LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE

INTRODUCTION

Purpose and currency of checklist. This checklist is designed for use with the CLIENT IDENTIFICATION, VERIFICATION, AND SOURCE OF MONEY (A-1) and CLIENT FILE OPENING AND CLOSING (A-2) checklists, with reference to the FAMILY PRACTICE INTERVIEW (D-1) checklist where applicable. It is designed for use by counsel for the parent(s) involved in child protection proceedings with a director designated under the *Child, Family and Community Service Act*, R.S.B.C. 1996, c. 46 (the "*CFCSA*"). It deals with most aspects of procedure under *the CFCSA*, including presentation, protection, and continuing custody hearings. Note also the Provincial Court (*Child, Family and Community Service Act*) Rules, B.C. Reg. 533/95 (the "CFCSA Rules"), and the Child, Family and Community Service Regulation, B.C. Reg. 527/95 ("CFCS Regulation"). This checklist is current to September 1, 2023.

New developments:

- ***CFCSA* amendments.** Amendments to the *CFCSA* became effective November 24, 2022, and were made to help implement and align the *CFCSA* regime with the *Act Respecting First Nations, Inuit, and Métis Children, Youth and Families* ("*ARFNIM*") and the United Nations Declaration on Indigenous Peoples. The amendments updated definitions, including: "Indigenous child", "First Nation child", "Indigenous authority", "Indigenous child and family services", "Indigenous governing body", and "Indigenous law". The amendments are to be interpreted and administered in accordance with the following principles:
    1. Indigenous peoples have an inherent right of self-government;
    2. the inherent right of self-government includes jurisdiction in relation to Indigenous child and family services, including law making; and
    3. Indigenous laws have the force of law in British Columbia.
- **Arbitration provisions under the *Family Law Act*, S.B.C. 2011, c. 25 ("*FLA*").** Provisions relating to arbitration under the *FLA* came into force on September 1, 2020 (B.C. Reg. 160/2020). It is strongly recommended that practitioners review the new provisions before drafting or revising arbitration clauses in agreements, or commencing any arbitration proceeding.
- ***ARFNIM*.** This Act came into force on January 1, 2020 and has three declared purposes:
    1. to affirm the inherent right of self-government, which includes jurisdiction in relation to child and family services;
    2. to set out principles applicable, on a national level, to the provision of child and family services in relation to Indigenous children; and
    3. to contribute to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

    In pursuing these purposes, the Act sets out minimum standards that must be met by provincial child protection legislation, including the *CFCSA*. It emphasizes the need for the system to shift from apprehension to prevention and give priority to services that promote preventive care to support families. The Act gives priority to services such as prenatal care and support to parents. In addition, it clearly indicates that no Indigenous child should be apprehended solely on the basis or as a result of the child's socio-economic conditions, including poverty, lack of housing or related infrastructure, or state of health of the child's parent or care provider. The Act has been considered in *British Columbia (Child, Family and Community Service) v. S.H.*, 2020 BCPC 82, and *British Columbia (Child, Family and Community Service) v. M.J.K.*, 2020 BCPC 39. The court has used the *ARFNIM* to define an Indigenous grandmother as a

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE

care provider and therefore able to be added as a party to *CFCSA* proceedings, as it is in the best interests of the child pursuant to s. 10 of the *ARFNIM* and s. 4 of the *CFCSA* (*Director and R*, 2022 BCPC 15).

- **Forms of address.** The Provincial Court provided a Notice to the Profession on how parties and/or lawyers can advise the court, other parties, and lawyers of their pronouns and form of address (NP 24). Similarly, the Supreme Court of British Columbia provided direction on how parties and counsel are to address a justice in a courtroom (see Supreme Court Family Practice Direction PD-60—Form of Address) and provided clarification on how to introduce themselves in proceedings (see Supreme Court Family Practice Direction PD-59—Forms of Address for Parties and Counsel in Proceedings).

Of note:

- **Aboriginal law.** The Provincial Director of Child Protection has delegated authority to a number of Aboriginal agencies throughout the province to administer all or parts of the *CFCSA*. The degree of responsibility undertaken by each agency is the result of negotiations between the Ministry of Children and Family Development (the "Ministry") and the Indigenous community served by the agency. As of the date of this checklist, 117 of the approximately 202 First Nations in British Columbia are represented by agencies that either have or are actively planning for delegation agreements to manage their own child and family services. Currently, there are 24 delegated agencies with various levels of delegation: three can provide voluntary services and recruit and approve foster homes; seven have the additional delegation necessary to provide guardianship services for children in continuing care; and fourteen have the delegation required to provide, in addition, full child protection, including the authority to investigate reports and remove children. In addition, two agencies are delegated to arrange adoptions. The Vancouver Aboriginal Child and Family Services Society, an Indigenous non-profit society, has authority for child protection, family services, and guardianship for all Indigenous children and families within the municipal boundaries of Vancouver, with the exception of Métis, Musqueam, and Nisga'a children. The provincial government's authority to enter into agreements with a First Nation or other legal entity representing an Indigenous community arises under *CFCSA*, Part 7.

  Other special considerations may apply to children who have ties to an Indigenous community. For example, notice of various hearings may be required to be sent to a First Nation (e.g., *FLA*, ss. 208 and 209, address standing and notice in hearings for guardianship of Nisga'a children and treaty First Nations children, respectively). Note that a child's culture is one of the factors to be considered with all others in determining a child's best interests (see *H. (D.) v. M. (H.)*, 1999 CanLII 20555 (SCC), and *CFCSA*, s. 4(2)). One of the guiding principles of the *CFCSA* states that the cultural identity of Indigenous children should be preserved. For further information, see the articles published in the "Aboriginal Law" page in the "Practice Areas" section of the Continuing Legal Education Society of British Columbia website at www.cle.bc.ca.

- **Alternative dispute resolution.** The Attorney General and the Ministry have funded initiatives to divert child welfare matters away from court and into alternative dispute resolution venues. These alternatives to litigation involve early efforts to identify families for participation in the family conference process (*CFCSA*, s. 20), in mediation (*CFCSA*, s. 22), and in informal collaborative meetings. These resolution processes are used for cases already before the courts and to prevent cases from coming before the courts. In most areas, a request by a parent or parent's counsel for a family conference,

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE

mediation, or collaborative meeting will be received favourably by the local Ministry office. Social workers and director's counsel will also often suggest mediation over litigation when an application is contested. The Legal Services Society, as part of the child protection legal aid tariff, may fund counsel to participate in mediation between a parent or guardian and the director. Also see the *Code of Professional Conduct for British Columbia* (the *"BC Code*"), s. 5.7 and Appendix B regarding the role of lawyers in family law mediation.

- **COVID-19 pandemic.** Counsel should keep apprised of developments related to COVID-19 and corresponding response measures.
- **Additional resources.** For more detailed information about child protection matters, see the *British Columbia Family Practice Manual, 4th ed. (CLEBC, 2006–);* annual editions of *Annotated Family Practice (CLEBC)*; and the *Family Law Sourcebook for British Columbia*, 3rd ed. (CLEBC, 2002–).
- **Law Society of British Columbia.** For changes to the Law Society Rules and other Law Society updates and issues "of note", see LAW SOCIETY NOTABLE UPDATES LIST (A-3).

CONTENTS

1. Preliminary Matters
2. Preparation for Presentation Hearing
3. Presentation Hearing
4. After Presentation Hearing
5. Preparation for Protection Hearing
6. Provincial Court (*CFCSA*) Rule 2 Conference or Mediation
7. Preparation for Contested Protection Hearing
8. Contested Protection Hearing
9. After Protection Hearing
10. Subsequent Applications
11. Preparation for Continuing Custody Hearing
12. Contested Continuing Custody Hearing
13. After Continuing Custody Order
14. Closing the File

CHECKLIST

1. PRELIMINARY MATTERS

1.1 Conduct a conflicts of interest check. Complete the CLIENT FILE OPENING AND CLOSING (A-2) checklist and applicable items in the FAMILY PRACTICE INTERVIEW (D-1) checklist.

1.2 Confirm compliance with Law Society Rules 3-98 to 3-110 for client identification and verification and the source of money for financial transactions, and complete the CLIENT IDENTIFICATION, VERIFICATION, AND SOURCE OF MONEY (A-1) checklist. Consider periodic monitoring requirements (Law Society Rule 3-110).

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
1.3 Discuss and confirm the terms of your retainer and the calculation of your fee. Refer to the CLIENT FILE OPENING AND CLOSING (A-2) checklist. If acting under a "limited scope retainer" (a defined term in the *BC Code*), advise the client of the nature, extent, and scope of the services that will be provided. Ensure the client understands the limited scope of the retainer and the limits and risks associated with the scope of services provided, and confirm the understanding, where reasonably possible, in writing. See *BC Code* rule 3.6 for the rules regarding reasonable fees and disbursements and a lawyer's duty of candour.					
1.4 Before removal under *CFCSA*:					
.1 Review the circumstances with the client.					
.2 Inform the client of the provincial Director of Child Protection and the director's legal obligations under the *CFCSA* regarding s. 13 protection concerns, duty to report, and time requirements.					
.3 Refer to the Legal Aid BC, if legal aid is required.					
.4 Discuss with the client the possibility of an agreement with the director to provide services to support or assist the client to care for the child (*CFCSA*, s. 5). Discuss the potential for a safety plan to address any protection concerns. Discuss alternative caregivers, including the other parent, extended family, or friends and neighbours who might assume care of the child on a private basis to avoid forced intervention by social workers who are delegates of the director, employed by the Ministry. The director can make an agreement with a member of the "child's kin" (*CFCSA,* s. 8) to avoid taking children into foster care if the parent can identify an appropriate alternative caregiver.					
.5 If the client is temporarily unable to look after the child in the home, discuss the possibility of a voluntary care agreement with the director (*CFCSA*, s. 6).					
.6 Discuss mediation or other alternative dispute resolution processes to resolve an issue relating to the child (*CFCSA*, s. 22), aside from whether the child is in need of protection. Advise your client that information exchanged in a mediation or other alternative dispute resolution process is confidential and cannot be used against them except in strictly delineated circumstances (*CFCSA*, s. 24).					
.7 If the director has applied for a protective intervention order (*CFCSA*, s. 28):					
(a) Obtain client history (see item 1.5.11 in this checklist for suggested particulars).					
(b) Contact director's counsel to ascertain the social worker's concerns and the circumstances.					
(c) Check compliance with the notice requirements of the *CFCSA:* notice of hearing to be served on the person against whom order sought, the child (if age 12 or over), and the child's caregiver at least two days before the application hearing (s. 28(2)). Note that, pursuant to s. 69(2), the court can make a s. 28 order without a party or the person against whom an order is being made having been served with the application.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
(d) Request that the director provide disclosure of the Ministry file relating to the case, particulars of the order the director plans to request, reasons for requesting those orders, and the director's intended evidence (*CFCSA*, s. 64).					
(e) Discuss the client's position about the order sought by the director.					
(f) Prepare for and attend the hearing.					
(g) Advise the client of the effect of the order made at the hearing.					
(h) Consider whether there are grounds for appeal and, if there are, consult with the client.					
.8 If the director has applied for a supervision order without removal (*CFCSA*, s. 29.1):					
(a) Follow items (a) and (b) and (d) to (h) under item 1.4.7 in this checklist.					
(b) Ascertain from director's counsel whether an adjournment of the director's application for a supervision order without removal will trigger a removal. As the test for such an order is that the child would be in need of protection without the order, an adjournment will postpone the granting of an order and may therefore be deemed by the director to leave the child in need of protection, thus creating the need for removal. Generally, director's counsel will advise you that adjournment will trigger a removal unless a plan can be put in place for the period of a brief adjournment that satisfies the protection concerns of the director. Such a plan might include alternative care options or a family member or other person moving into the home to provide additional supervision. You can also ask director's counsel if it will suffice for the client to follow the proposed terms and conditions until the matter returns to court while you attempt to gather the facts that lead to the director's application, and to obtain instructions from your client.					
(c) Check compliance with notice requirements of the *CFCSA*: notice of hearing to be served on the child (if age 12 or over) and on the child's caregiver at least seven days before the presentation hearing (s. 33.1). The director may seek to proceed on short notice despite the required notice period, since children in need of protection might otherwise require removal.					
.9 If the director has applied for medical intervention under *CFCSA*, s. 29:					
(a) Follow items (a) to (h) under item 1.4.7 in this checklist.					
(b) Prior to the hearing, demand medical expert evidence from the director and, if needed, retain a medical expert for the parent; ensure that notice is provided to the child as well as the parent if the child is capable of consenting to health care (see *Infants Act, R.S.B.C. 1996, c. 223,* s. 17). The director may seek to proceed on short notice if the child is faced with a medical crisis and there is a dispute between the parents and medical professionals about how to meet that crisis.					
1.5 After removal under *CFCSA*, s. 30:					
.1 Obtain a brief outline of the circumstances from the client and/or director's counsel.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
.2 Determine whether a court appearance has been scheduled (the case must be in court within seven days of removal (*CFCSA*, s. 34).					
.3 Refer to Legal Aid BC if legal aid is required.					
.4 Arrange an appointment with the client immediately or as soon as possible. If a parent/client is incarcerated, consider a "spring order" application in due course. (In most registries, the Attorney General now provides for minor appearances of incarcerated parties by video. Except for actual hearings, this may be more convenient for the client. Check with the registry administrator in your location.)					
.5 Have the client prepare a written statement of the circumstances of removal.					
.6 If available, review the client's copies of the presentation form (*CFCSA* Rules, Form 1) and the report to the court (CFCS Regulation, Form A), for notice of the date and time of the first court appearance and the circumstances of the removal as alleged by the director.					
.7 If the client does not have copies of the presentation form and the Form A report to the court, telephone the Provincial Court registry or director's counsel to establish when the next *CFCSA* list will occur. Request copies of the presentation form and the Form A report to the court from director's counsel.					
.8 Note time frames under *CFCSA*, s. 34: a removal must be presented to the court within seven days of a removal. If a parent contests the removal, a presentation hearing will then be scheduled for the earliest possible date available to counsel and the court.					
.9 Contact director's counsel to find out particulars of the social worker's concerns and details regarding the director's interim plan of care.					
(a) Ask director's counsel whether the director will consider alternatives to foster care: e.g., placement with another parent, relatives, friends, or neighbours (first determine if such an alternative exists, and if the parent is prepared to accept that arrangement) (see *CFCSA*, s. 8, referred to in item 1.4.4 of this checklist). If a satisfactory safety plan or alternative placement can be arranged, discuss with director's counsel the director's willingness to withdraw from further proceedings pursuant to *CFCSA,* s. 33. Also consider *An Act Respecting First Nations, Inuit, and Métis Children, Youth and Families* and the specific provisions related to placing Indigenous children with family members or members of their Indigenous community. See also the "New developments" section of this checklist.					
(b) Explore also whether the director will consider a return with supervision or a protective intervention order against an abuser pursuant to *CFCSA,* s. 28 and offer informed reasons why those solutions might be more appropriate in addressing the protection concerns.					
(c) Explore whether an agreement can be reached with a First Nation such that the director can withdraw from the proceedings (*CFCSA*, s. 33.01).					
(d) Consider whether the child is Indigenous and if the file should be transferred from the director to an Indigenous Child and Family Service or Authority.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
.10 Determine whether the removal is on fresh grounds, or is an alleged breach of a supervision order. (Although the proceedings are only slightly different, the considerations are quite different.)					
.11 Obtain client history, including:					
(a) Complete chronological outline.					
(b) Marital and parenting history. As a result of provisions in Part 4, Division 2 of the *Family Law Act*, S.B.C. 2011, c. 25 (the "*FLA*"), it is important to determine who the guardians of the child are and whether they have parenting time for the purposes of determining potential options for your client and for the director.					
(c) Previous spouse/relationship.					
(d) Residences.					
(e) Citizenship.					
(f) If Indigenous, band or First Nation particulars.					
(g) Education.					
(h) Employment/occupation.					
(i) Financial.					
(j) Medical (obtain consent to release of medical information).					
(k) Previous Ministry involvement, in British Columbia or any other province.					
(l) Previous removals, court orders, agreements, child-care agreements, etc., in British Columbia or any other province.					
(m) Previous social service or court involvement relating to any other children in relation to whom client stood as a "parent".					
(n) Names of extended family and neighbours, especially those able to provide alternative placement for the child (see item 1.5.9(a) in this checklist).					
(o) Previous legal involvement (family law, criminal law).					
(p) Use of community resources; especially treatment or counselling relevant to grounds of intervention.					
.12 For each child, get particulars, including:					
(a) Full name, birth date, place of birth.					
(b) Schools, teachers, counsellors.					
(c) Medical and psychological history and any identified special needs of the child.					
(d) Recent child/family activity photograph.					
(e) What problems, if any, parents have been having with the child.					
(f) Babysitters.					
(g) Activities: clubs, groups, sports.					
(h) Child and family relationships.					
(i) Previous Ministry involvement.					
(j) Whether child is a young offender.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
(k) If the child has ties to an Indigenous community, details to determine which Indigenous entities must be given notice of proceedings (e.g., *CFCSA*, s. 38(c) to (d), and *FLA*, ss. 208 and 209); the director must take steps to preserve a child's Indigenous identity (*CFCSA*, s. 4(2)). Consider the provisions of *An Act Respecting First Nations, Inuit and Métis Children, Youth and Families*, which came into force on January 1, 2020 (see "New developments" in this checklist).					
.13 Discuss circumstances of the removal with the client. Canvass with the client factors that could reduce short-term protection concerns (e.g., evidence that an event was isolated and unlikely to recur, services that the client is engaged in or willing to engage in to address the concerns).					
.14 Discuss with the client any less disruptive measures considered by the director before removing the child and the interim plan of care included in the Form A report to the court. Find out whether the client agrees with the removal and the interim plan of care (the client and the social worker may be working together on the proposed plan).					
.15 Discuss what resources could be suggested or used to satisfy short-term protection concerns and allow the child to reside at home (e.g., having extended family live in the home).					
.16 Discuss what resources could be suggested or used if the child needs to reside outside the home. The director frequently uses *CFCSA*, s. 35(2)(d) orders to give interim custody to others under the director's supervision. Such orders take the child out of, or prevent the child from being placed in, foster care. Discuss whether your client is willing to have another person or another parent provide care for the child as an alternative to foster care. Also consider if the child if Indigenous and the factors the director must consider in those circumstances around placement of children. If the other parent is a guardian of the child under the provisions of the *FLA*, and that parent has parenting time with the child, the director may consider placing the child with the other parent.					
.17 If possible or of assistance, request letters of reference from the family doctor or any therapists or counsellors involved with the client.					
.18 Discuss with the client and director's counsel or social worker what access, if any, the client has had since the removal of the child, and what access the client could expect to have going forward (e.g., supervised or unsupervised, and frequency of such access) should the child remain in the care of the director. An access order should be granted unless the court is satisfied that the access is not in the child's best interest. Note though that access orders cannot be granted by the court until an interim order is made.					
.19 Consider requesting mediation or a collaborative meeting to resolve issues of placement, access, or remedial services.					
.20 If the client is not in agreement with the removal and order sought by the director, determine whether there is anyone who could be a credible witness at the presentation hearing as to custody, care, and control of the child.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE

.21 Discuss with the client the legal effects of a removal. Pursuant to *CFCSA*, s. 32, following a removal the director has care of a child and may have the child medically examined, consent to necessary health care if such care should be provided without delay according to the health care provider, and authorize the child's participation in routine school, social, or recreational activities. The director, however, may not authorize non-necessary medical treatment until the director obtains an interim court order.

2. PREPARATION FOR PRESENTATION HEARING

2.1 The first appearance for a presentation hearing is almost always adjourned if counsel wishes time to consult with the client. The only regular exception is when the director is seeking a non-removal supervision order pursuant to *CFCSA*, s. 29.1, because the director may deem the child to be in need of protection without such order, and remove the child if an adjournment is granted. A contested hearing on the day of the first appearance on a presentation hearing is very rare. More commonly, a presentation hearing is adjourned to the judicial case manager to set a half-day to a day-long hearing. It is not unusual for a presentation hearing to be scheduled several weeks after the first appearance, so it is important to discuss this possibility with your client in advance, as it may have an impact on the decision to proceed by way of a contested presentation hearing.

3. PRESENTATION HEARING

3.1 If retained, appear in court with the client and with a copy of the presentation form and Form A report to the court.

3.2 Either:

.1 Request an adjournment (if necessary) to gather information, to obtain instructions, to consider alternative placements for the child, or to consider or schedule alternative dispute resolution processes; or

.2 Stand the matter down to the end of the court list to try and discuss the matter further with director's counsel, the social worker, or both. Matters to be canvassed include return under supervision, prospect of returning the child to the other parent or extended family member or friend, what the parent needs to do to address the protection concerns, and access to the child.

3.3 Canvass with the client whether any other family or friends are prepared to formally assume custody of the child under *CFCSA*, s. 35(2)(d). Propose these caregivers to director's counsel early in the proceedings, as the director will require time to complete a background study of the proposed caregivers. If the director is not amenable to the proposed caregiver, but on the evidence available the caregiver might be acceptable to the court, discuss with the client focusing the hearing on the alternative caregiver rather than on immediate recovery of custody by the client.

Note that if the nominee under *CFCSA*, s. 35(2)(d) cannot continue to care for the child, the director must effect another, separate removal under the *CFCSA*, and commence a parallel proceeding. The parallel proceeding can become very confusing for family, counsel, and the courts, and anyone nominated to receive custody under s. 35(2)(d) should be thoroughly informed about the likelihood that the custody arrangement might continue

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
for many months. Note also that if a parent is nominating a person, or agreeing to a person nominated by the director to have custody under s. 35(2)(d) or, later, s. 41(1)(b), parent's counsel should insist that the director include terms of supervision that require the nominee to provide access as directed by the director or ordered by the court and to cooperate with any plan for reunification of the family. If a caregiver cannot continue to care for the child under a *CFCSA*, s. 41(1)(b) order, and the director is not prepared to return the child to the parent, the director may apply to vary the order to place the child in the custody of the director (i.e., s. 41(1)(c) or (d)). However, if the matter is urgent and the director wants or needs to move the child immediately, then the director will be forced to effect a removal and commence a parallel proceeding, as described above.					
3.4 Determine whether the client is prepared to agree to the child being cared for by another parent. Although practice may vary for some time under the *FLA* (as compared to the repealed *Family Relations Act*, R.S.B.C. 1996, c. 128), it may be open to the director to place the child with another guardian of the child who has been having parenting time. Under the *CFCSA*, the director can only return a child to the "parent apparently entitled to custody". Before the *FLA* came into force, the director generally interpreted that phrase to mean the parent the child had been removed from, or the parent entitled to custody under a court order made pursuant to the former *Family Relations Act* or the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.); under the *FLA*, the phrase may be viewed more broadly by the director and the court (see *British Columbia (Director CFCS) v. L. (G.M.)*, 2014 BCPC 284). If the director is returning the child to a parent other than the parent from whom the child was removed, the director will generally require that a supervision order be made governing that parent's care of the child and requiring their cooperation with restrictions on the parenting time of the parent from whom the child was removed. If the other parent attempts to bring an application under the *FLA* to vary guardianship or parenting time as a result of the removal and your client is not in agreement with that application, ensure that director's counsel is aware that you will be arguing existing case law that states that such applications should not be heard at the interim hearing (see *Re G. (A.N.)*, 1996 BCPC 1 and *Re T.(E.)* (7 June 1996), Vancouver 968434 (B.C. Prov. Ct.)).					
3.5 At the interim stage, where the parent clearly lacks evidence to support a return of the child to the parent's custody, counsel should consider the benefit to the client of proposing to director's counsel a consent interim order granting custody to the director, with an immediate commencement date for the protection hearing. If this is done, the parent can immediately also consent to a temporary custody order, or set a Rule 2 case conference (pursuant to the *CFCSA* Rules). The statutory scheme of stages is "collapsed" in this process, and the systemic delays in the statute and in the courts are avoided or reduced by at least six weeks. In order to do this, all persons entitled to notice of the protection hearing must consent to this process.					
3.6 If the client is not in agreement with the interim order sought by the director, consider mediation or other alternative dispute resolution processes to resolve the case (*CFCSA*, s. 22). The Ministry and the Attorney General pursue various alternative dispute resolution initiatives to resolve child welfare issues. These processes often result in earlier resolution of the case,					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
improve relations between the director and the client, and greatly empower the client in dealing with the director. The Legal Services Society supports mediation by funding attendance by parents' counsel at mediation. In some communities, the director also provides mediation coordinators to expedite the process, and to establish a roster of child welfare mediation experts.					
3.7 If the client is not in agreement with the order sought by the director, and mediation or other alternative dispute resolution processes are not acceptable or available options, obtain instructions from your client to schedule a date for a contested interim hearing. Ensure you advise your client that contested presentation hearings may require several weeks or even months of waiting for available court time. Note that mediations are still often set in contested matters because valuable information can be exchanged in advance of the hearing in alternative dispute resolution processes, which may result in the resolution of the outstanding interim application. Also, mediations can be set and held very quickly and they allow for an open and frank exchange of ideas. They are also likely to result in more creative solutions. Advise the client that at an interim hearing, the director is not required to prove that a child is in need of protection to obtain a s. 29.1 supervision order, but only that there is admissible evidence that, if accepted, could lead to a finding that the child is in need of protection (see *British Columbia (Director CFCS) v. C. (J.)*, 2014 BCSC 496 at para. 21). Also advise the client that at the interim hearing stage, where there is a dispute about the facts, the dispute is resolved in favour of the director (*B. (B.) v. British Columbia (Director CFCS)*, 2005 BCCA 46 at para. 14).					
3.8 At a contested interim hearing, the social worker will give evidence regarding the circumstances that caused the director to remove the child as well as the proposed interim plan of care. If the director has a history of involvement with the parent, the social worker will also give summary evidence of that involvement if that history was a factor in the decision to remove or the unwillingness to return the child. The parent will then give evidence that supports their position that the child can be safe at home or in a proposed alternate home until a full protection hearing can be held. Present evidence of circumstances and resources that reduce short-term protection concerns. Be sure to address the issue of access if an interim custody order is granted (under *CFCSA*, s. 55, access can be granted after an interim order is made).					
3.9 Advise the client of the effect of any order made at the hearing. If the court makes an interim order returning the child to the client under the supervision of the director (under *CFCSA*, s. 35(2)(b)), the court may include terms in the supervision order that are recommended by the director (s. 41.1). Advise the client that non-compliance with a supervision order can lead to removal of the child. The director must remove the child if there is reason to believe that an interim order "no longer protects the child". The director must also remove the child if the parent has failed to comply with a term of an interim order where the express consequence of non-compliance is removal (s. 36). The director must present a written report to the court on the circumstances of such a removal within seven days, and the process outlined in item 1.5 above in this checklist should be followed. Advise the client that pursuant to s. 47, an order granting the director interim custody gives the director the authority to consent to health care for the child, to make decisions about the child's education and religious upbringing, and to exercise any other rights and responsibilities of a personal guardian of the child.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
3.10 Diarize the commencement date for the protection hearing, which must be within 45 days of the date of the interim order (*CFCSA*, s. 42.1(7)). Normally, the commencement date will be approximately six weeks (42 days) from the date of the interim order, so that the date coincides with the *CFCSA* list day and time. You can request an earlier commencement date to expedite the process, but generally director's counsel must agree to an expedited date.					
4. AFTER PRESENTATION HEARING					
4.1 Do an interim account.					
4.2 Decide whether to continue as legal counsel or refer the client elsewhere. If you do not continue, note your obligation under *BC Code* rule 3.7-9 to promptly notify the client, other counsel, and the court of your withdrawal.					
4.3 Consider ordering a transcript of the *CFCSA*, s. 35 proceedings (if on legal aid, obtain prior authorization).					
4.4 Check s. 35 order upon receipt from director's counsel and sign, or advise director's counsel if there are any errors in the draft order. Once the entered order is received from the registry, which can take weeks or months depending on the courthouse, send a copy to the client. If you require an entered copy urgently for some purpose, you can try to coordinate with director's counsel to have it entered sooner.					
4.5 Notice of the application for an order at the commencement of the protection hearing must be served on the parents, an Aboriginal agency, and children 12 years of age and over, at least 10 days before the hearing date.					
.1 The fact that counsel appeared at the presentation hearing and is "counsel of record" does not excuse the director from the obligation to serve parents and children over 12 years of age personally. Unlike proceedings under other statutes and rules, there is no provision or expectation that counsel will also be served with the notice for the protection hearing, as their client will have been personally served at the protection hearing stage. If you want notice of the protection hearing delivered to you before the protection hearing, arrangements must be made with director's counsel on a case-by-case basis.					
5. PREPARATION FOR PROTECTION HEARING					
5.1 Check the notices of hearing for time and accuracy and determine whether all required notices were served.					
5.2 Canvass with the client whether any other family or friends are prepared to formally assume custody of the child for a short time under *CFCSA*, s. 41(1)(b). Propose these caregivers to director's counsel early in the proceedings, as the director will usually require several weeks to complete a background study of the proposed caregivers. If the director is not amenable to the proposed caregiver, but, on the evidence available, the caregiver might be acceptable to the court, discuss with the client focusing the hearing on the alternative caregiver rather than seeking an immediate recovery of custody by the client.					
5.3 Determine whether the client is prepared to agree to the child being cared for by another parent. Although practice may vary for some time under the new *FLA* (as compared to the repealed *Family Relations Act*), it may be open to the director to place the child with another guardian of the child who has been having parenting time. See item 3.4 in this checklist.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
5.4 Attend the first appearance for the protection hearing. If the client is not consenting, consider mediation or other alternative dispute resolution processes to resolve the case, and request an adjournment for such a process or set a case conference under Rule 2 of the *CFCSA* Rules (see item 6 in this checklist).					
5.5 The commencement date will usually be nominal because the court must direct that a case conference be scheduled if the application at the protection hearing is contested (pursuant to Rule 2 of the *CFCSA* Rules). In many cases, however, consent orders are entered into at the commencement stage, either on the first appearance or after a short adjournment; counsel should take instructions wherever possible in anticipation of this possibility. Consider proposing to director's counsel that the order be made by filing a *CFCSA*, s. 60 written consent to the order, as this generally alleviates the need for the director to call evidence on the application and for the court to make a protection finding under *CFCSA*, s. 40.					
5.6 Diarize the date of the Rule 2 conference. In many registries, you may wait several weeks or even months for a Rule 2 case conference date. You should prepare your client for that delay. Only after a Rule 2 case conference has been held are contested hearing dates set.					
5.7 Request that the director provide, in advance of the scheduled case conference, disclosure of the director's file on your client, particulars of the order they intend to request, the reasons for requesting those orders, and the director's intended evidence at hearing (*CFCSA*, s. 64).					
5.8 Consider whether other proceedings should be heard at the same time as the *CFCSA* hearing (i.e., *FLA* applications).					
6. PROVINCIAL COURT (*CFCSA*) RULE 2 CONFERENCE OR MEDIATION					
6.1 Having requested disclosure (*CFCSA*, s. 64) from director's counsel at item 5.7 of this checklist, review the Ministry documents thoroughly when received and discuss the material with the client before the Rule 2 conference or mediation. If disclosure has not been received by the week prior to the case conference or mediation, contact director's counsel to find out when it will be provided.					
6.2 Meet with the client, review the evidence, and discuss any settlement possibilities.					
6.3 Prepare the client for participation in the Rule 2 conference or mediation. Advise your client that pursuant to Rule 2(8), only the parties and their lawyers may attend a case conference; other persons may attend if the judge allows. If your client wants a support person to attend, notify director's counsel, and any other counsel who will be attending (so you can obtain their agreement in advance). Generally, if any of the parties or their counsel object to a third party being in attendance, the judge will not allow that person to remain in the conference room.					
6.4 Discuss with the client any documentary evidence the client may have in their possession, or that may easily become available, that would assist your client's case. Explain that the obligation to make timely disclosure of this evidence rests on all parties, not just on the director (*CFCSA*, s. 64). Note the *BC Code* rule 7.2-10 obligations concerning inadvertent possession of the other party's documents or communications.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
6.5 Attend the Rule 2 conference with your client. Upon request, provide a summary of your client's circumstances, what they are doing to address the director's protection concerns, and what their plans are for the future. Raise any concerns your client may have about access, disclosure, support services, or planning for the child. At a Rule 2 conference, the judge will attempt to determine if a resolution can be facilitated resulting in a consent order being made. If your client is willing to consent to an order as a result, use written consents pursuant to s. 60, if possible, to ensure that a protection finding against your client is not made. The court can dispense with the written consent of parties who have not appeared to contest the director's application pursuant to s. 60(3) to allow s. 60 to be used, despite written consents not being available from all parties. If the judge isn't able to facilitate a resolution to the substantive application, the judge will attempt to mediate any issues in dispute. The judge can also review the adequacy of disclosure by the parties, give directions about evidentiary issues, make directions about the length and timing of the trial, or direct that a further case conference be held. If your client fails to attend the Rule 2 conference, the judge may make the order sought by the director in your client's absence.					
6.6 If a consent order is not made at the Rule 2 conference, set hearing dates on the contested application, taking into account your client's instructions in that regard and how much time will likely be needed to address any outstanding protection concerns of the director. A judge will generally not allow hearing dates to be set if your client is not in attendance at the Rule 2 conference.					
7. PREPARATION FOR CONTESTED PROTECTION HEARING					
7.1 Schedule witness interviews.					
7.2 Request information from teachers, counsellors, and others. Note that the effect of a *CFCSA*, s. 35 order giving the director interim custody is that the director gains some rights of guardianship under *CFCSA*, s. 47. Therefore, written consents from the Ministry social worker may be required before information will be released from most agencies and institutions. Generally, if counsel requests consents from director's counsel or the social worker, they will be provided.					
7.3 If medical or psychological experts are required, determine their purpose and who is going to pay for the consultation, expert letter, ongoing counselling, or other service. Address the need for expert reports early in the process, to avoid delays.					
7.4 If outside resources are being used (e.g., social service workers, parenting skills programs, church), consider what progress is being made and whether reports or witnesses will be required.					
7.5 Consider what, if any, expert evidence will be required. Arrange an interview with the expert witness(es).					
7.6 If calling experts, comply with notice requirements in Rule 4(4) of the *CFCSA* Rules. See Rule 4(5), which requires service of written statement of the expert's opinion on all parties of record at least 30 days before trial. Note that the court can grant permission for late notice (see Rule 4(4) and (5)). Note also the requirements for the admission of expert evidence; see the discussion in *P. (J.) v. British Columbia (Children and Family Development)*, 2017 BCCA 308, leave to appeal refused [2017] S.C.C.A. No. 419 (QL).					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
7.7 Determine what witnesses will have to be subpoenaed. Prepare and issue subpoenas.					
7.8 Determine whether medical records, x-rays, etc., must be obtained by subpoena. Hospital record departments will not release records to non-guardians unless a subpoena is issued. Once served, they are usually cooperative and will provide copies for court purposes, unless these are the client's records (in which case a release must be obtained). There is no provision under the *CFCSA* for a party other than a director to obtain a court order for production of records and documents. *FLA*, s. 212 provides for production of records by third parties, and this can be used if *FLA* proceedings are running concurrently with *CFCSA* proceedings involving custody of the same child. Ask director's counsel if the Ministry has already obtained particular records, or if there are plans to obtain those records (which will then be produced to parent's counsel under *CFCSA*, s. 64), before going to the trouble and expense of seeking production separately from the same source.					
7.9 Obtain up-to-date school report cards, etc. (see item 7.2 in this checklist).					
7.10 Consider the wishes of the child, if any. Consider whether the child ought to give evidence, particularly if the child is 12 or older (see *CFCSA*, s. 67). In *CFCSA* proceedings, the courts generally frown upon calling children to testify at a hearing, except in unusual circumstances. Canvass this issue with director's counsel; if there is disagreement, it ought to be dealt with at the Rule 2 case conference. Consider whether a child ought to be added as a party pursuant to *CFCSA*, s. 39(4), and have separate counsel appointed. The Attorney General will appoint counsel for children who are made parties to a proceeding. The criteria the Attorney General normally requires to consent to an order that a child be made a party are that the child's views cannot be adequately represented by counsel for the parent(s) or counsel for the director, and that the child wishes to be made a party to the proceeding. Counsel should discuss making an application to have a child made a party with director's counsel before the application is made, but the application can be made over the objection of the director. The Attorney General will sometimes deny counsel for children when the child is consenting to the order sought by the director. The views of the child can also be obtained through a lawyer who is retained to provide independent legal advice. The Ministry social worker must make the arrangements for the child to receive independent legal advice. Legal Aid BC in cooperation with the Ministry maintains a roster of lawyers who provide this service.					
7.11 If director's counsel seeks consent to file documents, examine the documents thoroughly prior to giving consent. Provide copies of documents you wish to file in advance, so the director can review them. Pursuant to *CFCSA*, s. 64(3), evidence may be excluded from a hearing if no reasonable effort was made to disclose the evidence in advance.					
7.12 Confirm that the director has disclosed the director's intended evidence (*CFCSA*, s. 64(1)). If not, consider applying to exclude evidence at the hearing where there was no reasonable effort to disclose (s. 64(3)). Some judges have granted orders to compel the director to disclose particular records or to make further disclosure under *CFCSA* Rule 8(8) and (16).					
7.13 Ensure compliance by the client with any request by director's counsel for disclosure on the part of the client under *CFCSA*, s. 64.					
7.14 Do all necessary legal research and prepare legal argument.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
7.15 Prepare your client to give evidence, and prepare them for the broad scope of cross-examination in these proceedings.					
7.16 Prepare all other witnesses.					
7.17 Determine whether the director is ready to proceed and whether all necessary documents have been filed and served and accepted by the court.					
7.18 In a case where the child has been placed outside the home and a delay in the hearing is requested, consider the appropriateness of an argument that delay will deny full benefit and protection of the law. The test is that a delay application must not compromise or prejudice the best interests of the child.					
7.19 Once you have familiarized yourself with your case and the evidence the director will lead, again consider and discuss with your client whether there might be reason to request a mediation before the scheduled hearing date.					
8. CONTESTED PROTECTION HEARING					
8.1 Protection hearings are civil hearings and are often less formal in terms of process and the application of evidentiary rules than other civil hearings (*CFCSA*, s. 66). In a protection hearing, the court may admit into evidence any hearsay evidence that the court considers reliable (*CFCSA*, s. 68(2)). Director's counsel will often file historical Ministry records, hospital records, police records, and other similar records as business records. The standard of proof in *CFCSA* proceedings is the civil standard of proof on a balance of probabilities (see *V. (C.C.) v. British Columbia (CFCS)*, 2017 BCSC 412).					
8.2 Before making the final argument, re-read the *CFCSA* and make sure the court has considered all the issues. Consider whether there was evidence to provide a basis for expert opinions.					
8.3 In making a decision at the conclusion of a hearing, the deliberation of the trial judge is in two stages, and counsel must address each of the following two issues:					
.1 Whether the director has established that the child was or is in need of protection (this must be concluded first); if so,					
.2 Whether all the circumstances of the case at the date of hearing require the court to grant the order sought by the director to ensure the safety and well-being of the child.					
8.4 Advise the client of the effect of the order made at the hearing.					
9. AFTER THE PROTECTION HEARING					
9.1 Outline the director's issues for the client, and review the evidence led at trial that identified remedial measures the client needs to address to avoid a subsequent application for a further temporary custody order or continuing custody order. If appropriate, outline with the client a plan of action to address issues during the term of a temporary order.					
9.2 Consider ordering a transcript of the protection hearing (if this is a legal aid matter, get authorization).					
9.3 Consider whether there are grounds for appeal, and consult with the client to obtain instructions on pursuing an appeal.					
9.4 Prepare an interim (or final) account.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE

9.5 Check the order made at the protection hearing, upon receipt from director's counsel, and send a copy to the client.

9.6 Get a retainer if proceeding to a further contested hearing and you have closed your file.

10. SUBSEQUENT APPLICATIONS

10.1 Prior to the expiry of a temporary custody order or a supervision order, the director may apply to extend those orders under *CFCSA*, s. 44, if the circumstances that caused the child to need protection have not been sufficiently resolved but are likely to be resolved within a reasonable time period. If the application is made after the expiry of the temporary order, then the director has lost jurisdiction and an extension order cannot be made. Also, prior to the expiry of a temporary custody order, the director may apply for an order that the director supervise the child after the child is returned to the custody of the parent. Also, the director may apply for a continuing custody order under *CFCSA*, s. 49, up to 60 days in advance of the expiry of a temporary order.

10.2 Check the notices of hearing for time and accuracy, and determine whether all required notices were served. See item 5 in this checklist; most of the same planning considerations apply.

10.3 Canvass with director's counsel what protection concerns remain unaddressed or require a further custody or supervision order. Discuss these matters with your client and consider mediation or other alternative dispute resolution processes if your client is not in agreement with the director's application.

10.4 If the matter cannot be resolved through mediation or other alternative dispute resolution processes, set the matter down for a case conference and/or contested hearing. Although case conferences are not mandatory under the *CFCSA* after the protection hearing stage, in practice, most courts require case conferences for all contested applications. Note that judges can order further case conferences if they determine it would be beneficial to the court process.

10.5 Review the time restrictions under *CFCSA,* s. 45 to ensure that the total period of temporary custody specified therein has not been exceeded. Director's counsel can apply under s. 45(1.1) for a court order extending the total period if it is in the child's best interests to do so and case law indicates that such an order can be made even after the time limit has expired (see *Re JM, CM, AM and BM* (29 July 1997), Port Alberni 1997-0729 (B.C.S.C.)). Section 44(3.1) stipulates that children cannot be under the supervision of the director for more than 12 consecutive months, including the period of an interim supervision order.

11. PREPARATION FOR CONTINUING CUSTODY HEARING

11.1 Canvass with the client the availability of alternate caregivers so as to avoid a continuing custody order. See item 5 in this checklist; most of the same planning considerations apply. If a child is in the temporary custody of a third party under the director's supervision, the director can apply pursuant to CFCSA, s. 54.01 to permanently transfer custody of the child to that person. The child must have resided with that person for at least six months before the application is made, although the court can shorten or waive the

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
residency period if it is in the child's best interests to do so. Discuss with the client whether that plan is acceptable to the client. If an order is made under s. 54.01, that person becomes the child's guardian, and the order can only be varied or cancelled thereafter under the *FLA* and not the *CFCSA*. A person who receives custody under s. 54.01 is eligible to receive financial support from the director.					
11.2 Be prepared to address all relevant issues under *CFCSA*, s. 49. Determine what order you will be asking the court to make at the hearing: a return to your client under supervision (*CFCSA*, ss. 49(7)(a) and 49(8)) or a "last chance" order (*CFCSA*, s. 49(7)(c)).					
11.3 Consider access provisions under *CFCSA*, s. 56. Counsel should file and deliver an application under s. 56 at least 10 days before the date set for hearing the custody application, so the court may consider both applications at the same time. The application may be brought at any time after a continuing custody order is made, unless the application was considered and dismissed at the continuing custody hearing.					
11.4 Advise the client that a court can only make a s. 56 access order if access is in the best interest of the child and consistent with the plan of care for the child. If adoption is the plan and an access order would jeopardize that plan, a court will not make a s. 56 access order (see *M. (A.) v. British Columbia (Director CFCS)*, 2008 BCCA 178).					
12. CONTESTED CONTINUING CUSTODY HEARING					
12.1 See items 8.1 and 8.2 in this checklist, which apply to continuing custody hearings.					
12.2 Before making a continuing custody order, the court must consider the parent's conduct toward any child who was or is in that parent's care, the plan of care, and the child's best interests (*CFCSA*, s. 49(6)). The court must make the continuing custody order if a parent is unable or unwilling to resume custody of the child (*CFCSA*, s. 49(4)(b)). The court will also make the continuing custody order if there is no significant likelihood that the circumstances that led to the child's removal will improve within a reasonable time or that the parent will be able to meet the child's needs (*CFCSA*, s. 49(5)).					
13. AFTER CONTINUING CUSTODY ORDER					
13.1 Advise the client of the effect of the order made at the hearing. Make sure the client understands all of the ramifications of a continuing custody order, including that the director becomes the sole guardian of the child and is able to consent to the adoption of the child. See *CFCSA*, ss. 50 and 53.					
13.2 Consider whether there are grounds for appeal.					
13.3 Advise the client on provisions of *CFCSA*, s. 54, and *CFCSA* Rule 8(6) to change or set aside a continuing custody order. Advise the client that, under s. 54, a client who was a party to a proceeding in which a continuing custody order was made may apply to the court for permission to apply to cancel the order if there has been a significant change in the circumstances that caused the court to make the continuing custody order. Such an application cannot be made if the child has already been adopted by another person.					

LEGEND — **NA** = Not applicable **L** = Lawyer **LA** = Legal assistant ACTION TO BE CONSIDERED	NA	L	LA	DATE DUE	DATE DONE
.1 Explain that such an application involves a two-stage process: the applicant at the first stage must prove on a summary basis that there has been a significant change in the circumstances. The first stage, if contested by the director, typically proceeds on the basis of affidavit material. If the applicant is successful at the first stage, they then have the permission of the court to make an application to cancel the continuing custody order. That application, if contested by the director, will then be set for a full hearing. Those hearings are typically multi-day hearings involving *viva voce* evidence, and will generally be set many months away. At the second hearing, your client must convince the court both that there has been a significant change in the circumstances and that cancelling the continuing custody order is in the child's best interest.					
13.4 Note that *CFCSA*, s. 54 and *CFCSA* Rule 8(6) are different. Rule 8(6) applies only where the client was served but did not appear when the order was made. This Rule is not available where the client appeared or where the client did not attend court, but counsel remained on the record. For the Rule to apply, counsel must have withdrawn before the court deliberated on the continuing custody order application in the absence of a parent. Counsel should consider this in every case where the client fails to attend the hearing and counsel does not have instructions to appear in the absence of the client. Consider *BC Code* rule 3.7-1 and following commentary on withdrawal.					
13.5 A director may apply to the court to permanently transfer custody of a child under a continuing custody order to a person other than the parents of a child (*CFCSA*, s. 54.1). The parent does not receive notice of the application unless that parent has an access order. If the order is granted, the third party becomes the guardian of the child and the order can only be varied or cancelled under the *FLA*, not the *CFCSA* (s. 54.2(2)). The intention of this section is to transfer responsibility for children to permanent caregivers and away from the province, but in a manner less radical than by adoption. Parents should be counselled following a continuing custody order that *CFCSA*, s. 54.1 is an opportunity for other family members or close family friends to assume custodial care of the child. A person who receives custody under s. 54.1 is eligible to receive financial support from the director.					
13.6 Note that *CFCSA*, s. 102, creates an offence if confidential Ministry documents are disclosed, except according to *CFCSA*, ss. 75, 76, and 79. If appropriate, consult with director's counsel on what should be done with documents after a proceeding is concluded and the client file is to be closed. Many parents' counsel feel it is best practice not to make copies or give Ministry documents to clients, instead preferring that their clients review disclosure documents in their office or in their presence.					
14. CLOSING THE FILE					
14.1 Prepare a reporting letter and account as soon as practicable after closing.					
14.2 Close the file. Refer to the CLIENT FILE OPENING AND CLOSING (A-2) checklist.					