

Children may be taken from their parents when a child protection agency believes that the children are in physical or emotional danger. In Saskatchewan, child protection services are provided by the Department of Community Resources and Employment (DCRE - formerly Social Services). First Nations Child and Family Services Agencies (FNCFSAs) across the province also provide similar services to First Nations children and families living on reserves. Children may be apprehended when they are found without anyone to care for them. Children may also be apprehended when they are found committing a crime and they are under the age of 12 years. The police have the same authority as DCRE and FNCFSA to apprehend children.

Saskatchewan law protects children from abuse, neglect or danger. The law gives DCRE and FNCFSA the right to try to prevent child abuse and neglect. When a child protection agency gets a report about a child, and has reasonable grounds to believe that a child needs protection, they must look into the report to find out if the child is abused, neglected or in danger.

If a child protection agency believes that a child is in danger, they will decide what is necessary to protect the child. The agency will either offer guidance and help to the family or take the child away to safety, if no other arrangements are possible. If the child is taken away, a court may later make the final decision about whether the child may return home.

Your Rights

If your child is apprehended, you must be told the reasons for the child's apprehension, the address and phone number of the child protection worker in charge of the case, and that you have the right to consult a lawyer.

A child may be returned within 48 hours, without any application to court. However, if your child is kept for more than 2 days, the agency must make an application within 7 days to court for a protection hearing. A protection hearing brings your child's case before a court and must be started within 37 days after your child is taken away.

When a child is apprehended, they are taken to a safe place. This may be a foster home, a relative's home or a hospital. You may be allowed to visit your child. Talk to your child protection worker about visits. If you are not happy with the arrangements made by your child protection worker, talk to a lawyer about getting a court order for visits.

Your Case

Talk to your child protection worker about the different possibilities. They may have suggestions for what you can do to get your child back. You have the right to ask questions about your child and your case. A child must be returned when they are no longer in danger. Remember, if you are not able to talk or work with your child protection worker or if you do not understand each other, you should arrange to talk to the worker's supervisor or discuss this with your lawyer.

If your child is returned without a court hearing, DCRE or FNCFSA may offer assistance through family services. Family services may include counselling or the help of a parent-aide. The application for a court hearing may then be withdrawn.

In appropriate cases, you can enter into a voluntary agreement with DCRE or FNCFSA for the care of your child. If you don't feel your child should be in care and a voluntary agreement is not right for you, then you should go to court.

If the matter goes to court, it is very important that you be there. If the agency has told you when to go to court and you don't show up, the judge can go ahead with the hearing that will determine whether your child will remain in care. Being in court involves you with what is happening to your child. Going to court also gives you the chance to tell the judge your side of the story.

Going to Court

You must receive notice of the protection hearing. The notice tells you the day, time and place of the protection hearing. The notice tells you the reasons why your child was taken away. Each parent must get a copy of the notice at least 3 days before the hearing, unless you agree to accept the notice closer to the hearing date.

The judge decides if your child should stay in protective care or be returned to you. The judge may designate someone close to your child, such as a relative or Band member, as a person having sufficient interest in your child. This means they will also be involved in your child's case and can go to court. Your child may be there only if the judge wants to talk with them. It is rare for this to happen. Evidence about the child is usually given through an affidavit of the case worker or a parent.

Your first appearance at court is usually very short. The name of your case is under your child's name and is called by the judge or court clerk. If you do not have a lawyer, the judge asks whether you want to talk to one. A date is set for your child's protection hearing and you will be asked to come back to court then (usually in 2 to 3 weeks).

In some places, you go to a pre-trial conference before the next court date. At a pre-trial conference, you meet with the judge, DCRE or FNCFSA and the lawyers. The purpose of this conference is to attempt to reach an agreement about your child's care. If no agreement can be reached, information will be exchanged about matters such as how much time will be needed for the hearing, the number of witnesses and so on.

If there is no agreement, the matter will return to court for the protection hearing. The judge will hear the evidence about your child's case. The agency will make a recommendation about your child's care. This is where you tell the judge your side of the story and whether you agree with the recommendation.

Most courtrooms are open to the public and anyone may attend court. In rare cases, protection hearings may be held in private, so the evidence does not become known to the public. Or, the judge may order a publication ban to prevent the evidence being publicized.

Your case may be adjourned from time to time if your protection worker wants to work with you and assist you with family services before a decision is made about your child. Your case may also be adjourned if custody of your child is being dealt with by another court.

Making a Decision

The judge listens to all the evidence including the reasons the agency took the child, what you have to say, what the child has to say, and any evidence from other courts about you and the child. The judge must decide based on what is best for your child.

A judge can find that your child is not abused, neglected or in danger and order that your child be returned to you.

If, however, the judge finds that your child is or was abused, neglected or in danger, they may order that your child ...

- ▶ be returned to you under certain conditions, or
- ▶ be placed with another person such as a relative or a person having sufficient interest in your child, or
- ▶ stay in the care of DCRE or FNCFSA temporarily (up to six months) or permanently, or
- ▶ go into long-term care (up to 18 years of age), or
- ▶ be a permanent ward of the government.

If you do not agree with the judge's order, talk to a lawyer right away about an appeal. An appeal has to be made within 30 days after the order is made.

Lawyers

A lawyer can advise you of your rights and help you get ready for court. A lawyer can speak for you in court and will help you get more information from the child protection worker. If you get a lawyer, be sure to tell them everything, so they can best act for you. Also be sure you understand from your lawyer what is going on and what the agency wants to do. You have the right to ask questions about what is happening and to tell your lawyer what you want to see happen. If you don't have money for a lawyer, contact your nearest Legal Aid Office to determine if you qualify for assistance.

Where can I get more information?

Legal Aid

Head Office	(306) 933-5300
Saskatoon City (local)	(306) 933-7820
Saskatoon City (toll-free)	1-877-424-1898
Saskatoon Rural (local)	(306) 933-7855
Saskatoon Rural (toll-free)	1-877-424-1899
Regina City (local)	(306) 787-8760
Regina City (toll-free)	1-877-424-1897
Regina Rural (local)	(306) 787-1141
Regina Rural (toll-free)	1-877-424-1906

Department of Community Resources and Employment (DCRE) Offices

Check the blue pages of your phone book for the closest office.

After Hours Crisis Services

Kindersley	(306) 463-4357
Melfort	(306) 752-9455
Moose Jaw	(306) 694-3647 (not 24 hrs.) (for contact between 5:00 p.m. and 8:00 a.m. and on weekends, call pager (306) 797-2727)
Prince Albert	(306) 764-1011 or (306) 764-1039
Regina	(306) 757-0127
Saskatoon	(306) 933-6200
Swift Current	(306) 778-3833 or 1-800-567-3334

First Nations Child and Family Service Agencies

Check your local phone book or band office.

Family Service (formerly Family Service Bureau)

Contact for counselling information.

Saskatoon	(306) 244-0127
Regina	(306) 757-6675

Other PLEA Publications

Child Abuse and Neglect
Custody and Access

Public Legal Education Association of Saskatchewan

Saskatoon, Saskatchewan
Tel 653-1868 Fax 653-1869 E-mail plea@plea.org
www.plea.org

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This pamphlet contains general information about the law. For further information on this and other areas of law, contact a library, government agency or PLEA. PLEA is a non-profit, non-government agency that provides a variety of legal information services to the public.

If you need legal advice, contact a lawyer.

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child protection services

information about child apprehension
and child protection hearings



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