

Chapter 1

Do not use this guide for legal advice. It provides information only, and that information only applies to British Columbian law, services, and benefits. Consult with a lawyer for advice related to your specific situation. Laws, benefits, policies, and procedures are always changing. Always double-check the information you intend to rely on with the appropriate agency or with your lawyer. Indigenous people's traditions and customary laws are outside the scope of this guide; however, we want to acknowledge those customs and traditions and emphasize that nothing in this guide should be misinterpreted as superseding or taking away from them.

Child protection and the ministry

This [chapter](#) will assist grandparents (or kinship caregivers) in navigating the Ministry and delegated Aboriginal authorities. It covers the basics of child protection, the role of social workers, and issues of guardianship, restricted foster care and custody.

Parents' responsibilities under the law

The law says that parents must do the following for their children:

- keep them safe,
- take care of their physical and emotional needs,
- get them medical care, and
- protect them from physical, emotional, and sexual abuse.

The law also says that a parent must not abandon or neglect his or her child.

British Columbia's law governing child welfare is the [Child, Family and Community Service Act \(CFCSA\)](#). The CFCSA requires anyone who has concerns about a child's safety to promptly report them to the Ministry of Children and Family Development or a delegated Aboriginal Child and Family Services agency.

What is neglect?

Neglect is failing to provide for a child's basic needs such as proper food, clothes, medical care, and a safe home.

Other examples of neglect include driving drunk with a child in the car, leaving a child with someone who is too drunk or drugged to take care of them, or letting a child use drugs or alcohol. Neglect can also include leaving a young child alone at home or in a car. The Canada Safety Council recommends that children under 10 years should not be left alone. This is also subject to the child's age, maturity, ability to access help, comfort levels and the amount of time the child is alone. Courts have concurred with this position.

What is abuse?

Child abuse can take the following forms:

- **Physical abuse** is a deliberate physical action that results in injury to a child. It includes unreasonable punishments, such as locking a child in a room without food, water, or a toilet for a long time.
- **Sexual abuse** is when a child is used or is likely to be used for the sexual gratification of another person. This includes sexual touching, sexual threats, making sexual photographs or videos of a child or making a child watch sexual acts.
- **Emotional abuse** is when an adult's behavior or words hurt a child. This includes ignoring, rejecting, criticizing, or yelling at a child.

A helpful resource - [Child Abuse Handbook: Responding to Child Welfare Concerns; Your Role in Knowing When and What to Report](#)

Sometimes children live in a home where they are not physically abused, but the people in the home hurt each other. This can make a child very afraid, and it can be emotional abuse. The CFCSA says that a child is emotionally harmed if they show severe anxiety, depression, withdrawal, or behavior that is self- destructive or aggressive

The Ministry and Aboriginal agencies have employees called social workers who assess complaints of child neglect or abuse to determine the most appropriate response. (Some Aboriginal communities have agencies, called delegated Aboriginal Agencies that work with Aboriginal families who may respond to reports of abuse.)

The ministry also has options in how it responds to child protection concerns. Depending on the circumstances, including the severity of the report, social workers can choose one of the following:

- **Family Development Response** is a way to keep kids safe with their families by conducting a thorough, time limited assessment of the family's and child's strengths and needs and providing support services to enable the family to care safely for the child. A family development response is used in less serious child protection situations and where the family is cooperative with ministry or delegated Aboriginal agency (DAA) involvement.

For more information re Family Development Response refer to http://www.mcf.gov.bc.ca/child_protection/pdf/Family_Development_Response.pdf

- **Youth Service Response** is a way for the ministry to support youth who need help through short-term services, such as youth-family mediation, mentoring, safe housing, and outreach services. Ministry workers may make referrals to those in need of

assistance and they also provide initial assessment and direct short-term supports to these youth.

If the youth are not reconnected to their family through short-term supports, the youth are further assessed for their need for longer-term service support while they receive *supports*.

If a longer-term service plan is developed to assist youth with family re-integration, they may continue to receive supports to further the plan. These supports could involve a youth-worker, possibly in conjunction with other child and family services, such as the “[Extended Family Program agreement](#)” or a “[Voluntary Care Agreement](#)”.

If the youth cannot return to the family and are assessed as eligible to enter a [Youth Agreement](#), a ministry or DAA social worker may provide direct supports under the CFCSA through entering into a written agreement with the youth. A Youth Agreement (YA) is a longer-term service plan that comprehensively supports a youth to make a successful transition to independence without bringing them into the care of the Director.

The Youth Service Response may also include referrals to community agencies.

The ministry’s responsibilities

The [Ministry of Children and Family Development’s](#) primary focus is to support vulnerable children and their families and promote healthy and safe environments where children are connected to their family and community.

MCFD has lead responsibility for responding to suspected child abuse and neglect. (In this guide, we refer to it as “the ministry,” though you might also hear it called MCFD.) If someone has reason to believe that your grandchild is being abused or neglected, that person is legally required to report those concerns to the ministry, who will assess the information and determine the most appropriate response to protect your grandchild.

The ministry’s general responsibilities include:

- Child safety, family support and children in care services
- adoption
- early childhood development and child care
- child and youth mental health services
- youth justice
- services for children and youth with special needs

The ministry’s three goals are:

- To make sure children and youth with special needs can and will achieve their full potential, participate in, and contribute to their communities.

- To make sure children and youth are healthy and safe in their families and communities.
- To provide a community-based service delivery system that is effectively supported and monitored.

Child protection: the basics

This section will explain the child protection process and what your options are if you want your grandchild to live with you. It will also explain how you can visit with a grandchild who has been placed in a foster home. It is important to keep in mind the following:

Get legal advice.

- If the ministry becomes involved in protecting your grandchild, you may [need the help of an advocate](#) to navigate the system, which can be intimidating and confusing. You may also need to [get a lawyer to provide legal advice](#). This information would give you the confidence you need to negotiate with the ministry social worker assigned to your case. Parent Support Services (PSS) Grandparents Raising Grandchildren (GRG) Support Line can also provide some advice. Call Toll Free 1-855-474-9777 or email grgline@parentsupportbc.ca. (See Chapters 6 and 8 for further information)

Connect with other grandparents.

- You can learn a great deal from other grandparents raising their grandchildren. They can tell you about services for children and youth – such as education, mental health services, or recreation – that are not provided by the ministry but instead through other community outlets. [Check out PSS GRG Support Circles and Support Line](#).

Cooperate with the parents.

- It is in the best interests of the children for grandparents and parents to cooperate with one another whenever possible. Not only does this result in more support and better communication for everyone, but in the case of a child protection investigation, the ministry may work exclusively with the parents, at least at first. For this reason, it is best to plan for your grandchild's care with the support and involvement of the parent.

Work cooperatively with the social worker.

- Ideally, the ministry social worker and the parents and/or grandparent work as a team to create a plan of care for the child at risk. A good idea is to be proactive and create a clear and well thought-out plan for your grandchild's care to present to the social worker. Parents and grandparents will always know more about the child than the social worker will – the parents and grandparents are the real experts in many ways, and they have a lot to contribute to the planning process.

If you have a poor history with the ministry, work to restore the relationship.

- Grandparents may have been involved with the ministry when they were parenting their own children. This past history may have a negative effect on everyone's efforts to make sure the grandchild's needs are met. It is important to show the ministry how you and your circumstances have changed. A good way to do so is to get letters from professionals who have witnessed your development, such as counselors or therapists. Remember, if the ministry is involved in your grandchild's life, having a good relationship with the social worker is in your grandchild's best interests.

If your grandchild is Aboriginal, keep him or her connected to the community.

- If your grandchild is Aboriginal, the child welfare law and policy in BC is designed to make sure Aboriginal grandchildren remain connected with their extended family, community, and culture if they are removed from the parental home. First Nations and Métis communities sometimes work with MCFD to provide varying levels of child welfare services for their own people in accordance with the [Child Family and Community Service Act \(CFCSA\)](#). [Contact your band office](#) to find out more about how the ministry works with your community. More information later in this chapter.

Your role as a grandparent

Usually, grandparents can tell their children are not coping well as parents. Grandparents describe this time as the “waiting, watching, worrying” phase. You can have a big role to play at this point in your grandchild's life, and the ministry is increasingly recognizing the importance of the grandparents' role.

One of the ministry's top priorities when finding a safe home for a child is to preserve family ties. If the child is Aboriginal, preserving the child's cultural identity is also really important. If a child is about to be removed from the parents' home, a social worker has to consider the least disruptive measures first. Sometimes this means a social worker will call family members, like grandparents, to ask if they can take care of the child.

We have heard from many grandparents that after they agree to take in their grandchild, the ministry offered no further support. If you need help, this should not happen. It is in the best interests of all children for them to receive the support they need to lead healthy lives and become full participants in society. If you need additional resources to meet your grandchild's needs, talk about this with your grandchild's social worker. For instance, if your grandchild needs counseling make sure to let your social worker know. Your social worker is there to support both your grandchild and you.

If you can tell that your grandchild's parents are not coping, here are some suggestions to make sure you are involved in the planning process for your grandchild's care, should the ministry become involved:

- **Whenever possible, stay in touch** with your grandchild, the parents, and your grandchild's social worker. The ministry has no obligation to contact grandparents when a child protection response begins, although they may do so to learn more about your grandchild's well-being. If you want to contact your grandchild's social worker, call the ministry office nearest you or ask an advocate for help.
- **Ask to attend meetings with the social worker.** If the parents agree, you can attend all meetings with the social worker. The social worker will want to involve significant people in the child's life when developing a plan of care for your grandchild, because the social worker is responsible for making a plan of care for your grandchild.
- **Learn how you can create a permanent home for your grandchild.** If it does not seem like the children will return to the parent, ask the social worker what your options are for the child to live with you, such as restricted foster care or an Extended Family Program agreement. (more info later in this chapter)
- **Get legal advice.** If possible, seek help from a lawyer or advocate when trying to reach an agreement with the ministry. They can tell you your options according to the facts of your situation. (See Chapter 8 for more details)

The law that governs child protection

In BC, the [*Child, Family and Community Service Act \(CFCSA\)*](#) is the law that governs the protection of children and youth in British Columbia. This act provides a legal mandate for ministry social workers, lawyers, and judges to help them make sure that children are safe. The CFCSA provides the following seven principles to guide anyone interpreting or administering services under the Act:

- Children are entitled to be protected from abuse, neglect, and harm or threat of harm.
- A family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with the parents.
- If with available support services a family can provide a safe and nurturing environment for a child, support services should be provided.
- The child's views should be taken into account when decisions relating to the child are made.
- The cultural identity of Aboriginal children should be preserved.
- Decisions relating to children should be made and implemented in a timely manner.

Although these principles are a good starting place for making decisions about children's lives, the law says a child's safety and well-being must remain the number one priority when there is a concern about their care. This means that, although it is important to try to keep children with

their families for example, the court can take them away from their parents if there is a risk that they would be neglected or harmed if they were to stay at home.

The law that governs child protection says that the court must consider children's best interests in the following situations:

- at the protection hearing
- before making a continuing custody order
- when deciding whether to grant parents access to children who are in the temporary custody of the ministry (these orders are usually granted unless the court is satisfied that access is not in the children's best interests).

The best interests of the child

The law requires that courts and social workers place **the best interests of the child** above every other consideration whenever they have to resolve a dispute involving a child. In the past, the law treated children as the property of their birth parents, but now the focus is on what is best for the child. This means that the court and the ministry will consider the wishes of parents and others, but those wishes must be set aside if they conflict with the child's best interests.

The ministry and the court decide what is in the child's best interests by first looking at the child's needs and circumstances, and then considering the parents' (or grandparents') ability to meet those needs. Each situation is decided on its own set of circumstances and the child's needs.

Different laws regarding children define what is in a child's best interests in different ways. [The BC Family Law Act \(FLA\)](#) deals with custody, guardianship and parenting, among other things. It provides that when a court makes changes or cancels a court order that involves a child, it must give top consideration to the best interests of the child. Section 37 of the FLA has a list of factors that judges must consider when deciding what is in a child's best interests:

- a) the child's health and emotional well-being;
- b) the child's views, unless it would be inappropriate to consider them;
- c) the nature and strength of the relationships between the child and significant persons in the child's life;
- d) the history of the child's care;
- e) the child's need for stability, given the child's age and stage of development;
- f) the ability of each person who is a guardian or seeks guardianship of the child, or who has or seeks parental responsibilities, parenting time or contact with the child, to exercise his or her responsibilities;
- g) the impact of any family violence on the child's safety, security or well-being, whether the family violence is directed toward the child or another family member;

- h) whether the actions of a person responsible for family violence indicate that the person may be impaired in his or her ability to care for the child and meet the child's needs;
- i) the appropriateness of an arrangement that would require the child's guardians to cooperate on issues affecting the child, including whether requiring cooperation would increase any risks to the safety, security or well-being of the child or other family members;
- j) any civil or criminal proceeding relevant to the child's safety, security or well-being.
- k) an agreement or order is not in the best interests of a child unless it protects, to the greatest extent possible, the child's physical, psychological and emotional safety, security and well-being.

Best interests of Aboriginal children

In BC, both the [Adoption Act](#) and the [CFCSA](#) specifically say that “the importance of preserving a child’s cultural identity” is one of the factors that a court must keep in mind when deciding what is in an Aboriginal child’s best interests. The law considers this especially important when children are adopted and when a child is placed in another home after removal from the parental home because of a concern for their safety. The courts have ruled that when someone who is not Aboriginal applies to adopt or gain custody of an Aboriginal child, the law has to find a balance between honoring the bond that exists between the child and the non-Aboriginal person, and preserving the child’s cultural identity.

What this means is that it can sometimes be difficult for non-Aboriginal grandparents to adopt their Aboriginal grandchildren, or to gain custody of them. If you find yourself in this situation, talk to an advocate for help.

Child protection and Aboriginal communities

The LSS publication [Aboriginal People and the Law in BC](#) provided most of the source material for this section. Parts of it are taken directly from that resource. To get a free copy or to view it online, go to <http://www.lss.bc.ca/> and type the title into the search box.

First, it is important to acknowledge that indigenous families have suffered the removal of their children for generations. Child removal and the residential school system are seen by many as an attempt by the federal government to destroy indigenous culture. The negative effect of these policies can still be seen in the high percentages of Aboriginal children in the government’s care.

In BC, the Ministry of Children and Family Development has tried in recent years to get more indigenous community input in the child protection process. It is the law in BC that the ministry should make it a priority to place Aboriginal children in care with Aboriginal foster families,

ideally with a family from the child's own community. Non-Aboriginal foster families are only asked to foster Aboriginal children if an Aboriginal home is not available.

According to [the Child, Family, and Community Service Act \(CFCSA\)](#), the provincial law that governs child protection:

- The cultural identity of Aboriginal children should be preserved, and if the child is an Aboriginal child, the importance of preserving the child's cultural identity must be considered in determining the child's best interests, and is a necessary consideration in a plan of care for the child.
- Aboriginal communities should be involved in the planning and delivery of services to Aboriginal families and their children.
- Appropriate Aboriginal organizations must be notified of child protection proceedings involving Aboriginal children.

Designated representatives of Indian bands, Aboriginal communities, and the Nisga'a Lisims government are entitled to be parties to a child protection hearing for a child from their community.

[The CFCSA](#) also states that the ministry may work with child's Aboriginal community and band when it carries out a child protection investigation.

If a child is removed from the home, the ministry must notify a representative of the child's Aboriginal community, band council, or tribal organization. If the representative decides to participate, he or she has a special status when it comes to the hearing, and he or she has a right to:

- receive all records and information
- speak at the hearing
- call witnesses and question other witnesses
- participate in any mediation
- propose support for the child's parents or suggest another culturally appropriate plan for the care of the child.

Delegated authority

In addition, several Aboriginal communities provide child protection services through **delegated Aboriginal agencies**. These community-based indigenous agencies provide mandated services under the CFCSA on behalf of the MCFD through the delegation of powers, duties and authorities to individual staff employed by the agency. The amount of responsibility each agency has varies. It is determined by negotiations between the ministry, the federal government, and the indigenous community.

Currently, Aboriginal children make up more than half of all children in care in BC, even though only 4.8 per cent of the population reported an Aboriginal identity in the 2006 Census. Delegated authority is a way to return the traditional responsibility for child care to indigenous communities, so that children can be protected *within* their extended family, community, and culture, instead of being removed from it.

According to the ministry, as of October 2012, there are 22 delegated agencies currently in operation, representing 139 FN bands in the Province as well as a number of Aboriginal Children and Family Service agencies in urban centers.

A list of bands with delegated authority and their contact information can be found at:
http://www.mcf.gov.bc.ca/about_us/aboriginal/delegated/pdf/agency_list.pdf

To find out more about delegated authority for your family or your community, call the ministry's Aboriginal Regional Support Services at **250-387-707**.

If your grandchild is Aboriginal

Social workers who work for indigenous agencies know their communities well and work within the community to support children and families.

You may want to get in touch with the child services agency in your (or your grandchild's) community to see what level of responsibility it has for protection and support services.

Although services will differ from one delegated Aboriginal agency to the next, most agencies provide services that are culturally based to make sure children who are at risk stay connected to their indigenous communities. If you are an indigenous person yourself, you may be familiar with the agency in your community. If you are not, but your grandchild is Aboriginal, you can call the agency to get to know the people who work there.

Family Development Response: The family development response is a way to keep kids safe with their families by conducting a thorough, time limited assessment of the family's and child's strengths and needs and providing support services to enable the family to care safely for the child. A family development response is used in less serious child protection situations and where the family is cooperative with ministry/DAA involvement.

Investigations

When social workers first get a report of child neglect or abuse, they conduct something called an assessment within a few days. The social worker will ask questions, gather information, and make a decision about whether the ministry needs to keep looking into the reported concerns.

The actual time it takes depends on the situation. Some cases end after a short assessment. The social worker may decide there is no problem, or that the parents would be able to manage any problems with a bit of help from the ministry and no further action or involvement may be needed.

Occasionally, people make a report because of a simple mistake or because they just want to get the parents in trouble, not because there is a real problem in the home. If the social worker finds that the child is actually at risk, however, the ministry must provide a child protection response which includes providing [a Family Development Response](#) or conduct a child protection investigation. If you need to contact the ministry, use one of the phone numbers below:

The Ministry of Children and Family Development

General inquiries:

Phone - In Victoria: **250-387-7027**, Toll Free: **1-877-387-7027**

Website: <http://www.gov.bc.ca/mcf> **Email:** MCF.CorrespondenceManagement@gov.bc.ca

MCFD After-hours emergency line:

For emergencies outside of office hours, you can call the ministry anytime at:

Vancouver, North Shore, and Richmond: **604-660-4927**.

Lower Mainland from Burnaby and Delta in the west to Maple Ridge and Langley in the east: **604-660-8180 Toll Free: 1-800-663-9122**.

To report a concern about child abuse or neglect after hours, call the Helpline for Children at 310-1234 (no area code needed).

MCFD Child Care Programs and Services Call Centre: 1-888-338-6622 (toll-free)

Aboriginal Regional Support Services: 250-387-7073

Flow charts of the child protection process

The [CFCSA is law](#) in British Columbia that governs the provision of child welfare, including the delivery of family support services, child protection and children in care services. When a judge makes an order regarding a child protection case brought by the ministry it will be made according to this Act. [The LSS publication Parents' Rights, Kids' Rights](#), has flow charts for the [child protection process](#) and the [Aboriginal child protection process](#). The charts give you an overview of the process that is set in motion by an investigation. This process, and the grandparents place in that process is explained in much more detail in Chapter 6 Child protection and the court process.

Powers of social workers

The law gives social workers certain powers when they respond to a report of child neglect or abuse. The following provides an overview of the child protection process.

If you, the grandparent are involved in either the Family Development Response or an investigation, here are some things you might do to be helpful:

- Try to cooperate with ministry staff. Be as calm and respectful as possible when presenting your information and suggestions.
- Come up with a reasonable and workable plan that is least disruptive for your grandchild during the investigation, and suggest the plan to the social worker.
- Gather and preserve evidence to support your plan or case. Make notes of all meetings and events. Try to think ahead about what evidence you will need to support your case, and do not let it be lost. (For example, if you need to prove that you or someone else was drug-free over a period of time, take regular samples of hair for testing or get regular drug tests.)
- Be honest. Your credibility will be important if the case goes to court. It will also be important to developing a positive relationship with the social worker.
- Find the emotional support you might need from friends, advocates, or other social service agency personnel.
- Contact a lawyer to get legal advice as soon as you can. Each situation is different, so it is important to know your rights and options. Connect with community advocacy and support groups as soon as possible.
- Keep a journal of events, dates, times, and social workers' names.

It is a good idea to tell the social worker that you want to attend all meetings about your grandchild, and to exchange contact information. Generally, you can only participate in the meetings if the parents agree to let you do so. Social workers will generally work most closely with the parents, as the goal is to support parents and children so that children are safe in their parental home and families.

For this reason, it is really important to have a good relationship with your grandchild's parent. If you know your grandchild has a social worker in the ministry or delegated Aboriginal agency, you should leave your contact information with that person so that you can have input into your grandchild's care. Tips on how to work well with your grandchild's social worker can be found later in this chapter.

Guiding Principles

Social workers are guided by the following principles:

- The child's safety must always come first.
- The best place for children is usually with their family.
- Aboriginal children should stay in their communities whenever possible.
- If appropriate, the child's opinions should be considered when deciding what should happen.
- If support services would help a caregiver take care of a child, those services should be provided whenever possible. Examples are child care, counseling, and parenting classes.

Possible outcomes of an investigation

At the end of a Family Development Response or an investigation, the social worker may decide one of three things:

1) Your grandchild does not need protection.

Although your grandchild does not need protection, the family would do better with support services or the family could request support services such as counseling. In this case, a social worker will offer to provide or refer the family to support services. If the family does not want support services, the ministry/DAA will no longer be involved with the family and the file will be closed. Be sure the child's parents keep a copy of the letter the ministry sends informing them that the file is closed.

2) Your grandchild needs protection, and can safely stay with the parent.

If this happens, the social worker will make a written agreement with the parents that outlines what changes have to be made to keep the child safe at home. The ministry can also ask a family court judge for a supervision order to keep an eye on the parents and child. This would happen at a presentation hearing. The supervision order may include conditions the parents must follow to keep the child safe at home.

3) Your grandchild needs protection and is not safe in the parental home.

An agreement may be made to have your grandchild live temporarily with someone other than their parents e.g. through the Extended Family Program (EFP). Or if there are no other less disruptive means available to ensure your grandchild's safety and wellbeing, your grandchild may be removed. If this happens, contact a ministry/DAA social worker to discuss ways that you can care for your grandchild. You can do so without going to court. If your grandchild's case has already proceeded to court, the

judge may award you custody if you ask for it and it is in the child's best interests. For much more information on these options, see the chapters on child protection and the court process.

When children must be removed from the parental home and cannot be placed with a relative, the ministry places them in a foster home. If this is the case, be sure to ask the social worker for visits with your grandchild. It is also important to encourage the parents to visit the child, in order to keep a positive connection. It may prove to the court that the parents are committed to making the necessary changes and learning to provide a good home for the child.

If you want your grandchild to live with you

It is helpful to have an overview of a few different ways that the ministry can place your grandchild with when they are responding to safety concerns about your grandchild's home life. The rest of this chapter gives more information on the following options. If you want your grandchild to live with you:

Agreements with the ministry

You can make an agreement with the ministry for you to care for your grandchild after you have been notified that the ministry is concerned for your grandchild's safety or when the child protection case has already gone to court. Social workers work with you to reach an agreement rather than take a case to court. If you can reach an agreement, your case will end much faster. Grandparents are able to negotiate with social workers to create a plan that works best for them and their grandchild. Before signing any agreement, make sure you speak with a lawyer or legal advocate. If your grandchild has special needs, be sure to see the section on the different support services the Ministry may provide if it places your grandchild with you.

There are a few different ways that grandparents can arrange for their grandchild to live with them. Each approach has its own benefits and drawbacks. Under the ministry's current policy, there is room for social workers to be creative when making agreements for children to live with grandparents. Here are a few possibilities:

- with the parent's agreement and the approval of the social worker, arrange to have your grandchild live with you
- negotiate an Extended Family Program agreement
- become a restricted foster parent

Close the file

The social worker may decide that once the child is placed with you, the child is safe and the ministry no longer needs to be involved.

Just to clarify, there are service delivery files that a social worker can open during or after an investigation. Whereas a child protection file may be closed, a voluntary service delivery file may be opened at the request of the grandparent. The service delivery file is just for the delivery of services, such as counseling and child care.

If you believe it is in the child's best interests to return to the parent, make sure you speak to your social worker before taking any action. You could be placing your grandchild at risk of harm, losing credibility with the ministry. If your grandchild is in care, the social worker is the child's guardian and is legally responsible for ensuring the child's safety. You and the social worker will need to work together when planning for the child's living arrangements. It is important to speak with a social worker about the circumstances in which you are allowed to return your grandchild to the parents before the file is closed.

Sign an Extended Family Program Agreement

An Extended Family Program (EFP) Agreement (formerly a Kith and Kin agreement) is made between a social worker, the child's parent(s) and a child's relative to allow that relative to care for the child. Agreements can also be made with non-relatives who are close to the child or who have a cultural or traditional responsibility to the child. Under an EFP Agreement, the child is not in the ministry's care; the parents keep legal guardianship (to be eligible for EFP supports, the relative cannot have legal guardianship of the child), and day-to-day care of the child is transferred to the person named in the Agreement. EFP Agreements are designed to be short-term, but they can be renewed for a maximum of one to two years, depending on the age of the child, if it is determined that the interests and needs of the child are best met by extending the Agreement.

The ministry introduced these agreements in 2002 as a way to keep at-risk children with their families and communities, instead of placing them in foster care. This creates less disruption for the child and preserves the child's connection to extended family and community. EFP Agreements are known by a few different names, such as "kinship care agreements" or "section 8 agreements". This last name refers to the section of the *Child, Family and Community Service Act* (CFCSA), which makes the agreement possible.

EFP Agreements are intended to be temporary. The ministry usually arranges an agreement with a relative or other individual known to the child when the plan is for the child to be reunited with the parent(s). Although your grandchild will not be in the ministry's care, a social worker supervises the agreement to make sure your grandchild's needs are being met. To be eligible to care for a child under this kind of agreement, you must undergo a **criminal record check**, a **prior contact check** (a check of any previous contact you may have had with the ministry/DAA) and a home assessment.

You may want to ask a social worker about this program if you think this is the right option for your family.

An EFP agreement may work well for you if:

- you prefer that the parents keep legal guardianship of your grandchild;
- you hope your grandchild can return to the parents in the short term;
- you want to encourage the parents to remain in contact with your grandchild and be involved in planning for your grandchild's care; and
- you are prepared to negotiate with the ministry to get the right support services to make sure your grandchild's needs are met.

The EFP payment, along with the federal Child Tax Benefit (if you are eligible for this benefit), is equivalent to the payment a restricted foster parent receives. (Foster parents are not eligible to receive CTB for their foster children.) Note that payment of the CTB is subject to an income test. You are responsible for contacting the Canada Revenue Agency to obtain information about eligibility and tax implications related to CTB and other federal child benefits. (See Chapter 10 for more information)

Permanent Transfer of Custody under Section 54.01

When it is determined that your grandchild is unable to return to his/her parent(s)' care after being cared for under an EFP Agreement or a temporary custody order by a person other than the parent (also known as a temporary out-of-care order), a permanent transfer of custody order can be made under Section 54.01 of the CFCSA to the person who has been caring for the child. This can be done without the ministry first taking the child into care and applying for a continuing custody order.

Become a restricted foster parent (family home care agreement)

Restricted foster care is like regular foster care, except the foster parent is related or known to the child. If you become a restricted foster parent, your foster agreement is "restricted" to your grandchild. This means the ministry/delegated Aboriginal authority (DAA) will not ask you to foster other children, only your grandchild.

You get the same financial assistance and support services as regular foster parents. When you agree to become a restricted foster parent, you enter into something called a **family home care agreement** with the ministry/DAA.

Restricted foster care is intended to be temporary with the goal of reuniting the child with his/her parent and is used when there are no less disruptive means to protect a child. With restricted and regular foster care, the child must be removed from the parent's care and the ministry holds legal custody and guardianship of the child, and day-to-day care of the child is transferred to you. This means the social worker has the legal authority to make major decisions about your grandchild's education, healthcare, and upbringing. While your grandchild is

placed with you, the ministry/DAA works with the child and his/her parents to solve the problems that led to the child being in care so that the family can be safely reunited.

If it is determined that it is unlikely your grandchild will return to his/her parents despite continuing efforts to make this happen, the ministry/DAA could apply to the courts for a continuing custody order. This means that your grandchild is in the permanent care of the ministry and that plans will be made for the child to have a permanent family. These plans for the child will be discussed with you and could include your grandchild staying with you permanently through court orders, agreements or adoption.

You can apply to become your grandchild's foster parent at any stage of the child protection process. To become a restricted foster parent, you might have to go through the same orientation, home assessment, and approval process as regular foster parents. The length of this process varies, but you might get approval much more quickly than a regular foster parent.

A restricted foster care agreement may work well for you if:

- You would prefer to have your grandchild 'in care' and placed with you under a court order or Voluntary Care Agreement.
- There is little chance that the parents will be able to care for the child again and the court has ordered that the child be placed in temporary care or in the continuing custody of the ministry (in this case, the foster care you provide may be more permanent).
- You prefer for your grandchild be raised by family members instead of foster parents.
- You are willing to accept the ministry's involvement in your family's life and are comfortable working with a social worker to get access financial and other support services.
- You will need the support of other caregivers who care for at-risk children, such as the BC Federation of Foster Parents or the Federation of Aboriginal Foster Parents.

Similar to EFP, you receive monthly payments from the ministry. You will also have access to a wide range of established support services. Unlike EFP agreements, foster care in BC has been around for a long time and social workers are very familiar with the services and options available to you. The obvious downside is that you have no legal authority to make major decisions for your grandchild, except for those which you are able to make with the social worker.

Transition to Guardianship

If you enter into one of these agreements and you decide later on that you want to take care of your grandchild on a more permanent basis, you can usually apply to be appointed as guardian under the new *Family Law Act* which took effect in March 2013. However, if the ministry starts a child protection court case and tries to get a continuing custody order, your options could become limited. If they succeed in getting the continuing custody order, you will only be able to

change your mind and ask for guardianship later if the ministry agrees, or if you were a party to the original court case.

If you later get guardianship under the FLA, the ministry will no longer provide the support services that you received during the child protection process unless you make another agreement to receive them. If you believe you will need ongoing support to help you care for your grandchild, talk to your social worker before you apply for guardianship about how and what kind of support you can continue to receive after it is granted to you.

If your grandchild is in the continuing custody of the ministry (long-term regular or restricted foster care) and you decide that you want guardianship, you can ask the social worker to transfer custody to you under section 54.1 of the *Child, Family and Community Service Act*. If the ministry agrees, you will then have guardianship and parental responsibilities of your grandchild, and will continue to receive financial support to care for your grandchild.

Ways to reach an agreement

If you are in the meetings with your grandchild's social worker, anytime during the process you can suggest that the social worker arrange the following:

- a family group conference
- a mediation
- traditional decision making (for Aboriginal communities and other cultures)

Much more information about agreements and how to reach them can be found in the chapter Alternatives to court. If you reach an agreement through one of these methods, you do not have to go to court. If your case has already gone to court, you can still suggest any of the above alternatives. If everyone is able to come to an agreement, the court proceeding will end because the judge will make a consent order that reflects the agreement you reached.

If your case has already gone to court, you also have a fourth option, a family case conference. You can request one of these, or the Provincial Court judge may order you, the social worker, and the parents to attend one of these, an informal one- to two-hour meeting with the judge to see which issues you can agree on. Before you attend the meeting, write up a plan about what to do to make sure the best interests of your grandchild are served. This will help to focus your thoughts.

Services the ministry provides to children with special needs

The Ministry of Children and Family Development (MCFD) offers a range of programs and supports to eligible children and youth with special needs and their families. Services are intended to promote children's healthy development, maximize quality of life, assist families in their role as primary caregivers and support their full participation in community life.

If your grandchild has a special need (i.e., a disability and/or a developmental delay) s/he may be eligible for a number of child-focused programs that can be accessed through community agencies. There are additional supports and services for children with a diagnosis of an Autism Spectrum Disorder, developmental disability, or who have a severe disability. However, some MCFD direct supports may only be available if you are the legal guardian of your grandchild; please see the section below entitled Other Special Need Programs and Services.

- **Autism Spectrum Disorder Funding Program**
(Under Age 6 and Ages 6-18)
Funding to assist families with the cost of purchasing autism intervention services to promote their child's communication, social-emotional, pre-academic/ academic and functional life-skills development.
http://www.mcf.gov.bc.ca/autism/funding_programs.htm
- **Infant Development Program/Aboriginal Infant Development Program**
Home-based services for infants up to age three (for AIDP, may be up to school entry) who have, or are at risk for, developmental delay to optimize their development and participation in a range of community activities.
http://www.mcf.gov.bc.ca/spec_needs/idp.htm
http://www.mcf.gov.bc.ca/spec_needs/aidp.htm
- **Supported Child Development/ Aboriginal Supported Child Development**
Additional support that children with special needs may require to participate in preschool and child-care settings.
http://www.mcf.gov.bc.ca/spec_needs/scd.htm
http://www.mcf.gov.bc.ca/spec_needs/ascd.htm
- **Early Intervention Therapy Program**
Community-based physiotherapy, occupational therapy, speech-language pathology and family support services.
http://www.mcf.gov.bc.ca/spec_needs/eits.htm
- **School Aged Therapy**
Occupational therapy and physiotherapy services to school-aged children with special needs.
http://www.mcf.gov.bc.ca/spec_needs/school_aged_therapies.htm
- **Community Brain Injury Program**
Planning, co-ordination and funding for short-term, acute rehabilitation services and assistance with important life transitions for children and youth with acquired brain injuries. http://www.mcf.gov.bc.ca/spec_needs/brain_injury.htm

- **Family Support Services (including respite)**
A range of services to support parents in caring for their child or youth with special needs in the home, such as respite (a break from care giving) and behavioural support to address challenging behaviour.
http://www.mcf.gov.bc.ca/spec_needs/family_support_services.htm
- **Fetal Alcohol Spectrum Disorder (FASD) Key Worker and Parent Support**
Specialized support for families with children and youth with confirmed or suspected FASD.
<http://www.mcf.gov.bc.ca/fasd/index.htm>
- **At Home Program**
Medical and/or respite benefits to assist parents in caring for children with severe disabilities at home.
http://www.mcf.gov.bc.ca/at_home/index.htm
- **Nursing Support Services**
Specific nursing services in homes, schools and child care settings, for children with eligible special health care needs.
http://www.mcf.gov.bc.ca/spec_needs/nursing.htm
- **Provincial Deaf and Hard of Hearing Services**
A range services supporting Deaf, Hard of Hearing, and Deafblind individuals and their families including family development, youth transition support, access education and a residential program.
<http://www.mcf.gov.bc.ca/pdhhs/index.htm>
- **Provincial Outreach and Professional Supports**
Specialized services for children with significant disabilities to support their community-based teams in such areas as custom assistive devices (e.g., wheelchair prescription and fitting), and complex feeding and nutritional assessment.
http://www.mcf.gov.bc.ca/spec_needs/outreach.htm

Access to these above services depends upon a child’s eligibility for the specific program and the available resources in the community.

Where to start

When a child is diagnosed with a disability, or identified as at risk for developmental delay, grandparents and other family members are understandably anxious. You may want to begin by identifying available programs and services based on the individual circumstances and needs of your grandchild. In addition to this, other grandparents can often provide practical information and emotional support.

A good place to start is by contacting your local MCFD office (http://www.mcf.gov.bc.ca/regions/regional_offices.htm) to find out about eligibility for Children and Youth with Special Needs services and other MCFD and government supports your grandchild.

Other special needs programs and services

- **Children and Youth with Special Needs in Care**
Children and youth with special needs in care of the ministry are eligible for necessary health supports and services such as essential medical equipment for home use. Please see Health Supports for Children in Care and Youth Agreements http://www.mcf.gov.bc.ca/foster/pdf/health_supports_cic.pdf
- **The Ministries of Health and Education**
The Ministry partners in [Health](#) and [Education](#) also offer a number of other programs that may assist you.

If the ministry/delegated Aboriginal authority (DAA) removes your grandchild

If it becomes necessary for the ministry/DAA to remove your grandchild from the parental home, here are some things you can do:

- **Get legal help.**
Talk to a lawyer or advocate as soon as you can. If you cannot afford a lawyer, you might qualify for legal aid.
- **Be involved in creating a plan of care for your grandchild**
When your grandchild's case goes to court (at the protection hearing stage), the social worker must present what is called a plan of care – that is, a plan for how your grandchild will be cared for during the court process and possibly after. Whenever possible the parents are involved in creating the plan. As a grandparent, you can ask to be involved too.

- **Go to the court hearings.**

It is important to go to court to show the judge you care about your grandchildren and that you are able to provide care for them. If you go to the hearing and you want to speak to the court, ask the court to make you a “party to the proceeding.” It means you can speak and ask questions in court, and you can also present any evidence you think is important. Duty counsel can help you with this. (They are lawyers who work at most courthouses who are available to give you free legal advice, assist with paperwork, and sometimes speak for you in court. However, their help is informal and they do not take on cases long-term.)

- **Ask for visits with your grandchild.**

If your grandchild will be in foster care during the court process, ask the social worker for visits with your grandchild. This is called “access under the CFCSA and contact under the FLA . It is important to your grandchild that you visit during this time, and will show the social worker and judge that you care about your grandchild’s well-being. If your grandchild is in interim or temporary custody of the ministry, you can apply for access under section 55 of the CFCSA. Discuss this with the social worker or a lawyer. Keep your own records of when you have talked to or spent time with your grandchild. This is to show a judge that you’ve remained connected to your grandchild, and it will help if you want guardianship of your grandchild later on.

- **Consider getting legal help for your grandchild if they are 12–18 years old.**

Children this age are asked whether they agree with a court order about where they will live and who will look after them. The court order is based on the plan of care the social worker and others involved with the child makes for your grandchild. Children age 12-18 have the right to speak with a lawyer for free before consenting to a court order. You or your grandchild can ask a social worker to set up an appointment for your grandchild to get legal advice if your grandchild’s voice is not being heard.

Tips to help you work well with the social worker

- **Bring someone with you** to meetings with the social worker who can provide you with support. This could be a trained child protection advocate, a friend, a relative, a member of your cultural or religious community, or your grandchild’s school counselor or teacher. If this person is an adult with a consistent presence in your grandchild’s life, it will help to show the social worker that your grandchild has a support network. Keep in mind that the person who comes with you may play a big role in planning for your grandchild, so choose wisely. **An advocate** can teach you about the child protection

process, and also help you to advocate for your grandchild's needs. These services are free.

- **Learn about the support services** that are available. There is a lot of help available out there, but it can be a challenge for a social worker to research everything and set it up for you. To make sure you are getting all of the help you can, look at the ministry's website so that you know what to ask for: www.mcf.gov.bc.ca. Usually grandparents get support from other places too, such as their grandchild's school, the public library, recreation centres, mental health centres, or other government ministries. The best way to find out about available services is to learn from other parents and grandparents. Sign up for a grandparent support circle or a parenting course to learn more. Call Parent Support Services for more information: 1-800-665-6880 (toll-free), or find them on the web at www.parentsupportbc.ca.
- **"It's in my grandchild's best interests."** It is important to use this phrase whenever you speak to people at the ministry, since your grandchild's best interests are also a top priority for them. Using this phrase will build common ground with the social worker and others who make decisions for your grandchild.
- **Be persistent.** Keep trying with a positive attitude. Remember that if what you are asking for is in your grandchild's best interests, you have a winning argument.
- **Ask to speak to the team leader or supervisor.** All social workers report to a team leader. If a social worker cannot answer some of your questions or if you are not happy with how this person is handling your file, ask to speak to the team leader. Be sure to do this respectfully, since you will most likely have to continue working with the social worker in the future.
- **Keep a record.** Always make a note of whom you spoke with and when, as well as what was discussed and agreed upon. This will help you remember details, and if you need to file a complaint, your notes will come in handy. Many people find it useful to keep all of their notes in a single notebook or binder.
- **File a complaint.** The ministry has a very helpful complaint process. Many grandparents have been successful in getting what they need by filing a complaint. More information about the complaint process is provided in the next section.
- **Get help from the Representative for Children and Youth.** The Representative's office can be an important advocate for your grandchild if you are not receiving what you need from the ministry. This help is free. See below for more information.

Common goals of grandparents and social workers

One final and important tip is to look for common ground with the social worker. Below is a list of common goals of grandparents and social workers.

Common goals:

The grandchild's best interests are a top priority for both grandparents and social workers:

- both want the grandchild to be safe and happy,
- both want the grandchild to have a loving home,
- both believe in keeping families together.

Complaints about the ministry

If you disagree with a decision or action of the Ministry of Children and Family Development, you can file a complaint. This is an option whether you feel a decision was unfair or you think you were treated unfairly. The following section has an overview of the steps to take if you have a complaint with the ministry or one of its service providers.

Please note that more detailed information can be found on the ministry's website at:

<http://www.mcf.gov.bc.ca/complaints/index.htm>

You can make a complaint if you are:

- A child or youth receiving or entitled to receive services
- A family member or caregiver complaining about their own treatment or their family member's treatment
- A foster parent complaining on behalf of a foster child
- A person acting on behalf of you if you are receive MCFD/DAA services
- A person acting on behalf of a child or trying to get services for a child (such as a teacher, doctor, or foster family)

Complaints can be made if you feel the social worker or the ministry:

- Did not treat you with respect, dignity, and fairness
- Was insensitive to your culture, or your grandchild's cultural heritage
- Unfairly denied your services
- Provided services that were of low quality
- Did not tell you what to expect in your dealings with them
- Did not involve you in case planning and decision-making about a child in care, but should have

- Did not respect the rights of a child in their care (see the booklet [*Your Life – Your Rights*](#), published by the Federation of BC Youth in Care Networks, available online at <http://fbcyicn.ca/>)

Generally speaking, when you have a complaint, the first step is to try to talk it over with the ministry social worker or the service provider. You can phone, fax, or go in person to the ministry office to discuss your concerns and try to solve the problem. Be sure to take notes about what happened. Write down the date and time, the person's name, what you requested, what they said, and what, if anything, they did to help you. If that does not work, you can try talking to the person's supervisor. If you choose not to pursue this option, or if you still are not satisfied with the result, you can file a formal complaint with the ministry.

If your complaint is with a contracted service provider, you should first try to go through the agency's own internal complaint resolution process. If you are not satisfied with the result, you can contact the ministry and make a formal complaint. The service provider is required to give you information about the ministry's complaint process, or you can contact the ministry on your own.

Formal complaint process

Step 1: Start the complaint

The first step is to contact your local ministry office by phone, letter, fax, or in person and let them know that you want to make a formal complaint. You can also contact the Complaints Manager for your region. To get the name and contact information, either ask at the ministry office or call the **MCFD Client Relations Branch** in Victoria at **250-387-7027**, or toll-free at **1-877-387-7027** from elsewhere in the province. The complaints manager does not have a direct connection to the staff or services that you are complaining about.

Step 2: Provide information

It will take less time to resolve the complaint if the information you give is clear. It is helpful to include key facts and events when describing your concerns to the complaints manager. If you did not first try to solve the problem by talking it over with the staff person responsible for the decision, the complaints manager may suggest that you try that first before making a formal complaint.

Step 3: Seek out advocacy and support

The ministry encourages you to work with a support person when you make a complaint. This person could be a language interpreter, relative, friend, advocate, counselor, or anyone else who can attend meetings with you and help you communicate. You can choose whomever you would like to support you through this process, or to make the complaint on your behalf. It is a good idea to choose a person you trust who is also a good listener.

Step 4: The complaint will be investigated

The complaints manager will talk to the worker and/or supervisor involved and then might look at your file, if you have one. The complaints manager may also talk to other people, including anyone you might suggest who can help the manager understand your complaint better.

Step 5: Complaints manager's response

You will then receive a letter from the complaints manager to let you know that your concerns were heard and to explain what will happen next. You should then get a written decision from the complaints manager in the mail within 30 working days. If you have not received a letter within 30 working days, you can ask the Office of the Ombudsman for an independent review (see below for more information).

Possible outcomes

The letter from the complaints manager will include the decision and the reasons for that decision. There are many different possibilities, including:

- an apology from the person who treated you inappropriately
- a change in the original ministry decision that you challenged (for instance, if you were denied a service, the complaints manager could direct the ministry to give you that service)
- changes in the way the ministry operates in areas such as policy, practice, staff training, or supervision, or
- no changes because the complaints manager finds that the decision or action you complained about was reasonable and fair

While making a complaint does not always mean that a ministry action or decision will be changed in your favor, it does mean that the ministry will review its actions.

The letter will also give you contact information for the Office of the Ombudsman in case you want an independent review (see next page). You can also ask to meet with the complaints manager to discuss your complaint or the decision.

Resources outside the ministry that can help with complaints

Independent review (Ombudsperson)

If you think that either the decision or the complaint review process itself has not been fair or proper, you can request an independent review from the BC Ombudsperson.

Office of the Ombudsperson

Phone: **1-800-567-3247 (toll-free)**

TTY (for the hearing impaired): **1-800-667-1303 (toll-free)**

Website: <https://www.ombudsman.bc.ca/>

The Representative for Children and Youth

If you think that the ministry has not handled your grandchild’s case properly, and you are not satisfied with the outcome of filing a complaint, you can contact the office of the Representative for Children and Youth. This office is independent of the ministry, so it can sometimes take your side if there is a disagreement.

According to the office’s website, “Responsibilities of the Representative” includes advocating for children and youth, protecting their rights, and improving the system for the protection and support of children and youth, particularly those who are most vulnerable.

The Representative serves all British Columbians from the ages of birth to 19, and is particularly concerned that young people in government care – such as those in foster homes, group homes or youth custody – do well.

These children and youth face greater challenges than those in the general population, especially [in the areas] of health and education, incarceration, and dependence on income assistance.”

Office of Representative for Children and Youth

In Victoria: **250-356-6710**

In the Lower Mainland: **604-775-3213**

Elsewhere in BC: **1-800-476-3933 (toll-free)**

Website: <http://www.rcybc.ca>

The resource [Parents’ Rights, Kids’ Rights: A parent’s guide to child protection law in BC](#), published by the Legal Services Society of BC, was utilized heavily for information in this section. To get a free copy of this publication or to view it online, go to <http://www.familylaw.lss.bc.ca/> and type the title into the search box on the right.

This Legal Guide will be updated regularly. We are counting on readers to alert us to any errors, omissions or unclear content. Please send your feedback to “Communications” via: office@parentsupportbc.ca.