



# Bill C-92

## RIGHTS GUIDE FOR PARENTS

**WAHKOHTOWIN**



LAW & GOVERNANCE LODGE

## What is Bill C92?

*Bill C-92: An Act respecting First Nations, Inuit and Metis children, youth and families* is the first federal legislation on the subject of Indigenous Child and Family Services [CFS].

The Act recognizes **inherent Indigenous jurisdiction** over CFS as an Aboriginal (S. 35) right in Canada. It establishes **national minimum standards** [National Standards] for CFS delivery for all Indigenous children and families. This includes First Nation, 'non-status,' Métis, and Inuit children, living on or off reserve.

The Act was in force as of January 1, 2020, and the National Standards apply in all provinces as of that date. The National Standards apply where there is conflict or inconsistency with provincial CFS laws.

## What are National Standards?

They set minimum standards in Canada that all provinces and CFS agencies must follow when working with Indigenous children and their families. They make what is the best interest of the Indigenous child the focus of the decision-making.

### The National Standards focus on:

- Prioritizing prevention and early intervention over apprehension whenever possible;
- Maintaining and promoting Indigenous children's relationships with family, community and territory;
- Valuing and promoting culture, including community, language and territory; and
- Reunifying Indigenous children, families and communities whenever possible.

### The National Standards have Preventative & Placement Provisions

- CFS must give priority to preventative and prenatal care, this also includes preventative and placement planning when needed.
- Children must not be apprehended just based on poverty or care provider health.
- CFS must make reasonable efforts to keep children in their parents or family member's home and demonstrate how they did so.

## How does it apply to you?

- The National Standards apply now if your children are Indigenous: First Nations ('status' or 'non-status' Indians), Inuit or Métis.
- The National Standards apply now if you and your children are involved or have potential to be involved in CFS.
- Later on, laws made by your Indigenous government may also apply to you and your children.

### Questions to ask yourself:

- Do you want your children to stay in your home or with a family member but need support for this to be safe and sustainable?
- Do you want to connect with your child or have them be connected with their relatives, community or land?
- Do you want an update on your child's wellbeing?
- Do you want your child to know who they are as an Indigenous person?
- Do you or someone in your family want to talk or have visits with your child?
- Has life changed for the better and you would like to reassess if your child can return home to you or live with a family member?

## How does this apply to my Indigenous Community?

If your children become involved in CFS in any significant way, CFS has a duty to inform you and your Indigenous governing body. This could be your First Nation, Métis Nation, Inuit Organization, etc. This duty is constant and for the duration your children are involved in CFS.

## What is considered significant?

- Investigations, consent orders or supervision orders, even if your child remains with you or a family member,
- Legal changes in status — Any change that involves CFS impacting Guardianship.
- If your child is removed from the home, or placement has changed.
- Anything that changes the day to day life of the child, you or a family/ kinship care provider.
- Anything that could impact the likelihood or timeline of apprehension, permanency or reunifications.
- Suicidal ideations or change in sexual identity.

## What if I live off-reserve and I do not know who my community is?

This applies whether you live on or off reserve.

If you do not know who your community is, this law still applies. The National Standards could be applied if you are aware you are Indigenous just unsure of connections. If you and/or your children identify as Indigenous then this law applies.

## What if I don't want my Indigenous Community Notified?

This is no longer your choice. CFS must notify them, and they have the right to make representations (say what they think is best). However, CFS must respect your privacy by giving as little information as needed for them to respond. In addition, you will still have the right to say what you think as well, and, in court proceedings, have “standing” as a party in court while your Indigenous community will not.

# What is placement priority?

## Children must be placed in order of priority.

**First** – Parents

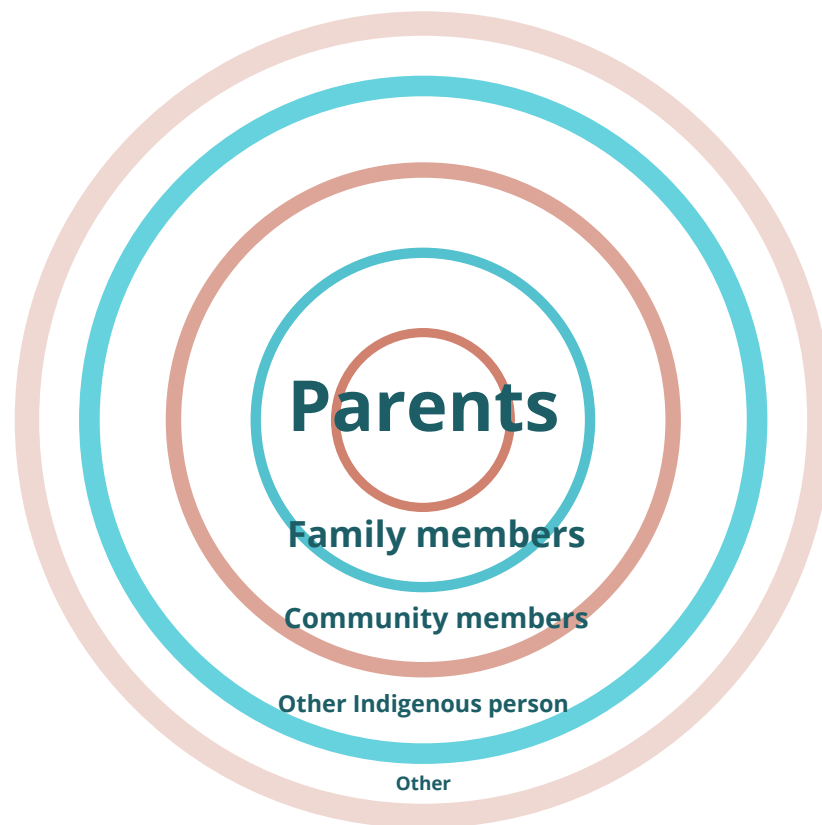
**Second** – Family Member

**Third** – Community Member

**Fourth** – Other Indigenous person

**Fifth** – Other

- Must take into account placement near siblings and customs and traditions like “custom adoptions”



Placement priority as a legal requirement may be a big change in some provinces. The CFS worker is responsible for showing how they followed these placement priorities. If you can't care for your child right now, do you have family members or community members who can, or someone who you want your child to stay connected to? Share their names with the CFS worker, your Indigenous community, any advocates or supports, and the court.

## What if my children are already involved in CFS?

- You can request a reassessment under s. 16(3) of the Act, to see if it is appropriate to have child returned to your care or the care of another family member that may be available now. Regular re-assessment is now mandatory. However, the outcome of a re-assessment will still be based on what a decision-maker believes is in the best interests of your Indigenous child.
- CFS must promote attachment and emotional ties to parents and family members. This means you can ask for visits, access orders, cultural connection plans and/or supports to stay connected, when safe to do so.

## What if I am pregnant?

CFS must give priority to prenatal care (when likely to be in the best interests of the Indigenous child after birth) in order to prevent apprehension. If you are struggling, consider:

### **1. Preventative Prenatal Services (essential + specialized):**

Are there services you need now that you think could help you stay or get healthy and care for your baby at birth?

### **2. Preventative Services Planning for after birth:**

Are there services and supports that you think it would help to have in place for after your baby is born so you can safely care for them?

### **3. Placement Planning for after birth:**

If you know you may not be able to safely care for your baby at birth, or worry CFS will say you cannot, do you have family members or others who you prefer your baby to be placed with at birth?

**For more information**, see [Bill C-92 Prenatal Provision Guide for Health Care Professionals](#)

## Who do I contact if I am concerned about the application of Bill C-92?

- Your Indigenous Governing Body (IGB)
- Your caseworker
- Child advocate
- Legal aid

## What if my Indigenous Governing Body has a Law?

Your Indigenous governing body can develop a law for CFS for their members. This law would have the same effect as a current CFS Law. However, it must meet the National Standards. You will still be given notice and be able to say what you think. Decision makers will still decide if the law is being applied in the best interests of your Indigenous child.

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*It is not legal advice or a legal opinion.*

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