

*You are asking about . . .*



## Temporary guardianship orders

Alberta

The Child and Family Services Authority and Delegated First Nations Agency works with families to help them provide safe and nurturing homes for their children. However, if parents do not provide a safe and nurturing home for their children, the Child and Family Services Authority or Delegated First Nations Agency becomes involved for the well-being of the children.

### What is a temporary guardianship order?

A temporary guardianship order is a court order that allows the Child and Family Services Authority or Delegated First Nations Agency to make decisions about a child's daily care and activities, contact with other people, and where the child lives. Under a temporary guardianship order, a child does not live with his or her parent\*.

### How is a temporary guardianship order applied for?

The Child and Family Services Authority or Delegated First Nations Agency applies for a temporary guardianship order when a child is at risk at home and removing the child from the parent's care is the only option. A temporary guardianship order is applied for when:

- A child has been abused or is at risk of abuse by the parent or the parent fails to protect the child from abuse;
- A child has been neglected by the parent;
- A child has been subjected to cruel and unusual treatment or punishment by the parent (or the parent fails to protect the child from cruel and unusual treatment or punishment);

- A child's parent is dead or the parent's whereabouts are unknown;
- When a child has been in the care of the Child and Family Services Authority or Delegated First Nations Agency under a custody agreement for six months (for a child under six years old) or nine months (for a child over six years old) and it is in the best interests of the child to remain in the care of the Child and Family Services Authority or Delegated First Nations Agency; or
- A permanent guardianship agreement is not needed because it is expected the child will be able to return to the parent's care. In the case of a youth over the age of 16, the youth will be able to live independently after the order ends.

### How long does a temporary guardianship order last?

Each order cannot last any longer than:

- six months (if the child is under six years); or
- nine months (if the child is six years or older).

### Can a temporary guardianship order be extended?

Yes, but there can only be three temporary guardianship orders for the same child. After that, the Child and Family Services Authority or Delegated First Nations Agency will either apply for a permanent order or return the child into the parent's care.

\*IN MOST CASES, THE CHILD'S PARENT IS USUALLY THE CHILD'S LEGAL GUARDIAN. FOR THE PURPOSES OF THIS INFORMATION SHEET, IT IS ASSUMED THAT THE PARENT IS ALSO THE CHILD'S LEGAL GUARDIAN.



## How long can a child be in temporary care?

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In any five year period, the longest a child can be in the temporary care of the Child and Family Services Authority and Delegated First Nations Agency is 15 months for children under six years and 18 months for children six years and older. During this time, a decision will be made about where the child will live permanently.

## How does the caseworker get a temporary guardianship order for a child?

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A caseworker fills out an application for a custody order and an application for a temporary guardianship order. The application states the reasons why the order is being applied for and shows the court date when a judge will make a decision about the order.

All of the following people are informed about the application for a temporary guardianship order:

- each parent;
- the child, if 12 years old or older;
- a foster parent who has cared for the child for the past six months (or longer); and
- a person who cared for the child for at least six of the previous 12 months.

A court hearing takes place, and the judge decides whether to grant a temporary guardianship order. The judge may also decide to grant a different order, if the judge determines it is in the best interests of the child.

## Can a temporary guardianship order be overturned?

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If a temporary guardianship order is granted, the parent, the child (if 12 years or older) or the caseworker may appeal the decision to the Court of Queen's Bench within 30 days of the order being granted.

## Can a temporary guardianship order be changed?

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If the circumstances change, the parent, the child (if 12 years or older), or the caseworker may apply for a Review of the Order to ask the court to reconsider the case. The court may decide to change the order or grant a different order based on new circumstances.

## What are the rights and responsibilities of the parent during a temporary guardianship order?

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**Visits:** In most cases, the parent may visit the child. The court usually gives the Child and Family Services Authority or Delegated First Nations Agency the right to decide who can visit the child. The court also decides where and when the visits can take place and if they need to be supervised.

**Child Support:** The parent is expected to provide for the child's needs. This may include paying for items like clothing, school supplies or fees and transportation costs for the child to visit a parent or go to appointments.

**Federal Child Tax Benefit:** When a child enters the care of the Child and Family Services Authority or Delegated First Nations Agency, the parent is not eligible for the Federal Child Tax Benefit. The benefit goes to the Government of Alberta to help pay for the costs of caring for the child. Any child benefit payments the parent may accidentally receive during the order must be paid back to the Government of Canada. Once the child returns home, the parent must reapply for the benefit to start receiving it once again.

## How can I find out more?

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- Ask a caseworker for more information about temporary guardianship orders.
- Contact your regional Child and Family Services Authority at 310-0000. If you live on reserve, call the Delegated First Nations Agency listed in your phonebook.