

Form

5

Guardianship Affidavit Form 5

Provincial Court Family Rules

You can complete and file most family forms online using the Family Law Act Online Forms Service.

Access the service at justice.gov.bc.ca/apply-for-family-order.

The free service includes guided pathways that ask you questions and put your answers into the required court forms. When you're finished, you can save and file your forms electronically or print them to file in person.



A PDF version of this form is available online for download at www.gov.bc.ca/court-forms.

For courthouse locations, addresses, and contact information visit: www.gov.bc.ca/courthouselocations

Need assistance with how to complete this form?

Refer to the guidebook if you need more information about how to complete this form. Find it online, with interactive links, at www.gov.bc.ca/court-forms or pick up a printed copy from your local court registry.

Family law:

The [Provincial Court Family Rules](#) set out the steps that you must take and the forms you must complete in a family law case. These rules apply to cases in Provincial Court about matters under the [Family Law Act](#) and the [Family Maintenance Enforcement Act](#).

You can find the Rules and Acts on the BC Laws website at www.bclaws.gov.bc.ca.

Preparing a Guardianship Affidavit Form 5

Complete this form if you are applying to be appointed as a guardian of a child under [section 51 \[Orders Respecting Guardianship\]](#) of the Family Law Act, including an application for a consent order.

Before you can complete the affidavit, you must complete the following background checks referenced in the form:

- a Ministry of Children and Family Development record check
- a protection order record check from the Protection Order Registry, and
- a criminal record check

To get a criminal record check, ask at the police station or RCMP detachment in your community.

To get the Ministry of Children and Family Development and Protection Order Registry record checks, you must fill out:

- a [Section 51 - Consent for Child Protection Record Check](#), and
- a [Request for Protection Order Registry Search](#)

The consent and request for search must be filed with your Application About a Family Law Matter Form 3 that includes an application for an order about being appointed as a guardian or with your counter application to be appointed as a guardian. The registry will let you know when the results from the record checks come in. The registry will then give you copies to attach to your affidavit. **The record checks must be dated within 60 days before the date that the record check is filed.**

Note: The court can make an interim order for guardianship of a child without the completed affidavit and record checks. The interim order will last up to 90 days. During this time, you must get the background checks and fill out and file the affidavit.

If more than one person is applying to become a guardian of a child, each person must complete their own Guardianship Affidavit Form 5.



Need legal help?

It's important to understand the law and make sure you have the right information. If you don't, it can make solving your problem harder. Getting advice from a lawyer can help. You can find a lawyer through:

Lawyer Referral Service

Visit www.accessprobono.ca/our-programs/lawyer-referral-service or call at 604-687-3221

Legal Aid, Duty Counsel and Family Advice Lawyers

Visit <https://legalaid.bc.ca> or call 1-866-577-2525

Legal Services and Resources

Visit the ClickLaw HelpMap at www.clicklaw.bc.ca/helpmap



Getting started

To complete the affidavit, you'll need your completed record checks.

You will also need:

- a copy of any court order from family court proceedings you have been involved in
- information about any criminal offences and/or charges

If you don't have the documents ready, start collecting these documents now.



Filing out the form and preparing to file it

Make sure you follow the instructions in the form and include all the required information. You don't need to use any special wording. Try to be clear and concise.

If you complete the form by hand, be sure it's readable.

How do I prepare the form for filing?

- collect the completed affidavit and any exhibits referenced in the form
- print or make copies of the completed form and all attachments: one set for you, one set for the court, and one set for each other party
- staple or secure each package of documents together



Signing the document with a commissioner for taking affidavits

The guardianship affidavit is used to present evidence to the court. It contains facts that you must swear under oath or affirm to be true. To swear or affirm an affidavit, you must meet with a commissioner for taking affidavits and sign the document in front of them.

Lawyers and notaries are all commissioners for taking affidavits. The court registry also has staff who are commissioners for taking affidavits who can help you swear or affirm your affidavit for free.

What if I can't get my guardianship affidavit sworn or affirmed?

If you can't get the document sworn or affirmed before the document is filed, [Rule 172](#) allows the unsworn document to be filed if you will be available to swear or affirm that the contents of the document are true during your court appearance.

The affidavit must be sworn or affirmed no more than 7 days before it is filed.



Filing the form at the registry

After you've filled out the form, you must file it at the [Provincial Court Registry](#) where the existing Provincial Court case with the same parties is filed.

File the form:

- electronically using the [FLA Online Forms Service](#)
- in person at the court registry
- by mail
- by email, as referenced in Notice to the Profession and Public [NP 28 Current Court Operations](#), or
- by fax filing using the [Fax Filing Cover Page Form 52](#)

There are no fees for filing Provincial Court family documents.

Be sure to bring all copies of the documents to the registry if you are filing in person.

The registry clerk will review your form to make sure it's complete before filing it. You'll be given a copy for your records along with a copy for the other party.

Remember, the affidavit must be filed within 7 days of being sworn or affirmed.



Serving the document

Serve a copy of the affidavit on each other party at least 7 days before the date set for the hearing of the application if no trial preparation conference is scheduled, or at least 7 days before the date of the trial preparation conference if one is scheduled.

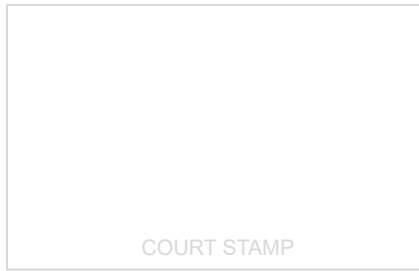
The affidavit can be served by **ordinary service to the address of service** for each party. Their address for service is the address they have provided to the court.

See the guidebook if you need more information about serving the affidavit.

You may need proof the documents were served. The person serving the documents must complete a [Certificate of Service Form 7](#) to prove service of the document took place. You must attach a copy of the documents to the Certificate of Service. Remember to make a copy before the documents are served.

Guardianship Affidavit Form 5

Provincial Court Family Rules
Rules 26, 51, 172



Registry location:

Court file number:

Last name of parties:
Party 1/ Party 2

Document number:
For registry use only

This Guardianship Affidavit provides evidence to the court respecting the best interests of the child in support of an application for guardianship of a child as required under section 51 of the *Family Law Act* and Rule 26.

Please read before completing the form:

- To complete this form, you must have completed the required record checks as referred to in the form. You will be required to attach the results to this affidavit.
- For guidance filling in this form, including how to complete the record checks, please read the guidebook. The guide is available from your local court registry or online at www.gov.bc.ca/court-forms.

i The record checks must be dated within 60 days of the date you will file the affidavit. If you are past 60 days, you will need to request a new record check [Rule 26].

I, , of ,
Full name Occupation Address of party, City, Province

SWEAR OR AFFIRM THAT:

I know or believe the following facts to be true. If these facts are based on information from others, I believe that information to be true.

i For more information about swearing or affirming an affidavit, see the guidebook.

About the child(ren)

1. I am applying under the *Family Law Act* to become a guardian of the following child(ren):

Child's full name	Child's date of birth (dd/mmm/yyyy)	Name(s) of child's current guardian(s)	Name(s) of child's parent(s) who are not current guardian(s)

i For more information about who is a child's guardian, including when a parent is not a guardian, see the guidebook.

2. My date of birth is
(dd/mmm/yyyy)

3. The nature and length of **my relationship with the child(ren)** referred to in paragraph 1 of this affidavit is as follows:

Name of child	Nature of relationship to child (Specify whether parent, step-parent, grandparent, aunt, uncle, family friend, etc.)	Length of relationship

i You may provide only the first name of the child for the rest of the questions that ask for the name of a child referred to in paragraph 1.
You may state "since birth" in the last column instead of putting the specific length, if applicable.

4. The current living arrangements of the child(ren) referred to in paragraph 1 of this affidavit are as follows:

Name of child	Current living arrangements

i Briefly explain where and with whom the child is living right now.

5. I plan to care for the child(ren) referred to in paragraph 1 of this affidavit as follows:
Set out detailed plans for how the child(ren) is/are to be cared for

i A guardian must exercise parental responsibilities in the best interests of the child [s. 43 *Family Law Act*]. S. 41 of the *Family Law Act* lists the parental responsibilities with respect to a child which a guardian may exercise in their care for the child.

Incidents of family violence

6. *Select whichever option is correct*
- I am not aware of any incidents of family violence, as that term is defined in section 1 of the *Family Law Act*, that affect the child(ren) referred to in paragraph 1 of this affidavit
 - I am aware of the following incidents of family violence, as that term is defined in section 1 of the *Family Law Act*, that affect the child(ren) referred to in paragraph 1 of this affidavit:

Describe the incidents of family violence of which you are aware

i Family violence is defined in s. 1 of the *Family Law Act*. In the case of a child, family violence includes, with or without an intent to harm a family member, direct or indirect exposure to family violence.
 To determine what is in the best interests of a child, s. 37 (2) (g) requires you to consider the impact of any family violence on the child's safety, security or well-being, whether the family violence is directed toward the child or another family member.

Other children

7. *Select whichever option is correct*
- I am not a parent, step-parent or guardian of any children except that child/those children referred to in paragraph 1 of this affidavit
 - I am the parent, step-parent or guardian of the following child(ren) who is/are not referred to in paragraph 1 of this affidavit

Child's full name	Child's date of birth (dd/mmm/yyyy)	Nature of relationship to child (Specify whether parent, step-parent, grandparent, aunt, uncle, family friend, etc.)

Involvement in court proceedings

8. Select whichever option is correct

- I have **not been involved in court proceedings** in British Columbia under the *Child, Family and Community Service Act*, the *Family Relations Act*, the *Family Law Act*, or the *Divorce Act (Canada)*, or in any court proceedings under comparable legislation in any other jurisdiction, concerning children under my care
- I have **been involved in the following court proceedings** in British Columbia under the *Child, Family and Community Service Act*, the *Family Relations Act*, the *Family Law Act*, or the *Divorce Act (Canada)*, and/or in the following court proceedings under comparable legislation in any other jurisdiction, concerning children under my care:

Item	Names of the parties to the proceeding	Name and location of court in which the proceeding was conducted	Date of any orders concerning children under my care made in the proceeding
1			
2			
3			

The orders referred to in the table above are attached as Exhibits to this affidavit as follows:

- (a) The order dated [] referred to in Item [] above is attached as Exhibit [] to this affidavit
(dd/mmm/yyyy) (1, 2, etc.)
(A, B, etc.)
- (b) The order dated [] referred to in Item [] above is attached as Exhibit [] to this affidavit
(dd/mmm/yyyy) (1, 2, etc.)
(A, B, etc.)
- (c) The order dated [] referred to in Item [] above is attached as Exhibit [] to this affidavit
(dd/mmm/yyyy) (1, 2, etc.)
(A, B, etc.)



Court proceedings may be in Provincial Court or Supreme Court, including divorce or family law proceedings, or child protection.

Include any family proceeding (including divorce) where there were children of the marriage even if the children weren't the subject of any contested proceeding.



You must attach a copy of each order as an exhibit to this affidavit for filing.



For more information about how to reference and attach exhibits, see the guidebook.

Record checks

9. Attached to this affidavit and marked as Exhibit [] is a copy of a **British Columbia Ministry of Children and Family Development records check** dated []
(dd/mmm/yyyy)
10. Attached to this affidavit and marked as Exhibit [] is a copy of a **Protection Order Registry protection order records check** dated []
(dd/mmm/yyyy)
11. Attached to this affidavit and marked as Exhibit [] is a copy of a **criminal records check** dated [] obtained from the []
(dd/mmm/yyyy)
- Name and location of police force or department from which the criminal records check was obtained



You must attach a copy of each record check as an exhibit to this affidavit for filing.



For more information about getting your record checks, see the guidebook.

Criminal offences

12. Select whichever option is correct

- There are **no criminal offences, other than those, if any, specified in the criminal records check** referred to in paragraph 11 of this affidavit, of which I have been convicted and not pardoned
- In addition to the convictions**, if any, specified in the criminal records check referred to in paragraph 11 of this affidavit, **I have been convicted of**, and not pardoned for, **the following criminal offences:**

Provide details of any criminal convictions, not referred to in the criminal records check, for which you have not received a pardon

13. Select whichever option is correct

- I am **not currently charged with any criminal offences**
- I am **currently charged with criminal offences**. The particulars of each charge are set out below:

Nature of alleged offence	Date of alleged offence (dd/mmm/yyyy)	Name and location of court in which proceedings are outstanding

Sworn or affirmed before me
at _____, British Columbia
City
on _____
Date

A commissioner for taking affidavits in British Columbia
[print name or affix stamp of commissioner]

Signature

i This document must be signed only with a commissioner for taking affidavits. **Do not sign** the document until they tell you to. You will sign it with them.

i Once the affidavit is signed with a commissioner, it must be filed within 7 days [Rule 26].