



THE PROVINCIAL COURT  
OF BRITISH COLUMBIA

Effective Date: *17 May 2021*

**FAM 05**

## **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