

INTRODUCTION TO THE NEW
FISHER RIVER CREE NATION CHILD WELFARE LAW

BACKGROUND

- A new federal law called *An Act respecting First Nations, Inuit and Métis children, youth and families* came into effect in January 2020.
- This federal law recognizes the jurisdiction of First Nations to develop their own child and family services laws.
- A Fisher River Cree Nation Working Group was created and has been tasked with developing a new Fisher River Cree Nation child welfare law. The Working Group began its work in March 2021 and have been meeting regularly for the purposes of drafting the new law.
- A draft of the Fisher River Cree Nation Child and Family Law Framework is nearing completion.

KEY FEATURES OF THE NEW FISHER RIVER CREE NATION CHILD WELFARE LAW

No more Permanent Orders

- The new law does not allow for Permanent Orders to be granted. There are no provisions that terminate parental rights if an agency receives guardianship of a child. An Agency that has a child in their care will now have an ongoing and unending obligation to work towards reunifying children in care with their families.

No more going to court – The Establishment of a Fisher River Dispute Resolution Mechanism

- The new law removes the jurisdiction of the provincial courts of Manitoba and replaces it with a Fisher River Dispute Resolution Mechanism (currently being referred to as a “Tribunal”). This Tribunal will assume exclusive jurisdiction to resolve all disputes related to child welfare, so Fisher River

Members will no longer have to go before the Judges of the provincial courts to fight for their children.

Establishment of Child Care Committee

- The new law establishes a Child Care Committee that will be responsible for ensuring a communal and wholistic approach to child welfare and prevention services. This will include all components from the community including Health, Education, Elders, Addictions, etc.

Agencies must work towards preventing child apprehension above all

- The new law is heavily focused on providing help and support to families to prevent apprehensions and preserve family harmony. Agencies must give priority to delivering services that will prevent children from being apprehended, as well as pre-natal services, ahead of all other services.

Child Apprehension will be a last resort

- The new law will require that all reasonable efforts be made to avoid removing children from the parents and care providers. Apprehension of children from parents and families will now be a last resort.

Parents can be removed from the home instead of the children

- If a child is apprehended in Fisher River, Chief and Council may authorize the temporary removal of parents from the home instead of the children in certain circumstances. Support and resources may be put in place to ensure the well-being of the children, as well as for the parents that have been removed.

Children must be placed with family or other Fisher River Members

- The new law sets out an order of priority for the placement of children in the care of CFS. This list prioritizes family members and Fisher River Members as placements and must now be followed by agencies when deciding where children in care will live. The law also allows for Customary Care Agreements, which will provide funding and resources to family care providers without the child needing to be in agency care.

Customary Adoptions will now be legally recognized

- The new law contains a process that allows for Customary Adoptions to be legally recognized through a formal legal process. It allows families to have their Customary Adoptions recognized through a relatively simple application process.

All Children will now have their voices heard

- The new law establishes a Fisher River Children's Advocate Office to help children in all facets and will represent children in all matters before the Tribunal, regardless of age.

The emphasis will be on Family Driven Solutions – Healing Circles

- The new law includes Healing Circles, where there will be mediated meetings amongst family members, agency workers, and other supports as needed, to work together to make decisions that best meet the needs of the family and the child. The Tribunal members will also be trained to facilitate Healing Circles, and the Tribunal process will require such a meeting to occur as the first step.

Mandatory Training for all CFS Agency Employees

- The new law requires any person who provides work or services to the agency, whether as an employee, volunteer, student trainee or in any other way (even lawyers), must participate in a training program on the Fisher River customs, traditions and way of life.