MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE

DATE: October 14, 2021 | **DATE OF PREVIOUS NOTE (if applicable):** N/A
CLIFF#: 258066 | **PREVIOUS CLIFF # (if applicable):** N/A

PREPARED FOR: Hon. Katrina Chen, Minister of State for Child Care

ISSUE: Update on work regarding recruitment of internationally educated Early Childhood Educators (ECEs).

BACKGROUND:
Modelling by the Ministry of Children and Family Development (MCFD) suggests that 18,800 new/additional ECEs are needed by year 10 (2027/28) of the *Childcare BC* Plan, to meet anticipated space needs for children from birth to age five. BC's ECE Labour Market Outlook Report: 2019, which covers the period from 2019 through 2029, estimates future supply and demand by industry, occupation, education, and geographic region. The Report forecasts that over the next 10 years, 23% of the projected supply of ECEs and ECE Assistants in BC will come from immigration outside of Canada[1].

According to the 2016 Census of Population, approximately one-third of child care workers are immigrants or non-permanent residents, while they represent one-quarter of workers in all other occupations[2]. In the same year, 33% of child care workers were immigrants or non-permanent residents, compared with 25% among all other occupations.[3]

In 2019, MCFD worked with the Ministry of Jobs, Economic Recovery, and Innovation (the Ministry previously responsible for the BC Provincial Nominee Program, now under the Ministry of Municipal Affairs [MUNI]), to learn more about the current situation and challenges for attracting, recruiting, and certifying internationally trained and educated ECEs, to BC. s.13
s.13

At the federal level, on April 14, 2021, Immigration, Refugees, and Citizenship Canada announced a new pathway to permanent residency in Canada, for temporary workers and international graduates working in a health-care profession or in one of nearly 100 other prescribed occupations. However, while Home Child Care providers were included on this list of prescribed occupations, ECEs and ECE Assistants were not.s.16
s.16

[1] British Columbia's Labour Market Outlook: 2019 Edition, p. 115.
[2] Statistics Canada "Child Care Workers in Canada" report released July 25,2021.
[3] Ibid. Note: Non-permanent residents are people who hold a work or study permit or who are claiming refugee status.

DISCUSSION:

Immigration Challenges

Over the past several years, efforts to attract skilled workers to BC, including ECEs and ECE Assistants, have focused primarily on recruiting from the pool of qualified immigrants already living and working in BC - either through the BC Provincial Nominee Program (BC PNP), or federal immigration programs. Outreach to international markets to attract skilled workers to BC has focused mainly on Francophone countries (aligning with the Federal Government's Francophone Immigration Strategy).

The BC PNP Skills Immigration and Express Entry BC streams are intended for workers or international graduates on the path to permanent residency, with the skills, education and/or experience required for high-demand occupations in BC. BC PNP uses a points-based system to score applicants based on criteria that includes occupation, wage, region/location, experience, education, and language ability. The highest scoring individuals with a valid job offer, are invited by the Province to apply for nomination to the Federal Government for permanent residency.

While the Federal government has sole jurisdiction over issuance of both temporary and permanent resident status, the Province plays an active role in the selection of permanent residents for BC. From January 2016 to July 2021, there were a total of 355 nominations under the BC PNP for individuals with employer-supported job offers in a NOC 4214 occupation.

Individuals with international ECE credentials often do not score enough points to receive an invitation to apply to BC PNP. Barriers to points include low wages; type of credential (certificate vs. diploma); education completed outside of BC; and location of job offers (e.g., no points for offers in the lower mainland, the location of 65% of the projected job openings for NOC 4214, over the next 10 years[4]). Immigration processes are generally lengthy, costly, and are purported to be difficult to navigate for both ECE employers and prospective ECE employees[5].

MUNI recently completed a review of the BC PNP to ensure that program objectives align with the Provincial Government's broader goals across various ministries, including effective outreach and marketing to drive appropriately qualified candidates to the program and to immigrate to BC, including qualified ECEs.

Certification Challenges

Other challenges to employing internationally educated ECEs relate to provincial certification processes through the ECE Registry. The ECE Registry has received feedback that application requirements for certification are complex, time-consuming, and costly. For example, applicants are responsible for the cost of translating all required documentation, such as

[4] British Columbia Labour Market Outlook: 2019 Edition, p. 56.

[5] The cost for an applicant to apply to BC PNP and for permanent residency is upwards of $2,500, with additional costs for document translations, language tests, etc.

transcripts and syllabi/course outlines. The cost of translation can be approximately $5K, but can be more, depending on the number of documents being translated, and the translation service used by the applicant. These high costs often deter individuals from proceeding with their applications.

Additionally, the Child Care Licensing Regulation prohibits the ECE Registry from automatically issuing an ECE Assistant certificate to an applicant who meets the requirements for one, if the applicant applied for, but was denied a full ECE certificate. Rather, if the applicant chooses to pursue certification as an ECE Assistant (perhaps while they upgrade their qualifications), they must submit a new application, and their equivalent coursework must have been completed within the last five years (to ensure their knowledge and skills are up to date). The timeframe requirement for equivalent coursework is a significant barrier to an ECE's ability to begin work in the field, while upgrading requirements.

Restrictions on federal study permits and the cost of either a Prior Learning Assessment (through a Recognized post-secondary program), or additional education through a recognized ECE program, can be further disincentives to pursue work in the ECE field. These factors are compounded by the historically low wages paid to ECEs in the sector.

NEXT STEPS:
Increasing the recruitment of domestic and internationally educated ECE and ECE Assistants will be a key consideration in years five through seven of *Childcare BC*, and in the next phase of the Early Care and Learning Recruitment and Retention Strategy. Next steps for this work include implementing changes to streamline immigration and certification processes for internationally educated ECEs.

<u>BC PNP</u>

- Over Spring 2021, MUNI developed a number of policy recommendations to shift the focus areas and prioritize specific NOC occupational for BC PNP, based on their review of current government priorities and consultations with key ministries.
    - This included modifying the BC PNP eligibility criteria to make it easier for NOC 4214 applicants to be nominated by the Province to the Federal Government for permanent residency.
    - A nominated applicant can continue working under the conditions of their current work permit, while awaiting a decision from the Federal Government on their application for permanent residency (current policy).
- The ADM Committees on the Economy and Social Innovation approved these policy recommendations in Summer 2021 and MUNI is working to finalize the implementation plan over Fall 2021. Implementation will be phased-in over Fall 2021 – 2022.
- MUNI and MCFD will continue to have broader discussions on the potential long-term impacts of federal immigration policies and increasing levels of immigration on the child care sector in BC.

<u>ECE Registry</u>

- The new *ECE Act* will enable the ECE Registry to issue interim/conditional ECE certificates, through a provision which will come into force through the *ECE Act* Regulations, s.12; s.13 This type of

certificate will allow ECEs who have not yet met all educational requirements for certification in BC, to enter the workforce while they upgrade requirements for full certification (pending the conditions of their work visas).

- The ECE Registry is finalizing work on new web content and updated application packages, to make the application process easier for all applicants (including an application specifically for applicants who completed education outside BC and Canada).
- Supports are being developed to offset a portion of the costs of translating documents for ECE applicants educated in French or other non-English language, using funds from the ELCC Extension Agreement 2021-2022.
- Child care policy will continue to work with the ECE Registry to review the international assessment process to identify potential ways to streamline the review/assessment process and is exploring other options for future consideration, as part of an overarching internationally educated ECE recruitment and retention strategy.

Contact	**Alternate Contact**	**Prepared by:**
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Child Care Division	*Child Care, Quality & Workforce Policy*	*Child Care, Quality & Workforce Policy*
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MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE

DATE: AUG 26, 2021
CLIFF#: 262418

DATE OF PREVIOUS NOTE (if applicable): N/A
PREVIOUS CLIFF # (if applicable): N/A

PREPARED FOR: Allison Bond, Deputy Minister, Ministry of Children and Family Development

ISSUE: MacKenzie Counselling Services concern over reduction in service hours as well as funding amounts related to union certification.

BACKGROUND:

- MacKenzie Counselling Services (MCS) holds three contracts with the Ministry of Children and Family Development (MCFD) for the provision of Children & Youth Mental Health, Infant Development and Supported Child Development as well as, Child Youth Care Worker and Family Support Services in MacKenzie, BC.
- The associated annual funding amount is approximately $612K.
- It is understood that MCS is the only provider who is in the community that can provide the services. MCFD understands that there is a provider, Aimhi, who provides adult related services to the community of Mackenzie via Prince George, BC.
- MCS unionized at the end of August 2020.

DISCUSSION:

s.13; s.17

s.13; s.17

NEXT STEPS:

s.13; s.17

ATTACHMENTS (if applicable): A) MCS's Contract Information

Contact Assistant Deputy Minister:	**Alternate Contact for content:**	**Prepared by:**	**Staff Consulted:**
Rob Byers *Finance and Corporate Services* *778-698-3813*	*Abigail Pittman* *Procurement and Contract Management/FCS* *250-356-1328*	*Yvonne Blum* *PCMB, FCSD* *778-678-0803*	*Kim Chartrand, SDA, SD* *Lee Holland, PCMB, FCS* *Rhonda Gardy, PCMB, FCS* *Jillian Kelly, PCMB, FCS* *Monika Burgess, PCMB, FCS*

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MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE

DATE: May 13, 2022
RELEVANT CORRESPONDENCE: 257068, 258390, 258943, 261873, 2622360
CLIFF#: 262661
X-Ref: 262160

PREPARED FOR: Honourable Mitzi Dean, Minister of Children Family Development
Honourable Katrina Chen, Minister of State for Child Care

ISSUE: Provincial One-Time-Only Funding Enhancement to Aboriginal Supported Child Development and Supported Child Development

BACKGROUND:

Aboriginal Supported Child Development (ASCD) and Supported Child Development (SCD) programs are community-based programs that offer a range of consulting and support services to children, families, and child care centres so that children with support needs can participate in fully inclusive child care settings. ASCD/SCD programs are currently oversubscribed, and new service pressure will be created as additional child care spaces are built.

During conversations in October 2020 with Directors of Operations who oversee ASCD and SCD contracts, concerns regarding equity were raised:

- Significant waitlists that are causing a range of local service restrictions
- Disparity of services between ASCD and SCD contracts in some areas
- Some programs restricting funds to specific age ranges (e.g., 0-6) or prioritizing one age above all others (the year prior to kindergarten) as a strategy for allocating limited funds
- Unmet service needs for children over the age of 12 who continue to require out of school care

Budget 2021 announced that approximately 2000 more families will be able to access SCD and ASCD programs. Treasury Board has allocated $16.8 M from contingency funds to meet this budget commitment. The funding is intended to:

A. Increase the number of children served by SCD/ASCD each month, resulting in reduction of wait times for children and families.
B. Where need is identified to enable parent workforce participation or educational attainment, increase the number of direct service hours for children currently receiving services.
C. Where possible, address service disparity between ASCD and SCD programs.

This one-time-only (OTO) funding was not annualized due to 'lack of data demonstrating need'. A cross-divisional working group was established to support the allocation of this funding and to consider the reporting required to demonstrate ongoing need.

Additionally, New investments under the 2021 Canada-Wide Early Learning and Care Agreement (CW-ELCC) will enable SCD and ASCD programs to have more flexibility to meet local needs through the following priorities: (1) supporting recruitment and retention of support workers; (2) building capacity within child care providers through education, training, and consultation; and (3) expanding service, increasing the number of children and families who have access to inclusive child care.

1. 2021/22 – $5M providing local SCD/ASCD programs with the flexibility to focus on one or more of the priorities identified above
2. 2022/23 – $15M allowing continued focus on the priorities identified above (5M) and further expansion of service to address increase in demand resulting from increased child care spaces (10M)

DISCUSSION:

Funding allocations for the Provincial OTO for each Service Delivery Area (SDA) have been determined using the 2011 Relative Demand Model as well as Indigenous population data. The Relative Demand Model uses child population data, school success rates, and other labour and health variables. The allocation for each SDA includes a required minimum amount for ASCD programs, which is a proportion determined using Indigenous population data.

Given that a third of the fiscal year has already passed, one-third of the $16.8 M will be held centrally in Service Delivery Division (SDD), to minimize risk of unearned revenue and to enable SDAs with more capacity to spend before the end of the fiscal year to do so. SDAs will allocate the funding to existing agencies via direct award. This procurement approach was chosen because a competitive process would require three to seven months to complete the selection process, resulting in significant underspend. Additionally, the funding must be spent on direct services and new proponents are likely to have have significant start-up costs, including recruitment, training, facility, and administrative costs.

Child Care Policy has created a funding allocation guidance document to assist SDD in making funding decisions at the local level (Appendix A). This document includes feedback received from the BC Association for Childhood Development and Intervention (BCACDI) suggesting that that with the 2018 federally funded ASCD/SCD enhancement, rural programs were more likely than urban centres to receive equitable funding enhancements. BCACDI indicated that some larger programs in the Lower Mainland did not receive the funding lifts they required to meet the needs of their communities.

The contract modification language for this OTO funding enhancement includes additional reporting requirements beyond what is regularly collected from existing agencies. These additional reporting requirements include pre/post reporting demonstrating the impacts of funding, which will assist Child Care Policy in demonstrating need for an annualized funding enhancement. The additional reporting includes information on wait times and gives contracted agencies the opportunity to provide feedback on how this information is collected.

Learnings from this process will inform potential development of new indicators around wait times.

Summary of Spending (as of October 4)

	Planned for or Out for Signature	Unplanned Amount
Centrally Held for Extra Demand		**5,422,000**
Allocated to SDAs	**7,832,412**	**3,545,588***

*Conversations with Contracted Agencies are underway regarding these funds.

NEXT STEPS:

- Service Delivery Division is completing conversations with contracted agencies and determining which agencies will receive direct award funding. Contracts are expected to be in place by mid-October.
- Potential options for extending any underspend into the next fiscal year are being explored.

Attachments:

Appendix A: SCD/ASCD Funding Enhancement Allocation Guidance

Contact	**Alternate Contact**	**Prepared by:**
Assistant Deputy Minister:	**for content:**	
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2021/22 SCD/ASCD Funding Enhancement Allocation Guidance

1. Overview

Budget 2021 announced that approximately 2000 more families will be able to access Aboriginal Supported Child Development (ASCD) and Supported Child Development (SCD) programs. Children already enrolled in these programs may receive additional hours of support. Budgets will receive a $16.8M lift in 2021/22 from contingencies.

2. Funding Goals

A. Increase the number of children served by ASCD/SCD each month, resulting in reduction of wait times for children and families (target = 2000 more children provincially)
B. Where need is identified to enable parent workforce participation or educational attainment, increase the number of direct service hours by increasing consultation services and/or enhanced staffing supports to children currently receiving services
C. Where possible, address service disparity between ASCD and SCD programs

3. Principles of Funding Allocation

ASCD/SCD programing is now considered to be a component of the universal system of child care. As such, funds are being issued to enhance service availability and consistency of service across BC. It is known that ASCD/SCD programs are oversubscribed, and that new service pressure will be created as additional child care spaces are built. It is not expected that this new funding will fully meet the demand for ASCD/SCD services; however, noted areas of concern and known services disparities within SDA's should be addressed wherever possible. The following are high level principles to consider when deciding how to allocate funds:

1. Equitable – considers any existing funding or known service level disparities (see section 4)
2. Strategic – focuses on maximal impact on children, families and the sector in areas known to have higher rates of vulnerability (see section 5)
3. Capacity building – involves ASCD/SCD partnering with child care operators to build capacity across all staff in the child care setting and reducing reliance on 1:1 support (see section 6)
4. Informed by service needs expressed by contracted agencies
5. Transparent – criteria and rationale for decisions are evident

4. Considering Equity

During conversations in October 2020 with Directors of Operations (DOOs) who oversee SCD and ASCD contracts, concerns regarding equity were raised:

- Significant waitlists that are causing a range of local service restrictions
- Disparity of services between ASCD and SCD contracts in some areas
- Some programs restricting funds to specific age ranges (e.g., 0-6) or prioritizing one age above all others (the year prior to kindergarten) as a strategy for allocating limited funds
- Unmet service needs for children over the age of 12 who continue to require out of school care (and in some cases children over the age of 10)

Note: SDA level funding allocation will include a minimum proportion to be spent on ASCD programming.

Additionally, the BC Association for Child Development and Intervention (BCACDI) has provided feedback on the 2018 ASCD/SCD enhancement, suggesting that rural programs were more likely than urban centres to receive equitable funding enhancements. BCACDI indicated that some larger programs in the lower mainland did not receive the funding lifts they required to meet the needs of their communities.

The Provincial Advisor for ASCD, Regional Advisors for ASCD, and Regional Advisors for SCD are well positioned to provide insights on program needs. It is recommended that DOOs reach out to the ASCD/SCD Advisors in their regions to support decision making.

5. Considering Vulnerability

UBC Human Early Learning Partnership's child development monitoring system uses data gathered through the Early Development Instrument (EDI). The EDI questionnaire has been used in BC since 2004 to collect information about children as they enter kindergarten on five domains of development: physical health and well-being, social competence, emotional maturity, language and cognitive development, and communication skills. EDI community-level profiles and interactive maps can be used to identify communities where children are experiencing the highest rates of vulnerability.

6. Capacity Building

Capacity building involves the ASCD/SCD program partnering with the child care operator to build capacity for inclusion among all child care staff. ASCD/SCD continues to provide consultation to child care staff and families regarding individual children when needed and coordinate the development of individual plans. When required, ASCD/SCD facilitates enhanced staffing to support all children in the child care program, while ensuring that individual needs are met. Some ASCD/SCD programs in BC already have a focus on capacity building. As BC moves towards Inclusive Universal Child Care, increased focus on capacity building is needed to meet the demand for inclusive child care.

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Page 036 of 152 to/à Page 039 of 152

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s.13 ; s.16 ; s.18.1

MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE

DATE: September 22, 2021
CLIFF#: 263479

DATE OF PREVIOUS NOTE: Sept, June 2020, April 2019
PREVIOUS CLIFF #: 251997, 250517, 242843

PREPARED FOR: The Honourable Minister Mitzi Dean, Minister of Children and Family Development

ISSUE: Launch of Everyday Anxiety Strategies for Educators (EASE) for Grades 8 - 12

BACKGROUND:
Everyday Anxiety Strategies for Educators (EASE) is a program funded and administered by the Ministry of Children and Family Development (MCFD). The intention of the program is to:

- Help children and youth understand the importance of taking care of their mental health;
- Reduce the stigma around mental health support and encourage early intervention to reduce long-term mental health challenges; and
- Ensure educators, parents and caregivers are aware of the mental health resources and tools available to them through MCFD.

To date, EASE has focused on educators and children in kindergarten to grade seven (K-7). Investment through *Pathway to Hope* (PTH) has provided opportunity to expand EASE to grades eight to twelve (8-12), translate existing programs to French, and offer resources to parents and caregivers.

The EASE model is a collection of evidence-informed, anxiety management and resilience-building classroom resources that educators can use with students. It also includes a workshop for educators (including classroom teachers, school counsellors, specialist teachers, administrators, and support staff) to help teach students strategies to address everyday (mild to moderate) anxiety.

DISCUSSION:

Since the launch of EASE K-7, educator feedback has been positive and there is strong uptake, with more than 5,600 educators having participated to date. Building on this, EASE 8-12 has been developed and is ready for launch.

Development of EASE 8-12 has been a collaboration of educators, youth, Open School BC, and other subject matter experts in the area of anxiety and school mental health. Key components include: an online course for educators, practical classroom strategies aligned to the BC educational curriculum, and resources for students.

A provincial launch to educators is planned for beginning of October. MCFD is working with Government Communications and Public Engagement (GCPE) to develop communications

materials for education partners from district and independent schools and First Nations schools in collaboration with the Ministry of Education. Non-government organizations (i.e.: Kelty Mental Health Society, Anxiety Canada), and inter-ministry partners, including Ministry of Health and Ministry of Mental Health and Addictions will be also be notified.

EASE aligns with the Province's ongoing commitment to promotion, prevention and early intervention resources for the mental health and well-being of children and youth, their families, and the educators who support them. This commitment is reflected in MCFD strategic priorities, the provincial mental health and addictions strategy, *A Pathway to Hope: A roadmap for making mental health and addictions care better for people in British Columbia*, and the MoE *Mental Health in Schools Strategy*. EASE also complements the First People's Principles of Learning and materials can be adapted to Indigenous perspectives.

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CONCLUSION:

A public launch of EASE is targeted for October 4, 2021. It is anticipated that EASE 8-12 will be well received by the education sector, students, parents, and caregivers.[s.13]

s.13

Contact Assistant Deputy Minister:	**Alternate Contact for content:**	**Prepared by:**	**Staff Consulted:**
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MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE

DATE: October 13, 2021
CLIFF#: 263904

PREPARED FOR: Honourable Mitzi Dean, Minister of Children and Family Development

ISSUE: Proposed amendments to the *Name Act* by the Ministry of Health.

BACKGROUND:

The *Name Act* (the Act) outlines the administrative process associated with legal name changes by individuals. The Act is administered by the Vital Statistics Agency within the Ministry of Health (MOH). MOH is proposing amendments to the Act, including to enable:

- A court-appointed guardian to apply for a legal name change on a child's behalf; and
- A change of name resulting in a mononym so Indigenous persons can reclaim their Indigenous names.

Currently the Act only allows a parent with guardianship to apply for a legal name change on a child's behalf. This limitation was raised by MCFD as a concern in a letter to MOH in 2019 (see Appendix A). MCFD's concern stems from a 2019 judgement in the Supreme Court of British Columbia, where a youth in continuing custody wanted to change her surname from that of her father to that of her foster parent to cope better with the past abuse she experienced from her father (see Appendix B). In the 2019 court decision, a gap in legislation was noted, as a name change for a child in care cannot be granted by the registrar general but instead necessitates an application to the Supreme Court of British Columbia for the name change.

Currently the Act also prohibits an individual from having only one name. Changing the Act to allow for mononyms responds to the Truth and Reconciliation Commission's Call to Action #17.

DISCUSSION:

One risk in not amending the Act could be a human rights challenge, as section 8(1) of the *Human Rights Code* provides that a person must not, without a bona fide and reasonable justification, be denied service or discriminated against based on certain traits or statuses, including their family status.

Additionally, there are equity considerations, as transgender minors who are under the care of parents will be able to have their parents submit a name change application that affirms the minors' gender identity, while transgender minors who are under the sole guardianship of a court-appointed guardian will not have the same opportunity. However, even though the 2019 judgement was clear that the legislative gap does not allow for the register general to approve applications from the director, the register general is currently prepared to risk manage this issue by stretching the interpretation of section 4(6) of the Act to enable approval of applications made by the director. Furthermore, the Act is not the only authority guiding the

change of names for minors, as the *Vital Statistics Act* allows guardians of a child to apply for a change in a child's given name (but not surname) if the child is under 12 years old.

Under the *Child, Family and Community Service Act* (CFCSA), custody is the term that includes care and guardianship. A child may be in the interim or temporary custody of the director, or in the interim or temporary custody of a person other than a parent under the director's supervision. A child may also be in the continuing custody of a director or have a permanent transfer of custody to another person.

Recently, Grandparents Raising Grandchildren raised a concern with MCFD about grandparents being unable to apply for a name change for a child who was under their guardianship via CFCSA permanent transfer of guardianship. MOH's proposed amendment to the Act would include not only the ability of the Director to apply for a name change for a child under the director's custody but also the ability of other private guardians under the CFCSA or the Family Law Act to apply for a name change.

If the Act were to be amended to allow any court-ordered guardian to apply for a name change for a child, MCFD's policy (and perhaps future amendments to the CFCSA or CFCS Regulation) could be clear that a director seeking a name change for an Indigenous child in care would be a significant measure requiring notice to an Indigenous governing body, pursuant to section 12 of *An Act respecting First Nation, Inuit and Métis children youth and families.* The Act currently states that when a parent consents to the name change of a child, the consent of all other parents having guardianship and other guardians of the child is required. Therefore, given that a parent's guardianship is not severed under the CFCSA when a temporary custody order is in place, an amendment to the Act could potentially allow court-appointed temporary guardians under the CFCSA to consent to a child's name change only with the consent of the parents apparently entitled to custody or guardianship.

Indigenous engagement is needed for the proposed amendments to the Act. MCFD has provided input to MOH on the engagement plan (see Appendix C), including sharing with MOH MCFD's Letter of Commitment to the First Nations Leadership Council.

NEXT STEPS:

- MCFD will support MOH in their engagements, which will further inform the scope of the proposed amendments.
- MOH now plans to bring this matter to Cabinet Committee on Social Initiatives in early December.

ATTACHMENTS:

A. 2019 Letter from MCFD to MOH
B. 2019 Court Decision
C. MOH Consultation Plan

Contact **Assistant Deputy Minister:**	**Alternate Contact for content:**	**Prepared by:**	**Staff Consulted:**
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BRITISH COLUMBIA

October 18, 2019 CLIFF 245360

Martin Wright, ADM
HSAIR, Ministry of Health
1515 Blanshard Street,
Victoria, BC V8W 3C8

Dear Martin:

Re: Amendments to s. 4 of the *Name Act*

It has been brought to my attention that under s. 4 of the *Name Act*, Vital Statistics does not have the legislative authority to accept name change applications from a child/youth that is in the care of the Ministry of Children and Family Development (the Ministry). Under the existing authority of the *Name Act*, neither a child/youth nor the ministry can apply on behalf of a child/youth for a name change. The only acceptable applicant is a "parent with custody". When a child/youth is subject to the guardianship of a director under the *Child, Family and Community Service Act* (CFCSA) or the *Adoption Act*, the Ministry is not able to apply for a name change on behalf of the child/youth. This is because a director is not recognized as a "parent" under the *Name Act*.

This Ministry's understanding is that prohibiting children/youth and their guardians from changing a child/youth's name is considered discriminatory under the BC Human Rights Code. We believe there is risk of discriminatory practices when a child/youth who is subject to the guardianship of a director is unable to change their name.

I understand there was a recent decision of the Registrar General at Vital Statistics to refuse a name change on behalf of a child in care, that this was appealed to the BC Supreme Court and that the child's name order was then granted. As a result of that decision, I have been told that the Registrar General has stated they will not refuse name change applications for children/youth in the Ministry's care. However, I would suggest that it would be in the best interests of all parties to ensure that provincial legislation is non-discriminatory and that the legislation treats all children/youth in the province equally.

I am writing today to request consideration of an amendment to the *Name Act* to address this issue. I would appreciate the opportunity to meet with you and discuss a plan for how to respond to these concerns. I would also be happy to provide additional information if required.

Sincerely,

Cheryl May, ADM
Policy and Legislation Division

Fc: Jack Shewchuk, Registrar General, Vital Statistics Agency
Heather Davidson, Assistant Deputy Minister, Ministry of Health

Ministry of Children and Family Development
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IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *The Director, Child, Family and Community Services Act v. Registrar General of the Vital Statistics Agency of the Province of British Columbia,* 2019 BCSC 1859

Date: 20191031
Docket: S36749
Registry: Chilliwack

Between:

The Director, Child, Family and Community Services Act

Petitioner

And

Registrar General of the Vital Statistics Agency of the Province of British Columbia

Respondent

Before: The Honourable Madam Justice Tucker

Reasons for Judgment

Counsel for the Petitioner:	L.A. MacDonald
Counsel for the Respondent:	F. Gow
Place and Date of Trial/Hearing:	Chilliwack, B.C. September 30, 2019
Place and Date of Judgment:	Chilliwack, B.C. October 31, 2019

Introduction

[1] This decision arises from a September 5, 2019 Notice of Appeal filed by the Director ("Director") of the *Child, Family and Community Services Act*, RSBC 1996, c. 46, ("*CFCSA*") under s. 9(5) of the *Name Act*, RSBC 1996, c. 328 ("*Name Act*"). The Director appeals the August 6, 2019 decision ("Decision") of Mark

Spearman, Regional Manager for the Vital Statistics Agency of the Province of British Columbia ("Regional Manager") refusing a surname change application submitted on behalf of a teenaged girl in the Director's continuing custody.

[2] The Notice of Appeal sets out two grounds of appeal. The Director challenges the Regional Manager's interpretation of s. 4(6) of the *Name Act* and, alternatively, invokes the Court's *parens patriae* power to fill a legislative gap existing under s. 4(1) of the *Name Act*.

[3] The Registrar General of the Vital Statistics Agency of the Province of British Columbia ("Registrar General") did not a file a response. The Director's counsel had been requested to advise the Court that the Registrar General took no position. I was provided with a copy of the order sought on the appeal which had been signed by the Registrar General's counsel with a notation indicating her consent was to form only. Director's counsel explained that the notation reflected Registrar General's counsel's position that an order based on the Court's *parens patriae* jurisdiction could not be by consent.

[4] On September 16, 2019, Shergill J. ordered the appeal to proceed by affidavit evidence and set the hearing date. On September 17, 2019, the Director filed a Notice of Application seeking a sealing order for the court file. The appeal and the application for a sealing order came before me together on September 30, 2019.

Relevant Legislative Provisions

[5] The relevant provisions of the *Name Act* are:

> Definitions
>
> 1 In this Act:
>
> …
>
> "parent" means a parent under Part 3 of the *Family Law Act*;
>
> …
>
> No change of name except under Act
>
> 2 (1) A person in British Columbia must not change his or her name unless authorized to do so by section 4, and then only in the manner provided by this Act.
>
> …
>
> Persons entitled to change names

4 (1) Subject to this section, a person who has attained the age of majority or, if the age of majority has not been attained, is a parent having guardianship or custody of his or her child and who is domiciled in British Columbia for at least 3 months, or has resided in British Columbia for at least 3 months immediately before the date of the application, may, unless prohibited by this or another Act, change his or her name on complying with this Act.

…

(3) Subject to subsection (4), a parent having guardianship or custody of an unmarried minor child may, with the consent of all other parents having guardianship and other guardians of the child, apply to change the child's name, but, if the application is to change the child's surname to that of the applicant's spouse, the consent of the spouse is required.

(4) If a person applies to change the name of an unmarried minor child who has attained the age of 12 years, he or she must first obtain the consent in writing of the child.

(5) If a person whose consent is required under this Act

(a) is deceased or mentally disordered or cannot after reasonable, diligent and adequate search be located, or

(b) is, in the opinion of the registrar general, unreasonably withholding his or her consent,

the applicant may, with the approval of the registrar general, proceed with the application without the consent of that person.

(6) If, in the opinion of the registrar general, exceptional circumstances make it unreasonable to seek the consent of a person as required under this Act, the applicant may, with the approval of the registrar general, proceed with the application without the consent of that person.

…

Change of name registered or refused

9 (1) …

(2) If the registrar general is not satisfied that the proposed change is authorized by this Act the registrar general must refuse to register the change of name and must notify the applicant.

…

(5) If the registrar general refuses to register a change of name, the applicant, within 30 days after receipt of notification of the refusal, may appeal the refusal to the Supreme Court.

(6) The court

(a) may consider the evidence it considers relevant,

(b) must dispose of the appeal in a summary manner, and

(c) may make the order it thinks proper.

[6] The relevant provisions of Part 3 of the *Family Law Act,* SBC 2011, c. 25 ("*FLA*") are:

> Interpretation
>
> 20 (1) In this Part:
>
> …
>
> "birth mother" means the person who gives birth to, or is delivered of, a child, regardless of whether her human reproductive material was used in the child's conception;
>
> …
>
> Parentage to be determined by this Part
>
> 23 (1) For all purposes of the law of British Columbia,
>
> (a) a person is the child of his or her parents,
>
> (b) a child's parent is the person determined under this Part to be the child's parent, and
>
> (c) the relationship of parent and child and kindred relationships flowing from that relationship must be as determined under this Part.
>
> (2) For the purposes of an instrument or enactment that refers to a person, described in terms of his or her relationship to another person by birth, blood or marriage, the reference must be read as a reference to, and read to include, a person who comes within the description because of the relationship of parent and child as determined under this Part.
>
> …
>
> Parentage if adoption
>
> 25 If a child is adopted, sections 26 to 30 of this Act do not apply and the child's parents are as set out in the *Adoption Act*.
>
> Parentage if no assisted reproduction
>
> 26 (1) On the birth of a child not born as a result of assisted reproduction, the child's parents are the birth mother and the child's biological father.
>
> …

[7] Lastly, section 50 of the *CFCSA* sets out the effect of a continuing custody order on guardianship:

> Effect of continuing custody order
>
> 50 (1) When an order is made placing a child in the continuing custody of a director,
>
> (a) the director becomes the sole personal guardian of the child and may consent to the child's adoption,

> (b) the Public Guardian and Trustee becomes the sole property guardian of the child, and
>
> (c) the order does not affect the child's rights respecting inheritance or succession to property.

…

The Application and the Decision

[8] S.M.H. was removed from her family home and placed in the interim custody of the Director under s. 35(2)(a) of the *CFCSA* on October 20, 2015. On October 30, 2015, she was placed in the Director's temporary custody and then into his continuing custody, under s. 60 with reference to s. 49(5), on March 6, 2018. Following her removal, S.M.H. was placed in a foster home. By all accounts, her relationship with her foster mother ("Foster Mother") is very positive and S.M.H. has fared well in her care.

[9] S.M.H. suffered traumatic emotional and physical abuse in her family home prior to her removal. As a result of some of that abuse, her father was charged criminally and found guilty of sexual interference with a person under the age of 16, sexual assault and incest. S.M.H. testified at his trial and the evidence indicates that the experience caused her further trauma. Her counselling records indicate that she has been diagnosed with Complex Post Traumatic Stress Disorder and struggles with suicidal ideation.

[10] S.M.H. associates her surname with her father and the trauma she suffered in her family home. The evidence includes a statutory declaration in which she states: "… as a result of the trauma I have suffered at the hands of my father, the use of the surname [H.] increases the pain I feel arising from my past and I verily believe that a change in my last name … will result in less bouts of anxiety and pain" as well as her handwritten statement indicating that "one [of] the best Healing would be to get rid of and no longer sign with that surname".

[11] As S.M.H. is under the age of majority, the Director sought to bring an application under the *Name Act* to change her surname to that of her Foster Mother. The application ("Application") was prepared and dealt with by social workers with oversight of the Director's guardianship of S.M.H. It was filed on July 24, 2019. J.C., the social worker with primary responsibility for S.M.H. in the period leading up to the Application, signed the form as the applicant.

[12] The Application included supporting material from J.C., the Foster Mother, S.M.H.'s clinical counsellor and S.M.H. The counsellor confirmed that S.M.H. experiences very high anxiety and extreme emotional distress when signing, reading or being called by her family surname. J.C. declared it was her belief that the name change was in S.M.H's best interest.

[13] On August 6, 2019, the Regional Manager refused the Application. His decision ("Decision"), provided by email to J.C., states:

> … We have reviewed your request on behalf [of S.] and unfortunately, the *Name Act* restricts who may apply for a minor to a parent only. Although there is no question the request definitely meets the requirement for exceptional circumstances we have had numerous legal opinions that confirm the parental limitation. If the birth mother is still accessible an option would be for you to complete all the paperwork and then just obtain her signature for approval. …

[14] The Application was refused because s. 4(1) requires a "parent" as defined for purposes of the *Name Act* to apply and the Director did not meet that requirement. The Regional Manager accepted that there were "exceptional circumstances" pertaining to the Application, but held that s. 4(6) does not assist where there is no proper applicant with standing under s. 4(1).

[15] Following the refusal, S.M.H. contacted her biological mother by text. The Foster Mother provided an affidavit regarding that contact. The texts exchanged are not reproduced, but the impact of the exchange on S.M.H. is described by the Foster Mother's affidavit. She states that S.M.H. was rendered inconsolable and had to be placed on a 72 hour suicide watch. The Foster Mother explains that the biological mother is often angry with S.M.H. and considers S.M.H. responsible for damaging the family.

The Appeal

[16] As already noted, there are two grounds of appeal:

> 8. It is submitted that there is a gap in the *Name Act* that may be addressed by:
>
> Finding section 4(6) of the Act allows a guardian to apply to change the child's name in exceptional circumstances;
>
> Using the *parens patriae* principles to address the gap in the legislation.

Analysis and Decision

[17] The evidence put before me on the appeal includes new affidavit evidence in addition to an affidavit attaching the record before the Regional Manager. The arguments advanced by counsel for the Director are consistent with a statutory appeal under the *Name Act* being an appeal in the form of a hearing *de novo*. I have concluded the approach taken is correct.

[18] The appeal is not from an adjudicative tribunal, but rather from a specialized statutory office. An applicant under the *Name Act* does not make submissions to the Regional Manager beyond filing the application. The Regional Manager does not issue reasons for decision so much as provides a determination. Given the process and legislative context, it is significant that s. 9(6) of the *Name Act* specifically empowers the court to consider whatever evidence it considers relevant and to make whatever order it thinks proper.

[19] Section 9 and its predecessor provision have been rarely used. Two decisions provide some guidance, although neither expressly discusses the form of the appeal created by the statue. In *Casgrain v. British Columbia (Lieutenant Governor in Council)*, [1987] B.C.W.L.D. 3929, 1987 CarswellBC 326 at para. 11, the Court of Appeal noted, without disapproval, that affidavit evidence describing the potential harms that could arise from allowing single word names was put before the chambers judge for consideration. In *Paine v. British Columbia (Director of Vital Statistics)*, 86 A.C.W.S. (3d) 483, 1997 CarswellBC 2222 (BCSC), Shaw J. placed significant emphasis on the court's having been authorized to make any order it thought proper (para. 14).

[20] I conclude that the appeal before me is, at the least, a form of *de novo* hearing. It may be that s. 9(6) creates a hybrid form of appeal *de novo* and that some deference is owed to the Regional Manager's interpretation of the *Name Act*. However, given that I agree with the Regional Manager's interpretation of s. 4 in any event, there is no need to address the issue further.

[21] The three pieces of legislation must be read together. Section 4(1) of the *Name Act* allows a "parent having guardianship or custody" to apply to change the name of a minor. The *Name Act* defines "parent" with reference to Part 3 of the *FLA*. Section 26 of the *FLA* provides that a child's parents are the birth mother and

biological father. Where a child has been adopted, s. 25 of the *FLA* indicates the child's parents are as set out in the *Adoption Act*, R.S.B.C. 1996, c. 5. S.M.H has birth parents, but is in the Director's continuing custody and s. 50 of the *CFCSA* makes the Director her sole personal guardian. Thus, S.M.H has no "parent" with guardianship or custody, and the Director has guardianship and custody but is not a "parent". There is no person qualified to bring an application under s. 4(1) of the *Name Act* on S.M.H's behalf.

[22] The Regional Manager is correct that ss. 4(5) and 4(6) cannot provide relief in these circumstances. Reading s. 4 as a whole, the term consent as used in the section refers to consent to an extant application. More specifically, ss. 4(5) and 4(6) give the Registrar General a discretion to proceed without a consent required under ss. 4(3) or 4(4). Section 4(6) does not permit the Registrar General to proceed where no one meeting the statutory definition of a "parent" will agree to apply under s. 4(1) on a minor's behalf.

[23] The Regional Manager was right to refuse the Application. Moreover, for the reasons set out above, there is, in fact, no one presently qualified to bring an application on S.M.H.'s behalf under s. 4(1).

[24] As there is a gap in the legislation, I conclude that it is appropriate, in the circumstances, to exercise the court's *parens patriae* power to provide S.M.H. with the remedy she seeks. The underlying principle of the power is articulated in *E. (Mrs.) v. Eve*, [1986] 2 S.C.R. 388 ["*Eve*"]. As observed in *Senini (Re)*, 2016 BCSC 2299: "An appeal to the *parens patriae* jurisdiction of the Court is the equivalent of an appeal to its inherent jurisdiction; namely, a jurisdiction which can exercised when no rule or statute explicitly confers jurisdiction" (para. 31).

[25] The court does not exercise its *parens patriae* jurisdiction lightly, as it is founded on necessity and the need to protect those who cannot protect themselves: *L.S. v. British Columbia (Director of Child, Family and Community Services)*, 2018 BCSC 255 ["*L.S.*"] at para. 30. However, the jurisdiction is properly invoked where there is a legislative gap such that relief cannot be obtained and a minor would, but for its exercise, be left in a hopeless situation: *L.S*. at paras. 31 to 33 and *M.Z. and G.Z. (Re)*, 2018 BCSC 325 at para. 26.

[26] I am satisfied on the evidence before me that using and answering to her family surname causes S.M.H. significant ongoing anxiety and distress that is injurious to her well-being and an obstacle to and distraction from her efforts to heal. The evidence further indicates that adopting the Foster Mother's surname will provide S.M.H. with an enhanced sense of safety and security that she very much needs.

[27] As noted in *Eve*, the courts will not readily conclude that its *parens patriae* power has been removed. As the form of appeal under s. 9 is *de novo* in nature, I find that it is open to me to exercise the *parens patriae* power in the context of this appeal. Further, with respect to the order to be made, I conclude based on the decision in *Beson v. Director of Child Welfare (Nfld.)*, [1982] 2 SCR 716, SCJ No. 95 (QL) ["*Beson*"], that it is open to me to order that S.M.H.'s requested name change be registered by the Registrar General.

[28] In *Beson*, the Director of Child Welfare refused to provide a certification statutorily required to permit an adoption, rendering the appellants unable to adopt their foster child. The court acknowledged that a declaration of custody was the usual order, but held that a declaration would fail to provide the level of certainty and security required and directed an adoption under the statute. Wilson J., writing for Court, stated (at p. 724; emphasis added):

> If the Besons had indeed no right of appeal under the statute from the Director's removal of Christopher from their home, then I believe there is a gap in the legislative scheme which the Newfoundland courts could have filled by an exercise of their *parens patriae* jurisdiction. Noel J., in other words, could have done more than recommend that the Director give Christopher the chance of the good home available with the Besons. He could have so ordered. It was not a matter of substituting his views for those of the Director. It was a matter of exercising his *parens patriae* jurisdiction in light of a deficiency in the statute. If it were not in Christopher's best interests that he be removed from the appellants' home, then in the absence of any statutory right of appeal through which his interests might be protected, Noel J. had an obligation to intervene.
>
> …
>
> What kind of relief then is it open to this Court to grant? As I understand it, the exercise of the Court's *parens patriae* jurisdiction has traditionally resulted in an order for custody, the jurisdiction being of ancient origin and pre-dating the concept of adoption. It would, however, in my view serve Christopher ill if the Court made an order for custody in favour of the appellants. Counsel for the Director advised that if this were done it would amount in his view to a new placement and, since Mr. and Mrs. Jones have already had Christopher in excess of the six-month period, a certificate could be issued by the Director in their favour at any time. It is quite clear

> that further litigation would ensue if this Court made an order for custody only and this could hardly be in Christopher's best interests. Moreover, an order for custody only would deprive Christopher of the status of being the appellants' "child" in the fullest sense of the term. If ever a child needed the security of that status, this one does. Accordingly, having found that the Newfoundland Court of Appeal was in error in considering itself powerless to safeguard the interests of this child, I would allow the appeal and make the order which that Court ought to have made, namely an order under s. 12 of *The Adoption of Children Act, 1972* for the adoption of Christopher by the appellants.

[29] The *Name Act* specifically provides that a person can only change their name as authorized under s. 4. In order for S.M.H. to legally change her name in a way that obliges society at large to recognize and honour that change, she needs the name change registered by the Registrar General.

[30] Accordingly, the appeal is allowed. The Registrar General is to accept and register the change of name requested under the Application.

Sealing Order

[31] The Director has applied for a sealing order with regard to the court file in this matter. Because of the nature of this proceeding, the court file is relatively sparse and consists for the most part of the Notice of Appeal, the Notice of Application for directions and the resulting order, the affidavit evidence in support of the appeal, and the Notice of Application for a sealing order. The Notice of Appeal identifies S.M.H. and provides details regarding her background. The affidavit evidence filed includes descriptions and documents relating to S.M.H.'s history of abuse, her removal, her father's trial and conviction, her mental health following her removal, her current mental health and the ways in which the trauma she has suffered continues to impact her.

[32] The principles that guide the court's discretion to make sealing and anonymity orders was recently summarized by Ballance J. in, *M.V. v. Workers' Compensation Appeal Tribunal,* 2016 BCSC 1507 ["*M.V.*"], a case involving file materials similar to the present:

> [5] The open court principle is a hallmark of our judicial system: *MacIntyre v. Nova Scotia (Attorney General*), [1982] 1S.C.R. 175 [*MacIntyre*]. Openness fosters public confidence in the effective administration of justice and in the integrity of the judicial system at large: *MacIntyre* at 185. Curtailment of public access to judicial proceedings is

justified only where social values of superordinate importance require protection: *MacIntyre* at 186-187.

[6] The common law test for the issuance of a publication ban laid out by the Supreme Court of Canada in *Dagenais v. Canadian Broadcasting Corp*., [1994] 3 S.C.R. 835, and reformulated in *R. v. Mentuck*, 2001 SCC 76, [2001] 3 S.C.R. 442 [*Mentuck*], guides the court's exercise of discretion in making anonymity orders and sealing orders.

[7] The *Dagenais/Mentuck* test is a flexible and contextual one. There is no closed category of circumstances that may be viewed as constituting a social value of superordinate importance: *C.W. v. L.G.M*, 2004 BCSC 1499 at para. 25. That said, the mere interest to avoid embarrassment is not sufficient to displace the principle of openness. As Madam Justice Dardi helpfully noted in *X. v. Y.,* 2011 BCSC 943:

> The Court in *Mentuck* also clarified that in terms of "necessity," the risk to the proper administration of justice in question must be a "serious one … [t]hat is, it must be a risk the reality of which is well-grounded in the evidence" (at para. 34). The authorities establish that the standard is not one of mere convenience or expediency; in order to displace the public interest in an open-court process, an applicant must provide cogent evidence to support the alleged necessity for anonymity: *C.W*. at para. 25.

[8] In *Sierra Club of Canada v. Canada (Minister of Finance*), 2002 SCC 41, [2002] 2 S.C.R. 522 [*Sierra Club*] at paras. 37-38, the Court affirmed that where the question of openness and its exceptions arises in a civil proceeding that does not directly engage the individual's rights under s.7 of the *Charter*, those rights should, nonetheless, inform the exercise of discretion in determining whether there are any exceptions to the openness principle.

[9] In my opinion, there is a strong superordinate social value and public interest in protecting the privacy of victims of sexual abuse from further exposure in the public domain. This is particularly the case where, as here, the victim was a child during all or some phase of the abuse, and there is evidence that she continues to struggle with psychological frailties and that disclosure of identifying information will likely cause her serious harm in the form of severe anxiety and depression.

[33] As in *M.V*, the childhood sexual and other abuse of S.M.H. and her resultant struggles with psychological well-being are not incidental to, but rather the subject of the materials in the court file. The nature of the proceeding does not involve s. 7 *Charter* rights, nor is it a civil trial involving findings of fact about the abuse in question. Rather, it is an appeal from a specialized statutory agency that accepted the facts advanced but concluded it had no statutory jurisdiction to act in response.

[34] I am satisfied that the psychological benefits that S.M.H. seeks to obtain by her name change would be countermanded by allowing her family surname, her

new surname, the details of her abuse or the psychological issues she now wrestles with to be publicly available. It is insufficient protection for the decision to use initials and exclude identifying information about S.M.H. In the circumstances, her identity and the personal information in the court file should be protected from public disclosure. The resulting impairment to the open court principle is outweighed by the greater interest in protecting S.M.H. from further harm. The administration of justice and the public interest in an open and transparent system will be served by the publication of these reasons.

[35] The entirety of the court file will be sealed, including the clerk's notes and the order on the appeal, with the exception of the sealing order itself. Access to the sealed file items will be permitted by counsel of record, associates and staff of counsel of record with a letter of permission by counsel of record, parties of record, judges of the Supreme Court, judicial clerks and Supreme Court staff, and by further order of the court.

[36] There is no order as to costs.

"Tucker, J."

Purpose

To outline the approach and plan for consultation on the Ministry of Health's proposal to amend the *Name Act*, to be introduced in the House 2022.

Background

- The *Name Act* is administered by Vital Statistics Agency within the Ministry of Health and outlines the administrative process associated with legal name change by individuals. The Act was enacted in the 1940's, and last updated in 2014.
- Currently, the Act does not allow a legal guardian to give permission for a name change. This means that the Act has no provision for children under the permanent guardianship of the Ministry of Child and Family Development (MCFD) or whose legal guardian is a private individual, to change their name.
- Some Indigenous names are uniquely expressed as mononyms. Truth and Reconciliation Commission (TRC) Call to Action #17 asks all levels of government to enable residential school survivors and their families to reclaim names changed by the residential school system. Implementation of mononyms is currently handled through "workaround" solutions for approximately 30,000 people in B.C. registered in the Driver's license/Service Card system (source ICBC).
- The Ministry proposes to enable, subject to consultations with Indigenous peoples:
    1) Court-appointed guardians to apply for a legal name change on a child's behalf; and
    2) A change of name resulting in a mononym so Indigenous persons can reclaim their Indigenous names and enable alignment with TRC Call to Action #17 and the principles of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
- Other clarifications are proposed to more accurately reflect the name change process as it is currently administered, allowances for assumed versus hyphenated names after marriage, appeals process to decisions made by the Registrar General, and residency requirements.

Approach

A framework of information sharing, proposal refinement and transparent communications will be employed to foster trusted involvement of stakeholders and clear response by the Ministry. Consultations will be conducted alongside drafting and will be fully concluded before drafting is complete. Representation from the Ministry of Health's Vital Stats Agency with subject matter expertise in the *Name Act* and the proposed changes will be present at all sessions. Consultation will be approached in two parts to allow for appropriate and focused engagement on the two major proposed changes:

Part I: Indigenous consultation on the proposal to allow for court-appointed guardians to apply for a legal name change on a child's behalf.

Part II: Broad Provincial and Federal consultation on the implications and considerations to allowing for a change of name resulting in a mononym and/or diacritical marker.

Figure 1: Engagement Framework

Part I

Special consultation is needed to understand consideration of name change to a child in the care of a guardian. For Indigenous peoples, continuity of community and cultural identity is a particular aspect for careful consideration. In partnership with MCFD, the Ministry of Health will engage directly with the First Nations Leadership Council (FNLC) and Indigenous Rights Holders and organizations on this topic.

The Ministry of Health will seek counsel from the Ministry of Indigenous Relations and Reconciliation to inform the consultation approach and ensure appropriate engagement strategies and resources are in place. Legal counsel for Indigenous Legal Relations will advise on the plan to ensure the engagement meets the expectations and obligations outlined in the *Declaration Act*.

Part II

The Ministry of Health will engage at various levels of government, both provincially and federally to determine implications and the degree to which numerous information systems (incl. passports, SIN) will be able to accommodate mononyms and diacritical markers, or symbols which are included in some First Nations names. All Provincial ministries will be surveyed to determine their ability to handle mononyms and diacritical markers. The below table outlines Ministries and groups with known potential impacts.

	Engagement Group	Part I	Part II
Provincial	First Nations Leadership Council	●	●
	Indigenous Rights Holders	●	●
	Indigenous Organizations (e.g., Friendship Centers)	●	●
	First Nations Health Council	●	●
	First Nations Education Steering Committee	●	●
	Metis Nation BC	●	●
	Alliance of BC Modern Treaty Nations	●	●

	Ministry of Attorney General	●	●
	Ministry of Finance		●
	Ministry of Citizen Services, including representatives from ICBC and BC Services Card		●
	WorkSafe BC		●
	Land Title and Survey Authority		●
Federal	Federal Government Agencies (e.g. CRA, Immigration and passports, Social Insurance)		●
Municipal	Municipal Government Agencies		●

Timeline

Week of	Activity or Milestone	Responsible	Support
October 18	• Confirm engagement groups and key contacts • Initiate phone calls and introductions • Develop communication and engagement materials • Seek counsel and feedback on approach with MIRR and Indigenous Relations Legal Counsel	HLTH HLTH HLTH HLTH	MCFD
October 25	• Send preliminary communications, including letters to 203 Indigenous Rights Holder communities and organizations • Arrange calendars and meetings • Receive endorsement of engagement materials and detailed plan (MIRR, Legal Counsel, DM HLTH, DM MCFD)	HLTH HLTH HLTH	
November 1	• Part I engagement with FNLC	HLTH	MCFD
November 8	• Part II engagement with Provincial stakeholders	HLTH	MCFD
November 15	• Part II engagement with Federal stakeholders	HLTH	MCFD
November 22	• Part I/II follow-up engagements (as required)	HLTH	MCFD
November 29	• Timeline to receive request for consultation from First Nations Rights Holder communities	HLTH	
December 6	• Arrange calendars and meetings with Indigenous Rights Holder communities and organizations for January	HLTH	
December 13 - 31	• No planned activities		
January 3	• Indigenous Rights Holder engagements (Week 1)*	HLTH	
January 10	• Indigenous Rights Holder engagements (Week 2)	HLTH	
January 17	• Part I/II follow-up engagements (as required)	HLTH	
January 24	• Assemble findings report	HLTH	MCFD
January 31	• Present findings report	HLTH	MCFD
February 4	❖ Initial Engagement Complete. • Maintain regular communications on progress with impacted groups.	HLTH	

* Recent consultation with Indigenous communities and organizations suggests that approximately 10% of communities will request an engagement. A larger response from communities will impact this schedule.

Findings and Reporting

Consultations will be documented with detailed account of discussion topics and feedback received. A summary of the feedback, and other relevant observations and recommendations will be assembled into a final report to be presented to leadership at MCFD and Ministry of Health. A copy will be shared with MIRR and FNLC to validate our findings and recommendations.

MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE

DATE: Oct 6, 2021 **DATE OF PREVIOUS NOTE:** N/A
CLIFF#: 263909 **PREVIOUS CLIFF #: N/A**

PREPARED FOR: Allison Bond, Deputy Minister for Children and Family Development

ISSUE: The Ministry of Mental Health and Addiction (MMHA) and Public Safety and Solicitor General (PSSG) are supporting an exemption request under s. 56(1) to Justice Canada under the Controlled Drugs and Substances Act (CDSA). This exemption will exclude youth under 18 years.

BACKGROUND:

The 2020 mandate letter for MMHA directed a cooperative approach with PSSG and the Ministry of Attorney General to pursue the decriminalization of personal possession of illicit substances in BC. The goal is to meaningfully address stigma and discrimination which have contributed to the overdose crisis.

Statistics provided to the decriminalization project team indicate that since the declaration of the public health emergency in April of 2016, over 7,500 British Columbians have died from illicit drug poisoning. Numbers of fatal illicit drug poisoning initially peaked at 1,549 in 2018, then climbed again in 2021 with 1,011 suspected illicit drug toxicity deaths in the first six months and are on track to exceed the previous annual high.

In the Spring of 2021, the City of Vancouver (COV) submitted a request for a s.56(1) exemption to decriminalize personal possession within city limits. The COV did not include an approach to youth in its proposed decriminalization model. This gap was subsequently identified by Justice Canada as needing more policy work.

Public support for the decriminalization of personal possession of illicit substances is strong, with 66 percent of British Columbians in favour of the move, according to a February 2021 poll conducted by the Angus Reid Institute. With widespread support and a government mandate, the decriminalization project team is formally seeking an exemption under Section 56(1) of the *Controlled Drugs and Substances Act* (CDSA) to decriminalize personal possession of illicit substances within British Columbia.

BC is preparing their exemption request to be submitted in October 2021. This exemption request currently does not include youth under the age of 18.

DISCUSSION:

The Ministry of Children and Family Development (MCFD) has representation on the decriminalization project team alongside PSSG and MMHA. s.14
s.14

The YCJA currently allows for police and Crown Counsel discretion of whether to proceed with charges when youth are found in possession of illegal substances – Extra Judicial Measures can be used by police. Youth can also be referred to Extra-Judicial Sanctions by Crown Counsel. Youth can be offered support through both processes, and there are statutory records disclosure limitations in the YCJA for Extra-Judicial Sanctions.

There are questions over how DRIPA and Indigenous Nation's evolving jurisdiction will be impacted by decriminalization. There is currently a public facing external stakeholder group (with municipal police, Indigenous Groups, and non-profit advocacy groups) who are engaging with this question as well as considering further consultation.

Information to date from the committee work indicates that the current proposal being considered is to exclude youth from the S. 56 exemption process due to the complexities of working with the separate youth justice legislative framework. There is also a need to engage with internal and external partners which is planned for Phase II of this project.

SUMMARY/ NEXT STEPS

The current proposal for the decriminalization of substances under certain thresholds does not include youth under 18 years of age. This means that young people will continue to be dealt with under the current system, which includes extra- judicial processes and restorative justice. Next steps are to determine if the complications of either including youth or excluding youth in the exemption process requires immediate attention, or if this can be worked on in Phase II of the project.

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MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE

DATE: October 15, 2021 **DATE OF PREVIOUS NOTE :** N/A
CLIFF#: 264199 **PREVIOUS CLIFF #:** N/A

PREPARED FOR: The Honourable Mitzi Dean, Minister of Children and Family Development

ISSUE: Consultation with the Minister's Advisory Council on Indigenous Women (MACIW)

BACKGROUND:

Ministry of Children and Family Development (MCFD) staff will be consulting with MACIW on October 28, 2021 on three topics:

A. *Child, Family, and Community Service Act* (CFCSA) reform – Child Welfare and Reconciliation Policy

- Since the CFCSA came into force in 1996, significant changes have occurred in the child welfare landscape, particularly concerning Indigenous children, youth and families. Systemic transformation is needed, including the implementation of the *Declaration on the Rights of Indigenous Peoples Act,* the federal *Act Respecting First Nations, Inuit and Métis Children, Youth and Families*, and to support Indigenous peoples' jurisdiction over child and family services.

B. Children and Youth with Support Needs – Children and Youth with Support Needs

- Neurodiverse children and youth, and children and youth with disabilities, and their families, deserve access to timely, effective and inclusive services to support their development. The Ministry of Children and Family Development is responsible for providing those services through the Children and Youth with Support Needs Service Framework.
- Today's system is complex, leaves families waiting, and locks services behind diagnoses instead of providing them to children and youth based on their needs. The ministry's mandate is to improve support for families of children and youth with support needs, ensuring that a new framework is designed to serve the needs of many families across BC.
- The system of services supporting children and youth with support needs (CYSN) is transforming from the current state to a family-centred, trauma informed and culturally safe service model. This model is informed by engagement and research, including engagement with Indigenous families and service providers from throughout the province.
- Cultural safety has been identified as essential and will be a requirement of all services supporting children/youth with support needs.
- Further engagements are planned that will help inform how services can be provided by Indigenous service providers to Indigenous children, youth, and families.

C. Engagement on Social Work Oversight – Strategic Policy and Research Team

- MCFD is launching engagement on social work oversight in BC.
- Engagement will be phased and iterative – and will include a wide range partners, including rights-holders, Indigenous organizations and communities.
- MCFD staff are completing initial engagement meetings with key partners to gather feedback on the scope and approach.
- Phase 1 of the engagement is currently scheduled to begin in November 2021.
- The engagement is intended to (1) explore the complexities and challenges surrounding the current social work oversight model; and (2) identify opportunities for strengthening and modernizing social work oversight in BC.
- The engagement will explore issues around cultural safety and humility, anti-racism, reconciliation with Indigenous peoples, including how the current oversight model impacts Indigenous communities and individuals.

DISCUSSION:

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SUMMARY:

MCFD is consulting with MACIW on October 28th on three topics: reforming the CFCSA, Children and Youth with Support Needs, and the Social Worker Regulation and Oversight project.

ATTACHMENTS (if applicable): NA

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MINISTRY OF CHILDREN AND FAMILY DEVELOPMENT
INFORMATION NOTE

DATE: October 19, 2021 **DATE OF PREVIOUS NOTE (if applicable):**
CLIFF#: 264261 **PREVIOUS CLIFF # (if applicable):**

PREPARED FOR: Honourable Mitzi Dean, Minister Children and Family Development

ISSUE: Progress update on Specialized Homes and Support Services

BACKGROUND:

The Ministry is poised to begin implementation of various activities and initiatives to support the transformation of Specialized Homes and Support Services (SHSS). These actions were approved by Treasury Board, January 2020, as part of a comprehensive plan to achieve 2 key priorities:

- Improve outcomes for children/youth and families (including improved family preservation for families with children with support needs; improved child and youth wellness); and
- Curb unsustainable cost escalation driven predominately by the rising costs associated with contracted care.

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DISCUSSION:

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SUMMARY:

A series of policy documents are attached for Minister review. These documents are summarized on table A –outlining what the document is, how it will be used to support next steps of the transformation, and potential communications opportunities.

Additional policy documents will be forthcoming (example: professional care giver model). Staff will return to the Minister with those documents as they become available.

ATTACHMENTS (if applicable):

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