

WHAT YOU NEED TO KNOW ABOUT RECENT CHANGES TO ONTARIO'S ADOPTION LEGISLATION

What is the *Building Families and Supporting Youth to be Successful Act*?

Research demonstrates that outcomes for children who grow up in permanent homes are better than for those who grow up in care. In support of this finding, on September 1, 2011, the *Building Families and Supporting Youth to be Successful Act, 2011* came into force.

This Act, which amends the *Child and Family Services Act* (CFSA), is intended to improve outcomes for children and youth in care by removing legislative barriers to Crown wards being placed for adoption.

How do the amendments remove barriers to Crown ward adoptions?

Prior to proclamation, Crown wards could not be placed for adoption if they were subject to an access order¹. This is no longer the case.

Under the amendments, a Children's Aid Society (CAS) no longer has to go to court to seek termination of an access order before it places a Crown ward for adoption.

All access orders will now automatically terminate at adoption placement, and a CAS is permitted to place a Crown ward with an outstanding access order for adoption provided it has given notice to both: (1) the person who has been granted an access order and (2) the subject of the access order that:

- a) The CAS intends to place the child for adoption;
- b) The access order terminates upon adoption placement; and
- c) The person who has been granted the access order has the right to apply for an openness order within 30 days of receiving notice.

When determining if an openness order of this type should be made, the court must be satisfied that:

- a) The openness order is in the best interests of the child;
 - b) The child, if he or she is 12 years of age or older, has consented to the order;
- and

¹ An access order is an order by the court which sets out the ways in which an individual (such as a birth parent or other person with a significant relation to the Crown ward) may have access with the Crown ward, and may include the frequency, type, location and any other terms and conditions.

- c) The order would permit the continuation of a relationship with a person that is beneficial and meaningful to the child.

In addition, the court must consider the ability of the prospective adoptive or adoptive parent(s) to comply with the arrangement under the openness order.

The provisions for openness orders and agreements that came into force in 2006 continue to be in effect.

Other new sections of the Act provide that: (1) nothing prohibits a CAS from planning for the adoption of a Crown ward with respect to whom there is an access order in effect; and (2) where a CAS plans for the adoption of a Crown ward, it must consider the benefits of an openness order or agreement in respect of the child.

How do the amendments impact prospective adoptive parents?

Where a prospective adoptive parent(s) is interested in adopting a Crown ward with respect to whom there is an access order in effect, he or she must recognize the possibility that an application for post-adoption openness may be made by the person who was granted the access order within 30 days after the CAS has given proper notice that it intends to place that Crown ward for adoption.

Where an openness application has been made, a CAS is required to advise a prospective adoptive parent(s) of the application, as well as the relationship of the applicant to the child and the details of the openness arrangement requested.

The court will determine whether or not to grant an openness order. In its consideration of the application, the court must consider the ability of the prospective adoptive parent(s) to comply with the arrangement.

Once the openness application is determined by the court, the CAS must inform the prospective adoptive parent(s) of the outcome of the application.

Where can I look up the amendments?

An electronic version of the CFSA showing the amendments proclaimed on September 1, 2011 is available on e-Laws in both English and French at: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90c11_e.htm.

Who can I contact for more information?

Please contact your local CAS or private adoption practitioner if you wish to speak to someone further about these legislative amendments.