

**DRAFT**  
**ANISHINABEK NATION CHILD WELL-BEING LAW**

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## JURISDICTION

### ***Ngo Dwe Waangizid Anishinaabe (One Anishinaabe Family)***

Debenjiged gii'saan anishinaaben akiing giibi dgwon gaadeni mnidoo waadiziwin.  
*(Creator placed the Anishinabe on the earth along with the gift of spirituality).*

Shkode, nibi, aki, noodin, giibi dgosdoonan wii naagdowendmang maanpii shkagmigaang.  
*(Here on mother earth, there were gifts given to the Anishinabe to look after, fire, water, earth and wind).*

Debenjiged gii miinaan gechtwaa wendaagog Anishinaaben waa naagdoonjin ninda niizhwaaswi kino maadwinan.  
*(The Creator also gave the Anishinabe seven sacred gifts to guide them. They are):*

Zaagidwin, Debwewin, Mnaadendmowin, Nbwaakaawin, Dbaadendiziwin, Gwekwaadziwin miinwa Aakedhewin.  
*(Love, Truth, Respect, Wisdom, Humility, Honesty and Bravery).*

Debenjiged kiimiingona dedbinwe wi naagdowendiwin.  
*(Creator gave us sovereignty to govern ourselves).*

Ka mnaadendanaa gaabi zhiwebag miinwaa nango megwaa ezhwebag, miinwa geyaabi waa ni zhiwebag.  
*(We respect and honour the past, present and future).*

1. Kinaa ashishinabeg naagdaa
2. Kobinaasiiwin
3. Our mission is:
  - (a) Kaakoobinaaschmeh Googaanahdaigsowag;
  - (b) Getin kaa naa kaaz nah nda'nwendaagaheg; and
  - (c) Miinwa pane waa saa kaanab me wawene Anishinaabe bemadzaawim.
4. First Nations have the inherent jurisdiction over child well-being involving our children regardless of residency. This law is an exercise of our jurisdiction.

## **INTERPRETATION**

### **Definitions**

5. In this Law,

"Abuse" means neglect or emotional, psychological, physical or sexual abuse;

"Authorized Person" means a person authorized by the Director under this Law;

"Child/Youth" means a person who is or, in the absence of evidence to the contrary, appears to be under the age of 18 years;

"Child and Family Services Committee" means a Child and Family Services Committee established by a Community Agreement;

"Child/Youth Care Facility" means a Child/Youth Care Facility approved by the Director under this Law;

"Child/Youth Protection Worker" means a Child/Youth Protection Worker at a Child Well-Being Agency under this Law;

"Child Well-Being Agency" means a not-for-profit corporate body whose members are First Nations or aboriginal persons or both whose main purpose is to deliver child well-being programs and services and is recognized under this Law for purposes of implementing and enforcing this Law;

"Children's Commissioner" means the person appointed by the Anishinabek Chiefs in Assembly pursuant to this Law;

"Community Agreement" means an agreement made under Part 6 of this Law;

"Community Standards" means community standards established under this Law by a First Nation that is a party to a Community Agreement;

"Council" means the elected or selected Council of a First Nation;

"Court" means a Court of competent jurisdiction;

"Customary Care Coordinator" means a worker at a Child Well-Being Agency under this Law who supports the establishment and maintenance of customary care arrangements;

"Director" means the person has the responsibility for the day-to-day operation of a Child Well-Being Agency;

“Family” means the Parents/Guardians, siblings, aunts, uncles and grandparents of a person, including members of the person’s clan;

"First Nation" means a First Nation population located within an identified geographic region that identifies itself as a First Nation;

“First Nation Family Advocate” means a person identified by a First Nation as their representative in matters related to child well-being for a Child/Youth recognized by the First Nation as belonging to the First Nation and previously known as the Band Representative;

"Foster Home" means a Foster Home approved by the Director under this Law;

"Investigation Report" means an investigation report required under this Law;

"Parent/Guardian" is a person who is:

- a) the primary caregiver of the Child/Youth; and
- b) a person who is a biological parent of the Child/Youth;

"Plan of Care Agreement" means a Plan of Care Agreement made by a Plan of Care Committee or other party authorized under this Law;

"Plan of Care Committee" means a Plan of Care Committee established by a Child/Youth Protection Worker under this Law or by a Child and Family Services Committee under this Law;

"Taken In" means a Child/Youth has been removed from the care of his or her Parent(s)/Guardians under this Law.

### **Objects of this Law**

6. The objects of this Law are to:

- (a) ensure the safety and well-being of our Children/Youth, Families and communities;
- (b) acknowledge and respect the primary role of Parents/Guardians, Families and communities in safeguarding and promoting the well-being of our Children/Youth;
- (c) support Parents/Guardians, Families and communities in safeguarding and promoting the well-being of our Children/Youth;
- (d) provide for the protection and care of our Children/Youth in circumstances where their Parent/Guardian have not given, or are unlikely or unable to give, that protection and care;
- (e) ensure that we maintain our traditions, culture, values and language;
- (f) ensure adoptions only occur with the approval of the Parent/Guardian and the First Nation the Child/Youth and his or her Parents/Guardians belong to; and

- (g) establish the legislative framework for:
  - i) the structure of the Anishinabek Nation Child Well-being Coordinating Body;
  - ii) protocol agreements; and
  - iii) licensing of Child Well-Being Agencies.

### **Principles Governing this Law**

7. This Law will be administered and interpreted in accordance with the following principles:

- (a) the Parent/Guardian, Family and First Nation of a Child/Youth have the primary role in safeguarding and promoting the Child/Youth's well-being;
- (b) the preferred way of safeguarding and promoting a Child/Youth's well-being is to support the Child/Youth's Parent/Guardian, Family and First Nation in the care of the Child/Youth;
- (c) Children/Youth, Parents/Guardians, Families and communities are entitled to receive services in a manner that respects their traditions, culture, values and language;
- (d) every Child/Youth must be cared for and protected from harm;
- (e) every Child/Youth has a right to live in an environment free from violence and Abuse;
- (f) every Child/Youth is entitled to stable, secure and safe relationships and living arrangements;
- (g) intervention action will be taken only in circumstances where there is no other reasonable way to safeguard and promote the Child/Youth's well-being;
- (h) intervention action should, as far as possible, promote Family and First Nation integrity and continuity;
- (i) if a Child/Youth is removed from the Child/Youth's Family then, so far as is consistent with the Child/Youth's best interests, the Child/Youth must be given encouragement and support in maintaining contact with the Child/Youth's Parent/Guardian, siblings and other relatives and with any other people who are significant in the Child/Youth's life;
- (j) if a Child/Youth is removed from the Child/Youth's Family then, so far as is consistent with the Child/Youth's best interests, planning for the Child/Youth's care must occur as soon as possible in order to ensure long-term stability for the Child/Youth and must promote the early reunification of the Child/Youth with the Family;
- (k) Children/Youth removed from their Family will be provided with a level of care adequate to meet their needs and consistent with Community Standards;

- (l) decisions about a Child/Youth should be made promptly having regard to the age, characteristics, circumstances and needs of the Child/Youth and there must be no unreasonable delay in carrying out a decision affecting a Child/Youth;
- (m) decisions about a Child/Youth must be consistent with traditions, culture, values and language relevant to the Child/Youth;
- (n) a Child/Youth's Parent/Guardian and any other people who are significant in the Child/Youth's life will be given an opportunity and assistance to participate in decision-making processes under this Act that are likely to have a significant impact on the Child/Youth's life; and,
- (o) traditions, culture, values and language are included within the concept of the "best interests" of the Child/Youth, and child and family service agencies under the Province of Ontario's Child and Family Services Act are compelled to respect the Anishinabek cultural and linguistic heritage of the families and children they serve.

### **Role of Family**

- 8. The Family of a Child/Youth has the primary responsibility for safeguarding and promoting the well-being of the Child/Youth.
- 9. In fulfilling that responsibility, the Family will take the necessary steps to ensure the best interests of the Child/Youth are met.
- 10. In fulfilling that responsibility, the Family may bring up the Child/Youth in their tradition, culture, values and language and foster in the Child/Youth the traditions, culture, values and language the Family chooses.
- 11. A Child/Youth may be Taken In only if there is no other reasonable way to safeguard and promote the well-being of the Child/Youth.
- 12. As far as practicable, and consistent with the best interests of the Child/Youth, if a Child/Youth is Taken In:
  - (a) contact between the Child/Youth and his or her Family must be encouraged and supported; and,
  - (b) the Child/Youth should eventually be returned to his or her Family.

### **Treating Each Child/Youth with Respect**

- 13. Each Child/Youth is a valued member of his or her Family and First Nation and is entitled to be treated in a way that respects the Child/Youth's dignity and privacy.
- 14. Decisions involving a Child/Youth should be made:

- (a) promptly having regard to the Child/Youth's age, characteristics, circumstances and needs;
- (b) in a way that is consistent with the traditions, culture and values relevant to the Child/Youth; and
- (c) with the informed participation of the Child/Youth, the Child/Youth's Family and other people who are significant in the Child/Youth's life.

### **Best Interests of the Child/Youth**

15. Every Child/Youth has an inherent and basic right as Anishinabe Child/Youth to:
- (a) adequate food, shelter, clothing and health care;
  - (b) be protected and supervised to assure their safety and health; and
  - (c) receive nurturing, appropriate cultural teachings and adequate education.
16. Where there is a reference in this Law to the best interests of a Child/Youth, all relevant factors must be taken into consideration in determining the best interests of a Child/Youth including the following factors, with a recognition that traditions, culture, values and language must be respected in making that determination:
- (a) the need to protect the Child/Youth from harm and Abuse;
  - (b) the capacity of the Child/Youth's Parent/Guardian to protect the Child/Youth from harm and Abuse;
  - (c) the Child/Youth's physical, emotional, intellectual, spiritual, developmental and educational needs and the appropriate care or treatment to meet those needs;
  - (d) the capacity of the Child/Youth's Parent/Guardian, or of any other person, to provide for the Child/Youth's needs;
  - (e) the Child/Youth's traditions, culture, values, language and religious upbringing and ties;
  - (f) the nature of the Child/Youth's relationship with the Child/Youth's Parent/Guardian, siblings and other relatives and with any other people who are significant in the Child/Youth's life;
  - (g) the attitude demonstrated by the Child/Youth's Parent/Guardian to the Child/Youth, and to parental responsibility;



- (h) the risk that the Child/Youth may suffer harm through being removed from, kept away from, returned to, or allowed to remain in, the care of a Parent/Guardian;
  - (i) the merits of any proposed plan of care for the Child/Youth;
  - (j) the effects on the Child/Youth of a delay in making a decision;
  - (k) the capacity and willingness of the Child/Youth's Parent/Guardian or other Family to care for the Child/Youth.
  - (l) any wishes or views expressed by the Child/Youth, having regard to the Child/Youth's age and level of understanding in determining the weight to be given to those wishes or views;
  - (m) the importance of continuity and stability in the Child/Youth's living arrangements and the likely effect on the Child/Youth of disruption of those living arrangements, including separation from:
    - i) the Child/Youth's Parent/Guardian; or
    - ii) a sibling or other relative of the Child/Youth; or
    - iii) a care-giver or any other person with whom the Child/Youth is, or has recently been, living; or
    - iv) any other person who is significant in the Child/Youth's life;
  - (n) the need for the Child/Youth to maintain contact with the Child/Youth's Parent/Guardian, siblings and other relatives and with any other people who are significant in the Child/Youth's life;
  - (o) the Child/Youth's age, maturity, sex, sexuality, background and language;
  - (p) the Child/Youth's traditions, culture, values and language, including any need to maintain a connection with the traditions, culture, values and language of the Anishinabek;
17. The section above on the best interests of a Child/Youth does not limit the matters that may be taken into account in determining what is in the best interests of a Child/Youth. Further, the section above will be interpreted with a recognition that differing traditions, culture, values and language must be respected and in accordance with Community Standards.

### **Child/Youth Participation in Decision-Making**

18. When a decision involving a Child/Youth is made, the Child/Youth:
- (a) should be given information and explanation in a way that the Child/Youth can understand;

- (b) should be given the opportunity to participate in the decision-making and to respond to the decision;
- (c) should be given the opportunity to express their wishes and views freely;
- (d) should be given assistance in expressing those wishes and views; and
- (e) those wishes and views should be taken into account, having regard to the Child/Youth's maturity and understanding.

## **VOLUNTARY SUPPORT SERVICES**

### **Voluntary Support Services and Agreements**

- 19. A Child Well-Being Agency may enter into a written agreement with a Parent/Guardian of a Child/Youth to provide programs and services or to assist others in providing programs and services, or to assist that Parent/Guardian in obtaining programs and services, to support and assist the Parent/Guardian in the care of a Child/Youth.
- 20. Requesting or accessing voluntary support services will be assessed as a positive activity in any legal proceeding involving the Child/Youth for whom support is sought.

### **Voluntary Support Services**

- 21. The voluntary services to support and assist a Parent/Guardian may include:
  - (a) counselling;
  - (b) in-home support;
  - (c) respite care;
  - (d) parenting programs;
  - (e) services for improving the Family's financial situation;
  - (f) services for improving the Family's housing;
  - (g) drug or alcohol treatment and rehabilitation;
  - (h) mediation of disputes;
  - (i) services to assist the family to deal with the illness of a Child/Youth or a family member; and
  - (j) any other services agreed to by the Child Well-Being Agency and the First Nation.

### **Term of Agreement**

- 22. The initial term of a voluntary services agreement must not exceed six months, and an agreement may be extended for one or more terms not exceeding six months each.

## **CHILD/YOUTH IN NEED OF PROTECTION**

### **"Parent/Guardian" Defined**

23. In this Part, "Parent/Guardian" includes a person who has lawful custody of a Child/Youth, other than the Director, and a person having charge of a Child/Youth.

### **Interpretation**

24. The section below describing when a Child/Youth is in need of protection will be interpreted with a recognition that differing traditions, culture, values and language must be respected and in accordance with Community Standards.

### **Child/Youth Who Needs Protection**

25. A Child/Youth needs protection where:
- (a) the Child/Youth has suffered or is at risk of suffering physical harm inflicted by the Child/Youth's Parent/Guardian or caused by the Parent/Guardian's unwillingness or inability to care and provide for or supervise and protect the Child/Youth adequately;
  - (b) the Child/Youth has not been provided with the necessities of life being shelter, food, medical care, mental health care, dental care or education if not immediately remedied, could seriously impair the Child/Youth's growth or development or result in permanent injury or death;
  - (c) the Child/Youth has been or is at risk of being sexually molested or sexually exploited by the Child/Youth's Parent/Guardian or by another person where the Child/Youth's Parent/Guardian knew or should have known of the possibility of sexual molestation or sexual exploitation and was unwilling or unable to protect the Child/Youth;
  - (d) the Child/Youth has demonstrated severe anxiety, depression, withdrawal, self-destructive behaviour, or aggressive behaviour towards others or any other severe behaviour that is consistent with the Child/Youth having suffered emotional harm or at risk of suffering emotional harm, and the Child/Youth's Parent/Guardian does not provide, or refuses or is unavailable or unable to consent to the provision of, services, treatment or healing processes to remedy or alleviate the harm;
  - (e) the Child/Youth's health or emotional or mental well-being has been harmed or is at risk of being harmed by the Child/Youth's use of alcohol, drugs, solvents or similar substances and the Child/Youth's Parent/Guardian is unavailable, unable or unwilling to properly care for the Child/Youth;
  - (f) the Child/Youth has been abandoned, or on the death of their Parent/Guardian, without the Child/Youth's Parent/Guardian having made adequate provision for the Child/Youth's care or custody and the Child/Youth's extended family has not made adequate provision for the Child/Youth's care or custody or the Parent/Guardian is unwilling or unable to provide care for the Child/Youth; or

- (g) the Child/Youth has killed or seriously injured another person or has persisted in injuring others or causing damage to the property of others, and services, treatment or healing processes are necessary to prevent a recurrence and the Child/Youth's Parent/Guardian does not provide, or refuses or is unavailable or unable to consent to the provision of, the services, treatment or healing processes.

### **Duty to report Child/Youth needing protection**

- 26. A person who has information that a Child/Youth is in need of protection will, without delay, report the matter
  - (a) to a Child/Youth Protection Worker; or
  - (b) if a Child/Youth Protection Worker is not available, to a peace officer or an Authorized Person.

### **Confidentiality and Privilege**

- 27. The duty to report applies even where the information reported is confidential or privileged. The person who reports that a Child/Youth is in need of protection must provide his or her name. The Child Well-Being Agency is not obligated to release the name of the person who provided the report.

### **Civil liability**

- 28. No action will be commenced against a person for reporting information in accordance with the duty to report unless it is done maliciously.

### **Solicitor and client privilege**

- 29. The duty to report revokes any privilege that may exist between a solicitor and the solicitor's client.

### **Offence and Punishment**

- 30. Every person who fails to report a Child/Youth in need of protection may be subject to First Nation enforcement measures.

### **Procedures to Assessment and Investigation Reports**

- 31. The procedures for assessing the need for protection and for investigations shall be established by regulation under this Law.

**Action Where a Need for Protection Exists**

32. Where it is determined that there are reasonable grounds to believe that the Child/Youth needs protection or the Child/Youth's health or safety is in danger, the Child/Youth Protection Worker, peace officer or Authorized Person:
- (a) may Take In the Child/Youth under this Law;
  - (b) may offer voluntary support services to the Parent/Guardian without entering into an agreement under section 21 until a Plan of Care Agreement commences or a Court makes an order;
  - (c) will make every effort with the Family of the Child/Youth to arrange customary care according to the First Nation's traditions, culture, values and Community Standards where the Child/Youth will be placed in the care and supervision of a person other than the Parent/Guardian who has immediate care of the Child/Youth; and
  - (d) will within 10 days after the report is made or the matter is referred and where no customary care arrangement has been put in place, establish a Plan of Care Committee, whether or not the Child/Youth has been Taken In.

**Referral to Child/Youth Protection Worker**

33. Where a Child/Youth has been Taken In by a peace officer or an Authorized Person, he or she will, without delay, notify a Child/Youth Protection Worker of the Taking In and refer the matter to the Child/Youth Protection Worker.

**Action following Taking In Child/Youth**

34. Where a Child/Youth Protection Worker Takes In a Child/Youth under this Law or a matter is referred to the Child/Youth Protection Worker under this Law, the Child/Youth Protection Worker:
- (a) will investigate the Child/Youth's need for protection;
  - (b) may offer voluntary support services to the Parent/Guardian without entering into an agreement under section 21 until a Plan of Care Agreement commences or a Court makes an order;
  - (c) will make every effort with the Family of the Child/Youth to arrange customary care according to the First Nation's customs and standards where the Child/Youth will be placed in the care and supervision of a person other than the Parent/Guardian who has immediate care of the Child/Youth;
  - (d) will within 10 days after the report is made or the matter is referred and where no customary care arrangement has been put in place, establish a Plan of Care Committee; and,
  - (e) support the Family to take necessary steps to ensure the best interests of the Child/Youth are met.

### **Return of Child/Youth to Parent/Guardian**

35. Where a Child/Youth has been Taken In under this Law and the Child/Youth is returned within 72 hours to his or her Parent/Guardian, a Child/Youth Protection Worker will not establish a Plan of Care Committee.

### **Return to person having lawful custody**

36. The Child/Youth will not be returned to a person who does not have lawful custody of the Child/Youth unless the person had the actual care of the Child/Youth at the time the Child/Youth was Taken In and that person is able to meet the best interests of the Child/Youth.

### **Investigation Report**

37. After an Investigation Report is completed, a Child/Youth Protection Worker will, in accordance with any guidelines of the Child Well-Being Agency where he or she is employed, prepare a report on the investigation of the facts of the case including a description of any measures taken to protect the Child/Youth, and provide a copy of the report to the Director.

### **Action where Child/Youth does not need protection**

38. Notwithstanding any other provision of this Law, where an Investigation Report is completed and, based on the Investigation Report, a Child/Youth Protection Worker is of the opinion that the Child/Youth who is the subject of the Investigation Report does not need protection:
- (a) a Plan of Care Committee will not be established and if it has been established, it will be dissolved and any Plan of Care Agreement will be deemed to have terminated;
  - (b) where a Child/Youth Protection Worker has applied to a Court for a declaration that the Child/Youth needs protection and for an order, the Child/Youth Protection Worker will withdraw the application; and
  - (c) where the Child/Youth has been Taken In, the Child/Youth will be returned to his or her Parent/Guardian or the person having actual care of the Child/Youth at the time of the Taking In.

### **Return to person having lawful custody**

39. Where a Child/Youth does not need protection in the opinion of a Child/Youth Protection Worker, the Child/Youth will not be returned to a person who does not have lawful custody of the Child/Youth unless the person had the actual care of the Child/Youth at the time the Child/Youth was Taken In.

### **Customary Care and Voluntary Plans of Care**

40. Every effort will be made by Child Well-Being Agencies, First Nations and Families to develop a voluntary plan of care or customary care arrangement in respect of the Child/Youth in need of protection in order to avoid court proceedings in child well-being matters.

### **Plan of Care Committee and Agreement**

41. The Anishinabek Nation Child Well-Being Coordinating Body will establish:
- (a) the process and standards for establishing a Plan of Care Committee;
  - (b) the composition of the Plan of Care Committee;
  - (c) the procedures to be followed by the Plan of Care Committee;
  - (d) the authority, duties and responsibilities of the Plan of Care Committee;
  - (e) the structure, format and maximum term for Plan of Care Agreements;
  - (f) the responsibilities of the parties named in Plan of Care Agreements;
  - (g) the consents required to implement Plan of Care Agreements;
  - (h) procedures to review Plan of Care Agreements;

### **Method of Taking In**

42. A person who is authorized to Take In a Child/Youth under this Law may, without a warrant, enter a place by day or night, using force if necessary to effect entry, to Take In the Child/Youth.
43. Where a Taking In occurs in a First Nation, the person who is authorized to Take In a Child/Youth under this Part must respect the local First Nation protocol for Taking In and provide notice to the proper First Nation authorities of such Taking In.

### **FIRST NATION ADOPTION**

44. The adoption of a Child/Youth requires the consent of:
- (a) the Parents/Guardians of the Child/Youth;
  - (b) the First Nation that the Child/Youth belongs to; and,
  - (c) the First Nation that the Parents/Guardians belong to, if different than the Child/Youth.
45. Each First Nation's adoption customs and practices are recognized and affirmed by this Law.
46. First Nation adoption customs and practices will prevail over the adoption laws and processes of any other government or any other law.

## **ANISHINABEK NATION CHILD WELL-BEING SYSTEM STRUCTURES**

47. The Anishinabek Nation Child Well-Being System is comprised of:
- (a) the First Nations that enact this Law;
  - (b) the Child Well-Being Agencies;
  - (c) the Anishinabek Nation Child Well-Being Coordinating Body; and the
  - (d) the Children's Commissioner.

### **First Nation Jurisdiction and Authority**

48. First Nation governance and law-making authority over child well-being is entrusted to the Chief and Council of the First Nation by the First Nation members.
49. The Chief and Council shall respect the Community Standards, traditions, culture, values and language of the First Nation in relation to child well-being.

### **Child Well-Being Agencies**

50. The Child Well-Being Agencies are responsible to the day-to-day delivery of child well-being programs and services in collaboration with the First Nation community, families, local and regional social, health, educational, policing and other agencies and organizations.

### **Anishinabek Nation Child Well-Being Coordinating Body**

51. The Anishinabek Nation Child Well-Being Coordinating Body is a collective body established by the Anishinabek First Nations and Child Well-Being Agencies to support and further enhance the delivery of child well-being programs and services by the First Nations and the Agencies. The Coordinating Body has no law-making authority over child well-being.
52. By this Law, the Anishinabek Nation Child Well-Being Coordinating Body is established to:
- (a) support the implementation, compliance and enforcement of this Law;
  - (b) receive, administer, distribute and report on funding secured to support the Anishinabek Nation Child Well-Being system and the implementation of this Law;
  - (c) establish policies and guidelines relating to the operation of the Anishinabek Nation Child Well-Being System;



- (d) develop and implement programs and services to support child well-being;
- (e) be the central liaison and coordinating body for the First Nations regarding child well-being matters; and
- (f) carry out of any other powers, duties and functions delegated by the Anishinabek First Nations.

### **Anishinabek Nation Children's Commissioner**

- 53. A Children's Commissioner will be appointed by Grand Council Resolution and remain accountable to the Anishinabek Chiefs in Assembly by reporting to the Chiefs in Assembly at every Grand Council and every special assembly.
- 54. The Children's Commissioner is responsible to oversee implementation, compliance and enforcement of this Law.

## **GENERAL**

### **First Nation Community Agreements**

- 55. Each First Nation will approve a Community Agreement by resolution or by-law to confirm the First Nation's decision to be part of the Anishinabek Nation Child Well-Being System.

### **Community Agreement**

- 56. The Community Agreement:
  - (a) delegates to the Children's Commissioner the authority and responsibility for any matter set out in this Law;
  - (b) establishes a Child and Family Services Committee and defines its role in the First Nation, in addition to its powers and duties under this Law, and establishes the term of office of its members and the procedures by which the Child and Family Services Committee will conduct its meetings and exercise its powers and perform its duties under this Law; and
  - (c) sets out the procedure for establishing and amending Community Standards and making the members of the First Nation aware of Community Standards.

### **First Nation Child and Family Services Committee**

- 57. A Child and Family Services Committee is a committee of the First Nation. This Committee will exercise its powers and perform its duties in accordance with this Law, the regulations and the Community Agreement.

### **First Nation Appointment of Members**

58. The members of a Child and Family Services Committee will be appointed by the Chief and Council for the term set out in the Community Agreement.

### **Agency Community Agreement**

59. A board of directors of a Child Well-Being Agency may authorize the Agency to enter into a Community Agreement with the Anishinabek Nation Child Well-Being Coordinating Body:
- (a) confirming the Agency has the authority and responsibility to implement this Law and deliver child well-being programs and services;
  - (b) specifying the First Nations/ or communities the Agency serves;
  - (c) specifying the First Nations for whom the Agency may act; and
  - (d) establishing a Child and Family Services Committee and defining its role in the First Nation or communities in which it may act, in addition to its powers and duties under this Law, and establishing the term of office of its members and the procedures by which the Child and Family Services Committee will conduct its meetings and exercise its powers and perform its duties under this Law.

### **Powers and Duties of Agency**

60. A Child Well-Being Agency has, subject to the terms and conditions of a Community Agreement, the power and will perform the duties delegated to the Agency by the Community Agreement.

### **Agency Child and Family Services Committee**

61. A Child and Family Services Committee is a committee of the board of directors of the Agency and will exercise its powers and perform its duties in accordance with this Law, the regulations and the Community Agreement.

### **Agency Appointment of Members**

62. The members of a Child and Family Services Committee will be appointed by the board of directors for the term set out in the Community Agreement.

### **Community Standards**

63. A First Nation that is a party to a Community Agreement may establish Community Standards to be used in determining:
- (a) the level of care adequate to meet a Child/Youth's needs in the best interests of the Child/Youth section of this Law; and
  - (b) whether or not a Child/Youth needs protection under this Law.

### **Minimum Community Standards**

64. Community Standards must include the minimum community standards established by the regulations under this Law.

### **Additional Community Standards**

65. A Child Well-Being Agency that is a party to a Community Agreement may establish Community Standards in addition to the minimum Community Standards established by the regulations in accordance with the procedure set out in the Community Agreement, but any additional Community Standards will not abrogate or derogate from the minimum Community Standards established by the regulations.

### **Duty to Inform First Nation of Community Standards**

66. An Agency that is a party to a Community Agreement will make the members of the First Nation aware of the Community Standards in accordance with the procedure set out in the Community Agreement.

### **Child/Youth Care Facility or Foster Home**

67. Each First Nation and each Child Well-Being Agency has the authority to approve Child/Youth Care Facilities and Foster Homes in accordance with Community Standards and the regulations under this Law.

### **Miscellaneous**

#### **Obligation to support Child/Youth**

68. Nothing in this Law relieves any person who has an obligation to support a Child/Youth from that obligation, and the fact that support is being provided does not deprive the Director or a Child/Youth Protection Worker of any power or right conferred on the Director or a Child/Youth Protection Worker by this Law or the regulations.

#### **Liability**

69. The Director, assistant Directors, Child/Youth Protection Workers, Authorized Persons and any other person having powers or duties under this Law or the regulations will not be liable for anything done or not done by him or her in good faith in the performance of his or her duties or in the exercise of his or her powers.

### **Confidentiality and Disclosure**

#### **Confidentiality**

70. Any information or record of information relating to a Child/Youth or his or her Parent/Guardian is confidential where it is received, obtained or retained by any person:
- (a) under this Law or the regulations;
  - (b) in the exercise of his or her powers or in the performance of his or her duties under this Law or the regulations;

- (c) who operates a Child/Youth Care Facility or Foster Home respecting a Child/Youth in the care of the Child/Youth Care Facility or Foster Home; or
- (d) who is employed by or retained on contract to provide services to a Child/Youth Care Facility or Foster Home respecting a Child/Youth in the care of the Child/Youth Care Facility or Foster Home.

**Prohibition on disclosure and communication of information**

71. No person required to maintain confidentiality under this Law will disclose or communicate any information or record of information to any person except:
- (a) where necessary or appropriate in the exercise of his or her powers or in the performance of his or her duties under this Law or the regulations;
  - (b) with the written consent of the person to whom the information or record relates;
  - (c) where giving evidence in Court;
  - (d) on the order of a Court;
  - (e) to a person appointed to conduct an Investigation Report under this Law;
  - (f) to the Children’s Commissioner, the Director, an assistant Director, a Child/Youth Protection Worker or an Authorized Person, at their request;
  - (g) to a peace officer, if the person believes on reasonable grounds that
    - i) failure to disclose the information or record of information is likely to cause physical or emotional harm to a person or serious damage to property, and
    - ii) the need for disclosure is urgent;
  - (h) where a disclosure or communication is required for the purposes of this Law or to protect a Child/Youth;
  - (i) where necessary for the provision of care, counselling or education to the Child/Youth;
  - (j) where, in the opinion of the Children’s Commissioner, the benefit of the release of the information would clearly outweigh any invasion of privacy that could result from the release; or
  - (k) where it is required for the purposes of this Law.

**Use of Information**

72. Any information or record of information disclosed under this Law will be used only for the purpose for which it was disclosed and will not be disclosed further.

### **Exception**

73. The confidentiality requirements do not apply to a Child/Youth who is a member of a Plan of Care Committee and the subject of the Plan of Care Agreement.

### **Exchange of Information**

74. The Director may, in accordance with the regulations, disclose information or a record of information in his or her possession relating to any person in connection with this Law to a person who or agency that in a First Nation, province or territory performs substantially the same functions as the Director where that information or record of information is reasonably required by that person or agency in order to provide services to the person who is the subject of the information or to protect a Child/Youth.

### **Offence and Punishment**

#### **Prohibitions**

75. No person will:
- (a) induce or attempt to induce a Child/Youth to run away from a Child/Youth Care Facility, Foster Home or a person entrusted with the care of the Child/Youth under this Law;
  - (b) remove or attempt to remove a Child/Youth unlawfully from the care, custody, control or charge of the Director, assistant Director or a Child/Youth Protection Worker;
  - (c) detain or knowingly harbour a runaway Child/Youth placed in the temporary or permanent custody of the Director;
  - (d) having the care, custody, control or charge of a Child/Youth, abandon the Child/Youth, without having made adequate provision for the Child/Youth's care and custody, or Abuse or harm the Child/Youth, or procure the abandonment, Abuse or harm of the Child/Youth; or
  - (e) omit to perform a duty imposed on him or her by or under this Law.

#### **Offence and Punishment**

76. Each First Nation may enforce this law in accordance with its Community Standards and traditions, including restorative justice model.
77. Every person who breaks this Law may be subject to sanctions by the First Nation in a manner that is consistent with First Nation customs, culture, practices and values provided that such sanctions are proportionate to the seriousness of the offence.

## **Regulations**

78. The Children's Commissioner in consultation with and with the approval of the First Nations, may make Regulations:
- (a) for the purposes of supporting how the Child's expression of wishes and views and how they take that into account;
  - (b) respecting the establishment of Plan of Care Committees including the selection of a person to sit as the member;
  - (c) respecting the procedures by which a Plan of Care Committee will conduct its meetings and exercise its powers and perform its duties under this Law and the regulations;
  - (d) respecting the selection of a person to be invited to sit as the member of a Plan of Care Committee;
  - (e) where a person is or is to be a member of a Plan of Care Committee and is ineligible to sit as a member, respecting the circumstances in which the Child and Family Services Committee or the Child/Youth Protection Worker, as the case may be, will invite another person of the same category to sit as a member;
  - (f) where a member of a Plan of Care Committee is unable or unwilling to continue to sit as a member, respecting the circumstances in which the Child and Family Services Committee or the Child/Youth Protection Worker, as the case may be, will invite another person of the same category to sit as a member;
  - (g) respecting the removal of a member of a Plan of Care Committee;
  - (h) respecting Plan of Care Committees;
  - (i) respecting the applicable First Nation organizations that must be served with a copy of an originating notice and affidavit under this Law;
  - (j) respecting the form of a consent to placing a Child/Youth in the permanent custody of the Director for the purpose of adoption;
  - (k) respecting additional powers and duties of the Director;
  - (l) respecting the minimum Community Standards that must be included in the Community Standards established by an agency that is a party to a Community Agreement;
  - (m) respecting standards of living accommodation to be maintained by Child/Youth care facilities, Foster Homes and persons entrusted with the care of a Child/Youth under

this Law, including different standards for different categories of Child/Youth care facilities and Foster Homes or to take into account cultural differences;

- (n) respecting Child/Youth care facilities and Foster Homes;
- (o) respecting the procedure for the disclosure of information by the Director;
- (p) respecting the procedure to be used in proceedings and applications under this Law and providing that certain portions or provisions of the rules of Courts of competent jurisdiction do or do not apply to these proceedings and applications; and
- (q) respecting any other matter that, in the opinion of the Children's Commissioner, is necessary for carrying out the purposes and provisions of this Law.