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# **BILL NO. 112**

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## **An Act to Amend Chapter 5 of the Acts of 1990, the Children and Family Services Act**

REPRINTED WITH CHANGES AS RECOMMENDED  
TO THE LAW AMENDMENTS COMMITTEE  
BY THE MINISTER OF COMMUNITY SERVICES

The Honourable Joanne Bernard  
*Minister of Community Services*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

**An Act to Amend Chapter 5  
of the Acts of 1990,  
the Children and Family Services Act**

Be it enacted by the Governor and Assembly as follows:

1 The Preamble to Chapter 5 of the Acts of 1990, the *Children and Family Services Act*, is amended by adding immediately after the twelfth paragraph the following paragraph:

AND WHEREAS the cultural identity of Mi'kmaq and aboriginal children is uniquely important for the exercise of the child's aboriginal and treaty rights;

**12 (1) Subsection 3(1) of Chapter 5 ~~of the Acts of 1990, the Children and Family Services Act~~, is amended by**

**(a) relettering clause (a) as clause (aa) and adding immediately preceding that clause the following clause:**

(a) "aboriginal child" means a child who is registered under the *Indian Act* (Canada) and includes a Mi'kmaq child;

**(b) adding "and Mi'kmaw Family and Children's Services of Nova Scotia" immediately after "agency" in the last line of re-lettered clause (aa);**

**(c) striking out clause (b) and substituting the following clause:**

(b) "band" means a band as defined in the *Indian Act* (Canada) within the Province of Nova Scotia;

**(ad) striking out "sixteen years of age unless the context otherwise requires" in the first and second lines of clause (e) and substituting "nineteen years of age";**

**(be) striking out subclause (g)(iii) and substituting the following sub-clause:**

(iii) parenting-skill and support services,

**(ef) striking out subclauses (h)(ii) and (iii);**

**(dg) striking out subclause (h)(v) and substituting the following sub-clause:**

(v) a residential child-caring facility,

**(eh) striking out subclauses (h)(vii) to (ix);**

**(fi) striking out clauses (i) to (k) and substituting the following clauses:**

(i) "common-law relationship" means a relationship between two persons who have cohabitated in a marriage-like relationship for a period of at least two years;

(j) "community", with respect to a child, includes all persons who have a beneficial and meaningful relationship with the child and,



where the child is a registered member of a band, includes members of the child's band;

- (k) "conference" means a meeting of all or some of
  - (i) the parties to a proceeding,
  - (ii) their legal counsel,
  - (iii) the child who is the subject of the proceeding, if appropriate,
  - (iv) the guardian *ad litem* of the child who is the subject of the proceeding and the guardian's legal representative or the legal representative of the child if no guardian *ad litem* is appointed,
  - (v) any counsellors, therapists or other persons providing services to a party to the proceeding or a child who is the subject of the proceeding, and
  - (vi) any other person whose attendance would be beneficial to the conferencing process;

- (jka) "court" means, unless the context otherwise requires,
  - (i) in any area of the Province where the Supreme Court of Nova Scotia (Family Division) is entitled to exercise jurisdiction, the Supreme Court (Family Division), and includes a judge of that Court, or
  - (ii) in any area of the Province where the Supreme Court (Family Division) is not entitled to exercise jurisdiction, the Family Court, and includes a judge of that Court;

(kb) "cultural connection plan" means a written plan that offers information and guidance to preserve a child's cultural identity and, where the child is a Mi'kmaq child, is developed with input from the child's band and fosters the child's connection with the child's First Nation, culture, heritage, spirituality and traditions;

(kc) "customary care" means the care and supervision of a Mi'kmaq child or aboriginal child by a person who is not the child's parent, according to the custom of the child's band or Aboriginal community;

**(gi) adding immediately after clause (l) the following clauses:**

~~(la) "emotional harm" means harm to a child's self-concept or self-worth or harm that seriously interferes with a child's healthy development, emotional functioning and attachment to others;~~

(la) "emotional abuse" means acts that seriously interfere with a child's healthy development, emotional functioning and attachment to others such as

- (i) rejection,
- (ii) isolation, including depriving the child from normal social interactions,

- (iii) deprivation of affection or cognitive stimulation,
- (iv) inappropriate criticism, humiliation or expectations of or threats or accusations toward the child, or

(v) any other similar acts;

(lb) “family group conference” means one or more mediated conferences which may include relatives of the child and members of the child’s community;

**(k) adding immediately after clause (n) the following clause:**

(na) “kinship placement” means a placement with a foster parent who

(i) is a relative of the child, or

(ii) has an established relationship with the child;

**(l) adding immediately after clause (o) the following clause:**

(oa) “Mi’kmaq child” means a child of Mi’kmaq ancestry who is

(i) registered as an Indian under the *Indian Act* (Canada), or

(ii) considered Mi’kmaq according to band custom and law;

**(hm) striking out clause (p) and substituting the following clause:**

~~(p) “neglect” means the failure to provide~~

~~(i) food, clothing, shelter or any necessary medical, surgical or other remedial intervention;~~

~~(ii) supervision necessary to ensure a child’s health, safety and well-being; or~~

~~(iii) a supportive, nurturing and encouraging environment necessary for a child’s emotional development and well-being.~~

(p) “neglect” means the chronic and serious failure to provide to the child

(i) adequate food, clothing or shelter,

(ii) adequate supervision,

(iii) affection or cognitive stimulation, or

(iv) any other similar failure to provide;

**(in) striking out subclauses (r)(i) and (ii) and substituting the following subclauses:**

(i) the mother of the child, if the mother

(A) has custody of the child under a written agreement or court order, or

(B) resides with and has care of the child,

(ii) the father of the child, if the father



(A) has custody of the child under a written agreement or court order, or

(B) resides with and has care of the child,

**(jo)** striking out subclauses (r)(iii) and (v);

**(kp)** adding “, has custody of the child” immediately after “order” in the second line of subclause (r)(vi);

**(lq)** striking out “an individual who has acknowledged paternity of the child and” in the first two lines of subclause (r)(vii) and substituting “a mother or father”; and

**(mr)** striking out clause (t) and substituting the following clauses:

(t) “relative” of a person means a person related by blood, marriage or common-law relationship, or, where the person is adopted, by adoption, marriage or common-law relationship;

(u) “representative” means a person appointed as a representative of an agency pursuant to this Act;

**(uv)** “sexual abuse” means

(i) the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct, or

(ii) the use of a child in, or exposure to, prostitution, pornography or any ~~other~~ unlawful sexual practice.

**(2)** Subsection 3(2) of Chapter 5 is amended by adding immediately after clause (g) the following clause:

(ga) the child’s sexual orientation, gender identity and gender expression;

**23** Section 7 of Chapter 5 is amended by

(a) striking out the comma in the second line and substituting “and”; and

(b) striking out “and child-placing agencies” in the second and third lines.

**34** Chapter 5 is further amended by adding immediately after Section 12 the following Section:

12A (1) When conducting an investigation in respect of a child, a social worker employed by an agency may

(a) attend at the residence of the child and any other place frequented by the child;

(b) interview and examine the child;

(c) interview any parent or guardian of the child;

(d) interview any person who cares for or has an opportunity to observe the child;

(e) interview any person who provides health, social, educational or other services to the child or to any parent or guardian of the child;

(f) interview other persons about past parenting; and

(g) interview other persons and gather any evidence that the social worker considers necessary or advisable to complete the investigation.

(2) A social worker employed by an agency may exercise any of the powers enumerated in subsection (1) regardless of whether the social worker has the consent of a parent or guardian of the child.

**45** Section 13(1) of Chapter 5 is amended by striking out “the care of the child’s parent or guardian” in the fifth and sixth lines and substituting “or placed in the care of a parent or guardian of the child”.

**56** Section 14 of Chapter 5 is repealed and the following subsection substituted:

14 (1) The Minister shall provide to a child under sixteen years of age appropriate child-care services or placement in a child-caring facility if it appears to the Minister that

(a) there is no parent or guardian willing to assume responsibility for the child; or

(b) the child is a child in care who requires child-care services or placement in a child-caring facility.

(2) The Minister ~~may~~ shall, where the conditions in subsections (1) and (2) of Section 19A are met, provide to a child sixteen years of age or more but under nineteen years of age appropriate child-care services or placement in a child-caring facility if it appears to the Minister that

(a) there is no parent or guardian willing to assume responsibility for the child; or

(b) the child is a child in care who requires child-care services or placement in a child-caring facility.

**67** Section 15 of Chapter 5 is amended by adding immediately after subsection (3) the following subsection:

(3A) Where the Minister determines that it would otherwise be necessary to suspend or cancel an approval or licence given or issued pursuant to this Act to a person or agency to conduct, maintain, operate or manage a child-caring facility, the Minister may, with the consent of the person or agency, appoint an interim manager to conduct, maintain, operate and manage the child-caring facility until such time as the Minister determines that the circumstance that would otherwise have necessitated the suspension or cancellation have been ameliorated.



**78 Subsection 16(1) of Chapter 5 is amended by**

(a) striking out clauses (a) to (d) and substituting the following clause:

(a) residential child-caring facilities;

and

(b) striking out “for the care and treatment of emotionally disturbed children” in the first, second and third lines of clause (e).

**89 (1) Subsection 19(1) of Chapter 5 is repealed and the following subsection substituted:**

(1) A child who is sixteen years of age or more but under nineteen years of age and in need of protective services may enter into a written agreement with an agency or the Minister for the provision of services if the services are likely to ameliorate the circumstances of the child such that the child is no longer in need of protective services.

(2) Subsection 19(2) of Chapter 5 is amended by striking out “A special-needs” in the first line and substituting “A services”.

(3) Subsection 19(3) of Chapter 5 is amended by striking out “A special-needs” in the first line and substituting “A services”.

**910 Chapter 5 is further amended by adding immediately after Section 19 the following Section:**

19A (1) A child who is sixteen years of age or more but under nineteen years of age and in need of protective services may enter into a written agreement with an agency or the Minister for a placement or assistance in obtaining a placement if the child

(a) does not reside with a parent or guardian; or

(b) is or may be in need of protective services in respect of a parent or guardian with whom the child resides.

(2) An agency may not enter into a placement agreement pursuant to this Section unless the agency determines that

(a) an appropriate placement that is likely to benefit the child is available; and

(b) a placement is not otherwise available to the child from any source.

(3) A placement agreement made pursuant to this Section shall be made for a period not exceeding one year, but may be extended for further periods each not exceeding one year, with the approval of the Minister.

(4) A placement agreement made pursuant to this Section shall be in the form prescribed by the regulations.

**1011** (1) Subsection 21(2) of Chapter 5 is amended by striking out “a stay of the proceedings” in the second last and last lines and substituting “an order for mediation”.

(2) Subsection 21(3) of Chapter 5 is repealed and the following subsections substituted:

(3) Where an order for mediation is granted pursuant to subsection (2), the court may extend any time limit applicable under subsection (1) of Section 41 or subsection (1) or (2) of Section 45 by a period equal to the period of the mediation.

(4) The court may grant an order for mediation only once in respect of any proceeding.

**112** Subsection 22(2) of Chapter 5, as amended by Chapter 10 of the Acts of 1996, is further amended by

(a) striking out clauses (f) and (g) and substituting the following clauses:

(f) the child has suffered emotional ~~harm~~ abuse, inflicted by a parent or guardian of the child or caused by the failure of a parent or guardian to supervise and protect the child adequately;

(g) there is substantial risk that the child will suffer emotional abuse and the parent or guardian does not provide, refuses or is unavailable or unable to consent to, or fails to co-operate with the provision of, services or treatment to remedy or alleviate the abuse;

~~(b) striking out “or” the first time it appears in the fourth line of clause (g);~~

~~(c) adding “, or fails to co-operate with the provision of” immediately after “to” the second time it appears in the fifth line of clause (g);~~

~~(db)~~ striking out “or” the first time it appears in the fifth line of clause (h);

~~(ec)~~ adding “, or fails to co-operate with the provision of” immediately after “to” the second time it appears in the sixth line of clause (h);

~~(fd)~~ striking out clauses (i) to (k) and substituting the following clauses:

(i) the child has been exposed, ~~directly or indirectly, to violence in the home or involving a relative of the child, and the child’s parent~~ to, or has been made aware of, violence by or towards

(i) a parent or guardian, or

(ii) another person residing with the child,

and the parent or guardian fails or refuses to obtain services or treatment, or to take other measures, to remedy or alleviate the violence;

(j) the child is experiencing ~~chronic and serious~~ neglect by a parent or guardian of the child;

(k) there is a substantial risk that the child will experience ~~chronic and serious~~ neglect by a parent or guardian of the child, and the parent or guardian does not provide, refuses or is unavailable or unable to consent to, or fails to co-



operate with the provision of, services or treatment to remedy or alleviate the harm;

(ka) the child's only parent or guardian has died or is unavailable to exercise custodial rights over the child and has not made adequate provision for the child's care and custody;

(kb) the child is in the care of an agency or another person and the parent or guardian of the child refuses or is unable or unwilling to resume the child's care and custody;

**(ge) striking out "or" the first time it appears in the sixth line of clause (l); and**

**(hf) adding " , or fails to co-operate with the provision of" immediately after "to" the second time it appears in the seventh line of clause (l).**

**1213 Subsection 24(2) of Chapter 5 is amended by striking out "is or may be suffering or may have suffered abuse" in the fourth last and third last lines and substituting the following clauses:**

(f) has or may have suffered abuse;

(g) is or may be suffering abuse; or

(h) is or may be about to suffer abuse in the imminent future,

**1314 Chapter 5 is further amended by adding immediately after Section 24 the following Section:**

24A (1) Every person who receives notice from an agency that there are reasonable and probable grounds to believe that a child is in need of protective services shall, upon obtaining information that would allow the child to be located, forthwith report the information to the agency.

(2) This Section applies whether or not the information obtained is confidential or privileged.

(3) No action lies against a person by reason of that person reporting information pursuant to subsection (1), unless the reporting of that information is done falsely and maliciously.

(4) Every person who contravenes subsection (1) is guilty of an offence and upon summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both.

(5) No proceedings may be instituted pursuant to subsection (4) more than two years after the contravention occurred.

(6) Every person who falsely and maliciously reports information to an agency pursuant to subsection (1) is guilty of an offence and upon summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a period not exceeding six months or to both.

**1415 (+)** Subsections 25(1) and (2) of Chapter 5 is are repealed and the following subsections substituted:

(1) In this Section, a child is abused by a person other than a parent or guardian if the child

(a) suffers physical harm, inflicted by a person other than a parent or guardian of the child or caused by the failure of a person other than a parent or guardian of the child to supervise and protect the child adequately;

(b) is sexually abused by a person other than a parent or guardian of the child or by another individual where the person, not being a parent or guardian of the child, with the care of the child knows or should know of the possibility of sexual abuse and fails to protect the child; or

(c) suffers ~~serious~~ emotional ~~harm~~ abuse, caused by the intentional conduct of a person other than a parent or guardian of the child.

(2) Every person who has information, whether or not it is confidential or privileged, indicating that a child under the age of sixteen

(a) has or may have suffered abuse;

(b) is or may be suffering abuse; or

(c) is or may be about to suffer abuse in the imminent future,

by a person other than a parent or guardian shall forthwith report the information to an agency.

~~(2) Subsection 25(2) of Chapter 5 is amended by striking out “is or may be suffering or may have suffered abuse” in the third line and substituting the following clauses:~~

~~(a) has or may have suffered abuse;~~

~~(b) is or may be suffering abuse; or~~

~~(c) is or may be about to suffer abuse in the imminent future;~~

**16** Chapter 5 is further amended by adding immediately after Section 25 the following Section:

25A The duty to report pursuant to Sections 23 to 25 applies even if the information on which the person’s belief is based is confidential and its disclosure is restricted by legislation or otherwise, but it does not apply to information that is privileged because of a solicitor-client relationship.

**1517** (1) Subsection 27(1) of Chapter 5 is amended by

(a) adding “who is under the age of sixteen years or who is a child in care” immediately after “child” in the second line; and

(b) striking out clause (b) and adding the following clause:

(b) at the direction of the representative,



- (i) deliver the child to the representative,
- (ii) return the child to the child's parent or guardian, or
- (iii) deliver the child to the child's placement.

**(2) Subsection 27(2) of Chapter 5 is amended by striking out clauses (a) and (b) and substituting the following clauses:**

(a) notify an agency and ~~a~~ the child's parent or guardian ~~of the child~~ of the detention; and

(b) at the direction of the representative,

- (i) deliver the child to the representative,
- (ii) return the child to the child's parent or guardian, or
- (iii) deliver the child to the child's placement.

**1618 (1) Subsection 28(1) of Chapter 5 is amended by striking out "Where" in the first line and substituting "Subject to subsection (1A), where".**

**(2) Section 28 of Chapter 5 is further amended by adding immediately after subsection (1) the following subsection:**

(1A) Where the agency is unable to locate or contact a parent or guardian, the agency may place the child with

- (a) a relative of the child; or
- (b) a person who has an established relationship with the child,

who is willing and able to provide for the child's care.

**(3) Section 28 of Chapter 5 is further amended by adding immediately after subsection (2) the following subsection:**

(2A) The agency shall commence an application in accordance with Section 32 if

- (a) the child has been placed with a relative of the child or a person who has an established relationship with the child pursuant to subsection (1A); and
- (b) within thirty days of placing the child,
  - (i) the agency is unable to locate or contact a parent or guardian of the child, and
  - (ii) the relative of the child or the person who has an established relationship with the child does not commence an application for care and custody of the child.

**1719 (1) Subsection 29(1) of Chapter 5 is amended by**

- (a) striking out "or" at the end of clause (c);

(b) striking out the period at the end of clause (d) and substituting “; or”;  
and

(c) adding immediately after clause (d) the following clause:

(e) deliver the child to a child-caring facility as directed by ~~an~~  
~~agent~~ a representative.

(2) Section 29 of Chapter 5 is further amended by adding immediately after subsection (3) the following subsection:

(4) This Section does not apply to a child sixteen years of age or more unless the child is a child in care.

~~1820~~ (1) Subsection 30(1) of Chapter 5 is amended by

(a) striking out “Trial Division of the” in the second line; and

(b) striking out “, including a local judge thereof,” in the second and third lines.

(2) Subsection 30(4) of Chapter 5 is amended by

(a) striking out “Trial Division of the” in the third line; and

(b) striking out “, including a local judge thereof,” in the third and fourth lines.

21 Section 31 of Chapter 5 is repealed and the following Section substituted:

31 In Sections 32 to 49,

(a) “proceeding” means a proceeding pursuant to those Sections;

(b) “third party” means a person added to a proceeding pursuant to clause (f) of subsection (1) of Section 36.

~~1922~~ Section 32 of Chapter 5 is amended by adding “under sixteen years of age” immediately after “child” in the second line.

~~2023~~ Subsection 33(1) of Chapter 5 is amended by striking out “at any time before or after an application to determine whether a child is in need of protective services has been commenced,” in the second, third and fourth lines and substituting the following clauses:

(a) at any time before or after an application to determine whether a child is in need of protective services has been commenced, if the child is under sixteen years of age; or

(b) at any time after an application to determine whether a child is in need of protective services has been commenced, if the child is sixteen years of age or more but under nineteen years of age,

24 Subsection 34(5) of Chapter 5 is amended by striking out “appropriate” and substituting “appropriate”.



**2425 (1) Subsection 36(1) of Chapter 5 is amended by**

(a) **striking out “pursuaut” in the first and second lines of clause (e) and substituting “pursuant”; and**

(b) ~~adding “Civil Procedure Rules or” immediately after “the” the second time it appears in the second line of clause (f); and~~

(c) ~~adding “, as the case may be” immediately after “Rules” in the last line of clause (f).~~

**(b) striking out clause (f) and substituting the following clause:**

(f) a third party added as a party at any stage in the proceeding pursuant to the *Civil Procedure Rules* or *Family Court Rules*, as the case may be.

**(2) Subsection 36(3) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by**

**(a) striking out “known to be Indian or may be Indian” in the second line and substituting “is or is entitled to be a Mi’kmaq child”; and**

**(b) striking out “Mi’kmaq” in the third line and substituting “Mi’kmaw”.**

**(3) Subsection 36(4) of Chapter 5 is amended by striking out “, who has cared for the child continuously during the six months immediately before the hearing or application,” in the fourth, fifth and sixth lines and substituting “of the child”.**

**(4) Section 36 of Chapter 5 is further amended by adding immediately after subsection (4) the following subsection:**

(4A) Where the child who is the subject of a proceeding is or is entitled to be a Mi’kmaq child,

(a) at an interim hearing;

(b) at a disposition hearing;

(c) on a hearing to review a disposition order pursuant to Section 46; or

(d) on an application to terminate, or vary access under, an order for permanent care and custody pursuant to Section 48,

the child’s band, if known,

(e) is entitled to the same notice of the proceeding as a party, which notice may be served upon any member of the band council;

(f) may have a designate present at the hearing;

(g) may be represented by counsel; and

(h) may make submissions to the court,

but shall take no further part in the hearing without leave of the court.



**2226** Chapter 5 is further amended by adding immediately after Section 36 the following Section:

36A (1) Where the child who is the subject of the proceeding is under one year of age when the proceeding is commenced, and the mother or father of the child is not the child's parent or guardian, notice of the proceeding shall be served upon the mother or father, as the case may be, not later than forty-five days after the proceeding is commenced.

(2) Where the identity or whereabouts of the mother or father is unknown to the agency, the court shall inquire of each party to the proceeding to attempt to ascertain the identity or whereabouts of the mother or father, as the case may be.

(3) Where more than one person is identified as a possible father, each such person shall be served with notice pursuant to subsection (1).

**2327** (1) Subsection 37(2) of Chapter 5 is amended by

(a) striking out "and be represented by counsel" in the fourth and fifth lines; and

(b) striking out "and representation" in the second last line.

(2) Section 37 is further amended by adding immediately after subsection (2) the following subsection:

(2A) Where the court orders that a child under sixteen years of age be made a party to a proceeding, the court shall appoint a guardian *ad litem* for the child.

(3) Subsection 37(3) of Chapter 5 is amended by striking out "twelve" in the second last line and substituting "sixteen".

**2428** (1) Subsection 39(4) of Chapter 5 is amended by

(a) striking out clause (a);

(b) striking out "or" in the first line of clause (b) and substituting a comma;

(c) adding "or be placed in" immediately after "to" in the second line of clause (b);

(d) adding "or ~~other person who is a party to the proceeding~~ third party" immediately after "guardian" in the second line of clause (b);

(e) adding "or ~~other person who is a party to the proceeding~~ third party" immediately after "guardian" in the second and third lines of clause (d);

(f) adding immediately after clause (d) the following clause:

(da) where the child is or is entitled to be an aboriginal child, the child shall be placed in the customary care and custody of a person, with the consent of that person, subject to the supervision of the agency and on such reasonable terms and conditions as the court considers appropriate;



(fg) ~~adding “who is a party to the proceeding” immediately after “person”~~ striking out “other person” in the first line of clause (f) and substituting “third party”; and

(gh) striking out clause (g) and substituting the following clauses:

(g) referral of the child or a parent or guardian or ~~other person~~ who is a party to the proceeding third party for assessment, treatment or services;

(h) referral of the child or a parent or guardian or third party for a family group conference.

(2) Section 39 is further amended by adding immediately after subsection (4) the following subsection:

(4A) Where the court makes an order pursuant to clause (b) or (d) of subsection (4), any representative of the supervising agency has the right to enter the residence of the child to provide guidance and assistance and to ascertain whether the child is being properly cared for.

**2529** (1) Subsection 40(1) of Chapter 5 is amended by striking out “, hold a protection hearing and determine whether the child is in need of protective services.” in the second last and last line and substituting the following clauses:

(a) hold a protection hearing and determine whether the child is in need of protective services; or

(b) refer the parties to ~~restorative~~ conferencing, which may proceed as a family group conference, if

(i) the child is the subject of a supervision order pursuant to clause (b) of subsection (4) of Section 39, and

(ii) the court determines it to be in the child’s best interests.

(2) Subsection 40(3) of Chapter 5 is amended by adding “or third party” immediately after “guardian” in the first line.

~~(23) Subsection 40(3) Section 40 of Chapter 5 is repealed and the following subsection substituted~~ further amended by adding immediately after subsection (3) the following subsection:

~~(3)3A~~ Where every party ~~to the proceeding~~ present at the protection hearing admits that the child is in need of protective services as alleged by the agency, the court may determine that the child is in need of protective services on the basis of those admissions.

**2630** Chapter 5 is further amended by adding after Section 40 the following Sections:

40A ~~(1)~~ The purpose of ~~restorative~~ conferencing is to facilitate the timely resolution of the issues that resulted in the proceeding being commenced in a manner that is consensual and that serves the child’s best interests.

- (2) ~~A restorative conference may be attended by~~
- ~~(a) a party;~~
  - ~~(b) a representative of a party;~~
  - ~~(c) a professional providing assessment, treatment or services to a party or, where the child is not a party, the child; and~~
  - ~~(d) any other person, if the parties all consent.~~

40B (1) Where the court refers the parties to **restorative** conferencing, the initial **restorative** conference must be held within thirty days of the referral.

- (2) At the initial **restorative** conference,
- (a) the agency shall provide to the other parties a proposal for a service plan; and
  - (b) the parties shall attempt to negotiate a service plan for implementation.

40C (1) After the initial **restorative** conference is held, each subsequent **restorative** conference must be held within sixty days of the preceding **restorative** conference.

(2) The service plan must be reviewed and, where necessary, revised at each **restorative** conference after the initial **restorative** conference.

40D For greater certainty, during **restorative** conferencing, a party may apply for, and the court may order, disclosure or discovery in accordance with the *Civil Procedure Rules* or the *Family Court Rules*, as the case may be.

40E (1) Where a **restorative** conference is not held

- (a) within sixty days of the preceding **restorative** conference; or
- (b) within thirty days of the court ordering that the parties resume **restorative** conferencing pursuant to clause (a) of subsection (2),

the agency shall apply within five working days to have the court consider whether to terminate **restorative** conferencing.

(2) Where an application is made pursuant to subsection (1), the court may

- (a) order that the parties resume **restorative** conferencing if the court determines it to be in the child's best interests; or
- (b) terminate **restorative** conferencing.

40F (1) A party may at any time terminate **restorative** conferencing by filing a notice of termination of **restorative** conferencing with the court and providing written notice thereof to the other parties.

(2) Where **restorative** conferencing is terminated pursuant to clause (b) of subsection (2) of Section 40E or subsection (1), the court shall

- (a) within five working days, schedule a pre-hearing conference;
- and



- (b) within sixty days,
  - (i) where the parties are referred to **restorative** conferencing pursuant to clause (b) of subsection (1) of Section 40, hold a protection hearing and determine whether the child is in need of protective services pursuant to Section 40, or
  - (ii) where the parties are referred to **restorative** conferencing pursuant to clause (b) of subsection (1) of Section 41, hold a disposition hearing and make a disposition order pursuant to Section 42.

40G (1) The agency may apply to conclude **restorative** conferencing and discontinue the proceeding if all the parties consent to doing so.

(2) When making an application pursuant to subsection (1), the agency shall file with the court an agreed statement of facts.

(3) Where the court determines it to be in the child's best interests to do so, the court may order that **restorative** conferencing be concluded and the proceeding be discontinued.

(4) The court may not make an order for costs when an order is made pursuant to subsection (3).

40H Within twelve months of the parties being referred to **restorative** conferencing under clause (b) of subsection (1) of Section 40, the agency shall terminate **restorative** conferencing under subsection (1) of Section 40F or apply to conclude **restorative** conferencing and discontinue the proceeding under subsection (1) of Section 40G if **restorative** conferencing has not otherwise been terminated.

**2731 (1) Subsection 41(1) of Chapter 5 is amended by striking out "hold a disposition hearing and make a disposition order pursuant to Section 42" in the third and fourth lines and substituting the following clauses:**

(a) hold a disposition hearing and make a disposition order pursuant to Section 42; or

(b) refer the parties to **restorative** conferencing, which may proceed as a family group conference, if

(i) the child is the subject of an order pursuant to clause (b) of subsection (4) of Section 39, and

(ii) the court determines it to be in the child's best interests.

**(2) Clause 41(3)(c) of Chapter 5 is repealed.**

**(3) Subsection 41(4) of Chapter 5 is amended by**

(a) striking out "and, where the child is twelve years of age or more, whether the child has consulted" in the second and third lines of clause (b);

(b) striking out "and" at the end of clause (b);

(c) striking out the period at the end of clause (c) and substituting "; and"; and



(d) adding immediately after clause (c) the following clause:

(d) satisfy itself that, where the child is twelve years of age or more and less than sixteen years of age and has not been added as a party to the proceeding, the child has not expressed a desire to be a party to the proceeding.

**2832** (1) Clause Subsection 42(1)(b) of Chapter 5 is amended by

(a) striking out “or” in the first line of clause (b) and substituting a comma;

(b) adding “or be placed in” immediately after “to” in the second line of clause (b); ~~and~~

(c) adding “or ~~other person who is a party to the proceeding~~ third party” immediately after “guardian” in the second line of clause (b);

(d) adding “or third party” immediately after “guardian” in the third line of clause (c); and

(e) adding immediately after clause (c) the following clause:

(ca) where the child is or is entitled to be an aboriginal child, the child shall remain in or be placed in the customary care and custody of a person, with the consent of that person, subject to the supervision of the agency, for a specified period, in accordance with Section 43;

~~(2) Subsection 42(3) of Chapter 5 is amended by adding “with whom the child, at the time of being taken into care, had a meaningful relationship” immediately after “family” in the seventh line.~~

(2) Subsection 42(3) of Chapter 5 is repealed and the following subsection substituted:

(3) Where the court determines that it is necessary to remove the child from the care of a parent or guardian, the court shall, before making an order for temporary or permanent care and custody pursuant to clause (d), (e) or (f) of subsection (1), consider whether

(a) it is possible to place the child with a relative, neighbour or other member of the child’s community or extended family with whom the child at the time of being taken into care had a meaningful relationship pursuant to clause (c) of subsection (1), with the consent of the relative or other person; and

(b) where the child is or is entitled to be an aboriginal child, it is possible to place the child within the child’s community.

**2933** (1) Subsection 43(1) of Chapter 5 is amended by

(a) striking out clause (e) and substituting the following clause:

(e) access by the child to a parent or guardian or ~~other person who is a party to the proceeding~~ third party;



and

~~(b) adding “who is a party to the proceeding or is” immediately after “person” in the third line of clause (g).~~

(b) adding “, including family group conferencing,” immediately after “services” in the first line of clause (f);

and

(c) striking out clause (g) and substituting the following clause:

(g) the assessment, treatment or services, including family group conferencing, to be obtained by a parent or guardian or third party or other person who is residing with the child; and

(2) Subsection 43(4) of Chapter 5 is repealed.

**3034 (1)** Subsection 44(1) of Chapter 5 is amended by

(a) striking out “by a parent or guardian to the child” in the first and second lines of clause (a) and substituting “by a child to a parent or guardian or ~~other person who is a party to the proceeding~~ third party”;

(b) adding “or third party” immediately after “guardian” in the third line of clause (a);

~~(b)~~ (c) striking out clause (b); and

(d) adding “, including family group conferencing,” immediately after “services” in the first line of clause (c); and

(e) striking out “residing with the child” in the third line of clause (d) and substituting “who is a party to the proceeding”. clause (d) and substituting the following clause:

(d) the assessment, treatment or services, including family group conferencing, to be obtained by a parent or guardian or third party;

(2) Subsection 44(3) of Chapter 5 is amended by

(a) striking out “and” at the end of clause (c);

(b) striking out the period at the end of clause (d) and substituting “; and”; and

(c) adding the following clause immediately after clause (d):

(e) where the child is or is entitled to be an aboriginal child, the desirability of placing the child

(i) in a kinship placement with a relative,

(ii) if unable to place the child in a kinship placement with a relative, in a kinship placement,

(iii) if unable to place the child in a kinship placement, with a member of the child’s community who is approved as a foster parent, or



(iv) if unable to place the child in a kinship placement or with a member of the child's community who is approved as a foster parent, with an aboriginal foster parent.

**3435 Section 45 of Chapter 5 is repealed and the following Sections substituted:**

45 (1) The duration of a disposition order made pursuant to Section 42 must not exceed three months.

~~(2) Subject to Section 45A, the cumulative duration of all disposition orders made pursuant to Section 42 in respect of a proceeding must not exceed twelve months from the date when the initial disposition order is made.~~

(2) Where the court has made an order for temporary care and custody, the total period of disposition orders, including any supervision orders, shall not exceed

(a) where the child was under fourteen years of age at the time of the application commencing the proceedings, twelve months; or

(b) where the child was fourteen years or more at the time of the application commencing the proceedings, eighteen months.

(3) Where the parties are referred to ~~restorative~~ conferencing during a proceeding, the maximum cumulative duration of all disposition orders made pursuant to Section 42, as determined pursuant to subsection (2), must be reduced by the amount of time equal to that spent by the parties in ~~restorative~~ conferencing.

45A ~~Where a child has been the subject of more than one proceeding and the cumulative duration of all disposition orders made pursuant to clause (c) or (d) of subsection (1) of Section 42 in respect of the proceedings exceeds eighteen months, the court shall, in the child's best interests,~~

(a) a child has been the subject of more than one proceeding;

(b) the proceeding closest in time to the current proceeding ended no less than five years prior to the commencement of the current proceeding; and

(c) the cumulative duration of all disposition orders made pursuant to clause (d) of subsection (1) of Section 42 with respect to all proceedings exceeds thirty-six months,

the court shall, in the child's best interests,

~~(ad)~~ dismiss the proceeding; or

~~(be)~~ order that the child be placed in the permanent care and custody of the agency, in accordance with Section 47.

**3236 Clause 46(5)(c) is amended by striking out "43 for supervision orders and in Section 45 for orders for temporary care and custody" in the third, fourth and fifth lines and substituting "45".**

**3337 (1) Subsections 47(2) to (4) of Chapter 5 are repealed and the following subsections substituted:**



(2) Where the court makes an order for permanent care and custody, the court shall not make any order for access by a parent, guardian or other person.

(3) Where a child is the subject of an order for permanent care and custody and the agency considers it to be in the child's best interests, the agency shall, where possible, facilitate communication or contact between the child and

(a) a relative of the child; or

(b) a person who has an established relationship with the child.

(2) Subsection 47(5) of Chapter 5 is amended by adding “, religion” immediately after “race” in the third line.

**38** Chapter 5 is further amended by adding immediately after Section 47 the following Section:

47A The agency shall develop, in a timely manner, a cultural connection plan for a child who is in the permanent care and custody of the agency or is the subject of an adoption agreement pursuant to Section 68.

**3439** (1) Clause 48(1)(a) of Chapter 5 is amended by striking out “because the child is pursuing an education program or” in the second and third lines.

(2) Subsection 48(3) of Chapter 5 is amended by

(a) striking out “or to vary access under such an order” in the second and third lines; and

(b) striking out “or variation of access” in the second last and last lines.

(3) Subsection 48(4) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996 and amended by Chapter 15 of the Acts of 2005, is further amended by striking out “or to vary or terminate access under such an order” in the fifth line.

(4) Subsection 48(6) of Chapter 5 is amended by

(a) striking out clause (a); and substituting the following clause:

(a) within forty-five days after of the making of the order for permanent care and custody;

~~(b) striking out “except with leave of the court,” in the first line of clause (c);~~

(b) adding immediately after clause (b) the following clause:

(ba) within five months after the expiry of the time referred to in clause (a);

~~(c) striking out subclause (c)(i) and substituting the following subclause:~~

~~(i) twelve months of the making of the order for permanent care and custody;~~

(c) striking out “within” in the first line of clause (c) and substituting “after”;

~~(d) striking out “six” in the first line of subclause (c)(ii) and substituting “twelve”;~~

(d) striking out “after” in the first line of subclause (c)(i) and substituting “from”;

~~(e) striking out “six” in the first line of subclause (c)(iii) and substituting “twelve”; and~~

(e) striking out “after” in the first line of subclause (c)(ii) and substituting “from”; and

~~(f) striking out subclause (d)(i) and substituting the following subclause:~~

~~(i) the making of the order for permanent care and custody;~~

(f) striking out “after” in the first line of subclause (c)(iii) and substituting “from”.

**(5) Section 48 of Chapter 5 is further amended by adding immediately after subsection (6) the following subsection:**

(6A) A party may apply to terminate an order for permanent care and custody after eleven months but before two years from

(a) the expiry of the time referred to in clause (a) of subsection (6) of Section 48; or

(b) the date of the final disposition or discontinuance of an appeal of an order for permanent care and custody pursuant to Section 49, whichever is later.

**(56) Subsection 48(7) of Chapter 5 is amended by adding “by the agency” immediately after “application” in the first line.**

**(67) Section 48 of Chapter 5 is further amended by adding immediately after subsection (7) the following subsection:**

(7A) The court shall hear an application

(a) for leave to apply to terminate an order for permanent care and custody no later than thirty days after the application is made; and

(b) to terminate an order for permanent care and custody no later than ninety days after the application is made.

**(78) Subsection 48(8) of Chapter 5 is amended by**

**(a) adding “or ~~other person who is a party to the proceeding~~ third party” immediately after “guardian” in the third and fourth lines of clause (c); and**

**(b) adding “or ~~other person who is a party to the proceeding~~ third party” immediately after “guardian” in the fourth line of clause (d).**



**(89)** Subsection 48(11) of Chapter 5 is amended by

(a) striking out “or to vary access to the child” in the first and second lines of clause (b); and

(b) striking out “in the form prescribed by the regulations” in the tenth and eleventh lines.

**3540** Subsection 49(1) of Chapter 5 is amended by striking out “thirty” in the fourth line and substituting “twenty-~~three~~five”.

**3641** Subsection 52(2) of Chapter 5 is amended by striking out “costs for maintaining the child pursuant to this Act, during the time which the child is cared for by an agency prior to and after the making of the order and a sum equal to the expenses incurred for taking the child into care, or in lieu thereof, a lump sum determined by the Governor in Council” in the eighth to thirteenth lines and substituting “amount, as prescribed by the regulations, payable for maintaining a child in care ~~as prescribed by the regulations until the child reaches nineteen years of age, is adopted, marries or the court terminates the order for permanent care and custody~~”.

**3742** Section 53 of Chapter 5 is amended by striking out “*Family Maintenance*” in the last line and substituting “*Maintenance and Custody*”.

~~38 Clause 55(1)(e) of Chapter 5 is repealed and the following clause substituted:~~

~~(e) no other available means of intervention is adequate to protect the child.~~

**43** Chapter 5 is further amended by adding immediately after Section 53 the following Section:

53A (1) A person over nineteen years of age who was the subject of an order for permanent care and custody pursuant to clause (f) of subsection (1) of Section 42 and who was not adopted may apply to the Minister for the disclosure of

(a) information relating to the person or the person’s birth family; and

(b) the reasons why the person was removed from the person’s birth family.

(2) The Minister shall disclose all information, including personal information, requested under subsection (1) in the Minister’s possession, except information that, in the opinion of the Minister, poses a risk to the health, safety or well-being of any person to whom the information relates.

**44** Subsection 55(1) of Chapter 5 is amended by

(a) adding “and” at the end of clause (a);

(b) striking out “; and” at the end of clause (b) and substituting a period; and

(c) striking out clause (c).

**3945** (1) Subsection 56(2) of Chapter 5 is amended by striking out “and, where the child in care is not a child in permanent care and custody, upon the child’s parent or guardian” in the second, third and fourth lines.

(2) Section 56 of Chapter 5 is amended by adding immediately after subsection (2) the following subsections:

(2A) Where the child who is the subject of an application is not a child in permanent care and custody, the Minister shall notify the child’s parent or guardian of the proceeding.

(2B) Where the child who is the subject of an application is not a child in permanent care and custody, the court may, upon application by the parent or guardian of the child, add the parent or guardian as a party to the proceeding.

(3) Subsection 56(3) of Chapter 5 is amended by

(a) striking out “thirty” in the third line and substituting “forty-five”;  
and

(b) ~~striking out clause (e) and substituting the following clause:~~

~~(e) no other available means of intervention is adequate to protect the child.~~

(b) adding “and” at the end of clause (a);

(c) striking out “; and” at the end of clause (b) and substituting a period;  
and

(d) striking out clause (c).

~~(4) Clause 56(4)(e) of Chapter 5 is repealed and the following clause substituted:~~

~~(e) no other available means of intervention is adequate to protect the child.~~

(4) Subsection 56(4) of Chapter 5 is amended by

(a) adding “and” at the end of clause (b); and

(b) striking out clause (c).

**4046** (1) Subsection 57(1) of Chapter 5 is repealed and the following subsections substituted:

(1) An application for review of a secure-treatment order may be made by the Minister, the agency, the child who is the subject of the order or a parent or guardian of a child, if the parent or guardian was a party to the application for the order.

(1A) Every party to an application for a secure-treatment order is a party to an application for review.

(1B) Where the child who is the subject of an application for review is not a child in permanent care and custody, the applicant shall notify the child’s



parent or guardian of the proceeding if the parent or guardian is not already a party to the application for review.

(1C) Where the child who is the subject of an application for review is not a child in permanent care and custody, the court may, upon application by a parent or guardian of the child, add the parent or guardian as a party to the proceeding.

**(2) Section 57 is further amended by adding immediately after subsection (2) the following subsection:**

(2A) An application for review must be filed and served no fewer than four working days before the hearing.

**4147 (1) Subsection 58(1) of Chapter 5 is amended by striking out “other than the parent or guardian of a child in permanent care and custody” in the fourth and fifth lines and substituting “if the parent or guardian was a party to the application respecting the order”.**

**(2) Subsection 58(2) of Chapter 5 is amended by striking out “other than the parent or guardian of a child in the permanent care and custody” in the third, fourth and fifth lines and substituting “, if the parent or guardian was a party to the application for the order”.**

**4248 Subsection 59(3) of Chapter 5 is amended by striking out “or agent” in the second last line and substituting “, representative or person designated by the Minister in accordance with the regulations”.**

**4349 Subsection 60(1) of Chapter 5 is amended by adding “to attend legal proceedings or” immediately after “facility” in the third and fourth lines.**

**4450 Clause 62(c) of Chapter 5 is amended by striking out “, demonstrated by severe anxiety, depression, withdrawal, or self-destructive or aggressive behaviour,” in the first, second and third lines.**

**4551 Clause 63(2)(b) of Chapter 5 is amended by adding “or involving” immediately after “against” in the second line.**

**4652 Subsection 64(2) of Chapter 5 is amended by adding “, upon providing written notice to the Minister,” immediately after “may” in the second line.**

**4753 Subsections 66(4) and (5) of Chapter 5 are repealed and the following subsection substituted:**

(4) Upon receiving a request in writing from a person, the Minister may disclose to the person

(a) whether the person’s name is entered in the Child Abuse Register;  
and

(b) where the person's name is entered in the Child Abuse Register, any information respecting the person entered in the Child Abuse Registry pursuant to subsection (2) of Section 63.

**4854 Subsection 67(1) of Chapter 5 is amended by**

(a) adding immediately after clause (c) the following clause:

(ca) "court" means the Supreme Court of Nova Scotia;

(b) striking out "child is a legitimate or legitimated" in the second line of subclause (f)(ii) and substituting "father was, at the time of the child's birth, married to or in a common-law relationship with the mother of the"; and

(c) striking out "paternity" in the second line of subclause (f)(vi) and substituting "parentage".

**4955 (1) Subsection 68(1) of Chapter 5 is amended by**

(a) striking out "a child-placing" in the second line and substituting "an"; and

(b) striking out "child-placing" in the third line.

(2) Subsection 68(4) of Chapter 5 is amended by striking out "child-placing" in the fifth line.

(3) Subsection 68(6) of Chapter 5 is amended by striking out "child-placing" in the third line.

(4) Subsection 68(7) of Chapter 5 is amended by striking out "child-placing" in the fourth line.

(5) Subsection 68(8) of Chapter 5 is amended by striking out "child-placing" in the second line.

(6) Subsection 68(10) of Chapter 5 is amended by striking out "child-placing" in the second line.

(7) Subsection 68(11) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by

(a) striking out "Mi'kmaq Family and Children's Services" in the first and second and in the last lines and substituting in each case "Mi'kmaw Family and Children's Services of Nova Scotia"; and

(b) striking out "is or may be an Indian" in the fourth line and substituting "is or is entitled to be a Mi'kmaq".

(8) Subsection 68(12) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by



**(a) striking out “is or may be an Indian” in the fifth line and substituting “is or is entitled to be a Mi’kmaq”; and**

**(b) striking out “Mi’kmaq Family and Children’s Services” in the sixth and seventh lines and substituting “Mi’kmaq Family and Children’s Services of Nova Scotia”.**

**~~50~~56 (1) Subsection 68A(1) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by**

**(a) striking out “child-placing” in the fifth line, in the second line of clause (a) and in the first line of clause (c); and**

**(b) striking out clause (b).**

**(2) Subsection 68A(3) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by**

**(a) striking out “a child-placing” in the first and second lines and substituting “an”;**

**(b) striking out “child-placing” in the third line, in the third line of clause (a), in the third line of clause (b) and in the third last line; and**

**(c) striking out clause (c).**

**(3) Clause 68A(4)(a) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by striking out “child-placing” in the first and in the third and fourth lines.**

**(4) Subsection 68A(5) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by**

**(a) striking out “a child-placing” in the first line and substituting “an”; and**

**(b) striking out “child-placing” in third and in the seventh lines.**

**(5) Subsection 68A(6) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by striking out “child-placing” in the last line.**

**~~51~~57 Subsection 70(1) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by**

**(a) striking out “a child-placing” in the first and second lines of clause (a) and substituting “an”;**

**(b) striking out “or” at the end of clause (b);**

**(c) striking out the period at the end of clause (c) and substituting “; or”; and**

**(d) adding immediately after clause (c) the following clause:**

**(d) the child is placed in accordance with the laws of another jurisdiction.**

**5258** (1) Clause 70A(1)(d) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by striking out "a child-placing" in the second line and substituting "an".

(2) Section 70A of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is further amended by adding immediately after subsection (1) the following subsection:

(1A) A person who has care and custody of a child pursuant to an order made under the *Maintenance and Custody Act* or an enactment of another jurisdiction respecting the custody of children may, while the order is in effect, commence proceedings for adoption within the meaning of clause (a) of subsection (2) of Section 67 if, and only if,

(a) all necessary consents for adoption have been obtained or have been ordered dispensed with pursuant to Section 75;

(b) a parent whose consent to the adoption has been obtained has, before giving the consent, received professional counselling by a person or a member of a class of persons approved for that purpose by the Minister;

(c) a social and medical history respecting the biological father and the biological mother has been prepared, if the biological father and the biological mother, or either of them, are known and available to a person or a member of a class of persons approved for that purpose by the Minister; and

(d) the person has been approved by an agency for the adoption of the child.

(3) Clause 70A(2)(a) of Chapter 5, as enacted by Chapter 10 of the Acts of 1996, is amended by striking out "a child-placing" in the first and second lines and substituting "an".

**5359** (1) Subsection 72(2) of Chapter 5 is amended by adding ", by marriage or common-law relationship" immediately after "wife" in the second and in the third lines.

(2) Subsection 72(3) of Chapter 5 is amended by adding ", by marriage or common-law relationship," immediately after "wife" in the first line.

(3) Subsection 72(4) of Chapter 5 is amended by

(a) adding ", by marriage or common-law relationship," immediately after "wife" in the first line; and

(b) striking out "legitimate parent" in the second line and substituting "father or mother".

**5460** (1) Clause 74(5)(a) of Chapter 5 is amended by striking out "a child-placing" in the second line and substituting "an".

(2) Subsection 74(9) of Chapter 5 is repealed.



(3) Subsection 74(12) of Chapter 5 is amended by striking out “*Family Maintenance*” in the second line and substituting “*Maintenance and Custody*”.

**61** Subsection 76(1) of Chapter 5, as amended by Chapter 10 of the Acts of 1996 and Chapter 15 of the Acts of 2005, is further amended by

- (a) striking out “and” at the end of clause (b);
- (b) striking out the period and substituting “; and” at the end of clause (c); and
- (c) adding the following clause immediately after clause (c):
  - (d) where the child is, or is entitled to be a Mi’kmaq child, a cultural connection plan has been developed.

**5562** Subsection 78(4) of Chapter 5 is amended by striking out “to the MicMac” in the second last line and substituting “, where the child is or is entitled to be a Mi’kmaq child, to the Mi’kmaw”.

**63** Chapter 5 is further amended by

- (a) renumbering Section 78A as 78B; and
- (b) adding immediately before renumbered Section 78B the following Section:
  - 78A (1) Upon application, the court may recognize that an adoption of a person in accordance with the custom of a band or an aboriginal community has the effect of an adoption under this Act.
  - (2) Subsections (2) to (6) of Section 78 apply *mutatis mutandis* to an adoption recognized by the court pursuant to subsection (1).

**5664** Subsection 79(3) of Chapter 5 is amended by striking out “*Family Maintenance*” in the last line and substituting “*Maintenance and Custody*”.

**5765** (1) Clause 80(1)(a) of Chapter 5 is amended by

- (a) striking out “father and mother” in the third line and substituting “parents”; and
- (b) striking out “in lawful wedlock” in the fourth and fifth lines.

(2) Subsection 80(2) of Chapter 5 is repealed and the following subsection substituted:

- (2) The relationship of all persons to the adopted person must be determined in accordance with subsection (1).

(3) Chapter 5 is further amended by adding immediately after subsection (3) the following subsection:

- (3A) An adoption order does not affect any right the adopted person may have to exercise the existing aboriginal and treaty rights of the aboriginal peo-



ples of Canada that are recognized and affirmed in section 35 of the *Constitution Act, 1982.*

**5866** ~~Clause 87(e)~~ **Section 87** of Chapter 5, as enacted by Chapter 5 of the Acts of 2002, is amended by ~~striking out “or a child-placing agency” in the second line.~~

(a) adding “or, where the child is pursuing an education program, the child is under the age of twenty-one years” immediately after “years” in the second line of clause (b); and

(b) **striking out “or a child-placing agency” in the second line of clause (c).**

**5967** **Section 88 of Chapter 5 is repealed and the following Sections substituted:**

88 Where a person receiving a subsidy granted pursuant to Section 87 has died or become unable to care for the child in respect of whom the subsidy was granted, the Minister may grant a subsidy to another person, where

(a) the child is residing with the person;

(b) the child is under the age of nineteen years or, where the child is pursuing an education program, the child is under the age of twenty-one years; and

(c) an agency determines that the placement of the child with the person is in the child's best interests.

**88A (1)** The Minister shall periodically appoint a committee to conduct a review of this Act or those provisions of it specified by the Minister.

**(2)** The Minister shall inform the public when a review under this Section begins and of the provisions of the Act included in the review.

**(3)** The committee shall prepare a written report respecting the review for the Minister.

**(4)** The Minister shall make the report available to the public.

**(5)** The first review shall be completed and the report made available to the public within four years after the day this Section comes into force.

**(6)** Each subsequent review shall be completed and the report made available to the public within four years after the day the report on the previous review has been made available to the public.

**6068** **Subsection 92(1) of Chapter 5, as amended by Chapter 10 of the Acts of 1996, is further amended by adding “a temporary-care agreement pursuant to Section 17,” immediately after “of” in the first line.**

**6169** **Section 95 of Chapter 5 is amended by striking out “court” in the first line and substituting “Provincial Court”.**

**6270** **Section 98 of Chapter 5 is repealed and the following Section substituted:**



98 No action lies against a person in relation to the exercise or performance, in good faith and without negligence, of a power, duty or function conferred pursuant to this Act.

**6371 (1) Subsection 99(1) of Chapter 5, as amended by Chapter 7 of the Acts of 1994-94, Chapter 3 of the Acts of 1996, Chapter 3 of the Acts of 2001 and Chapter 5 of the Acts of 2002, is further amended by**

- (a) striking out the comma in the fourth line of clause (f) and substituting “and”;**
- (b) striking out “and child-placing agencies” in the last line of clause (f);**
- (c) striking out the second comma in the second line of clause (g) and substituting “and”;**
- (d) striking out “and child-placing agencies” in the third line of clause (g);**
- (e) adding “and foster parents” immediately after “homes” in the second line of clause (h);**
- (f) adding immediately after clause (i) the following clause:**
  - (ia) respecting standards and procedures for the use in licensed child-caring facilities of therapeutic quiet rooms and physical restraints;**
- (g) adding “, services agreements, placement agreements” immediately after “agreements” in the second and third lines of clause (k);**
- (h) adding immediately after clause (s) the following clause:**
  - (sa) respecting the amount payable for maintaining a child in care;**
- (i) adding immediately after clause (u) the following clause:**
  - (ua) respecting the designation of a person by the Minister for the purpose of subsection (3) of Section 59;**

**and**

- (j) striking out “for employment purposes” in the second and third lines of clause (za).**

**(2) Subsection 99(1A) of Chapter 5 is repealed.**

**6472 Sections 101 to 103 of Chapter 5 are repealed.**

**6573 Sections 105 and 106 of Chapter 5 are repealed.**

**74 Chapter 5 is further amended by**

- (a) striking out “an agent” wherever it appears in Chapter 5 and substituting in each case “a representative”;**
- (b) striking out “the agent” wherever it appears in Chapter 5 and substituting in each case “the representative”; and**

(c) striking out "agents" wherever it appears in Chapter 5 and substituting in each case "representatives".

**6675** Any proceeding commenced pursuant to the *Children and Family Services Act* before the day on which this Act came into force and not finally disposed of before that day shall be dealt with and disposed of in accordance with the *Children and Family Services Act* as it read immediately before that day, as though this Act had not come into force.

**6776** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

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