



*Office of the Provincial Advocate  
for Children and Youth*

*Bureau de l'intervenant provincial  
en faveur des enfants et des jeunes*

## SCHEDULE "A" – LIST OF RECOMMENDATIONS

This Schedule "A" lists the recommendations of the Advocate to amend the current legislative scheme.

In this Schedule, all references to Bill 89 (or the Act) refer to the *Child, Youth and Family Services Act, 2016* as proposed in Schedule "1" to Bill 89, unless otherwise indicated. Commentary on certain provisions of Bill 89 is set out in italics below the Advocate's recommendations. For convenience, we refer only to "children" (rather than to "children and youth") when referring to persons under 18 years old, unless the context requires otherwise.

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## **I. *Katelynn's Principle***

### **Katelynn's Principle – best interests of the child**

*Although section 3 of Bill 89 provides rights to children and young persons receiving services under the Act, Katelynn's Principle should also be reflected in the paramount purpose of the Act.*

1. Amend section 1 (Paramount purpose and other purposes) of the Act to insert the following provision:

(1.1) In determining the best interests of the child or youth in respect of all matters affecting the child or youth, the voice of the child or youth shall be solicited, heard, and considered, being given due weight and in appreciation of their evolving capacity, unless there is demonstrably good cause to do otherwise.

### **Katelynn's Principle – a child's general right to be heard**

*Although Part II confers certain rights on children, it falls short of what is afforded under Katelynn's Principle. For example:*

- *The rights apply only when a child is "receiving services". They do not appear to apply when a decision is being made by a court or by an administrative body.*
- *There is no obligation on the service provider to provide the information and support necessary for a child to exercise their right to be heard meaningfully.*

2. Insert the following provision as sections 2.1 and sections 2.2 of the Act:

#### **A child's right to be heard**

2.1. Unless this Act expressly provides otherwise and without limiting any rights of the child or youth conferred by this Act, a decision-maker or service provider shall in all decisions affecting the child or youth pursuant to this Act:

(1) solicit, consider and give due weight to the views and wishes of the child or youth while respecting their evolving capacity in accordance with the age and maturity of the child or youth;

(2) take appropriate measures in a manner consistent with the age and evolving capacity of the child or youth:

(a) to provide to the child or youth the information required in order to understand the nature and the reasonably foreseeable consequences of the decision and any additional information requested by the child or youth; and

(b) to provide access to a child or youth to the support or assistance that they may require in expressing their views and wishes and in exercising their right to do so;

(3) in the context of a proceeding, provide an opportunity to hear or otherwise receive evidence from the child or youth directly or through a representative;

2.2 Notwithstanding section 2.1, a decision-maker or service provider may choose not to hear the views and wishes of the child or youth in a proceeding if:

(a) there is demonstrably good cause not to hear the views and wishes of the child or youth; and

(b) reasons are provided to justify the decision not to hear the views and wishes of the child or youth.

### **Katelynn's Principle – application to persons over 18 years old that receive services under the Act**

*The Advocate recommends that a provision be inserted at the beginning of Part II (Children's and Young Persons' Rights) to provide that a reference in Part II to a child or young person is deemed to be a reference to a person over 18 years old that is receiving services under the Act and is not the parent of a child or a member of a child's community.*

3. Ensure that the enactment of Katelynn's Principle into the Act equally applies to persons over 18 years old who are receiving services or are otherwise affected under the legislation.

### **Alternatively, ensure that each statutory decision in the Act specifically requires the voice of the child to be heard and given due weight**

4. Alternatively, amend each provision of the Act involving a statutory decision affecting the child to specifically require the voice of the child to be heard and given due weight in accordance with Katelynn's Principle.

### **Appropriate access to legal counsel**

5. Amend the Act to ensure that a child shall have access to the legal counsel or any provider of advocacy that is necessary and appropriate to allow the child to exercise those rights and participate in any decisions affecting the child or youth.

<b><i>II. Rights of the child or youth to participate in decisions and to access administrative review</i></b>
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### **Children to receive a reasonable response to concerns when raised**

6. Amend section 3 to ensure that children receive a reasonable response to their concerns:

#### **RIGHTS OF CHILDREN AND YOUNG PERSONS RECEIVING SERVICES**

Rights of children, young persons receiving services

3. Every child and young person receiving services under this Act has the following rights:

...

4. To raise concerns or recommend changes with respect to the services provided or to be provided to them without interference or fear of coercion, discrimination or reprisal and to receive a timely and reasonable response to those concerns or recommended changes.

...

### **Services delivered to include meaningful participation of the child**

#### **7. Amend section 14 of the Act to read:**

Children's, young persons' rights to respectful services

14. (1) Service providers shall respect the rights of children and young persons as set out in this Act and under the *Human Rights Code*.

Children, young persons to be heard and represented

(2) Service providers shall ensure that children and young persons and their parents have an opportunity, unless there is good cause to do otherwise ~~where appropriate~~, to be heard and represented when decisions affecting their interests are made and to be heard when they have concerns about the services they are receiving.

Criteria and safeguards re decisions

(3) Service providers shall ensure that decisions affecting the interests and rights of children and young persons and their parents are made according to clear, consistent criteria and are subject to appropriate procedural safeguards.

### **Notice and participation rights for a child under 12 years**

#### **8. Extend notice and participation rights to children under 12 years in child protection proceedings or any judicial or administrative matters that affect them, including the appropriate amendments to:**

- (a) section 63(1) [right to object and trigger a mandatory review by the advisory committee of a residential placement];
- (b) section 64(2) [obligation for an advisory committee to advise the child of their rights under section 36 following the issuance of its recommendations];
- (c) section 65(1) [right to apply to the Board for a review of the recommendation of an advisory committee];
- (d) sections 78(5) [right to notice, to be present and presumptive right to participate in a child protection hearing];

- (e) sections 95(9) [right to receive a copy of an assessment report], but subject to the discretion of the court to order that a copy or part of a copy of the report not be disclosed to a child if it would cause the child emotional harm;
- (f) section 64(2) [right to be informed of the review procedures available]; and
- (g) section 166 [right to apply for a court order terminating an order for commitment or extension under Part VI (Extraordinary Measures)].

### **Strengthening the service provider complaint process to protect children**

- 9. Amend sections 17 and 18 to strengthen the ability of children to access the service provider complaint process:

#### COMPLAINTS AND REVIEWS

##### Complaints procedure

##### 17. (1)

(a) A service provider who provides residential care to children or young persons or who places children or young persons in residential placements shall establish a written procedure, in accordance with the regulations, for hearing and dealing with complaints regarding alleged violations of the rights under this Part of children in care, and any other concerns raised by children in care.

(b) The written procedure for hearing and dealing with complaints shall ensure that:

(i) each child or young person is advised and is aware of their right to deliver a complaint under this section and to seek the assistance of the Provincial Advocate for Children and Youth to do so;

(ii) a timely and reasonable response is provided to the complaint; and

(iii) upon receiving the response of the service provider to the complaint, the child or young person is advised and is aware of their right to:

1. seek further review of the decision pursuant to section 18, and to seek the assistance of the Provincial Advocate for Children and Youth to do so; and

2. request that the Provincial Advocate for Children and Youth carry out an investigation in respect of the matters raised in their complaint.

##### Same

(2) A service provider shall conduct a review or ensure that a review is conducted, in accordance with the procedure established under subsection (1), on the complaint of,

- (a) a child in care;
- (b) the child's or young person's parent; ~~or~~
- (c) another person representing the child or young person; or;
- (d) a group of children in care.

and shall seek to resolve the complaint.

### **Complainant's remedy against reprisal**

*Although section 3(4) of Bill 89 provides a child or young person a right against reprisals, there is no specific remedy available to a child or young person if they are the subject of a reprisal.*

- 10.** Amend Part II of the Act to prohibit any reprisal against a person who claims or seeks to enforce their rights under the Act and provide appropriate remedies to safeguard the right against reprisals, in a manner similar to section 8 of the Ontario *Human Rights Code*.<sup>1</sup>

### **Information regarding the Advocate's Office to be provided at service provider premises**

- 11.** Amend Part V of the Act to ensure that all services funded under the Act are required to:
- (a) prominently display on their premises in a manner visible to persons receiving services a poster advising clients of the contact information of and services provided by the Advocate's Office;
  - (b) advise and ensure that children and youth have the right to privately contact the Advocate's Office by telephone or in person;
  - (c) advise that reprisals on any person who contacts the Advocate's Office are prohibited; and
  - (d) make available informational materials produced by the Advocate's Office upon request.

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<sup>1</sup> Section 8 of the *Human Rights Code* reads: "8. Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe a right of another person under this Act, without reprisal or threat of reprisal for so doing." R.S.O. 1990, c. H.19, s. 8.

### **III. Purposes of the Act**

#### **Purpose of the Act to require compliance with the UN Convention on the Rights of the Child**

*Bill 89 only makes reference to the Convention in the preamble to the Act and merely asserts that its aim is to be consistent with the Convention. The purpose of the Act itself should recognize Ontario's obligation to provide services in accordance with the obligations agreed to in the Convention.*

- 12.** Amend the purpose of the Act under section 1(2) to ensure that services are provided in accordance with the United Nations Convention on the Rights of the Child (the “**Convention**”), as proposed in Bill 54, *An Act to amend the Child and Family Services Act with respect to children 16 years of age and older* (2014):

*1. Subsection 1 (2) of the Child and Family Services Act is amended by adding the following paragraph:*

*6. To recognize that services provided under the Act should be provided in accordance with the United Nations Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on November 20, 1989, and to which Canada is a party.*

#### **Purpose of the Act to require compliance with the Charter and the Human Rights Code**

*Reference to the Charter and to the Human Rights Code is currently made only in the preamble. The purpose of the Act should reflect the intent expressed in the preamble by explicitly referring to that legislation.*

- 13.** Amend the purpose of the Act under section 1(2) to include recognizing that services shall be provided under the Act in accordance with the *Charter of Rights and Freedoms* and the *Human Rights Code*

#### **Purpose of the Act to require service providers to be “exemplars of meaningful participation”**

- 14.** Amend the purpose of the Act under section 1(2) to ensure that service providers operate as “exemplars for meaningful and empowered participation of children and youth” (similar to section 1(3)(2) of the *Provincial Advocate for Children and Youth Act, 2007*, S.O. 2007, c. 9).

#### **Purpose of the Act to require service providers to be exemplars of anti-racism and anti-discrimination**

- 15.** Amend the purpose of the Act under section 1(2) to recognize that service providers operate as exemplars of principles of anti-racism, anti-discrimination and the promotion of equitable outcomes in all services, policies, legislation and decision-making under the Act.

**Alternatively, ensure that services are provided in accordance with the preamble**

16. In the alternative, amend section 1 to require that services be provided in accordance with the principles and values articulated in the preamble to the Act.

**IV. *Legislative and policy-making processes***

**“Child-first” legislative review policy**

17. The Province should adopt a “child-first” policy and process for legislative review, in order to review all proposed legislation and policies for their impact on children and youth, and specifically address in that review the expected outcomes for all children and youth of the province.

**Mandatory consultation with children in legislative review and policy-making processes**

18. Amend Part XI and Part XII of the Act to:
- (a) require the periodic legislative review process to include mandatory consultation with children;
  - (b) require any policy-making process by the Minister to involve mandatory consultation with children; and
  - (c) provide for regulation-making powers to define how such consultation processes are to be carried out.

**Minister to report on review of services in relation to aboriginal children**

19. Amend section 315 of the Act as follows to require the Minister to report on their review of provisions imposing obligations on societies when providing services in relation to children who are First Nations, Inuit or Métis persons:

Review re: First Nations, Inuit and Métis issues

315. (1) Every review of this Act shall include,

- (a) a review of the additional purpose of the Act described in paragraph 6 of subsection 1 (2), with a view to evaluating the progress that has been made in working with First Nations, Inuit and Métis peoples to achieve that purpose; and
- (b) a review of provisions imposing obligations on societies when providing services to a First Nations, Inuk or Métis person or in respect of First Nations, Inuit or Métis children, with a view to ensuring compliance by societies with those provisions.

(2) The Minister shall prepare a written report respecting the review pursuant to subsection (1) and shall make that report available to the public.

### **Reports of the Minister to be in plain language**

20. Amend Part XI (Miscellaneous) to require any reports published by the Minister to be in plain language.

<b>V. <i>Collection of data</i></b>
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### **Annual report by the Minister**

21. Amend Part XI (Miscellaneous) to require the Minister to publish an annual report that reports, in plain, accessible language, on:
- (a) the safety, well-being, economic conditions, and social conditions of children and youth, including any outcomes prescribed by regulation;
  - (b) the services provided by children's aid societies;
  - (c) the conditions, period of time, and stability of residential placements of children and youth; and
  - (d) the well-being, and economic and social conditions of children and youth living in communities which are disproportionately represented in receiving or seeking services under this Act.

### **Regulations prescribing reporting on outcomes and collection of disaggregated data**

*Under section 279 of Part X (Personal Information), the Minister may now collect personal information for the purposes of delivering services and to conduct research and analysis in relation to children. The Advocate believes that the Act should specifically grant the Minister the power to go a step further to enact by regulation certain target outcomes and goals for children and youth, and then collect data for the purpose of ensuring that those target outcomes and goals are being achieved.*

22. Amend Part XII (Regulations) to authorize the Minister to enact regulations with respect to:
- (a) establishing target outcomes and measurable results for children and youth who are in care and for children and youth at the time that they leave care, with reference to the following non-exclusive list of target outcomes:
    - (i) Children and youth have stable and secure homes and living conditions rather than a placement, including customary care arrangements and culturally-appropriate placements;

- (ii) Children and youth have permanent resident or refugee status in Canada;
  - (iii) Children and youth have identification available to them and leave care with identification;
  - (iv) Children and youth leave care with a source of income, in their own right when aging out of the system;
  - (v) When younger children are leaving to the care of an adult, a children's aid society has ensured adequate financial support, through subsidies or other government programs, as needed;
  - (vi) Children and youth have a connection to a caring adult or peer;
  - (vii) Preventive measures are taken and resources are made available to ensure the person with custody of a child, the extended family of a child, and the community of a child are supported in the performance of child-rearing responsibilities; and
  - (viii) Services and resources are made available to ensure that a child is not separated from their family or from their community because of disability, lack of health care, educational needs and inadequate shelter or financial hardship.
- (b) establishing a consultation process that involves the participation of young people to define additional target outcomes and measurable results; and
  - (c) collecting data that is disaggregated to reflect the outcomes of children and youth from disadvantaged groups in respect of the target outcomes identified above, including those who are disproportionately represented in receiving or seeking services under this Act and those identified in the *Poverty Reduction Act, 2009*

<b>VI. <i>Privacy and protecting personal information</i></b>
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**Notice of collection, use or disclosure without consent**

- 23.** Amend section 282 to clarify in the marginal note that the provision applies to use and disclosure and to require an individual to be given notice of a collection, use or disclosure of personal information without consent:

Collection, use or disclosure ~~etc.~~ of personal information — requirement for consent

282. A service provider shall not collect personal information about an individual for the purpose of providing a service or use or disclose that information unless,

(a) the service provider has the individual's consent under this Act and the collection, use or disclosure, to the best of the service provider's knowledge, is necessary for a lawful purpose; or

(b) (i) the collection, use or disclosure without the individual's consent is permitted or required by this Act, and

(ii) written notice is provided to the individual within a reasonable period of time following the collection, use or disclosure without consent, unless such notice is prohibited by this Act or by a treaty, agreement or arrangement made under an Act or an Act of Canada.

### **No use or disclosure of personal information except where expressly permitted**

**24.** In addition to the prohibitions set out in section 282, amend section 287 (Use) and section 288 (Disclosure Without Consent) to expressly prohibit the use or disclosure of personal information without consent, except in accordance with the Act:

#### Use

287. (1) A service provider ~~shall not may~~ use personal information in its custody or under its control ~~collected for the purpose of providing a service,~~ except:

(a) for the purpose for which the information was collected or created and for all the functions reasonably necessary for carrying out that purpose, including providing the information to an officer, employee, consultant or agent of the service provider, unless ~~but not~~

(i) ~~if~~ the information was collected with the consent of the individual or under clause 284 (2) (a); and

(ii) the individual expressly instructs otherwise;

...

#### Exception

(2) (a) Despite clause (1) (a), where the individual to whom the personal information relates expressly instructs otherwise, a society may nonetheless use that personal information for a purpose related to a society's functions under subsection 34 (1) where it is in the best interests of the ~~a~~ child to do so.

(3) For greater clarity, the provisions authorizing use of personal information under this Part do not authorize the disclosure of personal information unless expressly permitted under this Part.

#### Disclosure without consent

288. (1) A service provider ~~shall not may~~, without the consent of the individual, disclose personal information about an individual in its custody or under its control ~~that has been collected for the purpose of providing a service,~~ except:

...

**Disclosure without consent only where there is a risk of serious harm**

25. Amend section 288(1)(g) to permit disclosure without consent only where a service provides has reasonable grounds to believe that there is a risk of serious harm:

Disclosure without consent

288.

...

(g) if the service provider believes on reasonable grounds that there is a risk of serious harm to a person or group of persons and the disclosure is necessary to assess, reduce or eliminate the a risk of serious harm to a person or group of persons; or

...

**Refusal to provide consent**

26. Amend sections 284 and 285 such that an individual’s refusal to provide their consent is not a circumstance in which it is not reasonably possible to collect information from that individual:

With consent

284. (1) A service provider may collect personal information indirectly for the purpose of providing a service if the individual to whom the information relates consents to the collection being made indirectly.

Without consent

(2) A service provider may collect personal information indirectly for the purpose of providing a service and without the consent of the individual to whom the information relates if,

(a) the information to be collected is reasonably necessary to provide a service, and it is not reasonably possible to collect personal information directly from the individual and the individual has not withheld their consent to collect the information,

(i) that can reasonably be relied on as accurate and complete, or

(ii) in a timely manner;

...

Direct collection without consent

285. A service provider may collect personal information directly from the individual to whom the information relates, even if the individual is not capable, if the collection is reasonably necessary for the provision of a service and,

(a) it is not reasonably possible to obtain consent in a timely manner and the individual has not specifically withheld their consent, or

(b) there are reasonable grounds to believe that there is a risk of serious harm to a person or group of persons and the collection is reasonably necessary to assess, reduce or eliminate a risk of serious harm to a person or group of persons.

### **Strengthen procedural safeguards in obtaining the consent of an individual**

27. Amend sections 291 to 294 to strengthen the protections ensuring that a child or young person is able to give, withhold or withdraw consent to the collection, use or disclosure of their personal information:

Consent

291.

...

Implied consent

(2) A consent to the collection and use of personal information may be implied if the collection is made directly from the individual to whom the information relates, ~~and~~ is collected for the purpose of providing a service, and the use of personal information is reasonably incidental to the provision of that service.

Notice of purposes

(5) Unless it is not reasonable in the circumstances, an individual is deemed to know the purposes of the collection, use or disclosure of personal information about the individual if the service provider,

(a) posts a notice describing the purposes where it is likely to come to the individual's attention;

~~(b) makes such a notice readily available to the individual;~~

~~(b)~~ (e) gives the individual a copy of such notice; or

~~(c)~~ (d) otherwise communicates the content of such notice to the individual.

...

Conditional consent

293. (1) If an individual places a condition on their consent to the collection, use or disclosure of personal information, the condition is not effective to the extent that it purports to prohibit or restrict the making of any record of personal information by a service provider that is required by law ~~or by established standards of professional or institutional practice.~~

(2) If subsection 293(1) applies, the individual placing the condition on their consent shall be so informed prior to providing their consent.

Presumption of consent's validity

294. (1) A service provider that has obtained an individual's consent to the collection, use or disclosure of personal information about the individual or who has received a copy of a document purporting to be a record of the individual's consent, may presume that the consent fulfils the requirements of this Act and that the individual has not withdrawn it, unless it is not reasonable to do so.

(2) For the purposes of subsection 294(1), it is not reasonable to presume that the consent fulfils the requirements of this Act and the individual has not withdrawn it if there has been a material change in circumstances that is likely to affect the decision of the individual to consent.

### **Substitute decision-maker to consider relevant factors**

28. Amend section 296 to require a substitute decision-maker to consider the factors prescribed in section 24 of the *Personal Health Information Protection Act, 2004* before consenting, withholding or withdrawing consent:

Substitute decision-maker

296.

...

(5) A person who acts as the substitute decision-maker of an individual and who consents, withholds or withdraws consent on behalf or in place of that individual under this Part shall take into consideration the factors prescribed in section 24 of the *Personal Health Information Protection Act, 2004* with such modifications as may be necessary in the circumstances.

### **Custodian to explain purpose and nature of records subject to an access request**

29. Amend section 305(1) to require a service provider to explain the purpose and nature of the record, including any information that may reasonably be expected to cause emotional harm:

Response of service provider

305. (1) A service provider that receives a request from an individual for access to a record of personal information shall,

(a) (i) make the record available to the individual for examination and, at the request of the individual, provide a copy of the record to the individual, ~~and~~

(ii) explain the purpose and nature of the record, including any information that may be reasonably expected to cause emotional harm to the individual, and

(ii) if reasonably practical, provide an explanation of any term, code or abbreviation used in the record;

...

## ***VII. Expanding protections to children in care***

### **Extension of protection services for persons between ages 16 to 18 only with their consent**

- 30.** Amend section 73 of Part V (Child Protection) to extend protection services to a young person between the age of 16 to 18 only with their express consent, unless the young person is incapable with respect to personal care.

The Act should put in place a reasonable process that prescribes who can make a finding of incapacity and how, and that provides an appeal process to review such findings using the mechanisms provided under the *Health Care Consent Act, 1996*:

#### INTERPRETATION

##### Interpretation

73.

...

#### Protective orders in relation to a young person over 16 years only with consent

(7) (a) No order shall be issued and no power shall be exercised under this Part in relation to a young person over 16 years of age without the written consent of that person, unless that person is incapable with respect to personal care.

### **Expanded rights of a child in care**

- 31.** Amend the rights of children in care under section 12(2) of the Act as follows:

#### Plan of care

12. (1) A child in care has a right to a plan of care designed to meet their particular needs, which shall be prepared within 30 days of the child's or young person's admission to the residential placement.

#### Rights to care

(2) A child in care has a right,

(a) to participate in the development of their individual plan of care and in any changes made to it;

(b) to access food, including receive meals, that are well-balanced, of good quality and appropriate for the child or young person;

(c) to be provided with clothing that is of good quality and appropriate for the child or young person, given their size and activities and prevailing weather conditions;

(d) to receive medical and dental care, subject to section 13, at regular intervals and whenever required, in a community setting whenever possible;

(e) to receive an education that corresponds to their aptitudes, ~~and~~ abilities, and aspirations, as understood by the child, in a community setting whenever possible; and

(f) to participate in recreational ~~and~~, athletic, and creative activities that are appropriate for their aptitudes and interests, in a community setting whenever possible.

(g) to have the opportunity to form permanent and lifelong relationships that meet their personal and cultural needs;

(h) to grow up with many opportunities to develop relationships with siblings and extended family and to grow up with many opportunities to develop permanent, supportive relationships with caregivers, staff and community members;

(i) to be supported to participate fully and successfully in community-based elementary and secondary school;

(j) to develop life skills that nurture their identity, cultural pride, spiritual development, language, self esteem, resiliency, leadership, ability to engage in self advocacy;

(k) to comprehensive support for physical, psychological, spiritual, social, emotional, cognitive and cultural well being and overall health;

(l) to participate in extracurricular activities that include access to robust high quality cultural and traditional activities and knowledge, in accordance with the individual's interests;

(m) to be protected from any form of discrimination;

(n) to the preservation of the identity of the child, including the name, language and culture of the child;

(o) to be provided with a photo card under the *Photo Card Act, 2008, S.O. 2008, c. 17* or an equivalent form of identification confirming the identity of the child, and to possess or be provided with such identification upon leaving care; and

(o) if the child is not a citizen of Canada, to be advised of their status under the *Immigration and Refugee Protection Act, S.C. 2001, c. 27.*, and to be provided any status to which they would be entitled upon making an application or claim under that Act.

## **Right to private telephone calls and electronic communications**

### **32. Amend section 9 of the Act as follows:**

Rights of communication, etc.

9. (1) A child in care has a right,

(a) to speak in private with, visit and receive visits from members of their family or extended family regularly, including in a telephone conversation, subject to subsection (2);

(b) to speak in private with and receive visits, without delay, from,

(i) their lawyer,

(ii) another person representing the child or young person, including the Provincial Advocate for Children and Youth and members of the Provincial Advocate for Children and Youth's staff,

(iii) the Ombudsman appointed under the Ombudsman Act and members of the Ombudsman's staff, and

(iv) a member of the Legislative Assembly of Ontario or of the Parliament of Canada; and

(c) to send and receive written communications in private that are not read, examined or censored by another person, subject to subsections (3) and (4).

(d) to speak or otherwise communicate with any person, including through any telecommunication device, subject to any restriction in this section or any other restriction imposed by law or imposed by the service provider as are necessary and reasonable in the circumstances.

Opening, etc., of written communications to child in care

(3) Subject to subsection (4), written communications to a child in care,

...

(c) shall not be examined or read by the service provider or a member of the service provider's staff if it is to or from the child's or young person's lawyer or if it is to or from a person described in subclause (1) (b) (ii), (iii) or (iv); and

## Right of children to meet privately with an inspector

33. Amend section 273 to ensure that a child has the right to meet privately with an inspector in the course of an inspection under Part IX (Residential Licensing):

Powers on inspection

273. (1) An inspector conducting an inspection may,

...

(g) question a person, including a child, on matters relevant to the inspection;

Child's right to meet privately with inspector ~~refuse~~

(4) (a) An inspector shall give reasonable notice, in such a manner as is appropriate in the circumstances, to any child that is receiving services relating to the matters subject to inspection.

(b) The inspector shall advise and ensure that each child receiving notice of the inspection under subparagraph (a) is afforded the opportunity to meet privately with the inspector during the course of the inspection and discuss any matters of concern.

(c) Despite clause (1) (g), a child may refuse to be questioned by an inspector.

...

## Strengthen the role and mandate of the residential placement advisory committees

34. Amend sections 62 to 64 to strengthen the role and mandate of the residential placement advisory committees and the participation of children in their decision-making process:

Residential placement advisory committees

62. (1) The Minister ~~shall~~ may establish residential placement advisory committees, each consisting of no less than three persons who are engaged in providing services or who have demonstrated an informed concern for the welfare of children, and one or more persons whom the Minister considers appropriate, including, if the Minister wishes, a representative of a band or First Nations, Inuit or Métis community, and shall specify the territorial jurisdiction of each advisory committee.

...

Reports to Minister

(4) An advisory committee shall make a report of its activities to the Minister annually and whenever the Minister otherwise requests it.

Review by advisory committee

Mandatory review

63. (1) An advisory committee shall review,

(a) every residential placement in an institution of a child who resides within the advisory committee's jurisdiction, if the residential placement is intended to last or actually lasts 90 days or more,

(i) as soon as possible, but no later than 45 days after the day on which the child is placed in the institution,

(ii) unless the residential placement is reviewed under subclause (i), within 12 months of the establishment of the advisory committee or within such longer period as the Minister allows, and

(iii) while the residential placement continues, at least once during each nine-month period after the review under subclause (i) or (ii);

(b) every residential placement of a child ~~12 or older~~ who objects to the residential placement or otherwise requests a review of the residential placement and resides within the advisory committee's jurisdiction,

(i) within the week immediately following the day that is 14 days after the child is placed, and

(ii) while the residential placement continues, at least once during each nine-month period after the review under subclause (i); and

...

Review to be informal, etc.

(3) An advisory committee shall conduct a review under this section in an informal manner and in the absence of the public, and in the course of the review,

(a) shall have one or more members of the advisory committee,

(i) interview the child; and

(ii) attend at the residential placement;

(b) may,

(i) ~~(a)~~ interview ~~the child,~~ members of the child's family and any representatives of the child and family;

...

Matters to be considered

(5) In conducting a review, an advisory committee shall,

(a) solicit, consider and give due weight to the views and wishes of the child or youth while respecting their evolving capacity in accordance with the age and maturity of the child or youth;

(b) ~~(a)~~ consider whether the child has a special need;

...

(f) in the case of a First Nations, Inuk or Métis child, also consider the importance, in recognition of the uniqueness of First Nations, Inuit and Métis cultures, heritages and traditions, of preserving the child's cultural identity and connection to community.

(g) in the case of a black child, also consider the importance, in recognition of the uniqueness the child's cultures, heritages and traditions, of preserving the child's cultural identity and connection to community.

Advisory committee's recommendations

Persons to be advised

64. (1) An advisory committee that conducts a review shall advise the following persons of its recommendations as soon as the review has been completed:

1. The service provider.

2. Any representative of the child.

3. The child's parent or, where the child is in a society's lawful custody, the society.

4. The child, in language suitable for the child to understand where it is reasonable to expect the child to understand.

5. In the case of a First Nations, Inuk or Métis child, the persons described in paragraphs 1, 2, 3 and 4 and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities.

...

### **Child to be advised of reasons for placement or discharge**

**35.** Amend section 21(7) to ensure that the child is advised of the reasons for a residential placement or discharge:

21.

...

Child's views and wishes

(7) (a) Before a child is placed in or discharged from a residential placement or transferred from one residential placement to another with the consent referred to in subsection (2), the service provider shall take the child's views and wishes into account, given due weight in accordance with the child's age and maturity.

(b) The child shall be advised of the reasons for any decision to be placed in or discharged from a residential placement or transferred from one residential placement to another, whether or not the consent referred to in subsection (2) was given or required.

### **Financial and other support for persons in care over 16 years**

36. Ensure that young people who enter care over the age of 16 years are entitled to financial and other supports, including under the Continued Care and Support for Youth (CCSY) program (including tuition assistance).

### **Eligibility for social assistance**

37. Ensure that young people between 16 to 17 years of age who withdraw from parental control but do not enter the care of a children's aid society are not prohibited from applying for Ontario Works or other social assistance programs.

### **Transition support for persons up until 25 years**

38. Amend section 13(4) of Part IV (Extended Care) of the *Procedures, Practices and Standards of Service for Child Protection Cases*, O. Reg. 206/00 to extend the maximum age of extended care to 25 years of age. The policies governing benefits conferred under extended care should include medical, dental and prescription coverage, support services necessary for transition, and grants for emergency housing costs.

## ***VIII. Use of secure de-escalation, seizures, and other intrusive procedures***

### **No secure de-escalation for a period of more than 24 hours**

39. Amend section 171 of Part VII (Extraordinary Measures) to prohibit the use of secure de-escalation in regard to any young person for a period that exceeds 24 consecutive hours.

### **Right of review of secure de-escalation when used for a period of more than 24 hours or in a manner that is otherwise alleged to be inappropriate**

40. Amend section 149(1) of Part VI (Youth Justice) as follows to provide for a review of the secure de-escalation of any young person for a period that exceeds 24 hours:

Application to Board

149. (1) A young person may apply to the Board for a review of,

(a) the particular place where the young person is held or to which the young person has been transferred;

(b) a provincial director's refusal to authorize the young person's reintegration leave under section 91 of the Youth Criminal Justice Act (Canada); ~~or~~

(c) the young person's transfer from a place of open custody to a place of secure custody under subsection 24.2 (9) of the Young Offenders Act (Canada) in accordance with section 88 of the Youth Criminal Justice Act (Canada); or

(d) the placement of a young person in a secure de-escalation room for a period of greater than 24 hours or in a manner that is otherwise not appropriate in the circumstances.

### **Power of Board to order remedies in respect of review of secure de-escalation**

**41.** Amend section 149(1) of Part VI (Youth Justice) as follows to permit the Board to order the release of a young person from secure de-escalation and other remedies:

149.

...

(8) After conducting a review under subsection 2(d), the Board may make one or more of the following orders,

(a) an order that the young person be released from secure de-escalation;

(b) an order directing any party to the review to do anything that, in the opinion of the Board, the party ought to do to promote compliance with this Act, including an order directing a party to pay compensation to the young person.

### **Mandatory reports on the use of secure de-escalation**

**42.** Amend section 172 to require a written report to the Director on the use of a secure de-escalation room:

Review of use of secure de-escalation

172. (1) A person in charge of premises containing a secure de-escalation room shall review,

(a) the need for the secure de-escalation room; and

(b) each instance of the use of the secure de-escalation room; and

(c) ~~(b)~~ the prescribed matters,

every three months or, in the case of secure custody or secure temporary detention, every six months from the date on which the secure de-escalation room is approved under subsection 170 (1), shall make a written report of each review to a Director and shall make such additional reports as are prescribed.

(2) the written report delivered pursuant to clause 172(1)(b) shall include:

(a) a written record of each instance of the use of a secure de-escalation room that shall include:

(i) the name and age of each child or young person placed in secure de-escalation;

(ii) the dates and the duration of each use for each child or young person;

(iii) the grounds on which the service provider determined that the criteria for the use of secure de-escalation were present; and

(b) a report of any instance in which the use of a secure de-escalation room did not comply with the requirements of this Act, the regulations enacted under this Act, and any applicable policies.

### **No seizure of goods based on quantity alone**

- 43.** Amend section 152 to prohibit the seizure of goods that a child is authorized to have but that are found to exceed the permitted quantity of those goods:

#### SEARCHES

##### Permissible searches

152. (1) The person in charge of a place of open custody, of secure custody or of temporary detention may authorize a search, to be carried out in accordance with the regulations, of the following:

...

##### Contraband

(2) Any contraband found during a search may be seized and disposed of in accordance with the regulations.

##### Meaning of contraband

(3) For the purposes of subsection (2),

“contraband” means,

(a) anything that a young person is not authorized to have,

(b) anything that a young person is authorized to have but in a place where they are not authorized to have it,

~~—(c) anything that a young person is authorized to have but in a quantity in which they are not authorized to have it, and~~

(d) anything that a young person is authorized to have but that is being used for a purpose for which they are not authorized to use it.

### **Mandatory establishment of a professional advisory board**

- 44.** Amend section 174 to require the establishment of a professional advisory board:

#### **PROFESSIONAL ADVISORY BOARD**

##### **Professional Advisory Board**

174. (1) The Minister ~~shall~~ ~~may~~ establish a Professional Advisory Board, composed of physicians and other professionals who,

- (a) have special knowledge in the use of intrusive procedures and psychotropic drugs;
- (b) have demonstrated an informed concern for the welfare and interests of children; and
- (c) are not employed in the Ministry.

### **Review teams to review use of intrusive measures**

- 45.** Amend Part VII (Extraordinary Measures) to include the review teams to review the use of intrusive measures, which are currently provided for under section 129 of the *Child and Family Services Act* but are excluded from the new Act.

<b>IX. <i>Other recommendations</i></b>
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### **Enhanced understanding of extended family**

- 46.** Amend the definition of “extended family” under section 3(1) to include a person that the child or youth with whom the child or youth wishes to sustain a bond and regards as significant, caring, supportive in their lives, and important to their sense of identity, healthy growth and development.

### **Minister’s mandate**

- 47.** Amend the Act to expressly confer on the Minister the responsibility and the mandate:
- (a) to take preventative measures and make resources available to ensure the person with custody of a child, the extended family of a child, and the community of a child are supported in the performance of child-rearing responsibilities;

- (b) to make services and resources available to ensure that a child is not separated from their family or from their community because of disability, lack of health care, educational needs and inadequate shelter or financial hardship.
- (c) to ensure that funding and other support provided to children who are Indian or native persons is comparable in quality and accessibility to services provided to other children, and is adequate to meet their needs.

### **Children’s aid society to be a Crown agent**

- 48.** Amend section 33 of the Act to provide that a children’s aid society is an agent of the Crown and that the Crown remains responsible for how the obligations of a children’s aid society to vulnerable children are discharged, irrespective of Ontario’s policy choice to delegate that responsibility to a children’s aid society:

#### CHILDREN’S AID SOCIETIES

##### Children’s aid society

##### Designation

33. (1) The Minister may designate an agency as a children’s aid society for a specified territorial jurisdiction and for any or all of the functions of a society set out in subsection 34 (1).

...

##### ~~Not Crown agents~~

(5) A society and its members, officers, employees and agents are deemed to be ~~not~~ agents of the Crown in right of Ontario ~~and shall not hold themselves out as such.~~

##### ~~No Crown liability~~

~~—(6) No action or other proceeding shall be instituted against the Crown in right of Ontario for any act or omission of a society or its members, officers, employees or agents.~~

### **Remedies for breach of duty to report by non-professionals**

- 49.** Amend section 72 of the Act to introduce administrative or other remedies against non-professionals who have direct and substantive knowledge of child abuse and neglect, and fail to report that child abuse or neglect.

### **Mandatory publication of compliance orders**

- 50.** Amend section 32(4) to require the publication of compliance orders:

## Compliance order

### Grounds

32. (1) A program supervisor may make an order under subsection (2) if the program supervisor believes on reasonable grounds that a service provider or lead agency has failed to comply with,

- (a) this Act or the regulations;

...

### Public availability

(4) The Minister shall publish ~~may make~~ orders made under this section and ensure that they are available to the public.

## **Mandatory publication of information about licenses**

- 51.** Amend section 250 of the Act to require the Minister to publish information with respect to licenses:

### Publication of information by Minister

250. (1) The Minister shall ~~may~~ publish the following information with respect to licences and applications for licences:

- 1. The name of the licensee and prescribed contact information.

...

## **Timely response to reports or recommendations**

- 52.** Amend Part XII (Miscellaneous) to ensure that service providers under the Act are required to provide, without undue delay and in good faith, a reasonable response to any report or recommendation relating to services provided under the Act that is delivered to the service provider pursuant to any statutory power.



*Office of the Provincial Advocate  
for Children and Youth*

*Bureau de l'intervenant provincial  
en faveur des enfants et des jeunes*

## **SCHEDULE “B” – ADDITIONAL RECOMMENDATIONS**

This Schedule “B” lists additional recommendations of the Advocate to amend the current legislative scheme.

In this Schedule, all references to Bill 89 (or the Act) refer to the *Child, Youth and Family Services Act, 2016* as proposed in Schedule “1” to Bill 89, unless otherwise indicated.

An index of the additional recommendations is set out below:

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<b>I. Part II – Children and Young Person’s Rights</b>
--

**Rights of child or young person receiving services**

1. *The Act is missing enabling elements of Katelynn’s Principle, it is recommended that language of the Principle be directly applied in section 3, for example:*
  - i) right to be consulted as well as participate in all decision making;
  - ii) right to be informed about channels for complaints or recourse;
  - iii) recognition of evolving capacity;
  - iv) recognition of the child as distinct and separate from caregivers;
  - v) right to available support to assist child in sharing their voice;
  - vi) right to be informed of the Advocate should prescribe how and when to advise of OPACY including ongoing sharing of information about OPACY and contact for OPACY.
2. Amend the language in section 3 (3) to read:
  3. Every child and young person receiving services under this Act has the following rights:
    3. To be consulted on the nature of the services provided or to be provided to them, participate in decisions about the services provided or to be provided to them, and advised of the decisions made in respect of those services.

**Right to be heard in respect of decisions**

3. Amend Section 7 (1) (c) to reflect the right to be heard in all decision making process including the placement to read:
  - (c) the child’s or young person’s placement in a residential placement, discharge from a residential placement or transfer to another residential placement
4. *Although section 7 includes the right to be heard, an amendment should be made to include the right to participate in all decision making that affects the child or young person in following with Katelynn’s Principle.*

**Right to be informed**

5. Amend Section 8 by being applying right to be informed of any program or services being sought or received rather than limited to admission to residential placement

and

deleting language “to the extent that it is practical.”

### **Condition and limitations on visitors**

6. Amend Section 10 by adding a review process for visitor restrictions as prescribed by regulations.

### **Personal liberties**

7. The exclusion of the word “religion” in section 11 raises concern that by not being explicit the obligation to be responsive and provide appropriate training or sensitivity may be given less attention. The Office would anticipate that everyday application may be problematic as religion is not explicit and there may be assumptions that change in language is a removal of relevancy in the Act and rights.

### **Plan of Care**

8. Amend section 12 to include:

(2) A child in care has a right to be informed about the Provincial Advocate for Children and Youth without delay at these intervals and the right to private contact.

(3) A child in care has the right to be informed about the review processes available (*similar to previous CFSA S108 (d)*).

### **Service Providers’ Duties In Respect Of Children’s And Young Persons’ Rights**

9. Section 14 language should refer to Katelynn’s Principle to ensure the child is part of the decision-making process as follows:

(2) Service providers shall include children, give due weight and consideration and provide support to allow for child’s participation and voice to be heard in all decisions affecting them.

<b>II. Part III – Funding and Accountability</b>
--

### **Funding and Accountability**

10. Make amendments to clarify the public availability of directives and compliance orders in section 31 (6), 32 (4), 41 (5), 42 (4)

and

amend to include the following provision... available to the public by, at minimum, posting and making it accessible on the Ministry website.

### **No Crown Liability**

- 11.** Section 33 (6) to be deleted in its entirety.

### **Reports made public by Minister**

- 12.** Amend section 55 to include the following provisions:

(c) Public reports made in formats that are accessible and in plain language;

(d) Where the Minister finds that certain populations of children and young people are overrepresented, the Minister will request information from service providers and lead agencies at the prescribed intervals.

### **Public reports to be accessible**

- 13.** Amend section 57 to read as follows:

Every service provider and lead agency shall make the prescribed information available to the public in the prescribed manner, in plain language, accessible to youth.

And to include the following provisions:

Every service provider and lead agency shall report data publicly on overrepresented groups:

Where the Minister has found that certain populations of children and young people are overrepresented every service provider and lead agency from whom the Minister has requested information shall make information available to the public, in plain language, accessible to youth.

### **RPAC**

- 14.** Include previous CFSA S34.2 language that ensures Ministry Representative to be included as member to committee.

### **III. Part V – Child Protection**

#### **Interpretation**

15. 73 (2) (o) the child is 16 or 17, is at risk of harm as specified in (a)-(k) and lacks capacity to make decisions them-self. Only this section applies to 16 and 17 year olds.

#### **Apprehension of children who are removed or leave care**

16. Only those 16 and 17 year olds to whom 73 (2) (o) applies to be apprehended under section 81 – specifically youth who are at risk and lack capacity.

section 81 (1) and (4) (iii) In the case of a 16 or 17 year old, the child is at risk of harm and lacks the capacity to make their own decisions.

#### **Consent order: special requirement**

17. Amend section 96 to ensure that a child may only consent to a protection order in a signed writing executed by them and not their counsel

(ii) every consent is voluntary, and

(iii) the parent and, where the child is 12 or older, the child, consents in a signed writing to the order being sought, and

(iv) a signed consent of the child for the purposes of clause 96(b)(iii) must be executed by the child on their own behalf and not by counsel on behalf of the child.

#### **Access Orders – who may apply**

18. A provision should be in place to advise siblings, extended families and communities of their right to apply for access and where they may seek support to do so. Siblings should have supports provided to assist them in making application for access.

Amend section 101 to clarify that a sibling may apply for an access order as follows:

102 (2) 2. Any other person, including a sibling of the child or, in the case of a First Nations, Inuk or Métis child, a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities. Access: where child is removed from person in charge

Amend section 102 by repealing subsection 5; delete subsection 4; replace with best interest test to reinforce the right of the child to access.

## Withholding and withdrawal of consent to treatment

19. Amend sections 107 Child in interim society care and 108 to clarify that: (1) a society may withhold or withdraw consent and (2) a court should consider whether an issue of consent to treatment is not more appropriately addressed by the Consent and Capacity Board:

Section 107 (2) (2) Where a child is in interim society care under an order made under paragraph 2 of subsection 98 (1), and the child is found incapable of consenting to treatment under the Health Care Consent Act, 1996, the society may act in the place of a parent in providing, withholding or withdrawing consent to treatment on behalf of the child, unless the court orders that the parent shall retain the authority under that Act to give or refuse consent to treatment on behalf of the incapable child.

Section 107 (4) The court may authorize the society to act in the place of a parent in providing consent to the treatment on the child's behalf where,

(a) a parent referred to in an order made under subsection (2) refuses or is unavailable or unable to consent to treatment for the incapable child,

(b) the court is satisfied that the treatment would be in the child's best interests, and

(c) the court is satisfied that it is not more appropriate that the matter be resolved through an application before the Consent and Capacity Board under Part II of the Health Care Consent Act.

~~Where a parent referred to in an order made under subsection (2) refuses or is unavailable or unable to consent to treatment for the incapable child and the court is satisfied that the treatment would be in the child's best interests, the court may authorize the society to act in the place of a parent in providing consent to the treatment on the child's behalf.~~

## Consent to Treatment

20. Amend Section 108 (2) as follows:

Where a child is in extended society care under an order made under paragraph 3 of subsection 98 (1) or clause 113 (1) (c), and the child is found incapable of consenting to treatment under the Health Care Consent Act, 1996, the society may act in the place of a parent in providing, withholding or withdrawing consent to treatment on behalf of the child.

## Society's obligation to pursue family relationship for child in extended society care

21. Amend section 109 to read:

Where a child is in extended society care under an order made under paragraph 3 of subsection 98 (1) or clause 113 (1) (c), the society shall include the participation of the child, according to their evolving capacity, in determining the family relationship the child wishes to have, and make all reasonable efforts to assist the child to develop a positive, secure and enduring relationship within a family through one of the following:....

## **Complaint to Society**

22. Amend section 116 to ensure that the complaint process is publically available and is advised of the right to apply to the Board for review or request an investigation by the Advocate:

Public availability

(3) A society shall make information relating to the complaint review procedure publicly available.

Amend section 116 to read:

Society's decision

(5) ~~(4)~~ Subject to subsection (7) ~~(5)~~ the decision of a society made upon completion of the complaint review procedure is final.

Notice regarding right of review and right to request an investigation by the Advocate

(6) Upon rendering a decision in relation to a complaint, the society shall advise the complainant of:

(a) their right to apply for review by the Board, and

(b) their right to request that the Advocate carry out an investigation in respect of the subject-matter of the complaint.

Application for review by Board

(7) ~~(5)~~ If a complaint relates to one of the following matters, the complainant may apply to the Board in accordance with the regulations for a review of the decision made by the society upon completion of the complaint review procedure:

1. A matter described in subsection 117 (4).
2. Any other prescribed matter.

## Continued Care and Support

23. Amend language in section 121 by removing “may” to require a Society to provide support to someone over 18, as well as following amendments:

121 (1) A society and, in the case of a First nations, Inuk or Métis person, an agency, will offer care and support to a person in accordance with the regulations in one of the following circumstances:...

CCSY be made available to all those who have signed an agreement as 16 or 17 year old:

121 (1) 2. The person entered into an agreement with the society under section 76 and the agreement has expired ~~on the person’s 18th birthday.~~

## Society to assess and verify report of child in need of protection

24. Amend section 123 (2) as follows:

No action or other proceeding for damages shall be instituted against an officer or employee of a society, acting in good faith, according to the principles of the Act, for an act done in the execution or intended execution of the duty imposed on the society by subsection (1) or for an alleged neglect or default of that duty.

## Service providers not liable for providing services to a child outside the care of a society

25. Amend section 137 to ensure that a service provider will not be guilty of an offence for providing services to a child or young person who withdraws from the care of a society

(2) Nothing in this section prohibits a service provider or any person acting on its behalf from providing services to a child or youth over 16 years of age and any such person shall not be liable for doing so if acting in the ordinary course of their activities and in good faith.

<b>IV. Part VI – Youth Justice</b>
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## Permissible searches

26. *Delete 152 (4)*

152 (4) Any vehicle entering or on the premises of the place of open custody, of secure custody or of temporary detention.

**V. Part VII – Extraordinary Measures**

**Mechanical Restraints**

27. The legislated use of mechanical restraints works against the principles of the Act, therefore section 157 should be deleted in its entirety.

**Emergency Admission**

28. Amend section 168 (3) to delete Emergency admission on consent.

**Secure De-escalation**

29. Amend section 171 (9) by deleting in its entirety as the Advocate rejects the change in terminology to “secure de-escalation” and to reflect that time restrictions on secure isolation should be the same for all young people and should not be excessive.

**VI. Part VIII – Adoption and Adoption Licensing**

**Application to vary or terminate openness order before adoption**

30. Amend section 195 (8) to include

At any time....matter that is relevant to the proceeding.....

The court will adjourn the proceedings to permit the parties to attempt through a prescribed method of alternative dispute resolution where the child has requested to maintain contact with a family member or it has previously been determined to be in the child's interest to do so.

**VII. Part IX – Residential Licensing**

**Directive by Minister**

31. Amend section 249 and 250 to include the following language:

Public reports made in formats that are accessible in plain language.

**Publication Information by Minister**

32. Amend section 250 to include language of other prescribed reports to also be released publicly

## Reports on Certain Matters to Directors

33. Amend section 247 (5) of the Act to be consistent with Part X section 308 and amend the Act to include the following:

### Non-retaliation

247. (5) No one shall dismiss, suspend, demote, discipline, harass or otherwise disadvantage a person by reason that,

- a) the person, acting in good faith and on the basis of reasonable belief, has made a report to a Director that there is an immediate threat to the health, safety or welfare of any child placed in a children's residence or other place where residential care is provided under the authority of a licence
- b) the person, acting in good faith and on the basis of reasonable belief, has done or stated an intention of doing anything that would remove an immediate threat to the health, safety or welfare of any child placed in a children's residence or other place where residential care is provided under the authority of a licence
- c) the person, acting in good faith and on the basis of reasonable belief, has refused to do or stated an intention of refusing to do anything that would present an immediate threat to the health, safety or welfare of any child placed in a children's residence or other place where residential care is provided under the authority of a licence
- d) any person believes that the person will do anything described in clause (a), (b) or (c).

## Purpose of Inspection

34. Amend section 271 to include language:

...and for the purposes of evaluating Quality of Care

- This can be a prescribed report
- May use "experts or consultants to assist in evaluating the quality of care issues and developing program response

## ***VIII. Part X – Personal Information***

### **Elements of Consent**

35. Amend section 291(5) by deleting (a) from the Act and revising the following to be consistent with Health Care and Consent Act 11(2) and (3) regarding defining consent

Amend section 291 (5) to read:

- (a) makes such a notice describing the purposes readily available to the individual;
- (b) gives the individual a copy of such notice; ~~or~~ and
- (c) otherwise communicates the content of such notice to the individual, in plain language, and by providing to the person the information about:

1. The nature of the collection, use or disclosure of personal information
2. The expected benefits of the collection, use or disclosure of personal information
3. The material risks of the collection, use or disclosure of personal information
4. The likely consequences of not permitting the collection, use or disclosure of personal information  
and the person received responses to his or her requests for additional information about those matters

## ***IX. Part XI – Miscellaneous Matters***

### **Review of First Nations, Inuit and Metis**

36. Amend section 315 to include the following:

Every Review should include First Nations, Inuit and Metis Issues and Afro Canadian Issues

Include reporting and review requirement where the Minister has found that certain populations of children and young people are overrepresented shall make information available to the public, in plain language, accessible to youth.

Have similar provision for:

- a) ..... evaluating progress made with Afro Canadian peoples .....
- b) Review of Anti Black Racism efforts and initiatives with a view towards compliance by societies to provide service in a manner that is works towards diminishing over – representation. Systemic racism, systemic biases and the barriers it creates for children and families receiving services and how they continue to be addressed must reported and reviewed to inform the delivery of all services for children and families.

### **Anti-Oppression Coordinator**

- 37.** Include amendment that would require an Anti-Oppression Coordinator within each CAS in the Province. The Anti-Oppression Co-coordinator would evaluate the policies and services and report to CAS Board of Director and the Ministry through the Regional Director.