

## **Improving access to prevention services for First Nations, Inuit and Métis children, young persons and families – Proposals under the *Child, Youth and Family Services Act, 2017***

### **Purpose**

The purpose of this document is to seek feedback from Ontarians related to the Ministry of Children, Community and Social Services' ("the ministry") **proposed** statutory amendments to the *Child, Youth and Family Services Act, 2017* (CYFSA) as well as proposed regulatory amendments to Ontario Regulations (O. Reg.) 155/18 and 156/18 under the CYFSA.

The proposed legislative (statutory and regulatory) changes involve provisions in respect of First Nations, Inuit and Métis children, young persons and families, and have the policy goal of improving access to prevention and early intervention services, including through holistic and wraparound culture-based supports.

Please provide the ministry with your comments by email to [OICYS@ontario.ca](mailto:OICYS@ontario.ca) by no later than **October 4, 2021**.

### **Introduction**

Since 2013, the ministry has engaged collaboratively with representatives of First Nations, Inuit and Métis peoples, as well as Indigenous service providers, to better understand their perspectives on improving outcomes for First Nations, Inuit and Métis children, youth and families. In 2015, these engagements resulted in approval by both Indigenous leadership and Ontario of the co-developed *Ontario Indigenous Children and Youth Strategy* (OICYS). The OICYS was reaffirmed in July 2020 through the ministry's Child Welfare Redesign (CWR) Strategy and continues to be the overall framework that supports all work the ministry undertakes in respect of First Nations, Inuit and Métis children, youth and families.

The CWR Strategy is a multi-year strategy to redesign the child welfare system, and is intended to shift focus from reactionary service delivery to enhanced, community-based, prevention and early intervention-focused services to support the safety and success of children and youth. The CWR Strategy includes a distinct Indigenous approach that seeks to address the unique needs of First Nations, Inuit and Métis children, youth and families.

Under both the third pillar of the OICYS — "Coordinated and Responsive Circle of Care" — and the distinct Indigenous approach of the CWR Strategy, the ministry has a mandate to develop proposed legislative changes to enhance prevention-focused wraparound supports for First Nations, Inuit and Métis children, youth and families as well as to enhance the role of prevention-focused Indigenous service providers. This work includes proposing statutory and regulatory amendments to the CYFSA that seek to:

- Implement holistic wraparound supports for First Nations, Inuit and Métis children, youth and families under the CYFSA that follow Indigenous models for enhancing well-being; and,
- Enhance the role of Indigenous service providers that are not children’s aid societies (societies) within Ontario’s child and family services system.

The proposed legislative amendments outlined in this discussion guide are informed by the ministry’s ongoing engagements with Indigenous partners including Indigenous service providers and representatives of First Nations, Inuit and Métis peoples. Throughout the duration of the posting on Ontario’s Regulatory Registry, the ministry will continue to engage with Indigenous service providers, representatives of Indigenous peoples, and Indigenous societies, including through the bilateral and multilateral tables established to implement the OICYS.

Other relevant developments that have occurred recently in the Indigenous child and family services policy sphere include the coming into force on January 1, 2020 of the federal Act - [An Act respecting First Nations, Inuit and Métis children, youth and families](#), which has two broad purposes including to:

- Establish nationally applicable principles for the delivery of child and family services to Indigenous children and families, which pertain to the best interests of the child, cultural continuity and substantive equality; and,
- Affirm the rights and jurisdiction of First Nations, Inuit and Métis peoples in relation to child and family services.

This discussion guide outlines examples of the proposed statutory and regulatory amendments to the CYFSA to achieve the objectives outlined above. The ministry is seeking public feedback and comment on all of the proposals outlined below.

## **Description of Proposals**

Within the following sections is a brief description related to each of the proposals the ministry is considering:

### ***Create a clearer role for prevention-focused Indigenous service providers that are not societies within Ontario’s child and family services system***

The ministry is proposing a group of amendments that are intended to establish a clearer role for prevention-focused Indigenous service providers that are not societies within the legislative regime, which the ministry anticipates can help enhance access to prevention and early intervention services for First Nations, Inuit and Métis children, young persons and families.

First, the ministry is proposing to provide a definition in the CYFSA or its regulations of prevention-focused Indigenous service providers that are not societies. The ministry is considering different terms to be used for the definition, such as “prevention-focused

Indigenous service provider”, “Indigenous community-based service provider”, or “Indigenous prevention service provider”.

The ministry is considering outlining the characteristics of prevention-focused Indigenous service providers that are not societies. Examples of possible characteristics include:

- The entity provides community-led and community-based prevention and early intervention services that are grounded in Indigenous worldviews.
- The entity is not itself a band or First Nations, Inuit or Métis community.
- The entity is either:
  - an agency, as defined in s. 2(1) of the CYFSA, that is not also designated as a children’s aid society under s. 34(1) or licensed as a residential care provider under s. 244; or,
  - an identifiable department, which does not deliver child protection services, of a band or First Nations, Inuit or Métis community.
- If an agency, the agency is either:
  - governed by a majority of First Nations, Inuit or Métis individuals; or,
  - controlled or operated by a band or First Nations, Inuit or Métis community.
- If an agency, the agency is mandated to serve First Nations, Inuit or Métis peoples or persons.

To clearly delineate the role of prevention-focused Indigenous service providers, the ministry is also proposing to amend the CYFSA or its regulations to describe the functions of prevention-focused Indigenous service providers that are not societies. Examples of proposed functions are:

- Providing prevention and early intervention services to promote the well-being of First Nations, Inuit and Métis children in order to prevent circumstances that would require the involvement of a society;
- Creating safe, accessible and community-based spaces for First Nations, Inuit and Métis children, young persons and families;
- Assisting First Nations, Inuit and Métis children and young persons to exercise their rights and helping to ensure that those rights are respected by persons and entities;
- Helping to maintain the unity of a First Nations, Inuk or Métis child’s family, wherever possible; and,
- Convening a group of caring adults, extended family members and other holistic wraparound supports to promote the well-being of a First Nations, Inuk or Métis child or young person.

Finally, the ministry is proposing to establish a list of prevention-focused Indigenous service providers that are not societies. The proposed list would include the names, and potentially the regions, of those entities that meet a new definition of prevention-focused Indigenous service providers that are not societies. This proposal includes that the

determination of which entities meet the definition of a prevention-focused Indigenous service provider would be within the authority of the Minister.

This group of proposals is intended to provide clarity and certainty to other service providers, including societies and residential care providers regulated under the CYFSA, so that they are able to easily identify prevention-focused Indigenous service providers that are not societies when fulfilling proposed new obligations (see proposal below) in respect of referral to prevention-focused Indigenous service providers.

### ***Proposed addition to the “Other purposes” of the CYFSA***

The ministry is considering an addition to the “Other purposes” provision of the CYFSA that would, if passed, complement the existing First Nations, Inuit and Métis-specific other purpose, which is to recognize that “First Nations, Inuit and Métis peoples should be entitled to provide, wherever possible, their own child and family services, and all services to First Nations, Inuit and Métis children and young persons and their families should be provided in a manner that recognizes their cultures, heritages, traditions, connection to their communities, and the concept of the extended family” (s. 1(2)(6)).

The proposal includes the addition of language that would, if passed, make it clear that First Nations, Inuit and Métis children youth and families should be able to access prevention and early intervention services, as much as possible, wherever they may reside in Ontario, including from prevention-focused Indigenous service providers.

### ***Create specific rights for First Nations, Inuit and Métis children and young persons***

The ministry is considering amendments to the CYFSA that would, if passed, articulate the unique rights of First Nations, Inuit and Métis children and young persons. Any proposed rights provisions would be intended to acknowledge the importance of prevention and early intervention services to the well-being of First Nations, Inuit and Métis children and young persons as well as the importance of a child maintaining their First Nations, Inuit and Métis identities.

Proposed additions to Part II under section 3 “Rights of Children and Young Persons Receiving Services” could include:

- A right to maintain First Nations, Inuit and Métis cultures, heritages, traditions, connection to community and concept of extended family;
- A right to identify as First Nations, Inuk or Métis;
- A right to, wherever possible, access prevention and early intervention services;
- A right to, wherever possible, access services near where a child or young person lives; and,
- A right to access services that do not contribute to a First Nations, Inuit and Métis child or young person’s assimilation and instead help to preserve their cultures, heritages, traditions, connection to community and concept of extended family.

Proposed additions to Part II under the “Rights of Children in Care” could include:

- A right of First Nations, Inuit and Métis children to be *informed* about their right to access services or supports provided by a prevention-focused Indigenous service provider while in care; and,
- A right to be referred to at least one prevention-focused Indigenous service provider that is not a society to access services or supports.

***Requirements to refer First Nations, Inuit and Métis children and young persons to prevention-focused Indigenous service providers that are not societies***

The ministry is proposing to require service providers, or specific service providers such as societies or residential care providers, to refer First Nations, Inuit and Métis children and young persons to a prevention-focused Indigenous service provider that is not a society. These proposed requirements are intended to increase First Nations, Inuit and Métis children and young persons’ access to culturally-appropriate prevention and early intervention supports and to prevent children from requiring contact with a society.

One requirement that the ministry is considering is for all service providers to refer a First Nations, Inuk or Métis child to a prevention-focused Indigenous service provider that is not a society. This referral would be similar to the existing requirements in O. Reg. 156/18 section 6 (First Nations, Inuk or Métis child – complementary services), but would include referrals specifically to prevention-focused Indigenous service providers that are not societies.

Additionally, the ministry is considering some circumstances in which societies would be required to refer a First Nations, Inuk or Métis child to a prevention-focused Indigenous service provider, that is not a society, including:

- After a society receives a referral that a First Nations, Inuk or Métis child may be in need of protection but before beginning an investigation;
- When a society makes a determination as to whether or not the First Nations, Inuk or Métis child is in need of protection; and,
- The point at which a child is identified as a First Nations, Inuk or Métis child.

The ministry is considering the following process when service providers may be required to make a referral to a prevention-focused Indigenous service provider:

- Ask the child or young person, or the child’s parent(s), if they wish to be referred to a prevention-focused Indigenous service provider, that is not a society, to access services and supports.
- Ask the child or young person, or the child or young person’s parent(s), if they wish for the service provider to contact the prevention-focused Indigenous service provider, or if the child or young person, or the child or young person’s parent(s) wish to contact the prevention-focused Indigenous service provider themselves.

- If the child or young person, or the child or young person’s parent(s), would like the service provider to contact a prevention-focused Indigenous service provider, then the service provider would contact the prevention-focused Indigenous service provider to determine next steps in order for the child or young person to access the services and supports provided by the prevention-focused Indigenous service provider.

It is anticipated that increased referrals to prevention-focused Indigenous service providers may prevent First Nations, Inuit and Métis children from needing protection services. Increased access to prevention-focused Indigenous service providers is expected to improve outcomes and well-being for First Nations, Inuit and Métis children and young persons.

### ***Holistic and wraparound supports for First Nations, Inuit and Métis children***

The ministry is considering a requirement for certain service providers, for example societies or residential care providers, to ask a First Nations, Inuk or Métis child, or the child’s parent(s), if they would like to formally establish a group of supportive individuals and entities around them to help improve their well-being. This supportive group is based on Indigenous approaches to bringing together a “circle of care” that focuses on holistic and wraparound supports for First Nations, Inuit and Métis children and their families. The ministry is still considering at which points certain service providers might be required to ask if a supportive group of adults should be established, but requirements could provide that the child or the child’s parent(s) are asked in a flexible and appropriate manner, including at more than one point during the provision of services.

If a First Nations, Inuk or Métis child or the child’s parent(s) wishes to establish a group of caring adults to be involved in supporting the child, they could be asked which individuals and entities they would like to include. Individuals or entities that participate, on a voluntary basis, could include, in addition to the child or the child’s parent(s):

- Extended family members;
- Any resource person(s) named by the child under s. 5 of O. Reg. 156/18;
- A representative chosen by each of the child's bands and First Nations, Inuit or Métis communities;
- Other members of the child’s bands and First Nations, Inuit or Métis communities;
- Prevention-focused Indigenous service providers that are not societies;
- Elders; and,
- Other supportive adults identified by the child.

The ministry is also considering proposals that, where this supportive group of adults is formally established, certain service providers could be obligated to consult with the group at specific points in the provision of services. For example, a society might be

required to engage on the development of a First Nations, Inuk or Métis child's plan of care.

The intention of this proposal is to provide First Nations, Inuit and Métis children with better access to holistic and wraparound supports from a wide variety of individuals and entities. It is also anticipated that these holistic and wraparound supports would move with the child as they receive services throughout the child and family services systems.

### ***Revisions to O. Reg. 156/18***

The ministry is considering amendments to O. Reg. 156/18 section 6 (First Nations, Inuk or Métis child – complementary services) that would make it consistent with the proposals outlined above.

### **Conclusion**

All interested parties are encouraged to provide feedback on the proposals in this document. The ministry values the unique and diverse perspectives from children and youth, families, representatives of First Nations, Inuit and Métis peoples, Indigenous service providers and broader sector partners.

Please provide the ministry with your comments by email to [OICYS@ontario.ca](mailto:OICYS@ontario.ca) no later than October 4, 2021.

Please note that you will not receive a formal response to your comment. The ministry will review all feedback received.

Thank you for taking the time to review this document and provide feedback.