

54.1 – Transfer of Custody Info Sheet

What does this program do? 54.1 transfers the child's custody from MCFD to a new Guardian (who is not the parent). This program is for children who are not able to return to their parents and who cannot be adopted.

What is custody? Custody includes:

1. The *care* of a child –looking after the child's daily needs and
2. *Guardianship* of a child – all the rights, duties and responsibilities of a parent

How does 54.1 help the child?

When the child is permanently under the care of MCFD (has a Continual Custody Order or CCO) 54.1 plans for the child to live with someone they know so the child stays out of foster care

Under 54.1 the child's name stays the same

A child 12 years and older must consent

What is a prospective Guardian?

A prospective Guardian is an adult who makes a lifelong commitment to the child and who can be approved by MCFD.

What does the prospective Guardian need?

- To be 19 years or older
- To have an important relationship with the child and be able to meet the child's needs
- To commit to a lifelong relationship with the child
- Complete a ministry prior contact check
- Complete a centralized Criminal Record Check

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- Provide three written references
- Provide a medical reference
- Have a safe home (free from abuse or physical punishment) and be interviewed by a social worker

What about an Aboriginal child living with a Non-Aboriginal guardian?

A cultural plan must be signed by the child's guardian and the Aboriginal community before the child can move in with the prospective Guardian. The prospective guardian must be able to meet all the standards in respecting the child's culture and identity.

How does the child know about the change in guardians?

The social worker will meet the child privately so they understand the plan, talk about their feelings, and are emotionally ready for the change. The social worker will also make sure the child can get independent legal advice if they want.

What info does the prospective Guardian receive?

The prospective Guardian will get the child's history info, will be involved in the planning and will understand there is no funding after custody is transferred.

Why is the Public Guardian and Trustee involved?

The Public Trustee needs to consent to the 54.1 plan before it can go forward. The Public Guardian makes sure the prospective Guardian can carry the responsibilities of the child's estate, if they have any.

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What happens to the new Guardian's inheritance and the child?

The guardian must name the child in the will for them to inherit from the new guardian otherwise, if the guardian passes, the child will not inherit.

What is a planning meeting?

A planning meeting is organized to provide information to all involved. A Family Care Home Agreement is signed before the six month waiting period can begin.

What happens during the six month residency time?

The child and prospective guardian have time to adjust and the social worker makes sure all the goals are reached.

What is the Family Care Home Agreement?

This agreement starts the six month waiting period. The new guardian and the child adjust to each other. This agreement makes sure the 54.1 plans are working and the goals are met during the Residency Period Action Plan.

What is the Residency Period Action Plan?

A meeting for all involved to understand the child's needs, to prepare the child to move in with the new guardian, and review how the social worker and others will be involved. The Residency Period Action Plan involves:

- A Plan of Care – tasks to meet the child's needs following the six month waiting period

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- A Transition Plan (also known as a Guardianship Family Development Plan) outlines tasks for the social worker, Public Trustee, and prospective Guardian during the six month residency to meet the child's needs
- A Support Plan – if the plan doesn't work, what then? How can everyone work together to help the plan?

What happens when the six months Residency ends?

The people involved review how things are going. If everything is OK with the new guardian and child then the legal transferring of custody can begin.

When can the new guardian apply for Child Tax Benefit?

When the court grants the Transfer of Custody order, the new guardian can apply for the Child Tax Benefit.

Who lets the Public Trustee know about the court order?

The social worker lets the Public Trustee know the court has granted the Transfer of Custody order

Who does the court documents?

The social worker prepares court documents on behalf of MCFD.

Can the new Guardian transfer the child's guardianship to another person?

Yes. The guardian can apply under the *Family Relations Act* to have another person named as guardian of the child. Any legal expense is not funded.

What funds are available?

54.1 funds (basic foster parent rates) are mostly available before the transfer of custody goes to court.