

PRACTICE DIRECTION

COURT OF QUEEN'S BENCH OF MANITOBA BRANDON CENTRE

RE: CHILD PROTECTION PROCEEDINGS

Delay in child protection proceedings, resulting from numerous adjournments in proceedings before the master and lengthy wait times for trial dates, requires a meaningful and focused response on the part of all participants in the child protection system.

Children under apprehension are negatively affected by these delays, experiencing loss of attachment and instability in their lives and the lives of their families. Temporary orders of guardianship are often unable to be pronounced because statutory time limits have expired. Parents and children are faced with permanent orders of guardianship as the only available remedy. They are being denied their right to a timely trial.

In order to prioritize child protection proceedings and address the unacceptable delay that currently exists, a new child protection model and accompanying rota changes in the Court of Queen's Bench Brandon Centre, will be implemented effective February 1, 2019. Animating these scheduling and rota changes are the obvious moral and constitutional imperatives about which we are all well aware.

This Practice Direction is the Court's response to this urgent issue. It will mandate the following new approaches to be followed by masters and judges in child protection proceedings in the Court of Queen's Bench Brandon Centre.

Proceedings before the Master

- Proceedings before the master under the new child protection model will commence on Monday, February 4, 2019.
- 60 days will be the maximum amount of time that a matter will stay on the master's docket before it is referred to an Intake Judge.
- The 60-day period will commence on the return date of the Agency's petition that is filed within four juridical days after the child's apprehension. The 60-day period will conclude on the referral date to the Queen's Bench Intake Judge.

- An order to convey will be filed with every petition where the petition is to be served on a person in custody.
- Disclosure of particulars by Agency counsel, and release of information by parents' counsel are to be exchanged in a timely manner.
- At the time that the master refers a matter to the Intake Judge, counsel and the parents shall be advised that failure to attend the intake court appearance may result in an order being granted in their absence on the basis of deemed consent.

Transition Period

- Cases that are currently on the master's dockets will be readied for the intake list as expeditiously as possible.

Proceedings before the Queen's Bench Intake Judge

- An Intake Judge will hear matters every alternate Friday from 9:00 a.m. until 4:00 p.m., commencing Friday, February 15, 2019
- Agency and parents' counsel shall each file and serve Intake Briefs no later than four days before the intake court appearance, that is, no later than the preceding Monday at 4:30 p.m.
- The Intake Judge will determine if there is a genuine issue for trial, and if it appears that there is no genuine issue for trial, the Intake Judge will refer the matter for a summary judgment motion.
- If there is a genuine issue for trial, the Intake Judge will endeavour to schedule a trial within three to six months, and one pre-trial conference approximately 30 days before commencement of the trial.
- At the time that the Intake Judge sets the one pre-trial conference, the Intake Judge shall advise counsel and the parents that failure to attend the pre-trial conference may result in an order being granted in their absence on the basis of deemed consent.

Proceedings before the Queen's Bench Pre-trial Conference Judge

- Child protection pre-trial conferences will be heard approximately 30 days before commencement of the trial.
- Agency and parents' counsel shall file and serve pre-trial conference briefs no later than four days before the pre-trial conference.

- The pre-trial conference judge will endeavour to assist the parties with a resolution of the matter, failing which the matter will proceed to the scheduled trial.
- Failure by the parents to attend the pre-trial conference, may result in an order being granted by the pre-trial conference judge in their absence on the basis of deemed consent.

Child Protection Trials

- Trial dates will be adjourned only in exceptional circumstances.
- Any request to adjourn a trial date shall be made in writing to the Chief Justice.
- Intake lists will be held during the summer recess.

Continuing Professional Development

A Law Society-sponsored continuing professional development session will be held in Brandon on December 5, 2018. The session will provide an overview of the imminent changes to child protection proceedings and will examine the impact of the new model on the roles of Agency counsel and parents' counsel.

Coming into effect

This Practice Direction comes into effect immediately.

ISSUED BY:

"original signed by Joyal, C.J."

**The Honourable Chief Justice Glenn D. Joyal
Court of Queen's Bench (Manitoba)**

DATE: December 4, 2018