

CFSA PRACTICE TIPS

Representing individuals whose children have been apprehended under the CFSA requires patience, understanding and diligence. Nova Scotia Legal Aid and Certificate Lawyers represent the vast majority of individuals whose children have been apprehended. They do this demonstrating the qualities mentioned.

In the last year, some individuals have appealed final Orders from the Supreme Court Family Division and the Provincial Family Court alleging ineffective counsel. With that in mind, the CFSA Committee of Nova Scotia Legal Aid has put together some “best practice tips” which we feel may be useful for individuals practicing in this area of law. The following are not meant to be a checklist, or a required to-do list, but rather are practices that we think may assist lawyers.

1. Ensure the Client Understands the Terms of the Act

- ◆ Ensure the client has reviewed the CFSA video (available at nsfamilylaw.ca and nslegalaid.ca) and booklet and has had the opportunity to discuss them with you.
- ◆ Ensure that your client knows what the words “permanent care and custody” means and involves.
- ◆ Emphasize the finality of such a finding, especially if the plan is for adoption.
- ◆ Explain that adoption means the client will no longer be the child’s legal parent or guardian.
- ◆ Explain to the client that access will, in all likelihood, stop once the child is in permanent care.
- ◆ Ensure that the client understands that information about the child, (updates, case recordings, etc.), will no longer be provided.
- ◆ Words such as adoption are sometimes better understood than permanent care.
- ◆ Utilize settlement conferences – this is a very good opportunity for a parent to be able to talk to a Judge about their case, their position and obtain feedback from the Judge.
- ◆ Communicate to the client the permanency of a final permanent care order.

- ◆ Have a final access visit. During that time, you may suggest that the client have pictures taken, write a letter or a card or a poem for the child or do a medical history for the child.
- ◆ Create an opportunity for the parent to speak with the adoption worker.

2. There are terms that require explanation in everyday language

- ◆ Openness agreements – Explain what they involve and especially that they are not enforceable. Openness agreements are up to the adoptive parents. Openness does not mean that the client will know where the child is or who the adoptive parents are.

3. Timelines

- ◆ Clients will feel a lot of pressure to make decisions before they are ready. Be mindful of this and clearly document what was discussed in every phone call/appointment about permanent care. **Do a memo to the file after every call/appointment.**
- ◆ Send the client a detailed reporting letter to confirm your advice/conversations with them and their instructions. It should be thorough but in plain language and easy to understand (see Appendix "A").

4. Demonstrating Informed Consent & Reporting Letters

- ◆ Discuss with the client who, if anyone, should sign the Permanent Care Order. Have that discussion with the client and put it in writing.
- ◆ If your client is not consenting, but not contesting the finding, ensure that is put on the record, with the client present.