



WHAT WE HEARD

PROPOSED AMENDMENTS TO THE
CHILD AND FAMILY SERVICES ACT

MAY | 2023



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Executive Summary

Introduction

There continues to be many systemic issues within the Child and Family Services system that contribute to the inequities of services delivered to families and the overrepresentation of Indigenous children and youth in care. The larger goal of system reform has been long identified, and amendments to the *Child and Family Services Act* are part of this work.

In April 2022, Northwest Territories (NWT) residents were invited to provide comments on the “[Child and Family Services Act: Proposed Amendments Discussion Paper](#)”. The Discussion Paper sets out amendments under consideration by the Department of Health and Social Services (Department). The Department identified eight key elements to serve as an outline for the proposed changes and help respondents navigate the proposed amendments.

The proposed key elements are:

- Definitions and terminology
- Best interests of children and youth
- Support Services
- Plan of Care Agreements
- Powers of the Director of Child and Family Services
- Placements while child / youth is in the care of the Director of Child and Family Services
- Family reunification
- Information sharing

The Standing Committee on Social Development (Committee) had also completed their review of the *Child and Family Services Act* during this time. Many of the recommended legislative changes identified by Committee in their Report complement the proposed amendments outlined in the Department’s Discussion Paper. The Department viewed this as a positive sign, as it demonstrated our alignment in working together in the best interests of children, youth, and families. While there was some overlap on the proposed amendments, the Department wanted to ensure residents of the NWT had an opportunity to provide feedback on all the amendments the Department was considering.

Objectives

The purpose of the public engagement was to gather information about the proposed changes to the *Child and Family Services Act* and how these amendments could best support child and family services reform in the NWT.

Methodology

Materials for the public engagement were designed to elicit feedback from Indigenous governments, residents with lived experience in the Child and Family Services system, as well as service delivery partners.

The following materials were developed and made available to the public on the GNWT's *Have Your Say* website:

- *Child and Family Services Act* Proposed Amendments Discussion Paper; and
- 'Frequently Asked Questions'.

There was also direct communication with Members of the Legislative Assembly, Indigenous governments, service delivery partners, and identified stakeholders to invite their engagement and feedback.

Results

From April 1st to 30th, 2022, the Department sought input and feedback from the public, service delivery partners, stakeholders, and Indigenous governments on the proposed changes outlined in the Discussion Paper. In total, there were 13 responses received, which included 10 written submissions and three Facebook comments.

While some responses did not provide feedback specific to the proposed amendments, all comments have been summarized in this report.

Respondents identified support for some of the proposed amendments, as well as areas of concern. Common themes included:

- Concern that the proposed amendments are too minor and would result in too little change.
- Lack of support for the term "apprehension" being replaced with "removal".
- Support for the proposal to extend eligibility of Extended Support Services Agreements from age 23 to age 29.
- Support for the inclusion of care providers in Plan of Care Committees, and requests for members from the child's broader support system to be involved in the process.

Next Steps

The public engagement process represents the beginning stages of working towards the larger goal of Child and Family Services system reform. As part of the due process, the Department is reassessing its proposed changes in light of the feedback received, as well as the recommendations of Standing Committee on Social Development's "Report on the *Child and Family Services Act* – Lifting NWT Children, Youth and Families: An All of Territory Approach to Keeping Families Together".

The results of the public engagement are summarized in this What We Heart Report and, together with cross-jurisdictional reviews, additional policy research, and recommendations from the Standing Committee on Social Development, will inform future changes to the *Child and Family Services Act*.

It is anticipated the Department will propose amendments to the *Child and Family Services Act* during the 20th Legislative Assembly.

Background

The *Child and Family Services Act* establishes both the prevention and protection framework for children and youth in the NWT by setting out requirements for child and family services delivery across the Territory. Systemic issues contributing to inequities in service delivery have been identified within the Child and Family Services system, and amendments to the *Child and Family Services Act* are part of work being undertaken to reach a larger goal of system reform.

The federal *Act respecting First Nations, Inuit, and Métis children, youth and families* (Federal Act) aims to reduce the number of Indigenous children and youth in care and improve child and family services. Since the coming into force of the Federal Act, the GNWT developed [practice standards](#) that align with the national principles and standards for service provision and has incorporated these elements into its frontline service delivery across the NWT. These practice standards are available to the public on the Department's website and were shared with all Indigenous governments in the NWT. The proposed amendments are intended to further support the mandate of the Federal Act within the territorial legislative framework.

The "*Child and Family Services Act: Proposed Amendments Discussion Paper*", released publicly in spring 2022, outlines the changes to the *Child and Family Services Act* that were under consideration by the Department.

NWT residents were invited to provide comments on the proposed key elements which will inform future amendments to the *Child and Family Services Act*.

Standing Committee on Social Development's Review of the *Child and Family Services Act*

Under the *Child and Family Services Act*, the Standing Committee on Social Development is mandated to review the Act and its implementation every five years. In early 2022, the Committee released "[Report on the *Child and Family Services Act* – Lifting NWT Children, Youth and Families: An All of Territory Approach to Keeping Families Together](#)".

The Report will be of use in ongoing work to reform the NWT's Child and Family Services system. The Report includes 19 recommendations, one of which is to make legislative changes to the *Child and Family Services Act* (Recommendation 16). Many of the proposed changes outlined under the recommendation complement the amendments identified in the Discussion Paper, and the Department will continue to work with the Committee on legislative changes.

Public Engagement

Engagement on the proposed amendments took place between April 1st and April 30th, 2022, when the "*Child and Family Services Act: Proposed Amendments Discussion Paper*" was made available on the GNWT's website. A Frequently Asked Questions document was posted alongside the Discussion

Paper to further support residents in providing feedback.

Several communication approaches were taken to promote the public engagement. Advertisements ran in April on the radio through CKLB, Radio Taiga, and True North FM, and on Facebook, informing NWT residents of the proposed amendments to the *Child and Family Services Act* and asking for feedback. Residents were invited to review the Discussion Paper and submit feedback by email, by mail, or through Facebook.

The goal of the engagement was to solicit feedback from Indigenous governments, those with lived experience, service delivery partners, and NWT residents on the proposed amendments to the *Child and Family Services Act*.

This report provides a summary of the feedback received. The views represented in this report reflect the priorities and concerns of participants. Responses should not be construed as representative of the Department's position or views. Conclusions or recommendations based on the concerns raised are not provided.

The feedback from this engagement, as summarized in this report, will be considered by the Department in making changes to the *Child and Family Services Act* and will help inform future work to reform the Child and Family Services system.

What We Heard

The Department requested feedback on the Discussion Paper, which provided:

- A description of the role of Child and Family Services system in the NWT;
- A reference to the Standing Committee on Social Development's "Report on the *Child and Family Services Act* – Lifting NWT Children, Youth and Families: An All of Territory Approach to Keeping Families Together";
- An overview of the legislation governing child and family services across Canada;
- A plain language summary of the current *Child and Family Services Act*;
- A list of the proposed amendments to the *Child and Family Services Act*, organized into key elements; and
- Questions for consideration pertaining to each key element.

See Appendix A for a list of the proposed amendments to the *Child and Family Services Act*.

The Responses:

The Department received 10 written submissions from:

- Two (2) Indigenous Governments and Organizations;
- One (1) service delivery partner;
- One (1) group of family law lawyers (joint submission);
- One (1) charitable organization; and
- Five (5) individuals.

In addition, the Department received three (3) Facebook responses from individuals.

Summaries of the responses are provided below and are organized by key element as proposed in the Discussion Paper. General responses that are not specific to the key elements are also included below.

This report provides only a summary of comments received during the engagement period. Any feedback not included below will still be considered by the Department when moving forward with this work.

General Responses

1. Child and Family Services System

- The Department needs to go beyond the current proposed amendments and make more substantive changes to the legislation. A comprehensive overhaul of the system is needed.
- The Child and Family Services system needs to work from a prevention model, rather than be crisis-driven. The system is not very collaborative, often neglecting to have on-going follow-up with clients.
- The care of Indigenous children should be transferred to Indigenous governments.
- Individuals who have gone through the system should be interviewed in adulthood to evaluate the efficacy of the associated policies and actions.

2. Engagement Process

- There is concern surrounding the engagement process with First Nations communities and leaders, as well as amendments to the Act relating to the federal government's *Act respecting First Nations, Inuit and Métis children, youth and families*.
- Proper public engagement with all Indigenous governments and non-governmental organizations should be done. Emails and online questionnaires are not sufficient for collecting adequate feedback.

Responses to the Proposed Key Elements

1. Definitions and terminology

- There is concern surrounding the term “foster parent” being replaced with the proposed “placement resource”.
- A broader definition of “family” should be included in the legislation.
- There is support for the replacement of the term “Aboriginal” with “Indigenous”.

- The proposal to change the term “apprehension” should be reconsidered. It is not the word “apprehension” that families find triggering; it is the apprehension itself. Further engagement around the term and concept of “apprehension” should be undertaken.
- There is support for the use of gender-neutral language.

2. Best interests of children and youth

- Further review of the Federal Act’s approach to the “best interests of a child” is necessary to confirm that the requirements are accurately incorporated into the NWT’s legislation.
- The legislation should ensure child safety by providing protective services only when intervention and support of families is inadequate.

3. Support services

- There is support for the separation of family preventive supports from protective interventions within the legislation and the Department.
- The GNWT should focus more on prevention strategies to support families and to explicitly reject racist myths that pervade the system.
- The legislation should limit the information disclosed to a court when support services have been previously accessed.
- A child’s consent should be obtained when a Voluntary Support Agreement provides services to a child, and the Office of the Children’s Lawyer should be involved wherever a child’s views are to be obtained.
- Children should be actively involved in decisions that affect their lives at a younger age.
- There is support for the extension of the age of eligibility for extended support services agreements to age 29, but a recommendation that this extension should apply to any youth, whether they were subject to a permanent custody order when they turned 16 or not.
- Parents should be offered support from someone other than a social worker from Child and Family Services.
- All pregnant women should be offered access to birth worker support.
- Addiction treatment services should be offered within the Territory, as sometimes children must be placed in foster care simply because parents cannot access services in their home community.
- There should be safe shelters for men in the NWT.

4. Child / youth who need protection

- There is support for the addition of a provision stating that a child must not be removed solely on the basis of their socio-economic conditions.
- A child should not be apprehended unless safe housing has been made available for both parents.
- Family violence cannot be assessed in the absence of a discussion of poverty and trauma, and investment to address these issues is needed. Without it, the proposed amendment that no child be removed because of poverty does not hold much weight.
- There should be a more rigorous assessment for domestic violence.
- The definition of neglect should reference chronic alcoholism as a cause: neglect has stigma whereas chronic addiction is a mental health issue.
- There is a need for group homes to have more staff and better-trained staff.
- A mandatory training program should be developed for NWT caregivers.

5. Plan of Care Agreements

- Plan of Care Committees should be flexible enough to include caregivers who are part of the child's extended support system.
- Plan of Care Committees should include people who have a meaningful connection to the child beyond immediate family.
- Foster caregivers should be included in plans of care for children and families.

6. Powers of the Director of Child and Family Services

- Legislated time limits affecting the length of agreements between the Department and families should be removed.

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

- There is a need for further discussion about if, when, and how it is appropriate to remove a child from their community.
- There is concern about the change in placement priorities and how they reflect those in the Federal Act.
- A child should first be placed with either parent, where safe and appropriate to do so, regardless of "custodial" status, and keeping siblings together should be a legislated priority.

- Parents should not be given the authority to influence placement choice, as there is a risk that the parent may not want their child placed with family members for reasons unrelated to the best interests of the child (relationship conflict, for example).
- The language in the Act needs to allow frontline workers to use their professional judgement to find alternatives to foster care, instead of a strict reading of the current requirement to attempt a family placement when a child is apprehended, which may not result in a creative solution.
- The GNWT should formally implement Custom Adoption to keep families together and carry on their Indigenous languages and culture. This practice should be recognized cross-jurisdictionally.

8. Family reunification

- There should be further discussion about how best to provide stability in a child's placement as well as ongoing meaningful contact between a child and their family.
- A paradigm shift is needed to maintain stability for children who are apprehended. One suggestion on how to do so was to allow children to remain in their family home while the parents find shelter elsewhere, going back and forth to the home until they're able to remedy the situation.

9. Information sharing

- The legislation should be amended to recognize the importance of information sharing with foster caregivers and their participation in planning.

Next Steps

The public engagement process represents the beginning stages of working towards the larger goal of Child and Family Services system reform. As part of the due process, the Department is reassessing its proposed changes in light of the feedback received, as well as the recommendations of Standing Committee on Social Development's "Report on the *Child and Family Services Act – Lifting NWT Children, Youth and Families: An All of Territory Approach to Keeping Families Together*", and recent changes to child and family services frameworks across the country that better support Indigenous self-government in relation to child and family services.

As work continues to progress in the areas of self-determination and child and family services reform, the Department will follow established GNWT processes for formal consultation and accommodation if a need for formal consultation has been assessed.

As a result, the Department will continue to work towards proposing amendments during the 20th Assembly.

APPENDIX A: Proposed Amendments to the *Child and Family Services Act*

I. Definitions and terminology

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

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

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

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

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

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

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

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

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

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

<u>Indigenous</u>	replaces the term <i>Aboriginal</i> . *Note: This may require an additional term/definition of <u>Indigenous peoples</u> to ensure alignment with the <i>Constitution Act, 1982</i> .
<u>Removal</u>	replaces the term <i>apprehension</i> . The term <i>apprehension</i> was identified during informal engagements as a term that draws parallels to residential school experiences.
<u>Neutral Gender Pronouns:</u>	personal pronouns should be gender silent and more inclusive (i.e., replace <i>he</i> or <i>she</i> with <i>they</i> or <i>them</i>).

Questions for consideration: Definitions and terminology

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

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

II. Best interests of children and youth

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

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

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

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

Questions for consideration: Best interests of children and youth

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

III. Support Services

Support services, commonly referred to as “prevention services”, are provided when there are no child or youth protection concerns. They are meant to offer help when children, youth, families,

young persons, and expectant parents need it most.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Questions for consideration: Support services

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

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

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

IV. Child / youth who needs protection

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

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

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

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

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

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

Questions for consideration: Child who needs protection

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

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

V. Plan of Care Agreements

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

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

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

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

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

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

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

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

Currently, because provisions for a youth cannot be set out in a plan of care agreement, the youth receives services through a different avenue (support services agreement). Separate agreements provided

to members of the same family do not support a holistic approach to child and family services and add an administrative burden on service providers.

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

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

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

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

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

Questions for consideration: Plan of care agreements

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

VI. Powers of the Director of Child and Family Services

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

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

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

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

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

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

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

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

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

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

Section of current Act: New

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

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

1. One of the child/youth's parents;
2. Another adult member of the child/youth's family;

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

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

Section of current Act:

New

Proposed amendment:

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

Section of current Act:

New

Proposed amendment:

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

Section of current Act:

Statement of alternatives considered (apprehension hearing), section 12.1(5); application for declaration and order (child protection hearing), section 24); and declaration that youth needs protection (youth protection hearing), section 29.2.

Proposed amendment:

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

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

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

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

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

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

VIII. Family reunification

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

Section of current Act: New

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

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

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

Section of current Act: New

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

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

Questions for consideration: Family reunification

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

IX. Information sharing

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

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

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

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

Proposed amendment: Allow the Director to enter into information sharing agreements with governments and organizations in the NWT and Canada (including Applicable Indigenous Organizations, Indigenous governments, Indigenous Organizations, and Indigenous governing bodies) for the collection, use, and/or disclosure of:

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

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

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

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

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

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

Questions for consideration: Information sharing

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