

**Awas'ak  
Wiyasiwewin**

Approved November 19, 2021

Enacted \_\_\_\_\_

## Table of Contents

<u>Section</u>	<u>Description</u>	<u>Page</u>
1.0	Citation	1
2.0	Interpretation and Definitions	1
3.0	Purposes of the Act	4
4.0	Jurisdiction and Legislative Authority	5
5.0	Office of the Onikanew	6
6.0	Principles of the Program	12
7.0	Placement of Child	15
8.0	Components of the Program	16
9.0	Notice of Legislative Authority	27
10.0	Adoption	27
11.0	Financial Assistance for Children Formerly in Care	27
12.0	Dispute Resolution Tribunal	28
13.0	Dispute Resolution	29
14.0	General	30
15.0	Review and Amendment of Act	31
16.0	Founding First Nation Resolutions	31
17.0	Engagement of Consultants	32
18.0	Confidentiality	32
19.0	Corporations Legislation Not to Apply	33
20.0	Enactment	33
21.0	Transitional	33

## 1.0 CITATION

1.1 This Act shall be cited as "*Awasiwewin*".

## 2.0 INTERPRETATION AND DEFINITIONS

2.1 In this Act unless the context otherwise requires:

- (a) the singular includes the plural;
- (b) a reference to one gender includes reference to other genders; and
- (c) "shall" and "must" are imperative.

2.2 In this Act, the following terms shall have the meanings hereinafter ascribed to them, namely:

- (a) "Act" means *Awasiwewin* and any Resolutions passed under it;
- (b) "Agency" means KTCCFS or other organizations contracted by the Onikanew to deliver the Child and Family Services Program;
- (c) "Approval Resolution" means a resolution passed by the Council of a Founding First Nation setting out the process by which the Members may approve the Act, including any amendments to the Act.
- (d) "Care home" means a place that provides contracted care to a Child in the Custody of the Onikanew or an authority responsible for the administration of child protection legislation in another province or territory of Canada and includes a secure home, a provincial foster home and a group home, but does not include a facility that primarily provides medical care, educational services or correctional services;
- (e) "Care Provider" means a person who has primary responsibility for providing the day-to-day care of a Child, other than the Child's Parents, including persons who are Care Providers in accordance with the customs or traditions of the FFNs;
- (f) "Charter of Rights and Freedoms" means Part 1 of *The Constitution Act, 1982*
- (g) "Child" means a person under the age of 24 years:
  - (i) who is a Member, or is entitled to become a Member; or
  - (ii) to whom this Act applies pursuant to a Coordination Agreement;
- (h) "Child and Family Services" means social services to support Children and Families, including Prenatal Services, Prevention Services, Early Intervention Services and Child Protection Services;

- (i) “Child and Family Services Program” means the program set out in section 8 of the Act;
- (j) “Child Protection Services” means any service provided to a Child who is in the Custody of an Onikanew;
- (k) “*The Constitution Act, 1982*” means Schedule B to the *Canada Act 1982 (U.K.) 1982, c.11*
- (l) “Coordination Agreement” means an agreement as defined in the Federal Act;
- (m) “Council” means the IGB of a Founding First Nation;
- (n) “Court” includes any federal, provincial or indigenous administrative tribunal or court;
- (o) “Custody” includes guardianship;
- (p) “Customary Care” means Preventive Services provided pursuant to section 8.6 of the Act;
- (q) “Day” means a calendar day ending at midnight, Alberta time;
- (r) “Dispute Resolution Tribunal” or “Tribunal” means the Dispute Resolution Tribunal established by this Act;
- (s) “Enacting Resolution” means a Resolution passed by a Founding First Nation enacting the Act in respect of that First Nation;
- (t) “Executive Director” means the person hired and designated by the Agency as an Executive Director for the purposes of this Act;
- (u) “Family” means the following:
  - (i) certain relatives of the Child, namely the mother, father, siblings, grandparents, cousins, aunts and uncles, whether by blood, cultural adoption, or marriage; and
  - (ii) any person who, prior to the involvement of the Onikanew, assumed substantial responsibility for raising the Child;
- (v) “Federal Act” means *An Act respecting First Nations, Inuit and Metis children, Youth and Families* SC 2019 Chap. 24;
- (w) “FFN” means a Founding First Nation;
- (x) “First Nation” means a band as defined in the *Indian Act* RSC 1985 c. I-5;

- (y) “Founding First Nations” means such of the following First Nations as have approved and enacted the Act in accordance with s.20:
  - a. Loon River First Nation #476,
  - b. Lubicon Lake Band #453, and
  - c. Peerless Trout First Nation #478;
- (z) “IGB” means an indigenous governing body as defined in the Federal Act;
- (aa) “Indigenous” when used in respect of a person, also describes a First Nations person, an Inuk or a Metis person;
- (bb) “Intervention Services” means any services, including Child Protection Services, provided to a Child or Family under this Act, except approval of Care Homes;
- (cc) “ISC” means Indigenous Services Canada or their successor;
- (dd) “Indigenous Community” means an indigenous group, community or people that holds rights recognized and affirmed by section 35 of *The Constitution Act, 1982*;
- (ee) “KTCCFS” means KTC Child and Family Services, a duly incorporated not for profit company under Part 9 of the *Companies Act* RSA 2000 Chap C-21;
- (ff) “Mediation” includes sharing circles, healing circles, and talking circles;
- (gg) “Member” means any person whose name appears or is entitled to appear on the membership list of a Founding First Nation;
- (hh) “Minister” means a minister of federal or provincial social services, as the case may be;
- (ii) “Onikanew” means the Office of the Onikanew of Child and Family Services established in Section 5 of the Act;
- (jj) “Parent” means:
  - (i) the mother of a Child, whether biological or by custom;
  - (ii) the father of a Child, whether biological or by custom;
  - (iii) a person who, by Court order or agreement with the Parent, has Custody of the Child; but does not include the Onikanew;
- (kk) “Participating Indigenous Community”, means an Indigenous Community who, by agreement with the Founding First Nations, is receiving the Child and Family Services Program;

- (ll) “Peace Officer” means a member of a Police Service;
- (mm) “Police Service” means
  - (i) the Royal Canadian Mounted Police; or
  - (ii) any provincial or municipal police service established by statute;
- (nn) “Prenatal Services” means services provided to an expectant mother;
- (oo) “Preventive Services” means services offered to Children at risk of intervention and their Families in order to keep Children and Families together, and includes Customary Care, counselling, guidance, supportive, educational, recreational, wellbeing and emergency shelter services, including related financial or material assistance, in order to aid in the resolution of family matters which if unresolved may create an environment requiring intervention;
- (pp) “Reserve” means any tract or tracts of land set apart by Treaty or otherwise designated for the use and benefit of each of the Founding First Nations and any Participating Indigenous Communities who are First Nations;
- (qq) “Resolution” means, unless otherwise indicated, a motion or resolution duly passed pursuant to s. 4.3 of the Act;
- (rr) “Services” includes financial assistance;
- (ss) “take into care” means to remove a Child from the Custody of a person; and place the Child in the Custody of the Onikanew.

### **3.0 PURPOSES OF THE ACT**

#### 3.1 The purposes of this Act are to:

- (a) affirm the jurisdiction and legislative authority of the Founding First Nations over Child and Family Services for their Members;
- (b) establish the Office of the Onikanew of Child and Family Services to provide the Child and Family Services Program;
- (c) set out the principles applicable to the interpretation of this Act and the operation of the Child and Family Services Program;
- (d) outline the components of the Child and Family Services Program;
- (e) establish the Dispute Resolution Tribunal and set out its jurisdiction and powers over disputes regarding the operation of the Child and Family Services Program;
- (f) provide for the execution of any Coordination Agreements; and

(g) other related purposes.

#### **4.0 JURISDICTION AND LEGISLATIVE AUTHORITY OF THE FOUNDING FIRST NATIONS**

##### **4.1 Affirmation**

The inherent right to self-government as affirmed by the *United Nations Declaration on the Rights of Indigenous Peoples* and section 35 of *The Constitution Act 1982* includes legislative authority in relation to Child and Family Services.

##### **4.2 Dispute Resolution Mechanisms**

For greater certainty and for the purposes of section 4.1, the authority to administer and enforce laws includes the authority to provide for dispute resolution mechanisms.

##### **4.3 Proceedings of the Founding First Nations**

This section shall only apply if all three Founding First Nations enact the Act as set out in section 20. If one or more Founding First Nations does not enact the Act, then the remaining Founding First Nations shall together establish their own proceedings.

- (a) The Founding First Nations may appoint equal numbers of representatives to carry out the duties and exercise the powers of the FFNs under the Act. The representatives may meet together, adjourn and otherwise regulate their meetings as they shall think fit. A quorum for each meeting shall consist of at least one appointed representative from each of the Founding First Nations. If a quorum is not present at a meeting, then the majority of the representatives present may adjourn the meeting to a further date, giving reasonable notice to all the Founding First Nations. Upon meeting at such further date, a quorum shall consist of all representatives present at such meeting.
- (b) At the first such meeting in a calendar year the representatives may designate one of their number to act as the Chair for that calendar year. The Chair shall also be entitled to vote for the First Nation to which she belongs. The Chair's duties shall include calling meetings and receiving consents to Resolutions as set out below.
- (c) Each Founding First Nation is authorized to exercise only one vote, no matter how many representatives are appointed.
- (d) Questions arising at any meeting shall be decided by a majority of votes at which a quorum is present.
- (e) No error or omission of notice of any meeting or any adjourned meeting shall invalidate such meeting, and any representative may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken.
- (f) Meetings may be held by telephone or videoconference, or other electronic means.

- (g) A Resolution consented to by all the representatives, though not passed at a meeting, shall be of the same force and effect as if it had been duly passed at a meeting duly convened. A representative may evidence their consent in writing, by fax, or by electronic mail, addressed to the Chair, who shall provide addresses for that purpose.
- (h) Minutes shall be taken at each meeting and made available to the Founding First Nations.

#### 4.4 **Application of Canadian Charter of Rights and Freedoms**

The *Charter of Rights and Freedoms* applies to Founding First Nations in the exercise of their jurisdiction in relation to Child and Family Services.

#### 4.5 **Scope of Act**

- (a) This Act and the Child and Family Services Program shall apply to all Members and their Children, whether they are residing on or off a Reserve.
- (b) This Act and the Child and Family Services Program may apply to all other persons residing on a Reserve pursuant to a Coordination Agreement.
- (c) This Act and the Child and Family Services Program may apply to a Participating Indigenous Community pursuant to an agreement with the Founding First Nations.

### 5.0 **OFFICE OF THE ONIKANEW OF CHILD AND FAMILY SERVICES**

#### 5.1 **Office Established**

- (a) An Office to be known as the Office of the Onikanew of Child and Family Services is established consisting of a Onikanew and administration.
- (b) The Onikanew shall be appointed by Resolution for a term of not less than 3 years, and she shall receive financial compensation and benefits as set out in the Resolution.
- (c) The Onikanew has the capacity and, subject to this Act and any Resolutions, the rights, powers and privileges of a natural person.
- (d) The Onikanew shall maintain an office at a place or places to be determined by Resolution.
- (e) The fiscal year of the Office of the Onikanew of Child and Family Services shall run from April 1<sup>st</sup> of each year to March 31<sup>st</sup> of the following year. The Onikanew shall prepare annual financial statements in accordance with generally accepted accounting principles and provide them to the FFNs, along with a written report to the FFNs and any Participating Indigenous Communities outlining the activities of the Onikanew and the Agency in the previous year.



- (f) Subject to this Act, Resolutions may be passed:
  - (i) expanding or clarifying the powers, duties or functions to be exercised or performed by the Onikanew ; or
  - (ii) imposing limits on the powers, duties or functions to be exercised or performed by the Onikanew.

## 5.2 **Duties and Powers of the Onikanew**

### 5.2.1 The duties and powers of the Onikanew are to:

- (a) advocate for, develop and deliver the Child and Family Services Program, including Child and Family Services and approval of Care Homes for Children and Families both on and off the Reserve, in accordance with this Act, and in such a manner that is Indigenous Community specific, Indigenous Community determined, and Indigenous Community based;
- (b) develop and deliver a Child and Family Services Program, including Child and Family Services and approval of Care Homes, for persons who are resident on the Reserve but are not Members, in a manner that respects their familial, cultural, social and religious heritage and beliefs;
- (c) subject to 5.2.3, negotiate, enter into, administer and generally deal with Child and Family Services agreements affecting Children and Families, with the various levels of government and the private sector;
- (d) subject to 5.2.3, negotiate, enter into, administer and generally deal with agreements affecting the children and Families of persons who are resident on the Reserve but are not Members, with the various levels of government and the private sector;
- (e) act as the representative of the Founding First Nations before the Dispute Resolution Tribunal, in the Courts, and with all levels of government for the review, advocacy, development and implementation of:
  - (i) this Act;
  - (ii) the calls to action of the Truth and Reconciliation Commission and Missing and Murdered Indigenous Women and Girls Commission;
  - (iii) the Articles of the United Nations Declaration of the Rights of Indigenous Peoples;
  - (iv) the existing and ongoing findings and orders of the Canadian Human Rights Tribunal in Decision 2016 CHRT-2;
  - (v) Jordan's Principle; and

- (vi) other entities as may be determined by Resolution;
- (f) liaise with non-indigenous, Metis, and non-status indigenous people as individuals or groups to improve Child and Family programs and services;
- (g) obtain from the Founding First Nations, other IGBs, Provinces and Canada records and information pertaining to Members and Children; and
- (h) any other duties and powers necessary, suitable, proper, convenient or incidental to the achievement of the purposes of the Act.

5.2.2 Nothing in these duties and powers shall be construed so as to abrogate or derogate from the inherent rights, treaty rights and aboriginal rights of the Founding First Nations.

### **Delegation to Agency**

5.2.3 At the direction of the Founding First Nations, by written agreement, which must be approved by Resolution, the Onikanew shall retain an Agency to carry out the Child and Family Services Program.

Pursuant to the agreement, the Onikanew shall delegate all of her duties and powers set out in this Act, except those set out in subsections 5.2.3.1, to 5.2.3.5 inclusive, to the Executive Director of the Agency, after which the role of the Onikanew shall be to

5.2.3.1 receive, manage and distribute funds provided for the operation of the Child and Family Services Program,

5.2.3.2 be accountable to the FFN Councils and Participating Indigenous Communities IGBs for the operation of the Child and Family Services Program;

5.2.3.3 supervise the performance of the Agency and the Executive Director

5.2.3.4 support Children and Families who become involved in the Child and Family Services Program to ensure that their voices are heard;

5.2.3.5 carry out investigations as set out below:

### **Investigation by Onikanew**

(a) Subject to subsections (c) and (d), the Onikanew shall investigate any decision or recommendation made, or any act done or omitted, by any person relating to the operation of the Child and Family Services Program.

(b) Subject to subsections (c) and (d), the Onikanew may make such an investigation either on a complaint made to the Onikanew by any person or on the Onikanew's own motion.

(c) Nothing in this Act authorizes the Onikanew to investigate any decision, recommendation, act or omission in respect of which there is under this Act a right of review to the Dispute Resolution Tribunal.

(d) The Onikanew may summarily dismiss any complaint that the Onikanew adjudges to be

- i) frivolous;
- ii) vexatious; or
- iii) unrelated to the operation of the Child and Family Services Program.

(e) At the conclusion of an investigation, the Onikanew shall make a report of her findings, decision and recommendations, if any and send it to the complainant, if any, and the person investigated. However, the Onikanew does not have the power to vary or reverse the decision, recommendation or omission which was investigated.

5.2.4 The Executive Director may subdelegate any duties and powers given to her by the Onikanew to other persons as necessary or advisable.

5.2.5 The Agency shall not assign the agreement entered into in this section to any other individual or organization without the written consent of the Onikanew.

5.2.6 If, in the opinion of the Onikanew, the Agency substantially breaches the agreement, the Onikanew may, with the approval of the Founding First Nations, terminate the agreement and enter into an agreement with another Agency.

### 5.3 **Office of the Onikanew Funding**

- (a) Founding First Nations and Participating Indigenous Communities shall transfer the money payable to them under a Coordination Agreement to the Onikanew for the purposes of these duties and powers;
- (b) the Onikanew may also receive funding directly from the federal government or provincial governments; and
- (c) the Onikanew may also receive funding directly from any agencies, entities or Indigenous Communities.

### 5.4 **Borrowing and Guarantees**

- (a) The Onikanew shall not borrow money except in accordance with a Resolution.
- (b) The Onikanew shall not give financial guarantees.

### 5.5 **Indemnification**

- (a) The Founding First Nations and Participating Indigenous Communities shall indemnify:

- (i) a present or former Onikanew;
- (ii) a person who acts or has acted at the request of the Onikanew,
- (iii) an employee or former employee of the Onikanew; and
- (iv) the heirs, estate and trustees of a person referred to in clause (i), (ii) or (iii),

against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by that person with respect to a civil, criminal or administrative action or proceeding to which that person is made a party by reason of holding such a position, if that person acted honestly, in good faith and with a view to the best interests of the Office of the Onikanew, and in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, if that person had reasonable grounds for believing that the conduct that is the subject of the action or proceeding was lawful.

- (b) The Onikanew shall not provide indemnities other than those:
  - (i) authorized by subsection (a); or
  - (ii) provided in accordance with a Resolution.

## 5.6 **Duty of Care**

- (a) The Onikanew, administration and Agency shall, in exercising powers and performing their duties;
  - (i) act honestly and in good faith and with a view to the best interests of the Children; and
  - (ii) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

## 5.7 **Compliance with Act**

- (a) All persons involved in the operation of this Act shall comply with this Act.
- (b) A provision of this Act overrides the terms of any contract or other arrangement conflicting with the provisions of this Act and such terms are void.
- (c) No terms or conditions of a contract or other arrangement that conflict with a provision in this Act are enforceable or give rise to any cause of action by any party against any other party to the contract or arrangement.

## 5.8 Disclosure of Information

- (a) Council may request from the Onikanew any information, excluding personal information, that the Council considers necessary, and the Onikanew shall disclose the information in the form and manner determined by the Council.
- (b) Subject to subsection (a), the Onikanew shall allow the Council's representative to:
  - (i) inspect and make copies of all records, accounts, reports and other documents for the Council and, in the case of an electronic document, make or cause to be made a printout of the electronic document; and
  - (ii) otherwise review the operations of the Onikanew.
- (c) If the information disclosed under subsection (a) or contained in records, accounts, reports and other documents of the Onikanew inspected or copied under subsection (b)(i) relates to Children and Families receiving any services from the Onikanew, the information is to be treated as having been provided in confidence.

## 5.9 FFN Resolutions

The Founding First Nations may make Resolutions:

- (a) respecting the terms and conditions of agreements entered into by the Onikanew;
- (b) respecting the borrowing of money by the Onikanew under section 5.4;
- (c) respecting indemnities referred to in section 5.5, any terms and conditions of an indemnity, and the circumstances and manner in which an indemnity may be given;
- (d) respecting appointment, remuneration, termination and other contractual terms and conditions of the Onikanew and administration;
- (e) respecting conflict of interest guidelines, codes of conduct and any other guidelines and policies in respect of the Office of the Onikanew;
- (f) requiring the Onikanew to prepare records and accounts and to provide them to the Council, and respecting those records and accounts; and
- (g) respecting generally the operations of the Onikanew.

## **6.0 PRINCIPLES AND REQUIREMENTS OF THE CHILD AND FAMILY SERVICES PROGRAM**

### **6.1 Best Interests of the Child**

This Act is to be interpreted and administered in accordance with the principle of the best interests of the Child. In particular:

- (a) the best interests of the Child must be a primary consideration in the making of decisions or the taking of actions in the context of the provision of Child And Family Services in relation to a Child and, in the case of decisions or actions related to *taking a Child into care*, the best interests of the Child must be the paramount consideration; and
- (b) primary consideration must be given to the Child's physical, emotional and psychological safety, security and well-being, as well as to the importance, for that Child, of having an ongoing relationship with their Family and with the Participating Indigenous Community to which he or she belongs and of preserving the Child's connections to their culture.

### **6.2 Factors to be Considered**

To determine the best interests of a Child, all factors related to the circumstances of the Child must be considered, including:

- (a) the Child's cultural, linguistic, religious and spiritual upbringing and heritage;
- (b) the Child's needs, given the Child's age and stage of development, such as the Child's need for stability;
- (c) the nature and strength of the Child's relationship with the Child's Parent, the Care Provider and any Family member who plays an important role in the Child's life;
- (d) the importance to the Child of preserving the Child's cultural identity and connections to the language and territory of the Indigenous Community to which the Child belongs;
- (e) the Child's views and preferences, giving due weight to the Child's age and maturity, unless they cannot be ascertained;
- (f) any plans for the Child's care, including care in accordance with the customs or traditions of the FFN or people to which the Child belongs;
- (g) any Family violence and its impact on the Child, including whether the Child is directly or indirectly exposed to the Family violence as well as the physical, emotional and psychological harm or risk of harm to the Child; and

- (h) any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the Child.

### 6.3 **Cultural Continuity**

This Act is to be interpreted and administered in accordance with the principle of cultural continuity as reflected in the following concepts:

- (a) cultural continuity is essential to the well-being of a Child, a Family and the Participating Indigenous Community;
- (b) the transmission of the languages, cultures, practices, customs, healing practices, traditions, ceremonies and knowledge of the FFN is integral to cultural continuity;
- (c) a Child's best interests are often promoted when the Child resides with members of the Child's Family and the culture of the FFN is respected;
- (d) Child and Family Services provided in relation to a Child are to be provided in a manner that does not contribute to the assimilation of the FFN or to the destruction of the culture of the FFN; and
- (e) the characteristics and challenges of the region in which a Child and a Family is located are to be considered.

### 6.4 **Substantive Equality**

This Act is to be interpreted and administered in accordance with the principle of substantive equality as reflected in the following concepts:

- (a) the rights and distinct needs of a Child with a disability are to be considered in order to promote the Child's participation, to the same extent as other children, in the activities of the Child's Family or the FFN;
- (b) a Child must be able to exercise her rights under this Act, including the right to have their views and preferences considered in decisions that affect them, and the Child must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;
- (c) a Child's Family member must be able to exercise their rights under this Act, including the right to have their views and preferences considered in decisions that affect the Family member, and they must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;
- (d) the Onikanew must be able to exercise without discrimination the rights of the FFNs under this Act, including the right to have the views and preferences of the Members considered in decisions that affect the Members; and

- (e) in order to promote substantive equality between FFN Children and other Children, a jurisdictional dispute must not result in a gap in the Child and Family Services that are provided in relation to FFN Children.

## 6.5 **Provision of Services**

Child and Family Services provided in relation to a Child are to be provided in a manner that:

- (a) takes into account the Child's needs, including with respect for the Child's physical, emotional and psychological safety, security and well-being;
- (b) takes into account the Child's culture and beliefs;
- (c) allows the Child to know their Family origins; and
- (d) promotes substantive equality between the Child and other children.

## 6.6 **Notice**

In the context of providing Child and Family Services in relation to the Participating Indigenous Community, to the extent that doing so is consistent with the best interests of the Child, before taking any significant measure in relation to the Child, the Onikanew must provide notice of the measure to the Child's Parent and the Care Provider, as well as to the Council.

## 6.7 **Personal Information**

The Onikanew must ensure that the notice provided to the Council does not contain personal information about the Child, a member of the Child's Family or the Care Provider, other than information that is necessary to explain the proposed significant measure, or that is required by a Coordination Agreement.

## 6.8 **Representations and Party Status**

In the context of a civil proceeding of any kind in front of any Court in respect to the provision of Child and Family Services in relation to a Child:

- (a) the Child's Parent and the Care Provider have the right to make representations and to have party status; and
- (b) the Onikanew and the Council have the right to make representations.

## 6.9 **Priority to Preventive Services**

In the context of providing Child and Family Services in relation to a Child, to the extent that providing Preventive Services to support the Child's Family is consistent with the best interests of the Child, the provision of those services are to be given priority over other



services. The Onikanew shall coordinate with other FFN service providers to ensure there is no duplication of existing Preventive Services.

#### **6.10 Priority to Prenatal Services**

Prenatal Services are to be given priority over other services in order to prevent the taking in of the Child at the time of the Child's birth. The Onikanew shall coordinate with other FFN service providers to ensure there is no duplication of existing Prenatal Services.

#### **6.11 Socio-Economic Conditions**

In the context of providing Child and Family Services in relation to a Child, to the extent that it is consistent with the best interests of the Child, the Child must not be taken into care solely on the basis of their socio-economic conditions, including poverty, lack of adequate housing or infrastructure or the state of health of their Parent or the Care Provider.

#### **6.12 Reasonable Efforts**

In the context of providing Child and Family Services in relation to a Child, unless immediate taking into care is consistent with the best interests of the Child, before taking into care a Child who resides with one of the Child's Parents or another adult member of the Child's Family, the Onikanew must demonstrate that they made reasonable efforts to have the Child continue to reside with that person.

### **7.0 PLACEMENT OF CHILD**

#### **7.1 Priority**

The placement of a Child in the context of providing Child and Family Services in relation to the Child, to the extent that it is consistent with the best interests of the Child, is to occur in the following order of priority:

- (a) with one of the Child's Parents;
- (b) with another adult member of the Child's Family;
- (c) with an adult who belongs to the *Child's Founding First Nation*;
- (d) with an adult who belongs to an Indigenous group, community or people other than the Founding First Nation; or
- (e) with any other adult.

#### **7.2 Placement With or Near Other Children**

When the order of priority set out in section 7.1 is being applied, the possibility of placing the Child with or near children who have the same Parent as the Child, or who are otherwise members of the Child's Family, must be considered in the determination of whether a placement would be consistent with the best interests of the Child.

### 7.3 **Customs and Traditions**

The placement of a Child under section 7.1 must take into account the customs and traditions of the FFN such as with regards to customary adoption.

### 7.4 **Family Unity**

In the context of providing Child and Family Services in relation to a Child, there must be a reassessment, conducted on an ongoing basis, of whether it would be appropriate to place the Child with:

- (a) a person referred to in subsection 7.1 (a), if the Child does not reside with such a person; or
- (b) a person referred to in subsection 7.1 (b), if the Child does not reside with such a person and unless the Child resides with a person referred to in subsection 7.1 (a).

### 7.5 **Attachment and Emotional Ties**

In the context of providing Child and Family Services in relation to a Child, if the Child is not placed with a member of their Family in accordance with subsection 7.1 (a) or 7.1 (b), to the extent that doing so is consistent with the best interests of the Child, the Child's attachment and emotional ties to each such member of her Family are to be promoted.

## 8.0 **COMPONENTS OF THE CHILD AND FAMILY SERVICES PROGRAM**

### 8.1 **Defining When a Child is in Need of Intervention**

For the purposes of this Act, a Child is in need of intervention if there are reasonable and probable grounds to believe that the safety, security or development of the Child is endangered because of any of the following:

- (a) the Child has been abandoned or lost;
- (b) the Parent of the Child is deceased, and the Child has no other Parent;
- (c) the Child is neglected by the Parent;
- (d) the Child has been or there is substantial risk that the Child will be physically injured or sexually abused by the Parent of the Child;
- (e) the Parent of the Child is unable or unwilling to protect the Child from physical injury or sexual abuse;
- (f) the Child has been emotionally injured by the Parent of the Child;
- (g) the Parent of the Child is unable or unwilling to protect the Child from emotional injury; or

- (h) the Parent of the Child has subjected the Child to or is unable or unwilling to protect the Child from cruel and unusual treatment or punishment.

## 8.2 **Definition of Neglect**

For the purposes of subsection 8.1 (c), a Child is neglected if:

- (a) the Parent is unable or unwilling to obtain for the Child, or to permit the Child to receive, essential medical, surgical or other remedial treatment that is necessary for the health or well-being of the Child; or
- (b) is unable or unwilling to provide the Child with adequate care or supervision.

## 8.3 **Definition of Emotional Injury**

For the purposes of this Act:

- (a) a Child is emotionally injured;
  - (i) if there is impairment of the Child's mental or emotional functioning or development; and
  - (ii) if there are reasonable and probable grounds to believe that the emotional injury is the result of:
    - A. rejection;
    - B. emotional, social, cognitive or physiological neglect;
    - C. deprivation of affection or cognitive stimulation;
    - D. exposure to Family violence or severe domestic disharmony;
    - E. inappropriate criticism, threats, humiliation, accusations or expectations of or toward the Child;
    - F. the mental or emotional condition of the Parent of the Child or of anyone living in the same residence as the Child; or
    - G. exposure to criminal behaviour.

## 8.4 **Reporting and Investigation/Reporting Child in Need**

- (a) Any person who has reasonable and probable grounds to believe that a Child is in need of intervention, including a Peace Officer, shall forthwith report the matter to the Onikanew.
- (b) Subsection (a) applies notwithstanding that the information on which the belief is founded is confidential and its disclosure is prohibited under any other legislation.

- (c) This section does not apply to information that is privileged as a result of a solicitor-client relationship.
- (d) No action lies against a person reporting pursuant to this section, including a person who reports information referred to in subsection (c), unless the reporting is done maliciously or without reasonable and probable grounds for the belief.

## 8.5 Investigation and Response

- (a) If the Onikanew receives information in the form of:
  - (i) a request for intervention services;
  - (ii) a report under section 8.4; or
  - (iii) any other allegation or evidence that a Child may be in need of intervention,the Onikanew must investigate the Child's need for intervention unless the Onikanew is satisfied that the information was provided maliciously or is unfounded or that the report or allegation was made without reasonable and probable grounds.
- (b) During an investigation, the Onikanew:
  - (i) may request the assistance of a Peace Officer; and
  - (ii) may convey a Child to any place in order to complete the investigation.
- (c) If, after an investigation, the Onikanew is of the opinion that the Child is in need of intervention, the Onikanew must:
  - (i) if the Onikanew is satisfied that it is consistent with the Child's need for intervention, provide Preventive Services to the Child or to the Child's Family in accordance with this Act; or
  - (ii) if the Onikanew is not satisfied that the Child's need for intervention can be met under subclause (i), take whatever action under this Act that the Onikanew considers appropriate, including the provision of Child Protection Services in accordance with this Act.
- (d) The Onikanew may, if the Onikanew is satisfied that it is consistent with the Child's need for intervention, convey the Child to the person who has Custody of the Child or to a person who is temporarily caring for the Child.
- (e) If Preventive Services are provided to the Child or to the Child's Family, the person or a member of the organization providing those services must report to the Onikanew any matter respecting the Child that may require further investigation by the Onikanew.

## 8.6 Customary Care

- (a) If the Onikanew is satisfied that without the provision of customary care a Child may be in need of intervention because the Parent of the Child cannot be located after a reasonable search or has died or become incapacitated, the Onikanew may appoint a person to care for the Child until the Parent can be located or other satisfactory arrangements can be made for the care of the Child, and the Onikanew may convey the Child for the purpose of placing the Child in the care of that person.
- (b) The person appointed under subsection (a) may care for the Child in the residence in which the Child was found and for that purpose may:
  - (i) enter the residence;
  - (ii) live in the residence;
  - (iii) carry on normal homemaking activities in the residence that are necessary for the care of the Child; and
  - (iv) exercise reasonable control over all Children residing in the residence.
- (c) The person appointed under subsection (a) may care for the Child in the person's own residence for the amount of time that the Onikanew directs.
- (d) When a person is appointed under subsection (a), no liability attaches to that person in the course of carrying out that person's duties under subsection (b) or to the Onikanew assisting that person in carrying out those duties by reason only of the entry into and occupation of the residence without the consent of the owner or occupier.

## 8.7 Preventive Services

- (a) A member of a Family may apply to the Onikanew for and may receive from the Onikanew Preventive Services in order to aid in the resolution of Family matters which if unresolved may create an unsuitable environment for a child.
- (b) The Onikanew may enter into an agreement with the Parent of a Child or with another person who, with the express or implied consent of the Parent or pursuant to a Court order or an agreement, has Custody of the Child with respect to the provision of services to the Family or the Child if, in the opinion of the Onikanew:
  - (i) the Child is at risk of intervention; but
  - (ii) as a result of the provision of Preventive Services, the Child's safety, security or development will be adequately protected if the Child remains with the Child's Parent or the person who has Custody of the Child, as the case may be.

- (c) Preventive Services may include, by agreement with the Parent, the appointment of a mediator to attempt to resolve matters relating to the Child's need for intervention.
- (d) The Onikanew may provide or purchase such supportive and treatment services as may be required to prevent family disruption or restore family functioning.
- (e) The Onikanew may provide emergency financial and material assistance to prevent family disruption;
- (f) Any interested community group or individual may apply to the Onikanew for assistance in resolving community problems which are affecting the ability of Families to care adequately for their children.
- (g) The Onikanew may establish programs to facilitate the participation of volunteers in the provision of services.
- (h) Where it appears to the Onikanew that a Child is in need of care outside the home for varying periods of time during the day, the Onikanew may, by agreement with the Parent of the child, place the Child in a Care Facility that operates as a day care.
- (i) Where it appears that the Parent requires training in homemaking and child care, the Onikanew may with the consent of the Parent place a parent aide in the home of the Parent in order to provide the training.

## 8.8 **Custody Agreement**

- (a) The Onikanew may enter into an agreement with the Parents of a Child under which Custody of the Child is given to the Onikanew if, in the opinion of the Onikanew:
  - (i) the Child is in need of intervention; and
  - (ii) the safety, security or development of the Child cannot be adequately protected if the Child remains with the Child's Parent.
- (b) The agreement may include the following:
  - (i) the visits or other access to be provided between the Child and the Parents and Family and any other person with whom the Child has a significant relationship;
  - (ii) the conditions, if any, under which the Onikanew will consult with the Parents on matters affecting the Child; and
  - (iii) any other matter relating to the parenting of the Child.
- (c) The agreement may be made for whatever period of time the parties agree is in the best interests of the Child, or it may be permanent.

- (d) If it is permanent, the Onikanew must make best efforts to find new Parents for the Child as quickly as possible.

#### **8.9 Access Agreements**

The Onikanew may enter into an access agreement with anyone who has a significant relationship with the Child.

#### **8.10 Minor Parent**

- (a) the Onikanew shall work with other interested professionals and organizations to ensure that minor parents are informed of services that are available to them.
- (b) the Onikanew on application by a minor parent shall establish a plan and provide services which is in the best interests of the parent and child.
- (c) Any agreement entered into under this Act by a person under 18 years of age is as valid as if that person had attained the age of 18.

#### **8.11 Termination of Agreement**

The Onikanew may terminate a Custody or access agreement and return the Child to the Parents at any time if in the Onikanew's opinion the Parents are ready, willing and able to resume parenting the Child.

#### **8.12 Taking into Care**

- (a) If a Onikanew has reasonable and probable grounds to believe that a Child is in need of intervention, the Onikanew may take into care the Child, and may request the assistance of a Peace Officer in order to do so.
- (b) The Onikanew and any Peace Officer called on for assistance, may, by force if necessary, enter a place or premises and search for and take into care the Child.
- (c) A Peace Officer may take into care a Child in need of intervention and, as soon as practical thereafter, place the Child in the Custody of the Onikanew.
- (d) If a Child is apprehended in Alberta or another province under the authority of that province's or other child welfare legislation and placed in the Custody of the Onikanew by that province's or other child welfare authorities, the Child is deemed to be taken into care under this Act as well, effective on the date the Child is so placed.

#### **8.13 Notice of Taking into Care**

- (a) If a Child has been taken into care, the Onikanew shall notify the Parents of the Child forthwith that the Child has been taken in, the reasons for it, and provide contact information of the Onikanew

- (b) Notice under subsection (a) may be by any method and may be oral or in writing.
- (c) The validity of proceedings pursuant to this Act is not affected if the Onikanew is unable, after reasonable effort, to give notice in accordance with this section.

#### 8.14 **Exclusive Custody**

If a Child has been taken into care, the Onikanew has exclusive Custody of the Child and is responsible for the Child's care, maintenance and well-being.

#### 8.15 **Health Care on Taking into Care**

- (a) If the Parent of a Child who has been taken into care is unable, unavailable, or refuses to consent to the provision of essential medical, surgical, dental or other remedial treatment for the Child that is recommended by a physician, dentist, or other qualified medical professional, the Onikanew may authorize the provision of any recommended treatment for the Child.
- (b) If a Child is treated under this section, no liability attaches to the person treating the Child by reason only that the Parent of the Child did not consent to the treatment.

#### 8.16 **Custody on Taking into Care**

- (a) If a Child is taken into care by the Onikanew, the Child may remain in the Custody of the Onikanew until the Onikanew decides that the Parents or other Family of the Child are ready, willing and able to parent the Child, or, failing which, the Child is adopted.
- (b) The Onikanew may decide who has access to a Child who has been taken into care.

#### 8.17 **Right to Custody**

Subject to the terms of any applicable Coordination Agreement, the right of the Onikanew to the Custody of a Child when the Child is in the Custody of the Onikanew takes precedence over the rights given by any order or agreement not made pursuant to this Act respecting guardianship, Custody, access, contact, parenting time or the Child's place of residence, whether that order or agreement:

- (a) was granted to a person who is a party to the proceedings under this Act or not; or
- (b) was granted before or after the Child came into the Custody of the Onikanew.

#### 8.18 **Death of Child**

When a Child who is in the Custody of the Onikanew dies, the Onikanew shall;

- (a) notify the Family;



- (b) notify the local Police Service and Provincial Coroner;
- (c) consent to an autopsy of the body of the Child; and
- (d) in consultation with the Family, arrange for the burial or other disposition of the body of the Child.

#### 8.19 **Placement: Secure Services**

If a Child or the Child's Family is receiving services under this Act, or the Child is in the Custody of the Onikanew and the Onikanew has reasonable and probable grounds to believe that:

- (a) the Child is in a condition presenting an immediate danger to the Child or others;
- (b) it is necessary to confine the Child in order to stabilize, assess and treat the Child; and
- (c) less intrusive measures are not adequate to sufficiently reduce the danger, the Onikanew may convey the Child, and may detain the Child while the Child is being conveyed, to a secure services facility and may confine the Child in a secure services facility.

#### 8.20 **Placement Generally**

- (a) The Onikanew shall place Children who are in her Custody applying the priorities and other considerations set out in sections 7.1 to 7.5.
- (b) The Onikanew may place a Child in a Care Home or in a home or group home that has been approved by another authority.

#### 8.21 **Approval Required for Care Home**

No person shall operate a Care Home unless that person holds a subsisting Care Home approval issued by the Onikanew under this Act.

#### 8.22 **Application for Approval for Care Home**

- (a) An application for a Care Home approval for Care Home or a renewal of an Care Home approval for Care Home must:
  - (i) be made to the Onikanew in a form satisfactory to the Onikanew; and
  - (ii) state the maximum number of persons intended to be accommodated or cared for in the Care Home.
- (b) On considering an application for or renewal of a Care Home approval, the Onikanew may issue a Care Home approval and impose terms and conditions in the approval.

- (c) Unless otherwise specified in the approval, the term of a Care Home approval is one year from the date of its issue.
- (d) A Care Home approval issued under this section must indicate:
  - (i) the Care Home that may be operated under the approval;
  - (ii) who may operate the Care Home;
  - (iii) the maximum number of children, other than children of a *Care Provider*, who may reside in the Care Home;
  - (iv) the term of the approval if the term is other than one year from the date of issue; and
  - (v) any conditions to which the approval is subject.

### 8.23 Varying a Approval

The Onikanew may, on the application by an approval holder in a form acceptable to the Onikanew, vary the terms or conditions to which the approval is subject.

### 8.24 Standards

A holder of a Care Home approval must ensure that the Care Home meets the requirements of any applicable Resolution, and the Care Home approval holder may not charge more for Care Home services than the rates provided for in any applicable Resolution.

### 8.25 Inspection

- (a) Subject to subsection (b), for the purposes of ensuring compliance with this Act, the Resolutions and any conditions to which a Care Home approval is subject, the Onikanew or a person authorized by the Onikanew may:
  - (i) at any reasonable hour enter a Care Home other than a private dwelling place and inspect it;
  - (ii) enter a Care Home that is a private dwelling place and inspect it with the consent of the owner or operator of the private dwelling place;
  - (iii) require the production of any books, records or other documents and examine them, make copies of them or remove them temporarily for the purpose of making copies;
  - (iv) inspect and take samples of any material, food, medication or equipment being used in a Care Home; and
  - (v) perform tests, take photographs or make recordings in respect of a Care Home.
- (b) When a person removes any books, records or other documents under subsection (a)(iii), the person must:

- (i) give to the person from whom those items were taken a receipt for those items; and
  - (ii) forthwith make copies of, take photographs of or otherwise record those items and forthwith return those items to the person to whom the receipt was given.
- (c) When a person takes samples of any material, food, medication or equipment under subsection (a)(iv), the person must:
- (i) give to the person from whom those items were taken a receipt for those items; and
  - (ii) on that person's request, return those items to that person when those items have served the purposes for which they were taken.
- (d) If entry is refused or cannot be reasonably obtained under subsection (a) or a person interferes with a Onikanew or a person authorized by a Onikanew in exercising rights and performing duties under this section, an application may be made to the Dispute Resolution Tribunal for an order that the Onikanew or a person authorized by the Onikanew may:
- (i) at any reasonable hour enter the Care Home and inspect it;
  - (ii) require the production of any books, records or other documents and examine them, make copies of them or remove them temporarily for the purpose of making copies;
  - (iii) inspect and take samples of any material, food, medication or equipment being used in the Care Home; and
  - (iv) perform tests, take photographs or make recordings in respect of the Care Home,
- and the Dispute Resolution Tribunal may, on being satisfied that the order is necessary for the purpose of this section, make any order that it considers appropriate.
- (e) An application under subsection (d) may be made without notice, if the Dispute Resolution Tribunal considers it proper.

## 8.26 **Order After Inspection**

If a Care Home has been inspected under section 8.25 and the Onikanew is of the opinion that:

- (a) this Act, a Resolution or a condition of a Care Home approval is not being complied with; or

(b) the Care Home is not providing proper care,

the Onikanew may in writing order the person operating that Care Home to take measures as specified in the order within the time limits specified in the order.

#### 8.27 **Suspension or Cancellation of Approval**

(a) When the Onikanew is of the opinion that:

(i) a Care Home approval holder is not providing proper care to a Child who resides in the approval holder's Care Home;

(ii) the premises described in the Care Home approval have become unfit or unsuitable for a Care Home; *or*

(iii) a Care Home approval holder has not complied with:

A. this Act, a Resolution, or a condition of the Care Home approval, an Order of the Dispute Resolution Tribunal or the Onikanew; or

B. any other FFN legislation that applies to a Care Home;

the Onikanew may, by notice in writing to the Care Home approval holder, vary, suspend or cancel the Care Home approval or terminate the licensee's contract with the Onikanew to provide Care Home services.

(b) Every contract between the Onikanew and the owner or operator of a Care Home is deemed to contain a provision that the Onikanew may terminate the contract without notice and without damages payable by the Onikanew to the owner or operator if the owner or

(c) operator fails to comply with an Order of the Dispute Resolution Tribunal or the Onikanew or if the Care Home approval is suspended, cancelled or expired.

**9.0 NOTICE OF LEGISLATIVE AUTHORITY AND COORDINATION AGREEMENT**

- (a) When the Founding First Nations intend to exercise their legislative authority in relation to Child and Family Services, the FFNs shall give notice of that intention to Canada and each Province in which Members and Children are located.
- (b) The Founding First Nations may also request that Canada and each of those Provinces enter into a Coordination Agreement with the FFNs in relation to the exercise of the legislative authority, respecting, among other things:
  - (i) the provision of emergency services to ensure the safety, security and well-being of children;
  - (ii) support measures to enable children to exercise their rights effectively;
  - (iii) fiscal arrangements, relating to the provision of Child and Family Services by the Founding First Nations, that are sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for Children, Families and the FFNs, and to support the capacity of the Founding First Nations to exercise the legislative authority effectively; and
  - (iv) any other coordination measure related to the effective exercise of the Founding First Nations legislative authority.
- (c) Any such notice and request given prior to the approval of this Act is deemed to be valid notwithstanding that the Act was not in effect at the time the notice was given.

**10.0 ADOPTION**

- (a) A Child in the Custody of the Onikanew may be adopted in accordance with the customary adoption practices of the FFN.
- (b) Such an adoption terminates any other order, agreement, or rights with respect to the Child.

**11.0 FINANCIAL ASSISTANCE FOR CHILDREN FORMERLY IN THE CUSTODY OF THE ONIKANEW**

- (a) A Onikanew may provide financial assistance in respect of a Child who was in the Custody of the Onikanew to a person who adopts the Child.
- (b) If a Child who at one time was in the Custody of the Onikanew is living independently, the Onikanew may provide financial assistance to the Child, until the Child reaches the age of 24.

## **12.0 DISPUTE RESOLUTION TRIBUNAL**

### **12.1 Dispute Resolution Tribunal Established**

- (a) The Dispute Resolution Tribunal is hereby established.
- (b) The Tribunal has the capacity and, subject to this Act and any Resolutions, the rights, powers and privileges of a natural person.
- (c) Each Founding First Nation and each Participating Indigenous Community may appoint up to two members of the Dispute Resolution Tribunal for a term of 3 years.
- (d) The members of a Tribunal shall receive remuneration, and payment for travelling, living and other expenses incurred in the course of their duties as members.
- (e) Each Founding First Nation and Participating Indigenous Community shall be responsible for the remuneration and expenses of their appointed members.
- (f) Notwithstanding subsection (b), where the appointment of a member of a Tribunal expires, the member continues to hold office until
  - (i) the member is reappointed,
  - (ii) a successor is appointed, or
  - (iii) a period of 3 months has elapsed,whichever occurs first.
- (g) The Chair and one or more Vice-chairs of the Tribunal shall be appointed by Resolution from among the members of the Tribunal, and the Founding First Nations shall be responsible for their remuneration and expenses.
- (h) The Tribunal shall maintain an office at a place or places to be determined by Resolution.
- (i) The fiscal year of the Tribunal shall run from April 1<sup>st</sup> of each year to March 31<sup>st</sup> of the following year. The Chair shall prepare annual financial statements in accordance with generally accepted accounting principles and provide them to the FFNs and Participating Indigenous Communities, along with a written report outlining the activities of the Tribunal in the previous year.
- (j) The quorum to hear a review under this Act is 3 members, at least one of which must be a member of the First Nation or Participating Indigenous Community of the Applicant or the Child, but an appeal may be heard by any one member for procedural matters related to the review or in emergency circumstances provided for in a Resolution.

- (k) Subject to this Act, Resolutions may be passed:
  - (i) respecting rules under which reviews under this Act are to be made and heard and dealing generally with all matters of procedure before the Dispute Resolution Tribunal under this Act;
  - (ii) respecting the emergency circumstances in which a review may be heard by one member of the Tribunal;
  - (iii) prescribing the forms including notices to be used in any application made to the Dispute Resolution Tribunal;
  - (iv) subject to this Act, respecting Mediation;
  - (v) respecting the qualifications of persons conducting Mediation.

### **13.0 DISPUTE RESOLUTION**

13.1 The following persons directly affected by a decision of the Onikanew under this Act, other than financial decisions, may request, in writing within 30 days of the decision, that the Dispute Resolution Tribunal review the decision:

- (a) a Child;
- (b) a Parent;
- (c) a Family member;
- (d) an individual who has had continuous care of a Child for more than 6 of the 12 months preceding the decision of the Onikanew;
- (e) a person who is receiving or may be eligible to receive support under this Act; and
- (f) an applicant for a Care Home approval or a renewal of a Care Home approval.

13.2 A request under section 12.1 must set out:

- (a) the decision in sufficient details for the Dispute Resolution Tribunal to be able to identify it; and
- (b) the grounds for the review.

- 13.3 The person making the request shall give it to the Onikanew, who upon receiving it shall within 7 days send a copy to the Dispute Resolution Tribunal.
- 13.4 In reviewing a decision, the Dispute Resolution Tribunal may receive oral or written submissions from the person who requested the review and the Onikanew.
- 13.5 The Tribunal may also conduct its own investigations and receive evidence from any other person it deems necessary in order to make its decision.
- 13.6 At any stage of the proceedings the Dispute Resolution Tribunal may, with the agreement of the Parties, direct that the dispute should be mediated by a mediator appointed by the Dispute Resolution Tribunal.
- 13.7 On completing a review the Dispute Resolution Tribunal may:
- (a) confirm the decision that has been reviewed; or
  - (b) direct the Onikanew to review and reconsider the decision.
- 13.8 The Dispute Resolution Tribunal must, within 60 days of receiving the request under section 13.3, provide the person who requested the review with a copy of the decision that includes the reasons.

#### **14.0 GENERAL**

##### **14.1 Delegation from Onikanew**

- (a) The Onikanew may delegate any power, duty or function of the Onikanew under this Act to any of the following:
  - (i) a person employed or engaged in the administration of this Act;
  - (ii) a person who is providing care to a Child in respect of that Child; or
  - (iii) any other person.

##### **14.2 Delegation to Onikanew**

The Onikanew is authorized to receive any authority delegated to an official by any government or child welfare authority relating to a Child who is in the Custody or under the guardianship of that government or authority.

The Onikanew is authorized to receive any authority under any Provincial legislation relating to a Child.

##### **14.3 Protection from Liability**

- (a) Subject to subsection (b), no action lies or may be commenced or maintained against any individual, the Agency, FFN, Participating Indigenous Community or



the Dispute Resolution Tribunal in respect of anything done or omitted to be done in the exercise or intended exercise of any power under this Act or in the performance or intended performance of any duty or function under this Act.

- (b) Subsection (a) does not apply in relation to anything done or omitted to be done in bad faith.

#### 14.4 **Computation of Time**

- (a) If in this Act the time limited for the doing of a matter expires or falls on a holiday, it may be done on the day next following that is not a holiday.
- (b) If in this Act the time limited for the doing of a matter, expires or falls on a day on which the office or place in which it is required to be done is not open during its regular hours of business, it may be addressed on the day next following on which the office or place is open.

### 15.0 **REVIEW AND AMENDMENT OF ACT**

#### 15.1 **Process to Review**

- (a) The Founding First Nations may at any time by Resolution of all FFNs amend or repeal the Act in part only.
- (b) Such amendment, or repeal shall be effective for 6 months from the effective date set out in the Resolution.
- (c) Notwithstanding subsection (b), an amendment to or repeal of the Act may be made permanent if approved by the Members of each FFN pursuant to each respective FFN's Approval Resolution within 6 months of the effective date of the amendment or repeal.
- (d) If the amendment, or repeal is rejected by the Members of any FFN, it ceases to have effect immediately for that FFN, notwithstanding subsection (b).
- (c) Every 5 years after the day on which this Act comes into force, the Founding First Nations *must* undertake a review of the provisions and operation of this Act.

#### 15.2 **Report**

The Onikanew must prepare a report on the review that sets out their conclusions and recommendations.

### 16.0 **FFN RESOLUTIONS**

The FFNs may make any Resolutions required to facilitate the operation of this Act, but those Resolutions are void if they conflict with any provisions of this Act.

## **17.0 ENGAGEMENT OF CONSULTANTS**

- (a) FFNs may appoint experts or persons having special technical or legal knowledge to advise the Dispute Resolution Tribunal or the Onikanew when they perform their duties and functions under this Act.
- (b) A person appointed under section (a) may be paid the remuneration and expenses that the FFNs prescribe.

## **18.0 CONFIDENTIALITY**

- (a) The Onikanew and any person employed or assisting in the administration of this Act may disclose or communicate personal information that comes to the Onikanew's or attention under this Act only in accordance with proceedings before the Dispute Resolution Tribunal, or as follows:
  - (i) to any person or organization, if the disclosure is necessary to plan services for or provide services to the Child or the Child's Family or to plan or provide for the day-to-day care or education of the Child;
  - (ii) to the Parents or Family of the Child to whom the information relates;
  - (iii) to the Child to whom the information relates;
  - (iv) to any person employed in the administration of child protection legislation in another province or treaty territory in Canada; or
  - (v) to any person with the written consent of the Onikanew.
- (b) The Onikanew or a person acting on behalf of the Onikanew, may collect and use personal information, including health information, for the purposes of conducting an assessment or an investigation or providing services under this Act.
- (c) A hospital, medical care facility, Police Service, school, educational authority, health authority, membership clerk, or other custodian of personal information shall provide personal information to the Onikanew on request of the Onikanew.
- (d) No liability attaches to the Onikanew or any other person who discloses or communicates information in accordance with this section if the disclosure or communication is made in the administration of this Act or for the protection of the Child.
- (e) Despite subsection (a), the name of a person who makes a report to the Onikanew about a Child who may be in need of intervention and any information that would identify that person is privileged information of the person making the report and is not admissible in evidence in any action or proceeding or before any inquiry without the consent of the person.

## **19.0 CORPORATION LEGISLATION NOT TO APPLY**

- (a) The *Canada Not-for-Profit Corporations Act* SC 2009, c. 23 does not apply to either the Office of the Onikanew or the Dispute Resolution Tribunal.
- (b) No provincial legislation dealing with not-for-profit organizations applies to either the Office of the Onikanew or the Dispute Resolution Tribunal.

## **20.0 ENACTMENT**

- 20.1 The provisions of this Act shall come into force with respect to each Founding First Nation on the date set out in that FFN's Enacting Resolution.
- 20.2 An Enacting Resolution is only valid if:
  - 20.2.1 The Enacting Resolution is passed following the approval of the Act by the Members;
  - 20.2.2 The approval by the members was done in accordance with that FFN's Approval Resolution; and,
  - 20.2.3 The Approval Resolution was passed before the approval was given by the Members.
- 20.3 An Enacting Resolution may provide that various sections of the Act shall come into force at different times, or upon later Council Resolution.
- 20.4 If one or more of the Founding First Nations has not passed a valid Enacting Resolution, then the provisions of this Act shall apply to the other Founding First Nations with all necessary changes implied.

## **21.0 TRANSITIONAL**

Upon the coming into force of this Act, subject to the terms of any applicable Coordination Agreement:

- (a) at the written request of the Onikanew, a Province shall immediately transfer the file of a Child in the Custody of the Province to the Onikanew;
- (b) the Onikanew shall be deemed to have assumed Custody of a Child in the Custody of a Province when the Child's file has been transferred from the Province to the Onikanew, or 30 days have elapsed since the request for the file was received by the Province, whichever is sooner.
- (c) until the file has been so transferred, the current status of a Child in the Custody of the Province continues, but
- (d) the Onikanew must be consulted before any decisions are made with respect to the Child. Any decision made without consultation with the Onikanew is deemed to be void.