

## REQUEST FOR RECORDS OF CHILD UNDER 12 YEARS: GUARDIAN DECLARATION

The personal information requested on this form is collected under the authority of section 76 of the *Child, Family and Community Service Act* (CFCSA) and sections 5 (1) (b) and 26 (c) of the *Freedom of Information and Protection of Privacy Act* (FOIPPA) and will be used for the purposes of responding to your request under the authority of section 32 (a) of FOIPPA. Any questions about the collection, use or disclosure of this information should be directed to: Information Access Operations, PO Box 9569 Stn Prov Govt, Victoria BC V8W 9K1, telephone 250 387-1321.

Please complete one form for each child (under the age of 12) for whom you are requesting information.

CHILD'S NAME: _____ DATE OF BIRTH: _____
ANY OTHER NAMES THE CHILD IS KNOWN BY: _____
DETAILS OF REQUESTED RECORDS RELATING TO THE CHILD: _____

Section 5 of FOIPPA, section 3 of FOIPPA Regulation, and section 76 of the CFCSA require that a person requesting access to the personal information of a child under 12, or an incapable minor under 19, must meet a two part test.

### PART 1: The applicant must establish that s/he has legal care/guardianship of the child.

#### DECLARATION OF GUARDIANSHIP

By signing this form, you are declaring that you are a LEGAL GUARDIAN OF THIS CHILD, in accordance with section 39 of the Family Law Act of BC (see reverse of this form.)

NOTE: If there is a current court order or written agreement regarding custody or guardianship of, or parenting arrangements or responsibilities for this child, provide a complete copy, including all pages.

If signature(s) of other guardians are not provided, explain why it would be unreasonable or inappropriate in the circumstance to consult with the other guardian(s) (see section 40 of the Family Law Act on reverse).

**Explain why:**

\_\_\_\_\_

SIGNATURES OF OTHER GUARDIANS OF THE CHILD	
NAME: _____	SIGNATURE: _____
NAME: _____	SIGNATURE: _____

### PART 2: The guardian must be acting on behalf of the child. The requestor's access to the child's personal information must be for the benefit of the child rather than for the benefit of the requestor.

EXPLAIN THE WAYS IN WHICH YOU ARE ACTING ON BEHALF OF AND FOR THE SOLE BENEFIT OF THIS CHILD: _____ _____
---

I declare that all of the information provided by me in this form is true, correct and complete.

\_\_\_\_\_  
APPLICANT'S NAME

\_\_\_\_\_  
APPLICANT'S SIGNATURE

\_\_\_\_\_  
DATE

### **From the *Family Law Act***

#### **Parents are generally guardians**

**39** (1) While a child's parents are living together and after the child's parents separate, each parent of the child is the child's guardian.

(2) Despite subsection (1), an agreement or order made after separation or when the parents are about to separate may provide that a parent is not the child's guardian.

(3) A parent who has never resided with his or her child is not the child's guardian unless one of the following applies:

(a) section 30 [parentage if other arrangement] applies and the person is a parent under that section;

(b) the parent and all of the child's guardians make an agreement providing that the parent is also a guardian;

(c) the parent regularly cares for the child.

(4) If a child's guardian and a person who is not the child's guardian marry or enter into a marriage-like relationship, the person does not become a guardian of that child by reason only of the marriage or marriage-like relationship.

#### **Parenting arrangements**

**40** (2) Unless an agreement or order allocates parental responsibilities differently, each child's guardian may exercise all parental responsibilities with respect to the child in consultation with the child's other guardians, unless consultation would be unreasonable or inappropriate in the circumstances.

### **From the *Freedom on Information and Protection of Privacy Act***

#### **How to make a request**

**5** (1) To obtain access to a record, the applicant must make a written request that

(a) provides sufficient detail to enable an experienced employee of the public body, with a reasonable effort, to identify the records sought,

(b) provides written proof of the authority of the applicant to make the request, if the applicant is acting on behalf of another person in accordance with the regulations, and

(c) is submitted to the public body that the applicant believes has custody or control of the record.

(2) The applicant may ask for a copy of the record or ask to examine the record.

### **From the FOIPPA Regulation**

#### **Who can act for a minor**

**3** (1) A guardian of a minor may act for the minor in relation to any of the following sections of the Act if the minor is incapable of acting under that section:

(a) section 5

(2) A guardian of a minor may exercise a power granted to the guardian under subsection (1) of this section only if the power is within the scope of the guardian's duties or powers.

### **From the *Child, Family and Community Service Act***

#### **Who can act for a child**

**76** (1) A person, other than a director, who has legal care of a child under 12 years of age may, on behalf of the child, exercise the child's rights under the Freedom of Information and Protection of Privacy Act

(a) to be given access to information about the child in a record,

(b) to consent to the disclosure of that information, and

(c) to request the correction of that information.

(2) A person, other than a director, who has legal care of a child 12 years of age or older may, on behalf of the child, exercise the child's rights under the Freedom of Information and Protection of Privacy Act

(a) to be given access to information about the child in a record,

(b) to consent to the disclosure of that information, and

(c) to request correction of that information if the child is incapable of exercising those rights.