	Li	GGEND NA = Not applicable L = Lawyer LA = Legal assistant or secretary	NA.	I L	l LA	DATE	DATE
		ACTION TO BE CONSIDERED		-		DUE	DONE
	CHIL	DREN AND FAMILY SERVICES ACT CHECKLIST INTRODUCTION					
reprin 2004 regar adopt order citatio	nted with the Depting adding adding in under toons are	f checklist. This checklist is current to October, 2004. It is the the kind permission of Justice M. Clare MacLellan. During partment of Community Services began public consultations options. The results may have an impact on the prohibition on cases where the child to be adopted is the subject of an access the CHILDREN AND FAMILY SERVICES ACT. All to the CHILDREN AND FAMILY SERVICES ACT, S.N.S. mended.					
CON	TENT	S .					
1.	Inves	stigation and Alternatives to Protection Proceedings					
2.	Com	mencing Protection Proceedings			·		
3.	Interi	im Hearings and Orders					
4.	Pre-7	Frial Matters: Chambers Applications					
5.	The I	Protection Hearing					
6.	The I	Disposition Hearing					
7.	Dispo	osition Orders			:		
8.	Term	ination of Permanent Care and Custody Order					
9.	Appe	als					
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1.		ESTIGATION AND ALTERNATIVES TO TECTION PROCEEDINGS					
	1.1	Investigative Orders (ex parte) s. 26					
		.1 Orders for production of documents and records for inspection.			i i		
		.2 Orders for entry of premises, physical examinations, interviews, searches and removals for interview or medical examination.					
	1.2	Detention by Peace Officer s. 27					
		.1 Detention for apprehension where child in need of protective services.					•
		.2 Detention where child under 12 commits offence.					
	1.3	Temporary Custody of Abandoned Child s. 28					
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		ACTION TO BE CONSIDERED					DOME
		.1 Temporary agency custody for up to 72 hours until parent, guardian or relative located.		Ì		. :	
	1.4	Order to detain runaway child s. 29			}		
where h	nealth	.1 Order to locate, detain and return runaway child or safety may be at risk.			· 		
	1.5	Protective Intervention Order					
		.1 Supreme Court order, of up to six months' duration ,that a person cease to reside with and /or not contact child, where contact is causing or likely to cause child to be in need of protective services.					·
	1.6	Mediation s. 21					
		.1 Mediation by agreement re: matters relating to the child who is or may be in need of protective services.					
		.2 Stays of up to three months available to permit mediation.					
2.	COM	MENCING PROTECTION PROCEEDINGS					
2	2.1	Application s. 32					
		.1 Application may be made without apprehension.					
	•	.2 Application must be made with apprehension.					
2	2.2	Apprehension or "Taking into Care" s. 33					
		.1 No warrant or court order required.					
		"Reasonable and probable grounds to believe that the child is in need of protective services" AND "the child's health or safety cannot be protected adequately otherwise than by taking the child into care".					
		.3 Notice of taking into care served upon parent or guardian, if known and available. s. 33(2)					
		.4 Temporary care and custody in agency until order or return. s. 33(4)					
2	3	Order to Enter and Search s. 34			Ì		
		.1 Where access or entry refused, ex parte order to enter and search.					
		.2 No order necessary where child "in immediate jeopardy". s. 34(3).					
/ISS\\1431 2 7	2 61 1	Return Before Hearing s. 35					
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			ACTION TO BE CONSIDERED				DUE	DONE
•							·	
		.1	Agent may return child before first hearing.					
		.2	Not inconsistent with purpose of Act.			<u> </u>		
	•	.3	Not contrary to court order or agreement, agency may withdraw application. CHECK THIS					
3.	INTER	IMI	HEARINGS AND ORDERS			·		
	3.1	Parti	es and Standing ss 36 & 37					
		.1	Agency.					
		.2	Parent or guardian s. 3(r) defines.					
		.3	Child: 16 and over s. 37(1).					
	•	4	Child: 12 and over s. 37(2).					
		.5	Child: under 12, by guardian s. 37(3).			*		
	•	6	Any other person added as party.					
	•	7	Minister, upon application.					
	•	8	Foster parents: limited standing on review or termination (s. 36(4)) child in care six months prior.					
. 3	3.2 A	Agen	acy Disclosure s. 38					
		1	"Full, adequate and timely disclosure".					
	.4	2	Discovery is available.					
3	.3 F	ive]	Day Hearing s. 39(1), (2), (3)					
	.1	1	Hearing no later than five working days in every case.			:		
	.2	2	Court must determine whether reasonable and probable grounds s. 39(2).			:		
•	.3	3	Court may adjourn and make interim, interim order s. 39(3).					
	.4	4	Court may make any one of orders available under s. 39(4).					
3	.4 Ir	nteri	m Hearing s. 39					
	.1	[Court must complete hearing and make interim order within thirty days. s. 39(4)		:			
	.2	2	Court may admit and act on "credible and trustworthy" hearsay. s. 39(11)					
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	I	LEGEND	- NA = Not applicable L = Lawyer LA = Legal assistant or secretary	NA	L	LA	DATE DUE	DATE
	÷		ACTION TO BE CONSIDERED	1				
			a. care and custody to parent.					
	4		b. supervision order to parent.					
			c. no contact order.					
			d. supervision order to non-parent.					
			e. interim care and custody to agency.					
			f. access, with presumption in favour of the parents.					
		asse	g. referral of child or parent for examination or ssment.					
		prob or sa	h. removal from parental care only if reasonable and able grounds to believe substantial risk to child's health fety AND no less restrictive alternative. s. 39(7)					
		.4	Five day hearing, if subsequent apprehension. s. 39(5)			<u>.</u>		
		.5	May be varied prior to disposition order. s. 39(9)					
4.	PRE	-TRIA	L MATTERS: CHAMBERS APPLICATIONS					
	4.1	Varia	ation of Interim Orders s. 39(9)					
		.1	Variation of orders, including access.					
	4.2	Evide	entiary Matters.		i			
		.1	Photos, notes, hospital or other records, experts' reports, pre-filed agency records to other parties, may also be filed as business records.					
		.2	Affidavits of witnesses.					
	4.3	Exam	ninations and Assessments					
		.1	Subsequent applications for examinations or assessments of a parent or child. s. 39(4)(g)	-				
	4.4	Pre-T	rial Conference					
		.1	Settlement-oriented pre-trial conferences.					
		.2	Trial management pre-trial conferences.			ĺ		
5.	THE	PROT	ECTION HEARING					
	5.1	Timir						
٠		.1	Held and decided within ninety days of application					
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	L	EGEND -	-NA = Not applicable L = Lawyer LA = Legal assistant or secretary	NA	L	LA	DATE DUE	DATE DONE
			ACTION TO BE CONSIDERED				JOE	DONE
		.1	Evidence only related to finding.					
		.2	No disposition evidence, absent consent.			İ		
		.3	Parent may admit allegations. s. 40(3)					
	5.3	Find						
		.1	Effective date: as of date of hearing.					
		.2	Findings of fact recorded.					
		.3	If no finding of fact, shall dismiss. s. 40(5)					
	•	<i>MAI</i> varia	a. Court may make a private custody order under NTENANCE AND CUSTODY ACT or recommend ation of DIVORCE ACT order.					
		.4	If finding, may vary interim order. s. 39(9).			:		
6.	THE	DISP	OSITION HEARING					
	6.1	Timi	ng s. 41(1)					
		.1	Held and decided within ninety days of finding.					
	6.2	Cons	sent Order s. 41(4)					
		.1	Where removal from parent, Court first to determine					
			a. Offer of services.					
			b. Independent legal advice.		Ì			
			c. Consent, voluntary and informed.					
	6.3	Ager	acy Plan s. 41(3)					
41(3).		.1	Agency to file written plan, contents set out in s.					
	6.4	Disp	osition Decisions s. 41(5)					
		.1	Court to give statement of plan applied.		ĺ	Ì		
		.2	Court to give reasons for decision, including evidence and, if removal, why child cannot be protected in parental care.	-				
7.	DISP	OSITI	ON ORDERS					
	7.1	Orde	rs Available s. 42(1)					
		.1	Dismissal.					
		.2	Supervision order to parent.					
		.3	Supervision order to non-parent.					
MSS\\1431	1470.1	.4	Temporary care and custody to agency.					

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		ACTION TO BE CONSIDERED				DUE	DONE
-	.5 supe	Temporary care and custody, followed by ervision.		:			
	.6	Permanent care and custody to agency.					
7.2	Subs	stantive Considerations s. 42					
	.1	The child's best interest, as defined in s. 3(2). s. 42(1)		-		,	
	.2	Less intrusive alternatives to removal. s. 42(2)				-	
	.3	Possible placement with relative or community before agency care. s. 42(3)					
	.4	No permanent wardship order unless circumstances unlikely to change within reasonably foreseeable time not exceeding maximum time limits. s. 42(3)					
7.3	Supe	rvision Order s. 43					
	.1	Maximum time period: 12 months. s. 43(4)					
	.2	Reasonable terms and conditions. s. 43(1)			1		
		a. Includes no contact orders. s. 43(1)(d)					
	.3	Right of agency entry. s. 43(2)					
	.4 cond	Apprehension for non-compliance with major itions. s. 43(3)					
	.5 super	Five day hearing where apprehension during vision. s. 43(3)					
7.4	Temp	orary Care and Custody Order ss 44, 45			.		
	.1	Maximum time periods total: s. 45(1)					
		a. Child under six: twelve months				ĺ	
		b. Child six to twelve: eighteen months					
		c. Child twelve or over: no time limit					
	.2	Duration of individual orders: s. 45(2)					
		a. Child under six: three months					
		b. Child six to twelve: six months					
		c. Child twelve or over: twelve months					•
	.3	Reasonable terms and conditions: s. 44(1)					
·	.4	Possible reservation of medical consent: s. 44(2)				ŀ	
MSS\\1431470.1	.5	Placement considerations s. 44(3)					

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ACTION TO BE CONSIDERED				DOE	DON
7.5 Review ss 46					
.1 Review of supervision or temporary care and ustody orders at any time, but agency must apply before or after opprehension. s. 46(1)					
.2 Custodial status quo presumed to continue peneroiew. s. 46(3)	ding				
.3 Considerations of review. s. 46(4), (5), (6)					
a. Change of circumstances.					
b. Plan carried out.					
c. Least intrusive alternative.					
d. Foreseeability of change. s. 46(6)					
e. Best interests. s. 46(5)					
.4 Available orders. s. 46(5), s. 42(1)					
7.6 Permanent Care and Custody Order s. 47					
.1 Agency becomes legal guardian of child. s. 4	17(1)		;		
.2 Access after permanent wardship possible, with burden on parent, subject to notice of proposed adoptions. 47(2), s. 47(3)(a)	n.	-			
.3 Placement in accordance with religion (s. 47(4) culture, race and language (s. 47(5)).) and			·	
TERMINATION OF PERMANENT CARE AND CUSTON ORDER	DY				
8.1 Variation and Termination of Access		}	.		
.1 Access may be varied on application. ss 47(3), 48(3)					ı
.2 Court may confirm, vary or terminate access. 48(7)	s.	ŀ			
.3 Access must be terminated before adoption placement. s. 70(3)					
8.2 Status to Apply s. 48(3)					
.1 Any party (see s. 36), including child of 16 or m	ore.				
.2 New party may seek to be added under s. 36(1)(make termination application.	f) to				
8.3 Bars to Application s. 48(4), (6)					
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	.1 No application where child placed for adoption. s. 48(4)					
	.2 No application by party other than agency. s. 48(6)					-
	a. Within thirty day appeal period.					
	b. While permanent wardship order under appeal.					
e,	c. Except with leave of court, within six months of permanent wardship order or of dismissal of previous termination application or of appeal of either, whichever is the later.					
	d. Except with leave of court, after two years from permanent wardship order or final disposition of its appeal.					
8.4	Substantive Considerations s. 48(10)					
	.1 Change of circumstances.					
	.2 Child's best interests.		ĺ			
8.5	Available Orders s. 48(8)					
	.1 Dismissal.					
	2 Ninety day adjournment for examination or assessment.					
	.3 Adjournment for six months with supervision order to parent.					
	.4 Adjournment for six months with supervision order to non-parent.					
	.5 Terminate and custody order, using <i>MAINTENANCE</i> AND CUSTODY ACT or DIVORCE ACT recommendation or order.					
8.6	Ministerial Review of Permanent Wards s. 48(11)	Ì			İ	
	.1 Mandatory review after one year of permanent wardship with no application to terminate or vary access within year and no adoption placement.					
	.2 Written report to Minister re: child's circumstances and plan for placement and care.					
	.3 Review of report and further inquiries as necessary.					
9. API	PEALS					
9.1	Procedure s. 49(1),(4)					
MSS\\1431470.1	.1 Appeal to Court of Appeal.					

	legend — N	NA = Not applicable L = Lawyer LA = Legal assistant or secretary	NA	L	LA	DATE	DATE
	•	ACTION TO BE CONSIDERED				DUE	DONE
•	.2	Appeal may be made by a party.					
	.3 "orde	Give Notice of Appeal within thirty days of the r". s. 49(1)	1				
	.4	Minister responsible for timely preparation of transcript. s. 49(1)					
	.5	Appeal shall be heard within ninety days of Notice of Appeal.					
9.2	Stays	s. 49(2), (3)					
	1.1	No automatic stay.					
	.2 49(2).	Ten day "holding" stay may be issued by Court s.				·	
	.3 49(3)	Further stay to be obtained in Court of Appeal. s.					
9.3	Furthe	r Evidence s. 49(5)					•
events after	.1 the appea	Discretion to receive "further evidence relating to led order".		į		;	
	.2	Methods: CPR 62.22.			ĺ		
9.4	Appeal	Orders s. 49(6)					
	.1	Confirm order.					
	.2	Rescind or vary the order.					
	.3	Make any order the original court could have made.			}		