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## Assembly of First Nations

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## Assemblée des Premières Nations

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**Annual General Assembly  
July 5, 6, 7, 2022 Vancouver, BC**

**Resolution no. 04/2022**

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**TITLE:** First Nations Determination of the Reforms to the First Nations Child and Family Services Program and Jordan's Principle Ordered through the 2022 Canadian Human Rights Tribunal Ruling 8

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**SUBJECT:** Child and Family Services

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**Moved BY:** Chief, Duke Peltier, Wiikwemkoong Unceded Territory, ON

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**SECONDED BY:** Kevin Hart, Proxy, Mosakahiken Cree Nation, MB

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**DECISION** Motion passed by consensus

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**WHEREAS:**

- A.** The United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration) should be the framework for improvement to child welfare law and policy in order to address the harmful legacy of Residential Schools, such as the forceful removal of children, the disproportionate number of First Nations children in care, the consequences of involvement in child welfare systems, and the related loss of language and denial of culture and human rights.
- B.** The UN Declaration states that:
- i. Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.
  - 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.
  - iii. Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively

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- involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.
- C. The Truth and Reconciliation Commission of Canada (TRC) Calls to Action # 1 to # 5 call on federal, provincial, and territorial governments to take actions to improve First Nations child and family services.
- D. The Assembly of First Nations (AFN) has passed several resolutions on child and family services reform and First Nations determination over child and family services:
- i. Resolution 01/2015, *Support for the Full Implementation of the Truth and Reconciliation Commission of Canada's Calls to Action*;
  - ii. Resolution 62/2016, *Full and Proper Implementation of the Historic Canadian Human Rights Tribunal Decisions in the Provision of Child Welfare Service and Jordan's Principle*;
  - iii. Resolution 83/2016, *National Advisory Committee on INAC's Child Welfare Reform Engagement Strategy*;
  - iv. Resolution 40/2017, *Call on Canada to Comply with the 2016 Canadian Human Rights Tribunal Orders*;
  - v. Resolution 11/2018, *Federal Legislation on First Nations Child Welfare Jurisdiction*;
  - vi. Resolution 53/2018, *Federal Legislation on First Nations Child Welfare Jurisdiction*; and
  - vii. Resolution 16/2019, *An Act respecting First Nations, Inuit and Metis children, youth and families - Transition and Implementation Planning*.
- E. In 2016, the Canadian Human Rights Tribunal (CHRT) ruled that Canada was discriminating against First Nations children and families in its funding of the First Nations Child and Family Services (FNCFS) Program on-reserve and in the Yukon. The CHRT ordered Canada to completely overhaul the FNCFS Program and cease its discriminatory funding.
- F. By way of consent motion, on March 24, 2022, the CHRT ordered that several immediate measures be taken to reform the FNCFS Program and Jordan's Principle. These measures are intended to begin to alleviate the discrimination faced by First Nations children and families, while work continues toward the full reform of the FNCFS Program and Jordan's Principle.

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- G.** The immediate measures include that:
- i. Canada will provide prevention funding in a per capita amount of \$2,500 to First Nations and/or FNCFS agencies.
  - ii. Canada will fund post majority care supports for First Nations young adults aging out of care and formerly in care, up to their 26th birthday, at actual costs for the 2022-23 fiscal year.
  - iii. Canada shall consult with the Parties to implement mandatory cultural competency and anti-racism training and performance commitments for Indigenous Services Canada (ISC) employees.
  - iv. Canada shall assess the resources required to provide services to high-needs Jordan's Principle recipients past the age of majority.
  - v. Canada will fund the IFSD to conduct needs assessments related to Jordan's Principle and First Nations not served by an agency. Canada will also fund the IFSD's Phase 3 study.
- H.** On November 16, 2021, the Canadian Human Rights Tribunal (CHRT) issued 2021 CHRT 41 calling on Canada to fund the purchase and construction of capital assets for the delivery of FNCFS and Jordan's Principle.
- I.** Investments in child and family services and Jordan's Principle should be available to all First Nations, whether they are pursuing the path of self-governance under *An Act respecting First Nations, Inuit and Métis children, youth and families*, or for as long as they choose to remain under the FNCFS Program.

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

1. Call on Canada to honour its relationship with First Nations by immediately recognizing First Nations' Inherent Right to care for their children and families regardless of whether they reside on or off reserve.
2. Direct the Assembly of First Nations (AFN), to make a submission to the Canadian Human Rights Tribunal (CHRT) requesting that they support First Nations right to self-determination by ordering that all funding provided through the 2022 CHRT 8 ruling be disbursed to First Nations and self-governing First Nations in the Yukon in order for them to determine how to allocate this funding between their governments and FNCFS agencies, and support the First Nations Child and Family Caring Society of Canada to make their submission.

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3. Call on Canada to redirect Provincial and Territorial funding for First Nations children living off-reserve to First Nations reclaiming jurisdiction over their children and families.
4. Call on Canada to ensure that any First Nations exercising jurisdiction over child and family services will not receive less funding than they would have received had they remained under the reformed First Nations Child and Family Services Program following the implementation of 2022 CHRT 8.

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