# An Act Respecting First Nation, Inuit and Metis Children, Youth and Families

# Frequently Asked Questions

1. How does an Act Respecting First Nation, Inuit and Metis Children, Youth and Families impact Child and Family Systems in Manitoba?

The Act defines a path for Indigenous groups, communities or peoples to implement jurisdiction regardless of whether or not agreements with Canada and/or the province are successfully negotiated, and provisions aim to provide a path for Indigenous laws to have force as federal law and prevail over existing provincial law when there is conflict/inconsistency.

According to its text, the legislation is to be interpreted and administered in accordance with the principles of: the best interests of the child, cultural continuity and substantive equality.

1. Who is defined as an Indigenous governing body?

An Indigenous governing body is defined as: a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the Constitution Act, 1982.‍

1. How do I know what law to follow?

If Indigenous governing bodies in Manitoba want to assume legal responsibility for child and family services in their own communities, they must express their intent to the Manitoba government and the federal government.

Once notice is provided, the three parties – the Manitoba government, the federal government and the Indigenous governing bodies – will have one year to negotiate an agreement to coordinate the transition of responsibility for child and family services from provincial agencies to Indigenous government bodies.

Provincial child and family service laws will remain in effect until the Indigenous laws come into force.

1. When is Notice given?

All provincial CFS agencies will be obligated to implement national standards when providing CFS to Indigenous children. This means that if you know a child(ren)’s community has declared itself an Indigenous governing body you must send a notification before taking any significant measure in relation to the child.

If the child(ren)’s community is not an Indigenous governing body or is not represented by an Indigenous governing body you must give notice to the parent and the care provider.

Prior to taking any significant measure in relation to a child, notice should be given, however if that is not possible notice must be served within 1-3 business days.

1. When is an apprehension imminent?

When a family is unable to follow a safety plan and the child is not at immediate risk of harm. The notice would give an opportunity for the Indigenous governing body to prepare resources to keep the child in their community.

1. What is a significant measure?

A significant measure is:

* Apprehension or removal of a child
* Any court proceedings
* And care status or agreement changes (including VSG, VPA)
* Imminent apprehension
* Not culturally appropriate placement
* Critical Incidents
* Removal from foster home:

o Foster home request child be removed

o Abuse allegation or protection concerns about a foster home that cannot be mitigated with a safety plan

o Not culturally appropriate and moving children to family or culturally appropriate care home

1. What if there is no indigenous governing body but we know the child has treaty or citizenship status?

If there is no identified Indigenous governing body, you would follow your agency’s policy by contacting the leadership in the child’s’ community if you have permission from the parent to do so, reach out to extended family and community as per standard 1.1.1 Intake

1. What do I do if another CFS agency is proving services to ½ siblings?

If a notice of significant measure does not apply, best practice would indicate contacting the other agency in case they might have resources that can be used for the child.

1. What are culturally appropriate services?

In this context wherever possible a First Nation child should be placed in a First Nation home, a Metis child to be placed in a Metis home unless identified differently by the Indigenous governing body.

1. Who is a care provider?

A care provider means a person who has primary responsibility for providing the day-to-day care of an Indigenous child, other than the child’s parent, including in accordance with the customs or traditions of the Indigenous group, community or people to which the child belongs.

1. Should each child get a separate notification?

Yes if there are three children in the family you need to complete 3 notification forms.

1. How do we give notification?

Fax, e-mail and mail are all acceptable ways of providing notification. Please speak to your Indigenous Governing Body for their preference

1. In the case of a civil proceeding who is considered a party?

In the context of a civil proceeding in respect of the provision of child and family services in relation to an Indigenous child,

(a) the child’s parent and the care provider have the right to make representations and to have party status; and

(b) the Indigenous governing body acting on behalf of the Indigenous group, community or people to which the child belongs has the right to make representations

**Additional resources:**

Link to An Act Respecting First Nations, Inuit and Metis Children, Youth and Families: https://laws.justice.gc.ca/eng/AnnualStatutes/2019\_24/

What Does the Act Mean (PDF)

(https://www.sac-isc.gc.ca/eng/1568071056750/1568071121755)