

First Nations Summit

RESOLUTION #1022.04

SUBJECT: RENEWAL OF SERVICE LEVEL AGREEMENT (SLA) REGARDING BRITISH COLUMBIA FIRST NATIONS CHILDREN AND FAMILIES

WHEREAS:

- A. First Nations Title and Rights holders have the inherent right to self-determination, which includes jurisdiction over our children and families as constitutionally protected under Section 35 of the *Constitution Act*, 1982 and described in the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration).
- B. The UN Declaration, which the Governments of Canada and British Columbia have adopted without qualification, affirms:

Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development;

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;

Article 18: Indigenous peoples have the right to participate in decision making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions;

Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them; and

Article 37: Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

- C. On January 26, 2016, and via subsequent rulings, the Canadian Human Rights Tribunal (CHRT) ordered Indigenous Services Canada (ISC) to cease its discriminatory practices and reform the national First Nations Child and Family Services (FNCFS) Program, policies, procedures, and agreements to comply with the CHRT's findings.
- D. Through resolutions at the Chiefs' Assemblies (UBCIC Resolution no. 2016-44, FNS Resolution #1016.11, BCAFN Resolution 22/2016) the Chiefs in BC supported in principle the Draft Action Framework and directed the First Nations Leadership Council to bring a revised Action Framework, incorporating First Nations' feedback, to the Assemblies in February and March 2017; and directed continued engagement with both Canada and British Columbia to honorably engage in a robust and meaningful Indigenous-driven process to reform Indigenous child welfare in BC, informed by the Draft Action Framework.

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- E. Through resolutions at the Chiefs' Assemblies (UBCIC Resolution no. 2017-06, FNS Resolution #0217.19, BCAFN Resolution 06/2017) the Chiefs in BC endorsed and supported the work on Child Welfare reform under the Tripartite process between BC, Canada, and the BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs, working together as the First Nations Leadership Council, and effectively and fully collaborating with First Nations Sectoral Councils, Delegated Agencies and the First Nations Directors Forum.
- F. In 2017, the Government of Canada (represented by Indigenous Services Canada (ISC)), the Government of British Columbia (represented by the Ministry of Children and Family Development (MCFD)), and the BC Assembly of First Nations (BCAFN), the First Nations Summit (FNS) and the Union of BC Indian Chiefs (UBCIC), working collectively as the First Nations Leadership Council (FNLC) signed a Reconciliation Charter that committed the parties to work in partnership to achieve First Nations child welfare reform via a Tripartite Working Group (TWG) made up of Canada, the Province, and the FNLC to implement concrete actions to support legislative reform, program and policy development and an effective fiscal model to support First Nations children and families in BC.
- G. In 2019, the Government of Canada enacted Bill C-92: *An Act Respecting First Nations, Inuit and Metis Children, Youth and Families*, affirming inherent Aboriginal and treaty rights, and supporting First Nations governments to pass laws, enforce laws and put in place coordination arrangements for all aspects of child and family services, based on First Nations laws, priorities, customs, traditions and practices.
- H. Canada provides funding to the Province through a bilateral Service Level Agreement (SLA) for costs of child and family service delivery for First Nations on-reserve that are not served by a Delegated Aboriginal Agency. For greater clarity, BC First Nations are not a party to nor approve the bilateral SLA and remain committed to full and priority transformation of child and family services, including to fiscal relationships.
- I. While the broader transformation toward a new and effective fiscal model to support First Nations children and families in BC is taking place, as committed to in the Reconciliation Charter, an updated SLA continues to be used as an interim measure so that First Nations do not see disruptions in services.
- J. Similar resolutions were passed at the UBCIC and BCAFN Annual General Assemblies in September 2022.

THEREFORE, BE IT RESOLVED:

- 1. That the First Nations Summit (FNS) Chiefs in Assembly:
 - a. acknowledge the interim need for a bilateral "Strategic Level Agreement Regarding the Funding of Child Protection Services of First Nations Children Ordinarily Resident on Reserve" between Canada and BC (the "SLA"); and

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- b. confirm the requirement that focus must shift to the broader transformation of child and family services, including a new funding framework for all First Nations child and family services in BC.
2. That the FNS Chiefs in Assembly direct the FNS executives, working with the Union of BC Indian Chiefs (UBCIC) and BC Assembly of First Nations (BCAFN) at the Tripartite Working Group on Children and Families (TWG), to request improvements in this renewed SLA, including:
- a. enhanced funding;
 - b. incorporation of principles from *An Act respecting First Nations, Inuit and Metis Children, Youth and Families* and the Reconciliation Charter for First Nations Child & Family Well-being in British Columbia endorsed by resolution of the FNS Chiefs in Assembly; and
 - c. enhanced accountability and reporting to BC First Nations about the use, level, and outcomes of this funding.
3. That the FNS Chiefs in Assembly direct the FNS executives, working with the UBCIC and BCAFN at the TWG, to prepare a comprehensive update to the Chiefs on transformation of child and family services, including a new funding framework for all First Nations child and family services in BC, for the upcoming All Chiefs Meeting on Children and Families in November 2022, and seek a further mandate for key aspects of this work following this engagement with the Chiefs.


MOVED BY: Chief Maureen Chapman, Sq'ewa:lxw First Nation
SECONDED BY: Chief Hank Adam, Stswecem'c Xgat'tem First Nation
DATED: October 20, 2022

Passed by consensus.

ENDORSED BY:



Cheryl Casimer



Robert Phillips



Hugh Braker