

**Introducing the
Child, Youth and Family Services Act, 2017**

May 2018

Disclaimer

This is an overview of the *Child, Youth and Family Services Act, 2017*. It is not a detailed presentation. It is not intended to be used as legal advice or to replace the legislation.

To read the complete Act and its regulations, please visit:

<https://www.ontario.ca/laws/statute/17c14>

The Child, Youth and Family Services Act, 2017 (the new Act)

In this presentation, the *Child, Youth and Family Services Act, 2017* is called “the new Act”.

Most of the new Act comes into force on **April 30, 2018**.

Personal Information (Part 10) will come into force **January 1, 2020**.

The new Act applies to many of the organizations in Ontario that provide services for children, youth and families.

The new Act replaces the *Child and Family Services Act*.
In this presentation, we call this “the old Act”.

The old Act is repealed and no longer in effect as of April 30, 2018.

Overview

This presentation is meant to give you a high-level overview of what the new Act says and in which part of the Act the information can be found.

More information will be made available to the public over the coming weeks and months.

Important definitions

- “child” means a person younger than 18;
- “child in care” means a child or young person who is receiving residential care from a service provider and includes,
 - (a) a child who is in the care of a foster parent, and
 - (b) a “young person”;

Important definitions (continued)

➤ “young person” means,

(a) a person who is or appears to be 12 or older but younger than 18 and who is charged with or found guilty of an offence under the *Youth Criminal Justice Act* (Canada) or the *Provincial Offences Act*, or

(b) any person who is charged under the *Youth Criminal Justice Act* (Canada) with having committed an offence while they were a young person or who is found guilty of an offence under the *Youth Criminal Justice Act* (Canada).

Other official definitions can be found in the new Act.

10 key parts

1. Purposes and Interpretation ([Starts on page 13](#))
2. Children's and Young Persons' Rights ([Starts on page 18](#))
3. Funding and Accountability ([Starts on page 22](#))
4. First Nations, Inuit and Métis Child and Family Services ([Starts on page 27](#))
5. Child Protection ([Starts on page 30](#))
6. Youth Justice ([Starts on page 34](#))
7. Extraordinary Measures ([Starts on page 38](#))
8. Adoption and Adoption Licensing ([Starts on page 42](#))
9. Residential Licensing ([Starts on page 47](#))
10. Personal Information ([Starts on page 50](#))

6 supporting regulations

1. General Matters under the Authority of the Lieutenant Governor in Council (LGIC) (Ontario Reg. 155/18)
2. General Matters under the Authority of the Minister (Ontario Reg. 156/18)
3. Transitional Matters (Ontario Reg. 157/18)
4. Personal Information (Ontario Reg. 191/18)
5. Adoption Information Disclosure (Ontario Reg. 158/18)
6. List of First Nations, Inuit and Métis Communities (Ontario Reg. 159/18)

An overview of the regulations supporting the Child, Youth and Family Services Act, 2017 is available. Obtain a copy by emailing CYFSA@ontario.ca.

Why a new Act was created

The old Act was outdated – it hadn't undergone substantive changes in over 30 years.

Much has changed over the last 30 years. The province needed a new Act to reflect the province's diversity, values, and our society's new technologies.

The new Act reflects the important and insightful input we received from our partners and stakeholders, including children, youth and their families, during our comprehensive consultation process.

Affirms the unique relationship between Ontario and First Nations, Inuit and Métis peoples

- The old Act used the terms “Indian”, “native child” and “native person” and “native community” whereas the new Act uses more inclusive terms including “First Nations, Inuk or Métis child” and “First Nations, Inuit or Métis community”.
- The new Act acknowledges that First Nations, Inuit and Métis peoples are constitutionally recognized peoples in Canada with their own laws, and distinct cultural, political and historical ties to the Province of Ontario;
- Refers to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and Jordan’s Principle.

Uses language appropriate for our time

- The old Act used terms that are stigmatizing to children and youth, such as “Crown ward,” “runaway,” and “abandoned”;
- The new Act replaces the term “Crown ward” with “child in extended society care” and “society ward” with “child in interim society care”;
- The new Act removes the term “runaway”;
- The new Act removes the term “abandoned”.

5 core principles in the new Act

Services provided to children, youth and families should:

1. Be child and youth-centred;
2. Build on a family's strengths through prevention, early intervention and community support to reduce the need for more disruptive services and interventions;
3. Respect diversity and inclusion, as set out in the *Ontario Human Rights Code* and the *Canadian Charter of Rights and Freedoms*;
4. Be informed by the need to address systemic racism and the barriers it creates;
5. Help maintain connections between children, families and their communities.

PART 1: PURPOSE & INTERPRETATION

Available on e-Laws at:

<https://www.ontario.ca/laws/statute/17c14#BK1>

The paramount purpose of the new Act remains unchanged:

To promote the best interests, protection and well-being of children.

The new Act also recognizes the importance of:

- The family unit;
- Prevention, early intervention and community support services;
- Regional differences;
- Individual characteristics and needs of children and youth;
- Ontario's unique relationship with First Nations, Inuit and Métis peoples;
- Appropriate sharing of information to plan for and provide services.

Under the new Act...

Services for children and young persons should:

- Respect their need for continuity of care and for stable relationships within a family and cultural environment;
- Take into account their unique needs. This includes their physical, emotional, spiritual, mental and developmental needs;
- Reflect who they are: their race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex and sexual orientation, gender identity and gender expression.

Services should also:

- Take into account the child or young person's culture and language;
- Provide early assessment, planning and decision-making to achieve plans for them that align with their best interests;
- Supports the participation of the child or young person, their parents and their extended family and community, where appropriate.

PART 2: CHILDREN'S AND YOUNG PERSONS' RIGHTS

Available on e-Laws at:

<https://www.ontario.ca/laws/statute/17c14#BK6>

What's new

Children and young persons receiving services under the new Act have the right to:

- Express their own views and raise concerns freely and safely about matters that affect them;
- To participate in decisions about the service to be provided to them;
- Have their views given due weight depending on their age and maturity;
- Be advised of the decisions made, and how and why they were made.

What's new (continued)

Children and young persons receiving services under the new Act also have the right to:

- Be informed of their rights;
- Be told about the role of the Ontario Child Advocate and how to contact the Advocate. To learn more about the Ontario Child Advocate, please visit: www.provincialadvocate.on.ca/

There are also specific rights for children receiving residential care on decisions affecting their:

- Treatment, education or training or work programs;
- Creed, community identity and cultural identity;
- Placement in or discharge from a residential placement or transfer to another residential placement.

What's new (continued)

Under the new Act:

- No service provider or foster parent is allowed to use physical restraint on a child or young person (except where regulations authorize use);
- No service provider or foster parent is allowed to use mechanical restraints (except where the Act and regulations authorize use).

PART 3: FUNDING AND ACCOUNTABILITY

Available on e-Laws at:

<https://www.ontario.ca/laws/statute/17c14#BK34>

Under the old Act

- Provided few tools for the ministry to improve compliance and accountability of children's aid societies in its oversight role;
- Provided personal liability protection to children's aid society (society) officers and employees only – not Board directors.

Under the new Act

The Director may issue a compliance order and direct a society to take specific steps to achieve compliance.

The Minister may:

- Appoint a supervisor to temporarily manage a society where:
 - It is in the public interest to do so, or
 - A society has failed to comply with a compliance order;
- Appoint or replace a minority of society Board members, including the Board chair, where:
 - It is in the public interest to do so, or
 - A society has failed to comply with a compliance order;

Note: The Minister must provide notice to a society before taking any of these actions. The society has the right to respond in writing.

Where immediate action is needed, the notice and the opportunity to respond may occur after the Minister's action.

- Personal liability protection has been extended to society board directors.

Under the old Act

- Provided few compliance and performance management tools for the ministry to hold service providers (not including societies and residential licensees) accountable.

Under the new Act

- Strengthens the Ministry's accountability tools over the service providers it funds. For example:
 - The Minister may issue general or specific directives to service providers and lead agencies;
 - The program supervisor may issue a compliance order to a service provider. If the service provider fails to comply, the Minister may terminate all or part of its funding;
 - The Minister may also require service providers and lead agencies to make information available to the public and provide information or reports (e.g., financial reports).

Under the old Act

- Did not allow the Minister to designate lead agencies as bodies designated to support service delivery.

Under the new Act

Allows the Minister to:

- Define and designate lead agencies, and/or revoke that designation;
- Categorize lead agencies based on their functions;
- Maintain and publish a list of lead agencies and their categories;
- Fund lead agencies to fulfill their functions.

PART 4: FIRST NATIONS, INUIT AND MÉTIS CHILD AND FAMILY SERVICES

Available on e-Laws at:

<https://www.ontario.ca/laws/statute/17c14#BK92>

Under the old Act

- Did not explicitly recognize the unique relationship between Ontario and First Nations, Inuit, and Métis peoples living in Ontario;
- Used the terms “Indian”, “native child”, “native person” and “native community”.

Under the new Act

- Uses the terms “First Nations, Inuk/Inuit or Métis child/children” and “First Nations, Inuit, or Métis community”;
- Allows the Minister to list First Nations, Inuit and Métis communities in a regulation. Once listed, they would be covered under provisions concerning notice, participation, consultation, and customary care.

PART 5: CHILD PROTECTION

Available on e-Laws at:

<https://www.ontario.ca/laws/statute/17c14#BK99>

Under the old Act

- Until January 2018, access to child protection services was limited to children and youth under 16 years of age (extended to 18 years if the child was already protected under a court order);
- As of January 2018, the age of protection was raised to include 16 and 17 year olds;
- The old Act did not include rules to enforce child protection orders from other provinces;
- Determining a child's best interests included "cultural background" and "religious faith".

Under the new Act

The age of protection continues to include 16 and 17 year olds:

- Children's aid societies may bring protection applications and enter into temporary care agreements about 16 and 17 year olds;
- 16 and 17 year olds who require an out-of-home placement can enter into a written agreement with a society, if the society has determined that they are or may be in need of protection;
- Societies can now act on child protection orders from other provinces to help return children to other provinces and territories;

Under the new Act

Determining a child's best interests includes considering other relevant factors, including the child's:

- Views and preferences and giving them due weight according to the child's age and maturity;
- For First Nations, Inuit and Métis children, the importance of preserving their cultural identity and connection to community.
- Cultural and linguistic heritage, race, ancestry, colour, family diversity, creed, and gender identity;

PART 6: YOUTH JUSTICE

Available on e-Laws at:

<https://www.ontario.ca/laws/statute/17c14#BK192>

Under the old Act

- Had no rules related to the use of mechanical restraint equipment in secure custody/detention facilities;
- Had no rules for searches in youth justice facilities.

Under the new Act

- Sets out specific cases where mechanical restraints may be used on young persons in a secure custody/detention facility;
 - Mechanical restraints may only be used on a young person who is detained in a secure custody/detention facility;
 - Places strict limits on the use of mechanical restraints on young persons within secure custody/detention facilities;
 - Allows for mechanical restraints to be used where it is reasonably necessary for transportation to or from a place of custody or detention, court or in the community.

Under the new Act (continued)

- Allows the person in charge of a youth justice custody/ detention facility to approve searches of the following:
 - Any part of a custody/detention facility or the premises;
 - The person and/or property of any resident or staff;
 - The person and/or property of any other person on the premises, such as a visitor or contractor;
 - Any vehicle entering or on the premises.

PART 7: EXTRAORDINARY MEASURES

Available on e-Laws at:

<https://www.ontario.ca/laws/statute/17c14#BK214>

Under the old Act

- Used the term “secure isolation.” This led to the public believing that youth in secure isolation were left alone for extended periods of time;
- Did not include rules related to the use of mechanical restraints in secure treatment programs.

Under the new Act

- Defines a secure de-escalation room as “a locked room ... for the de-escalation of situations and behaviour involving children or young persons”;
- Provisions previously found in the regulation are now in the Act with respect to a young person who is aged 16 years or older and who is held in a place of secure custody/detention.
- The cumulative or aggregate time that a young person who is aged 16 years or older and is held in a place of secure custody/detention can spend in a secure de-escalation room has been reduced from 72 to 24 hours.
 - Allows the provincial director to extend this time only if they have reasonable and probable grounds to believe that more time in a secure de-escalation room is necessary for the safety of staff or young persons in the facility.
 - Limits the use of mechanical restraints in secure treatment programs to emergency situations when immediate action is needed to prevent serious bodily harm to the child or others.

PART 8: ADOPTION & ADOPTION LICENSING

Available on e-Laws at:

<https://www.ontario.ca/laws/statute/17c14#BK247>

Under the old Act

- Provided rules for openness orders to help adopted children who were Crown wards maintain relationships that are beneficial and meaningful to them;
- A single-stage review process finalized in Ontario for adoptions of children from another country did not allow as much time for review. Family intercountry adoptions were exempted from the review process.

Under the new Act

- A new test for the court to apply when making an access order about a child who is in extended society care;
- New requirements strengthen process to allow adopted children who were in extended society care (formerly called Crown wards) to maintain relationships that are beneficial and meaningful to them;
- Helps children understand their rights and express their views in openness proceedings;

Under the new Act (continued)

- For First Nations, Inuit and Métis children, this includes enabling openness applications from their bands and communities. The goal is to protect the child's cultural identity and connection with their First Nations, Inuit or Métis communities, cultures, heritages and traditions;
- New requirements for societies to maintain important relationships for children if planned adoptions disrupt or break down;

Under the new Act (continued)

- New requirements apply for all adoptions of children from another country finalized in Ontario:
 - Two-stage review process for approving prospective adoptive parents, and then proposed adoption placement;
 - No exceptions for family adoptions;
 - These new requirements better align with the principles of Ontario's *Intercountry Adoption Act* and the Hague Convention on Intercountry Adoption.

PART 9: RESIDENTIAL LICENSING

Available on e-Laws at:

<https://www.ontario.ca/laws/statute/17c14#BK332>

Under the old Act

- The existing licensing system for children's residential care has been in place for over 30 years, since the old Act came into force, with limited changes in requirements or processes;
- Limited quality of care standards, the Minister had no authority to make regulations or issue directives respecting licensed residential care.

Under the new Act

- Enhances the current licensing rules, including the rules for getting and keeping a licence;
- Provides new and enhanced authorities for the Minister and the ministry, including rules to identify where the Minister may:
 - Issue directives and make regulations;
 - Appoint inspectors with powers of entry for announced and unannounced inspections of licensed and certain unlicensed residential settings.

PART 10: PERSONAL INFORMATION

Available on e-Laws at:

<https://www.ontario.ca/laws/statute/17c14#BK380>

Under the old Act

- The privacy landscape across the children, youth and family services sector has been inconsistent;
- Some service providers are subject to existing privacy legislation (the *Personal Health Information Protection Act, 2004* and the *Freedom of Information and Protection of Privacy Act*), while others are not.

Under the new Act

Note: this part of the Act comes into force on January 1, 2020

- This part of the new Act establishes rules for the collection, use, and disclosure of personal information held by service providers.
- It also establishes the right for children, youth and family members to access and correct their personal information held by those service providers not currently covered by existing privacy legislation.
- It clarifies the ministry's authority to collect information, including personal information from clients and service providers, for purposes such as system monitoring and oversight, research, evaluation and planning.

If you would like to learn more

- Read the *Child, Youth and Family Services Act, 2017*:
 - English: <https://www.ontario.ca/laws/statute/17c14>
 - French: <https://www.ontario.ca/fr/lois/loi/17c14>

- Check out: www.ontario.ca/yourvoicematters

**Do you have questions about the
*Child, Youth and Family Services Act?***

**Email us at:
CYFSA@ontario.ca**