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| COURT FILE NUMBER |      Clerk’s Stamp |
| COURT | COURT OF KING’S BENCH OF ALBERTA |
| JUDICIAL CENTRE | Click to Select Judicial Centre. |
| APPLICANT(S) |       |
| RESPONDENT(S) |       |
| DOCUMENT | **Order to Appoint Child's Counsel** |

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| ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT |       |

DATE ON WHICH ORDER WAS PRONOUNCED: **Click to Enter a Date**

LOCATION OF HEARING: **Click to Select Hearing Location**

NAME OF JUSTICE WHO GRANTED THIS ORDER:

THE COURT HAS REVIEWED THE AFFIDAVITS FILED IN SUPPORT OF THIS APPLICATION AND HAS BEEN ADVISED OF THE FOLLOWING;

Enter Name, applied for parenting of the child(ren) and counsel for the child(ren);

Enter Name, was present in Court, in person;

Enter Name, was present in Court, in person;

AND UPON noting that the names and birth dates of the child(ren) of the relationship is as follows:

Enter names and birth dates of the child(ren) of the relationship.; (Child or Children)

AND UPON the Court determining that this is a high conflict family law matter;

AND UPON noting that it is recommended that counsel be appointed as counsel for the Child(ren);

AND UPON noting that it is requested that Legal Aid Alberta appoint counsel for the Child(ren) from the Legal Aid Alberta’s family staff office child representation team unless no one is able to accept the appointment, in which case, Legal Aid Alberta may appoint another lawyer on its Child Representation Panel who has received training in representing Children in High Conflict Parenting matters,

AND UPON noting that it is Legal Aid’s preference to meet with a child client to assess the child’s ability to instruct counsel given the legal matters in question.

## IT IS HEREBY ORDERED THAT:

1. Independent Counsel shall be appointed with respect to the Child(ren) (Child’s Counsel). The parties shall share the cost of Child’s Counsel as 50/50, which cost may be redistributed by a court after the hearing of the parenting matter.
2. Child’s Counsel shall meet with the Child(ren) and determine what role – instructional or non-instructional – is appropriate in the circumstances.
3. If the Child(ren) is determined to be able to provide instructions, and only if any Child client chooses to advance a position, Counsel shall advocate in accordance with the Child’s instructions and abide by all the Law Society Rules in relation to the solicitor-client relationship; if the Child lacks the ability to provide instructions, counsel shall advance the views and preferences of the Child but advocate in favour of the Child’s interests and entitlements from an objective perspective.
4. If there is a reason that causes Counsel to be concerned about the sincerity of the Child client’s instructions, such as the belief the Child is subjected to coaching, duress, resist or refuse dynamics and/or parental alienation, they shall advise the Court so that it may determine whether to relieve Counsel of their duties or appoint an Amicus Curiae.
5. Counsel shall attend all scheduled court hearings and shall advise the Court at the appropriate times:

1) The role they are taking on behalf of any Child;

2) Whether the Child wishes to advance a position in the proceeding;

3) How the Child wishes to participate.

4) If any of this information or the role taken on behalf of a child changes during the course of the appointment, Counsel shall advise the Court of the role they propose take and provide an update to the Court.

1. Child’s Counsel shall have full power to act for any Child client as though they were parties to these proceedings and, without limiting the generality of the foregoing, Child’s Counsel is authorized to:
	1. Receive copies of all professional reports and all records relating to the Child;
	2. Receive copies of correspondence between counsel (or the parties, if unrepresented) in relation to the proceedings and be included in discussions about scheduling court dates;
	3. Have production and discovery according to the Rules of Court including participate in Questioning;
	4. Appear and participate in this proceeding, including the right to examine and cross-examine witnesses, call evidence and make submissions to the Court, such submissions to include the positions advanced on behalf the Child;
	5. Talk to and meet with the Child alone and confidentially or with others at any appropriate location without prior notice to the parents, including but not limited to the Child’s school;
	6. Talk to and meet with the Child alone and confidentially, with reasonable prior notice to the parents or guardians, at the residence of any parent or guardian;
	7. Communicate directly with the parents or guardians of the Child for the purposes of scheduling any matters relating to the Child;
	8. Apply to be removed as the legal representative of the Child if Child’s Counsel believes that such involvement is no longer in the Child’s interests or as instructed to do by the Child only after having had a meeting with the Child to discuss the child’s concerns with their counsel or if a situation exists that impacts a normal solicitor-client relationship;
	9. Participate in any Settlement Meetings or Resolution discussions;
	10. Take such appeal proceedings as deemed appropriate;
	11. Take other steps as authorized by the Court; and,
	12. Seek costs related to these proceedings including where appropriate seeking security for costs for a trial in excess of 5 days.
2. Child’s Counsel shall meet with the child alone and not in the presence of either parent. The frequency, format, location of meetings with the child shall be determined by counsel for the child and the child if appropriate and not by the parents/guardians nor counsel for the parents/guardians. Neither parent nor any other person shall surreptitiously record any meetings, phone calls or reproduce any emails between the child’s counsel and the child.
3. The parties shall cooperate with Child’s Counsel’s requests pursuant to clause 6. Child’s counsel is not a legal advisor to the parents, investigator of facts nor replacement for the responsibility on the parents or their counsel to gather and present evidence to support their respective position in the proceeding. Counsel for the child(ren) will not take instructions from parents/guardians and or legal counsel for parents/guardians.
4. All third parties involved with the Child(ren) and their parents, including but not limited to their teachers and school authorities, family and child counsellors and assessors, mediators, church personnel, visit supervisors, medical service providers, psychologists and social workers, police and peace officers, are hereby authorized to be interviewed and to release any and all information about the Child and their parents, including documentary information, to Child’s counsel, without the consents of parents and/or guardians or their counsel, where release is not prohibited by statute, privilege or otherwise. The ability of Child’s counsel to obtain information, including documentary information, from a person employed or assisting in the administration of the Child, Youth and Family Enhancement Act, is subject to the confidentiality and privilege provisions of that Act, including section 126 thereof.
5. All communications between the parents and Child’s Counsel are not confidential and should be copied or disclosed to the other party and/ or their counsel.
6. Child’s Counsel shall be permitted to provide a written or oral summary to this Honourable Court of the information acquired in the course of performing their duties, subject to any protection of confidentiality and privilege over such information, and by doing so, they shall not be deemed to be a witness in these proceedings. No party nor counsel for a party shall attach any letters or reports from child’s counsel to an affidavit or other court document without the prior consent of counsel for the child.
7. Communications by the parents with Child’s Counsel shall be limited as set out above, and any communication during delivery of the Child for meetings shall not include any discussion of issues relating to the proceedings or the Child’s views or interests.
8. A guardian shall, if the eldest Child is under the age of 12, contact Legal Aid Alberta by phone at 1.866.845.3425 for coverage for independent counsel for the Child. If the eldest Child is over the age of 12, the guardian or the Child shall contact Legal Aid Alberta by phone at 1.866.845.3425 for coverage for independent counsel for the Child. A copy of the Court Order appointing counsel for the child must be provided to Legal Aid Alberta by email to lsc@legalaid.ab.ca.

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Justice of the Court of King’s Bench of Alberta