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Court Rules Act

PROVINCIAL COURT (ADULT GUARDIANSHIP) RULES

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RULE 1 – INTERPRETATION AND PURPOSE

Definitions

(1) In these rules:

“access order” means an order under section 49 (2) of the Act authorizing either or both of the following:

- (a) someone from a designated agency to enter premises and to interview the adult;
- (b) a health care provider to enter premises to examine the adult to determine whether health care should be provided;

“Act” means the *Adult Guardianship Act*;

“adult” means a person who is the subject of

- (a) an investigation described in section 47 (3) (d) of the Act, or
- (b) an application under section 51 (1) (e) or 54 of the Act;

“assessment particulars” means the written details and results of an assessment provided under section 6 of the Adult Guardianship (Abuse and Neglect) Regulation, B.C. Reg. 13/2000;

“assessment report” means an incapability assessment report in the form required under section 6 of the Adult Guardianship (Abuse and Neglect) Regulation, B.C. Reg. 13/2000;

“clerk” means a member of the registry staff;

“court” means the Provincial Court;

“designated agency” means any public body, organization or person that, under the Designated Agencies Regulation, B.C. Reg. 76/2000, is designated as an agency for the purposes of Part 3 of the Act;

“interim restraining order” means an order made under section 51 (1) (e) of the Act;

“party” includes

- (a) the applicant,
- (b) the adult,
- (c) each respondent, and
- (d) anyone the court decides is a party;

“registry” means a registry of the court where family matters are dealt with;

“respondent” means,

- (a) in the case of an application for an access order, the adult,
- (b) in the case of an application for an interim restraining order, both the person against whom the order is sought and the adult,
- (c) in the case of an application for a support and assistance order or a

- restraining order, each person listed in section 54 (2) of the Act,
- (d) in the case of an application to renew, change or cancel an existing order, the person who applied for, and each person who was required to be served with, the application for the existing order, and
 - (e) in the case of any other application, the person named as the respondent in the application;

“restraining order” means an order made under section 56 (3) (c) of the Act;

“support and assistance order” means an order made under section 56 (3) (a), (d) or (e) of the Act.

Purpose

- (2) The purpose of these rules is to allow decisions about matters arising under Part 3 of the Act [*Support and Assistance for Abused and Neglected Adults*] to be obtained from the court as fairly, quickly and inexpensively as possible.

RULE 2 – MAKING AND FILING AN APPLICATION

How to apply for access orders

- (1) To apply for an access order, a designated agency must complete an application in Form 1 and file with the court
 - (a) the completed application, and
 - (b) an affidavit setting out the facts on which the application is based.

How to apply for interim restraining orders

- (2) To apply for an interim restraining order, a designated agency must complete an application in Form 1 and file with the court
 - (a) the completed application,
 - (b) an affidavit setting out the facts on which the application is based, and
 - (c) a draft notice to appear in Form 2 to the person against whom the order is sought.

How to apply for support and assistance orders and restraining orders

- (3) To apply for a support and assistance order, a restraining order or both, a designated agency must complete an application in Form 1 and file with the court
 - (a) the completed application,
 - (b) a support and assistance plan that complies with section 54 (3) (a) of the Act,
 - (c) the assessment particulars relating to the adult,
 - (d) an assessment report relating to the adult, and
 - (e) in addition, if a restraining order is sought, a draft notice to appear in Form 2 to the person against whom the order is sought.

[See the Provincial Court (Family) Rules for how to apply for an order for parental maintenance under Part 7 of the Family Relations Act.]

Where to file an application under subrule (1), (2) or (3)

- (4) An application for an order referred to in subrule (1), (2) or (3) must be filed in the registry closest to the adult's habitual residence unless a judge permits otherwise.

How to apply for renewal, variation or cancellation of support and assistance orders

- (5) To apply for an order renewing, changing or cancelling a support and assistance order, a designated agency must complete an application in Form 3 and file with the court
 - (a) the completed application, and
 - (b) if the need for the existing order was reviewed under section 57 of the Act,

a report on the review.

How to apply for variation or cancellation of an existing restraining order

- (6) To apply for an order changing or cancelling a restraining order, the person against whom that order was made must complete an application in Form 3 and file the completed application with the court.

Where to file other applications

- (7) An application for an order, other than an order referred to in subrule (1), (2) or (3), must be filed in the registry where the file is located, unless a judge permits otherwise.

Hearings by telephone

- (8) A judge may conduct a hearing or part of a hearing by telephone in appropriate circumstances.

Some applications may be granted without a hearing

- (9) A judge may make the following orders without a hearing:
 - (a) an order under Rule 7 (8) permitting another method of service;
 - (b) an order under Rule 9 (3) (a) waiving or modifying a time limit set by these rules or the court;
 - (c) an order under Rule 9 (3) (b) waiving or modifying any service or notice requirement of these rules.

To apply for an order, except a consent order, without a hearing

- (10) To apply for an order to be made under subrule (9), a party must complete an application in Form 4 and file with the court under subrule (7)
 - (a) the completed application, and
 - (b) an affidavit setting out the facts on which the application is based.

To apply for a consent order

- (11) To apply for a consent order, a person must complete an application in Form 5 and file with the court under subrule (7)
 - (a) the completed application,
 - (b) a draft consent order in Form 6 containing the particulars of the order sought, and
 - (c) an affidavit setting out the facts on which the application is based.

Judge may sign consent order or require parties to attend

- (12) A clerk must place the application, draft consent order and supporting documents before a judge who

- (a) if satisfied that consent is given and that it is appropriate to make the order, may approve and sign the consent order without the parties having to attend, or
- (b) may direct that the parties and any other person specified by the judge attend before the judge to explain why the order should be made.

Notice of appearance if parties required to attend

- (13) If a direction is given under subrule (12) (b), a clerk must notify the parties and any other person specified by the judge of the date, time and place for the court appearance.

To apply for other orders requiring a hearing

- (14) To apply for cancellation of a subpoena or for any procedural order or direction not mentioned in this Rule, a person
 - (a) must complete an application in Form 4 and file the completed application with the court under subrule (7), and
 - (b) may file with the application an affidavit setting out the facts on which the application is based.

[For service of applications see sections 51 (2) and 54 (2) of the Act and Rule 7. The Act requires applications for interim restraining orders to be served on the persons listed in section 51 (2), and applications for support and assistance orders and restraining orders to be served on the persons listed in section 54 (2), within 72 hours after the applications are filed with the court. Rule 7 includes a general rule about service of applications and special rules about service and how to prove service.]

RULE 3 – FIRST AND SUBSEQUENT APPEARANCES IN COURT

Setting the hearing date

- (1) Except in the case of an application for an order referred to in Rule 2 (9) or (11), a clerk must
 - (a) set the date, time and place for hearing the application, and
 - (b) enter those details on the application form before it is accepted for filing and on any notice to appear issued under subrule (2) relating to the application.

Issue of notice to appear if interim or other restraining order is sought

- (2) If a draft notice to appear (Form 2) is filed with an application for an interim restraining order or a restraining order, a clerk must complete the notice to appear and issue it to the applicant.

Service of notice to appear if interim or other restraining order is sought

- (3) Unless permission is granted under Rule 7 (8) to use a different method of service,
 - (a) both a notice to appear issued under subrule (2) and the related application for the interim restraining order or the restraining order must, within 72 hours after the filing of the application, be personally served on the person against whom the order is sought, and
 - (b) the applicant must arrange to have the notice to appear and the related application served on the adult in accordance with paragraph (a) by an individual who is at least 19 years of age.

[Section 51 (2) of the Act requires that the adult be served, within the 72 hour period, with a copy of the application for an interim restraining order.

Section 54 (2) of the Act lists the persons who, in addition to the person against whom the restraining order is sought, must be served, within the 72 hour period, with a copy of the application for a restraining order.

Rule 7 (5) specifies the permitted methods for serving a copy of an application for an interim restraining order or for a restraining order on the adult and anyone else required to be served, other than the person against whom the orders are sought.]

Options for the judge

- (4) The judge at the first appearance or any subsequent appearance may do one or more of the following:
 - (a) order a party to allow another party to inspect and copy records, specified in the order, that are or have been in that other party's possession or control or, if not in that other party's possession or control, are within the other party's power;
 - (b) hear evidence and make the order sought in the application;

- (c) make any other order or give any direction that the judge considers appropriate.

If the respondent does not appear in court

- (5) If a respondent fails to appear in court on the date and at the time and place specified on a document served on the respondent under the Act or these rules, or as directed by a judge, a judge may do one or more of the following:
 - (a) draw any inference from that failure that the judge considers appropriate, including an inference that the respondent consents to the order sought by the applicant;
 - (b) if the judge considers that the circumstances justify it and that it is fair to do so in the respondent's absence, make the order sought by the applicant;
 - (c) issue a notice to appear in Form 2 to be served on the respondent;
 - (d) if the respondent was personally served with a notice to appear on that date and at that time or was present in court when the date for the court appearance was set, issue a warrant in Form 7 for the arrest of the respondent.

How long a warrant is in force

- (6) A warrant under subrule (5) (d) remains in force until
 - (a) the respondent named in the warrant appears in court either voluntarily or under the warrant, or
 - (b) a justice cancels the warrant.

After respondent is arrested

- (7) A respondent who is arrested under a warrant must be brought before a justice as soon as practicable.

Release of respondent

- (8) The justice must release the respondent on giving the respondent a release in Form 8 requiring the respondent to appear in court on the date and at the time and place stated in the release.

Notice to applicant of appearance

- (9) A clerk must notify the applicant regarding the date, time and place of the appearance stated in the release.

If respondent does not comply with release

- (10) If the respondent does not appear in court on the date and at the time stated on the release, the judge may
 - (a) issue a warrant in Form 7 for the arrest of the respondent and order that

the respondent be brought to a judge promptly on that arrest, or
(b) do anything described in subrule (5) (a) or (b).

RULE 4 – WITNESSES

How to subpoena a witness

- (1) To require a witness to attend court, a party must
 - (a) complete a subpoena in Form 9, and
 - (b) serve a copy of the subpoena on the witness personally at least 7 days before the date the witness is required to appear.

Travelling expenses

- (2) At the time the subpoena is served, the party subpoenaing the witness must offer the witness reasonable estimated travelling expenses.

What a witness served with a subpoena must do

- (3) A person who is served with a subpoena must
 - (a) appear in court on the date and at the time and place stated on the subpoena, and
 - (b) bring to court any records and other things required by the subpoena.

Subpoena may be cancelled

- (4) Not less than 2 days before the date a person served with a subpoena is to appear in court, the person may apply under Rule 2 (14) to a judge who may cancel the subpoena if
 - (a) the person is not needed as a witness, or
 - (b) it would be a hardship for the person to appear in court as required by the subpoena.

If a witness does not obey a subpoena

- (5) A judge may issue a warrant in Form 7 for the arrest of a witness who does not appear in court as required by a subpoena if the judge is satisfied that
 - (a) the subpoena was served on the witness,
 - (b) reasonable travelling expenses were offered to the witness, and
 - (c) justice requires the presence of the witness.

How long a warrant for arrest of witness is in force

- (6) A warrant remains in force until
 - (a) the witness named in the warrant appears in court either voluntarily or under the warrant, or
 - (b) a judge cancels the warrant.

After a witness is arrested

- (7) A witness who is arrested under a warrant must be brought before a judge or justice of the peace as soon as practicable.

What the judge may do when the witness appears

- (8) If the witness's evidence is still required, the judge may
 - (a) release the witness on giving the witness a release in Form 8 requiring the witness to appear in court on the date and at the time and place stated in the release, or
 - (b) order a sheriff or peace officer to detain the witness in custody until his or her presence is no longer required.

Conditions of release

- (9) A judge may make the release of a witness under subrule (8) (a) subject to any conditions respecting reporting or residency or entering into a recognizance that the judge considers necessary to make sure the witness attends.

RULE 5 – HEARINGS

How evidence is given

- (1) At a hearing, evidence may be given orally or, unless the judge orders otherwise, by
 - (a) affidavit, or
 - (b) statements of facts agreed to by the parties.

[See Rule 6 for affidavit requirements.]

Oral evidence

- (2) Oral evidence may be given by a person
 - (a) under oath or affirmation, or
 - (b) if section 5 (3) of the *Evidence Act* applies, on the person promising to tell the truth.

If someone does not appear

- (3) If a person who is served with an application does not appear in court on the date and at the time and place set for the hearing, the judge may hear the application and make the order applied for if the judge thinks it is fair to do so in that person's absence.

Advance notice of experts' evidence required

- (4) A party may call an expert to give evidence of the expert's opinion, but only if
 - (a) the party provides a written summary of the expert's evidence to all other parties at least 30 days before the expert is called to give evidence, or
 - (b) a judge grants permission.

Experts' reports must be given in advance

- (5) Instead of calling an expert to give evidence, a party may introduce a report stating opinions of an expert, but only if
 - (a) the party provides a copy of the report to all other parties at least 30 days before the report is introduced, or
 - (b) a judge grants permission.

Persons who are not experts

- (6) A designated agency and an assessor authorized under the Adult Guardianship (Abuse and Neglect) Regulation are not experts for the purposes of notice under subrule (4) or (5).

Experts' qualifications

- (7) A statement of qualifications in an expert's report is proof that the expert has those qualifications unless there is evidence to the contrary.

Proof of signature not required

- (8) A report stating the opinions of an expert may be introduced without proof of the expert's signature.

Experts may be called for cross-examination

- (9) A party receiving another party's expert report may serve on the other party, at least 14 days before the hearing date, a notice requiring the expert to attend the hearing for cross-examination.

Cost of calling other party's expert

- (10) If a judge determines that calling another party's expert was unnecessary, the judge may order the party who required the expert to attend to pay to the other party the reasonable costs associated with the expert's attendance.

RULE 6 – AFFIDAVITS

What form to use

- (1) If an affidavit is permitted under these rules, it must be in Form 10.

Exhibits

- (2) Any exhibits referred to in an affidavit must be identified and attached to the affidavit.

Permission to use defective affidavit

- (3) With the permission of the judge, an affidavit may be used in evidence even though it does not comply in form with this Rule.

Affidavit must be filed and served

- (4) Evidence may be given by affidavit at a hearing only if, at least 7 days before the date of the hearing,
 - (a) copies of the affidavit are filed in the registry, and
 - (b) a copy of the affidavit is served on everyone who is entitled to notice of the hearing.

Deponent may be examined

- (5) If evidence is given by affidavit, the judge may, at the request of a party or on the judge's own motion, order that the deponent attend the court for cross-examination.

RULE 7 – SERVICE AND PROVING SERVICE

Service requirements – general rule

- (1) Unless the Act or these rules provide otherwise, an application must be served at least 7 days before the date set for the hearing on the following persons:
 - (a) if the application is for an interim restraining order, the persons required to be served under section 51 (2) of the Act;
 - (b) if the application is for a support and assistance order or a restraining order, the persons required to be served under section 54 (2) of the Act;
 - (c) if the application is to renew, change or cancel an existing order, the person who applied for, and the persons who were required to be served with, the application for the existing order;
 - (d) in the case of an application other than one referred to in any of paragraphs (a) to (c), on the other parties.

[See section 51 (2) of the Act for additional requirement for service of an application for an interim restraining order and section 54 (2) of the Act for an additional requirement for service of an application for a support and assistance order, including a restraining order. Both sections require those applications to be served within 72 hours after filing.]

If the application is for cancellation of a subpoena

- (2) An application for cancellation of a subpoena must be served, at least 2 days before the date the witness is to appear in court, on the party subpoenaing the witness.

Documents to be served with the application

- (3) The persons required to be served under subrule (1) or (2) must also be served, at the time the application is served, with a copy of each document filed under Rule 2 in support of the application, other than the assessment particulars.

When service is not required

- (4) Service of an application is not required if
 - (a) the application is for an order referred to in Rule 2 (9), or
 - (b) a judge so orders.

General rule about how documents may be served

- (5) A document required by the Act or these rules to be served may be served as follows:
 - (a) on an individual, including a party,
 - (i) by leaving a copy with him or her,
 - (ii) by registered mail to the individual's last known postal address,

- (iii) by faxing it, together with a fax cover page in Form 11, to the fax number provided by the individual, or
- (iv) if the individual is a party who has a lawyer of record, by leaving a copy at, or by faxing it, together with a fax cover page in Form 11, to, that lawyer's office;
- (b) on a designated agency, whether or not incorporated under the *Society Act*,
 - (i) by leaving a copy with a representative of that agency,
 - (ii) by registered mail to the agency's postal address, or
 - (iii) by faxing it, together with a fax cover page in Form 11, to the fax number provided by the agency;
- (c) on a society incorporated under the *Society Act*, other than a designated agency,
 - (i) by leaving a copy
 - (A) at the address for service on file with the Registrar of Companies,
 - (B) with a director or officer of the society, or
 - (C) with a receptionist at the society's office;
 - (ii) by registered mail to the address for service on file with the Registrar of Companies, or
 - (iii) by faxing it, together with a fax cover page in Form 11, to the fax number provided by the society,
- (d) on any other person, including the Public Guardian and Trustee,
 - (i) by leaving a copy with a receptionist or other employee at that person's place of business,
 - (ii) by registered mail to the person's postal address,
 - (iii) by faxing it, together with a fax cover page in Form 11, to the fax number provided by the person.

Exceptions

- (6) Subrule (5) does not apply to the following:
 - (a) service of a notice to appear;
 - (b) service of an application for an interim restraining order or restraining order on the person against whom the order is sought;
 - (c) service of a subpoena.

[See:

- *subrule (7) for how to serve a notice to appear issued under Rule 3 (5) (c);*
- *Rule 3 (3) for how to serve a notice to appear, and a related application for an interim restraining order or restraining order, on the person against whom the order is sought;*
- *Rule 4 (1) (b) for how to serve a subpoena.]*

Personal service required for notice to appear

- (7) Unless permission is granted under subrule (8) to use a different method of service,
 - (a) a notice to appear issued under Rule 3 (5) (c) must be personally served on the respondent at least 7 days before the date of the hearing referred to in the notice, and
 - (b) the applicant must arrange to have the notice to appear served in accordance with paragraph (a) by an individual who is at least 19 years of age.

Permission to use other service methods

- (8) If a document cannot be served as provided in these rules or if the person to be served is temporarily outside British Columbia, a party may apply to a judge who may
 - (a) permit another method of service to be used, and
 - (b) direct how service is to be proved.

Proving service

- (9) Service of a document may be proved by filing the following at the registry:
 - (a) for personal service of a document, a certificate of service (Form 12);
 - (b) for service by registered mail, a certificate of service (Form 12), with attached to the certificate a copy of the document and one of the following:
 - (i) a copy, produced by fax or otherwise, of the signature obtained by Canada Post at the time the document was delivered;
 - (ii) a print out of the delivery confirmation made available on the Internet by Canada Post;
 - (c) for personal service on a lawyer, a copy of the document signed by the lawyer or an articulated student or by a partner or employee of the firm;
 - (d) for service by fax, a certificate of service (Form 12) with a transmission report generated by the sending machine.

Judge may require copy of served document

- (10) A judge may require that a copy of the served document be attached to the certificate of service (Form 12).

Oral proof of service

- (11) Instead of requiring proof of service under subrule (9), a judge or registrar may allow a person to prove by sworn oral evidence that the person has personally served a document.

RULE 8 – ORDERS

Effective date of order

- (1) An order takes effect on the day it was made by a judge unless the judge orders otherwise.

Correcting an order

- (2) Any judge may correct, at any time, a clerical mistake in an order or a mistake arising from an accidental slip or omission.

Preparation and form of order

- (3) An order must be prepared as soon as practicable and must be
 - (a) in Form 13 in the case of an access order,
 - (b) in Form 14 in the case of an interim restraining order or a restraining order,
 - (c) in Form 15 in the case of a support and assistance order,
 - (d) in Form 16 in the case of an order renewing, changing or cancelling another order, and
 - (e) in Form 17 in the case of any other order, except a consent order.

[Rule 2 (11) requires a consent order to be in Form 6.]

Who prepares the order

- (4) The applicant must prepare the order unless
 - (a) the judge orders otherwise, or
 - (b) the order is made under section 58 of the Act [*change or cancellation of restraining order*] and the applicant is not represented by a lawyer.

Clerk prepares the order for unrepresented party

- (5) Unless the judge orders otherwise, if the applicant for an order under section 58 of the Act is not represented by a lawyer, a clerk must, as soon as practicable, prepare the order in the applicable form.

Approving the form of the order

- (6) Unless a judge orders otherwise, an order that is prepared by a party's lawyer must be signed as approved
 - (a) by the party's lawyer, and
 - (b) if any other party is represented by a lawyer, by the other party's lawyer.

Settling the order

- (7) A party may apply to a judge to settle the terms of an order if there is a dispute about the terms.

Delivering the order to the registry

- (8) After an order is signed as approved in accordance with subrule (6),
 - (a) it must be delivered to the registry to be signed by a judge, filed with the court and date stamped with the registry stamp, and
 - (b) any document required by a judge to be filed with the order must be delivered for filing at the same time, or the order ceases to have effect.

Notice of order

- (9) Unless the judge orders otherwise, after an order is signed by the judge and filed with the court, a clerk must provide a filed copy of the order to the parties or their lawyers.

RULE 9 – GENERAL

Judge may adjourn hearing

- (1) Whether or not the parties consent, a judge may adjourn a hearing to a specific date or without specifying a date.

Judge's permission necessary for adjournment

- (2) A hearing may be adjourned only with the permission of a judge.

Judge may shorten or extend time limits

- (3) A judge may do one or more of the following:
 - (a) waive or modify a time limit set by these rules or by an order of the court even after the time limit has expired;
 - (b) waive or modify any service or notice requirement under these rules;
 - (c) permit any other means of proof instead of that required by these rules.

Changing or cancelling orders

- (4) A judge may change or cancel an order made in the absence of a party who received notice of a hearing if
 - (a) that party applies within a reasonable time,
 - (b) the party had a good reason for failing to attend when the order was made,
 - (c) there is a good reason for changing or cancelling the order, and
 - (d) the change or cancellation would be in the adult's best interests.

Order may be made without notice

- (5) If a matter is urgent or special circumstances exist, a judge may make an order without a person having been served with a copy of an application.

Notice of proceedings and adding parties

- (6) A judge may, at any time, do one or more of the following:
 - (a) order that a person, whether or not a party, be given notice of a hearing;
 - (b) order that a person be added as a party for purposes of a hearing or the proceedings generally;
 - (c) dispense with a requirement that notice of a hearing be given to a person who is not a party.

Powers that any judge may exercise

- (7) Any judge may do any of the following without being seized of a matter:
 - (a) adjourn a hearing before evidence is heard;

- (b) make orders or give directions on procedural matters.

Judge who starts a hearing must continue

- (8) Subject to subrule (9), a judge who has heard any evidence at a hearing must finish the hearing unless the judge dies or is otherwise unable to act.

If judge cannot finish the hearing

- (9) If a judge who has begun to hear evidence dies or is otherwise unable to act, another judge will hear the case and that judge may
 - (a) start the hearing again and re-hear all the evidence, or
 - (b) with the consent of the parties, continue with the hearing where it left off, giving directions for hearing evidence as the judge considers necessary.

Judge may give directions

- (10) A judge may give a direction on any procedural matter that is not provided for in the Act or these rules.

Judge may order transfer of file

- (11) A judge may order a file transferred to another registry, for the purposes of one application or for all purposes, after considering
 - (a) the balance of convenience,
 - (b) any special circumstances that exist, and
 - (c) the adult's best interests.

Transfer of file by consent

- (12) If the parties agree, a clerk may transfer a file to another registry, for the purposes of one application or for all purposes, if the parties
 - (a) complete a written and signed consent to the transfer, and
 - (b) file the consent in the registry where the file is located.

Copy permissible in some circumstances

- (13) With the judge's permission, a copy of a document may be used in court instead of the original.

Who may search files

- (14) Only the following are entitled to search a registry file respecting a matter under the Act:
 - (a) a party;
 - (b) a party's lawyer;
 - (c) a person authorized by a party, by a party's lawyer or by a judge.

If a party does not comply with the rules

- (15) If a party does not comply with these rules, the judge may
- (a) cancel a step taken or an order made or disregard a document filed in the course of the application, or
 - (b) make any order or give any direction that the judge thinks is fair, including an order dismissing the application.

Faxed documents

- (16) Any document may be filed in a registry by faxing it to that registry, but a judge may require that the original of a document be filed later.

Appendix A forms

- (17) The forms in Appendix A are prescribed for the following purposes:
- (a) Forms 1 to 17, for the purposes of these rules;
 - (b) Form 18, for the purposes of section 49 (3) of the Act.

User generated forms

- (18) Forms generated by the user must
- (a) be in substantial compliance with the prescribed forms, and
 - (b) show the applicable words of the prescribed form in regular type and the words supplied by the user in boldface type.

Practice directions

- (19) The chief judge of the court may issue practice directions consistent with these rules and their purpose.

Judge may order production of records

- (20) On application, a judge may order a person who possesses or controls a record that is relevant to the proceedings and on whom notice has been served in accordance with Rule 7 (1) to produce the record for inspection and copying on the date, at the time and place and in the manner the judge thinks is fair.

APPENDIX A

FORM 1

FORM 2

FORM 3

FORM 4

FORM 5

FORM 6

FORM 7

FORM 8

FORM 9

FORM 10

FORM 11

FORM 12

FORM 13

FORM 14

FORM 15

FORM 16

FORM 17

FORM 18

[Provisions of the *Court Rules Act*, R.S.B.C. 1996, c. 80, relevant to the enactment of this regulation: section 1 (2)]



APPLICATION TO OBTAIN AN ORDER

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

COURT FILE NO.:
COURT LOCATION:

Case name
Name of the adult who is the subject of the investigation.

In the matter of:
ADULT'S NAME _____

Designated agency's name and address for service.

Filed by:
NAME _____ **APPLICANT**
ADDRESS FOR SERVICE _____ CITY _____
PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

Respondent's name and address for service.

Notice to:
NAME _____ DATE OF BIRTH (MMM DD YYYY) _____ **RESPONDENT**
ADDRESS FOR SERVICE _____ CITY _____
PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

Names and addresses of other persons who must be served, including the adult who is the subject of the application.

And to:
NAME OF ADULT _____ DATE OF BIRTH (MMM DD YYYY) _____
ADDRESS FOR SERVICE _____ CITY _____
PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

And to:
NAME _____
ADDRESS FOR SERVICE _____ CITY _____
PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

And to:
NAME _____
ADDRESS FOR SERVICE _____ CITY _____
PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

And to:
NAME _____
ADDRESS FOR SERVICE _____ CITY _____
PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

What is the designated agency asking for in this application?
Check the appropriate box(es) and attach the documents indicated.

Access Order – An Affidavit is attached.

Interim restraining order – An Affidavit and a Notice to Appear are attached.

Support and assistance order – A support and assistance plan, assessment particulars and assessment report are attached.

Restraining order – A support and assistance plan, assessment particulars, an assessment report and a Notice to Appear are attached.

Sign your name and state today's date.

Dated

MMM	DD	YYYY
-----	----	------

Signature of applicant or applicant's lawyer

State name of lawyer, if any. _____
Name of applicant's lawyer

APPLICATION TO OBTAIN AN ORDER



NOTICE TO APPEAR

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

Court File Number:

Court Location:

NOTICE TO APPEAR

Case name

In the matter of:

ADULT'S NAME

Respondent's name
and address for
service.

To:

NAME

RESPONDENT

ADDRESS

CITY

PROVINCE

POSTAL CODE

PHONE

FAX

Why

are you being
notified?

NAME OF DESIGNATED AGENCY _____ has applied for:

- a restraining order
- an interim restraining order

against you under the *Adult Guardianship Act*.

You failed to appear in court on

MMM	DD	YYYY
-----	----	------

at _____
COURT LOCATION

as specified on the _____ DOCUMENT _____ served on you.

You failed to appear in court on

MMM	DD	YYYY
-----	----	------

at _____
COURT LOCATION

as directed by the Honourable Judge _____ NAME OF JUDGE

on _____
MMM DD YYYY

When

must you appear?

You must appear before a judge of the Provincial Court, to respond to the application,

on _____
MMM DD YYYY at _____ TIME _____ m.

at _____
COURT LOCATION

Where

is the court located?

The application is attached.

If you do not appear, the Court may make an order in your absence or may issue a warrant for your arrest.

Dated

MMM	DD	YYYY
-----	----	------

By the Court
or a Clerk on behalf of

(Name of Judge)



APPLICATION TO RENEW, CHANGE OR CANCEL AN ORDER

COURT FILE NO.:
COURT LOCATION:

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

APPLICATION TO RENEW, CHANGE OR CANCEL AN ORDER

Case name
as it appears on the order.

In the matter of:

ADULT'S NAME

Your name and current address for service.

Filed by:

NAME

APPLICANT

ADDRESS FOR SERVICE

CITY

PROVINCE

POSTAL CODE

PHONE

FAX

Other party's name and address for service.

Notice to:

NAME

RESPONDENT

ADDRESS FOR SERVICE

CITY

PROVINCE

POSTAL CODE

PHONE

FAX

Names and addresses of other persons who must be served, including the adult who is the subject of the application.

And to:

ADULT'S NAME

DATE OF BIRTH
MMM DD YYYY

ADDRESS FOR SERVICE

CITY

PROVINCE

POSTAL CODE

PHONE

FAX

And to:

NAME

ADDRESS FOR SERVICE

CITY

PROVINCE

POSTAL CODE

PHONE

FAX

And to:

NAME

ADDRESS FOR SERVICE

CITY

PROVINCE

POSTAL CODE

PHONE

FAX

And to:

NAME

ADDRESS FOR SERVICE

CITY

PROVINCE

POSTAL CODE

PHONE

FAX

What changes to the order are you asking for? Please describe, and explain why they are needed. Attach additional sheet if you require more space to describe the changes requested.

I ask that the attached order dated

MMM	DD	YYYY
-----	----	------

be renewed as follows:

OR,

I ask that the attached order dated

MMM	DD	YYYY
-----	----	------

be changed as follows:

From:

To:

OR,

I ask that the attached order dated

MMM	DD	YYYY
-----	----	------

be cancelled.

Sign your name and state today's date.

Dated

MMM	DD	YYYY
-----	----	------

--

Signature of applicant or applicant's lawyer

State name of lawyer, if any.

Name of applicant's lawyer



WARRANT FOR ARREST

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

COURT FILE NUMBER:
COURT LOCATION:
DATE OF BIRTH:

Case name
as it appears on the application.

In the matter of:

ADULT'S NAME _____

Person to be arrested

To all peace officers in British Columbia:

This court orders you to arrest

NAME _____

ADDRESS _____

and bring that person before a justice of the peace as soon as practicable.

Reason for Arrest

Check the appropriate box(es) and fill in any required information.

The reason for the arrest is that the person did not attend this court

at COURT LOCATION _____

on DATE _____

- as required by a notice to appear served on the person
- as ordered by the Court in the presence of the person
- as specified on a release
- as required by a subpoena
- OTHER REASON (SPECIFY):

Dated

MM	DD	YYYY
----	----	------

By the Court
or Clerk on behalf of

(Name of Judge)

WARRANT FOR ARREST



RELEASE

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

Court File Number:
Court Location:

RELEASE

Case name
as it appears on the
application.

In the matter of:

ADULT'S NAME _____

Where
is the court located?

I promise to attend the Provincial Court

at COURT LOCATION _____

When
must you appear?

on

MMM	DD	YYYY
-----	----	------

at TIME _____ **m.**

My name, address, phone number and fax number as shown below on this release form are correct. I understand that, if I do not attend court on the above-stated date and time, the judge may issue a warrant for my arrest:

**Your name and
current address for
service.**

NAME _____

ADDRESS _____

CITY _____

PROVINCE _____

POSTAL CODE _____

PHONE _____

FAX _____

Signature of person being released

By the Court

Dated

MMM	DD	YYYY
-----	----	------

at _____

British Columbia



FAX COVER PAGE

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

Court File Number:
Court Location:

TO: _____
Name of party to be served or party's solicitor

Fax Number: _____

From: _____
Name and fax number from which document was transmitted

Contact Person: _____
Name of person to contact in the event of transmission problems

_____ Phone number of contact person

_____ Fax number of contact person

List or provide a brief description of documents:

In the matter of: _____

ADULT'S NAME _____

TITLES OF DOCUMENTS _____

Date Faxed:

MM	DD	YYYY
----	----	------

This fax constitutes service to you under the Provincial Court (Adult Guardianship) Rules. You will not be served in any other way.

Total number of pages (including this page): _____



CERTIFICATE OF SERVICE

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

Court File Number:
Court Location:

CERTIFICATE OF SERVICE

Case Name
as it appears on the application.

In the matter of:
ADULT'S NAME _____

Complete this certificate if service was successful.

I certify that I NAME
OCCUPATION _____ of ADDRESS _____

Check the appropriate box(es) and fill in any required information.

served NAME OF PERSON SERVED _____
on

MM	DD	YYYY
----	----	------

 at ADDRESS _____

Check appropriate box(es) for each document served and name the document. Make sure each attached document is marked with the correct exhibit letter.

with a copy of	Name of Document
<input type="checkbox"/> Exhibit "___"	_____
<input type="checkbox"/> Exhibit "___"	_____
<input type="checkbox"/> Exhibit "___"	_____
<input type="checkbox"/> Exhibit "___"	_____

by leaving the copy with him or her personally.

The party was identified to me in this manner:

I know the person

He/she admitted to being this person

Other (specify) _____

OR

I certify that I served the above-noted documents by:

Fax (attach fax transmission report)

Registered mail (attach Canada Post signature copy or Internet delivery confirmation)

Other manner specified by the court (specify): _____

Dated

MM	DD	YYYY
----	----	------

Signature



ACCESS ORDER

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

Court File No.

Court Location

ACCESS ORDER

In the matter of:

ADULT'S NAME _____

BEFORE THE HONOURABLE JUDGE)

NAME)

_____ day, the DATE _____ day

of MONTH _____

YEAR

After a hearing at COURT LOCATION _____

on

MMM	DD	YYYY
-----	----	------

where _____ appeared as lawyer for

NAME OF DESIGNATED AGENCY _____

a designated agency that is conducting an investigation described in section 47(3)(d) of the *Adult Guardianship Act*,

And being satisfied that there is reason to believe that the adult NAME OF ADULT _____

is abused or neglected and is unable to stop the abuse or neglect, and that the aboved-named designated agency believes

that it is necessary to enter the premises located at ADDRESS _____

in order to interview the above-named adult and has been denied entry to the premises.

THIS COURT ORDERS THAT:

NAME _____

of NAME OF DESIGNATED AGENCY _____

is authorized to enter the premises located at ADDRESS _____

and interview the above-named adult.

NAME _____

a health care provider, is authorized to enter

the premises located at ADDRESS _____

to examine the above-named adult to determine whether health care should be provided.

By the Court

(Name of Judge)



INTERIM RESTRAINING ORDER OR RESTRAINING ORDER

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

Court File No.
Court Location

In the matter of:

ADULT'S NAME

BEFORE THE HONOURABLE JUDGE)

NAME

day, the DATE day

of MONTH

YEAR

Persons Appearing:

Lawyer:

Lawyer:

THIS COURT ORDERS THAT NAME(S)

is prohibited for a period of days ending on MMM DD YYYY

from residing at or entering any premises occupied by NAME OF ADULT

from visiting, communicating with, harassing or interfering with

NAME OF ADULT

from having any contact or association with NAME OF ADULT

or with the assets, business or financial affairs of NAME OF ADULT

Other (Specify restriction):

Further details of order (if more space is required, attach a separate sheet):

Interim restraining order

Restraining order

Dated MMM DD YYYY

[Signature box]

by the Court

Checked By

Initials

TAKE NOTICE THAT:

- Any peace officer, including any R.C.M.P. officer, having jurisdiction in the Province of British Columbia who finds the party NAME(S) OF PARTY(S) breaching any of the terms of this order may immediately arrest that party without warrant pursuant to s. 495(1)(b) of the *Criminal Code*, and may cause that person to be detained in custody and to be taken before a justice to be dealt with according to law.
 - Any peace officer, including any R.C.M.P. officer, having jurisdiction in the Province of British Columbia who on reasonable and probable grounds believes that the party NAME(S) OF PARTY(S) has, in the past, breached any of the terms of a restraining order made under s.56(3)(c) of the *Adult Guardianship Act* may arrest that party with a warrant obtained pursuant to s. 26 of the *Offence Act*, and may cause that person to be detained in custody and to be taken before a justice to be dealt with according to law.

INTERIM RESTRAINING ORDER OR RESTRAINING ORDER



SUPPORT AND ASSISTANCE ORDER

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

Court File No. _____

Court Location _____

In the matter of:
ADULT'S NAME _____

BEFORE THE HONOURABLE JUDGE)
NAME) of _____ day, the DATE _____ day
_____) of MONTH _____, YEAR _____

This matter coming on for hearing at COURT LOCATION _____ on

MMM	DD	YYYY
-----	----	------

Persons Appearing: _____ Lawyer: _____
_____ Lawyer: _____

THIS COURT ORDERS:

that support and assistance be provided to
NAME OF ADULT _____
as follows (*terms of order*): _____

under section 56(3)(d) of the *Adult Guardianship Act*,
that NAME _____ pay for, or contribute towards, the maintenance of
NAME OF ADULT _____,
or services to be provided for the above-named adult as follows:
(*terms of order*) _____

THIS COURT FURTHER ORDERS:

Approved (*if applicable*)

Lawyer's Signature

By the Court

Lawyer's Signature

SUPPORT AND ASSISTANCE ORDER



BRITISH COLUMBIA

ORDER RENEWING, CHANGING OR CANCELLING AN ORDER

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

Court File No.
Court Location

In the matter of:
ADULT'S NAME

BEFORE THE HONOURABLE JUDGE)
NAME) of _____ day, the DATE _____ day
of MONTH _____ YEAR

This matter coming on for hearing at COURT LOCATION _____ on

MMM	DD	YYYY
-----	----	------

Persons Appearing: _____ Lawyer: _____
_____ Lawyer: _____

- This Court orders that the attached
- interim restraining order
 - restraining order
 - support and assistance order
 - other (specify) _____

dated

MMM	DD	YYYY
-----	----	------

 be

renewed for a period of: _____
ending on

MMM	DD	YYYY
-----	----	------

changed as follows: _____

cancelled effective

MMM	DD	YYYY
-----	----	------

Approved (if applicable)

Lawyer's Signature

By the Court

Lawyer's Signature

ORDER RENEWING, CHANGING OR CANCELLING AN ORDER



BRITISH COLUMBIA

ORDER

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

Court File No.
Court Location

ORDER

In the matter of: _____
ADULT'S NAME

BEFORE THE HONOURABLE JUDGE _____)
NAME) of _____ day, the DATE _____ day
_____) of MONTH _____ YEAR
This matter coming on for hearing at COURT LOCATION _____ on

MMM	DD	YYYY
-----	----	------

Persons Appearing: _____ Lawyer: _____
_____ Lawyer: _____

THIS COURT ORDERS:

that the applicant ^{NAME} _____ may serve the respondent
^{NAME} _____ as follows:
(terms of order): _____

that the time limit for _____ be waived/modified as follows:

that the time period for _____ be shortened/lengthened as follows:

that the service/notice requirement be waived/modified as follows:

that (specify other order):

Approved (if applicable)

Lawyer's Signature

Lawyer's Signature

By the Court



WARRANT TO ENTER FOR PURPOSE OF INTERVIEW

In the Provincial Court of British Columbia
Under Part 3 of the *Adult Guardianship Act*

Court File No.:
Court Location:

In the matter of:

ADULT'S NAME _____

To _____ of _____
a designated agency that is conducting an investigation described in section 47(3)(d) of the *Adult Guardianship Act*.

Whereas it appears on the oath/affirmation of

NAME _____, OCCUPATION _____

of _____, British Columbia,

that there is reason to believe that the adult _____
is abused or neglected and is unable to stop the abuse or neglect, and that the above-named designated agency
believes that it is necessary to enter the premises located at _____
in order to interview the above-named adult and has been denied entry to the premises;

This is, therefore, to authorize you _____
to enter the above-named premises between the hours of _____
and _____ for the purpose of interviewing the
above-named adult.

Justice of the Peace in and for the Province of British Columbia

Name _____

Dated