



Transformation of the Child Protection System

Action Recommended

CBABC recommends the B.C. government prioritize the modernization of the child protection system, so the rights of children are protected and changes to their circumstances are completed in a timely manner. Changes include:

- Improve access to legal representation for children and families so that fair solutions are reached faster.
- Review the foster care system and implement legislative measures to reduce the risk that children are placed in unsafe homes.
- Ensure Indigenous communities have the resources to assume responsibility for child welfare services.

Issues

The government needs to modernize the *Child, Family, and Community Service Act (CFCSA)* and related programs, policies and measures to reflect current expectations of the child protection system. While continuing to be aligned with B.C.'s *Declaration on the Rights of Indigenous Peoples Act (DRIPA)*, the system must deliver and review decisions on parenting and caregiving changes within a family more quickly. Parents and children must be aware of their rights and have legal representation.

Any changes to the *CFCSA* and the child protection system must complement the federal legislation and reflect commitments made in *DRIPA*, which came into force in late 2019. *DRIPA* recognizes and affirms the rights of Indigenous peoples, including their right to their own institutional systems. In late 2022, the B.C. government passed the *Indigenous Self-Government in Child and Family Services Amendment Act*, which amends the *Adoption Act* and the *CFCSA* to respect and uphold Indigenous communities' inherent rights to provide their own child and family services.

CBABC commends the government for formally integrating *DRIPA* into the *CFCSA*. The historic legislation reflects CBABC's recommendations to reduce the over-representation of Indigenous children in the child protection system and to involve Indigenous communities in matters concerning their children's welfare. However, the system continues to fail families who are often left with minimal resources to navigate a complex and overburdened system.



While integrating *DRIPA* into the *CFCSA* is an important first step, further reform is still needed. Often, the term “child protection” is replaced with the term “family policing” given the system’s role in maintaining “power and control over the lives of families and children – most often Indigenous families and children – through surveillance, regulation, and punishment”. Children in the foster system continue to be neglected and abused, prompting investigations by the Representative for Children and Youth. Given that Indigenous children dominate the family policing system, Indigenous children and families, yet again, are disproportionately impacted by the cracks in the welfare system. The B.C. government has acknowledged that the foster care system in B.C. remains problematic. That cannot continue. Further funding must be given to Indigenous communities to ensure that they have sufficient resources to support Indigenous child welfare services.

CBABC recommends that the B.C. government review its foster care system and implement legislative measures to reduce the risk that children are placed in unsafe homes, monitor foster homes to maintain children’s safety and ensure that children's rights are secured.

CBABC has advocated that the Ministry of Children and Family Development (MCFD) should not be able to remove a child without a court order. Given that the disjunctive clause in section 30(1)(a) in the *CFCSA* makes this possible, the act should be amended to ensure that this cannot take place, unless there is imminent danger to the life of the child.

Explicit protections against harmful conversion therapy practices and sexual orientation, gender identity and gender expression change efforts for lesbian, gay, bisexual, trans, two-spirit, queer, non-binary, intersex, asexual and other sexual minority children and youth are required to protect their rights. Section 4(1) of the *CFCSA*, which sets out relevant factors in determining the best interests of the child, should be amended to add a new subsection (h), namely: “the child’s sexual orientation, gender identity, and gender expression”.

The *CFCSA* states that “decisions should be made and implemented in a timely manner” yet delays often occur in matters concerning children caught in the welfare system. The B.C. government must ensure that timelines in the *CFCSA* are adhered to so that decisions impacting the care of a child are made and implemented efficiently. The B.C. government should invest in legal aid services so that children and families can obtain legal support early on in child protection matters, and so that the courts have enough resources to hear these matters expeditiously. Adequate funding is also required for resources that allow vulnerable families to address systemic issues, which most often include poverty, housing issues, mental health issues and/or addictions. Finally, children must be involved and heard in all matters concerning their care.



Why It Matters

These changes are necessary for the government to maintain public confidence in our child protection system and to fulfill the promise of reconciliation with Indigenous peoples. It is illogical to remove a child from their parents' care only to have that child be harmed or lose their life while in the care of the government. Children experience significant trauma when they are removed from their parents' home, even when it is for their safety. These children are entitled to have important decisions about their life addressed without delay to minimize adverse effects and ensure their rights are upheld throughout the process.

Key Resources

[*Child, Family and Community Service Act \[RSBC 1996\] c. 46*](#)

[*Wrapping Our Ways Around Them: Aboriginal Communities and the CFCSA Guidebook*](#), A. Walkem (2015)

[*Indigenous Resilience, Connectedness and Reunification: From Root Causes to Root Solutions: A report on Indigenous Child Welfare in British Columbia*](#), Grand Chief Ed John (2016)

[*Pathways in a Forest: Indigenous Guidance on Prevention-Based Child Welfare*](#), West Coast LEAF (Sep 2019)

[*Submission to the Premier of B.C. re: Implementing the United Nations Convention on the Rights of the Child in B.C.*](#), Canadian Bar Association, BC Branch (Jul 2023)

[*Consultation Paper on Modernizing the Child, Family and Community Service Act*](#), British Columbia Law Institute (Oct 2020)

[*Response to BCLI Consultation Paper re: Modernizing the Child, Family and Community Service Act*](#), Canadian Bar Association, BC Branch (Jan 2021)

[*Report on Modernizing the Child, Family and Community Service Act*](#), British Columbia Law Institute (Apr 2021)

[*A 360° view on family policing*](#), West Coast LEAF (Nov 2022)

[*Declaration on the Rights of Indigenous Peoples Act \[SBC 2019\] c. 44*](#)

[*Modernizing the Child Protection System in BC*](#), Canadian Bar Association, BC Branch (Oct 2021)