

## **PART VI**

### **Application for an order releasing a child from a secure treatment program under Section 124 (9) of the CFSA.**

#### **Definitions**

“Child” means a person under the age of 18 years.

“Parent” means the child’s parent, a person who is caring for the child with a parent’s consent or a children’s aid society that has legal care or custody of the child.

“Secure treatment program” means a program established or approved by the Minister under subsection 113 (1) of the *CFSA*.

#### **Parties**

97. Any person, including the child, may apply to the Board for an order releasing the child from the secure treatment program.
98. The following persons are parties to an application under section 124(9):
  - a) the child;
  - b) the applicant;
  - c) the centre responsible for the secure treatment program from which the child seeks a release (the “Centre”);
  - d) any other person the Board determines is necessary to decide all of the issues in the application.

#### **Application**

99. The application for release must be in form 15 under the *CFSA* (see Appendix, Form 6).
100. The application must be filed with the Board by courier or facsimile, with a copy to the Centre.
101. Where the child is less than 12 years old, the Centre, as soon as informed of the application, must provide the Board with a copy of the Minister’s consent to the child’s admission.

#### **Notice**

102. The Centre shall make all reasonable efforts to send a copy of the application by same day or overnight courier or by facsimile to the parent of the child.
103. Where the applicant is not the child, the Board shall, upon receipt of the application, notify the Office of the Children's Lawyer ("OCL") of the application.

### **Withdrawal**

104. A withdrawal of an application must be completed in Form 7.

### **Disclosure**

105. Any evidence a party wishes to submit during the hearing shall be disclosed to all parties no later than 2:00 p.m. the day before the hearing.

### **Hearing**

106. The Board must hold an oral hearing on an application unless the child consents to an order remaining in the secure treatment program. The Board may require oral evidence when this consent has been given.
107. The child is entitled to be present at the hearing unless,
  - (a) the Board is satisfied that being present at the hearing would cause the child emotional harm; or,
  - (b) the child, after obtaining legal advice, consents in writing to holding the hearing in his or her absence.
108. The Board may require a child who has consented to the holding of a hearing in his or her absence under Rule 107 (b) to be present at all or part of the hearing.
109. Two persons from the secure treatment program, including the individual instructing counsel, may be present throughout the hearing.
110. The Centre will present its evidence first.

### **Decision**

111. The Board shall dispose of the application within five days of the Board's receipt of the application. The Board shall provide written reasons for its decision within 10 days of its order disposing of the application.

112. The Board shall make an order releasing the child from the secure treatment program unless the Board is satisfied that the child meets the criteria for emergency admission set out in clauses 124 (2) (a) to (e) of the *CFSA*.