



# MODEL SAFE PROCEDURE

## FOR THE FORCIBLE REMOVAL OF A CHILD SUBJECT TO PARENTAL AUTHORITY OR CUSTODY

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## **TITLE:**

MODEL SAFE PROCEDURE  
FOR THE FORCIBLE REMOVAL OF A CHILD  
SUBJECT TO PARENTAL AUTHORITY OR CUSTODY

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PSYCHOLOGICAL ASSOCIATION

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## **LEGAL BASIS:**

Article 598<sup>6</sup>-598<sup>13</sup> of the Act of 17 November 1964  
- Code of Civil Procedure  
(Polish Journal of Laws of 2024, item 1568, as amended,  
hereinafter: “the Code of Civil Procedure”)

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## Introduction

The court-appointed guardian effects the forcible removal of a person subject to parental authority or custody under the provisions of the Code of Civil Procedure. Article 598<sup>6</sup>–598<sup>12</sup> of the Code of Civil Procedure applies *mutatis mutandis* to the enforcement of rulings made pursuant to Article 569 § 2 of the Code of Civil Procedure in urgent cases, and rulings on the placement of a minor in a care and education centre for children or foster family pursuant to Article 598<sup>13</sup> of the Code of Civil Procedure.

The procedure for the forcible removal of a child to be handed over to an entitled person is generally difficult, requiring very good preparation on the part of the court-appointed guardian and the persons from whom they requested assistance in carrying out the procedure. Forcible removal of a child occurs both as an urgent procedure, where there is a need to immediately protect the child and where the person exercising parental authority or custody fails to comply with a court decision obliging them to surrender the child within a time limit specified by the court (Article 598<sup>5</sup> of the Code of Civil Procedure). Only then does the court – at the request of the entitled person – order the court-appointed guardian to forcibly remove the child.

A decision on the forcible removal of a child subject to parental authority or custody specifies that based on the evidence on record, a conclusion was reached that the emotional cost of the removal to the child would be lower than the developmental cost they would bear by remaining in an abusive or outright harmful environment.



# **Part I**

## **Guidelines for court-appointed guardians**





## I. General guidelines

1. These guidelines concern the practical aspects of how court-appointed guardians carry out procedures in cases involving the removal of a child subject to parental authority or custody within the framework of:
  - 1) [enforcing court decisions on the forcible removal of a child subject to](#) parental authority or custody, implemented pursuant to Article 598<sup>6</sup>–598<sup>13</sup> of the Code of Civil Procedure;
  - 2) [requesting assistance in procedures related to the forcible removal of a child](#) subject to parental authority or custody.
2. The terms and abbreviations used in the guidelines shall mean the following:
  - 1) [child](#) – a person subject to parental authority or custody;
  - 2) [court-appointed guardian](#) – a court-appointed guardian ordered by the court to forcibly remove a child subject to parental authority or custody;
  - 3) [Police](#) – an organisational unit of the Police represented by the Provincial Police Commander, the Warsaw Metropolitan Police Commander, the Poviats (Municipal, District) Police Commander, the commanding officer of a police station, and the police officers providing assistance at the request of the court-appointed guardian in procedures related to the forcible removal of the child;
  - 4) [organisational social assistance units](#) – in particular, social welfare centres, social services centres, regional social policy centres, poviats family assistance centres, nursing homes, specialist counselling centres, including family counselling centres, support centres and crisis intervention centres within the meaning of the Act of 12 March 2004 on social assistance (Polish Journal of Laws of 2024, item 1283, as amended);
  - 5) [organisational family and foster care system support units](#) – in particular, day-support centres, organisers of family foster care, care and education centres for children, regional care and therapy centres, pre-adoptive intervention centres, adoption centres, and entities commissioned with implementing tasks within the scope of supporting the family and the foster care system, or other institutions appointed for that purpose within the meaning of the Act of

9 June 2011 on support for the family and the foster care system (Polish Journal of Laws of 2025, item 49, as amended);

- 6) **psychologist** – a psychologist engaged in organisational social assistance units within the meaning of the Act of 12 March 2004 on social assistance (Polish Journal of Laws of 2004, No. 64, item 593 as amended), in organisational family and foster care system support units within the meaning of the Act of 9 June 2011 on support for the family and the foster care system (Polish Journal of Laws of 2011, No. 149, item 887 as amended), in educational establishments within the meaning of the Act of 14 December 2016 – Education Law (Polish Journal of Laws of 2024, item 737, as amended) or engaged in organisations or other state authorities or institutions, associations and social organisations within the scope of their activities;
- 7) **entitled person** – in the event of the forcible removal of a child by a court-appointed guardian and placement thereof in foster care, an entitled person within the meaning of Article 598<sup>9</sup> of the Code of Civil Procedure shall be:
  - a. a person running a foster family or foster home in which the child is to be placed on the basis of a court decision, or a representative of an organiser of family foster care (placement of a child in family foster care, under various forms); in the event that the child is removed and placed in family foster care, the court-appointed guardian shall cooperate with the organiser of family foster care;
  - b. an employee of a care and education centre for children in which the child is to be placed or an employee of the poviast family assistance centre (placement of a child in institutional foster care);
- 8) **obliged person** – in the event of the forcible removal of a child subject to parental authority or under care, the obliged person shall be the person from whom the court-appointed guardian removes the child and hands it over to an entitled person or a person authorised thereby, or to a representative of an institution authorised thereby.

3. The implementation of the court's decision on the forcible removal of a child and the manner in which this procedure is carried out is the sole responsibility of the court-appointed guardian as the enforcement authority.
4. The Police and – if the special needs of the child, the entitled person or the obliged person so require – a psychologist, persons employed in organisational social assistance units and organisational family and foster care system support units, a foreign language interpreter, a sign language interpreter, an interpreter in the field of augmentative and alternative communication, and other institutions established to ensure the proper enforcement of the court's decision shall cooperate with the court-appointed guardian ordered to forcibly remove the child. This is to ensure proper compliance with the court's decision, so that the best interests of the child are not harmed and, in particular, so that the child does not suffer physical or psychological harm.

**Cooperation should be based on:**

- effective methods of communication, including means of distance communication;
- rapid exchange of information;
- previously locally developed and adopted good practices.

**This should take into account local conditions, understood as:**

- the specific (urban, rural) nature of the district in which the court-appointed guardian works;
- the related availability of local resources (the relevant local government and community organisations that are statutorily involved in care, upbringing, social rehabilitation, treatment, and provision of social assistance in an open environment).

5. The proper performance of procedures by persons who, at the request of the court-appointed guardian, are obliged to assist them in the removal of the child should be the subject of prior arrangements between the presidents of district courts, regional superintendents, heads of organisational units of the Police, representatives of organisational social assistance units and organisational family

and foster care system support units, as well as other institutions and entities performing tasks in the field of family support and assistance.

→ This is particularly important in situations where, due to the dynamic nature of the case, the court-appointed guardian is unable to ascertain the course of the planned procedure immediately before it takes place.

## II. Guidelines for preparatory activities

1. The purpose of the preparatory activities is for the court-appointed guardian to plan as well as possible the actions necessary to implement the court's decision.
2. The court-appointed guardian, having analysed the documentation in their possession, may, if necessary, request the assistance of the Police, a psychologist, organisational social assistance units and organisational family and foster care system support units, local government authorities, associations and organisations within the scope of their activities in the area of family support and assistance, or another institution appointed for this purpose, with whom the court-appointed guardian shall discuss a detailed planned course of the procedure.

**In particular, the court-appointed guardian may request assistance from:**

- Educational establishments, including kindergartens, schools;
- nurseries, children's clubs;
- social welfare centres;
- social service centres;
- poviats family assistance centres;
- day-support facilities;
- community centres and after-school clubs;
- daycare centres;
- associations and community organisations.

3. The court-appointed guardian shall take into account the fact that with the severe stress that the obliged person may experience, and sometimes also due to their irrational behaviour, the obliged person may have a limited capacity to address the situation flexibly, as well as an increased tendency to perceive situations in a one-

dimensional way, claim that solely external circumstances are responsible for the situation, and equate their needs with those of their child.

- The obliged person may insufficiently respect the child's needs and emotions, in effect treating the minor instrumentally in pursuit of their desired outcome.
- They may also try to engage others present to take their side, and may take direct steps towards aggravating the child's negative emotional reactions in the hope that the child's crying and resistance would provide sufficient grounds for the court-appointed guardian to refrain from the procedure.

4. A detailed plan for the course of the procedure shall take into account, among other things, the scope of admissible actions of the actors involved and potential solutions to solve crises emergent in the course of the planned procedures.

**The scope of actions of the actors involved in the procedures is as follows:**

→ **Police:**

- at the request of the court-appointed guardian, assist them in procedures relating to the forcible removal of the child;
- on the basis of a court order, search premises and other places if there are reasonable grounds to believe that the child is present there;
- establish the whereabouts of the child at the request of the court;
- safeguard the place where the removal is effected from interference by bystanders or attempts by the obliged person to frustrate the removal of the child;
- use means of physical coercion on the obliged person or bystanders interfering with the procedure, where necessary to enforce a legally required behaviour in accordance with an order issued by the court-appointed guardian (whereby means of physical coercion shall be used in a manner necessary to achieve the objectives of such use, in proportion to the degree of danger, with such means chosen as will cause least possible inconvenience);

- counteract any action directly aimed at an attack on the life, health or freedom of the court-appointed guardian or other persons present, including those assisting them in the enforcement of the decision, or counter any such attack.

→ **Educational establishments:**

- at the request of the court-appointed guardian, confirm the child's presence at an educational establishment, e.g. school or kindergarten,
- at the request of the court-appointed guardian, create the conditions for the removal to be effected at that establishment, e.g., by having the child brought to the principal's office, the school counsellor's room or any other room agreed in advance with the court-appointed guardian where the child is to be handed over to the custody of an entitled person.

→ **Organisational social assistance units and organisational family and foster care system support units:**

- make information in their possession about the environment from which the child is to be removed available to the court-appointed guardian;
- make information in their possession about the conditions of the premises – such as the type of the building, floor on which the unit is located, room layout, additional entrances/exits, potential risk factors for carrying out the procedure, available to the court-appointed guardian;
- provide assistance in establishing contact with children.

→ **Psychologist:**

- assist the court-appointed guardian and other persons involved in establishing contact with the child;
- indicate ways how to communicate with the child as appropriate to their stage of development;
- take measures to calm the emotions of the child, and possibly also of the adults involved in the procedure (for more information, see recommendations for psychologists in Part II of these guidelines).

5. The crisis action plan shall consist in discussing with the Police and other authorities, units, institutions and entities involved in the procedure of forcible removal of a child the action scenarios in the event that the obliged person tries to prevent the removal of the child (e.g. through aggressive behaviour, refusal to allow the court-appointed guardian to enter the premises, hiding or escape attempts), and discussing with organisational social assistance units and organisational family and foster care system support units, a psychologist, or a foreign language interpreter, sign language interpreter, or an interpreter in the field of augmented or alternative communication their role in the course of enforcing the decision on the forcible removal of the child, including, in particular, in establishing contact and ensuring cooperation with the obliged person, the entitled person and the child.

- The court-appointed guardian request assistance from the head of an organisational unit of the Police, the head of the organisational social assistance unit, organisational family and foster care system support unit, or another institution in writing.
- In exceptional situations, where the circumstances show that delay in acting may endanger the life or health of a child subject to parental authority or custody, or that there may be an attempt to frustrate the enforcement of a court decision, assistance may be requested verbally.
- The head of the given unit shall immediately inform the court-appointed guardian of the persons appointed to participate in the procedure. The court-appointed guardian shall discuss the planned course of the forcible removal with these persons.

6. The court-appointed guardian shall carry out the procedure of forcible removal of the child on the order of the court and, as the enforcement authority, take into account the specific nature of the case, and determine the date, time and place of enforcement of the court's decision.

- The court-appointed guardian shall seek to remove the child at a time and place that offers the greatest likelihood of effective implementation of the court's decision and the chance of a peaceful outcome.
- Where it was necessary to carry out an investigation to establish the whereabouts of the child, the court-appointed guardian shall plan for the removal of the child from the place where they currently reside.

### III. Guidelines for the enforcement of the procedure

1. The court-appointed guardian shall carry out the procedure they are ordered to with the best interests of the child in mind, while aiming for the safe and effective enforcement of the court's decision.

- The court-appointed guardian shall have a conversation with the child in order to explain the situation to them in a way appropriate to their understanding, and seek to calm their emotions.
- If the needs of the child so require, the court-appointed guardian shall use the assistance of a psychologist, organisational social assistance units or organisational family and foster care system support units, a foreign language interpreter, a sign language interpreter, or an interpreter in the field of augmentative and alternative communication.
- The detailed manner in which the interview with the child should be conducted and the relevant elements to be included in it are discussed in Part II on the participation of the psychologist in the forcible removal procedure.
- The court-appointed guardian shall refrain from conducting such an interview if the child's age or stage of cognitive development renders it impossible.

2. Only the services, institutions, bodies and entities from which the court-appointed guardian has requested assistance in the enforcement of the decision may be present during the procedure, in addition to the court-appointed guardian, the obliged person, or other person under whose care the child is placed, and the entitled person.



- If the obliged person or other persons (in particular family members, neighbours, acquaintances and other bystanders) interfere with the court-appointed guardian in the enforcement of the decision at the child's place of residence, the police shall remove these persons from the place where the decision is enforced at the request of the court-appointed guardian.
- If representatives of the media are present at the place where the decision is enforced and interfere with the procedure carried out by the court-appointed guardian, or otherwise violate the limits prescribed by law, the police shall remove these persons from the place where the decision is enforced at the request of the court-appointed guardian.
- If deputies to the Sejm or representatives of diplomatic missions disrupt or otherwise interfere with the procedure, the court-appointed guardian shall reprimand them and ask them to cease and desist.

3. If persons present where the procedure is carried out take photographs or make audiovisual recordings of the procedure, the court-appointed guardian shall inform them that these materials may not be made public without the consent of the persons whose image is recorded. The court-appointed guardian shall warn these persons that if they obstruct the procedure, the Police will, at the guardian's request, remove them from the place of enforcement.
4. The court-appointed guardian ordered by the court to effect the forcible removal of the child shall remove the child from the obliged person or other person with whom the child is staying and hand the child over to the entitled person. In doing so, the court-appointed guardian shall be particularly careful not to harm the best interests of the child.

- If necessary, the court-appointed guardian shall request the assistance of organisational social assistance units and organisational family and foster care system support units, a psychologist, or another person present at the place where the procedure is carried out.
- If the safety of the child so requires, the court-appointed guardian shall request that the Police remove persons disrupting or preventing the

child from being collected from the obliged person and handed over to the entitled person.

5. With a view to the appropriate use of forces and resources, *police officers assigned to participate in the forcible removal of a child are advised to have the necessary knowledge in the area of care-related and educational issues*. Such tasks should, as far as possible, be carried out by police officers from the juvenile units as well as deviance and family dysfunction units, community support officers and, as a last resort, patrol and response police officers. Police officers, where possible, should be *in plain clothes and travel in an unmarked police car*.
6. The removal of a child residing in an educational establishment should be carried out not only with concern for the best interests of the child, but also with respect for and protection of the dignity of the members of the institution's community.
7. Representatives of educational establishments, organisational social assistance units and organisational family and foster care system support units, as well as of other institutions and entities that may be approached by the court-appointed guardian with a request for assistance in carrying out the procedure of the forcible removal of a child subject to parental authority or custody, shall provide assistance and cooperate closely with the court-appointed guardian.

→ The court-appointed guardian shall notify the court of the reasons for any unjustified refusal of the assistance requested if the request was under Article 598<sup>12</sup> of the Code of Civil Procedure.

#### IV. Possible obstacles to the enforcement of the court decision

1. If the forcible removal of the child is hindered because the child is hidden or any other action has been taken aimed at thwarting the enforcement of the decision, *the court-appointed guardian shall notify the public prosecutor*. If the obliged person refuses to disclose the whereabouts of the child, the court shall, at the request of the court-appointed guardian, order the obliged person to be brought in to make a statement on the whereabouts of the child.

→ In terms of its legal effect, statement the on the whereabouts of the child made by the obliged person shall be equivalent to testifying under oath.

2. If the whereabouts of a child who is the subject of a court decision are not known, the court-appointed guardian shall apply to the court for an order to search the premises and other places if there are reasonable grounds to believe that the child is present there. Searches shall be carried out by the police on the basis of the court order.

→ Searches shall be carried out in accordance with their purpose, and therefore with restraint and respect for the dignity of the persons concerned, and without causing unnecessary damage or nuisance.

→ The police may enter premises with the use of force, even if this would involve causing damage and nuisance, but in moderation.

→ The person who the search concerns or any other person designated thereby (provided that this does not make the search impossible or substantially hinder it), as well as the court-appointed guardian and the entitled person, may be present during the search.

→ If the person who the search concerns is not present, at least one household member or another person shall be summoned for the search.

3. If the enforcement of the court's decision on the forcible removal of the child is ineffective despite repeated attempts, the situation shall be discussed during a preparatory meeting with the Police, a psychologist, organisational social assistance units and organisational family and foster care system support units, as well as other institutions established to ensure the correct enforcement of the court's decision.

Examples of risk factors that may lead to the failure of the enforcement of a court decision on the forcible removal of a child:

→ the whereabouts of the child being hidden;

- action taken to frustrate the removal, especially resistance, aggression or threats to the court-appointed guardian or other persons assisting the court-appointed guardian in the procedure;
- the child having a developmental disability which makes it difficult to establish contact therewith (see: Part II. Recommendations on the involvement of a psychologist);
- the child violently protesting, e.g., through aggressive or self-aggressive behaviour (see: Part II. Recommendations on the involvement of a psychologist);
- the court-appointed officer having been unsuccessful in their previous removal attempts.

4. It is necessary to analyse the factors that led to the failure of the enforcement of the court decision, how both the child and the adults reacted during the procedure, and to discuss and plan actions to minimise the risk of these factors reoccurring.

- The court-appointed guardian shall notify the public prosecutor where the person obliged to surrender the child has hidden the minor in order to frustrate their forcible removal.
- The public prosecutor may then initiate appropriate legal action depending on the facts specified by the court-appointed guardian in the notice.

5. The court-appointed guardian may consider [the enforcement of a court decision to forcibly remove the child from an institution, in particular an educational establishment](#). There are situations where the removal of a child from an educational establishment is necessary because of the need to carry out the procedure quickly, as delay could make it very difficult or impossible to enforce the court decision.
6. Cooperation of the adults involved in the forcible removal of a child from an educational establishment will promote smooth enforcement and thus minimise stress for the child (see Appendix 2).

→ It is recommended that the arrangements for the removal of the child include, for example, a familiar teacher escorting the minor from the classroom to the court-appointed guardian waiting in the principal's office or school counsellor's/psychologist's room, so as to minimise the risk that the procedure would be carried out in the presence of other pupils.

7. When, based on available information, the court-appointed guardian anticipates that a child may be actively resisting, threatening suicide, or taking other actions that may pose a threat to their health or life, they **shall use the assistance of a psychologist** (these situations are discussed in the recommendations on the involvement of a psychologist found in Part II hereof).

→ The court-appointed guardian may withhold the enforcement of the decision until the threat has ceased, unless the withholding poses a more serious risk to that person.

→ The court-appointed guardian shall assess whether they should withhold the enforcement of the court's decision. In doing so, they may not invoke the best interests of the child as the basis for withholding the procedure if leaving the minor in their current environment would entail a more serious risk for the minor than forcible removal.

## V. Final provisions

1. In order to standardise the tasks in the procedure of the forcible removal of a child, interdisciplinary training shall be organised for the staff of the entities that are obliged to assist the court-appointed guardian at their request. The scope, frequency and institutions responsible for organising training shall be the subject of an inter-ministerial agreement.
2. Bearing in mind the best interests of the child, the guidelines and orders shall be made available to all authorities, entities and institutions whose representatives may be involved in assisting the court-appointed guardian with and during the forcible removal of a child subject to parental authority or custody.

3. These guidelines are the result of an agreement between the Ministry of Justice and the Ministry of National Education, the Ministry of Family, Labour and Social Policy, the Ministry of the Interior and Administration, the National Council of Court-Appointed Guardians and Probation Officers, the Police Headquarters and the Forensic Psychology Section of the Polish Psychological Association.
4. These guidelines shall enter into force on the date of signature.

# **Annex 1**

## **Sample letters**





*SAMPLE*

[Place and date]

Ref. no. \_\_\_\_\_

Professional Guardian \_\_\_\_\_

\_\_\_ Probation and Guardianship Service Team

District Court \_\_\_\_\_

**Poviat Family Assistance Centre**

Professional court-appointed guardian \_\_ of the Probation and Guardianship Service Team, District Court \_\_\_\_\_, requests assistance in the enforcement of the decision on the placement of the minor child \_\_\_\_\_ in a care and education centre for children under an interim order for the duration of the proceedings.

Under the decision of the District Court \_\_\_\_\_ of \_\_\_\_\_ in the case under ref. no. \_\_\_\_\_ with the participation of \_\_\_\_\_ for a change concerning the form of restriction of parental authority, by the virtue of an interim order and for the duration of the proceedings in the case, the court decided to place the minor \_\_\_\_\_ in a care and education centre for children. In view of the foregoing, the court ordered the professional court-appointed guardian acting in the District Court \_\_\_\_\_ to remove the minor from any person with whom they are staying for in institutional foster care.

At the same time, I would like to inform you that the planned removal of the minor child is scheduled for \_\_\_\_\_ at \_\_\_\_\_ at the minor's place of residence, i.e. \_\_\_\_\_ .

.....  
(signature of court-appointed guardian)

**Annex:**

- a copy of the decision of \_\_\_\_\_

[Place and date]

Ref. no. \_\_\_\_\_

Professional Guardian \_\_\_\_\_

\_\_\_ Probation and Guardianship Service Team

District Court \_\_\_\_\_

**Head of Police organisational unit**

In connection with the fact that on \_\_\_\_\_ a court-appointed guardian was ordered to enforce the decision of the District Court \_\_\_\_\_, issued on \_\_\_\_\_, in the case under ref. no. \_\_\_\_\_, with the participation of \_\_\_\_\_, for a change concerning the form of restriction of parental authority, by the virtue of an interim order and for the duration of the proceedings in the case, pertaining to the placement of a minor child, \_\_\_\_\_, in a care and education centre for children pursuant to Article 598<sup>10</sup> of the Act of 17 November 1964 – Code of Civil Procedure (Polish Journal of Laws of 2024, item 1568, of 23 October 2024, as amended, hereinafter referred to as the Code of Civil Procedure), I request that you appoint officers of your subordinate unit to assist in the enforcement of the decision referred to hereinabove.

At the same time, I would like to inform you that the enforcement of the procedure for the removal of the minor child, \_\_\_\_\_, and placement thereof in foster care has been scheduled for \_\_\_\_\_ at \_\_\_\_\_, at the place of residence of the minor, i.e., \_\_\_\_\_. At the same time, I would like to highlight that if the minor child is absent at the place specified, based on Article 598<sup>8</sup> of the Code of Civil Procedure, the professional court-appointed guardian may remove the minor child from any person with whom they are staying.

Therefore, I kindly request that the designated officers be present at the aforementioned location and date. Contact telephone number for the guardian – \_\_\_\_\_

.....  
(signature of court-appointed guardian)

**Annexes:**

- (memorandum, copy of court decision, etc.)

Ref. no. \_\_\_\_\_

**Memorandum on the procedure of the forcible removal  
of a person subject to parental authority or custody**

On \_\_\_\_\_, pursuant to the decision of the District Court \_\_\_\_\_, dated, \_\_\_\_\_  
in the case under ref. no. \_\_\_\_\_, I proceeded to forcibly remove and place minor child  
\_\_\_\_\_ in institutional foster care.

I carried out the procedure at the address indicated, i.e. \_\_\_\_\_, at \_\_\_\_\_.  
Authorised persons appeared on site: Mr(s) \_\_\_\_\_ from the Poviát Family Assistance  
Centre in \_\_\_\_\_ and Police officers \_\_\_\_\_, of \_\_\_\_\_ in \_\_\_\_\_.

The conduct of the procedure at the site was \_\_\_\_\_.  
The procedure was completed at \_\_\_\_\_.

.....  
(signature of court-appointed guardian)

[Place and date]

Professional Guardian \_\_\_\_\_

\_\_\_ Probation and Guardianship Service Team

District Court \_\_\_\_\_

.....

.....

(details of the prosecution service unit)

### NOTIFICATION of a suspected criminal offence

Pursuant to Article 598<sup>11</sup> § 1 of the Act of 17 November 1964 – Code of Civil Procedure (Journal of Laws of 2024, item 1568, as amended) in conjunction with Article 304 § 2 of the Act of 6 June 1997 – Code of Criminal Procedure (Polish Journal of Laws of 2024, item 37, as amended), I am notifying you of the suspicion that on ..... (*date*) at ..... (*place of commission*) the criminal offence of .....

### Justification

.....  
.....  
.....

[describe the facts and behaviour of the suspect which in view of the person filing the report bears the characteristics of a criminal offence]

.....

(signature of court-appointed guardian)

### Annexes:

-

(list documents referred to in the justification, e.g. official memorandums, copy of court decision, etc.)

[Place and date]

Ref. no. \_\_\_\_\_

Professional Guardian \_\_\_\_\_

\_\_\_ Probation and Guardianship Service Team

District Court \_\_\_\_\_

**District Court** \_\_\_\_\_

**Participants** \_\_\_\_\_

**Request of the court-appointed guardian  
for an order to search the premises and other places**

Pursuant to Article 598<sup>11</sup> § 1 of the Act of 17 November 1964 – Code of Civil Procedure (Journal of Laws of 2024, item 1568, as amended), court-appointed guardian \_\_\_\_\_ of the Probation and Guardianship Service Team at the District Court \_\_\_\_\_ requests an order to search premises and other places in order to establish the whereabouts of a minor child, \_\_\_\_\_, residing at \_\_\_\_\_, due to reasonable grounds to believe that they are staying there.

**Justification**

.....  
.....  
.....

[describe the facts and circumstances justifying this request]

.....  
(signature of court-appointed guardian)

**Annexes:**

-

(memorandum, copy of court decision, etc.)



## **Annex 2**

**Position of the Forensic Psychology Section of the Polish Psychological Association on the implementation in educational establishments of a procedure of forcible removal of a child subject to parental authority or custody**





Practice shows that a court decision on the forcible removal of a child is made when the available forms of family assistance (supervision of the court-appointed guardian, family assistant, support family, etc.) have been exhausted or when the legal guardians have persistently avoided or rejected cooperation with employees of social assistance units, family and foster care system support units or the court-appointed guardian, or have not complied with the court decision, and the transfer of the child into the custody of an entitled person is aimed at protecting the child from an abusive upbringing environment and providing conditions for the pursuit of the child's developmental needs. Within the removal procedure, (only) the court-appointed guardian may assess whether it would be reasonable for the best interests of the child to withhold from enforcement, but such situations should not arise when the child suffers some form of aggravated (emotional, physical and/or sexual) violence or significant neglect (extremely inadequate living and developmental conditions for the child, malnutrition, severe neglect in medical care, etc.) from the carers. The court-appointed guardian shall then enforce the court's decision to forcibly remove the child. At the same time, as stated in Article 598<sup>8</sup> of the Code of Civil Procedure, "the court-appointed guardian may remove a person subject to parental authority or custody from any person with whom they are staying," and therefore also, if the situation so requires, from an educational establishment. In accordance with the Act on Probation Officers and Court-Appointed Guardians (Polish Journal of Laws 2023, item 1095 as amended), the court-appointed guardian may request assistance in the enforcement of the court's decision to forcibly remove a child from, inter alia, educational establishments. **The aim of the decision is to safeguard the best interests of the child, understood as providing the child with opportunities for optimal development in all areas (biological, physical, emotional, cognitive, sexual and social) and to ensure that the child's rights and dignity are ensured. The best interests of the child are therefore something other than their situational reactions to events that are new to them or difficult for them.**

The procedure for the forcible removal of a child to be handed over to an entitled person is generally difficult, requiring very good preparation on the part of the court-appointed guardian and the persons from whom they requested assistance in carrying out the procedure. Forcible removal of a child occurs both as an urgent procedure, where there is a need to immediately protect the child and where the legal guardian fails to comply with a court decision obliging them to surrender the child. Only then does the court – at the request of the entitled person – order the court-appointed guardian to forcibly remove the child.

The enforcement of a court decision to have a child removed by a court-appointed guardian while the child is at an educational establishment understandably raises concerns for the Ministry of Education as a situation that is potentially a source of stress not only for the child subject to the decision, but also for others involved as well as the children and youth who may witness the events. Undoubtedly, a court decision on the forcible removal of a child and the resulting actions taken by the court-appointed guardian may be met with resistance from the child's guardians. In a situation that involves great stress as well as prolonged or persistent troubles and difficulties, and sometimes also because of irrational behaviour, the carers may have a limited capacity to address the situation flexibly, as well as an increased tendency to perceive situations in a one-dimensional way, claim that solely external circumstances are responsible for the situation, and equate their needs with those of their child. Then, they may insufficiently respect the child's needs and emotions, in effect treating them instrumentally in pursuit of their desired outcome. They may also try to engage others present to take their side, and may take direct steps towards aggravating the child's negative emotional reactions in the hope that the child's crying and resistance would provide sufficient grounds for the court-appointed guardian to refrain from the procedure.

**It should be emphasised that the strong emotions the child shows in the course of the procedure do not mean that the child's previous care and educational environment was functioning properly.** They may result from the fears they are experiencing, relating to a new, unfamiliar situation, from their temperament or developmental challenges, from the fact that their current carers induce anxiety in them, as well as from past negative experiences consisting in unsuccessful attempts to place them in the custody of an entitled person. A child's emotional reactions to the current situation that is new to them and difficult for them do not necessarily mean (and often do not mean) that they do not have a positive emotional bond with the person to whose custody they are to be handed over. The strong emotions shown in such situations may result from anxiety triggered by the deliberate escalation of the situation by the current carer or a more prolonged induction of resentment in the child towards the other carer. Of course, this also does not mean that the child is not strongly emotionally attached to the person from whom they are removed, but it should be remembered that the strength of this attachment is not tantamount to the quality and appropriateness of this relationship. **The court's decision specifies that based on the information on record, a conclusion was reached that, for the child, the emotional cost of removal from the previous**

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**carer would be lower than the developmental cost they would bear by remaining under abusive or outright harmful care.**

While the foregoing could be considered a strong argument supporting the exclusion of schools from places where the court-appointed guardian may enforce the removal decision, it should be emphasised that – understanding both the concerns of the Ministry of National Education and the concerns of the Ombudsman for Children, as expressed in her letter to Minister Barbara Nowacka of 18 November 2024 <sup>1</sup> – **the exclusion of educational establishments from places where a decision on the forcible removal of a child may be enforced does not exclude the risk that difficult situations related to the enforcement of the decision in question will occur there.** What should be taken into account is that educational establishments will then become a potentially attractive place for carers to hide with their children from the court-appointed guardian and other institutions, services and authorities from which the court-appointed guardian requested assistance in the procedure. This can create highly stressful and prolonged situations where the carer persistently stays with the child on the premises of the establishment, which is highly likely to be significantly more emotionally taxing for everyone present at the school, both adults and children. In extreme cases, this may require the involvement of additional professionals who will mediate with the carer and bring the situation to an end.

It should be emphasised that for this reason, **in order to safeguard both the best interests of the child who is the subject of a court decision and other children attending the relevant educational establishment, it is essential that the members of the executive bodies of the establishment and staff cooperate with the court-appointed guardian.** This cooperation should not be initiated when the court-appointed guardian takes action to enforce the court's decision, as there may be no time or conditions for that at the time, but should be established earlier, so that the members of the executive bodies and staff of the educational establishment have the opportunity not only to get to know the court-appointed guardian from the judicial district to which the establishment belongs, but also to acquire basic knowledge of the situation regarding the removal of the child, so that, if such a situation arises in the relevant educational establishment, the principal and teaching staff are able to

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<sup>1</sup> <https://brpd.gov.pl/2024/11/20/szkola-to-nie-miejsce-dla-przymusowego-odbierania-maloletnich>

cooperate effectively with the court-appointed guardian in order to ensure the smooth enforcement of the decision in question.

**Creating conditions for a peaceful forcible removal of a child – also from educational establishments – is supported by the guidelines for court-appointed guardians, developed at the Ministry of Justice, which emphasise the role of interdisciplinary cooperation between the court-appointed guardian and the institutions, services and authorities that may be requested by them to assist in the enforcement of a court decision on the forcible removal of a child.** They will ensure that each of the potentially involved parties – including the educational establishments – is prepared in advance for this type of situations, making them more understandable and predictable also for those who may only incidentally be involved in the removal procedure. **In addition, the guidelines feature recommendations on the involvement of psychologists in the forcible removal of a child as an appendix, to raise awareness of the needs of a child subject to a court order.** The Forensic Psychology Section of the PPA encourages not only psychologists, but all institutions, services and authorities potentially involved in the removal of a child, to familiarise themselves with these recommendations in order to recognise the child's needs as best as possible and respond appropriately. It should be emphasised that the aforementioned guidelines, together with the recommendations, are ultimately to be made available to all educational establishments, so that their directors have the opportunity to familiarise themselves with them and, if they have any questions, contact the court-appointed guardian from the judicial district within which the establishment is located to address their concerns.

The suggested advance preparations will ensure that staff in the educational establishment understand the situation, which will contribute to calmness on their part and ensure better cooperation with the court-appointed guardian. It may also allow a discussion of possible details of removal (such as the child being escorted out of the classroom by a familiar teacher to the court-appointed guardian waiting in the principal's office, so as to minimise the risk of the procedure being carried out in the presence of other pupils). The calm and coordinated actions of the adults involved in the procedure will promote its smooth conduct and thus minimise stress for the child. As already mentioned, the enforcement of a court decision on the forcible removal of a child is a completely new and unfamiliar situation for the child, naturally likely to cause some anxiety, as well as negative emotional reactions. At the same time, in new situations, children tend to observe the reactions and behaviour of

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adults, which provides them with information about how threatening this unfamiliar, stressful situation is for them. **If the adults present during the removal of a child by a court-appointed guardian remain calm and co-operative, this will increase the chances that the child – as well as other children possibly witnessing the situation – will not feel that the situation is not safe for them and that the adults are not fully in control.**

If other children witness the court-appointed guardian removing the child, which may cause anxiety in them, it is advisable to take care to calmly and matter-of-factly explain the situation to them in a way that is appropriate to their age and intellectual capacity, and to ask them about their feelings about it, to allow them to vent any difficult emotions, and to dispel any additional doubts. The suggested conversation aims at reducing their anxiety and uncertainty about the observed event. **This situation can also be an opportunity to talk to pupils about the existence of laws on various areas of our lives, the activities of the court, and the need for all citizens to respect the law.**

In view of the foregoing, the optimal solution for safeguarding the best interests of children while allowing the court-appointed guardian to carry out the removal procedure is for education establishments to cooperate with court-appointed guardians to ensure that the procedure is carried out efficiently, expeditiously, and with as little emotional burden as possible for those involved.

## **Part II**

**Recommendations on the involvement of a psychologist  
subject to parental authority or custody**



## I. Preliminary remarks

When removing a child subject to parental authority or custody, the court-appointed guardian may request the assistance of a psychologist. The psychologist shall not be involved in the removal of the child as an expert witness. The role of the psychologist present at the procedure shall be to help the court-appointed guardian and other persons involved to establish contact with the child, to identify ways of communicating with the child that are appropriate to the child's developmental level, and to take measures aimed at calming the child's emotions as well as possibly also those of the adults involved in the procedure.

The psychologist shall not interfere with the procedure, attempt to influence decisions made by the court-appointed guardian, or make an *ad hoc* assessment of how the child's care and educational situation looks like. It shall be borne in mind that the removal of the child should be as quick as possible to minimise the stress experienced by the child and for the court-appointed guardian to maintain control over the situation. The psychologist shall bear in mind that during the course of the removal procedure, in the opinion of the court-appointed guardian, a situation may arise where it would be reasonable, in the view of the best interests of the child, to withhold from carrying out the procedure. In turn, if the details on record show that the child suffers some form of aggravated (emotional, physical and/or sexual) violence or significant neglect (extremely inadequate living conditions, malnutrition, severe neglect in medical care, etc.) on the part of their carers, the court-appointed guardian shall enforce the court's forcible removal decision.

The psychologist shall therefore remember that a decision on the forcible removal of a child is made when the available forms of family assistance (supervision of the court-appointed guardian, family assistant, support family, etc.) have been exhausted or when the legal guardians have persistently avoided or rejected cooperation with social services or the court-appointed guardian, or have not complied with the court decision, and the transfer of the child into the custody of an entitled person is aimed at isolating the child from an abusive upbringing environment and ensuring the child's needs are satisfied as appropriate.

The strong emotions shown by the child in the course of the procedure do not imply that the environment in which they were previously being cared for and brought up was functioning properly, but they may be the result of the child experiencing the fear of a new, unfamiliar situation, due to the fact that the child's current carers induced in them the fear of



the entitled person, or the result of the child having past negative experiences consisting in unsuccessful attempts to transfer them to the custody of the entitled person. At the same time, the psychologist shall conduct themselves within the procedure in line with the Code of Ethics of the Polish Psychological Association.

The psychologist requested to participate in the removal procedure should make a critical assessment of:

- **own competences to participate in the removal of the child** (e.g. knowledge of child development; knowledge of the functioning of children who are involved in parental conflicts, conflicts over custody arrangements, in families struggling with domestic violence problems; knowledge of the specific nature of potential crises; the ability to act in a stressful situation, to respond flexibly and to be able to provide *ad hoc* support in a difficult situation – with awareness of the possible multidimensional nature of the aetiology of the behaviour presented by the child);
- **own beliefs and attitudes towards the removal of the child**, especially if the child will be removed from the parents (being aware that the court-appointed guardian is enforcing the decision on the removal of the child made on the basis of a comprehensive conclusion concerning the child's care and educational situation, and not attempting to interfere with this action);
- **willingness to commit time** which cannot be estimated in advance, within the timeframe indicated by the court-appointed guardian.

## II. Preparatory procedures

The psychologist shall (to the extent that the court-appointed guardian deems it necessary):

1. familiarise themselves with information about the child for whom the procedure is planned.

**Relevant information regarding the child:**

- age;
- gender;

- any cognitive, emotional and social development disabilities;
- holistic developmental disorders;
- physical disabilities and other health problems that may affect the way contact is established and its possible extent;

2. become familiar with the child's care and educational situation and, if possible, with the child's attitudes towards the parties to the proceedings (especially towards the obliged person and the entitled person);
3. if there have been unsuccessful attempts to remove the child in the past, become familiar with the conduct of those procedures in detail, analyse the difficulties that occurred, and the way both the child and the adults reacted during the events as they unfolded;
4. obtain information from the court-appointed guardian as to where the child will go after removal (this piece of information may be important in the course of the procedure);
5. develop recommendations to be discussed with the court-appointed guardian during preparatory procedures, addressing the following issues regarding the circumstances under which the removal is to take place, as well as issues of the child's character:
  - a place to remove the child from that offers a better chance of a calm procedure (home, facility, educational establishment, e.g., kindergarten, school, daycare centre, Poviát Family Assistance Centre, etc.);
  - if this will not adversely affect the ability to carry out the procedure – a time of day that takes into account the child's daily rhythm and routine (not waking them from sleep, not removing them during favourite or important activities, etc.);
  - if the child will be removed from an educational establishment (nursery, school, daycare centre, etc.), efforts not to carry out the procedure, as far as possible, in the presence of bystanders, especially other children;

- Witnessing a friend being removed may entail a heavy emotional burden on the children, and can also be an additional negative factor for the child subject to a court order.
- It is advisable to hand over the child to the custody of the entitled person, e.g., in the principal's or school counsellor's office, or any other room that ensures privacy and gives the court-appointed guardian as much control over the situation as possible.

- if there have been unsuccessful removal attempts in the past, discuss these with the court-appointed guardian, together with suggestions for alternative behaviour and solutions. The psychologist shall warn the court-appointed guardian that, due to difficult past experiences with the procedure, the child may react with particularly strong emotions;
- a way of establishing contact that takes into account the agency of the child, their individual character traits and specific nature of functioning:
  - the emotional state of the child (taking into account that this is a new situation for them, not yet fully understood, and therefore they may be frightened, experience ambivalent feelings towards the obliged and/or entitled person, experience a sense of helplessness, disrupted sense of security);

The child may have aggravated emotional reactions such as crying; screaming; physical aggression in the form of punching, kicking, throwing objects; self-aggressive behaviours such as inflicting physical injuries on themselves with their bare hands or available objects; and attempts to hide or escape which may be life- or health- threatening.

- the special needs of the child due to their level of cognitive, emotional, social development, or the presence of holistic developmental disorders such as the autism spectrum disorder;

#### Children with developmental disorders:

- may have exacerbated difficulties in understanding the situation;
- may experience intense fear of unfamiliar people;
- may show their emotions in a particularly heightened and unpredictable manner, including through intense aggressive or self-aggressive behaviour;
- may engage in stereotypic movement, such as flapping their hands and arms, banging their head, spinning around, swaying; may scream, moan, wet or soil oneself.

These behaviours can be very intense and dramatic, and bringing them under control can be very lengthy and difficult, requiring potentially the help of a specialist.

- mode of communication (particularly important with younger children or those with developmental disorders) – building short, simple sentences, not using complicated and/or specialised wording;
- the child's special communication needs;

#### Special communication needs:

- if the child is a foreigner – determine whether they speak Polish at a level that allows them to communicate freely and, if not, inform the court-appointed guardian of the need for the support of a foreign language interpreter;
- if the child is deaf or hard of hearing and uses sign language, or uses a system of augmentative and alternative communication due to a developmental disorder – inform the court-appointed guardian of the need for the support of a sign language interpreter, or of an interpreter in the field of augmentative and alternative communication.

- an emphasis on the role of stress-reducing activities for the child (ensuring that a favourite mascot, blanket, etc., can be taken along);

- the opportunity to involve others present at the procedure (e.g. the entitled person) in efforts to reduce tension in the child;
- the child's physical condition (if it is suspected they may have experienced physical abuse and/or neglect in the form of, for example, inadequate clothing)
- suggest securing medical assistance, clothing, a small meal, etc.

### III. The psychologist's involvement in the procedure

1. The extent of the psychologist's involvement in the removal procedure shall be based on prior arrangements with the court-appointed guardian and their *ad hoc* requests for assistance during the course of the procedure.
2. The psychologist shall support the court-appointed guardian and the child, but not be actively involved in the direct activities of the court-appointed guardian aimed at removing the child from the obliged person or from another person and transferring the child to the custody of the entitled person.
3. In the course of the procedure, the psychologist shall, *exclusively at the request of the court-appointed guardian*:
  - participate in the initial interview with the child and current carers. This procedure should be as short as possible, without anticipating the child's reaction. The child cannot be expected to understand or accept the procedure.

**In the conversation between the psychologist and the child, the psychologist shall:**

- explain their role in a way that is appropriate to the child's cognitive abilities;
  - inform the child about the course of the planned procedure;
  - as far as possible, try to minimise the negative emotional impact of the situation on the child.
- explain to the obliged person the *need to ensure the child's mental well-being* by refraining from engaging in violent behaviour and expressing heightened emotions;
  - *support the court-appointed guardian in establishing contact with the child*, formulating the aforementioned details in such a way that the child understands

- them; suggest ways of responding to ongoing behaviour that impedes the course of the procedure, in particular the child's anxiety, fear, crying or aggression, which may escalate to extreme emotional reactions that are difficult to control;
- continuously **observe the child's behaviour and emotions** and, if necessary, inform the court-appointed guardian of their findings.
4. In providing ongoing support in the course of the procedure, the psychologist shall:
- control their emotions and reactions;
  - remember that the removal procedure is carried out having the best interests of the child in mind;
  - **not make any promises to the child about their future** (e.g. "don't cry, you'll be back here soon"), as these will be unfounded. This may be tempting as a short-term method of reassuring the child, or may be a spontaneous response to a request that the child makes explicitly; in the long term, it will lead to disappointment and a feeling of being cheated;
  - **not use blackmail** (e.g. "if you don't go, then..."), not belittle, not ridicule, and not minimise the child's emotional remarks, (e.g. with such comments as "you're exaggerating," "you're such a big boy and you're crying") or order the child to calm down. The child will calm down more quickly if they are given the opportunity to vent their accumulated emotions and are supported (also practically, by being given tissues or helped to clear their nose);
  - **assure the child that they are not to blame for what is happening** and that the removal from the obliged person is not intended to punish them;
  - **not make any promises to the obliged person** or any other person from whom the child is removed;
  - not interfere with the decisions of the court-appointed guardian.

