

**SUPREME COURT OF NOVA SCOTIA**  
**(FAMILY DIVISION)**

**Citation:** *Nova Scotia (Community Services) v. Birth Registration # 2016-02-002781*,  
2017 NSSC 27

**Date:** 20170202

**Docket:** SFHCFSA 102013

**Registry:** Halifax

**Between:**

Nova Scotia (Community Services)

Applicant

and

Birth Registration # 2016-02-002781

Respondent

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**Judge:** The Honourable Associate Chief Justice Lawrence I. O'Neil

**Heard:** January 10, 2017 at Halifax, Nova Scotia

**Issues:**

1. Do one or more constitutional questions arise from the 'adoption' provisions of the *Children and Family Services Act*, S.N.S., 1990 c.5?
2. If so, should notice of a constitutional question(s) be given to the Attorney General of Nova Scotia?

**Summary:** Sections of the *Children and Services Act*, S.N.S. 1990 c.5 provide for adoption procedures to be followed. The statute creates different processes, notice and consent requirements that may be impacted by whether a child is legitimate or not; whether the father is married to the child's mother or not and by whether the father lives with the child's mother *inter alia*.

The questions that arise relate to whether the distinctions are a violation of the legal rights of the child or the father in some circumstances and the questions also relate to whether the distinctions are a violation of the equality rights of the child or the father in some

circumstances.

The Court held that notice of constitutional question should be given to the Attorney General of Nova Scotia and outlined the questions.

The Court released an earlier decision, 2017 NSSC 296 that provides further background.

**Keywords:** adoption; service; notice of adoption; parent; legal rights; equality rights; Charter of Rights and Freedoms

**Legislation:** *Children and Family Services Act*, S.N.S.1990 c.5  
*Constitutional Questions Act*, RSNS 1989, c.89  
*Charter of Rights and Freedoms*; *Constitution Act* 1982

#### **Cases**

**Considered:**

- *Nova Scotia (Community Services) v. T.G.*, 2012 NSCA 19
- *D.B.S.*, 2006 SCC 37
- *Kerr v. Baranow*, 2011 SCC 10
- *New Brunswick (Minister of Health) v. G.(J.)*, 1999 3 SCR 46
- *B.(R.) v. Children's Aid Society of Metropolitan Toronto*, [1995] 1 S.C.R. 315
- *J.T. v. Manager of Child, Youth and Family Services, Zone E v. D.L.*, 2015 NLCA 55

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