
Assembly of First Nations

55 Metcalfe Street, Suite 1600
Ottawa, Ontario K1P 6L5
Telephone: 613-241-6789 Fax: 613-241-5808
www.afn.ca



Assemblée des Premières Nations

55, rue Metcalfe, Suite 1600
Ottawa (Ontario) K1P 6L5
Téléphone: 613-241-6789 Télécopieur: 613-241-5808
www.afn.ca

SPECIAL CHIEFS ASSEMBLY
DECEMBER 3 – 5, 2019, OTTAWA, ON

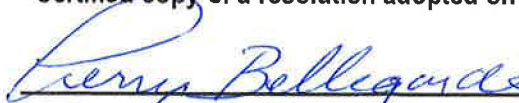
Resolution no. 88/2019

TITLE:	Re-affirming First Nation Regional Implementation Priorities for <i>An Act Respecting First Nations, Inuit and Métis children, youth and families</i>
SUBJECT:	Child Welfare
MOVED BY:	Chief Reginald Bellerose, Muskowekwan First Nation, SK
SECONDED BY:	Chief Alvin Francis, Nekaneet First Nation, SK
DECISION	Carried; 1 absention

WHEREAS:

- A. *The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration)* states:
- i. Article 4: Indigenous Peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
 - ii. Article 22 (2): States shall take measures, in conjunction with Indigenous Peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.
- B. The Truth and Reconciliation Commission of Canada Calls to Action #1 through #5 calls on federal, provincial and territorial governments to take actions to improve child welfare.
- C. The overrepresentation of First Nations children and youth in the child welfare system has created a humanitarian crisis requiring immediate legislative, policy and human rights action, including compensation to the victims of discrimination, to respond to this crisis.

Certified copy of a resolution adopted on the 4th day of December, 2019 in Ottawa, ON


PERRY BELLEGARDE, NATIONAL CHIEF

88/2019
Page 1 of 4

- D. The Canadian Human Rights Tribunal's 2016 (CHRT 2) decision and subsequent rulings ordered the Government of Canada (Canada) to fund First Nations Child and Family Services based on the principles of substantive equality, best interests of the child, and the First Nations child's needs, culture and language to distinct circumstances.
- E. *An Act respecting First Nations, Inuit and Métis children, youth and families* (the Act) affirms the inherent right of First Nations to enact laws in relation to child and family services and that such inherent rights are protected under Section 35 of the *Constitution Act, 1982*.
- F. On June 21, 2019, the Act received Royal Assent. On January 1, 2020, the Act will come into force, whereby federal legal principles will apply across Canada.
- G. Canada has yet to set out a process for transition or funding for regional implementation of the Act, inclusive of principles of substantive equality, best interests of the child, needs-based funding, respect for culture and language, and consideration of the distinct circumstances of First Nations children and services.
- H. Assembly of First Nations (AFN) Resolution 16/2019, *An Act respecting First Nations, Inuit and Metis children, youth and families- Transition and Implementation Planning*, Resolution 30/2019, *An Act respecting First Nations, Inuit and Metis children, youth and families - Support for a British Columbia specific approach to transition and implementation planning*, and Resolution 31/2019, *Ontario Specific Process to Bill C- 92, An Act Respecting First Nations, Inuit, and Metis Children, Youth, and Families*, call for Canada to immediately support and fund a First Nations-led distinctions-based transition and implementation planning process for all stages of the comprehensive reform of child and family services, affirming the inherent rights and self-determination of each First Nation to decide what is most appropriate for their peoples, without interference by Canada or any other Chiefs' Committee or technical committee.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

- 1. Call on Canada to immediately collaborate and fund discussions and negotiations directly to First Nations and regional bodies, as determined by rights holders (such as: regional organizations, tribal councils, treaty organizations and independent First Nations), and without the interference of provinces and territories, to establish a political pathway to implement *An Act respecting First Nations, Inuit and Métis children, youth and families* (the Act), consistent with the principles set out in the Canadian Human Rights Tribunal's 2016 orders of substantive equality, best interests of the child, needs-based funding, respect for culture and language, and consideration of the distinct circumstances of First Nations children and services.

Certified copy of a resolution adopted on the 4th day of December, 2019 in Ottawa, ON



PERRY BELLEGARDE, NATIONAL CHIEF

2. Call on Canada to immediately support and fund a First Nations-led distinctions-based transition and implementation planning process, including the following regional process for Saskatchewan:
- a. Under the Federation of Sovereign Indigenous Nations (FSIN), a "Transition and Implementation Committee for Self-Determination in Children and Families" (TIC), comprised of representatives of Tribal Councils, Indian Child and Family Services Agencies, the FSIN Technical Advisory Group, and independent First Nations children, families, and First Nations. The TIC would provide direction on an effective and comprehensive Saskatchewan political pathway for implementation of *the Act*, based on acknowledging and respecting the proper rights holders and the task of rebuilding First Nations. The work of the TIC, the FSIN, the Technical Advisory Group, and the Chiefs' Political Task Force on Child Welfare, must include a strategic advocacy effort for all Saskatchewan First Nations to identify and develop options in relation to the following critical items:
 - i) a foundational document setting out the distinct legal and political roles of First Nations as right holders, Tribal Councils, FSIN and Indian Child and Family Services Agencies in relation to the exercise of inherent jurisdiction, administration and dispute resolution on the subject of First Nations children, youth and families – focusing on them as rights holders;
 - ii) clear authority to ground the work at the provincial and regional levels that supports Saskatchewan Treaty and First Nations in the assertion of sovereignty, self-determination and respect for the decisions of First Nations and Tribal Councils as governing bodies for their peoples;
 - iii) an approach that clearly identifies where or how regional bodies may be helpful for advocacy or technical support at the regional and provincial levels and how those mandates should be created by and accountable to Chiefs of Saskatchewan, without entrenching the approaches that involve delegated provincial authority and the status quo;
 - iv) ensure the human rights and Treaty rights of Saskatchewan First Nations children and families are at the forefront of decision-making, there is no distinction between on and off-reserve systems, and when necessary, that Saskatchewan First Nations can do family unifications work anywhere in Canada where their children reside (dealing with clear mandates for interprovincial agreements); and
 - v) ensure that the federal and provincial response implementing *the Act* is developed based on priorities and authority resting with the Chiefs and Tribal Councils in Saskatchewan, recognized and affirmed by the *United Nations Declaration on the Rights of Indigenous Peoples*.

Certified copy of a resolution adopted on the 4th day of December 2019 in Ottawa, Ontario


PERRY BELLEGARDE, NATIONAL CHIEF

**SPECIAL CHIEFS ASSEMBLY
DECEMBER 3 – 5, 2019, OTTAWA, ON**

Resolution no. 88/2019

3. Call on Canada to immediately support and provide long-term, sustainable, statutory funding and resources to First Nations rights holders, including capital and infrastructure, to those First Nations who are ready to move forward on planning and/or implementation of *the Act* without delay or interference from regional or national processes or tables.
4. Call on Canada to commit to providing funding for implementing *the Act* in Federal Budget 2020.

Certified copy of a resolution adopted on the 4th day of December 2019 in Ottawa, Ontario



PERRY BELLEGARDE, NATIONAL CHIEF