

Child protection court kit



Child Protection Court Kit

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<http://cppm/knowledgebase/login.asp> (Court Kit section in contents page)

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Child protection court kit

Introduction

The court kit is a guide to assist Victorian child protection practitioners with the processes, procedures and legal and practice requirements associated with applications to the Children's Court and related jurisdictions.

The guide should be read in conjunction with the *Children, Youth and Families Act 2005, Protecting Victoria's children - child protection practice manual* and relevant sections from the *'Guide to Court Practice for Child Protection Practitioners 2007'* prepared by the Office for Children, Child Protection and Family Services Branch, Department of Human Services (the department). A source of further information is the Children's Court of Victoria website www.childrenscourt.vic.gov.au (go to 'Resources' and 'Research Material'), which examines child protection legal matters.

Child protection practitioners should consult and seek endorsement from their supervisor regarding all applications to the Children's Court. The delegation of authority for court applications is usually at CAFW2 level save for some exceptions.

Legal advice should be sought at the earliest point of statutory intervention to achieve positive court outcomes and ensure the ongoing safety of children and young people from abuse. Early consultation will:

- provide legal advice to ensure the investigation is conducted in a way that optimises the gathering of relevant evidence in order for any subsequent application to be successful
- identify whether there is sufficient evidence for the application
- identify if additional evidence is required, such as medical or school reports
- provide legal guidance regarding appropriate court processes and procedures and legislative requirements
- ensure clarity of the issues and rationale for the initial application and recommendations
- provide legal advice on the merits and deficits of an application, issues of dispute and options for settlement in achieving timely outcomes for children
- initiate contact with other parties' solicitors to obtain information on the matters that are being contested and to negotiate contested matters prior to the hearing, where appropriate

- enable you to be better prepared for giving evidence
- ensure you have included the relevant information in your court report (such as, stability plan and cultural plan where appropriate)
- ensure you are better prepared and confident for court.

Victorian child protection practitioners have access to legal advice from the Court Advocacy Unit on the statewide duty service. The service operates from 9am to 5pm on 1300 650 685. In addition, child protection practitioners may access solicitors or legal/court officers attached to metropolitan and rural regions.

Always consult with your supervisor or seek advice through your solicitor or regional legal/court officer or the Court Advocacy Unit. It is recommended that consultation occur throughout the court process. This is particularly important for child protection practitioners in rural regions where there may be variations to the requirements and processes of rural courts.

The court kit

The *Child protection court kit* has been designed to act as a checklist that child protection practitioners utilise to assist in preparing applications to the Children's Court and related higher jurisdictions. Preparation for court increases the likelihood of a timelier final outcome that benefits children/young people in securing their future planning. It may also increase the chances of consensus being reached with the family and help maintain a good working relationship with the family following court action.

Each section of the court kit is referred to as either 'application' or 'guide'. 'Application' provides a step-by-step approach to what is required procedurally, legally and in practice of child protection practitioners when bringing an application before the Children's Court or related jurisdictions. Each checklist explains the process, what is required on the day at court and the possible court outcomes of the application at court. A 'guide' explains what the Children's Court and/or the department requires of child protection practitioners such as arranging security at the Melbourne Children's Court.

The court kit refers to the relevant sections of the Children, Youth and Families Act 2005 to further assist in the legal preparation for court.

Acronyms and abbreviations

CAU	Court Advocacy Unit
CAFW4	Child Adolescent and Family Welfare Officer, Team Leader
CAFW5	Child Adolescent and Family Welfare Officer, Unit Manager, Case Planner
CRIS	Client Relationship Information System
CO	Custody to Secretary order
C3P	Custody to third party order
CYFA	Children, Youth and Families Act 2005
CYPA	Children and Young Persons Act 1989
DH	Directions hearing
The department	Department of Human Services
DINMA	Disease, injury, near-miss accidents
FC	Family Court
GO	Guardianship to Secretary order
LTGO	Long-term guardianship to Secretary order
IAO	Interim accommodation order
ID	Irreconcilable differences
IPO	Interim protection order
MCC	Melbourne Children's Court
PA	Protection application
PCO	Permanent care order
PHC	Pre-hearing conference
SCO	Supervised custody order
SO	Supervision order
SWTS	Secure Welfare Transport Service
TAO	Temporary assessment order
TTO	Therapeutic treatment order
TTPO	Therapeutic treatment placement order
UT	Undertaking
VLA	Victoria Legal Aid

Application: Temporary assessment order with notice

General information

A temporary assessment order (TAO) (CYFA S228 – S239) is sought where there is a ‘reasonable suspicion’ that a child is, or is likely to be, in need of protection and the ability to investigate or further assess a report cannot proceed without it. A TAO should only be considered as a last resort.

‘Reasonable suspicion’ is a lower threshold than ‘satisfied on reasonable grounds that a child is in need of protection’ (CYFA S240).

Unit managers need to authorise the decision to apply to the court for a TAO.

The court may order a TAO as well as a warrant (to assist in carrying out the TAO) to authorise police to enter and search. The order may have other special conditions attached such as authorising a medical examination of a child, or directing parents to allow access to the child, or authorise Child Protection to access relevant information.

A TAO allows Child Protection to progress investigations and assessments of children’s safety and wellbeing in a timely manner when parental cooperation is or may be an issue.

A TAO does not allow for the placement of a child.

An application for a TAO may be made with or without notice to the child and family. A TAO can be made for a period not exceeding 10 days where there was no notice given to the child/family or 21 days where notice was given to the child/family. A TAO cannot be extended.

An application for a TAO can only be made to the Children’s Court; a bail justice cannot make a TAO.

Checklist	✓
You must consult a solicitor or regional legal/court officer prior to making an application.	
Contact CAU or a regional legal/court officer to inform them of the need for a TAO and that you will be seeking it ‘by notice’.	
Contact court to inform them you are seeking a TAO and that you will be seeking it ‘by notice’.	
Lodge form 1: Application for temporary assessment order at court for a hearing date to be issued. If seeking a TAO and warrant, you will need to lodge additional paperwork, refer to ‘ Warrants: Checklist: TAO warrant ’.	
Serve copies of the issued form 1 to the child/young person aged 12+ years and parents 14 days prior to the hearing date by post or five days prior to the hearing by hand. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to ‘ Service of Children’s Court documents ’ for further information.	
Complete schedule 4 form 21: Affidavit of service .	

Checklist	✓
Return form 1 and form 21 to court prior to hearing date to have the matter listed.	
Fax or post a copy of form 1 and form 21 to the CAU or regional legal/court officer prior to the hearing date otherwise they will have no knowledge of the matter.	
<p>It is good practice to prepare a court report consulting a solicitor or regional legal/court officer regarding the information that should be included in the report. (<i>For urgent applications, consult a solicitor or regional legal/court officer to ensure you are prepared for the information you require to present to the court (CYFA S229 and S230).</i>) Ensure the court report includes matters to be considered by the court as set out in CYFA S230:</p> <ul style="list-style-type: none"> • information or evidence of reasonable suspicion that the child is or is likely to be in need of protection • whether a further investigation and assessment is warranted; whether the investigation and assessment cannot proceed without a TAO • whether the proposed investigation or assessment is likely to provide relevant information that is unlikely to be obtained elsewhere • whether any distress the investigation or assessment is likely to cause the child will be outweighed by the value of the information that might be obtained. <p>The court needs to be satisfied that the TAO is in the child's best interests, Child Protection needs to assess whether the child is in need of protection and Child Protection cannot properly carry out the investigation and assessment without a TAO (CYFA S231).</p>	
The original court report must be handed to the court three days before the return hearing date.	
Fax a copy of the court report to the CAU or legal/court officer three days before the hearing.	
Provide a copy of the court report to the child/young person and parents three days before the hearing (CYFA S554).	
Fax a copy of the court report to the solicitors for the child/young person and parents three days before the hearing.	
Arrange a legal aid appointment for child/young person aged seven+ years prior to the hearing otherwise the child/young person will need to attend court to give instructions.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or your regional legal/court officer prior to the hearing.	
Update court screen on CRIS.	
When you arrive at court	
Inform CAU or regional legal/court officer of your arrival.	
Lodge form 1 , form 21 and court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Possible court outcomes

TAO with special conditions (CYFA S232)

TAO with special conditions and a search warrant (CYFA S237)

TAO application dismissed

Relevant section CYFA 2005

S228 – S239

Application: Temporary assessment order without notice

General information

A temporary assessment order (TAO) (CYFA S228 – S239) is sought where there is a ‘reasonable suspicion’ that a child is, or is likely to be, in need of protection and the ability to investigate or further assess a report cannot proceed without it. A TAO should only be considered as a last resort.

‘Reasonable suspicion’ is a lower threshold than ‘satisfied on reasonable grounds that a child is in need of protection’ (CYFA S240).

Unit managers need to authorise the decision to apply to the court for a TAO.

The court may order a TAO as well as a warrant (to assist in carrying out the TAO) to authorise police to enter and search. The order may have other special conditions attached such as authorising a medical examination of a child, or directing parents to allow access to the child, or authorise Child Protection to access relevant information.

A TAO allows Child Protection to progress investigations and assessments of children’s safety and wellbeing in a timely manner when parental cooperation is or may be an issue.

A TAO does not allow for the placement of a child.

An application for a TAO may be made with or without notice to the child and family. A TAO can be made for a period not exceeding 10 days where there was no notice given to the child/family or 21 days where notice was given to the child/family. A TAO cannot be extended.

An application for a TAO can only be made to the Children’s Court; a bail justice cannot make a TAO.

Checklist	✓
You must consult a solicitor or regional legal/court officer prior to making an application.	
Contact CAU or regional legal/court officer to inform them of the need for a TAO and that you will be seeking it ‘without notice’.	
Contact court to inform them you are seeking a TAO and that you will be seeking it ‘without notice’ as court time may be required to hear evidence.	
Lodge form 1: Application for temporary assessment order at court for a hearing date to be issued. If seeking a TAO and warrant, you will need to lodge additional paperwork, refer to ‘Warrants: Checklist: TAO warrant’.	
Return form 1 to court prior to hearing date to have the matter listed.	
Fax or post a copy of form 1 to the CAU or regional legal/court officer prior to the hearing date otherwise they will have no knowledge of the matter.	

Checklist	✓
<p>For urgent applications, consult a solicitor or regional legal/court officer to ensure you are prepared for the information you require to present to the court (CYFA S229 and S230), including:</p> <ul style="list-style-type: none"> • reasonable suspicion that the child is, or is likely to be, in need of protection • further investigation and assessment is warranted • investigation and assessment cannot proceed without a TAO • whether the proposed investigation or assessment is likely to provide relevant information that is unlikely to be obtained elsewhere • giving notice is inappropriate in the circumstances • whether any distress the investigation or assessment is likely to cause the child will be outweighed by the value of the information that might be obtained. <p>The court needs to be satisfied that the TAO is in the child’s best interests, Child Protection needs to assess whether the child is in need of protection and Child Protection cannot properly carry out the investigation and assessment without a TAO (CYFA S231).</p>	
Seek legal advice from CAU or your regional legal/court officer prior to the hearing.	
Update court screen on CRIS.	
When you arrive at court	
Inform CAU or regional legal/court officer of your arrival.	
Lodge form 1 if you have not already done so with court.	

Possible court outcomes

TAO with special conditions (CYFA S232).

TAO with special conditions and a search warrant (CYFA S237)

TAO application dismissed

Relevant section CYFA 2005

S228 – S239

Application: Return of temporary assessment order

General information

On the return date set by the court at the making of a TAO, the court must be provided with a report detailing the outcome of the assessment and investigation of the TAO.

Checklist	✓
Prepare court report for the date specified in the TAO (CYFA S238) that includes: <ul style="list-style-type: none"> • details of the action taken • results of the investigation and assessment • writing a court report • any other information. Refer to 'Court report writing - temporary assessment order report' section for further information. 	
The original court report must be handed to the court three days before the date specified by the court (CYFA S232(4)).	
Fax a copy of the court report to the CAU or regional legal/court officer three days before the hearing.	
Provide a copy of the court report to the child/young person and parents three days before the hearing (CYFA S554).	
Fax a copy of the court report to the solicitors for the child/young person and parents three days before the hearing.	
Arrange a legal aid appointment for child/young person aged seven+ years prior to the hearing otherwise the child/young person will need to attend court to give instructions.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or your regional legal/court officer prior to the hearing.	
Update court screen on CRIS.	
When you arrive at court	
Inform CAU or regional legal/court officer of your arrival.	
Lodge court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Relevant section CYFA 2005

S228 – S239

Application: Therapeutic treatment order and therapeutic treatment placement order Operational October 2007

General information

Report on a child in need of therapeutic treatment

Child Protection can receive reports that a child who is 10 years of age or over (but under 15 years of age) is in need of therapeutic treatment as a result of exhibiting sexually-abusive behaviours (CYFA S185 and S244). The goal is to ensure that early intervention services are provided to children who exhibit sexually-abusive behaviours who would otherwise not attend treatment to prevent ongoing and more serious sexual offences in adulthood.

On receipt of such a report from the police or Children's Court, Child Protection must refer the report to the Therapeutic Treatment Board for advice. On receipt of such a report from any other person, Child Protection may refer the report to the Therapeutic Treatment Board for advice.

Following receipt of advice from the Therapeutic Treatment Board, Child Protection must consider this advice before making an application to the court for a TTO. This means that Child Protection does not necessarily need to act on the advice, although there should be good reasons not to (CYFA S245).

Therapeutic treatment order (TTO)

The court may make a therapeutic treatment order if it is satisfied that the child has exhibited sexually-abusive behaviours and that the order is necessary to ensure the child's access to, or attendance at, an appropriate therapeutic treatment program such as counselling. (CYFA S248). A TTO requires the child to participate in an appropriate treatment program. A TTO may include conditions such as directing parents to take the necessary steps to enable the child to participate in a treatment program and directing the child to permit progress and attendance reports.

A TTO or TTPO can be made for a period not exceeding 12 months and can be extended, varied or revoked.

A child may be subject to another protection order and a TTO or TTPO.

Therapeutic treatment placement order (TTPO)

Child Protection may apply for a TTPO in conjunction with a TTO in situations where it is considered necessary for the treatment of the child. This may include cases where the parents cannot ensure the protection of siblings. This is an alternate consideration to issuing a protection application for all the children. TTPO grants sole custody to the Secretary but does not effect guardianship. TTPO may include conditions in relation to access and in the case of an Aboriginal child, incorporate a cultural plan (CYFA S253).

A child may be subject to another protection order and a TTO or TTPO.

Checklist	✓
Refer to Therapeutic Treatment Board prior to seeking a TTO or TTPO.	
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Complete form 4: Application for therapeutic treatment order with or without form 6: Application for therapeutic treatment (placement) order .	
Lodge form 4 (TTO) with or without form 6 (TTPO) at court for a hearing date to be issued.	
Serve copies of the issued form 4 (TTO) with or without form 6 (TTPO) to the child/young person aged 12+ years old and parents 14 days prior to the hearing date by post or five days prior to the hearing by hand. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to 'Service of Children's Court documents' for further information.	
Complete schedule 4 form 21: Affidavit/declaration of service .	
Return form 4 with or without form 6 and form 21 to court prior to hearing date to have the matter listed.	
Fax or post a copy of form 4 with or without form 6 and form 21 to the CAU, solicitor or regional legal/court officer prior to the hearing date otherwise they will have no knowledge of the matter.	
Prepare a court report and consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report. Ensure the report includes matters to be considered by the court as set out in CYFA S564 (TTO) or S568 (TTPO):	
<ul style="list-style-type: none"> • information sufficient to assist the court to determine whether the order should be made 	
<ul style="list-style-type: none"> • recommendations concerning the order including, if appropriate, the conditions of that order 	
<ul style="list-style-type: none"> • a statement that therapeutic treatment is available for the child. 	
The original court report must be handed to the court three days before the hearing date.	
Fax a copy of the court report to the CAU or regional legal/court officer three days before the hearing (CYFA S565 (TTO) and S569 (TTPO)).	
Provide a copy of the court report to the child/young person and parents three days before the hearing (CYFA S566 (TTO) and S570 (TTPO)).	
Fax a copy of the court report to the solicitors for the child/young person and parents three days before the hearing.	
Arrange a legal aid appointment for the child prior to the hearing otherwise the child/young person will need to attend court to give instructions.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or your regional legal/court officer prior to the hearing.	
Update court screen on CRIS.	

Checklist	✓
When you arrive at court	
Inform CAU or regional legal/court officer of your arrival.	
Lodge form 4 with or without form 6 , form 21 and court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child or parent requires legal representation, if this has not occurred.	

Possible court outcomes

TTO with/without TTPO with conditions

TTO with/without TTPO application dismissed

Relevant section CYFA 2005

S185 (report on a child in need of therapeutic treatment)

S349(2) (referral from court)

S244 – 251 (TTO)

S252 – S254 (TTPO)

S339 – S343 (Therapeutic Treatment Board)

S563 – S566 (TTO reports)

S567 – SA570 (TTPO reports)

Application: Extension of therapeutic treatment order or therapeutic treatment placement order Operational October 2007

General information

A TTO can be extended, varied or revoked. A TTO or TTPO can be extended once for a 12-month period. The court must be satisfied that the TTO or TTPO is necessary for the ongoing therapeutic treatment of the child.

Checklist	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Complete form 9: Application for extension of therapeutic treatment order and/or therapeutic treatment (placement) order before the existing order expires.	
Serve copies of the issued form 9 to the child/young person aged 12+ years old and parents 14 days prior to the hearing date by post or five days prior to the hearing by hand. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to 'Service of Children's Court documents' for further information.	
Complete schedule 4 form 21: Affidavit service.	
Return form 9 to court prior to hearing date to have the matter listed.	
Fax or post a copy of form 9 and form 21 to the CAU or regional legal/court officer prior to the hearing date otherwise they will have no knowledge of the matter.	
Prepare a court report ensuring it includes matters required by CYFA S563 and S564 (TTO) and S567 and S568 (TTPO), consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report.	
The original court report must be handed to the court three days before the hearing date.	
Fax a copy of the court report to the CAU or regional legal/court officer three days before the hearing.	
Provide a copy of the court report to the child/young person and parents three days before the hearing.	
Fax a copy of the court report to the solicitors for the child/young person and parents three days before the hearing.	
Arrange a legal aid appointment for the child prior to the hearing otherwise the child/young person will need to attend court to give instructions.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or regional legal/court officer or your regional legal/court officer prior to the hearing.	
Update court screen on CRIS.	

Checklist	✓
When you arrive at court	
Inform CAU or regional legal/court officer of your arrival.	
Lodge form 9 and form 21 and court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child or parent requires legal representation, if this has not occurred.	

Possible court outcomes

TTO with/without TTPO with conditions

TTO with/without TTPO application dismissed

Relevant section CYFA 2005

S255 – S256 (extension)

Application: Variation or revocation of therapeutic treatment order or therapeutic treatment placement order Operational October 2007

General information

A variation application can change, add or substitute any condition of the TTO or TTPO but does not change the custody or length of the order.

A revocation application is appropriate if the child no longer needs to attend treatment and this will also revoke the placement order. If criminal proceedings were adjourned pending a TTO or TTPO, Child Protection must seek advice from the Therapeutic Treatment Board prior to seeking a revocation application.

Checklist: Variation or revocation of TTO or TTPO	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Refer to the Therapeutic Treatment Board prior to seeking a revocation application if criminal proceedings were adjourned pending a TTO or TTPO.	
Complete form 8: Application to vary or revoke a therapeutic treatment order and/or therapeutic treatment (placement) order .	
Lodge form 8 at court for a hearing date to be issued.	
Serve copies of the issued form 8 to the child/young person aged 12+ years old and parents 14 days prior to the hearing date by post or five days prior to the hearing by hand. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to 'Service of Children's Court documents' for further information.	
Complete schedule 4 form 21: Affidavit of service .	
Return form 8 to court prior to hearing date to have the matter listed.	
Fax or post a copy of form 8 and form 21 to the CAU or regional legal/court officer prior to the hearing date otherwise they will have no knowledge of the matter.	
Prepare a court report ensuring it includes matters required by CYFA S563 and S564 (TTO) and S567 and S568 (TTPO), consult your supervisor and if necessary a solicitor or legal/court officer regarding the information that should be included in the report.	
The original court report must be handed to the court three days before the hearing date.	
Fax a copy of the court report to the CAU or regional legal/court officer three days before the hearing.	
Provide a copy of the court report to the child/young person and parents three days before the hearing.	
Fax a copy of the court report to the solicitors for the child/young person and parents three days before the hearing.	
Arrange an appointment with Victorian Legal Aid for the child prior to the hearing otherwise the child/young person will need to attend court to give instructions.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or regional legal/court officer prior to the hearing.	
Update court screen on CRIS.	

Checklist	✓
When you arrive at court	
Inform CAU or regional legal/court officer of your arrival.	
Lodge form 8 and form 21 and court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child or parent requires legal representation, if this has not occurred.	

Possible court outcomes

TTO with or without TTPO with conditions changed, added or substituted

TTO with or without TTPO revoked

TTO with or without TTPO revocation or variation application dismissed

Relevant section CYFA 2005

S257 (variation)

S258 (revocation)

Application: Irreconcilable differences (ID)

General information

ID applications are made by a parent or custodian of a child/young person or the child/young person themselves.

ID applications are made when the applicant/s believe that substantial and irreconcilable differences exist to the extent that care and control of the child/young person is likely to be seriously disrupted.

ID's are not appropriate where a child/young person is at significant risk of harm and you may need to consider a protection application.

ID's are an application of last resort so the department must assist the family to resolve the conflict where possible.

Conciliation counselling must be undertaken with parties individually and at least one conference involving all the parties (unless there were exceptional circumstances) must also be conducted.

The department may become a party with the leave of the court.

Conciliation counselling

The conciliation must be conducted with each of the parties separately and at least once all together and within 21 days of the lodgement of an application for conciliation counselling with the Secretary.

The purpose of conciliation counselling is to assist the parties in the resolution of their differences and thereby avoid proceedings in court.

Families that have previously participated in mediation on a voluntary basis will need to undertake it again as part of a formal process of an ID application.

A certificate of conciliation counselling may be provided to a party if a conference did not occur, if that party was willing to attend the counselling but one or more parties refused to attend or the CAFW4 determines that exceptional circumstances exist that attendance of all parties would have subjected a party to extreme emotional distress.

If the matter proceeds to court and the court finds there is a substantial and irreconcilable difference, a disposition report will be required (CYFA S557(1)(a)(ii)).

Placement of child/young person during the process

It is preferable that voluntary agreements are used to place a child if they are unable to live with their parents pending an ID application being heard in court.

An interim accommodation order should only be sought if agreement cannot be reached or current hostility between the parties is likely to make a voluntary agreement unworkable.

An interim accommodation order can be made if an application for conciliation counselling has been lodged with the department (CYFA S262(e)) or an ID application has been filed at court (CYFA S262(d)).

Checklist	✓
Consult with a solicitor or regional legal/court officer as soon as you are aware of an application for conciliation counselling.	
Before lodging the application at court, the parent/young person must lodge an Application for conciliation counselling with the Secretary (CAFW4).	
The CAFW4 must ensure that information on conciliation counselling and support services are sent to parties and conciliation counselling is provided within 21 days from the time the conciliation counselling application is lodged.	
21 days after the application for conciliation counselling, the CAFW4 signs and provides a certificate to each party who participated in conciliation counselling.	
The applicant can lodge form 11: ID Application and the certificate of conciliation counselling (within three months of its issue) with the registrar of the Children's Court.	
The registrar then sends a copy of the application with the hearing date to all parties at least five days before the hearing.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or your regional legal/court officer prior to the hearing date.	
Update court screen on CRIS.	

Relevant section CYFA 2005

S259

S260

S261

S262

Application: Protection application by notice

General information

A protection application by notice is issued when it is assessed that a child/young person is in need of protection (CYFA S162) and the risk is significant but does not warrant immediate removal from the parents' care. There must also be no other appropriate options to ensure the child/young person's safety and wellbeing without a court order.

Parents are entitled to know the details of the child's placement under an IAO unless the court or a bail justice determines it is in the best interests of the child to withhold the details (CYFA S265).

Checklist: Variation or revocation of TTO or TTPO	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Complete form 10: Notice of protection application .	
Lodge form 10 at court for a hearing date to be issued.	
Serve copies of the issued form 10 to the child/young person aged 12+ years old and parents, 14 days prior to the hearing date by post or five days prior to the hearing by hand. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to 'Service of Children's Court documents' for further information.	
Complete form 21: Affidavit of service (unless you have completed the Affidavit/declaration of service part of Form 10).	
Return form 10 and form 21 (unless you have completed the affidavit/declaration of service part of Form 10) to court prior to hearing date to have the matter listed.	
Fax or post a copy of form 10 and form 21 (unless you have completed the Affidavit/declaration of service part of Form 10) to the CAU or regional legal/court officer prior to the hearing date otherwise they will have no knowledge of the matter.	
Prepare the court report ensuring that the information required by CYFA S555, S557 and S558 are included, consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report and seeking the child/young person's and parents' comments. Refer to 'Writing a court report' section for further information.	
The original court report must be handed to the court three days before the hearing date.	
Fax a copy of the court report to the CAU or regional legal/court officer three days before the hearing.	
Provide a copy of the court report to the child/young person and parents three days before the hearing (S554).	
Fax a copy of the court report to the solicitors for the child/young person and parents three days before the hearing.	

Checklist	✓
Notify all parties including solicitors if seeking an IAO at the first hearing and the terms and conditions. The department needs a basis for requesting an IAO, in the event that it is not contested, as the court will not allow time to argue the matter unless the matter has become of such immediate risk that you would apprehend on the day. If the child is in immediate risk prior to the first mention you may need to consider a PA by safe custody.	
Arrange an appointment with Victorian Legal Aid for child/young person aged seven+ years prior to the hearing otherwise the child/young person will need to attend court to give instructions.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or regional legal/court officer prior to the hearing.	
Update court screen on CRIS.	
When you arrive at court	
Inform CAU of your arrival or regional legal/court officer, of your arrival.	
Lodge forms 10 and 21 (unless you have completed the Affidavit/declaration of service part of form 10) and court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Possible court outcomes

Protection application proven and disposition granted

IAO evidentiary contest hearing booked

Adjourned for a pre-hearing conference or mention hearing or directions hearing and final contest with or without an IAO with conditions for up to 21 days

Relevant section CYFA 2005

S162

S240

S243

Application: Protection application by safe custody

General information

A protection application by safe custody (CYFA S241) is issued where it is assessed on reasonable grounds that the child is in need of protection (CYFA S162) and the child is at unacceptable risk of harm (S10 (g)) and it is inappropriate to proceed by way of notice.

Parents are entitled to know the details of the child's placement under an IAO unless the court or a bail justice determines it is in the best interests of the child to withhold the details (CYFA S265).

Checklist	✓
Consult a solicitor or regional legal/court officer prior to issuing the for advice about evidence.	
Complete form 10: Notice of protection application .	
Serve copies of Form 10 to the child/young person aged 12+ years and parents. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to 'Service of Children's Court documents' for further information .	
Complete schedule 4 form 21: Affidavit of service.	
Provide Information for parents/children relating to taking a child into safe custody to the child/young person and parents.	
Notify court that the matter is being brought before the court (go to 'Bail justice hearing' if cannot attend Melbourne Children's Court prior to 3pm). Rural regions should check with their local court or regional legal/court officer.	
Notify CAU of the matter coming to court, provide child's full name and date of birth, who will attend, likely time of arrival and likelihood of contest. If in a rural court, notify your regional legal/court officer of this information.	
Rural workers prepare a one to two page apprehension briefing.	
Ensure the suitable person signs form 14: Statutory declaration including Written undertaking by a suitable person under CYFA S263(c) if they are not attending court and you are seeking an IAO to that person. For placements in a hospital or parent/baby unit only form 13: Statement of placement availability must be signed by or on behalf of the chief executive officer of the hospital or parent/baby unit declaring that a placement is available. If IAO is to a parent, they are required at court to give a verbal or written undertaking. If the parent is unable to attend court for good reasons the court can accept a statutory declaration by the parent.	
Contact court or police to arrange security at court if there are worker safety issues.	
Update court screen on CRIS.	

Checklist	✓
Bail justice hearing	
<p>Organise bail justice hearing (if not able to attend Melbourne Children’s Court prior to 3pm). Rural regions should check with their local court or regional legal/court officer.</p> <ul style="list-style-type: none"> • Contact local police station to arrange for a bail justice. • Complete form 12: IAO with the child’s name and address, applicant’s name and address, relevant sub section of the CYFA 262(1). • Bail justice to sign order issued on form 12. • Provide all parties with copies of form 12. • Keep the original IAO form 13 to present to the court the next working day. 	
When you arrive at court	
In Melbourne, inform CAU of your arrival. In rural regions, inform your regional legal/court officer.	
Lodge forms 10 and 12 at court before 3pm on a court-sitting day.	
Lodge and swear/affirm form 21 at court.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation.	

Possible court outcomes

IAO issued, adjourned for up to 21 days

Evidence by submissions in relation to immediate placement and IAO issued, adjourned for IAO evidentiary contest hearing or mention hearing.

Relevant section CYFA 2005

S162

S241

S242

S262 (IAO)

S263 (IAO)

Application: Withdrawal of protection application

General information

Where a protection application has been issued but you have assessed that the child/young person is no longer in need of protection and you wish to withdraw the application without seeking proof of the protection application you need to take the matter before the Children's Court. You will still be required to prepare a court report and recommend that the protection application is not proven and withdrawn and struck out with no disposition.

Checklist	✓
Consult a solicitor or regional legal/court officer prior to withdrawing the application.	
Notify the child/young person, parents and solicitors including the CAU or regional legal/court officer of the intention to withdraw prior to the court date.	
Complete an application and disposition report or addendum report if you have already filed and served an application and disposition report, outlining the change in circumstances that has led to the decision to seek to withdraw the protection application. Consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report and seeking the child/young person's and parents' comments.	
Fax a copy of the court report to the CAU or regional legal/court officer three days before the hearing.	
Provide a copy of the court report to the child/young person and parents three days before the hearing (S554).	
Fax a copy of the court report to the solicitors for the child/young person and parents three days before the hearing.	
Seek consent from the parents via instructions to their solicitor or a signed letter of consent if they choose not to be legally represented.	
Arrange for the child/young person of seven+ years to see a solicitor. Consent from a child/young person can only be sought via instructions to their solicitor.	
Seek confirmation from CAU or your regional legal/court officer, regarding need to attend court where there is consent from all parties.	
Contact court or police to arrange security at court if there are worker safety issues.	
Update court screen on CRIS.	

Checklist	✓
When you arrive at court	
Inform CAU or regional legal/court officer, of your arrival.	
Lodge court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation.	

Possible court outcomes

Protection application withdrawn

Adjourned for further mention, pre-hearing conference or final hearing

Application: Breach interim accommodation order by safe custody

General information

An IAO stipulates where and/or with whom a child/young person resides pending the final outcome on an application. An IAO usually has conditions attached requiring parties to undertake certain tasks or comply with or refrain from particular behaviours.

An application to breach an IAO may be brought when you have reasonable grounds for believing that the IAO or condition has not been complied with. The court will require evidence of the failure to comply with the condition in order to prove the application.

Checklis	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Complete form 16: Notice to appear before the Children's Court - breach of an interim accommodation order .	
Serve copies of issued form 16 to child/young person if 12+ years and parents within a reasonable timelines usually considered 24 hours or less with agreement. Refer to 'Service of Children's Court documents' for further information.	
Complete schedule 4 form 21: Affidavit of service .	
Provide Information for parents/children relating to taking a child into safe custody to the child/young person and parents.	
Notify court that the matter is being brought before the court (go to 'Bail justice hearing' if cannot attend MCC prior to 3pm). Rural regions should check with the local court or regional legal/court officer.	
Notify CAU or regional legal/court officer of the matter coming to court, who will attend, likely time of arrival and likelihood of contest.	
Rural workers to prepare a one to two page apprehension briefing.	
Ensure the suitable person signs form 14: Statutory declaration including Written undertaking by a suitable person under CYFA S263(c) if they are not attending court and you are seeking an IAO to that person. For placements in a hospital or parent/baby unit only form 13: Statement of placement availability must be signed by or on behalf of the chief executive officer of the hospital or parent/baby unit declaring that a placement is available. If IAO is to a parent, they are required at court to give a verbal or written undertaking. If the parent is unable to attend court for good reasons the court can accept a statutory declaration by the parent.	
Contact court or police to arrange security at court if there are worker safety issues.	
Update court screen on CRIS.	

Checklist	✓
Bail justice hearing	
<p>Organise bail justice hearing (if not able to attend Melbourne Children's Court prior to 3pm). Rural regions should check with their local court or regional legal/court officer.</p> <ul style="list-style-type: none"> • Contact local police station to arrange for a bail justice. • Complete form 12: IAO with the child's name and address, applicant's name and address, relevant sub section of the CYFA 262(1). • Bail justice to sign order issued on form 12. • Provide all parties with copies of form 12. • Keep the original IAO form 12 to present to the court the next working day. 	
When you arrive at court	
In Melbourne, inform CAU of your arrival. In rural regions, inform your regional legal/court officer.	
Lodge original forms 16 and 12 at court.	
Lodge and swear/affirm form 21 at court.	
Notify Victoria Legal Aid that a child (seven+ years) or parent requires legal representation.	

Possible court outcomes

Revoke and make another IAO

Refuse to revoke IAO

Make another IAO if the order expired after notice of breach was served (CYFA S269(7))

Relevant section CYFA 2005

S241

S242

S262

S263

S269

Application: New interim accommodation order by safe custody

General information

An IAO stipulates where a child/young person resides pending the final outcome on an application. An IAO usually has conditions attached requiring parties to undertake certain tasks or comply with or refrain from particular behaviours.

If the court makes an IAO, you may apply for a new IAO if new facts or circumstances have arisen since the making of the order. Alternatively, you may apply for a new IAO if you are satisfied on reasonable grounds that the child is living in conditions which are unsatisfactory in terms of the safety and wellbeing of the child and there is no good reason to proceed with a by notice application (CYFA S270(2)).

Checklist: Variation or revocation of TTO or TTPO	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Complete form 15: Application to vary an interim accommodation order or for a new order .	
Serve copies of issued form 6 to child/young person if 12+ years and parents within a reasonable timelines usually considered 24 hours or less with agreement. Refer to 'Service of Children's Court documents' for further information.	
Complete schedule 4 form 21: Affidavit of service .	
Provide Information for parents/children relating to taking a child into safe custody to the child/young person and parents.	
Notify court that the matter is being brought before the court (go to 'Bail justice hearing' if cannot attend MCC prior to 3pm). Rural regions should check with their local court or regional legal/court officer.	
Notify CAU or your regional legal/court officer of the matter coming to court, who will attend, likely time of arrival and likelihood of contest.	
Rural workers to prepare a one to two page apprehension briefing.	
Ensure the suitable person signs form 14: Statutory declaration including Written undertaking by a suitable person under CYFA S263(c) if they are not attending court and you are seeking an IAO to that person. For placements in a hospital or parent/baby unit only form 13: Statement of placement availability must be signed by or on behalf of the chief executive officer of the hospital or parent/baby unit declaring that a placement is available. If IAO is to a parent, they are required at court to give a verbal or written undertaking. If the parent is unable to attend court for good reasons the court can accept a statutory declaration by the parent.	
Contact court or police to arrange security at court if there are worker safety issues.	
Update court screen on CRIS.	

Checklist	✓
Bail justice hearing	
Organise bail justice hearing (if not able to attend Melbourne Children’s Court prior to 3pm).	
<ul style="list-style-type: none"> • Contact local police station to arrange for a bail justice. • Complete form 12: IAO with the child’s name and address, applicant’s name and address, relevant sub section of the CYFA 262(1). • Bail justice to sign order issued on form 12. • Provide all parties with copies of form 12. • Keep the original IAO form 12 to present to the court the next working day. 	
When you arrive at court	
In Melbourne, inform CAU of your arrival. In rural regions, inform your regional legal/court officer.	
Lodge original forms 15 and 12 at court.	
Lodge and swear/affirm form 21 at court.	
Notify Victoria Legal Aid that a child (seven+ years) or parent requires legal representation.	

Possible court outcomes

Issue a new IAO

Make another IAO (CYFA S270(10))

Relevant section CYFA 2005

S241

S242

S268

S270

Application: Variation or new interim accommodation order by notice

General information

An IAO stipulates where a child/young person resides pending the final outcome on an application. An IAO usually has conditions attached requiring parties to undertake certain tasks or comply with particular behaviours.

If the court makes an IAO, you may apply for a variation of the IAO where new facts or circumstances have arisen since the making of the order (CYFA S268(2)) .

Checklist:	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Complete form 15: Application to vary an interim accommodation order or for a new order .	
Lodge form 15 at court to be issued a hearing date.	
Serve copies of issued form 15 to child/young person if 12+ years and parents, 14 days prior to hearing date by post or five days prior to hearing by hand. Refer to 'Service of Children's Court documents' for further information .	
Complete schedule 4 form 21: Affidavit/declaration of service.	
Return form 15 and form 21 to court prior to hearing date to have the matter listed.	
Fax or post copy of form 15 and form 21 to CAU or regional legal/court officer, prior to the hearing date.	
Prepare the court report for the hearing, consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report and seeking the child/young person's and parent's comments. Refer to 'Writing a court report' section for further information .	
Lodge original court report to court three days prior to the hearing.	
Provide a copy of the court report to the child/young person and parents three days prior to the hearing.	
Fax a copy of the court report to the CAU or regional legal/court officer, three days prior to the hearing.	
Fax a copy of the court report to the child/young person's and parent's solicitors three days prior to the hearing.	
Arrange a legal aid appointment for the child/young person if seven+ years prior to the hearing date otherwise the child will need to attend court to give instructions.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or your regional legal/court officer prior to the hearing date.	
Update court screen on CRIS.	

Checklist	✓
When you arrive at court	
Inform CAU or regional legal/court officer, of your arrival.	
Lodge original form 15 , form 21 and court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Possible court outcomes

On a variation application, conditions on the order may, or may not be, varied

On a new IAO application, new IAO may or may not be ordered

Matter adjourned for evidentiary contest

Relevant section CYFA 2005

S268

S270

Application: Breach interim accommodation order by notice

General information

An IAO stipulates where a child/young person resides pending the final outcome on an application. An IAO usually has conditions attached requiring parties to undertake certain tasks or comply with particular behaviours.

An application to breach an IAO may be brought when you have reasonable grounds for believing that the IAO or a condition/s has not been complied with. The court will require evidence of the failure to comply with the condition in order to prove the application.

Checklist	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Complete form 16: Notice to appear before the Children's Court – breach of an interim accommodation order . Make clear which conditions you are alleging have been breached and summarise why.	
Lodge form 16 at court to be issued a hearing date.	
Serve copies of issued form 16 to child/young person if 12+ years and parents, 14 days prior to hearing date by post or five days prior to hearing by hand. Refer to ' Service of Children's Court documents ' for further information.	
Complete schedule 4 form 21: Affidavit/declaration of service .	
Return form 17 and form 21 to court prior to hearing date to have the matter listed.	
Fax or post copy of form 16 and form 21 to CAU or regional legal/court officer prior to the hearing date.	
Prepare the court report for the hearing, consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report and seeking the child/young person's and parent's comments. Refer to ' Writing a court report ' section for further information.	
Lodge original court report to court three days prior to the hearing.	
Provide a copy of the court report to the child/young person and parents three days prior to the hearing.	
Fax a copy of the court report to the CAU or regional legal/court officer three days prior to the hearing.	
Fax a copy of the court report to the child/young person's and parent's solicitors three days prior to the hearing.	
Arrange a legal aid appointment for the child/young person if seven+ years prior to the hearing date otherwise the child will need to attend court to give instructions.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or regional legal/court officer prior to the hearing date.	
Update court screen on CRIS.	

Checklist	✓
When you arrive at court	
In Melbourne, inform CAU of your arrival. In rural regions, inform your regional legal/court officer.	
Lodge original form 16 , form 21 and court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Possible court outcomes

Revoke and make another IAO

Refuse to revoke IAO

Make another IAO if the order expired after notice of breach was served (CYFA S269(7))

Relevant section CYFA 2005

S262

S269

Application: Breach supervision order, supervised custody order and interim protection order by notice

General information

Supervision order (SO), supervised custody order (SCO) and interim protection order (IPO) are protection orders that can be breached.

A breach of an order by notice is lodged where the Secretary is satisfied on reasonable grounds that there has been a failure to comply with the order or any of the conditions attached (IPO, supervision order, supervised custody order) or failure to comply with a direction (supervision order or supervised custody order (schedule 2 'Form 6 notice of direction')) or the child/young person is living in conditions that are unsatisfactory (IPO, SO, SCO).

The making of an IAO on a breach of an IPO will extinguish the IPO and the case will proceed to a final determination of the protection application.

Where a breach of a SO is found proven and the court determines to revoke the order and make another SO, the court is not required to limit the period of that order to the balance of two years.

Checklist	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Complete form 34: Notice to appear before the Children's Court - Family Division .	
Lodge form 34 at court to be issued a hearing date.	
Serve copies of issued form 34 to child/young person if 12+ years and parents, 14 days prior to hearing date by post or five days prior to hearing by hand. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to 'Service of Children's Court documents' for further information.	
Complete schedule 4 form 21: Affidavit of service .	
Return form 34 and form 21 to court prior to hearing date to have the matter listed.	
Fax or post copy of form 34 and form 21 to CAU or regional legal/court officer prior to the hearing date.	
Prepare the court report for the hearing, consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report and seeking the child/young person's and parent's comments. Refer to 'Writing a court report' section for further information.	
Lodge the court report at court three days prior to the hearing.	
Provide a copy of the court report to the child/young person and parents three days prior to the hearing.	
Fax a copy of the court report to the CAU or regional legal/court officer three days prior to the hearing.	

Checklist	✓
Arrange a legal aid appointment for the child/young person if seven+ years prior to the hearing.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or your regional legal/court officer prior to the hearing date.	
Update court screen on CRIS.	
When you arrive at court	
Inform CAU or regional legal/court officer, of your arrival.	
Lodge original form 34 , form 21 and court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Possible court outcomes

Confirm the order as originally made

Vary, add or substitute any conditions but cannot change custody of child under SCO or extend the order

Revoke the order and if satisfied that grounds exist under CYFA S274, make another protection order but not an IPO (CYFA S318(2))

Relevant section CYFA 2005

S312

S318

Application: Breach supervision order, supervised custody order and interim protection order by safe custody

General information

Supervision order (SO), supervised custody order (SCO) and interim protection order (IPO) are protection orders that can be breached.

A breach of an order by safe custody is made where it is assessed that:

- there has been a failure to comply with the order or any of the conditions attached to an IPO, SO, SCO or
- there has been a failure to comply with a lawful direction of a SO or SCO (schedule 2 Form 6 ‘notice of direction’) or
- the child/young person on an IPO, SO, SCO is living in conditions that are unsatisfactory in terms of the safety and wellbeing of the child/young person.

And as delegate of the Secretary you are satisfied that there is good reason not to proceed by way of notice or that service can not be carried out.

The making of an IAO on a breach of an IPO extinguishes the IPO and the case proceeds to a final determination of the protection application.

Where a breach of a SO is found proven, the court determines to revoke the order and make another SO, it is not required to limit the period of that order to the balance of two years.

Checklist	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Complete form 34: Notice to appear before the Children’s Court - Family Division .	
Serve copies of issued form 35 to child/young person if 12+ years and parents. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to ‘Service of Children’s Court documents’ for further information .	
Complete schedule 4 form 21: Affidavit of service .	
Provide Information for parents/children relating to taking a child into safe custody to the child/young person and parents.	
Notify the Children’s Court that the matter is being brought before the court (go to ‘Bail justice hearing’ if cannot attend Melbourne Children’s Court prior to 3pm).	
Notify CAU of the matter coming to court, provide child’s full name and date of birth, who will attend, likely time of arrival and likelihood of contest. In rural regions notify your regional legal/court officer.	
Rural workers prepare a one to two page apprehension briefing.	

Checklist	✓
Ensure the suitable person signs form 14: Statutory declaration including Written undertaking by a suitable person under CYFA S263(c) if they are not attending court and you are seeking an IAO to that person. For placements in a hospital or parent/baby unit only form 13: Statement of placement availability must be signed by or on behalf of the chief executive officer of the hospital or parent/baby unit declaring that a placement is available. If IAO is to a parent, they are required at court to give a verbal or written undertaking. If the parent is unable to attend court for good reasons the court can accept a statutory declaration by the parent.	
Contact court or police to arrange security at court if there are worker safety issues.	
Update court screen on CRIS.	
Bail justice hearing	
Organise bail justice hearing (if not able to attend Melbourne Children's Court prior to 3pm). Rural regions should check with their local courts or regional legal/court officer. <ul style="list-style-type: none"> • Contact local police station to arrange for a bail justice. • Complete form 12: IAO with the child's name and address, applicant's name and address, relevant sub-section of the CYFA 262(1). • Bail justice to sign order issued on form 12. • Provide all parties with copies of form 12. • Keep the original IAO form 12 to present to the court the next working day. 	
When you arrive at courts	
In Melbourne, inform CAU of your arrival. In rural regions, inform your regional legal/court officer.	
Lodge original form 34 and 12 at courts.	
Lodge and swear/affirm form 21 at courts.	
Notify Victoria Legal Aid that a child (seven+ years) or parent requires legal representation.	

Possible court outcomes

Confirm the order as originally made

Vary, add or substitute any conditions but cannot change custody of child under SCO or extend the order

Revoke the order and if satisfied that grounds exist under CYFA S274, make another protection order but not an IPO (CYFA S318(2))

Relevant section CYFA 2005

S241; S242; S312; S313; S314; S315; S316; S317; S318

Application: Variation or revocation protection order by notice

General information

A **variation** application may be made to vary conditions on a supervision order (SO), custody to third party order (C3P), supervised custody order (SCO), custody to Secretary order (CO) or an interim protection order (IPO) (CYFA S299) but will not extend the period of the order (CYFA S300, S301).

A **revocation** application may be made on a SO, C3P, SCO, CO, guardianship to Secretary order (GO), long-term guardianship order (LTGO) and IPO (CYFA S303).

The child/young person or parent may apply for a revocation of a GO if there has been a change in circumstances and a case plan review has been sought and either the department refuse to review the case plan or the party is unsatisfied with the result of the review of the case plan.

The department must apply for a revocation of a LTGO if the child's carer has withdrawn consent for the order or the relationship between the child and carer has irretrievably broken down or the child has not resided with the carer for three months and is unlikely to return (CYFA S306).

The courts cannot make a further interim protection order on an application to revoke an IPO (CYFA S310(2)).

You do not need to revoke a SCO once the child is in the sole care of a parent. The SCO transfers automatically to a SO under CYFA 286 once the child is in the sole care of a parent. In this instance you must give a copy of direction to the courts, child, parent and custodian.

Checklist	✓
Consult a solicitor and/or regional legal/court officer prior to issuing the application.	
Complete form 28: Application to vary or revoke a protection order (S300, S304) or form 29: Application to revoke a guardianship to Secretary order (S305) or form 30: Application to revoke a long-term guardianship to Secretary order (S306) or form 33: Application to vary or revoke a permanent care order (S326).	
Lodge forms 28, 29, 30 or 33 at court to be issued a hearing date.	
Serve copies of issued forms 28, 29, 30 or 33 to child/young person if 12+ years and parents, 14 days prior to hearing date by post or five days prior to hearing by hand. Refer to 'Service of Children's Court documents' for further information.	
Complete schedule 4 form 21: Affidavit of service.	
Return forms 28, 29, 30 or 34 and 21 to courts prior to the hearing date to have matter listed.	
Fax or post copy of forms 28, 29, 30 or 33 and 21 to CAU or regional legal/court officer prior to the hearing date.	

Checklist	✓
Prepare the court report for the hearing, consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report and seeking the child/young person's and parent's comments. Refer to 'Writing a court report' section for further information.	
Lodge court report to courts three days prior to the hearing.	
Provide a copy of the court report to the child/young person and parents three days prior to the hearing.	
Fax a copy of the court report to the CAU or regional legal/court officer three days prior to the hearing.	
Fax a copy of the court report to the child/young person's and parent's solicitors three days prior to the hearing.	
Arrange a legal aid appointment for the child/young person if seven+ years prior to the hearing date otherwise the child will need to attend court to give instructions.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or regional legal/court officer prior to the hearing date.	
Update courts screen on CRIS.	
When you arrive at courts	
In Melbourne, inform CAU of your arrival. In rural regions, inform your regional legal/court officer.	
Lodge forms 28, 29, 30 or 33 and form 21 and court report if you have not already done so with court.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation.	

Possible court outcomes

Variation application:

- vary, add or substitute the conditions but cannot extend the order
- change the custody of the child in relation to a C3P, SCO or CO (CYFA S301).

Interim variation of a CO:

- in exceptional circumstances vary, add or substitute conditions but cannot change custody or extend the order until final determination of the application (CYFA S302).

Revocation of a SCO or C3P:

- revoke the order and, if satisfied under CYFA S274, make further protection order (CYFA S310).

Revocation of an IPO:

- make another order
- cannot make another IPO if it revokes an IPO (CYFA S310).

Revocation of a CO:

- UT or
- SO or
- GO or
- LTGO (CYFA S310).

Revocation of a GO:

- UT or
- SO (CYFA S310).

Revocation of LTGO:

- UT or
- SO or
- GO (CYFA S310).

The courts may not revoke a CO or GO unless it is agreed by the child and parents and is in the best interests of the child (CYFA S308) and may not revoke a LTGO unless it is in the best interests of the child (CYFA 309).

Relevant section CYFA 2005

Variation: S299–S302

Revocation: S303 – S310

Application: Extension of a protection order

General information

You may as the delegate of the Secretary apply for the extension of the following protection orders: a supervision order (SO), supervised custody order (SCO), custody to Secretary order (CO) or guardianship to Secretary order (GO). The court may extend the order if it is in the best interests of the child.

In determining an extension to CO or GO the courts must consider the appropriateness of making a permanent care order (PCO) and the benefits of the child remaining in the custody and or guardianship to the Secretary (CYFA S295(2)).

In determining an extension application relating to a SCO, the court must be satisfied that reunification with the parents is still achievable (CYFA S295(1)).

In determining an extension to CO or GO the courts must take into account the nature of the relationship between the child and parents including access; the capacity of the parents to fulfil parental responsibilities and capacity to adequately meet the child's emotional, intellectual, educational and other needs; parents actions to meet the case plan goals; effect on the child of the continued separation from their parent; and the best interests of the child (CYFA S295(3)).

For extension applications in relation to SO or SCO the court may extend the orders for up to two years. In relation to CO or GO extension applications the courts may extend the orders for 12 months if they have been in force for less than 12 months or two years if they have been in force for more than 12 months (CYFA S296).

Where there is a two-year order it must be reviewed before the end of the first 12 months. The child/young person, parents and all parties must be notified before the end of the 12-month period. The court must be notified before the end of the 12 months if the order is to continue otherwise the order will lapse. (CYFA S298)

If you also wish to vary a condition of the order, you should lodge a variation application, concurrently with the extension application.

Checklist	✓
Complete form 27: Application for an extension of a protection order .	
Lodge form 27 at courts including the court reference number on the form in the area provided to be issued a hearing date prior to expiry of order otherwise the order will lapse.	
Serve copies of issued form 27 to child/young person if 12+ years and parents, 14 days prior to hearing date by post or five days prior to hearing by hand. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to 'Service of Children's Court documents' for further information.	
Complete schedule 4 form 21: Affidavit/declaration of service .	
Return form 27 and form 21 to court prior to hearing date to have the matter listed.	

Checklist	✓
Fax or post a copy of form 27 and form 21 to the CAU or regional legal/court officer prior to the hearing.	
Prepare the court report (stability plan, cultural plan where appropriate) for the hearing, consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report and seeking the child/young person's and parent's comments. Refer to 'Writing a court report' section for further information.	
Lodge court report to court three days prior to the hearing.	
Provide a copy of the court report to the child/young person and parents three days prior to the hearing.	
Fax a copy of the court report to the CAU or regional legal/court officer three days prior to the hearing.	
Fax a copy of the court report to the child/young person's and parent's solicitors three days prior to the hearing.	
Arrange a legal aid appointment for the child/young person if seven+ years prior to the hearing date otherwise the child will need to attend courts to give instructions.	
Parental consent may be obtained in writing if the parents have a copy of the report and are not legally represented and are not attending courts.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or your regional legal/court officer prior to the hearing date.	
Update court screen on CRIS.	
When you arrive at courts	
In Melbourne, inform CAU of your arrival. In rural regions, inform your regional legal/court officer.	
Provide courts and CAU or your regional legal/court officer with copies of parent's consent forms.	
Lodge original form 27, 21 and court report if you have not already done so with courts.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Possible court outcomes

Order extended if it is in the best interests of the child (CYFA S294)

Relevant section CYFA 2005

S293 – S298

Application: Seeking a guardianship to secretary order or long term/gaurdianship to secretary order from a custody to secretary order

General information

Guardianship to Secretary order grants the Secretary (department) custody and guardianship of the child/young person.

In making an application to revoke custody to Secretary order and seek a guardianship to Secretary order a court must be satisfied that the grounds for the finding under S274 still exist, the change is justified and it is in the best interests of the child.

Checklist	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Lodge form 27: Application for an extension of a protection order for an extension if the custody order is due to expiry prior to the resolution of the revocation application and form 28: Application to vary or revoke a protection order for a revocation for the custody to Secretary order. If you do not lodge the extension application the order may lapse if the matter is adjourned until after the expiry date of the custody to Secretary order. If seeking a LTGO from a GO you must lodge form 27: Application to extend a protection order instead of form 28 (S290(i)(d)) .	
Prepare a court report (including stability plan and cultural plan where appropriate) for the extension application of the custody to Secretary order recommending that the order be extended and the revocation application recommending a guardianship to Secretary order. Consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report and seeking the child/young person's and parent's comments. Refer to 'Writing a court report' section for further information.	
Serve copies of issued forms 27 and 28 (or 29) to child/young person if 12+ years and parents, 14 days prior to hearing date by post or five days prior to hearing by hand. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to 'Service of Children's Court documents' for further information.	
Complete schedule 4 form 21: Affidavit/declaration of service in relation to both form 27 and form 29 .	
Return forms 27, 28 (or 30) and 21 to courts prior to hearing date to have the matter listed.	
Fax or post a copy of forms 28, 29 (or 30) and 21 to CAU or regional legal/court officer prior to the hearing.	
Lodge original court reports in relation to the two applications to courts three days prior to the hearing.	
Provide a copy of the court reports to the child/young person and parents three days prior to the hearing.	

Checklist	✓
Fax a copy of the court report to the child/young person's and parent's solicitors three days prior to the hearing.	
Arrange a legal aid appointment for the child/young person if seven+ years prior to the hearing date otherwise the child will need to attend court to give instructions.	
Parental consent may be obtained in writing if the parents have a copy of the report and are not legally represented.	
When you arrive at court	
Inform CAU or regional legal/court officer, of your arrival.	
Provide courts and CAU or your regional legal/court officer with copies of parent's consent forms.	
Lodge forms 27, 28 and 21 and court reports if you have not already done so with court.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Possible court outcomes

CO extended and CO revoked and a GO granted

CO extended and revocation application dismissed

Relevant section CYFA 2005

S293

S308

S310(3)

Guide: Adjournments

General information

The CYFA S530 outlines the power of the courts in regards to adjourning proceedings and stipulates that the court should avoid granting adjournments unless it is of the opinion that the adjournment is in the best interests of the child or there is some other cogent or substantial reason. Consideration by you and the courts will also be given to the best interests principles which include the possible harmful effect of delay in making the decision or taking the action (s.10 (p))

Before considering an adjournment weigh up the benefits to the child as adjournments lead to delays in finalising courts matters and future planning for children/young people.

Costs can be awarded against the department if Child Protection are not ready to proceed with a matter. That means that the department must pay for the other parties' legal fees.

Checklist	✓
Consult a solicitor or regional legal/court officer prior to seeking an adjournment.	
Advise all parties and their solicitors that an adjournment will be sought as soon as it is apparent that an adjournment is required or at least 24 hours prior to the next court date.	
If parents are unrepresented, seek written consent to the adjournment. The consent should include their relationship to the child/young person, the original hearing date, the length of the adjournment sought, their choice not to seek legal advice, their consent and signature and their understanding as to the reason for the adjournment.	
If the parents are represented, their consent must be obtained through their solicitor. Ensure the solicitor confirms the parent's consent to the adjournment.	
Arrange for child/young person (seven+ years) to give instructions to their solicitor regarding the adjournment. Ensure the solicitor confirms the child/young person's consent to the adjournment.	
If consent is obtained in writing, advise CAU or your regional legal/court officer of the details of the adjournment, including the date sought, a brief explanation why the adjournment is required outlining how it is the child's best interests, the details of the solicitors for the other parties and their instructions.	
Provide copies of consents to CAU or your regional legal/court officer where the parents are not legally represented and the parents did not wish to attend courts.	
Send original consents to courts.	
Contact court or police to arrange security at courts if there are worker safety issues.	
Seek legal advice from CAU or your regional legal/court officer prior to the hearing date.	
Update court screen on CRIS.	

Checklist	✓
When you arrive at court	
Inform CAU or regional legal/court officer, of your arrival.	
Provide court and CAU or regional legal/court officer with copies of parent's consent forms.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Possible court outcomes

Court refuses adjournment

Court grants adjournment

Relevant section CYFA 2005

S530

Application: Permanent care order

General information

A permanent care order application can be lodged when there is a stability plan, the carers have been assessed as appropriate and the child has been out of the parents care for the prescribed period of time (at least six months) excluding child care agreements (voluntary placements) as set out in CYFA S319. In addition, consider the access arrangements with parents, siblings and significant others to be attached as conditions to the permanent care order and cultural plan for Aboriginal children (CYFA S323).

The existing IAO (for those cases where we had to re-issue a PA due to administrative error), CO, GO and LTGO will automatically lapse once the permanent care order is made.

Checklist	✓
Consult a solicitor or regional legal/court officer prior to issuing the application.	
Ensure current custody or guardianship to Secretary order is valid and not due to expire otherwise you may need to lodge an extension application concurrently.	
If the child/young person is Aboriginal, ensure VACCA has assessed the proposed carers as appropriate prior to lodging an application for a permanent care order.	
Lodge form 31: Application for a permanent care order at court.	
Serve copies of issued form 31 to child/young person if 12+ years, parents and proposed permanent carers, 14 days prior to hearing date by post or five days prior to hearing by hand. Reasonable efforts (at minimum check last known address and Electoral Commission) must be made to locate and serve parents whose whereabouts are unknown. Refer to 'Service of Children's Court documents' for further information.	
Complete schedule 4 form 21: Affidavit/declaration of service.	
Return form 31 and 21 to courts prior to hearing date to have the matter listed.	
Fax or post copy of forms 31 and 21 to CAU or regional legal/court officer prior to the hearing date.	
Prepare the court report (including stability plan, cultural plan and compliance with Aboriginal child placement principle, where appropriate) for the permanent care order application. Consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report and seeking the child/young person's and parent's comments. Refer to 'Writing a court report' section for further information.	

Checklist	✓
<p>Complete or request the agency to prepare a court report on the proposed permanent carers. You must consider the prescribed matters (CYFA S319 – S323) that the courts must have regard to, as reference should be made to these factors in the report on the permanent carers:</p> <ul style="list-style-type: none"> • the personality, age, health, marital and family relationships, emotional maturity, financial circumstances and general stability of character of each applicant • the applicant’s emotional capacity to provide a secure and beneficial emotional and physical environment for the child’s upbringing until the child reaches social and emotional independence • if an applicant has had the care of the child before applying to the court, the applicant’s ability to provide such an environment for the child • the compatibility between the religion, race or ethnic background of the applicant and the child • the applicant’s understanding of the importance of access by the child’s parents, siblings and significant others and exchange of information concerning the child. 	
<p>The following points should be addressed in the court report:</p> <ul style="list-style-type: none"> • if the child is Aboriginal and the proposed permanent carers are not Aboriginal, you must include in the court report: <ul style="list-style-type: none"> o if no suitable placement could be found with an Aboriginal person o the decision was to seek the order was made in consultation with the child o the order will accord with the Aboriginal child placement principle o an Aboriginal agency has prepared a court report recommending the making of a PCO; a cultural plan has been prepared for the child (CYFA S323). 	
<p>Permanent care certificates (available at CAU) should be filled in and provided to the magistrate for signing when the order is made.</p>	
<p>Lodge original court report to courts three days prior to the hearing.</p>	
<p>Provide a copy of the court report to the child/young person and parents three days prior to the hearing.</p>	
<p>Fax a copy of the court report to the CAU or your regional legal/court officer three days prior to the hearing.</p>	
<p>Fax a copy of the court report to the child/young person’s and parent’s solicitors three days prior to the hearing.</p>	
<p>Arrange a legal aid appointment for the child/young person if seven+ years prior to the hearing date otherwise the child will need to attend courts to give instructions.</p>	
<p>Parental consent may be obtained in writing if the parents have a copy of the report and are not legally represented, consent should include their agreement to the PCO and as well as the conditions attached.</p>	
<p>Seek legal advice from CAU or your regional legal/court officer prior to the hearing date.</p>	
<p>Update courts screen on CRIS.</p>	

Checklist	✓
When you arrive at court	
Inform CAU or regional legal/court officer, of your arrival.	
Provide courts and CAU or regional legal/court officer with copies of parent's consent forms and court reports if you have not already done so.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Possible court outcomes

PCO made

Application dismissed

Relevant section CYFA 2005

S 319 – S323

Guide: Expiry of orders

General information

Consult with the CAU or regional legal/court officer prior to reviewing an order, where appropriate.

SO, SCO, CO, GO

If a supervision order, supervised custody order, custody or guardianship to Secretary order has reached the date of expiry and the protective concerns have been addressed, the department may not wish to seek further orders. If this is the case, and no extension application has been lodged with the court prior to the expiry date, the order ceases to exist after that date. The matter does not return to court.

It is good practice to send a letter to notify the courts of the lapsing of the order to the registrar, Melbourne Children's Court to inform them that the order is about to expire and the department are seeking no further orders.

If you have a 24-month order you must review the operation of the order prior to the 12-month period and advise the courts prior to the end of the first 12 months of the orders operation if the order is to continue for an additional 12 months. *Otherwise the order will lapse.*

Interim protection order

In the case of an interim protection order, as the name suggests it is an 'interim' order, which means that it must return to courts to be resolved. If the department wants to withdraw at the end of an IPO, the recommendation in the addendum report should be 'no further order'.

Expiry of order

If on the other hand an order has expired (due to an administrative oversight) and the department feels that continued involvement is necessary, a protection application (usually by notice) must be issued again. In this situation it should be noted that proving the PA and making the same recommendations could be difficult due to changes in circumstances or evidence from the original PA.

Application: Warrants

General information

Warrants empower police to search and enter premises and take a child into safe custody.

You should take out a missing person's report with the police if a child/young person is missing from their placement and there are concerns for their welfare, as this will initiate a police investigation to locate the child/young person. The warrant will be executed once the police have located the child/young person. Only police can execute a warrant.

Warrants are used as a last resort where a child is absent from their placement, whereabouts unknown or at significant immediate risk and apprehension by police is necessary.

A magistrate can only issue warrants, not bail justices.

Carefully consider what information should be included in the affidavit for the warrant, its relevance to the application and the immediacy issues. The affidavit should include the order to which the child is subject, the name of the applicant for the order, the date the order was made, the date it will expire, the court in which it was made, the protective concerns, action taken and why the warrant is necessary to ensure the safety of the child/young person.

An affidavit is a form of giving evidence, you need to ensure that the information is correct to the best of your knowledge.

Temporary assessment order warrant

The court may order a TAO as well as a warrant (to assist in carrying out the TAO) to authorise police to enter and search. The order may have other special conditions attached such as authorising a medical examination of a child, or directing parents to allow access to the child, or authorise Child Protection to access relevant information.

A TAO warrant does not require the return of a child to the court upon execution. The warrant remains in force for the duration of the TAO unless it is executed earlier. A warrant will not be granted if the courts refuses a TAO.

You may apply for a TAO warrant concurrently with the TAO application or during the course of the TAO.

Types of warrants

CYFA S241	Protection application by safe custody
CYFA S270	New IAO by safe custody – living in unsatisfactory living conditions
CYFA S237	Temporary assessment order

Breach warrants

CYFA S269	Breach IAO by safe custody
CYFA S313	Breach supervision order by safe custody
CYFA S313	Breach supervised custody order by safe custody
CYFA S313	Breach interim protection order by safe custody

Bench warrant (fail to appear)

CYFA S243	PA by notice – used when the child fails to appear after being issued with a notice to appear
CYFA S261	Irreconcilable differences
CYFA S268	Vary interim accommodation order
CYFA S269	Breach IAO by notice
CYFA S270	New IAO by notice
CYFA S314	Breach of supervision order by notice
CYFA S314	Breach supervised custody order by notice
CYFA S313	Breach of an IPO by safe custody, failure to appear
CYFA S314	Breach interim protection order by notice
CYFA S598	<ul style="list-style-type: none"> • when a child is absent from their placement without authority or • a child/parent failed to comply with an undertaking to appear before the court (CYFA S530(2)) or • a child/parent refused to comply with a lawful direction as to the placement of the child (CYFA S173) and the child is on one of the following orders: <ul style="list-style-type: none"> – custody to third party – supervised custody – interim accommodation or • when a child is directed to be placed and he/she or the parents refuse to comply with the direction pursuant to CYFA S173 as to the placement of the child where the Secretary has custody or guardianship.

CYFA S173 stipulates that the assessment of risk can be made on the basis of a single incident or an accumulated risk.

Checklist (excluding TAO)	✓
Consult with a solicitor or regional legal/court officer, where appropriate (<i>warrant initiates court proceedings</i>).	
Determine what type of warrant is needed.	
Contact Central Records Branch (CRB) on 9247 5919 to confirm that no warrant exists for the child/young person.	
Complete schedule 4 form 12: Children's Court search warrant and form 21: Affidavit of service , include comprehensive description of protective concerns, action taken and why the warrant is necessary to ensure the safety of the child/young person. Sign each page.	
Swear/affirm schedule 4 form 12 .	
Contact courts to inform them that you are applying for a warrant.	
Fax/deliver form 12 to courts, verbal evidence can be given instead of a written affidavit.	
After the warrant has been granted, the court will fax it directly to CRB and fax a confirmation to the child protection worker.	
Children's Court will only accept warrant applications prior to 4pm.	
CRB holds unexecuted warrants for one month unless otherwise advised by the child protection worker.	
Unexecuted warrants are returned to court by CRB.	
After obtaining a warrant for a protection application or breach	
Fill out relevant paperwork for your PA or breach application.	
Negotiate with police arrangements for the execution of the warrant and apprehension of the child.	
Proceed as per checklist in relation to protection application by safe custody and breach of a protection order or interim accommodation by safe custody.	
After obtaining a warrant for a missing child/ young person (CYPA S598)	
No other application forms are necessary.	
Negotiate with police arrangements for the execution of the warrant and apprehension of the child/young person.	
Ensure police executing the warrant return the child/young person to the placement.	
Obtaining an after-hours warrant	
Determine what type of warrant is required.	
Complete schedule 4 form 12: Children's Court search warrant and complete schedule 4 form 21: Affidavit/declaration of service . Check that all the information is accurate, if an application has been previously lodged on the same grounds and that each page of the affidavit is signed.	
Swear/affirm form 21 .	

Checklist	✓
Contact the courts registrar on duty at the Magistrate's Court on 132222 pager 14333 and leave your name, contact details and reason for your call, that is, that you wish to apply for an after-hours warrant.	
The duty registrar will contact you to question you about the case and why it is urgent that the warrant is requested after hours. You will then be given a number to fax your affidavit and warrant. If the duty registrar has not responded in 20 minutes, you should contact D24 on 9247 3222 and ask for the online supervisor.	
Fax the affidavit and warrant to the registrar and ensure your fax and telephone details are clearly marked on the fax cover sheet, as you cannot call the duty registrar or magistrate directly. The duty registrar contacts the duty magistrate and faxes them the warrant application.	
If the warrant is issued, the magistrate faxes the granted warrant directly to the CRB. The child protection worker will need to contact CRB on 9247 5919 to confirm their receipt of the granted warrant.	
If the warrant is not granted, the registrar or magistrate may contact you with questions about the affidavit. If the registrar or magistrate requires further information or clarification before considering the granting of the warrant, they may contact you to obtain this information.	
After confirmation of receipt of the warrant with CRB proceed as outlined in 'After obtaining a warrant for a PA or breach' or 'After obtaining a warrant for a missing child/young person'.	
Returning warrants	
If the warrant is to be returned to courts unexecuted, you must contact CRB and request this in writing.	
Advise CAU or regional legal/court officer, where appropriate (<i>warrant initiated court proceedings</i>).	
CRB only hold warrants for one calendar month unless advised otherwise by the department.	
If you locate the child/young person and there is no need to execute the warrant you must cancel the warrant immediately.	
Update CRIS.	
Checklist: TAO warrant	
You must consult with a solicitor or regional legal/court officer prior to making an application.	
Complete schedule 4 form 12: Children's Court search warrant and schedule 4 form 21: Affidavit/declaration of service , include information of reasonable suspicion that the child is or is likely to be in need of protection that Child Protection needs to assess whether the child is in need of protection and Child Protection cannot properly carry out the investigation and assessment without a TAO warrant. Sign each page.	

Checklist	✓
Swear/affirm form 21 .	
Contact court to inform them that you are applying for a warrant. Children’s Court will only accept warrant applications prior to 4pm (rural regions check with local court times or regional legal/court officer).	
Fax/deliver scehdule 4 form 12 to court, verbal evidence can be given instead of a written affidavit.	
After the warrant has been granted, the courts will fax it directly to CRB and fax a confirmation to the child protection worker.	
Inform police of the application and granting of the TAO warrant. This will allow police to carefully plan and anticipate any difficulties in the execution of the warrant. Provide the police with details of the likely whereabouts of the child and family and any issues of safety and security in executing the warrant and apprehending the child. The police may conduct joint interviews if the there are allegations of sexual and physical abuse as per the protocol. The role of the police is to execute the TAO warrant and apprehend the child that may involve bringing the child to the Secretary. It is not the police role to further assist in the execution of the order itself such as transporting the child or parent to interviews.	
Unexecuted warrants are returned to court by CRB.	

Possible court outcomes

Warrant granted

Warrant denied

Guide: Pre-hearing conference

General information

Pre-hearing conferences (PHC) are booked when a protection application is being contested (CYPA S82A). In practice however PHC are arranged for other contested applications.

PHC are booked when the proving of a protection application, permanent care order application, breach/vary/revoke/extension of an order, conditions on an order or disposition are not consented to by a party to proceedings.

PHC are mediated by convenors and all parties other than the department are legally represented.

The purpose of a PHC is to reach agreement, if possible, in order to avoid matters proceeding to a final contest hearing.

The proceedings of a pre-hearing conference are subject to confidentiality (CYFA 2005 S82B).

Checklist	✓
Consult a legal officer prior to the pre-hearing conference.	
Ensure you are clear about the issues and rationale for the initial application and recommendations.	
Ensure all necessary addendums and other relevant reports are appropriately filed with the court so the parties have had time to consider these prior to commencing the PHC.	
The legal officer can examine the merits and deficits of the application, issues of dispute and options for settlement in achieving timely outcomes for children.	
The CAU or regional legal/court officer can initiate contact with the solicitors of other parties to obtain information on the matters that are being contested and if possible to negotiate contested matters prior to the hearing, where instructed and appropriate.	
Prepare for the PHC, as you will need to articulate the reasons for the application, disposition and conditions, in discussion with your team leader.	
Prior to the PHC determine how many witnesses will be required to give evidence, as this will determine the number of dates booked for the contest hearing if the matter does not settle.	
If agreement is reached, the convenor will fill out the minutes of the proposed orders (blue form: 'Children's Court – Family Division') and the conditions (pink form) for the Children's Court.	
If agreement cannot be reached, the matter is booked in for a directions hearings and a contest hearing. (There are circumstances where the matter is referred back for mention or for another PHC) Dates for these hearings are determined in consultation with the courts coordinator at the end of the PHC.	
If during the PHC you are experiencing any difficulties, ask the convenor for a break and seek legal advice from the CAU or regional legal/courts officer.	

Checklist	✓
All parties must return to courts after the PHC until the magistrate has finalised the matter. Once contest dates have been determined and an IAO is to be extended on the same terms it may be that only the child protection worker may need to remain at court. This will need to be negotiated with your solicitor or regional legal/court officer. This may differ for rural matters.	
On returning to courts after the PHC, all paperwork completed at the PHC by the convenor is to be given to your solicitor or regional legal/court officer to ensure the paperwork is complete, photocopy and hand in to courts. This may differ for rural matters.	
Contact courts or police to arrange security at courts if there are worker safety issues prior to the PHC.	
Update courts screen on CRIS.	
Vacating a PHC	
To cancel (also referred to as 'vacate') a PHC all parties and their solicitors must agree.	
If all parties are in agreement the courts and convenor must be notified at least two days before the PHC.	

Possible court outcomes

Matter resolved through negotiation of grounds of protection application, disposition, length of disposition and/or conditions attached to the order

Matter contested and booked in for a directions and contest hearing

Matter adjourned for mention

Relevant section CYPA

S82A

S82B

Relevant section CYFAC

SS217 - 227

Guide: Directions hearing

General information

Directions hearings are booked two to three weeks before a final contest hearing to inform the court of the details of the forthcoming contest, such as the witnesses, their availability, reports, legal aid funding for parties and issues being contested.

Checklist	✓
Consult with a solicitor or regional legal/court officer prior to the directions hearing.	
All parties must attend the directions hearing by 9.15am.	
Fax CAU or your regional legal/court officer the completed Directions hearing notice, Department of Human Services, Court Advocacy Unit proforma, including necessary practice directions compliance, prior to the directions hearing. Ensure your representative has all the necessary reports.	
If the matter does not settle at the directions hearing then the appointed solicitor or regional legal/court officer will arrange a legal conference one week prior to the final hearing with the barrister briefed to represent the department.	
Prepare an addendum court report and chronology for the directions hearing, consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that should be included in the report and seeking the child/young person's and parent's comments. This is important if the circumstances have changed and if you are seeking a different disposition to that in the original report. Although it is not a legislative requirement to provide a report it is expected by the court and considered best practice. Costs may be awarded against the department if the report is not provided within the expected timeframe.	
Contact all potential witnesses prior to the hearing to confirm their availability for the contest dates. Advise the solicitor or regional legal/court officer immediately should witnesses not be available as there may be a need to advise the other parties and try to negotiate and obtain new contest dates in order to avoid possible costs applications.	
Ensure all relevant reports from witnesses have been obtained.	
Provide the court with the original copy of any addendum report and chronology three days prior to the directions hearing.	
Provide the child/young person and parents with a copy of any addendum report and chronology three days prior to the directions hearing.	
Provide the child/young person's and parent/s solicitors with a copy of any addendum report and chronology three days prior to the directions hearing.	
Provide CAU or regional legal/court officer with a copy of the addendum report and chronology three days prior to the directions hearing.	
Contact court or police to arrange security at court if there are worker safety issues.	
Update court screen on CRIS.	

Checklist	✓
When you arrive at courts	
In Melbourne, inform CAU of your arrival. In rural regions, inform your regional legal/court officer.	
Provide court and CAU or regional legal/court officer with copies of parent's consent forms and addendum report and chronology if that has not occurred.	
Notify Victoria Legal Aid that a child seven+ years or parent requires legal representation, if this has not occurred.	

Possible court outcomes

Proceed with final contest hearing – *CAU will arrange a barrister to provide legal representation* for the final contest hearing

Matter consented by all parties

Application: Gaol orders

General information

Gaol orders are court orders issued by the Children’s Court to allow parties to proceedings who are incarcerated to attend court.

If a parent is in prison it is a matter of natural justice that they be given the opportunity, if they wish to attend court on matters relating to their children.

If a person is legally represented it is the responsibility of their lawyer to organise a gaol order.

Checklist	✓
Liaise with the solicitor of the incarcerated person or with the person directly if they are unrepresented to determine what their intentions are with regard to attending court and the gaol order.	
If a gaol order is required, complete Order to bring a person before a court and to give evidence form (Evidence Act 1958 S12).	
Deliver the completed form or fax it to the Children’s Court.	
After a magistrate has signed it, the form will be returned to you by post or fax.	
Fax the issued order to the relevant contact person at the gaol.	
The gaol then arranges for the person to be transported to the court on the set date.	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU prior to the hearing date.	
Update courts screen on CRIS.	

Application: Appeals to the County and Supreme court

General information

The Secretary's decision to appeal has been delegated to regional directors and senior executive officers. All appeals must be discussed with the CAU and the director of Child Protection and Family Services Branch, Office for Children as Supreme and County courts outcomes have statewide implications on child protection case practice.

County Court appeals re-hear a matter in relation to a Children's Court order including TTO, TTPO, ID.

Supreme Court appeals are made either on a question of law or against the making or dismissal of an interim accommodation order (IAO) or TAO. The order made by the Children's Court remains operative unless the Supreme Court orders otherwise prior to the hearing of the appeal. These applications are usually heard immediately after the Children's Court decision.

Appeals are appropriate where child protection have determined that the Children's Court decision has not decreased the risk to a child/young person to an acceptable level *and/or* the Children's Court decision places impractical or highly onerous requirements on the department.

Checklist	✓
Consult with the director, Child Protection and Family Services Branch and the manager, CAU prior to issuing the application.	
Obtain regional director approval prior to applying for an appeal.	
Lodge a Notice of appeal with the registrar of the Children's Court in the Secretary's name.	
Contact the CAU or regional legal/court officer as soon as you are served with a Notice of appeal (where one of the other parties is appealing the decision).	
Serve the Notice of appeal on all parties within 30 days of the Children's Court order unless it is an urgent appeal to be heard at the Supreme Court where it will be heard within 24 hours of the Children's Court decision.	
Prepare the following: <ul style="list-style-type: none"> • ensure the CAU or regional legal/court officer and barrister have copies of all documents • chronology of relevant events including courts dates, courts outcomes, all access visits specifying dates/venue/present/summary of access • list the protective concerns, the basis for them, be specific about dates, times, observations • list of all relevant (eye) witnesses to provide evidence at courts and/or report, including people who have supervised the access 	

Checklist	✓
<ul style="list-style-type: none"> • issue the subpoenas for witnesses at the County Court • serve subpoenas to all the witnesses personally or by a process server • inform witnesses when they may be required to give evidence • list all reports specifying the author, date and type of report and who the report concerns • addendum report for the appeal hearing on the events since the Children’s Court order • serve all parties with any new reports • unmarked copies of all reports for the judge • list of meetings specifying dates, who attended and if a parent did not attend specify if they were invited, how much notice was given and how and when the decision of the meeting was communicated to the parent • prepare the file, taking note to protect notifier and legally privileged information by placing any material in a sealed envelope in the front of the file marked ‘Not to be opened except at the direction of a judge’ • hand deliver the file to courts registrar with a copy of the subpoena and covering letter that includes a return address for the file at the conclusion of the hearing • contact CAU or regional legal/court officer immediately if there is any information in the file that should be removed. 	
Contact court or police to arrange security at court if there are worker safety issues.	
Seek legal advice from CAU or regional legal/court officer prior to the hearing date.	
Update courts screen on CRIS.	

Possible court outcomes

County Court appeal (protective order)	Appeal upheld – IAO issued
	Appeal upheld – IAO issued, remit to Children’s Court
	Appeal upheld – IPO issued
	Appeal upheld – IPO issued, remit to Children’s Court
	Appeal upheld – no order made
	Appeal upheld – new order made
	Appeal upheld – current order revoked
	Appeal upheld – current order remains
	Appeal upheld – current Order varied
	Dismiss the appeal

Supreme Court appeal on an IAO	IAO – set aside the order IAO – make any other order IAO – dismiss the appeal
Supreme Court appeal on an TAO	TAO – set aside the order TAO – make any other order TAO – dismiss appeal
Supreme Court appeal (protective order)	Appeal upheld – IAO issued Appeal upheld – IAO issued, remit to Children’s Court Appeal upheld – IPO issued Appeal upheld – no order made, remit to Children’s Court Appeal upheld – no order made Appeal upheld – new order made Appeal upheld – current order revoked Appeal upheld – current order remains Appeal upheld – current order varied Dismiss the appeal

Relevant section CYFA 2005

S239 (TAO)

S271 (Appeal IAO)

S328

S329

Guide: Family Court

General information

Refer to Protocol between the Department of Human Services and the Family Court of Australia July 1996, taking particular note of the 'Memorandum of Understanding' (Appendix 1).

Treat all Family Court reports as you would any report. Do not assume reports are from aggrieved family. Inform the courts in writing if you do or do not substantiate the protective concerns. If you substantiate the concerns you must discuss it with the CAU or your regional legal/court officer.

Type of Family Court orders

Residence order

States where the child will reside. It does not automatically give the custodial parent the right to make day-to-day decisions about the child. Formerly known as Custody.

Contact order

Includes any type of contact including telephone and mail. Previously referred to as Access.

Specific issues order

Includes any other aspect of parental responsibility such as long-term care and day-to-day care. Previously known as Guardianship.

Types of Family Court notifications

Section 67Z

Where a party to proceedings makes allegations of child abuse they must file a form 66 'Notice of child abuse or risk of child abuse' and the court notifies the department.

Section 67ZA

Where courts personnel, counsellor or mediator suspects child abuse, the department must be notified of reasonable suspicion of physical or sexual abuse.

The department may be notified of reasonable suspicion of neglect or emotional abuse.

Section 91B

Where the court requests the intervention of the department in any proceedings that may affect the welfare of the child. Judges make these notifications when they suspect child abuse and may be part of the Magellan Project. The department has the option to intervene and become a party to proceedings or appear amicus curiae.

Levels of representation in the Family Court

Witness by subpoena

The department has no legal representation as the court is seeking our opinion as an expert witness. No reports or affidavits are required. The department cannot appeal the decision or call witnesses. If the client file is subpoenaed you must attach a letter on the front of the files requesting that they not be photocopied without the permission of Child Protection.

Amicus curiae (friend of the court)

The purpose is to assist the court. The department is not a party to proceedings. The CAU will provide legal representation (rural regions need to consult with their regional court/legal officer). It is usually a once off and often used when there is an application in the Children's Court.

Intervenor (party to proceedings)

The department can appeal the decision and call witnesses. It is a type of intervention that informs the court the concerns are considered serious by the department. The case can be prolonged and is an expensive commitment to the department. Consider the following factors in consultation with the CAU or regional legal/court officer when deciding on whether to intervene:

- how serious are the protective concerns and what is the likelihood of the abuse occurring?
- can the department live with a decision that is not their preference?
- is there a child solicitor that can represent the child's best interest?
- does the department have evidence that it wants/should be put to the court?
- is the party 'protective parent' that the department is supporting legally represented and will they be able to follow through with the application to ensure the child's safety?
- would appearing as a witness not adequately explain our involvement?
- what is the likelihood of an unfavourable result?
- is the department being criticised by parties, necessitating an explanation of its conduct to the court?

Children’s Court or Family Court – which is the appropriate jurisdiction?

Consult with the CAU or regional legal/court officer.

Consider guidance provided by the protocol with the Family Court.

Is there an appropriate carer prepared to lodge an application at the Family Court (the department cannot be an applicant)?

Which court is likely to provide the quickest and most effective solution to secure the welfare of the child?

Can the child’s welfare be assured through Family Court orders?

Can the protective concerns be alleviated by a change in residence (custody), contact (access) or specific issues order (guardianship)?

Correspondence to the Family Court

A letter should be sent to the Family Court to explain any departmental intervention, the details of that intervention and the outcome of any investigation following a Family Court notification.

There are three proforma letters on CRIS:

1. advice of incomplete investigation
2. advice regarding the outcome of a protection application
3. advice regarding the outcome of a notification where:
 - no investigation was conducted or
 - an investigation was conducted and the concerns were either substantiated or not substantiated, including the type of notification, details of the investigation (such as interviews), the outcome of the investigation and substantiation, reasons for substantiation and the department recommendations regarding the child’s residence and contact (supervised/unsupervised).

Magellan Project

The Magellan Project is a case management method for cases before the Family Court involving allegations of serious physical and sexual child abuse in Victoria. The key features of the project are:

- more active management of cases by a small team of judges and registrars of the court
- providing legal aid funds for a separate representative for each child
- waiving the legal aid cap on representation for parents
- providing a detailed report on each child by the department.

The purpose of the project is to ensure that the identified cases are completed in a

- timely manner and invested with resources at an early stage with a view to achieving better outcomes for the children.

If you receive a Magellan notification, you must:

- discuss the Magellan notification and determine if you need to intervene in the Family Court proceedings in consultation with CAU or your regional legal/court officer
- make a decision regarding the investigation of the notification as per normal practice, and in accordance with the protocol with the Family Court
- if you undertake an investigation, provide feedback to the Family Court within five weeks of the notification (feedback to the Family Court is in the form of an expanded/augmented version of the standard letter, outlining the actions you have taken, your view in relation to risk to the child and an explanation for the basis for this view)
- advise the Family Court if more time is required to complete the investigation – liaison should occur with the child representative and the Family Court counsellor.

Relevant section CYFA 2005

S209(3) (confidentiality)

Guide: Children's Court witness summons

General information

Children's Court witness summons (subpoenas) are issued to all non-departmental witnesses called to:

- give evidence in a court proceeding or
- produce for examination at the hearing any documents or things described in the summons that are in the person's possession or control or
- give both evidence and produce for examination any documents or things described in the summons that are in the person's possession or control.

CYFA S532 stipulates the requirements for witness summonses. The following witness summons may be issued (CYFA S532(1)):

- summons to give evidence
- summons to produce documents or things
- summons to give evidence and produce documents or things.

You are required to give reasonable notice to all potential witnesses and service (CYFA S532(5)) in one of the following ways:

- in person by delivering a true copy of the summons directly to the witness or
- by leaving a true copy of the summons at the witnesses' last or most usual residence or business with a person who apparently is not less than 16 years of age.

You must serve the subpoena with conduct money (usually the cost associated with travel to and from courts by public transport). The department's current rate is \$10 for a subpoena returnable in Victoria and \$50 for an interstate matter, otherwise the witness can be excused from complying with the summons (CYFA S532(8)).

Checklist	✓
Consult with the solicitor (regional legal/court officer) or barrister to discuss which witnesses you need to call.	
Contact potential witnesses and discuss the probability of them being called as a witness, the nature of the evidence required and their availability to attend the contest hearing.	
Complete schedule 4 form 20: Witness summons . Consider if you need just the person to attend, or the person and files to be produced or just files to be produced.	
Have form 20 issued at any Magistrates Court. You will need to take two copies with you.	
Serve copy to the witness as outlined above and complete schedule 4 form 21: Affidavit of service . MCC advises that registered post does not constitute appropriate service of a witness summons.	
Return original form 20 and form 21: Affidavit of service to the Children's Court.	
If you have a self-employed professional attending to give evidence, you will need to negotiate their fee to appear prior to the hearing date.	
Not all witnesses need to appear on the first day, some witness can be on stand by. Negotiate with the witness how much time it will take them to attend court if on standby.	

Additional information

If you issued form 20 and the application is subsequently adjourned without witnesses having been called, the original witness summons is at law still valid. If you have a witness who refuses to attend on the original witness summons, issue a further witness summons as outlined above with reasonable notice.

When the department receives a subpoena

The department may receive a subpoena to attend court to give evidence and/or provide documentation.

If the subpoena relates to a Children's Court or Family Court matter you should consult with the CAU or regional legal/court officer. If the subpoena relates to any other jurisdiction you should consult with the Legal Services Branch.

Refer to ['Preparing for contested Children's Court matters: Checklist: Subpoenaed departmental files'](#) in relation to preparing documentation for courts.

Refer to ['Preparing for contested Children's Court matters: preparing for the contest hearing and giving evidence'](#) in relation to preparation to give evidence at courts.

Relevant section CYFA 2005

S532

Guide: Service of Children's Court documents

General information

Service of all 'by notice applications', including PA, breach, and extensions (with the exception of any application relating to IAOs) must be completed five clear days before the hearing if served by hand and 14 clear days if by (registered) post (CYFA S594).

Reasonable efforts must be made to locate and serve all parties, this includes at minimum last known address and the Electoral Commission. Checking via the Electoral Commission may not be possible for applications made by safe custody and must be conducted as soon as possible after the initial hearing. If a party cannot be located it is not sufficient to leave documents in the letterbox or under the door of the last known address, you must make genuine attempts to locate all parties.

The courts can make an order to dispense with service to an individual of an application, documents or order if satisfied by oath or affidavit if the individual cannot be located after reasonable efforts have been made or there are exceptional circumstances (CYFA S531).

<p>Checklist: Service of Children's Court documents <i>(except witness summons and interim accommodation orders)</i></p>	✓
<p>Consult with a legal officer.</p> <p>Service must be completed in one of the following ways:</p> <p>1. By hand:</p> <ul style="list-style-type: none"> • after having completed the application and having it issued by the Children's Court, you must either: <ul style="list-style-type: none"> – personally deliver a true copy of the application to the person or – you may leave it at the person's last or most usual residence or business with a person who apparently is not less than 16 years old – you can have a colleague or 'process servers' do either of these options, but they must complete the affidavit of service • service is not affected by leaving documents in the post box or under the door. 	
<p>2. By post:</p> <p>If you elect to serve documents by post it must occur either:</p> <ul style="list-style-type: none"> – by you delivering it personally to the post office and posting by registered post and subsequently completing the affidavit or – if you elect to send registered post via the internal mail system you must: <ul style="list-style-type: none"> – speak to the person responsible for mailing on the day and alert them to the documents – confirm that they agree to note the time of post and agree to complete an affidavit of service and – have completed the details on the affidavit relating to the client's name, address and the type of application leaving the other details blank for the person completing service to enter before they sign the affidavit. 	

<p>3. By facsimile:</p> <p>Service by fax is not considered valid. It is only valid when the courts is satisfied that service cannot be promptly affected in any other manner, for example, a parent is in gaol. In such circumstances the prison officer who delivers the fax to the prisoner would swear/declare schedule 4 form 21: Affidavit of service.</p>	
<p>Original application form and form 21: Affidavit of service needs to be returned to court and a copy to CAU.</p>	
<p>If you elect to complete service by internal mail and fail to follow the process set out above, appropriate service has not been affected, as the person posting the mail must be the person to complete the affidavit. Failure to comply may result in costs being awarded against the department or at worst refusal to hear your application, for example, a warrant may be refused if parties fail to attend.</p>	
<p>Checklist: Service of documents relating to interim accommodation orders</p>	
<p>Applications relating to IAOs must be served with reasonable notice. Generally this is considered to be 24 hours or less with agreement. Follow the same procedure as above.</p>	

Relevant section CYFA 2005

S277

S531

S593 – S596

Application: Affidavits and statutory declarations

General information

An affidavit is a written document signed by a person who swears on oath or makes an affirmation before a person who is authorised to take such an oath or affirmation that its contents are true and correct.

A statutory declaration is a written document signed by a person who declares that its contents are true and correct before an authorised witness.

An authorised person is authorised under the *Evidence Act 1958* to witness statutory declarations and take affidavits.

The person making the affidavit or statutory declaration must sign the bottom of each page and beside the jurat (the certification at the end of an affidavit).

The prescribed classifications in the public service who are 'authorised persons' for the purposes of sections 107A and 123C of the Evidence Act:

- non-executive employee (VPS-3, VPS-4, VPS-5 and VPS-6)
- executive (levels 1, 2 and 3)
- principal scientist or principal scientist level PS-1 and PS-2
- child adolescent and family welfare officer CAWF1 to CAWF6 (inclusive)
- health and community services worker HCS2 to HCS5 (inclusive)
- housing services officer HSO
- senior medical adviser SMA
- mental retardation nurse MRN3 to MRN8 (inclusive).

Child protection practitioners should carefully consider what information should be included in an affidavit, its relevance to the application and immediacy issues. An affidavit is a form of giving evidence so practitioners need to ensure that the information is correct to the best of their knowledge. As a guide, child protection practitioners should bear in mind that the affidavit constitutes written evidence and is the equivalent to providing sworn oral evidence in court.

Evidence Act 1958

S107A

S123C

Application: Access to court reports

General information

Court reports can only be distributed to the child/young person who is the subject of the report, the child/young person's parent/s and their solicitors and any other person specified by the court. The report is to be lodged at court and the parties not less than three days prior to the hearing (CYFA S554).

The CYFA S556, S561, S562, S566 and S570 requires court reports to be forwarded to the courts and copies to the child/young person who is subject of the report, the legal practitioners representing the child, the parent/s and their solicitors and any other person specified by the court.

Copies of the court report cannot be provided to any other person without the court's permission, this includes foster care agencies. It is good practice to seek the child and parents permission in addition to the courts.

A person who prepares or receives or otherwise is given access to a report must not without the permission of the child/young person or parent disclose any information contained in that report to anyone who is not entitled to receive or have access to that report without the courts's permission (CYFA S552).

The author is not required to forward either in part or full if she/he is of the opinion that the information contained in the report may be prejudicial to the physical or mental health of the child/young person or parent/s or if notified by parent/s or child/young person of their objection to the forwarding of the report (CYFA S551).

Inform CAU or your regional legal/court officer immediately if you wish to withhold access to any part of a court report from any of the parties to proceedings.

If you do not forward the report to a party, you are required to notify the court on a [form 35: Application to restrict access to a protection report](#). The courts may order that the report be forwarded to the excluded party in part or whole.

Inform all parties of the intention to deny access to part/all of the court report and complete [Letter informing all relevant parties of decision not to forward copies of a disposition or application report](#).

Practice standards and decision-making principles (CYFA S11) require that court reports be discussed with the child/young person and parents prior to their distribution to all parties. This allows the child/young person and parents an opportunity to comment on the contents of the report and this may avoid a contested hearing.

Consult your supervisor and if necessary a solicitor or regional legal/court officer regarding the information that you should include in the court report.

A team leader (CAFW4) or unit manager (CAFW5) must endorse and sign the court report prior to its distribution to the court, CAU or regional legal/court officer, all parties and solicitors.

Interstate transfers of protection orders and proceedings

CYFA Schedule 1 S26 stipulates that information can be disclosed to an interstate officer in relation to the transfer of child protection orders and proceedings between Victoria and another State or a Territory of Australia or between Victoria and New Zealand.

Possible court outcomes

The courts will rule if part or all of a court report should be withheld from some/all parties

Relevant section CYFA 2005

S552

S556

S561

S562

S 566

S570

Guide: Writing a court report

General information

The purpose of an application report to the court is to demonstrate why the grounds of the application should be proven.

A protection report must only deal with matters that are relevant to the question of whether the child is in need of protection (CYFA S555 and S558).

In the course of preparing a report you must inform people that the information they provide may be included in the report (CYFA S549).

The author of the report will be required to attend court (CYFA S550).

Structure is one of the most important things to writing a good report. The structure must lead your argument, and therefore your reader, toward your conclusion as to why the application should be proven in a logical and reasoned manner.

Legislative and practice requirements

CYFA stipulates that protection reports (S554), additional reports (S561), therapeutic treatment application report (S565) and therapeutic treatment placement reports (S569) must be provided by Child Protection within 21 days and not less than three working days before the hearing.

Providing a disposition report within the same timelines as other reports is established as standard practice in Child Protection and the Children's Court of Victoria. All court reports should be lodged at court at least three days prior to the hearing and distributed to all parties and their solicitors.

The 'decision making principles' (CYFA S11) states that Child Protection must give consideration to the child and child's parents to participate in decisions and their views taken into account. Thus the preparation of a court report should include the child/young person and parent/s input prior to the report being issued at court. It allows time for discussion with the child and parent/s about the contents of the report, which can reduce the likelihood of cases being contested. Families often feel very distressed by the content of reports and this is exacerbated when they are viewed on the day of a court hearing in a public place. In addition, this will allow the child and parent/s to seek legal advice and provide instructions to their solicitor prior to the courts hearing thus saving time at court of the day of the hearing.

Types of reports

There are the following types of court reports that Child Protection is responsible for preparing:

- 1) **Application and Disposition reports** (prepared for protection applications)
- 2) **Extension/variation/breach and revocation reports (prepared for these types of applications)**
- 3) **additional/Addendum reports**
- 4) **therapeutic treatment application report** (TTO application; variation TTO; revocation TTO; extension TTO)
- 5) **therapeutic treatment placement report** (TTPO application; variation TTPO; revocation TTPO; extension TTPO)
- 6) **temporary assessment order report.** (will be devised)

Include the following in courts reports:

Best interest principles (CYFA S10).

A stability plan must be included in the court report where the child is in out-of-home care as a result of an IAO or protection order (CYFA S170).

A cultural plan must be included in the court report for each Aboriginal child placed in out-of-home care under a GO or LTGO (CYFA S176). The cultural plan must include how the Aboriginal child placed in out-of-home care is to remain connected to his or her Aboriginal community and to his or her Aboriginal culture. In addition, include in the report compliance with the Aboriginal child placement principle, where appropriate (CYFA S13).

Application and disposition report headings

Headings include:

1. statement about the child
2. family details
3. grounds for application
4. recommendation regarding disposition
5. relevant factual circumstances leading to current application (include information up until the child/family were served)
6. relevant circumstances since the date of the application

7. promoting the child's best interests including what harm the child has suffered or likely to suffer, what rights of the child need to be protected, what is the child's current developmental status, what are the current and future needs of the child, compliance with the Aboriginal child placement principle, and child's views and wishes regarding the risk and current application
8. parent or carer context including parent/carer capacity, family's views regarding risk and current application
9. disposition including summary of concerns for the child and draft case plan (stability plan and cultural plan where appropriate), recommendations concerning providing services to the child/family, and steps taken to enable the child to remain home
10. recommendation regarding current application
11. sources of information
12. legal history
13. child protection history
10. professional involvement.

Disposition reports

The disposition report must include the following (CYFA S558):

- draft case plan (stability plan, cultural plan where appropriate). Be as detailed as possible. For example, be specific about what would need to happen for access to become unsupervised, for the child to return to their parent's care, services that should be involved, what progress you expect from parents, maintenance of that progress
- recommendation concerning the order and the provision of services to the child and parents
- steps taken to provide the services necessary to enable the child to return to the care of their parent/s
- the recommendation should be clearly stated and all the conditions included.

Ensure that the same order and conditions are recommended for extension applications. If you are recommending a change of an existing order you may need to lodge a revocation application in conjunction with your extension application. If you are recommending a change to any condition from the existing order you will need to lodge a variation application. If you are unsure seek legal advice.

Disposition reports in support of application to extend

The disposition report in support of an application to extend an order includes the following:

1. statement about the child
2. family details
3. promoting the child's best interests including: what harm the child has suffered or likely to suffer, what rights of the child need to be protected, what is the child's current developmental status, what are the current and future needs of the child, compliance with the Aboriginal child placement principle, and the child's views and wishes regarding the risk and current application
4. parent or carer context including parent/carer capacity, family's views regarding risk and current application, and family's relationship with child
5. stability plan (if the child is in out of home care and met the timeframes within CYFA S170. For an Aboriginal child cultural plan and demonstrate compliance with the Aboriginal child placement principle)
6. considerations for extension of order sought
7. reason for application
8. prior courts appearances
9. sources of information
10. previous child protection history.

Ensure that the same order and conditions are recommended for extension applications. If you are recommending a change of an existing order you may need to lodge a revocation application in conjunction with your extension application. If you are recommending a change to any condition from the existing order you will need to lodge a variation application. If you are unsure seek legal advice.

Temporary assessment order report

The temporary assessment order report should be completed for the court return date (CYFA S238) and include the following:

1. statement about the child
2. family details
3. grounds for application for a temporary assessment order.
4. terms of the temporary assessment order made by the Children's Court
5. details of any actions taken by the Secretary under the order
6. the results of the investigation and assessment.
7. additional relevant information
8. outcome of TAO investigations and assessments.

Addendum report (additional report)

An addendum report is an additional report that is usually prepared where an application or disposition report has been prepared and the matter has been adjourned. An addendum report includes the following:

1. family details
2. relevant events since adjournment
3. conclusion regarding current application and recommendation
4. prior court appearances
5. current status.

Points to consider in writing your report

The purpose of an application report is to prove the grounds of the application. Only include information relevant to this end.

Use sub-headings as appropriate to assist the reader's access to your material.

Be unrelenting in your use of dates – you cannot include too many. Considerable court time is wasted and confusion generated by trying to match events to dates when dates have not been correctly reported. For this same reason, it is important to conclude your report with the date of writing (under your signature, and your team leader's signature) as this may be different to the date of the hearing and events that have happened in the interim will not be accounted for within the report.

Dot points are an acceptable and clear way of presenting your information in the sections that deal with the facts of the case. All relevant case facts must be incorporated in the 'Circumstances' sections. Do not introduce new facts in your assessment section, and certainly not in your conclusion.

Direct quotations from family members or professionals can be very clear and powerful. Single word quotes should be avoided, as the context is not provided. (In case of cross-examination, it is important that you know the context and date of all quotations used).

The more you rely on someone else's opinion, the more you should get that in writing from them at the earliest possible opportunity (for example, the forensic medical examiners report, stating that the child/young person's injuries, examined on 1/1/07 were non-accidental).

It is acceptable to write in the first person (to refer to yourself as 'I'). It is also acceptable to use the writer/the worker as well.

Present your information in the most accessible manner for the reader, with the least repetition possible. It is perfectly acceptable to refer the reader to previous or coming sections of the report so that you don't have to repeat material referred to elsewhere.

Parents should be referred to as Mr or Mrs or their full name (such as Mary Smith or John Brown); children can be referred to by their first names.

All relevant information must be included in the report as giving evidence from information not included in the report leaves you exposed. The court expects that we will put all relevant information before the court.

It is acceptable to make reference to earlier reports.

All addendum reports must be clearly dated.

If copying and pasting from other documents all information must be checked for accuracy and relevance to current circumstances and sourced if it is the opinion of another worker.

All details merged directly from CRIS data must be checked for accuracy and relevance to the application. All merged information can be edited, deleted or added to as required. If you are unsure about what is relevant seek legal advice as you may be criticised for excluding information that may be considered relevant. If CRIS data is not up to date or inaccurate, it is the worker's responsibility to update CRIS screens.

Guide: Court preparation

General information

This checklist has been designed to assist with preparation for mentions (not adjournments or contests) at court. By spending a short time completing this form each time you attend court, you ensure all the necessary tasks have been completed. This should save you time at court and minimise the need for adjournments.

Checklist	✓
<p>Before attending court it is important that you have discussed the following aspects of the case with your supervisor:</p> <ul style="list-style-type: none"> • rationale for the recommendation • negotiable issues such as grounds of the application, length of a recommended order, conditions, bottom lines • if the matter is adjourned, will an IAO be sought? If so, what conditions will you want? 	
<p>By notice applications (including extensions of custody or guardianship to Secretary orders)</p>	
Has the application (form) been lodged with the Children’s Court for a hearing date to be issued?	
<p>Has a copy of the issued application (form) been served on all parties, whose whereabouts are known?</p> <p><input type="checkbox"/> Mother</p> <p><input type="checkbox"/> Father</p> <p><input type="checkbox"/> Significant other/s</p> <p><input type="checkbox"/> Young person 12+ years</p> <p><input type="checkbox"/> This includes parents who may not be actively involved in the child’s life</p>	
<p>Has service occurred within legal timelines (in person five clear days or by post 14 clear days)?</p> <p><input type="checkbox"/> Mother</p> <p><input type="checkbox"/> Father</p> <p><input type="checkbox"/> Significant other/s</p> <p><input type="checkbox"/> Young person 12+ years</p> <p><input type="checkbox"/> This includes parents who may not be actively involved in the child’s life</p>	
Has a copy of the issued application form with court date been faxed/sent to the CAU or regional legal/court officer?	
Has schedule 4 form 21: Affidavit of service been sworn/affirmed?	
<p>Has the original application form and original affidavit been delivered to court?</p> <p><i>Note: The forms can be lodged on the day, however, the matter is not listed until the court receives the issued form.</i></p>	

<p>Checklist</p>	<p>✓</p>
<p>If you will be seeking an IAO at court, have all parties and their solicitors been notified of your intention? <i>Note: If parties do not consent to an IAO, the IAO contest is unlikely to be heard on that day and will need to be booked for the first available date. This means you will have no IAO.</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Significant other/s <input type="checkbox"/> Young person 12+ years <input type="checkbox"/> Solicitors 	
<p>Applications by safe custody</p>	
<p>Has a copy of the application been served on all parties, including those whose whereabouts are known? This includes parents who may not be actively involved in the child’s life.</p>	
<p>Have reasonable attempts been made to locate parents not actively involved in the child’s life or whose whereabouts are unknown? Explain.</p>	
<p>Have the Children’s Court and CAU or regional legal/court officer been notified of the application? <i>Note: These applications must be lodged by 3pm in Melbourne (rural regions check with your local court or regional legal/court officer), otherwise a bail justice hearing will need to be arranged.</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> Children’s Court <input type="checkbox"/> Court Advocacy Unit 	
<p>If you will be requiring an IAO at court, have you decided on the conditions you will be seeking using the court proforma?</p>	
<p>Court reports</p>	
<p>What disposition is in the child’s best interests?</p>	
<p>Are you clear about the rationale for the recommendation, based on best interests considerations?</p>	
<p>The disposition report must include the draft case plan (stability plan, cultural plan where appropriate), recommendations concerning the order and conditions, steps taken to provide the necessary services to enable the child to remain in the custody and guardianship of their parent/s as per CYFA S558.</p>	
<p>Have you included conditions on the order you are seeking in the report? (See court proforma.)</p>	
<p>To whom and when was the report distributed (<i>reports must be completed and distributed three days prior to the courts hearing, see CYFA S554</i>):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Mother Date: ___/___/___ <input type="checkbox"/> Mother’s solicitor Date: ___/___/___ <input type="checkbox"/> Father Date: ___/___/___ <input type="checkbox"/> Father’s solicitor Date: ___/___/___ <input type="checkbox"/> Significant other/s Date: ___/___/___ 	

Checklist	✓
<input type="checkbox"/> Significant other/s solicitor Date: __/__/__ <input type="checkbox"/> Child/young person Date: __/__/__ <input type="checkbox"/> Child's solicitor Date: __/__/__ <input type="checkbox"/> CAU or regional legal/court officer Date: __/__/__ <input type="checkbox"/> Children's Court Date: __/__/__ <input type="checkbox"/> Other parties Date: __/__/__	
Has the report and disposition report been discussed with the child/young person and parent/s?	
Are the parties consenting to the application, disposition and conditions?	
Court attendance/legal representation	
Which parties are attending courts? <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Significant other/s <input type="checkbox"/> Child/young person seven+ years <input type="checkbox"/> Other parties	
Are the parties legally represented? If so, by whom? If they wish to be unrepresented, list as U/R. Mother's solicitor: Father's solicitor: Significant other/s solicitor: Child/young person's solicitor: Other/s solicitor:	
If parents do not want legal representation and are consenting, have they each signed a letter of consent? <i>Ensure original letter is delivered to the courts and copy faxed to CAU or regional legal/court officer.</i> <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Significant other/s	
Has the child/young person aged seven+ years given instructions to a solicitor? If not, they will need to attend court to see a solicitor, as it is not acceptable for them to sign a consent letter.	
If you think you do not need to attend court, have you confirmed this with the CAU or regional legal/court officer?	
Court security	
Contact court or police to arrange security at court if there are worker safety issues.	
Consultation	
Seek legal advice from CAU or regional legal/court officer prior to the hearing date and throughout the courts process.	
Consult with your supervisor and ensure you have their endorsement for the applications, the grounds, reasons for application and disposition and conditions of orders.	
CRIS	
Update courts screen on CRIS.	

Guide:

Preparing for contested Children's Court matters

General information

Contested interim accommodation orders

A common contested matter is the placement of the child with his/her parents versus an out-of-home placement, the need for an IAO, or condition/s attached to an order.

To make an IAO the courts must have regard for the interests or welfare of the child, taking into account the wellbeing of the child, any risk to the physical or mental wellbeing of the child and the immediacy and gravity of any risk of harm.

Where a secure welfare placement is recommended the court will need to be satisfied that there is a 'substantial and immediate risk of harm to the child' (S263(1)(e)). Many of the fundamental grounds of the application form an important part of the argument.

Final contested hearings

In final contest hearings a child/young person or parent may be opposing the proving of the application, the disposition and/or any of the special conditions.

There is usually a pre-hearing conference and a directions hearing prior to the final contest. These are final opportunities to settle the matter if possible.

Preparing for a contested hearing

Checklist: Preparing for a contested hearing	✓
Consult with a solicitor or regional legal/court officer as soon as you are aware a matter is being contested. Your solicitor or regional legal/court officer will ask for details about the application, court outcomes and a copy of the current order.	
The solicitor or regional legal/court officer will organise a legal conference with you and the barrister one week prior to the final contest hearing. This may differ in rural regions.	

Subpoenaed departmental files

Checklist: Subpoenaed departmental files	✓
Prepare the original paper file by ensuring that all relevant information is included (case notes) and updated (reports), as it is highly likely that one of the parties will issue a subpoena for the file where a matter is being contested.	
A subpoena (or summons) is an order issued by a courts that takes the form of a legal document requiring the production of a file and/or a person to give evidence in courts.	

Checklist: Subpoenaed departmental files	✓
It is mandatory for the department to produce documents if the subpoena requests this. It is open to the department to seek leave of the court to object to the documents (or part thereof) being provided to a party.	
The department is entitled to reasonable notice to determine whether to object to a subpoena, however, in reality often little notice is given. It is departmental policy that we must do our best to comply with the short notice. If it is impossible to comply, the first step is to contact the legal firm that sought the subpoena to explain the situation. The next step is to contact the relevant registrar at the court.	
Subpoenas must be issued by a court (have a court stamp) and be accompanied by conduct money, usually the cost associated with travel to and from court by public transport. They must also indicate which party requested the issued subpoena.	
To prepare a subpoenaed file ensure that the following information is removed and placed into separate sealed envelopes marked 'not to be opened except at the direction of the judge or magistrate'; notifier details; any information that may identify the notifier; and legally privileged information (any correspondence between you and your legal officer/barrister). Where your file has been subpoenaed to the Family Court/Federal Magistrates Court attach a form letter to the top of the files requesting that they not be photocopied without the permission of Child Protection. You may wish to seek assistance from a privacy information officer, which operates in many regions.	
A copy of the subpoena, together with a covering letter, should accompany the file(s) to court. The covering letter should advise the court where the file(s) should be returned when the matter has concluded.	
Original files, not copies, should be addressed to the registrar and delivered by hand to the court. However, if distance and courier costs could be excessive, Australia Post 'express post' service should be used.	
Consult a solicitor or regional legal/court officer if you believe other confidential reports such as medical or psychological reports should be excluded, as you may need legal argument as to why this should occur.	
Where the department is not an intervenor in a matter, a child protection practitioner must not attend court to give evidence unless subpoenaed by one of the parties or by the courts. In some circumstances a child protection practitioner may agree to be served with a subpoena outside the court on the day of the hearing, however this should be negotiated with the solicitor in advance. If the practitioner arrives at court and the subpoena is not served, the practitioner must leave and must not, under any circumstances, give evidence. To provide confidential protective information to the courts without the legal status of a subpoena is a breach of confidentiality.	
A subpoena, whilst issued and served by a party or their solicitor, is answerable to the court and not to the person who issued it. If a file has been subpoenaed it must be delivered to the court registrar. It is preferable to deliver it in person or by registered mail. Subpoenaed files must never be given to a party to a proceeding or their solicitor, unless ordered by the court.	

Checklist: Subpoenaed departmental files	✓
Keep a copy of the paper file , as you will need the material in preparation for the contest hearing.	
If a file has been sent to court and information about the notifier or legally privileged information has not been removed from the file, contact your solicitor or regional legal/court officer immediately, to arrange an application to the appropriate court. Once a file is delivered to court, pursuant to a subpoena, it should not be interfered with, except by order of a judge or magistrate.	
The other parties are then given access to reading the file but must not copy or remove it from court without permission of the court. After completion the file must be returned to the court.	
If you require assistance with deciding if there may be grounds for objection to a subpoena contact the legal officer to seek legal advice about opposing the subpoena.	

Witness subpoena's

General information

There are three different types of subpoena:

- when the department wants a person to attend courts to give evidence, but does not require that person bring to courts any documentation
- when the department requires documents to be provided to the court, but does not require that person give evidence. *The witness may send the subpoenaed documents to the courts prior to the hearing date. The courts requires this at least two days prior to the hearing date. If this occurs, the witness will not need to attend court*
- if the department requires a person to give evidence at courts and provide documentation.

The department needs to specify what documentation it requires that person to bring to court. For example, state that you need all documentation including the child's name and date of birth and the parent(s) name and date of birth.

When the department receives a subpoena

The department may receive a subpoena to attend courts to give evidence and/or provide documentation.

If the subpoena relates to a Children's Court or Family Court matter you should consult with the CAU or regional legal/court officer. If the subpoena relates to any other jurisdiction you should consult with the Legal Services Branch.

Refer to 'Preparing for contested Children's Court matters: Checklist: subpoenaed departmental files' in relation to preparing documentation for court.

Refer to 'Preparing for contested Children's Court matters: preparing for the contest hearing and giving evidence' in relation to preparation to give evidence at courts.

Checklist: Witness subpoena's	✓
Consider which witnesses are required in consultation with your supervisor and legal officer.	
If the department has been involved with this family for a long time, there may be a lot of people who have had an involvement in this case. You will need to discuss with the legal officer how far back into the history of the case you need to go as this will influence whom you will call as witnesses.	
Prepare the witness list, in consultation with your legal officer, prior to the directions hearing.	
Contact the witnesses well in advance to check availability and inform them that you will be subpoenaing them. Inform witnesses of the subpoena, that they should not attend court unless advised to do so by CAU or regional legal/court officer or you. This is to prevent all witnesses turning up on the first day. You will need to discuss with the barrister when each witness is likely to be required and keep each witness informed of this.	
With each witness, discuss their evidence. Will the witnesses be providing a report? If so, in the case of a final hearing, can this be available for the directions hearing?	
Prepare the schedule 4 form 20: Witness summons for each witness and have the summons issued at the courts.	
Subpoena witnesses to either give evidence at court and/or prepare a report for court. Courts want to hear evidence about an incident or event from the person who witnessed it. This means that while the court will accept 'hearsay' evidence, it may not place as much weight upon it (for example, workers who have supervised access, the previous caseworker or the after-hours worker).	
If you are unable to serve a particular witness, you may, with the approval of your supervisor, employ a 'process server' to serve the document for you. You will need to prepare the subpoenas then call the process server to collect them. They will have them issued at the court and serve it on the relevant witness at a cost.	
Serve the witnesses with conduct money, usually the cost associated with travelling to and from courts on public transport.	
Complete and post the affidavits of service to court.	
For a final contest hearing, prepare a witness summary and include their evidence and how this supports the application.	
Inform the barrister the need to prepare witnesses for giving evidence.	

Reports

Checklist: reports	✓
<p>Prepare a chronology of relevant events, as this will be required of you at the direction's hearing by the court. The chronology can be in point form and should include:</p> <ul style="list-style-type: none"> • court dates and outcomes • professional assessments (not opinion) • notification date and details (<i>ensure that notifier details or any information that identifies the notifier are not included</i>) • list of protective concerns and the basis for them, for example the protective concern is that the parent is physically abusing the child and the basis for this is the medical report or observation at access – it is very important to be clear and specific about what your protective concerns are and how you intend to prove them (courts like to be given information such as dates, times and observations) • significant interviews/contacts with the family • incidents of abuse • attempts at reunification, dates and outcomes • a list of all access visits specifying: <ul style="list-style-type: none"> – date of access – who was present – place of access – summary of what occurred on that date, observations • a list of all reports specifying: <ul style="list-style-type: none"> – the author of the report – the date of the report – the type of the report – who the report concerns • a list of all meetings specifying: <ul style="list-style-type: none"> – date of meeting – who attended – if parent did not attend <ul style="list-style-type: none"> – whether the parent was invited – if so, how and when this notice was given – how and when the decision of the meeting was communicated to the parent. <p>This information is important as it informs the court as to the efforts made in keeping the parent(s) involved in the decision-making process and, likewise, it indicates the parent(s) interest or non-interest in this process. This information should also be easily accessible as you may be asked questions about it in court.</p> <ul style="list-style-type: none"> • a list of all witnesses and subpoenas • rationales for all decisions and bottom lines. For example, a decision to issue a protection application by safe custody as opposed to by notice, recommended disposition rather than other dispositions, conditions. 	

Checklist: reports	✓
Tag the paper file for significant dates and information as this assists you to access file notes efficiently during cross-examination. It may assist you to colour-code the file for dates and information and the protective concerns relevant to the case. For example, interviews, disclosures, incidents, access, medical reports and discussions with professionals. Note that you should exhaust your memory before referring to notes whilst giving evidence. Seek permission from the magistrate to refer to the file notes.	
Compile all court reports and any other medical/psychological reports. Place departmental reports in chronological order and ensure you have all other professional reports or assessments.	
Prepare a report for the contest hearing or a lengthy addendum report (including stability plan and cultural plan where appropriate). This should detail to the court what has happened since the last court hearing. If other professionals have information relevant to the case, then it is recommended that a report be prepared for the contest hearing.	
Ensure that all reports that will be relied upon have been served on all the other parties involved in the contest hearing.	
Prepare and provide unmarked copies of all reports for the judge or magistrate. Keep this material in a separate file so that it can be easily located when you are asked questions about specific matters at court.	

Preparing for the contest hearing and giving evidence

General information

Prepare yourself:

- understand the court processes in relation to evidence in chief/cross examination/re-examination – witnesses cannot hear evidence of other witnesses before them (the department worker is usually excluded from this as he/she needs to be there to give instructions to the barrister)
- during breaks when in the witness box, your barrister cannot discuss your evidence with you
- if you speak to the family in the breaks, do not enter into discussions about the contested issues

Exhaust your memory before referring to notes. If you want to refer to the file notes, you must seek permission from the magistrate.

Giving evidence:

- be very familiar with the file (including all reports)
- consider weaknesses in the case
- your barrister has an obligation to you to indicate likelihood of success and point out weaknesses, these may be areas to concede or negotiate settlement

- be prepared to be cross-examined about these issues, you may want to make a list of possible questions and prepare responses
- role-play giving of evidence with your supervisor or legal officer
- be clear about your risk assessment and the difference between fact, professional assessment and opinion.

Being a witness:

- remain calm – do not feel under pressure to respond quickly; listen, pause and think first
- keep answers short and clear
- avoid reacting to attacks on you personally or professionally – do not be angry or defensive
- when being cross-examined, address your replies to the bench (magistrate)
- remember that cross-examination is designed to destroy evidence in chief, elicit new facts in favour of opposing case, gain concessions from the witness and attack the witness's credibility
- do not try to answer questions that you do not know the answer to; answer only the question put to you and avoid professional jargon
- if you make an error or omission in your evidence, acknowledge it to the court, do not gloss over it, and answer honestly and clearly
- be prepared to concede a point if an alternative view is possible but improbable
- if you refer to research in your report or evidence, be able to explain why it is relevant to the case
- be aware of the different types of questioning used by barristers in cross-examination
- if you cannot remember the question or are confused about what is actually being asked, ask for the question to be repeated or clarified.

Checklist: Don't forget to...	✓
Contact court or police to arrange security at court if there are worker safety issues for the contest hearing.	
Update court screen on CRIS.	

Guide: Secure Welfare Transport Service (SWTS)

General information

The Secure Welfare Transport Service (SWTS) assists child protection practitioners to safely transport and supervise young people between the Melbourne Children's Court and secure welfare services. Refer to Child protection and care practice instruction: Secure Welfare Transport Service 2002-03.

The Melbourne Children's Court has an area designated for children/young people in secure welfare called the secure welfare room.

The CAU, the Children's Court and Victoria Legal Aid have all agreed to prioritise Children's Court hearings relating to children and young people who are being contained. If you have a young person in the secure welfare room make sure you advise the CAU, court and Legal Aid as soon as possible.

Role of SWTS staff and child protection worker

SWTS will:

- support child protection practitioners to undertake the safe transport of young people between the Children's Court and secure welfare services
- assist child protection practitioners to monitor and supervise young people in the court
- take a lead role in managing young people displaying challenging behaviour
- liaise with child protection practitioners and the Children's Court on safe client management.

The child protection worker will:

- ensure the young person is not left unattended at any time whilst in the secure welfare room or at courts
- assess the need for assistance from the SWTS
- liaise with SWTS staff as soon as possible to develop a plan to manage the safe transport and supervision of the young person in court and between the court and the secure welfare service
- accompany and supervise the young person, with the assistance of the SWTS, between the court and secure welfare service
- supervise the young person, with the assistance of the SWTS, in courts, dependent on whether there are other young people awaiting hearings that need supervision in the secure welfare room
- remain with the young person and the SWTS staff except when it is necessary to negotiate with other parties in relation to the young person in court
- contact CAU and court security.

Using the secure welfare room at court

Child protection practitioners and SWTS staff responsible for supervising young people in the court are not to leave young people alone in the secure welfare room.

When the secure welfare room at the court is required, it is necessary that as much notice as possible be provided to the court.

Upon arrival at the court, the procedure is as follows:

1. contact the Police Custody area on 8601 6770 for access to the loading bay through the middle roller door via Lonsdale Lane
2. contact court security on 8601 6727 for an escort from the secure welfare loading bay to the secure welfare room
3. court security will provide child protection staff with keys to the secure welfare room (SWTS staff have keys to the room)
4. court security will advise the court coordinator on extension 703 that the secure welfare facility is in use
5. young people are not to be left alone in the secure welfare facility – at least one Department of Human Services worker, but preferably two depending on the degree of risk, must remain with the young person in the facility at all times prior to the court hearing
6. staff can contact court security on extension 778 (8601 6778 if ringing externally) for any assistance that they may require
7. a duress alarm is located near the door for when emergency assistance is required
8. the court coordinator will notify court security to arrange an escort for the child/young person to the court hearing.

Court Advocacy Unit (CAU)

The CAU should be advised by the child protection practitioner (or, where appropriate the Central After Hours Emergency Service) as early as possible of all matters to come before the Children's Court involving children who are being contained.

The CAU will take responsibility for negotiating with Victoria Legal Aid and the court to ensure the prioritisation of mentions and contests involving children being contained.

Checklist when not using the SWTS

Two child protection practitioners are required to safely transport a young person to or from the Melbourne Children's Court and to or from secure welfare services when not using the SWTS.

If circumstances change and you require the use of the secure welfare room once at court, contact the court registrar and Secure Welfare Unit manager or team leader on 9318 7522.

Relevant section CYFA 2005

S175 'Support for child moving from secure welfare service'

Other relevant sections of CYFA in relation to secure welfare services:

S173

S174

S263

S242

S266

S530(5)

Guide: Court security/DINMA

General information

Refer to departmental memorandums:

- *Security at Melbourne Children's Court* dated 6 February 2003
- *Use of the DINMA reporting system by Department of Human Services at the Melbourne Children's Court.*

Security at court should be arranged where there are worker safety issues. At the Melbourne Children's Court two security officers are available to provide protection to court staff and users. For rural regions or where you believe the security officers are not sufficient, you should contact the police.

Entering the MCC

All courts users must enter the Melbourne Children's Court through the metal detector and screening unit. There are no exceptions to this requirement.

All courts users are required to place all loose personal possessions including steel cap boots and possessions in the trays provided on the conveyor belt to pass through the screening unit.

Infants need to be removed from prams before going through the metal detector.

To arrange court security at MCC

Contact court as soon as you are aware that there are worker safety issues to arrange security at MCC.

Contact: principal registrar or clerk of courts.

If you have not arranged for court security and you become concerned for your safety, inform the principal registrar or clerk of court to arrange security assistance. Directly approaching security officers is not appropriate.

DINMA reporting system for incidents that occur at/to/from the Melbourne Children's Court

Any incident that has potential to affect your safety or health whilst at the Children's Court is required to be reported through a DINMA located in the departmental room, first floor Melbourne Children's Court or at your regional office. The principal registrar should be informed by either providing a copy of the DINMA or contacting her so that the court is actually aware that there was an incident.

In completing a DINMA you are required to:

- fill in the details of the incident or accident in the first three copies of the DINMA book
- remove the two top copies (blue and yellow) with care
- leave a third copy (white) intact in the DINMA book (if you are concerned about the privacy of the information, fold and staple the white copy).

Take the two copies of the DINMA report to your supervisor or manager in your region as soon as possible after the incident.

If you are unable to complete the DINMA at court, please do so at the region as soon as possible after the incident.

The supervisor or manager should:

- sign the two copies (blue and yellow) as acknowledgement of being notified of the incident
- return the yellow copy to the staff member to keep
- conduct an accident investigation and complete the back of the DINMA form (in consultation with the health and safety representative and staff member concerned)
- document any solutions to minimise the risk of a similar incident or injuries occurring again
- contact the court project officer, Child Protection and Family Services Branch when systemic issues are identified that involve the safety and health of workers at court.

Attachment 1: Court orders summary table

Order	Secretary involved	Duration (not exceeding)	Conditions	Vary/ revoke	Breach	Extend	Reasonable/ lawful directions	Special considerations
Temporary assessment order S228 Form 1	Yes	10 days without notice or 21 days with notice S236	Yes S232	Yes, by child and parent if order made without notice S235 Form 3	No	No	No	Where there is 'reasonable suspicion' of a child in need of protection not 'satisfied on reasonable grounds that a child is in need of protection' otherwise consider a PA
Therapeutic treatment order/ S253 therapeutic treatment placement order (Not available until October 2007) S249 Form 4 & 5 (TTO) and form 6 & 7 (TTPO)	Yes	12 months S250 and SS254	Yes S249	Yes S257-8 Form 8	No	Yes S255 S256 Form 9	No	For children aged 10–14 years who exhibit sexually-abusive behaviours
Interim accommodation order S262 Form 12	Yes	21 days S264	Yes S263	Yes S268 Form 15	Yes S269 Form 16	Yes S267	No	Parents are entitled to know the details of the child's placement under an IAO unless it is in the best interests of the child to withhold the details. S265 Form 13 'Statement of placement availability' must be signed by or on behalf of the chief executive officer of the hospital or parent/baby unit declaring that a placement is available. Can transfer child from one out-of-home care service to another or secure welfare service to another without need to apply to court if it is in the best interests of the child S266.

Order	Secretary involved	Duration (not exceeding)	Conditions	Vary/ revoke	Breach	Extend	Reasonable/ lawful directions	Special considerations
Interim protection order S291 Form 26	Yes	Three months	Yes, in the child's best interests. May include conditions concerning access with a parent or other person S291(3)(f)	Yes - child - child's parent - person with whom the child is living - the Secretary S299 - S301, S303 - 304, S307, S310 Form 28	Yes S311 - S318 Form 34	No	No	An IPO expires upon an IAO being made S317.
Supervision order S280 Form 20	Yes	12 months or in special circumstances up to two years	Yes, in the child's best interests. May include a condition about living with a specified parent or living with each parent for an equal amount of time (as far as possible) S281	Yes by: - child - child's parent - the Secretary S299-S301, S303-304, S307, S310 Form 28	Yes S311 - S318 Form 34	Yes S294 - S298 Form 27	Yes Schedule 2 'Notice of direction' Form 6	If an order is made exceeding 12 months, the Secretary must review the operation of the order at the end of the 12-month period and advise the child, parents, court that the order is to continue for the duration specified in the order. Goal must be reunification.
Supervised custody order S284 Form 22	Yes	12 months	Yes, in the child's best interests. May include conditions concerning access with a parent or other person or a cultural plan for an Aboriginal child	Yes by: - child - child's parent - person with whom the child is living - the Secretary S299-S301, S303-304, S307, S310 Form 28	Yes S311 - S318 Form 34	Yes S294 - S298 Form 27	Yes Schedule 2 'Notice of direction' Form 6	Once reunification occurs, order changes to supervision order S286 without the need to return to courts. All parties must be advised.

Order	Secretary involved	Duration (not exceeding)	Conditions	Vary/ revoke	Breach	Extend	Reasonable/ lawful directions	Special considerations
Custody to third party S283 Form 21	No	12 months	Yes, in the child's best interests. May include conditions concerning access with a parent or other person or a cultural plan for an Aboriginal child	Yes by: - child - child's parent - person with whom the child is living S299-S301, S303-304, S307, S310 Form 28	No	No	No	N/A
Custody to Secretary order S287 Form 23	Yes	12 months	Yes, in the child's best interests. May include conditions concerning access with a parent or other person or a cultural plan for an Aboriginal child	Yes by: - child - child's parent - the Secretary S299-S304, S307-S308, S310 Form 28	No	Yes S294 - S298 Form 27	No	N/A
Guardianship to Secretary order S289 Form 24	Yes	2 years	No	Yes revocation by: - child - child's parent - the Secretary S303-S305, S307-S308, S310 Form 29	No	Yes S294 - S298 Form 27	No	If the GSO does not exceed 12 months, an application for extension cannot be made unless the operation of the order has been reviewed and the Secretary has made a decision that it is in the child's best interest to extend the order

Order	Secretary involved	Duration (not exceeding)	Conditions	Vary/ revoke	Breach	Extend	Reasonable/ lawful directions	Special considerations
Long-term guardianship to the Secretary order S290 Form 25	Yes	Until the child reaches 18 years or marries (which ever happens first)	No	Yes revocation by: - child - child's parent (subject to S306(3)) - the Secretary S303-S304, S306-S307, S309-S310 Form 30	No	No	No	May be made in respect of a child 12 years or over, where they and the Secretary consent and where a carer is available for the duration of the order. The Secretary must review the operation of the order at the end of each 12-month period and advise the child/parents/court that the order is to continue for a further 12 months.
Permanent care order S321 Form 32	No	Until the child reaches 18 years or marries (which ever happens first)	Yes S322 - S323	Yes by: - child - child's parent - carer - the Secretary S326 Form 33	No	No	No	Conditions should include access to siblings, parents, significant others and cultural plan.
Undertaking S278 Form 18	No	Six months or in special circumstance up to 12 months	Yes, in the best interests of the child	Yes by: - child - child's parent - person with whom the child is living Form 19	No	No	No	Protection application is proven
Undertaking S272 Form 17	No	Six months or in special circumstance up to 12 months	Yes, in the best interests of the child	Yes by: - child - child's parent - person with whom the child is living Form 19	No	No	No	Protection application is not proven

Form 1

Children, Youth and Families Act 2005

(Section 228, 229)

APPLICATION FOR TEMPORARY ASSESSMENT ORDER

Court Reference

--

Name of child

	Male	Female
	D.O.B.	

Address

Grounds for the application

The Secretary

- (a) has a reasonable suspicion that the child is, or is likely to be, in need of protection; **and**
- (b) is of the opinion that further investigation and assessment of the matter is warranted; **and**
- (c) is of the opinion that the investigation and assessment cannot properly proceed unless a temporary assessment order is made.

Details of the application

The Secretary applies for:

- authorisation to enter the premises where the child is living;
- a requirement that the parent of the child or any person with whom the child is living permit the Secretary to enter the premises where the child is living;
- a requirement that the parent of the child or any person with whom the child is living permit the Secretary to interview the child and take the child to a place to be determined by the Secretary for that interview;
- authorisation, subject to section 233, for the child to be medically examined by a registered medical practitioner or a registered psychologist;
- a direction that the parent of the child or any person with whom the child is living permit the Secretary to take the child for that medical examination;
- authorisation for the results of the medical examination to be given to the Secretary;
- a requirement that the parent of the child or any person with whom the child is living attend an interview with the Secretary and subject to section 234, answer any questions put to them in the interview.
- the following directions or conditions (*provide a brief description*)

--

Applicant's Name

Agency,
address and
phone

Date	Signature

**APPLICATION FOR A TEMPORARY ASSESSMENT ORDER
(WITHOUT GIVING NOTICE) PURSUANT TO SECTION 229**

The Secretary applies for leave for the application to be heard without giving notice under section 228 and is satisfied that the giving of such notice is inappropriate in the circumstances.

Notice to the parties

- To the Applicant:** You must come to the hearing of this application.
- To the child:** You are directed to appear at Court for the hearing of this application.
- To the parent(s):** You are directed to produce the child at Court for the hearing of this application.

Details of the hearing

A hearing of this application will be held at

am/*pm

on

at the Children's Court at

Address

Issued at

Date

Registrar

FORM 2

Rule 5

Children, Youth and Families Act 2005
(Sections 230–234, 236, 238)**TEMPORARY ASSESSMENT ORDER**

Court Ref.—

Name of Child—

*Male/*Female

Date of Birth—

Address—

Applicant's Name—

Agency and address—

Phone—

*The Children's Court is satisfied that—

the making of a temporary assessment order is in the best interests of the child; **and**
 it is necessary for the Secretary to assess whether or not the child is in need of protection; **and**
 the Secretary cannot properly carry out an investigation or assessment unless the order is made.

*The Children's Court grants an application to vary the terms of the temporary assessment order made on *(date)* in respect of the child.

Details of the order

*The Court makes a temporary assessment order under section *228/*229 of the **Children, Youth and Families Act 2005**.

*The Court orders that the term(s) of the temporary assessment order made on *(date)* be varied.

The temporary assessment order—

- * authorises the Secretary to enter the premises where the child is living— *(address)*;
- *requires *(name)* to permit the Secretary to enter the premises where the child is living— *(address)*;
- *requires *(name)* to permit the Secretary to interview the child and to take the child to a place to be determined by the Secretary for that interview;
- *authorises, subject to section 233, the medical examination of the child by a registered medical practitioner or a registered psychologist;
- *directs *(name)* to permit the Secretary to take the child for that medical examination;
- *authorises the results of the medical examination to be given to the Secretary;
- *requires *(name)* to attend an interview with the Secretary and, subject to section 234, to answer any questions put to them in the interview;
- *any direction or condition— *(specify)*.

This order remains in force for (*specify number*) days beginning from (*date*).

The Secretary must provide to the Court by (*date*) a report in writing setting out the matters referred to in section 238(2).

If this order is made under section 229, the child or a parent of the child may apply to the Court pursuant to section 235 for the variation or revocation of this order.

Order made at— (*venue*)

on— (*date*)

*Judge/*Magistrate

*Delete if not applicable

Notes

(1) Despite this order, a registered medical practitioner or registered psychologist must not examine the child if—

(a) the medical practitioner or psychologist is of the opinion that the child has sufficient understanding to give or refuse consent to the examination; and

(b) the child refuses that consent.

(2) Despite this order a person may refuse to answer a question put by the Secretary in an interview authorised by the order if—

(a) to answer might tend to incriminate the person; or

(b) the information is privileged on the ground of legal professional privilege.

Form 3

Children, Youth and Families Act 2005

(Section 235)

APPLICATION TO VARY OR REVOKE A TEMPORARY ASSESSMENT ORDER MADE WITHOUT NOTICE

	Court Reference		
Name of Child		Male	Female
Address		D.O.B.	

Details of the Order

On the application of	Full name	
Agency, address & phone		
The Children's Court at	Venue	on Date

made a temporary assessment order under section 229 of the Act.

Details of the application

This application is:

to vary the order

to revoke the order

The grounds for this application are—*(set out grounds)*

This application is made:

by the child

by a parent of the child

Applicant's name		
Address & phone		
Date	Signature	

Details of the hearing

A hearing of this application will be held at	am/pm	on	
at the Children's Court at	Address		

Issued at

Date

Registrar

FORM 4

Rule 5

Children, Youth and Families Act 2005
(Section 246)

APPLICATION FOR THERAPEUTIC TREATMENT ORDER

Court Ref.—

Name of Child—

*Male/*Female

Date of Birth—

Address—

Details of the application

The Secretary is satisfied on the following grounds that— (*set out the grounds*)

the child is in need of therapeutic treatment.

Applicant's Name—

Agency and address—

Phone—

Date—

(*Signature*)

Notice to the parties

To the applicant and child— You must come to the hearing of this application.

To the parent(s) of the child— You are directed to produce the child at Court for the hearing of this application.

Details of the hearing

A hearing of this application will be held at (*time*) a.m./*p.m. on (*date*) at the Children's Court at (*venue name and address*).

Issued at—

Date—

Registrar

FORM 5

Rule 5

Children, Youth and Families Act 2005
(Sections 248-251)**THERAPEUTIC TREATMENT ORDER**

Court Ref.—

Name of Child—

*Male/*Female

Date of Birth—

Address—

Applicant's name—

Agency and address—

Phone—

*The Children's Court is satisfied that—

(a) the child has exhibited sexually abusive behaviours; **and**

(b) a therapeutic treatment order is necessary to ensure the child's access to, or attendance at, an appropriate therapeutic treatment program.

*The Children's Court grants an application to extend the therapeutic treatment order made on *(date)* in respect of the child.*The Children's Court grants an application to vary the condition(s) of the therapeutic treatment order made on *(date)* in respect of the child.**Details of the order**

*The Court makes a therapeutic treatment order.

*The Court orders that the therapeutic treatment order made on *(date)* be extended.*The Court orders that the condition(s) of the therapeutic treatment order made on *(date)* be varied.The child is required to participate in a therapeutic treatment program *(give details of program, agency and address)*.**(Name)* is to take any necessary steps to enable the child to participate in the therapeutic treatment program.

*the child is to permit reports of his or her progress and attendance at the therapeutic treatment program to be given to the Secretary.

*any other conditions *(specify)*This therapeutic treatment order remains in force until *(end date)*.Order made at— *(venue name)*

Date—

*Judge/*Magistrate

* Delete if not applicable

Note

Any statement made by the child when participating in the therapeutic treatment program under this order is not admissible in any criminal proceedings in relation to the child.

FORM 6

Rule 5

Children, Youth and Families Act 2005
(Section 252)

**APPLICATION FOR THERAPEUTIC TREATMENT (PLACEMENT)
ORDER**

Court Ref.—

Name of Child—

*Male/*Female

Date of Birth—

Address—

The Children's Court at (*venue*) on (*date*) made a therapeutic treatment order in respect of the child.

Details of the application

The Secretary applies for a therapeutic treatment (placement) order on the following grounds— (*set out grounds*)

Applicant's Name—

Agency and address—

Phone—

Date—

(*Signature*)

Notice to the parties

To the applicant and child— You must come to the hearing of this application.

Details of the hearing

A hearing of this application will be held at (*time*) a.m./p.m. on (*date*) at the Children's Court at (*venue name and address*).

Issued at—

Date—

Registrar

Sch. 2

FORM 6

Regulation 17

Children, Youth and Families Act 2005

(Sections 282(2), 285(2))

NOTICE OF DIRECTION

I, *(insert name of Secretary)*, delegate of the Secretary to the Department of Human Services, in consideration of the best interests of *(insert name of child)* direct under section *282(2)/*285(2) of the **Children, Youth and Families Act 2005**—

(name of child or parent of the child or person with whom the child is living)

to— *(insert direction)*

Signature of Secretary

Date—

* Delete if not applicable

FORM 7

Rule 5

Children, Youth and Families Act 2005
(Sections 252–254)

THERAPEUTIC TREATMENT (PLACEMENT) ORDER

Court Ref.—

Name of Child—

*Male/*Female

Date of Birth—

Address—

Applicant's name—

Agency and address—

Phone—

*The Children's Court made a therapeutic treatment (placement) order in respect of the child and the Children's Court is satisfied that a therapeutic treatment (placement) order is necessary for the treatment of the child.

*The Children's Court grants an application to extend the therapeutic treatment (placement) order made on *(date)* in respect of the child.

*The Children's Court grants an application to vary the condition(s) of the therapeutic treatment (placement) order made on *(date)* in respect of the child.

Details of the order

*The Court makes a therapeutic treatment (placement) order.

*The Court orders that the therapeutic treatment (placement) order made on *(date)* be extended.

*The Court orders that the condition(s) of the therapeutic treatment (placement) order made on *(date)* be varied.

The therapeutic treatment (placement) order grants sole custody of the child to the Secretary but does not affect the guardianship of the child.

The therapeutic treatment (placement) order has the following conditions—

This order remains in force until *(end date)*.

Order made at— *(venue name)*

on *(date)*

*Judge/*Magistrate

FORM 8

Rule 5

Children, Youth and Families Act 2005
(Sections 257, 258)

**APPLICATION TO VARY OR REVOKE A THERAPEUTIC
TREATMENT ORDER OR THERAPEUTIC TREATMENT
(PLACEMENT) ORDER**

Court Ref.—

Name of Child—

*Male/*Female

Date of Birth—

Address—

Details of the order that is sought to be varied or revoked—

On the application of— (*full name*)

Agency and address—

Phone—

*The Children's Court at (*venue*) on (*date*) made a therapeutic treatment order.

*The Children's Court at (*venue*) on (*date*) made a therapeutic treatment (placement) order.

Details of the application

This application is—

*to vary the order (*specify conditions to be varied*)

*to revoke the order

The grounds for the application are— (*set out grounds*)

This application is made by—

*the Secretary

*the child

*a parent of the child

Applicant's name—

Address—

Phone—

Date—

(*Signature*)

Details of the hearing

A hearing of this application will be held at (*time*) a.m./*p.m. on (*date*) at the Children's Court at (*venue name and address*).

Issued at—

Date—

* Delete if not applicable

Registrar

FORM 9

Rule 5

Children, Youth and Families Act 2005
(Section 255)**APPLICATION FOR EXTENSION OF THERAPEUTIC
TREATMENT ORDER OR THERAPEUTIC TREATMENT
(PLACEMENT) ORDER**

Name of Child—

Court Ref.—

Date of Birth—

*Male/*Female

Address—

*The Children's Court at (*venue*) on (*date*) made a therapeutic treatment order.*The Children's Court at (*venue*) on (*date*) made a therapeutic treatment (placement) order.**Details of the application**

The Secretary applies for an extension of—

*the therapeutic treatment order

*the therapeutic treatment (placement) order

The grounds for the application are— (*set out grounds*)

Applicant's name—

Agency and address—

Phone—

*(Signature)***Notice to parties****To the child and applicant**— You must come to the hearing of this application.**To the parent(s)**— You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.**Details of the hearing**A hearing of this application will be held at (*time*) a.m./*p.m. on (*date*) at the Children's Court at (*venue name and address*).

Issued at—

Date—

Registrar

* Delete if not applicable

Form 10

Children, Youth and Families Act 2005
(Sections 240(1), 240(3), 243)

PROTECTION APPLICATION

Name of Child	Court Reference		
		Male	Female
		D.O.B.	

Grounds for the application

- The child has been abandoned by his or her parents and after reasonable enquiries-
 - (i) the parents cannot be found; and
 - (ii) no other suitable person can be found who is willing and able to care for the child.
- The child's parents are dead or incapacitated and there is no other suitable person willing and able to care for the child.
- The child has suffered, or is likely to suffer, significant harm as a result of physical injury and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.

The child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.
- The child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.
- The child's physical development or health has been, or is likely to be, significantly harmed and the child's parents have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange or allow the provision of, basic care or effective medical, surgical or other remedial care.

Applicant's name Agency, address & phone		
	Date	Signature

The Child *has/*has not been taken into safe custody
* Delete if not applicable

Notice to parents and child

To the child: You must come to the hearing of this application.

To the parent(s): If your child is in your custody – the child must appear or be produced before the Court for the hearing of this application.

Details of the hearing

A hearing of this application will be held at am/pm **on**

at the Children's Court at
Address

Issued at

Date

Registrar

***AFFIDAVIT / *DECLARATION OF SERVICE OF PROTECTION APPLICATION**

(* delete that which does not apply)

I, of
(name) (work address)

.....
(occupation)

*SWEAR / *DECLARE that I served a true copy of this notice on
(* delete that which does not apply)

..... who is the
(name of person served) (capacity e.g. mother/father/child)

on at am/pm by
(date) (time)

delivering it to him/her personally at

(address)

leaving it for him/her at

(address)

being that person's last known place of residence / business with a person who resided or worked there and who apparently was not less than 16 years of age.

posting it by prepaid ordinary post at
(address of posting)

in an envelope addressed to that person at his or her last known place of residence / business.

I obtained this address from *(insert relevant details)*

AND on who is the
(name of person served) (capacity e.g. mother/father/child)

on at am/pm by
(date) (time)

delivering it to him/her personally at

(address)

leaving it for him/her at

(address)

being that person's last known place of residence / business with a person who resided or worked there and who apparently was not less than 16 years of age.

posting it by prepaid ordinary post at
(address of posting)

in an envelope addressed to that person at his or her last known place of residence / business.

I obtained this address from *(insert relevant details)*

Signed:
(signature of person who served documents)

*SWORN/*DECLARED AT IN THE STATE OF VICTORIA (* delete that which does not apply)

This day of 20

Before me
(name) (signature)

Title
(capacity under the Evidence Act 1958) (address)

Form 11

Children, Youth and Families Act 2005

(Sections 259, 260)

IRRECONCILABLE DIFFERENCES APPLICATION

	Court Reference		
Name of Child		Male	Female
Address		D.O.B.	

Details of the application	
Name of parent or custodian	
Address	
Relationship to the child	e.g Mother/Father/Relative (state relationship)/Custodian

Grounds for the application	
<input type="checkbox"/> If the applicant is a person who has custody of the child I believe that there is a substantial and presently irreconcilable difference between the child and me to such an extent that the care and control of the child are likely to be seriously disrupted.	
<input type="checkbox"/> If the applicant is the child I believe that there is a substantial and presently irreconcilable difference between me and the person who has custody of me to such an extent that my care and control are likely to be seriously disrupted.	

Applicant's name		
	Address & phone	
	Date	Signature

Notice to custodian or child	
<p>To the child: You must come to the hearing of this application.</p> <p>To the person who has custody of the child: You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.</p>	

Details of the hearing									
A hearing of this application will be held at	<table border="1" style="width: 100%;"> <tr> <td style="width: 30%;"></td> <td style="width: 10%; text-align: center;">am/pm</td> <td style="width: 10%; text-align: center;">on</td> <td style="width: 49%;"></td> </tr> <tr> <td colspan="3"></td> <td style="text-align: center;">Date</td> </tr> </table>		am/pm	on					Date
	am/pm	on							
			Date						
at the Children's Court at	<table border="1" style="width: 100%; height: 30px;"> <tr> <td style="text-align: center;">Address</td> </tr> </table>	Address							
Address									

Issued at

Date

Registrar

Form 12

Children, Youth and Families Act 2005

(Sections 262, 263)

Interim Accommodation Order

Name of Child		Court Reference		
Address			M	F
			(D.O.B.)	
Applicant's Name		Agency address & phone		

Grounds for making this Interim Accommodation Order—*(set out grounds - see page 2 for correct wording)*

The child has been taken into safe custody by a protective intervener under Chapter 4.

A hearing in this case will take place at am/pm on (date) at the Children's Court at*(venue name and address)***Interim Accommodation Order**

Until further order, I order that the child is to be—

- released on the signing by the child of an undertaking to appear on the hearing, or the resumption of the hearing, of the relevant proceeding.
- released into the care of *(name of parent)* who is his or her parent pending that hearing or resumption on the entering into (whether orally or in writing) by that parent of an undertaking to produce the child before the Court for the hearing, or the resumption of the hearing of the relevant proceeding.
- placed with *(name of person(s))* who is (are) a suitable person(s) pending that hearing or resumption on the entering into (whether orally or in writing) by that person or those persons of an undertaking to produce the child before the Court for the hearing, or the resumption of, the hearing of the relevant proceeding, and following a report (whether oral or written) from the Secretary on that person's or those persons' suitability.
- placed in an out of home care service pending that hearing or resumption.
- placed in a secure welfare service pending that hearing or resumption as there is a substantial and immediate risk of harm to the child.
- placed in a declared hospital on the provision to the Court or bail justice of a statement in the prescribed form by or on behalf of the chief executive of the hospital that a bed is available for the child at the hospital.
- placed in a declared parent and baby unit on the provision to the Court or bail justice of a statement in the prescribed form by or on behalf of the chief executive of the agency managing the parent and baby unit that a place is available for the child at the parent and baby unit.

The following conditions apply to this Order—

(set out conditions)

Undertaking

I undertake to *appear/*produce the child before the Court for the hearing or resumption of the proceeding.

.....
Signature

Order made by—.....
(Signature of Bail Justice)

at—(place).....

on—(date).....

Grounds for the making of an Interim Accommodation Order

Section 262(1) of the *Children, Youth and Families Act 2005*

- (a) the child has been taken into safe custody by a protective intervener under Chapter 4; or
- (b) a protection application is filed with the appropriate registrar; or
- (c) a child has been taken into safe custody under section 247; or
- (d) an irreconcilable difference application is filed with the appropriate registrar; or
- (e) an application for conciliation counselling is lodged with the Secretary under section 260; or
- (f) the hearing by the Court of a proceeding in the Family Division (including a proceeding under this section) is adjourned; or
- (g) an application for an extension or further extension of the period of an interim accommodation order has been made to the Court under section 267; or
- (h) an interim accommodation order or any condition attached to an interim accommodation order has not been complied with; or
- (i) an application for a new interim accommodation order has been made to the Court under section 270(1); or
- (j) the child is taken into safe custody on a warrant issued under Chapter 4; or
- (k) an appeal has been instituted under Part 4.11 to the Supreme Court or the County Court against an order made by the Children’s Court under Chapter 4; or
- (l) a question of law has been reserved by the Family Division under section 533 for the opinion of the Supreme Court.

Form 12

Sch 4

Regulation 27(1)

Children, Youth and Families 2005, (Sections 237, 241-243, 247, 261, 268, 269, 270, 291, 313-315, 598)

CHILDREN'S COURT SEARCH WARRANT*- Safe Custody*

Name or description of child {and address if applicable}	Court Ref		
{ Child's Name or description }		M	F
		D.O.B	
{ Child's Address }			

AUTHORITY AND DIRECTIONS

To all members of the police force or

You are authorised to:

- break enter and search any place where the child named or described in this warrant is suspected to be; and
- take into safe custody the child named or described in this warrant;

AND if the warrant is issued under section 237 of the Act,, to bring the child to the Secretary, to enable the Secretary to exercise his or her powers under the temporary assessment order

AND if the warrant is issued under section 241, 243, 247, 261, 268, 270, 291, 313, or 314 of the Act to

bring the child before the Court for the hearing of an application for an interim accommodation order as soon as practicable and, in any event, within one working day after the child was taken into safe custody.

Unless the child is brought before the Court within 24 hours after the child was taken into safe custody, he or she must [unless the child is of tender years] be brought before a bail justice as soon as possible within that period of 24 hours for the hearing of an application for an interim accommodation order.

release the child on an interim accommodation order of the type referred to in section 263 (1) (a) or 263 (1) (b) of the Act in accordance with the endorsement below.

OR if the warrant is issued under section 269 of the Act, to

bring the child before the Court for the hearing of a proceeding for breach of an interim accommodation order as soon as practicable and, in any event within one working day after the child was taken into safe custody. Unless the child is brought before the Court within 24 hours after the child was taken into safe custody, he or she must (unless the child is of tender years) be brought before a bail justice as soon as possible within that period of 24 hours for the hearing of a proceeding for breach of an interim accommodation order.

release the child on an interim accommodation order of the type referred to in section 263 (1) (a) or 263 (1) (b) of the Act in accordance with the endorsement below.

OR if the warrant is issued under section 598 of the Act,

the member of the police force who executed this warrant must take the child to the place specified in this warrant or, if no place is specified, to a place determined by the Secretary or, in the absence of a determination, to a place referred to in section 173 of the Act.

Place specified:

ENDORSEMENT

The child may be released on an interim accommodation order to appear at the Children's

Court at _____ at (Time) _____ am/pm on {Date}{

Applicant's name	{19 Applicant's Name}	Phone	{20 Applicant's phone}
Agency & address	Department of Human Services {22 Agency Address}	Postcode	{23 Postcode}

Date Issued at Issued by [signature] Judge
 Magistrate

Details of Execution

Child named in warrant

I took the child named in the warrant into safe custody at am/pm
 on at

The child has been placed on an interim accommodation order to appear at the Children's Court at
 on During this time the child is to be placed at:

The child was taken into safe custody under section 265 of the Children and Young Persons Act 1989 and was taken by me to:

I have returned this warrant unexecuted because:

Name, Rank & No.	<input style="width: 100%;" type="text"/>	
Station	<input style="width: 100%;" type="text"/>	
Signature	<input style="width: 100%; height: 100%;" type="text"/>	Date

FORM 13

Rule 6

Children, Youth and Families Act 2005
(Sections 263(1)(f), 263(1)(g))

STATEMENT OF PLACEMENT AVAILABILITY

Court Ref.—

Name of Child—

*Male/*Female

Date of Birth—

Address—

I, *(name)* *being the/* on behalf of the chief executive officer of *(name of hospital or name of agency managing a declared parent and baby unit)* state that there is a *bed/*place available for *(name of child)* at *(name of hospital or name of declared parent and baby unit)*.

Date—

(Signature)

Name—

* Delete if not applicable

FORM 14

Rule 7

Children, Youth and Families Act 2005
(Section 263(2))

**STATUTORY DECLARATION OF UNDERTAKING TO PRODUCE
CHILD**

I, *(full name)* of *(address)*, *(occupation)*, declare that I undertake to produce the child named *(full name)*

born *(date of birth)*

before the Children's Court at *(venue)* on *(date)* at *(time)* for the hearing, or the resumption of the hearing, of the following proceeding *(state type of proceeding)*.

I acknowledge that this declaration is true and correct and make it in the belief that a person making a false declaration is liable to the penalties of perjury.

Declared at *(place)*

in the State of Victoria on *(date)*

Before—*(Signature)*

(name and address in legible writing, typing or stamp below signature)

a person authorised under section 107A(1) of the **Evidence Act 1958** to witness the signing of a statutory declaration.

Form 15

Children, Youth and Families Act 2005

(Sections 268, 270)

APPLICATION TO VARY AN INTERIM ACCOMMODATION ORDER OR FOR A NEW ORDER

	Court Reference		
Name of Child		Male	Female
Address		D.O.B.	
Details of the Interim Accommodation Order			
The Children's Court at <input style="width: 150px;" type="text" value="Venue"/> on <input style="width: 100px;" type="text" value="Date"/>			
made an interim accommodation order.			
Details of this application			
This application is			
<input type="checkbox"/> to vary the order.			
<input type="checkbox"/> for a new interim accommodation order.			
The grounds for the application are: <i>(set out grounds)</i>			
<input style="width: 100%; height: 100%;" type="text"/>			
Applicant's name			
Address & phone			
	Date	Signature	
NOTE: The applicant must give notice of this application to the person who applied for the interim accommodation order and any other party to the proceeding in which that order was made and any person with whom the child is living.			
Details of the hearing			
A hearing of this application will be held at <input style="width: 100px;" type="text" value="am/pm"/> on <input style="width: 100px;" type="text" value="Date"/>			
at the Children's Court at <input style="width: 300px;" type="text" value="Address"/>			

Issued at

Date

Registrar

Form 16

Children, Youth and Families Act 2005

(Section 269)

**NOTICE TO APPEAR BEFORE THE CHILDREN’S COURT –
BREACH OF AN INTERIM ACCOMMODATION ORDER**

Court Reference

Name of Child

Male

Female

Address

D.O.B

Details of the Order

The Children’s Court at

Venue

on

Date

made an interim accommodation order.

Details of this notice

Reason for the service of this Notice:

The interim accommodation order or any condition of the order has not been, or is not being complied with (*give details*).

Applicant’s name

Agency, address
& phone

Date

Signature

Notice to parent or child

To the child: You must appear before the Court on the date and at the time listed below.

To the parent(s) or other person with whom the child is living: You must bring the child to Court on the date and at the time listed below.

Details of the hearing

**A hearing of this application
will be held at**

am/pm

on

Date

at the Children’s Court at

Address

Issued at

Date

Registrar

FORM 17

Rule 5

Children, Youth and Families Act 2005
(Sections 272, 273)

UNDERTAKING—PROTECTIVE INTERVENTION

Name of Child—

Court Ref.—

*Male/*Female

Date of Birth—

Address—

*The Children's Court makes an order requiring an undertaking to be given by a person.

*The Children's Court grants an application to vary the undertaking or the condition(s) of the undertaking made on (*date*) and the undertaking or condition(s) of the undertaking are varied.**Details of the undertaking**(*name*), *the child/*the parent of the child/*the person with whom the child is living, gives the following undertaking— (*set out details of undertaking*)This undertaking remains in force until (*end date*).I consent to the making of this order and agree to comply with this undertaking.
(*Signature*)

*Child/*Parent/*Custodian

Order made at— (*venue name*)on— (*date*)

*Judge/*Magistrate

* Delete if not applicable

FORM 18

Rule 5

Children, Youth and Families Act 2005
(Sections 278, 279)

UNDERTAKING—PROTECTION ORDER

Name of Child—

Court Ref.—

Date of Birth—

*Male/*Female

Address—

*The Children's Court *has found/*finds that the child is in need of protection. The Court makes an order requiring an undertaking to be given.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted. The Court makes an order requiring an undertaking to be given.

*The Children's Court grants an application to vary the undertaking or the condition(s) of the undertaking in respect of the child given on (*date*) and the undertaking or condition/s of the undertaking are varied.

*The Children's Court grants an application to revoke the protection order made on (*date*) in respect of the child and makes an order requiring a person to give an undertaking.

Details of the undertaking

(*name*), *the child/*the parent of the child/*the person with whom the child is living gives the following undertaking— (*set out details of undertaking*)

This undertaking remains in force until (*end date*).

I consent to the making of this order and agree to comply with this undertaking.

(*Signature*)

*Child/*Parent/*Custodian

Order made at— (*venue name*)

on— (*date*)

*Judge/*Magistrate

* Delete if not applicable

Form 19

Children, Youth and Families Act 2005

(sections 273, 279)

APPLICATION TO VARY OR REVOKE AN UNDERTAKING

	Court Reference		
Name of Child		Male	Female
Address		D.O.B.	
Details of the Undertaking			
The Children's Court at	Venue	on	Date
made an order requiring			
the <input type="checkbox"/> child/ <input type="checkbox"/> parent/ <input type="checkbox"/> person with whom the child is living	<i>(specify)</i>		
to give an undertaking pursuant to section <input type="checkbox"/> 272/ <input type="checkbox"/> 278 of the Act.			
Details of the application			
This application is			
<input type="checkbox"/> to vary the undertaking <i>(specify the conditions to be varied)</i>			
<input type="checkbox"/> to revoke the undertaking			
The grounds for the application are: <i>(set out grounds)</i>			
Applicant's name			
Agency, address & phone			
	Date	Signature	
Details of the hearing			
A hearing of this application will be held at	am/pm	on	Date
at the Children's Court at	Address		

Issued at

Date

Registrar

FORM 20

Rule 5

Children, Youth and Families Act 2005
(Sections 280–282, 293–294, 296, 298–301, 310, 318)

SUPERVISION ORDER

Name of Child—
Date of Birth—
Address—

Court Ref.—
*Male/*Female

*The Children's Court *has found/*finds that the child is in need of protection.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

*The Children's Court grants an application to extend the supervision order made on *(date)* in respect of the child.

*The Children's Court grants an application to vary the condition(s) of the supervision order made on *(date)* in respect of the child.

*The Children's Court grants an application to revoke the protection order made on *(date)* and a supervision order is made in respect of the child.

*The Children's Court finds proved a breach of the protection order made on *(date)* in respect of the child.

Details of the order

*The Court orders that the child be placed on a supervision order.

*The Court orders that the supervision order made on *(date)* be extended.

*The Court orders that the condition(s) of the supervision order made on *(date)* be varied.

This order remains in force *until *(end date)*/*until the current application to extend the order is determined by the Court.

The child is to be placed in the day to day care of the child's parent(s) *(name(s))*.

A supervision order gives the Secretary responsibility for the supervision of the child but does not affect the custody or guardianship of the child.

The following conditions apply to this supervision order— *(set out conditions)*

**(If the order remains in force for a period exceeding 12 months from (date))—* The Court directs the Secretary to review the operation of this order before the end of the period of 12 months after *(date)* and to notify the Court, the child, the child's parent(s) and the following person(s) *(specify)* before the end of that period if the Secretary considers that it is in the best interests of the child for this order to continue for the duration of the period specified in this order.

Order made at— *(venue name)*

on— *(date)*

*Judge/*Magistrate

* Delete if not applicable

Form 20

Sch 4

Regulation 21

Children, Youth and Families Act 2005

Children's Court Witness Summons

To the Witness	{Witness Name}	Phone	{Witness Phone}	Court Ref {Court Ref}
Address	{Witness Address}	Postcode	{Postcode}	M <input type="checkbox"/> F <input type="checkbox"/>

Details of the Case	
Name of child	
Type of hearing	<input type="checkbox"/> Protection Application <input type="checkbox"/> Irreconcilable Difference Application <input type="checkbox"/> Charges <input type="checkbox"/> Other
Name of applicant/informant	{Name of applicant/informant} Phone {Applicant's Phone}
Agency and address	Department of Human Services {Agency Address} Postcode {Agency Postcode}

What you have to do
You must bring this summons with you and:
<input type="checkbox"/> come to court to give evidence in the proceeding
<input type="checkbox"/> come to court to give evidence and also produce at the hearing the following documents or other things in your possession or control:
<input type="checkbox"/> produce at the hearing the following documents or other things in your possession or control:
{Documents or other things to produce}

You may produce this summons and the documents or things referred to above, to the registrar of the Children's court specified below, by hand or by post, in either case, so that the registrar receives them not later than 2 days (excluding Saturdays, Sundays or other holidays) before the date on which you are required to attend.

If you are required to give evidence you MUST attend the hearing.

Where will the case be heard
Where you must go: The Children's Court at {Court Name}
Address: {Court Location}
When: Time Day Month Year

Details about this summons
Issued at Date <input type="checkbox"/> Registrar
Issued by (signature) <input type="checkbox"/> Magistrate
<input type="checkbox"/> Judge

Summons filed by
{identify party}

AFFIDAVIT/DECLARATION OF SERVICE OF WITNESS SUMMONS

I	full name {21 Name of person making affidavit}
of	address {22 Address of person making affidavit}
a	Occupation {23 Occupation of person making affidavit}

* swear/declare that I served a true copy of this summons

* together with true copies of
 any other documents
 {24 Other documents served}

* and conduct money of \$
 {25 Amount of
 conduct money \$}

on
 date
 {26 Date served}
 at
 {27 Time served}
 am/pm

by: {28 How documents served}

delivering it to the witness personally at
 address
 {29 Address if delivered / left for witness}

leaving for the witness at
 address
 {29 Address if delivered / left for witness}

being the witness's last or most usual place of * residence/business with a person who apparently was not less than 16 years of age.

Other

<p>Sworn</p> <p>at</p> <p>in the State of Victoria</p> <p style="padding-left: 40px;">{date}</p> <p>on</p> <p style="padding-left: 40px;">{signature of person who served summons}</p> <p>Before#</p>	<p>I acknowledge that this declaration is true and correct and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.</p> <p>Declared at</p> <p>in the State of Victoria</p> <p style="padding-left: 40px;">{date}</p> <p>on</p> <p style="padding-left: 40px;">{signature of person who served summons}</p> <p>Before:@</p>
--	---

{Name and address in legible writing, typing or stamp}

{Name and address in legible writing, typing or stamp}

#a person authorised under section 123C(1) of the Evidence Act 1958 to take an affidavit.

@a person authorised under section 107A(1) of the Evidence Act 1958 to witness the signing of a statutory declaration.

*Delete if not applicable

FORM 21

Rule 5

Children, Youth and Families Act 2005
(Sections 283, 299–301, 310)**CUSTODY TO THIRD PARTY ORDER**

Name of Child—

Court Ref.—

*Male/*Female

Date of Birth—

Address—

*The Children's Court *has found/*finds that the child is in need of protection.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

*The Children's Court grants an application to vary the condition(s) of a custody to third party order made on (*date*) in respect of the child.*The Children's Court grants an application to revoke a protection order made on (*date*) and a custody to third party order is made in respect of the child.*The Children's Court finds proved a breach of the protection order made on (*date*) in respect of the child.**Details of the order**

The Court orders that *sole/*joint custody of the child be granted to—

Name(s)—

Address—

*The Court orders that the condition(s) of the custody to third party order made on (*date*) be varied. That order granted *sole/*joint custody to—

Name(s)—

Address—

This order does not affect the guardianship of the child.

This order remains in force until (*end date*).The following conditions apply to this custody to third party order— (*set out conditions*)Order made at— (*venue name*)on— (*date*)

*Judge/*Magistrate

* Delete if not applicable

FORM 21

Children, Youth and Families Act 2005

AFFIDAVIT OF SERVICE

I, (*full name*) of (*address*), (*occupation*) *swear/*declare that I served a copy of the (*describe document*) on (*name of person served*) who is the (*capacity e.g. mother/father/child*) on (*date*) at
a.m./p.m. by—

*delivering it to him/her personally at (*address*)

*leaving it for him/her at (*address*)

being that person's last known place of *residence/*business with a person who apparently resided or worked there and who apparently was not less than 16 years of age.

*posting it by*prepaid ordinary post/*registered post at (*address of posting*) in an envelope addressed to that person at his or her last known place of *residence/*business. I obtained this address from—

*other (*specify*)

*I acknowledge that this declaration is true and correct and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.

*Sworn/*Declared at (*place*)

in the State of Victoria

on (*date*)

Before

(*Signed by person*)

*authorised under section 107A(1) of the **Evidence Act 1958** to witness the signing of a statutory declaration.

*authorised under section 123C(1) of the **Evidence Act 1958** to take an affidavit.

(*Name and address in legible writing, typing or stamp*)

* Delete if not applicable

FORM 22

Rule 5

Children, Youth and Families Act 2005
(Sections 284, 293–294, 296, 298–301, 310, 318)**SUPERVISED CUSTODY ORDER**

Name of Child—

Court Ref.—

Date of Birth—

*Male/*Female

Address—

*The Children's Court *has found/*finds that the child is in need of protection.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

*The Children's Court grants an application to extend the supervised custody order made on (*date*) in respect of the child.*The Children's Court grants an application to vary the condition(s) of the supervised custody order made on (*date*) in respect of the child.*The Children's Court grants an application to revoke the protection order made on (*date*) and a supervised custody order is made in respect of the child.*The Children's Court finds proved a breach of the protection order made on (*date*) in respect of the child.**Details of the order**

*The Court order that *sole/*joint custody of the child be granted to—

Name—

Address—

*The Court orders that the supervised custody order made on (*insert date*) be extended. That order grants *sole/*joint custody of the child to—

Name(s)—

Address—

*The Court orders that the condition(s) of the supervised custody order made on (*date*) be varied. That order grants *sole/*joint custody of the child to—

Name(s)—

Address—

This order does not affect the guardianship of the child.

This order remains in force *until (*end date*)/*until the current application to extend the order is determined by the Court.

The person who has custody of the child must permit the Secretary to visit the child at his or her place of residence and carry out the duties of the Secretary under the order.

The Court directs the parties to take all appropriate steps to enable the reunification of the child with his or her parent before the end of the period for which the order remains in force.

The following conditions apply to this supervised custody order—

Note

If while this order is in force, the Secretary is satisfied that it is in the child's best interests, the Secretary may in writing direct that the child return to the sole or joint custody of a parent or the parents of the child. In the event of such a direction—

- (a) the child ceases to be in the custody of the person in whom custody was vested under this supervised custody order; and
- (b) the child is deemed to be in the custody of the parent(s) of the child as specified in the direction; and
- (c) this order ceases to be a supervised custody order and is deemed to be a supervision order giving the Secretary responsibility for the supervision of the child and placing the child in the day to day care of the parent(s).

**(If the order remains in force for a period exceeding 12 months from (date))—* The Court directs the Secretary to review the operation of this order before the end of the period of 12 months after *(date)* and to notify the Court, the child, the child's parent and the following person(s) *(specify names)* before the end of that period if the Secretary considers that it is in the best interests of the child for this order to continue for the duration of the period specified in this order.

Order made at— *(venue name)*

on— *(date)*

*Judge/*Magistrate

* Delete if not applicable

FORM 23

Rule 5

Children, Youth and Families Act 2005
(Sections 287, 293–302, 310)**CUSTODY TO SECRETARY ORDER**

Name of Child—
Date of Birth—
Address—

Court Ref.—
*Male/*Female

*The Children's Court *has found/*finds that the child is in need of protection.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

*The Children's Court grants an application to extend the Custody to Secretary Order made on (*date*) in respect of the child.

*The Children's Court grants an application to vary the condition(s) of the Custody to Secretary Order made on (*date*) in respect of the child.

*The Children's Court grants an application to revoke the protection order made on (*date*) and a Custody to Secretary Order is made in respect of the child.

*The Children's Court finds proved a breach of the protection order made on (*date*) in respect of the child.

*The Children's Court finds that exceptional circumstances exist warranting an interim variation of the condition(s) of the Custody to Secretary Order made on (*date*) in respect of the child.

Details of the order

*The Court orders that sole custody of the child named above be granted to the Secretary.

*The Court orders that the Custody to Secretary Order made on (*date*) be extended.

*The Court orders that the condition(s) of the Custody to Secretary Order made on (*date*) be varied.

*This order is an interim variation pending the final determination of an application to vary the Custody to Secretary Order.

This order remains in force *until (*end date*)/*until the current application to extend the order is determined by the Court.

Note

A Custody to Secretary Order grants sole custody to the Secretary but does not affect the guardianship of the child.

The following conditions apply to this Custody to Secretary Order— (*set out conditions*)

(If the order remains in force for a period exceeding 12 months from (date))— The Court directs the Secretary to review the operation of this order before the end of the period of 12 months after (*date*) and to notify the Court, the child, the child's parent and the following person(s) (*specify*) before the end of that period if the Secretary considers that it is in the best interests of the child for this order to continue for the duration of the period specified in this order.

*The Court directs the Secretary to take steps to ensure that at the end of the period of the order a person other than the child's parent applies to a court for an order relating to the child's—

- (a) custody; or
- (b) custody and guardianship; or
- (c) custody and joint guardianship.

Order made at— (*venue name*)

on— (*date*)

*Judge/*Magistrate

* Delete if not applicable

FORM 24

Rule 5

Children, Youth and Families Act 2005
(Sections 289, 293–298, 310)**GUARDIANSHIP TO SECRETARY ORDER**

Name of Child—
Date of Birth—
Address—

Court Ref.—
*Male/*Female

*The Children's Court *has found/*finds that the child is in need of protection.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

*The Children's Court grants an application to extend the Guardianship to Secretary Order made on *(date)* in respect of the child.

*The Children's Court grants an application to revoke the protection order made on *(date)* and a Guardianship to Secretary Order is made in respect of the child.

*The Children's Court finds proved a breach of the protection order made on *(date)* in respect of the child.

Details of the order

*The Court orders that custody and guardianship of the child be granted to the Secretary to the exclusion of all other persons.

*The Court orders that the Guardianship to Secretary Order made on *(date)* be extended. That order grants custody and guardianship of the child to the Secretary to the exclusion of all other persons.

*This order remains in force until *(end date)*.

(If the order remains in force for a period exceeding 12 months from (date))— The Court directs the Secretary to review the operation of this order before the end of the period of 12 months after *(date)* and to notify the Court, the child, the child's parent and the following person(s) *(specify)* before the end of that period if the Secretary considers that it is in the best interests of the child for this order to continue for the duration of the period specified in this order.

*The Court directs the Secretary to take steps to ensure that at the end of the period of the order a person other than the child's parent applies to a court for an order relating to the child's—

(a) custody; or

(b) custody and guardianship; or

(c) custody and joint guardianship.

Order made at— *(venue name)*
on— *(date)*

*Judge/*Magistrate

* Delete if not applicable

FORM 25

Rule 5

Children, Youth and Families Act 2005
(Sections 290, 310)

LONG-TERM GUARDIANSHIP TO SECRETARY ORDER

Name of Child—
Date of Birth—
Address—

Court Ref.—
*Male/*Female

- *The Children's Court *has found/*finds that the child is in need of protection.
- *The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.
- *The Children's Court grants an application to revoke the protection order made on (*date*) and a Long-term Guardianship to Secretary Order is made in respect of the child.
- *The Children's Court finds proved a breach of the protection order made on (*date*) in respect of the child.

The Court is satisfied that—

- (a) there is a person or persons available with whom the child will continue to live for the duration of the order; and
- (b) the Secretary consents to the making of the order; and
- (c) the child consents to the making of the order; and
- (d) the making of the order is in the best interests of the child.

Details of the order

The Court orders that custody and guardianship of the child be granted to the Secretary to the exclusion of all other persons.

This order remains in force until the child attains the age of 18 years or marries, whichever happens first.

The Court directs the Secretary to review the operation of this order before the end of each period of 12 months after the making of this order and to notify the Court, the child, the child's parent and the following person(s) (*specify*) before the end of that period if the Secretary considers that, to ensure the safety and wellbeing of the child, the order should continue for a further period of 12 months.

Order made at— (*venue name*)

on— (date)

*Judge/*Magistrate

* Delete if not applicable

FORM 26

Rule 5

Children, Youth and Families Act 2005
(Sections 291, 299–301, 303–304, 318)**INTERIM PROTECTION ORDER**

Name of Child—

Court Ref.—

*Male/*Female

Date of Birth—

Address—

Applicant's name—

Agency and address—

Phone—

*The Children's Court finds that the child is in need of protection.

*The Children's Court finds that there is a substantial and irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

*The Children's Court grants an application to vary the condition(s) of the interim protection order made on *(date)* and an interim protection order is made in respect of the child.*The Children's Court grants an application to revoke the protection order made on *(date)* in respect of the child.*The Children's Court finds proved a breach of the protection order made on *(date)* in respect of the child.**Details of the order**

*The Court orders that the child be placed on an interim protection order.

*The Court orders that the condition(s) of the interim protection order made on *(date)* be varied.

The Secretary is accountable to the Court for the implementation of this order.

(name) is to have the responsibility for the supervision of the child.The Court directs the preparation and submission to the Court of an additional report by *(state person)*.This order remains in force until *(end date)*.**The following conditions apply to this Interim Protection Order—** *(set out conditions)***Details of the further hearing**The further hearing of this case will be held at *(time)* a.m./*p.m. on *(date)* at the Children's Court at *(venue name and address)*.Order made at— *(venue name)*on— *(date)*

*Judge/*Magistrate

* Delete if not applicable

Form 28

Children, Youth and Families Act 2005

(Sections 300, 304)

APPLICATION TO VARY OR REVOKE A PROTECTION ORDER**(Not for undertakings or for guardianship to Secretary order or for long-term guardianship to Secretary order)**

	Court Reference		
Name of Child		Male	Female
Address		D.O.B.	

Details of the original Order *(not details of any subsequent variation or extension)*

The Children's Court at on made the following order:

- a supervision order a custody to third party order a supervised custody order
 a custody to Secretary order an interim protection order

* The Secretary has directed that on *(date)* the child return to the sole or joint custody of a parent or parents and accordingly, pursuant to section 286(1)(c) of the Act, the supervised custody order has been deemed to be a supervision order.

Details of this application

This application is: to vary the order to revoke the order

(specify the condition(s) to be varied)

The grounds for the application are— *(set out grounds)*

This application is made by:

- the child a parent of the child
 a person with whom the child is living
 a person who has been granted custody of the child
 the Secretary.

Applicant's name		
	Address & phone	
	Date	Signature

Details of the hearing

A hearing of this application will be held at		am/pm	on	Date
at the Children's Court at	<input type="text" value="Address"/>			

Issued at

Date

Registrar

Form 29

Children, Youth and Families Act 2005
(Section 305)

APPLICATION TO REVOKE A GUARDIANSHIP TO SECRETARY ORDER

	Court Reference	
Name of Child	Male	Female
Address	D.O.B.	
Details of the Order		
The Children’s Court at <input style="width: 150px;" type="text" value="Venue"/> on <input style="width: 100px;" type="text" value="Date"/> made a guardianship to Secretary order in respect of the child which was to remain in force until <input style="width: 150px;" type="text" value="End date"/>		
(If the order has since been extended) *The Children’s Court of Victoria at <input style="width: 150px;" type="text" value="Venue"/> on <input style="width: 100px;" type="text" value="Date"/>		
last extended this order until <input style="width: 150px;" type="text" value="End date"/>		
Details of the application		
This application is made on the grounds that— <input type="checkbox"/> circumstances have changed since the making of the guardianship to Secretary order and the applicant has asked the Secretary to review the case plan and the Secretary has either refused to review the case plan or has reviewed it in a way which the applicant finds unsatisfactory. <input type="checkbox"/> the Secretary makes a notification in accordance with section 289(2) of the Act in respect of the order.		
(State any other grounds)		
Applicant’s name		
Address & phone		
The applicant is <input type="checkbox"/> the child <input type="checkbox"/> a parent of the child <input type="checkbox"/> the Secretary		
Date	Signature	
Details of the hearing		
A hearing of this application will be held at <input style="width: 100px;" type="text" value="am/pm"/> on <input style="width: 100px;" type="text" value="Date"/>		
at the Children’s Court at <input style="width: 300px;" type="text" value="Address"/>		

Issued at

Date

Registrar

Form 30

Children, Youth and Families Act 2005

(Section 306)

**APPLICATION TO REVOKE A LONG-TERM GUARDIANSHIP
TO SECRETARY ORDER**

Name of Child	Court Reference		Male	Female
	Address		D.O.B.	
Details of the Order				
The Children's Court of Victoria at <input type="text" value="Venue"/> on <input type="text" value="Date"/> made a long-term guardianship to Secretary order in respect of the child.				
Details of this application				
This application is to revoke the order.				
The grounds for the application are— (<i>set out grounds</i>)				
<input type="text"/>				
This application is made:				
<input type="checkbox"/> by the child <input type="checkbox"/> by a parent of the child <input type="checkbox"/> by the Secretary				
<i>(If this application is made by a parent of the child and the order has been in force for more than 12 months)</i>				
<input type="checkbox"/> I hereby apply for leave pursuant to section 306(3) of the Act to make this application.				
Applicant's name	<input type="text"/>			
Address & phone	<input type="text"/>			
	Date	Signature		
Details of the hearing				
A hearing of this application will be held at <input type="text"/> am/pm on <input type="text"/> Date				
at the Children's Court at <input type="text"/> Address				

Issued at

Date

Registrar

Form 31

Children, Youth and Families Act 2005

(Section 320)

APPLICATION FOR PERMANENT CARE ORDER

Name of Child	Court Reference		Male	Female
	Address		D.O.B.	

Details of the application

Applicant's name			
Agency, address & phone			
	Date	Signature	

Name and address of child's mother	
Name and address of child's father	
Name and address of proposed carer 1	
Name and address of proposed carer 2	

Relationship of carer(s) to child: Relative(s) (*specify*)
 Foster parent(s) Other (*specify*)

The applicant applies for a permanent care order in respect of the child.

A protection order *is/is not* in force in respect of the child.

(*If a protection order is in force set out relevant details.*)

--

An application to revoke the protection order *has/has not* been made. It *has/has not* been determined.

There *are/are not* current proceedings under the Family Law Act 1975 of the Commonwealth with respect to the custody and guardianship of the child, being a proceeding commenced by a person who is not a parent of the child, details of which are as follows—(*Set out details including who commenced such proceedings.*)

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Notice to parties

To the child and applicant: You must come to the hearing of this application.

To the parent(s) and proposed carer(s): You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at		am/pm	on	Date
at the Children's Court at	Address			

Issued at

Date

Registrar

FORM 32

Rule 5

Children, Youth and Families Act 2005
(Sections 319, 321)**PERMANENT CARE ORDER**

Name of Child—

Court Ref.—

*Male/*Female

Date of Birth—

Address—

Name of child's mother—

Address—

Name of child's father—

Address—

*The Children's Court grants a permanent care application in respect of the child.

*The Children's Court grants an application to vary the condition(s) of the permanent care order made on (*date*) in respect of the child.**Details of the order**

*The Court makes a permanent care order.

*The Court orders that the condition(s) of the permanent care order made on (*date*) be varied.

Custody and guardianship of the child is granted to—

Name—

Address—

Name—

Address—

*Guardianship of the child is vested jointly in—(*names and addresses*)The following conditions apply to this permanent care order— (*set out conditions*)Order made at— (*venue*)on— (*date*)

*Judge/*Magistrate

* Delete if not applicable

Form 33

Children, Youth and Families Act 2005

(Section 326)

APPLICATION TO VARY OR REVOKE A PERMANENT CARE ORDER

	Court Reference		
Name of Child		Male	Female
Address		D.O.B.	
Applicant's name			
Address & phone			
<p>The applicant is:</p> <p><input type="checkbox"/> the child <input type="checkbox"/> a parent of the child <input type="checkbox"/> the Secretary</p> <p><input type="checkbox"/> a person granted custody and guardianship of the child under the order</p> <p>The parents of the child are— <i>(names and addresses)</i></p> <div style="border: 1px solid black; height: 60px; width: 100%;"></div>			
Details of the Permanent Care Order being sought to be varied or revoked			
<p>The Children's Court at <div style="border: 1px solid black; width: 150px; height: 30px; display: inline-block; text-align: center;">Venue</div> on <div style="border: 1px solid black; width: 100px; height: 30px; display: inline-block; text-align: center;">Date</div></p> <p>made an order granting custody and guardianship of the child to- <i>(names and addresses)</i></p> <div style="border: 1px solid black; height: 50px; width: 100%;"></div>			
Details of this application			
<p>This application is:</p> <p><input type="checkbox"/> to vary the permanent care order <input type="checkbox"/> to revoke the permanent care order</p> <p>The grounds for the application are— <i>(set out grounds)</i></p> <div style="border: 1px solid black; height: 50px; width: 100%;"></div>			
Date		Signature	
Details of the hearing			
<p>A hearing of this application will be held at <div style="border: 1px solid black; width: 100px; height: 25px; display: inline-block; text-align: center;">am/pm</div> on <div style="border: 1px solid black; width: 100px; height: 25px; display: inline-block; text-align: center;">Date</div></p> <p>at the Children's Court at <div style="border: 1px solid black; width: 300px; height: 25px; display: inline-block; text-align: center;">Address</div></p>			

Issued at

Date

Registrar

Form 34

Children, Youth and Families Act 2005

(Section 312)

**NOTICE TO APPEAR BEFORE THE CHILDREN'S COURT –
FAMILY DIVISION**

Name of Child		Court Reference		Male	Female	
Address				D.O.B.		
Details of the Order						
The Children's Court at made-		Venue		on	Date	
<input type="checkbox"/> a supervision order <input type="checkbox"/> a supervised custody order <input type="checkbox"/> an interim protection order * The Secretary has directed that on <i>(date)</i> the child return to the sole or joint custody of a parent or parents and accordingly, pursuant to section 286(1)(c) of the Act, the supervised custody order has been deemed to be a supervision order.						
Details of this notice						
Reason for the service of this notice:						
<input type="checkbox"/> There has been a failure to comply with a condition of the order— <i>(give details)</i> <input type="checkbox"/> There has been a failure to comply with a direction given by the Secretary under section 282(2) of the Act (if supervision order) or section 285(2) of the Act (if supervised custody order). Details of the failure are— <i>(set out relevant details)</i> <input type="checkbox"/> The child is living in conditions which are unsatisfactory in terms of the safety and wellbeing of the child. The unsatisfactory conditions are— <i>(give details)</i>						
Applicant's Name						
Agency, address & phone						
		Date	Signature			
Notice to parties						
To the child: You must appear before the Court on the date and at the time listed below.						
To the parent(s) or other person with whom the child is living: You must bring the child to Court on the date and at the time listed below.						
Details of the hearing						
A hearing of this application will be held at		am/pm		on	Date	
at the Children's Court at		Address				

Issued at

Date

Registrar

FORM 35

Rule 5

Children, Youth and Families Act 2005
(Sections 556, 559, 566, 570)

APPLICATION TO RESTRICT ACCESS TO A REPORT

Name of Child—

Court Ref.—

*Male/*Female

Date of Birth—

Address—

Details of the order for the report

The Children's Court at (*venue*) on (*date*) ordered the Secretary to submit to the Court the following report concerning the child named above—

- *protection report
- *disposition report
- *therapeutic treatment application report
- *therapeutic treatment (placement) report

The report is to be considered at a hearing of the relevant application on (*date*).

Details of this application

I apply to the Court for an order restricting access by—

- *the child who is the subject of the report
- *the child's parent
- *the following party to the proceeding— (*insert name of party*)
- *any other person specified by the Court namely— (*insert name of person specified*)

I seek that access be restricted to—

- *the whole report
- *a part of the report (*specify—*)

This application is based on the grounds that the information in the report or the part of the report may be prejudicial to the physical or mental health of the child or a parent of the child.

Applicant's name—

Agency and address—

Phone—

Date—

(*Signature*)

Details of the hearing

A hearing of this application will be held at (*time*) a.m./*p.m. on (*date*) at the Children's Court at (*venue name and address*).

Issued at—

Date—

Registrar

* Delete if not applicable

