

Report on the 2015 Review of the Child and Family Services Act - Executive Summary

In September 2014, the third legislative review of the *Child and Family Services Act* (CFSA or the Act) was announced. These reviews are conducted by the Ministry of Children and Youth Services (MCYS) and are a way for the government to better understand how its laws, programs and policies are experienced.

To allow as many people as possible to participate and present their thoughts and views, the process for the 2015 review was inclusive, with many avenues to provide feedback and make recommendations. This report is a summary of what was heard from a diverse group of children, youth, families and service providers in Ontario about the ways the Act affects their lives – and aspects of the Act that could be strengthened or improved.

What Was Heard...

Since its proclamation in 1985, the *Child and Family Services Act* has been periodically revised and updated. The majority of participants in the review suggested that it is now time for Ontario to consider substantial changes to the legislation that governs many of its programs and services for children, youth and their families.

Participants put forward a wide range of ideas on how the legislation could be amended or reshaped to better meet the needs of children and youth, and to further their rights and interests. Service providers, youth and their families want the legislation to reflect the social changes that have taken place in the province over the past 30 years, and see it as an opportunity to prepare Ontario for the future. Beyond the recommendations specific to the targeted areas of the review, a number of overarching themes emerged on how the Act could more broadly help improve outcomes for children and youth:

- **Perspectives, Rights, and Voices of Children and Youth:** Participants, including many youth, advocated for a CFSA that better reflects and incorporates the views of young people. They emphasized that the CFSA should be child- and youth-centred, grounded in rights, and that it should use strengths-based language.
- **Prevention and Support Focus:** Families, youth and service providers alike reflected a common belief that the CFSA should emphasize prevention and support, before resorting to more intensive intervention- or protection- based approaches.
- **Access to Services and Supports:** Participants repeatedly emphasized the importance of equitable access to high-quality, culturally appropriate and community-based services.

- ***Diversity (e.g., Ethnic, Racial, Linguistic, Religious, Cultural or Gender Identities) and Vulnerable Groups:*** Participants noted that the CFSA does not reflect the diversity of Ontario, and that this creates barriers for children and youth to remain connected to their racial, ethnic, religious or linguistic identities. Participants also suggested that certain child and youth populations require specific attention and additional support due to historical or social issues and that their experiences should be better reflected in the CFSA.
- ***Transitions and Continuity of Care:*** The issue of transitions (e.g., transitions from child and youth to adult service systems, transitions across child and youth service systems, and transitions from systems of care to adulthood/independent living) was consistently raised as an area that needs to be more directly addressed in the CFSA. Participants noted the establishment of lifelong relationships with caring and supportive adults and peers was essential to assist children and youth to transition into adulthood.
- ***Increasing Accountability and Transparency:*** Participants suggested that the CFSA could be clarified with respect to accountability and transparency. Many advocated specifically for clearer and more transparent performance expectations for those services within the scope of the CFSA. There were also calls for increased third party oversight in order to handle complaints and hold entities and individuals accountable for their actions in child, youth and family services.
- ***Recognizing Systemic Challenges:*** Participants advocated for the CFSA to recognize the systemic challenges associated with poverty and to support families to overcome these challenges.

Modernizing and Clarifying the Language of the Act

Much of the feedback received in this review indicated that changes could be made to the structure of the CFSA so that it would be more easily understood by parents and youth. Examples included expanding provisions respecting the rights of children and making the protection of those rights one of the stated purposes of the Act, or consolidating critical complaint and review processes into one Part instead of having these intermittently placed throughout the Act.

Participants advocated for the removal of language from the CFSA that they viewed as archaic, confusing or stigmatizing. They stated that the language in the legislation should be amended to be more common, current, respectful, strengths-based, and child- and youth-focused. Participants also called for a plain language version of the Act, available in multiple languages or formats, including indigenous languages.

Supporting Older Youth Who are in Need of Protection

Participants often referred to and supported the recommendations made in the Final Report of the Youth Leaving Care Working Group entitled *Blueprint for Fundamental Change to Ontario's Child Welfare System*. There was broad agreement that it is “essential” and “urgent” that the age of protection be raised from age 16 to age 18.

Participants also noted that it should be done in a way that supports protection services to older youth on a voluntary basis, this being reflective of the needs of this age group. Youth participants stated that they want more control over their own lives but need financial, educational, emotional, social and life-skill supports to be able to transition to a healthy, stable adulthood.

Residential Services and Licensing

Participants repeatedly noted that amending provincial legislation, standards and accountability mechanisms is critical to ensuring that foster homes, group homes, youth justice facilities and respite services meet the needs of children and youth. One of the key concerns identified by participants was a perceived lack of robust provincial standards and regulations to support the safety and wellbeing of children and youth receiving residential services. Participants suggested that the standards that are in place are not being consistently applied.

Participants said there is a lack of specific standards and expectations for the different forms of residential services (e.g., foster homes, group homes, youth justice facilities and respite homes), and that the differences between forms are not always clear, raising challenges to consistency and quality of care. Participants called for greater consistency in the application of standards across all services, regardless of geography, through a more robust system of inspections and enforcement.

Participants suggested that there should be a shift away from maintaining minimum standards and that instead there should be mechanisms in place for continuous quality improvement, to ensure that the standards set out by legislation are met. Participants also recommended that additional requirements for human resources (e.g., additional staffing ratios) and staff training across a variety of areas should be added to the CFSA and its associated regulations.

Information Sharing

Participants in the review consistently expressed a need for a legislative framework for information management within and across services in order to protect, support and improve outcomes for children, youth and families. However, it was also stated that this requires a careful approach and sensitive, system-wide solutions that balance issues of ownership, privacy and collaboration.

All participants emphasized the importance of personal privacy and called for information-sharing provisions that strike a careful balance between protecting the privacy of the individual and the family, and promoting the best interests of the child. To accomplish this, participants raised the idea of adopting a “circle of care” model for information sharing for children and youth receiving services under the CFSA. Children, youth and parents articulated their desire for participation in decisions about ownership of, and access to, their personal and service information.

Many children, youth and families expressed frustration at having to repeatedly “tell their story” to get the services they need. It was emphasized that agencies, organizations and government should work within an information-sharing framework that reduces the need for families to have to repeatedly tell the same stories (possibly painful) and answer the same questions (possibly intrusive) when they are trying to access services.

Many participants recommended that the Act should require the government to monitor, collect and publicly report specific data on how the services governed by the CFSA are performing, particularly with respect to disadvantaged groups.

Permanency (including Adoption)

Overall, participants reiterated the importance of keeping families together. Participants articulated a need for enhancements to the CFSA with respect to prevention services and permanency planning, timelines, and the importance of maintaining a focus on the best interests of children and youth. Participants stated that the CFSA should be amended to support better permanency planning and the development of plans of care.

Participants were adamant about the importance of keeping children and youth within their communities and with family, and stated this could be better reflected in current practices, in the CFSA, and in its regulations. Participants suggested that more could be done to work with and support parents and families earlier and more intensively, through community supports or other resources.

Many participants raised questions about the determination of access and openness orders for children and youth. Participants stressed the importance of maintaining sibling relationships in all but extreme circumstances.

Participants also raised many issues and recommendations regarding adoption, including:

- Proposing that Ontario could organize the CFSA into two distinct parts, or create two separate pieces of legislation – one for child protection (adoption of Crown wards) and another for voluntary or private adoptions where a licensee places a child for adoption and the parents' consent to the adoption;
- Calling for a Provincial Adoption Agency to be established under the CFSA to work parallel to children's aid societies to coordinate and improve adoption services across the province, as well as a general desire to ensure that Crown wards are more consistently placed for adoption in Ontario;
- Stating a desire for the CFSA to be clearer with respect to intercountry and interprovincial adoptions that are finalized in Ontario under the CFSA, including greater portability of assessments (e.g., the SAFE homestudy) among public, private, domestic and intercountry adoption streams, and;
- Suggesting that the CFSA should establish explicit and very limited legislative criteria for interfering with the final phases of an adoption, in the cases where that may be necessary.

Supporting Aboriginal Children and Youth

The Aboriginal population in Ontario is diverse, with differences that result in a range of perspectives, approaches and needs for service supports. The term "Aboriginal people" generally refers to First Nations, Métis and Inuit peoples. However, most groups prefer to be identified by their distinct name in recognition and respect of their distinct cultures, relationships, identities, rights and histories.

Several recommendations for supporting Aboriginal children and youth that were heard from participants most consistently include:

- There is strong support for increasing Aboriginal control over the design, delivery and governance of child and youth services, which is seen as key to improved outcomes for First Nations, Métis, Inuit and urban Aboriginal youth in Ontario.
- Both Aboriginal and non-Aboriginal participants were unanimous in calling for revisions to the

terms “Indian,” “native person” and “native community” in the CFSA. Participants suggested that any expanded definition incorporate the definitions used under the *Indian Act* as well as the definition of “Aboriginal” used in Section 35 of the Constitution. Although some participants suggested the term “Aboriginal” be used, a majority supported the use of “First Nations, Métis and Inuit” as the more complete and inclusive terminology.

- It was noted that expanded and inclusive definitions that explicitly allow for self-identification would permit more children to access culturally appropriate services (e.g., kinship and customary care).
- Several participants recommended the introduction of language in the purposes section of the CFSA to further promote the preservation and promotion of culture, identity, language and heritage of Aboriginal children and that these should be a central consideration for all who exercise authority under the Act.
- First Nations youth engaged in this review suggested that the CFSA should focus more on prevention and on promoting activities for youth in remote First Nations communities. The Act should also provide reintegration supports (including housing) for youth raised outside of their communities who wish to return home as young adults.
- Aboriginal and non-Aboriginal service providers also emphasized the importance of kinship and customary care, and the need for community-youth connections to be maintained as a part of each plan of care.
- Service providers also suggested that the CFSA could be used to ensure collaboration among non-Aboriginal service providers, Aboriginal service providers and Aboriginal communities, with respect to improving outcomes for Aboriginal children and youth.
- Legislative amendments were proposed that could support the development of a more culturally competent service sector, which would include the skills and training necessary to provide culturally responsive services to Aboriginal children, youth and families.
- With regard to the issue of permanency, including adoption, for First Nations, Métis and Inuit children, most participants cited a need for expanded and strengthened provisions respecting the application of kinship and customary care. The most commonly suggested amendment was the inclusion of a provision or provisions requiring children’s aid societies to demonstrate that every reasonable effort has been made to place an Aboriginal child into an Aboriginal home within their respective cultures and nations.
- Inuit and Métis organizations engaged in this review asked for changes to Part X of the CFSA so that explicit reference could be made to the customary adoption and kinship care practices of their respective cultural groups.
- Participants recommended that a role similar to the Office of the Provincial Advocate for Children and Youth be established to promote the interests of First Nations, Métis, Inuit and urban Aboriginal children and youth in Ontario.

Provisions Imposing Obligations on Societies Providing Services to “Indian or native” Persons

The CFSA includes a number of provisions that impose obligations on societies that provide services or exercise authority under the Act “with respect to Indian or native children.” It is a requirement of the Act that every public review specifically report on these provisions.

These provisions support one of the stated purposes of the CFSA, which is “to recognize that Indian and native people should be entitled to provide, wherever possible, their own child and family services, and that all services to Indian and native children and families should be provided in a manner that respects their culture, heritage and traditions and the concept of the extended family.” Some of the main observations pertaining to compliance with these provisions include:

- There was consensus from all participants in the review that the full potential of the existing provisions in Part X of the CFSA has yet to be realized. This applies in particular to Section 211, which allows “a band or native community [to] designate a body as an Indian or native child and family service authority.” Although the number of Aboriginal child and family service organizations in Ontario has increased, participants expressed concerns that some areas of the province continue to lack a designated Aboriginal agency for the provision of protection services.
- Some participants recommended removing the words “wherever possible” from Section 1 (2) 5 of the Act, as a means to establish the entitlement of Aboriginal communities to provide their own child and family services was of paramount importance.
- Some participants suggested that a way to improve compliance with Section 213 and 213.1 would be to include an expanded and clarified definition of “consultation.” First Nations people in particular advocated for improved notification and consultation for all services delivered to members of their communities, emphasizing that the provisions currently in the legislation are not sufficient.
- Participants suggested that the CFSA could include a requirement for regular reports to First Nations and other indigenous communities concerning their children in care, at the individual, regional and provincial levels. This reporting could be a means to improve services and outcomes for Aboriginal children.

Next Steps...

This Report on the 2015 Review of the *Child and Family Services Act* is based on the thoughtful contributions of a broad range of participants. The advice received through written submissions and numerous discussion sessions represents a rich, and often varied, collection of perspectives on how to support the delivery of high-quality services to Ontario’s children and youth.

Given the diversity of voices and variety of perspectives, the complexity of the topics under review, and the detailed responses received during the review process, it is important to acknowledge that this executive summary provides only an overview of the main themes, rather than an exhaustive examination of the contributions made by participants. More detailed discussion of these issues is included in the full report [\[hyperlink\]](#).

The richness and detail of these contributions will be taken into account as the Minister and ministry consider potential changes to legislative and policy and will continue to guide our work for the benefit of the children and youth of Ontario.

Thank you, to the hundreds of individuals and organizations across Ontario that contributed their insights, experiences and expertise to the 2015 Review of the *Child and Family Services Act*.