

## **NOTIFICATION PROCESS TO THE OFFICE OF THE CHILDREN'S LAWYER:**

### **WHERE A SOCIETY SERVES NOTICE TO A CHILD UNDER THE AGE OF 18 OF HIS OR HER RIGHT TO APPLY FOR AN OPENNESS ORDER**

#### **BACKGROUND:**

The *Building Families and Supporting Youth to be Successful Act, 2011*, amending the *Child and Family Services Act*, came into force on September 1, 2011.

Under the amendments, all access orders (including those made under Part III of the CFSA) automatically terminate upon adoption placement. The amendments also provide for openness orders to be made where a society intends to place a Crown ward for adoption and an access order is in effect.

Before placing a Crown ward for adoption, the Children's Aid Society (CAS) must now give notice to both the person who has been granted an access order and the person with respect to whom an access order has been granted. The notice must advise them that:

1. The society intends to place the child for adoption;
2. The access order terminates upon adoption placement; and
3. The person who has been granted the access order has the right to apply for an openness order under section 145.1.2 of the CFSA within 30 days of receiving notice.

The method in which notice is to be provided is governed by the new subsections 145.1.1 (4-6) of the CFSA and the new subrule 34(18) of the *Family Law Rules* (FLR). Clauses (e)-(g) of the new subrule 34(17) of the FLR specify the form the notice should take.

#### **PURPOSE:**

A notification process to the Office of the Children's Lawyer (OCL) has been established which contemplates the scenario where the person who was granted an access order, and who receives notice from the CAS of his or her right to apply for an openness order, is under the age of 18.

This scenario would occur, for example, where the access order says, "child X shall have access to person Y". In this case, the child has the right of access and, therefore has the right to apply for an openness order. The child would receive Form 8D.2: Notice of Intention to Place a Child for Adoption or Form 8D.3: Notice to Child of Intention to Place for Adoption.

## THE NOTIFICATION PROCESS:

Where a CAS is serving notice to a child of its intention to place the child or the child's sibling for adoption, and of the child's right to apply for an openness order, (Form 8D.2 or 8D.3), the CAS must, on the same business day, serve notice to the OCL, using the ministry form, "Notice: To the Office of the Children's Lawyer that a child is being served with Form 8D.2 or 8D.3" (see attached).

It is the responsibility of the CAS to ensure that this form is complete and that a designated contact person<sup>1</sup> with accompanying contact information is clearly identified on the form.

At the same time that the CAS serves notice to the OCL, the CAS will also send the following documents as attachments:

1. A copy of the notice advising the child of his or her right to apply for an openness order (Form 8D.2 or 8D.3);
2. A copy of any child protection order that is currently in force with respect to the child who has the right to apply for an openness order; and
3. A copy of any access order that is currently in force with respect to the child who has the right to apply for an openness order.

A copy of the notice form, and all related attachments should be faxed to:

ATTENTION TO: Katherine Kavassalis, Office of the Children's Lawyer  
FAX NUMBER: (416) 314-8050

Following receipt of the notice, the following will occur:

1. The OCL will review the notice package and contact the CAS contact person designated on the form.
2. The CAS contact person will provide the child's contact information to the OCL within two business days; and
3. The OCL will determine whether it will provide legal representation to the child who has been served Form 8D.2 or 8D.3 and advise the designated CAS contact person of this decision.

## REPORTING:

CASs must document in the appropriate file(s) that the OCL was notified at the same time as serving Form 8D.2 or 8D.3, and whether the information requested by the OCL was provided within two business days.

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<sup>1</sup> The "designated contact person" is the CAS employee who is in a position to provide the child's contact information to the OCL when it is requested, within the timeframes listed in this notification process.