



# *CHILD AND FAMILY SERVICES ACT*

PROPOSED AMENDMENTS

DISCUSSION PAPER

*April 2022*



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English

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French

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Kīspin ki nitawih̄tīn ē nīhīyawihk ōma ācimōwin, tipwāsīnān.

Cree

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Tłjchq yatı k'èè. Dı wegodı newq dè, gots'ō gonede.

Tłjchq

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ʔerih̄t'ís Dēne Sųlíné yatı t'a huts'elkēr xa beyáyatı theʔa ʔat'e, nuwe ts'ēn yółtı.

Chipewyan

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Edı gondı dehgáh got'je zhatié k'ée edat'éh enahddhę nıde naxets'é edahí.

South Slavey

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K'áhshó got'jne xədə k'é hederı ʔedjhtl'é yerıniwę nıde dúle.

North Slavey

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Jii gwandak izhii ginjik vat'atr'ijahch'uu zhit yinothan jı', diits'at ginohkhi.

Gwich'in

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Uvanittuaq ilitchurisukupku Inuvialuktun, ququaqluta.

Inuvialuktun

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Ć'đ< 00<sup>5</sup>6Δ<sup>5</sup> Λ<LJ&Γ<sup>5</sup> Δ.đ<sup>5</sup>0<<sup>5</sup>γ<0<sup>5</sup>, >ε<sup>5</sup>0<sup>5</sup> >đ<đ<sup>5</sup>ε<sup>5</sup>0<sup>5</sup>.

Inuktitut

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Hapkua titiqqat pijumagupkit Inuinnaqtun, uvaptinnut hivajarlutit.

Inuinnaqtun

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## OVERVIEW

### Objective:

The Department of Health and Social Services is seeking feedback from Indigenous governments, stakeholders, and the public on proposed key elements that will form the future amendments to the *Child and Family Services Act*.

All feedback is welcome and may be submitted by April 30<sup>th</sup>, 2022.

The following Discussion Paper outlines the proposed changes to the current *Child and Family Services Act*. The proposed key elements take into account the child and family services legislative frameworks in other jurisdictions, the federal government's *Act respecting First Nations, Inuit and Métis children, youth and families*, the inherent right of self-government in relation to child and family services, and the capacity of GNWT child and family services providers.

The Department of Health and Social Services encourages you to read the Discussion Paper and the Frequently Asked Questions document.

We welcome all comments and suggestions on the key elements. Please let us know what you think and if you have any questions.

### Contact:

Attention:      Comments on proposed amendments to the CFS Act  
Policy, Legislation and Communications  
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## INTRODUCTION

The [Child and Family Services Act](#) establishes both the prevention and protection framework for children and youth in the NWT. The delivery of child and family services to Indigenous children and youth is also influenced by the federal government's [Act respecting First Nations, Inuit and Métis children, youth and families](#) (Federal Act), which came into force in 2020. Many requirements in the Federal Act are not yet reflected in the NWT's legislative framework but are set out in current [NWT practice standards](#) and in the delivery of services.

### Role of Child and Family Services in the NWT

*The paramount objective of the Act is to promote the best interests, protection, and well-being of children and youth.*

The Child and Family Services system recognizes the importance of prevention, early intervention, and protection services. The best interests of the child or youth is the primary consideration in the making of any decisions or the taking of any actions by Child and Family Services. This approach allows us to provide various support services that are preventative in nature, voluntary, and unique to each family.

At times, protection services are also provided in cases where the child or youth's immediate safety is at risk or where there is an ongoing safety and wellbeing concern. When protection services are necessary, the Child and Family Services system strives to provide them in a manner that promotes family preservation and reunification, with a focus on maintaining community ties.

It is, however, recognized that there continues to be many systemic issues within the Child and Family Services system that contribute to the inequities of services delivered to families and the overrepresentation of Indigenous children and youth in care. We are actively participating in the movement towards reconciliation. The larger goal of system reform has been long identified, and amendments to the *Child and Family Services Act* are part of this work.

The *Child and Family Services Act* must build the framework for evaluating when it is in the best interests of the child or youth to provide prevention/early intervention services and when protection services, including removal<sup>1</sup>, are necessary. The *Child and Family Services Act* must also establish principles and standards that require the system to meet the needs of NWT families. Regardless of the type of service being provided, Child and Family Services should be flexible, culturally safe, and have a strengths-based approach to ensure meaningful services are being provided and to address the unique needs of individuals and families.

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<sup>1</sup> The Department of Health and Social Services is proposing to revise terminology in the Act and replace the term "apprehension" with "removal". The term "removal" will be used throughout the discussion paper.

## **Standing Committee on Social Development’s review of the *Child and Family Services Act***

The Standing Committee on Social Development is mandated by the *Child and Family Services Act* to review the Act and its implementation every five years. The Committee recently completed their review and finalized a report titled, “Report on the *Child and Family Services Act*—Lifting NWT Children, Youth and Families: An All of Territory Approach to Keeping Families Together”.

The Report includes 19 recommendations, including a recommendation to make legislative changes to the *Child and Family Services Act* (recommendation 16). Many of the proposed changes identified under the recommendation complement the amendments identified by the Department in this Discussion Paper.

Once engagement is complete, the Department of Health and Social Services will work with Committee on legislative changes to the *Child and Family Services Act*. For a copy of the Report, please see: [www.ntassembly.ca/keepingfamiliesaltogether](http://www.ntassembly.ca/keepingfamiliesaltogether).

## **Overview of Legislation governing child and family services across Canada**

Each jurisdiction in Canada has a legislative framework that guides the delivery of child and family services within their province or territory. While each legislative framework is unique to its jurisdiction, such as the ages under which a child or youth may be defined, many frameworks are built on similar foundations: the best interests of the child/youth, prevention and protection services, and, where applicable, the involvement of a child/youth’s Indigenous group, community, or people. Newfoundland and Labrador’s *Children, Youth and Families Act* and British Columbia’s *Child, Family and Community Services Act* have served as the legislative frameworks that have informed our work based on their approach to service requirements and terminology.

Indigenous governing bodies are also enacting child/youth wellbeing laws across Canada, including the Inuvialuit Regional Corporation’s [Inuvialuit Qitunrariit Inuuniarnikkun Maliqaksat](#). These laws will impact the services provided by the GNWT as they set standards of service provision that may exceed those established under the GNWT’s *Child and Family Services Act* and that are specific to the culture of each Indigenous group, community, or people to whom the law applies. Where possible, the Department of Health and Social Services aims to mirror principles and standards that exceed those within our current legislative framework. We will continue to support Indigenous governing bodies who are, or who want to, enact their own laws.

# PLAIN LANGUAGE SUMMARY OF THE CURRENT *CHILD AND FAMILY SERVICES ACT*

## Child vs. youth

The Act defines a **child** as someone under the age of 16 (0-15 years of age) and a **youth** as someone between the ages of 16 and the age of majority (16 – 19 years of age).

## Preamble (“Whereas”)

The preamble explains the purpose and philosophy of the Act, such as the Act’s values and assumptions. There are a number of references to the “best interests” of a child/youth, which help guide decision-making when providing child and family services in the NWT.

## Voluntary Support Services and Agreements

The Act allows the Director of Child and Family Services to enter into three different types of voluntary support services and agreements for children, youth, young adults, and families to provide assistance. Voluntary support services and agreements are available for children, youth, young adults, and families on a voluntary basis and when there is no child or youth protection concern.

<u>Voluntary Services Agreements:</u>	Available for families with a child or youth.
<u>Support Services Agreements:</u>	Available for youth to support successful transition to adulthood.
<u>Extended Support Services Agreements:</u>	Available for young adults between the ages of 19-23 years of age who were in the permanent care of the Director of Child and Family Services prior to their 19 <sup>th</sup> birthday. These Agreements are meant to support the young adult as they transition to adulthood.

## Mandatory reporting

The Act requires a person to report any suspected child or youth maltreatment (i.e., concern for the child/youth’s safety).

## Child Protection Services

The Act sets out the child protection process, including timelines that must be followed. Furthermore, it requires a parent and, if applicable, the child or youth to be notified of their right to legal counsel throughout the child protection process.

Child protection services include apprehension, a Plan of Care Agreement (established by a Plan of Care Committee, as an alternative to a child protection hearing by the court), and related court hearings, such as the apprehension hearing and the child protection hearing.

### **Youth Protection Services**

A youth protection process is also established under the Act, which centres around a court hearing known as the youth protection hearing. The parent and youth must be notified of their right to legal counsel.

Unlike children during the child protection process, youth cannot be apprehended under the Act. Families with youth are also not eligible to enter into a Plan of Care Agreement.

### **Mediation / Alternative Dispute Resolution**

The Act provides for mediation or another alternative dispute resolution mechanism and requires a parent and, if applicable, the child / youth to be notified of their right to legal counsel throughout the process.

### **“Applicable Aboriginal Organizations”**

The Act requires that applicable Indigenous organizations be notified of child apprehensions hearings, child protection hearings, and youth protection hearings and allows for the applicable Indigenous organizations to be parties to these hearings.

A repository of applicable Indigenous organizations is maintained by the Director of Child and Family Services in accordance with the Regulations and is available on the Department of Health and Social Services website [here](#).

### **Permanent custody for purposes of adoption**

The Act allows for parents to bring a child to the Director of Child and Family Services for the purposes of adoption. The NWT's *Adoption Act* sets out the process for adoption, as adoption is not a child and family services matter, but this part of the Act sets out an initial court process to allow for the future adoption and also sets out timelines that allow for a parent to change their mind.

### **Confidentiality**

There are strict confidentiality provisions under the Act to protect the sensitive information in child and youth protection files. Information can be shared if it meets the criteria set out in the Act, including if, in the opinion of the Minister of Health and Social Services, the benefit of the release of the information would clearly outweigh any invasion of privacy that could result from the release.

## Mandatory review

The Act requires that it be reviewed every five years by the Legislative Assembly or one of its committees.

## Ministerial authorities and responsibilities

The Minister of Health and Social Services is responsible for appointing a Director of Child and Family Services. The Minister of Health and Social Services has several other responsibilities and authorities under the Act.

## Director of Child and Family Services Authorities and Responsibilities

The Director of Child and Family Services may appoint:

- Deputy Directors of Child and Family Services;
- Assistant Directors of Child and Family Services; and
- Child Protection Workers.

The Director of Child and Family Services can authorize and delegate duties and responsibilities under the Act to Assistant Directors, Child Protection Workers, and Authorized Persons.

The Director must also prepare and submit an annual report to the Minister of Health and Social Services in accordance with the Regulations.

## Regulations enacted

Reg No.	Regulation Title	Effective Date	Brief Overview of the Regulation
R-142-98	Child and Family Services Regulations	1998	The Regulations set out more details related to a Plan of Care Committee and Agreement; what must be included under the annual Director's report; and provides the forms (oaths, warrant for arrest, etc.). The Regulations also require the Director to maintain a list of applicable Indigenous organizations that must be notified under the Act.
R-064-2016	Territorial Authority and Boards of Management Delegation Order	2016	The Regulation sets out the authorities and responsibilities for the Health and Social Services Authorities.

## PROPOSED AMENDMENTS TO THE *CHILD AND FAMILY SERVICES ACT*

### I. Definitions and terminology

Terminology and definitions under the Act are outdated and do not support inclusiveness, reconciliation, and principles of cultural safety. Where possible, the *Child and Family Services Act* will align terminology with the Federal Act.

**Section of the current Act:** Definitions, Section 1 (and throughout Act).

**Proposed amendments:** The following terms should be added and defined under the Act:

Care Provider (new term): The Federal Act recognizes that “care providers” play a vital role in the care of an Indigenous child/youth. This definition will ensure Indigenous “care providers” are uniquely recognized, while also allowing for non-Indigenous children/youth/families to benefit from the involvement of their “care providers”.

The term “person having actual care of the child” that is found in the current Act would be replaced with “care provider” throughout.

Child and Family Services It is proposed that a definition is added that recognizes the full spectrum of services provided by the Child and Family Services system (i.e., prevention, early intervention, and protection).

Placement Resource Often referred to as “foster parent” or “foster home”. A defined term will help differentiate a “placement resource” (someone who is providing a service on behalf of the Director of Child and Family Services) from a “care provider” (defined above). The term “foster” is outdated, and it is proposed a term that is significantly different from “care provider” is used, so as not to be confusing to families and the service providers.

Three types of placement resources are identified: Extended family placement resource; Provisional placement resource (known to the child/youth/family); and Regular placement resource (not known to the child/youth/family).

The Director of Child and Family Services will be able to establish different requirements/standards for the types of placements to support family preservation (i.e., extended family placements) and connection with community (provisional placements)

**Proposed amendments:** The following terms should replace existing terms throughout the Act to ensure language is more respectful and current:

Indigenous replaces the term *Aboriginal*.  
\*Note: This may require an additional term/definition of Indigenous peoples to ensure alignment with the *Constitution Act, 1982*.

Removal replaces the term *apprehension*.  
The term apprehension was identified during informal engagements as a term that draws parallels to residential school experiences.

Neutral Gender Pronouns: personal pronouns should be gender silent and more inclusive (i.e., replace *he* or *she* with *they* or *them*).

### Questions for consideration: Definitions and terminology

Are there additional terms or definitions you would like included in the Act?

Are there any proposed terms or definitions you would change? If so, how?

## II. Best interests of children and youth

The best interests of children and youth under the *Child and Family Services Act* and the Federal Act are fairly aligned, but the Federal Act is more explicit in its application of the “best interest principles” and factors for consideration. This is an approach the Department of Health and Social Services would like referenced in the *Child and Family Services Act*.

These principles provide us with the pathway to further ensuring the wellbeing of Indigenous children, youth, and families in the NWT.

**Section of the current Act:** Principles governing the Act, section 2; Best interests of child, section 3.

**Proposed amendment:** Add a provision that references the best interests of child/youth under *Canada’s Act respecting First Nations, Inuit and Métis children, youth and families* (i.e., best interests of a child/youth set out in the *Child and Family Services Act* are in addition to those set out under the Federal Act).

## Questions for consideration: Best interests of children and youth

Are there additional principles that should be considered when child and family services are being provided?

### III. Support Services

Support services, commonly referred to as “prevention services”, are provided when there are no child or youth protection concerns. They are meant to offer help when children, youth, families, young persons, and expectant parents need it most.

**Section of the current Act:** Voluntary support services and agreements, sections 5 and 6; Extended support services agreement, sections 6.1-6.3

**Proposed amendment:** Provisions addressing support services are currently set out under the part of the Act that is focused on protection services.

Support services should be separated from protection services to better facilitate the services and to help reduce the stigma associated with receiving or seeking support from child and family services.

**Section of the current Act:** Consent and signature of child, section 5(2)

**Proposed amendment:** Revise section 5(2) [*consent and signature of child*] to remove the requirement for the Director of Child and Family Services to interview the child/youth and for the child/youth to consent and sign the Agreement unless it is deemed to be in the best interest of the child/youth.

Under the *Child and Family Services Act*, the Director of Child and Family Services is required to interview the child/youth before entering into a voluntary services agreement with a family, and the child/youth may consent/sign the agreement. As much as possible, we want to involve a child/youth where it would be in their best interests. However, sometimes involving a child/youth in a voluntary services agreement may not be appropriate and may prevent a family from seeking services under a voluntary services agreement because they do not want certain information shared with their child/youth. For example, if the agreement is related to financial supports.

**Section of the current Act:** Voluntary support services and agreements, section 5

**Proposed amendment:** Allow for the Director of Child and Family Services to enter into a voluntary services agreement with a care provider.

The *Child and Family Services Act* only allows the Director of Child and Family Services to enter into a voluntary services agreement with a person who has lawful custody of the child/youth. However, care providers provide day-to-day care of children/youth.

By allowing support services to be offered to a care provider, Child and Family Services recognizes the role care providers can play in preventing children/youth from requiring any further services.

**Section of the current Act:** Voluntary support services and agreements, section 5

**Proposed amendment:** Extend support services to expectant parent(s) during the prenatal period.

In recent practice, and in alignment with the Federal Act, support services have been amended to include services for expectant parent(s).

Extending support services to expectant parent(s) supports those who may require additional support in planning and preparing for the birth of the child.

**Section of the current Act:** Term of agreement, section 5(4); Term of agreement, section 6(3); and Support services and agreements for persons 19 to 23 years of age; section 6.3.

**Proposed amendment:** Extend the term of voluntary services agreement, support services agreements, and extended support services agreements to 12 months (from 6 months).

Extended support services agreement (s.6.3) do not have a set term of agreement (i.e., max timeline), whereas voluntary services agreements and the support services agreements have a six (6) month term of agreement. It is proposed that the term of agreement for all support services agreements under the Act are identified and extended to 12 months.

This amendment will ensure consistency with all support service agreements. It also allows for ongoing support for a longer period of time to families, youth, young persons, and expectant parents.

**Section of the current Act:** Voluntary support services and agreements, section 5 and section 6; Support services agreements, section 6.3.

**Proposed amendment:** Require that support services are prioritized over all other services to the extent that it is in the best interests of the child/youth.

The goal of this amendment is to help ensure the Child and Family Services system provides support services over any other services, as long as it is in the best interests of the child/youth. It also helps highlight that Child and Family Services is not just solely protection based.

**Section of current Act:** Extended support services agreements, section 6.1-6.3

**Proposed amendment:** Extend eligibility of Extended Support Services Agreements from age 23 to age 29.

Under the current *Child and Family Services Act*, only young persons between the ages of 19-23 are eligible to enter into an Extended Support Services Agreement. This age should be extended to allow for more flexibility as a young person prepares for adulthood and independence.

### **Questions for consideration: Support services**

Do these amendments help remove the stigma associated with seeking support from Child and Family Services? If not, what changes would you propose?

Are there additional support services that should be considered under the Act?

What are your thoughts on extending the eligibility of extended support services agreements from young persons to 29 years of age?

#### IV. Child / youth who needs protection

In 2020-21, neglect was the most reported form of child/youth maltreatment. It is identified under section 7(3) of the *Child and Family Services Act* as a reason for a child/youth needing protection:

- (h) *The child has been subject to a pattern of neglect that has resulted in physical or emotional harm to the child.*
- (i) *The child has been subject to a pattern of neglect and there is substantial risk that the pattern of neglect will result in physical or emotional harm to the child.*

In cases where there is a pattern of neglect, Child and Family Services has a responsibility to ensure the safety and wellbeing of that child or youth. This is an important function of the Child and Family Services system. An important distinction within Child and Family Services, however, is being able to assess child/youth protection concerns due to neglect versus the inability of a family to meet the basic needs of a child or youth due to socio-economic conditions.

**Section of current Act:** Child who needs protection, section 7(3)

**Proposed amendment:** Add a new provision stating that, to the extent that it is consistent with the best interests of the child or youth, a child or youth must not be removed solely on the basis of their socio-economic conditions, including poverty, lack of adequate housing or infrastructure, or the state of health or their parents or their care provider.

Including a clause that identifies that there is a difference between systemic neglect and parental neglect will help identify the services a family really needs.

#### **Questions for consideration: Child who needs protection**

The Child and Family Services system is identifying ways to differentiate between systemic neglect and parental neglect. Do you have recommendations on how the *Child and Family Services Act* can help reform this approach to neglect?

Defining neglect is not a common approach in existing child and family services legislative frameworks. Do you think it should be defined in the *Child and Family Services Act*? If so, how?

## V. Plan of Care Agreements

A plan of care agreement is a written agreement made by the Plan of Care Committee when protection concerns exist. It is an alternative to the court process and outlines a case plan for the child and family. The child may live in their own home or elsewhere. Under the *Child and Family Services Act*, a plan of care agreement cannot be used beyond a child's 16<sup>th</sup> birthday.

**Section of current Act:** Plan of care agreements, section 19-23

**Proposed amendment:** Allow a plan of care agreement to continue past a child's 16<sup>th</sup> birthday, if the child is the subject of a plan of care agreement immediately prior to their 16<sup>th</sup> birthday.

Allowing for a plan of care agreement to apply to a child beyond their 16<sup>th</sup> birthday would ensure there is no interruption in services already in place (i.e., services can continue in the mechanism that is working for that family).

The plan of care agreement can continue until it expires with the consent of the youth (i.e., no longer than two years from when the Agreement was entered into). If services are still required after the expiry of the plan of care agreement, the youth may consent to receiving services through a support services agreement.

The child must consent to the continuation of the plan of care agreement in order for it to be valid past their 16<sup>th</sup> birthday. The child may also opt out of continuing the plan of care agreement past their 16<sup>th</sup> birthday, if they prefer to receive services through a support services agreement.

**Section of current Act:** Plan of care agreements, section 19-23

**Proposed amendment:** A plan of care agreement may include provisions for a youth when that youth is a member of the family entering into a plan of care agreement for a child.

Currently, because provisions for a youth cannot be set out in a plan of care agreement, the youth receives services through a different avenue (support services agreement). Separate agreements provided to members of the same family do not support a holistic approach to child and family services and add an administrative burden on service providers.

If there are provisions for the youth in the plan of care agreement, the youth must be one of the required consents in order for the plan of care agreement to be valid.

The youth may opt out of a plan of care agreement with the family and choose to receive services through a support services agreement instead.

**Section of current Act:** Plan of care committee, section 15(2)

**Proposed amendment:** Require that, where applicable, a care provider must be invited to be a plan of care committee member.

Care providers provide the day-to-day care of a child and should be involved in decision-making in relation to requirements under a plan of care agreement

### Questions for consideration: Plan of care agreements

Are there any other individuals who should also be a plan of care committee member or anyone else who the plan of care committee should be required to invite to participate?

## VI. Powers of the Director of Child and Family Services

The *Child and Family Services Act* sets out specific powers of the Director of Child and Family Services, such as delegating duties to assistant Directors, authorizing Child Protection Workers to assist the Director, and providing direction to an authorized person. Proposed amendments to allow the Director of Child and Family Services to extend the eligibility and terms of any support service set out under the *Child and Family Services Act*, as identified below, were initiated through responses to the COVID-19 pandemic when it became apparent that children, youth, and families would need additional and/or ongoing support. The current Act, however, does not allow for this kind of flexibility, even when support services were needed. Instead, the Director had to rely on a Ministerial Directive issued through the GNWT's *Hospital Insurance and Health and Social Services Administration Act*.

**Section of current Act:** Powers of the Director, section 51(3)

**Proposed amendment:** Allow the Director of Child and Family Services to extend the eligibility and terms of any support service set out under the *Child and Family Services Act*, where the Director is satisfied that it is warranted for reasons of safety or to address a pressing gap in child

and family services. This includes:

1. Extending the term of a voluntary services agreement, support services agreement, or extended support services agreement beyond 12-months;
2. Extending the age of eligibility for support services agreements under s.6;
3. Extending the age of eligibility for extended support services agreements under s.6.2; or
4. Establishing a one-time (brief) use of voluntary services agreements for families of child/youth.

These additional powers will allow the Director to support youth/young persons who would ordinarily age out of receiving services, yet still require support to adjust to the situation. These powers would not force a family, youth, young person, or expectant parent to receive services, as these agreements are voluntary.

Examples of when these powers may be used are during a public health emergency or if a community is affected by floods or fires.

### **Questions for consideration: Powers of the Director of Child and Family Services**

Are there any additional powers the Director of Child and Family Services should have for reasons of safety or to address a pressing gap in child and family services?

## **VII. Placements while child / youth is in the care of the Director of Child and Family Services**

The *Child and Family Services Act* does not currently set out placement priorities when a child or youth is placed in the care of the Director, such as when a child/youth is in temporary custody or permanent custody. The Federal Act has set out placement priorities for Indigenous children and youth, which the Department of Health and Social Services would like to mirror in the *Child and Family Services Act*. Recognizing these placement priorities support a child and youth's connections with family, community, and culture, the Department is proposing to extend these placement priorities to both Indigenous and non-Indigenous children and youth.

**Section of current Act:** New

**Proposed amendment:** Set out placement priorities for a child/youth who is in the care of the Director of Child and Family Services.

To the extent that it is consistent with the best interests of the child/youth, placement priorities are:

1. One of the child/youth's parents;
2. Another adult member of the child/youth's family;
3. An adult who is in the child/youth's home community, region, or within the NWT and, where applicable, who belongs to the same Indigenous group, community, or people as the child/youth;
4. An adult who is in the child/youth's home community, region, or within the NWT and, where applicable, who belongs to an Indigenous group, community or people other than the one to which the child/youth belongs; or
5. Any other adult.

For sake of clarity, re: (i): a child/youth may only be placed with a non-custodial parent with the custodial parent's consent. The Department does not want to interfere with custodial rights.

**Section of current Act:** New

**Proposed amendment:** Include a requirement that when the order of priority is being applied, the possibility of placing the child/youth with or near children/youth who have the same parent (or who are otherwise members of the child/youth's family) must be considered in the determination of whether a placement would be consistent with the child/youth's best interests.

**Section of current Act:** New

**Proposed amendment:** Where it is in the best interests of a child/youth, placements for a child should be done in collaboration with a parent, and the placement proposed by the parent given the utmost priority. A safe placement solution proposed by the parent is often in the child/youth's best interest, and this amendment ensures the parent has the opportunity to identify a preferred placement.

**Section of current Act:** Statement of alternatives considered (apprehension hearing), section 12.1(5); application for declaration and order (child

protection hearing), section 24); and declaration that youth needs protection (youth protection hearing), section 29.2.

**Proposed amendment:** Require affidavit materials filed with the Court to include a statement:

- that efforts were made to place the child/youth in accordance with the priority list; and
- where a child/youth was not placed in accordance with the priority list, an explanation as to why.

This amendment ensures placement priorities were intentionally considered by Child and Family Services and reviewed by the Court.

### **Questions for consideration: Placements while child/youth is in care of the Director of Child and Family Services**

Are there additional priority placements that you would like included in the Act?

Are there other placement considerations Child and Family Services should be required to make when placing a child/youth who is in the care of the Director of Child and Family Services?

## **VIII. Family reunification**

Family reunification refers to the process of returning a child or youth in an out-of-home placement (when they are in the care of the Director of Child and Family Services) to their families. It is the primary goal for both short-term and long-term case planning for the child or youth. It is important that the *Child and Family Services Act* includes provisions that help achieve successful reunification.

**Section of current Act:** New

**Proposed amendment:** The Act should require that there is a reassessment, conducted on an ongoing basis, of whether it would be appropriate to place a child/youth with:

1. One of the child/youth's parents, if the child/youth does not reside with such a person; or
2. Another adult member of the child/youth's family, if the child/youth does not reside with such a person (or with one of their parents).

This amendment identifies a process to support family preservation and the recognition of the importance of family, community, and cultural continuity.

**Section of current Act:** New

**Proposed amendment:** Add a requirement that, to the extent that it is in the child / youth's best interests, if a child/youth is not placed with a member of their family, the child/youth's attachment and emotional ties to each such family member are to be promoted.

This amendment will ensure there is a focus on family preservation and the importance of family, community, and cultural continuity when providing services to children/youth.

### **Questions for consideration: Family reunification**

Are there different or additional requirements a Child Protection Worker should be required to take in order to prioritize family reunification?

## **IX. Information sharing**

Information related to Child and Family Services is of a particularly sensitive nature. However, the *Child and Family Services Act* is currently drafted in a way that does not allow for flexibility, even when that information sharing would benefit children, youth, young persons, families, and service providers.

Allowing for more information sharing would also permit the GNWT to better implement the requirements under the Federal Act, such as [exercising jurisdiction](#) or [receiving s.12 notice of significant measures](#), especially as it relates to the implementation of this provision beyond the initial notice set out under the Federal Act, such as the planning for the child/youth.

Information sharing provision would also facilitate data sharing with Indigenous governments as they prepare to exercise jurisdiction and/or provide Child and Family Services in communities / regions.

**Section of current Act:** Confidentiality and disclosure, section 70 and 71

**Proposed amendment:** Allow the Director to enter into information sharing agreements with governments and organizations in the NWT and Canada (including Applicable Indigenous Organizations, Indigenous governments, Indigenous Organizations, and Indigenous governing

bodies) for the collection, use, and/or disclosure of:

- statistical information; or
- identifiable and non-identifiable information.

Confidentiality and disclosure provisions do not currently allow for information sharing, even when it is in the best interests of the child, such as with the Public Health Agency of Canada to assist with identifying consistent indicators for child welfare statistics across Canada.

**Section of current Act:** Confidentiality and disclosure, section 70 and 71

**Proposed amendment:** Allow the Director of Child and Family Services to disclose information to Indigenous governments/Indigenous governing bodies in the NWT and Canada for the purposes of s.12 notification requirements (Federal Act), case planning, and future child and family services planning, delivery, and jurisdiction.

Child and Family Services is currently sharing information with Indigenous governments and Indigenous governing bodies through s.71(2)(j)—where in the opinion of the Minister, the benefit of releasing the information clearly outweighs any invasion of privacy that could result from the release.

This amendment would allow for the kind of information sharing that supports self-determination, including self-governance. Indigenous governments have identified the need for information related child and family services to better inform decision-making related to program and service delivery and self-determination.

### **Questions for consideration: Information sharing**

Are there additional information sharing provisions you would like included in the proposed amendments?

**Thank you for your interest in this work. Your feedback is valuable.**

Please submit comments and suggestions by April 30<sup>th</sup>, 2022.

Your contributions will be considered in the development of the proposed amendments to the NWT's *Child and Family Services Act* and included in a summary of *What We Heard*, which will be publicly available.