



BC Métis Federation
Child Protection Declaration Act
Amended June 2019

The BC Métis Federation acknowledges the BC government's intention to implement and enforce policies consistent with the unqualified adoption of the *United Nations Declaration on the Rights of Indigenous Peoples*, to implement all recommendations of the extensive review and report of the *Truth and Reconciliation Commission*, and the requirement to comply with *Bill C-92*.

The BC Métis Federation acknowledges that the Government of Canada is committed to working in cooperation and partnership with Indigenous peoples to achieve reconciliation and as such has enacted legislation respecting Métis law as Federal law.

Accordingly, consistent with the government's stated intentions and the inherent rights of Métis people regarding the protection of our children, the BC Métis Federation declares the *Child Protection Declaration Act* as law, binding on Her Majesty in right of Canada or of a province; with the purpose of preserving our culture through preserving family and community relationships and preventing intergenerational trauma by positively

impacting children and families within the community through protection that is culturally sensitive and in the best interest of the child.

Whereas,

There is a disproportionately high population of Métis children in government care, resulting in the destruction of our culture, trauma to Métis children and their families, high public costs, and service failures;

And whereas,

The safety and well being of our children is of utmost importance and grave concern to the BC Métis Federation community;

And whereas,

The BC Métis Federation, a Métis Community entitled under law to self determination, does not recognize any other group, organization, association, or government agency with authority to make determinations concerning our children;

And whereas,

BC Métis Federation children have the Constitutional right to be raised within their Métis culture through daily immersion in that culture, and to live in an atmosphere of safety and love, preserving their bonds with their parents and community;

And whereas,

Parliament has affirmed the right to self-determination of Métis peoples, which includes the inherent right of self government, which includes jurisdiction in relation to child and family services;

And whereas,

Métis people have the constitutional right to freely associate with any Métis community of their choosing with whose values and traditions they most closely align.

And whereas,

This *Act* respects and addresses the values, customs, and traditions of the BC Métis Federation Community and does not claim to assert any provision over any other Métis community or person not associated with the BC Métis Federation. Nor shall any provision of any other Métis community, organization, or agency, for any reason, conflict with this *Act* or attempt to establish rights or speak on behalf of any BC Métis Federation member.

And whereas,

The BC Métis Federation community has inherent rights affirmed by section 35 of the *Constitution Act, 1982* to establish and determine care for our children according to our own unique traditions, customs and laws;

And whereas,

The Métis community benefits and is strengthened when bonds between parents, children, and extended family are preserved;

And whereas,

Métis children and families have long suffered devastating effects as a direct result of colonial based government controlled or subsidized family service organizations which have placed them in abusive and dangerous situations which perpetuates the legacy of intergenerational trauma.

And whereas,

Métis children who are in government care have the right to a life free from trauma and have the inherent right to be returned to their homes and Métis community regardless of their legal status in relation to provincial statutory provision;

And whereas,

Adoption by custom, known as Ka oopkitmashook', is respected and encouraged as a means of preserving family relationships and strengthening cultural bonds and is a section 35 Constitutional right;

And whereas,

Aboriginal customary law has never been extinguished or abrogated and is protected under the *Constitution Act 1982*;

And whereas,

The BC Métis Federation has never condoned, sanctioned or approved the removal of its children and has not signed any treaties or agreements with respect to members' children, and thus retains the sole right to self-govern in relation to these children;

Therefore:

In accordance with BC Métis Federation law, traditions and customs, and with the affirmation and certainty that the Government of Canada has affirmed these laws, including the custom adoption tradition of Ka oopkitmashook', and recognized and affirmed inherent jurisdiction in child protection, as having the force and effect of Federal law,

The BC Métis Federation declares its legislation for child welfare for its membership in accordance with the *United Nations Declaration on the Rights of Indigenous Peoples, the Constitution of Canada Act 1982, and Bill C-92* which affirms this *Act* as Federal law.

Definitions

"child" means any BC Métis Federation child under the age of 18;

"emergency situation" means any situation in which the life or safety of a child(ren) is in immediate danger;

"Provincial Director" means the Director as designated by a provincial statutory body, including, but not limited to the British Columbia Ministry for Children and Families Child Family and Community Services Director and Adoption Director, or any other provincial statutory body or director from another province or territory;

"BC Métis Federation Director" means the Director of Child Welfare as designated by the Board of the BC Métis Federation;

"Ka oopkitmashook", means the historical and ongoing custom according to Métis tradition in which legal provision is granted when a verbal agreement for permanent custody is voluntarily made between two BC Métis Federation families. This includes the full bundle of rights associated with guardianship as would normally be assigned to a biological parent;

"Caregiver" means a person or persons designated by the BC Métis Federation Director and approved by the BC Métis Federation Board as providing temporary safe care for the child in need;

“Placement with Family” means placement with a Métis adult or adults who the BC Métis Federation community considers, in accordance with our customs and traditions or by way of *Ka oopkitmashook’*, to be a close relative of the child and who has a genuine interest in connecting the child to her biological parents, grandparents, and Métis community.

Conflict

1. Any provincial law or statute that conflicts with this *Act* shall be of no force or effect. If there is any conflict or inconsistency between a provision with this *Act* and any provision in any statutory provision, the provisions of this *Act* will prevail as Federal law to the extent that provincial law cannot interfere with Federally protected Indigenous law.
2. Any laws or contractual arrangements between other Métis organizations, associations, commissions, or agencies and the provincial, territorial, or federal government do not affect this *Act*. In the event of a conflict which concerns any member of the BC Métis Federation community, this *Act* shall prevail.

Service Delivery

3. This *Act* does not claim jurisdiction in other Métis or indigenous communities but applies only to registered members of the BC Métis Federation.

4. The governing board of the BC Métis Federation shall appoint one of its members qualified to serve as Director of Child Welfare and shall appoint additional members to serve as the BC Métis Federation Child Protection Committee, to assist and support the Director.
5. Any BC Métis Federation member who approaches the Department of Child Welfare for aid or assistance in a Child Protection matter will receive a response from a member of the Child Protection Committee who will meet with them and discuss their needs. The Child Protection worker will then prepare a written report and present it to the Director of Child Welfare and the Child Protection Committee who will determine the best action in relation to the situation consistent with the best interests of the child and family.
6. At any time that the Director of Child Welfare or a member of the Child Protection team is made aware of a BC Metis Federation child or family in crisis, action will be taken to protect the child(ren) and to determine what supports the family requires.
7. In all situations, safety of the child shall be determined using a balanced approach which must consider the physical, emotional, cultural, and spiritual safety of the child.
8. The preservation of the child within his/her family and community will be sought in every instance.
9. A BC Métis Federation parent or guardian must be provided the opportunity to consult with a BC Métis Federation Child Protection Worker prior to the presentation of document(s) that assign any rights

in favour of the Provincial Director. The Provincial Director shall not apprehend a child(ren) or place a child(ren) in any home that is not approved by the BC Métis Federation.

10. If any provincial family services Director apprehends a child(ren) because (s)he perceives an emergency situation that is endangering the life or well-being of a child, the provincial Director must immediately notify the BC Métis Federation Director of Child Welfare, who will assume responsibility for the custody of the child, and, with the Child Protection Committee, will assess and determine the appropriate placement for the child, and or assistance to the parents to allow reunification and preservation.
11. When appropriate the BC Métis Federation Child Protection Committee will first seek to provide needed support for the parents to enable them to retain custody of the child/children.
12. Any child who is a member of the BC Métis Federation and is in the care of the provincial director, regardless of any extant custody order(s), shall always be made accessible to the BC Métis Federation Director of Child Welfare and the Child Protection Team.

BC Métis Federation Children in Provincial care

13. The BC Métis Federation will request of the provincial director the names and complete placement information of any child(ren) of BC Métis Federation members who have been placed by the provincial Director in a non-Métis home. The BC Métis Federation Director and

Committee will review each placement, and may approve such placements providing:

- i. the child is thriving and receiving daily immersion in his/her culture;
- ii. an open relationship is preserved with the BC Métis Federation community and with the Métis biological parents and all Métis family members who have an interest in the child;
- iii. the placement situation and relationships are emotionally, physically, emotionally, and spiritually safe and, in the child's best interests;
- iv. such information shall be provided immediately and willingly by the Provincial director and will not be withheld from the BC Métis Federation. This information shall not be revealed publicly.

14. The provincial Director shall provide names and custodial details of any BC Métis Federation children who are presently in government care under any court order including, but not limited to, Supervision Orders, Interim Care orders, Temporary Custodial Care orders, or Continuing Custody Orders.

15. Any action of a provincial "Exceptions Committee" that may claim authority or jurisdiction over a member of the BC Métis Federation will be of no force or effect.

16. If, at any time, the BC Métis Federation Director of Child Welfare and the Child Protection Team have reason to believe that it is not in the

best interests of a BC Métis Federation child to be held in the care of the provincial director, the BC Métis Federation governing Board reserves the right to, on written notification, have the child immediately released to the care of the BC Métis Federation Director or a member of the Child Protection team for care within the child's community.

17. If a child from a BC Métis Federation family is being held in the care of the provincial director of family services, either provincially or extra-provincially, the Director shall have access to the child, and unlimited ongoing access to determine the success of the current placement. In all cases, the Director will be granted access to the child(ren) and shall not be obstructed by any provincial government agency, director, or law enforcement.
18. If the BC Métis Federation Director of Child Welfare and the Child Protection Committee determine that it is in the child's best interests, they shall assume custody of the child and return the child to the BC Métis Federation community and an approved caregiver.

Approved Caregivers

19. All BC Métis Federation caregivers and family members over the age of 16 years who care for a child who is not biologically their own are required to supply the Child Protection Team with a current Vulnerable Sector Criminal Record Check and must be approved by the BC Métis Federation board of governors.
20. All BC Métis Federation caregivers will be required to follow the BC Métis Federation "Practice Standards for Safety Guidebook."

21. All BC Métis Federation caregivers will be visited by a member of the Child Protection Committee on an ongoing basis to determine that the Practice Standards for Safety Guidelines are being followed in the best interests of the child and to determine and reassess the placement of the child in his/her best interest in consultation with the family and community.
22. All BC Métis Federation caregivers will be required to fulfill the requirements of a minimum of 40 hours per calendar year of education on child development and effective parenting techniques and to provide proof of such to the Child Welfare Department.
23. A caregiver will ensure that any BC Métis Federation child placed in their care is taken to a physician for a health check with a licensed physician within 7 days of receiving the child. If after the initial consultation it is determined there are there are medical issues that require attention, the physician's recommendations shall be followed by the caregiver. After the physician determines the child's immediate concerns have been addressed, the child shall be seen by the physician at intervals not exceeding six months. The physician's reports will be provided to the BC Métis Federation Director of Child Care, who will keep the natural parents informed.
24. Should a caregiver be out of daily contact with the natural parent(s) or family, the caregiver shall provide weekly updates and photographs of the child to the Child Protection Team, including medical visits, school reports and recreational activities and shall use technology to the best

of his/her ability to preserve the child's relationship with his/her parents.

25. While the child is in the care of an approved caregiver, the natural parent(s) will be encouraged to maintain a relationship with the child and the caregiver through visitation, letter writing, phone conversations, teleconferencing, community gatherings or other means which will preserve the parent/child bond in the best interests of the child and family, as long as it is safe for the child to do so.
26. If the BC Métis Federation Director of Child Welfare and the Child Protection Team determines that the care being provided by the caregiver is inadequate or unsafe, the Director will remove the child and place him/her with another caregiver approved by the BC Métis Federation Child Protection Committee.
27. If, at any time, a caregiver can no longer care for a child placed in his/her home, the caregiver will give the Director of Child Welfare as much notice as possible so that the required support can be provided, or the child can have a reasonable transition to another BC Métis Federation caregiver.

Responsibilities of the BC Métis Federation Director of Child Welfare and the Child Protection Committee

28. The BC Métis Federation Director will meet as required with the Committee to assess risk factors, and to ensure that the needs of all BC Federation children in care are being met.

29. The Director and Committee will determine if a child requires additional care or protection and will develop an appropriate plan, in cooperation with the child's family and community.
30. The Child Protection Committee shall prepare a Plan of Care for any child(ren) in need of protection.
31. If circumstances require, the BC Métis Federation Director at his/her sole discretion may designate another member of the Child Protection Committee to act on his/her behalf.

Custom Adoption

32. The BC Métis Federation recognizes the custom and tradition of Ka oopkitmashook' as the voluntary verbal agreement made between biological Métis parents and Métis adoptive parents.
33. The BC Métis Federation recognizes that the full bundle of rights afforded to parents are transferred to the adoptive parents upon this verbal agreement.
34. The BC Métis Federation recognizes this custom as protected under section 35 of the *Constitution of Canada Act 1982*.
35. If the BC Métis Federation Director and Child Protection Committee are informed that an agreement of Ka oopkitmashook' has taken place between member families, the community will bring the notice of adoption to the board of governors so that they can record the child's new name and family.

36. The Board of Governors may provide the adoptive and biological parents with a certificate of Ka oopkitmashook' with the date of the verbal agreement and the child's new name. This certificate does not create the adoption. The certificate serves only to recognize the adoption that has already taken place by the custom verbal agreement.

37. The certificate will contain the name(s) of the adopted child(ren), the date of adoption, and will be signed by the biological parents, the adoptive parents, a Métis elder, and the BC Métis Federation President.

38. Ka oopkitmashook' includes the provision of custodial care and guardianship of the child by the adoptive parents and the preservation of the child's family and community relationships.

39. Cultural events at the discretion of the adoptive parents, birth parents, and local Métis community will provide an opportunity for these newly formed families to be celebrated by the community. The cultural event and celebration does not create the adoption but rather publicly celebrates the preservation of relationships, the protection of Métis families, and the continuation of Métis culture.

Passed by motion [20190626 - __] to approve the BC Métis Federation Child Protection Declaration Act as amended this date of June 26th, 2019 in the City of Vancouver, British Columbia, Canada