

# Becoming A Private Guardian for a Child

## Is there a child you care about for whom you wish to take on permanent parenting responsibilities?

Any adult may apply to the Court to become a private guardian of a child who is:

- in the custody of a Director;
- the subject of a Temporary Guardianship Order; or
- the subject of a Permanent Guardianship Agreement or Order.

This is not the same as adoption.

**The term “Director” is a general reference to staff (like caseworkers, assessors, casework supervisors, and managers) who investigate child protection or intervention matters, make applications to Court, and deliver services under the *Child, Youth and Family Enhancement Act*. This legislation sets out the rules about applying for private guardianship.**

\*You could also become a private guardian under the *Family Law Act* (which is not discussed here). Please consult a family law lawyer for more information.

## PRIVATE GUARDIANSHIP ORDER

When a Private Guardianship Order is granted, it makes the applicant the guardian of the child. This means that the applicant agrees to take on parenting responsibilities permanently for the child.

A child can legally have more than one guardian. A Private Guardianship Order does not automatically take away the rights of an existing guardian but, if requested, the Court can decide that the previous guardian is no longer the guardian. The Court can also decide who is permitted to have contact with the child.

**A person who makes an application to Court is called the “applicant”.**

The application must include:

- A statement that the child was in the continuous care of the applicant for at least three months immediately prior to the hearing. This requirement can be waived by the Court if it is in the best interests of the child to do so;
- A statement that the applicant is willing and able to be a permanent private guardian;
- A home study report showing the suitability, ability, and willingness of the applicant to be a private guardian of the child and whether it is in the child's best interests that the applicant be a private guardian. If the child is under a Permanent Guardianship Agreement or Order, the report must be prepared by a Director; and
- A Cultural Connection Plan for an indigenous child.

A Director may make an application to the Court for Private Guardianship on behalf of an applicant, if the applicant consents in writing. The Director must be satisfied that the application is in the best interest of the child.

The application and accompanying documents must be provided, at least 30 days before the date of the hearing, to:

- the child's current guardians;
- the child, if the child is 12 years or older; and
- a Director, if the Director is not the guardian.

To grant a Private Guardianship Order, the Court needs the consent of:

- the existing guardian;
- the child, if the child is 12 years or older; and
- the Director, if the Director is not the guardian.

However, a Court can still grant the Order without these consents if it believes it is in the best interests of the child to do so.

A copy of the Private Guardianship Order will be provided to:

- the applicant;
- anyone who was a guardian of the child immediately before the making of the Order;
- the child, if the child is age 12 or older; and
- the Director, if the Director was not the guardian immediately before the Order was given.

## Private Guardianship of an Indigenous Child

There are special requirements if you are trying to become a private guardian of an indigenous child. You will need to:

- include a Cultural Connection Plan with the application;
- comply with the Cultural Connection Plan;
- take reasonable steps to exercise any rights the child might have as an indigenous person; and
- inform the child, as soon as the child is capable of understanding, that he/ she has indigenous status.



**A Cultural Connection Plan outlines how a new parent or guardian plans to connect an indigenous child with their culture.**

## FINANCIAL ASSISTANCE FOR GUARDIANS

If a person becomes a private guardian of a child who was the subject of a Permanent Guardianship Order through an application under the *Child, Youth, and Family Enhancement Act*, the Director may provide financial assistance to the private guardian for specific help. The private guardian might be asked to show that the Private Guardianship will place excessive burden on his/her financial resources. A written request must be provided to the Director.

Maximum payments may be provided for:

- the basic maintenance rate available for a child in foster care;
- if the child has behaviour or emotional problems:
  - the cost of 10 counselling sessions annually
  - the cost of treatment in a residential facility that is satisfactory to the Director, if the Director is convinced that the placement of the child is likely to break down without the treatment; and
  - \$70 weekly to purchase any additional services required to address the child's behaviour or emotional problems;
- In the case of an indigenous child, the cost of transportation to the child's band for the purpose of maintaining cultural ties; and
- The cost of parental respite care services to a maximum of 576 hours annually per family.

# GLOSSARY

## **applicant**

The person who makes an application to a court.

## **Cultural Connection Plan**

Outlines how a new parent or guardian plans to connect an indigenous child with their culture.

## **Director**

General reference to staff (like caseworkers, casework supervisors, and managers) who investigate child protection or intervention matters, make applications to Court, and deliver services under the *Child, Youth and Family Enhancement Act*.

## **Permanent Guardianship Order**

Directs a child to be brought into the permanent care of Children's Services. A Permanent Guardianship Order ends the rights of other guardians.

## **Private Guardianship Order**

A court order granted under the *Child, Youth and Family Enhancement Act* appointing one or more persons as guardians of a child and describing the powers and responsibilities of the guardians.

## **Temporary Guardianship Order**

Directs a child to be brought into temporary care of Children's Services. Guardianship is shared with Children's Services.

## RESOURCES

### Edmonton Community Legal Centre

200, 10115 – 100A Street

Edmonton AB T5J 2W2

780.702.1725

intake@eclc.ca

[www.eclc.ca/child-protective-services-and-apprehension/](http://www.eclc.ca/child-protective-services-and-apprehension/)

### Child Abuse Hotline

If you suspect a child is being neglected or abused, call the Child Abuse Hotline 24 hours a day, or get contact information for your local Children's Services office by dialing 310-0000 during business hours.

Toll Free Hotline 1-800-387-KIDS(5437)

### Children's Services Offices

You can find your local Children's Services office at this website:

[http://www.child.alberta.ca/home/local\\_offices.cfm](http://www.child.alberta.ca/home/local_offices.cfm)



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Funding provided by

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