

ADVICE TO MINISTER

**CONFIDENTIAL
ISSUES NOTE**

Ministry of Children and Family Development

Date: May 7, 2021

Minister Responsible: Hon. Mitzi Dean

Federal Indigenous child and family services legislation

ADVICE AND RECOMMENDED RESPONSE:

- **We are committed to working with the federal government and Indigenous communities and organizations to improve the lives of Indigenous children, youth and families.**
- **This federal Act provides national principles, service delivery standards and a path to Indigenous jurisdiction – something B.C. supports wholeheartedly.**
- **In April 2019, we made amendments to the *Child, Family and Community Service Act* to give Indigenous communities more involvement in the care of their children — and we now have over 70 information-sharing agreements with Indigenous communities about their children in care.**
- **We are committed to engaging with Indigenous communities in tripartite coordination agreement discussions under the federal Act. These agreements commit us to work together to see the Nations exercise their jurisdiction over child and family services.**
- **B.C. is seeing the lowest number of kids in care in 30 years, and the lowest number of Indigenous children and youth in care since 2000.**

If asked about the Federal funding agreement:

- **This is an agreement between the government of Canada and the Assembly of First Nations.**
- **We hope this will be a key step in supporting Indigenous communities in B.C., as well as throughout the country.**

If asked about B.C.'s implementation actions:

- **We have implemented new policies and practices to meet the new national principles and standards.**

- **B.C.'s front line workers must apply the federal legislation — as well as our own child welfare legislation — to their daily work.**
- **More than 2,000 front-line ministry staff and Delegated Aboriginal Agency partners have received training on the new policies and changes to practice, and we launched further online training on the federal Act in April 2021.**
- **These discussions support the ministry's work to transform our approach to child welfare — from taking kids into care, to working to keep them safe within their families and connected to their cultures.**

KEY FACTS:

On July 7, 2020, the federal government signed an agreement with the Assembly of First Nations to outline how it will fund an overhaul of the First Nations child welfare system. The agreement establishes a "joint fiscal table" on First Nations child and family services — a forum where Ottawa and First Nations can negotiate funding agreements to support communities who want to assume the responsibility of caring for children.

In November 2020, the federal government announced funding to support implementation of the federal Act. The federal government committed to \$525M over five years to support communities in building capacity, to engage in coordination agreement discussions, for the funding of internal services such as hiring consultants and governance engagement mechanisms.

BACKGROUND:

The federal government's *An Act Respecting First Nations, Inuit, and Métis Children, Youth and Families* (formerly Bill C-92), came into force on Jan. 1, 2020 to:

- Affirm the right of Indigenous peoples to exercise their inherent jurisdiction over child and family services
- Establish national child welfare principles when working with Indigenous kids and families
- Set minimum national standards for how child and family services are delivered

As of Jan. 1, 2020, MCFD began complying with the new, minimum national standards when working with Indigenous children, families and communities. To ensure B.C. is meeting these standards, the ministry provided orientation sessions to frontline staff and Delegated Aboriginal Agencies in Nov/Dec 2019 and January 2020. In addition, new training for front line staff and Delegated Aboriginal Agencies was launched in April 2021.

The federal Act impacts how social workers work with Indigenous children, families and communities as it contains new mandatory, legal requirements that need to be incorporated into provincial practice. Social workers must apply the *Child, Family and Community Service Act (CFCSA)* and this federal Act to their work. Where there's conflict/inconsistency with the national standards and the CFCSA, the national standards under the federal Act prevail.

National standards

These national standards, which took effect Jan. 1, 2020, require social workers to:

- Provide notice before significant measures are taken in relation to a child, such as removing a child from their home or placing a child in another home;
- Prioritize preventive care;

ADVICE TO MINISTER

- Prioritize placement decisions for Indigenous children;
- Continue to reassess placement; and
- Promote attachment/emotional ties for Indigenous kids when not placed with a family member.

Jurisdiction

The Act affirms the rights and inherent jurisdiction of Indigenous peoples in relation to child and family services. It outlines two options for Nations to assume jurisdiction. The exercise of jurisdiction could result in the Indigenous Nations' child and family services law prevailing over federal and provincial laws.

Principles

Three new principles guide the way in which the federal Act is to be interpreted and administered:

- Best interests of the Indigenous child;
- Cultural continuity, and
- Substantive equality

s.13; s.16

Media Interest: Indigenous child welfare generates a high level of media interest nationwide.

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