

ISC INDIGENOUS
SERVICES
CANADA

*Act respecting First
Nations, Inuit and
Métis children,
youth and families:
Policy Intent*



Note: The information provided in this presentation does not, and is not intended to, constitute legal advice.



Indigenous Services
Canada

Services aux
Autochtones Canada

GC Docs #61128560

Canada

FEDERAL LEGISLATION – ADDRESSING THE NEED FOR REFORM

- First Nations, Inuit and Métis children are significantly over-represented in the child and family services system.
- According to Census 2016 data, Indigenous children make up 7.7% of the population under 15 but account for 52.2% of children in foster care in private homes.
- To help reduce the number of Indigenous children in foster care, Bill C-92: *An Act respecting First Nations, Inuit and Métis children, youth and families* (the Act), was introduced in Parliament and received Royal assent on June 21, 2019.
- Bill C-92 was introduced in the House of Commons with the support of the three National Indigenous organizations.
- The Act came into force on January 1, 2020.

RESOURCES FOR INFORMATION ON THE ACT

- Now that the Act is in force, the following resources are in place to support partners:
 - **Generic email address:** available to respond to any questions from partners on the Act (sac.sefreforme-cfsreform.isc@canada.ca)
 - **Phone number:** an enquiry line is available to answer any questions the public may have on provisions of the Act ([1-800-567-9604](tel:1-800-567-9604))
 - **Information package:** the technical information package is now available online for greater accessibility, and will be updated in the next few weeks incorporating feedback received from partners
 - **Website:** future updates will be made readily accessible via ISC's website (www.canada.ca/Indigenous-families-together)
- We will continue to work with our partners to address any of the concerns they might have.

THE ACT AND COMMITMENT TO RECONCILIATION

- The Act will help address the first five Calls to Action issued by the Truth and Reconciliation Commission in 2015 which appeal to federal, provincial, territorial, and Indigenous governments to implement changes to the child and family services system.
- The Act is also consistent with:
 - Canada's ratification of the *United Nations Convention on the Rights of the Child*;
 - Canada's commitment to implementing the *United Nations Declaration on the Rights of Indigenous Peoples*.
- The Act will help advance numerous Calls for Justice made within the National Inquiry into Missing and Murdered Indigenous Women and Girls Final Report.
- More generally, the Act seeks to advance Canada's commitment to reconciliation with First Nations, Inuit and Métis through renewed nation-to-nation, Inuit-Crown and government-to-government relationships based on recognitions of rights, respect, co-operation and partnership.

CO-DEVELOPMENT OF FEDERAL LEGISLATION

- The Department of Indigenous Services Canada held an emergency meeting in January 2018 with Indigenous, Provincial and Territorial partners in order to discuss child and family services.
- The Government of Canada committed to six points of action emerging from this January 2018, including exploring the potential for co-developed federal child welfare legislation.
- Extensive engagement was **central to the co-development of the Act**.
 - Over the summer and early fall of 2018, the Government of Canada held more than 65 engagement sessions with nearly 2,000 participants.
- Engagement on the co-development of the Act involved:
 - National, regional, and community organizations representing First Nations, Inuit and the Métis;
 - Treaty Nations and self-governing Indigenous groups;
 - Provinces and Territories; and
 - Experts and those with lived experience such as child advocates, elders, youth and women.
- We also held face-to-face engagement meetings on the content of the proposed Bill in January 2019 with Indigenous partners and representatives of the Provinces and Territories.

WHAT WAS HEARD DURING ENGAGEMENT

During the engagement, Indigenous participants across Canada have generally supported the introduction of federal legislation on Indigenous child and family services as a tool for reform.

Participants have raised the need to include some key elements in the legislation such as:

- **Affirmation of the rights** and jurisdiction of Indigenous Peoples over child and family services;
- Establishment of **high-level principles** which would reflect the *United Nations Declaration on the Rights of Indigenous Peoples*, the *United Nations Convention on the Rights of the Child* and the Truth and Reconciliation Commission of Canada's Calls to Action.
- Some proposed **cornerstone principles** for legislation included:
 - Best interests of the child / Family unity / Cultural appropriateness / Self-determination / Non-discrimination
- The focus should be on **prevention** and early intervention rather than apprehension.

WHAT WAS HEARD DURING ENGAGEMENT (CONT.)

Participants have raised the need to include some key elements in the legislation such as:

- Housing and other **socio-economic issues** should not be used as a justification for apprehension.
- **Birth alert systems** should be avoided as a primary intervention and priority should be given to a spectrum of prenatal family supports to keep mothers and infants together.
- When measures are to be taken concerning Indigenous children, parents and primary caregivers should be **notified** and they should be provided the right to **participate at all stages of the civil proceedings**.
- There was a broad call for stable, predictable and sustainable **funding** to support meaningful long-term reform through prevention, capacity building, service delivery and infrastructure.
- There was a general acknowledgment of the need for **baseline data** and for a data and reporting strategy that will help provide:
 - a more complete picture of the outcomes of children in care; and
 - the challenges experienced by Indigenous children and families.

PURPOSE OF THE ACT

- In accordance with what was heard during the engagement, the purpose of the Act is to:
 - affirm the rights of First Nations, Inuit and Métis in relation to child and family services;
 - establish national principles to help guide the provision of child and family services in relation to Indigenous children; and
 - contribute to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.
- This Act also seeks to make sure that, when determining the best interests of an Indigenous child, primary consideration is given to:
 - the child’s physical, emotional and psychological safety, security and well-being; and
 - the importance, for that child, of an ongoing relationship with his or her family and community and of preserving the child’s connections to his or her culture.

MAIN OBJECTIVES OF THE ACT

The Act seeks to achieve the following main objectives:

1. Help shift the programming focus to prevention and early intervention;
2. Help Indigenous children stay with their families and communities;
3. Promote Indigenous children receiving culturally appropriate services and growing up immersed in their communities and cultures;
4. Have the principle of the best interests of the child always applied in making decisions in the context of the provision of child and family services in relation to Indigenous children; and
5. Provide a framework to facilitate the exercise of jurisdiction by Indigenous communities over child and family services.

MINIMUM STANDARDS AND JURISDICTION

The provisions of the Act were intended to apply to child and family services provided by any agency, whether directly by Provinces and Territories, or by First Nations, Inuit or Métis delegated agencies.

The provisions of the Act were also intended to be enforced by provincial and territorial courts.

The Act was meant to establish minimum standards that would not affect provincial, territorial or Indigenous standards that provide greater protection.

- The Act was meant to:
 - Affirm the rights and jurisdiction of Indigenous Peoples in relation to child and family services; and
 - Create a framework for the exercise of partial or full jurisdiction by Indigenous Peoples over child and family services at a pace that they choose.

CONTINUED PARTNERSHIP AND COLLABORATION

- The coming-into-force of the Act represents an important step toward real change and will make it easier for Indigenous Peoples to propose community-led solutions to the over-representation of Indigenous children in care across Canada.
- The Act will help secure a better, brighter future for First Nations, Inuit and Métis children and youth in this country, and lay the foundation for future generations.
- As we move forward, Indigenous Services Canada will collaborate with partners and seek their views on implementation.
 - For example, further discussions will take place with partners to determine if regulations are needed and desired.

QUESTIONS?

Please contact sac.sefreforme-cfsreform.isc@canada.ca for further information.