

About Bill C-92

*AN ACT RESPECTING FIRST NATIONS, INUIT,
METIS CHILDREN, YOUTH AND FAMILIES*

What is the purpose of Bill C-92?

- It affirms the inherent right of First Nations' jurisdiction in relation to child and family services.
- To change the way in which child and family services are provided to Indigenous children.
- Establishes national principles (best interests of the Indigenous child; cultural continuity; and substantive equality) as well as minimum standards to be met in the provision of child and family services.
- The best interests of the Indigenous child is always the paramount consideration when it comes to decision-making for that child.

What will be the impact of Bill C-92?

- Bill C-92 will help children stay with their families and promote connections to their culture and community. It provides a framework that First Nations can use to exercise jurisdiction in relation to child and family services.

What does Bill C-92 mean for children in care now?

- The importance of reuniting Indigenous children with their families and communities is recognized.
- There is a priority placement for the Indigenous child, which prioritizes family and community placement.
- Ongoing reassessment is required to determine the potential for reunification.

Does Bill C-92 apply on and off reserve?

Yes, also if a Nation or a Band asserts jurisdiction they can decide their jurisdictional area.

How can a First Nation exercise jurisdiction over Child and Family Services?

Once a First Nation has an existing law it can transition towards exercising jurisdiction over child and family services. Once a law is in place the First Nation sends a request to Canada and British Columbia to enter into a tripartite coordination agreement related to the exercise of First Nation jurisdiction. Within 12 months of the request being made, if an agreement is reached, or if no agreement is reached but reasonable efforts were made to reach an agreement, the First Nation law would have the force and effect of federal law and would prevail over provincial law in the event of conflict or inconsistency.

When did Bill C-92 come into force?

January 1, 2020

Which courts will have jurisdiction to hear cases under Bill C-92?

Bill C-92 is not intended to oust the jurisdiction of courts presently hearing child protection matters. The British Columbia Provincial Court will continue to hear child protection matters but the Nations can provide alternatives to court and incorporate traditional decision making processes working with children and families.

The Ktunaxa Legislation around Children and Families

What is the purpose of the Ktunaxa Law?

- It affirms the inherent right and jurisdiction of the Ktunaxa Nation over child and family services.
- Sets out principles that apply to the interpretation of the law and outlines components of programs and services that the Agency will implement.
- The provision of child and family services will focus on strengthening the family and focuses on prevention and reunification.

What is the impact of the Ktunaxa Law?

- It reflects the self-determination of the Ktunaxa Nation by implementing the inherent rights of the Nation.
- The Ktunaxa Law works towards keeping children and families together. Alternatively, family and kinship connections would be priority.
- The Ktunaxa Law may use the Provincial Court system, but also creates alternatives to the court system, these could include:
 - Customary or Family Care Agreements
 - Family Sharing Circle/Family Networks
 - Community Circle of Care
 - Traditional and cultural involvement will be enhanced in child and family services provided by the Agency.

What does the Ktunaxa Law mean for children in care now?

- Once the Ktunaxa Law is in effect, children in care and their families may opt to use the alternatives to the court system processes. There will be greater emphasis on preventative services and reunification assessment to determine if it is the best interests of the Indigenous child to return to their parents or family.

Would the Ktunaxa Law apply on and off-reserve?

Yes, depending on what the Nation decides, with this law the Nation will define jurisdictional area.

Where would the Ktunaxa Law's jurisdiction apply?

The Ktunaxa Law would be equivalent to federal law and would apply nationally. In addition, the Ktunaxa Law must be reviewed every 5 years after it comes into force.

When does the Ktunaxa Law come into force?

12 months after the Nation gives notice to the Governments and depending on the successful negotiation of a Coordination Agreement.

Which courts have jurisdiction to hear cases under the Ktunaxa Law?

The Ktunaxa Law works towards keeping children and families together. Alternatively, family and kinship connections priority and focus would be on strengthening these ties.

The Ktunaxa Law may still use the British Columbia Court system, but also creates alternatives to the court system, these include:

- Customary Care Agreements
- Family Sharing Circle
- Community Circle of Care
- Family Networks

The Ktunaxa Law is forward looking, allowing for the future establishment of an Indigenous Court or Tribunal or other culturally appropriate system to deal with child protection matters.

What is a Coordination Agreement?

A Coordination Agreement is to be negotiated between the Ktunaxa Nation, Canada and British Columbia. It is through the Coordination Agreement that fiscal arrangements are established to fund the implementation of the new Ktunaxa Law. The three parties will have 12 months to negotiate the Coordination Agreement. If after 12 months of good faith negotiations the Coordination Agreement is not signed, then the Ktunaxa Nation may then enact the new PFN Law by a Nation Leadership resolution.

With the new Ktunaxa Law a federal law and national in scope, how would inter-provincial matters be dealt with?

There are existing processes in place, such as Inter-Provincial Protocol Agreements, and these existing processes will be built upon to better reflect the needs and service provision for our membership. We acknowledge that challenges will exist but we are determined to meet these challenges to successfully implement our new Ktunaxa Law.

What level of community engagement on the new Ktunaxa Law is occurring?

KKCFSS has hosted online Zoom Engagement session and in person sessions with Ktunaxa Nation Members initially. Focus groups with the following groups for input;

- Elders
- Former children in Care
- Leadership
- Delegated Social Workers/Team Leaders of KKCFSS
- Community members

Feedback and comments.

If you have any comments or questions or would like to host an information session in your community, please email or phone:

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