



THE PROVINCIAL COURT
OF BRITISH COLUMBIA

Effective Date: *17 May 2021*
FAM 05 *Revisions in red*

PRACTICE DIRECTION

GUARDIANSHIP APPLICATIONS WHEN THERE IS AN EXISTING ORDER

Purpose

To clarify the application of Rule **24** of the *Provincial Court Family Rules* when there is an existing order in place.

Application

This practice direction applies to all court locations in the Province.

Directions

1. If there is an existing guardianship order regarding a child then any subsequent application seeking a change to the guardianship of that child is treated as an application under Rule **24(1)(b)** for a change or cancellation of an existing order.
2. This applies even if the current applicant was not a party to the existing order.
3. *If the current applicant for guardianship is not a party to the existing order, Rule 7(2)(b) does not apply and the existing court file must be used.*
4. If the current applicant is not a party to the existing order and the applicant seeks access to the court registry file relating to the existing order, the applicant must make an application under Rule **174(1)(d)** seeking authorization from a judge.
5. If the current applicant is not a party to the existing order and seeks to transfer the file to another registry the applicant must make an application under Rule **62** seeking authorization from a judge.

History of Practice Direction

- Original interoffice memorandum dated May 28, 2007.
- Amended practice direction dated February 23, 2015 (changes to wording and formatting - updating original interoffice memorandum to reflect the *Family Law Act*, S.B.C. 2011, c. 25).
- January 8, 2020: Housekeeping update to remove “duration” section as contained information duplicated in “History of Practice Direction” section.
- **May 17, 2021: Authority statement and Rule section numbers amended to be consistent with the new *Provincial Court Family Rules* that came into force May 17, 2021, section 3 added.**

I make this practice direction pursuant to my authority under the *Provincial Court Act*, R.S.B.C. 1996, c. 379 and Rule **160** of the *Provincial Court Family Rules*, B.C. Reg. **120/2020**.

Melissa Gillespie

Chief Judge

Provincial Court of British Columbia