



Yukon Child and Youth Advocate Office
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"Young People Have A Voice!"



March 23, 2022

Honourable Tracy-Anne McPhee
Minister of Health and Social Services
P.O. Box 2703
Whitehorse, YT Y1A 2C6

Attn: The Honourable Minister Tracy-Anne McPhee

Re: Bill No. 11 Act to Amend the Child and Family Services Act

As Yukon Child and Youth Advocate, I write to provide expertise and support to the members of the Legislative Assembly, Yukon Government, Council of Yukon First Nations and Yukon First Nations to ensure the Bill No. 11 Act to Amend the Child and Family Services Act ("Bill No. 11") is appropriately and efficiently amended prior to enactment to ensure that children's rights are upheld to the highest degree.

I am gravely concerned that your government intends to push Bill No. 11 through to third reading in the Legislative Assembly without making the amendments necessary to ensure the Bill upholds the rights of children and is compliant with the *United Nations Convention on the Rights of the Child*. These necessary amendments are clearly articulated in our *Child Rights Impact Assessment* ("CRIA"), which was tabled in the Legislative Assembly on March 10, 2022 to complement Bill No. 11.

The *United Nations Convention on the Rights of the Child* legally obliges Yukon Government to consider children's rights in all policy and legislative decisions, particularly one of this magnitude. Considering the views and rights of children receiving services under the *Child and Family Services Act* is a significant step toward Reconciliation. This process also strengthens partnerships with Yukon First Nations and improves outcomes for our most vulnerable citizens – children who cannot speak for themselves.

We understand that your government is contemplating pushing Bill No. 11 through the legislative process without making the amendments identified in our CRIA so as to avoid any possible delay in enacting the Bill. This position is very troubling to the Yukon Child and Youth Advocate Office ("YCAO") in two respects.

First, we are of the view that, if members of the Legislative Assembly work collaboratively in the best interest of Yukon children, Bill No. 11 could be amended to implement our CRIA recommendations and enacted without delay. As you will note in our CRIA, the amendments necessary to uphold children's rights are narrow and clearly identified to facilitate legislative drafting.

Second, your Department of Health and Social Services has essentially ignored our formal requests since May 2021 for a draft of Bill No. 11 for the express purpose of conducting our CRIA well in advance of the Bill being tabled in the Legislative Assembly. Specifically, we requested the draft Bill on May 5, 2021, June 30, 2021, July 6, 2021, November 4, 2021, December 8, 2021, and on January 19, 2022. For your ease of reference, I enclose our letter of January 19, 2022 to you, and copied to Premier Sandy Silver, which summarizes our repeated requests for a draft of Bill No. 11, as well as our warning that the continued failure of your government to provide the YCAO with a draft of the Bill could result in a delay in enacting the Bill. On the following day, January 20, 2022, I personally met with Premier Silver to emphasize both the government's legal obligation to provide the draft Bill to the YCAO, as well as the urgency with which we now required the draft Bill to perform a CRIA prior to the tabling of the Bill, which was expected to occur during the spring sitting.

During this period of time from May 2021 to January 2022, we also held meetings with the Executive Committee of the CFSA Implementation Project (Department of Health and Social Services and Council of Yukon First Nations) which was tasked with developing Bill No. 11. In our meetings with the Executive Committee, we repeatedly requested to be engaged in the process of developing Bill No. 11 with a view to applying a child's rights lens to the drafting process. At these meetings, we also made clear our intention to conduct a formal CRIA on the proposed amendments contained in the draft Bill to ensure its compliance with the *United Nations Convention on the Rights of the Child*.

Further, in September 2021, we hosted formal training session for Yukon Government and Yukon First Nation governments on implementing Child Rights Impact Assessments for all government decisions, policy, legislation and regulation impacting children. Following that training session, we assisted in the creation of a CRIA working group within Yukon Government for the purpose of developing capacity for the government wide application of CRIA for all initiatives involving children.

Ultimately, your government did not provide the draft of Bill No. 11 to the YCAO until February 2, 2022, which left us with scant time to perform the necessary CRIA and finalize our report to coincide with the tabling of Bill No. 11 in the Legislative Assembly. It was never our intention to provide you with our CRIA at the time of first reading of Bill No. 11. Rather, as expressed repeatedly in our earlier correspondence and meetings, a CRIA is most effectively applied during the drafting of the Bill, hence why we have made formal requests for a draft of the Bill since May 5, 2021. We also never intended to cause any delay in enacting Bill No. 11 but were effectively denied our requests since May 2021 to be engaged in the drafting of Bill No. 11, and to review a draft of the Bill well in advance of it being tabled in the Legislative Assembly.

Along with the Council of Yukon First Nations, Yukon First Nations and the Government of Yukon, the YCAO shares the commitment to supporting Reconciliation through protecting children while preserving families. We also share the commitment to seeing this landmark Bill enacted as soon as possible. Bill No. 11, once amended in response to the specific recommendations set out in our CRIA, will create a transformational piece of legislation that supports Yukon children and families. This can be achieved if we work together.

Encl. Letter of January 19, 2022 to Minister McPhee and Premier Silver.

Respectfully,

A handwritten signature in blue ink that reads "Annette King". The signature is fluid and cursive, with the first name "Annette" and the last name "King" clearly legible.

Annette King
Child and Youth Advocate

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- c. Currie Dixon, Leader of the Official Opposition
 - c. Kate White, Leader of the Third Party
 - c. Sandy Silver, Honourable Premier
 - c. Peter Johnston, Grand Chief, Council of Yukon First Nations