

SECTION 2: PROTECTIVE INTERVENTION PROGRAM OVERVIEW	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

The philosophical framework of the *CYFS Act* represents the manner in which we believe services should be delivered to children, youth and families. This framework focuses on the provision of services that are child centered, family focused, using the least intrusive means of intervention and are provided within a permanency planning framework. These beliefs are reflected in the principles, standards, policies and programs that are developed and delivered.

The Protective Intervention Program, mandated under the *Child, Youth and Family Services Act (CYFS Act)* provides directors and/or social workers with the authority to intervene, assess, and secure the safety, health and well being of children in accordance with the principles of the Act. Section 14 of the *CYFS Act* provides the legislative authority for the director to investigate allegations that a child is or may be in need of protective intervention. Circumstances warranting this type of intervention are limited to the definition of a child in need of protective intervention as outlined in Section 14. While social workers have the authority to assess whether a child is at risk of maltreatment, it is only the court that can make a legal finding that the child is in need of protective intervention.

In accordance with Section 2(1)(d) of the *CYFS Act*, a child is defined as a person who is actually or apparently under the age of 16 years. In all cases the parent, as defined in Subsection 2(1)(i) of the *CYFS Act*, is the alleged offender. The parent, either through acts of commission or omission has maltreated the child or failed to protect the child where the child is or may be at risk of maltreatment by another person.

Any decision made on behalf of children is guided by the philosophy and principles set out in the *CYFS Act*. The overriding principle and paramount consideration in any decision is the best interest of the child. The legislation recognizes that the family is the basic unit of society responsible for the safety, health and well-being of the child and should be supported in that role. In accordance with this, the protective intervention program is designed to provide services to help strengthen and empower families to protect and nurture their children.

The legislation supports a range of responses to protect children. These can range, depending on the level of risk, from services placed in the home or to a more intrusive intervention, such as the removal of the child if that is the intervention necessary to ensure the child's safety. There are times, however, when a family may not be able to provide for the safety, health and well-being needs of the child and other means of intervention may have to occur. Whenever other means have to be implemented they shall be provided using the least intrusive means of intervention necessary to ensure the safety of the child. The *CYFS Act* includes a number of provisions to support social work intervention with children and families that are consistent with the philosophy of the Act.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM OVERVIEW	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

The investigation of all referrals of a child in need of protective intervention is the primary responsibility of the social worker. While the social worker maintains the lead in the investigation of child maltreatment an accurate investigation can only be completed through collaboration with the police, other professionals and community resources. A *Memorandum of Understanding Regarding the Sharing of Information and Joint Investigations* has been established between the Department of Health and Community Services and the Department of Justice to formalize a coordinated response to the investigation of child physical and sexual abuse (see Section 2.2 for further information on the MOU). Coordinated services to children are also ensured through the Model for Coordination of Services which is a comprehensive, coordinated approach to help determine the needs of children and youth. The ISSP process is a critical component of this model that addresses needs/risks, goals, interventions, strengths/protective factors and other areas regarding services to families. Social work intervention with children, youth and families cannot be provided in isolation of the community in which these families reside. Engaging all relevant supports is a critical component of ensuring a comprehensive planning process. The legislation recognizes the responsibility of the community in supporting the safety, health and well-being needs of children and the fact that they may require assistance in fulfilling this responsibility.

Providing for the child's safety is an ongoing process throughout involvement with the family. The assessment of risk involves some of the most critical decisions that are made in the protective intervention program. The social worker's role with the family is to identify risks to the child and together with the family develop a plan and provide interventions to reduce those risks. By assisting the family in identifying their strengths and providing services that will build upon those strengths the social worker helps to increase the family's ability to protect the child. By working together they develop a plan that aims to facilitate behaviour changes and or alter the conditions leading to the risk for the child thus supporting the family in their role of providing for the safety needs of their child.

To assist directors and social workers in carrying out their mandate to provide protective intervention to children and families the Province of Newfoundland and Labrador uses a *Risk Management System (2003) (RMS 2003)* to ensure a comprehensive approach to the assessment of risk to children and to facilitate clinical decision making. Risk management is a formalized system for identifying, assessing, responding to and documenting the risk of child maltreatment throughout the life of a protective intervention case. All social work interventions with children and families are provided within the context of the standards established in the RMS 2003.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.1 MEMORANDUM OF UNDERSTANDING ON INFORMATION SHARING	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STANDARD:

1. The social worker shall follow the procedures for the sharing of information as outlined in the *Memorandum of Understanding on Information Sharing: A Coordinated Response to Child Abuse (MOU)*.

COMMENTARY:

The regional health authorities, the Royal Newfoundland Constabulary and the Royal Canadian Mounted Police all have a role to play in ensuring efficient and effective responses to child abuse and maltreatment in the Province of Newfoundland and Labrador. It is recognized in the MOU that each agency has a different mandate and is subject to separate pieces of legislation. In light of this, the MOU was created to provide for inter-agency information sharing and the gathering of statistical data respecting child abuse in this province. Further it was created to ensure that each agency assist each other in the prompt identification of children at risk of abuse and to facilitate the effective and timely investigation and prosecution of offenders.

The Memorandum of Understanding on Information Sharing between the Department of Health and Community Services, Department of Justice, the Royal Newfoundland Constabulary and the Royal Canadian Mounted Police is located in Appendix B of this manual.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.2 POLICE INVOLVEMENT	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STANDARD:

1. Whenever possible a joint social work/police investigation of alleged child maltreatment shall be conducted.
2. All reports of suspected child maltreatment indicating physical or sexual abuse shall be forwarded to the police.

COMMENTARY:

A joint interview approach promotes sensitivity, consistency and ensures that children are not stressed by repeat investigation interviews. During the investigation the social worker maintains primary responsibility for the protection of the child and the police have the primary responsibility for enforcing the criminal legislation and deciding whether to lay a charge. Joint social work/police interviews with the child, siblings, non-offending parent and significant others are to be conducted when feasible. Mutual sharing of information between the social worker and the police investigator must occur regarding the investigation in accordance with the MOU (section 2.2). The lack of parental consent will not prevent consultation with collateral contacts during the investigation stage.

The social worker will review each referral, where possible in consultation with the immediate supervisor, to determine the need for police involvement. In making this determination of the following shall be considered:

- The police shall be informed immediately of all referrals in which there are reason to believe a child is at risk of being sexually abused or exploited or physically harmed.
- The police shall be informed immediately of all referrals in which there are reasons to believe that a crime has been or is about to be committed which places a child at risk. (This includes situations in which a child has injuries which are believed to be the result of abuse and situations where the child's life may be in danger because of an act or failure to act by the parent.)

The initial referral to the police shall be verbal but must be confirmed in writing and a copy of the written confirmation must be place in the case file. In cases where it is determined that a child is at immediate risk the referral must be faxed immediately.

At the time of the referral to the police, a joint decision will be made, by the social worker and the police officer, as to the most appropriate and effective means of investigation. Some of the possibilities are:

- Protective intervention investigation only
- Police investigation only
- Parallel protective intervention/police investigations
- Joint protective intervention/police investigation

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.2 POLICE INVOLVEMENT	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

Where a referral has been/is being made to the police the social worker will not interview the alleged offender without prior consultation with the police. Where it appears that a child is at immediate risk and the police are not available to respond the social worker must take measures to ensure the protection of the child without, wherever possible, jeopardizing the police investigation. The social worker must also endeavour to preserve possible evidence such as clothing worn at the time of a sexual assault.

In carrying out the legislation there may also be situations when police assistance may be requested by a director or social worker to enforce an Order issued under the Act. For example in Section 23, subsection (4) when a warrant to remove a child has been obtained through the court or in situations when the Director is denied access to a child as in Section 18, subsection 4. Police also provide assistance in situations when information indicates that the child and/or the social worker could be at risk by a family member or other person present in the home such as, situations of family violence or when a person's behaviour is unpredictable due to the influence of drugs or alcohol. Police assistance could also be required in situations when forced entry in to a home is necessary to ensure the safety of the child. Working collaboratively with the police, assists in protecting children from maltreatment and in protecting social workers from harm as they carry out their mandate under the Act.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.3 PROVINCIAL/TERRITORIAL PROTOCOL ON CHILDREN AND FAMILIES MOVING BETWEEN PROVINCES AND TERRITORIES SCHEDULE A – CHILD PROTECTIVE SERVICES	
EFFECTIVE: MARCH 2007	PAGE: 1 of 3

STANDARD:

1. *The Provincial/Territorial Protocol on Children and Families Moving Between Provinces and Territories* shall be followed where children and /or families are moving between provinces and territories and the child is, or may be in need of protective intervention.
2. Social Workers shall comply with *Schedule A (A3 & A4)* for Child Protection Requests and Referrals.
3. Social Workers shall comply with *Schedule A (A2)* for Child Protection Alerts.

COMMENTARY:

This protocol applies to the provision of child protection services to children and families moving between provinces. It is important to work collaboratively with other provinces or territories to facilitate continuity of services to children and families and, to ensure a smooth transition to another jurisdiction.

Schedule A of the protocol provides direction for requests for Child Protection Services that apply to the following areas:

- a. Child Protection Alerts
- b. Child protection requests & referrals and,
- c. Repatriation Services

Child Protection Alerts:

There may be situations when a child is believed to be in need of protective intervention but his/her family cannot be located within a jurisdiction. The social worker, after making every reasonable effort to locate the family shall, in consultation with the immediate supervisor, review the situation to determine if the level of risk to the child warrants alerting another province/territory. The provincial consultant for the Protective Intervention Program may be contacted in situations where further consultation is required.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.3 PROVINCIAL/TERRITORIAL PROTOCOL ON CHILDREN AND FAMILIES MOVING BETWEEN PROVINCES AND TERRITORIES SCHEDULE A – CHILD PROTECTIVE SERVICES	
EFFECTIVE: MARCH 2007	PAGE: 2 of 3

There are a range of circumstances that may lead to the issuing of a child protection alert, For example, a family may leave an area prior to the conclusion of a protective intervention investigation. The criteria outlined in Scheduled A2 of the Protocol (Appendix) outlines these circumstances and will assist the social worker and supervisor in making the decision to issue an alert.

When it has been determined that a child protection alert is necessary it is critical, to ensure the child's safety, that the child be located as soon as possible. The social worker shall compile a brief outline of the relevant and available information and arrange to have the information distributed to other provinces and territories. The social worker shall also forward a copy of the Child Protection Alert to the Provincial Director. Current information on the location of child welfare authorities across the country can be obtained through the provincial office.

When issuing an alert the following information should be included:

- the name and birth date of each subject of the alert;
- the names, address and facsimile of local authority that issued the alert and date sent;
- the name of the worker and supervisor who issued the alert and how to contact them or their alternates;
- the reason for issuing the alert including details of child protection concerns and risk factors related to the child;
- possible destinations and other information that may assist a receiving province in locating the person or family;
- actions requested of local authorities and collateral agencies in the receiving provinces;
- known history or risk of violence toward authorities;
- expiry date if less than six months;
- if applicable, the name of the provincial contact who sent the alert and how to contact that person.

Child protection alerts received at the provincial office from other provinces or territories shall be distributed to the appropriate regional health authority. The social worker having contact with or knowing the whereabouts of the child/family identified in the child protection alert is to contact the jurisdiction that issued the child protection alert.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.3 PROVINCIAL/TERRITORIAL PROTOCOL ON CHILDREN AND FAMILIES MOVING BETWEEN PROVINCES AND TERRITORIES SCHEDULE A – CHILD PROTECTIVE SERVICES
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EFFECTIVE: MARCH 2007	PAGE: 3 of 3
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Child Protection Requests & Referrals:

Schedule A3 refers specifically to Child Protection Requests and Referrals where there is a need to make a referral or request assistance of another province/territory with respect to these services. An originating province may request a receiving province to provide services in a child protection case. For example, a social worker within a regional health authority may contact another jurisdiction requesting an assessment of a relative for possible placement of a child or, they may request courtesy supervision on a child protection case. In other cases, the referring province may refer an individual or family to another jurisdiction and may request the receiving province to conduct a protection investigation. These services may in turn be requested of regional health authority staff within this province in accordance with the provisions of the protocol.

Repatriation Services:

Where a child is or may be in need of protective intervention or is in care and custody, has fled to/from a jurisdiction or has been abducted, the child may be considered for repatriation to their originating province.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.4 DEFINITION OF A CHILD IN NEED OF PROTECTIVE INTERVENTION	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 14: A child is in need of protective intervention where the child:

- a. is, or is at risk of being, physically harmed by the action or lack of appropriate action by the child's parent.*
- b. is, or is at risk of being, sexually abused or exploited by the child's parent;*
- c. is emotionally harmed by the parent's conduct;*
- d. is, or is at risk of being, physically abused or exploited by a person and the child's parent does not protect the child;*
- e. is, or is at risk of being, sexually abused or exploited by a person and the child's parent does not protect the child;*
- f. is being emotionally harmed by a person and the child's parent does not protect the child;*
- g. is in the custody of a parent who refuses or fails to obtain or permit essential medical, psychiatric, surgical or remedial care or treatment to be given to the child when recommended by a qualified health practitioner;*
- h. is abandoned;*
- i. has no living parent or a parent is unavailable to care for the child and has not made adequate provision for the child's care;*
- j. is living in a situation where there is violence; or*
- k. is actually or apparently under 12 years of age and has*
 - a. been left without adequate supervision,*
 - b. allegedly killed or seriously injured another person or has caused serious damage to another person's property, or*
 - c. on more than one occasion caused injury to another person or other living thing or threatened, either with or without weapons, to cause injury to another person or other living thing, either with the parent's encouragement or because the parent does not respond adequately to the situation*

STANDARD:

- 1. A child shall be defined as a child in need of protective intervention in accordance with the statutory provisions in Section 14 of the *Child, Youth and Family Services Act*.**

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.4 DEFINITION OF A CHILD IN NEED OF PROTECTIVE INTERVENTION	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

COMMENTARY:

Child maltreatment encompasses a wide range of parental acts or behaviours that place children at risk of maltreatment. Maltreatment refers to the non-accidental infliction of injury or harm to a child by a parent. A child's need for protective intervention is defined in legislation under Section 14 of the *CYFS Act*.

When a report of child maltreatment is received at "intake" a decision must be made as to whether or not the information should be accepted for investigation. Section 14 of the *CYFS Act* provides the "grounds" for determining protective intervention involvement. This determination is an important protective intervention decision and is the first step of the risk management process. Please refer to the Risk Management Policy Manual for standards and guidelines regarding Risk Decision #1.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.5 THIRD PARTY ABUSE	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

When a child has allegedly been sexually or physically assaulted by a person other than the parent (the definition of which includes grandparent, step-parent, foster parent and parent by adoption – as per section 2(b) (n) *Child Welfare Act* or other person living in the same home as the child, the social worker shall follow the following procedures:

1. When a disclosure comes directly from the child to a person who then reports the matter to the Director, the social worker will interview the child and then inform the parent(s) of the referral and the interview;
2. When a referral is received from the parent(s), the social worker will advise the parent(s) that the social worker will refer the matter to the police for possible criminal investigation;
3. The social worker shall also advise the parent(s) that he/she is available to conduct a joint social work/police investigation at their request, the request of the child or the request of the police. The social worker may also request to interview the child alone;
4. The social worker will then meet with the parent(s) and the child to determine if the child is in need of protection. The meeting will enable the social worker to provide the family with information regarding abuse, how such matters are handled and what resources are available to help them. The social worker may also feel it is necessary to interview the child alone to ensure he/she is not in need of protection. This meeting will assist the social worker in determining if the parent(s) is/are able to follow through on the information and ensure the protection of the child; and
5. Upon the request of the family, the social worker shall provide or arrange for necessary services to be provided to the family. Referral to appropriate community resources may also be helpful.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.6 RISK MANAGEMENT SYSTEM – OVERVIEW	
EFFECTIVE: MARCH 2007	PAGE: 1 of 5

STANDARD:

1. The Risk Management System, as outlined in the Risk Management System Manual, September 2003, shall be completed on all new, reopened and active cases in the Protective Intervention Program of the *Child, Youth and Family Services Act*.

COMMENTARY:

When a referral is screened in on a new, reopened or active Protective Intervention Program the Risk Management System must be followed. Please refer to the Risk Management System Manual, September 2003 for a full explanation of the system, commentary on the standards, recording requirements and clinical application.

Risk management is a formalized system for identifying, assessing, responding to, and documenting the risk of child maltreatment throughout the life of a protective intervention case. A risk management system involves the use of assessment tools and specific risk assessment instruments to supplement the social worker's clinical judgement when determining the level of risk to a child throughout the life of a case. As part of it's risk management system the Province utilizes a risk assessment instrument/tool based on the New York Risk Assessment Model.

The current Risk Management System focuses on strengths based case management which involves active client participation in a collaborative process to enhance social functioning. A case management approach encourages collaboration with the family; focusing on the family's strengths and resources, involves the sharing of power and the development of partnerships, It also assists with the development of an understanding of the sources of oppression in the life of the individual or family. In the Protective Intervention Program, we have responsibility to assess risk to children through developing respectful relationships with children and families. The use of strengths based case management can promote and develop these relationships and should be incorporated in our work with children and families. However simply identifying and building on family strengths would not adequately protect all children at risk of harm. A balanced approach that considers equally a family's needs, limitations, strengths and resources is required in any plans to reduce the risk to a child.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.6 RISK MANAGEMENT SYSTEM - OVERVIEW	
EFFECTIVE: MARCH 2007	PAGE: 2 of 5

The Risk Management System provides a context for how to accomplish the standards under the Protective Intervention Program. The system is applicable to all cultures with whom we work. It is essential that social workers be sensitive to and knowledgeable about the culture and ethnicity of the children and families with whom they work. Risk Assessment is not culturally neutral; factors that put children at risk are not evenly distributed across racial/cultural groups within Newfoundland and Labrador, or anywhere else. Nor are the factors that buffer children from those risks, such as the presence of an extended family support system. There is no cultural group whose children are more "at risk" solely due to cultural factors. Nor is there a cultural group whose children are never at risk. How risk factors are interpreted and analyzed should reflect an understanding of the complex interactions that occur between a cultural minority and the dominant culture.

There are nine Risk Decision points that are organized into three steps; (1) Referral/Intake, (2) Investigation/Assessment/Ongoing Service and (3) Planning/Reviews of Assessments and Planning. The Case Management Schedule for the Risk Management Process is outlined in the Risk Management System Manual, September 2003. The following provides an outline of each Risk Decision Point and the standards within it. Please refer to the Risk Management System Manual, September 2003 for full explanation of the system, commentary on the standards, recording requirements and clinical application.

RISK DECISION #1: SHOULD THE CHILD PROTECTION REPORT BE ACCEPTED FOR INVESTIGATION?

STANDARD:

1. All referrals on new, reopened and active cases shall be recorded on the *Child Protection Report Form 14-704*, as soon as possible and no later than 24 hours after the report is received.
2. The initial *Intake Report Form 14-696* shall be completed for all referrals, as soon as possible and no later than 24 hours after the report is received.
3. The decision to screen in or screen out a Child Protection Report for investigation must be made, no later than 24 hours after the report is received by the director. Depending on the nature of the report, the decision to accept the report may need to be made immediately. The supervisor must review and sign approval of the social workers recommendation within 7 days.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.6 RISK MANAGEMENT SYSTEM – OVERVIEW	
EFFECTIVE: MARCH 2007	PAGE: 3 of 5

RISK DECISION #2: WHAT IS THE RESPONSE TIME?**STANDARD:**

1. The child alleged to have been maltreated must be seen as soon as possible and no later than 72 hours after the receipt of the report.
2. The social worker must determine the response priority and document it on the *Initial Intake Report, Form 14-696*, as soon as possible and no later than 24 hours after the report is received.

RISK DECISION #3: IS THE CHILD SAFE NOW?**STANDARD:**

1. The social worker must complete a face to face interview with any child defined to be a child in need of protective intervention or a face to face contact where an interview is not developmentally appropriate.
2. The social worker must complete the *Safety Assessment Form 14-628* as soon as possible, and within 24 hours of seeing the child.
3. The social worker must consult with a supervisor after completing the *Safety Assessment* and the *Safety Plan* and receive written approval of both.

RISK DECISION #4: ARE CHILD PROTECTION CONCERNS VERIFIED?**STANDARD:**

1. The social worker must determine if the allegations in the Child Protection Report are verified within 30 days after the report is received.
2. The decision regarding whether a report is verified or not verified must be documented on the *Verification Decision Form 14-856* and approved by the supervisor.

RISK DECISION #5: IS THE CHILD IN NEED OF PROTECTIVE INTERVENTION?**STANDARD:**

1. Following the investigation and within 30 days after the Child Protection Report is received, the social worker must determine whether there are reasonable and probable grounds to believe that the child is in need of protective intervention.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM	
2.6 RISK MANAGEMENT SYSTEM - OVERVIEW	
EFFECTIVE: MARCH 2007	PAGE: 4 of 5

2. The social worker must document the decision and the reasons to support the decision in the Assessment/Investigative Summary, which must be approved by the supervisor.

RISK DECISION #6: IS THE CHILD AT RISK OF FUTURE HARM

STANDARD:

1. The social worker must complete the Risk Assessment Instrument within 30 days of receipt of the Child Protection Report, where it is determined that a child is in need of protective intervention.
2. The Risk Assessment Instrument must be completed at minimum once every three months and at critical points in the case.
3. The *Risk Assessment Form 14-827* and the Review of the *Risk Assessment Form 14-857* must be approved by the supervisor within 30 days of receipt of the referral.

RISK DECISION #7: WHAT IS THE FAMILY CENTERED ACTION PLAN?

STANDARD:

1. The social worker must complete, with the family, a *Family Centered Action Plan -Form 14-858*. This must include a face to face interview, if developmentally appropriate, or face to face contact if not, with any child defined to be in need of protective intervention and the case remains open.
2. The *Family Centered Action Plan-Form 14-858* must be completed within 30 days of receipt of the Child Protection Report where the Social Worker determines intervention is required beyond the 30 day assessment period.
3. The social worker must ensure that there is an Individual Support Services Plan (ISSP) on any child receiving services under the Protective Intervention Program, where it has been assessed that the Child Influence section of the Risk Management Tool identifies a risk factor as present and requiring intervention on an ongoing basis.
4. The social worker must consult with the supervisor in the development of the Family Centered Action Plan. The Family Centered Action Plan must be approved by the supervisor.
5. A copy of the *Family Centered Action Plan* must be provided to the family. The plan must be reviewed with any child deemed to be in need of protective intervention and a copy provided to a child 12 years of age or older, where appropriate.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.6 RISK MANAGEMENT SYSTEM - OVERVIEW	
EFFECTIVE: MARCH 2007	PAGE: 5 of 5

RISK DECISION #8: HAS THE FAMILY CENTERED ACTION PLAN BEEN REVIEWED / REVISED?

STANDARD:

1. The social worker must, at minimum, review/revise the *Family Centered Action Plan-Form 14-858* with the family and obtain supervisory approval no longer than 90 days after the initial plan is developed/revise, and every 90 days thereafter.
2. The social worker must review/revise the *Family Centered Action Plan* whenever the Risk Assessment Instrument is completed/reviewed or when other assessments are completed.
3. As part of the review process the social worker must complete a face to face interview, when developmentally appropriate, with any child defined to be a child in need of protective intervention or a face to face contact where an interview is not developmentally appropriate.
4. A copy of the *Family Centered Action Plan* revisions must be provided to the family. The revisions shall be reviewed with any child deemed to be in need of protective intervention and a copy provided to any child 12 years of age or older, where appropriate.

RISK DECISION #9: SHOULD THE CASE BE CLOSED?

STANDARD:

1. As part of the closure process a social worker must complete a face to face interview, or a face to face contact where an interview is not developmentally appropriate, with any child defined to be a child in need of protective intervention.
2. The social worker must review the Risk Assessment Tool and *Family Centered Action Plan* within 30 days of file closure.
3. The social worker must consult with the supervisor when making a decision to close a protective intervention case. The supervisor's approval is necessary before a case can be closed.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.7 COURT PROCEEDINGS GENERAL DIRECTIONS - APPLICATIONS	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

Applications to Court

STANDARD:

1. The provisions of the *Child, Youth and Family Services Act* determine the types of applications that may be made to the court and social workers must be familiar with those provisions in the statute relating to applications to the court.

COMMENTARY:

While the provisions of the Act set out the types of applications the court will hear under the Act, there are general rules applying to all applications which are not stated in the legislation. These rules are as follows:

All applications must have attached the following documents:

1. An *Affidavit* signed by the person filing the application, swearing/attesting to the truth of the information contained therein.
2. *Notice* forms to those persons required to be given notice of the hearing of the application as set out in the particular provisions.
3. An *Affidavit of Service* form which is filled in by the person who serves those persons required to receive notice under the Act.
4. A draft of the order being requested of the court.

In some instances, other documents will be attached. Reference should be made to the Act and the policy for specific details. When selecting forms to use in filing an application, choose the forms which bear the heading appropriate to the court where the application is being made, that is, Unified Family Court in the St. John's area and Provincial Court in the rest of the province. (see sample forms at back of manual).

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.8 COURT PROCEEDINGS GENERAL DIRECTIONS – NOTICE OF COURT HEARINGS	
EFFECTIVE: MARCH 2007	PAGE: 1 of 4

STANDARD:

1. All applications made under the *Child, Youth and Family Services Act* must be made in accordance with the prescribed notice requirements in the Act. The notice requirements vary depending on the type of Order sought and reference to the Act is therefore required in all instances:

COMMENTARY:

It is essential to ensure that parents and children 12 years of age and over are adequately and fairly notified of all actions taken by a social worker under the *Child, Youth and Family Services Act*. The court requires such notice to be satisfied that parents and children are aware of the actions being taken by the director and the reasons for them. It also ensures that parents have the time required to prepare and seek legal counsel where a court action is being taken, if they choose to do so. Failure to provide the required notice may result in a delay in the court proceedings.

Documents to be served

Information to be served with the notice includes a copy of the application made to the court and any other information being filed with the court as required under the Act. Where a party resides in another jurisdiction, the child welfare agency in that jurisdiction will be asked to effect personal service.

Notice to Parents

When application is made under the Act and notice must be given to a parent, the definition of parent will determine which persons receive notice. Reference must be made to the definition section which is under Subsection 2(1)(i) of the *CYFS Act*. Where a biological parent is not given notice, it is necessary to file an Affidavit, using Form 14-854, to explain why it was not given. The Affidavit should be attached to the Application for a Protective Intervention Hearing.

Notice to Children

All documents served on a child must be done in person by the social worker who removed the child or the social worker presently working with the child. This information is highly sensitive and significant consideration must be given to the emotional impact on the child. The child should be given the option of having someone known and trusted present.

Where a child receives a copy of the information, it should be discussed in a manner which is

considerate of the child's level of development and understanding. The social worker should discuss with the child the confidential nature of the documents and how they can be safeguarded.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.8 COURT PROCEEDINGS GENERAL DIRECTIONS – NOTICE OF COURT HEARINGS	
EFFECTIVE: MARCH 2007	PAGE: 2 of 4

In recognition of the significant impact on a child of being removed from his/her family, the social worker shall, during this period, complete an assessment of the child's need for counselling services and either provide or arrange with other agencies for the provision of the service. (Reference placement of children policy)

The child must also be made aware of the right to be heard by the judge or to attend the hearing. This may include giving evidence in court, writing a letter or meeting with the judge in chambers. All children should have input into his/her plan of care. Additionally, children 12 and over, may file an alternate plan of care with the court.

Where a child wishes to be heard, the child's desire to do so should be raised at the start of the presentation hearing by the social worker or lawyer representing the social worker.

Parents Residing Out of Province

When a parent is living outside the province, the social worker shall write directly to the Provincial Child Welfare agency for the area in which the parent resides requesting personal service of the *Notice*. An *Affidavit of Service* must also be completed and returned by the person who effects notice.

Parents in Correctional or Rehabilitative Facilities

When the parent is in a correctional or rehabilitative or medical facility, arrangements should be made through the administrator of the facility for personal service of the notice. An *Affidavit of Service* must also be completed and returned by the person who effects notice.

Parents in Psychiatric Facilities

When a parent is in a psychiatric facility the social worker shall consult with the psychiatrist working with the parent regarding the serving of the *Notice*. Should the psychiatrist recommend that the client not be served with the *Notice* by the social worker, the psychiatrist can be requested to serve the *Notice* and complete an *Affidavit of Service*. Should the psychiatrist believe that the parent is not competent to understand the procedure or make plans for the child, a letter to this effect should be obtained from the psychiatrist for presentation at the court. The psychiatrist should be advised that he/she may be required to testify in court in relation to this matter.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.8 COURT PROCEEDINGS GENERAL DIRECTIONS – NOTICE OF COURT HEARINGS	
EFFECTIVE: MARCH 2007	PAGE: 3 of 4

STATUTORY PROVISION:

Section 55.(1) Where a director, social worker or another person is required under this Act to serve a document on a person, service shall be made by giving a copy of the original document to the person to be served.

(2) Where it is impractical for any reason to personally serve a document on a person, the document may be served in another manner permitted by the rules of the Unified Family Court or Provincial Court.

(3) Personal service under subsection (1) may be proved by a written or oral statement under oath by the person who served the document.

Dispensing with Notice

Where a social worker, after all reasonable attempts have been made, is unable to serve notice, an application may be made to the court to dispense with notice. Reasonable attempts would include visiting the last known address, contacting persons who have a relationship with the individual, contacting the school for last known address, etc. When all other methods have failed to locate the parent an advertisement may be inserted in newspapers where the parent is thought to be living. These advertisements must appear in three consecutive issues (one of which should be the weekend edition) of the paper. The following provides an example of an advertisement:

“Doe, Mr. John, or anyone knowing his whereabouts, please contact, Ms. Ann Smith, Health and Community Services, Telephone No 123-4567 regarding an important personal matter.”

Two copies of the tear sheets provided by the newspaper will be required as proof of the advertisement. One is to be provided to the court at the hearing and the second to be retained in the file.

Applications to dispense with notice can be made orally at the time of the hearing or if time allows by filing an *Interlocutory Application* to dispense with notice using *Form 14-828*.

Personal Service

Where the Act requires persons to be served with documents, Section 55 of the Act requires service to be personal service. This means that the person who is being served should personally receive the documents. Any person can serve the documents, providing the person who does so fills in, swears and returns to the court an *Affidavit of Service*. This is the proof to the court that personal service was effected. If the *Affidavit of Service* is not returned to the court, the person

who served the document may have to attend court and give evidence under oath that service was

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.8 COURT PROCEEDINGS GENERAL DIRECTIONS – NOTICE OF COURT HEARINGS	
EFFECTIVE: MARCH 2007	PAGE: 4 of 4

effected.

In some cases it will not be possible to personally serve documents to a person. In those instances it will be necessary to apply to the court for an order dispensing with notice or to give notice by some other means, for example, registered mail, which is referred to as substitute service. The only instance where such an application is not required is when notice of removal is given. Section 26 of the *CYFS Act* gives authority for notice to be given by registered mail where personal service cannot be effected. See Appendix-G for further information on service.

Steps to Effect Service Where a Child is removed and Application is made for a Protective Intervention Hearing

- Child is removed.
- Parent and child, where a child is 12 years of age or older, are served with written *Notice of Removal*.
- Person who serves notice fills in and swears *Affidavit of Service* form which is attached to copies of notices served.
- Those *Notices* and *Affidavit of Service* forms will be attached to the *Application for Protective Intervention Hearing* which and filed with the court.
- Application for Protective Intervention Hearing is prepared.

When completed the Application package will consist of:

- *Application for Protective Intervention Hearing* and *Affidavit* relating to same;
- *Notice to Parent* form which will be filled in by the court when the application is filed;
- *Notice to Child* if child is 12 years of age or older which is also filled in by the court;
- *Affidavit of Service*;
- A draft of the order being requested of the court;
- Copy of *Notice of Removal* and *Affidavit of Service*;
- Copy of *Information to Obtain a Warrant* (if obtained); and
- *Affidavit* explaining why notice was not given to a biological parent, if such notice was not given.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.9 COURT PROCEEDINGS DUTY TO REPORT	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 15. (1) Where a person has information that a child is or may be in need of protective intervention, the person shall immediately report the matter to a director, social worker or a peace officer.

(2) Where a person makes a report under subsection (1), the person shall report all the information in his or her possession.

(3) Where a report is made to a peace officer under subsection (1), the peace officer shall, as soon as possible after receiving the report, inform a director or social worker.

(4) This section applies, notwithstanding the provisions of another Act, to a person referred to in subsection (5) who, in the course of his or her professional duties, has reasonable grounds to suspect that a child may be in need of protective intervention.

(5) Subsection (4) applies to every person who performs professional or official duties with respect to a child, including,

- (a) a health care professional;*
- (b) a teacher, school principal, social worker, family counsellor, member of the clergy or religious leader, operator or employee of a child care service and a youth and recreation worker;*
- (c) a peace officer; and*
- (d) a solicitor.*

(6) This section applies notwithstanding that the information is confidential or privileged, and an action does not lie against the informant unless the making of the report is done maliciously or without reasonable cause.

(7) A person shall not interfere with or harass a person who gives information under this section.

(8) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months, or to a fine and imprisonment.

(9) Notwithstanding section 7 of the Provincial Offences Act, an information or complaint under this section may be laid or made within 3 years from the day when the matter of the information

or complaint arose.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM 2.9 COURT PROCEEDINGS DUTY TO REPORT	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

COMMENTARY:

Section 15 of the *CYFS Act* imposes a legal obligation on all individuals to report situations which fall within the definition of a child in need of protective intervention. This provision applies regardless of the fact that the information was obtained from a relationship which would usually be considered privileged communication, such as that between a solicitor and client.

Referrals may be provided anonymously, however referral sources should be encouraged to give their names or provide some means to contact them for further information. This will enable social workers to get further information during the assessment process, should it be considered necessary. All names of referral sources are kept confidential unless the referral source agrees to its release or the information is subpoenaed or ordered by the court. The referral source should be asked whether he/she wishes to have his/her name remain confidential and the response should be indicated on the *Child Protection Report*.

Failure to report that a child is in need of protective intervention constitutes an offence under the *CYFS Act*. If it is believed that a person has not complied with the duty to report suspected child maltreatment, the social worker shall consult with the program supervisor/manager and notify the police in writing requesting an investigation. (*See Offences Against Children - Section 71 of the CYFS Act*).

SECTION 2: PROTECTIVE INTERVENTION PROGRAM	
2.10 DETERMINING NEED FOR A PROTECTIVE INTERVENTION INVESTIGATION	

EFFECTIVE: MARCH 2007	PAGE: 1 of 2
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STATUTORY PROVISION:

Section 16. (1) Upon receiving information that a child is or may be in need of protective intervention, a director or social worker shall assess the information to determine if there are reasonable grounds to believe that a child is in need of protective intervention.

- (2) After the assessment, a director or social worker may*
- (a) determine that protective intervention is not required;*
 - (b) offer support services to the child and family;*
 - (c) refer the child and family to other resources; or*
 - (d) investigate further the child's need for protective intervention.*

STANDARD:

1. Upon receiving information that a child is or may be in need of protective intervention, the social worker shall assess the referral information within 24 hours to determine whether further action is required.
2. The social worker shall collect any information required to determine if a protective intervention investigation is required, except interview the child(ren), unless the alleged offender is the parent, grand parent, aunt, uncle, sibling of the child or any other person living in the home.
3. If reasonable grounds exist to believe the child is in need of protective intervention as defined in Section 14 of the *Child, Youth and Family Services Act*, the social worker must conduct a protective intervention investigation following the Response Priority Standards in the Risk Management System.

COMMENTARY:

When a report is received alleging a child is in need of protective intervention, the social worker will assess the information under subsection 16(1) of the *Child, Youth and Family Services Act* to determine whether reasonable grounds exist to believe that the child is in need of protective intervention. This initial assessment is part of Intake, Risk Decision 1 of the Risk Management System, (for further information refer to the Risk Management System Manual). It is based on the social worker's clinical judgment of the referral information. As part of this initial assessment the social worker may contact the parent(s), collateral resources or obtain information through any other mechanisms deemed appropriate, except interviewing the child. The outcome of the assessment may be:

- further investigation is not required 16(2) (a),

- protective intervention is not required but that child and family may benefit from support services 16(2) (b) or other resources 16(2)(c), or a

SECTION 2: PROTECTIVE INTERVENTION PROGRAM	
2.10 DETERMINING NEED FOR A PROTECTIVE INTERVENTION INVESTIGATION	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

- further investigation of the child's need for protective intervention is required 16(2)(d).

If the social worker believes that the child is or may be in need of protective intervention in accordance with section 14 of the *Child, Youth and Family Services Act*, the referral is screened in and a protective intervention program is opened. All of the standards related to the protective intervention program and Risk Management System apply, including the requirement for an in-person interview with any child deemed to be in need of protective intervention. In circumstances where the child's age does not allow for an interview, the child must be seen by the social worker (refer to the NL Risk Management System Manual (2003) for further information).

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.11 INTERVIEW OF CHILD	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 17 (1) A person who has custody of a child or a person who is entrusted with the care of a child shall permit the child to be visited and interviewed by a director or social worker, in private where in the opinion of the director or social worker it is appropriate to do so, at a place where the child is located.

(2) A director or social worker shall notify the parent of the interview before or after the interview takes place.

STANDARD:

1. Social workers conducting a protective intervention investigation must follow the Risk Management System Standards regarding interviewing/seeing all children in accordance with Section 14 of the *Child, Youth and Family Services Act*.
2. The social worker must interview the child at the location of the child, unless the parent brings the child to another location or provides written consent for same. If the child is removed from the location by the social worker without consent this will be considered a removal under the *Child, Youth and Family Services Act*.
3. When a social worker interviews a child efforts must be made to inform the parent(s) of that child of the interview that same day.
4. The social worker must document on the file the rationale for their decision of when they informed the parents of the interview with the child.

COMMENTARY:

Section 17 allows a social worker to interview a child in private where it is believed necessary to do so. A private interview is generally necessary in order to conduct an objective assessment. Where a child wishes to have someone present, the child's wishes must be considered. Only when it is believed that having a support person present would jeopardize the investigation, should the request not be supported.

Section 17 allows a social worker to interview a child at a place where the child is located. This provision is most often used to facilitate interviews in a school or child care setting. It also allows the social worker to interview a child in any other setting which the child may be located.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.11 INTERVIEW OF CHILD	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

Subsection 17(2) mandates that a parent be notified of the interview. The notification may occur prior to or after the interview. The social worker must use clinical judgment regarding when to notify the parent or caregiver. In situations where the parent or caregiver is the alleged offender, it is preferable that the child be interviewed prior to the parents being notified. In cases where the police are conducting a joint interview with the social worker, consultation regarding notification of the parent is imperative to ensuring the criminal investigation is not jeopardized. However, it is important for the parent to be notified the same day and prior to the child returning home to the parent. Where a family can not be reached all efforts to make contact with the family should be documented on the family's protective intervention file. Documentation of the rationale for the decision of when the parent is notified is required.

Section 17 does not allow a social worker to remove a child from a premise for the purpose of an interview without the written consent of the parent. Such action would constitute a removal under the *Child, Youth and Family Services Act*. However, where deemed appropriate the social worker may request a parent to bring a child to a location to be interviewed.

A sample letter, *Form 14-829*, may be used to advise of the social worker's right to visit and interview a child and to notify the parents of the interview. A copy of the letter should be placed on the family's protective intervention file.

It is the social worker's responsibility to advise the parent of the interview. This responsibility may not be delegated to any other individual or organization (i.e. school authorities, child care operator). It is preferable that the social worker who conducted the interview be the one to inform the parent(s), however, where this is not possible another social worker from Child, Youth and Family Services, who is informed of the facts of the case, could complete the notification.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.12 DENIAL OF ACCESS	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 18. (1) Where a director or social worker is denied access to a child where he or she believes that access to the child is necessary to determine if the child needs protective intervention, the director or social worker may apply without notice to a judge for an order and the judge may grant an order

- (a) that a person disclose the location of the child;*
- (b) requiring a person to allow the director or social worker or another person to interview or visually examine the child;*
- (c) authorizing the director or social worker to remove the child from the place where the child is located for an interview or medical examination; and*
- (d) authorizing a medical practitioner or other qualified health practitioner to examine the child.*

(2) The judge may attach terms or conditions to an order under this section that the judge considers appropriate.

(3) Where a child is removed from the place where the child was located for an interview or medical examination, a director or social worker shall return the child to the parent or other person from whom the child was removed unless the director or social worker proceeds under section 23.

(4) At the request of director or social worker, a peace officer shall assist in enforcing an order made under subsection (1).

Section 19. (1) Where a person does not comply with an order under section 18, a judge may issue a warrant for the person's arrest to bring him or her before the judge to explain why the order should not be enforced.

(2) Where a person referred to in subsection (1) appears before a judge and the judge believes that the person's reasons for being unable or unwilling to comply with the order are not valid, the judge may order that the person be imprisoned for 30 days or until the person complies with the order, whichever is the shorter period of time.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.12 DENIAL OF ACCESS	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

STANDARD:

1. Where a director or social worker receives information that a child may be at risk and is denied access to the child for the purposes of assessment, an application may be made to the court pursuant to section 18 for an Order of Access. Where a person does not comply with an order made under section 18, a warrant for the person's arrest may be obtained pursuant to section 19.

COMMENTARY:

When seeking access to a child an application may be made to the court using *Form 14-830*.

This provision is intended to allow a social worker access to a child to complete an assessment of risk which may include a medical examination or removal of the child from the place where the child is located for the purposes of an interview. This action does not constitute a **"removal of a child"** under the *CYFS Act*. If the conclusion of the assessment is that the child is in need of protective intervention and his/her safety cannot be assured within the home, then the social worker may remove the child. In these circumstances the removal sections apply and a warrant must be obtained to effect removal pursuant to Section 23, unless an emergency exists.

If a person does not comply with the order for access, the social worker in consultation with the social worker supervisor shall obtain a warrant from a judge for the person's arrest. To obtain a warrant the social worker shall lay an *Information to Obtain a Warrant* with the court using *Form 14-831*. The social worker will also provide a draft of the *Warrant to Arrest* using *Form 14-832* authorizing a peace officer to arrest a person who has not complied with the order. Where a person is arrested and brought before the court, the social worker will need to be available to give evidence. This evidence would most likely focus on why access to the child is critical in the assessment of risk in relation to the referral concerns. The evidence would also identify the actions which have been taken to date.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.13 ORDER TO PRODUCE RECORDS	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 20. (1) On application by a director or social worker a judge may order a person to produce information that is written, photographed, recorded or stored by other means, or a certified copy of the record, for inspection by the director or social worker where

- (a) there are reasonable grounds to believe that the information is necessary for determining whether a child needs protective intervention;*
- (b) there are reasonable grounds to believe that the person has possession or control of the information; and*
- (c) the person has neglected or refused, upon request of the director or social worker to produce the information.*

(2) Not later than 2 days before the date set for hearing an application under subsection (1), notice of the time, date and place of the hearing shall be served on the person against whom the order is sought.

(3) Notwithstanding subsection (2), where a director or social worker believes on reasonable grounds that the information may be destroyed if notice is given, application may be made under subsection (1) without notice.

STANDARD:

1. Where a social worker is completing a protective intervention assessment, and it is believed that a person or organization has information which may assist in the assessment, and the social worker is refused access to the information, the social worker may apply to a judge for an order in accordance with Section 20 of the *Child, youth and Family Services Act*.

COMMENTARY:

Application under this provision can be made using *Form 14-833*. The person or organization shall be served notice of the application, unless it is the opinion of the social worker that by doing so there would be risk of the information being destroyed, in which case notice will not be required. If application is made without notice, the social worker will need to demonstrate clearly to the judge the evidence to support this position.

The application for an order to produce records will need to explain:

1. Specifics of the information requested.
2. The purpose of the information.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.13 ORDER TO PRODUCE RECORDS	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

3. The efforts made to obtain the information.
4. The time frame for which the order is sought and the time frame in which the organization has to respond.

Prior to commencing an application under this section, the social worker should make every attempt to obtain the information. In cases where the information is held by an organization, the social worker should discuss the matter with the organization's chief executive officer or someone in a similar position of authority within the organization.

The social worker shall execute the Order by providing the appropriate person with a certified copy of the Order from the court. If a person or organization refuses to obey the Order, a charge may be laid under the **Offences Against Children** section of the *CYFS Act* (See commentary Section 74).

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.14 PROTECTION OF CHILD FROM CONTACT	
EFFECTIVE: MARCH 2007	PAGE: 1 of 3

STATUTORY PROVISION:

S. 21. (1) Where there are reasonable grounds to believe that contact between a child and another person would cause the child to be in need of protective intervention, a director or social worker may apply to a judge for an order to prohibit contact between the child and that person.

(2) The date set for hearing the application under subsection (1) shall be not later than 2 days after the application is made and notice of the hearing shall be served on the day the application is made.

(3) Notice of the time, date and place of the hearing shall be served on
(a) the person against whom the order is sought;
(b) the child, where 12 years of age or over; and
(c) a parent of the child.

(4) Where a judge is satisfied that there are reasonable grounds to believe that contact between a child and a person named in an application under subsection (1) would cause the child to be in need of protective intervention, the judge may do one or more of the following:

- (a) prohibit the person against whom the order is sought for a period of up to 6 months from contacting or interfering with or trying to contact or interfere with the child or from entering a place where the child is located;*
- (b) prohibit the person against whom the order is sought for a period of up to 6 months from residing with the child or entering premises where the child resides, including premises that the person owns or has a right to occupy;*
- (c) where the judge believes the person against whom the order is sought may not comply with an order under paragraph (a) or (b), order that person to*
 - (i) enter into a recognizance, with or without sureties, in an amount the judge considers appropriate, or*
 - (ii) report to a judge or to a person named by the judge, for the period of time and at the times and places the judge directs; and*
- (d) impose those terms and conditions that the judge considers appropriate for implementing the order and protecting the child.*

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.14 PROTECTION OF CHILD FROM CONTACT	
EFFECTIVE: MARCH 2007	PAGE: 2 of 3

(5) Before an order to prohibit contact between a child and another person expires, a director or social worker or a person named in the order may apply to a judge and the judge may

- (a) vary the order;*
- (b) rescind the order; or*
- (c) extend the term of the order for one period of up to 6 months.*

(6) At the request of a director or social worker, a peace officer shall assist in enforcing an order made under subsection (4).

(7) An order made under this section may be made at any time, including before, at or after another hearing.

STANDARD:

1. Where there are reasonable grounds to believe that contact with a person would cause a child to be in need of protective intervention the social worker may apply to a judge for an order prohibiting contact and/or removing the person from the child's home.
2. The social worker shall consult with the program supervisor and the director of Child, Youth and Family Services prior to making an application under this section.

COMMENTARY:

This provision can be used in the following circumstances:

1. As an alternative to removal of the child, where the person who places the child at risk lives in the home.
2. In circumstances where the person who places the child at risk does not live in the home but has contact, and this contact places the child at risk.

In all circumstances a risk assessment and comprehensive family assessment must be completed in relation to the child and the offending person that supports the belief that contact places the child at risk before an application can be filed. The assessment must consider the non-offending parent's ability to protect the child where an order is obtained.

An *Application to Prohibit Contact* may be made to the court using *Form 14-834*. The social worker will need to determine which order is required and draft an order to provide to the court, outlining the terms and conditions felt necessary to protect the child. Where a social worker believes a person may not comply with the order, he/she shall provide information to the judge



regarding the reasons why, and ask that conditions of compliance be included in the Order.



SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.14 PROTECTION OF CHILD FROM CONTACT	
EFFECTIVE: MARCH 2007	PAGE: 3 of 3

When a judge makes an Order, he/she may require the person to sign an undertaking including a bond which indicates penalties for non-compliance to the Order. The Order should also include a clause that the Royal Newfoundland Constabulary/Royal Canadian Mounted Police, as the case may be, shall assist in enforcing the Order. Orders under this section expire.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.15 CARE IN THE HOME	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STATUTORY PROVISION:

Section 22. (1) Where a director or social worker believes a child is without adequate supervision when premises are entered under this Act, the director or social worker may arrange for short term care in the home to be provided until other supervision considered adequate by the director or social worker is available for the child but the period of care shall not exceed 72 hours.

(2) Where services are provided under subsection (1), a person approved by the director or social worker may enter the premises where the child is located and care for the child.

(3) A director or social worker shall make all reasonable efforts to notify the child's parents of an action taken by the director or social worker under this section.

STANDARD:

1. Where a child is found without adequate supervision, a social worker may arrange care for the child within the home for up to 72 hours.

COMMENTARY:

Where a child is left without adequate supervision, a social worker may arrange for care in the home for a maximum of 72 hours pending the parent's return. The purpose of this provision is to avoid the removal of the child where a person significant to the child could care for the child safely. If the child continues to need care after 72 hours, an assessment of the child's risk must be completed and removal of the child considered.

Care of a child can be provided by a relative or a person significant to the child where it is determined that these care arrangements will provide a suitable and safe arrangement. All reasonable efforts must be made to locate and notify the child's parent. Such efforts may include making inquiries about the parent's location in the premises where the child was found, contacting other family members, friends, neighbours or employers, or advising the police. The social worker should ensure that everyone contacted be made aware of who the parent is to contact should the parent inquire about the child.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.16 WARRANT	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 23. (1) Where a director or social worker believes

(a) that a child is in need of protective intervention; and

(b) a less intrusive course of action is not available or will not adequately protect the child,

he or she shall obtain a warrant to remove a child.

(2) Where satisfied on the basis of a director's or social worker's sworn information that there are reasonable grounds to believe that

(a) a child is in need of protective intervention;

(b) a less intrusive course of action is not available or will not adequately protect the child

a judge may issue a warrant authorizing the director or social worker to enter a premise or vehicle or board a vessel or aircraft, by force if necessary, to remove a child.

(3) Notwithstanding subsection (1), where a director or social worker has reasonable grounds to believe there would be an immediate risk to the child's health and safety if no action were taken during the time required to obtain a warrant, the director or social worker may enter a premise or vehicle or board a vessel or aircraft, by force if necessary, to remove a child without a warrant.

(4) At the request of a director or social worker, a peace officer shall assist in enforcing a warrant issued under subsection (2), or if a warrant is not obtained, the peace officer shall assist a director or social worker under subsection (3)

(5) A warrant issued under subsection (2) need not describe the child by name or specify a particular premise.

STANDARD:

1. A warrant must always be obtained to remove a child unless the child is at immediate risk.

COMMENTARY:

A warrant gives the authority to enter a premise by force, where necessary, to remove a child. By obtaining a warrant a social worker is getting a judge's sanction to remove the child.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.16 WARRANT	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

Where a social worker has reasonable grounds to believe that the time required to obtain a warrant would pose immediate risk to the child's health and safety, the social worker may enter a premises to remove a child without a warrant. In these circumstances, the social worker will need to demonstrate to the court at a later date why the child was considered to be at immediate risk and a warrant was not obtained.

A social worker shall make application for a warrant by:

1. Filing an *Information to Obtain a Warrant to Remove* using *Form 14-835*; and
2. Drafting and bringing to the judge a *Warrant to Remove* using *Form 14-836*.

When making an application for a warrant, the social worker must cite the grounds for the warrant including the grounds which place the child in need of protective intervention in accordance with Section 14 of the *CYFS Act*. The social worker must give careful consideration to how much time will be required to execute the warrant to remove a child as the warrant is only effective for the time period outlined in the warrant

Arrangements to have the application for a warrant heard must be made through the court clerk. The matter will generally be held in chambers (where possible) by the judge in an expeditious manner.

The warrant must be served on the parent from whom the child is removed, and if it is felt necessary, the social worker may request the assistance of a peace officer to effect service of the warrant.

A copy of the original warrant is served on the person against whom the warrant is executed. The original is kept for the social worker's file with a notation of when it was executed and by whom. A copy of the warrant is retained at the court when it is granted by the judge.

The original "Information" is retained by the court. Copies should be made by the social worker for the file and application package prior to going to court to obtain a warrant.

Where it is not possible to personally appear before a judge, the social worker may obtain a telewarrant. (see Section 2.16 of policy manual for reference to telewarrant policy)

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.17 TELEWARRANTS	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 25.(1) Where, in the opinion of a director or social worker it would not be practical to appear in person before a judge to apply for a warrant, the director or social worker may make the application by telephone or other means of telecommunication.

(2) Where the information on which an application for a warrant is submitted by telephone or other means of telecommunication, the information shall be given under oath or affirmation and the oath or affirmation may be administered by telephone or other means of telecommunication.

(3) The information submitted by telephone or other means of telecommunication shall include
(a) a statement of the circumstances that make it impracticable for the director or social worker to appear personally before the judge;
(b) a statement of the director's or social worker's grounds for believing that a child is in need of protective intervention and the identity of the child, if known; and
(c) a statement explaining that a less intrusive course of action is not available or will not adequately protect the child.

(4) The sworn information submitted by telephone or other means of telecommunication by a director or social worker shall specify the name of the person giving evidence, the facts ascertained and the manner and location in which the evidence was received, and a record of that information shall be filed by the judge with the clerk of the court over which the judge presides.

(5) Where a director or social worker removes a child under the authority of a warrant obtained under this section, the director or social worker shall provide the person from whom the child is removed with a facsimile of the warrant.

(6) In subsection (5), "facsimile" includes a record produced by electronic means or a written record of a telephone conversation made by both parties to the conversation while it is in progress and which the parties have confirmed as to its accuracy by reading their record of the conversation to one another at the end of the conversation.

STANDARD:

1. In situations where it is not possible to meet personally with a judge, the social workers shall obtain a warrant by telephone or other means of telecommunication.

2. The social worker will complete the Information to *Obtain a Telewarrant - Form 14-837*.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.17 TELEWARRANTS	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

COMMENTARY:

The person seeking to obtain a warrant by telephone should have filled in the *Information to Obtain a Telewarrant - Form 14-837*. It must be read over the phone to the judge who will record the information. Once the judge has recorded the information provided over the phone, he or she will determine whether to issue a warrant.

To issue a warrant, the judge will either fill in a *Telewarrant to Remove, Form 14-838*, and submit it by electronic means to the social worker or state over the phone the words to be inserted by the social worker on the *Telewarrant to Remove*. Both the judge and the social worker should recap to the other their notes of the telephone conversation and the content of the telewarrant for accuracy purposes before concluding the conversation.

If a judge forwards a telewarrant by fax machine, that copy is served on the person against whom the warrant is executed. A copy of it is retained for the social worker's file with a notation of when it was executed and by whom. The original of the warrant is retained in the court file.

If a social worker fills in a telewarrant on the direction of a judge, a copy of that document should be served on the person against whom the warrant is executed with the original retained for the social worker's file, with a notation of when it was executed and by whom. As well, a copy of the warrant should be forwarded by registered mail to the court.

The original of the *Information to Obtain a Telewarrant* must be forwarded to the court by registered mail and copies retained for the social worker's file and application package for court.

If the Judge for your area is not available to issue a telewarrant, any provincial court judge named on the list, supplied by the Chief Justice, may be contacted.

In both instances, the Telewarrant should be marked "Facsimile" before served. If required, a peace officer can be requested to assist with execution.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.18 NOTICE OF REMOVAL	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STATUTORY PROVISION:

Section 26. (1) Where a child is removed, with or without a warrant, from the care of a parent or other person, a director or social worker shall provide written notice to the parent and the child, where the child is 12 years of age or over, within 24 hours of the removal stating the reason why the child was removed.

(2) A parent who is given a notice under subsection (1) shall be informed that he or she may be represented by legal counsel.

STANDARD:

1. The social worker shall provide written *Notice of Removal-Form 14-839* to the parent within 24 hours of removal.
2. The social worker shall provide written *Notice of Removal -Form 14-840* to a child who is 12 years of age or over within 24 hours of removal.

COMMENTARY:

To serve notice on a parent use *Notice of Removal to Parent, Form 14-839*. To serve notice on a child use *Notice of removal to Child, Form 14-840*. Personal service means that the parent and child personally receive the documents. The documents can be served on them by any person, providing the person completes and swears an *Affidavit of Service*, which is returned to the court. It is preferred practice that the social worker serves these documents on the parent and the child.

If a warrant has been obtained prior to the removal of the child, a copy of the *Information to Obtain a Warrant* must be attached. Where the removal is done on an emergency basis, the reasons for the removal will be indicated specifically on the notice.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.19 INTERIM CARE OF A CHILD	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 27(1) Where a child is removed under section 23, a director has interim care of the child until

(a) the child is returned under section 47 to the parent from whom the child was removed; or

(b) a judge makes an order at a presentation hearing under section 33.

(2) While a child is in a director's care, the director or a social worker may

(a) authorize a qualified health practitioner to examine the child; and

(b) consent to necessary routine health care for the child where the parent cannot be contacted if, in the opinion of a qualified health practitioner, the health care should be provided without delay.

(3) On consenting to health care for the child, a director or social worker shall notify the parent from whom the child was removed.

(4) Where a child is removed, while hospitalized, from his or her parent by a director or social worker, the chief executive officer of the hospital and the attending physician shall be advised of the child's removal and that the child's care is the responsibility of the director.

STANDARD:

1. Where a director has interim care of a child, all reasonable attempts must be made to involve the parent in decisions related to health care

COMMENTARY:

When a child is removed from a parent, prior to an order being made by the court, a director has interim care of the child. It is important to note the distinction between interim care and custody. A director does not have custody of a child until a judge has made an order placing the child in the temporary or continuous custody of a Director. See Section 2 of the *CYFS Act* for definitions of "care" and "custody".

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.19 INTERIM CARE OF A CHILD	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

Consent to Routine Health Care

Section 27 (2) allows a social worker to consent to necessary health care where the parent cannot be contacted and the child requires health care to be provided without delay. Given the legal status of the child (that is, the child is still in the legal custody of his or her parent) and the need to involve parents in critical decisions affecting their child, it is important that every effort be made to contact the parent to give consent. Those efforts must be documented in the case file. Where the parent cannot be contacted to give consent, the social worker must advise the parent of any medical procedure or treatment as soon as he/she is located. This provision does not give a social worker the authority to consent to "essential" medical treatment, as such treatment requires a court order pursuant to Section 32 of the *Child, youth and Family Services Act*.

Notification to Medical Institutions

Where a child is removed from the care of a parent while hospitalized, the social worker shall provide to the chief executive officer and attending physician a letter informing them of the removal. The letter should clearly indicate that the child is now in the interim care of the Director of Child, Youth and Family Services and the Director may consent to routine medical treatment where the parent cannot be contacted and treatment must be provided without delay.

The notice to the hospital does not replace the notice of removal to the parent.

Form 14-841 provides a sample of the letter to be provided.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.20 APPLICATION FOR SUPERVISION ORDER	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STATUTORY PROVISION:

- Section 28. (1) Where a director or social worker believes on reasonable grounds that*
- (a) a child is in need of protective intervention;*
 - (b) the child's safety could be assured without removing the child with the provision of protective intervention services; and*
 - (c) a parent of the child is unwilling to accept protective intervention services for the child,*
- the director or social worker shall file an application for an order of a judge that the child is in need of protective intervention and for a protective intervention hearing.*
- (2) A hearing under this section shall be held within 30 days of the filing of the application under subsection (1).*
- (3) Notice of the time and place of a hearing under this section shall be served not later than 3 days after the date for holding the hearing is obtained from the court on*
- (a) a parent of the child; and*
 - (b) the child, where the child is 12 years of age or older.*
- (4) Where an application is made under this section, a judge may make an order under section 34.*

STANDARD:

1. Where a social worker believes upon completion of a risk assessment that a child is in need of protective intervention, that the child could safely remain at home if services were provided and the family refuses to accept services, the social worker may make application to the court for a Supervision Order.

COMMENTARY:

An *Application for Supervision Order* may be made using *Form 14-842*. A judge may attach conditions for the child's return to an order including those services which the family must accept. An order may also stipulate the frequency and nature of contact between the child, family and social worker. Those conditions which the social worker wishes to have included in the Order should be clearly documented in the plan which is attached to the application.

When a family is voluntarily accepting intervention and services, a Supervision Order is not required. Where an application is made, all notice requirements in Section 28 of the Act apply and Orders may be granted in accordance with Section 34 of the *CYFS Act*.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.21 APPLICATION FOR PROTECTIVE INTERVENTION HEARING	
EFFECTIVE: MARCH 2007	PAGE: 1 of 5

STATUTORY PROVISION:

Section 29. Where a child has been removed, the director or social worker shall within the next day after the removal of the child file an application for an order of a judge that the child is in need of protective intervention and for a protective intervention hearing which shall be held not later than 30 days after the child's removal.

Section 30 (1) Where a director or social worker applies for a protective intervention hearing, he or she shall at the same time be given a date for a presentation hearing, which shall be held not later than 10 days after the date on which an application is filed.

(2) Notice of the time and place of a protective intervention and a presentation hearing shall be served not later than 3 days after the dates for holding the hearings are obtained on

- (a) a parent of the child; and*
- (b) the child, where the child is 12 years of age or over.*

(3) Information to be served with a notice shall include

- (a) a copy of the originating application;*
- (b) a written report of the circumstances that led to the removal of the child; and*
- (c) the director's or social worker's plan for the child until the protective intervention hearing.*

Section 31. (1) Not later than 10 days prior to a protective intervention hearing, a director or social worker shall file with the court a written plan for the child and provide a copy to those persons to whom notice of the hearing has been given.

(2) Not later than 3 days before the protective intervention hearing those persons to whom a copy of a plan has been given under subsection (1) may respond to the plan and file an alternate written plan with the court and provide a copy to the director or social worker.

Section 33. (1) A presentation hearing

- (a) may be conducted by a judge in an informal manner; and*
- (b) shall be concluded within one day, unless extended by the judge.*

(2) At the conclusion of a presentation hearing, a judge may

- (a) dismiss the application for a protective intervention hearing;*



SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.21 APPLICATION FOR PROTECTIVE INTERVENTION HEARING	
EFFECTIVE: MARCH 2007	PAGE: 2 of 5

(b) order that the child be returned to the parent under the supervision of a director or social worker until the conclusion of the protective intervention hearing;

(c) order that the child be placed in the care of a person other than the parent from whom the child was removed under the supervision of a director until the conclusion of the protective intervention hearing;

(d) order that the child remain in the care of a director until the conclusion of the protective intervention hearing; or

(e) make a declaration that the child is in need of protective intervention and make an order under subsection 34(2).

(3) A presentation hearing under this Act may be conducted by means of a teleconference.

(4) At a presentation hearing a judge may give the parties to the hearing directions with respect to those matters that are relevant at a protective intervention hearing.

(5) A judge may attach those conditions to an order made under subsection (2) that he or she considers appropriate.

(6) When a judge makes an order under this section, the judge may grant a parent, or a person significant to a child, access to the child.

Section 34. (1) At a protective intervention hearing a judge shall determine whether a child needs protective intervention.

(2) Where a judge finds that a child needs protective intervention, the judge shall so declare and order

(a) that the child be returned to or remain with the parent and under a director's supervision for a specified period of up to 6 months;

(b) that the child be placed in the custody of a person other than the parent from whom the child was removed, with the consent of the other person and under a director's supervision, for a specified period in accordance with section 36;

(c) that the child be placed in the custody of a director on a temporary basis for a specified period in accordance with section 36;

(d) that the child be placed in the continuous custody of a director.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS	
2.21 APPLICATION FOR PROTECTIVE INTERVENTION HEARING	
EFFECTIVE: MARCH 2007	PAGE: 3 of 5

(3) A judge may attach those conditions to an order made under subsection (2) that he or she considers appropriate.

(4) Where a judge makes an order under paragraph (2) (b), (c) or (d), the judge may grant a parent or a person significant to the child access to the child.

(5) Where a judge finds that the child does not need protective intervention, the judge shall so declare and order that the child remain with or be returned to the parent from whom the child was removed.

STANDARD:

1. Where a child is removed, a director or social worker is accountable for the action of removal and future planning through the court as outlined in Sections 29, 30, 31 and 32 of the *Child, Youth and Family Services Act*.

COMMENTARY:

The decision to remove a child from a parent must be done in consultation with the social worker supervisor in accordance with Risk Decision 9. Where a child is removed, an *Application For Protective Intervention Hearing* is made using *Form 14-843*. When the social worker files the application, the court clerk will provide the them with a date for a protective intervention hearing which must be held not later than 30 days following the removal of a child. At the same time, a date for a presentation hearing must be given. The date for this hearing shall be not later than 10 days after the application is filed.

Notice of the presentation and protective intervention hearings must be served on the parent and a child 12 years of age or over within 3 days of obtaining the dates for the hearing. When a biological parent has not been served, the social worker must complete an Affidavit explaining why the parent has not been served using *Form 14-854*. While the Act only requires notice to children 12 or over, social workers should also discuss the hearing and the order being sought with younger children, unless it can be clearly demonstrated that the child is not able to understand, or that by doing so it may cause emotional harm to the child. Included with the notice is a copy of the application and an explanation of the circumstances that led to removal or where a warrant was obtained, a copy of the Information used to obtain the warrant. An interim plan for the child is also served which should include where the child is placed, if it is safe to release this information, and the access arrangements agreed to prior to the protective

intervention hearing. A further plan must be filed with the court 10 days prior to the protective intervention hearing which outlines more specifically the plan of care for the child while in the Director's temporary or continuous custody. Refer to Plan of Care Policy for further details.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS	
2.21 APPLICATION FOR PROTECTIVE INTERVENTION HEARING	
EFFECTIVE: MARCH 2007	PAGE: 4 of 5

A presentation hearing is a preliminary hearing held informally before a judge to consider the circumstances surrounding the child's removal and to determine whether there is sufficient evidence to proceed to the protective intervention hearing. The court must determine what interim order is appropriate until a more comprehensive hearing is held to determine whether the children are in need of protective intervention. The court may also narrow the issues and provide directions to the parties. It is an important prelude to the protective intervention hearing but it may result in a final order being made by the judge, thus removing the necessity for a protective intervention hearing.

A protective intervention hearing is held after a presentation hearing if the matter has not been resolved at the preliminary hearing. At the protective intervention hearing the judge will hear evidence and give a final order with respect to the application before the court.

Section 34 of the Act allows a judge to make a range of orders. When making an application under Section 30, the social worker must determine which order will be requested in consultation with the social worker supervisor.

Orders

Section 34(2)(b) provides for an order to place a child in the custody of a person other than the parent from whom the child was removed, with the consent of the other person and under a director's supervision, for a specified period in accordance with section 36. Such an order would be appropriately sought where it is determined that a relative or person significant to the child has consented to having custody, and it is determined that the child's best interest would be served by the placement. Approval of the placement must be done in accordance with the policy related to approval of relatives and significant others. The terms and conditions of supervision must be agreed upon between the person and social worker and the person must agree to work collaboratively with the social worker regarding the permanent plan for the child. An order under this section means the child is not in the care and/or custody of a director and financial assistance will only be provided, where the person would not be able to care for the child without such support. Where financial and other supports are required, they may be provided through the Child Welfare Allowance Program or by some other agreement.

Section 34(2)(c) provides for an order that the child be placed in the custody of a director on a temporary basis for a specified period in accordance with section 36. The decision to remove a

child from a parent is done on the basis of a completed risk assessment which determines that the child cannot remain safely with his/her parent and a less intrusive course of action is not available or appropriate to protect the child. A temporary order should therefore be considered in circumstances where there is likelihood that with intervention the child would be able to return home following the temporary order with or without a supervision order.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.21 APPLICATION FOR PROTECTIVE INTERVENTION HEARING	
EFFECTIVE: MARCH 2007	PAGE: 5 of 5

Section 34 (2) (d) provides for an order that the child be placed in the continuous custody of a director. The decision to recommend removal of parental rights permanently must always be given careful consideration. Situations which may justify such action include but are not limited to:

- where a parent is unable to resume care and custody due to chronic long term health problems even with reasonable supports;
- the parent is unwilling to resume care and custody of the child;
- the harm the child has suffered or is likely to suffer is so extreme there is little possibility the parent could meet the child's safety, health and well-being;
- there is a documented history that demonstrates the parent's inability or unwillingness to meet the needs of a child; or
- the time limits have expired in accordance with section 36 and it is not in the child's best interest to return to the parent's care.

Orders do not need to be reviewed when it is not the intention of the social worker to request another order.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.22 MEDICAL TREATMENT	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 32. (1) Where a director or social worker believes a child to be in need of protective intervention because of his or her parent's refusal to obtain or permit essential medical, psychiatric, surgical, or remedial treatment that is recommended by a qualified health practitioner for the child, the director or social worker may apply for an order of a judge authorizing the treatment.

(2) A parent of a child, and the child, where he or she is 12 years of age or over, shall be notified of the time and place of a hearing under this section which shall be held within one day after filing the application.

(3) A judge may:

- (a) hear the application at any time or place;*
- (b) receive evidence by telephone or other means of telecommunication; and*
- (c) administer an oath or affirmation by telephone or other means of telecommunication.*

(4) Where a judge finds that a child needs protective intervention for a reason referred to in subsection (1), the judge may so declare and grant an order authorizing the treatment recommended by a qualified health practitioner.

STANDARD:

1. Where a report is received indicating that a child is in need of protective intervention because of the parent's refusal to obtain or permit essential medical, psychiatric, surgical or remedial care or treatment as recommended by a qualified health practitioner, the director or social worker may apply for an order authorizing the treatment.

COMMENTARY:

Normally medical decisions relating to a child are left to the parent and the attending physician. This provision is meant to address situations where not receiving the treatment would be deemed to be life threatening for the child. The application for an order under Section 32 should only be made in consultation with a director and the director's solicitor. Unless a child is in need of protective intervention on other grounds, a social worker should not remove a child from the parent's care to make this application. It is necessary to make the application for a medical treatment order where the child is in the care and/or custody of a director except when the child is the subject of a Continuous Custody Order.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.22 MEDICAL TREATMENT	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

Upon consultation with a director's solicitor, the solicitor will draft an application to be filed with the court immediately. While the statute indicates that the hearing must be held within one (1) day, the judge may choose to hear the matter immediately. This may include hearing the matter during the night and/or weekend.

The role of the social worker in this particular application is to begin the court process upon receipt of the referral and be available to give evidence, if necessary. Generally the evidence given by the social worker will involve advising the court of the referral received and the actions to date in filing the application. The evidence which will impact most significantly on whether an order is granted will be that of a qualified health practitioner.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.23 FINANCIAL SUPPORT	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 35. (1) Where a child is committed temporarily or continuously to the custody of a director, upon application by a director or social worker, a judge may order that the obligation of the parents to provide support to the child shall continue subject to Part III of the Family Law Act.

(2) An order under subsection (1) shall be for the benefit of the board that is the employer of the director or social worker or some other person on the terms and conditions and for the period the judge considers appropriate.

STANDARD:

1. Where a child is in the custody of a director, a social worker shall determine the parent's ability to contribute to the support of the child.

COMMENTARY:

A parent should be encouraged to provide support, according to his/her ability to do so, for children who are in the custody of a director of child, youth and family services. Support can be either monetary or non-monetary dependent upon the ability of the parent. Examples of non-monetary support may include a parent's agreement to provide clothing, recreation, transportation, education, psychological services and/or medical costs.

A parent's ability to contribute financial support will be determined using the *Child Support Guidelines*, which are available through the regional health authority. Where an agreement for support is reached voluntarily between the social worker and parent, the agreement must be provided to the court. Where a parent will not voluntarily agree to pay support and the social worker feels based on the assessment, there is an ability to do so, the social worker shall apply to the judge for an order of support. The amount of support will be in accordance with the Guidelines. The court will file the voluntary agreement or the order for support and send it to the support enforcement Agency for registration with the Support Enforcement Agency. The order will stipulate that payments be made to the health authority which employs a director and payments will be forwarded by the Support Enforcement Agency.

When children are in the custody of a director of child, youth and family services, the social worker shall apply for *Children's Special Allowance* on behalf of the child.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.23 FINANCIAL SUPPORT	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

Where a support order already exists between parents who are separated or divorced and a child is removed from the parent receiving support, the social worker shall advise the Support Enforcement Agency in writing of the change in the child's custody. The social worker shall also ask the court to order that the support be paid to a director. A new order is required as the Support Enforcement Agency cannot collect support for a director without a specific order.

Applications for support may be made using *Form 14-844* or can be included in the *Application For Protective Intervention Hearing*. If an order is granted, the court will file the order with the Support Enforcement Agency for enforcement.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.24 TIME LIMITS FOR TEMPORARY ORDERS	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 36. (1) Where a judge grants a temporary order under paragraph 34(2)(b) or (c), the term of the order shall not exceed

- (a) 3 months, if the child who is the subject of the order is under 5 years of age when the order is made, to a maximum of 3 orders in total;*
- (b) 4 months, if the child who is the subject of the order is 5 years of age or over but under 12 years of age when the order is made, to a maximum of 3 orders in total; and*
- (c) 6 months, if the child who is the subject of the order is 12 years of age or over when the order is made, to a maximum of 3 orders in total.*

(2) Notwithstanding subsection (1), a fourth order may be granted if

- (a) there are exceptional circumstances that in the opinion of the judge warrant an exceeding the lifetime maximum of 3 orders; and;*
- (b) the parent may reasonably be expected to resume the custody of the child within a reasonable period,*

but a fourth order shall not exceed,

- (c) 3 months if the child is under 5 years of age;*
- (d) 4 months if the child is 5 years of age or over but under 12 years of age; or*
- (e) 6 months if the child is 12 years of age or over,*

when the fourth order is made.

Section 37. (1) Notwithstanding section 36, a judge may adjourn a proceeding under this Act one or more times, for a total period of up to 3 months, to allow

- (a) a pre-trial settlement conference, a family conference, mediation or other means of alternate dispute resolution to proceed; or*
 - (b) where an assessment is considered necessary by a judge, director or social worker, an assessment to be completed.*
- (2) Where a proceeding is adjourned under subsection (1), a time limit applicable to the proceeding is suspended.*
- (3) Where, as a result of a pre-trial settlement conference, a family conference, mediation or*

other means of alternate dispute resolution, a written agreement is made, a director or social worker shall file the agreement with the court.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.24 TIME LIMITS FOR TEMPORARY ORDERS	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

Section 38. Where all of the time limits contained in section 36 have expired, a judge shall make one of the following orders:

- (a) that the child be placed in the continuous custody of a director;*
- (b) that the child be placed in the custody of a person other than a parent, with the consent of that person; or*
- (c) that the child be returned to the parent from whom the child was removed.*

STANDARD:

1. Time limits under Section 36 of the *CYFS Act* shall be strictly adhered to and subject to the extension in that provision and Section 37 of the Act. When those time limits have expired applications must be made pursuant to Section 38 for one of the orders within that provision

COMMENTARY:

The time limits under the Act have been developed in consideration of a child's need for stability and permanence. Generally the younger the child, the shorter the period he/she may remain in care without a permanent and stable home being identified. The maximum number of orders allowed in a child's life time, irrespective of age, is 3 orders for each child. These orders do not have to be consecutive. The time period of the order begins once the order is made by the court and not on the date that it is actually filed with the Court. Every effort should be made to file the order immediately.

Subsection 36(2) allows a judge to make a fourth order where exceptional circumstance exist and the parent may reasonably be expected to resume custody of the child. The social worker will need to assess whether the exceptional circumstances will be remediated within the time frame of the order.

The court may adjourn a matter under Section 37 if an assessment is being considered or some form of mediation/resolution is occurring. However this does not extend the time of the order. A social worker shall not voluntarily agree to assume responsibility for the payment for an assessment should he/she consider it not to be necessary. If a judge makes a finding that an assessment is necessary, legal arguments should be made on that point by the solicitor acting on behalf of the director. Where a judge makes an order for assessment and the social worker does not agree, consideration should be given to an appeal, in consultation with the lawyer for the director. Applications for an order pursuant to Section 38 will be made using the requirements

of Section 39.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.25 APPLICATION TO EXTEND ORDERS	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STATUTORY PROVISION:

Section 39.(1) Before a supervision order or temporary order expires, a director or social worker may file an application with a judge for an extension of the existing order or for an order for continuous custody.

(2) An application filed under subsection (1) shall be accompanied with a copy of the director's or social worker's plan for the child.

(3) Notice of the time and place of a hearing with respect to an application under subsection (1) shall be given not later than 10 days prior to the hearing on

(a) a parent; and

(b) a child, where the child is 12 years of age or older.

(4) At least 3 days before the date set for a hearing those receiving notice may respond to the director's or social worker's plan and provide an alternate written plan to the judge with a copy to the director or social worker.

Section 40. Where a child is in the custody of a director or another person under a temporary order and an application for an extension of that order is filed but not heard prior to the expiration of the order, the child shall remain in the custody of the director or other person to whom the custody was granted under the temporary order until the application for the extension is heard.

STANDARD:

1. Where a supervision or temporary order exists, and the social worker assesses it to be in the child's best interest, an application for a subsequent supervision, temporary or continuous order can be made to the court.

COMMENTARY:

Applications for subsequent orders must be made using *Form 14-845*, and shall include the plan of care. (see Section 3.21 - Plan of Care). Applications must be made before the current order expires, and where possible, the matter should be heard prior to, or as close as possible to, the expiration date of the current order. Where the court is unable to hear the matter prior to the order expiring, the current order remains valid, pursuant to Section 40 of the Act. However, this section does not apply to supervision orders.

Parties must be given 10 days notice prior to the hearing and an *Affidavit of Service* must be completed.



SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.26 EFFECT OF TEMPORARY CUSTODY ORDER	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STATUTORY PROVISION:

Section 41. Where a director has been granted a temporary order under section 34, the director has custody of the child for the specified period and has the right to make all decisions regarding the child during that specified period, but the director shall not consent to medical treatment, other than to necessary routine medical treatment, unless a parent consents or the director is granted an order under section 32, or to an adoption under the Adoption of Children Act without the consent of the parent from whom the child was removed.

STANDARD:

1. While a temporary custody order gives a director the authority to make decisions regarding a child, parents should be encouraged to participate and be involved in decisions, where appropriate, regarding their children. A director cannot consent to medical treatment as described in Section 32 or consent to adoption under the *Adoption of Children Act* while a temporary order exists.

COMMENTARY:

In order to encourage and facilitate the on-going involvement of parents in the lives of their children, while in custody on a temporary basis, the social worker should include parents in decisions regarding their children, wherever possible. This includes a parent's consent for routine medical treatment if a parent can be located. Consent for essential medical treatment can only be ordered by a judge.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.27 RESCIND CONTINUOUS ORDER	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STATUTORY PROVISION:

- Section 44. (1) With the leave of a judge and*
- (a) where circumstances have changed significantly since the time an order for continuous custody was made; and*
 - (b) where the child has not been placed for adoption a party to a hearing at which the order was made may apply to the judge for the rescission of the order.*
- (2) Where a judge grants leave under subsection (1), notice of an application for a hearing shall be served not later than 10 days prior to the hearing on*
- (a) the director concerned;*
 - (b) a parent;*
 - (c) a child, where the child is 12 years of age or older; and*
 - (d) another party who was present at the original hearing.*
- (3) The judge may grant an order to rescind an order for continuous custody, where he or she believes it is in the best interest of the child to do so.*

STANDARD:

1. To rescind a continuous custody order, the social worker shall make two applications to the court. The first application is an *Application to Seek Leave of the Judge-Form 14-846* and the second application is the *Application to Rescind a Continuous Custody Order - Form 14-847*.

COMMENTARY:

An application to rescind a continuous custody order may be made by a social worker or a parent. To file such an application, the social worker or parent must first obtain an order of the judge permitting such an application. To obtain an order to rescind, a person must satisfy the judge that there has been a significant change in circumstances since the time an order for continuous custody was made (Section 60 applies to variation of any Order made under the Act). A social worker must complete an *Application Seeking Leave* and *Application To Rescind A Continuous Order* when making these applications.

Such applications can only be made where a child has not been placed for adoption.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.28 TRANSFER OF GUARDIANSHIP	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STATUTORY PROVISION:

Section 45. (1) A director who has care, supervision or custody of a child may transfer care, supervision or custody to another director.

(2) Where the care, supervision or custody of a child is transferred by one director to another director,

(a) the other director has care, supervision or custody of the child with the same rights and responsibilities as the director who made the transfer; and

(b) the director who made the transfer ceases to have care, supervision or custody of the child.

(3) The transfer of supervision or custody is effective upon the filing of an amended order in the registry of the court which granted the original order.

STANDARD:

1. Where a child moves from one region to another, care, supervision or custody shall be transferred from the sending director to the director in the receiving region through the filing of an amended order with the court. There must be consultation between the sending and receiving director prior to transfer.

COMMENTARY:

The decision to transfer care, custody, and/or supervision must be done in consultation between directors. In keeping with the principles of the Act, children should be moved outside of their region only in exceptional circumstances, which may include the following: (a) where a child requires long-term medical attention; (b) where a child is returning to his/her own community; (c) a child is being placed with a relative or significant other or (d) where the parent has moved and reunification is the goal.

The transfer of care, custody or supervision shall be completed by filing an amended order with the court which granted the original order reflecting the change to the name of the receiving region. The original order shall remain the same with the exception of highlighted changes indicating the change of directors and that the order is amended. When filing the amended order with the court, the social worker should include a letter explaining why the transfer occurred (Form 14-848.).

Where a child moves to another region on a temporary basis, e.g. short term medical attention, to attend school or for placement in an open or secure custody facility, transfer of custody and/or care should not be transferred. The child's file and a copy of the amended order shall be provided

to the receiving director. The amended order shall be filed with the court which made the original order.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.29 RETURN OF CHILDREN	
EFFECTIVE: MARCH 2007	PAGE: 1 of 5

STATUTORY PROVISION:

Section 46. A child may be returned to the parent from whom the child was removed at any time where

- (a) circumstances have changed so that the child in the opinion of a director or social worker no longer need protective intervention; or*
- (b) the parent enters into an agreement that is considered by a director or social worker to be adequate to protect the child.*

Section 47. (1) Where a child is returned to the parent from whom the child was removed within 72 hours of removal, a director or social worker shall

- (a) file a notice of discontinuance where an application has been made to a judge for a protective intervention hearing; and*
- (b) provide notice of the discontinuance of the application to the persons given notice of the application for a protective intervention hearing.*

(2) A written explanation of the change of circumstances referred to in paragraph 46(a) or a copy of the agreement referred to in paragraph 46(b) shall be filed with the notice of discontinuance and provided to all persons receiving notice of the discontinuance.

(3) Where a child is returned to the parent from whom the child was removed within 72 hours of the removal, a director shall strike an interdisciplinary panel to review the action of removing and returning the child.

Section 48. (1) Where a child is returned 72 hours or longer after having been removed but before the date set for a protective intervention hearing, a director or social worker shall

- (a) seek leave of a judge to withdraw the application for a protective intervention hearing;*
- (b) provide notice of the intention to seek leave to withdraw the application to the person previously given notice of the application for a protective intervention hearing; and*
- (c) file with the court and provide to all persons receiving notice a written explanation of the circumstances referred to in paragraph 46(a) or a copy of the agreement referred to in paragraph 46(b).*

(2) Where leave of a judge is sought under this section, the matter shall be heard no later than the date set for the protective intervention hearing and the judge may rescind an outstanding order made in relation to the child.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.29 RETURN OF CHILDREN	
EFFECTIVE: MARCH 2007	PAGE: 2 of 5

Section 49. (1) Where a child is returned to the parent from whom the child was removed after a protective intervention hearing but before the expiration of a temporary order made under section 34, a director shall apply to a judge to rescind or vary an outstanding order made in relation to the child and shall

(a) not later than 10 days prior to the date set for a hearing, provide notice of the application

(i) to the parent, and

(ii) to the child, where the child is 12 years of age or older; and

(b) file with the court and provide to all persons receiving notice a written explanation of the circumstances referred to in paragraph 46(a) or a copy of the agreement referred to in paragraph 46(b).

(2) Where an application is made under this section, the judge may rescind or vary an outstanding order made with respect to the child.

**Return of Children
STANDARD:**

1. Where it is determined that it is in a child's best interest and the child would not be at risk, a child can be returned home anytime after removal including when there is an order of temporary custody granted by the court. Consultation must occur with the program supervisor as per Risk Management Risk Decision Point No 9.

COMMENTARY:

The process to be followed after a child is returned is dependent on the time frame involved since removal. Reference must be made to the following guidelines:

**Child Returned within 72 Hours of Removal
STANDARD:**

2. When a child has been removed and a decision made to return the child to the parent within 72 hours of removal a notice of the application shall be filed in court. The director of child, youth and family services shall establish an interdisciplinary panel to review the action of removing and returning the child.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.29 RETURN OF CHILDREN	
EFFECTIVE: MARCH 2007	PAGE: 3 of 5

COMMENTARY:

Where an application has been made to the court within the 72 hours, the social worker shall file a *Notice of Discontinuance* using *Form 14-849*. A Notice of Discontinuance and a written explanation of the change of circumstances or agreement will be served on those individuals who were given notice of the application for the protective intervention hearing. Whether an application has been filed or not, the action of removal and return of the child will be reviewed by the interdisciplinary panel.

The written circumstances referred to in Subsection 47(2) could be in a report format which indicates the factual information that provides the basis of the assessment that the child can be returned home safely. Where a revised plan of care has been developed, a copy of the revised plan should also be filed with the *Notice of Discontinuance*.

Interdisciplinary Panels provide an accountability measure by reviewing the circumstances which resulted in the removal and subsequent return of a child within 72 hours to ensure best practice in keeping with the principles, philosophy and legislative requirements of the *Child, Youth and Family Services Act*. This process will replace the previous practice of bringing these matters before the courts. The following guidelines are provided.

1.0 Mandate

- 1.1 The Interdisciplinary Panel will:
 - i) review and analyze the circumstances which resulted in the removal and return of a child within 72 hours to ensure best practice in keeping the principles, philosophy and legal requirements of the Act; and
 - ii) provide a report to the director of child, youth and family services which summarizes the findings of the review.

2.0 Composition

- 2.1 It is recommended that each panel be composed of four members from a cross section of professional disciplines working in the area of children and family services.
- 2.2 The panel may or may not be comprised of the same members for each review.
- 2.3 Where a director feels the involvement of a community member would be beneficial, that person may be invited to participate on the panel.
- 2.4 At least one member of the panel must be a professional with a background in Child Protection. In addition to his/her role as a panel member this person will be

able to provide direction in interpretation of legislation, policy and practice.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.29 RETURN OF CHILDREN	
EFFECTIVE: MARCH 2007	PAGE: 4 of 5

3.0 Operations

- 3.1 The social worker and supervisor who made the decision to remove and return the child, shall notify the director immediately and provide to the director within 7 days of the child's return, a copy of all documents and information relating to the decision.
- 3.2 The report shall not include the full name of the child or parent.
- 3.3 The director of child, youth and family services will strike an interdisciplinary panel within 7 days of a child's return to his/her parent.
- 3.4 In cases where the director is also the social worker supervisor involved in the decision, a director from another board will strike an interdisciplinary panel to review the actions of removal and return.
- 3.5 The director shall provide the report referred to in 3.1 to panel members upon receipt.
- 3.6 The panel shall meet within 14 days of a child's return to his/her parent for the purpose of conducting the review.
- 3.7 The panel shall select a chairperson, a recorder and a person responsible for preparing a report.
- 3.8 The panel shall complete the review of each removal and return in one meeting.
- 3.9 The panel may request to meet with the social worker and supervisor.
- 3.10 The panel may request to meet with a youth, parent or caregiver.
- 3.11 The panel shall prepare and submit a report to the director not later than 14 days following the review.
- 3.12 The panel does not have the authority to recommend disciplinary action.
- 3.13 The director shall review the report and may request to meet with the panel and/or chairperson.
- 3.14 The director shall meet with the social worker and social worker supervisor to discuss the report.

Child Returned after 72 Hours**STANDARD:**

3. The court must give permission for an application to be withdrawn when a child is returned 72 hours after removal and prior to a protective intervention hearing. The provisions of Section 48 apply.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.29 RETURN OF CHILDREN	
EFFECTIVE: MARCH 2007	PAGE: 5 of 5

COMMENTARY:

Permission of the court is obtained by filing an *Application Seeking Leave to Withdraw* using *Form 14-850*. The application will include an explanation of the circumstances referred to in paragraph 46(a) or a copy of the agreement entered into by the parties. The notice requirements of Section 48 apply. The social worker shall appear before a judge to ask permission to withdraw the application and explain why the child was removed and returned.

**Child Returned While in the Custody of the Director
STANDARD:**

4. Where a child is returned and an order of temporary custody is in place, an application must be made to rescind or vary the order and the provisions of Section 49 apply.

COMMENTARY:

Where a child is returned home while in the custody of a director, a comprehensive risk assessment must be completed which would indicate that the child can return home safely. The Family Centered Action Plan must reflect any changes.

In such situations it is important that the *Application to Rescind An Order* using *Form 14-852* is filed with the court immediately following the child's return. Social worker should discuss with the court clerk the need for an early court date for the hearing. In some cases it may be necessary to apply for a variation of the custody order rather than a rescission order, as a supervision order may be sought.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.30 APPEARANCE IN COURT	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STATUTORY PROVISION:

Section 51. A director or social worker may appear in court in respect of a matter arising out of a provision under this Act.

STANDARD:

1. A social worker may appear in court with or without legal counsel with respect to any matter arising out of the *Child, Youth and Family Services Act*.

COMMENTARY:

Social workers may appear at a hearing without legal counsel if the parents are not represented by a solicitor. Social workers must be represented by legal counsel in all matters where the parent is represented by legal counsel or the matter is contested. Legal representation for the director of child, youth and family services is provided through the Department of Justice. When legal representation is required the social worker shall forward a written request using *Form 14-851* to the Department of Justice, Civil Division. The request should include:

- full names, birth dates, addresses, relationships of all parties involved in the court action;
- time, date, and location of the court hearing and
- a copy of all information filed with the court to date.

When a lawyer has been assigned, he/she shall request from the social worker any other information required.

When time does not permit a written request, the Department of Justice may be contacted directly by telephone, and the required information forwarded by fax.

When a legal representative has been named by the Department of Justice, the social worker will have the opportunity for discussion/consultation with the solicitor prior to case presentation.

It is the practice of the Department of Justice to appoint a local solicitor in most instances to represent the Director of Child, Youth and Family Services.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.31 APPLICATION TO BE HEARD	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STATUTORY PROVISION:

Section 52. A person significant to a child may apply to be heard at a hearing under this Act.

COMMENTARY:

This provision allows a relative or someone closely connected to a child, to apply to be heard at a hearing concerning the child. For example, a grandparent might wish to provide information to the court, as could a neighbour who had a close relationship with the child. This provision does not impose any duties or responsibilities on a social worker.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.32 DISCLOSURE: COURT HEARINGS	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 56 (1) A party to a hearing under this Act shall disclose in a timely manner all the information relevant to the hearing in his or her possession where requested to do so by another party to the hearing.

(2) Information identifying a person who has made a complaint to a director or social worker, or who provided information to a director or social worker with respect to a child, shall not be disclosed unless the person who provided the information consents or a judge orders its disclosure.

STANDARD:

1. Upon request from any party to a hearing under this Act, information to be relied upon in the hearing, subject to the exceptions stated below, will be disclosed to the requesting party.

COMMENTARY:

This provision allows all parties to a hearing, including the parent, and social worker, to obtain the widest, possible disclosure in protective intervention. Full disclosure is necessary to provide the parties with an ability to review the evidence which will be presented in court. Effective disclosure promotes settlements and may avoid unnecessary court proceedings. It can also assist in defining and narrowing the issues which may make hearings shorter and more focused.

Time Frames

Given the short time frames for notices and hearings which are mandated under the legislation, it will be necessary to provide full disclosure to the individual within 48 hours of the request. Full disclosure would include a photocopy of all documents on file, subject to exemptions.

Exceptions to disclosure

The following exceptions to full disclosure apply:

1. The source of the referral, including names, addresses and phone numbers, unless the person consents or a judge orders its release.
2. Communication between the social worker and legal counsel.

3. Personal information respecting one of the parties which is not relevant to the other parties to the hearing, unless ordered to by a judge.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.32 DISCLOSURE: COURT HEARINGS	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

Criminal Court Matter

Where a child's file is requested as a result of a criminal court matter, the file shall be made available in accordance with the Memorandum of Understanding between the Department of Health and Community Services and the Department of Justice.

Court related custody matters

A child's file for the purposes of a child custody hearing shall not be released without the consent of the client or a subpoena. When a subpoena has been issued, information can be released at the hearing by giving sworn evidence. A subpoena does not require that the information be disclosed in advance of the hearing, but it must be brought to the court at the time the social worker is to give evidence.

Reports completed by a third party or outside agency

When reports are requested from outside agencies or agencies provide reports voluntarily, they should be advised that confidentiality cannot be maintained if court action is initiated.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.33 CONSENT ORDERS	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STATUTORY PROVISION:

Section 58. (1) Where a parent consents to an order made under this Act, a judge shall be satisfied

(a) that the wishes of the child have been considered; and

(b) that the parent consenting to the order has been informed that he or she may be represented by legal counsel and understands the nature and consequences of the consent.

(2) A consent by a parent under this Act is not an admission by the parent of a ground alleged by a director or social worker for protective intervention.

STANDARD:

1. Where there is consent from the parties to an application, a consent order may be entered into between the social worker and the parent from whom the child was removed

COMMENTARY:

Where a parent gives consent to an order, it is not an admission of the grounds for protective intervention. When the order is filed, the judge will determine whether the child's views have been considered and the parent understands he/she may consult counsel and he/she understands the nature and consequences of the order.

The filing of a consent order can occur at the time of either the presentation or the protective intervention hearing or at any other time with leave of the court.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.34 OFFENCES AGAINST CHILDREN	
EFFECTIVE: MARCH 2007	PAGE: 1 of 2

STATUTORY PROVISION:

Section 71. A person who by commission or omission wilfully contributes to a child being a child in need of protective intervention is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months, or to both a fine and imprisonment.

Section 72. A person who sells, gives or causes to come into the possession of a child
(a) a drug which is or, in quantity may be, harmful to a child;
(b) an obscene book or other printed material, copies or written obscene matter;
(c) an obscene picture, photograph, or pornographic material, model or pornographic material available through electronic means; or
(d) another obscene object,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000, or to imprisonment for a term not exceeding 6 months, or to both a fine and imprisonment.

Section 73. A person shall not remove or attempt to remove a child or entice a child to leave the care or custody of a director or harbour a child who has left the care or custody of the director.

Section 74. Unless specifically stated otherwise, a person who fails to comply with or otherwise contravenes a provision of this Act for which a penalty has not specifically provided is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 3 months or to both a fine and imprisonment.

STANDARD:

1. The social worker shall make a referral to the police for an investigation where it is believed that an offence has been committed under the *Child, Youth and Family Services Act*.

COMMENTARY:

The offences against children found in the *Child, Youth and Family Services Act* are specific to offences under this legislation and are not found in any other statutes. Social workers should be familiar with the offences in order to determine when an offence may have occurred. All offences are summary conviction offences.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.34 OFFENCES AGAINST CHILDREN	
EFFECTIVE: MARCH 2007	PAGE: 2 of 2

When a social worker believes that an offence has occurred or is likely to be committed, a referral should be made to the police for investigation. The police will be responsible for laying a charge where it is determined necessary. It is also an offence not to obey an order of the Act.

SECTION 2: PROTECTIVE INTERVENTION PROGRAM COURT PROCEEDINGS 2.35 TRANSFERS BETWEEN JUDICIAL CENTRES	
EFFECTIVE: MARCH 2007	PAGE: 1 of 1

STANDARD:

1. Where circumstances require that a matter be transferred from one judicial centre to another within the province, the social worker must use *Form 14-853, Application to Transfer Matter*, to the court in which the original application was made.

COMMENTARY:

It may be necessary to transfer a court file from one judicial centre within the province to another in the following circumstances:

1. Where an application is made to the court and the child and/or parent moves to another judicial centre before the matter is heard;
2. Where a temporary or supervision order has been given and an extension is required and the child and/or parent has moved to another judicial centre.

In situations where a transfer of court jurisdiction is required, the child's and parent's files must also be transferred to the receiving region.

All matters should be heard in the judicial centre where the parents reside unless exceptional circumstances exist which justify having the matter heard where the child resides. An example would be, where it would be more cost effective to have the matter heard where the child resides.