

This is an **unofficial version**.

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Note: Earlier consolidated versions are not available online.

C.C.S.M. c. C90

The Child and Family Services Authorities Act

(Assented to August 9, 2002)

WHEREAS the safety, security and well-being of children and families is of paramount concern to the people of Manitoba;

WHEREAS parents, families, extended families and communities have a right and a responsibility to care for their children and a right to receive preventive and supportive services directed to preserving the family unit;

WHEREAS the development and delivery of programs and services to First Nations, Metis and other Aboriginal people must respect their values, beliefs, customs and traditional communities and recognize the traditional role of women in making decisions affecting family and community;

WHEREAS it is important to recognize peoples' needs and preferences in all aspects of the management and delivery of child and family services, including preferences based on ethnic, spiritual, linguistic, familial and cultural factors;

WHEREAS the Government of Manitoba has an ongoing responsibility to ensure and oversee the provision of statutory programs and services to children and families;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

DEFINITIONS

Definitions

1(1) In this Act,

"agency" means an agency as defined in *The Child and Family Services Act*; (« office »)

"authority" means a Child and Family Services Authority established in section 4; (« régie »)

"board" means the board of directors of an authority; (« conseil »)

"child and family services" includes adoption services under *The Adoption Act*; (« services à l'enfant et à la famille »)

"director" means the director of Child and Family Services appointed under *The Child and Family Services Act*; (« directeur »)

"General Authority" means the General Authority established in section 4; (« Régie générale »)

"Metis Authority" means the Metis Child and Family Services Authority established in section 4; (« Régie des Métis »)

"minister" means the minister appointed by the Lieutenant Governor in Council to administer this Act; (« ministre »)

"Northern Authority" means the First Nations of Northern Manitoba Child and Family Services Authority established in section 4; (« Régie du Nord »)

"Southern Authority" means the First Nations of Southern Manitoba Child and Family Services Authority established in section 4. (« Régie du Sud »)

"Act" includes regulations

1(2) A reference to "this Act" includes the regulations made under this Act.

S.M. 2004, c. 42, s. 12.

PURPOSE

Purpose of this Act

2 The purpose of this Act is to establish authorities that are responsible for administering and providing for the delivery of child and family services in Manitoba.

Aboriginal rights protected

3 This Act must not be interpreted as abrogating or derogating from

(a) the pursuit of self-government by aboriginal peoples in Manitoba through present or future negotiations or agreements; and

(b) the aboriginal and treaty rights of the aboriginal peoples of Canada that are recognized and affirmed by section 35 of the *Constitution Act, 1982*.

ESTABLISHING AUTHORITIES

Authorities established

- 4 The following authorities are established:
- (a) the First Nations of Northern Manitoba Child and Family Services Authority;
 - (b) the First Nations of Southern Manitoba Child and Family Services Authority;
 - (c) the Metis Child and Family Services Authority;
 - (d) the General Child and Family Services Authority.

Corporate status

5(1) An authority is a corporation and, subject to this Act, has all the rights, powers and privileges of a natural person.

Corporation without share capital

5(2) An authority must operate exclusively as a corporation without share capital. No part of its income or property may be paid to, or otherwise made available for, the personal benefit of a director of the authority, except as permitted by section 8 (remuneration and expenses).

Corporations Act does not apply

5(3) *The Corporations Act* does not apply to an authority, except to the extent determined by the Lieutenant Governor in Council.

Boards of directors

6(1) The management and affairs of each authority must be directed by a board of directors.

Board of Northern Authority

6(2) The board of directors of the Northern Authority is to be appointed by Manitoba Keewatinowi Okimakanak Inc.

Board of Southern Authority

6(3) The board of directors of the Southern Authority is to be appointed by the Assembly of Manitoba Chiefs Secretariat Inc., on

the recommendation of the southern First Nations members of the Assembly.

Board of Metis Authority

6(4) The board of directors of the Metis Authority is to be appointed by the Manitoba Metis Federation Inc.

Board of General Authority

6(5) The board of directors of the General Authority is to be appointed by the minister.

Number of directors

6(6) A board must have at least three directors but not more than 11.

Term of office

6(7) The terms of office of the first directors of a board are to be determined by the body or person appointing them, but may not exceed three years. The terms of office of subsequent directors are to be determined by the board, by by-law.

If appointing organization ceases to exist

6(8) If an organization that has the power to appoint a board under this section

(a) ceases to exist; or

(b) in the opinion of the minister, ceases to function in substantially the same form that it did on the day this section came into force;

the minister may, by regulation, designate another organization in its place. The organization designated by the minister may then make the appointments referred to in this section.

Chair

7 One of the persons appointed to a board is to be appointed as chair.

Remuneration and expenses

8 An authority may pay remuneration and expenses to directors of the board.

Duties of directors

9 The directors of a board must

(a) act honestly and in good faith, with a view to the best

interests of the authority and the children and families for which it is responsible; and

(b) exercise the care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances, and carry out their responsibilities in accordance with this Act.

Protection from liability

10 No action for damages may be commenced against a director of a board for anything done or not done by that person in good faith while carrying out duties or exercising powers under this or any other Act.

By-laws

11 A board may make by-laws regulating its proceedings and for the general conduct and management of its activities.

Fiscal year

12 The fiscal year of an authority is April 1 to the following March 31.

Senior executive officer

13(1) A board must appoint a senior executive officer for the authority and determine the terms and conditions of his or her employment.

Officers and employees

13(2) A board may appoint any officers and engage any employees and other persons it considers necessary to carry out its responsibilities.

Auditor

14 A board must appoint an independent auditor to audit the records, accounts and financial transactions of the authority each year.

By-laws and policies open to public

15 All by-laws and policies made by a board must be open for public inspection during the authority's normal office hours.

Annual general meeting and report

16 A board must hold an annual general meeting that is open to the public, and for which seven days' advance public notice has been given. At the meeting, the board must present a written report about the authority's expenditures, services and

activities.

GENERAL RESPONSIBILITIES OF AUTHORITIES

Northern Authority: general responsibility

17(1) The Northern Authority is responsible for administering and providing for the delivery of child and family services to the following persons:

- (a) people who are members of the northern First Nations specified in the regulations;
- (b) persons who are identified with those northern First Nations; and
- (c) other persons;

as determined in accordance with a protocol established in the regulations.

Southern Authority: general responsibility

17(2) The Southern Authority is responsible for administering and providing for the delivery of child and family services to the following persons:

- (a) people who are members of the southern First Nations specified in the regulations;
- (b) persons who are identified with those southern First Nations; and
- (c) other persons;

as determined in accordance with a protocol established in the regulations.

Metis Authority: general responsibility

17(3) The Metis Authority is responsible for administering and providing for the delivery of child and family services to the following persons:

- (a) Metis and Inuit people;
- (b) persons who are identified with Metis and Inuit people; and
- (c) other persons;

as determined in accordance with a protocol established in the regulations.

General Authority: general responsibility

17(4) The General Authority is responsible for administering and providing for the delivery of child and family services to all

persons not receiving services from another authority.

Director's role ceases in respect of mandated agencies

18 Subject to the regulations, where an authority is responsible for administering and providing for the delivery of child and family services to persons under this Act, the authority has the same powers and duties as the director has under *The Child and Family Services Act* and *The Adoption Act* respecting the agencies that it has mandated, and the powers and duties of the director cease with respect to those agencies.

DUTIES AND POWERS OF AUTHORITIES

Duties of an authority

19 Subject to the regulations, an authority must, in respect of the persons for whom it is responsible to provide services under section 17,

- (a) promote the safety, security and well-being of children and families, and protect children in need of protection;
- (b) develop objectives and priorities for providing child and family services consistent with provincial objectives and priorities;
- (c) ensure that culturally appropriate standards for services, practices and procedures are developed;
- (d) ensure that the standards developed under clause (c) are consistent with provincial standards, objectives and priorities;
- (e) ensure that the agencies it has mandated under Part I of *The Child and Family Services Act* provide services and follow the practices and procedures in accordance with the standards referred to in clause (c);
- (f) establish hiring criteria for persons to be hired to provide child and family services, and ensure that those criteria are implemented by agencies it has mandated;
- (g) ensure that child and family services prescribed by regulation are provided or made available, and ensure that there is reasonable access to services generally;
- (h) ensure that child and family services are provided
 - (i) in a manner that is responsive to the needs of the children and families receiving the services, and
 - (ii) where practicable, in the language in which those children and families ordinarily communicate with each other;

- (i) determine how funding is to be allocated among the agencies it has mandated in order to meet
 - (i) the objectives and priorities developed by the authority, and
 - (ii) provincial objectives and priorities;
- (j) cooperate with other authorities, the director and others to ensure that the delivery of child and family services in the province is properly coordinated;
- (k) advise the agencies it has mandated;
- (l) ensure the development of appropriate placement resources for children;
- (m) advise the minister about child and family services matters;
- (n) supervise or direct the supervision of children in care, and receive and disburse money payable for their care;
- (o) make recommendations to the director about the licensing of child care facilities other than foster homes, that are not owned and operated by an agency;
- (p) hear and decide appeals respecting the licensing of foster homes;
- (q) comply with any written directions given by the minister, and with any requirements specified in the regulations.

20 Not yet proclaimed.

Duty to provide joint intake and emergency services

21(1) The authorities must jointly designate an agency (the "designated agency") to provide joint intake and emergency services in any geographic region of the province established by regulation.

Regulations

21(2) After engaging in consultation with authorities, the minister may make regulations

- (a) establishing the boundaries of geographic regions of the province for the purpose of providing joint intake and emergency services;
- (b) specifying the intake and emergency services that a designated agency must provide and the manner in which they must be provided;
- (c) requiring authorities or a designated agency, or both, to

prepare and submit an annual operating plan about how intake and emergency services will be provided, and respecting the content of such a plan;

(d) requiring a designated agency to comply with a specified protocol for determining which authority is most appropriate for providing services to an individual or family;

(e) requiring a designated agency to make available a single point of access to information on child and family services in the region, including a telephone number that is widely advertised;

(f) respecting any other matter the minister considers necessary or advisable for ensuring the appropriate delivery of services.

Authority may recommend regulations

21(3) An authority may make recommendations to the minister about regulations and amendments to regulations under this section.

Powers of designated agency

21(4) Notwithstanding that authorities and the agencies mandated by them are responsible for providing services to specified persons under section 17, a designated agency has — throughout the geographic region for which it is designated and with respect to all persons in that region — all of the powers of an agency under *The Child and Family Services Act* for the purpose of providing joint intake and emergency services under this section.

When minister may designate an agency

21(5) Despite subsection (1), for the purpose of this section, the minister may designate an agency to provide joint intake and emergency services for a geographic region if

(a) not all of the authorities named in section 4 have been established;

(b) the authorities cannot agree on a designation, or a designation no longer has the support of all of the authorities; or

(c) the minister is of the opinion that the designated agency has failed to comply with the regulations under this section.

Financial and reporting requirements

22 An authority must

- (a) submit a yearly budget to the director, at the time and in the manner that the director requires;
- (b) keep financial records in accordance with directions given by the director;
- (c) submit reports, returns, statistical information and financial statements, including audited financial statements, at the time and in the manner the director requires;
- (d) prepare and submit an annual report that includes audited financial statements to the minister and to the organization that appoints the directors of the board; and
- (e) manage and allocate funds provided by the government in accordance with this Act.

• **Power to enter into agreements**

23(1) An authority may enter into agreements or other arrangements with other authorities or other persons or entities for the purpose of administering and coordinating the delivery of child and family services under this Act, *The Child and Family Services Act* and *The Adoption Act*.

Agreements about services for residents of reserves

23(2) Without limiting section 17, where

- (a) an authority is asked to provide services to a resident of an Indian reserve; and
- (b) the authority asked to provide the services is not the authority that is responsible, under section 17, to provide services to the residents of that reserve,

the authority asked to provide the services must enter into a written agreement in accordance with a protocol established in the regulations with either the individual First Nation or with the authority responsible for administering and providing for the delivery of child and family services to that First Nation.

MINISTER'S RESPONSIBILITIES AND POWERS

Minister's responsibilities

24 The minister is responsible for the following:

- (a) setting provincial objectives and priorities for the provision of child and family services;
- (b) establishing policies and standards for the provision of child and family services, including policies and standards relating to a child's safety and security that must include

- (i) assessing risks to a child's life, health or emotional well-being in his or her present circumstances or any proposed placement, and
- (ii) determining the nature and frequency of contact that an agency should have with a child to ensure that the child is safe and receiving appropriate services;
- (c) monitoring and assessing how authorities carry out their responsibilities under this Act;
- (d) allocating funding and other resources to authorities;
- (e) providing support services to authorities;
- (f) communicating to authorities the primary importance of a child's safety and security in the provision of child and family services and monitoring the oversight provided by authorities of agencies in this regard.

S.M. 2008, c. 33, s. 2.

Directions to authority

25 The minister may give directions to an authority for the purpose of

- (a) achieving provincial objectives and priorities;
- (b) providing guidelines for the authority to follow in carrying out its responsibilities, duties and powers; and
- (c) coordinating the work of the authority with the programs, policies and work of the government and others in providing child and family services.

Minister may provide services

26 Notwithstanding the provisions of this or any other Act or regulation, if the minister considers it is in the best interests of children and families to do so, the minister may

- (a) provide or arrange for the provision of child and family services in any area of the province, whether or not services are being provided in that area by an authority or agency; and
- (b) do anything else the minister considers necessary to promote and ensure the provision of child and family services in the province.

Appointing a representative

27(1) The minister may appoint a representative to carry out the duties described in this section.

Power to enter, inspect and require production of records

27(2) For the purpose of ensuring compliance with this Act, a representative of the minister may, at any reasonable time and upon presentation of identification,

- (a) enter and inspect any place owned or operated by an authority; and
- (b) require an authority to produce for examination, audit or copying, any records, documents and things that are related to its activities and are in its possession or under its control.

Assistance to representative

27(3) A person who has custody or control of a record, document or thing referred to in subsection (2) must give a representative of the minister all reasonable assistance to enable the representative to carry out his or her duties, and must give the representative any information he or she may reasonably require.

Warrant

27(4) A justice who is satisfied by information on oath that a representative of the minister appointed under this Act has been prevented from exercising his or her powers under this Act may issue a warrant authorizing the representative and any other person named in the warrant to exercise those powers.

Minister may appoint an administrator

28(1) Subject to subsection (2), the minister may at any time, by order, appoint a person as administrator to act in the place of an authority and its board, if the minister is of the opinion that

- (a) the authority or its board is not properly carrying out or exercising its responsibilities, duties or powers under this Act; or
- (b) the health and safety of children is threatened.

Exception

28(2) Except where the minister considers the health and safety of children to be threatened, an administrator may be appointed under this section only if

- (a) the minister has directed the authority to take steps to properly carry out and exercise its responsibilities, duties and powers within a time period specified in the direction; and
- (b) the time for complying with the direction has expired and the minister is not satisfied that the authority has complied

with it.

Notice to organization

28(3) Upon appointing an administrator or giving a direction under clause (2)(a), the minister must promptly notify the organization that appointed the directors of the board of the authority.

Powers of administrator

28(4) Unless the appointment order states otherwise, and subject to the direction of the minister, an administrator

(a) has the exclusive right to exercise all the powers and authority of the authority and its board;

(b) must carry out all of the responsibilities and duties of the authority and its board; and

(c) is to be paid, out of the funds of the authority, the remuneration and expenses determined by the minister.

Directors cease to hold office

28(5) Unless the appointment order states otherwise, on the appointment of an administrator, the directors of the board of the authority cease to hold office and must cease to perform any duties or exercise any powers assigned to them under this or any other Act.

Directors continuing to act

28(6) If the appointment order states that some or all of the directors continue to have the right to act respecting a matter, any such act of the directors is valid only if approved by the administrator.

Directors to assist

28(7) Upon the appointment of an administrator, the directors or former directors must

(a) immediately deliver to the administrator all of the authority's funds, and all books, records and documents respecting the management and activities of the authority; and

(b) give the administrator all information and assistance required to enable the administrator to carry out and exercise his or her responsibilities, duties and powers.

Termination of appointment

28(8) When the minister is of the opinion that an

administrator is no longer required, the minister must

- (a) terminate the administrator's appointment on any terms and conditions the minister considers advisable; and
- (b) order the appointment of a new board for the authority in accordance with section 6.

LEADERSHIP COUNCIL

Leadership Council established

29(1) A Leadership Council is established consisting of persons designated in accordance with the regulations.

Role of the Council

29(2) The role of the Council is to provide a forum to discuss issues related to child and family services.

STANDING COMMITTEE

Standing Committee established

- 30(1) A Standing Committee is established consisting of
- (a) the senior executive officer of each authority;
 - (b) the director; and
 - (c) an additional member appointed by the Metis Authority.

Role of the committee

30(2) The Standing Committee is to serve as an advisory body to the authorities and the government, and is responsible for facilitating cooperation and coordination in the provision of services under this Act.

REGULATIONS

Regulations

31(1) The Lieutenant Governor in Council may, after the minister has engaged in consultation with authorities, make regulations

- (a) for the purpose of section 17,
 - (i) specifying northern First Nations and southern First Nations, and
 - (ii) establishing a protocol for determining persons for whom authorities are responsible for providing child and

family services;

(b) prescribing the child and family services that an authority is required to provide or make available;

(c) respecting the child and family services that an authority may provide in addition to prescribed services;

(d) for the purpose of section 18, specifying the powers and duties of the director that an authority may exercise under this Act;

(e) specifying responsibilities, duties and powers of authorities, in addition to those contained in sections 17 to 23;

(f) respecting standards to be followed by an authority in the planning, management and provision of child and family services;

(g) respecting the monitoring and enforcement of standards and of compliance with this Act;

(h) respecting the books, records, accounts and files to be kept by authorities;

(i) respecting the reporting requirements by authorities;

(j) respecting the content of by-laws of authorities;

(k) respecting the funding of authorities;

(l) respecting the management of funds by authorities and the allocation of funds by authorities to agencies and others;

(m) respecting the borrowing and investment powers of authorities and their power to make financial commitments, including restrictions on borrowing, investment and financial commitments;

(n) respecting conflicts of interest for directors, officers and employees of authorities, including

(i) prescribing what constitutes a conflict of interest, and

(ii) requiring boards to make by-laws about conflicts of interest and respecting the content of those by-laws;

(o) establishing a procedure to mediate and resolve disputes between authorities;

(p) establishing a protocol respecting agreements under subsection 23(2);

(q) respecting information management by authorities and others, including

(i) standards that information technology and systems must meet, and

- (ii) the creation, retention, storage, transmission and destruction of records;
- (r) respecting the sharing of information between authorities and agencies and other service providers;
- (s) governing the confidentiality and security of personal information and personal health information (as those terms are defined in *The Freedom of Information and Protection of Privacy Act*), the retention and disposal of records containing such information, and access to those records;
- (t) prescribing provisions of *The Corporations Act* that apply to authorities;
- (u) respecting the membership of the Leadership Council under section 29;
- (v) respecting any transitional or other problems resulting from the establishment of an authority under this Act;
- (w) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable.

Regulations may be general or specific

31(2) A regulation under this section may be general or specific in its application, and may be limited to specific authorities.

Authority may recommend regulations

31(3) An authority may make recommendations to the Lieutenant Governor in Council about regulations and amendments to regulations under this section.

32 **NOTE:** This section contained consequential amendments to *The Adoption Act* that are now included in that Act.

33 **NOTE:** This section contained consequential amendments to *The Child and Family Services Act* that are now included in that Act.

C.C.S.M. REFERENCE AND COMING INTO FORCE

C.C.S.M. reference

34 This Act may be referred to as chapter C90 of the *Continuing Consolidation of the Statutes of Manitoba*.

Coming into force