

Cowessess First Nation Miyo Pimatisowin Act



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1.0 CITATION

1.1 This Act shall be cited as the “Cowessess First Nation Miyo Pimatisowin Act”.

2.0 INTERPRETATION AND DEFINITIONS

2.1 In this Act,

- (a) the singular includes the plural;
- (b) unless the context otherwise requires, a reference to one gender includes reference to other genders; and
- (c) “shall” and “must” are imperative.

2.2 In this Act, the following terms shall have the meanings hereinafter ascribed to them, namely:

“Act” means the Cowessess First Nation Miyo Pimatisowin Act;

“Agency” means the agency Chief Red Bear Children’s Lodge established by this Act,

“Board” means the Board of Governors of the Agency;

“Board of Governors” means the Board established in s. 5.7 of the Act;

“Care Provider” means a person who has primary responsibility for providing the day-to-day care of a Child, other than the Child’s Parents, including persons who are Care Providers in accordance with the customs or traditions of Cowessess First Nation;

“Child” means a person under the age of 21 years

- a) who is a Citizen, or is entitled to become a Citizen; or
- b) to whom this Act applies pursuant to a Coordination Agreement;

“Child and Family Services” means social services to support Children and families, including Prevention Services, Early Intervention Services and Child Protection Services;

“Child and Family Services Program” means the program to be provided by the Agency;

- “Child Protection Services” means any service provided to a Child who is in the custody of a Director;
- “Citizen” means any person whose name appears or is entitled to appear on the Band List of the First Nation as maintained by the Indian Registry Administrator of the First Nation and the registrar of ISC pursuant to the provisions of the Indian Act R.S.C. 1985 c. I-5;
- “Coordination Agreement” means an agreement as defined in Bill C-92 SC 2019 Chap. 24;
- “Council” means the Council of the First Nation as defined in the Cowessess First Nation #73 Custom Election Act;
- “Court” includes any federal, provincial or indigenous administrative tribunal or court;
- “Cowessess First Nation Resolution” or “Resolution” means a written resolution signed by at least a quorum of the Council passed at a duly convened meeting of the Council;
- “Day” means a calendar day ending at midnight, Saskatchewan time;
- “Director” means the person hired and designated by the Agency as a Director for the purposes of the Act;
- “Early Intervention Services” means any services, including Child Protection Services, provided to a Child or Family under this Act, except licensing of residential facilities;
- “Family” means the following:
- (a) certain relatives of the Child, namely the mother, father, siblings, grandparents, aunts and uncles, whether by blood, cultural adoption, or marriage; and
 - (b) any person who, prior to the involvement of the Director, assumed substantial responsibility for raising the Child;
- “First Nation” or “Cowessess First Nation” means the Cowessess First Nation;
- “Foster Parent” means a person approved as a Foster Parent by the Director;
- “Home Reserve” means the land base currently located in Townships 18, 19 and 19A, Ranges 5 and 6 West of the Second Meridian in the Province of Saskatchewan;

“ISC” means Indigenous Services Canada;

“Minister” means the Minister of Federal or Provincial Social Services, as the case may be;

“Miyo Pimatisowin” means Striving for a Better Life

“Oversight Tribunal” means the Eagle Women Tribunal established by Cowessess First Nation Resolution;

“Parent” means

- (a) the mother of a Child;
- (b) the father of a Child;
- (c) a person who, by Court order or agreement with the Parent, has custody of the Child; and
- (d) a Care Provider
but does not include the Director;

“Peace Officer” means a member of a Police Service;

“Police Service” means

- (a) the Royal Canadian Mounted Police; or
- (b) any Provincial or Municipal police service established by statute;

“Prenatal Services” means services provided to an expectant mother in what will likely be the best interests of the Child after she is born;

“Prevention Services” means services offered to Children in need of intervention and their families in order to keep Children and families together, and may include financial assistance and supervision by the Director;

“Residential Facility” means a facility that provides residential care to a Child in the custody of the Director or an authority responsible for the administration of Child protection legislation in another province or territory of Canada and includes a secure services facility, a foster home and a group home, but does not include a facility that primarily provides medical care, educational services or correctional services;

“Services” includes financial assistance.

3.0 PURPOSES OF THE ACT

3.1 THE PURPOSES OF THIS ACT ARE TO:

- (a) affirm the rights and jurisdiction of the Cowessess First Nation over Child and Family Services for its citizens;
- (b) establish an agency to provide the Child and Family Services Program on behalf of the First Nation;
- (c) set out the principles applicable to the interpretation of the Act and the provision of the Child and Family Services Program;
- (d) Outline the components of the Child and Family Services Program;
- (e) Provide for the execution of a Coordination Agreement; and
- (f) Other related purposes.

4.0 RIGHTS AND JURISDICTION OF COWESSESS FIRST NATION

4.1 AFFIRMATION

The inherent right to self-government as exercised and affirmed by the Cowessess First Nation Constitution, United Nations Declaration on the Rights of Indigenous Peoples, and section 35 of the Canadian Constitution Act, 1982 includes jurisdiction in relation to Child and Family Services, including legislative authority in relation to those services and authority to administer and enforce laws made under the Cowessess First Nation legislative authority.

4.2 DISPUTE RESOLUTION MECHANISMS

For greater certainty and for the purposes of subsection 4.1, the authority to administer and enforce laws includes the authority to provide for dispute resolution mechanisms.

4.3 APPLICATION OF CANADIAN CHARTER OF RIGHTS AND FREEDOMS

The Canadian Charter of Rights and Freedoms applies to the Cowessess First Nation in the exercise of jurisdiction in relation to Child and Family Services on behalf of the First Nation.

4.4 SCOPE

- (a) This Act and the Child and Family Services program shall apply to all Citizens and their Children, whether they are residing on or off the Home Reserve.
- (b) This Act and the Child and Family Services Program may apply to all other persons residing on the Home Reserve, pursuant to a Coordination Agreement.

5.0 CHIEF RED BEAR CHILDREN'S LODGE

5.1 AGENCY ESTABLISHED

- (1) An agency to be known as Chief Red Bear Children's Lodge, is established, consisting of the Board of Governors appointed under section 5.7.
- (2) The Agency has the capacity and, subject to this Act and any First Nation Resolutions, the rights, powers and privileges of a natural person.
- (3) The Agency shall maintain its head office on the Home Reserve.
- (4) The fiscal year of the Agency is April 1 to the following March 31.
- (5) Subject to this Act, Council may pass Resolutions

- (a) expanding or clarifying the powers, duties or functions to be exercised or performed by the Agency;
- (b) imposing limits on the powers, duties or functions to be exercised or performed by the Agency.

5.2 AGENCY OBJECTS

The objects of the Agency are

- a. To advocate for, develop and deliver a Child and Family Services Program, including Child and Family Services and licencing of Residential Facilities for Children and Families both on and off the Home Reserve, in accordance with this Act, and in such a manner that is First Nation specific, First Nation determined and community-based.
- b. To develop and deliver a Child and Family Services Program, including Child and Family Services and licencing of Residential Facilities, for persons who are resident on the Home Reserve but are not citizens, in a manner that respects their familial, cultural, social and religious heritage and beliefs.
- c. To negotiate, enter into, administer and generally deal with Child and Family Services agreements affecting Children and families, with the various levels of government and the private sector.
- d. To negotiate, enter into, administer and generally deal with agreements affecting the Children and families of persons who are resident on the Home Reserve but are not citizens, with the various levels of government and the private sector.
- e. To act as the representative of the Cowessess First Nation before the Oversight Tribunal, in the Courts, and with all levels of government for the review, advocacy, development and implementation of
 - i. the Act;
 - ii. the calls to action of the Truth and Reconciliation Commission and Missing and Murdered Indigenous Women and Girls Commission;
 - iii. the Articles of the United Nations Declaration of the Rights of Indigenous Peoples
 - iv. the existing and ongoing findings and orders of the Canadian Human Rights Tribunal in Decision 2016 CHRT-2;

- v. Jordan's Principle; and
- vi. other entities as may be determined by First Nation Resolution.
- f. To liaise with non-indigenous, Metis, and non-status indigenous people as individuals or groups to improve Child and family programs and services.
- g. To acquire lands, by purchase or otherwise, and to erect or otherwise provide a building or buildings for office, social and community purposes both on and off the Home Reserve.
- h. To provide all necessary equipment and furniture for carrying on its various objects.
- i. To accept gifts and raise funds by any lawful means, to achieve the objects of the Agency.
- j. To conduct these activities and achieve these objects on a not-for-profit basis.
- k. To do everything reasonably necessary, suitable, proper, convenient or incidental to these activities and objectives.

Nothing in these Objects shall be construed so as to abrogate or derogate from the Inherent Rights, Treaty Rights and Aboriginal Rights of the First Nation.

5.3 AGENCY FUNDING

- (a) Council may, by Resolution, transfer money to the Agency for the purposes of the Agency objects;
- (b) the Agency may also receive funding directly from the federal government or provincial governments;
- (c) the Agency may also receive funding directly from any other Agencies or First Nations.

5.4 BORROWING AND GUARANTEES

- (a) The Agency shall not borrow money except in accordance with a First Nation Resolution.
- (b) The Agency shall not give guarantees.

5.5 INDEMNIFICATION

- (1) The Agency shall, subject to the terms of any Cowessess First Nation Resolution, indemnify
 - (a) a present or former Governor or officer of the Agency,
 - (b) a person who acts or acted at the request of the Agency,
 - (c) an employee or former employee of the Agency, and
 - (d) the heirs, estate and trustees of a person referred to in clause (a), (b) or (c),

against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by that person with respect to a civil, criminal or administrative action or proceeding to which that person is made a party by reason of holding such a position, if that person acted honestly, in good faith and with a view to the best interests of the Agency, and in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, if that person had reasonable grounds for believing that the conduct that is the subject of the action or proceeding was lawful.

- (2) The Agency shall not provide indemnities other than those
 - (a) authorized by subsection (1), or
 - (b) provided in accordance with a First Nation Resolution.

5.6 EMPLOYEES

- (1) The Agency shall hire a person who is qualified to act as a Director for the purposes of this Act and designate that person as the Director for those purposes.
- (2) The Director may also act as the executive director of the Agency, reporting to the Board of Governors.
- (3) The Agency shall engage employees for the purpose of carrying on the business of the Agency and may determine their conditions of service.

5.7 BOARD OF GOVERNORS

- (1) There shall be a Board of Governors consisting of up to 9 members appointed by the Council, of whom one must be a Council member.
- (2) The Board shall designate one of the Governors as the Chair.

- (3) The Board may determine the remuneration and travelling, living and other expenses payable to Governors.
- (4) A Governor
 - (a) holds office for a term fixed in the order appointing the Governor, which term must not exceed 4 years, and
 - (b) shall not serve on the board for more than 2 consecutive terms.
- (5) A Governor ceases to hold office when
 - (a) the Governor resigns
 - (b) the Governor's appointment expires; or
 - (c) for cause, the Governor's appointment is terminated by Council.
- (6) If a Governor's appointment is terminated by Council, the Governor may, within 30 days, appeal the termination to the Oversight Tribunal. The Oversight Tribunal may confirm or reverse the termination.
- (7) A Governor's resignation becomes effective when it is received by the Chair, in writing, or at the time specified in the resignation, whichever is later.
- (8) The Chair shall send a copy of a resignation to the Council forthwith.
- (9) Notwithstanding subsections (4) and (5)(b), where a Governor's appointment expires, the Governor continues to hold office until
 - (a) the Governor is reappointed, or
 - (b) a successor is appointed, whichever occurs first.
- (10) In determining the term of an appointment, the Council shall have regard to the desirability of having no more than 1/3 of the appointments expire in any one year.
- (11) In making an appointment, the Council shall have regard to the desirability of having a Board that consists of individuals who, in the aggregate, have the full range of skills, knowledge and experience necessary to effectively lead the Agency in achieving its objects.

5.8 BOARD POWERS

The Board shall supervise the management of the business and affairs of the Agency.

5.9 BYLAWS

- (1) The Board may make bylaws governing
 - (a) the business and affairs of the Agency,
 - (b) the calling and conduct of Board and committee meetings and the conduct of the business of the Board and committees generally; and
 - (c) practice standards and procedures, subject to the principles and requirements of this Act.
- (2) The Board shall, forthwith after the making of a bylaw, provide a copy of the bylaw to the Council.

5.10 RESPONSIBILITY OF GOVERNORS AND OFFICERS

- (1) Every Governor and officer, in exercising powers and performing duties,
 - (a) shall act honestly and in good faith and with a view to the best interests of the Agency, and
 - (b) shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
- (2) In considering whether the exercise of a power or the performance of a duty is in the best interests of the Agency, a Governor or officer, as the case may be, shall have due regard for the best interests of the children served by the Agency.

5.11 DUTY OF CARE

- (1) Every Governor, officer and employee of the Agency shall comply with this Act, any First Nation Resolutions and the bylaws of the Agency.
- (2) No provision in any contract, resolution or bylaw relieves any Governor, officer or employee of the Agency from the duty to act in accordance with this Act and any First Nation Resolutions.

5.12 DISCLOSURE OF INFORMATION

- (1) Council may request from the Agency any information, excluding personal information, that the Council considers necessary, and the Agency shall disclose the information in the form and manner determined by the Council.
- (2) Subject to subsection (1), the Agency shall allow the Council's representative to
 - (a) inspect and make copies of all records, accounts, reports and other documents for the Council and, in the case of an electronic document, make or cause to be made a printout of the electronic document, and
 - (b) otherwise review the operations of the Agency.
- (3) If the information disclosed under subsection (1) or contained in records, accounts, reports and other documents of the Agency inspected or copied under subsection (2)(a) relates to Children and Families receiving any services from the Agency, the information is to be treated as having been provided in confidence.

5.13 COWESSESS FIRST NATION RESOLUTIONS

Council may make Resolutions

- (a) respecting investment by the Agency and terms and conditions of agreements entered into by the Agency;
- (b) respecting the borrowing of money by the Agency under section 5.4;
- (c) respecting indemnities referred to in section 5.5, any terms and conditions of an indemnity, and the circumstances and manner in which an indemnity may be given;
- (d) respecting appointments to the Board and the disqualification of Governors;
- (e) respecting conflict of interest guidelines, codes of conduct and any other guidelines and policies in respect of Governors, officers and employees of the Agency;
- (f) requiring the Agency to prepare records and accounts and to provide them to the Council, and respecting those records and accounts;
- (g) respecting generally the operation of the Agency.

6.0 PRINCIPLES AND REQUIREMENTS OF THE CHILD AND FAMILY SERVICES PROGRAM

6.1 BEST INTERESTS OF THE CHILD

This Act is to be interpreted and administered in accordance with the principle of the best interests of the Child.

In particular:

The best interests of the Child must be a primary consideration in the making of decisions or the taking of actions in the context of the provision of Child and Family Services in relation to a Child and, in the case of decisions or actions related to Child apprehension, the best interests of the Child must be the paramount consideration.

Primary consideration must be given to the Child's physical, emotional and psychological safety, security and well-being, as well as to the importance, for that Child, of having an ongoing relationship with his or her family and with the Cowessess First Nation or people to which he or she belongs and of preserving the Child's connections to his or her culture.

6.2 FACTORS TO BE CONSIDERED

To determine the best interests of a Child, all factors related to the circumstances of the Child must be considered, including:

- (a) the Child's cultural, linguistic, religious and spiritual upbringing and heritage;
- (b) the Child's needs, given the Child's age and stage of development, such as the Child's need for stability;
- (c) the nature and strength of the Child's relationship with the Child's Parent, the Care Provider and any Family member who plays an important role in the Child's life;
- (d) the importance to the Child of preserving the Child's cultural identity and connections to the language and territory of the First Nation or people to which the Child belongs;
- (e) the Child's views and preferences, giving due weight to the Child's age and maturity, unless they cannot be ascertained;
- (f) any plans for the Child's care, including care in accordance with the customs or traditions of the First Nation or people to which the Child belongs;

- (g) any family violence and its impact on the Child, including whether the Child is directly or indirectly exposed to the family violence as well as the physical, emotional and psychological harm or risk of harm to the Child;
- (h) any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the Child.

6.3 CULTURAL CONTINUITY

This Act is to be interpreted and administered in accordance with the principle of cultural continuity as reflected in the following concepts:

- (i) cultural continuity is essential to the well-being of a Child, a Family and the Cowessess First Nation;
- (ii) the transmission of the languages, cultures, practices, customs, healing practices, traditions, ceremonies and knowledge of the First Nation is integral to cultural continuity;
- (iii) a Child's best interests are often promoted when the Child resides with members of the Child's Family and the culture of the First Nation is respected;
- (iv) Child and Family Services provided in relation to a Child are to be provided in a manner that does not contribute to the assimilation of the First Nation or to the destruction of the culture of the First Nation; and
- (v) the characteristics and challenges of the region in which a Child and a Family is located are to be considered.

6.4 SUBSTANTIVE EQUALITY

This Act is to be interpreted and administered in accordance with the principle of substantive equality as reflected in the following concepts:

- (i) the rights and distinct needs of a Child with a disability are to be considered in order to promote the Child's participation, to the same extent as other Children, in the activities of the Child's Family or the First Nation;
- (ii) A Child must be able to exercise her rights under this Act, including the right to have her views and preferences considered in decisions

that affect her, and the Child must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;

- (iii) a Child's Family member must be able to exercise her rights under this Act, including the right to have her views and preferences considered in decisions that affect the Family member, and she must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;
- (iv) the Agency must be able to exercise without discrimination the rights of the First Nation under this Act, including the right to have the views and preferences of the Citizens considered in decisions that affect the Citizens; and
- (v) in order to promote substantive equality between First Nation Children and other Children, a jurisdictional dispute must not result in a gap in the Child and Family Services that are provided in relation to First Nation Children.

6.5 PROVISION OF SERVICES

Child and Family Services provided in relation to a Child are to be provided in a manner that:

- (i) takes into account the Child's needs, including with respect for the Child's physical, emotional and psychological safety, security and well-being;
- (ii) takes into account the Child's culture;
- (iii) allows the Child to know her family origins; and
- (iv) promotes substantive equality between the Child and other Children.

6.6 NOTICE

In the context of providing Child and Family Services in relation to the Cowessess First Nation, to the extent that doing so is consistent with the best interests of the Child, before taking any significant measure in relation to the Child, the Agency must provide notice of the measure to the Child's Parent and the Care Provider, as well as to the Council.

6.7 PERSONAL INFORMATION

The Agency must ensure that the notice provided to the Council does not contain personal information about the Child, a member of the Child's Family or the Care Provider, other than information that is necessary to explain the proposed significant measure, or that is required by the coordination agreement.

6.8 REPRESENTATIONS AND PARTY STATUS

In the context of a civil proceeding of any kind in front of any Court in respect to the provision of Child and Family Services in relation to a Child,

- (i) the Child's Parent and the Care Provider have the right to make representations and to have party status; and
- (ii) the Agency and the Council have the right to make representations.

6.9 PRIORITY TO PREVENTIVE SERVICES

In the context of providing Child and Family Services in relation to a Child, to the extent that providing Preventive Services to support the Child's Family is consistent with the best interests of the Child, the provision of those services are to be given priority over other services.

The Agency shall coordinate with other First Nation service providers to ensure there is no duplication of existing Prevention Services.

6.10 PRIORITY TO PRENATAL SERVICES

Prenatal Services are to be given priority over other services in order to prevent the apprehension of the Child at the time of the Child's birth.

The Agency shall coordinate with other First Nation service providers to ensure there is no duplication of existing Prenatal Services.

6.11 SOCIO-ECONOMIC CONDITIONS

In the context of providing Child and Family Services in relation to a Child, to the extent that it is consistent with the best interests of the Child, the Child must not be apprehended solely on the basis of his or her socio-economic conditions, including poverty, lack of adequate housing or infrastructure or the state of health of his or her Parent or the Care Provider.

6.12 REASONABLE EFFORTS

In the context of providing Child and Family Services in relation to a Child, unless immediate apprehension is consistent with the best interests of the Child, before apprehending a Child who resides with one of the Child's Parents or another adult member of the Child's Family, the Director must demonstrate that she made reasonable efforts to have the Child continue to reside with that person.

7.0 PLACEMENT OF CHILD

7.1 PRIORITY

The placement of a Child in the context of providing Child and Family Services in relation to the Child, to the extent that it is consistent with the best interests of the Child, is to occur in the following order of priority:

- (a) with one of the Child's Parents;
- (b) with another adult member of the Child's Family;
- (c) with an adult who belongs to the Cowessess First Nation;
- (d) with an adult who belongs to an Indigenous group, community or people other than the Cowessess First Nation; or
- (e) with any other adult.

7.2 PLACEMENT WITH OR NEAR OTHER CHILDREN

When the order of priority set out in subsection 7.1 is being applied, the possibility of placing the Child with or near Children who have the same Parent as the Child, or who are otherwise members of the Child's Family, must be considered in the determination of whether a placement would be consistent with the best interests of the Child.

7.3 CUSTOMS AND TRADITIONS

The placement of a Child under subsection 7.1 must take into account the customs and traditions of the First Nation such as with regards to customary adoption.

7.4 FAMILY UNITY

In the context of providing Child and Family Services in relation to a Child, there must be a reassessment, conducted on an ongoing basis, of whether it would be appropriate to place the Child with

- (a) a person referred to in paragraph 7.1 (a), if the Child does not reside with such a person; or
- (b) a person referred to in paragraph 7.1 (b), if the Child does not reside with such a person and unless the Child resides with a person referred to in paragraph 7.1 (a).

7.5 ATTACHMENT AND EMOTIONAL TIES

In the context of providing Child and Family Services in relation to a Child, if the Child is not placed with a member of her Family in accordance with paragraph 7.1 (a) or 7.1 (b), to the extent that doing so is consistent with the best interests of the Child, the Child's attachment and emotional ties to each such member of her Family are to be promoted.

8.0 COMPONENTS OF THE CHILD AND FAMILY SERVICES PROGRAM

8.1 DEFINING WHEN A CHILD IS IN NEED OF INTERVENTION

For the purposes of this Act, a Child is in need of intervention if there are reasonable and probable grounds to believe that the safety, security or development of the Child is endangered because of any of the following:

- (a) the Child has been abandoned or lost;
- (b) the Parent of the Child is deceased, and the Child has no other Parent;
- (c) the Child is neglected by the Parent;
- (d) the Child has been or there is substantial risk that the Child will be physically injured or sexually abused by the Parent of the Child;
- (e) the Parent of the Child is unable or unwilling to protect the Child from physical injury or sexual abuse;
- (f) the Child has been emotionally injured by the Parent of the Child;
- (g) the Parent of the Child is unable or unwilling to protect the Child from emotional injury;

- (h) the Parent of the Child has subjected the Child to or is unable or unwilling to protect the Child from cruel and unusual treatment or punishment.

8.2 DEFINITION OF NEGLECT

For the purposes of subsection 8.1 (c), a Child is neglected if

- (a) the Parent is unable or unwilling to obtain for the Child, or to permit the Child to receive, essential medical, surgical or other remedial treatment that is necessary for the health or well-being of the Child, or
- (b) is unable or unwilling to provide the Child with adequate care or supervision.

8.3 DEFINITION OF EMOTIONAL INJURY

For the purposes of this Act,

- (a) a Child is emotionally injured
 - (i) if there is impairment of the Child's mental or emotional functioning or development, and
 - (ii) if there are reasonable and probable grounds to believe that the emotional injury is the result of
 - (b) rejection,
 - (c) emotional, social, cognitive or physiological neglect,
 - (d) deprivation of affection or cognitive stimulation,
 - (e) exposure to family violence or severe domestic disharmony,
 - (f) inappropriate criticism, threats, humiliation, accusations or expectations of or toward the Child,
 - (g) the mental or emotional condition of the Parent of the Child or of anyone living in the same residence as the Child;
 - (h) exposure to criminal behaviour.

8.4-8.7 REPORTING AND INVESTIGATION/ REPORTING CHILD IN NEED

- 8.4** Any person who has reasonable and probable grounds to believe that a Child is in need of intervention, including a Peace Officer, shall forthwith report the matter to the Director.

8.5 Section 8.4 applies notwithstanding that the information on which the belief is founded is confidential and its disclosure is prohibited under any other legislation.

8.6 This section does not apply to information that is privileged as a result of a solicitor-client relationship.

8.7 No action lies against a person reporting pursuant to this section, including a person who reports information referred to in subsection 8.6, unless the reporting is done maliciously or without reasonable and probable grounds for the belief.

8.8 INVESTIGATION AND RESPONSE

(1) If the Director receives information in the form of

(a) a request for intervention services,

(b) a report under section 8.4, or

(c) any other allegation or evidence that a Child may be in need of intervention,

the Director must investigate the Child's need for intervention unless the Director is satisfied that the information was provided maliciously or is unfounded or that the report or allegation was made without reasonable and probable grounds.

(2) During an investigation, the Director

(a) may request the assistance of a Peace Officer; and

(b) may convey a Child to any place in order to complete the investigation.

(3) If, after an investigation, the Director is of the opinion that the Child is in need of intervention,

(a) the Director must,

(i) if the Director is satisfied that it is consistent with the Child's need for intervention, provide Prevention Services to the Child or to the Child's Family in accordance with this Act;

(ii) if the Director is not satisfied that the Child's need for intervention can

be met under subclause (i), take whatever action under this Act that the Director considers appropriate, including the provision of Child Protection Services in accordance with this Act, and

- (b) the Director may, if the Director is satisfied that it is consistent with the Child's need for intervention, convey the Child to the person who has custody of the Child or to a person who is temporarily caring for the Child.
- (4) If Prevention Services are provided to the Child or to the Child's Family, the person or a member of the organization providing those services must report to the Director any matter respecting the Child that may require further investigation by the Director.

8.9 EMERGENCY CARE

- (1) If a Director is satisfied that without the provision of emergency care a Child may be in need of intervention because the Parent of the Child cannot be located after a reasonable search or has died or become incapacitated, the Director may appoint a person to care for the Child until the Parent can be located or other satisfactory arrangements can be made for the care of the Child, and the Director may convey the Child for the purpose of placing the Child in the care of that person.
- (2) The person appointed under subsection (1) may care for the Child in the residence in which the Child was found and for that purpose may
 - (a) enter the residence,
 - (b) live in the residence,
 - (c) carry on normal housekeeping activities in the residence that are necessary for the care of the Child, and
 - (d) exercise reasonable control over all Children residing in the residence.
- (3) The person appointed under subsection (1) may care for the Child in the person's own residence for the amount of time that the Director directs.
- (4) When a person is appointed under subsection (1), no liability attaches to that person in the course of carrying out that person's duties under subsection (2) or to the Director assisting that person in carrying out those duties by reason only of the entry into and occupation of the residence without the consent of the owner or occupier.

8.10 PREVENTION SERVICES

- (1) The Director may enter into an agreement with the Parent of a Child or with another person who, with the express or implied consent of the Parent or pursuant to a Court order or an agreement, has custody of the Child with respect to the provision of services to the Family or the Child if, in the opinion of the Director,
 - (a) the Child is in need of intervention, and
 - (b) as a result of the provision of Prevention Services, the Child's safety, security or development will be adequately protected if the Child remains with the Child's Parent or the person who has custody of the Child, as the case may be.
- (2) Prevention Services may include, by agreement with the Parent, the appointment of a mediator to attempt to resolve matters relating to the Child's need for intervention.

8.11 CUSTODY AGREEMENT

- (1) The Director may enter into an agreement with the Parents of a Child under which custody of the Child is given to the Director if, in the opinion of the Director,
 - (a) the Child is in need of intervention, and
 - (b) the safety, security or development of the Child cannot be adequately protected if the Child remains with the Child's Parent.
- (2) The agreement may include the following:
 - (a) the visits or other access to be provided between the Child and the Parents and Family and any other person with whom the Child has a significant relationship;
 - (b) the conditions, if any, under which the Director will consult with the Parents on matters affecting the Child;
 - (c) any other matter relating to the parenting of the Child.
- (3) The agreement may be made for whatever period of time the parties agree is in the best interests of the Child, or it may be permanent.
- (4) If it is permanent, the Director must make best efforts to find new Parents for the Child as quickly as possible.

8.12 ACCESS AGREEMENTS

The Director may enter into an access agreement with a Parent of a Child who is the subject of a custody agreement or anyone who has a significant relationship with the Child.

8.13 MINOR PARENT

Any agreement entered into under this Act by a person under 18 years of age is as valid as if that person had attained the age of 18.

8.14 TERMINATION OF AGREEMENT

The Director may terminate a custody or access agreement and return the Child to the Parents at any time if in the Director's opinion the Parents are ready, willing and able to resume parenting the Child.

8.15 APPREHENSION OF CHILDREN

- (1) If a Director has reasonable and probable grounds to believe that a Child is in need of intervention, the Director may apprehend the Child, and may request the assistance of a Peace Officer in order to do so.
- (2) The Director and any Peace Officer called on for assistance, may, by force if necessary, enter a place or premises and search for and apprehend the Child.
- (3) A Peace Officer may apprehend a Child in need of intervention and, as soon as practical thereafter, place the Child in the custody of the Director.
- (4) If a Child is apprehended in Saskatchewan or another province under the authority of that province's or other child welfare legislation and placed in the custody of a Director by that province's or other child welfare authorities, the Child is deemed to be apprehended under this Act as well, effective on the date the Child is so placed.

8.16 NOTICE OF APPREHENSION

- (1) If a Child has been apprehended, the Director shall notify the Parents of the Child forthwith that the Child has been apprehended, the reasons for the apprehension, and provide contact information of the Director
- (2) Notice under subsection (1) may be by any method and may be oral or in writing.

- (3) The validity of proceedings under this Act is not affected if the Director is unable, after reasonable effort, to give notice in accordance with this section.

8.17 EXCLUSIVE CUSTODY

If a Child has been apprehended, the Director has exclusive custody of the Child and is responsible for the Child's care, maintenance and well-being.

8.18 HEALTH CARE ON APPREHENSION

- (1) If the Parent of a Child who has been apprehended is unable, unavailable, or refuses to consent to the provision of essential medical, surgical, dental or other remedial treatment for the Child that is recommended by a physician, dentist, or other qualified medical professional, a Director may authorize the provision of any recommended treatment for the Child.
- (2) If a Child is treated under this section, no liability attaches to the person treating the Child by reason only that the Parent of the Child did not consent to the treatment.

8.19 CUSTODY ON APPREHENSION

- (1) If a Child is apprehended by the Director, the Child shall remain in the custody of the Director until the Director decides that the Parents or other Family of the Child are ready, willing and able to parent the Child, or, failing which, the Child is adopted.
- (2) The Director may decide who has access to a Child who has been apprehended.

8.20 RIGHT TO CUSTODY

Subject to the terms of any applicable Coordination Agreement, the right of the Director to the custody of a Child when the Child is in the custody of the Director takes precedence over the rights given by any order or agreement not made under this Act respecting guardianship, custody, access, contact, parenting time or the Child's place of residence, whether that order or agreement

- (a) was granted to a person who is a party to the proceedings under this Act or not, or
- (b) was granted before or after the Child came into the custody of the Director.

8.21 DEATH OF CHILD

When a Child who is in the custody of the Director dies, the Director shall,

- (a) notify the Family;
- (b) notify the local Police Service and Provincial Coroner;
- (c) consent to an autopsy of the body of the Child; and
- (d) in consultation with the Family, arrange for the burial or other disposition of the body of the Child.

8.22 PLACEMENT: SECURE SERVICES

If a Child or the Child's Family is receiving services under this Act, or the Child is in the custody of the Director and the Director has reasonable and probable grounds to believe that

- (a) the Child is in a condition presenting an immediate danger to the Child or others,
- (b) it is necessary to confine the Child in order to stabilize and assess the Child, and
- (c) less intrusive measures are not adequate to sufficiently reduce the danger,

the Director may convey the Child, and may detain the Child while the Child is being conveyed, to a secure services facility and may confine the Child in a secure services facility.

8.23 PLACEMENT GENERALLY

The Director shall place Children who are in her custody applying the priorities and other considerations set out in sections 7.1 to 7.5.

8.24 LICENCE REQUIRED FOR RESIDENTIAL FACILITY

No person shall operate a residential facility unless that person holds a subsisting residential facility licence issued by the Director under this Act.

8.25 APPLICATION FOR LICENCE

- (1) An application for a residential facility licence or a renewal of a residential facility licence must

- (a) be made to the Director in a form satisfactory to the Director, and
 - (b) state the maximum number of persons intended to be accommodated or cared for in the residential facility.
- (2) On considering an application for or renewal of a residential facility licence, the Director may issue a residential facility licence and impose terms and conditions in the licence.
- (3) Unless otherwise specified in the licence, the term of a residential facility licence is one year from the date of its issue.
- (4) A residential facility licence issued under this section must
- (a) identify the residential facility that may be operated under the licence, and
 - (b) state
 - (i) who may operate the residential facility,
 - (ii) the maximum number of children, other than children of a Foster Parent, who may reside in the residential facility,
 - (iii) the term of the licence if the term is other than one year from the date of issue, and
 - (iv) any conditions to which the licence is subject.

8.26 VARYING A LICENCE

The Director may, on the application by a licensee in a form acceptable to the Director, vary the terms or conditions to which the licence is subject.

8.27 STANDARDS

A holder of a residential facility licence must ensure that the residential facility meets the requirements of any applicable First Nation Resolution, and the residential facility licence holder may not charge more for residential facility services than the rates provided for in any applicable Resolution.

8.28 INSPECTION

- (1) Subject to subsection (2), for the purposes of ensuring compliance with this Act, the regulations and any conditions to which a residential facility licence is subject, the Director or a person authorized by the Director may
 - (a) at any reasonable hour enter a residential facility other than a private dwelling place and inspect it,
 - (b) enter a residential facility that is a private dwelling place and inspect it with the consent of the owner or operator of the private dwelling place,
 - (c) require the production of any books, records or other documents and examine them, make copies of them or remove them temporarily for the purpose of making copies,
 - (d) Inspect and take samples of any material, food, medication or equipment being used in a residential facility, and
 - (e) perform tests, take photographs or make recordings in respect of a residential facility.
- (2) When a person removes any books, records or other documents under subsection (1)(c), the person must
 - (a) give to the person from whom those items were taken a receipt for those items, and
 - (b) forthwith make copies of, take photographs of or otherwise record those items and forthwith return those items to the person to whom the receipt was given.
- (3) When a person takes samples of any material, food, medication or equipment under subsection (1)(d), the person must
 - (a) give to the person from whom those items were taken a receipt for those items, and
 - (b) on that person's request, return those items to that person when those items have served the purposes for which they were taken.
- (4) If entry is refused or cannot be reasonably obtained under subsection (1) or a person interferes with a Director or a person authorized by a Director in exercising rights and performing duties under this section, an application may be made to the Oversight Tribunal for an order that the Director or a person authorized by the Director may

- (a) at any reasonable hour enter the residential facility and inspect it,
 - (b) require the production of any books, records or other documents and examine them, make copies of them or remove them temporarily for the purpose of making copies,
 - (c) inspect and take samples of any material, food, medication or equipment being used in the residential facility, and
 - (d) perform tests, take photographs or make recordings in respect of the residential facility,
- and the Oversight Tribunal may, on being satisfied that the order is necessary for the purpose of this section, make any order that it considers appropriate.
- (5) An application under subsection (4) may be made without notice, if the Oversight Tribunal considers it proper.

8.29 ORDER AFTER INSPECTION

If a residential facility has been inspected under section 8.28 and the Director is of the opinion that

- (a) this Act, the regulations or a condition of a residential facility licence is not being complied with, or
- (b) the residential facility is not providing proper care,

the Director may in writing order the person operating that residential facility to take measures as specified in the order within the time limits specified in the order.

8.30 SUSPENSION OR CANCELLATION OF LICENCE

- (1) When the Director is of the opinion that
 - (a) a residential facility licence holder is not providing proper care to a Child who resides in the licence holder's residential facility,
 - (b) the premises described in the residential facility licence have become unfit or unsuitable for a residential facility,
 - (c) a residential facility licence holder has not complied with
 - (i) his Act, a Resolution, or a condition of the residential facility licence,
 - an

Order of the Oversight Tribunal or

- (ii) any other First Nation legislation that applies to a residential facility, the Director may, by notice in writing to the residential facility licence holder, vary, suspend or cancel the residential facility licence and terminate the licensee's contract with the Agency to provide residential facility services.
- (2) Every contract between the Agency and the owner or operator of a residential facility is deemed to contain a provision that the Agency may terminate the contract without notice and without damages payable by the Agency to the owner or operator if the owner or operator fails to comply with an Order of the Oversight Tribunal or if the residential facility licence is suspended, cancelled or expired.

9.0 NOTICE OF LEGISLATIVE AUTHORITY AND COORDINATION AGREEMENT

- (1) When Cowessess First Nation intends to exercise its legislative authority in relation to Child and Family Services, the First Nation shall give notice of that intention to Canada and each Province in which Citizens and Children are located.
- (2) Cowessess First Nation may also request that Canada and each of those Provinces enter into a Coordination Agreement with the First Nation in relation to the exercise of the legislative authority, respecting, among other things,
 - (i) the provision of emergency services to ensure the safety, security and well-being of Children;
 - (ii) support measures to enable Children to exercise their rights effectively;
 - (iv) fiscal arrangements, relating to the provision of Child and Family Services by the Cowessess First Nation, that are sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for Cowessess Children, families and the First Nation, and to support the capacity of the Cowessess First Nation to exercise the legislative authority effectively; and
 - (iv) any other coordination measure related to the effective exercise of

the Cowessess First Nation legislative authority.

10.0 ADOPTION

- (1) A Child in the custody of the Director may be adopted in accordance with the customary adoption practices of the First Nation.
- (2) Such an adoption terminates any other order, agreement, or rights with respect to the Child.

11.0 FINANCIAL ASSISTANCE FOR CHILDREN FORMERLY IN THE CUSTODY OF THE DIRECTOR

- (1) A Director may provide financial assistance in respect of a Child who was in the custody of the Director to a person who adopts the Child.
- (2) If a Child who at one time was in the custody of the Director is living independently, the Director may provide financial assistance to the Child, until the Child reaches the age of 24.

12.0 DISPUTE RESOLUTION

12.1 The following persons directly affected by a decision of the Director under this Act may request, in writing within 30 days of the decision, that the Oversight Tribunal review the decision:

- (a) a Child;
- (b) a Parent;
- (c) a Family member;
- (d) an individual who has had continuous care of a Child for more than 6 of the 12 months preceding the decision of the Director;
- (e) a person who is receiving or may be eligible to receive support and financial assistance under this Act;
- (f) a person who is refused financial assistance under this Act;
- (g) an applicant for a residential facility licence or a renewal of a residential facility licence.
- (h) a Governor whose appointment has been terminated by Council.

- 12.2** A request under subsection (1) must set out
- (a) the decision in sufficient details for the Oversight Tribunal to be able to identify it, and
 - (b) the grounds for the review.
- 12.3** The person making the request shall give it to the Director, who upon receiving it shall, within 7 days, send a copy to the Board and the Oversight Tribunal and, in the case of a dispute under s. 12.1(h), the Council.
- 12.4** In reviewing a decision, the Oversight Tribunal may receive oral or written submissions from the person who requested the review, the Director, and in the case of a dispute under s. 12.1 (h), the Council.
- 12.5** The Tribunal may also receive relevant evidence from any person.
- 12.6** On completing a review the Oversight Tribunal may
- (a) with the agreement of the parties, direct that the dispute should be mediated by a mediator appointed by the Oversight Tribunal;
 - (b) confirm the decision that has been reviewed, or
 - (c) direct the Director or, in the case of a dispute under s. 12.1 (h), the Council to review and reconsider the decision.
- 12.7** The Oversight Tribunal must, within 21 days of receiving the request under s.12.3, provide the person who requested the review with a copy of the decision that includes the reasons.

13.0 **GENERAL**

13.1 **DELEGATION FROM DIRECTOR**

The Director may delegate any power, duty or function of the Director under this Act to any of the following:

- (i) a person employed or engaged in the administration of this Act;
- (ii) a person who is providing care to a Child in respect of that Child; or

- (iii) any other person.

13.2 DELEGATION TO DIRECTOR

The Director is authorized to receive any authority delegated to an official by any government or child welfare authority relating to a Child who is in the custody or under the guardianship of that government or authority.

13.3 PROTECTION FROM LIABILITY

- (1) Subject to subsection (2), no action lies or may be commenced or maintained against any individual, the Agency, Council or the Oversight Tribunal in respect of anything done or omitted to be done in the exercise or intended exercise of any power under this Act or in the performance or intended performance of any duty or function under this Act.
- (2) Subsection (1) does not apply in relation to anything done or omitted to be done in bad faith.

13.4 COMPUTATION OF TIME

- (1) If in this Act the time limited for the doing of a matter expires or falls on a holiday, it may be done on the day next following that is not a holiday.
- (2) If in this Act the time limited for the doing of a matter, expires or falls on a day on which the office or place in which it is required to be done is not open during its regular hours of business, it may be addressed on the day next following on which the office or place is open

14.0 REVIEW AND AMENDMENT OF ACT

14.1 PROCESS TO REVIEW

- (1) This Act shall be amended only by using the Cowessess First Nation Constitution process.
- (2) Every five years after the day on which this Act comes into force, the Cowessess First Nation must undertake a review of the provisions and operation of this Act.

14.2 REPORT

The Agency must prepare a report on the review that sets out their conclusions and recommendations.

14.3 TABLING OF REPORT

The Council must cause the report to be tabled at the next regular General Meeting after the day on which the report is completed.

15.0 FIRST NATION RESOLUTIONS

The Council may make any Resolutions required to facilitate the operation of this Act, but those Resolutions are void if they conflict with any provisions of this Act.

16.0 ENGAGEMENT OF CONSULTANTS

16.1 The Council may appoint experts or persons having special technical or legal knowledge to advise the Oversight Tribunal when it performs its duties and functions under this Act.

16.2 A person appointed under subsection (1) may be paid the remuneration and expenses that the Council prescribes.

17.0 CONFIDENTIALITY

- (1) The Director and any person employed or assisting in the administration of this Act, including the Board, may disclose or communicate personal information that comes to the Director's or person's or Board's attention under this Act only in accordance with proceedings before the Oversight Tribunal, or as follows:
 - (a) to any person or organization, if the disclosure is necessary to plan services for or provide services to the Child or the Child's Family or to plan or provide for the day-to-day care or education of the Child;
 - (b) to the Parents or Family of the Child to whom the information relates;
 - (c) to the Child to whom the information relates;
 - (d) to any person employed in the administration of child protection legislation in another province or treaty territory in Canada;

- (e) to any person with the written consent of the Director.
- (2) The Director or a person acting on behalf of the Director, may collect and use personal information, including health information, for the purposes of conducting an assessment or an investigation or providing services under this Act.
- (3) A hospital, medical care facility, Police Service, or other custodian of personal information shall provide personal information to the Director on request of the Director.
- (4) No liability attaches to the Director or any other person who discloses or communicates information in accordance with this section if the disclosure or communication is made in the administration of this Act or for the protection of the Child.
- (5) Despite subsection (1), the name of a person who makes a report to the Director about a Child who may be in need of intervention and any information that would identify that person is privileged information of the person making the report and is not admissible in evidence in any action or proceeding or before any inquiry without the consent of the person.

18.0 CORPORATION LEGISLATION NOT TO APPLY

18.1 The Canada Not-for-Profit Corporations Act SC 2009, c. 23 does not apply to the Agency.

18.2 No provincial legislation dealing with not-for-profit organizations applies to the Agency.

19.0 COMING INTO FORCE

The provisions of this Act come into force on a date to be fixed by Council Resolution, after the Act is approved by the Citizens in accordance with the procedure set out in the Cowessess First Nation Constitution.

20.0 TRANSITIONAL

Upon the coming into force of this Act, subject to the terms of any applicable Coordination Agreement

- (1) the current status of a Child in the care of a Province continues; but
- (2) the Director must be consulted before any further decisions are made with respect to the Child.