

Docket #: _____
File #: _____

IN THE PROVINCIAL COURT OF ALBERTA

JUDICIAL DISTRICT OF _____

BETWEEN:

(print your full name)
Applicant / Respondent to the Director's Application

-and-

Alberta (Child, Youth and Family Enhancement Act, Director)
Respondent

**NOTICE OF APPLICATION FOR FUNDING FOR UNREPRESENTED
RESPONDENT OF AN APPLICATION BROUGHT BY THE DIRECTOR ON
BEHALF OF THE GOVERNMENT OF ALBERTA**

TAKE NOTICE THAT on the _____ day of _____, 20____,
the Applicant will apply to the presiding Judge of the Provincial Court of
Alberta, sitting in Courtroom #_____, in _____
Provincial Court, for the following:

1. An adjournment of the Director's application under section _____
of the *Child, Youth and Family Enhancement Act*, R.S.A. 2000, c. C-
12.

2. An Order requiring the Attorney General of Alberta to make provision and provide for counsel for the Applicant at no less than the standard Legal Aid hourly rate.
3. An Order requiring the Attorney General of Alberta to confirm to the court, within 7 days, that Legal Aid Alberta has been directed to provide counsel for the Applicant at no less than the standard Legal Aid hourly rate.

AND FURTHER TAKE NOTICE THAT the grounds for this Application are as follows:

1. The Applicant's child has been apprehended by the Director and the Director seeks an order for _____. [Information attached]
2. Section 2 of the ***Child, Youth and Family Enhancement Act*** R.S.A. 2000, c. C-12 states that the family is the basic unit of society and its well-being should be supported and preserved.
3. The Applicant has applied for Legal Aid funding but was denied. There are no grounds upon which the Applicant may appeal this decision.
4. The Applicant is not currently represented by a lawyer and cannot afford to retain a lawyer privately.

5. The case is legally complex, involving legislated tests, legislated time lines and case law interpretation which are not reasonably within the ability of the Applicant to know, apply or argue.
6. The disclosure provided, or to be provided, by the Director over the course of these proceedings is complex and may include expert reports which may be incomprehensible to the lay person.
7. The Applicant requires continuous legal advice from counsel in order to navigate the many mandated court appearances and procedural steps involved in this application.
8. A child custody application by government constitutes a potential restriction of a parent's right to security of the person.
9. Section 7 of the Canadian Charter of Rights and Freedoms guarantees the Applicant the right to security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
10. The interests of fundamental justice in child protection proceedings are both substantive and procedural.
11. Given the Applicant's circumstances and the nature of these proceedings, there is a substantial likelihood that the Applicant will not receive a fair trial in this matter if the Applicant is not represented by a lawyer.
12. Accordingly, the Applicant is entitled to a fair hearing, which will only be possible with the representation of Counsel, and the Applicant requests that this Honourable Court order that the Government of

Alberta make arrangements for a government-funded lawyer to be appointed forthwith to represent the Applicant in these proceedings.

AND FURTHER TAKE NOTICE THAT the Applicant intends to rely on:

- 1) the attached Affidavit of the Applicant in support of this Application; and
- 2) such further and other materials as this Honourable Court may permit.

AND FURTHER TAKE NOTICE THAT the Applicant relies on the following authorities in support of this Application:

1. ***New Brunswick (Minister of Health and Community Services) v. G. (I)*** [1999] 3 SCR 46
2. ***R. v. Smart***, 2014 ABPC 175.
3. ***Child, Youth and Family Enhancement Act***, R.S.A. 2000, c. C-12, including but not limited to sections 2, 27, and 33(5).
4. ***The Canadian Charter of Rights and Freedoms*** including but not limited to sections 7, 15(1), and 24(1).

ALL OF WHICH IS RESPECTFULLY SUBMITTED at the City of

_____ in the Province of Alberta this _____ day
of _____, 20_____.

Applicant / Respondent to the Director's Application

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JUDICIAL DISTRICT OF _____

BETWEEN:

(print your full name)
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-and-

Alberta (Child, Youth and Family Enhancement Act, Director)
Respondent

**AFFIDAVIT OF THE APPLICANT
IN SUPPORT OF APPLICATION FOR FUNDING FOR
UNREPRESENTED APPLICANT/RESPONDENT TO A GOVERNMENT
APPLICATION**

I, _____, MAKE OATH AND

SAY AS FOLLOWS:

[1] I am the Applicant in this matter, and as such, I have personal knowledge of the matters set out herein, except where stated to be based on belief.

[2] I make this Affidavit in support of my application that this Honourable Court order that the Government of Alberta make arrangements for a government funded lawyer to be appointed forthwith to represent me in these proceedings.

[3] I am currently: *(check one)*

Residing at _____, in the
_____ of _____, in the
Province of Alberta.

Incarcerated at _____.

Of no fixed address.

[4] I am currently _____ years old, I was born in
_____, and I am: *(check one)*

A Canadian Citizen.

A Canadian Permanent Resident.

Not a Canadian Citizen or a Canadian Permanent Resident.

[5] My first language is _____, and: *(check one)*

I can read, write, understand and speak either English or French.

I cannot read, write, understand and speak either English or French without help from someone else, and I need the following kinds of help reading, writing, understanding or speaking English or French:

[6] The highest level of schooling I have completed is: (*check one*)

Less than High School.

The last grade I completed was grade _____.

High School.

Technical or Trade School. The institutions I attended and certificates/diplomas I received are:

College or University. The institutions I attended and certificates/diplomas I received are:

_____.

[7] I am currently: (*check one*)

Unemployed.

On AISH for the following disability:

_____.

Employed as a _____.

[8] I have been employed in these jobs with these employers in the past five (5) years:

<i>Start Date</i>	<i>End Date</i>	<i>Employer</i>	<i>Job Title</i>	<i>Monthly Salary (\$)</i>

[9] I applied to Legal Aid for coverage in this matter on the _____ day of _____, 20____. Legal Aid did not appoint a lawyer to represent me. I have attached the letter from Legal Aid informing me that my application for coverage was denied as Appendix “_____” to this Affidavit.

[10] I appealed Legal Aid’s decision to deny me coverage on _____ day of _____, 20____. My appeal was denied. I have attached the letter from Legal Aid informing me that my appeal was denied as Appendix “_____” to this Affidavit., **or**

[11] I do not have grounds to appeal the decision of Legal Aid to deny me coverage.

[12] It is my belief that the criteria used by the Legal Aid Society to decide whether to fund counsel has no direct relationship to the applicant’s ability to defend himself or whether or not he will receive a fair trial if he is denied counsel.

[13] I have attached my Income Tax Returns from the Canada Revenue Agency for the following years, as Appendices to this Affidavit:

Year	Appendix
	“ ”
	“ ”
	“ ”
	“ ”
	“ ”

[14] I have contacted at least three (3) private lawyers who practice in or near _____, Alberta, and who practice child welfare law. I asked them how much they would charge to represent me in this matter. They estimated it would cost about this much to represent me in this matter, and requested a retainer of about this much:

Lawyer #1 - Trial: \$ _____ - Retainer: \$ _____,

Lawyer #2 - Trial: \$ _____ - Retainer: \$ _____,

Lawyer #3 - Trial: \$ _____ - Retainer: \$ _____,

[15] I currently have the following assets:

Asset	Estimated Value

[16] I currently have the following liabilities:

Liability	Estimated Amount Owning

[19] I make this affidavit in support of the within application and for no improper purpose.

SWORN BEFORE ME at the City) _____
of _____ in the Province of)
Alberta this ____ day of _____,)
2014.)

A Commissioner for Oaths in and for the Province of Alberta

Or

Or