

SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION

Citation: *Nova Scotia (Minister of Opportunities and Social Development) v RP*,
2026 NSSC 77

Date: 2026-03-13

Docket: *SFHCFSA* No. 134519

Registry: Halifax

Between:

Minister of Opportunities and Social Development

Applicant

v.

RP and AD

Respondent

Judge: The Honourable Justice Theresa M Forgeron

Heard: January 29, February 5, 6, 11 and 12, 2026, in Halifax, Nova Scotia

Oral Decision: March 13, 2026

Written Release: March 16, 2026

Counsel: Deanna Bru, counsel with Nova Scotia (Minister of Opportunities and Social Development)
Zachary Chisholm, counsel for RP

By the Court:

Introduction

[1] This decision concerns four children: 12-year-old TP; nine-year-old AD; six-year-old ID; and five-year-old RD. The children are currently placed in the temporary care and custody of the Minister of Opportunities and Social Development. As legislative timelines are exhausted, I must now determine if the children continue to be in need of protection.

[2] When deciding this issue, I need only examine the plans of the agency and mother as no other relative or community member put forth a plan or participated in the final hearing.

[3] The Minister seeks permanent care orders in the children's best interests because the agency believes that protection concerns were not mitigated. To the contrary, the Minister states that the mother's recent use of cocaine and other nonprescribed drugs confirm a lack of insight and ongoing protection issues.

[4] In contrast, the children's mother, RP, states that the children are no longer in need of protection because she mitigated the specified protection concerns – neglect, mental health, and housing insecurity. The mother states that she successfully completed counselling, parenting education, and mental health services. The mother notes that she has secured and maintained stable housing. Although the mother acknowledges recent drug use, she states that it was a slip and that she has not and will not use again. The mother is adamant that the protection issues have resolved. She wants the proceeding terminated and the children safely returned to her care.

Issues

[5] The following issues will be addressed in this decision:

- What legal principles apply?
- Are the children in need of protection?
- What orders are in the children's best interests?

[6] Before addressing the issues, I will review background information to provide context.

Background Information

[7] On July 24, 2024, the Minister filed a Notice of Child Protection Application because of concerns with unfit living conditions, housing instability, and the mother's mental health. At the time of their initial apprehension, the children were living with the mother and being evicted from their home.

[8] The interim hearing commenced on July 31, 2024 and was completed on August 21, 2024. Supervision orders were granted. One child was placed with his uncle and the other children with their father.

[9] On October 11, 2024, the protection hearing was completed with a finding being granted, by consent, pursuant to s. 22 (2)(g) of the *Children and Family Services Act*, 1990, c. 5. The supervision orders were continued and the children's placements maintained.

[10] On December 5, 2024, the three children placed in their father's care were removed because of protection concerns within his household. On January 3, 2025, these children were placed in the temporary care and custody of the Minister. The supervision order, however, continued for the oldest child who remained in the care of his uncle.

[11] On April 2, June 25, September 22, and December 17, review hearings were held and the prior orders renewed.

[12] As the mother had cooperated with most services, the Agency's goal was to return the children to her care once she had secured appropriate housing. In November 2025, the Agency began the transition by granting overnight weekend access, with plans to return the children to their mother's full-time care during the first week in December. The Agency's plan was short-lived.

[13] Because of perceived changes in the mother's behaviour, the Agency asked the mother to participate in urinalysis testing. On December 4 and 5, 2025, the mother tested positive for cocaine, cannabis, and medication that had not been prescribed for her.

[14] As the outside timeline was January 3, 2026, the Minister filed a new plan of care, seeking permanent care orders for the three youngest children. The Minister stated that there was insufficient time to address the mother's substance abuse and mental health issues. The Minister, however, still supported the oldest child

remaining in the uncle's care. Soon thereafter, however, the Agency also sought permanent care of the oldest child because of protection concerns arising from the uncle's new living arrangements.

[15] The Minister states that all four children are at a substantial risk of physical harm, emotional abuse, and neglect due to substantiated concerns of substance abuse, inadequate parenting skills, and inadequate supervision. In contrast, the mother denies the allegations and seeks the return of her children.

[16] The trial, originally scheduled for January 2026, had to be adjourned because the mother's lawyer was unexpectedly unavailable because of illness and new counsel needed time to review and prepare. The trial therefore proceeded on January 29, and February 5, 6, 11, and 12, 2026. The following witnesses testified: Dr. Risk Kronfli, Jennifer Denney-Hazel, Maleigha Gray, Erica McNeill, Gregory Johnstone, Benny Behanan, Tina Wells, Dr. Juan Alas-Lopez, Meghan Steele, and the mother. Oral submissions were provided to supplement the parties' written briefs.

[17] The trial was adjourned for decision.

Analysis

What legal principles apply?

[18] A permanent care decision engages several sections of the *CFSA* as well as principles developed through case law. It may be helpful for me to provide an overview of some of the legal principles that guided my decision:

- *Options After Expiration of Timelines*. When the statutory timeline has expired, the court is left with only two options - a dismissal or a permanent care order: *N.J.H. v. Nova Scotia (Community Services)*, 2006 NSCA 20, at para 20. If the child remains in need of protection, I must not dismiss: *Nova Scotia (Community Services) v. V.A.H.*, 2019 NSCA 72, *supra*, para 48.
- *Burden of Proof*. The Minister bears the burden of proving that a permanent care order should issue. This is a civil proceeding which requires proof on the balance of probabilities. To reach a factual conclusion, I must scrutinize the evidence with care to decide whether it is more likely than not that an event occurred. I must determine whether the evidence is sufficiently clear, convincing, and cogent to satisfy the balance of probabilities test: *F.H. v McDougall*, 2008 SCC 53, paras 44-

- 49, although there is no heightened burden on the Minister in child protection proceedings: *Nova Scotia (Community Services) v C.K.Z.*, 2016 NSCA 61, paras 50-54.
- *Credibility and Inferences.* Because of factual discrepancies, I must make credibility findings by applying the law set out in *Baker-Warren v. Denault*, 2009 NSSC 59, as approved in *Gill v. Hurst*, 2011 NSCA 100. In addition, I must make inferences in keeping with the comments of Saunders JA in *Jacques Home Town Dry Cleaners v Nova Scotia (Attorney General)*, 2013 NSCA 4.
 - *Legislative Purpose.* I must consider the threefold purposes of the *Act*, which are to promote the integrity of the family, to protect children from harm, and to ensure the children’s best interests. However, in my decision, I must focus on the *Act’s* paramount consideration, which is noted in s. 2(2) as the children’s best interests.
 - *Child-Centered Approach.* I must apply a child-centered approach in keeping with the best interests principle as defined in s. 3(2) of the *Act*. This definition is multifaceted. It directs me to consider various factors unique to each child, including those associated with the child’s emotional, physical, cultural, and social developmental needs, and those associated with risk of harm. In particular, I am mindful of the needs of these vulnerable children. When assessing whether the children currently remain in need of protection, I must “consider both the needs of the children and the capacity of their parents to meet them”: *Nova Scotia (Community Services) v. V.A.H.*, 2019 NSCA 72, para 42.
 - *Substantial Risk.* The Minister relies on s. 22 (2) (b), (g), and (k) of the *Act* to support an ongoing protection finding which subsections are premised on proof of a substantial risk. Substantial risk is defined in s. 22(1) as meaning a “... a real chance of danger that is apparent on the evidence.” The Minister need only prove that there is a real chance that future physical harm, emotional abuse, or neglect will occur, and not that it will actually occur: *M.J.B. v. Family and Children’s Services of Kings County*, 2008 NSCA 64, para 77.
 - *Perfect Parenting Not Required.* When assessing substantial risk, I must be mindful that perfect parenting is not the standard. Rather, the question to be asked is whether adequate parenting can be achieved within the statutory timeframe: *Nova Scotia (Community Services) v R.M.N.*, 2017

- NSSC 270, para 27 quoting CAS of *Cape Breton Victoria v. J.S.*, [2005] NSJ No. 271 (C.A.).
- *Past Parenting History.* The mother’s past parenting history must be examined. Although “[t]here is no legal principle that history is destiny”, past parenting is relevant, as it may signal “the expectation of risk”: *S.A.D. v. Nova Scotia (Community Services)*, 2014 NSCA 77, para 82. The court is concerned with probabilities, not possibilities. Therefore, where past parenting history aids in the determination of future probabilities, it is admissible, germane, and relevant: *Nova Scotia (Community Services) v J.M.*, 2016 NSSC 80, para 86.
 - *Protection Assessment.* Section 46 of the *Act*, together with the *Catholic Children’s Aid Society of Metropolitan Toronto v. M. (C.)*, [1994] 2 S.C.R. 165 and *C.V. v. Children’s Aid Society of Halifax*, 2005 NSCA 87, at para 8, direct me to assess protection risk by reviewing the changing needs of the children and the family, and any new circumstances that may have arisen, together with compliance with the plan of care and confirmation of the least intrusive alternative as in the children’s best interests.
 - *Less Intrusive Measures.* Section 42 (2) of the *Act* confirms that I am not to remove a child from their parent unless I am satisfied that less intrusive alternatives have been attempted and have failed, have been refused, or would be inadequate to protect the child. Although I ordinarily would consider placement with other family or community members, I did not do so as only the mother put forth a plan given the substantiated protection concerns in the homes of the uncle and biological father, where the children previously lived.
 - *Services to Mitigate Protection Issues.* I must examine whether identified protection risks were mitigated by meaningful participation in services. The Minister is required to take reasonable measures to promote the integrity of the family: *Children’s Aid Society of Shelburne Co. v. S.L.S.*, 2001 NSCA 62, para 36. The goal of services is “to serve the children’s needs by equipping the parents to fulfil their role in order that the family remain intact”: *L.L.P v. Nova Scotia (Minister of Community Services)*, 2003 NSCA 1, para 25.

Are the children in need of protection?

Position of the Minister

[19] The Minister states that the children are in need of protection pursuant to ss. 22 (2) (b) substantial risk of physical harm; (g) substantial risk of emotional abuse; and (k) substantial risk of neglect which risks are fueled by the mother's inability to successfully resolve issues surrounding housing instability, unfit living conditions, substance abuse and mental health.

[20] The Agency changed its plan of care once the mother's drug use was confirmed in December 2025 – just a few weeks before the expiration of the statutory time limit. The Agency stands by its decision and states that the mother's drug use is proof of an untreated substance abuse issue given the following circumstances:

- The mother has a significant history of drug use. She admitted using cocaine many times in her life, including repeated, almost daily use in 2019, when she had care of two children; in July 2024; and in December 2025. In addition, she self reported to Drs. Hinde and Skoretz that she used cocaine in her twenties, and to Dr. Kronfli that she used cocaine in her thirties.
- The mother admitted using marijuana many times during her life, including while she had care of the children. Dr. Kronfli had categorically advised against using marijuana given the mother's mental health issues and treatment.
- The mother admitted using alcohol and having an alcohol problem when she was younger. In December 2025, when the children were to be transitioned back to her care, the mother used alcohol again. Dr. Kronfli had strongly advised against alcohol consumption given the mother's mental health issues and treatment.
- During the testing period, the mother was found to have three types of antidepressants in her system, while only one was prescribed for her. Effexor was her prescribed medication. Mirtazpine and citalopram were not prescribed. Effexor and mirtazpine were found in her system on December 4 and 5, 2025; Effexor and citalopram were found in her system on January 5, 2026.

[21] The Agency states that the mother's untreated substance abuse negatively impacts her mental health which, as in the past, causes a substantial risk of physical harm, emotional abuse, and neglect. From the Agency's perspective, the children

will continue to experience trauma and neglect if they are placed in the mother's care.

Position of the Mother

[22] In contrast, the mother states that her December cocaine use was an aberration and not proof of a substance abuse problem or untreated mental health issue. She states that she used cocaine only once. Not multiple times. The suggestion that she was using cocaine since the fall of 2025 based on alleged changes in her behaviour was not borne out by the evidence. For example:

- Cross-examination confirmed that the mother was having regular communication with agency workers in October and November 2025.
- Cross-examination confirmed that the mother was not cancelling access visits or ending visits early in October and November 2025.
- Cross-examination confirmed that the agency did not have concerns about her travel to Chicago in November 2025. To the contrary, agency worker, Ms. MacNeill said the trip was a great opportunity and that she wished her well.
- Cross-examination confirmed that with the exception of the December 15, 2025 visit, the mother's access went well and that she was able to apply the parenting skills and strategies that she had acquired through lessons with the family support worker.
- Cross-examination confirmed that any suggestions about inadequate parenting or other drug use were based on inadmissible, hearsay evidence.

[23] In addition, the mother underscored the following points as proof that her cocaine use was a one-time, horrible error that would not be repeated:

- She was truthful with the agency about her drug and alcohol use – admitting its use before the drug testing had occurred.
- She no longer uses any drugs or alcohol other than the medication that is prescribed for her.
- She will participate in counselling and therapy with Community Mental Health and Addiction Services once she receives an appointment.
- She is willing to participate in drug testing on a voluntary basis and for as long as the Agency deems appropriate.

- The mother's use of cocaine and alcohol occurred when the children were not in her care.

[24] The mother notes that the Agency was pleased with her progress because she had made the lifestyle and parenting changes necessary to mitigate the protection concerns. She had secured appropriate housing in a quiet, safe neighbourhood. The Agency said that her home was clean and tidy. She had acquired the parenting skills to ensure her children had structure and routine, especially in light of their special needs. In addition, the mother intended to participate in other courses to continue to strengthen her parenting skills. She had completed her counselling and her mental health had stabilized.

Decision on Housing Instability and Unfit Living Conditions

[25] I find that the Agency's concerns surrounding housing instability and the mother's ability to maintain a clean home have not been proven on a balance of probabilities. Although unfit living conditions and eviction were serious protection concerns at the outset of this proceeding, the mother has since leased an appropriate apartment which has been maintained. There are no current protection concerns surrounding housing instability or unfit living conditions.

Decision on Substance Abuse

[26] In contrast, I find that the mother's use of drugs and alcohol is a serious protection issue that creates a substantial risk of physical harm, emotional abuse, and neglect because the mother has a significant history of substance abuse which the mother consistently minimized. Minimization negatively impacted treatment.

[27] The mother's significant history of substance abuse is confirmed by the evidence. At various times, the mother self reported alcohol abuse and illicit drug use:

- To Dr. Kronfli, the mother provided a concerning history, albeit incomplete, which included weekend alcohol use to intoxication during her twenties; experimentation with ecstasy at 19; the social use of cocaine in her thirties and daily use for six months in 2019; and marijuana use to relieve depression and as a sleep aid.
- Drs. Hinde and Skoretz noted the mother reported a July 2024 use of cocaine and historical use in her twenties.

- In the Nova Scotia Health Authority records, the mother is noted to have “a history of substance use disorder that includes alcohol, cocaine and THC, as well as issues with gambling and problems with VLT’s.”

[28] Further, the mother lacks insight and consistently minimized her drug and alcohol use which in turn negatively impacted treatment and service options:

- The mother was not honest about her drug use with agency workers. She did not tell them about her July 2024 cocaine use. Further, she only informed Ms. Steele about her December 2, 2025 cocaine use after Ms. Steele confirmed that drug testing had been arranged and after the mother had initially denied any drug use. The mother also provided no explanation about one of the two nonprescribed antidepressants that she had taken in December 2025.ⁱ The mother’s failure to disclose negatively impacted the Agency’s ability to address all relevant protection concerns within the statutory timeframe.
- Although at various times, the mother self reported using cocaine in her twenties, thirties, and for about six months in 2019 on an almost daily basis, she did not consistently provide the same information to the professionals involved in her care. The mother provided different professionals with different information. The failure to provide accurate information negatively impacted the professionals’ treatment plans.
- Because of her lack of insight, the mother did not follow the directions of Dr. Kronfli. Dr. Kronfli told the mother not to use substances, including alcohol and marijuana, because of her mental health symptoms and diagnosis. Dr. Kronfli said that their use would negatively impact her mental health and ability to parent.
- Because of her lack of insight, the mother did not provide her doctor with a complete copy of Dr. Kronfli’s psychiatric assessment. Instead, the mother only provided her doctor with one page of the assessment. Even after Dr. Alas Lopez asked the mother for a copy of the complete assessment, the mother did not oblige. The mother also did not report either her illicit drug use or her ongoing use of alcohol and marijuana to Dr. Alas Lopez. The mother’s failures negatively impacted treatment.
- Mr. Johnstone, an expert in pharmacology and toxicology, testified about the negative impact caused from the mixing of the drugs found in the mother’s system during the testing. He said the drugs produced a very

significant risk to the mother and would also result in a significant risk to any other person in her care. He said that the multiple drugs would stimulate and create serious functional challenges given their unpredictable net effect and would lead to fluctuations in mood, behaviour, and functional capacities throughout each day.

[29] I find that the mother's lack of insight and prior history surrounding her substance abuse results in an unresolved protection issue which creates a substantial risk of harm. Had the mother been upfront with the Agency and doctors, a treatment plan could have been structured to address this issue within the legislative timelines. Because the substance abuse issue was only discovered in December 2025, there was insufficient time available to mitigate this serious protection issue.

Decision on Mental Health

[30] In the past, the decline in the mother's mental health led to serious protection concerns. At times the mother's anxiety and depression were so severe, that she remained in her bedroom. Her home was unfit. The children were neglected, unruly, and unkempt. School attendance was problematic. The children's mental health was ignored.

[31] In addition, because of untreated mental health issues, the mother made poor decisions. For example, she was repeatedly involved in toxic relationships which frequently involved physical and emotional violence. The mother and children experienced much trauma because of the mother's chaotic lifestyle which flowed in large part from the mother's untreated mental health conditions.

[32] Dr. Kronfli conducted the mother's psychiatric assessment so that mental health issues could be identified and appropriate treatment implemented. Dr. Kronfli noted that the mother displayed symptoms of ADHD as evident from her tendency to blame others while downplaying her own involvement; her emotional immaturity; her engagement in high risk behaviours and unhealthy relationships; her poor organizational skills and inability to maintain employment and appropriate housing, together with substance use. He further noted that the mother experienced anxiety and that a prior psychiatric assessment may have led to a diagnosis of borderline personality disorder because of its DBT recommendation. Dr. Kronfli held that the cluster B traits exhibited by the mother were in keeping with a BPD diagnosis.

[33] Dr. Kronfli also testified about the impact that substance abuse had on the mother's parenting. He was concerned that her substance use was an attempt to self-

medicate. To ensure that the mother's mental health remained stable, Dr. Kronfli made specific and detailed recommendations about treatment:

- For mood and anxiety, the mother should switch from Bupropion to Vortioxetine because of its improved success rate and lower side effect profile.
- A further assessment to determine if ADHD medication should be prescribed. Atomoxetine was recommended because of the mother's history of substance abuse. Benzodiazepines such as clonazepam were not recommended.
- The continuation of supportive counselling to learn and apply new coping skills and to manage stress, together with DBT therapy.
- The mother was to avoid all substance use, including alcohol and cannabis products. Marijuana was being used to self-medicate and produced negative side effects such as reduced motivation and brain function over time. Cocaine was being used to self-medicate ADHD symptoms. Random drug testing was proposed.

[34] Because the mother did not provide the report to her doctor, the recommended medication changes were not put into effect. Neither was DBT therapy. Because the mother denied drug use, the Agency did not implement random drug testing until concerns developed in November and December 2025.

[35] Had his recommendations been adopted, Dr. Kronfli still remained cautious about the mother's ability to successfully parent her children:

From a Psychiatric perspective, Ms. P* appears to care deeply for her children, has a strong desire to make changes, and hopes to have them returned to her care; however, to even attempt to be successful in taking on a full-time parenting role for her 4 children, given their past trauma and difficult behaviours, and her clear history of downplaying her involvement, she may require medication to treat the above diagnoses to give her a chance of success.

....

Ms. P*'s desire to assume the independent full-time the care of her 4 children, may be a difficult undertaking for her. These children have been exposed to a chaotic lifestyle to date and specifically due to T*'s diagnoses, his behaviours may be unmanageable at times, and he requires a skilled caregiver to ensure that his emotional and physical needs are being met. In addition, A* has been and continues

to struggle with chronic bed-wetting. It is concerning that Ms. P* has put the needs of her previous abusive partners ahead of her own and those of her children, by failing to report incidents of domestic violence that caused her injuries.

Should Ms. P* agree to take the recommended medication and continue to engage in the services that have been offered by the Agency, she may progress over time to the point that she could manage the unsupervised full-time care of some of her children; however, given her children's behavioural difficulties she may not be able to parent all 4 children together. The Agency should remain involved as long as possible to monitor her progress and ensure her children's safety during this process.

To assume the full-time care of her children, Ms. P* will need to obtain a stable housing situation and prove that she is able to adequately maintain this home. She will also need to demonstrate objectively her ability to ensure that the children attend appointments and school in a safe, consistent manner. Taking medications alone, improve her chances of success but are not a guarantee.

[36] In any event, because Dr. Kronfli's recommendations were not followed, the mother's mental health was not successfully treated. While the mother did attend nine counselling appointments with Erin Arnold of CMHA, she had four no-shows and five rescheduled appointments due to illness. Further no DBT therapy was undertaken.

[37] Additionally, the recommended medication changes did not occur because the mother refused to provide her doctor with Dr. Kronfli's full report. Further, contrary to Dr. Kronfli's recommendations, the mother continued to self-medicate with cannabis products, and she once again used cocaine, alcohol, and also used antidepressants that were not prescribed for her.

[38] Finally, the mother continued to engage in risky behaviours that prove a substantial risk. The mother used cannabis, alcohol, and cocaine - all a time when the mother knew that the Agency intended to transition the children back to her care. She did so knowingly and voluntarily.ⁱⁱ

Summary of Ongoing Protection Findings

[39] Given my findings with respect to the mother's untreated substance abuse and ongoing mental health issues, I find that the Minister proved:

- There is a substantial risk that the children will suffer physical harm caused by the mother's inability to supervise and protect the children adequately.

- There is a substantial risk that the children will suffer emotional abuse if they were to be placed with the mother and that the services and treatment to remedy the risk have not mitigated the protection concerns.
- There is a substantial risk that the children will experience neglect if placed with the mother and that she did not cooperate with services or treatment to mitigate the harm.
- The protection concerns were not resolved or alleviated over the course of this proceeding. The mother did not successfully complete services to alleviate or reduce the protection issues.

What order is in the children's best interests?

[40] This was a difficult decision. I recognize that the mother deeply loves her children and their loss will cause her considerable upset. I encourage the mother to continue with counselling and therapy once an appointment is secured and to seek immediate help should her mental health become critical.

[41] But despite these comments, at this stage, given my protection findings, and my finding that less intrusive alternatives would be inadequate to protect the children, the only order that is available is the granting of a permanent care and custody order for each child. I have no discretionary authority to grant any other order based on the legislation.

Conclusion

[42] The Minister's application is granted. The children remain in need of protection because they are at a substantial risk of physical harm, emotional abuse, and neglect. The children have significant needs and require a dedicated and capable parent. Unfortunately, the mother is unable to meet the children's needs as she lacks insight, and has untreated mental health and substance abuse issues which negatively impacted her parenting in the past and which create a substantial risk. Although the mother participated in counselling, therapy, and parenting education, services were not engaged for substance abuse because the issue was not disclosed until December 2025.

[43] Regrettably, the mother's plan of care is inadequate because of the outstanding protection risks. No other plan of care was presented by other family or community members.

[44] It is in the children's best interests to be placed in the permanent care and custody of the Minister.

Forgeron, J

ⁱ The mother said she took one of the maternal grandmother's pills, citalopram to help with her anxiety. This drug was found in her system during the January 5, 2026 testing. She did not mention a second, nonprescribed medication to the agency.

ⁱⁱ These risks occurred under the guise of celebrating the successful return of the children to her care. A more appropriate celebration would have included the children engaging in a prosocial child friendly activity and without the temptation of alcohol or drugs.