

Rule 60A - Child and Adult Protection

Scope of Rule 60A

- 60A.01(1)** This Rule is divided into four parts and it provides procedure for each of the following:
- (a) protection of a child, and other purposes, under the *Children and Family Services Act*;
 - (b) protection of an adult, and other purposes, under the *Adult Protection Act*;
 - (c) involuntary medical examination under the *Involuntary Psychiatric Treatment Act*;
 - (d) review under the *Hospitals Act*.
- (2)** The following kinds of proceedings may be started by filing one of the following notices:
- (a) a proceeding under the *Children and Family Services Act*, by filing a notice of application;
 - (b) a proceeding under the *Adult Protection Act*, by filing a notice of application;
 - (c) a proceeding under the *Involuntary Psychiatric Treatment Act*, by filing a notice of involuntary psychiatric treatment application;
 - (d) a judicial review under the *Hospitals Act*, by filing a notice for judicial review.
- (3)** Procedure on the applications and review is governed by this Rule 60A and the Rules outside this Rule apply, unless those Rules are inconsistent with this Rule or applicable legislation.
- (4)** An interlocutory step in a proceeding or a motion may be made in accordance with Part 6 - Motions as modified by this Rule.

Child Protection

Starting a child protection application

- 60A.02(1)** An agency that starts a child protection application under Section 32 of the *Children and Family Services Act* may file a notice of application in court.
- (2) An agency that starts a child protection application under this Rule 60A.02 must request a court officer, or a judge, to appoint a time and date for the interim hearing of the application.
 - (3) The provisions of Rule 31 - Notice about giving notice of a proceeding, including the requirement to deliver a copy of a document that is filed to each other party immediately before or after it is filed, apply to an application under this Rule 60A.02.
 - (4) A judge may require notice, waive notice, and give directions for effecting notice.
 - (5) A judge may make an order to designate an address for service to a party who has not designated an address under Rule 31 - Notice.

Notice of child protection application

- 60A.03(1)** A notice of a child protection application must have a standard heading written in accordance with Rule 84 - Court Records, be entitled “Notice of Child Protection Application”, be dated and signed, and conform with all of the requirements for a notice of application in court under Rule 5.07, except for each of the following differences:
- (a) the description of the order applied for must identify the child by full name, birth date and sex, and must state that the order is to determine whether the child is in need of protective services under the *Children and Family Services Act*;
 - (b) the grounds for the order must include a reference to the clause in subsection 22(2) of the *Children and Family Services Act* relied on;
 - (c) instead of including a notice of motion for directions, it must include a notice of the time, date, and place for a hearing, as soon as practicable and no later than five working days after the child has been taken into care or the application is made, whichever is sooner, to grant an interim order that there are reasonable and probable grounds to believe that the child is in need of protective services;
 - (d) the notice of the time and date must include a statement that the interim hearing is required to be held as soon as practicable and no later than five

working days after the child has been taken into care or the application is made, whichever is sooner;

- (e) notice that the respondent may file an affidavit;
 - (f) a notice of motion for directions and affidavit in support are not required;
 - (g) the statement about proceeding in the absence of the respondent must refer to attendance at the interim hearing, instead of the hearing of the motion for directions;
 - (h) a statement to the respondent that the respondent may retain and instruct counsel, be represented by counsel at the hearing, and seek legal aid services.
- (2) The notice of a child protection application may be in Form 60A.03.
 - (3) The affidavit in support of a child protection application must include evidence of the reasonable and probable grounds relied on by the agency for the claim that the child is in need of protective services.
 - (4) An agency must, immediately after starting an application, obtain and file a certified extract from the Registration of Birth for each child who is the subject of the application.

Place of application

- 60A.04(1)** A notice of a child protection application must be filed in the office of the Family Division closest to the child's place of ordinary residence, unless a judge directs otherwise or, if the child has no ordinary residence in the province, in any office of the Family Division.
- (2) A child protection application must be heard in a court house in which the Family Division sits that is closest to the child's place of ordinary residence, unless a judge directs otherwise.
- (3) A judge may direct that the file for a child protection proceeding be transferred from the office of the Family Division at one place to the office of the Family Division at another place.
- (4) A judge may direct that a child protection proceeding be transferred from the jurisdiction of the Family Division to the jurisdiction of the Family Court for the Province of Nova Scotia.

Parent or guardian under the age of majority

60A.05 A parent or guardian who is under the age of majority need not commence or defend a proceedings by a litigation guardian, unless a judge orders otherwise.

Appointing litigation guardian for a child

60A.06 A person who wishes to be appointed to act as litigation guardian for a child under the *Children and Family Services Act* must file a consent to act as litigation guardian and a certificate confirming that they have no interest in the proceeding adverse to the interests of the child.

Taking child into care

60A.07(1) An agent who takes a child into care under subsection 33(1) of the *Children and Family Services Act* must immediately file a notice of taking into care under this Rule 60A.07.

- (2) The notice of taking a child into care must have a heading that refers to the *Children and Family Services Act* and the purpose of the notice, be entitled in either of the following ways:
 - (a) in the case where the taking into care is before starting a child protection application, “ In the matter of giving notice of taking a child into care under subsection 33(2) of the *Children and Family Services Act* before starting a child protection application”;
 - (b) in the case where the taking into care is after starting a child protection application, “Notice of Taking Into Care”.
- (3) The notice of taking into care before starting a child protection application must be dated and signed, and contain all of the following:
 - (a) notice that the agent has taken a child into care, identifying the child, stating that there are reasonable and probable grounds to believe that the child is in need of protective services and that the child’s health and safety can only be adequately protected by taking the child into care;
 - (b) a statement that an interim hearing must be held within the time required under the *Children and Family Services Act* to determine whether there are reasonable and probable grounds to believe the child is in need of protective services;
 - (c) a statement to the respondent that the respondent may retain and instruct counsel, be represented by counsel at the hearing, and seek legal aid services.
- (4) A notice of taking a child into care before a child protection application is started

must include a statement that the agency will start a child protection application as soon as practicable and no later than five working days after the child was taken into care, and indicate the grounds under subsection 22(2) of the *Children and Family Services Act* agency relies on.

(5) A notice of taking into care after a child protection application is started must be dated and signed, and contain all of the following:

(a) notice that the agent has taken a child into care which sufficiently identifies the child; and

(i) a statement that there are reasonable and probable grounds to believe that the child is in need of protective services and that the child's health and safety can only be adequately protected by taking the child into care; or

(ii) a statement that the person in whose care and custody the child was placed has not complied with an order of the court which placed the child in the care of that person subject to the supervision of the agency;

(b) a statement that a hearing must be held within the time required under the *Children and Family Services Act* to determine whether the order should be reviewed and varied.

(6) A notice of taking into care made before a protection application is started may be in Form 60A.07 and a notice of taking into care made after starting a child protection application is started may be in form 60A.07A

Conduct of protection hearing

60A.08 A protection hearing may be conducted in accordance with Rule 25.04 of Rule 25 - Motion by Appointment.

Consolidation of proceedings

60A.09 The court may order that a child protection proceeding be consolidated with another proceeding involving custody or access to a child, including a proceeding under the *Children and Family Services Act*.

Interim hearing

60A.10(1) At the start of an interim hearing under Section 39 of the *Children and Family Services Act*, the judge may do any of the following:

(a) determine whether a child is a party and entitled to representation in accordance with Section 37 of the *Children and Family Services Act* and

- give directions on the child's status in the proceeding, representation, presence at hearings, participation, and disclosure and notice;
- (b) determine whether a person is the child's parent or guardian;
 - (c) determine whether a person who is found to be a parent or guardian has had any involvement with the child for an extended period of time;
 - (d) give directions about notice and disclosure to a parent or guardian who the judge finds has not had any involvement with the child for an extended period of time;
 - (e) inquire into whether the agency has made disclosure in accordance with subsection 38(1) of the *Children and Family Services Act*.
- (2) A judge who finds the agency has not made disclosure may order disclosure and discovery under Part 5 - Disclosure and Discovery.
- (3) A party at an interim hearing under subsection 39(1) of the *Children and Family Services Act* may offer an expert opinion without filing it, despite Rule 55.02 of Rule 55 - Expert Opinion, for either of the following purposes:
- (a) determining whether there are reasonable and probable grounds to believe that the child is in need of protective services;
 - (b) whether the application should be dismissed under subsection 39(2) of the *Children and Family Services Act*.
- (5) A judge who does either of the following under the *Children and Family Services Act* may act on affidavit evidence or, if permitted by the judge, oral evidence, to determine whether there are reasonable and probable grounds to believe that a child is in need of protective services:
- (a) dismisses the application, under subsection 39(2) of the *Children and Family Services Act*;
 - (b) adjourns the interim hearing and makes an interim order pending completion of the interim hearing, under subsection 39(3) of the *Children and Family Services Act*.
- (6) An interim order granted when adjournment is made under subsection 39(3) of the *Children and Family Services Act* must provide that the order expires on the earlier of one of the following dates:

- (a) the date of the completion of the deadline for an interim hearing provided in subsection 39(4) of the *Children and Family Services Act*;
 - (b) a date set by a judge that is no later than is necessary to complete the interim hearing.
- (7) An agency that has taken a child into care after a proceeding is started and seeks an order to vary an interim order must make the motion to vary as soon as possible and file the notice of motion no less than two days before the day of the hearing, unless the other party agrees or the court orders otherwise.

Disclosure and discovery

60A.11(1) A witness in a proceeding may only be discovered under an order for discovery after the interim hearing is completed.

- (2) A child may only be questioned on discovery if the court permits and on the terms the court directs.
- (3) A judge may order information that may be emotionally harmful to a child who participates in a proceeding be kept from the child.

Stay until mediation completed

60A.12(1) A judge who is satisfied that it is in the interests of the child and that it is desirable for the parties to pursue a consensual resolution of the issues in dispute may order a stay during a mediation under subsection 21(2) of the *Children and Family Services Act*.

- (2) The order for a stay during mediation must be entitled “Order for Stay During Mediation”, include the standard heading, and contain all of the following:
 - (a) a record of the judge’s findings that the respondents have been given notice of the child protection proceeding and the parties have appointed a mediator;
 - (b) a statement of the issues the parties have agreed to mediate;
 - (c) a provision for a stay of the proceeding until a specified date;
 - (d) a statement that the mediator must file a report with the court and deliver a copy of the report to each party, or that the parties have agreed to a closed mediation and the mediator must not report to the court.
- (3) An order for a stay during mediation may contain a provision prescribing the limitations of what information should be disclosed in the report, such as the

terms of an agreement or whether an agreement was not reached, and what information should not be disclosed in the report; or in the alternative, a provision that the report must contain unlimited information and not contain recommendations.

- (4) The order for stay during mediation may be in Form 60A.12.

Prehearing conference

- 60A.13(1)** A prehearing conference under Rule 26 - Conference must be held before a protection hearing and before a disposition hearing unless a judge directs otherwise.
- (2) A prehearing conference for a protection hearing may be combined with the protection hearing and a prehearing conference for a disposition hearing may be combined with the disposition hearing.
 - (3) A judge may permit a court officer to conduct a prehearing conference.
 - (4) An agency must file an affidavit providing current relevant evidence no less than ten days before the day of the prehearing conference.

Production of documents

- 60A.14** A judge who is satisfied on all of the following may order a person to deliver a copy of a document to the parties or the court, or to produce the original of a document for inspection by the parties or a judge:
- (a) the delivery or inspection is necessary for the fair disposition of the proceeding, or it will reduce costs;
 - (b) the parties are notified of the motion for delivery or inspection;
 - (c) the delivery or inspection is not injurious to the public interest

Protection hearing

- 60A.15(1)** A party must file a notice of intention to present the following kinds of evidence before a prehearing conference:
- (a) evidence admitted under subsection 96(1) of the *Children and Family Services Act*;
 - (b) a child's testimony to be received by the court under subsection 96(3) of the *Children and Family Services Act*.
- (2) The motion for a protection order is heard by a judge at a protection hearing

under Section 40 of the *Children and Family Services Act*.

- (3) A protection order is granted under Section 40 of the *Children and Family Services Act*.

Disposition hearing

60A.16(1) When a judge finds that a child is in need of protective services, the court must schedule a prehearing conference to organize a disposition hearing.

- (2) An agency in a proceeding in which the judge finds a child to be in need of protective services must file a notice of motion for a disposition order no later than ten days before the prehearing conference scheduled as a result of a finding that a child is in need of protective services and the agency must file an affidavit providing the current relevant evidence and the agency plan for the child's care with the notice.

- (3) The motion for a disposition order is heard by a judge at a disposition hearing under Section 41 of the *Children and Family Services Act*.

- (4) A disposition order is granted under Section 42 of the *Children and Family Services Act*.

- (5) The notice of motion for a disposition order must contain the standard heading, be entitled "Notice of Motion for Disposition Order", be dated and signed, and conform with the requirements for a notice of motion in chambers, except for the following differences:

- (a) the notice of the time and date when, and the place where, the motion is to be heard is for the pre-hearing conference or the disposition hearing;
- (b) the provision for references is not included;
- (c) the statement of the evidence in support of the motion is to include a reference to the agency's plan for the child's care;
- (d) a statement to the respondent that the respondent may retain and instruct counsel, be represented by counsel at the hearing, and seek legal aid services.

- (6) The notice of motion for disposition order may be in Form 60A.16.

Agency plan for disposition hearing

60A.17(1) The agency's plan for the child's care must contain the standard heading, be entitled "Agency Plan for the Child's Care", be dated and signed, and include all

of the following:

- (a) a description of the disposition order sought;
 - (b) a description of services to be provided;
 - (c) a statement of the criteria the agency will use to determine when its care and custody or supervision are no longer required;
 - (d) an estimate of the time the agency requires to achieve the agency's intervention.
- (2) An agency that proposes to remove the child from the care of a parent or guardian, must include all of the following in the plan:
- (a) an explanation of why the child cannot be adequately protected while in the care of the parent or guardian;
 - (b) a description of the past and present services, including those attempted but failed, refused, or considered but would be inadequate, along with the reasons for any failure, refusal, or inadequacy;
 - (c) information on possible placements of the child that have been considered and rejected, and the reasons for the rejection;
 - (d) a statement of the proposed efforts to maintain the child's contact with the parent or guardian.
- (3) An agency that proposes the child be placed in temporary care and custody of the agency, must include all of the following in the plan:
- (a) a description of the child's needs in reference to the findings of assessments;
 - (b) a statement of the goals for the temporary care and custody, and objectives to achieve the goals;
 - (c) a statement of the educational program for the child;
 - (d) a statement of how the child's parents or guardian will be involved in the care plan;
 - (e) details of any specialized services to be provided;

- (f) the dates for review of the care plan or its revision;
 - (g) a statement of the anticipated plan at final disposition;
 - (h) a statement of whether the child has brothers or sisters living in the same family unit and the steps taken to keep them all in the same family unit or to do otherwise;
 - (i) an explanation of the steps taken to maintain contact with the child's relatives and friends;
 - (j) an explanation of the steps taken to preserve the child's cultural, racial, and linguistic heritage;
 - (k) an explanation of the steps taken for the continuity of the child's education and religion.
- (4) An agency that proposes the child be placed in permanent care and custody of the agency, must include all of the following in the plan:
- (a) a statement of why the circumstances justifying the proposal are unlikely to change within a reasonably foreseeable time not exceeding the maximum time limits, based on the age of the child, set out in subsection 45(1) of the *Children and Family Services Act*;
 - (b) a description of the arrangements for the child's long-term stable placement;
 - (c) a statement of the access, if any, proposed for the child and any terms and conditions for access;
 - (d) an explanation of the placement with a family in relation to preserving the child's own religious faith, culture, race, and language.
- (5) The agency's plan for the child's care may be in Form 60A.17.

Kinds of disposition orders

60A.18 The following kinds of disposition orders made after a hearing under subsection 42(1) of the *Children and Family Services Act* must be made in accordance with the following Rules:

- (a) an order of dismissal, Rule 60A.19;
- (b) a supervision order, Rule 60A.20;

- (c) an order for temporary care and custody, Rule 60A.21;
- (d) an order for permanent care and custody, Rule 60A.22.

Order of dismissal

60A.19(1) An order of dismissal at the conclusion of a disposition hearing under Section 42 of the *Children and Family Services Act* must contain the standard heading, be entitled “Order of Dismissal”, and include both of the following:

- (a) a record of the judge’s finding that the child, whose name and date of birth must be stated, was in need of protective services in reference to the applicable clause in subsection 22(2) of the *Children and Family Services Act*;
 - (b) a provision that the proceeding respecting the child is dismissed.
- (2) The order of dismissal may be in Form 60A.19.

Supervision order

60A.20(1) A supervision order must contain the standard heading, be entitled “Supervision Order”, and include all of the following:

- (a) a record of the judge’s finding that the child, whose name and date of birth must be stated, was in need of protective services with a reference to the applicable clause in subsection 22(2) of the *Children and Family Services Act*;
 - (b) a record that affidavits were filed, evidence was heard;
 - (c) a record that the child’s birth certificate, or other proof of birth, was filed or a statement that the judge found it is not practicable to do so;
 - (d) a provision that the child is to remain in the care and custody of the parent or guardian or other person, but under the supervision of the agency;
 - (e) the terms and conditions of supervision, if any;
 - (f) a provision granting the agency the right to enter the residence of the child;
 - (g) a statement of the time and date when the supervision order will be reviewed by a judge.
- (2) The supervision order may be in Form 60A.20.

Order for temporary care and custody

60A.21(1) An order for temporary care and custody must contain the standard heading, be entitled “Order for Temporary Care and Custody”, and include all of the following:

- (a) a record of the judge’s finding that the child, whose name and date of birth must be stated, was in need of protective services with a reference to the applicable clause in subsection 22(2) of the *Children and Family Services Act*;
- (b) a record that affidavits were filed, evidence was heard;
- (c) a record that the child’s birth certificate, or other proof of birth, was filed or a statement that the judge found it is non-practicable to do so;
- (d) a record that the judge’s finding that less intrusive alternatives, including services to promote the integrity of the family have been attempted and have failed, have been refused by the parent or guardian or would be inadequate to protect the child;
- (e) a record that the judge considered whether it was possible to place the child with a relative, neighbour, or other member of the child’s community or extended family;
- (f) a provision that the child be placed in the temporary care and custody of the agency;
- (g) the terms and conditions of temporary care and custody, if any;
- (h) a statement of when the child is to be returned to the care and custody of the parent or guardian, if the child is to be returned;
- (i) a statement of the time and date when the order for temporary care and custody will be reviewed by the court.

(2) The order for temporary care and custody may be in Form 60A.21.

Order for permanent care and custody

60A.22(1) An order for permanent care and custody must contain the standard heading, be entitled “Order for Permanent Care and Custody”, and include all of the following:

- (a) a record of the judge’s finding that the child, whose name and date of birth must be stated, was in need of protective services with a reference to the

applicable clause in subsection 22(2) of the *Children and Family Services Act*;

- (b) a record that affidavits were filed, evidence was heard and the child's birth certificate, or other proof of birth, was filed;
- (c) a record of the judge's finding that less intrusive alternatives, including services to promote the integrity of the family have been attempted and have failed, have been refused by the parent or guardian or would be inadequate to protect the child;
- (d) a record that the judge considered whether it was possible to place the child with a relative, neighbour or other member of the child's community or extended family;
- (e) a record of the judge's finding that the circumstances justifying the order of permanent care and custody are unlikely to change within a reasonably foreseeable time not exceeding the maximum time limits under the *Children and Family Services Act* for the child to be returned to the parent or guardian;
- (f) a provision that the child be placed in the permanent care and custody of the agency.

- (2) The order for permanent care and custody may be in form 60A.22.

Separate order for each child

60A.23 A judge who determines to make an order of dismissal, or an order for permanent care and custody, in a proceeding involving more than one child must make a separate order for each child who is the subject of the proceeding.

Review of order

60A.24(1) A party may make a motion for a judge to review an order under Section 46 of the *Children and Family Services Act* by filing a notice of motion in chambers.

- (2) An agency that seeks a change in placement, access, or services must file a revised agency plan or a new agency plan for the child's care, providing the latest information, updates, changes and additions to the plan, with the agency's affidavit in support of the motion.
- (3) A revised agency plan must show the revisions as being underlined or otherwise highlighted.
- (4) An agency that takes a child into care after a supervision order is made must make

a motion to review the order as soon as practicable but no later than five working days after the child is taken into care or the application is made, whichever is sooner.

- (5) A judge who hears a motion to review an order before the expiry of the order may adjourn the review hearing and make a disposition order other than an order for permanent care and custody, within the time limits in subsection 43(4) and 45(1) of the *Children and Family Services Act*.

Terminating order for permanent care and custody

60A.25(1) An application to terminate an order for permanent care and custody may be started by filing a notice of application in court.

- (2) The application must include the following statements:
 - (a) the party is authorized to make the application under Section 48 of the *Children and Family Services Act*; or
 - (b) the party has obtained an order granting permission under clause 48(6)(c) of the *Children and Family Services Act*, to make the application.
 - (c) the party has given sufficient notice to the agency that has care and custody of the child and to all other parties to the proceeding in which the child was placed in permanent care and custody.
- (3) A party who is required to obtain permission under clause 48(6)(c) of the *Children and Family Services Act* must obtain an order before the party files an application to terminate an order for permanent care and custody.
- (4) An order made under clause 48(8)(c) of the *Children and Family Services Act* that directs supervision by the agency, and adjourns the hearing of an application to terminate an order for permanent care and custody and directs the placement of the child in the care and custody of a parent or guardian, must contain everything required in a supervision order under Rule 60A.20, except for the following differences:
 - (a) the first paragraph in the order must state that an application was made to terminate the order for permanent care and custody respecting the child, whose name and birth must be stated, instead of recording the judge's findings;
 - (b) the order must include a provision adjourning the hearing.
- (5) An order made under clause 48(8)(d) of the *Children and Family Services Act* that

directs supervision by the agency, and adjourns the hearing of an application to terminate an order for permanent care and custody and directs the placement of the child in the care and custody of a person other than a parent or guardian, must contain everything required in a supervision order under Rule 60A.20, except for the following differences:

- (a) the first paragraph must state that an application was made to terminate the order for permanent care and custody and to place the child in the care of a person other than a parent or guardian, but under the supervision by the agency, instead of recording the judge's findings;
 - (b) the order must include a provision adjourning the hearing;
 - (c) the provision required by Rule 60A.20(1)(d) must instead provide that the child is to remain in the care and custody of a person other than a parent or guardian.
- (6) An application for one of the following kinds of orders must be heard no more than the following number of days after the day the notice of application is filed:
- (a) to terminate an order for permanent care and custody, ninety days;
 - (b) the permission to apply to terminate an order for permanent care and custody under clause 48(6)(c) of the *Children and Family Services Act*, sixty days.

Varying or terminating access under order for permanent care and custody

60A.26(1) A party who wishes to have access under an order for permanent care and custody varied or terminated under subsections 48(3) or (5) of the *Children and Family Services Act* may do so by notice of application.

- (2) The application may be started by filing a notice of application.
- (3) The notice of application must state that the application is being made under subsection 48(3) or (5) of the *Children and Family Services Act* and is to either vary or terminate access under an order for permanent care and custody.
- (4) The application must be heard no more than sixty days after the notice of application is filed.

Extension of Permanent Care and Custody

60A.27(1) A party who wishes to extend an order of permanent care and custody until the child reaches twenty-one years of age under subsection, 48(1) of the *Children and*

Family Services Act, may file a notice of application in chambers.

- (2) An agency who applies to extend the order of permanent care and custody must request a court officer, or a judge, to set a date for the hearing of the application and deliver a copy of the notice to the child at least ten days before the day of the hearing.
- (3) A child who applies to extend the order of permanent care and custody must request a court officer, or a judge to set a date for the hearing of the application and deliver a copy of the notice to the agency at least ten days before the day of the hearing.

Locate and Detain

- 60A.28(1)** A person who wishes to obtain an order to locate and detain a child under subsection 29(1) of the *Children and Family Services Act* may file an *ex parte* application in chambers.
- (2) A person who wishes to obtain an order to locate and detain a child must do both of the following:
 - (a) request a court officer, or a judge, to set a date for the hearing of the application;
 - (b) file an affidavit that establishes the ground for the order, including evidence demonstrating that the child has withdrawn from the care and control of the child's parent, guardian, or agency without consent and evidence establishing reasonable and probable grounds for believing that the child's health or safety may be at risk.
 - (3) The locate and detain order may be in form 60A.28.

Application for order keeping person away from child

- 60A.29(1)** An agency that wishes to start an application for a protective-intervention order under Section 30 of the *Children and Family Services Act* may file a notice of application for a protective-intervention order in court in accordance with this Rule 60A.29.
- (2) An agency that wishes to start an application for a protective-intervention order under this Rule 60A.29 must request a court officer, or a judge, to set down the hearing of the application and provide two days notice to the respondent.

- (3) The provisions of Rule 31 - Notice about giving notice of an originating document apply to an application under this Rule 60A.29.
- (4) The notice of application for a protective-intervention order must have a standard heading written in accordance with Rule 84 - Court Records, be entitled “Notice of Application for Protective-intervention Order”, be dated and signed, and conform with all of the requirements for a notice of application in court under Rule 5, except for each of the following differences:
 - (a) the description of the order applied for must identify the child by full name, birth date and sex, state that the order is to determine whether the person who is the subject of the application should cease to reside with the child, not contact the child or associate with the child, and give details of any terms and conditions sought by the agency;
 - (b) the grounds for the order must include that the person’s contact with the child is causing, or is likely to cause, the child to be in need of protective services;
- (5) A motion to vary, terminate, or extend a protective-intervention order may be made by filing a notice of motion, and Rules 60A.29(3) and (4) apply to the motion as if the motion were an original application.

Minister’s application for authorization to provide treatment

60A.30(1) The Minister may start an application under Section 61 of the *Children and Family Services Act*, concerning consent to treatment, by filing a notice of application in chambers.

- (2) The application must be supported by the opinions provided by two medical experts.
- (3) The notice of application must contain a statement that the respondent may retain and instruct counsel, be represented by counsel at the hearing, and seek legal aid services.

Application for finding to be entered in Child Abuse Register

60A.31(1) An application by the Minister or the agency for a finding of abuse for the purpose of entry in the Child Abuse Register under subsection 63(3) of the *Children and Family Services Act* may be started by filing a notice of application in chambers.

- (2) The notice of application must conform with the requirements for a notice of application under Rule 5.03(2), except for the following differences:

- (a) the provision entitled “Possible order against you” must instead of the current provision state as follows: “The judge may make a finding of abuse for the purpose of entering your name in the Child Abuse Register. The entry will affect your ability to become a foster parent an adoptive parent, or to obtain some kinds of employment, or work as a volunteer caring for or working with children.”;
 - (b) the notice of application must contain a statement that the respondent may retain and instruct counsel, be represented by counsel at the hearing, and seek legal aid services.
- (3) The person whose name is intended to be entered in the Child Abuse Register must be named as the respondent.
 - (4) The Minister or an agency that wishes to start an application for a finding of abuse for the purpose of entries in the Child Abuse Register must request a court officer or a judge to appoint a time and date for directions and to set down the hearing of the application.
 - (5) The provision of Rule 31 - Notice about giving notice of an originating document apply to an application under the Rule 60A.31.

Removal of name in Child Abuse Register

- 60A.32(1)** An application for removal of a person’s name in the Child Abuse Register may be started by filing an application for removal from register.
- (2) The Minister or agency who obtained the finding of abuse must be named as respondent.
 - (3) The application for removal of name must contain the standard heading written in accordance with Rule 84 - Court records, be entitled “Application for Removal from Child Abuse Register”, be dated and signed, and contain all of the following:
 - (a) a notice of application for removal of name from the Child Abuse Register;
 - (b) a statement that the person does not pose a risk to children, with reasons;
 - (c) a request for an order to remove the person’s name from the Child Abuse Register;
 - (d) the address for delivery of documents to the applicant;

- (e) a reference to a true copy of the written notice of registration received by the person from the Child Abuse Register, attached as an exhibit to the application.
- (4) The application for removal of name may be in Form 60A.32.

Access to files and records

60A.33 Only the following persons may have access to the files and records of the court respecting a proceeding under the *Children and Family Services Act*:

- (a) a party, unless the party is a child and the judge at an interim hearing under Rule 60A.10(1)(a), or at any time under Rule 60A.11(3) makes an order to prevent emotional harm to the child;
- (b) counsel for a party;
- (c) any other person as directed by the judge on the motion of the person, with notice to the parties if the court directs, subject to the judge making an order to prohibit publication of a report of the proceeding or hearing under Section 94 of the *Children and Family Services Act*.

Admitting evidence from other proceeding

60A.34 A party who seeks to have evidence admitted from another proceeding respecting a child, under subsection 96(1) of the *Children and Family Services Act*, must fully describe the evidence in the notice of motion or list the evidence as an attachment to the notice.

Settlement Conferences

60A.35 The provisions in Rule 59 - Family Division Rules about settlement conferences apply to child and adult protection proceedings.

Adult Protection

Definition

60A.36 In Rules 60A.35 to 60A.41, “adult protection Rules” means Rules 60A.35 to 60A.41.

Scope of adult protection Rules

60A.37(1) The adult protection Rules provide for procedures under the *Adult Protection Act*.

- (2) An original proceeding under the *Adult Protection Act* is started by filing a notice of application, in accordance with the adult protection Rules.
- (3) An interlocutory proceeding under the *Adult Protection Act* is started in accordance with Part 6 - Motions, as modified by the adult protection Rules.
- (4) An adult protection application proceeding is governed by the adult protection Rules and the Rules outside Part 12 - Family Proceedings.

Starting an adult protection application

- 60A.38(1)** The Minister may make an adult protection application by filing a notice of application in accordance with the adult protection Rules.
- (2) The person in respect of whom the application is made or some person having custody or control of that person and, where applicable, the person against whom a protective intervention order may be made, must be named as the respondent.
 - (3) A judge may direct that notice of an adult protection application be given to a relative of, and any other person with an interest in, the person in respect of whom the application is made.
 - (4) A person who wishes to be appointed to act as litigation guardian for an adult under the *Adult Protection Act* must file a consent to act as litigation guardian and a certificate confirming that they have no interest in the proceeding adverse to the interests of the party.
 - (5) The provisions of Rule 31 - Notice about giving notice of a proceeding, including the requirement to deliver a copy of a document that is filed to each other party immediately before or after it is filed, apply to an application under the adult protection Rules.
 - (6) A judge may make an order to designate an address for service to a party who has not designated an address in accordance with Rule 31 - Notice.

Notice of adult protection application

- 60A.39(1)** A notice of adult protection application must contain the standard heading written in accordance with Rule 84 - Court Records, be entitled “Notice of Adult Protection Application”, be dated and signed, and conform with the requirements for a notice of application in court under Rule 5.07 except as provided in this Rule 60A.38.
- (2) A notice of adult protection application must, in the description of the order

applied for, include a claim for a declaration that the respondent for whose benefit the application is brought is an adult in need of protection, and that the respondent is either not competent to decide whether or not to accept the assistance of the Minister or is refusing assistance because of duress.

- (3) The description of the order applied for may include a claim for an order authorizing the Minister to provide services to the respondent under clause 9(3)© of the *Adult Protection Act* or for a protective intervention order under clause 9(3)(d) of the *Adult Protection Act*.
- (4) The statement of grounds for order, in the notice of adult protection application, must include the following in reference to the following orders:
 - (a) for an order that a person is an adult in need of protection, the reasons why the person is in need of protection and how the person is not mentally competent to decide whether or not to accept the assistance of the Minister or the grounds for finding that the person is refusing assistance because of duress;
 - (b) for an order authorizing the Minister to provide the person with services, or a protective intervention order, the grounds for a finding that it is in the best interests of the person.
- (5) A notice of adult protection application may be in Form 60A.39.

Notice of adult application (after removal)

60A.40(1) A notice of application for an order under subsection 10(2) of the *Adult Protection Act* must conform with the requirements for a notice of adult protection application under Rule 60A.38(1), except for both of the following:

- (a) the notice must be entitled “Notice of Adult Protection Application (After Removal)”;
 - (b) the notice must state that the Minister removed the respondent for whose benefit the application is made and include the date the removal took place.
- (2) Notice must be given as provided in subsection 10(2) of the *Adult Protection Act*.
 - (3) A notice of adult protection after removal application may be in Form 60A.40.
 - (4) The statement of grounds for order, in the notice of adult protection application (after removal), must include the following in reference to the following orders:

- (a) for an order that a person is an adult in need of protection, the reasons why the person is in need of protection and how the person is not mentally competent to decide whether or not to accept the assistance of the Minister or the grounds for finding that the person is refusing assistance because of duress;
- (b) for an order authorizing the Minister to provide the person with services, or a protective intervention order, the grounds for a finding that it is in the best interests of the person.

Place of application

- 60A.41(1)** A notice of adult protection application must be filed in the office of the Family Division closest to the adult's place of ordinary residence, unless a judge directs otherwise or, if the adult has no ordinary residence in the province, in any office of the Family Division in which the agency files the notice.
- (2) An adult protection application must be heard at the location of the court in the court house in which the Family Division sits that is closest to the adult's place of ordinary residence, unless a judge directs otherwise.
 - (3) A judge may direct that the file for an adult protection proceeding be transferred from the office of the Family Division at one place to the office of the Family Division at another place.
 - (4) A judge may direct that an adult protection proceeding be transferred from the jurisdiction of the Family Division to the jurisdiction of the Family Court for the Province of Nova Scotia.

Motion to vary, review or terminate order

- 60A.42** A motion to vary, review or terminate an order under subsection 9(6) of the *Adult Protection Act* may be made in accordance with Part 6 - Motions, to the extent that Part is consistent with subsection 9(6).

Access to files and records

- 60A.43** The provisions in Rule 59 – Family Division Rules about access to files and records apply, with necessary changes, to adult protection files and records.

Rule 60B - Involuntary Psychiatric Treatment Act and Hospitals Act Applications

Application

- 60B.01(1)** A person who makes a statement under subsection 13(1) of the *Involuntary Psychiatric Treatment Act* must file the statement.
- (2) A judge who is satisfied under subsection 13(2) of the *Involuntary Psychiatric Treatment Act* that the statement is not frivolous, vexatious, or malicious may give directions on any of the following:
- (a) filing a notice of application;
 - (b) permitting the application to be heard *ex parte* if necessary under subsection 13(3) of the *Involuntary Psychiatric Treatment Act*;
 - (c) giving notice to the person sought to be examined involuntarily;
 - (d) other necessary parties and giving notice to each;
 - (e) affidavits to be filed;
 - (f) the time, date, and place of the hearing;
 - (g) anything for the just determination of the application.
- (3) The judge who gives directions may amend the directions or give additional directions.
- (4) The provisions of Rule 5 - Application concerning an application in court apply to an application on notice under this Rule 60B.42, unless the judge who gives directions directs otherwise.
- (5) The judge who orders that the allegations are to be determined *ex parte* may treat the statement as an *ex parte* application and hear the application then or at a time, date, and place appointed by the judge.
- (6) A judge who finds that the statement may be frivolous, vexatious, or malicious, may give directions to set a time and place to hear the person who made the statement and determine whether the application may proceed.
- (7) The same judge who gives directions, permits the application to be heard *ex*

parte, or determines that the statement is not frivolous vexatious, or malicious must hear the application, unless the judge directs otherwise.

Review under the *Hospitals Act*

Review under the *Hospitals Act*

60B.02 A judicial review under Section 54D or subsection 71(2A) of the *Hospitals Act* about the giving or refusal of consent by a substitute decision maker, or under subsections 58(1) and (2) of that Act about a declaration of capacity or competency, may be started by filing a notice for judicial review and may be obtained and conducted in accordance with Rule 7 - Judicial Review and Appeal.

Supreme Court of Nova Scotia
(Family Division)

Between: [complete heading as required by Rule 84 - Court Records]

[name] Applicant

and

[name] Respondent

Notice of Child Protection Application

To: [name of each respondent]

The applicant requests a child protection order that a child is in need of protective services

The applicant is applying to the Supreme Court (Family Division) for an order determining that the child [name, birth date and sex] is in need of protective services under the *Children and Family Services Act*.

The applicant started this application by filing this notice on the date certified by the prothonotary.

Grounds for the order

The applicant is applying for the order on the following grounds:

(1) [refer to clause in subsection 22(2) of the Act]

(2)

(3)

Evidence to be presented

For the purpose of the hearing of the application, the applicant expects to file affidavits from the following witnesses, dealing with the following subjects:

<i>Name of witness</i>	<i>Subject</i>

Notice of Interim Hearing

At [a.m./p.m.] on _____, 20____, an interim hearing will take place before a judge in Chambers at the Courthouse, _____ Street, _____ Nova Scotia to hear a motion for an order [describe kind of interim order requested] . The interim hearing must be held no less than two days after the day the respondent is notified of the proceeding. The judge may grant the interim order in your absence if you or your counsel do not attend.

Affidavit on motion for order at interim hearing

The applicant files the affidavit of _____, sworn on _____, 20____, as evidence on the motion for an order at the interim hearing. A copy of the affidavit is delivered to you with this notice.

You may participate

You may participate in every hearing. You are entitled to notice of further steps in the proceeding, unless a judge orders otherwise.

Possible interim or final order against you

The judge may grant an interim or final order without further notice to you if you or your counsel do not appear at the time, date, and place for any hearing.

Counsel

You may retain and instruct counsel to represent you at the hearing. If you are unable to afford a lawyer, a lawyer may be available through the local Legal Aid office. If you wish to be represented by a lawyer, you should contact a lawyer as soon as possible.

Filing and delivering documents

Any documents you file with the court must be filed at the office of the Family Division
Street, Nova Scotia (telephone #).

The *Nova Scotia Civil Procedure Rules* require that whenever you file a document you must immediately deliver a copy of it to the applicant and each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a judge orders it is not required.

Documents you deliver to the applicant may be delivered to the applicant’s designated address shown in the contact information for applicant on this notice, and documents delivered there are considered received by the applicant on delivery.

Contact information

The applicant designates the following address:

Further contact information is available from the prothonotary.

Signature

Signed , 20

Signature of applicant

Print Name:

[or]

Signature of counsel

[name] as counsel

for [name]

Form 60A.07

[If taking a child into care is before starting a child protection application]

In the matter of [name of agent] , for agency [name of agency]
[name the Minister of Community Services or the Children's Aid Society involved]
giving notice of taking a child into care
under subsection 33(2) of the *Children and Family Services Act*
before starting a child protection application

[If taking a child into care is after starting a child protection application]

20

No.

Supreme Court of Nova Scotia
(Family Division)

Between: [complete heading as required by Rule 84 - Court Records]

[name]

Applicant

and

[name]

Respondent

Notice of Taking into Care

Taking into care

I, as agent under the *Children and Family Services Act* for the applicant named above, have on this day taken into care the child, _____, born on _____, under the *Children and Family Services Act*. I believe on reasonable and probable grounds that the child is in need of protective services, and that the child's health and safety cannot be protected adequately otherwise than by being taken into care.

Child protection application will be made

The agency will, as soon as possible, start a child protection application in the Supreme Court (Family Division) to determine whether the child is in need of protective services under the Act. The agency relies on the following grounds:

- (1) [refer to clause in subsection 22(2) in the Act]

(2)

(3) [or such other grounds as may be included in the child protection application]

.
]

Motion will be made for order at interim hearing

The *Children and Family Services Act* provides that, as soon as practicable, but in any event no later than five days after the day the notice of application is filed to determine whether a child is in need of protective services or the child is taken into care, whichever the earlier, the agency must make a motion for an order at an interim hearing to determine if there are reasonable and probable grounds to believe that the child is in need of protective services.

The agency undertakes to make the motion within the time stated above and to schedule the interim hearing.

Counsel

You may retain and instruct counsel to represent you at the hearing. If you are unable to afford a lawyer, a lawyer may be available through the local Legal Aid office. If you wish to be represented by a lawyer, you should contact a lawyer as soon as possible.

Signature

Signed _____, 20

Signature of agent
Print Name:

[or]

Signature of counsel
[name] as counsel for
the agent [name]

20

No.

Supreme Court of Nova Scotia
(Family Division)

Between: [complete heading as required by Rule 84 - Court Records]

[name]

Applicant

and

[name]

Respondent

Notice of Taking into Care

Taking into care

I, as agent under the *Children and Family Services Act* for the applicant named above, have on this day taken into care the child, _____, born on _____, under the *Children and Family Services Act*,

I believe on reasonable and probable grounds, that the child is in need of protective services, and that the child's health and safety cannot be protected adequately otherwise than by being taken into care;

or

The person, _____, in whose care and custody the child was placed subject to the supervision of the agency has not complied with the order that placed the child in the care of that person.

Hearing

The *Children and Family Services Act* provides that, as soon as practicable, but in any event no later than five working days after the child is taken into care a hearing must be held to determine whether the order should be reviewed and varied.

Counsel

You may retain and instruct counsel to represent you at the hearing. If you are unable to afford a lawyer, a lawyer may be available through the local Legal Aid office. If you wish to be represented by a lawyer, you should contact a lawyer as soon as possible.

Signature

Signed _____, 20____

Signature of agent
Print Name:

[or]

Signature of counsel
[name] as counsel for
the agent [name]

Form 60A.12

20

No.

Supreme Court of Nova Scotia
(Family Division)

Between: [complete the heading as required by Rule 84 - Court Records]

[name]

Applicant

and

[name]

Respondent

Order for Stay During Mediation

Before the Honourable Justice

in chambers

The persons entitled to notice of this proceeding have been notified;

The parties have appointed a mediator and have made a motion for an order for stay pending mediation;

The parties have agreed to mediate all of the following issues: [briefly list issues in point form]

(1)

(2)

(3)

It is ordered:

1. The proceeding is stayed until [insert end date of stay] .

2. *[The mediator must file a report with the court and deliver a copy to each party./ The parties have agreed to a closed mediation and the mediator must not report to the court.]*
3. *[The report must be limited to only a statement of the number of interviews conducted and who attended/the terms of an agreement or that an agreement was not reached./ The report must not be limited and not include recommendations, but may include any information the mediator considers relevant to the issues.]*

Issued , 20

Prothonotary

Form 60A.16

20

No.

Supreme Court of Nova Scotia
(Family Division)

Between: [complete the heading as required by Rule 84 - Court Records]

[name]

Applicant

and

[name]

Respondent

Notice of Motion for Disposition Order

To: [name of each respondent entitled to notice]

Motion for disposition order

[name of agency] , the applicant in this proceeding, moves for a disposition order to be granted under subsection 42(1) of the *Children and Family Services Act* at a hearing under Section 41 of the Act.

Time and place hearing motion

The motion is to be heard by a judge at a [*pre-hearing conference/disposition hearing*] to be held on _____, 20____ at _____ [*a.m./p.m.*] in the [*Courthouse/Law Courts*] _____, Street, _____, Nova Scotia.

Evidence

The evidence in support of the motion is as follows:

- (1) affidavit of _____ sworn on _____, 20____ and filed with this notice.
- (2) affidavit of _____ sworn on _____, 20____ already filed in this proceeding.
- (3) affidavit of _____ to be sworn and filed before the deadline, about _____.

Also, the evidence will include the agency's plan for the child's care.

A copy of each affidavit and the agency's plan for the child's care is to be delivered to you with the notice.

Possible order against you

You may attend the hearing of the motion, and state your position on whether the proposed order should be made. If you do not attend, the judge may grant an order without further notice to you.

Counsel

You may retain and instruct counsel to represent you at the hearing. If you are unable to afford a lawyer, a lawyer may be available through the local Legal Aid office. If you wish to be represented by a lawyer, you should contact a lawyer as soon as possible.

Signature

Signed _____, 20

Signature
Print name:

Supreme Court of Nova Scotia
(Family Division)

Between: [complete the heading as required by Rule 84 - Court Records]

[name] Applicant

and

[name] Respondent

Agency's Plan for the Child's Care

1 Disposition order sought [describe the order the agency seeks]

2 Description of services to be provided [describe the services to be provided to remedy the condition or situation on the basis of which the child was found in need of protective services:

[the agency will provide the following services: [agency services]

[the agency will seek services from: [other community resources]

3 Criteria for determination

The agency will determine when its care and custody or supervision is no longer required as follows: [specify the objectives of the agency's intervention and how attainment of those objectives will be determined] .

4 When agency plan should end

The agency estimates the time required to achieve the purpose of the agency's intervention [including the appropriate date for review, specific time lines with respect to service plans and prognosis] .

5 Removing child from care of parent or guardian

If the agency proposes to remove the child from the care of a parent or guardian, provide the following information:

- (a) [an explanation of why the child cannot be adequately protected while in the care of the parent or guardian [refer to the condition or situation on the basis of which the child was found to be in need of protective services];
- (b) [a description of past and present services] :

Services that have been attempted and their current status [include any reasons why the services have failed, if applicable]

Services that have been refused by the parent or guardian [specify the reasons for the refusal and any renewed offer of services made subsequent to that refusal]

Services that have been considered, but would be inadequate to protect the child [specify why the services would be inadequate to protect the child];
- (c) possible placements with a relative, neighbour or other member of the child's community or extended family that have been considered and rejected and reasons for the rejection;
- (d) what efforts, if any, are planned to maintain the child's contact with the parent or guardian [specify the proposed frequency and terms of any such contact];

or

5 If the agency proposes that the child be placed in temporary care and custody of the agency:

- (a) a description of the child's needs with reference to the findings of current or

previous assessments;

- (b) a statement of the goals to be achieved for the child while in temporary care and custody;
- (c) a statement of the objectives to be used to achieve the specified goals for the child;
- (d) a statement of the educational program for the child;
- (e) a statement of the ways in which the child's parents will be involved in the plan of care, including arrangements for contact between the child and the child's family;
- (f) particulars of any specialized service to be provided;
- (g) particulars of the dates for review of the plan of care and revisions to the plan of care as necessary;
- (h) a statement of the anticipated plan at final disposition, where applicable;
- (i) if the child has brothers or sisters, a statement of efforts made to keep the child with those brothers and sisters;
- (j) an explanation of the efforts made to maintain contact with the child's relatives and friends;
- (k) an explanation of the steps taken to preserve the child's cultural, racial, and linguistic heritage;
- (l) an explanation of the steps taken for continuity in the child's education and religion.

or

5 If the agency proposes that the child be placed in the permanent care and custody of the agency:

- (a) why the circumstances justifying the proposal are unlikely to change within a reasonably foreseeable time not exceeding the maximum time limits [specify the

barriers to change, agency efforts to remedy or alleviate those barriers and why those efforts would be unsuccessful within the maximum time limits provided in the Act];

- (b) description of the arrangements made or being made for the child's long-term stable placement [refer to the child's present placement, any intended changes to that placement, any special needs of the child, availability of long-term placements, agency plans to identify a permanent placement for the child, adoption prospects, etc.];
- (c) access, if any, proposed for the child and any terms and conditions to be included in such access arrangements;
- (d) an explanation of how the placement is with a family of the child's own religious faith, culture, race, and language.

[The three paragraphs numbered five are in the alternative.]

Signature

Signed _____, 20

Signature

Print name:

Form 60A.19

20

No.

Supreme Court of Nova Scotia
(Family Division)

Between: [complete the heading as required by Rule 84 - Court Records]

[name]

Applicant

and

[name]

Respondent

Order of Dismissal

Before the Honourable Justice

in Chambers

Findings

The persons entitled to notice of this proceeding have been notified;

The child, _____, born _____, was in need of protective services under the *Children and Family Services Act*, clauses 22(2) [refer to clause relied on] _____, on _____, 20 ____;

After reading the notice of motion for a disposition order and all the documents on file, including the agency plan for the child's care, and hearing testimony on _____, 20 ____, a decision was made on _____, 20 ____;

Order

It is ordered that this child protection proceeding for the child _____, born _____, is dismissed.

Issued _____, 20 ____

Prothonotary

20

No.

Supreme Court of Nova Scotia
(Family Division)

Between: [complete the heading as required by Rule 84 - Court Records]

[name] Applicant

and

[name] Respondent

Supervision Order

Before the Honourable Justice in Chambers

Findings

The persons entitled to notice of this proceeding have been notified;

The child, , born , was in need of protective services under the *Children and Family Services Act*, clauses 22(2) [refer to clause relied on] , on , 20 ;

After reading the notice of motion for a disposition order and all the documents on file, including the child’s birth certificate, or other proof of birth and the agency plan for the child’s care, and hearing testimony on , 20 , a decision was made on , 20 ;

Order

It is ordered:

1. The child , born , [is to remain in/ to be returned to] the care and custody of , under supervision of the agency.
2. The terms and conditions of the supervision are as follows:
 - (a) ;
 - (b) ;
 - (c) .

3. A representative of the agency may enter the residence of the child to provide guidance and assistance and to determine that the child is being properly cared for.
4. A judge will review the supervision order at [a.m./p.m.] on _____, 20____ at [a.m./p.m.] in the [Courthouse/Law Courts] _____, Street, _____, Nova Scotia, or at an earlier time directed by a judge.

Issued _____, 20____

Prothonotary

Supreme Court of Nova Scotia
(Family Division)

Between: [complete the heading as required by Rule 84 - Court Records]

[name]

Applicant

and

[name]

Respondent

Order for Temporary Care and Custody

Before the Honourable Justice

in Chambers

Findings

The persons entitled to notice of this proceeding have been notified;

The child, _____, born _____, was in need of protective services under the *Children and Family Services Act*, clauses 22(2) [refer to clause relied on] _____, on _____, 20_____

Less intrusive alternatives, including services to promote the integrity of the family have been attempted and have failed, have been refused by the parent or guardian, or would be inadequate to protect the child;

Placement of the child with a relative, neighbour, or other member of the child’s community or extended family is not possible;

After reading the notice of motion for a disposition order and all the documents on file, including the child’s birth certificate, or other proof of birth and the agency plan for the child’s care, and hearing testimony on _____, 20_____, a decision was made on _____, 20_____;

Order

It is ordered:

1. The child _____, born _____, is placed in the temporary care

and custody of the agency.

2. The terms and conditions of the temporary care and custody are as follows:
 - (a)
 - (b)
 - (c)
3. The agency must return the child to the care and custody of _____ [on _____, 20 ____ ./when describe event.]
4. A judge will review this order for temporary care and custody at _____ [a.m./p.m.] on _____, 20 ____ at _____ [a.m./p.m.] in the [Courthouse/Law Courts] _____, Street, _____, Nova Scotia, or at an earlier time directed by a judge.

Issued _____, 20 ____

Prothonotary

Supreme Court of Nova Scotia
(Family Division)

Between: [complete the heading as required by Rule 84 - Court Records]

[name] Applicant

and

[name] Respondent

Order for Permanent Care and Custody

Before the Honourable Justice in Chambers

Findings

The persons entitled to notice of this proceeding have been notified;

The child, , born , was in need of protective services under the *Children and Family Services Act*, clauses 22(2) [refer to clause relied on] , on , 20 ;

Less intrusive alternatives, including services to promote the integrity of the family have been attempted and have failed, have been refused by the parent or guardian, or would be inadequate to protect the child;

Placement of the child with a relative, neighbour, or other member of the child’s community or extended family is not possible;

The circumstances justifying the order of permanent care and custody are unlikely to change within a reasonably foreseeable time not exceeding the maximum time limits under the *Children and Family Services Act* for the child to be returned to the parent or guardian;

After reading the notice of motion for a disposition order and all the documents on file, including the child’s birth certificate, or other proof of birth and the agency plan for the child’s care, and hearing testimony on , 20 , a decision was made on , 20 ;

Order

It is ordered:

1. The child _____, born _____, is placed in the permanent care and custody of the agency.

2. The agency must permit [name] access to the child on the following terms and conditions: [if applicable]
 - (a) _____ ;
 - (b) _____ ;
 - (c) _____ .

Issued _____, 20

Prothonotary

20

No.

Supreme Court of Nova Scotia
(Family Division)

Ex Parte Application by [name of each applicant] [Applicant/Applicants] for
an order to Locate and Detain a Child

Order to Locate and Detain a Child

Before the Honourable Justice _____ in Chambers

Findings

The child, _____, born on _____, has withdrawn from the child’s parent, guardian, or agency, namely, _____, and there are reasonable and probable grounds to believe that the child’s health or safety may be at risk;

Order

It is ordered that each peace officer to whom a copy of this order is delivered shall locate and detain the child, _____, and upon detaining the child the peace officer shall as soon as it is possible deliver the child, _____, to the Department of Community Services, its servants or agents to be interviewed and, if appropriate, thereafter returned to the care of _____.

Issued _____, 20

Prothonotary

Supreme Court of Nova Scotia
(Family Division)

Between: [complete the heading as required by Rule 84 - Court Records]

[name] Applicant

and

[name] Respondent

Application for Removal from Child Abuse Register

To: [name respondent]

Application to remove name from Child Abuse Register

The applicant, [full name] , of [community] , Nova Scotia applies for an order to remove the applicant's name from the Child Abuse Register under subsection 64(2) of the *Children and Family Services Act*.

Certificate

The applicant certifies as follows:

1. I do not now pose a risk to children, for the following reasons:
2. I therefore request an order that my name be removed from the Child Abuse Register .
3. Attached to this application and marked Exhibit "A" is a true copy of the written notice of registration received by me from the Child Abuse Register.

Contact information

The applicant has designated the following address:

Further contact information is available from the prothonotary.

Signature

Signed _____, 20__

Signature of applicant
Print name:

[or]

Signature of counsel
[name] as counsel
for the applicant [name]

Prothonotary's certificate

I certify that this application for removal from child abuse register was filed with the court on _____, 20__ .

Prothonotary

Supreme Court of Nova Scotia
(Family Division)

Between: [complete heading as required by Rule 84 - Court Records]

[name]

Applicant

and

[name]

Respondent

Notice of Adult Protection Application

To: [name of each respondent]

The applicant seeks order that adult needs protection

The applicant, the Minister of _____, is applying to the Supreme Court (Family Division) for the following orders:

- (1) an order determining that [name], whose birth date is [date] is an adult in need of protection under the *Adult Protection Act*.
- (2) a declaration that the respondent for whose benefit the application is brought is an adult in need of protection, and that the respondent is [*not competent to decide whether or not to accept the assistance of the Minister/refusing assistance or is refusing assistance by reason of duress*].
- (3) an order authorizing the Minister to provide services to the respondent under clause 9(3)(c) of the *Adult Protection Act* or for a protective intervention order under clause 9(3)(d) of the Act, or for both.

The applicant started this application by filing this notice on the date certified by the prothonotary.

Grounds for the order

The applicant is applying for the order on the following grounds: [Briefly state grounds. Include either that the person is not mentally competent to decide whether or not to accept the assistance of the Minister, or the person refuses the assistance by reason of duress. For an order authorizing the Minister to provide the person with services, or a protective intervention order, state how it is in the best interest of the person.]

Witnesses for applicant

For the purpose of the hearing of the application, the applicant expects to file affidavits from the following witnesses, dealing with the following subjects:

<i>Name of witness</i>	<i>Subject</i>

Other possible witnesses

Other persons known to the applicant who may have relevant information are:

<i>Name of witness</i>	<i>Possible subject</i>

Motion for date and directions

At [a.m./p.m.] on _____, 20____, the applicant will appear before a judge in Chambers at Courthouse _____, _____ Street, _____ Nova Scotia to make a motion for an order giving directions for the hearing of the adult protection application including a date

and time for the hearing of it. The judge may provide directions in your absence if you or your counsel fail to attend.

Affidavit on motion for directions

The applicant files the affidavit of _____, sworn on _____, 20____, as evidence on the motion for directions. A copy of the affidavit is delivered to you with this notice.

You may participate

You may attend at the hearing.

And you may file an affidavit for the hearing.

Possible final order against you

The court may grant a final order against you on the application without further notice to you if you or your counsel fail to appear at the time, date, and place for the hearing.

Counsel

You may retain and instruct counsel to represent you at the hearing. If you are unable to afford a lawyer, a lawyer may be available through the local Legal Aid office. If you wish to be represented by a lawyer, you should contact a lawyer as soon as possible.

Filing and delivering documents

Any documents you file with the court must be filed at the office of the prothonotary _____ Street, _____ Nova Scotia (telephone # _____).

The *Nova Scotia Civil Procedure Rules* require that whenever you file a document you must immediately deliver a copy of it to the applicant and each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a judge orders it is not required.

Documents you deliver to the applicant may be delivered to the applicant’s designated address shown in the contact information for applicant on this notice, and documents delivered there are considered received by the applicant on delivery.

Contact information

The applicant designates the following address:

Further contact information is available from the prothonotary.

Signature
Signed

, 20

Signature of applicant
Print Name:

[or]

Signature of counsel
[name] as counsel
for [name]

Prothonotary's certificate

I certify that this notice of application was filed with the court on , 20 .

Prothonotary

Supreme Court of Nova Scotia
(Family Division)

Between: [complete heading as required by Rule 84 - Court Records]

[name] Applicant

and

[name] Respondent

Notice of Adult Protection Application (After Removal)

To: [name each respondent]

Respondent removed for protection

The applicant, the Minister of Community Services, caused [name] to be removed to such place as the Minister considers fit and proper for the protection of the person and preservation of the person's life.

The applicant seeks order that adult needs protection

The applicant, the Minister of _____, is applying to the Supreme Court (Family Division) for the following orders:

- (1) An order determining that [name], whose birth date is [date] is an adult in need of protection under the *Adult Protection Act*.
- (2) An order for both of the following:
 - (a) a declaration that the respondent for whose benefit the application is brought is an adult in need of protection, and that the respondent is [*not competent to decide whether or not to accept the assistance of the Minister/refusing assistance or is refusing assistance by reason of duress*].
 - (b) An order authorizing the Minister to provide services to the respondent under clause 9(3)(c) of the *Adult Protection Act* or for a protective intervention order under clause 9(3)(d) of the Act.

The applicant started this application by filing this notice on the date certified by the prothonotary.

Grounds for the order

The applicant is applying for the order on the following grounds: [briefly state grounds in point form; include material facts, references to legislation or points of law relied on, and the facts that make each applicable; do not re-state evidence or provide argument]

[describe the removal of the person, whom the Minister has removed to a place for the protection of the person and the preservation of the person’s life, including the date of removal, the place from and to the person was moved to, and the reasonable and probable grounds for the removal]

[in the statement of grounds, include the following grounds in reference to the following orders:

- (1) for an order that the person is an adult in need of protection, state either that the person is
 - (a) not mentally competent to decide whether or not to accept the assistance of the Minister,
 - (b) refusing the assistance by reason of duress
- (2) for an order authorizing the Minister to provide the person with services, or a protective intervention order, state how it is in the best interest of the person
- (3) for an order authorizing the Minister to provide the person with services, or a protective intervention order, state how it is in the best interest of the person]

Witnesses for applicant

For the purpose of the hearing of the application, the applicant expects to file affidavits from the following witnesses, dealing with the following subjects:

<i>Name of witness</i>	<i>Subject</i>

Other possible witnesses

Other persons known to the applicant who may have relevant information are:

<i>Name of witness</i>	<i>Possible subject</i>

Motion for date and directions

At [*a.m./p.m.*] on _____, 20____, the applicant will appear before a judge in Chambers at the [*Law Courts/Courthouse*] _____ Street, _____ Nova Scotia to make a motion for an order giving directions for the judicial review including a date and time for the hearing of it. The judge may provide directions in your absence if you or your counsel fail to attend.

Affidavit on motion for directions

The applicant files the affidavit of _____, sworn on _____, 20____, as evidence on the motion for directions. A copy of the affidavit is delivered to you with this notice.

You may participate

You may attend at the hearing.

And you may file an affidavit for the hearing.

Possible interim order or final order against you

The court may grant an interim order against you without further notice to you if you or your counsel fail to appear at the time, date, and place for the hearing.

Counsel

You may retain and instruct counsel to represent you at the hearing. If you are unable to afford a lawyer, a lawyer may be available through the local Legal Aid office. If you wish to be represented by a lawyer, you should contact a lawyer as soon as possible.

Filing and delivering documents

Any documents you file with the court must be filed at the office of the prothonotary
Street, Nova Scotia (telephone #).

The *Nova Scotia Civil Procedure Rules* require that whenever you file a document you must immediately deliver a copy of it to the applicant and each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a judge orders it is not required.

Documents you deliver to the applicant may be delivered to the applicant’s designated address shown in the contact information for applicant on this notice, and documents delivered there are considered received by the applicant on delivery.

Contact information

The applicant designates the following address:

Further contact information is available from the prothonotary.

Signature

Signed , 20

Signature of applicant
Print Name:

[or]

Signature of counsel
[name] as counsel
for [name]

Prothonotary’s certificate

I certify that this notice of application was filed with the court on , 20 .

Prothonotary