

CHILDREN'S COURT OF WESTERN AUSTRALIA

AFFIDAVIT Protection and Care of Children <i>Children & Community Services Act 2004</i>		Application No: PC (Court to complete)
		Date Filed: 23/05/2017 (Court to complete)
COURT DATE (Court to complete)	Court date: 26/05/2017 am/pm	
	Court place: 160 Pier Street, Perth WA 6000	

FILED ON BEHALF OF <i>(tick one)</i>	Department of Communities <input checked="" type="checkbox"/>
	Other _____ [state relationship to child]

CHILDREN	Full Name: Darren Smith Date of Birth: 21 January 2005 Gender: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
	Full Name: Jane Smith Date of Birth: 26 January 2006 Gender: <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female
	Full Name: Sarah Smith-Munster Date of Birth: 4 May 2017 Gender: <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female

DEPONENT <i>(Person making the affidavit)</i>	Full Name: Stephanie Ann Worker
	Address: 121 Main Street, Perth, WA 6000
	Occupation: Child Protection Worker

EVIDENCE <i>Divide facts into separately numbered paragraphs. Attach extra page(s) if you need more space</i>

1. I am a Child Protection Worker in the assessment and intervention team at the Perth District Office of the Department of Communities ("Department"). I am an authorised officer properly appointed pursuant to Section 25 of the *Children and Community Services Act 2004* (WA) ("the Act").
2. I completed the requirements for a Bachelor of Social Work in 2008 and have worked for the Department for three years.
3. Darren Smith DOB 21/01/2005 ("Darren"), Jane Smith DOB 26/01/2006 ("Jane") and Sarah Smith-Munster DOB 04/05/2017 ("Sarah") are the children of Jennifer Smith whose DOB is 17/05/1978 ("Ms Smith") and Mr Stephen Munster whose DOB is 04/04/1974 ("Mr Munster").

Signature of deponent (person making affidavit)	Signature of witness
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4. I took over as case manager for this matter on 13 November 2015 and I first had direct contact with the family on that date.
5. Darren, Jane and Sarah were taken into provisional protection and care pursuant to section 37 of the Act on 20 May 2017.
6. I make this affidavit in support of a protection application (time limited) for a period of 1 year pursuant to Section 44 of the Act.
7. All information contained in my Affidavit has been obtained from my personal involvement with this matter and from my review of the Departmental files and is true and correct to the best of my knowledge.

BASIS FOR THIS APPLICATION

8. Intervention was required due to the immediate risk of harm to Darren, Jane and Sarah as a result of domestic violence and drug misuse by Ms Smith and Mr Munster and her medical needs not being met.
9. Both Ms Smith and Mr Munster have admitted occasional use of methamphetamines.
10. The Department has assessed that Darren, Jane have each suffered significant harm as a result of being exposed during the past two years and Sarah since her birth to family violence (emotional abuse) perpetrated by Mr Munster towards Ms Smith. Sarah is also likely to suffer significant harm as a result of being physically abused from the violence.
11. The violence has increased in frequency and severity over the past six months, culminating in Mr Munster inflicting significant injuries to Ms Smith, which required her to be hospitalised.
12. Mr Munster has refused to engage with this Department or other support services to address his violent behaviour and drug use. Mr Munster has continued to use violence towards Ms Smith and expose his children to these assaults in spite of Ms Smith's protective actions.
13. Ms Smith has breached a safety plan developed during the pre-birth planning process by exposing Sarah to family violence and not doing urinalysis when requested by the Department, using methamphetamines and not attending Sarah's medical appointments.

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EVENTS LEADING TO THIS APPLICATION

- 14. On 7 July 2015 Crisis Care referred Ms Smith and her children to a women’s refuge after a referral was made that Ms Smith had been assaulted by Mr Munster.
- 15. Between November 2015 and December 2016 the Department received four domestic violence incident reports relating to assaults perpetrated by Mr Munster against Ms Smith:
 - a. On 30 November 2015 Mr Munster pushed Ms Smith and stood over her shouting
 - b. On 12 February 2016 Mr Munster threatened Ms Smith with a baseball bat when she was attempting to remove herself and the children from the property
 - c. On 6 December 2016 Mr Munster punched Ms Smith in the face with a closed fist
 - d. On 7 December 2016 Mr Munster breached a police order, forced entry into the home and pushed Ms Smith.
- 16. On 2 February 2017 the Department received a Domestic Violence Incident Report (“DVIR”) that, Ms Smith was pregnant, Mr Munster punched Ms Smith in the face with a closed fist, kicked her legs and lunged at Ms Smith with a knife, cutting Ms Smith near the top of her arm. This incident occurred with Darren and Jane watching. Attached and marked “**A**” is a copy of the DVIR dated 2 February 2017
- 17. On 12 February 2017 the Department assessed that Mr Munster caused significant harm in relation to the emotional abuse of Jane and Darren through exposure to family and domestic violence as a result of the incident reported on 2 February 2017.
- 18. Between 30 November 2015 and 20 May 2017 Ms Smith has worked with the Department to safety plan and has left her home to go to refuges when threatened by Mr Munster with violence, however this has not reduced the severity or frequency of Mr Munster’s violence towards her.
- 19. Between 2 February 2017 and 20 May 2017 a safety planning meeting (4 February 2017), and three pre-birth signs of safety meetings were scheduled (27 February 2017, 10 March 2017 and 3 April 2017). Mr Munster was invited by letter to each of these meetings and Mr Munster did not attend any of the meetings.
- 20. On 10 March 2017 I attended the second pre-birth signs of safety meeting with Ms Smith, Team Leader Jenny Frost (“Ms Frost”) and Fiona Stanley Hospital senior social worker Fiona White (Ms White”). Ms Smith said she had not used methamphetamine for the last four weeks. Ms Smith agreed to do urinalysis when requested by the Department.

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21. On 3 April 2017 I attended the third pre-birth signs of safety meeting with Ms Smith, Team Leader Jenny Frost (“Ms Frost”) and Ms White. During this meeting Ms Smith admitted she had not done any urinalysis as requested but committed to starting when requested from that day.
22. On 7 May 2017 Sarah was discharged from Fiona Stanley Hospital (FSH) to Ms Smith’s care in accordance with a safety plan agreed to at the pre-birth meeting on 3 April 2017 which included not having contact with Mr Munster and doing urinalysis when requested.
23. Ms Smith was asked to do urinalysis on 15, 22 and 29 March, 12, 19 and 26 April and 10 and 17 May 2017. Urinalysis was not completed on any of these dates except on 17 May 2017. This test was positive for methamphetamine. Attached and marked “**B**” is a copy of Ms Smith’s urinalysis test dated 17 May 2017.
24. While at FSH Sarah was found to have hearing problems and a referral was made to Princess Margaret Hospital (PMH) ENT for assessment and management.
25. Ms Smith failed to attend medical appointments for Sarah at PMH on 15 and 17 May 2017.
26. On 19 May 2017 the Department received a report from Alice Brown (“Ms Brown”), Refugee Worker at Pat Thomas House, that Ms Smith had been seriously assaulted by Mr Munster and taken to Fiona Stanley Hospital (“FSH”). Ms Brown also advised that Darren and Jane had been sobbing and clinging to their mother. When the ambulance arrived, they did not want to be separated from Ms Smith and Jane said to Ms Brown that she was worried that her mother “will die and won’t come home”.
27. On the same day I consulted with Team Leader Jenny Frost (“Ms Frost”) and the District Director John Anderson (“Mr Anderson”) and he approved taking the children into provisional protection and care pursuant to section 37 of the Act based on my assessment that Darren, Jane and Sarah were at immediate and substantial risk.
28. On 22 May 2017 I visited Ms Smith accompanied by Adrian Evans, Senior Constable, WA Police (“Senior Constable Evans”) at FSH, where Ms Smith had been taken for medical treatment. She advised me that she took the children to see Mr Munster because Darren and Jane had asked to see him. Ms Smith said she and the children were near Mr Munster’s car when he became angry and Mr Munster then punched her repeatedly in the head, rammed her head against the inner car door frame and scratched/clawed at her eyes and face, and choked her. He then pulled her and the children out of the car and drove off. Ms Smith and the children walked to Pat Thomas House and staff called an ambulance.

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29. On 22 May 2017 I spoke with Senior Constable Evans and he advised me that Mr Munster has been charged with aggravated assault occasioning bodily harm. Mr Munster was released on bail on 20 May 2017. Mr Munster was also in breach of protective bail conditions that had been put in place when he assaulted Ms Smith in front of Darren and Jane on 1 February 2017.
30. On 22 May 2017 I received information regarding the injuries to Ms Smith from Ms White at FSH which confirm that the assault caused Ms Smith to sustain a fractured eye socket requiring surgery, concussion, various facial and body injuries as well as marks on her neck consistent with strangulation. Attached and marked "C" is a copy of the FSH fax about Ms Smith's admission dated 23 May 2017.
31. On 22 May 2017 I met with Mr Munster who said he didn't understand why he couldn't look after the children and told me that he believed that the incident was a one off and that he "would never do anything like that again". Mr Munster said that Ms Smith "knows it was her fault for leaving the home" and he was just worried about not seeing the kids again.
32. On 23 May 2017 I contacted both Jane and Darren's teachers at Ashton Primary School who advised that there had been a deterioration in Jane and Darren's behaviour over the last six months. I spoke to Jane's teacher, Ms Brittany Murphy, who said that Jane had changed over the last 3 months from being a bright and outgoing student to being withdrawn, not concentrating in class, being distracted in lessons and sitting on her own. I also spoke to Darren's teacher, Ms Maria Simpson, who said that Darren had been suspended twice already in term two for aggressive and violent behaviour including calling other children 'useless cunts' and instigating fights. Ms Simpson also said she had heard Darren telling another student that "my mum will probably die soon and I will go to live with my aunty".
33. On 23 May 2017 the Departmental foster carers reported to me that Jane and Darren have had nightmares about Mr Munster killing Ms Smith, every night since the children were placed with them on 19 May 2017.

CARE ARRANGEMENTS

34. There are no family members currently able to manage the risk Mr Munster presents as a result of his violence and Ms Smith in relation to her drug use.
35. Sarah, Jane and Darren will remain in Departmental foster care with Aboriginal general foster carers whilst further assessments are undertaken with possible family members to ascertain if the risk Mr Munster presents to the children and carers can be managed if the children are in relative care with family members known to Mr Munster.

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- 36. Sarah, Jane and Darren will have supervised contact with Mr Munster fortnightly, once Mr Munster has met with the Department to go through the safety plan.
- 37. Sarah, Jane and Darren will have supervised contact with Ms Smith at least twice a week at a neutral venue that will be unknown to Mr Munster.
- 38. The Department will review the contact arrangements on a monthly basis.

FURTHER AFFIDAVIT(S)

- 39. This initial affidavit provides a summary of the basis for the application but does not contain all the facts and circumstances relevant to this application. The Department may file further affidavit material setting out the relevant history and providing additional disclosure as appropriate to the stage of the proceedings and the circumstances of the case or as directed by this Honourable Court.

SIGNED	I swear that the contents of this affidavit are true.		
		
	Signature of Deponent	Place	Date
	Before me		
.....			
Signature of Witness Lawyer	Full name of witness	Type: JP, Registrar,	

Acknowledgement

Legal Aid WA thanks the Department of Communities Child and Family Support for the provision of a training affidavit which it has allowed to be modified for the purposes of creating a sample Response.