

Although ministry-arranged adoption, transfer of custody and custom adoption (when recognised by the court under section 46 of the *Adoption Act*) look very similar in many respects, they are separate legal processes that have significant differences.

Adoption Placement of a Child in Continuing Custody Through the Ministry of Children and Family Development	Transfer of Custody Under Section 54.1 of the <i>Child, Family and Community Service Act (CFCSA)</i>	Custom Adoption, When Recognized by the Court Under Section 46 of the <i>Adoption Act</i> .
Adoption creates a lifelong legal relationship between the parent(s) and child.	The legal obligations between a child and his or her guardian ends on the child's 19 <sup>th</sup> birthday.	After custody is transferred under section 54.1 <i>CFCSA</i> , and the custom adoption proceeds under the cultural practice of the First Nation or Aboriginal community, the person(s) with custody can make an application to have the custom adoption recognized under section 46 of the <i>Adoption Act</i> . When recognized by the court, custom adoption has the same effect as an adoption order made under the <i>Adoption Act</i> .
<p>A director (a social worker under the <i>CFCSA</i>) makes the application to the Supreme Court for the adoption order on behalf of prospective adoptive parents including:</p> <ul style="list-style-type: none"> <li>• preparing and filing court documents;</li> <li>• payment of court fees;</li> <li>• application for amended birth certificates; and</li> <li>• notifications of the adoption as required.</li> </ul>	<p>A director makes the application to the provincial court to transfer custody including:</p> <ul style="list-style-type: none"> <li>• preparing and filing court documents.</li> </ul> <p>The prospective guardian is advised to consult with independent legal counsel.</p>	<p>Once the court orders transfer of custody under S. 54.1 <i>CFCSA</i>, the person(s) with custody may make an application to the Supreme Court to have the custom adoption recognized under section 46 of the <i>Adoption Act</i>. The person(s) with custody, or their lawyer, are responsible for:</p> <ul style="list-style-type: none"> <li>• preparing and filing court documents;</li> <li>• court fees;</li> <li>• providing information to the court to make a decision to recognize that a custom adoption has occurred under section 46 of the <i>Adoption Act</i>.</li> <li>• application for amended birth certificates; and,</li> <li>• required notifications.</li> </ul>
Neither an adoptive parent nor a birth parent can apply to the court to have the adoption order set aside. Even if another person is appointed guardian to an adopted child, the adoptive parent continues to be the child's parent. The only mechanism that can end an adoptive relationship is if a child is brought into care and a continuing custody order under <i>CFCSA</i> is granted.	A guardian can apply under the <i>Family Relations Act</i> to have another person named as guardian (yet it would usually be the person seeking guardianship that would be the applicant).	Once the court recognizes, under section 46 of the <i>Adoption Act</i> , that a custom adoption has occurred, neither an adoptive parent nor a birth parent can apply to the court to have the recognition (as it has the same effect as an adoption order) set aside. Even if another person is appointed guardian to an adopted child, the adoptive parent continues to be the child's parent. The only mechanism that can end an adoptive relationship is when a continuing custody order under the <i>CFCSA</i> is granted.

## Custom Adoption

Adoption Placement of a Child in Continuing Custody Through the Ministry of Children and Family Development	Transfer of Custody Under Section 54.1 of the <i>Child, Family and Community Service Act (CFCSA)</i>	Custom Adoption, When Recognized by the Court Under Section 46 of the <i>Adoption Act</i> .
The child's name may be changed during the adoption process	The child's name is not changed when custody is transferred.	The child's name may be changed during the adoption process. For further information contact the Vital Statistics Agency at <a href="http://www.vs.gov.bc.ca/index.html">http://www.vs.gov.bc.ca/index.html</a>
The <i>Adoption Act</i> requires the preparation process of the homestudy for prospective adoptive parents to include an educational component, which is considered by research and most adoptive parents as a valuable support to the success of the adoption placement. The homestudy is prescribed under the <i>Adoption Regulation</i> .	The preparation process for guardians does not currently require a formal educational component in the assessment process. Families prepare themselves to ensure their ability to meet the child's ongoing developmental needs. Families could use the self-directed educational curriculum, available through an MCFD worker, especially when considering custom adoption. This educational curriculum will address issues that may arise for a caregiver and a child such as loss and grief, attachment, and caring for a child with special placement needs. The educational component helps to prepare both the caregiver(s) and the child and supports the success of the placement of a child with a person who has assumed custody of them. The child's needs and how the prospective guardian will be prepared to meet those needs may be identified in the child's comprehensive plan of care.	The person who has custody transferred to them under section 54.1 of the <i>CFCSA</i> and who applies to have the Supreme Court recognize the custom adoption under section 46 does not require a home assessment, including an educational component. If the person with custody would like to complete the educational component of a home assessment, this option may be offered through BC licensed adoption agencies, regional ministry adoption services, (possibly through the self directed curriculum), or Aboriginal agencies with adoption delegation
Post Adoption Assistance for eligible adoptive parent(s) may include monthly payments, and may include payments for services required to meet a child's extraordinary needs .	Financial assistance may be provided.	Where a person is eligible for financial assistance under section 54.1, payments may continue when there has been a custom adoption.
Post adoption support services may be obtained from community professionals and from community service providers such as the Adoptive Families Association.	Support services may be obtained and developed within the community.	Aboriginal agencies may develop their own services to assist adoptive parents or enter into a relationship with community service providers such as the Adoptive Families Association.