

**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for Shannon Salter
Deputy Attorney General and
Deputy Minister Responsible for Housing

ISSUE:
Upcoming statutory review of the *Representative for Children and Youth Act* (RCYA) by
the Select Standing Committee for Children and Youth (SSCCY)

SUMMARY:

- The next statutory review must begin on or before April 1, 2022. The Clerk of Committees supporting the SSCCY has advised the Committee's workplan for the review has been developed.
- The Committee Clerk intends to invite senior executive of the ministries of Attorney General (MAG) and Children and Family Development (MCFD) to present to the Committee in the Spring. The MAG presentation will be more of a technical briefing to inform the SSCCY of the legislation and identify areas that may be appropriate for further consideration. For the 2012 review, the Deputy Minister of MCFD presented to the SSCCY. For the 2017 review, both the MCFD Deputy Minister and the Deputy Attorney General presented.
- MAG has a unique role regarding the office of the RCY. The ministry has responsibility for the enabling legislation and any changes to the RCYA. The Minister, as Attorney General, has a responsibility to ensure the statute reflects the independence and mandate of the office.
- The office of the Representative for Children and Youth (RCY) has communicated it is preparing an early submission to the SSCCY which will set out the issues of importance related to the statute from the RCY's perspective and make recommendations for changes. s.13; s.14
s.13; s.14
- s.13; s.14

BACKGROUND:

- The 2006 enactment of the RCYA was part of the then-government's commitment to implement the recommendations from the Hughes Report. The Honourable Ted Hughes' independent review and extensive consultations focused on the BC child welfare system with primary emphasis on the services and programs provided or funded by MCFD.
- The RCYA created an independent officer of the Legislature with three main functions respecting children and their families – advocacy; monitoring, review, audit and research; and investigations and report of critical injuries and deaths - to provide oversight respecting the provision of “designated services” identified in the Report.
- Section 30 of the RCYA requires the SSCCY to “undertake a comprehensive review” of the Act every five years, to determine whether the functions of the Representative as defined in section 6 are still required to ensure that the needs of children and young adults are met.
- Previous statutory reviews that took place in 2012 and 2017 resulted in amendments including expansion of the RCY's advocacy function beyond vulnerable children and their families to include young adults respecting prescribed services. More recently, additional changes enable the RCY to advocate for an expanded cohort of young adults through increasing the age range and broadening the eligibility criteria.

DISCUSSION:

Statutory Review Process and MAG's role for the 2022 review

- Supported by the Legislature's Clerk of Committees, the SSCCY will embark on a review of the Act as statutorily required “... to ensure that the needs of children and included adults are met ...” The review is expected to take a year, culminating in the release of a report with recommendations for changes, including to the Act.
- The Committee typically invites presentations from ministries with key roles regarding the RCY and the RCYA - MAG and MCFD. MAG has responsibility for the enabling legislation and its presentation may provide background on the statute and discuss areas that are appropriate for further review. MCFD is the key ministry that delivers and funds programs and services for children and their families, for which the RCY has oversight. The RCY's mandate respecting young adults impacts more ministries and service providers in the adult serving system. The RCY will also be invited to present. Presenters may be invited to return to answer key questions of the SSCCY or address specific issues.
- As part of a public consultation, the Committee usually issues a call for written submissions requesting community organizations and other interested rightsholders and stakeholders to provide input respecting the review. Examples of organizations that made a submission to the last review included BC Association of Social

Workers; Carrier Sekani Family Services; and First Call: BC Child and Youth Advocacy Coalition.

s.13; s.14

MAG Briefing for the SSCCY

- The SSCCY have advised it will invite MAG senior executive to provide a briefing to the Committee later this spring related the RCYA statutory review. MCFD senior staff will also be invited to present as will the RCY.
- MAG's presentation will be the primary opportunity for the ministry to inform the Committee about the legislation. Areas to be covered may include background on the legislation; recent amendments; current "lay of the land" as well as any key issues or areas that the Committee may wish to examine or focus on during its review and consultations.
- Presentations to the Committee are usually provided by the Deputy Attorney General/Deputy Minister and other staff may be present to answer questions. Briefings are done in a public forum and recorded by Hansard at an open Committee meeting.
- MAG staff intend to connect with MCFD staff to see if there is interest in taking a coordinated approach to the presentations and/or preparing a joint presentation.

RCY's Submission

- The office of the RCY has advised MAG staff that the RCY will be providing an early submission to the statutory review, likely in mid to late April. RCY staff may share a draft copy in advance with MAG.
- The submission is expected to be substantial, over 50 pages in length, and will raise new and historical issues and make recommendations for changes including

s.13; s.14

- See Attachment for more details on potential issues that may be raised in the RCY's submission.

INDIGENOUS PEOPLES CONSIDERATIONS:

- The mandate of the RCY as set out in the RCYA has impact on Indigenous people given that a large proportion of the Province's vulnerable children and young adult population is Indigenous.
- It is likely the SSCCY will include Indigenous leadership and other organizations in its consultation process to provide an opportunity for feedback on the impact of the statute on Indigenous communities.

OTHER MINISTRIES IMPACTED/CONSULTED:

- The role of the RCY is an important one, and the enabling legislation impacts a range of ministries, other public bodies and organizations across government.
- s.13; s.14
s.13; s.14 there
may be communication and support provided, as appropriate, to the following ministries, other public bodies and organizations:
 - Children and Family Development; Mental Health and Addictions; Social Development and Poverty Reduction; Health; Education; Advanced Education and Skills Training, Indigenous Relations and Reconciliation; Public Safety and Solicitor General; Housing/BC Housing
 - Community Living BC; BC Coroners' Service.
- Communication and support may also be provided to some of the Independent Officers of the Legislature and Independent Offices which have had involvement with past RCY issues; inclusion in RCY reports; and where potential changes to the RCYA may impact their authorizing legislation:
 - Ombudsperson; Information and Privacy Commissioner; Public Guardian and Trustee; and Advocate for Service Quality

Prepared by:

Bonnie Wai
Senior Policy Analyst
Justice Services Branch
778-698-9747

Approved by:

Anita Nadziejko
Director, Policy & Legislation
Justice Services Branch
250-387-4248

APPROVED BY:

Natalie Hepburn Barnes
Acting Assistant Deputy Minister
Justice Services Branch
250-896-4377

This document may contain information that is protected by solicitor client privilege. Prior to any disclosure of this document outside of government, including in response to a request under the Freedom of Information and Protection of Privacy Act, the Ministry in possession of this document must consult with the lawyer responsible for the matter to determine whether information contained in the document is subject to solicitor client privilege.

Attachment:

Attachment: List of key issues that may be raised by the Office of the RCY as part of its submission to the SSCY

Attachment

**Office of the RCY
Key issues related to potential further amendments to the RCYA**

s.13; s.14

- *Special reports (RCYA section 20)* – the 2019 BC Supreme Court decision in favour of the RCY (no appeal proceeded) was related to the RCY's request for information and records on a disbanded program to support a report on legal representation for children and youth. s.13; s.14
s.13; s.14
- *Right to information (RCYA section 10)* – s.13; s.14
s.13; s.14

Page 07 of 10 to/à Page 10 of 10

Withheld pursuant to/removed as

s.14