

The Child and Family Services Act

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Chapter C-7.2 of the *Statutes of Saskatchewan, 1989-90* (consult *Table of Saskatchewan Statutes* for effective date) as amended by the *Statutes of Saskatchewan, 1990-91, c.10* and *c.C-8.1*; 1992, *c.21*; 1994, *c.27* and *35*; 1996, *c.11*; 1999, *c.14*; 2000, *c.6*; 2001, *c.33*; 2004, *c.5* and *65*; and 2006, *c.19*.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER C-7.2

An Act respecting the Protection of Children and the Provision of Support Services to Families

PART I

Title, Interpretation and Purpose

Short title

1 This may be cited as *The Child and Family Services Act*.

Interpretation

2(1) In this Act:

- (a) **“agency”** means a band or any other legal entity that has entered into an agreement pursuant to section 61;
- (a.1) **“band”** means a band as defined in the *Indian Act* (Canada) and includes the council of a band;
- (b) **“Band List”** means a Band List as defined in the *Indian Act* (Canada);
- (c) **“board”** means the Family Services Board established pursuant to subsection 43(1);
- (d) **“child”** means, except where a contrary intention is expressed, an unmarried person actually or apparently under 16 years of age;
- (e) **“court”** means, except where a contrary intention is expressed, the Provincial Court of Saskatchewan or the Court of Queen’s Bench;
- (f) **“department”** means the department over which the minister presides;
- (g) **“director”** means a person appointed by the minister pursuant to clause 57(a) as a director for all or any of the purposes of this Act and, in the absence of an appointment, means the minister;
- (h) **“family review panel”** means a family review panel established pursuant to subsection 40(1);
- (i) **“family services”** means services designed to strengthen, enhance and maintain the family unit;
- (j) **“foster care services”** means the provision of residential services to a child by and in the home of a person who is:
 - (i) approved by a director to care for the child; and
 - (ii) not the child’s parent or a person with whom the child has been placed for adoption;
- (k) **“judge”** means, except where a contrary intention is expressed, a judge of the court;

- (l) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (m) “**officer**” means a person designated by the minister pursuant to clause 57(b) as an officer for the purposes of this Act and includes a director;
- (n) “**parent**” means, except in Part V:
- (i) the mother of a child;
 - (ii) the father of a child;
 - (iii) a person to whom custody of a child has been granted by a court of competent jurisdiction or by a deed or agreement of custody;
 - (iv) a person with whom a child resides and who stands *in loco parentis* to the child;
- (o) “**person having a sufficient interest**” means a person designated by the court to be a person having a sufficient interest in a child pursuant to section 23;
- (p) “**place of safety**” means a place or one of a class of places designated by a director as a place of safety and may include a foster home, a hospital or the home of an extended family member;
- (q) “**protection hearing**” means a hearing held to determine whether a child is in need of protection;
- (r) “**residential services**” means family services or other services provided to a child outside the child’s home;
- (s) “**status Indian**” means a person who is:
- (i) registered as an Indian; or
 - (ii) entitled to be registered as an Indian;
- pursuant to the *Indian Act* (Canada).
- (2) A reference in this Act to an Act of the Parliament of Canada is a reference to that Act as amended from time to time.

1989-90 cC-7.2 s2; 1994 c27 s20; 1994 c35 s3.

Purpose

3 The purpose of this Act is to promote the well-being of children in need of protection by offering, wherever appropriate, services that are designed to maintain, support and preserve the family in the least disruptive manner.

1989-90 cC-7.2 s3.

Child’s best interests

4 Where a person or court is required by any provision of this Act other than subsection 49(2) to determine the best interests of a child, the person or court shall take into account:

- (a) the quality of the relationships that the child has with any person who may have a close connection with the child;

- (b) the child's physical, mental and emotional level of development;
- (c) the child's emotional, cultural, physical, psychological and spiritual needs;
- (d) the home environment proposed to be provided for the child;
- (e) the plans for the care of the child of the person to whom it is proposed that the custody of the child be entrusted;
- (f) where practicable, the child's wishes, having regard to the age and level of the child's development;
- (g) the importance of continuity in the child's care and the possible effect on the child of disruption of that continuity; and
- (h) the effect on the child of a delay in making a decision.

1989-90 cC-7.2 s4.

PART II Services to Families

Family services

5 Subject to this Act and the regulations, the minister may:

- (a) establish, operate and maintain family services;
- (b) provide family services to or for the benefit of a parent or a child where the minister considers them essential to enable the parent to care for the child;
- (c) enter into agreements with any person providing family services by which the minister is obliged to make payments for the provision of family services pursuant to this section.

1989-90 cC-7.2 s5.

Facilities

6 The minister may establish, maintain and operate any facilities that the minister considers advisable to provide for the necessary shelter, treatment, support and education of children committed to the minister or in the minister's custody.

1989-90 cC-7.2 s6.

Emergency care

7(1) Where a child is:

- (a) found without his or her parent; and
- (b) in need of assistance to return to the parent;

an officer or a peace officer may take custody of the child.

(2) Where a peace officer believes on reasonable and probable grounds that a child has been wrongfully removed or retained from the person who has the right to custody of the child without the consent of that person, the peace officer may take custody of the child.

(3) Where a peace officer has taken custody of a child pursuant to subsection (1) or (2), the peace officer shall deliver the child to an officer or the person who has the right to custody of the child.

(4) Where an officer has:

- (a) taken custody of a child pursuant to subsection (1); or
- (b) received a child from a peace officer pursuant to subsection (3);

the officer may provide interim care for the child and arrange for the child's return as soon as possible to the person who has the right to custody of the child.

(5) The minister may:

- (a) authorize any expenditures required to return a child pursuant to subsection (4) to a person who has a right to custody of the child; and
- (b) require the person who has a right to custody of the child to reimburse the minister for any expenses incurred pursuant to clause (a).

(6) The amount to be reimbursed pursuant to clause (5)(b):

- (a) is a debt owing to the minister; and
- (b) may be recovered from the person mentioned in clause (5)(b) by:
 - (i) suit;
 - (ii) counterclaim; or
 - (iii) set-off, including the set-off of any amounts owed to the person by any other agency of the Government of Saskatchewan.

1989-90 cC7.2 s7.

Interim care, child under 12

8(1) Where a peace officer believes on reasonable and probable grounds that a child who is actually or apparently under 12 years of age has committed an act that, if the child were 12 years of age or more, would constitute an offence pursuant to any Act or any Act of the Parliament of Canada while out of the supervision of a person who has a right to custody of the child, the peace officer:

- (a) may take the child into custody as an agent of a person who has a right to custody of the child; and
- (b) shall:
 - (i) return the child to a person who has a right to custody of the child or a person acting on that person's behalf at the earliest opportunity; or
 - (ii) place the child with an officer who shall ensure the return of the child to a person who has a right to custody of the child, or to a person acting on that person's behalf, at the earliest opportunity.

- (2) Where a child is placed in the custody of an officer pursuant to subclause (1)(b)(ii), the officer shall provide interim care for the child until the child is returned to a person mentioned in subclause (1)(b)(ii).
- (3) The minister may authorize any expenditures made pursuant to subsection (2).

1989-90 cC-7.2 s8.

Agreements for residential services

9(1) Subject to subsection 68(2), a parent who:

- (a) through special circumstances is unable to care for his or her child; or
- (b) because of the special needs of his or her child is unable to provide the services required by the child;

may enter into an agreement with the director for a term not exceeding one year for the purpose of providing residential services for the child.

(2) Unless an agreement pursuant to subsection (1) provides otherwise, the parent remains the guardian of the child for the duration of the agreement.

(3) Every agreement pursuant to subsection (1) shall include a provision stating that the parent may seek advice from an independent third party prior to entering into the agreement.

(4) Subject to subsection (5), an agreement pursuant to subsection (1) may be renewed from time to time.

(5) The total period of all agreements pursuant to subsection (1) shall not exceed 24 months, unless the director, having regard to the best interests of the child, rules that an extension is required.

(6) If the child who is the subject of an agreement pursuant to subsection (1) has attained 12 years of age, an officer shall explain the agreement to the child and, where practicable, take the views of the child into account.

1989-90 cC-7.2 s9.

Agreements re child over 16

10(1) Where it appears to a director that a person who is 16 or 17 years of age is in need of care and supervision and:

- (a) there is no parent willing to assume the responsibility for the person; or
- (b) the person cannot be re-established with his or her family;

the director may, by agreement with the person, provide residential services, financial assistance or both to that person.

(2) Every agreement pursuant to subsection (1) shall include a provision stating that the person may seek advice from an independent third party prior to entering into the agreement.

(3) Subject to subsection 68(2), the term of an agreement pursuant to subsection (1) shall not exceed one year but may be renewed from time to time.

1989-90 cC-7.2 s10; 1994 c35 s4.

PART III
Child Protection

Child in need of protection

11 A child is in need of protection where:

- (a) as a result of action or omission by the child's parent:
 - (i) the child has suffered or is likely to suffer physical harm;
 - (ii) the child has suffered or is likely to suffer a serious impairment of mental or emotional functioning;
 - (iii) the child has been or is likely to be exposed to harmful interaction for a sexual purpose, including involvement in prostitution and including conduct that may amount to an offence within the meaning of the *Criminal Code*;
 - (iv) medical, surgical or other recognized remedial care or treatment that is considered essential by a duly qualified medical practitioner has not been or is not likely to be provided to the child;
 - (v) the child's development is likely to be seriously impaired by failure to remedy a mental, emotional or developmental condition; or
 - (vi) the child has been exposed to domestic violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child;
- (b) there is no adult person who is able and willing to provide for the child's needs, and physical or emotional harm to the child has occurred or is likely to occur; or
- (c) the child is less than 12 years of age and:
 - (i) there are reasonable and probable grounds to believe that:
 - (A) the child has committed an act that, if the child were 12 years of age or more, would constitute an offence under the *Criminal Code*, the *Narcotic Control Act* (Canada) or Part III or Part IV of the *Food and Drug Act* (Canada); and
 - (B) family services are necessary to prevent a recurrence; and
 - (ii) the child's parent is unable or unwilling to provide for the child's needs.

1989-90 cC-7.2 s11; 1999, c.14, s.3.

Duty to report

12(1) Subject to subsections (2) and (3), every person who has reasonable grounds to believe that a child is in need of protection shall report the information to an officer or peace officer.

(2) Subsection (1) applies notwithstanding any claim of confidentiality or professional privilege other than:

- (a) solicitor-client privilege; or
- (b) Crown privilege.

(3) No action shall be commenced against a person with respect to making a report pursuant to subsection (1) except with leave of the Court of Queen's Bench.

(3.1) An application for leave shall be commenced by notice of motion served on the respondent and the minister in any manner set out in Part Three of the Queen's Bench Rules.

(3.2) On an application for leave, leave shall be granted only if the applicant establishes, by affidavit evidence or otherwise, a *prima facie* case that the person made the report maliciously and without reasonable grounds for his or her belief.

(3.3) If leave is not granted, the court may order the applicant to pay all or any portion of the costs of the application.

(3.4) An action against a person who makes a report pursuant to sub-section (1) that is commenced without leave of the court is a nullity".

(4) Every peace officer who has reasonable grounds to believe that a child is in need of protection shall immediately report the information to an officer.

1989-90 cC-7.2 s12; 1996 c11 s2.

Duty to investigate

13 Where a report is made pursuant to subsection 12(1) or (4), an officer or peace officer shall investigate the information set out in the report if, in the opinion of the officer or peace officer, reasonable grounds exist to believe that a child is in need of protection.

1999, c.14, s.4.

Warrant for access to child

13.1(1) A justice of the peace or a judge may issue a warrant pursuant to this section where the justice or judge is satisfied by information on the oath of an officer or peace officer that:

- (a) there are reasonable grounds to believe that a child may be in need of protection;
 - (b) a person refuses to give the officer or peace officer access to the child; and
 - (c) access to the child is necessary to determine if the child is in need of protection.
- (2) In a warrant issued pursuant to subsection (1), the justice of the peace or judge may do one or more of the following:
- (a) authorize an officer or peace officer named in the warrant to enter premises specified in the warrant and to search for the child;
 - (b) require a person to disclose the location of the child;
 - (c) require a person to allow the officer or peace officer to interview or to visually examine the child or to do both;
 - (d) authorize the officer or peace officer to take the child away from the premises for an interview or a medical examination;
 - (e) authorize a duly qualified medical practitioner or other health care provider to examine the child.

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(3) Where an officer is authorized by a warrant to enter premises pursuant to clause (2)(a), the officer may be assisted by a peace officer in carrying out the powers conferred by the warrant.

(4) If a child is taken away from premises for an interview or medical examination pursuant to a warrant, the officer or peace officer must return the child to a person who has a right to custody of the child when the interview or medical examination is completed unless the officer or peace officer proceeds pursuant to section 17.

(5) An application for a warrant may be made in person, by telephone or by any other means of electronic communication.

(6) No person shall obstruct any person who is authorized to make an entry pursuant to this section.

1999, c.14, s.4.

Duty to offer family services

14(1) Where, on investigation, an officer concludes that a child is in need of protection, the officer shall:

- (a) notify the parent in writing of the officer's conclusion; and
- (b) offer family services to the parent.

(2) Where a parent acknowledges the need for family services and agrees to the provision of those services, a director may enter into an agreement with the parent for the provision of family services.

(3) Section 9 applies, with any necessary modification, to an agreement for residential services made pursuant to this section.

(4) Where the parent and the director do not enter into an agreement pursuant to subsection (2) and an officer believes that the child is in need of protection, the officer shall, within 30 days of giving notice to the parent pursuant to clause (1)(a):

- (a) apply to the court for a protection hearing; or
- (b) submit the officer's reasons for that belief to a mediator pursuant to section 15.

(5) An application pursuant to clause (4)(a) may be made by telephone in accordance with the regulations.

1989-90 cC-7.2 s14.

Mediation services

15(1) Where an officer has concluded that a child is in need of protection, the officer may offer to the parent to submit the officer's reasons for that conclusion to a mediator for the purpose of obtaining assistance in concluding an agreement with the parent for the provision of family services.

(2) Mediation offered pursuant to subsection (1) shall be carried out by a person who, in the opinion of a director, is:

- (a) qualified to provide mediation services; and
- (b) representative of community parenting standards.

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- (3) Where:
- (a) the parent and the director do not enter into an agreement pursuant to subsection (1); and
 - (b) an officer believes that the child is in need of protection;
- the officer shall, as soon as is practicable, apply to the court for a protection hearing.
- (4) An application pursuant to subsection (3) may be made by telephone in accordance with the regulations.

1989-90 cC-7.2 s15; 1994 c35 s5.

Protective intervention orders

- 16(1)** Subject to subsection (2), where an officer has reasonable grounds to believe that contact between a child and another person would cause the child to be in need of protection, the officer may apply to the court for a protective intervention order directed to that person.
- (2) An officer shall give three clear days' notice of an application pursuant to subsection (1) to the person to whom the protective intervention order is proposed to be directed and to each parent.
- (3) Where, on an application pursuant to subsection (1), the court is of the opinion that contact between a child and another person would cause the child to be in need of protection, the court may make a protective intervention order containing any terms and conditions that the court considers to be in the best interests of the child, including, without limiting the generality of the foregoing, a direction to a person named in the order to refrain from any contact or association with the child.
- (4) Subject to subsections (5) and (6), a protective intervention order is effective for any period specified in the order that does not exceed six months.
- (5) At any time before the expiry of a protective intervention order, an officer or a person named in the order may apply to the court to:
- (a) make changes in or additions to the terms and conditions contained in the order;
 - (b) decrease the period for which the order is to remain in force; or
 - (c) where the court is of the opinion that contact between the child and the person named in the order would no longer cause the child to be in need of protection, terminate the order.
- (6) An officer may:
- (a) before the expiry; or
 - (b) within 15 days after the expiry;
- of a protective intervention order, apply to the court to extend the order for an additional period of not more than six months.
- (7) Subsections (2) and (3) apply, with any necessary modification, to an application made pursuant to subsection (5) or (6).

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(8) The total of the periods of all orders made pursuant to this section with respect to a child shall not exceed 24 months unless the court determines that an extension is required because contact between the child and the person named in the order continues to cause the child to be in need of protection.

(9) In this section, “**child**” includes a person who is actually or apparently 16 or 17 years of age and has entered into an agreement pursuant to section 10 or has been apprehended pursuant to section 18.

1989-90 cC-7.2 s16; 1999, c.14, s.5.

Apprehension

17(1) Where an officer or peace officer concludes, on reasonable and probable grounds, that a child is in need of protection and at risk of incurring serious harm, the officer or peace officer shall:

- (a) take all reasonable steps that he or she considers necessary to provide for the safety or welfare of the child, including, in the case of an officer, the offer of family services where practicable; or
- (b) where no other arrangements are practicable, apprehend the child and remove the child to a place of safety.

(2) Where a peace officer apprehends a child pursuant to subsection (1), the peace officer shall immediately report the matter to an officer who shall be responsible for the care of the child.

(3) Where at any time an officer no longer believes that a child apprehended pursuant to subsection (1) would be at risk of incurring serious harm if returned, the officer shall return the child to a person who has a right to custody of the child.

(4) If a child apprehended pursuant to subsection (1) is not returned to a person who has a right to custody of the child within 48 hours of being apprehended, an officer shall:

- (a) if a family review panel has been appointed in the region or locality where the apprehension occurred, apply for a review pursuant to section 20 of the reasons for the apprehension; and
- (b) within seven days, not including the day on which the child was apprehended, make an application to the court for a protection hearing.

(5) If a child apprehended pursuant to subsection (1) is returned to a person who has a right to custody of the child prior to the review pursuant to section 20, an officer shall withdraw the application for review.

(6) Applications pursuant to subsection (4) may be made by telephone in accordance with the regulations.

(7) The director may, prior to a protection hearing, grant access to a child apprehended pursuant to subsection (1) to his or her parent or any other person on any terms and conditions that, in the opinion of the director, would be in the best interests of the child.

1989-90 cC-7.2 s17.

Apprehension – persons aged 16 and 17

18(1) Where:

- (a) an officer concludes, on reasonable and probable grounds, that a person who is actually or apparently 16 or 17 years of age is in need of protection within the meaning of section 11; and
 - (b) the director considers the circumstances to be of an exceptional nature;
- an officer may apprehend the person and remove that person to a place of safety.
- (2) An officer who apprehends a person pursuant to subsection (1) shall, within seven days after the day on which the person is apprehended, make an application to the court for a protection hearing.
- (3) The provisions of this Part, other than sections 14, 15, 17 and 20, apply, with any necessary modification, to proceedings pursuant to this section.
- (4) Notwithstanding any other provision of this Act, where a person is apprehended pursuant to subsection (1), the minister shall provide family services to the person prior to the protection hearing.

1989-90 cC-7.2 s18; 1999, c.14, s.6.

Notification

19(1) Where a peace officer or officer apprehends a child pursuant to subsection 17(1), an officer shall, as soon as is practicable, in writing or orally:

- (a) notify the parent of the grounds for the apprehension of the child;
 - (b) provide the parent with the office address and office telephone number of the officer; and
 - (c) inform the parent of the advisability of consulting legal counsel.
- (2) Where the officer mentioned in subsection 17(4) has applied for a review pursuant to clause 17(4)(a), an officer shall, as soon as is practicable, in writing or orally, notify the parent of the place, date and time of the review.

1989-90 cC-7.2 s19.

Review by family review panel

20(1) Subject to subsection (2), a review by a family review panel of the reasons for the apprehension of a child shall:

- (a) be held not more than seven days after the day of apprehension;
 - (b) be completed in one day; and
 - (c) proceed whether or not the parent is present.
- (2) Where the parent is willing to have the child remain in the care of the minister until the protection hearing, the parent may at any time discontinue a review by a family review panel by giving notice, orally or in writing, of his or her intention to the registrar or the officer.

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- (3) On a review pursuant to this section:
- (a) an officer shall orally summarize the reasons for concluding that the child would, if returned to the person who has a right to custody of the child, be at risk of incurring serious harm; and
 - (b) the family review panel:
 - (i) shall, if the parent is present, permit the parent an opportunity to be heard;
 - (ii) may, subject to the regulations, determine its own procedure; and
 - (iii) is not bound by rules of law concerning evidence.
- (4) If, after hearing the reasons of the officer, the family review panel is satisfied that the conclusion of the officer is justified, the family review panel shall recommend that the apprehension be continued.
- (5) If the family review panel does not make a recommendation for continued apprehension pursuant to subsection (4), the family review panel shall recommend in writing to the director and to the person who has a right to custody of the child that the child be returned to the person who has the right to custody, subject to any terms and conditions that the panel may recommend.
- (6) If the parent:
- (a) is not present at a review held pursuant to this section; and
 - (b) has not received a notice pursuant to subsection (5);

the officer shall inform the parent of any recommendation made pursuant to subsection (4) or (5).

1989-90 cC-7.2 s20.

Child returned**21(1) If:**

- (a) a child who has been apprehended pursuant to subsection 17(1) is returned pursuant to subsection 17(3) or 20(5) to a person who has a right to custody of the child; and
 - (b) the officer continues to believe that the child is in need of protection;
- the officer shall offer family services to the parent.
- (2) Section 14 applies, with any necessary modification, where an officer offers family services pursuant to subsection (1).
- (3) If an agreement is entered into pursuant to subsection 14(2), the officer shall withdraw the application for a protection hearing.

1989-90 cC-7.2 s21.

Fixing day for hearing

22(1) On the making of an application for a protection hearing by an officer, the court shall fix a day, time and place for the protection hearing in accordance with this section.

(2) Where a child is apprehended, the day fixed for the protection hearing is to be:

- (a) as soon as is practicable; and
- (b) not later than 30 days after the day on which the application is made.

(3) Where an officer has applied for a protection hearing pursuant to subsection 14(4) or 15(3), the day fixed for the protection hearing is to be:

- (a) as soon as is practicable; and
- (b) not later than 30 days after the day on which the application is made.

(4) Notwithstanding subsections (2) and (3), where a court does not sit in the period described in subsection (2) or (3), the day of the protection hearing is to be the next available court day.

1989-90 cC-7.2 s22.

Persons having sufficient interest

23(1) Subject to subsection (2), where an application for a protection hearing has been made, the court may, on an oral or written request, by order designate as a person having a sufficient interest in a child:

- (a) a person who, in the opinion of the court, is a member of the child's extended family;
- (b) where the child is a status Indian:
 - (i) whose name is included in a Band List; or
 - (ii) who is entitled to have his or her name included in a Band List;

the chief of the band in question or the chief's designate; or

(c) any other person who is not a parent of the child but who, in the opinion of the court, has a close connection with the child.

(2) Where a request pursuant to subsection (1) is made, the court:

- (a) may direct the person making the request to notify each parent and the department of the request within any time and in any manner that the court considers appropriate; and
- (b) shall consider the views, if any, of each parent and the department before making an order pursuant to subsection (1).

(3) Where the court makes an order pursuant to subsection (1), the court shall give directions respecting the service of notices on the person designated as a person having a sufficient interest in a child.

(4) A person designated pursuant to subsection (1) as a person having a sufficient interest in a child is a party to a protection hearing respecting that child.

1989-90 cC-7.2 s23.

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Notice of hearing

24(1) An officer shall give three clear days' notice of a protection hearing to each parent.

(2) Any person entitled to notice pursuant to subsection (1) may, in writing, waive the requirement that he or she be given notice in accordance with that subsection.

(3) A notice pursuant to subsection (1) shall contain:

- (a) the day, time and place of the protection hearing; and
- (b) a summary of the reasons forming the basis for the conclusion that the child is in need of protection.

1989-90 cC-7.2 s24.

Withdrawal

25 An officer may withdraw an application for a protection hearing at any time if:

- (a) an agreement for the provision of family services is reached with the parent;
- (b) the officer is of the view that the child is no longer in need of protection; or
- (c) the court consents.

1989-90 cC-7.2 s25; 1999, c.14, s.7.

Order prohibiting publication

26(1) A protection hearing or any part of a protection hearing may, in the discretion of the court, be held *in camera*.

(2) The court may make an order prohibiting the publication of a report of a protection hearing or any part of a protection hearing, if the court believes that the publication of the report:

- (a) would not be in the best interests of any child directly or indirectly involved in the hearing; or
- (b) would be likely to identify, have an adverse effect on or cause hardship to:
 - (i) the child who is the subject of the hearing; or
 - (ii) any other child.

1989-90 cC-7.2 s26.

Record of proceedings

27 The court shall ensure that all proceedings in a protection hearing are recorded.

1989-90 cC-7.2 s27.

Evidence of witnesses

28(1) Subject to subsection (2) and section 12 of *The Evidence Act*, the evidence of witnesses at a protection hearing shall be taken on oath or affirmation.

(2) The court may, in its discretion, admit evidence by affidavit or any other means authorized by The Queen's Bench Rules for the taking of evidence.

(3) The court may admit hearsay evidence if, in the opinion of the court, the evidence is credible and trustworthy and it would not be in the best interests of a child for the child to testify.

(4) Subsection (3) applies, with any necessary modification, to a person who is 16 or 17 years of age and, for the purposes of this subsection, section 4 applies, with any necessary modification, to that person.

1989-90 cC-7.2 s28; 1990-91 cC-8.1 s63; 1999, c.14, s.8; 2006, c.19, s.2.

Child may be heard

29(1) At a protection hearing, the court may, if it considers it to be in the best interests of a child who is the subject of the hearing, order that the child be:

(a) served with notice of the hearing within the time and in the manner considered appropriate by the court and permitted to be present at the hearing or any part of it; or

(b) brought before the court and interviewed by the court.

(2) Notwithstanding that a child receives notice pursuant to clause (1)(a), the child shall not be considered a party to the protection hearing.

1989-90 cC-7.2 s29.

Evidence from other proceedings

30 At a protection hearing, the court may admit any evidence taken at a previous civil or criminal proceeding.

1989-90 cC-7.2 s30.

Admissions, agreed facts

31(1) Any party to a protection hearing may, orally or in writing, admit any or all facts in issue.

(2) The parties to a protection hearing may, orally or in writing, agree with respect to any or all facts in issue.

1989-90 cC-7.2 s31.

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Assessment

32(1) The court may request that:

- (a) a child who is the subject of a protection hearing;
- (b) a parent of the child mentioned in clause (a); or
- (c) any person having a sufficient interest in the child mentioned in clause (a);

undergo medical, psychological, developmental or educational assessment performed by a person qualified in the relevant discipline to assist the court in determining the best interests of the child for the purposes of making an order pursuant to section 36 or 37.

(2) The costs of an assessment pursuant to subsection (1) shall be paid:

- (a) in the case of:
 - (i) a child, by the parent; or
 - (ii) an adult, by the adult who is assessed;
- (b) with the consent of a director employed by the department, by the department; or
- (c) where the child or the parent is receiving family services from an agency, by the agency, with the consent of a director employed by the agency.

(3) A report of an assessment pursuant to subsection (1) is to be filed with the court by the person who completed the assessment.

1989-90 cC-7.2 s32; 1994 c35 s6.

Time limit

33(1) Subject to subsections (2) and (3), on a protection hearing, the court shall:

- (a) determine pursuant to subsection 36(1) whether the child is a child in need of protection; and
- (b) make an order pursuant to subsection 36(3) or section 37;

within 60 days of the day on which the protection hearing commences unless the court does not have sufficient evidence on which to make an order.

(2) If the court:

- (a) is unable to hear all the evidence; and
- (b) does not sit again in the period described in subsection (1);

the protection hearing shall be adjourned to the next available court day.

(3) If a protection hearing is stayed pending the determination of a custody application pursuant to *The Children's Law Act*, the time for a determination and order pursuant to subsection (1) does not include the period of the stay of proceedings.

1989-90 cC-7.2 s33; 1990-91 cC-8.1 s63.

Adjournments

34(1) Subject to section 33 and subsection (2), the court may adjourn a protection hearing from time to time.

(2) Before adjourning a protection hearing, the court shall consider the best interests of the child and, in particular:

- (a) the importance of continuity in the child's care and the possible effect of disruption of that continuity; and
- (b) the effect on the child of a delay in making a decision.

1989-90 cC-7.2 s34.

Interim orders

35(1) Where the court adjourns a protection hearing pursuant to subsection 34(1), the court may make an interim order that the child:

- (a) remain with or be returned to his or her parent;
- (b) remain with, or be placed in the care of, a person having a sufficient interest in the child; or
- (c) remain or be placed in the care of the minister.

(2) In making an interim order pursuant to subsection (1), the court:

- (a) shall consider the best interests of the child; and
- (b) may make the order subject to any terms and conditions, including access to the child by the parent or a person designated pursuant to section 23, that the court considers appropriate.

1989-90 cC-7.2 s35.

Protection hearing

36(1) On a protection hearing, the court shall determine whether the child is in need of protection.

(2) Where the court determines that a child is in need of protection, the officer shall present to the court the officer's recommendations respecting an order to be made pursuant to section 37.

(3) If the court determines that a child is not in need of protection, it shall dismiss the application and order the return of the child to a person who has a right to custody of the child.

(4) An order pursuant to subsection (3) does not constitute an order for custody of the child.

1989-90 cC-7.2 s36.

Orders re child in need of protection

37(1) Subject to subsection (2), if the court determines that a child is in need of protection, the court shall make an order that the child:

- (a) remain with, be returned to or be placed in the custody of his or her parent;
 - (b) be placed in the custody of a person having a sufficient interest in the child; or
 - (c) remain in or be placed in the custody of the minister for a temporary period not exceeding six months.
- (2) If, in the opinion of the court, none of the orders described in subsection (1) is appropriate, the court shall make an order permanently committing the child to the minister.
- (3) Notwithstanding subsections (1) and (2), the court may, if it is of the view that:
- (a) a child is in need of protection; and
 - (b) by reason of the age of the child or other circumstances, it is unlikely that an adoption plan would be made if the child were permanently committed to the minister;

order that the child be placed in the custody of the minister until the child attains the age of 18 years.

- (4) In making an order pursuant to subsection (1), (2) or (3), the court:
- (a) shall consider the best interests of the child;
 - (b) may consider the recommendations of the officer mentioned in subsection 36(2); and
 - (c) may consider the recommendations of a chief, a chief's designate or an agency that appears in court pursuant to subsection (11).
- (5) In making an order pursuant to subsection (1) or (3), the court may:
- (a) impose any terms and conditions that the court considers appropriate; and
 - (b) include in the order a provision respecting access to the child.
- (6) If the court, in making an order pursuant to clause (1)(a) or (b), orders supervision of the child by the minister as a term or condition of the order, the period of supervision shall not exceed one year.
- (7) In making an order pursuant to clause (1)(b), the court may direct that the order shall terminate after the expiry of a period, not exceeding one year, specified in the order.
- (8) Any order made pursuant to clause (1)(a) or (b) or section 16 that is inconsistent with an existing custody order of a superior court shall be considered an interim order that is subject to a further order of a superior court.

(9) The court shall provide to each party to the proceedings a written summary of its reasons for determining that the child is in need of protection.

(10) Notwithstanding subsection 33(1), where an officer intends to apply to the court for an order pursuant to subsection (2) or (3) and the child who is the subject of the proposed hearing is a status Indian whose name is included in a Band List or who is entitled to have his or her name included in a Band List, the officer shall give 60 days' notice of the application for the protection hearing to the child's band or the agency, if any, that is providing family services to members of the child's band.

(11) Where a band or an agency has received a notice pursuant to subsection (10):

(a) the chief of the band, the chief's designate or the agency may appear in court to make recommendations with respect to the application; and

(b) where the chief, the chief's designate or the agency appears in court pursuant to clause (a), the band or the agency is a party to the proceedings.

1989-90 cC-7.2 s37; 1994 c35 s7.

Expiry of orders

38(1) Subject to subsection (2), on the expiry of an order pursuant to clause 37(1)(b) or (c), an officer shall return the child to a person who has a right to custody of the child.

(2) An officer may:

(a) before the expiry; or

(b) within 15 days after the expiry;

of an order mentioned in subsection (1) or an order pursuant to subsection 37(6), apply for a hearing to determine whether the child continues to be in need of protection.

(3) Where an officer has applied for a hearing pursuant to subsection (2), the court shall fix a day, time and place for the hearing in accordance with subsection (4).

(4) The day fixed for a hearing pursuant to subsection (2) is to be:

(a) as soon as practicable; and

(b) not later than 30 days after the day on which the application is made.

(5) The officer shall give notice of a hearing pursuant to subsection (2) in accordance with section 24.

(6) The provisions of this Part respecting protection hearings apply, with any necessary modification, to a hearing held pursuant to subsection (2).

(7) Where an application is made pursuant to subsection (2), the order mentioned in subsection (1) is deemed to continue until the disposition of the hearing pursuant to subsection (8), notwithstanding the expiry of that order.

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- (8) At a hearing pursuant to subsection (2), the court shall:
- (a) determine whether the child continues to be in need of protection; and
 - (b) make any order authorized by section 36 or 37, as the case may require.
- (9) Subject to subsection 68(1), the total of the periods of all orders made pursuant to clause 37(1)(c) shall not exceed 24 months unless the court determines, after considering the best interests of the child, that an extension is required.
- (10) The total of the periods of all orders made pursuant to subsection 37(6) shall not exceed 18 months unless the court determines, after considering the best interests of the child, that an extension is required.

1989-90 cC-7.2 s38; 1994 c35 s8.

Variation

- 39(1)** Subject to subsection (2), the court may, on the application of any party to the original protection hearing, vary or terminate an order made pursuant to section 37 where:
- (a) there has been a change in circumstances; and
 - (b) it is in the best interests of the child to vary or terminate the order.
- (2) Subsection (1) does not apply with respect to a child who has been:
- (a) permanently committed to the minister; and
 - (b) adopted or placed in a home for the purpose of adoption.
- (3) The party who applies for a hearing pursuant to subsection (1) shall give 15 days' notice in writing of the day fixed for the hearing to the other parties to the original protection hearing.
- (4) All parties to the original protection hearing are entitled to be heard at a hearing pursuant to subsection (1).
- (5) The court may award costs against any party to an application pursuant to subsection (1) other than:
- (a) the minister; or
 - (b) an employee of the department.
- (6) The provisions of this Part respecting protection hearings apply, with any necessary modification, to a hearing pursuant to subsection (1).

1989-90 cC-7.2 s39.

PART IV
Review Panels and Family Services Board

Family review panels

40(1) The minister may, by order, establish, for any region or locality, a family review panel consisting of members appointed by the minister from among those persons who, in the opinion of the minister, are representative of community parenting standards.

(2) Subject to section 42, a family review panel shall review child apprehensions pursuant to section 17 occurring within its region or locality.

(3) For the purposes of subsection (1), the minister may, by order, divide Saskatchewan into regions and prescribe the boundaries of those regions.

1989-90 cC-7.2 s40.

Registrar

41(1) The minister may appoint a registrar for any region or locality for the purposes of this Part.

(2) A registrar is the chief administrative officer of a family review panel and shall:

- (a) receive applications on behalf of the family review panel;
- (b) designate facilities and offices that are to be used by the family review panel;
- (c) designate the times at which the family review panel shall conduct reviews at any place; and
- (d) exercise any other powers and perform any other duties that are set forth in this Act or prescribed in the regulations.

1989-90 cC-7.2 s41.

Review of particular matters

42(1) A registrar shall direct at least one and not more than three members of a family review panel to review a particular matter.

(2) Where a family review panel has been established for a region or locality but no members of the panel are available, a registrar may direct one or more members of a family review panel for another region or locality to review a particular matter by conference telephone call.

(3) A review by any members of a family review panel directed by a registrar pursuant to subsection (1) or (2) to review a particular matter is deemed to be a review by the family review panel.

1989-90 cC-7.2 s42.

Family Services Board

43(1) The minister may, by order, establish a Family Services Board.

(2) The board shall consist of members appointed by the minister from among those persons who, in the opinion of the minister, are interested and knowledgeable in the programs and services administered or provided pursuant to this Act.

(3) Any person who is aggrieved by a decision of:

- (a) the director; or
- (b) any person acting on behalf of the minister or director;

pursuant to this or the regulations may request that the decision be reviewed by the minister or, with the approval of the minister, by the board.

(4) A request for review pursuant to subsection (3) does not stay or otherwise affect the validity of the decision with respect to which the review is requested.

(5) On completing a review pursuant to subsection (3), the board shall submit its recommendations respecting the decision to the minister.

(6) On completing the review the minister may:

- (a) confirm;
- (b) reverse; or
- (c) vary;

the decision with respect to which the review was requested.

1989-90 cC-7.2 s43.

PART V
Voluntary Committal

Interpretation of Part

44 In this Part:

- (a) **“court”** means the Court of Queen’s Bench;
- (b) **“parent”** means:
 - (i) in the case of a child who is not adopted:
 - (A) a person who:
 - (I) is the biological mother of the child;
 - (II) is a woman who has access to or custody of the child by order of a court having jurisdiction over the matter or by agreement; or
 - (III) has been declared to be the mother of the child pursuant to Part VI of *The Children’s Law Act, 1997*; or
 - (B) a person who:
 - (I) is the biological father of the child;

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(II) is a man who has access to or custody of the child by order of a court having jurisdiction over the matter or by agreement; or

(III) has been declared to be the father of the child pursuant to Part VI of *The Children's Law Act, 1997*; and

(C) in the case of a child who has no mother within the meaning of paragraph (A) who is alive and no father within the meaning of paragraph (B) who is alive, the guardian or person having lawful custody of the child; or

(ii) in the case of a child who is adopted, a person who is a parent of the child pursuant to an order of adoption.

1989-90 c.C-7.2 s44; 1990-91 cC-8.1 s63; 1992 c21 s3; 1994 c27 s20; 1999, c.14, s.9; 2004, c.5, s.2.

45 Repealed. 1990-91, c.C-8.1, s.63.

Voluntary committal

46(1) Subject to subsections (2) and (3), a parent may voluntarily commit his or her child to the minister.

(2) A voluntary committal pursuant to subsection (1) is to be:

(a) made on a form supplied by the department or an agency, as the case may require; and

(b) subject to section 49, signed by each parent and the director.

(3) No voluntary committal pursuant to this section is to be made until the child is at least 72 hours old.

(4) **Repealed.** 2004, c.5, s.2.

(5) Except as provided in sections 49 and 50, a voluntary committal made pursuant to this section is not revocable.

(6) A parent who is under the age of 18 years may voluntarily commit his or her child to the minister pursuant to this section, and that voluntary committal is as valid and effectual as if the parent was 18 years of age.

1989-90 cC-7.2 s46; 1990-91 c10 s2; 1994 c35 s9; 2004, c.5, s.2.

Independent advice

47 A form for voluntary committal mentioned in clause 46(2)(a) shall include a provision stating that a parent may seek advice from an independent third party before making the voluntary committal.

1989-90 cC-7.2 s47.

Effect of voluntary committal

48 Subject to sections 49 and 50, a voluntary committal pursuant to section 46 has the same effect as an order of permanent committal pursuant to subsection 37(2).

1989-90 cC-7.2 s48.

Dispensing with signature

49(1) Where a form for voluntary committal has been signed by only one parent, an application may be made to the court at any time after the child is three days old for an order dispensing with the requirement that the other parent sign the voluntary committal.

(2) If, in the opinion of the court, it is in the best interests of the child within the meaning of section 3 of *The Adoption Act, 1998* to do so, the court may make an order dispensing with the requirement that a parent sign the voluntary committal.

(3) If the court dispenses with a parent's signature to a voluntary committal pursuant to subsection (2), the child is deemed to be permanently committed to the minister as if the voluntary committal had been signed by each parent.

(4) If, on an application pursuant to subsection (1), the court refuses to make an order described in subsection (2), the court:

- (a) shall make an order respecting the custody of the child; and
- (b) may make any further order that it considers appropriate in the circumstances.

1989-90 cC-7.2 s49; 2004, c.5, s.2.

Return of child

50(1) Where a child has been voluntarily committed to the minister pursuant to section 46, the voluntary committal may be revoked by the parent who made it:

- (a) at any time within 14 days after the day on which the voluntary committal was signed; and
- (b) where, within one year from the day on which the voluntary committal was signed, the child has not been placed for adoption pursuant to *The Family Services Act* or *The Adoption Act, 1998*, at any time within that year;

by delivering to the director a written notice of revocation.

(2) Where the director receives a notice pursuant to subsection (1), the director shall, where practicable, inform the other parent.

(3) Where a child who has been voluntarily committed to the minister pursuant to section 46 has not been placed for adoption pursuant to *The Family Services Act* or *The Adoption Act, 1998*, the court may, on application, extend the time for revocation set forth in clause (1)(b) if, in the opinion of the court, it is in the best interests of the child within the meaning of *The Adoption Act, 1998*.

(4) If, following the delivery of a written notice pursuant to subsection (1), a dispute arises as to which parent is to have custody of the child:

(a) an application may be made pursuant to section 6 of *The Children's Law Act*; and

(b) if no application is made pursuant to clause (a) forthwith, the director shall make that application;

and the court shall make an order for interim custody of the child.

1989-90 cC-7.2 s50; 1990-91 cC-8.1 s63; 2004, c.5, s.2.

PART VI

Children in the Care of the Minister

Interpretation of Part, "child"

51 In this Part, "**child**" includes a person who is actually or apparently 16 or 17 years of age.

1989-90 cC-7.2 s51.

Minister is parent

52(1) Where a child:

(a) has been apprehended and has not been returned to a person who has a right to custody of the child; or

(b) is in the custody of the minister pursuant to an order made pursuant to clause 37(1)(c) or subsection 37(3);

the minister shall have all the rights and responsibilities of a parent except with respect to adoption proceedings.

(2) Subject to subsection (3), the minister shall:

(a) have all the rights and responsibilities of a parent; and

(b) be the guardian of the person;

of a child who is committed permanently to the minister pursuant to subsection 37(2) or section 46.

(3) The public guardian and trustee for Saskatchewan shall be the guardian of the property of a child mentioned in subsection (2).

1989-90 cC-7.2 s52; 2001, c.33, s.23.

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Placement considerations

53 In any case where an officer is arranging residential services for a child or an order is to be made by the court pursuant to subsection 37(1), the officer or court shall, having regard to the best interests of the child:

- (a) consider the feasibility of placing the child with a member of the child's extended family; and
- (b) where practicable, attempt to maintain the child in an environment that is consistent with the child's cultural background.

1989-90 cC-7.2 s53.

Foster care agreements

54(1) Where foster care services are provided pursuant to this Act, the director shall enter into a written agreement with the person providing those services setting out the duties and responsibilities of each party with respect to the care provided.

(2) None of the rights or powers vested in the minister pursuant to this Act are impaired by any terms or conditions of an agreement made pursuant to subsection (1).

(3) Every agreement made pursuant to subsection (1) is deemed to contain a provision reserving to the director the right to remove the child from the person providing foster care where, in the opinion of the director, the welfare of the child requires that removal.

1989-90 cC-7.2 s54.

Support by minister

55(1) Subject to subsection (2), where residential services are provided pursuant to this Act, the minister:

- (a) shall, subject to the terms and conditions of any agreement for residential services, be responsible for the expense of sheltering, supporting, educating, caring and providing appropriate counselling and rehabilitative services for the child; and
- (b) may, for the purposes of clause (a), make any necessary expenditures in advance or otherwise.

(2) The minister is not responsible for any expenses pursuant to clause (1)(a) except:

- (a) expenses for which the parent of the child would otherwise be responsible; or
- (b) in the case of expenses that are related to residential services provided to a child by an agency, expenses for which the minister agrees to be responsible.

(3) The minister may assume responsibility for any of the expenses mentioned in clause (1)(a) of any child of a child described in subsection (1).

(4) Notwithstanding subsection (1), if:

- (a) a child is 16 years of age or older; and
- (b) the minister considers it to be in the best interests of the child;

the minister may discontinue the minister's responsibility for the expense of providing the services described in clause (1)(a) for the child.

(5) Subject to the regulations, the minister may enter into agreements by which the minister is obliged to make payments for the provision of residential services pursuant to this section.

1989-90 cC-7.2 s55; 1994 c35 s10.

Extension of support

56(1) This section applies to persons:

- (a) who, immediately before attaining 18 years of age, were committed to the minister pursuant to subsection 37(2) or section 46 or were in the custody of the minister pursuant to an order made pursuant to subsection 37(3);
- (b) who have not attained 21 years of age; and
- (c) who:
 - (i) are continuing their education;
 - (ii) require assistance or training to enable them to continue their education or obtain employment; or
 - (iii) because of a mental or physical disability or impairment, require care or participation in a program to assist them in their mental or physical development or in the acquisition of life skills.

(2) Subject to subsection (3), the minister may, pursuant to an agreement with a person described in subsection (1), pay on behalf of that person any of the expenses described in clause 55(1)(a) or provide the person with any of the services described in that clause.

(3) The minister shall not make payments or provide services pursuant to subsection (2) with respect to a person:

- (a) after the person attains 21 years of age; or
- (b) after the person completes his or her education if that occurs before the person attains 21 years of age.

(4) Where a person described in subsection (1) lacks capacity to enter into an agreement, the minister may, in accordance with subsections (2) and (3), pay expenses on behalf of the person or provide services to the person without entering into an agreement.

2000, c.6, s.2.

**PART VII
Administration**

Directors, officers

57 The minister may:

- (a) appoint any directors that the minister considers necessary for the administration of this Act; and
- (b) designate as officers any persons who:
 - (i) in the minister's opinion are qualified; or
 - (ii) meet any qualifications that may be prescribed in the regulations.

1989-90 cC-7.2 s57.

Delegation

58 A director may authorize any officer to perform in the absence of the director any duty imposed or exercise any power conferred on the director by this Act or the regulations.

1989-90 cC-7.2 s58; 1994 c35 s12.

Agreements

59 The minister may enter into agreements with any person, agency, organization, association, institution or body inside or outside Saskatchewan for any purpose related to the exercise of any of the powers or the carrying out of any of the duties or functions assigned to the minister by or pursuant to this Act.

1989-90 cC-7.2 s59.

Reciprocal agreements

60(1) The minister may enter into arrangements with the appropriate provincial, federal, territorial or state authority in any jurisdiction within or outside Canada with respect to:

- (a) the transfer to the authority by the minister of the custody or guardianship rights of the minister with respect to a child or children in the custody of or committed to the minister;
 - (b) the transfer to the minister by the authority of the custody or guardianship of any child lawfully in the custody of or committed to the authority.
- (2) Where the minister assumes responsibility for the custody or guardianship of a child pursuant to subsection (1), the child is deemed to be placed in the custody of the minister or committed to the minister, as the case may be, pursuant to this Act.
- (3) Any proceedings with respect to the review, variation or extension of the custody or guardianship of a child transferred to the minister pursuant to this section shall be taken in accordance with this Act.

1989-90 cC-7.2 s60.

Indian child welfare agreements

61(1) The minister may, having regard to the aspirations of people of Indian ancestry to provide services to their communities, enter into agreements with a band or any other legal entity in accordance with the regulations:

- (a) for the provision of services or the administration of all or any part of this Act by the band or legal entity as an agency; or
- (b) for the exercise by the agency of those powers of the minister pursuant to this Act that are specified in the agreement

(2) An agency that enters into an agreement pursuant to subsection (1) is responsible for the exercise of the powers of the minister to the extent to which those powers are specified in the agreement.

1994 c35 s13.

Execution of agreements

62 Any agreement mentioned in this Act other than an agreement pursuant to section 61 may be made and executed by a director on behalf of the minister.

1989-90 cC-7.2 s62.

PART VIII

Appeals

Appeal to Queen's Bench

63(1) In this section, "**originating court**" means the court that made the order that is the subject of the appeal.

(2) Any party may, within 30 days from the date of the order, appeal any order made pursuant to this Act to a judge of Her Majesty's Court of Queen's Bench for Saskatchewan.

(3) Notwithstanding any other Act or law, in the case of an order of committal pursuant to subsection 37(2), no extension of the time for appeal set forth in subsection (1) shall be granted if the child has been placed in a home for adoption pursuant to *The Adoption Act, 1998* or *The Family Services Act*.

(4) A judge sitting in appeal may:

- (a) receive further evidence on questions of fact;
- (b) confirm the order appealed against;
- (c) rescind the order appealed against and substitute any order that the originating court could have made;
- (d) refer the matter, with instructions, to the originating court for re-hearing of all or part of the evidence.

(5) If the order appealed against involves the custody of a child, the order, unless the judge sitting in appeal decides otherwise, shall be stayed until:

- (a) the final disposition of the appeal; or

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(b) where the matter is referred to the originating court pursuant to clause (4)(d), the determination of the originating court on the re-hearing.

(6) Notwithstanding subsection (2), if the originating court is Her Majesty's Court of Queen's Bench for Saskatchewan or the Unified Family Court for Saskatchewan, an order is to be appealed to the Court of Appeal.

1989-90 cC-7.2 s63; 2004, c.5, s.2.

Appeal to Court of Appeal

64 Any party may, with leave of a judge of the Court of Appeal, appeal an order of a judge of Her Majesty's Court of Queen's Bench for Saskatchewan made pursuant to subsection 63(4) to the Court of Appeal on a question of law within 30 days after the day on which the order is made.

1989-90 cC-7.2 s64.

Costs

65(1) Subject to subsection (2), the judge sitting in appeal may make any order respecting costs that the judge considers appropriate.

(2) The tariff of fees for solicitors and counsel in Her Majesty's Court of Queen's Bench for Saskatchewan established pursuant to section 28 of *The Queen's Bench Act, 1998* applies to all proceedings on appeal.

1989-90 cC-7.2 s65; 2004, c.65, s.3.

Finality of certain orders

66(1) Where:

(a) the time for appealing:

(i) an order of committal pursuant to this or any *Family Services Act* or *Child Welfare Act*; or

(ii) an order dispensing with a parent's signature pursuant to section 49;

has expired; and

(b) either:

(i) an order of adoption has been made with respect to the child; or

(ii) the child has been placed in a home for the purpose of adoption pursuant to *The Adoption Act, 1998* or *The Family Services Act*;

the order is final and conclusive and the validity of the order shall not be challenged in any court.

(2) While an order of committal or a voluntary committal is in force and the child has been placed for adoption:

(a) no application by a parent shall be allowed; and

(b) no order, decision or judgment shall be made;

granting to a parent a right of custody, guardianship or maintenance of, or right of access to, the child pursuant to this Act, *The Children's Law Act* or any other Act or law.

(3) While an order of committal or a voluntary committal is in force and the child has been placed for adoption, no application shall be made to the court for a declaration of parentage pursuant to Part VI of *The Children's Law Act*.

1989-90 cC-7.2 s66; 1990-91 cC-8.1 s63; 2004, c.5, s.2.

PART IX General

Information on status

67 The director shall, on the request of a parent whose child is committed to the minister:

- (a) by an order pursuant to subsection 37(2); or
- (b) pursuant to section 46;

inform the parent as to whether or not the child has been adopted or placed for adoption.

1989-90 cC-7.2 s67.

Termination of committal

68(1) Where a child has been committed to the minister pursuant to subsection 37(2) or section 46, or has been placed in the custody of the minister pursuant to clause 37(1)(c) or subsection 37(3), the committal or order expires when:

- (a) the child attains 18 years of age;
- (b) the child is adopted;
- (c) the child marries;
- (d) the committal of the child is terminated by an order of the court; or
- (e) the committal is otherwise terminated pursuant to this Act;

whichever occurs first.

(2) An agreement made pursuant to section 9 or 10 shall not extend beyond the eighteenth birthday of the person with respect to whom the agreement was made.

1989-90 cC-7.2 s68.

Extra-provincial orders

69(1) Where, by an order made by a court of competent jurisdiction in any other province or territory of Canada or in any state or country, full parental rights and responsibilities with respect to a child have been absolutely and for all purposes legally vested in any person, organization, province, territory, state or country or the legal representative of any of them, other than a parent of the child, the order has the same force and effect in Saskatchewan as if it had been made pursuant to this Act.

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(2) Any statement, consent or declaration made by anyone in whom full parental rights and responsibilities have been vested as mentioned in subsection (1) has the same effect as it would have had if made by the parent of the child.

1989-90 cC-7.2 s69.

Representation

70 Any party to a proceeding in court pursuant to this Act may be represented by legal counsel.

1989-90 cC-7.2 s70.

Criminal Code

71 Except as otherwise provided, proceedings pursuant to this Act are governed, with any necessary modification, by the provisions of the *Criminal Code* relating to summary convictions insofar as they are applicable.

1989-90 cC-7.2 s71.

Subpoena

72(1) On the application of a party or on its own motion, the court may:

- (a) compel the attendance of any person at a hearing pursuant to this Act for the purpose of giving evidence; and
- (b) require the production of any document;

in the same manner as a judge may compel the attendance of witnesses or production of documents in summary conviction proceedings.

(2) A subpoena issued pursuant to subsection (1) may be served:

- (a) by delivering it personally to the person to whom it is directed; or
- (b) if the person to whom it is directed cannot be found, by leaving it for that person at his or her last or usual place of residence with a person at that place who appears to be a resident of that place and at least 16 years of age.

(3) Service of a subpoena pursuant to subsection (2) may be proved by the affidavit of the person who served it.

(4) Every subpoena issued pursuant to subsection (1) remains in force until the completion of the hearing of the matter for which it is issued.

(5) Where a hearing is adjourned, a witness who has been served with a subpoena is required to attend the adjourned hearing.

(6) Where:

- (a) a person fails to comply with the terms of a subpoena issued pursuant to subsection (1); and
- (b) it is proved that the person was served with the subpoena;

the court may issue a warrant to compel the attendance of the person in the same manner as a judge may issue a warrant in summary conviction proceedings.

1989-90 cC-7.2 s72.

Non-compellability

73 The minister, members of the board, members of family review panels, mediators, officers and employees of the department, members of boards of directors of agencies, officers and employees of agencies and all other persons who are employed in or assist in the administration of this Act:

- (a) are not compellable to give evidence with respect to:
 - (i) written or oral statements made to them; or
 - (ii) knowledge or information acquired by them;

in the performance of their duties pursuant to this Act; and

- (b) shall not be required to produce any written statement mentioned in subclause (a)(i) at a trial, hearing or other proceeding.

1989-90 cC-7.2 s73; 1994 c35 s15.

Confidentiality

74(1) Notwithstanding section 18 of *The Department of Social Services Act*, members of the board, members of family review panels, mediators, officers and employees of the department, members of boards of directors of agencies, officers and employees of agencies, foster parents and all other persons who are employed in or assist with the administration of this Act:

- (a) shall preserve confidentiality with respect to:
 - (i) the name and any other information that may identify a person that comes to their attention pursuant to:
 - (A) this Act;
 - (B) *The Family Services Act*, not including Part III; or
 - (C) *The Child Welfare Act*, not including Part II; and
 - (ii) any files, documents, papers or other records dealing with the personal history or record of a person that have come into existence through anything done pursuant to:
 - (A) this Act;
 - (B) *The Family Services Act*, not including Part III; or
 - (C) *The Child Welfare Act*, not including Part II; and

- (b) shall not disclose or communicate the information mentioned in clause (a) to any other person except as required to carry out the intent of this Act or as otherwise provided in this section.

(2) The minister, a director or an officer may disclose or communicate information mentioned in subsection (1) relating to a child to:

- (a) the guardian, parent or foster parent of that child; or
- (b) the child to whom the information relates.

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(3) On the request of a person, the minister or a director may:

- (a) disclose; or
- (b) authorize an officer to disclose;

information mentioned in subsection (1) relating to that person in any form that the minister or director considers appropriate.

(4) Notwithstanding subsection (2) or (3), no person shall, except while giving evidence in a protection hearing, disclose to anyone who is not an officer or a peace officer the name of a person who:

- (a) makes a report pursuant to section 12; and
- (b) requests that his or her name not be disclosed.

(5) Any information that may be disclosed to the person to whom it relates may, with the written consent of the person to whom it relates, be disclosed to any other person.

(5.1) Information mentioned in subsection (1) may be released where, in the opinion of the minister, the benefit of the release of information clearly outweighs any invasion of privacy that could result from the release.

(5.2) The information mentioned in subsection (5.1) may be released in any form that the minister considers appropriate.

(6) Any disclosure of information pursuant to this section does not constitute a waiver of Crown privilege, solicitor-client privilege or any other privilege recognized in law.

1989-90 cC-7.2 s74; 1992 c21 s4; 1994 c35 s16.

Documents forwarded to director

75 A clerk or local registrar of the court shall forward to a director two certified copies of any order made pursuant to this Act.

1989-90 cC-7.2 s75.

Time

76 Where the time for filing any document or application with a court expires on a day on which the offices of the court are closed, the document or application may be filed on the next day on which the offices of the court are open.

1989-90 cC-7.2 s76.

Notice

77(1) Unless otherwise specifically provided, any notice required by this or the regulations to be given to any person may be given by:

- (a) personal service on the person by delivery of a copy of the notice;
- (b) sending a copy of the notice by registered or certified mail to the last known address of the person or to the address of the person as shown in the records of the department.

- (2) The giving of notice pursuant to subsection (1) may be proved by an affidavit of service of the person effecting service.
- (3) Notwithstanding subsection (1), a document may be served on a person by delivering a copy to the person's solicitor if the solicitor accepts service by endorsing his or her name on a true copy of the document indicating that he or she is the solicitor for that person.
- (4) Notice given by registered mail or certified mail is deemed to have been given on the seventh day after the day on which the notice was mailed.
- (4.1) Where a person to whom any notice must be given pursuant to this Act or the regulations is outside Saskatchewan, the notice may be given in any manner provided by this Act or it may be served in any manner provided by a similar statute or regulation of the jurisdiction in which the person is present.
- (5) Where a doubt exists as to the person to whom a notice pursuant to this should be given, an officer may apply to the court for directions.
- (6) Notice given in accordance with directions pursuant to subsection (5) is sufficient notice for the purposes of this Act.
- (7) Where, on an *ex parte* application, the court is satisfied that:
- (a) prompt personal service of a notice cannot be effected;
 - (b) the whereabouts of a person to be served cannot be determined;
 - (c) the person to be served is evading service;
 - (d) service of the documents would endanger the safety of the child or the parent who has custody of the child; or
 - (e) on considering the circumstances, an order is necessary.
- the court may make an order for substitutional or other service, by letter, advertisement or otherwise as it considers reasonable or it may make an order dispensing with service.
- (8) Where a court makes an order for substitutional or other service pursuant to subsection (7), the court may direct the manner of proving that service has been effected.
- (9) Subject to subsection (10), no proceedings other than proceedings pursuant to Part V are invalidated by failure to give a notice that is required by this or the regulations to be given where the failure to give notice is caused by the fact that the existence of the person to whom notice should have been given was unknown to the officer or other person who was required to give the notice.
- (10) A person who is required to give notice pursuant to this Act or the regulations shall exercise reasonable diligence to ascertain the existence of all persons to whom notice should be given.

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Procedural defects

78 The court may, on application, waive any defect or irregularity in any proceedings pursuant to this Act other than proceedings pursuant to Part V, including:

- (a) a failure to act within the time prescribed by this Act; and
- (b) a defect or irregularity in proceedings before a family review panel.

1989-90 cC-7.2 s78.

No action against department, etc.

79(1) No action lies or shall be instituted against the minister, the department, a peace officer or any officer or employee of the department or agent of the minister, where the minister, department, peace officer, officer, employee or agent is acting pursuant to the authority of this Act, the regulations or an order made pursuant to this Act, for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in exercise of or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

(2) An agency, or any officer or employee of an agency, is entitled to the same protection provided to the minister in subsection (1).

1989-90 cC-7.2 s79; 1994 c35 s18.

Regulations

80 For the purposes of carrying out this Act according to its intent, the Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing standards for and governing the operation and maintenance of any facility established pursuant to section 6;
- (c) governing the qualifications of officers;
- (d) respecting the establishment, operation, provision and maintenance of family services;
- (e) respecting the establishment, operation, provision and maintenance of mediation services pursuant to section 15;
- (f) governing agreements between the minister and any other person or category of persons pursuant to this Act;
- (g) prescribing terms and conditions under which agreements pursuant to this Act may be entered;
- (h) respecting the provision of financial assistance pursuant to this Act;
- (i) prescribing further duties and powers of registrars;
- (j) respecting reviews to be conducted by family review panels and prescribing rules of practice and procedure;

- (k) respecting reviews to be conducted by the Family Services Board;
- (l) respecting the making of applications to the court and family review panels by telephone;
- (m) prescribing any forms that may be required for the administration of this Act;
- (n) prescribing the contents of any notice required to be made or sent pursuant to this Act;
- (o) prescribing:
 - (i) the fees payable for any services rendered or provided pursuant to this Act;
 - (ii) the persons by whom and to whom the fees mentioned in subclause (i) are to be paid; and
 - (iii) the circumstances in which the payment of any fees mentioned in subclause (i) may be waived;
- (p) establishing categories of persons providing services pursuant to this Act;
- (q) prescribing the qualifications of and remuneration for any category of persons providing services pursuant to this Act;
- (r) providing for the administration of programs to carry out the intent of this Act;
- (r.1) **Not yet proclaimed.**
- (r.2) prescribing the contents of any report required pursuant to this Act;
- (r.3) governing the records to be kept by any person or category of persons providing any type of service pursuant to this Act or the regulations;
- (r.4) subject to section 74, governing the access of any person or category of persons to any records made or kept pursuant to this Act or the regulations;
- (s) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (t) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

1989-90 cC-7.2 s80; 1994 c35 s19.

Offences

81(1) For the purposes of this section, “**abuse**” means:

- (a) to act or omit to act so as to result in physical injury to a child;
- (b) to act or omit to act so as to result in substantial impairment of a child’s mental or emotional functioning as evidenced by a mental or behavioral disorder;
- (c) to exploit a child or treat a child cruelly;
- (d) to contact a child for a sexual purpose; or
- (e) to allow or encourage a child to engage in prostitution.

- (2) Any person who:
- (a) having the care, custody, control or charge of a child, neglects, abuses, wilfully abandons or exposes the child to abuse or abandonment or causes or procures the child to be abused, abandoned or exposed;
 - (b) detains or harbours a child after a demand has been made by an officer or a person acting on behalf of the minister for delivery of the child;
 - (c) induces or attempts to induce a child who:
 - (i) has been taken into the care and custody of the minister by apprehension pursuant to this;
 - (ii) has been placed in the custody of the minister pursuant to clause 37(1)(c) or subsection 37(3);
 - (iii) has been committed to the minister pursuant to subsection 37(2) or section 46;
 - (iv) is deemed to be in the custody of or committed to the minister pursuant to subsection 60(2), as the case may be;
 - (v) is in the custody of an officer pursuant to section 7 or 8; or
 - (vi) is receiving residential services pursuant to section 9 or 10;
- to leave the premises in which the child has been lawfully placed;
- (d) contravenes a protective intervention order made pursuant to section 16;
 - (e) contravenes subsection 12(1); or
 - (f) contravenes subsection 13.1(6) or 82(4);

is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000 or to imprisonment for a term of not more than 24 months or to both fine and imprisonment.

1989-90 cC-7.2 s81; 1999, c.14, s.11.

Warrant

82(1) Where an officer believes on reasonable and probable grounds that a contravention of clause 81(2)(b) has occurred, the officer may apply to a justice of the peace or a judge for a warrant to be issued pursuant to subsection (2).

(2) Where a justice of the peace or a judge is satisfied by the oath of an officer that the officer believes on reasonable and probable grounds that:

- (a) a contravention of clause 81(2)(b) has occurred; and
- (b) there is evidence of a contravention of clause 81(2)(b) to be found at the place to be searched;

the justice of the peace or judge may issue a warrant under his or her hand.

(3) A warrant issued pursuant to subsection (2) authorizes the person named in the warrant to enter the place named in the warrant and every part of the place named in the warrant and of the premises connected with that place to:

- (a) examine the place and connected premises;

- (b) search for and seize and take possession of any thing that there are reasonable and probable grounds to believe will afford evidence of a contravention of clause 81(2)(b); and
 - (c) remove the child from the place and premises.
- (4) No person shall obstruct any person who is authorized to make an entry pursuant to this section.

1989-90 cC-7.2 s82.

Transitional

83(1) Subject to subsections (2) and (3), every committal, order and agreement that:

- (a) was made pursuant to any former *Family Services Act* or *Child Welfare Act*; and

- (b) is in force on the day before the day on which this Act comes into force;

is continued and may be executed, enforced, amended, varied or discharged in the same manner as if made pursuant to this Act.

(2) Notwithstanding section 46 of this Act, a voluntary committal that:

- (a) is in force on the day before the coming into force of this Act;

- (b) was validly made pursuant to *The Family Services Act*; and

- (c) was signed by the mother of the child and not by the father;

does not require the signature of the father, an order of the court dispensing with the father's signature or an affidavit of the mother.

(3) Notwithstanding section 46 of this Act, a voluntary committal that:

- (a) is in force on the day before the coming into force of this Act;

- (b) is validly made pursuant to *The Family Services Act* within the 30 days immediately preceding the day on which this Act comes into force;

may be revoked in accordance with that Act at any time within 30 days from the day on which it was made.

(4) to (7) **Not yet proclaimed.**

(8) The provisions of this Act respecting reviews by family review panels do not apply to:

- (a) apprehensions made; or

- (b) matters brought before a judge pursuant to section 21 of *The Family Services Act*;

prior to the coming into force of this Act.

1989-90 cC-7.2 s83.

