able and willing to assume private guardianship of the child(ren). I(we) believe my(our) private guardianship would be in the child(ren)'s best interests, because:

N

For Office Use Only

Name of Caseworker	Worksite Number	Worksite Name
Child's ID Number(s)		

Reset

Save

Print

File Section 5
CRFR-21

CS0458 Rev. 2019-12

Court

Director of CYFE Act or Delegate

Guardians

Child

Applicant

Page 2 of 4

To the best of my(our) knowledge the following people are currently guardians to the child(ren):

O

P

Q **SWORN / AFFIRMED BEFORE ME** at the City of _____, in the Province of Alberta,
this _____ day of _____, 20 ____.

A Commissioner for Oaths or Notary Public in and for Alberta
(Also include printed or stamped name and expiry date)

For Office Use Only		
Name of Caseworker	Worksite Number	Worksite Name
Child's ID Number(s)		

File Section 5
CRFR-21

CS0458 Rev. 2019-12 Court Director of CYFE Act or Delegate Guardians Child Applicant

Page 3 of 4

Affidavit of Service

1. Affidavit

A My name is _____
Name(s)

B My address is _____
Address

I make oath and say that:

C 1. On _____, at _____ I personally served **D** _____
Date yyyy-mm-dd Time Name(s)

E with a copy of the following document(s):
(Choose those that apply)

- Notice and Application for a Private Guardianship Order
- Home Study Report
- Addendum to Home Study Report
- Plan if child(ren) is (are) Indigenous
- Other _____

F at _____
Address

G 2. I have marked the document(s) Exhibit(s) _____ and attached it(them) to this affidavit. The copy(ies) was (were) identical to the attached document(s) except that the attached document(s) is (are) marked as an exhibit(s).

I **SWORN / AFFIRMED BEFORE ME** at the City of _____, in the Province of Alberta,
this _____ day of _____, 20 _____.

H _____
Signature of Affiant

Commissioner for Oaths Stamp

+ -

A Commissioner for Oaths or Notary Public in and for Alberta
(Also include printed or stamped name and expiry date)

J

For Office Use Only		
Name of Caseworker	Worksite Number	Worksite Name
Child's ID Number(s)		

Reset

Save

Print

File Section 5
CRFR-21

CS0458 Rev. 2019-12

- Court Director of CYFE Act or Delegate Guardians Child Applicant

Page 4 of 4

Filling out the application portion of the form (pages 1-3)

This form is a requirement for every application being made for private guardianship, where the director is not making an application on your behalf. It is to be filled out as outlined below:

Child and applicant information

- A** Indicate the complete legal name and birth date of the child. If there is more than one child, add their information as well by clicking on the “+”.
- B** Indicate the complete name, birth date, full address, and telephone number of the applicant. If there is more than one applicant, this information needs to be completed for each applicant by clicking on the “+”. The applicant is the prospective private guardian.

Part 2 – Notice

- C** Indicate the complete location, date, time, and courtroom number of the hearing. You must include the full address of the courthouse, courtroom number, and city/town where the hearing will occur (at the time of filing your application, the court clerk will provide this information to you).

Part 3 – Application

- D** Indicate the names of any current guardians, including the director, whose guardianship you as the applicant want to terminate, if any.
- E** If there will be more than one guardian, and the guardians do not reside together, indicate the name of the guardian who will have custody of the child under the Private Guardianship Order.
- F** Indicate the names of anyone who is to have court-ordered contact with the child as part of the Private Guardianship Order.
- G** If you are asking the court to dispense with the consent of any guardian (other than the director) or the child, indicate the name of that person.
NOTE: Consent of all current guardians and the child, if the child is 12 years of age or older, is otherwise required for the granting of the Private Guardianship Order.
- H** Check this box if you are applying for private guardianship without the consent of the director, and are asking the court to dispense with the director’s consent.
- I** Check this box and ensure that the required home study report is attached.
- J** If one has been completed to accompany the Home Study Report, check this box and attach the addendum.
- K** If the child is Indigenous, check this box and attach a completed Plan (CS4028).

- L** Do not complete this section on any page it appears. This section is only filled out when the application for private guardianship is being made by the director.

Part 4 – Affidavit

- M** Indicate the date that the child was placed with you.
NOTE: If the child is not yet residing with you, the court may waive the requirement of the child having been in your care for at least three months prior to the hearing, if the court is satisfied that it is in the best interests of the child to do so.
- N** Indicate the specific reasons why you believe that granting private guardianship of the child to you is in the child’s best interests.
- O** Indicate the names of any other persons known to be a current guardian of the child, including the director, if the director is a guardian of the child.
- P** Sign and date the application. The person(s) named in (B) must be the same person(s) who signs and dates the application.
- Q** Swear or affirm your application before a Commissioner for Oaths in and for the Province of Alberta.

NOTE: ensure that the Home Study Report, the addendum (if one has been completed), and the Plan (if the child is Indigenous), are attached to your application.

Service of the Notice and Application for a Private Guardianship Order (CS0458):

For detailed guidance, please refer to *Part 11: Service of Documents* of the Alberta Rules of Court: http://www.qp.alberta.ca/documents/rules2010/Rules_vol_1.pdf

File the original *Notice and Application for a Private Guardianship Order* with the clerk of the court and have a copy of this application stamped by the clerk to use as the “good” copy. You should make enough copies of the “good” copy so that each party you need to serve will receive one.

You will then need to serve notice of the hearing on any guardian of the child, the child (if the child is 12 years of age or older), and the director not less than 30 days before the date of the hearing. Do not count the day of service and the day of the scheduled hearing as part of the 30 days.

The parties are to be personally served, unless the court has authorized some other form of service.

Serving notice on the necessary parties means giving them a “good” copy of the filed *Notice and Application for a Private Guardianship Order*, a copy of the Home Study Report, a copy of the Addendum (if applicable), and a copy of the Plan (if the child is Indigenous).

If there are valid reasons NOT to serve the Home Study Report, Addendum, and/or Plan on the guardian(s) and/or child, you must ask the court to dispense with the requirement to serve these documents.

When you have served the necessary parties, complete a separate *Affidavit of Service* for each person/child. The *Affidavit of Service* to be used is on page 4 of the *Notice and Application for a Private Guardianship Order (CS0458)* form.

See the *Filing Requirements* section on the next page for instructions on how to file once you have served the necessary parties and completed the Affidavits of Service.

Consent:

If a guardian or the child indicates a willingness to consent, have them sign the *Consent by a Guardian (CS1613)* or *Consent by a Child 12 Years of Age or Older (CS1612)*.

Filling out the affidavit portion of the form (page 4)

Part 1 – Affidavit

- A** Indicate the complete name of the person (you, the applicant) who served the document(s).
- B** Indicate the complete address of the person (you, the applicant) who served the document(s).
- C** Indicate the complete date and time that service occurred.
- D** Indicate the name of the person who was served.
- E** Select the box(es) that correspond to the document(s) you served on the person.
- F** Indicate the complete address, including the city or town, where service occurred.
- G** If there is only one document attached to the affidavit, it will always be marked as “Exhibit A.” If there are two or more documents attached to the affidavit, they should be marked as “Exhibit A,” “Exhibit B,” and so on. The marking of the exhibit must be indicated on the first page of the exhibit. EXACT copies of the documents served must be attached to the Affidavit of Service and must be marked as an exhibits.
- H** Sign the affidavit. The person named in (A) as the person who served MUST be the same person who signs the affidavit.



Swear or affirm your affidavit before a Commissioner for Oaths in and for the Province of Alberta.



Do not complete this section on any page it appears. This section is only filled out when the application for private guardianship is being made by the director.

Filing Requirements:

When you have served the necessary parties, complete a separate *Affidavit of Service* for each person/child. The *Affidavit of Service* to be used is on page 4 of the *Notice and Application for a Private Guardianship Order (CS0458)* form.

The same Commissioner for Oaths must commission the *Affidavit of Service (CS0458)* and the attachments on the same day.

Once you have completed the affidavit(s), file the original affidavit(s) with the clerk of the court, along with EXACT copies of the document(s) that you served on the party. These documents should be marked as exhibits.

The affidavit(s) should be filed with the clerk of the court in advance of the scheduled court date to ensure that the documents make it onto the court file in time for the court hearing.

Filling out the form

A separate *Consent by a Guardian* (CS1613) must be completed for each guardian that is consenting.

Child information

- A** Indicate the complete legal name and birthdate of the child. If there is more than one child, add their information as well by clicking on the “+”.

Part 1 – Consent

- B** Indicate the complete name of the guardian who is providing the consent.
- C** Indicate the complete address of the guardian who is providing the consent.
- D** Indicate the name of the applicant(s) in the originating application (*Notice and Application for a Private Guardianship Order*) to which the guardian is consenting.
- E** Indicate the name of the originating application (*Notice and Application for a Private Guardianship Order*) that is being consented to.
- F** The *Notice and Application for a Private Guardianship Order* does not specify a length of time. Leave this blank.
- G** If specific terms are being requested in the originating application (*Notice and Application for a Private Guardianship Order*), indicate those terms (i.e. custody or contact). Not all terms requested are required to be included in the consent.
- H** If the guardian is consenting after having received independent legal advice, check the first box.
- I** If the guardian has chosen to consent without having sought independent legal advice, check the second box.
NOTE: If the guardian has a lawyer representing them on the application, make sure the lawyer is present to have the guardian sign the consent, or ensure the lawyer agrees to have the guardian sign the consent in their absence.
NOTE: The guardian has the right to consult with counsel at any time, and applicants should not interfere with that right in any way or pressure the guardian to sign the consent without consulting a lawyer.
- J** Have the guardian date and sign the consent.
- K** A witness to the guardian signing the consent is necessary. The witness must be a delegated caseworker (qualify as a director’s delegate) or a lawyer. Have the witness sign here.

Part 2 – Affidavit of Execution of a director or lawyer

- L** Indicate the name of the person who witnessed the guardian sign the consent. The person named in (K) as the witness **MUST** be the same person who signs here.
- M** Indicate the complete address of the witness in the second space provided. If the witness is a delegated caseworker, they can use their office address.
- N** If the witness to the consent is a delegated caseworker, check the first box.
NOTE: The affidavit indicates that the person witnessing the consent believes that the guardian has the capacity to understand the nature and consequences of the consent. If there is **ANY** concern with the guardian's ability to understand any part of the application or consent, you cannot accept the consent. The matter must then proceed to court.
- O** If the witness to the consent is a lawyer, check the second box.
- P** The witness must sign and date the application. The person named in (K) and (L) as the witness **MUST** be the same person who signs and dates the consent.
- Q** The witness named in (K) and (L) must swear or affirm that they witnessed the consent before a Commissioner for Oaths in and for the Province of Alberta.
- R** Do not complete this section on any page it appears. This section is only filled out when the application for private guardianship is being made by the director.

Filing Requirements:

Complete the *Consent by a Guardian* (CS1613) and file the original with the clerk of the court. A separate *Consent by a Guardian* must be completed for each applicable guardian.

The consent should be filed with the clerk of the court in advance of the scheduled court date to ensure that the documents make it onto the court file in time for the court hearing.

Consent by a Child 12 Years of Age or Older (CS1612)

Consent by a Child 12 Years of Age or Older

Note: Do not use this form to consent to an adoption.

1 Consent

A My name is _____, born _____.

Name Date (yyyy/mm/yy)

B My address is _____.

Address

C I know that _____ is applying in Court for a

e.g., Applicant's name or the director

D _____

e.g., Supervision, temporary guardianship, permanent guardianship, etc.

order for **E** _____ months and a **F** _____

Duration e.g., specified access, assessment, treatment programs, etc.

order about me.

G I have received legal advice from a lawyer about this consent.

H I have been informed of my right to ask a lawyer for legal advice, and have decided to consent without talking to a lawyer.

I understand what this order(s) means. I consent to the order(s).

J _____ **I** _____

Director's or lawyer's signature Date (yyyy/mm/yy) Child's signature

2 Affidavit of Execution of a director or a lawyer

K My name is _____.

Name

L My address is _____.

Address

I make oath and say that:

M I have the authority to act for a director.

N I am a lawyer.

I am satisfied that:

- the child has the capability to understand and appreciate the nature and consequences of the consent;
- the child is informed about the nature and consequences of the consent; and
- the consent represents what the child wants.

I witnessed the child sign the consent form.

O _____

director's or lawyer's signature Date (yyyy/mm/yy)

P Sworn before me at _____

City or town

in the province of Alberta on _____

Date (yyyy/mm/yy)

Commissioner for Oaths in and for the Province of Alberta

Q For Office Use Only

Name of Caseworker	Worksite Number	Worksite Name
Child's ID Number(s)		

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 Court Applicant/Worksite File Child
[Save](#)
[Print](#)

CS1612 Rev. 2009-10 File Section 5
CRFR-24

Filling out the form

Part 1 – Consent

- A** Indicate the complete legal name and birthdate of the child who is providing the consent.
- B** Indicate the complete address of the child who is providing the consent. If the address should not be released for confidentiality reasons, use the child's caseworker's office address.
- C** Indicate the name of the applicant(s) in the originating application (*Notice and Application for a Private Guardianship Order*) to which the child is consenting.
- D** Indicate the name of the originating application (*Notice and Application for a Private Guardianship Order*) that is being consented to.
- E** The *Notice and Application for a Private Guardianship Order* does not specify a length of time. Leave this blank.
- F** If specific terms are being requested in the originating application (*Notice and Application for a Private Guardianship Order*), indicate those terms (i.e. custody or contact). Not all terms requested are required to be included in the consent.
- G** If the child is consenting after having received independent legal advice, check the first box.
- H** If the child has chosen to consent without having sought independent legal advice, check the second box.
NOTE: If the child has a lawyer representing them on the application, make sure the lawyer is present to have the child sign the consent, or ensure the lawyer agrees to have the child sign the consent in their absence.
NOTE: The child has the right to consult with counsel at any time, and applicants should not interfere with that right in any way or pressure the child to sign the consent without consulting a lawyer.
- I** Have the child date and sign the consent.
- J** A witness to the child signing the consent is necessary. The witness must be a delegated caseworker (qualify as a director's delegate) or a lawyer. Have the witness sign here.

Part 2 – Affidavit of Execution of a director or lawyer

- K** Indicate the name of the person who witnessed the child sign the consent. The person named in (J) as the witness **MUST** be the same person who signs here.
- L** Indicate the complete address of the witness. If the witness is a delegated caseworker, they can use their office address.

- M** If the witness to the consent is a delegated caseworker, check the first box.
NOTE: The affidavit indicates that the person witnessing the consent believes that the child has the capacity to understand the nature and consequences of the consent. If there is ANY concern with the child's ability to understand any part of the application or consent, you cannot accept the consent. The matter must then proceed to court.
- N** If the witness to the consent is a lawyer, check the second box.
- O** The witness must sign and date the application. The person named in (J) and (K) as the witness MUST be the same person who signs and dates the consent.
- P** The witness named in (J) and (K) must swear or affirm that they witnessed the consent before a Commissioner for Oaths in and for the Province of Alberta.
- Q** Do not complete this section on any page it appears. This section is only filled out when the application for private guardianship is being made by the director.

Filing Requirements:

Complete the *Consent by a Child 12 Years of Age or Older* (CS1612) and file the original with the clerk of the court. A separate *Consent by a Child 12 Years of Age or Older* must be completed for each applicable child.

The consent should be filed with the clerk of the court in advance of the scheduled court date to ensure that the documents make it onto the court file in time for the court hearing.

Plan (CS4028)

As per section 52(1.3) of the *Child, Youth and Family Enhancement Act* (CYFEA), if you as the applicant have reason to believe that the child is an Indigenous child, the application for private guardianship MUST include a completed Plan (CS4028). As defined in CYFEA, an Indigenous child is one who is identified as First Nation, Inuit or Métis.

As per section 57.01(a) of CYFEA, as a guardian of the child you will be expected to take reasonable steps to comply with the outlined Plan.

The Plan is to address how the child's Indigenous identity, culture, heritage, spirituality, language and traditions are to be respected, supported and preserved by the new guardian(s).

NOTE: The Plan (CS4028), as shown below, is a regulated form but another form or template can be used and submitted, as long as it includes **at least** the information required in the regulated form.

The Form

Plan

1. Applicant's Information - Provide information about each applicant

A Applicant's First Name Applicant's Middle Name, if any Applicant's Last Name

B Applicant's familial relationship with the child, if any

C Indigenous Yes No

First Nation Individual

D Eligible to be registered under the *Indian Act* (Canada) Yes No

E Registered under the *Indian Act* (Canada) Yes No

F Band Name, if applicable

G Métis Yes No

H Métis Settlement Name or Community, if applicable

I Inuit Yes No

J Co-Applicant Information

Co-Applicant's First Name Co-Applicant's Middle Name, if any Co-Applicant's Last Name

Co-Applicant's familial relationship with the child, if any

Indigenous Yes No

First Nation Individual

Eligible to be registered under the *Indian Act* (Canada) Yes No

Registered under the *Indian Act* (Canada) Yes No

Band Name, if applicable

Métis Yes No

Métis Settlement Name or Community, if applicable

Inuit Yes No

CS4028 Rev. 2019-02[Reset](#)[Save](#)[Print](#)Page 1 of 2

2. Child's Information - provide information about each child who is subject of the application

K Number of Children included in this plan

L Child's First Name Child's Middle Name, if any Child's Last Name

M Indigenous Yes No

First Nation Individual

N Eligible to be registered under the *Indian Act* (Canada) Yes No

O Registered under the *Indian Act* (Canada) Yes No

P Band Name, if applicable

Q Métis Yes No

R Métis Settlement Name or Community, if applicable

S Inuit Yes No

3. Plan

T How does the Applicant plan to respect, support, and preserve the child's Indigenous identity, culture, heritage, spirituality, language, and traditions?

4. Signatures

Date yyyy-mm-dd <input type="text"/>	Applicant's Signature <input type="text"/>
Date yyyy-mm-dd <input type="text"/>	Co-Applicant's Signature <input type="text"/>

CS4028 Rev. 2019-02

Reset

Save

Print

Page 2 of 2

Filling out the form

Part 1 – Applicant’s information

- A** Indicate the name of the applicant in the originating application (*Notice and Application for a Private Guardianship Order*).
- B** As applicable, indicate the familial relationship of the applicant to the child (i.e. maternal great aunt, paternal grandmother, first cousin, etc).
- C** Indicate whether the applicant is Indigenous by checking either “yes” or “no.”
- D** Indicate whether the applicant is a First Nation Individual who is eligible to be registered under the *Indian Act* (Canada) by checking either “yes” or “no.”
- E** Indicate whether the applicant is a First Nation Individual who is registered under the *Indian Act* (Canada) by checking either “yes” or “no.”
- F** As applicable, indicate the name of the band that the applicant is registered to or eligible to be registered to.
- G** Indicate whether the applicant is Métis by checking either “yes” or “no.”
- H** As applicable, indicate the name of the Métis Settlement or community that the applicant is affiliated with.
- I** Indicate whether the applicant is Inuit by checking either “yes” or “no.”
- J** As applicable, complete the same information for any co-applicant(s) in the same manner as was completed for the applicant (steps A through I).

Part 2 – Child’s information

- K** Indicate the number of children included in the Plan.
- L** Indicate the complete legal name of the child.
- M** Indicate whether the child is Indigenous by checking either “yes” or “no.”
- N** Indicate whether the child is a First Nation Individual who is eligible to be registered under the *Indian Act* (Canada) by checking either “yes” or “no.”
- O** Indicate whether the child is a First Nation Individual who is registered under the *Indian Act* (Canada) by checking either “yes” or “no.”
- P** As applicable, indicate the name of the band that the child is registered to or eligible to be registered to.



Indicate whether the child is Métis by checking either “yes” or “no.”



As applicable, indicate the name of the Métis Settlement or community that the child is affiliated with.



Indicate whether the child is Inuit by checking either “yes” or “no.”

NOTE: As applicable, complete the same information for any additional child(ren) in the same manner as was completed for the first child (steps L through S).

Part 3 – Plan



The information provided needs to be detailed, specific, individualized, developed in a collaborative manner, and agreed to by all persons who are party to it. It must clearly indicate how the child’s culture will be supported and preserved over the long term.

The information and actions are to address how the child’s Indigenous identity, culture, heritage, spirituality, language and traditions will be respected, supported and preserved.

Part 4 – Signatures



The applicant and any co-applicants are to date and sign the Plan. The applicant named in (A), and any co-applicant (if applicable) as described in (J), **MUST** be the same person(s) who sign and date the Plan.

Notice to Band of Private Guardianship Application (CS12166)

This form is required as part of the application package for private guardianship when the child who you are applying on behalf of is a First Nation Individual and/or a member of a band. A child is a First Nation Individual if they are registered as an Indian as per the *Indian Act*, or is eligible for registration as an Indian.

As per section 53(1.1) of the Act: if the child is a First Nation Individual or a member of a band, you must provide notice of the private guardianship hearing, not less than 30 days before the date of the hearing, on the band or bands identified by a director, as the band or bands of which the child is a member or is entitled to be a member.

The Form

 **Notice to Band of Private Guardianship Application**
Child Intervention

In Provincial Court of Alberta in the Matter of an
Application under section 52 of the
Child, Youth and Family Enhancement Act

A To
Name of Band

Address of Band

B Regarding the child(ren)

, born Year Month Day
Child Name

, born Year Month Day
Child Name

, born Year Month Day
Child Name

C **1 Name of Applicants**

Name of Applicant

Name of Applicant

2 Notice

D I(we) am(are) applying to the Court for private guardianship order regarding the child(ren). I(we) will ask the Court to make me(us) a private guardian(s) to the child(ren).
Or

E I have the authority to act for a director. My name is .
I am applying to Court on behalf of the applicant(s) for an private guardianship order regarding the child(ren). I will ask the Court to appoint the applicant(s) as a private guardian(s) to the child(ren).

The Court hearing will be at:

F on
Address of the Court Date yyyy-mm-dd

The Judge will hear this application as soon as possible after , in Court room number .
Time Number

If you want to speak to the Judge about this application, you must attend the hearing **the first time the matter is heard in Court.**

The Judge may make an order different from what I(we) apply for. If you do not attend the Court hearing the first time the matter is heard in Court, the Judge may still make an order.

3 Application

I(we) am(are) applying for a private guardianship order regarding the child(ren). I(we) am(are) applying for:

G an order terminating the guardianship of .
Name(s)

H custody to be granted to .
Name(s)

I an order of contact to be granted to .
Name(s)

J an order to dispense with the consent of .
Name(s)

K an order seeking .
Other

CS12166 Rev. 2019-04 Page 1 of 1

Filling out the form

- A** Indicate the complete name of the band (Attention: Chief and Council) and the full address of the band office.
- B** Indicate the complete legal name and birthdate of the child. If there is more than one child, add their information as well.

Part 1 – Name of Applicants

- C** Indicate the name of the applicant(s) in the originating application (*Notice and Application for a Private Guardianship Order*). This would be your name, and the name of any other person applying with you.

Part 2 – Notice

- D** If the applicant is applying to the court for private guardianship by filing a *Notice and Application for a Private Guardianship Order* (CS0458), the applicant would check this box.
- E** If the director is consenting to the application for private guardianship, and is filing a *Notice and Application by a Director for a Private Guardianship Order* (CS2050), a director's delegate would check this box.
- F** Indicate the complete location, date, time, and courtroom number of the hearing. You must include the full address of the courthouse, courtroom number, and city/town where the hearing will occur (at the time of filing your application, the court clerk will provide this information to you).

Part 3 – Application

- G** Indicate the names of any current guardians, including the director, whose guardianship you as the applicant want to terminate, if any.
- H** If there will be more than one guardian, and the guardians do not reside together, indicate the name of the guardian who will have custody of the child under the Private Guardianship Order.
- I** Indicate the names of anyone who is to have court ordered contact with the child as part of the Private Guardianship Order.
- J** If you are asking the court to dispense with the consent of any guardian (including the director) or the child, indicate the name of that person.
- K** Fill out this section if you are seeking any other order not otherwise specified (i.e. joint custody).

Notice to the Band:

As per section 53(1.1) of the *Child, Youth and Family Enhancement Act* (CYFEA), if the child is a First Nation Individual or a member of a band, you must provide notice of the private guardianship application and the date, time and place of the hearing on the band or bands of which the child is a member or is entitled to be a member.

In any private guardianship application being made on behalf of a child who is a First Nation Individual (i.e. registered Indian as defined in the *Indian Act*), it is the responsibility of the applicant to send the *Notice to Band of Private Guardianship Application* (CS12166).

The child's caseworker (director's delegate) will assist the applicant in fulfilling this legal requirement by providing them with the name and address for the band or bands, as well as the name and contact information for the person designated by the council of the band.

When the private guardianship application is filed with the court, a hearing date is set. Once a hearing date has been set, a completed *Notice to Band of Private Guardianship Application* (CS12166) is to be served on the band or bands. This can be done by sending the notice by registered mail to the band office(s), addressed the Chief and Council, or it can be done by personal service.

Notice is to be not less than 30 days before the date of the hearing (do not count the day of service or the day of the court hearing as part of the 30 days).

ONLY the completed *Notice to Band of Private Guardianship Application* (CS12166) is to be provided to the band or bands. The private guardianship application, Home Study Report, addendum (if applicable), and Plan are NOT to be provided.

If you served notice on the band or bands by registered mail, you would complete an *Affidavit of Service by Registered Mail* (CS1638). If you personally served notice on the band or bands, you would complete an *Affidavit of Service* (page 4 of CS0458). Refer to the instructions on the following pages.

Affidavit of Service by Registered Mail (CS1638)

Alberta Government **Affidavit of Service by Registered Mail**

A 1 My name is _____
name

B My address is _____
address

2 **Affidavit**

I make oath and say that:

On **C** _____ I served **D** _____
date (yyyy-mm-dd) name

with a true copy of **E** _____
document

I have marked the document "Exhibit A" and attached it to this affidavit. I served the copy of the document by placing it in an envelope addressed to: **F** _____
name

G _____ I mailed the envelope by
address registered mail in the post office at **H** _____
address

I I received the delivery confirmation which indicates that _____
name of person
signed, who is the person to whom the letter was addressed or an authorized representative. The relationship of the representative to the person being served is _____
relationship

I have marked the delivery confirmation "Exhibit B" and attached it to this affidavit.

J I received the Acknowledgment of Receipt, which is a copy of the recipient's signature and is signed by the Post Office official.

I have marked the Acknowledgment of Receipt "Exhibit B" and attached it to this affidavit.

K _____
Signature of Server

3

L Sworn before me at _____
city or town Stamp of Commissioner for Oaths

in the province of Alberta on _____
date (yyyy-mm-dd)

Signature of Notary Public, Commissioner for Oaths

M **For Office Use Only**

Name of Caseworker	Child's I.D. Number	Worksite Number	Worksite Name
_____	_____	_____	_____

CS 1638 (2012/06) [Reset Form](#) [Save Form](#) [Print Form](#) File Section 5

Filling out the form

If notice was served on the band or bands by registered mail.

Part 1

- A** Indicate the complete name of the person (you, the applicant) who served the *Notice to Band of Private Guardianship Application* (CS12166) on the band.
- B** Indicate the complete address of the person (you, the applicant) who served the *Notice to Band of Private Guardianship Application* (CS12166) on the band.

Part 2 – Affidavit

- C** Indicate the date the service occurred.
- D** Indicate the name of the band that was served.
- E** Indicate the complete title of the document that was served (*Notice to Band of Private Guardianship Application*).
An EXACT copy of the document served must be attached to the affidavit and marked as “Exhibit A.”
- F** Indicate to whom the envelope was addressed (i.e. Attention: Chief and Council and the name of the band).
- G** Indicate the complete mailing address of the band that was served.
- H** Indicate the complete address of the Post Office that the document was sent from by registered mail.
- I** If you received a delivery confirmation, check the first box and indicate the name of the person who signed the delivery confirmation. If a representative of the band being served signed the delivery confirmation, indicate their relationship to the person being served.
The delivery confirmation must be attached to the affidavit and marked as “Exhibit B.”
- J** If you received an Acknowledgement of Receipt, check the second box.
The Acknowledgement of Receipt must be attached to the affidavit and marked as “Exhibit B.”
- K** Sign the affidavit. The person named in (A) as the person who served the band MUST be the same person who signs the affidavit.

Part 3



Swear or affirm your affidavit before a Commissioner for Oaths in and for the Province of Alberta.



Do not complete this section on any page it appears. This section is only filled out when the application for private guardianship is being made by the director.

Filing Requirements:

Once the *Notice to Band of Private Guardianship Application* (CS12166) has been sent by registered mail, and a delivery confirmation or Acknowledgement of Receipt has been received, complete an *Affidavit of Service by Registered Mail* (CS1638). As applicable, a separate *Affidavit of Service by Registered Mail* must be completed for each band that was served notice.

- The *Affidavit of Service by Registered Mail* MUST have a copy of the *Notice to Band of Private Guardianship Application* attached, marked as “Exhibit A,” and must be an EXACT copy of what was served on the parties.
- The *Affidavit of Service by Registered Mail* must also have the delivery confirmation OR Acknowledgement of Receipt attached to it, and be marked as “Exhibit B.”

The same Commissioner for Oaths must commission the *Affidavit of Service by Registered Mail* (CS1638) and the attachments on the same day.

The completed *Affidavit of Service by Registered Mail* (with attached exhibits) should be filed with the clerk of the court in advance of the scheduled court date to ensure that the documents make it onto the court file in time for the court hearing.

Affidavit of Service (Page 4 of CS0458)

Affidavit of Service

1. Affidavit

A My name is _____
Name(s)

B My address is _____
Address

I make oath and say that:

C 1. On _____, at _____ I personally served **D** _____
Date yyyy-mm-dd Time Name(s)

E with a copy of the following document(s):
(Choose those that apply)

Notice and Application for a Private Guardianship Order

Home Study Report

Addendum to Home Study Report

Plan if child(ren) is (are) Indigenous

Other _____

F at _____
Address

G 2. I have marked the document(s) Exhibit(s) _____ and attached it(them) to this affidavit. The copy(ies) was (were) identical to the attached document(s) except that the attached document(s) is (are) marked as an exhibit(s).

I SWORN / AFFIRMED BEFORE ME at the City of _____, in the Province of Alberta,
this _____ day of _____, 20 ____.

H _____
Signature of Affiant

Commissioner for Oaths Stamp

A Commissioner for Oaths or Notary Public in and for Alberta
(Also include printed or stamped name and expiry date)

+ -

J

For Office Use Only		
Name of Caseworker	Worksite Number	Worksite Name
Child's ID Number(s)		

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CS0458 Rev. 2019-12

 Court
 Director of CYFE Act or Delegate
 Guardians
 Child
 Applicant

File Section 5
CRFR-21
Page 4 of 4

Filling out the form

If notice was served on the band or bands by personal service.

Part 1 – Affidavit

- A** Indicate the complete name of the person (you, the applicant) who served the *Notice to Band of Private Guardianship Application* (CS12166) on the band.
- B** Indicate the complete address of the person (you, the applicant) who served the *Notice to Band of Private Guardianship Application* (CS12166) on the band.
- C** Indicate the complete date and time service occurred.
- D** Indicate the name of the person/band that was served.
- E** Select the “other” box, and indicate the complete title of the document that was served (*Notice to Band of Private Guardianship Application*).
- F** Indicate the complete address, including the city or town, where service occurred.
- G** An EXACT copy of the document served must be attached to the *Affidavit of Service* and marked as “Exhibit A.”
As the *Notice to a Band of a Private Guardianship Order* will be the only document served, it will always be marked as “Exhibit A.” The marking of the exhibit must be indicated on the first page of the exhibit.
- H** Sign the affidavit. The person named in (A) as the person who served MUST be the same person who signs the affidavit.
- I** Swear or affirm your affidavit before a Commissioner for Oaths in and for the Province of Alberta.
- J** Do not complete this section on any page it appears. This section is only filled out when the application for private guardianship is being made by the director.

Filing Requirements:

Once the *Notice to Band of Private Guardianship Application* (CS12166) has been served, complete an *Affidavit of Service* (page 4 of CS0458). As applicable, a separate *Affidavit of Service* must be completed for each band that was served notice.

- The *Affidavit of Service* MUST have a copy of the *Notice to Band of Private Guardianship Application* attached, marked as “Exhibit A,” and must be an EXACT copy of what was served on the parties.

The same Commissioner for Oaths must commission the *Affidavit of Service* (CS0458) and the attachments on the same day.

The completed *Affidavit of Service* (with attached exhibits) should be filed with the clerk of the court in advance of the scheduled court date to ensure that the documents make it onto the court file in time for the court hearing.

Glossary Of Terms

Action Number: The file number that the court gives to your *Notice and Application for a Private Guardianship Order* and other documents for the court's filing and reference purposes.

Affidavit: A written statement that a person swears is true. The person must swear in front of an official authorized by law to administer oaths. Such officials include: Commissioner for Oaths, Notary Public, Justice of the Peace, and lawyers. An Affidavit is the same as sworn testimony in court.

Amend: To change a document by varying, adding or deleting.

Applicant: A person who is applying to have the court grant a Private Guardianship Order that makes the person a guardian of the child.

Application: A written application to the court asking that the judge decide or act.

Caseworker: The individual assigned and delegated the responsibility for case planning and carrying out case-related tasks for a specific child. This includes caseworkers, assessors and intake workers. A caseworker is also referred to as a/the “delegated” caseworker.

Casework Team: The individuals who, as a collective, are involved in or contribute to the decision-making on a child’s case. This can include caseworkers, casework supervisors, managers and other involved professionals.

Child, Youth and Family Enhancement Act (CYFEA): The law that governs guardianship for children who are in care of Alberta Children’s Services. A read-only copy of this Act is online at: <https://open.alberta.ca/publications/3607542>

Commissioner for Oaths: A person officially authorized by law to administer oaths. The person might be appointed because of the job they do, such as a school principal or clerk of the court. All lawyers are Commissioners for Oaths.

Director or Director’s Delegate: This is a general reference to Children’s Services staff such as caseworkers, casework supervisors or managers who are delegated under the *Child, Youth and Family Enhancement Act* (CYFEA) to deliver mandated services on behalf of the Statutory Director.

Dispense: To do away with or remove a requirement.

Family Law Act (FLA): The law that governs guardianship for children who are not in the care of Children’s Services. A read-only copy of this Act is online at: www.gp.alberta.ca/Laws_Online.cfm

File or Filing: To take papers to the clerk of the court to be placed on the court file. The first time you bring papers to the clerk, the clerk will start a file and assign an action number.

First Nation Individual: An Indian as defined in the *Indian Act* (Canada). Pursuant to this Act, a First Nation Individual is registered as an Indian or is entitled to be registered as an Indian.

Guardian: A guardian has the legal authority and duty to take care of a child and to make decisions for that child. All children under the age of 18 must have at least one guardian. Usually the guardians of a child are the parents. However, sometimes the guardian is another adult who has been given responsibility for the child by a court order. Often two or more people share guardianship of a child. If you are unsure who the guardians are, please consult the child's caseworker, a lawyer, and/or refer to the *Family Law Act*. For a child who is subject of a Permanent Guardianship Order (PGO) or Permanent Guardianship Agreement (PGA), the director is the sole guardian of the child.

Guardianship Order: Pursuant to Part 2 of the *Family Law Act*, this is when a person is appointed as a guardian of the child.

Home Study Report (also known as Home Assessment Report): A report written by a "qualified person" (for a child who is in the care of the director but is not subject of a Permanent Guardianship Order), or prepared by the director (for a child who is subject of a Permanent Guardianship Order). The report assesses the suitability, capability and willingness of the applicant to assume the responsibility of being a guardian to the child.

Indigenous: An individual who is known to have Indigenous heritage. The child may be a First Nation Individual (Status Indian), a Non-Status Indian, Métis or Inuit.

Notarized Copies: A copy of a document that a Notary Public has certified as a true copy of the original document.

Notary Public: A person officially authorized by law to administer oaths and to certify that documents are true and valid copies. All lawyers are Notaries Public.

Notice and Application for a Private Guardianship Order: A written application to the court requesting a Private Guardianship Order.

Notice to Band of Private Guardianship Application: A notice to a child's band or bands giving the date, time and place of a private guardianship hearing.

Plan: If the applicant has reason to believe that the child is Indigenous, the application must include a Plan, made in accordance to regulations that addresses how the child's Indigenous

identity, culture, heritage, spirituality, language and traditions will be respected, supported and preserved.

Permanent Guardianship Agreement (PGA): An agreement entered into with the director that terminates guardianship of the guardian(s) (including birth parents), and makes the director the sole guardian of the child.

Permanent Guardianship Order (PGO): An order granted by the court that terminates the guardianship of all other individuals and makes the director the sole guardian of the child.

Private Guardianship Order: A written order of the court granting private guardianship of a child, made pursuant to the *Child Youth and Family Enhancement Act* (CYFEA).

Qualified Person: For the purposes of completing a home study report, the *Child, Youth and Family Enhancement Act* defines a qualified person as:

- An individual registered in the general register category of the regulated members registry of the Alberta College of Social Workers; and
- A person who, in the opinion of the Minister, is qualified because of the person's education and experience.

Regulated Form: A form that must be used according to a Regulation. The Regulation indicates what information the form must have. You may add information to a "Regulated Form," but must not remove required information.

Regulation: Rules made under the authority of a statute. Regulations have the force of law and must be followed.

Residence: The place where a person ordinarily lives.

Revoke or Revoking: To cancel or withdraw (usually in reference to a consent).

Serve or Service of Notice: To deliver a document to a person. The person who receives the document is then officially notified about a legal action.

Testamentary Guardian: This is a legal term where a person is named (often in a will) as a child's guardian, to take over guardianship/parental responsibilities if the guardian dies.

Appendices

Appendix A: List Of Private Licensed Adoption Agencies In Alberta

Private licensed agencies can be of assistance in two ways:

1. They can be approached to complete a Home Study Report (HSR); and/or
2. They can be approached to assist you in completing your private guardianship application.

Adoption Options

Calgary office:

#207, 5940 MacLeod Trail SW
Calgary, AB T2H 2G4
Phone: 403-270-8228
Toll-free: 1-888-277-8228
Email: aocal@adoptionoptions.com
Website: www.adoptionoptions.com

Edmonton office:

#6, 9363 – 50 Street
Edmonton, AB T6B 2L5
Phone: 780-433-5656
Toll-free: 1-800-770-3023
Email: aoedm@adoptionoptions.com

AMARIS Adoption and Family Support Services

Calgary office:

101C, 9705 Horton Road SW
Calgary, AB T2V 2X5
Phone: 403-256-3224
Toll-free: 1-877-256-3224
Email: info@amarisadoption.com
Website: www.amarisadoption.com

Edmonton office:

Phone: 780-438-3455
Toll-free: 1-877-256-3224

Small Miracles Adoption

Scotia Place, Tower 1
#2020, 10060 Jasper Avenue
Edmonton, AB T5J 3R8
Phone: 780-421-1177
Email: info@smallmiraclesadoption.com
Website: www.smallmiraclesadoption.com

Appendix B: List Of Agencies With “Qualified Person(s)” Who May Be Able To Complete Home Study Reports Or Addendums

- Adoption Options
- Alberta College of Social Workers
- AMARIS Adoption and Family Support Services
- Catholic Social Services
- Crossroads Family Services
- Enviro Wilderness School Association
- Four Directions Foster Parent Association of Calgary
- Insight Psychological
- McMan Youth, Family and Community Services Association
- Native Counselling Services
- Pathways
- Small Miracles Adoption

Appendix C: Links To Policy, Regulation And Legislation Relevant To Private Guardianship

Below are links to the *Child, Youth and Family Enhancement Act* (CYFEA) and its associated relevant regulation, as well as a link to the CYFEA policy manual, the Enhancement Manual:

- The CYFEA can be accessed through the Alberta Queen's Printer at:
http://www.qp.alberta.ca/1266.cfm?page=C12.cfm&leg_type=Acts&isbncln=9780779810208
- The CYFEA Regulation can be accessed through the Alberta Queen's Printer at:
http://www.qp.alberta.ca/570.cfm?frm_isbn=9780779810383&search_by=link
- The CYFEA policy manual can be found online at:
<https://open.alberta.ca/publications/3607542>
- Federal legislation passed on January 1, 2020 (*An Act respecting First Nations, Inuit and Métis children, youth and families*) can be found online at:
<https://www.sac-isc.gc.ca/eng/1579468554846/1579468577638>

Please note that the following is the only section of the *Child, Youth and Family Enhancement Act* that pertains to private guardianship:

Section 52	CHILD, YOUTH AND FAMILY ENHANCEMENT ACT	RSA 2000 Chapter C-12
<p style="text-align: center;">Division 5 Private Guardianship</p> <p>Private guardianship</p> <p>52(1) Any adult may apply to the Court in the prescribed form for a private guardianship order in respect of a child who is in the custody of a director or is the subject of a temporary guardianship order or a permanent guardianship agreement or order.</p> <p>(1.01) Notwithstanding any other enactment, a person may not apply to any court to be appointed as a guardian of a child who is in the custody of a director, or is the subject of a temporary guardianship order or a permanent guardianship agreement or order, except under this Act.</p> <p>(1.1) An application under subsection (1) must include a home study report in the form required in the regulations prepared by a qualified person respecting</p> <ul style="list-style-type: none">(a) the suitability of the applicant as a guardian, <p style="text-align: center;">55</p>		

- (b) the ability and willingness of the applicant to assume the responsibility of a guardian with respect to the child, and
- (c) whether it is in the best interests of the child that the applicant be appointed as a guardian of the child.

(1.2) If the child is the subject of a permanent guardianship agreement or order, the report required under subsection (1.1) must be prepared by a director.

(1.3) If an applicant has reason to believe that the child is an Indigenous child, the application under subsection (1) must include a plan, made in accordance with the regulations, that addresses how the child's Indigenous identity, culture, heritage, spirituality, language and traditions will be respected, supported and preserved.

(2) A director may, on behalf of an applicant, make an application under subsection (1) if

- (a) the applicant consents in writing, and
- (b) the director is satisfied that it is in the best interests of the child for the child to be placed under the guardianship of the applicant.

(3) to (5) Repealed 2003 c16 s55.

RSA 2000 cC-12 s52;2003 c16 s55;2008 c31 s19;
2018 c24 s5

Notice

53(1) The applicant shall serve notice of the nature, date, time and place of the hearing of the application under section 52, a copy of the report described in section 52(1.1) and a copy of the plan described in section 52(1.3) if one was required under that section, not less than 30 days before the date of the hearing on

- (a) the guardian of the child,
- (b) the child, if the child is 12 years of age or older, and
- (c) a director, if a director is not the guardian.

(1.1) In addition to serving notice on the persons listed in subsection (1), if the child is a First Nation Individual or a member of a band, the applicant shall serve notice of the nature, date, time and place of the hearing of the application under section 52 not less than 30 days before the date of the hearing on the band or bands identified by a director as the band or bands of which the child is a member or is entitled to be a member.

(2) The Court may, if it considers it appropriate to do so,

- (a) order that service of the notice of the application, the copy of the report described in section 52(1.1) and the copy of the plan described in section 52(1.3) if one was required under that section, be made substitutionally or ex juris,
- (b) shorten the period of service required under subsection (1), or
- (c) dispense with service on any band or any person other than the director.

RSA 2000 cC-12 s53;2003 c16 s56;2008 c31 s20;
2018 c24 s6

Band participation in proceedings

53.1(1) A band that is required to be served with notice of an application under section 53(1.1) may attend Court the first time the matter is heard in Court and may make submissions to the Court regarding the band's participation in the proceedings.

(2) In any proceedings before the Court relating to the application, a band that is required to be served under section 53(1.1) and that attends Court the first time the matter is heard in Court may

- (a) appear,
- (b) be represented by a lawyer,
- (c) make representations to the Court, and
- (d) if the Court grants leave, and subject to any conditions the Court may impose, take further part in the proceedings.

(3) If a band is served in accordance with section 53(1.1) and does not attend Court the first time the matter is heard in Court, no further notice to the band is required, and the Court may proceed to hear the application if the Court considers it to be in the best interests of the child to do so.

(4) A band that makes submissions to the Court regarding the band's participation in the proceedings may appeal the Court's decision referred to in subsection (2)(d) to the Court of Queen's Bench.

2018 c24 s7

54 Repealed 2003 c16 s57**Consent to guardianship**

55(1) A private guardianship order shall not be made without the consent in the prescribed form of

- (a) the guardian of the child, and
- (b) the child, if the child is 12 years of age or older.

(2) Notwithstanding subsection (1), the Court may make an order dispensing with the consent of

- (a) the guardian of the child, or
- (b) the child,

if the Court is satisfied that it is in the best interests of the child to do so.

(3) A consent to guardianship executed in any province or territory in a form prescribed for consents in that province or territory is as good and sufficient as if it had been executed in the form prescribed under this Act.

RSA 2000 cC-12 s55;2003 c16 s58;2008 c31 s21;
2018 c24 s8

Private guardianship order

56(1) If the Court is satisfied that

- (a) the applicant is able and willing to assume the responsibility of a guardian toward the child,
- (b) it is in the best interests of the child, and
- (c) the child has been in the continuous care of the applicant for a period of at least 3 months immediately prior to the hearing,

the Court may make a private guardianship order appointing the applicant as a guardian of the child.

(1.01) If it is satisfied that it is in the best interests of the child to do so, the Court may waive the requirement in subsection (1)(c).

(1.1) On making an order under subsection (1), the Court may include terms respecting custody of and contact with the child.

(1.2) On making an order under subsection (1) appointing a guardian of an Indigenous child, the Court shall advise the guardian of the guardian's obligations under section 57.01.

(2) The clerk of the Court shall provide a certified copy of an order made under subsection (1) to

- (a) the applicant,
- (b) any person who was a guardian of the child immediately before the making of the order,
- (c) the child, if the child is 12 years of age or older,
- (d) a director, if a director was not the guardian of the child immediately before the making of the order, and
- (e) any other person that the Court directs.

RSA 2000 cC-12 s56;2003 cF-4.5 s114;2003 c16 s59;
2008 c31 s22;2018 c24 ss9,33

56.1 Repealed 2018 c24 s10.

Review of contact terms in order

56.2(1) If an order made under section 56 includes terms respecting contact with a child, the following may apply to the Court in the prescribed form for a review of those terms:

- (a) the child, if the child is 12 years of age or older;
- (b) a person who has been granted contact with the child under the order;
- (c) a guardian of the child;
- (d) a person who has a significant relationship with the child.

(2) The applicant shall send a notice of the date, time and place of the hearing of the review by the Court by registered mail or by any other method approved by the Court to

- (a) the child, if the child is 12 years of age or older,
- (b) a person who has been granted contact with the child under the order, if that person is not the applicant, and
- (c) a guardian of the child

not less than 15 days before the date fixed for the hearing.

- (3) The Court may, if it considers it appropriate to do so,
- (a) order that service of the notice of the application be made substitutionally or ex juris,
 - (b) shorten the period of notice required under subsection (2), or
 - (c) dispense with service on any person.
- (4) On hearing an application under subsection (1), the Court may continue, vary or terminate the terms respecting contact contained in the order.

2008 c31 s24

Effect of order

57(1) Notwithstanding Part 2 of the *Family Law Act*, for all purposes when a private guardianship order is made the applicant is a guardian of the child.

(2) Notwithstanding Part 2 of the *Family Law Act*, if the Court makes a private guardianship order, it may make a further order terminating the guardianship of any other guardian of the child if

- (a) the Court is satisfied that the other guardian of the child consents to the termination, or
- (b) for reasons that appear to it to be sufficient, the Court considers it necessary or desirable to do so.

(3) to (5) Repealed 2003 c16 s61.
RSA 2000 cC-12 s57;2003 cF-4.5 s113;2003 c16 s61

Private guardianship of Indigenous child

57.01 If a private guardianship order is made under section 56 appointing a guardian of an Indigenous child, that guardian shall

- (a) take reasonable steps to comply with the plan included in the application in respect of that child under section 52(1.3), and
- (b) if the Indigenous child is a First Nation Individual,
 - (i) take reasonable steps on behalf of the child necessary for the child to exercise any rights the child may have as a First Nation Individual, and

- (ii) inform the child of the child's status as a First Nation Individual as soon as, in the opinion of that guardian, the child is capable of understanding the child's status as a First Nation Individual.

2008 c31 s25;2018 c24 ss33,34,35

Termination of order

57.1(1) If a private guardianship order is made under this Division, a guardian whose guardianship is not terminated under section 57 may apply to the Court in the prescribed form to terminate the private guardianship order and, if the Court is satisfied that

- (a) the applicant is capable of fully resuming and willing to fully resume the responsibilities of guardianship of the child, and
- (b) it is in the best interests of the child to do so,

the Court may, subject to subsection (3), terminate the private guardianship order.

(2) If the Court terminates a private guardianship order, the applicant and any other person whose guardianship was not terminated under section 57 are the guardians of the child.

(3) No order shall be made under subsection (1) relating to a child who is 12 years of age or older without the consent of the child.

(4) Sections 53 and 55 apply to an application under this section, and the applicant must include a report described in section 52(1.1) in the application.

2003 c16 s62

Appendix D: Alberta Provincial Court Information And Supports

- For general Provincial Court of Alberta information and/or to find the court location closest to you, call 1-855-738-4747 or visit:
<https://albertacourts.ca/pc/court-practice-and-schedules/Contact>
- For information about Resolution and Court Administration Services, visit:
<https://www.alberta.ca/rcas.aspx>
- For information about how to access Legal Aid, call 1-866-845-3425 (toll-free), or visit:
<http://www.legalaid.ab.ca/Pages/default.aspx>
- For information about document service and other court procedures, refer to the Alberta Rules of Court from the Alberta Queen's Printer, at:
http://www.qp.alberta.ca/documents/rules2010/Rules_vol_1.pdf

Appendix E: Blank Private Guardianship Application Forms

- [Notice and Application for a Private Guardianship Order \(CS0458\)](#)
- [Consent by a Guardian \(CS1613\)](#)
- [Consent by a Child 12 Years of Age or Older \(CS1612\)](#)
- [Plan \(CS4028\)](#)
- [Notice to Band of Private Guardianship Application \(CS12166\)](#)
- [Affidavit of Service by Registered Mail \(CS1638\)](#)
- [Affidavit of Service \(Page 4 of CS0458\)](#)

Appendix F: Blank Forms Required To Request The Director Prepare Your Home Study Report Or Addendum

- [Personal Reference \(CS0013\)](#)
- [Medical Reference \(CS0046\)](#)
- [Criminal Record Check \(CS1800\)](#)
- Intervention Record Check (CS2687)

Note: This check requires you to go in person to a Children’s Services office in your area. To find the office most convenient for you, follow this link:

<https://informalberta.ca/public/service/serviceProfileStyled.do?serviceQueryId=1050354#eligibilityInfo>

Appendix G: Addendum Template

For applicants who already have a previously completed and approved Home Study Report (HSR), an addendum template can be completed by a qualified person for use as a complement to the HSR. When completed, the addendum would be submitted to court as part of the private guardianship application, along with the existing HSR. It provides current and updated information about the applicant(s) and meets the requirements of the CYFEA Regulation.

- [Addendum to Home Assessment Report \(Child Specific Legal Permanency\) \(ADOP12108\)](#)

Appendix H: Director’s Response (Sample Form)

NOTE: The following form is **not** a form that applicants are required to fill out. This form is part of the director’s process for responding to a notice that an application for private guardianship has been filed. It is provided here as a sample so that you understand the steps in the application and court process.

Court File Number

Director's Response to a Notice and Application for a Private Guardianship Order

In the Provincial Court of Alberta
In the Matter of an Application under Section 52
of the *Child, Youth and Family Enhancement Act*

Regarding the child(ren)

, born Year Month Day

1 Applicant

Applicant(s)
Name of Applicant(s) Applying for the Private Guardianship Order

Applicant(s) Address

Applicant(s) telephone number(s) ,
Home Phone Number Work Phone Number

2 Respondent

Respondent
Name of Respondent (director's delegate)

Respondent's Address

Respondent's telephone number(s) ,
Cell Phone Number Work Phone Number

3 Court Hearing Information

The Court hearing will be at
Address of Court / Judicial Centre
on . The Judge will hear the application as soon as possible after
Date yyyy-mm-dd Time
, in Courtroom number
Number

4 Affidavit of Director (Respondent)

In response to the application, I make an oath and say that:

I have the authority to act for a director.

I am responding to the *Notice and Application for a Private Guardianship Order* regarding the child(ren) that was served on a director.

The child(ren) is(are) in the custody of a director or the subject of a temporary guardianship order or a permanent guardianship order or agreement.

The position of the director to this application is as follows: (select from below list)

I am providing consent to the application, and I agree with the following order(s) asked for by the applicant(s):

an order terminating the guardianship of

Name(s)

custody to be granted to

Name(s)

an order of contact to be granted to

Name(s)

an order to dispense with the consent of

Name(s)

an order to dispense with the consent of the director

Briefly summarize why you agree the applicant(s) is(are) suitable to be a(the) guardian(s):

I am not providing consent to the application, and I disagree with the following order(s) asked for by the applicant(s):

an order terminating the guardianship of

Name(s)

custody to be granted to

Name(s)

an order of contact to be granted to

Name(s)

an order to dispense with the consent of

Name(s)

an order to dispense with the consent of the director

Briefly summarize why you agree the applicant(s) is(are) not suitable to be a(the) guardian(s):

CS12300 Rev. 2020-03

Reset

Save

Print

Page 2 of 4

I am not taking a position on the application

Provide any further information about your position

SWORN / AFFIRMED BEFORE ME at the City of

_____, in the Province of Alberta,

this ____ day of _____, 20 ____.

Signature of Affiant

Commissioner for Oaths Stamp

A Commissioner for Oaths in and for Alberta
(Also include printed or stamped name and expiry date)

SAMPLE

5 Affidavit of Service

My name is [redacted] Name(s)

My address is [redacted] Address

I make oath and say that:

1. On [redacted] Date yyyy-mm-dd, at [redacted] Time I personally served [redacted] Name of Applicant(s) Applying for the Private Guardianship Order with a true copy of the Director's Response, Notice and Application for a Private Guardianship Order, at [redacted] Applicant(s) Address

2. The copy was identical to the copy attached to this sheet.

SWORN AND AFFIRMED BEFORE ME at the City of [redacted], in the Province of Alberta,

this [redacted] day of [redacted], 20 [redacted].

[redacted] A Commissioner for Oaths in and for Alberta (Also include printed or stamped name and expiry date)

Signature of Affiant

Commissioner for Oaths Stamp

NOTICE TO THE RESPONDENT: You must serve your response on the applicant(s) within a reasonable time before the court date shown on the Notice and Application for a Private Guardianship Order, but anything less than 10 days' notice will be presumed to be prejudicial to the applicant(s).

SAMPLE