

My Child is Abusing Drugs...

What Can I Do?

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To protect a child who is abusing drugs a guardian of a child can apply to the Court to obtain a Protection Order under the *Protection of Children Abusing Drugs Act*. A Director under the *Child, Youth and Family Enhancement Act* can help with making an application for a Protection Order, but is unable to make an application on behalf of the guardian.

The term “Director” (with a capital “D”) 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*.

The term “director” (with a lowercase “d”) refers to a person who is in charge of a protective safe house under the *Protection of Children Abusing Drugs Act*.

A Director and director will be different people from different parts of the government.

If you are concerned that your child is abusing alcohol or drugs in a harmful way and your child is not willing to access treatment on a voluntary basis, help under the *Protection of Children Abusing Drugs Act* may be an option for your child and family. “Abusing a drug” has a specific meaning under the *Protection of Children Abusing Drugs Act*. It means that the child is using drugs, and the use caused or is likely to cause significant:

- psychological or social harm to the child; and/or
- physical harm to the child or others.

What is the Court Process?

Before making an application for a Protection Order to the Courts, a guardian must attend a Pre-Application information session with an authorized Alberta Health Services Addiction and Mental Health Counsellor.

At this information session, the guardian will learn about the Protection of Children Abusing Drugs program and determine if it will be a helpful intervention for their child. Upon completion of this information session, the guardian will be provided with a Letter of Attendance, which they must present to the Court when applying for a Protection Order.

The *Protection of Children Abusing Drugs Act* contains the procedures and rules that a guardian must follow to obtain help from the Court to protect a child who is abusing drugs.

Either a guardian or a director may make an application for a Protection Order under the *Protection of Children Abusing Drugs Act*. When making an application, the guardian must give notice of an application to:

- the Co-ordinator;

A Co-ordinator is a person designated by the Minister to provide assessments and treatment under the *Protection of Children Abusing Drugs Act*. The Co-ordinator may also make applications to Court.

- any other guardians of the child;
- any person required in the regulations; and
- any other person the Court requires.



The Protection Order expires in 50 days, or as otherwise noted in the Protection Order, if the Co-ordinator has not taken any action with respect to the child who is to be confined in a protective safe house.

A Protection Order can authorize:

- the child to be confined in a protective safe house for a period of no more than 10 days;
- the Co-ordinator to assess the child, treat for detoxification and provide services to stabilize the child during the period of confinement authorized by the Order;
- a police officer to apprehend the child or to assist the guardian to take the child to a protective safe house; and/or
- a police officer to enter a premises, by force if necessary, to search for and apprehend a child.

A Protection Order will be granted when the Court hears evidence that the child's substance abuse is causing significant harm to themselves or someone else.

What Evidence Should I Bring?

The Court will want to see evidence showing:

- the age of the child;
- the types of drugs being used by the child;
- the length of time that the child has been using the drugs;
- the intensity, pattern and frequency of drug use by the child;

- the impact of drug use on the child's life, including the impact the drug use has on:
 - the child's relationships with family members and friends;
 - the child's attendance and performance at school;
 - the child's health;
 - the child's living arrangements; and
 - the child's involvement in the legal system, if any.
- the addiction and treatment history of the child, including information on whether the child has received treatment for drug abuse, what treatment has been provided or offered and whether the child has ever refused treatment; and
- any history the child has of mental illness.

The Court can also consider any other evidence it decides is relevant.

If a party wishes to bring a witness, they must ask for permission from the Court. Witnesses can provide evidence under oath in person in Court or through a sworn written statement. The rules are flexible and the Court can also hear from witnesses in other ways.

If you think that the Co-ordinator, director, or a hospital board may have important confidential information, you can ask the Court to require them to release any relevant information relating to the child.

Sworn Written Statement

There are two kinds of written statements that can be used as evidence:

- An affidavit is a written document that contains facts that a person promises to be true by either 'swearing an oath' to a supreme being that they believe in or by "solemnly affirming" that what they are saying is true. Affidavits are sometime required by a law and if so, they can be used as evidence.
- A statutory declaration is similar to an affidavit. It is a legal document in which a person formally declares that facts are true. It may be used when an affidavit is not required by the law. For affidavits and statutory declarations, the promise that the written facts are true must be made to a person who is authorized by law do so. This includes Commissioners for Oaths, Notaries Public and lawyers.

More information can be found at:

www.cplea.ca/writinganaffidavit.pdf

It makes a difference if a commissioner of oaths or notary public signs your document. A notary public can do some things that a commissioner of oaths cannot do. All practicing lawyers are notaries public.

To find out the difference and find a commissioner of oath/notary public, visit: **www.law-faqs.org/commissionersandnotaries**

ASSESSMENT AND POWERS OF A CO-ORDINATOR

If the child is in a protective safe house, health facility or a youth custody facility, while the Protection Order is in effect, the Co-ordinator may:

- assess the child,
- treat the child for detoxification, and
- provide services to stabilize the child.

The Co-ordinator may recommend a treatment program or services to the child and a guardian. The Co-ordinator may disclose information about the child's assessment to the guardian without the child's consent if it is in the best interests of the child.

In some cases, after assessment and consultation, the Co-ordinator can direct that a child be released to a guardian.

What is the Court Process For a Review of a Protection Order?

The Court can also be asked to review a Protection Order by filing an application. This review can be requested by the child who is the subject of the Order, a guardian of the child, the Co-ordinator or any other person who is given permission by the Court.

A review must be held within two days of the application for review. All children are informed of their legal right to review their Protection Order upon admission to a protective safe house.

Once an application is filed, the Court will set a hearing date. The person applying for a Protection Order must provide detailed notice of the hearing to:

- the child who is the subject of the Protection Order;
- the Coordinator;
- the director of the protective safe house in which the child is confined;
- the guardian who applied for the Protection Order; and
- any other person that the Court requires to be given notice.

After hearing a review application, the Court may confirm, vary, terminate, or extend the period of confinement by up to 5 days. The Court also has the power to adjourn the hearing date to a later date.



The Court is permitted to exclude almost any person from the hearing, including the guardian or the child, but cannot exclude the Co-ordinator, the Director or the lawyer representing the guardian or the child.

No one is permitted, unless authorized by the Court, to publish any report of a Court proceeding which discloses the name of the child or guardian of a child or gives any information identifying the child or guardian of the child.

DISCHARGE FROM A SAFE HOUSE

A child will be discharged if:

- the confinement period set out in the Protection Order has ended, or
- the Co-ordinator has assessed the child and found that it is in the best interests of the child for him or her to be discharged and the director agrees.

When a child is being discharged at the end of the confinement period, the guardian who was granted the Protection Order must attend or make arrangements for a person to pick up the child from the protective safe house.

If the guardian does not pick up or have the child picked up, the director of the safe house can continue to confine the child as the director considers reasonable, but must immediately make a report on the grounds that the child is in need of intervention under the *Child, Youth and Family Enhancement Act*.



If the child objects to being discharged, the director can apply to review the Protection Order.

GLOSSARY

applicant

The person who makes an applications to a court.

Co-ordinator

A Co-ordinator is a person designated by the Minister to provide assessments and treatment under the *Protection of Children Abusing Drugs Act*. The Co-ordinator may also make applications to Court.

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*.

oath

A verbal promise to tell the truth, which is made by a witness in court.

Protection Order

Under the *Protection of Children Abusing Drugs Act*, a guardian may apply to the Court for an order to protect a child under 18 years of age who is abusing drugs, this is a protection order.

RESOURCES

Pre-Application Information

Alberta Health Services

<http://www.albertahealthservices.ca/amh/Page2547.aspx>

Alberta Health Addiction Services

Dial 811 or HELPLINE 1.866.332.2322 (24 Hour Toll Free)

Addiction Services Offices

Young Adult Treatment Programs

Edmonton 780.427.2736

Calgary 403.297.3071

Red Deer 403.340.5274

Addiction Services - Adult & Youth Counselling

Fort McMurray 780.793.8360

Grande Prairie 780.538.6330

Medicine Hat 403.529.3500

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/

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



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