

Going into the Care of a Society or Agency



JFCY's Child Welfare and Leaving Home guides:

Going
into
Care

Being
in
Care

Leaving
Home

Voluntary
Youth Service
Agreements
(VYSAs)

Ready,
Set, Go
(RSG)
Program

This pamphlet gives
general legal information for
young people in Ontario

Speak to a lawyer if you have
questions about your specific
situation



**Justice for Children and Youth (JFCY)
provides free and confidential legal
services to young people in Ontario**

If you are under 18 and have a legal question or
problem, call JFCY toll free: 1-866-999-5329 (JFCY)

JFCY also has specialized services:



Your Way Forward (YWF) for
young people who have been
victimized by sexual and/or
family violence



Street Youth Legal Services
(SYLS) for youth under 25 who
are experiencing homelessness

In Ontario, when a young person **under 16** is found to be **unsafe** in their home environment, they can be **brought into the care** of a Children's Aid Society (**CAS**) or a First Nations Child and Family Services Agency (**Agency**).

This guide will cover the three main stages of going into care:

1. Being removed from your home and brought to a safe place
2. Preparing for court
3. Things that happen after going to court



If you are First Nations, Inuk or Métis, let your worker know. All decisions must support and help you maintain your culture, heritage, traditions, connection to community and concept of extended family.

STAGE 1: REMOVAL TO SAFETY

REMOVAL TO A SAFE PLACE

CAS:
Children's
Aid Society

Agency:
First Nation
Child and
Family
Service
Agency

STAGE 1. BEING REMOVED FROM YOUR HOME AND TAKEN TO A PLACE OF SAFETY

This section explains why and how you might be taken to a safe place, and what happens in the first few days.

Who is involved?

Anyone who believes someone under 16 is being harmed or at risk of harm, must make a report to a local Children's Aid Society (CAS) or your First Nation Child and Family Service Agency (Agency).

Harm can be physical, emotional, sexual, or that your needs are being neglected. The CAS can also become involved where there is a risk you might be harmed in the future.

A report may be made if there is a belief that someone 16 or 17 years old has been harmed or is at risk of harm.

What does it mean to be “taken to a place of safety”?

Being “taken to a place of safety” means that you are taken out of your regular home if that environment is harmful to you.

What happens after I am removed?

The CAS/Agency becomes responsible for taking care of you. That may include finding a new place for you to live until a judge can decide if you should go home or live somewhere else.

STAGE 1: REMOVAL TO SAFETY



At what age can I be taken to a place of safety?

The CAS/Agency can bring you into a place of safety with or without your consent until you turn 16. If you are 16 years or older, the CAS/Agency needs your consent to remove you from home.

If you are 16 or 17, and you believe you are in need of protection, you can contact a CAS/Agency and ask for help. You can enter into a Voluntary Youth Service Agreement (VYSA) with the CAS. Before you sign a VYSA, you will be given legal advice from the Office of the Children's Lawyer. (For more information, see our VYSA pamphlet).

Can CAS/Agency take me into care without my parent/caregiver's permission?

If your parent/caregiver is having difficulty taking care of you, they can ask CAS/Agency to care for you for a short time. This is called a "temporary care agreement". If you are 12 years+, you must give your consent to this type of agreement.

If the CAS/Agency thinks you are not safe at home, they can bring you to a place of safety even without your parent/caregiver's permission. The CAS/Agency must go to Court within five days of removing you from home for a Judge to decide whether the decision to remove you from home was the right one.

Some examples of what harms can lead to you being taken to a place of safety:

- Physical, emotion, and/or sexual harm
- Not enough food, clothing, and/or shelter
- Ignoring your medical and school needs
- Abandoning you

WHO DECIDES



STAGE 1: REMOVAL TO SAFETY

YOUR ROLE



Do I have a say in what happens to me?

You have the right to meet with a CAS/Agency worker when you or your parent/caregiver is working with the CAS/Agency. You have the right to tell you worker what you want and to voice your concerns. The CAS/Agency worker should listen and consider what you say to them. Your wishes will not always decide what happens or where you live.

If you are taken to a place of safety, the judge can appoint the Office of the Children's Lawyer (OCL) to be involved in your case. The job of an OCL lawyer is to represent your views and wishes in Court, and to give you advice about the Court process.

Your views and wishes are an important factor for a judge to consider in making a decision about where you live. Your lawyer can talk about options to share those views and wishes with the judge.

What if I want to be taken to a place of safety but the CAS/Agency won't take me?

If you asked the CAS/Agency to take you to a place of safety and they said no, you can ask a judge to make an Order for the CAS/Agency to take you into care. You will need to go to court and explain why you need to be taken to a place of safety.

If this is what you want to do, you should contact a lawyer for advice.

Office of the
Children's
Lawyer (OCL):
www.ontario.ca/page/office-childrens-lawyer

REFUSALS TO REMOVE

STAGE 1: REMOVAL TO SAFETY

LIVING OPTIONS



Where will I live if I am taken out of my home?

If you are taken out of your home, the CAS/Agency will make sure you are properly cared for and will pick one of these options for where you live:

1. With an adult you already know and trust – called “Kinship Care”: this is usually a relative or a close family friend.



2. With a member of your First Nations, Inuit or Métis community – called “Customary Care” where you may live with a member of a community that you are a member of or self-identify with.

3. In a foster home: a home with another family. The foster parent/caregivers will treat you as part of their family and will take care of you like one of their children. Sometimes there are other children there who are also in care. Foster families are chosen by CAS/Agency.

4. In a group home: a larger home with other children who are also in care. The home is managed by staff who will take care of you and may also offer some special programs and events for you to participate in.

5. In a special facility: in rare cases you might live in a special facility that will try and help you with any special needs you may have.

STAGE 1: REMOVAL TO SAFETY

DURATION OF PLACEMENT



How long will I stay in one of these new places?

You may stay in the place that CAS/Agency has chosen for you until the judge makes a decision in court about whether you should stay in care. Every case is different. Sometimes you will:

- only have to stay for a few weeks or months and then return to your regular home when it is safe, or
- have to stay for a short while and then move to another place, or
- have to stay in this place until you become an adult.

You should talk to your CAS/Agency worker and your lawyer to find out what is likely going to happen in your situation.

The next section will cover

STAGE 2: COURT

A. Preparing for court

B. Going to court and things that will happen before a trial

C. Trial processes

DECISIONS ABOUT COURT PROCESSES



STAGE II. PREPARING FOR COURT AND THE COURT TRIAL

This section is about what will happen after you have been taken to a place of safety, what happens during the court process and what your role will be if there is a court trial.

Part A: Preparing for Court

Will there be a court case for me?

It depends. There will not be a court case if:

- Your parent/caregiver gave CAS/Agency permission to take you to a place of safety, or
- Your parent/caregiver talked to CAS/Agency and agreed on the right way to take care of you properly.

There will be a court case if:

- Your parent/caregiver did not give CAS/Agency permission to take you to a place of safety, or
- The CAS/Agency has concerns that you are not safe and at risk of harm staying with your parent/caregiver.

You have a right to have your views and wishes considered at every stage of this process.

How long will it take before the court case starts?

Within 5 days of taking you to a place of safety, the CAS/Agency must start the court case and there will be a temporary decision made by a judge on where you will be placed. After the case starts, it can last for many months.

STAGE 2: COURT

NOTICE



Can I go to court when the judge is hearing my case?

If you are 12 years or older, you have the right to be told in writing about the court case (called “a notice”) and a right to be in court when the judge is hearing your case.

The only time that you are not allowed to get notice or go to court is if the judge decides that you will be emotionally hurt by going to court.

If you want to go to court for your case, you should tell your CAS/Agency worker and your lawyer.

LAWYERS



Will I have my own lawyer?

It depends. The judge will decide whether or not to appoint the Office of the Children’s Lawyer (OCL) to represent your views and wishes.

If your wishes are different from the wishes of your caregivers and the Agency, or if you do not have a caregiver, the judge will normally appoint an OCL lawyer, so long as that is what you want.

If you do have an OCL lawyer, their job is to listen to you, protect your rights, and help you participate in your court case. You should tell your lawyer anything that you want the judge to know about.

Your conversations with your OCL lawyer are confidential. If you are worried about sharing information, you can ask your OCL lawyer to keep that information private.

WHO IS INVOLVED



Will my First Nations, Inuit or Métis community be involved in the case?

The Indigenous community(ies) that you self-identify with must be notified about the court case, even if you don't live with one of them. The CAS/Agency has to ask your Indigenous community(ies) about other ways to address the safety concerns of CAS/Agency without going to court.

If you end up going to court, the judge must think about your culture, heritage and traditions and make a decision that helps to protect your cultural identity and connection to community. A representative of your Indigenous community can participate in the court case.

Who else gets to be in court for my case?

These kinds of court cases are always held in private so that your privacy is protected. Only the people involved have a right to know what is happening in your case. Other than you and your lawyer, the people who can be in court include:

- your parent/caregiver(s) and your sibling(s) and their lawyer(s),
- the CAS worker and their lawyer,
- your foster parent/caregivers or the adult who has been taking care of you since you were taken to a place of safety,
- a representative from your Indigenous community(ies) and their lawyer, and
- anyone else that everyone agrees to having there and the judge allows it.

STAGE 2: COURT

COURT EVENTS BEFORE A TRIAL



Part B: Going to Court - Before a Trial

Will there be a trial the first time my case goes to court?

If there is a trial, it will not happen on the first day your case is in court. On the first court date, the CAS/Agency will need to show the Judge that they have a reasonable basis to think that you are at risk. The judge will decide where you should live until the next court date. This step is often called a **"temporary care and custody hearing"**.

Your caregivers and any other adults who want to care for you will have the chance to tell the Judge about their plan for your care. You and your caregivers can also tell the Judge if you disagree with the CAS/Agency's worries and plan, and why you disagree.

If the CAS/Agency and your caregivers cannot agree in Court, the Judge will decide who will care for you until a final decision is made, or until there is a big change in your situation.

What other things will the Judge do before the trial?

Before a trial there are three types of meetings with a judge that can happen:

1. Conferences – A conference is a private meeting with a judge who is not the trial judge. The judge will try to find out if everyone has shared all the important information with each other. The judge will also try to find out if there are things that everyone might agree on. The first conferences are often called a **"case conference"** and later conferences are called a **"settlement conference"**.

STAGE 2: COURT

BEFORE A TRIAL (CONTINUED)



2. Motions - where your caregivers and the agency cannot agree, on important issues, like visits between you and your family, expectations around your care, etc., they can ask a judge to make a decision at a motion. An order at a motion is "temporary" and can be changed at a trial.

3. Trial Management Conference – this is the final meeting with the judge before the trial begins. In this meeting the judge will make sure that everyone understands who will be at the trial, how the lawyers will give the judge information (or “evidence”), and how long the trial will take.

MEDIATION



Are there other things that can happen without the judge?

In some cases there can be "mediation" to see if everyone can agree about what should happen in your case. The judge is not involved in a mediation. The person in charge is a mediator, who is trained in helping people to talk to each other about issues. The mediator will ask your parent/caregiver and CAS what they want. You or your lawyer can also tell the mediator what you want.



If you are First Nations, Inuk or Métis, the mediation can involve any special processes that your Indigenous community(ies) has for resolving these kinds of issues.

If everyone agrees at mediation, then the lawyers will tell the judge. The judge will usually cancel the trial if everyone agrees. If you do not agree with what everyone else is suggesting, tell your lawyer so they can try to work out a different solution.

STAGE 2: COURT

COURT MATERIALS



What kinds of things will be prepared before trial?

Plan of Care: CAS/Agency and caregivers will describe their plan to care for you and keep you safe, the services you and your family will receive, and where you will live. The judge must read this document before making a decision.

Statement of Agreed Facts: document that lists the facts that the CAS/Agency and your caregivers agree on. A statement of agreed facts can often include orders that the CAS/Agency and your caregivers would like the judge to make, on things like visits, who will care for you, and the expectations to keep you safe.

Once everyone signs a statement of agreed facts, it is generally accepted as true by the judge at a trial. It is important to talk to your lawyer about any statement of agreed facts, and let them know if you disagree.

Part C: Going to Court – at the Trial

What is the trial about?

If there is a trial in your case, the trial will focus on two different things:

The first part of trial is to answer the question: Do you need protection? The judge will decide if your home is safe and your needs are being met.

The second part of trial is to answer the question: Where should you live? Are there any rules that you or your caregivers need to follow to keep you safe? If you are not living at home, what will visits with your family and your community be like?

TRIALS



STAGE 2: COURT

TESTIFYING



Will I have to speak in court?

Speaking in court is called “testifying”. Usually you will not have to testify. Testifying can be very stressful, especially for children and young people. Judges usually don’t want children or young people to go through the stress of testifying.

Your lawyer can speak for you by telling the judge where you want to live. You can ask about the different ways to share your views and wishes with the judge; eg. through a written statement from you, called an "affidavit".

In some cases, a judge may want to meet with just you and your lawyer privately to hear your views. This is called a "judicial interview".

How does a judge decide if I need protection?

The judge will make a decision based on the evidence in Court. The evidence will be about you, your parent/caregivers, and your home. The judge will decide if your home is safe and your needs are being met.

Who will be responsible for taking care of me after the trial?

If the judge does not think you need protection, then the judge will let you go home.

If the judge thinks you need protection, then they will decide who should take care of you, where you should live, and what visits will look like. In some cases, the judge will decide that you, your caregivers, and the CAS/Agency must come back to Court after several months to see how things are going.

WHAT COURT WILL CONSIDER



STAGE 2: COURT

TYPES OF ORDERS



What can the judge order?

If the judge believes you need protection, they can make an order to keep you safe, such as:

Supervision Order – your parent/caregiver or another adult in your community is in charge of taking care of you. A supervision order often has rules and expectations your caregiver must follow. The CAS/Agency supervises your care.

Custody Order – your parent/caregiver or another adult in your community is in charge of taking care of you and making important decisions about your well-being.

Interim Society Care Order – your parent/caregiver is temporarily not in charge of you. The CAS/Agency is in charge of taking care of you. If you have been in the care of the CAS/Agency for two years or more, the Judge will decide whether you should return to live with your community, or whether to make an order for Extended Society Care.

Extended Society Care Order – the CAS/Agency is in charge of taking care of you; and your parent/caregiver will no longer be in charge of you.

Where will I live after the trial?

If there is a Supervision Order or a Custody Order, you may live at home with the person in charge of caring for you, whether that is a parent, family member, or a member of your community.

If there is an Interim Society Care Order or an Extended Society Care Order, you will usually live in either a foster home, a group home, or a special facility (described in Stage 1, at bottom of page 6).

DECISIONS ON WHERE YOU LIVE



STAGE 2: COURT

VISITS



Will I see my family/caregiver members again if I don't get to go live at my original home?

The judge will make an Access Order for you to visit with your parents/caregivers and siblings, unless the judge finds that an Access Order is not in your best interests. If you are over 16, your consent is required for these Orders.

An Access Order can include rules about how often visits take place, how long visits last, where visits will happen, and if another adult needs to be there for the visits to be safe.

Any person closely involved with you can ask a judge for an Access Order. If the Society/Agency asks for an Access Order, or to make a change to visits, they must give you notice, if you are over 12 years old.

If you are in Extended Society Care, then the judge will also consider whether the relationship is meaningful and beneficial, and whether Access will make it hard for you to be adopted by another family.

If you are in Extended Society Care, the judge will also name the "access holder" in the order. If you are the "access holder", you have a right to visits with the other person. As the "access holder" you can also ask for visits to continue or change if you are adopted.

The next section will cover what will occur after the Court process ends

STAGE 3: AFTER COURT

WHAT NEXT?



STAGE III. THINGS THAT HAPPEN AFTER COURT

This section is about what happens after a decision has been made about whether you stay in CAS/Agency care.

What if I don't agree with the judge's decisions?

In some situations a new judge can look at your case to see if the first judge made the right decision – this is called an “appeal”. In most situations only the CAS/Agency or your parent/caregiver are allowed to appeal. But in some situations you might also be allowed to appeal. You should talk to your lawyer to see what is allowed in your case.

Will someone automatically check up on me to make sure everything is okay?

If the judge makes a Supervision Order, or if the judge puts you in Society/Agency Care, then the judge will make the CAS/Agency come back to court at a later date to give the judge an update about your situation. After the update from the CAS/Agency, the judge will decide if you still need protection and where you should live.

STAGE 3: AFTER COURT

REVIEW OF YOUR "STATUS"



What can I do if I don't want to be in care anymore?

If you do not want to be in care anymore you can ask the judge for a "status review" where the judge will look at your situation again to see if anything has changed. If your home is now safe and your parent/caregiver is able to take care of you properly, the judge can let you go home.



If you are First Nations, Inuk or Métis, a representative from your Indigenous community(ies) must be told about the status review. The representative(s) can also participate in the status review.

More information in our other guides:

- **Being in the Care of a Society or Agency**
- **Leaving Home**
- **Voluntary Youth Service Agreements (VYSA's)**
- **Ready, Set, Go (RSG) Program**

FOR HELP FINDING A LAWYER:

Justice for Children and Youth:

1-866-999-5329 www.jfcy.org

OTHER SERVICES:

Kids Help Phone: Phone and online support

1-800-668-6868 www.kidshelpphone.ca

211 Ontario:

www.211ontario.ca (dial 211 from any phone)

My CAS worker's name & phone #:

My OCL lawyer's name & phone #:

Other info:



This publication is also available in French upon request.
Cette publication est également disponible en français sur demande.

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