

## **Scope of Services**

The Applicant must meet with the Intake Welfare Officer to make any of the applications listed below. The Court recommends that the Applicant bring the following documents: Social Security card, marriage license, and the child's birth certificate. The Applicant must also pay a small fee of \$2.50 BZ to the court for the issuing of a summons to the other parent/person (the Respondent) to attend a court hearing. Additionally, the applicant gets a copy of the summons with the date of the hearing, and the other party is summoned to court.

### **SCOPE OF SERVICES:**

The general procedures stated below shall apply to the civil and criminal jurisdiction of the Court in the following proceedings:

#### ***Civil Matters***

##### **i) Legal Custody**

The father of a child born to a single woman may apply to the court for an order granting him legal custody of the child while under the age of eighteen years if he has satisfied the court that he is the father.

**An application made under this section shall allege one or more of the following:**

- The mother has deserted or abandoned the child in a way to endanger the health or well-being of the child.
- The mother is, by reason of intemperate or immoral habits, unfit to have custody of the child.
- The mother does not exercise proper care and control of the child.

##### **Variation of Custody**

Where the court is satisfied that the parent who has custody of the child is:

- Wilfully neglecting
- Mistreating the child

Custody may be granted to the other parent.

##### **ii) Maintenance**

### **iii) Guardianship**

- On the death of one parent of a child, the surviving parent, if any, shall be the guardian of the child, provided that if the parents were separated and the deceased parent had custody of the child.
- The surviving parent may be a guardian alone or jointly with any guardian appointed by the deceased parent.
- The court, if it thinks fit, can appoint a guardian to act jointly with the surviving parent.

### **The mother of any child born out of wedlock may be deprived of her guardianship/custody by order of the court if:**

- The mother has deceased or abandoned the child in a manner to endanger the child's health/well-being.
- Such mother is, by reason of intemperate or immoral habits or for any other reason, unfit to have custody.
- Such mother does not exercise proper care and control of the child.
- The order, if made, will be in the best interest of the child.
- The court is satisfied that there exist some other circumstances which renders the mother unfit.
- The father applies for custody and proves to the satisfaction of the court that it is in the child's best interest for him to have custody.

**iv) Access/Visitation:** An order that allows the parent without custody/physical care and control of a child to spend time with him/her

### **Who Can Apply:**

- The mother of the child
- The father of the child

### **Revocation/Variation of Access Order:**

An order may be varied or discharged

- By a subsequent order made
- After the death of either parent

### **v) Paternity**

- The Family Court or Magistrates' Court to which an application is made for the declaration of parentage, a summons shall be issued to the person alleged to be the father or mother of the child to appear before the court on a day named in the summons.
- If the evidence of the applicant is corroborated in some material particular by other evidence to the satisfaction of the court, the court may judge the person summoned to be the mother or father of the child, as the case may be.

- In proceedings for the declaration of parentage, the court may, on the application of any party to the proceedings or on its own motion, make an order, upon such terms as may be just, requiring any person to give any evidence which may be material to the question, including a blood sample for the purpose of the blood test or for DNA analysis.

## **vi) Domestic Violence**

### **A Protection Order is an order that:**

- Prohibits a person from acts of domestic violence.
- Directs a person to comply with the conditions of an order.

### **An Occupation Order is an Order that:**

- Directs the respondent to vacate (leave) any place or residence.
- Can only be granted with a protection Order.

### **Who Can Apply**

- Spouse
- Member of the abuser's household
- Child
- Dependant
- Parent or Guardian
- Police Officer
- Public Officer experience in social welfare
- Officer of the Women's Department

## **vii) Legal Separation**

Any married person may apply to a court of summary jurisdiction acting within the judicial district in which the cause of complaint, wholly or partially, has arisen for an order or orders, which the court is hereby authorised to make, containing all or any of the following provisions – (Legal Separation, Legal Custody, Maintenance of Spouse and Child Maintenance )

### **Legal Separation**

(a) that the applicant be no longer bound to cohabit with their spouse, which provision, while in force, shall have the effect in all respects of a decree of judicial separation on the ground of incompatibility

The principal Act is amended by repealing section 3 and replacing it with the following–

3. An application by a married person for an order or orders under this Act shall allege one or more of the following grounds– (a) that the marriage has broken down irretrievably; or (b) that the husband and wife are incompatible.”

## **viii) Care Order Proceedings**

The Family Court or a Magistrates' Court may, on the application of the Department or an authorised person, make a care order or an interim care order placing a child in the care of foster parents or an approved children's home.

### **An application for a care order may only be made-**

- After all possible alternative methods of assisting the child have been tried without success, and the harm from which the child is suffering or is likely to suffer requires his removal from where he is living.
- The danger to which the child is exposed is so severe as to require his immediate removal from where he is living.

### **ix) Hague Convention on International Child Abduction Proceedings**

**Hague Convention Proceedings:** Hague Convention Proceedings for these procedures shall mean international abduction proceedings. The proceedings refer to a situation where child(ren) have been brought to or kept in another jurisdiction without the permission of the person who has rights to custody in the country where the child was habitually resident immediately before his or her removal. The following special procedures shall apply:

i) **Intake:** The application made to the Family Court must include:

- a) the names and dates of birth of the children.
- b) the names of the children's parents or guardians.
- c) the whereabouts or suspected whereabouts of the children.
- d) the interest of the applicant in the matter (e.g., mother, father, or person with whom the child lives and details of any order placing the child with that person).
- e) the reasons for the application.
- f) details of any proceedings relating to the children.
- g) where the application is for the return of a child, the identity of the person alleged to have removed or retained the child and, if different, the identity of the person with whom the child is thought to be.
- h) the application shall be made through the Department of Human Services, who are the Central Authority for these proceedings.

ii) **Service of Summons:** The applicant seeking the assistance of the Family Court shall provide such details of the location of the Defendant as may be required. The proceedings shall be treated as an urgent application. The parties must be served with a summons before the hearing can proceed.

iii) **The Hearing:** The Court shall issue such directions and make such interim orders as are necessary to secure the welfare of the child or to prevent any change in the circumstances relevant to the proceedings as it shall deem fit. At the hearing, the parties shall be free to call such witnesses or experts and submit such documentary evidence in support of this application. The Court shall ensure that the views of children who are the subject of the proceedings are taken. Where the child is called as a witness before the Court, the Court shall ensure that the video link live testimony is facilitated. The Magistrate at the first hearing shall issue such directions or make such interim orders as shall be necessary for the conduct of the hearing, including the calling of witnesses and the submission of documents.

iv) **Orders and Variation:** Where the Court finds that the child who is the subject of the proceedings has been subject to international abduction, the Court shall make such an order for the return of the child. The order so made shall be transmitted to the Police or other agency under the direction of the Court for enforcement, and a copy shall be transmitted to the Central Authority for which the child is subject. The Court may vary such order upon subsequent application of the parties as shall be appropriate and in the best interest of the

children. The guidance for the conduct of such proceedings provided in the Appendix shall be observed in the making of orders in Proceedings under the International Child Abduction Act.

## ***Criminal Matters***

### **i) Juvenile Court Proceedings**

### **ii) Contempt of Court/Breach of Order Proceedings**

### **iii) Breach of Protection Order**

**General Procedures for Criminal Matters:** Criminal proceedings under the criminal jurisdiction of the Family Court consist primarily of proceedings involving children who come in conflict with the law. Other criminal proceedings may be brought in the Family Court under the Court's jurisdiction to bring contempt of court proceedings, and also for breaches of its orders against adults.

**Youth Justice Proceedings:** Though youth justice proceedings are initiated by the prosecutors, the proceedings shall be filed with the Clerk of Court, who shall assign the case number and set the date on which the matter will first be brought up. All subsequent hearing dates assigned by the Magistrate shall be noted on the Court book and registered with the Clerk of Court. The Clerk of Court shall ensure that the Court book for youth justice proceedings states that the matter is a youth justice matter that will involve child defendants.

All youth justice proceedings shall be in accordance with the Beijing Rules, the Tokyo Rules, and the Riyadh Guidelines.

**Diversion:** Court-ordered diversion can lead to a non-court resolution of youth justice proceedings that may foster rehabilitation of the youth offender. In every youth justice proceeding before the Court, the Court shall consider whether the youth justice proceedings are suited for Court-ordered diversion and shall issue directions as to the conduct of such diversion proceedings. Diversion orders issued by the Court shall require the youth offender to participate in such rehabilitative programs and counseling as shall be recommended by the CRO. The Court shall explain to the youth offender the effect of the diversion order and the consequences of failure to adhere to the diversion program participation requirements.

**Court Hearings:** All youth justice proceedings shall be held in camera and, where appropriate, due to the nature of the proceedings, may also issue directions restricting media

coverage. The following procedures shall be employed in relation to the hearing of youth justice proceedings:

- i) Youth offenders appearing before the Juvenile Court on any criminal matter shall be appointed a Community Rehabilitation Officer (CRO).
- ii) The first hearing of the youth justice matter shall be a case management hearing at which directions for the conduct of the Court hearing shall be issued by the Court.
- iii) At the case management hearing, directions shall be issued as to:
  - a) who can question the youth offender and direct whether the testimony of the youth offender shall be given via live video link.
  - b) legal representation of the youth offender.
  - c) disclosure and inspection of documents.
  - d) bail or remand.
  - e) consideration as to the need for witness protection or other safeguards for the youth offender.
  - f) directions as to any psychological assessment that may be required.
  - g) directions as to timelines for submission of reports.
  - h) any other legal proceedings that may be needed in the Family Court division of the Court regarding maintenance, visitation, and access, or other civil or hybrid proceedings.
  - i) any other matter likely to ensure the effective disposal of the matter in the best interest of children.

**Sentencing:** The Court shall be guided by the principle that Rehabilitation can help to ensure that a youth offender receives services that can help them to be reintegrated into society as productive adults while being accountable for wrongs caused to others.

- a) All sentencing orders issued by the Court shall include directions and orders for rehabilitation services, including counseling and medical services to be provided to the youth offender during the duration of the sentence.

- b) All sentencing orders issued by the Court shall require parental participation in the rehabilitative program to be implemented by the CRO for the youth offender.
- c) All sentencing orders issued by the Court shall require formal review of the progress of rehabilitation and submission to the Court of the requisite reports so that the Court may maintain oversight of the sentencing and rehabilitative process involving the youth offender.
- e) The youth offender sentenced as well as the CRO assigned to his/her case shall receive a transcript of the sentencing order issued by the Court on the same day the order is made.
- f) The court shall ensure that the sentencing order made is appropriate in all the circumstances of the case.
- g) In determining the appropriate sentence to be issued in a case where a youth offender has been found guilty, the Court shall consider:
  - i) the age and background of the offender.
  - ii) the nature of the offence.
  - iii) the recommendations of the CRO in the sentencing report.
  - iv) any psychological or other mental or health issue impacting the youth offender.
  - iv) the availability of alternative sentences and rehabilitative services suitable for the youth offender.
  - v) whether restitution can be made for the offence committed.

**Breach/Variation of Order Proceedings:** The Court shall advise a youth offender who is sentenced for an offence of the nature of his/her sentence and the consequences of breach of the Court's order imposed as to sentencing. The CRO shall initiate proceedings for variation of any alternative sentencing order issued where it becomes necessary to do so. In addition, the CRO shall submit the required reports to the Court, updating the court on the progress of rehabilitation and service of alternative or other sentencing orders issued by the Court.

### **iii) Breach of Protection Order**

A person against whom an Order or an Interim Order has been made who,

- (a) has had notice of the Order or the Interim Order; and
- (b) contravenes any provision of the Order or the Interim Order, or fails to comply with any direction or prohibition of the Court stated in the Order or Interim Order, commits an offence and is liable,
  - (i) on a first conviction to a fine not exceeding nine thousand dollars, or to imprisonment for a period of twelve months, or to both such fine and period of imprisonment.
  - (ii) on the second conviction, to a fine not exceeding fifteen thousand dollars and not less than twelve thousand dollars, or to imprisonment for a period of twenty-four months, or to both such fine and period of imprisonment.
  - (iii) On any subsequent conviction to a period of imprisonment of five years.

